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EU/US security "channel" - a one-way street?

Since 11 September 2001 EU-US cooperation on justice and home affairs has reached unprecedented levels through what is termed the "US/EU channel". The Council Presidency of the EU ensures that the USA and its agencies are kept up to date with all the latest documents (eg: Action Plans) and EU meetings and seminars are regularly attended by US officials.

What the "Outcomes" of EU-US meetings show is the extraordinary influence that the US has on EU justice and home affairs policies and practice. The dominant theme is US demands for access to EU data, intelligence and databases and ensuring that US interests are not threatened (eg: by EU data protection standards). There is also evidence of "policy-laundering", for example, detailed G8 questionnaires drafted by the US which all EU governments have to respond to (eg: the sharing of classified information, EU doc no: 7628/06 and use of intelligence in criminal investigation and prosecution, EU doc no 12064/06).

The "US/EU channel" is largely a "one-way street" for US demands. It is rarely used by the EU to meet its needs and when it does it faces intransigency.

One such issue is visa reciprocity - under the US Visa Waiver Scheme only 15 EU countries are do not have to apply for visas (the original 15 minus Greece but plus Slovenia). People from the other 12 EU countries still need to get a visa.

At a meeting in Vienna on 3 May 2006 the EU Presidency said that visa reciprocity "has become a crucial element in the relations between the EU and the USA." On "e-passports" the EU side said a great effort had gone into:

> *complying by 26 August 2006 with the requirement set by the US (that is, to start issuing RFID digitised photo chips) (9223/06).*

But by a meeting in January 2007, despite a pledge by George Bush, the US came up front with a whole series of new demands before they would add 12 EU countries to the Visa Waiver Scheme:

> *"airport security, air marshals, reporting on lost - and stolen passports, passenger information exchange, electronic travel authorisation etc." (5655/07)*

But on the proposed EU travel "exit-entry systems":

> *The US side sees possibilities to exchange data in this field since entry data in one country corresponds to exit data for another country" (5655/07)*

The "EU side" said in relation to fingerprints collected for EU passports and for visas that there was a: "need for bilateral agreements before third countries could have access to fingerprint data" (7618/06) but... It further emphasised the importance of interoperabiity of systems, so as to ensure a full working access to all parties" (9223/06). And the US side: "invited the EU to assess how access for verification into e-passport databases will be organised" (9223/06). And "The US side wished to explore the possibility of exchanging data with Eurodac, both for analysis and for searching for people" (5655/07), and

> *The US side asked that the architecture for SIS II be designed in a way that would not prevent future exchanges of information with third countries (12064/06).*

When the US side asked about access to telecommunications data held by EU member states under the mandatory data retention Directive the EU side said there was no problem at all as this would be available under "existing MLA agreements (bilateral as well as EU/US agreement)" (7618/06)

The draft Framework Decision on data protection in police and judicial cooperation has been amended because:

> *If adopted as it stands, it would jeopardise the informal excellent contacts developed over time by the US law enforcement agencies with their opposite numbers in the Member States (12064/06)*

But how is the recurring issue of the lack of data protection in the USA for EU citizens to be tackled? By the creation of a "High Level Contact group on data protection and data sharing" for which "the US delegation handed over a Proposed Outline" of work.

Finally, there are things that the US cannot do but the EU can. The "US side" doubted they could take part in the EU's "Check the web" plans to tackle terrorism "given the obligations imposed on them by the First Amendment on freedom of speech" (5655/07). Moreover, in the fight against terrorism: "The American legal system is in a way more limited than the European ones, which allow preventive arrest, phone tapping etc" (9223/06).

Food for thought perhaps?

IN THIS ISSUE

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CIVIL LIBERTIES

UK-JORDAN

SIAC's Abu Qatada ruling threatens ban on torture

In February the Jordanian cleric, Abu Qatada, lost his Special Immigration Appeals Commission (SIAC) appeal against the Home Office's plans to deport him to Jordan. In Jordan Qatada was tried twice *in absentia* for alleged activities with the *Jama'at al Islah wa'l Tahaddi* and was sentenced to life imprisonment on the basis of evidence from co-defendants who had been subjected to prolonged torture by Jordan's General Intelligence Directorate (GID). The Human Rights Watch (HRW) organisation warned that the SIAC ruling "threatens to undermine the global ban on torture".

The SIAC is an immigration commission that hears appeals against deportations on the grounds of "national security". It ruled that Abu Qatada faced no real risk of persecution on his return, a claim that flies in the face of evidence from leading civil liberties groups such as Amnesty International and Human Rights Watch. The ruling is particularly significant because the government has been working to secure removals or deportations to countries that practice torture by obtaining special agreements (Memoranda of Understanding, MoU). "Dodgy little 'assurances' from regimes that practice torture convince few outside government" observed the Liberty director, Shami Chakribarti. The SIAC ruling is the first test of a government policy that echoes the US practice of "rendition" or facilitating deportation for the purpose of torture and abuse.

In June 2006 the United Nations special rapporteur on torture, Manfred Nowak, visited Jordan and upon his return noted that torture is both widespread and common - especially to extract confessions from terrorist suspects. He remarked that the security forces enjoy total impunity and called for the Jordanian government to investigate and prosecute all allegations of torture and ill-treatment and to amend domestic laws accordingly. He also observed that not a single Jordanian official had ever been prosecuted. Amnesty International also believes that Abu Qatada would face a real risk of torture if returned and it notes that prolonged beatings, *falaga* (repeated beatings on the soles of the feet), burning with cigarettes, sleep deprivation and extreme violence, including rape, are common practices. Human Rights Watch believes that the SIAC ruling will undermine "the absolute ban against returning people to the risk of torture". Last September they published a report, *Suspicious Swoops: the General Intelligence Department and Jordan's rule of law problem* which detailed 16 cases involving arbitrary arrest and abuse (including torture) carried out by the GID - in 13 out of 16 cases the victims were eventually released without charge. "Assurances of humane treatment cannot be considered credible when they come from a government that routinely flouts its international obligations not to engage in torture" said Julia Hall, a researcher at HRW.

For the SIA ruling see: http//www.hmcourts-service.gov.uk/legalprof/judgements/siac/outcomes/sc152002qatada.htm

"UN expert visiting Jordan finds "general impunity for torture and ill-treatment", UN News 3.7.06:

http://www.un.org/apps/news/story.asp?NewsID=19081&Cr=jordan&Cr1#

Amnesty International "National security suspect facing prospect of torture in Jordan", Public statement 28.2.07;

Human Rights Watch "Suspicious Sweeps: the General Intelligence Department and Jordan's rule of law problem":

http://hrw.org/reports/2006/jordan0906/jordan0906web.pdf

UK

DNA database - "citizens or suspects?"

The UK's National DNA database, which was established in 1995 to cover convicted criminals, now maintains the profiles of over 3.5 million people, making it the largest in the world. The database has been expanded to incorporate permanently retained samples from those charged with a criminal offence but cleared or those who were arrested but not charged with an offence and even volunteers who give a sample in the course of an investigation; even crime victims may find their DNA on record. In July 2006 Dr Helen Wallace of GeneWatch said that

> *Britain's DNA Database is spiralling out of control… Thousands of innocent people, including children and victims of crime, are taking part in controversial genetic research without their knowledge or consent.*

The organisation has also expressed concern at the use of new DNA technologies and oversight of the database and propose that greater transparency and accountability are needed. GeneWatch notes that

> *"Many people - including children and victims of crime - are currently unsure whether their DNA has been retained or not, and equally unclear who may access their genetic samples and data and how they may be used. Many decisions - for example, regarding research uses of the database - appear to have been made on a secretive and ad hoc basis, without proper scrutiny or oversight and with no public information, let alone engagement in the decisions that are made"*

Among the wide-range of relatively untested DNA techniques that have caused GeneWatch concern are:

> ***Low Copy Number DNA analysis**: This allows a profile to be extracted from a single cell and has led the Director of Forensic Science at Edinburgh to warn that innocent people may be wrongly identified as criminal suspects.*
>
> ***Genetic "photo-fit" techniques**: GeneWatch believes that it is unclear whether police forces fully appreciate the limitations of these techniques, particularly in relation to ancestor testing and identification of ethnic ancestry.*
>
> ***Single Nucleotide Polymorphisms**: While this can be useful in identifying victims from degraded DNA, it is strongly advocated by commercial companies for routine use in criminal investigations, raising issues of "about statistical power, costs and privacy".*

GeneWatch also expressed its concern at the use of stored database samples for "genetic studies of the male Y-chromosome, without the consent of the people involved, as part of a controversial attempt to predict ethnicity from DNA." It says:

> *Many people on the Database would be unlikely to consent to genetic research on race, ancestry or ethnic appearance. Failure to involve people who are on the database in these decisions - whether they are prisoners or not - runs contrary to well established ethical principles, intended to ensure that the vulnerable are not exploited.*

This massive expansion of the DNA database has largely taken place beyond public scrutiny while allowing "an unprecedented level of government surveillance" leading Genewatch to ask if we are "citizens or suspects".

In mid-March the Home Office released proposals for a further expansion of police powers to take DNA samples (along with fingerprints and other samples), and store them on national databases. According to *The Times* newspaper (15.3.07) "People caught speeding, failing to wear a seatbelt, allowing their dog to foul the footpath and dropping litter could be forced to give fingerprints or DNA to police for checking against other databases". Gareth Crossman, policy director of Liberty, told the

paper: "Today dropping litter and bad parking are lame excuses for an ever growing national DNA database."

For further information see the GeneWatch website:

http://genewatch.org/?als[cid]=396405

GeneWatch "Standard setting and quality regulation in forensic science: GeneWatch UK submission to the Home Office Consultation" October 2006

GeneWatch "Police DNA database out of control concludes new GeneWatch investigation" 16.7.06

Civil liberties - new material

A nightmare without end, Victoria Brittain. *Guardian* 1.3.07. This newspaper article describes the "nightmare" of Shahajan Janjua, a British Asian caught up in the increasingly indiscriminate war on terror when he visited Somalia to attend a friend's wedding. Shahajan's "crime" was to be visiting the country at the time of the US-instigated Ethiopian attack - the US aided them with spy planes and a special operations unit. Shahajan was taken ill during the onslaught and forced to flee, ending up in Kenya where he was beaten, suffering a broken nose and other injuries caused by being hung from the wrists, his feet tied to buckets of freezing water. Later he was taken to expensive hotels and interrogated by six different British security officials who, despite being easily able to confirm his account, offered him no assistance. He was fortunate that he persuaded a Kenyan policewoman to lend him her phone and contacted lawyers in London. Since being flown back to London Shahajan has been questioned by police, but not charged.

