

Statewatch bulletin

Vol 3 no 4 July-August 1993

IN THIS ISSUE: * New Austrian Residency Act * The new K4 Committee * Wapping: £90,000 for assault * plus features on: Collusion and Britain's Irish policy * Royal Commission on Criminal Procedure * Prevention of Terrorism Act

IMMIGRATION

The death of Joy Gardner

On Tuesday 28 July police officers from the Metropolitan Police SO1(3) extradition branch raided the home of Joy Gardner, a black woman, to enforce a deportation order. Four days later she was officially pronounced dead by Whittington hospital in north London.

Five police officers and an immigration official arrived at her flat in Crouch End, London early in the morning. Joy Gardner was at home with her five year old son. There was a struggle and the police overpowered her. Her mother Myrna Simpson, who has lived in the UK for 33 years, told a packed public meeting that: 'They taped up her mouth. They taped her feet. They sat on her stomach and damaged her kidneys, her liver and her brain'. The police had also put a body belt (a leather belt with attached handcuffs) on Joy Gardner to restrain her. Myrna Simpson also described what happened in the words of Joy Gardner's five year old son, Graham: 'There was a big fight. Three of them were sitting on top of mummy, others were kicking her'. Joy Gardner's mother's view is plainly put:

The police killed my daughter. They said she collapsed but she was a healthy woman. They had no need to treat her with such force. They went in with vengeance in their hearts. It's one law for black another for white.

The time and cause of Joy Gardner's death is a matter of dispute between the family and the authorities. The ambulance service was contacted at 8.04 am and arrived at the flat at 8.15 am. An ambulance service spokesperson said 'there was no heart beat and no sign of any activity from the heart' and it took the paramedics 25 minutes to revive her pulse. Joy Gardner was taken to hospital in a coma and put on a life support system, she never recovered consciousness and died four days later. The family say: 'You cannot be lifeless for so long and live. She was effectively dead when she arrived at the hospital' and the family described how when they went to visit her she was covered in bruises and smelling from decomposition.

The initial Home Office post mortem said that she had died of kidney failure. A heart specialist told the Police Complaints Authority that she may have collapsed because 'she was in some way deprived of oxygen'. The specialist identified three possible reasons for her going into a coma: the tape covered both her nose and mouth, depriving her of oxygen; she swallowed her tongue after the gag was put on; or the officer restrained her with such force she was unable to breathe. A post mortem for the family on 10 August showed that she had died from suffocation, this opinion was agreed by Dr West for the family and three other pathologists representing the three police officers, the Police Complaints

Authority inquiry and the coroner.

Joy Gardner, aged 40, was from Jamaica and had come to the UK on a six-months visitors permit in 1987. She was arrested in 1990, one month after marrying here but was released pending judicial review. This was turned down in 1991. In January 1993 Joy Gardner's solicitor lodged an appeal to stay on compassionate grounds; she had no family in Jamaica to give support but had her mother, a half-sister, a half-brother, three uncles, two aunts and numerous cousins in the UK. At 9.30 am her solicitor, Djemal Dervish, opened a letter from the Home Office turning down her appeal, it said: 'Arrangements will shortly be made for her removal to Jamaica'. Mr Dervish said: 'As far as she knew her appeal was still being considered when the police came knocking on her door'.

Three members of the Met extradition unit, a woman sergeant and two male constables were suspended from duty and the squad's involvement in deportations put on hold. This Metropolitan Police unit, SO1(3) has twenty officers eight of whom, under an inspector, assist immigration officers carrying out deportation orders where 'resistance or violence was expected' (Mr Condon, Commissioner of the Metropolitan Police). It appears to be standard practice where 'resistance' is 'expected' for the unit to go equipped with adhesive tape and body-belts (a four inch wide leather belt with handcuffs attached) so that people can be transported to the airport - it is also the practice to leave these 'restraints' on the person while they are on board the plane. It is unclear whether the use of tape and body-belts are authorised by the Metropolitan Police force orders. Many people deported in this way are never heard of again. However, evidence of other cases has come to light. Single mother Dorothy Nwokedi was arrested on 9 July 1993 also in North London by eight officers. In a statement she said:

When I started crying, they forcibly put me down. One of the men (the big one) sat on my back, another sat on my legs while they tied my legs, knee to ankle, with broad Sellotape. In the struggle my thumbs were broken and I was bruised all over.

She remained trussed up in a cubicle on the plane back to Nigeria, separated from her four year old daughter in the passenger seats, and only released from the 'restraints' two hours into the flight.

Immediately after Joy Gardner's death there was a demonstration outside Hornsey police station, Crouch End (two of the police officers taking part in the raid were from this station). Three days later there was a large public meeting followed by a demonstration attended by 1,500 people.

An inquiry is being conducted by the Police Complaints Authority. The family have demanded a proper independent review to be ordered by the Home Secretary. This has been turned down the Home Office saying an internal inquiry would be conducted into the circumstances of Joy Gardner's death.

Donations to support the family's work can be sent to: *The Joy Gardner Fund, c/o Bernie Grant MP, House of Commons, London*

SWIA OAA. Cheques should be payable to 'The Joy Gardner Fund'; the Immigration Law Practitioners' Association, 115 Old Street, London EC1V 9JR have produced an information sheet: 'Home Office instructions on deportation'.

Immigration raids

The meeting of Interior Ministers of the EC in Copenhagen in June agreed a resolution on the deportation of third country nationals resident in the EC without authorisation (often termed 'illegal immigrants') (see *Statewatch* vol 3 no 3). Raids on the homes of suspected 'illegal' immigrants in the UK have been going on for many years but unusually the Home Office issued a press release on 24 June drawing attention to 'Operation Boxer' in which thirty people were detained in south London; thirteen were flown out to Nigeria the next day with the others being detained. On 21 July 81 suspected 'illegal' immigrants were arrested in 'Operation Boxer' involving 35 police officers and 20 immigration officials.

A Home Office spokesperson said such raids were becoming more common. Home Office Minister Charles Wardle said that there was a consensus among EC Interior Ministers that 'the maintenance of effective immigration controls was an important factor in achieving the successful integration of immigrants lawfully resident in the member states of the Community'.

Home Office press release, 24.6.93; Commons written answer, 9.7.93.

France: trains to deport immigrants

The French government announced in July their intention to charter trains to send immigrants back to their country of origin. This is the brainchild of Interior Minister Charles Pasqua who had demonstrated his hardline attitude to non-whites in France during the riots that shook Paris and Lyon just ten days after the national elections last April.

It is planned to repatriate those immigrants who fall foul of the new nationality code and immigration laws that were passed by the French parliament at the end of June. Pasqua said he intended to commandeer three carriages per train this summer to transport people to Marseille, from where they would be put on boats to North Africa.

He ordered Jacques Fournier, the chief of the SNCF, the French state railway company, to study the logistics of the operation and to carry out feasibility studies. Fournier, however, has made clear that he is opposed to the measures. In a letter to the anti-racist organisation MRAP, he said: 'this subject touches on fundamental guarantees of the person'. But he went on to point out that the requisitioning was covered by law and that SNCF had a legal obligation to carry out these orders.

Opposition to the charter trains has also come from virtually the entire staff of SNCF, whose trade unions have announced that they will use every means possible to prevent the trains leaving. Pasqua has not set a specific date for the trains to start departing with the transportees, but the unions say they will publicise the dates as soon as they know them, to enable demonstrations in the Gare de Lyon in Paris.

One of the problems that the union faces is the possibility of mass sackings. Drivers and other staff who refuse to comply with the requisition orders can be forced to do so under an old French law which is basically equivalent to martial law. Those railworkers refusing to work under this law will lose their jobs, and have no right to an industrial tribunal.

If this situation were to occur, however, the government would be in the unfortunate position of having to get immigrants forcibly

placed on the trains and physically try and get the drivers to cooperate.

The whole scenario has been likened to the situation in France during the Second World War, when the collaborationist Vichy government requisitioned trains to transport French Jews to Nazi Germany. This has led to widespread opposition with people expressing their horror at a return to the fascist tactics of yesteryear.

A large demonstration took place outside the Gare de Lyon on 12 July, where railworkers, anti-racist groups and others made it clear that they would physically block the departure of the trains, by standing on the track if necessary. 'No to the trains of shame' was the call accompanied by a loud chorus of 'On the tracks, on the tracks!'. Given the level of opposition, it remains to be seen whether the French government can execute their plan without incurring the wrath of not just French citizens, but the rest of Europe too.

Reflex, Paris.

Sweden: refugees to be sent back

Sweden has followed EC governments by introducing visa requirements for refugees arriving from the former Yugoslavia. The government says that 70,000 arrived from the region in 1992 and 13,000 came in the first quarter of 1993. It blames other European governments for failing to share the task of taking in refugees.

The government is adopting the same policy towards refugees from the former Yugoslavia as that set out in the agreement reached at the Copenhagen meetings of EC Interior Ministers in June (see *Statewatch* vol 3 no 3). This says that people can be returned to the former Yugoslavia if it is considered 'safe' for them to do so. The first group to be 'targeted' in Sweden are the 1,800 Albanians from Kosovo which the government considers 'safe' for them to be returned to. Petrit Abduraman, a spokesperson for the Albanians from Kosovo, said the government consider them 'economic migrants but every one of us lives in fear of returning home'.

At one of the refugee camps at Tallnas in northern Sweden with 600 refugees there were a series of racist attacks in July. Two burning crosses were put on buildings, windows were smashed and there was an arson attempt on the accommodation block. The refugees include people from Somalia, Syria and the former Yugoslavia.

Inter Press Service 2.8.93; Guardian 14.7.93.

UK transit visas: list extended

The government has extended the number of countries whose nationals need to have visa to come to the UK who are simply in transit, that is transferring from a flight to the UK to another to take them to their final destination, from two to ten. This requirement of having to apply for a visa to enter the UK from a British embassy before leaving their home country previously applied to Iraq and Sri Lanka. Under Immigration (Transit Visa) Order 1993 'laid' before parliament on 21 July this is extended to nationals of Afghanistan, Iran, Lebanon, Libya, Somalia, Turkey, Uganda and Zaire. The procedure of 'laying' a new legal procedure before parliament for 21 days usually ensures that it goes through unnoticed by Mps as it is just listed on the crowded daily order paper.

This order has been introduced under Section 12 of the new Asylum and Immigration Appeal Act 1993 which amends the Immigration (Carriers Liability) Act 1987. Airlines who bring in passengers without visas can be fined £2,000 per person. Since the Immigration (Carriers Liability) Act was introduced in 1987 a total of 51,279 notices have been issued against airlines and shipping companies and a total of £25.06 million has been paid in fines.

Home Office press release, 21.7.92; Commons written answer, 14.7.93.

France: curbs unlawful

The French Constitutional Court has rejected or amended eight of the 53 articles in the new immigration Act just passed by the parliament, and means that new legislation will have to be presented on some of the areas covered (see *Statewatch*, vol 3 no 3). The measures opposed by the Court included a measure which would have allowed mayors to refuse weddings between foreigners and French citizens if they suspected they were marriages of convenience with the aim of obtaining residence papers. The Court declared illegal provisions to ban foreign students from bringing their wives and children into France, the proposal to introduce a one year ban on expelled foreigners (which it said was contrary to the UN Declaration on Human Rights), and the abolition of the right of appeal for asylum-seekers whose applications had been turned down. It also warned against the abuse of random identity checks, and said that foreign residents had the same rights as French people under the constitution (which will stop moves to deprive some foreigners and political refugees of social security), and the increase in detention from 7 to 10 days for foreigners subject to an expulsion order.

Charles Pasqua, the French Interior Minister, who has called for 'zero immigration' was especially angry at the Court's opposition to giving senior civil servants the power to block applications for political refugees. This is the second major issue on which the Constitutional Court has overruled the policies of Mr Pasqua. In July the Court ruled that the government had to abide by the Schengen Agreement (between nine EC states) because international treaties took precedence over national laws.

André Nkala, an Angolan resident in Paris, fled a police identity check and drowned when he threw himself into the river Seine. The police said that officers had stopped him and a companion for 'bizarre behaviour'. When stopped Nkala produced a photocopy of his papers but the officers said he had to come to the police station for further questioning.

Guardian 16.8.93; *Independent* 16.8.93; *European*, 19.8.93.

New Austrian Residency Act

A month after the Austrian Residency Act came into effect (1 July 1993) it is becoming clear which groups of non-nationals will be most adversely effected by the new law. The law was ostensibly passed to facilitate the immigration of up to 20,000 'guest workers' per year in line with the government's policy of 'compensatory migration'. In practice the Residency Act is being used mainly to remove newly unemployed non-nationals and their families.

Under the Act any non-national wanting to emigrate to Austria must apply in their native country - citizens of the new European Economic Area countries (EEA), consisting of all EC and EFTA countries (with the exception of Switzerland), are excluded. The Social Attache at Austrian embassies checks to see if there is any need for additional labour in the particular industry and province in which the applicant wishes to work. The availability of housing is also taken into account. If work and housing are available and the annual quota has not been filled, the applicant will be given a one year work permit and residency visa which allows them to enter Austria as a 'guest worker'. 'Guest workers' will only be able to bring their families with them after they have been employed in the country for at least two years and have to be able to provide accommodation and financial support for them. Non-EEA nationals entering Austria on students and tourist visas and those applying for

asylum will not be able to convert their status to that of 'guest worker'. Seasonal workers in the tourism, agricultural and construction industries do not receive this status either.

The Ministries of Social Affairs, the Interior, and Education (all headed by Social Democrats) hope the new law will 'compensate' any lack of workers in future years and enable them to direct applicants to the industry and locality where they are most needed. At the same time the intention is strictly limit immigration and the costs placed on the welfare state. The policy of 'compensatory migration' was developed in the late 1980s by a group of Viennese social scientists close to the Social Democratic Minister of the Interior, Franz Loschnak. The idea is strongly supported by trade union leaders, the university establishment and large sections of the Social Democratic and Green parties.

Effects of the Act

In practice, the Residency Act is now being used to remove unwanted 'guest workers' from the country who have, according to the government, overstayed their welcome. Paragraph 8 of the new law allows officials not only to periodically check the availability of housing and work for prospective immigrants but also to assess the incomes and housing conditions of 'guest workers' already resident in the country prior to the law coming into effect. Within days of the Act becoming law the first cases of pending deportation were documented. 'Guest workers' whose incomes or housing conditions are under a federally determined 'regional norm' must be deported. This is estimated to effect over 100,000 non-nationals living legally in Austria. The fact that hundreds of thousands of Austrian citizens also live under the 'regional norms' seems to have no bearing.

The rationale behind the new policy seem to stem from Austria's membership of EEA. Whereas non-EEA nationals comprise 93% of the 'guest worker' population in Austria, the percentage in the other countries ranges between 30-60%. The Minister of Social Affairs, Joseph Hesoun, hopes to reduce the non-EEA population - made up of Serbs, Bosnians, Turks, Croats and Kurds - by 20% over the next few months. By reducing the present largely Muslim and Eastern Orthodox immigrant populations the Austrian government intend to make room for 'culturally acceptable' nationalities such as Spanish and Italians.

It is almost impossible for 'guest workers' to get Austrian citizenship with second and third generation immigrants having to retain the nationality of their parents and grandparents. This leaves them with no political say in their status. For example, under the Austrian Labour Councils Act non-nationals are forbidden from becoming shop stewards. To date only the Greens and a few trade union officials have come out against the new measures and the deportation of 'guest workers'.

One exception is the city of Salzburg. The Residency Act requires the governors (Landeshauptman) of provinces to assess the quality of life of their immigrant communities and to deport those who do not reach the 'norms'. Most governors have delegated this task to the district authorities. In Salzburg Johann Padutsch, the deputy mayor responsible for public works (this includes the immigration authorities) is a leading member of the Green Party. He has publicly announced that his officials will refuse to deport any non-nationals.

Padutsch's intention to take the case to the European Court of Justice as a means of opposing the racist logic of the 'compensatory migration' policy may well 'internationalise' the issue of the civil rights of the 12 million non-nationals in the European Economic Area.

Immigration: new material

Minorities in Central and Eastern Europe: Minority Rights

Group, 50pp.

Report on immigration and asylum procedure and appeal rights in the 12 member states of the European Community:

Jim Gillespie. Immigration Law Practitioners' Association, 38pp.

Schengen, Ad Hoc Immigration Group and other European intergovernmental bodies:

Antonio Cruz. Briefing paper no 12, Churches Committee for Migrants in Europe, 6ECUs/£5.00, 32pp.

Gender and the Convention refugee definition. Terry O'Connor, Immigration Law Practitioners' Association, 20pp.

LAW

France: Italian political refugees

There are around 200 Italian political refugees in Paris over ten years after they fled from Italy to escape trial and imprisonment. They remain in France without rights and placed in limbo by protracted legal battles over their extradition.

These people form the remnants of an almost forgotten period of Italian political struggle in the 1970s. The new social movements which grew up in the 1960s led, in the 1970s, to many forms of extra-parliamentary action. Semi-legal forms of activity were termed *auto-riduzione*, involving for example mass reduced payments of bus fares and rents. At the other end of the spectrum more than two hundred clandestine armed groups operated in Italy during the 1970s.

Between the late 1970s and the mid-1980s over 20,000 'political offenders' were arrested and put on trial. In 1983 some 4,000 were in prison and 200 are still serving sentences. Many fled the country when bailed, others perceiving their imminent arrest also fled. More than 400 gathered in Paris a traditional home for political refugees where, ironically, many Italian communists and socialists had found a home when escaping the fascist regime in the 1930s.

Both the Italian and French constitutions exclude extradition for people charged with political offences. The Italian constitution says that 'repressive cooperation' cannot take place between countries not sharing the same notion of political illegitimacy. On the other hand it stresses that offences committed with the purpose of undermining the principles of liberty and democracy are not regarded as political. While Article 26 of the Italian constitution states that extradition has a political nature when 'related to a non-political offence, [it] is aimed at the political prosecution of the individual'. The international principle that when extradition is not legally possible the individual concerned is guaranteed political asylum is also recognised in the Italian constitution.

The Italian authorities' proceedings for extradition met with some difficulties. The claim that the people were undermining liberty and democracy was hard to justify as this was aimed at stopping any resurgence of fascism - many of the refugees in Paris had a record of violent anti-fascist activity. It was equally difficult to argue that the offences were non-political. The Italian Penal Code (article 13) also recognises that the offence must be recognised as such by both countries, so charges such as 'subversive association' or 'armed organisation' have no judicial meaning in French law. But in rejecting the Italian requests for extradition the French authorities were obliged to grant political asylum. However alongside the legal process there emerged an 'understanding' between the Association of Italian Refugees and the Ministry of Justice. They would not be extradited provided they 'kept a low profile' but, so as not to embarrass French-Italian relations, neither would they be granted

political asylum.

The effect on the Italian refugees varied. Some going to the French-Italian border to see friends and relatives were arrested by the French police and handed over; some were given one-way tickets to African countries where there was no extradition treaties; ten were taken over the border to Spain which duly extradited them; and thirty returned to Italy spontaneously to serve their sentences.

Those that remained are street-sellers, builders and decorators, and teachers but with little security of employment because of their status. Some have distanced themselves from their past. Through the 'export' of the concepts of 'dissociation' and 'repentance' from the Italian terrorist laws a number of the refugees have become 'respectable' and hold secure jobs, the majority in academic institutions, in France. 'Dissociation' meant publicly renouncing previous acts and the politics of their groups, 'repentance' giving names and addresses and evidence against those involved in offences.

'Sentenced to normality: The Italian political refugees in Paris', by Vincenzo Ruggiero in *Crime, Law and Social Change*, vol 19, no 1, 1993.

Ireland: Homosexuality decriminalised

The Republic of Ireland has finally decriminalised homosexuality some five years after a European Commission ruling on the issue. In doing so the Republic now has an equal age of consent for heterosexual and homosexual acts of 17 years.

Law - new material

The Ability to challenge DNA evidence, Beverley Steventon. *The Royal Commission on Criminal Justice Research Study 9* (HMSO) 1993, pp55, £8.

The role of forensic science evidence in criminal proceedings, Paul Roberts & Chris Willmore. *The Royal Commission on Criminal Justice Research Study 11* (HMSO) 1993, pp196, £23.

Diverting mentally disturbed offenders from prosecution, National Association for the Care and Resettlement of Offenders. *Policy Paper 2* (NACRO) 1993, pp24, £2. This report concludes that there is considerable scope for diverting mentally disturbed offenders from prosecution, and lists 17 recommendations which are directed towards governmental departments and local organisations.

Legal Aid: the Lord Chancellor's proposals: report together with the proceedings of the committee, minutes of evidence and appendices, Home Affairs Committee (Fifth report). (HMSO) 1993, pp92, £18.40.

Looking through the guilty plea glass: the structural framework of English and American state courts Mike McConville & Chester Mirsky. *Social and Legal Studies* 2:173-193, 1993

Keeping up with PACE, Paul Taylor and Sally Hatfield. *Legal Action* July 1993, pp14-16. Some recent cases under the Police and Criminal Evidence Act.

Parliamentary debates

Maximum number of Judges (No. 2) Order 1993 - Motion for Approval, *Lords*, 10.5.93, cols 1048-1057

Criminal Justice Bill, *Commons*, 14.4.93, cols 859-924
Criminal Justice (Amendment), *Commons*, 20.4.93, cols 189-191
Criminal Justice (Amendment) (No. 2), *Commons*, 21.4.93, cols 324-326

RACISM & FASCISM

Racist murder: charged dropped

Tension increased dramatically in south-east London after charges were dropped against two white teenagers accused of the murder of 18 year old Stephen Lawrence in Eltham last April (see *Statewatch* 3:3). Stephan's family were devastated at the decision. His aunt, Cheryl Soley, said: 'We were told by the police to trust them and that they were doing all they could. It obviously wasn't good enough'. Two other teenagers arrested for the killing are on police bail.

Guardian 30.7.93.

More setbacks for Blood and Honour

A European Aryan Festival, organised by the nazi Blood and Honour music outfit at an open-air venue in Nottinghamshire, and featuring the band Screwdriver, was cancelled following the intervention of local police. The cancelled concert, which was expected to attract nazi skinheads from across Europe, is the latest in a series of organisational disasters by the network (see *Statewatch* vol 3 no 2).

Racism and fascism - new material

Annual Report 1992-1993, Newham Monitoring Project. 1993, pp52. Available from NMP, 382 Katherine Road, London E7 8NW. The notion of Black people's right to self-defence against racist violence was placed firmly on the political agenda by the cases of the Newham 7 and Newham 8. Thirteen years after the Project was founded it is as essential as ever, as the evidence in this report testifies.

Inside Right, Andrew Lycett. *GQ Magazine*, July 1993, pp114-117. Piece on the far-right Western Goals. Recently, their vice-president, Gregory Lauder-Frost, was jailed for 2 years for stealing National Health Service funds. Their President and South African Conservative Party foreign affairs spokesman, Clive Derby-Lewis, has been arrested in connection with the murder of ANC leader Chris Hani.

Global links to race war in South Africa and the assassination of Chris Hani, Jacques Pauw. *Covert Action* 45, 1993, pp4-10. This discusses the assassination of African National Congress leader, Chris Hani, and the links of the South African far-right with the World Anti-Communist League and Western Goals.

POLICING

Black youth cleared

Ivan Fergus, a thirteen-year old schoolboy, from Peckham, south London, who had been sentenced to 15 months youth custody for assault with intent to rob, has been cleared by the Court of Appeal. Ivan, who had served six months in detention, was released on bail

last July pending his appeal, following a campaign by his family and friends (See *Statewatch* 2:4).