Community Responses to the War on Terror. *IRR Briefing Paper* no. 3 (February) 2007, pp. 10. This report emerged from the Institute of Race Relations' conference *Racism, Liberty and the War on Terror* held in September 2006 and consists of four speeches "which outline the challenges for four very different community organisations". The first report is from Shobha Das (Support Against Racist Incidents, SARI, Bristol) on combatting racist violence, which has increased since the 11 September attacks in the USA and the 7 July attacks in the UK, in an atmosphere "where communities are encouraged to be suspicious of each other." Das argues that one offshoot of the war on terror is a "vigilante approach" that legitimises racist prejudice and "can even transform racist acts into acts of patriotism". Beena Faridi (caseworker for the Islamic Human Rights Commission, IHRC) argues that official figures of hate crimes against Muslims are "a gross underestimate" and commended the data-logging work carried out by the IRR and The Monitoring Group as means of building "a more realistic national picture of the problem of racial harassment of Muslims." The third paper, by Celius Victor (Newham Monitoring Group, NMP) identifies some of the ways that the war on terror "is being used by a range of bodies to inform general policing." In particular, he focuses on the massive armed police raid in Forest Hill on the home of Mohammed Abdul Kahar and his brother Abdul Koyair - in which the former was shot and wounded before both men were totally exonerated of any links to terrorism. Celius, who is a volunteer trustee of the community-based NMP, observes that: "When the raid took place, local agencies just melted away. Local councillors weren't around. The local policing team...seemed to disappear...The Borough Commander admitted in public he didn't know what was happening... Effectively Scotland Yard took over." He concludes by describing the war on terror as "a new shield for the police, a way of providing another level of opaqueness, a means of undermining any notion of community accountability." The final paper, by Anne Gray, (Campaign Against Criminalising Communities, CAMPAC) argues that "terrorism is defined far too broadly in the UK measures and in EU legislation and in ways which criminalise legitimate political activity". There are serious concerns that the UK legislation is incompatible with Article 10 of the ECHR, which protects the right to freedom of expression. This important document records the transition, under a Labour government, from principles such as the right to a fair trial to a presumption of guilt and the ensuing restraints on liberty. *Available from: IRR, 2-6 Leeke Street, London WC1X 9HS.*

Ghost Prisoner: two years in secret CIA detention. *Human Rights Watch* February 2007, pp. 48. This report documents the case of Marwan Jabour who was arrested by Pakistani authorities in Lahore in May 2004. He was moved to the capital Islamabad and was held for more than a month in a covert US-Pakistani detention facility before being "disappeared" to a secret CIA prison, probably in Afghanistan where he was held outside of US law and tortured. *Available at http//hrw.org/reports/2007/us0207*

Visit to Guantanamo Bay. *House of Commons Foreign Affairs Committee* Second report of Session 2006-07, 21.1.07. This report has been widely condemned by those knowledgeable about Guantanamo Bay, such as Reprieve, whose legal director, Clive Stafford Smith, represents some of the prisoners unlawfully detained there. As Stafford Smith has commented about this publication: "It seems to be based in a large part on a show tour of the prison taken by the Committee last September". Reprieve is "appalled" by the Committee's recommendation that ten British Guantanamo residents should be left to their fate and notes that the committee did not meet any of the detainees nor speak to their lawyers leading to "factual errors" or even worse, a conclusion that "comes from the briefings given to the committee members by US authorities". The report has also been severely criticised by Human Rights Watch which accuses committee members of ignoring the testimony of those detained, of glossing over US policies and practices and therefore lacking "a fair basis for its findings". Available at: *http://www.publications.parliament.uk/pa/cm 200607/cmselect/cmfaff/44/44.pdf*

Dangerous Ambivalence: UK policy on torture since 9/11. *Human Rights Watch* November 2006, pp. 44. While the United States has been emphatic in stating that it is above international law on issues such as torture the UK, as this report makes clear, has adopted a policy of "deliberate ambiguity" that has been described by Steve Cranshaw of Human Rights Watch (HRW) as "immoral, illegal and dangerous." This report recalls the important role that the UK has played in confronting torture worldwide and laments its loss: "Sadly, there are now two sides to Britain's role. One involves ongoing support to anti-torture efforts, through training and treaties. The other is directed at bending and weakening the torture ban in the context of countering terrorism." HRW concludes that "this second strand of policy undermines decades of effort by the UK and others to make the global torture ban stick". Available from: *http://www.hrw.org/backgrounder/eca/uk1106web.pdf*

IMMIGRATION

GERMANY

Numbers of asylum seekers drop

Following a trend seen in many EU countries that introduced restrictive asylum legislation in the early 1990s, the number of asylum applications has continued to fall. In 2006, the number of applications in Germany decreased by about 30%, with most asylum seekers coming from Iraq. In total, 30,100 people lodged an application for asylum in 2006, in 2005 the number was 42,908. Of the 30,100, 21,029 were first applications and 9,071 follow-up applications, which can be lodged on grounds of new evidence, a change in factual circumstances or a new legal situation. The main countries of origin were Iraq (10.1%) and Turkey (9.3%). Serbia-Montenegro was third with 8.7% (between January and July) and Serbia fourth with 6.4% (between August and December).

The number of successful applications is very low: more than 30,759 were processed of which only 251 were granted asylum under Article 16a of the Basic Law or on the basis of family reunion (0.8%). 1,097 persons (3.6%) were granted protection from deportation according to § 60(1) of the Residency Act and 603 persons (2%) cannot be deported according to § 60 (2, 3, 5, 7) Residency Act. More than 50% of applications (17,781 - 57.8%) were rejected. In 11,027 cases

(35.8%), the application was rejected without an individual case examination. According to the Federal Office for Migration and Refugees (*Bundesamt für Migration und Flüchtlinge* - BAMF) 8,835 applications were still pending at the end of 2006. Conservative interior minister Wolfgang Schäuble (*Christlich Demokratische Union Deutschlands* - CDU) predictably judged the reduction a success.

However, the refugee organisation, *Pro Asyl*, commented that because of the clamp down at the external borders of the EU, many refugees were no longer given the chance to apply for asylum on EU territory, explaining the reduction in numbers. The refugee organisation, in a study it initiated on the asylum procedures of Eritrean refugees, found that first interviews conducted by the Federal Office for Migration and Refugees, which are central in the decision-making process, have severe shortcomings.

It was found that in numerous cases, the persons conducting the interviews were not the ones making the decision on the claim. Pro Asyl points out that the credibility of a claim cannot be judged on grounds of transcripts alone and that most of the decisions made on the basis of transcribed interviews are negative. In 77 cases, a researcher found that the majority of decisions did not deal with the individual situation of persons but contained only general legal decisions based on country of origin reports. Often, knowledge on the countries of origin appears very limited.

Further, the research found procedural law violations in that decisions would be rejected on grounds of apparent contradictions in the applicants' statements, without these being cross-checked with the applicants again. With sexual violence cases, officers failed to assign them to the special officer for gender-specific discrimination and it was found that their handling lacked appropriate sensitivity. In cases where applicants reported bodily signs of torture, case examiners failed to consult medical advice regarding cause of injuries, thereby ignoring or belittling torture incidents. Finally, many asylum decisions give a one-sided picture and details given in the report of the interview were left out of the decision. Pro Asyl spokesperson Bernd Mesovic said: "Those who allow such inadequate working standards can be accused of not taking basic and human rights too seriously".

The Pro Asyl study can be downloaded in German from: http://www.pro-asyl.de. A summary of the 2006 asylum statistics: http://www.migration-info.de/migration_und_bevoelkerung/artikel/070102.htm. The Federal Office for Migration and Refugees: http://www.bamf.de/

UK

Forced mass deportations to Iraq - a betrayal of the Kurds

Despite the escalating violence in Iraq the Home Office deported 38 failed Kurdish asylum seekers to the Kurdish-controlled north of the country on 13 February. The 38, who were forced to board the plane in handcuffs, were flown by chartered aircraft in high security conditions from RAF Brize Norton in Oxfordshire to Erbil, only 60 miles from Kirkuk, where there has been a spate of killings in recent months. The government is thought to have recently confirmed its decision not to return asylum seekers to Iraqi war zones, and claims that those returned to the north will face no threat. Their analysis is widely contested and the Refugee Council points out:"It [the north of Iraq] may be less dangerous than Baghdad, but that does not mean it is not plagued by violence - it is a dangerous place [and] there is no rule of law". There was also opposition from the United Nations, which has said that all repatriations to Iraq should be on a voluntary basis:

The UN refugee agency (UNHCR) believes that the situation in Iraq is still extremely unstable and dangerous, characterised by a general lack of law and order and the erratic provision of basic services.

It is thought to be at least the third occasion that the government has chartered a plane to return asylum seekers to the northern Iraq. The first mass deportation was on 19 November 2005 when 15 Iraqis were forcibly deported via Cyprus. The second event happened last September when 30 people were forcibly removed to Kurdistan. Eyewitnesses at the Colnbrook detention centre said that during the second event the men were handcuffed and accompanied by Home Office security guards; they were driven to Brize Norton by coach where they were transferred to a military plane. Flying into Erbil airport they were given bulletproof jackets and US $100. The deportations are seen as just the latest betrayal of the Kurds by the British government, with the Kurdistan regional government stressing that they do not want it to forcibly return anyone to Kurdistan.

"UN Humanitarian Briefing on Iraq"; Observer 4.2.07; Independent 14.2.07

UK

Violent detainee removal triggers riot at Campsfield

Disturbances broke out at Campsfield House immigration detention centre in Oxfordshire on 14 March triggered by the violent removal of an Algerian detainee. Nine people were injured after a fire broke out at the centre, which is privately run by US company, GEO Group Inc, which assumed the management and operation of the centre in June 2006. Two detainees were taken to hospital suffering from smoke inhalation. Campsfield, which holds almost 200 detainees, has a long history of protests by detainees who object to being imprisoned without being convicted of a crime - in 1994 a major riot took place following another violent removal of an Algerian detainee.

Campsfield was converted from holding young offenders to an immigration detention centre in 1993 amid protests from local residents. Within months of opening campaigners were celebrating the escape of six detainees following a rooftop protest. The site has since become the focus of concerted protests led by The Campaign to Close Campsfield which describes the detention centre as "an abomination to human rights in that it presumes guilt from the outset". In June 1995, 18-year old Ramazan Kumluca, hanged himself "in despair" at his impending removal from the UK" and in 1997 a major disturbance at the prison led the then Chief Inspector of Prisons, Sir Davis Ramsbotham, to describe the institution as "unsafe". There was a major hunger-strike involving around 90 detainees in 2001 when the High Court ruled that Kurdish refugees detained in a similar centre were being held illegally. The then Home Secretary, David Blunkett, pledged that the site would be closed, but reversed his decision after extensive damage was caused in a revolt at the Yarl's Wood Centre in 2003.

The Lib-Dem MP for Oxford west, Evan Harris, who is a member of the Joint Select Committee for on Human Rights, told the BBC:

There will need to be an investigation of why there has been yet another serious disturbance at Campsfield House, which has been a subject of a number of critical reports by successive chief inspectors of prisons. My Select Committee is already conducting an inquiry into detention of failed asylum seekers following concerns about the physical abuse during removals. The Home Secretary himself a few years ago declared that Campsfield House was not appropriate for the 21st century, but then of course the government decided to keep it open anyway. They will need to look at that question again.

The Campaign to the Close Campsfield website: http://www.closecampsfield.org.uk/; BBC News 15.3.07, Guardian 15.3.07

GERMANY

Courts strengthen asylum seekers' social security rights

On 8 February 2007, the German federal court of appeals for social security cases (Federal Social Court - *Bundessozialgericht*) decided that the authorities cannot automatically cut social security provisions for rejected asylum seekers who do not return to their country of origin "voluntarily", but that each individual case had to be examined (file ref. B 9b AY 1/06 R). A Kosovan man and his son, who have been living in Germany as tolerated asylum seekers for 11 years, successfully appealed to the court against a decision by the regional district authority to lower their social security payments to the so-called basic provision of 225 euros, whilst the legal social security minimum is 345 euros per month.

Since 1993, social security for asylum seeker s has fallen under special regulations in a revised Social Security Act for Asylum Seekers (*Asylbewerberleistungsgestetz*) which set provisions lower than the minimum standard for a period of three years and lays down they should be paid out "in kind" through the so-called voucher system and food packages. The 1993 Act led to a general impoverishment of refugees and asylum seekers in Germany and asylum support groups have shown in case studies that, apart from social stigmatisation and social exclusion, the "in kind" payments have led to poor quality food provisions and a lack of basic health care, leading to depression and ill-health.

The current legal situation is that after three years of residency, "tolerated" asylum seekers receive additional provisions up to the legal minimum granted to citizens. However, the precondition is that the person has not "unlawfully influenced" the duration of his or her stay. The regional district of Göttingen, responsible for the above-mentioned plaintiffs' social support payments, saw an opportunity to save on its budget by claiming that the failure to leave voluntarily automatically constituted an unlawful extension of stay.

The regional and federal social security courts, however, thought otherwise and the latter decided in last instance that each case would have to be individually assessed to determine why the person in question did not leave and if there were important reasons for staying in Germany, such as the son's long-term attendance of German schools as in the present case. Social security provisions for asylum seekers will also be a bone of contention in the upcoming discussions for a new Aliens Act, as the Conservative party CDU (*Christlich Demokratische Union Deutschlands*) is demanding that even after three years, rejected asylum seekers should receive less than the social security minimum deemed necessary for German citizens. The current case has been referred back to the regional social security court to revise its decision.