The only evidence against Ivan was based on a highly questionable and uncorroborated identification of him by the victim, over a month after the assault. In fact Ivan bore very little resemblance to the youth described; he also had a caste-iron alibi for the period in question.

The three Appeal court judges censured Ivan's solicitors, Topping and Co, for flagrant disregard of their duty towards him. The firm have been suspended from practising over a separate incident. They also criticised the trial judge, Peter Rowntree, for his failure to withdraw the case and a seriously flawed summing-up. Lewisham police, they said, were guilty of a lamentable failure to investigate the case; they had refused to investigate seven separate requests from the Crown Prosecution Service to take statements from the alibi witness.

After the appeal Nellie Fergus, Ivan's mother said: 'The terrifying thing is that if I had just left it and not made a fuss, he would have been criminalised for the rest of his life'. She added that the family would seek compensation for the wrongful conviction.

The case was only one of over a hundred miscarriages of justice taken up by Liberty, the National Association of Probation Officers and the campaigning group Conviction in a report presented to the Home Office last year.

Independent 22.6.93, 29.6.93; *Guardian* 22.6.93.

Wapping protesters receive £90,000 for assault

Three trade unionists have been awarded nearly £90,000 by Edmonton County Court, after being wrongfully arrested, assaulted and maliciously prosecuted by the Metropolitan Police after a demonstration outside Rupert Murdoch's News International (NI) plant, at Wapping, east London, in January 1987.

The dispute, which lasted over a year, arose following the sacking of 6,000 printworkers, at a days notice, by NI - which publishes the Sun, News of the World, Today, Sunday Times and Times newspapers - and their clandestine replacement by members of the Electricians Union, the EEPTU. The printworkers unions, the NGA and SOGAT, backed their sacked members and called for the picketing of the plant and a boycott of their papers.

George Hickman, Martin Wheeler and Jeff Charlton, had travelled from the West Midlands to attend a demonstration outside the plant on the first anniversary of the dispute. During the demonstration, in which mounted police and police with riot shields and truncheons repeatedly charged demonstrators, the three men took shelter in a local public house which was later raided by the police. The court was told that during the raid the three men were forced into an alley where they were beaten and assaulted before being thrown into a police van where they were beaten once again. Mr Hickman was then falsely charged with assaulting a policeman, Mr Charlton with obstruction and Wheeler for being drunk and disorderly. All the charges against them were dismissed when they came to court in 1989. The three men began civil proceedings against the policemen which resulted in their award.

The six officers involved in the incident - PCs Ian Storrar, Nigel Pratt, Robert Goodger, Gavin Steff, Ivan Szubinb and Terence Chitty - were charged with conspiracy to pervert the course of justice. When the case came to court in 1989 the charges were dismissed because of a delay in informing the officers that they were to be charged.

All six officers are still on active duty. PC Terence Chitty, is currently under investigation by Scotland Yard's Operation Jackpot enquiry into allegations of corruption at Stoke Newington police station. He has been accused of conspiracy to supply drugs,

planting drugs, assault and fabricating evidence in at least nineteen cases.

One of the senior officers in charge of policing the Wapping dispute was Scotland Yard's Assistant Commissioner, Wyn Jones, who has been the subject of a two-year internal investigation for corruption, following allegations that he accepted free holidays from Conservative Party backer and businessman, Asil Nadir. A tribunal report, which cleared him of these allegations has, nonetheless, led Home Secretary, Michael Howard, to call for him to be sacked.

Guardian 25.6.93; *Community Defence* July 1993; *Independent* 25.6.93; *Observer* 27.6.93.

Policing: in brief

New Chief Inspector of Constabulary: Mr Trefor Morris was appointed Chief Inspector of Constabulary on July 1. He succeeded Sir John Woodcock. Mr Morris has been an Inspector of Constabulary since 1990 and was previously Chief Constable of Hertfordshire. He also served with the Greater Manchester Police force. The Inspectorate of Constabulary is responsible for examining the efficiency and performance of police services in England and Wales and advising the Home Office. The Inspectorate team under Mr Morris will be Geoffrey Dear, David O'Dowd, Donald Elliott, Brian Hayes, Colin Smith and two lay inspectors.

Mr John Boyd has been recommended for appointment as Chief Inspector of Constabulary for Scotland in succession to Sir Colin Sampson, who took up the position in January 1991 and is to retire at the end of October. Mr Boyd was Assistant Chief Constable of Strathclyde Police between 1979 and 1984 and between 1984 to 1989 he was Chief Constable of Dumfries and Galloway constabulary. *Home Office Press Release* 30.6.93; *Scottish Office Press release* 28.7.93.

Detectives suspended after security leaks: Two Scotland Yard detectives, Detective Constables Brian Liddell and Larry Baldry, from the Criminal Intelligence (SO11) Branch have been suspended following an internal inquiry into leaks of confidential information. A third officer, Sergeant George Napier, from Paddington Green high-security station, has resigned. The investigation is said to concern leaks of information, on major criminals throughout London, to private investigation agencies.

The internal inquiry was undertaken by Commander Eric Huntley, head of the Criminal Investigation Bureau and the Metropolitan Police's Internal Investigation Branch. Details of the allegations emerged during the trial of 'supergrass' Maurice O'Mahoney at the Old Bailey in June, where he claimed to have regularly received confidential information from Scotland Yard. He also claimed that many of Scotland Yard's top detectives were involved in corrupt dealings with him. He alleged that he delivered payments to officers for 'favours' and supplied weapons to them to plant on suspects. Mr O'Mahoney was acquitted of the armed robbery charges against him. Scotland Yard has confirmed that the officers have been suspended and that an inquiry is being conducted by the Complaints Investigation Bureau. *Observer* 25.7.93; *Independent* 26.7.93.

M25 Three lose appeal: The M25 Three, Raphael Rowe, Michael Davis and Randolph Johnson, have lost their appeal to overturn their life sentences for murder, robbery and violence and firearms offences. Lord Justice Watkins upheld the convictions despite a lack of forensic evidence against the men and despite the fact that witnesses identified two white men and a black man as being responsible. All three of the convicted men are Black. (see

Statewatch 2:6). The three men will now appeal to the Lords and their lawyers plan to refer the case to the European Court following the non-disclosure of information at the Appeal.

Holland: Tapping mobile phones: The Dutch Ministry of Justice will pay the costs, estimated at about 20 million British Pounds, to adapt the present mobile telephone network (ATF nets 2 & 3) to the needs of law enforcement and security agencies who have not been able to monitor mobile telephone communications since these new networks became operational in the mid-1980s. The cabinet has now introduced a bill which will force network operators to provide and pay for facilities to allow the monitoring of telecommunications by government agencies on all future systems.

Policing - new material

Das RAF Phantom, Gerhard Wisniewski, Wolfgang Landgraeber and Ekkehard Sieker. Knaur, Munich, 1992, DM12.90. This book argues that the so-called '3rd generation' of RAF guerrillas in Germany supposedly active between 1982-1992 are non-existent. The authors, all experienced journalists, say that the state has used them as a pretext for obtaining extra powers and stronger laws. They detail many aspects of the crimes alleged to have been carried out by the RAF. The book is particularly relevant in the light of the resignation of the German Interior Minister, Rudolf Seiters, following the killing of Wolfgang Grams an alleged member of the RAF in June.

The conduct of police interviews with juveniles, Roger Evans. *The Royal Commission on Criminal Justice Research Study 8* (HMSO) 1993, pp54, £8.

The Right to silence in police interrogation: a study of some of the issues underlying the debate, Roger Leng. *The Royal Commission on Criminal Justice Research Study 10* (HMSO) 1993, pp83, £10.60.

Persons at risk during interviews in police custody: the identification of vulnerabilities, Gisli Gudjonsson, Isabel Clare, Susan Rutter & John Pearse. *The Royal Commission on Criminal Justice Research Study 12* (HMSO) 1993, pp38, £6.

Corroboration and confessions. The impact of a rule requiring that no conviction can be sustained on the basis of confession evidence alone, Michael McConville. *The Royal Commission on Criminal Justice Research Study 13* (HMSO) 1993, pp91, £11.95

Changing the Code: police detention under the revised PACE codes of practice, David Brown, Tom Ellis & Karen Larcombe. *Home Office Research Study 129*, (HMSO) 1992, pp124. This report examines the effect of the Revised Codes introduced in April 1991.

Trouble at the top, Brian Hilliard. *Police Review* pp20-21, 2.7.93. Account of the career of assistant commissioner of the Metropolitan Police, Wyn Jones.

Barbara's balancing act, Tony Judge. *Police* pp32-34, June 1993. Interview between the Director of Public Prosecutions, Barbara Mills, and Tony Judge, editor of the Police Federation's journal.

Challenging justice, Hilary Arnott and Ann Whelan. *Legal Action* July 1993, pp6-7. Interview with Ann Whelan, mother of Michael, one of the four men convicted for the murder of Carl Bridgewater in 1979, about her long struggle to clear their names.

Civilian staff in the police service: competencies and conflict in the police organisation: Barry Loveday. Institute of Public Policy, Department of Management, University of Central England in Birmingham, pp27.

Parliamentary debates

The Police Service, *Lords*, 23.3.93, cols 182-197

Forensic science: Select Committee Report, *Lords*, 15.4.93, cols 1183-1213

Europol, *European Parliament*, 21.1.93, pages 281-286 (Official Journal 3-426).

CIVIL LIBERTIES

Discrimination against travellers

Confidential instructions about how Benefit Agency staff should process claims by New Age travellers during summer festivals are set out in an internal bulletin 24/93 headed: 'New Age Travellers (Not to be released into the public domain)'. It explains that 'Ministers are concerned that claims of this group are carefully scrutinised and administered according to regulations and case law'. The internal bulletin is geared to combatting stories in the media and staff are told not to 'underestimate the powers of persuasion by the news media'. Adjudication Officers are instructed that 'in accordance with current instructions, (they) may assume the eventual Employment Services Jobcentre decision, or opinion (about the claim) *will be adverse to the customer*' (our italics).

Six of the bulletin's 14 pages are given over to phone and fax numbers for named officers who are part of a national police intelligence unit monitoring the movements of New Age Travellers, and a list the 'possible itinerary' of 15 free festivals is attached. John Wadham, legal officer of Liberty, said: 'The approach of the Benefits Agency mirrors the discriminatory attitudes towards travellers shown by the police and courts. Unfortunately such discrimination is lawful because New Age Travellers are not regarded as a minority ethnic group like Romanis'.

At the end of March the government announced that section 39 of the Public Order Act was to be strengthened by extending it to cover green lanes and byeways and to reduce the number of vehicles required to trigger the section from 12 to 6. New police powers would allow them to turn back anyone they believe was going to a 'rave site' within a radius of five miles and to order people 'to leave a site where they believe ten or more people are gathered and that a rave will take place and the local community will suffer serious distress'.

Income Support Bulletin, 24/93; *Home Office press release*, 31.3.93.

Civil liberties - new material

Domestic violence: memoranda of evidence, Home Affairs Committee. (HMSO) 1992, pp123, £18. Memoranda submitted to the Committee by twenty-two institutions and agencies ranging from the Home Office to the Women's Aid Federation.

Who paid for the Tory victory? *Labour Research*, July 1993, pp11-13. Examination of Conservative Party funding in the period leading-up to the 1992 general election. While company donations plummeted, compared to the previous election, donations from undisclosed sources increased.

D-Notice censorship lives on, Moyra Grant. *Open Eye* 2, 1993, pp10-11. A short piece on D-Notices and the media.

Parliamentary debates

Trade Union reform and Employment Rights Bill - Report, *Lords*, 26.4.93, cols 11-72 & 79-138

Freedom and responsibility of the Press, *Commons*, 23.4.93, cols 669-694

Sexual Offences Bill, *Commons*, 30.4.93, cols 1259-1301

EUROPE

The K4 Committee

The new EC structures which are to replace the existing ad hoc groups when the Maastricht Treaty is finally ratified (Germany has yet to complete ratification) are beginning to emerge. The plethora of EC-wide groups which have been meeting on an intergovernmental basis for nearly 20 years is to be replaced by a single structure. The Trevi Group (started in 1975) and its five working parties, the Ad Hoc Group on Immigration (started in 1986) with its six working parties, Mutual Assistance Group (MAG, customs cooperation) and other groups are to be brought together under a new Council of Interior and Justice Ministers. The real power, however, will lie with a committee of senior officials comprising the *K4 Committee*.

This new structure is to be set up under the little debated Title IV of the Maastricht Treaty. This Title provides for cooperation between the EC member states on issues concerning justice and internal affairs covering: the controls at external borders of the EC; immigration and asylum policies; 'combatting unauthorised immigration'; drugs; international fraud; judicial cooperation on civil and criminal matters; customs; and police cooperation including the creation of a European Police Office, Europol (Article K.1). Article K.3 determines that cooperation in these areas are to remain intergovernmental (with two exceptions on visa policy where the Commission can take the initiative). This means that the work of the new Council of Ministers and the K4 Committee will remain outside of the democratic control of the European Parliament and that its deliberations will be conducted in secret.

The K4 Committee will have three steering groups, each with a number of working groups. The new structure will be:

Immigration & asylum policy

working groups on: 1) asylum; 2) immigration policy; 3) visas; 4) control of external frontiers; 5) clearing houses on asylum and immigration (CIREA and CIREFI).

Security, law enforcement, police and customs

working groups on: 1) counter terrorism; 2) public order, training, scientific and technical work; 3) combatting serious crime; 4) Europol; 5) customs; 6) drugs.

Judicial cooperation

two working groups: 1) civil matters; 2) criminal matters.

The K4 Committee will have one full member from each member state and one from the Commission. In practice, the membership of the Committee will be the existing Coordinators of Free Movement (set up in 1988) who wrote the report recommending its creation. The K4 Committee will be based in the Council and its work will be paid for out of the EC budget. The Council is one of the main organisations of the EC representing the 12 member governments.

The formal organisations are: the European Commission, the European Parliament and the Court of Justice.

In addition to the three steering groups and their working parties the Committee will also be responsible for setting up the European Information System (EIS) which will provide an EC-wide computer system covering all areas of policing, law and immigration.

As with the ad hoc groups the deliberations of the K4 Committee will be conducted in secret. Through this process policies are drawn up by senior civil servants, police and immigration officers, customs officials, and internal security service officers. When policies are agreed they are presented to the Council of Ministers and only when they have rubber-stamped them are they made public. The public, press and parliaments of the EC are therefore presented with a *fait accompli*.

The K4 Committee, unlike the old ad hoc groups, is to be a permanent structure and forms the basis of the European state.

see *Statewatching the new Europe: a handbook on the European state*, to be published by Statewatch in September.

Borders: European Parliament acts

On 15 July the European Parliament finally decided to initiate legal proceedings against the European Commission over the issue of border controls. The action, being taken under Article 175, is based on the failure of the European Commission in ensuring that the deadline of 1 January 1993 for the removal of border controls was met by the 12 EC states. The Commission has two months to say what it intends to do to get member states to remove border checks. If the response is not satisfactory then the action before the Court of Justice will begin (see *Statewatch* vol 2 nos 5 & 6; vol 3 no 3).

Members of the European Parliament have expressed increasing frustration with the continuation of passport checks after the 1 January deadline. The nine countries who are signatories to the Schengen Agreement - Germany, France, Italy, Spain, Portugal, Greece, Netherlands, Belgium and Luxembourg - have finally agreed to remove controls from 1 December 1993. But the three other countries - UK, Denmark and Ireland - will continue with controls. The UK says it intends to maintain controls 'indefinitely' (see In brief below). Denmark says it will remove them when certain conditions are met - the ratification of Dublin and External Borders Conventions and the start of the European Information System (EIS) - which will not be until the end of 1994 at the very earliest.

Democracy without citizens?

The Charta 91 group organised a conference in Brussels on 17-18 June entitled: Europe without frontiers? Democracy without citizens? It was attended by 175 people representing many countries and a wide range of groups. The starting point was that racism and intolerance could be seen in all European countries, and that the struggle against racism was also a 'struggle to upgrade democracy, get citizens more involved and develop polices that eradicate the roots of racism'.

Much of the discussion took place in 'round table' sessions on 'Citizens and politics' and 'Politics and citizens'. Among the points to emerge was the view that the idea of 'citizenship' was 'meaningless at the European level unless it has a practical content for all those living in the community'. Many speakers raised the issue of the 'democratic deficit' and the fact that 'intergovernmental cooperation increases the democratic deficit, and even by-passes elected representatives'.

The structures of the European Community were seen as

fundamentally undemocratic with 'a giant gap between politics and the citizen'. In the plenary debate speakers emphasised that however undemocratic the present structures are it was important not to reject them as that 'is precisely what undemocratic forces in Europe want to happen, for then nothing would stand in the way of an intergovernmental, centralised superstate'.

Charta 91 has been set up to monitor the Belgian Presidency of the EC in the fields of justice, law, policing and racism. The conference sent a memorandum of issues to the Belgian Minister for European Affairs and has set up a watchdog committee. The group is currently preparing the conference report and is planning a further conference in December to coincide with the EC Council meeting of Prime Ministers.

Charta 91, Wellingsstraat 89, B-9000 Gent, Belgium.

France: rightwing critique of Schengen

In June the French senate published the report of its enquiry into the Schengen Agreement of which France was one of the original signatories in 1985. This covers the Schengen Accord of 1985 and the Schengen Agreement of 1990. Since then the original five EC countries - Germany, France, Netherlands, Belgium and Luxembourg - have been joined by Spain, Portugal, Italy and Greece. This report from the French senate takes a rightwing perspective and is critical of its partners laws (eg, drug laws in the Netherlands) and their ability to control their external borders against 'illegal' immigration (eg, Greece).

The French Senate (the second parliamentary assembly, dominated by the right) set up a commission on 26 June 1992 and, following its report on 11 December 1992, turned itself into an enquiry group of 21 Senators.

Their critique of the Schengen Agreement spans: the right of pursuit by foreign police being limited to 10 kilometres between France and Spain and France and Italy; delays in implementing the computerised Schengen Information System (SIS) which had already cost 30.5 million French francs and whose operating budget had risen from 1.7 million FF in 1992 to nearly 6 million FF in 1993; and the lax attitude of the Netherlands towards soft drugs and lenient sentences for dealers.

The report says that France had reproached its partners for not demanding sufficient safeguards before granting visas. The committee of enquiry wants to see the creation of a common dossier on 'unwanted foreigners' - France has already established its own communications network called 'Mondial Visa'.

The enquiry concludes that 'the strategy for controlling immigration only by controlling the frontiers is barely credible' and among other proposals wanted to target 'clandestine networks' of immigrants.

The report has a conservative and security-ridden tone and reflects some of the problems and differences faced by the states implementing the Schengen Agreement (with the new start date of 1 December 1993).

Reflex, Paris; *Information report, made in the name of the Commission of Enquiry charged with examining the setting up and functioning of the convention of the Schengen Accord of 14 June 1985, president Paul Masson, no 384, two volumes, 68pp and 270pp.*

Amnesty report on Europe

The annual report of *Amnesty International* says that: '1992 was an appalling year for human rights in Europe' and that in many cases the root cause was racism. In France, for example, there were allegations of ill-treatment in police custody, often concerning

immigrants or French citizens of North African origin. Jacques Cherigui, of Franco-Algerian parentage, was reportedly kicked and punched by police officers, who subjected him to racial abuse. No judicial inquiry has been made into his official complaints and there has been no result from an internal police inquiry.

Roma (travellers) were frequent victims of police racism the report says. In Bulgaria in June 1992 police officers allegedly tortured and ill-treated Roma when they surrounded a Romany community to search houses for arms and check identification. They allegedly used truncheons and sticks to beat men, women and children indiscriminately and the inhabitants of one house were made to stand against a wall and told they would be shot. In Romania and the Czech and Slovak Republics there were reports of security forces torturing and ill-treating Roma.

In Portugal, Spain and Italy allegations of torture and ill-treatment in police custody or prisons became more frequent and many appear to have been inadequately investigated. In Greece several conscientious objectors to military service were reported to have been ill-treated while in detention and in September 1992 Manolis Tsapelis died a month after police headbutted him in the stomach. An autopsy recorded the cause of death as an embolism following an operation on a spleen injured in a fall or beating.

In Turkey, torture continued to be a 'very serious problem' and at least 13 people died in custody reportedly as a result of torture. More than 200 people were killed in 'extrajudicial executions' mainly in the Kurdish southeast of Turkey.

Europe: in brief

UK border checks: Home Officer Minister Charles Wardle confirmed in reply to a written question that the UK intends to maintain border controls for 'immigration checks on third-country nationals, together with adequate safeguards against the entry of terrorists and other criminals'. The government was considering, he said, relaxing controls just at ferry ports with people simply holding up an EC passport or identity card. Immigration officers would however check 'where there was any suspicion that the document was not genuine or that the passenger was not in fact an EC national'. No date has been set for this to start. *Hansard written answer*, 9.7.93.

The 'acquis': a new term has crept into the terminology of the European Community, the *acquis*. This describes the instruments and agreements which countries joining the EC - like Finland, Norway, Sweden and Austria - will 'be required to accept on acceding to the Community'. The *acquis* covers matters like the legally binding Dublin Convention on asylum-seekers, the External Borders Convention, and the growing number of intergovernmental agreements which have signed by the 12 EC states.

Ombudsman: secrecy row: the Council, representing the 12 EC governments, has refused to agree to hand over classified document to the new EC Ombudsman as set out in the Maastricht Treaty and agreed by the European Parliament in June. MEP Jean Pierre Cot (Socialist, France) said: 'The documents are freely handed over to Commission officials. It is scandalous that they should be denied to the one person directly looking after the public interest'. *EP News*, 21-25 June 1993.

Hungary: gypsies march: Over 1,000 gypsies and their supporters marched peacefully through the northern town of Egar during July. They were protesting against a series of attacks against them by neo-nazis based in the town. Anti-gypsy violence had been encouraged by an extreme right-wing grouping within the ruling

Hungarian Democratic Forum (MDF) led by Stavan Csurka. Csurka has now been expelled from the MDF, following a power struggle, and announced the formation of a new party, the Hungarian Justice Party. The new party includes five MDF MPs. Ironically Csurka, who is known for his rabid anti-Communism, recently acknowledged that he agreed to act as a police agent for the communist government in 1957.

Guardian 23.6.93, 2.7.93; *European* 15.7.93.

Northern League gains in elections: The far-right Northern League has won overwhelming control of the north of Italy during mayoral elections held in June. Among the seats they won was Milan, where the League's Marco Formentini took 57% of the vote to be elected mayor. The League already controls over half of the council seats in Milan. They made alarming gains across the industrial belt that stretches from Lombardy into the Veneto, but lost in Turin where the Democratic Party of the Left (PDS) took control. In Alassio where the Northern League's Roberto Avogadro was elected a decree was passed banning beach sellers from resorts on the Ligurian Riviera. It has been criticised for being racially motivated, as many of the sellers are African, and has provoked a backlash from beach proprietors who have refused to act as vigilantes. The Northern League is widely perceived to have benefitted from the corruption of the Italian political establishment. The PDS also increased its control in central Italy and made inroads into Christian Democrat territory in the south. *Guardian* 22.6.93; *European* 8.7.93.

Holland: ID document: The bill on mandatory identification passed the Second Chamber (ie, Commons) of the Dutch parliament in June. From next year, every employee must be able to produce an identification document (eg, passport, drivers license) at their place of work. People who have not paid fares on public transport must also have ID (they can be taken to a police station if they are suspected of giving a phoney name) and ID must be showed when applying for social services.