In an earlier judgement from 11 July 2006, which was only published on 2 November 2006, the Federal Constitutional Court (*Bundesverfassungsgericht*) had admonished law makers for treating damage payments as income, thereby violating asylum seekers' basic rights, and ordered a revision of this aspect of the current social security law by 30 June 2007 (file ref. 1 BvR 293/05). The judgement was passed in the successful appeal case of a family from Bosnia-Herzegovina, which had lodged an asylum application in 1995 and received social security provisions under the 1993 Act. In 1997, the wife and a child fell victim to a serious traffic accident and had to undergo long-term rehabilitation for which the family received damages worth 25,000 German Marks. The authorities decided that this money should be used to pay the family's basic social provisions and stopped payment, a regulation that applies only to asylum seekers; German citizens do not have to balance their social security with damage payments. The Federal Constitutional Court decided that this practice constitutes discrimination and is therefore unlawful: it argued that damage payments relate to the personal rights and integrity of the person and that no discrimination could be made between victims suffering damages in this regard. If the Federal State fails to revise the social security law by the given deadline, the court's judgement will determine the practice.

Süddeutsche Zeitung 3.11.06; 9.2.07

Brief legal analysis of the decision of the Federal Social Court [in German]: http://rhgsig.wordpress.com/2007/02/13/bundessozialgericht-leistungen-durfen-nicht-allein-deshalb-versagt-werden-weil-die-berechtigten-nicht-%e2%80%9efreiwillig-ausreisen%e2%80%9c/; Federal Constitutional Court press release declaring the social security law for asylum seekers partially unlawful [in German]:

http://www.bundesverfassungsgericht.de/pressemitteilungen/bvg06-104.html

Federal Constitutional Court Decision on the successful constitutional complaint [in German]:

http://www.bundesverfassungsgericht.de/entscheidungen/rs20060711_1bvr029305.html

Immigration and asylum - in brief

■ **UK: British Asian detained in detention centre for two months.** A British Asian man, Sabbir Ahmed, was forcibly detained in Haslar detention centre, in Gosport, Hampshire, for almost two months and threatened with deportation to Pakistan because Home Office officials believed that he was foreign. *The Guardian* newspaper reported that immigration officials identified Mr Ahmed, who speaks with a Lancashire accent, as Pakistani despite the fact that he was born in Blackburn and possesses a British passport. His parents come from India and also have British passports. The student had finished serving a two month prison sentence for driving while disqualified when he was identified as a foreign national and held for deportation. His case followed an embarrassing debate over the deportation of foreign prisoners, which led to the resignation of Home Secretary, Charles Clark, in summer 2006. Mr Ahmed said of his experience: "It felt like I was banging my head against a brick wall. I was screaming my innocence to anyone who would listen and they were trying to deport me to a country where I've got no ties." He was released from Haslar last September after being incarcerated for 48 days. *Guardian 1.3.07*

Immigration - new material

Asylum policy that sent a man to his "execution", Kim Sengupta. *Independent* 5.2.07. This article details the case of Abdullah Tokhi who sought asylum in the UK after his life became endangered by a political feud in Afghanistan. However, the Home Office had ruled that Afghanistan was safe due to the US and British "liberation" of the country and after his appeal failed Mr Tokhi was sent back with his nine children with the assurance that the rule of law prevailed there. In August 2005 Abdullaha Tokhi was shot dead in a crowded street in a bazaar and a week later his 10-year old son, Nasratullah, was shot and wounded as he made his way to school.

Independent Monitor for Entry Clearance refusals without the right of appeal: Report for 2005, Linda M. Costelloe Baker. *Independent Monitor for Entry Clearance*, October 2006, pp. 48. This report monitors refusals of entry clearance in cases where there is no right of appeal under sections 90 or 91 of the Immigration & Asylum Act 2002. Among its findings is that officials who issue British visas have "wide variations in quality" and often have little knowledge of immigration rules making "perverse" decisions. Decision making was "careless and casual" with at least 15,200 applicants being given the wrong information in 2005. Among the Independent Monitor's recommendations are: i) consistent, accurate pre-application information; ii) consistent evidence and Rule-based Refusal Notices; iii) thorough reviews by Entry Clearance managers and iv) an improved complaints process. *http://www.fco.gov.uk/Files/kfile/IndependentMonitorReport2005.pdf*

Asylum law: the new regime, George Jamieson. *SCOLAG Legal Journal* no. 353 (March) 2007, pp. 41-68. An Immigration judge explains the recent changes implemented under EU Council Directive 2004/83/EC of (29 April 2004) on 9 October 2006. The "qualification directive" covers minimum standards for the qualification and status of third country nationals or stateless persons as refugess or persons who otherwise need International Protection.

Our government's treatment of this family makes me ashamed to be a Labour MP, Austin Mitchell. *Independent* 1.2.07, pp1-2. The Labour MP expresses support for his recently deported constituents, the Bokhari family, who were deported in handcuffs to Pakistan in January. Mitchell describes the craven duplicity of immigration minister, Liam Byrne, describing the experience thus: "It leaves a nasty taste. An out-of-control Immigration and Nationality Directorate is doing what it wants to get deportations up. The minister goes along, ratifies its decisions (he hardly ever rejects them), observes its deadlines and strings MPs along. pretending to listen while doing nothing. Perhaps scarring young souls will teach them not to come here when they grow up."

LAW

UK

No compensation for innocent Algerian detained for 5 months

Loft Raissi, the 32-year old Algerian pilot who spent nearly five months in Belmarsh top security prison after being wrongly accused by the United States of training the 11 September hijackers, suffered another indignity in February when the High Court excluded him from a Home Office compensation scheme for victims of miscarriages of justice. Two judges, Lord Justice Auld and Mr Justice Wilkie, ruled that Mr Raissi had been held in extradition proceedings that were not part of the "domestic" criminal process and therefore did not fall within the compensation scheme. Mr Raissi's lawyers have said that he will appeal the ruling. The verdict was described as a "body blow" by Lofti (see *Statewatch* Vol. 12 no 1, Vol. 13 no 5 and Vol. 14 nos 3/4).

Lofti, who was the first person to be accused of participating in the 11 September attacks, was arrested at home by armed police on the morning of 21 September 2001. His wife, Sonia, and brother Mohammed were also detained on suspicion of involvement in terrorist activity. He was held in extradition proceedings and told that he would be charged with conspiracy to murder and that he could face the death penalty in the United States. He was released in February 2002 and the case against him was dismissed in April, the judge pointing out that there was no evidence whatsoever to support the US allegation that he had been involved in terrorism. There can be little doubt that the precipitous actions of domestic agencies, such as the security services, police and Crown Prosecution Service, played a key role in the US extradition case.

Among the "evidence" seized by the police from Mr Raissi's home was video footage that formed an integral part of the US extradition case. According to the US the film showed Mr Raissi, who was working as a flying instructor in the US, in Arizona with Hani Hanjour, who is thought to have been the pilot of American Airlines Flight 77 which crashed into the Pentagon. The poor quality video actually showed Lofti with his cousin and a friend in his flat. The footage was silently dropped as were other allegations based on equally spurious misrepresentations. The US eventually dropped their terrorist claims but proceeded to insist on Lofti's extradition on the minor charges of failing to declare a conviction for theft and failing to declare a tennis injury when applying for a US pilot's license.

Loft Raissi commented:

> *I cannot accept that the police and the Crown Prosecution Service are not domestic...The court's decision allows the home secretary to ignore the part played by those public bodies in ruining my life.*

Since his wrongful arrest the qualified pilot, has applied for hundreds of jobs without receiving replies because he has been blacklisted by the airlines. His wife, Sonia, who was also arrested in 2001, has been sacked from her job as a stewardess for Air France. The only financial compensation that the Raissi family have received was an out-of-court settlement from the *Mail on Sunday* which made false allegations in reporting the case against him. Despite his enforced destitution Loft Raissi is determined to fight for justice and have his innocence acknowledged. As he put it: "Who, if not the British police, was responsible for my arrest?"

Independent 22-23.2.07; Guardian 22-23.2.07

GERMANY

Teacher wins appeal against political ban

Michael Csaszkóczy, who was refused a position as a teacher by the regional education authority in 2004 because he was active within the anti-fascist group *Antifaschistische Initiative Heidelberg* (AIHD) (which led the authority to doubt his commitment to the German constitution), has won his appeal in the second instance court. The Baden-Württemberg administrative court overruled an earlier decision by the regional administrative court in Karslruhe and ordered the education authority to reconsider Csaszkóczy's application.

The education authority had based its decision on the so-called "Anti-Radical Decree" from 1972, according to which "an applicant [to a civil service position] may only be appointed to public service [if he] guarantees that he is committed at any time to the liberal democratic constitutional structure [as laid down in] the German constitution [*Grundgesetz*]". The education authority, supported by the first instance appeal court, had claimed that the anti-fascist group had "attacked and defamed the Federal Republic of Germany" and "transgressed the border of legitimate critique of our state and its constitution" and that through his membership, Csaszkóczy was not to be trusted in the education system (see *Statewatch* Vol. 16 no 2).

Three civil liberties organisations monitored the court proceedings and have expressed relief at the outcome. Rolf Gössner, who attended the trial on behalf of the International Human Rights League (*Internationalen Liga für Menschenrechte*), the Committee for Basic Rights and Democracy (*Komitees für Grundrechte und Demokratie*) and the Republican Lawyer's Association (*Republikanischen Anwältinnen- und Anwalts-vereins*) said:

> *This decision is a slap in the face for the cultural bureaucracy of Baden-Württemberg and the administrative court in Karlsruhe. And it is a signal against attempts to revive the employment bans of the last decades*

Press release of the civil liberties groups from 15.3.07: http://www.grundrechtekomitee.de/ub_showarticle.php?articleID=228

Campaign to stop the employment bans: http://www.gegen-berufsverbote.de/

Antifaschistische Initiative Heidelberg: http://www.autonomes-zentrum.org/ai/; Internationalen Liga für Menschenrechte: http://www.ilmr.de/

Komitee für Grundrechte und Demokratie: http://www.grundrechtekomitee.de/

Republikanischen Anwältinnen- und Anwaltsverein: http://www.rav.de

FRANCE

Magistrate found guilty for alleging indiscriminate stop-and-search based on racial profiling

On 18 January 2007, a court in Paris found against three people involved in the publishing of a book in the third quarter of 2001 concerning police identity checks on foreigners entitled *Your papers! What do you do when facing the police?*, and detailing the rights of people subjected to police controls. The book's author Clément Schouer, the publisher Michel Sitbon of *Editions L'Ésprit Frappeur* and graphic designer Jean François Duval, were found guilty on charges of "being an accomplice to public defamation" (800 euro fine), of "public defamation and offence" (1,000 euro fine), and of "being an accomplice to public offence" (500 euros), respectively, "against a public administration" (the national police). While Sitbon was deemed ultimately responsible for the book's content and presentation as its publisher, the charges against Schouer (a magistrate) and Duval concerned specific claims and illustrations that appeared in the work. In the case of Schouer, it was a passage stating that

> *identity checks based on [physical] traits, although they are forbidden by law, are not just commonplace, but they are also multiplying*

The court dismissed the defence's argument that the claim was justified by serious investigations carried out on the issue of identity checks, on the basis of the failure to provide evidence to support the claim, the fact that the claim targets the national police as a whole, rather than presenting irregularities as isolated incidents involving specific officers, and the context in which it was made, after a passage that included the following:

> *They (the foreigner, youth, poor person) know the reality of the police presence that "zero tolerance" entails. The first contact with the police is not, generally, reassuring: it takes place in the street and takes on the rough and sometimes arbitrary form of the identity check*

The author's being a magistrate, "deemed to be perfectly aware of both the realities of the competencies of the police services - most notably the wide powers that they enjoy in the function as foreigners' police for the control of residence permits - and of the missions that the forces of order are entrusted with in the field of the fight against illegal immigration", the work's presentation as a legal guide rather than a discussion, thus involving a requirement of objectivity, and the fact that its cover bears the name of the *Syndicat de la Magistrature* (SM), the magistrate's association that commissioned it, means that it should involve the "guarantee of exactitude" that statements by magistrates ostensibly carry, while the claim presented as fact (widespread, and increasing, checks based on physical traits) is not proven and expressed in an "imprudent, peremptory and polemical" way, led the court to deny the accused any mitigation due to "good faith".