Le Pen turned back at Edinburgh, Dublin and Berlin: Over 400 demonstrators mobilised at extremely short notice to greet the French fascist Euro-MP, Jean-Marie le Pen, when he stopped at Heathrow Airport en route for a meeting of the fourteen strong European Right group in July. Le Pen had planned to hold a conference at the Sheraton Grand Hotel in Edinburgh but, following fierce opposition, the Hotel cancelled the booking. A subsequent plan to hold the meeting in Dublin was also cancelled following demonstrations there. Following the disruption caused by Le Pen's plans the mayor of Berlin has stated his opposition to the conference being held in Berlin in November.

Le Pen's 'serial junketing' was severely criticised in June following a European Parliament funded 'fun-trip' to Corfu by the European Right Group. Corfu was occupied by the nazis for most of the Second World War and the visit caused grave offence to many Corfiotes. It is estimated that the European Right Group spends £8,000 per head from EP funds on the Right Group meetings.

Guardian 12.6.93, 15.7.93; *Weekly Journal* 8.7.93.

Europe - new material

Organised crime in Italy: testing alternative definitions, Vincenzo Ruggiero. *Social and Legal Studies* 2:131-148, 1993

Nazi echo: Germany for the Germans, Michael Hahn. *Cover Action* 45, 1993, pp11-19, 66. Examines the nazi legacy in post-war

Germany and the contemporary neo-nazi movement.

Roma on the march, Britta Grell, *CARF* July/August 1993, p7. On the struggle of the Roma refugees to maintain their culture and language in the face of discrimination in Germany.

Campaign for citizenship rights, *CARF* July/August 1993, pp5-6. *CARF* argues that if European governments are sincere about seeking 'racial harmony' then they should give 'immigrants' a stake in society by giving them citizenship.

Recent developments in European convention law, John Wadham. *Legal Action* July 1993, pp17-20. Summary of selected cases considered by the European Commission of Human Rights.

The crisis facing human rights in Europe: does the British government really care? Anthony Lester QC. Chartist Papers no 2, Charter 88 Lawyers Group, 10pp.

Parliamentary debates

Institutional role of the Council & cooperation procedure, *European Parliament*, 20.1.93, pages 146-156 (Official Journal 3-426).

Free movement of persons, *European Parliament*, 20.1.93, pages 140-146 (Official Journal 3-426).

PRISONS

Prisons: in brief

Prison suicides: Leicester Prison has been called the suicide capital of the prison system by Inquest, the organisation which assists families of those who die in custody. The latest death, which occurred in June, was that of 24-year old Navnit Zinzuwadia who was found hanging in the hospital wing of the prison. Navnit's death was the fourth at the prison in the last six months. The others were: Paul Ackers (14.12.92); Warren Jones (1.1.93) and Barry Samuels (13.3.93). The prison regime has been criticised by the campaigning group Prison Watch who demanded 'a public review of suicide prevention at Leicester Prison and publication of the secret Home Office enquiries into the four deaths'. During 1992 there were 77 deaths in prisons in England and Wales, 42 of which are believed to have been suicides. There were also 2,920 incidents of deliberate self-harm recorded. Prison Watch have recorded 18 apparent suicides in the first six months of 1993. *Prison Watch* Press Release No 054, 18.6.93.

Prison ships planned? Contingency plans for prison ships at Birkenhead and Barrow-in-Furness have been drawn-up in a confidential Whitehall document obtained by the Guardian newspaper. The document, which outlines government plans to deal with an expected surge in the prison population says that any decision to use ships 'would be controversial'. It continues '...the proposal is novel enough to invite close scrutiny of its legality. Challenges could be brought by way of habeas corpus or judicial review proceedings or in actions for false imprisonment'. In 1987 the government introduced a prison ship, the Earl William, to house refugees at Harwich. The ship was constantly picketed by demonstrators objecting to the inhumane and dangerous conditions. The use of prison ships was abandoned after the Earl William broke free from its moorings and ran aground. *Guardian* 19.7.93.

Wandsworth Prison condemned: Conditions at Wandsworth

Prison have been severely criticised by Judge Stephen Tumin, Chief Inspector of Prisons. In particular Judge Tumin condemned the lack of progress in making improvements following his last inspection in 1989. He also pointed to the lack of leisure or work facilities for prisoners, many of whom spend 23 hours of the day locked in their cells. Sanitation, physical education facilities, meal times and visiting conditions were all unacceptable according to the report. *Independent* 2.7.93.

Prisons - new material

Awaiting trial: a survey of juveniles remanded to custody while awaiting trial in criminal proceedings April 1992-March 1993, Association of Chief Officers of Probation & National Association for the Care and Resettlement of Offenders. (NACRO) 1993, pp40, £4. This is the final report of a twelve month survey of juveniles remanded to prisons in England and Wales.

Juvenile offenders: Memoranda of evidence, Home Affairs Committee. (HMSO) 1993, pp220, £26.10. Memoranda submitted to the Committee by thirty-seven bodies.

SECURITY & INTELLIGENCE

Holland: counter report on BVD

In mid-June, the Dutch investigative bureau Jansen & Janssen in Amsterdam published a book as a counter-report to the BVD's annual report (the BVD is the internal security service). In 10 chapters different aspects of security service policy and operations are discussed which are unlikely to appear in the official report. For example, the continued harassment of refugees, of people believed to be connected to the activist 'Rara' group and BVD interventions resulting in progressive people losing or being denied a job, even though such jobs do not require a security clearance.

The book also draws the attention to the BVD's confusing attitude in confronting rightwing extremism. While relatively harmless groups are pursued, an extremist gun club involved in several illegal activities is allowed to remain in business. The book deals extensively with the security service's efforts to become accepted in the academic world and in the public debate. The Netherlands Intelligence Studies Association (NISA) for example, a members-only debating club where intelligence personnel and academics meet to discuss historical and current issues, is criticized for its willingness to function as a platform for BVD propaganda and its refusal to accept more progressive academic participants.

Although the research for certain chapters (e.g. those dealing with Suriname) could have been more extensive, the book is a very useful counter to BVD reports which otherwise would go unchallenged. The chapter on the Dutch foreign intelligence service IDB provides a good summary of the events that led to its closing down, a phenomenon that could be of interest to foreign observers. Buro Jansen & Janssen: *Opening van zaken, Een ander BVD jaarverslag*. Amsterdam: Ravijn 1993, 160pp, ISBN 90-72768-30-2.

BVD annual report

On July 21, the BVD published its 52-page annual report. For the first time, the security service warns of illegal practices by 'information dealers', independent bureaux trading in business intelligence. The BVD, together with security officers of some 'vital corporations', started an investigation into such activities.

Questionable information brokers are said to resort to bribes, blackmail and methods which bear close resemblance to those used in the espionage world.

As could be expected, the report is most interesting for what is not in it (which has been detailed in the recent Jansen & Janssen book "Opening van zaken"). Some new elements in the report can be seen as a reaction to earlier criticism, such as the more detailed paragraphs on the extreme right. They see potential for violence from both right-wing extremists and radical leftist protesters and anti-fascists.

Switzerland: political police report

On June 11, after three years of work, the research group established by the government to investigate the history and functioning of the security service published its report (see *Statewatch* vol 2 nos 4 & 6). The report, which gives many details for example on illegal telephone tapping and on the preparations for the internment of 'dangerous' and 'suspect' citizens, was criticized in the Swiss press for the fact that none of the groups and individuals under surveillance nor other sources had been consulted to verify the correctness of the information in the security service dossiers. From the report it becomes clear that a considerable amount of this information was utterly unreliable. It would have been relevant to see what the motives were behind the storing and disseminating of such information and what were the results. The experts commission, in which only the governing parties are represented, concludes that the Staatsschutz has always had a disproportionate interest in the Left, even during the Second World War. Based on unrestrained access to its files, the authors judged the Staatsschutz to have been an organization characterized by 'arrogance and unprofessionality'. This was documented by, for example, the perception by the Staatsschutz of the feminist movement in the late 1970s as primarily a Moscow-infiltrated phenomenon. Staatsschutz employees were poorly trained and concentrated on collecting data while ignoring analysis. The government has declined to comment on the book: it has announced a bill on the Staatsschutz for September.

The Swiss Federal Court recently ruled that the storing by the political police of incorrect or even harmful information on individuals does not constitute a violation of personal rights as long as such data have not been transmitted to third parties. So far 102 applications for compensation have been made of which only 3 have been settled out of court. Over 5,000 persons are still in the procedures to get access to their files. The office responsible for the procedures, directed by Mr René Bacher, has estimated that the average individual is registered in 10 dossiers, each containing an average of 10 pages.

Georg Kreis et al, *Staatsschutz in der Schweiz. Die Entwicklung von 1935-1990*. Bern: Verlag Paul Haupt, 1993, 671pp, ISBN 3-258-04803-7, SFr. 48.-, also available in French).

Holland: Security operations

In June an anonymous group published a brochure detailing observation operations carried out by the marechaussee's (military police/Gendarmerie) anti-terror unit Brigade Speciale Beveiligingsopdrachten (BSB), a 40-strong crack unit modelled after the German GSG 9. BSB personnel are apparently involved in intensive observations of activists suspected of having sabotaged military installations and objects eg, the destruction of several Bolkow helicopters on 3 February 1992 at Deelen military airport. Most interesting in the booklet is the fact that the unknown authors, who are obviously HAM radio enthusiasts, have registered the

sudden presence of BVD observation teams at least four times immediately before sabotage actions were carried out on military installations in the central Netherlands, including the attack in February 1992. In spite of this, no arrests were made. This raises the question whether the BVD had foreknowledge which it kept to itself instead of warning the military authorities. The booklet has led to questions in parliament.

De Rode Oortjes *Wie niet weg is, is gezien. De marechaussee bespioneert anti-militaristen*. Amsterdam: Ravijn, 1993, 76pp, ISBN 9072768299 (The Red Ears *Who are not gone, are seen. The military police spies on anti-militarists*).

Holland: Hague bomb

On July 1, 1993 at 03.00 hrs the Dutch ministry of Social Affairs and Employment in The Hague was struck by a bomb that caused severe damage. The attack was aimed at the offices of the Labour Relations Inspection Service (Dienst Inspectie Arbeidsverhoudingen, DIA) and claimed by the mysterious Rara (Revolutionary Anti Racist Action) group as a protest against the DIA's role in tracking down 'illegal aliens' who work mainly in sweatshops and market gardening. Rara has claimed a number of bomb attacks over the last eight years, including those against the Ministry of the Interior and the house of State Secretary Mr. Aad Kosto in November 1991. Mr Ren R., the only person ever prosecuted as a Rara member, received a minor sentence for lack of evidence in 1989, and Rara has become a major frustration for both the police and the BVD. The BVD has announced that this time the security service will not participate in the team investigating the July 1 attack. Furthermore, Prime Minister Mr Ruud Lubbers expressed in clear terms his dissatisfaction with the BVD's performance in a TV interview. Immediately after the November 1991 bombing BVD head Mr Arthur Docters van Leeuwen emphasized that he knew exactly which individuals were responsible for the attacks but, when no arrests followed, Mr. Docters's self-assuredness was criticized by MPs and in the press. In a parliamentary debate immediately after the latest attack on 1 July, the MP for the right-wing VVD party Mr. Hans Dijkstal opposed any BVD involvement in the investigations. This time, the tension was raised to an even higher level when on 2 July, an anonymous editor of the newspaper NRC Handelsblad, quoting 'a BVD spokesman', wrote that Mr Ren R. was directly involved in the latest attack and that his partner had written the Rara's press statement. Observers conclude that either Mr Docters can no longer guarantee the discretion of his personnel or the BVD has resorted to a desperate move to compensate for a lack of evidence that would stand up in court. This unexpected move could also be seen as a counterattack against accusations voiced last month that BVD personnel are harassing people they suspect of having Rara connections.