The presentation of reports (by the *Commission Nationale de Deontologie de la Sécurité*, CNDS, and the European Commission against Racism and Intolerance, ECRI) documenting complaints of discriminatory police abuses, and the author's argument that the passage in question was a "commonly held opinion" were not sufficient to counteract the lack of evidence to sustain the claim. However, the prohibition that is in force on the collection of ethnic data in relation to police stop-and-search operations makes it an allegation that, regardless of how extensive it may be, or perceived to be in society, is practically impossible to prove.

Reports issued by both the Council of Europe human rights rapporteur Gil-Robles (see *Statewatch news online*, August 2006) and the *Citoyens-Police-Société* (C-P-S, see *Statewatch* vol. 14 no 6) research group, in which the *Ligue des droits de l'homme, MRAP, SM* and the French Laywer's Union (SAP) participated, highlight instances of ill-treatment against foreigners. The C-P-S report, which is admittedly based on a very limited sample, notes that there is a "strong overrepresentation" of "visible minorities" among the victims of police violence, and that members of "foreign populations or [those] with foreign origins" are stopped more often "in the context of identity checks". Statements made by Interior Minister and presidential candidate Nicolas Sarkozy, who claimed they were fleeing after committing a robbery were later retracted. The two youths who died, sparking the rioting in Clichy-sous-Bois which spread across France in the autumn of 2005, had fled from an identity check by police on youths who had been playing a football match. The perception that foreign-looking people in the suburbs were on the receiving end of disproportionate police identity checks is likely to have played an important role in the genesis of these disturbances.

Duval was found guilty of publicly offending the national police as a result of the picture on the front and back cover of the book, depicting a policeman with a snout, wearing a helmet and aggressively shouting "Your papers!". The court argued that while a degree of licence to "make fun" of people is granted to artists in the case of caricatures, this does not include portrayals that are "degrading", as was deemed to be the case, and which, alongside the hateful attitude depicted, were aimed at giving an image of the police that was "simultaneously terrifying and humiliating".

Court decision pp.5-9, Dossier N.06/04345, 18.1.07. "Citoyens-Justice-Police: Commission nationale sur les rapports entre les citoyens et les forces de sécurité sur le controle et le traitment de ces rapports par l'institution judiciaire", September 2004, covering the period from July 2002 to June 2004.

Law - new material

Mass Rendition, Incommunicado Detention and Possible Torture of Foreign Nationals in Kenya, Somalia and Ethiopia. *Reprieve and Cageprisoners*, 22.3.07, pp13. This report expresses grave concern at "the fate of 63 prisoners believed to be held in secret detention in Somalia and Ethiopia, apparent victims of a mass rendition operation from Kenya involving nationals of at least 16 states: Canada, Comoros, Ethiopia, Eritrea, France, Kenya, Oman, Rwanda, Saudi Arabia, Somalia, Sweden, Tunisia, United Arab Emirates, United Kingdom, United States and Yemen". Many of the victims were among hundreds of people arrested in joint US, Kenya and Ethiopian operations on the Kenyan/Somali border in December 2006 and January 2007. See*: http://www.reprieve.org.uk/documents/070321HOArenditionreportfinal.pdf*

Hilfloser Datenschutz [Helpless data protection]. *Bürgerrechte & Polizei/CILIP* 85 (No. 3/2006), euros 7.50, 112 pp. This latest issue of the investigative journal of the German civil liberties association Institute for Civil Liberties and Public Order (*Institut für Bürgerrechte & öffentliche Sicherheit*) sketches the progressive undermining of data protection in law and practice since the declaration of the war on terror following 11 September 2001. Then interior minister Otto Schily, who once defended members of the Red Army Fraction and sympathised with the Socialist Student Union and now advises a company specialising in biometrics, proclaimed that data protection had been "exaggerated" in the past and was instrumental in devising a succession of anti-terrorist laws that contributed to the general demise of data protection and privacy. The articles in this issue outline, analyse and criticise the plethora of legislation stripping away individual rights *vis a vis* the state whilst meaningless data protection clauses are being used as a legitimating veneer. Increased law enforcement powers such as the retention of traffic data, undercover police methods, surveillance of telecommunications, the EU framework decision on data protection, common databases of police and secret services and the conflation of anti-immigration and security measures are outlined and critiqued, amongst others, on grounds of the discrepancies that exist between the alleged aims of anti-terrorist measures and their actual effect and the ideological underpinnings of security-driven law-making. Also useful

is the summary section on EU developments, the quarterly chronology of civil liberties and anti-terrorism news from Germany, the literature review and online resources update. Available from CILIP, tel +40 (0)30 838 70462, fax +40 (0)30 775 10 73, e-mail: info@cilip.de, http://www.cilip.de

Weapons of Mass Destruction Bill, Michael Matheson MSP. *SCOLAG Legal Journal* no. 352 (February) 2007, p. 25. "In 2001 the Scottish parliament passed the International Criminal Court (Scotland) Act 2001, which provided for prosecution of those who gradually commit crimes against humanity by wantonly and indiscriminately, but slowly, murdering large groups of people and wreck their homes, villages, towns, cities and environment. The Prevention of Crimes Committed by Weapons of Mass Destruction (Scotland) Bill 2007 seeks to prevent those crimes. Thus, the Prevention of Crimes Committed by Weapons of Mass Destruction (Scotland) Bill is a "crime prevention" Bill, which morally, logically and legally follows the precedent of the International Criminal Court (Scotland) Act 2001."

MILITARY

EU

EUFOR reorganises in Bosnia

The European Union Force (EUFOR) in Bosnia-Herzegowina will be reduced and restructured from 6,500 to 2,500 troops. According to General Henri Bentegeat, the new chairman of the EU Military Committee, EUFOR will move from a task-force based structure to an "alert system with a rapid-reaction capability". This will be based on a multinational intervention battalion (the first one will be commanded by a Spanish officer), supported by over-the-horizon reserves, which are shared with NATO's Kosovo Force (KFOR). In 2007 an operational reserve force is being provided by Germany, Italy and the UK and the strategic reserve force by France. At the same time smaller liaison and observation teams in EUFOR will be increased and deployed throughout Bosnia-Herzegowina, working with the local police.

In a separate development a new EU operations centre for smaller missions is established. This gives the EU a third possibility alongside the Berlin Plus arrangements with NATO (used in Bosnia) and the national operational headquarters provided by France, Germany, Italy, Greece and the UK. The new operations centre will be tested during the EU's MILEX 07/CPX military exercise on 7-15 June 2007.

Jane's Defence Weekly, 24.1.07 (Nicholas Fiorenza); Defense News, 22.1.07 (Brooks Tigner)

EU

Momentum builds for defence coordination

The European Defence Agency's (EDA) major thrust in 2007 will be to speed up military capability planning and push the EU member nations to better coordinate their defence programs and budgetary cycles, according to agency officials. The EDA got the nod for its new Capability Development Plan from national armaments planners during a meeting in December. The plan will build on the EU Headline Goal, a capabilities blueprint developed in 2003, but "left largely unfulfilled due to bureaucratic inertia and lack of coordination" (Defense News). The plan will cover four areas:

** creating a database of EDA countries defence plans and programs*

** defining capabilities shortfalls from the Headline Goal and ranking their priority*

** developing capabilities-based scenarios, supported by studies*

** extracting lessons from capability planning*

EDA Chief Executive Nick Witney sees "a major shift in support by the military for coordinated [cross border] capability planning". According to former deputy supreme NATO commander Rupert Smith the explanation is that "the ability to use NATO as a policy tool has grown steadily more difficult since 9/11 and Iraq. [..] NATO is being dragged into the future by its nose rather than taking the lead. It's reactive and tentative in its approach."

Defense News, 1.1.07 (Brooks Tigner)

Military - in brief

■ **EU: Plans to regulate private military companies**. Robert Cooper, Director General for External and Politico-Military Affairs in the Council of the EU has called for a EU policy to regulate the private security industry. Cooper made a speech at a conference on *The Private Security Phenomenon: Policy Implications and Issues*, organised by the Security and Defence Agenda in Brussels. Cooper said that it was necessary to "sort out the respectable from the less respectable". There has been considerable growth in this sector the last years. For instance since the start of the Iraq war the number of UK private security companies rose from three to 23. Private companies arranged negotiations to end the civil war in Aceh and protected the EU Police Mission in Bosnia. *Jane's Defence Weekly, 20.12.06 (Nicholas Fiorenza)*

Military – New material

Interpretative communication on the application of Article 296 of the Treaty in the field of defence procurement. *European Commission* (SEC(2006) 1554} (SEC(2006) 1555), 7.1.06

For a 'more active' EU in the Middle East – Transatlantic Relations and the Strategic Implications of Europe's Engagement with Iran, Lebanon and Israel-Palestine, Sven Biscop. *Egmont Paper* 13 (Brussels) March 2007.

Fatal Footprint: the global human impact of cluster munitions. *Handicap International*, November 2006, pp. 56. This report estimates that about 100,000 people have been killed or wounded by cluster bombs and that about 98% of the victims are civilians. While Development minister, Hilary Benn, has called for cluster bombs to be banned the government has been accused of "dragging its feet" by arguing that Britain needs to engage with the main holders of these weapons (USA, Russia and China) rather than negotiating to ban them. Simon Conway of Landmine Action said, "The pledge to phase out 'dumb' munitions is an attempt to appear to be doing something while in reality they are kicking things into the long grass." Available at: *http://www.stopclustermunitions.org/files/Fatal_Footprint_FINAL.pdf*

Defeat: Why Bush cannot win the war in Iraq, Anne Ashford, Patrick Cockburn and Sami Ramadani. *Socialist Review* January 2007, pp6-10. This article takes the form of an interview with the award winning *Independent* journalist Patrick Cockburn and the Iraqi exile, Sami Ramadani. Cockburn describes how a US military "demonstration of strength" in Iraq was transformed in to one of weakness: "Jack Straw used to go on about how the reason for Britain being allied with the US was that they had this wonderful military machine, but this has been exposed by the war. They can't even conquer a few villages in western Iraq." He points to an even greater malaise at the heart of US society: "This is not just about Iraq - after all, they couldn't do Baghdad, but they couldn't do New Orleans either."

Recruitment and Retention in the Armed Forces, (2 vols). *Comptroller and Auditor General* (National Audit Office) HC-1633-1

Session 2005-2006, 3.11.06. This critical report concludes that Britain's armed forces are operating with at least 5,000 personnel fewer than are needed to meet the UK's defence commitments around the world. The reason for the necessity to operate below strength is because military planners failed to forsee the levels needed to operate in Iraq and Afghanistan. The report also considers the effects of the Deepcut deaths and bullying scandal and acknowledges that it is putting off parents and potential recruits. On publication of this report Defence Minister, Derek Twigg, denied that the armed forces were overstretched but conceded that they had a "particularly high level of operational commitment." Available at: *http://www.nao.org.uk/pn/05-06/05061633.htm*

Europe's accomplice to Israel's US-supported state terrorism, Ramon Fernandez Duran. *News from Within*, Vol. XXII, no. 11 (December) 2006, pp. 29-32. This article examines "Israel's brutal, inhuman, immoral and absolutely disproportionate response to Gaza and Lebanon" and the "extremely serious regional crisis with world-wide effects and unforseeable consequences." It analyses UN Resolution 1701.

The Early History of "Non-Lethal" Weapons, Neil Davison. *Occasional paper No. 1* (Bradford Non-Lethal Weapons Research Project, University of Bradford), pp. 42.

POLICING

UK

Police beating raises claims of brutality

In July 2006 CCTV cameras filmed a police officer punching a teenage girl five times outside a Sheffield nightclub while colleagues held her down. The victim, Toni Cramer (19), said that she had suffered injuries to her neck, shoulders and legs during the attack which only ended when she was dragged away by the policemen. The film of the assault was released in early March after a Sheffield Race Relations manager passed the film to the *The Guardian* and the BBC's *Newsnight* programme. On the basis of its contents Ms Cramer's family have accused PC Anthony Mulhall of using excessive force. Mulhall has admitted hitting the girl as hard as he could, but insists that he was merely attempting to restrain the teenager. After the airing of the footage he was removed from all frontline duties. An investigation by the Independent Police Complaints Authority (IPCC) has begun and Ms Cromar says that she intends to sue the police.

The incident caught by CCTV cameras is shocking. Ms Cromar, who by her own admission had been drinking at a nightclub and was aggressive after being ejected by bar staff, vandalised a security guard's car. She later pleaded guilty to causing criminal damage and was given a conditional discharge and ordered to pay compensation to the owner. Following the incident the police were called. The security cameras show Ms Cramer and PC Mulhall falling down a fire escape with the police officer landing on top of the teenager. The policeman is joined by two other officers and a security guard who hold Ms Cramer down as PC Mulhall tries to handcuff her; as he does this he punches her, with great force, on five separate occasions. As Mulhall is still on top of the girl it is impossible to see where his punches land, although she suffered bruising to her neck and her back. The footage ends with Ms Cramer being dragged away, with her trousers around her knees, to a waiting police vehicle. The young woman, who suffers from epilepsy, says that she was having a fit at the time and recalled nothing of the events until she saw the CCTV footage. When she had viewed it she said that she could not believe that the police would do something like that.

Since the release of the CCTV footage PC Mulhall has admitted hitting the slightly built teenager, but only in self-defence. He told *Newsnight*: "She began to kick, spit and made attempts to bite me. She tried to grab handfuls of my genitals and knee and kick me in the same place." He added that he had hit her in the arm as "hard as I was physically able" when arresting her. The arrest was defended fellow South Yorkshire police officers, with Chief Constable, Meredydd Hughes, arguing that the footage gave a distorted view of the events. He added that the 9-stone teenager was only hit by blows directed to her arm in order to restrain her. It should be recalled that force, by a police officer or a member of the public, may be used: i. in self-defence; ii. in defence of another or property; iii. in the prevention of crime, or iv. in the process of a lawful arrest. The Crown Prosecution Service maintains that you can only use "such force as is reasonable in the circumstances". Tony Murphy, at solicitors Bindman & Partners, told the BBC that: "Repeatedly punching a member of the public, not least a woman, in an unexceptional arrest situation is not an approved use of force. It should properly be denounced as inhuman and degrading treatment in a democracy."

The CCTV footage can be viewed at:

http://www.guardian.co.uk/video/flvplayer.swf?file=http://download.theguardian.tv/video/2007/SheffieldCCTV.flv&autostart=true&fs=true

UK

"Disgust" at Menezes officer's promotion

The police officer who supervised the Metropolitan police operation that resulted in Jean Charles de Menezes being shot seven times in the head as he sat on an underground train at Stockwell tube station was promoted at the end of February (see *Statewatch* Vol. 16 nos 5/6). Despite what the Metropolitan Police Authority (MPA) described as "unprecedented circumstances", Cressida Dick was confirmed as a deputy assistant commissioner of the Metropolitan police force and took up her new post, which will focus on the safety of the monarchy, on 16 March. Len Duvall, chairman of the MPA, which oversees London's police force, said:

> *the people of London must have confidence in the police who work, in what are often difficult circumstances, to protect them. By confirming this promotion we are making it clear that the officer retains our full confidence.*

However, the family of Jean Charles have said that they were "absolutely disgusted and outraged at what is just one more slap in the face."

This development comes after the Crown Prosecution Service's announcement last year that no police officers would face charges over the shooting of Jean Charles, although they do face an investigation for minor infractions of health and safety laws in the autumn. The publication of the Independent Police Complaints Commission's (IPCC) inquiry into the killing has been delayed by challenges by senior Scotland Yard officers, some of whom have threatened the IPCC with legal proceedings. One of the firearms police officers involved in the killing of Jean Charles de Menezes shot dead another man last November. In this incident a CO19 firearms unit shot dead Robert Haines (41) in an alleged robbery attempt on the offices of the Nationwide Building Society in New Romney, Kent. A spokeswoman for the Menezes family expressed "shock and disbelief" that the same officers involved in the killing of Jean Charles had "been given a license to kill again even before the investigative process into Jean's death is complete."

Reuters 19.2.07

ITALY

Investigation into abuses by civilian "volunteers"

Investigations into incidents during a demonstration in Bologna against the war in Iraq on 2 June 2004, when scuffles broke out between men manning a police cordon and activists trying to climb over barriers separating them from a military parade to celebrate the anniversary of the Republic leading to seven demonstrators initially being accused of resisting public officers, uncovered the active participation of self-styled security guards in public order operations. When the assistant prosecutor in charge of the case, Morena Plazzi, sought to identify police officers against whom activists offered resistance, he discovered they were private individuals from a vigilante group. They wore badges resembling those of police officers and black gloves. The case against the demonstrators was subsequently shelved, and inquiries opened into possible offences of violence, bodily harm, usurping public functions and contravening the Pisanu law that forbids the use of identification symbols imitating those used by the police. The law was aimed at vigilante groups which targeted migrants and drug dealers.

Six people had their houses searched in May 2006, and a second round of searches took place on 31 January 2007, targeting a further six suspects, four of them members of the *Corpo della pattuglie cittadine* (citizens' patrol corps) and two from the *Associazione volontari di polizia locale* (association of local police volunteers) in Castelmaggiore. This incident was not isolated, as self-styled security officers were also present at a demonstration in May 2004 and during a demonstration against arrests that following the eviction of squatters in 2005. A number of *Digos* (police special operations unit) officers noted the presence of unidentified individuals, reporting it to the *questura* (police headquarters) in Bologna. It has surfaced that an agreement involving public funding had been in place between the previous city council administration (in force until 2004) and these associations of "hobby bobbies", and that they continue to receive public funding. Bologna mayor Sergio Cofferati said that he would await the end of judicial proceedings before taking any action.

During the searches, material found included reports of their activities, mainly targeting "illegal" migrants and drug dealers, to be submitted to the police. The official and unofficial relations between police authorities and would-be civilian security agents were such that, on 22 March 2006, Bologna police official Maurizio Mobilio, in charge of flying squads, issued a circular letter inviting officers "not to accept any offers of cooperation" from outsiders and "not to receive any written communications". Bologna police chief Francesco Cirillo said that an internal investigation had been started to ascertain whether anyone "consciously made use of the cooperation of patrol members, or [there was] anyone who saw them in action preferring to pretend not to see". Interior Minister, Giuliano Amato, was already aware of the problem, having instructed the ministry's public security department for a report about the activities of "informal" patrols, particularly in relation to "immigrant hunts", in Padua, Treviso, Trieste and Bologna. A circular order issued by then interior minister Giorgio Napolitano to head police officers nationwide in 1996 warned against cooperation with:

> *businesses that, without any kind of police title, carry out particular surveillance services that consist in indicating situations of potential risk to the police forces by radio, using personnel that does not possess the qualification as a sworn guard*

One of those who had their houses searched on 31 January 2007, had previous form, having fired a shot into the air in 1998 as he sought to catch a drug dealer. The evidence discovered by police reportedly included truncheons, knuckle-dusters, handcuffs, radios that could be used to listen to police communications, as well as documentation of their patrols, including photographs of searches by these self-styled "officers" on immigrants and suspected drug dealers, sometimes armed. Moreover, plaques and T-shirts bearing police markings were found. Thirteen people are reportedly under investigation and two who were photographed committing violent actions during the 2 June 2004 demonstration were suspended from the citizens' patrol association. Its vice-president denies that they were acting in its name, arguing that police neither called on them nor sent them away. Two others from the Castelmaggiore local police volunteers association who are under investigation also suspended themselves.

Activists from the *Teatro Polivalente Occupato* (TPO) squatted social centre responded by claiming that "they were beaten by characters without any title under the gaze of two *Digos* officers", adding "What credibility can the 200 charges of subversion based on *Digos* reports have?", in reference to ongoing judicial proceedings throughout Italy. These are directed at activists participating in demonstrations against detention centres, "self-reductions" during which activists refused to pay the full price of food in student canteens and cinemas, and the activities of networks such as *Rete del Sud Ribelle*, members of which are on trial for subversive activities such as organising violent acts during demonstrations including the G8 in Genoa in July 2004.

Corriere di Bologna, 31.1-2.2, 7-8.2.07; Corriere della Sera, 1.2.07; Il manifesto 2-3.2, 13.2.07

Policing - new material

I spy, Gary Mason. *Police Review* 3.11.06, pp27-28. This article considers the alarmingly rapid spread of covert surveillance from highly specialised branches of policing and the intelligence service to most councils and boroughs in England and Wales and its deployment to provide evidence in "low-level" crimes. Mason discusses the use of technology, such as digital audio tape systems and wireless CCTV surveillance systems, to tackle anti-social behaviour and sees the cost of such schemes as a "problem" - one that can be solved by councils sub-contracting the task to "specialist covert surveillance companies".

Aftermath of the Anti-Terrorism Police Raids in Forest Gate on 2 June 2006. *Newham Monitoring Project*, 27.9.06. This report, the first by a grassroots community organisation active in the area rather a police or government funded agency, is a serious attempt to consider the ramifications of the Forest Gate raid rather than seeking to excuse it by invoking the so-called "war on terror". In particular the report is highly critical of the Metropolitan Police's strategy of failing to keep local residents informed of developments and expresses concern at the lack of mechanisms for local people to raise their concerns and receive informed responses. This meant that the local communities were both kept "out of the loop" and unable to express their wider concerns about the police shooting of a local man and the severe disruption to regular patterns of community life. Available at: *http://monitoring-group.co.uk/News%20and%20Campaigns/research%20material/Policing/Aftermath_FG_Raids.pdf*

News from the fence and beyond. *Newsletter for a global anti-G8 process* no. 2, December 2006, free, 4 pp. The German and international mobilisation against the G8 summit, to take place between 6 and 8 June this year in the northern German city of Heiligendamm, is organised by a wide coalition of social justice - anti-capitalist - migrant's rights groups and trade unions. This newsletter is useful for anyone interested in the debates surrounding the mobilisation and arguments against the G8 as an undemocratic institution. This and more information on the common call published by a coalition of groups for the G8 to be opposed and disrupted through the means of civil disobedience is available from http://camp06.dissentnetwork.org/ and http://www.g8-2007.de/.

Informationen. *Komitee für Grundrechte und Demokratie* No 2, March 2007, free, pp4. The German Committee for Basic Rights and

Democracy provides information about the repressive police and security measures implemented in Germany to stifle protests against the G8 summit in June in Heiligendamm. Despite the existence of a wide coalition of groups preparing the protests against this year's summit, and without mention of the critique they are putting forward against the G8 lacking a democratic basis to decide on neo-liberal policies with often disastrous consequences for poor populations world-wide, the protests are already being criminalised by police and governmental spokespersons as "violent" in an attempt to split the protest movement into "legitimate" and "illegitimate" elements. The Committee has announced the formation of a civil liberties monitoring group during the summit. The newsletter also contains general news updates in the civil liberties field in Germany. Available from: info@grundrechtekomitee, www.grundrechtekomitee.de.

Criminal Intelligence, Gary Mason. *Police Review* 26.1.07. The use of police paid informants is rarely written about in any great depth. Mason's article is less concerned with this "darker side of police history" than "what the service is doing to professionalise the use of intelligence contacts" since the publication of the Hoddinott report in 1999. He considers developments in the Met (dedicated source handlers and a sophisticated database) and South Wales (divisional source units, database and trained handlers) and best practice guidelines issued by ACPO and HM Inspector of Constabulary.

PRISONS

UK

Owers' report show prisons lurching from crisis to crisis

The fifth annual report of Anne Owers, HM Chief Inspector of Prisons, portrays a prison service lurching from crisis to crisis. The impact of the 20% growth in prison population since Anne Owers came into office has been to undo any positive changes implemented by prison staff. The report illustrates various aspects of the contemporary crisis:

* The impact of the stabilisation of growth of the population of female prisoners has been undermined by the population pressures in the male estate leading to womens' prisons being re-roled to hold men, destabilising often vulnerable women and leaving many further from home.