Security & Intelligence - new material

Sacrifice in Chile, Phil Chamberlain & Kent Upshon. *Open Eye* 2:4 & 50, 1993. The body of defence journalist Jonathan Moyle was found hanging in the closet of his hotel room in Santiago, Chile in April 1991; this article discusses his involvement with MI6 and the reasons for his death.

Parliamentary debate

Security Service, *Commons*, 29.3.93, cols 131-138

NORTHERN IRELAND

Prison security

Following the Hennessey Report into the 1983 mass escape from the Maze Prison in Belfast the Northern Ireland Office introduced a special regime for a few prisoners it regarded as 'high risk'. The so-called 'red book' system was designed to prevent such prisoners building any relationships with other prisoners or prison officers. It involved a cell move every few weeks and a cell and strip search every 72 hours. At night red book prisoners were supposed to be checked every 15 minutes. From 26 August, this regime will be substantially modified and prisoners will now be allowed to stay on a wing for up to six months. However, they will still be denied the paroles granted to other prisoners. There are currently 10 red book prisoners.

The change was announced at a time of increasing tension within the prisons and the prison service itself. The Prison Officers Association has been in dispute with the Northern Ireland Office over staffing levels. But there are growing signs of conflict between prisoners and staff, particularly loyalist prisoners. For example, in June a prison officer was badly beaten by loyalists in Maze Prison; this was followed by several UVF gun attacks on the homes of prison officers.

Censorship

In September 1992, BBC2 broadcast a discussion of political violence on its 'Nation' series. Participants included a representative of the African National Congress (ANC), former Northern Ireland Minister Peter Bottomley and Bernadette McAliskey. For some of the discussion McAliskey's voice was replaced by subtitles because a senior BBC editor judged that what she said fell within the terms of the 1988 broadcasting ban. This is supposed to prevent broadcasts which support or invite support for political violence and it is routinely used to prevent the voices of Sinn Féin members being broadcast on TV or radio. McAliskey, who is not a member of Sinn Féin, applied for a judicial review of the BBC's decision and Justice MacPherson ruled that judicial review was the wrong remedy, she should take an action for defamation instead. In July, however, Lords Bingham, Steyn and Waite overturned MacPherson's ruling, appreciating the point that explanations of political violence are not the same as justifications or support for violence, where the line might be drawn between the two requires a full hearing in court.

The Dublin High Court ruled on 16 July that the RTE (television station) was correct to use section 31 of the Broadcasting Act to ban a 20 second radio advertisement for a book of short stories published by Brandon Books. The author of the book entitled 'The Street' is Gerry Adams, the President of Sinn Féin and the advert included his voice. The legal argument turned on whether Adams the novelist could be distinguished from Adams the politician. The judgement appears to widen the scope of Section 31 following the recent ruling that RTE was *wrong* to ban an interview with a trade unionist involved in a strike simply because he was a member of Sinn Féin.

14th Intelligence Company

The role of one of the British Army's undercover unit in the killing of three men robbing a bookmakers' shop in Belfast's Falls Road on 13 January 1990, is described in detail in a new pamphlet. Published to coincide with the inquest into the three deaths, the pamphlet shows how 14th Intelligence Company, a surveillance

unit, which usually leaves 'executive action' to the SAS, misinformed the RUC and the government on at least eight points over the incident. The Secretary of State at the time, Sir Peter Brooke, stated in the Commons that members of the unit had stumbled across the robbery by chance. They had seen two armed and hooded men leave a car and enter a shop. Following the incident, he said, the soldiers had difficulty leaving the scene because a crowd and black taxis began to block the road - invoking images of the infamous two corporals killing. In fact four men were involved in the robbery, one of whom survived and whose statement, along with those of other eye-witnesses, contradicted the official military version of events on many points.

The pamphlet argues that the calculated ferocity of the killings suggests that the shootings did not arise by accident. One theory is that the robbers had been under surveillance for some time and that they were eliminated because they came to have possession of intelligence documents which included large-scale maps of West Belfast with particular houses marked with numerical codes. The documents plus two weapons had been stolen from a car belonging to 14th Intelligence Company by joyriders and then sold to the gang which eventually carried out the robbery. Military intelligence may have believed that the documentation was passed on the IRA or had been studied closely by the robbers. The surviving member of the gang, however, claims, that the documents were destroyed because they could see no use for them.

The inquest into the killings began in April but was immediately stalled by legal argument over the Secretary of State's issuing of a public interest immunity (Pii) certificate (see *Statewatch*, vol 3 no 3). 'National security' allows the issue of a Pii certificate which typically applies to the concealment of documentation or oral evidence relating to documentation. But on this occasion the Pii referred to no documents, effectively providing a blanket ban on oral evidence by soldiers. The Pii also invoked the screening of witnesses. The coroner, John Leckey, clearly disapproved of this attempt by the Ministry of Defence to widen the use of Pii's and ruled that the certificate was issued on invalid grounds - the undercover soldiers would have to appear and give evidence in open court. The Ministry of Defence took the case to the High Court which quashed the coroner's decision in early July. For further information about *Pre-inquest statement on the killings at Sean Graham's Bookmakers on the Falls Road in January 1990*, contact the Committee on the Administration of Justice on 0232-232394.

Northern Ireland: in brief

Documents denied: Sir Patrick Mayhew, the Northern Ireland Secretary, has refused to hand over a number of secret inquiry reports pertaining to security forces activities in Northern Ireland. The documents had been requested by Federal judge Barbara Caulfield who is presiding over the Californian extradition trial of James Smyth, one of 38 Maze Prison escapees of 1983. Caulfield recently granted Smyth bail, but this was revoked by an appeal court at the end of July.

Arming women: the British Army and the RUC have both announced changes in policy regarding the arming of women. From October the British Army intends to deploy women to drive armoured personnel carriers and they will be equipped with SA80 assault rifles and pistols. Women are currently used in an unarmed capacity particularly at checkpoints. 'The British Army is now an equal opportunities employer', stated a defence source, 'it is not right to say we'll give equal opportunities but you can't go to Northern Ireland'. In a similar move, women RUC officers,

numbering about 1,300, will carry weapons from April 1994. The announcement follows a long campaign for equality which has been opposed by some women on the grounds that they will become more of a target.

UDR 4 case: Three serving and two former RUC officers have been charged with offences arising out of the UDR 4 case in which three of the four had their life sentences for the murder of Adrian Carroll quashed. Forensic tests had revealed that RUC interview notes had been substantially re-written. The three released men have each received £25,000 as an initial compensation payment.

Northern Ireland - new material

Return to an address of the Honourable the House of Commons dated 3 December 1992 for a report of the Inquiry into the circumstances the convictions arising out of the bomb attacks in Guildford and Woolwich in 1974: second report on the Maguire case, Sir John May. (HMSO) 1992, pp96, £12.10. The second and final report on the wrongful convictions of the Maguire family considers the original decision to prosecute and the handling by the Home Office of representations made over the years.

The general strip search in Maghaberry Women's Prison (Mourne House) - Monday March 2nd, 1992, Christian Response to Strip Searching. 1993. Available from: CRSS, Corrymeela House, Upper Crescent, Belfast BT17 1NT. Short report on the strip-search at Maghaberry that concludes that it was repugnant, "and thus quite unacceptable in this society or in any other."

Northern Ireland: the right of silence, Amnesty International. February 1993, pp10. This report recommends that the government repeal the Criminal Evidence (Northern Ireland) Order 1988, under which those who exercise their right to remain silent during police questioning or during trial risk having inferences of guilt drawn against them.

Northern Ireland: fair trial concerns in Casement Park trials, Amnesty International. July 1993, pp10. This report calls for a wide-ranging independent inquiry into the events at Casement Park in March 1988, and calls for a review of the cases of those who have been wrongfully convicted. It also urges a review of the cases of Patrick Kane, Sean Kelly and Michael Timmons.

Ireland's targeted generation, Betsy Swart. *Covert Action* 45, 1993, pp46-53. Discusses the daily harassment and intimidation handed out to Nationalist youth in Coalisland, Co Tyrone by the security forces. It focuses on the case of Barry O'Donnell who was excluded from England and suffered daily intimidation. He later joined the IRA and was executed by soldiers following an attack on an RUC base in the Coalisland.

Feature: Collusion and Britain's Irish policy

Amidst increasingly visible disagreements over Northern Ireland policy and further indications of polarisation within the North itself, charges of collusion between loyalist groups and the security services are gathering momentum. Some of these relate to the early seventies while others centre on the role of military intelligence agent Brian Nelson and the South African weapons shipment he helped to organise in the late 1980s.

British government policy has been to secure a settlement on devolved government for Northern Ireland through talks between Paisley's DUP, the Ulster Unionist Party, Alliance and Hume's SDLP; talks which in part have rested on the exclusion of Sinn Fein and reassurances to the SDLP and Dublin that Britain has no 'selfish strategic interest' in the North and would 'happily' withdraw. Such a settlement would in theory have the approval of the Dublin government and would come to supersede the Hillsborough Agreement. It would become the basis of a new consensus for Anglo-Irish and cross-border cooperation on security policies to finally eradicate the IRA. It might also institutionalise North/South cooperation on other matters such as economic development, infrastructure and tourism.

Since the talks broke down, however, the prospects of restarting them have look increasingly remote. Paisley and some other Unionists are insisting that they will not resume talks until the Irish government revokes Articles 2 and 3 of the Irish constitution which states that the Irish nation consists of the whole of the island of Ireland but that for practical legislative purposes the jurisdiction excludes the six northern counties. Nationalists point out that this is a weaker 'territorial claim' than Britain's own claim over Ireland under section 75 of the Government of Ireland Act 1920.

British-Irish talks

The stalling of talks led British Labour Party spokesperson Kevin Macnamara to publish his proposals for joint British-Irish authority over the North. Irish Labour Party leader and Minister of Foreign Affairs, Dick Spring, has backed Macnamara and suggested that if no internal talks are possible the British and Irish governments have to by-pass local politicians. Prime Minister John Major's response to the joint authority proposal was to describe it as 'a recipe for disaster'. He may well have had his eye on the July votes on the Maastricht Bill for which his government relied on the support of the Unionist MPs. Despite Major's protestations that 'nothing was asked for, nothing was offered, nothing was given', Ulster Unionist leader James Molyneux seems well-pleased that his party has achieved a closer relationship with Major which may result in a Westminster Select Committee on Northern Ireland, increased powers for local district councils and new security measures. Such a deal would clearly discredit the idea that the British government can act as a neutral chair of talks between the British government and Irish nationalists.

Another factor behind the sense of disarray within the Northern Ireland Office is the widening consensus that a proper political settlement cannot be achieved without the inclusion of Sinn Fein in any talks process. Some commentators point to the inclusive basis of discussions on the new South African constitution as an example that could be followed, and although there is disagreement as to the basis of Sinn Fein inclusion, calls for talks with the party have recently come from US politicians, the Opsahl Commission, and former Prime minister Edward Heath. Notwithstanding strong objections from the British, the Irish President Mary Robinson met

the Sinn Fein President in West Belfast in June. This meeting actually strengthened her already high popularity according to opinion polls and this is clearly leading to a re-think on policy towards Sinn Fein within Irish government circles. SDLP leader John Hume continues to meet with Adams following their issuing of a joint press release at the end of April which included the statement that no internal settlement of the North was possible and that the Irish people have a right to national self-determination. Even ex-Security Minister Michael Mates, following his resignation over the Asil Nadir affair, has supported the Hume/Adams talks and has openly questioned the cost of the conflict. The economic and security impact of IRA activities in England is giving loyalists the impression that, in Unionist MP John Taylor's words, the IRA is winning. Hence DUP MP Peter Robinson has publicly advocated the bombing of Dublin and West Belfast as an act of 'self defence' only to be followed by Lord Tebbit's remark on Sky TV that the only thing that would force Dublin to give up the constitutional claim on the North 'is when the bombs begin to blow in Dublin in the way that they have been in Belfast and London'.