* Despite population pressures, there has been a fall in the number of self-inflicted deaths... However, the impact of self-harm prevention strategies is most marked in the early days of custody, assisted by better first night support and improved detoxification. A significant number of new prisoners are being forced to spend the their first nights in police cells due to the extent of overcrowding, or are being driven from one overcrowded jail to another in pursuit of a place, and are in effect locked-out of the benefits of the strategies employed.

* Throughout the system, the pressure of prison numbers constrains decisions about how to allocate resources, prevents prisoners being held within their home region, and has contributed to significant backlogs in sentence planning assessments.

* Inspectors assess each establishment against four healthy prison tests - safety, respect, purposeful activity and resettlement. In all the prisons most affected by overcrowding - adult male local, training and open prisons - assessments since April 2006 were less positive than in the previous 12 months. Three local prisons, compared with one for 2005-06 -were assessed as performing poorly as regards safety and respect. In the previous inspection year, two-thirds of training prison assessments were positive; since April 2006 only half have been. Positive assessments for open prisons dropped from 85% to 62%.

* The number of offenders handed indeterminate sentences, and the number of foreign nationals held unnecessarily post-sentence, further increase the prison population pressures.

Anne Owers commented that:

I can't say other than that we have a serious crisis and one which is impacting on the ability of prisons to do rehabilitation. It is also making prisons riskier places to run. It is normally considered good practice to build an ark before the flood rather than during or after it.

UK

Prison doesn't work

Home Office figures show that violence in prisons increased 600% between 1996 and 2005, from 2,342 violent incidents in 1996 to 13,771 in 2005.

The International Centre for Prison Studies has released statistics showing that the imprisonment rate in England and Wales is 148 per 100,000. It compares with 145 in Spain, 139 in Scotland, 128 in the Netherlands, 121 in Portugal, 105 in Austria, 104 in Italy, 95 in Germany, 91 in Belgium, 85 in France and 83 in Switzerland. The US has the world's highest prison population rate, 738 per 100,000, followed by Russia with 611.

The Lord Chief Justice, Lord Phillips, has roundly condemned the increased resort to custody, and criticised also the use of the 2003 Criminal Justice Act "starting points" as "ratcheting up sentences". Lord Phillips added that the 2003 Act would lead to jails full of geriatric lifers in 30 years time.

In mid-January 2007, 330 prisoners were held in police and court cells because all 139 jails in England and Wales were full. Police had 264 cells available but were asked by the Prison Service to find accommodation for 450 people.

The UK prison population now hovers around 80,000. In 1993 it was 45,000. Increasing sentence lengths and the jailing of petty offenders have increased the numbers in custody by 22% since the Labour government came in to office in 1997.

As far back as February 2001 in *Criminal Justice: The Way Ahead*, the government committed itself to an expansion in the numbers of those taken through the criminal justice system and ultimately to jail, by pushing through a 23% rise in funding for the Crown Prosecution Service and committing itself to the recruitment of scores of extra prosecutors. The "justice gap" was to be bridged through the provision of 2,660 extra prison places, 7,000 extra Crown Court sitting days, video links between jails and magistrates courts, an expansion of the DNA database and "the biggest ever expansion of CCTV this country has ever seen." The message was that "justice" needed to be speeded-up; that there should be a "clear presumption that the severity of punishment should increase for persistent offenders" - that the focus for sentencing should shift from the type of offence to the offender. Thus, a persistent shoplifter would be more likely to get a custodial sentence, regardless of mitigation. The Labour gopvernment's intent was clear - prison works, so more prison places are needed; persistent offenders should be brought before the courts more quickly, and they should be jailed. The end result was a massive increase in the prison population - and including many who are damaged, abused, addicted and mentally-ill.

The "collateral damage" of prison overcrowding is the number of deaths from self-harm in custody. Two women have already taken their own lives in jail in 2007 - a mother of five on remand at HMP YOI Eastwood Park and Lucy Wood, aged 28, at HMP Peterborough, a private jail run by Kalyx Ltd (formerly UK Detention Services) rated in the bottom 13% of UK jails by HM Inspectorate of Prisons. According to the Howard League, 70% of women offenders suffer from two or more mental disorders.

The post-prison re-offending rate has risen from 51% in 1992 to 67%. Yet the government is committed to spending £1.5

billion on building more jails. And so long as the crisis impacts primarily on prisoners and their families, it can be easily ignored.

HM Chief Inspector of Prisons 2005/2006 report. Prison Reform Trust statistics; International Centre for Prison Studies; Howard League for Penal Reform; Pauline Campbell ; The Times 18.1.07; The Independent 30.1.07, 5.2.07;The Observer 4.3.07; The Telegraph 9.3.07.

UK

Corston review calls for all womens' prisons to be shut

Following the suicide of six women at HMP Styal over a 13 month period, the then-Home Secretary Charles Clarke commissioned the Labour peer Baroness Corston to assess the pressures faced by women in prison. The report, published on 13 March 2007, calls for all womens' prisons to be shut down over the next 10 years and to be replaced by a network of small, local, custodial units. Baroness Corston states that:

> *I was dismayed to see so many women frequently sentenced for short periods of time for very minor offences, causing chaos and disruption to their lives and families, without any realistic chance of addressing the causes of their criminality.*

The review further recommends:

> ** Creating a "champion" for female offenders within government*
>
> ** Developing an inter-departmental ministerial group to oversee women offender issues*
>
> ** Changing the way criminal justice agencies work with women*
>
> ** Ending of routine strip-searching in womens' prisons*
>
> ** Improved sanitation conditions in prisons*

Under the Labour government the number of women in prison has risen from 2,629 to 4,456. More than one-third of women in prison have no previous convictions, double the proportion of men. More than half of women in prison have experienced domestic violence; one in three has experienced sexual abuse; 80 per cent have no school qualifications; 40 per cent have been in local authority care.

The Home Office response has been to damn the report with the faintest of praise. Baroness Scotland has given an undertaking that "the Government will look at the issues it raises" but no minister has, to date, backed Baroness Corston's proposals. The report offers prison campaigners a clear opportunity to help force through radical change in the care of women offenders. A number of prison reform campaign groups have set up an online petition in support of the report, (see below). As important will be mobilisations in support of demonstrations called by prisoner rights activist Pauline Campbell, whose daughter Sarah took her own life at HMP Styal. Pauline is committed to organising a demonstration outside every prison where a death occurs.

For details of the planned demonstrations and to sign the petition in support of the Corston report see the Women In Prison website at www.womeninprison.org.uk

Corston Review: http://www.homeoffice.gov.uk/documents/corston-report/

Prisons - new material

Golden Gulag Ruth Wilson Gilmore. *University of California Press* 2007 (ISBN: 978-0-520-22256-4). Ruth Gilmore is a founding member of Critical Resistance, the US national anti-prison campaign, and Assistant Professor at the University of Southern California. Her book examines the phenomenal growth of California's state prison system since 1982 and the grassroots opposition to "the expanding use of prisons as catchall solutions to social problems." She notes that: "The California state prisoner population grew nearly 500 percent between 1982 and 2000, even though the crime rate peaked in 1980 and declined...thereafter. African Americans and Latinos comprise two-thirds of the state's 160,000 prisoners...as a class, convicts are deindustrialised cities' working or workless poor." The book is useful primarily because of its focus on class and upon the way in which economic restructuring impacts on working-class communities, how "resolutions of surplus land, capital, labour and state capacity congealed into prisons." Gilmore examines the prison estate expansion in the context of its impact on rural economies in California as employment-provider; the $5 billion bonds issued for new prison construction; the withdrawal of social welfare from the urban poor and the systematic "dehumanisation" of the poor as a rationale for incarceration. Most importantly, Gilmore's book focuses on effective resistance to criminalisation and prison expansion - the *Mothers Reclaiming Our Children* campaign, which organised primarily black working class mothers in solidarity with prisoners, against the criminalisation of black youth and against the three-strikes legislation. Any book which analyses the growth of the prison-industrial complex from the perspective of its victims would be a useful tool. Ruth Wilson Gilmore's focus on means and histories of active resistance makes *Golden Gulag* essential.

Recent developments in prison law - part 1, Hamish Arnott, Simon Creighton and Nancy Collins. *Legal Action* January 2007, pp.10-13. This is the first part of a longer article and reviews recent developments in policy and case-law regarding foreign national prisoners and categorisation, the prisons incentive scheme, security categorisation, Article 3 of the ECHR and conditions of imprisonment, Article 2 ECHR and the right to life and contacts outside prison.

RACISM & FASCISM

EU

Formation of Identity, Tradition, Sovereignty

The first session of the European Parliament for 2007 took place on 15 January and was marked by the launch of a new extreme-right grouping, *Identity, Tradition, Sovereignty* (ITS). The disparate 20-strong MEP grouping, with members from seven countries, is united by a common anti-immigrant stance, racism and xenophobia; its French chairman and *Front National* (FN) member, Bruno Gollnisch for example, is a convicted Holocaust denier. The group was formed after the accession of Romania and Bulgaria to the European Union on 1 January and its largest factions are made up of seven French (FN) members and a five-strong grouping from the Romanian *Partidul Romania Mare* (Greater Romania Party, PRM).

The ITS membership is made up from the following European extremist groups:

Austria (1): The *Freiheitliche Partei Osterreichs* (Freedom Party) is represented in ITS by Andreas Molzer who has praised Adolf Hitler as a "great social revolutionary".

Belgium (3): The *Vlaams Belang* (VB, Flemish Interest) has three members in the ITS including Philip Claeys, who is its vice-chairman. Koenraad Dillen and Frank Vanhecke are the VB's other members.

Bulgaria (1): Bulgaria has one member in the ITS, Dimitar Stoyanov, who is a member of the Attack Coalition (this Bulgarian nationalist group incorporates The National Movement for the Salvation of the Fatherland, The Bulgarian National Patriotic Party and The Union of Patriotic Forces and Militias of the Reserve).

France (7): The French *Front National* with seven members is the largest single fraction of the ITS and one of its most senior members, Bruno Gollnisch, is the Chairman of the

new European group. Other FN members include: Carl Lang, Marine Le Pen, Jean-Marie Le Pen, Fernand Le Rachinel, Jean Claude Martinez and Lydia Schenardi.

Italy (2): Alesandra Mussolini, a member of the *Alternativa Sociale* (a coalition of Italian far-right parties) and the great grand-daughter of the Italian dictator and Luca Romagnoli of the *Movimento Sociale Fiamma Tricolore* make up the Italian contingent.

Romania (5): The Romanians make up the second largest grouping within the ITS with five members of the *Partidul Romania Mare* included within its numbers. The PRM is a racist organisation renowned for its attacks on the Roma and minority groups. Its members are: Eugen Mihaescu (who is a vice-chairman of the new grouping), Petre Popeanga, Daniela Buruiana-Aprodu, Viorica-Pompilia-Georgeta Moisuc, Cristian Stanescu.

UK: The only UK member of the extreme-right is the Independent MEP, Ashley Mote.

The formation of the ITS was welcomed by the British far-right British National Party, which has attempted to emulate Jean Marie Le Pen's *Front National*, but is ineligible to join as it has no MEPs.

At the beginning of February the ITS was denied any leading positions on parliamentary assembly committees but it will receive euro 50,000 (£35,000) for each member.

BBC News 15.1.07, European Parliament website, http://www.europarl.europa.eu/members/expert/groupAndCountry/search.do?group=2345&language=EN

UK

BNP election candidate stockpiled explosives for "race" war

In February a British National Party (BNP) election candidate pleaded guilty to possessing explosives at Manchester Crown Court. Robert Cottage (49), from Talbert Street, Colne, Lancashire, who last stood unsuccessfully for the BNP in Pendle at local elections in May 2006, admitted stockpiling chemicals which could be combined to creative a powerful explosive device. It is noteworthy that Cottage was not charged under the Terrorism Act, but the Explosive Substances Act 1883. The jury was unable to reach a verdict on a further charge of conspiracy to cause an explosion against Cottage and his co-defendant David Jackson and there will be a retrial on these charges.

Cottage, who failed to be elected for the BNP in three elections, was arrested after police searched his home in Colne on 28 September 2006 and discovered a stockpile of 21 chemicals including potassium nitrate, ammonia and hydrochloric acid as well as large quantities of ball-bearings. The police also uncovered a bomb-making manual, crossbows and airguns. Cottage did not deny amassing the chemicals but argued that they were for use in a forthcoming of "race war". The court was told that Cottage had talked about shooting the prime minister, Tony Blair. A police search of the home of Cottage's co-defendant, David Bolus Jackson (62) of Nelson, Lancashire, uncovered rocket launchers, chemicals, BNP propaganda as well as two nuclear protection suits. The cache amounted to the largest haul of chemical weapons ever recovered from a domestic residence but, despite the current high state of terrorist alert, it was not deemed necessary to charge the men under the Terrorism Act. Indeed, the arrests were barely considered newsworthy by the national media, meriting only a couple of short paragraphs.

This is all the more surprising given the past terrorist activities of the BNP. Putting to one side the numerous convictions of members for savage racist attacks, key players in the organisation have been convicted for terrorist acts. Tony Lecomber, who was known among anti-fascists as "the mad bomber", was convicted in the mid-1980s of five charges under the Explosives Act after attempting to blow up the offices of the Workers' Revolutionary Party in south London. Police also found detonators and improvised hand grenades at his home, but Lecomber received only a three-year prison sentence. More recently David Copeland, who carried out a murderous bombing campaign against ethnic groups and gays in London in 1999, had been photographed at BNP rallies in the company of the recently deceased party leader, John Tyndall.

The Burnley Citizen 2,10.06; Times 14.2.07; Independent 14.2.07; Guardian 23.2.07

Racism & fascism - new material

Hate Music, David Williams and others. *Searchlight Extra* February 2007, pp.12. This is a *Searchlight* supplement on the far-right music scene in Europe that covers Scandanavia, Germany, Austria, France, Spain, Belgium and the Netherlands. It also includes sections on the "internationalisation" of the white power scene, the range of musical forms traditionally associated with fascism and the BNP's Great White Records.

"A fortune from the prostitution business goes to a minority far-right-wing group", *Diagonal no. 47, 1-14.2.07, pp.44-45.* Interview about the involvement of the far-right in prostitution networks in the Valencian region, based on undercover research by journalist Joan Cantarero, who infiltrated the *Asociación Nacional de Empresarios de Locales de Alterne* (ANELA, National Association of Single Club Entrepreneurs) for over four years by acting as its press officer. The linchpin of this relationship is José Luis Roberto, the general secretary of the *España 2000* party and technical general secretary of ANELA, in whose operations right-wing lawyers and personnel, including Eduardo Arias, an official of the Falangist group *Falange Española*, are involved. Cantarero notes that the obvious contradiction of Roberto campaigning against immigration and using foreign prostitutes in this lucrative activity has led to divisions on the Valencian far-right scene. Roberto was acquitted in court for "inciting racial hatred" in relation to an anti-immigrant march in the Ruzafa neighbourhood in Valencia in 2002 during which racist slogans were shouted and immigrants were threatened, because it was not proven that he was the instigator of the slogans. Twenty-three activists from anti-fascist groups who opposed the march also face trial for the disturbances that the event caused. During the trial, the *España 2000* website posted photographs and personal details of journalists, members of migrant associations and witnesses. Roberto also faces charges for providing false testimony in a trial involving his son, an official in the party's security structure, which reportedly received funding from the Valencia region's *Generalitat* (regional government) through 18 contracts between 1999 and 2004. Later reports in *Diagonal* newspaper indicate that relations on the local right-wing scene have deteriorated further, after the neo-fascist party *Democracia Nacional* (DN) denied having any relationship with *España 2000* and widely advertised the publication of the book *Los amos de la prostitución*. Ricardo Saenz de Ynestrillas, a far-right leader who spent a stint in prison after killing a cocaine dealer who would not give him credit, advised his followers to read the book to "definitively unmask Roberto". Roberto has filed a lawsuit against Cantarero. *Diagonal, 15-28.2.07, p. 43.*

Islamaphobia, xenophobia and the climate of hate. *European Race Bulletin* No. 57 (Autumn) 2006, pp. 40. This issue of the bulletin documents some of the most serious incidents of racial violence that have taken place across Europe over a period of almost a year. Section 1 highlights cases of racist violence, concluding that "a large proportion of Europe's hate crimes are actively instigated by extreme-right organisations and that such extremist movements are flourishing in the war on terror-induced climate of suspicion and hysteria." Section 2 features case studies showing "that racist and neo-nazi movements feed off the populist and mainstream strains of Islamaphobia and

xenophobia". Available from the IRR, 2-6 Leeke Street, London WC1X 9HS, email: info@irr.org.uk

SECURITY & INTELLIGENCE

UK

New head for MI5

The Home Office has announced that it has appointed a new head of MI5, Jonathan Evans (49), to replace Dame Eliza Manningham-Buller on 8 April 2007. Evans is a career spook who joined the security service in 1980. According to *The Observer* (11.3.07) newspaper Evans' worked in Northern Ireland where he liaised with the British Army's Force Reconnaissance Unit (FRU) which was "at the heart of a counter terrorist strategy in which intelligence, police and military operatives actively supported loyalist paramilitary groups and dramatically increased their killing capacity."

He is currently deputy head of the organisation and in charge of counter-terrorism monitoring al-Qaeda and its sympathisers in the UK. His predecessor, Manningham-Buller, announced that she would be retiring last December shortly after claiming that Britain had been targeted by 30 separate serious al-Qaeda terrorist plots and was targeting more than 1,600 individuals engaged in supporting and promoting *jihadism*.

Richard Norton-Taylor, in *The Guardian* newspaper, has speculated that Manningham-Buller actually left her job "in order to avoid the fallout from the July 7 2005 London suicide bombings."

The change-over at the top of MI5 occurs at a time when the agency is expanding its regional operations. The first changes happened a couple of years ago when regional offices were set up and regional Special Branches placed even more firmly under MI5's control. Now four new "Counter Terrorism Units" (CTUs) are to be set up in Manchester, West Yorkshire, West Midlands and London.

The CTUs will have 350 staff (drawn from police experts and Special Branches) and will "work alongside MI5 and other security services".

Smaller Regional Intelligence Cells are being established in Wales, East Midlands and the South West.

"New Director General of the Security Service", Home Office press release, 7.3.07; The Guardian 8.3.07; BBC News, 2.4.07; see also Statewatch News Online, March 2007 "What did "Bob" do in the FRU?"

Security - new material

Fiji, Iraq and Pacific Island security, Nic Maclellan. *Race and Class*, Vol. 48 no. 3 (January-March) 2007, pp.47-62. Noting that the war in Iraq has reverberations that reach way beyond the Middle East, this article considers the role of private and military security companies in the Pacific region and Fiji: "A whole industry has grown up, in which private military and security corporations plug the gaps that the armed forces of the US and Britain cannot fill, providing back-up services, security and logistics." Maclellan goes on to warn that "this trend to outsourcing core national government functions of defence and security has boomeranged back on the Pacific nations themselves, potentially adding to destabilisation and insecurity in the region." Available from IRR, 2-6 Leeke Street, London WC1X 9HS.

Switzerland's contradictory extradition rulings

On 23 January 2007, the Swiss Federal Court passed two sentences on extradition cases which seriously contradict each other. Both cases concern requests by Turkey, which were both, in first instance, granted by the Federal Office of Justice (*Bundesamt für Justiz* - BJ).

Erdogan Elmas

The 28-year-old Erdogan Elmas has been living in Switzerland for eleven years with status of "provisional acceptance". Despite the fact that he was refused refugee status in his asylum procedure from 1996, the asylum authorities have since repeatedly found that in case of deportation to Turkey he would face serious disadvantages or even political persecution. None the less, Elmas was arrested in 2006 on grounds of an extradition request by Turkey and spent his extradition detention, which lasted almost one year, in five different prisons because the authorities kept transferring him to stem protests in front of the prison.

In the extradition order, Elmas is accused of having taken part in the murder of a policeman as a member of the DHKP-C in 1995. The Federal Court now declared the extradition unlawful. In its decision it considered, firstly, the long duration of the court procedure. Further, the extradition request was issued nine years after the actual crime. Secondly, the court saw another obstacle to extradition in the fact that Elmas was only 17 years of age on the alleged date of the crime. It is "questionable", the court said, "that a possible youth sentence under Swiss law would even be considered a sanction justifying extradition" as laid down in the extradition treaty of the Council of Europe from 1957.

Thirdly, the court stated that Turkey was in a state of quasi civil war between 1992 and 1997 and that particularly oppositional Kurds were regularly tortured after arrest. Although Elmas had been a member of the DHKP-C, which has been classified as a terrorist organisation by Germany since 1997 and by the EU since 2002, he was not a functionary in the organisation. The court held that Switzerland could therefore not convict him on grounds of membership of a criminal organisation. This in turn meant that the precondition of (in German *beiderseitige Strafbarkeit* – the condition that the offence would be punished also in the requested state) was not fulfilled. The circumstances meant that an extradition was therefore not possible, even if Turkey would grant a diplomatic promise for a fair trial. The additional documents that Elmas' lawyer Marcel Bosonnet retrieved in Turkey during the extradition procedure are probably also sufficient to achieve recognition as a refugee in the renewed asylum procedure of his client.

Mehmet Esiyok

In total contradiction to the above case, the Federal Court passed a sentence on the same day and in the same constellation, granting the extradition request of Turkey in the case of Mehmet Esiyok – on the precondition that his asylum claim is met with a negative decision. Esiyok's asylum procedure is still pending. "We have sufficient legal arguments", Peter Nideröst, Esiyok's asylum lawyer, said. But he fears that the Federal Administrative Court, second instance in asylum cases, will pass a similarly political judgement than that of the Federal Court in the parallel extradition procedure.

Mehmet Esiyok has been a member of the Kurdistan Workers Party (PKK) since 1989 and was a member of the party's central committee from 1995 where he was responsible for press and education as well as for contacts abroad. According

to Nideröst, he never participated directly in the military conflicts between the PKK and the Turkish state. In December 2005, he landed in Zurich via Moscow and lodged an asylum application. Since his arrival he has been detained in the airport detention centre in Zurich.

The Federal Court granted the extradition request on grounds of only one of the thirty alleged crimes listed in the indictment in the Turkish extradition request: according to the Turkish state, Esiyok, together with other PKK members, is supposed to have given orders to kill a so-called village guard. All other allegations are, according to the court, either statute-barred or they are "not sufficiently concrete". Although the allegations would have to be neglected in a Turkish criminal procedure, they still served as evidence for the Swiss Federal Court that Esiyok cannot be classified as a "legitimate resistance fighter". Although the court finds, in line with its decision in the case Erdogan Elmas, that Turkey was in a state of quasi civil war in the 1990s, it evaluates this circumstance entirely differently in this case: in a report from 8 March 2006, the Swiss internal security service (*Dienst für Analyse und Prävention*) points out that the PKK has been classified as a "terrorist association" in Germany since 1993 and in the EU since 2002. The fact that Switzerland deliberately did not follow this criminalisation of the PKK is ignored by the court just as much as the fact that Esiyok did not hold a military position within the PKK.

Turkish guarantees?

Even though reports on the torture practices of the Turkish state which continue to this day should "not be taken lightly", according to the Federal Court, they did not constitute a reason to generally deny extraditions. States that "have to work through a dramatic civil war history and which cannot yet look back at a stable legal democratic tradition" should in principle also receive assistance in the prosecution of serious crimes, the court said.

This was acceptable, said the court further, if Turkey would issue a "feasible guarantee bond". Employees of the Swiss embassy in Ankara should be able to monitor the criminal proceedings and make unannounced visits to the prison. When asked by the Federal Office of Justice in July 2006 about this matter, the Turkish embassy already assured the Swiss authorities that Esiyok would be able to choose his own lawyers and would be granted visits by his family at any time. Turkey's willingness to make these guarantees is new. It can be explained not only by the pressure of the Swiss Federal Office of Justice, which is part of the Justice department headed by the right-wing hardliner Christoph Blocher, but according to the Federal Court's sentence, Turkey's attitude is also down to "various bilateral political and technical consultations" which were obviously carried out by the social-democratic lead foreign ministry (EDA). According to EDA spokesperson Carine Carey, such guarantees could balance out the "general remaining risk" of torture.