Loyalist killings

In raising their killing rate and general profile over the past three years, Loyalist groups have propagated the notion of a 'pan-nationalist front'. While they have continued to target members of Sinn Fein and their families, they have used the concept to justify random killings of Catholics as well as the more recent campaign of attacks against SLDP politicians. According to a new study of loyalist killings between 1990 and 1992, *Shoot-to-Kill and Collusion* published by Relatives for Justice, loyalist groups murdered 99 people and attempted a further 90 killings during this period. A major concern of the pamphlet is to describe the various ways in which the security services effectively support, directly or indirectly, loyalist military actions. It claims evidence of collusion in 48 of the killings.

The pamphlet is published at a time of renewed concern over two cases of security forces involvement in murders in the 1970s. The first case involves the worst day of atrocities in the history of the current conflict - the bombing of Dublin and Monaghan which killed 33 people on 17 May 1974. Yorkshire TV's documentary on the bombing broadcast on 6 July claimed that the loyalist group responsible, which included members of the UDR, was assisted by MI6 and did not have the capacity to make and detonate the bombs without such help. One of the gang was eventually murdered by the IRA and another has subsequently carried out several sectarian killings in the mid-ulster area and is still active. The programme pointed out that the official reluctance to prosecute those involved is based on the fear that they will expose the full nature of British intelligence backing for the operation. The broadcast has led the Dublin-based Repeal Section 31 group to launch a billboard poster campaign which reads: 'Dublin/Monaghan Bombings - Planned by MI5 - Planted by UVF - Ignored by RTE - Censorship Breeds Ignorance'.

The second case concerns the murder of Joseph McVeigh by the undercover Military Reconnaissance Force on 13 May 1972. The RUC has begun to re-interview eye-witnesses as part of an inquiry which may lead to the prosecution of soldiers who left the army more than 20 years ago.

It is now generally acknowledged that the upsurge of Loyalist

attacks and their capacity to kill has been greatly enhanced by the South African arms shipment which Brian Nelson helped to organise while working for military intelligence. This weaponry was used in the grenade attack on the Adam's home in June and has been used in at least 64 murders since it arrived in January 1988. It has now been confirmed that Northumbria Chief Constable John Stevens has been re-called to the North to look into the Nelson affair.

The new Stevens' inquiry will inevitably focus on how the intelligence agencies and RUC Special Branch use informers and agents. At the time of the Nelson trial, the government's position was that law-breaking by contracted agents/informers

would not be condoned by handlers, but it is widely accepted that handlers often ignore illegalities to protect their agents identities. In the Nelson case it is alleged that this not only involved letting the South African arms shipment through, but several murders as well. Evidence that this may be common practice emerged in a *Daily Mirror* exclusive in June. This featured the story of Declan Casey, quarter-master for the IRA in West Tyrone, who worked as an informer for five years. In September 1992 he was re-settled in a £72,000 house near Nottingham and given £40,000. The *Mirror* claimed that the RUC and MI5 were tipped off about murders and other operations but did nothing about them.

There is also concern that the use of paid agents/informers is more pro-active than the above suggests, involving the encouragement of illegalities to trap and kill IRA activists. An example of this was one of the first operations organised by MI5 following its takeover from the Special Branch of anti-IRA work in Britain last year. Using a paid agent, Patrick Daly, MI5 organised and financed a plan in which two men were encouraged to steal fake explosives and useless detonators from a disused quarry in Somerset. MI5 then claimed the resulting arrests as the first fruits of MI5 primacy. While working for MI5, Daly was based in the Irish Republic where counter-terrorist intelligence work is supposed to be the sole prerogative of the Gardai.

That MI5 feels free to operate where it likes, is clear from an attempt to recruit an informer in the Spanish resort of Mallorca. It was here in June that 23 year old Anthony Fox, the son of Charles and Theresa Fox, murdered by loyalists in September 1992, was approached by MI5 with a box stuffed full of money. He had previously been approached by RUC detectives in May and on his return from Spain he was arrested and taken to Gough Barracks, Armagh, where a third attempt to recruit him was made.

The announcement of the new Stevens inquiry has been greeted with some cynicism. It is unclear how an English Chief Constable might be expected to bring intelligence agencies to account when Ministers and others responsible for their actions have failed.

Daily Mirror 14.6.93, 15.6.93; *Guardian* 25.6.93, 8.7.93, 20.7.93, 7.8.93; *Irish News* 8.5.93, 9.6.93, 10.6.93, 15.6.93, 30.6.93, 6.7.93, 19.7.93, 21.7.93, 30.7.93, 31.7.93, 2.8.93, 3.8.93; *Newsletter* 29.7.93; *Observer* 1.8.93; *Republican News* 8.7.93, 29.7.93, 5.8.93; *Sunday Business Post* 2.5.93, 25.7.93; *Sunday Press* 2.5.93; *Sunday Times* 4.7.93.

Feature: The Royal Commission on Criminal Procedure

How are we to make sense of the report of Royal Commission on Criminal Procedure published in July? (1) The Commission was set up in the wake of the release of the Guildford 4 and the Birmingham 6 from long terms of imprisonment, following the overturning of their convictions for terrorist bombings in the early 1970s and various unsuccessful appeals. Even while the Commission was sitting, the line of miscarriages of justice cases grew longer and longer - the MacGuire 4, Judith Ward, Stefan Kiszko, the Tottenham 3, the Cardiff 3, the Taylor Sisters, Ivan Fergus, plus numerous others falsely convicted as the result of misconduct by the West Midlands Serious Crime Squad and Metropolitan Police officers based at Stoke Newington police station in North London.

The original convictions in a number of these latter cases post-dated the Police and Criminal Evidence Act (PACE), which itself had emerged out of the Royal Commission on Criminal Procedure

just over a decade ago. They therefore cast significant doubt on the 'reforms' of police practices and procedures represented by PACE. More generally, the miscarriage of justice cases had done much to undermine the political consensus over policing that had begun to emerge between the main political parties in Britain from the mid-1980s onwards and opened up the possibility for a more serious challenge to what has been termed the 'liberal bureaucratic' ethos that has dominated the British criminal justice system since the 1960s (2).

The Royal Commission on Criminal Justice appears to have carried out no analysis of the miscarriage of justice cases, and it firmly turns its back on any fundamental questioning of the criminal justice system. From the beginning of its report it rejects broad-based, theoretical approaches to reform in favour of what it claims to be 'practical considerations'. More significantly, the Commission quickly concludes that 'the effect of PACE and of Code C (on detention and treatment of suspects in police custody)

has been beneficial' and that there has been 'general compliance' with their provisions.

Increasing police powers

Much of the Commission's consideration of police investigations and conduct is in a similar vein, directed toward extending the scope of their powers and activities. The Commission acknowledges the risks of the police conducting interviews with suspects outside the formal confines of the police station and the rules of PACE. But it specifically rejects making such evidence non-admissible in court on the grounds of the unsupported contention that 'spontaneous remarks uttered on arrest are often the most truthful' and because such 'confessions' and the convictions based on them 'might be lost'. Instead, on-the-street and back-of-police-car confessions are to be legitimised and formalised by extending the PACE codes. The Commission also 'strongly support' wider use of video surveillance in public places without even a passing mention of the civil liberties implications this entails.

Under the Commission's recommendations, the suspect at the police station will be at risk of forcible searches of their mouths and the taking of non-intimate samples in a wider range of offences. The taking of samples for DNA purposes will be allowed from all suspects arrested in relation to 'serious criminal offences', whether or not DNA evidence is relevant to the particular offence, and the DNA sample will be retained upon any conviction. The police would also be empowered for the first time to continue their questioning of suspects beyond being charged. This latter recommendation is put forward despite the evidence that solicitors often fail to adequately attend or assist suspects even for pre-charge interrogations and the proven risks that extended questioning will significantly increase pressures on suspects to make false confessions.

These proposals only make sense in terms of the Commission's brief to improve the 'effectiveness of the criminal justice system...in securing the conviction of those guilty of criminal offences' and a recognition that formal confession evidence, in the wake of the miscarriage of justice cases, is less likely to be accepted as valid within the system. The Commission has opted for the most minimalist restriction on the use of confession evidence, rejecting both an exclusionary rule and a requirement for independent corroboration in favour of a simple warning by judges to the jury. Nevertheless, the Commission clearly sees a need to extend the scope available to the police to obtain other forms of evidence, including informal admissions.

Shifting the balance

Beyond the police station, the Commission also sees a need to rebalance the criminal justice system much more in favour of the prosecution and obtaining convictions, in particular by preventing even more cases going to trial before juries. The most controversial of its proposals is that the right of defendants to elect jury trial should be removed in favour of a magistrate deciding whether to let the trial go before a jury or to hear the cases themselves. The effect would be to confine more cases to magistrates courts, where many of the supposed safeguards (eg, on uncorroborated confessions) would simply not apply. This proposal is put forward in the face of extensive evidence that defendants, especially from the black community, and their legal advisers perceive magistrates as biased in favour of the police, and research supports this perception. The Commission openly acknowledges that it failed to give any consideration to practices in magistrates' courts and simply states that as these courts deal with 93% of criminal cases they

'should be trusted to try cases fairly'.

A formalisation of the system of sentence discounts for guilty pleas is proposed and the introduction of a 'sentence canvas' whereby the judge would indicate the maximum sentence a defendant would receive on an immediate guilty plea. The Commission recognises that under such a system some innocent people will be induced to plead guilty and that 'to face defendants with a choice between what they might get on an immediate plea of guilty and what they might get if found guilty by a jury does amount to unacceptable pressure'. This is, in fact, precisely what the Commission's proposals will achieve, since an indication of maximum sentence on a guilty plea can, under an open sentence discount system, be directly converted into the longer sentence that would result from going to jury trial.

As with the possibility that magistrates may be less than fair in trying cases, the prospect that guilty pleas, which are the main means of deciding criminal cases, might be a significant source of miscarriages of justice appears to be one which the Commission was simply unwilling to contemplate. It dismisses out of hand the evidence of its own Crown Court survey (3) showing that possibly as many as 1,400 defendants each year are induced into false guilty pleas by the sentence discount. It also ignores the implication of recent research for the Commission for Racial Equality that the sentence discount system should not be extended before its discriminatory effects on Afro-Caribbean defendants are further investigated (4).

Defendants who are still to be allowed to go to jury trial will face new requirements to disclose in advance the nature of their defence to the prosecution. The significance of this proposal is not only that it further undermines the presumption of innocence but also that secondary disclosure of evidence by the prosecution would be limited to matters regarded as 'relevant' to the defendant's declared defence case.

The Commission finally recommends the establishment of a Criminal Case Review Authority, nominally to replace the division of the Home Office that currently investigates miscarriages of justice before any decision is taken to refer a case back to the Court of Appeal. The real import of this new body, which will be constituted along the lines of the Police Complaints Authority, may well be to undermine 'Justice' and campaigning groups which have done so much to expose earlier miscarriages of justice. This is in line with the overall direction of the Commission's work which appears to have virtually ignored the issue of miscarriages of justice and set about proposing increased police powers.

[1] *Report of the Royal Commission on Criminal Justice*, Cmnd 2263, HMSO, 1993.

[2] A E Bottoms and J D McClean, *Defendants in the Criminal Process*, Routledge, Kegan and Paul, 1976.

[3] Michael Zander and Paul Henderson, *The Crown Court Study*, HMSO, 1993.

[4] R Hood, *Race and Sentencing: A Study in the Crown Court*, Oxford, 1992

The Home Office Research and Planning Unit published the results of a study of the operation of the Prevention of Terrorism Act in Britain on 1 April - a year and 10 months after the results were referred to by the Home Secretary in a Parliamentary Question in June 1991. The findings were thus unavailable to MPs in the annual renewal debate of the PTA on March 10th and no MP appeared to be aware of the study.

It was carried out in response from a request from the Inquiry which was set up in 1989, under the Chairpersonship of Sir John May, to investigate the issues surrounding the arrest and conviction of the Guildford 4 and the Maguire 7. It focused on the operation of the legal rules and examined the extent to which detainees obtained legal advice and had someone informed of their detention. In addition, it collected information on police interviewing, consular access, the provision of medical attention, procedures for reviewing detention and the length and outcome of detention.

It examined the custody records of 253 people who were detained under the PTA between 22 March, 1989 and 11 November, 1990. The report implies that this was the total number of all detentions in the period. But figures on the PTA published quarterly by the Home Office suggest that many more people were detained (see *Statewatch*, vol 1 no 5).

The conclusion of the study, which is noted in a summary at the start of the report, is that:

In the majority of cases it appears that these (the safeguards under PACE and the PTA) are being implemented correctly. Nevertheless, the report notes that in a minority of cases there must be cause for some concern stemming from the non-recording of information that should be entered in the custody record or from the apparent unawareness of or misinterpretations of relevant legislative provisions.

It then goes on to point out that these deficiencies could have 'serious repercussions' not for the detainee but for the officers, should they 'be called to account for the events during a period of PTA detentions'.

This conclusion, however, is not supported by the study's data. To begin with, there is evidence in the study of widespread recording violations under the Codes of Practice. A few examples are as follows: in 16 cases where a request for legal advice was made there was no reference in the custody record to any attempts to contact a solicitor; in 30 (46%) of the cases in which delay to legal advice was authorised, no grounds were stated; in 36 cases, no grounds for authorising the delay in having someone informed about their detention, were listed; in 38 (54%) of the cases, in which the detainee had a right to have their Embassy notified, there was no indication on the custody record that the detainee was told of their right; in 10% of all reviews by the custody officer either no grounds were given for continued detention or the grounds bore no relation to any of those specified in PACE or the PTA.

Secondly, there was very considerable and unaccountable variation in the use of certain powers. For example, the Merseyside police delayed access to legal advice in 69% of the cases compared with the Metropolitan Police who delayed access in 23% of the cases. The report records that all the Merseyside detentions relate to Northern Irish terrorism but no explanation is given why there is such a difference in the interpretation of the power to delay access to legal advice. Similarly, there was also considerable variation in the extent to which people were permitted to notify someone outside. In the Metropolitan Police District it was 55% while in the Merseyside police it was only 36%. This reflected Merseyside

Police practice of using their powers to delay notification but no explanation is given as to why the Merseyside police delay notification in a far higher proportion of cases than the MPD.

Thirdly, the report shows the extent to which PTA detainees, for one reason or another, do not have adequate access to legal advice while in custody. In only 37% of cases did the detainee have one or more consultation with a solicitor and in only 31% of the 654 interviews conducted was a solicitor or their representative present. In 7 cases the bar on access to a solicitor remained in force until up to the time of their release or charge. The data also provide a glimpse of police attitudes towards legal advice. In three cases the custody record actually noted that access would be allowed only to the duty solicitor and not to a specific solicitor the detainee nominated.

Arrest and detention misused

As well as providing information on how the safeguards are not operating satisfactorily, the Report provides other data which suggest that the arrest and detention powers continue to be misused. Yet there is no rigorous analysis of these data. The Report records that of the 253 detainees 173 or 69% were released without any action being taken against them. It can be assumed only that the police had no reasonable suspicion that these people were involved in the preparation, instigation or the commission of acts of terrorism. Yet under PACE the custody officer is required to review, as soon as practical after an arrest, whether or not a detention should continue. But in no case did he or she insist on the release of the person from custody.

The information on the outcome of the cases further suggests that the PTA is increasingly being used either to police the PTA itself or to police a wide variety of ordinary crime. Of the 36 people charged with offences, only 8 were charged with very serious offences - murder and conspiracy to cause an explosion. Another 12 were charged with offences relating to the examination under the PTA and one with failure to comply with an exclusion order. The other 16 were charged with a variety of criminal offences ranging from blackmail to drink driving. In addition, another 9 cases were disposed of by being cautioned, bailed or reported for a summons.

Apart from the 8 serious charges, the action taken against the other 245 cases in the sample suggests that the vast majority of those detained posed no real danger to society. Yet the notion of seriousness is used not only by the police to delay access either to legal advice or to notify a friend, it is also deployed by the study to explain variations in practices and procedures either between PACE and PTA cases or between different police forces.

For example, in explaining the breadth of the ban on legal advice - here the report implies that this is contrary to the Court of Appeal judgement in *R v. Samuel* - it suggests that 'the serious nature of some of the cases' may have made officers sensitive to any premature contact with the outside world. Similarly, in explaining the difference in the average length of interview in this study and an unpublished study by the Home Office Research and Planning Unit into tape-recording of summaries of interviews with terrorist suspects, it is suggested that the two police stations selected for the unpublished study (Liverpool Bridewell and Paddington Green) 'may receive a disproportionate share of serious cases'. In explaining the far higher proportion of PTA detainees who receive medical attention compared with PACE detainees, it is suggested that this is accounted for by 'the greater length of detention and the sensitivities involved'. The shortening of review periods under PACE is explained by the police's 'keenness' to avoid any hint of impropriety in such serious cases by veering towards over-

observance of correct procedure'.

Release rates

The final example of the appeal to seriousness of the cases is found in the explanation in the large difference in the release rate between those detained under the PTA (69%) and those detained under PACE(12%). The difference, the report points out, is 'perhaps unsurprising' and puts forward two explanations. Firstly, it suggests that the nature of terrorist offences and the circumstances in which arrests occur are very different from other crime. In particular the risk of harm to the public is paramount in the minds of the police when considering whether to make arrests. No evidence is produced to support these assertions. Moreover, the paramount consideration should be whether or not there is reasonable suspicion that the person has been or is involved in the preparation, instigation, or commission of acts of terrorism rather than the risk of harm to the public.

The report also suggests that the difference may be explained by the fact that those arrested under the PTA may sometimes be more resistant to questioning and less likely than other suspects to provide additional evidence on which proceedings may be founded. Again no evidence is noted to support this contention and in any event the power of arrest may only be used on the basis of reasonable suspicion and not on their assumed behaviour under interrogation.

A careful analysis of the data, therefore, suggests that not only are the safeguards being violated in a significant number of cases but that the special powers under the PTA continue to be misused. In failing to ask why so many of those detained are released without charge and by considering the violations of the safeguards in terms of the consequences for the police, the study provides a partial and distorted analysis of the operation of the PTA in Britain.

Brown, David (1993) *Detention under the Prevention of Terrorism (Temporary Provisions) Act 1989: Access to legal advice and outside contact*, Research and Planning Unit. Paper 75, London: Home Office.

RESEARCH & INFORMATION NOTICEBOARD

Readers are invited to send in items for this column - conferences, seminars, reports, researchers looking for information. Items should be not more than 300 words.

Conference on 'National security in the democratic state': organised by Quaker Concern for truth and integrity in public affairs in conjunction with Liberty. 30 October at Friends House, Euston Road, London NW1. £25.00 person (£15.00 concessionary rate). Details from: Robin Robison, 44 Holland Street, Brighton, BN2 2WB.

Criminal justice in crisis: Conference on Saturday 18 September at Scarman House, University of Warwick. The conference will be looking at the final report of the Royal Commission on Ms B Royall, Conference Organiser, Law School, University of Warwick, Coventry CV4 7AL.

The Aire Centre: advice on individual rights in Europe. This new centre provides information and advice throughout Europe on peoples' rights, including rights under European community law; direct legal assistance; and resources for conferences. Contact: Aire Centre, 74 Euorlink Business Centre, 49 Effra Road, London SW2 1BZ. Tel: 071-924-0927.

Round table on European Action Against Racism, Xenophobia and Intolerance in Europe: to be held in Oslo, Norway in November 1993. Organised by the North-South Centre of the Council of Europe. Contact: North-South Centre (Bas Klein), 229-4 Av. da Liberdade, P-1200 Lisbon. Tel: ++ 351-1-522903.

Contributions: Statewatch welcomes contributions of stories and articles, cuttings, reports and documents. Please send to the address below, or ring us on 081-802-1882.

Statewatching the new Europe:a handbook on the Europe state: 208 pages, publication September 1993. The handbook includes Chapters on: Trevi, Europol and the European state; Secret Europe; Police forces and internal security services - country by country for the EC and EFTA; Northern Ireland; Immigration and asylum; Inside racist Europe, with a country by country survey and a listing of racist murders; plus Appendices: glossary of groups; description of the EC institutions; European

Court of Human Rights case law; the Schengen Agreement; the Palma document; a select bibliography. Cost: £3.95 plus 55p p&p, total £4.50 from: Statewatch, PO Box 1516, London N16 0EW.

CONTENTS

Immigration	1
The death of Joy Gardner	
Immigration raids	
France: trains to deport immigrants	
Sweden: refugees to be sent back	
UK transit visas: list extended	
France: curbs unlawful	
New Austrian Residency Act	
New material	
Law	3
France: Italian political refugees	
Ireland: homosexuality decriminalised	
New material	
Racism & fascism	4
Racist murder: charges dropped	
More setbacks for Blood and Honour	
New material	
Policing	5
Black youth cleared	
Wapping: £90,000 for assault	
In brief	
New material	
Civil liberties	6
Discrimination against travellers	
New material	
Europe	7
The K4 Committee	
Borders: European Parliament acts	
Democracy without citizens?	
France: rightwing critique of Schengen	
Amnesty report on Europe	
In brief	
New material	
Prisons	9
In brief	
New material	
Security & intelligence	9
Holland: counter report on BVD	
BVD annual report	
Switzerland: political police report	
Holland: Hague bomb	
New material	
Northern Ireland	11
Prison security	
Censorship	
14th Intelligence Company	
In brief	
New material	
Feature: Collusion and Britain's Irish Policy	12
Feature: The Royal Commission on Criminal Procedure	13
Review: Home Office study on the Prevention of Terrorism Act	14

Statewatch is produced by an independent group of journalists, researchers, lawyers,

lecturers and community activists. Statewatch does not have a corporate view, the opinions expressed are those of the contributors.

Published by Statewatch,
PO Box 1516,
London N16 0EW.
Tel: 081-802-1882
Fax: 081-880-1727.

Printed by Russell Press, Radford Mill,
Norton Street, Nottingham NG7 3HN

ISSN 0961-7280

Statewatch briefings

The Schengen Agreement: *Statewatch briefing* full text of the Agreement plus an introduction, European Parliament resolutions, and a select bibliography. Cost: £5.00 inc p&p (Europe £6.00; outside Europe \$15 or £7.00 sterling).

Official secrecy in the European Community? *Statewatch briefing*, May 1992. Cost: £3.00 inc p&p (Europe £3.50; outside Europe \$10 or £4.00 sterling).

Gladio briefing: introduction and background country by country. Total: 16 pages. Cost £2.00 inc p 7 p.

Back issues of Statewatch: Back issues are available at £2.00 each. Six issues pa. Volume 1 had five issues, nos 1-5.

Contributors

Editor: Tony Bunyan, Co-ordinator: Trevor Hemmings, Reviews Editor: Brenda Kirsch; Louise Bernstein (Reflex, Paris), Lee Bridges, Unmesh Desai, Nadine Finch, Marcelle Fletcher, Paddy Hillyard, Mike Jempson, Peter Klerks, Steve Peak, Vincenzo Ruggiero, Phil Scraton, Eugene Sensenig, Joe Sim, Ann Singleton, Mike Tomlinson, Frances Webber; the Centre for Studies in Crime and Social Justice (Edge Hill College, Lancashire), Jansen & Janssen (Amsterdam), the Institute of Crime, Justice and Welfare Studies (Liverpool Polytechnic), CILIP (Berlin), Legal Action Group, Liberty and the Northern European Nuclear Information Group (NENIG).