Esiyok's lawyers, however, believe neither that Turkey will keep its guarantees, nor do they believe that the Swiss embassy would be in a position to control the same. Rather, they fear that the Swiss authorities will simply forget Esiyok, once he has been extradited. The lawyers are therefore considering not only appealing the Federal Court's decision but also lodging a new complaint – either at the UN Anti Torture Committee in Geneva or at the European Court of Human Rights in Strasburg.

After almost 15 months of extradition detention, with only one hour yard walk per day and 23 hours in the cell, Mehmet Esiyok has gone on hunger strike.

Germany
Common database links secret service and the police

Since the terrorist attacks in Madrid in 2004, Germany's bi-annual Interior Ministers Conference has repeatedly attempted to merge the police and secret service databases with relevant legislative proposals. The Lower House of Parliament finally passed the Common Databases Act (*Gemeinsame-Dateien-Gesetz*) on 15 December 2006.

The law contains five articles. The first introduces an "Anti-Terror Database" holding personal data on terrorism suspects; it will be located in the offices of the Federal Crime Police office (*Bundeskriminalamt* – BKA). Access is given to the 16 regular regional police offices, the Federal Police Department, the internal secret services that are comprised of the federal and the regional offices "for the protection of the constitution" (*Bundesamt für Verfassungsschutz* – BfV and *Landesamt für Verfassungsschutz*), the external secret service (*Bundesnachrichtendienst* – BND), the Military Secret Service (*Militärischer Abschirmdienst* – MAD) and last but not least, the Customs Investigation Bureau (*Zollkriminalamt* - ZKA). Article 1, creating the database, also gives powers to extend access to other police departments if they carry out anti-terrorism tasks "not only on an individual case basis". Apart from being able to access this database, all participating authorities are obliged to enter data relating to anti-terrorism already held on their databases as well as all newly collected data.

Four categories of persons can be entered into the database. Firstly, members or supporters of terrorist organisations who are either active in Germany with connections abroad or who are active abroad with connections to Germany. Secondly, members or supporters of a "grouping" that supports a terrorist organisation, in other words, supporters of supporters. Thirdly, persons who use politically or religiously motivated violence as well as those who "support, prepare, endorse or through their doing deliberately generate" such acts of violence, the latter explicitly refers to so-called hate preachers. Finally, contact persons, where facts support that this contact is not incidental or that information could be gathered which could lead to intelligence gathering on (*Aufklärung*) the fight against international terrorism. Apart from personal data, associations, objects, bank details and telecommunications traffic data such as addresses, telephone numbers, internet sites and e-mail addresses can be entered. In all these cases "actual leads" must exist that show a connection between the first two categories of personal data.

The problem with these data categories is that their definition is vague and that police and secret services are now obliged to enter and therefore share any data they collect that "relates" to any of the above-named categories. The law is also a free pass for data collection because the definition of "relevance" here lies not in clearly defined regulations but rather in the eye of the beholder, in this case the police and secret service. "Leads" are defined as "actual" when, "according to intelligence or police experience, they justify the evaluation that the findings will contribute to the knowledge on (*Aufklärung*) or fight against international terrorism". The widest possible definition was

chosen here, which, moreover, makes anti-terrorism activity first and foremost a "preventative" activity that does not take actual suspects as its starting point but internal police evaluations on what in their eyes constitutes possible supporters of terrorism, or supporters of the supporters.

It is not surprising then that the type of data collected on persons is not only their names, address, physical features, spoken dialects and photos, but also their religion, membership of organisations, and details on places they visited, their telephone numbers, cars, etc., the latter enabling research on a persons' social circles. Finally:

> *how the issuing authority uses the open field for 'summary remarks, additional comments and evaluations', if they fill it with a few lines or whole files, depends neither on law or technology but only on their willingness to share (Busch, 2006: 56).*

On paper, the data is only entered in order to help identify a person and provide a "reliable threat assessment". The law, however, goes much further than its proclaimed aim of creating an "index" database but creates a common and comprehensive register for police and secret service information.

Another aspect of the law is that it not only regulates the exchange of individual data sets but that it fosters intensified police and secret service cooperation by revising existing regulations of all authorities by allowing them to collect so-called "project data" in a common database for the purpose of exchange and common evaluations. This is done with the argument that during the pilot projects "Networks of Arabic Mujahideens", carried out by the BKA since 2001, and its follow-up "Training camps of Arabic Mujahideens", officers found it a hindrance that they had to enter data in separate databases or transfer data on CD-Roms from one authority to another due to different access regulations. The types of data to be collected in these project databases differs slightly depending on the various authorities' specific regulations. However, what they all have in common is a failure to differentiate between suspects, possible suspects, contact persons or witnesses. Project databases are supposed to facilitate the evaluation of "comprehensive information on relevant persons". Such a project can last up to four years.

Heiner Busch, editor of the German civil liberties journal *Bürgerrechte & Polizei/CILIP*, comments that law-makers, in their zealous data collection frenzy, thought of everything but the civil liberties implications or procedural consequences of these practices:

> *How are possible secret service data supposed to be introduced in criminal proceedings? Who will be responsible, who will give evidence? Which records will be disclosed to the court and the defence, which ones will be suppressed? What if the findings originate from befriended authorities who extorted them by way of torture in Guantánamo or another secret prison in any part of the world?*

Finally, it should be noted that information exchange between the police and secret services in Germany is not new. Automated mutual access used to exist between the police database INPOL and the secret service database NADIS until 1979 when the connection was severed because of criticism from the Federal Data Protection officer. In 1990, the Law on the Federal Office for the Protection of the Constitution implemented this separation between police and secret service activity by stipulating that the databases run by the internal security services cannot be automatically accessed by other authorities. The current law practically abolishes this separation, firstly by placing all data in the preventative sphere by naming only "knowledge on" and "the fight against" terrorism as definite measures for data collection and secondly, by failing to name any qualitative difference that might exist between police data or secret service data in this regard.

This article is based on a legal analysis of the Common Databases Act (Gemeinsame-Dateien-Gesetz) by Heiner Busch, published in the liberties journal *Bürgerrechte & Polizei/CILIP* vol 85, no. 3/2006, pp 52-59. See http://www.cilip.de/terror/ for more background information on anti-terrorist legislation and civil liberties critiques in Germany.

The legal text of the Gemeinsame-Dateien-Gesetz, dated 22.12.06,: http://www.bgblportal.de/BGBL/bgbl1f/bgbl106s3409.pdf

For additional notes published by the government on the law: http://www.bmi.bund.de/cln_012/nn_165104/Internet/Content/Themen/Terrorismus/DatenundFakten/Antiterrordatei.html

EU
Deportation class a reality with Austrian business plan

In 1999, when activists spoofed Lufthansa, KLM and TAROM leaflets offering cheap flights to migrants' countries of origin with deportees on board, they used the tactics of "image pollution" to force respected businesses to take a public stance on their involvement in the forced practice of deportations (*http://www.deportation-class.com/*). In an ingenious communication guerrilla stunt, the campaign shocked customers and shareholders by spreading glossy flyers advertising deportation class:

> *When you use Deportation Class to travel to dozens of cities in thirty-five countries, you can subtract a very substantial discount from the lowest published rate. What's more, when booked for your Deportation Class flight, you will automatically participate in our inaugural program. In addition to our extraordinarily low fares, you will benefit from the following services:*
>
> *- After your special cargo area check-in, border police officers will help you through a separate gate into the high security deportee sector.*
>
> *- While restrained, you will enjoy special privileges such as seating priority, access to exclusive lounges, and even an increased luggage allowance.*
>
> *- After you board, you will be provided with a special helmet allowing you to take advantage of internal multimedia entertainment.*
>
> *- You will adjust to the delights of your travel destination in an atmosphere relaxed by obligatory sedative usage.*
>
> *- After being booked in Lufthansa's Deportation Class, you will be driven in a specially protected vehicle from your home to the airport, completely free of charge.*

As a result of the campaign, Lufthansa and TAROM temporarily stopped deportations and the German pilot's association *Cockpit* advised their members to refuse flying with deportees on board; it became increasingly difficult for governments to find willing collaborators to reach their deportation targets (166,909 people were deported by plane from EU member states and Norway during 1999).

What no one expected is that eight years later, deportation class no longer shocks the public, nor does it scare off businesses fearing for their reputation. On the contrary, Austrian immigration lawyer Hermann Heller and "aviation experts" Carl Julius Wagner and Heinz Berger have announced they are planning to cash in on EU plans for joint deportation flights with their project "Deportation-Lines". "Asylum airlines", a concept developed by the five richest countries in the world at the Evian meeting in June 2005, has become a viable business option not

only for venture capitalists but, unimaginable to most of his colleagues, also for an immigration lawyer claiming to promote "humane deportations". They are not the first ones, however, to make money from the deportation business. A German charter flight company started mass deportations for the government in 2004.

Carl Julius Wagner is a Vienna-based management consultant who, as a representative of the US helicopter producer Sikorsky, managed to convince the Austrian authorities to buy nine multi-purpose transport "Black Hawk" helicopters for 2.3 bn Austrian Schilling (after tax) in 2001. The deal allegedly generated 4.6 billion profit for the Austrian business world in form of so-called offset trading.

Deportations - a profitable business

These past six months, Heller and his partners have been developing a new deportation aircraft that will make resistance futile. The first step in their plan towards successful mass deportation is to do away with the general public, which gets upset when confronted with bound and shackled people kicking and screaming to resist their deportation, which often leads to the deportation being abandoned. The second step is to make deportation less labour-intensive by building an aircraft with small padded cells in which refugees and migrants can be locked up without having to be physically restrained by police for the duration of the flight.

As the plan is too big for Austria, with its 71 deportation flights a year, the businessmen are counting on support from other EU governments. Once the demand and supply ratio is determined, the type of aircraft will be decided. If it will be an Airbus or a Boeing is not clear yet, but Heller & co are looking to buy aircraft that have been decommissioned since 11 September has created an over-supply of airplanes, according to the Austrian newspaper *Kurier*.

The German company Aero Flight GmbH & Co KG is an aviation company set up in 2004 with a base in Oberursel near Frankfurt am Main. Aero Flight has carried out several mass deportations and in September 2004 the first joint European return flight with 40 migrants from different countries. The Hamburg authorities alone paid Euros 140,000 to deport African migrants to Cotonou (Benin) and Togo. In June 2005, the company returned 70 persons to Turkey, a deportation practice which the regional refugee council of North-Rhine Westphalia described as inhumane and barbaric. Information about Aero Flight, deaths during deportations and the demonstrations that are being organised against these deportations on *http://www.aeroflight.tk/*

The EU prepared the ground

To blame this new stage in the EU's inhumane migration regime only on business interests, however, would be misguided. The use of charter flights for mass deportations is far from new. In 1999, following the death of Semira Adamu in Belgium, the Vermeersch Committee recommended changes to procedures to isolate asylum seekers who "repeatedly use violence in order to prevent deportation". It was proposed to use charter flights, rather than regular scheduled flights and Luc Van Den Bossche, then Belgian Interior Minister, announced that small business planes would be used, in a plan worked out between Belgium, the Netherlands and Germany. In 2001, the UK Home Office started to conduct forced removals in large numbers with the use of charter jets, followed by Spain which began to put into practice the policy of hiring charter flights jointly with other European governments in December 2002 and in 2003 and 2005 deported African migrants *en masse* from the island of Lampedusa. In 2003, France announced weekly charter flights to return illegal immigrants to their home countries, 270 were deported to Africa and Asia on three different government-chartered planes in February 2003 alone (also see *Statewatch News Online*, August 2003).

In July 2005, the interior ministers of the G5 (France, Italy, Germany, Spain and the UK) decided at their "Asylum Airlines" meeting in Evian to coordinate joint deportations with charter flights picking up deportees from different EU countries. The political decision was accompanied by a media-effective French-British joint deportation of 40 Afghani refugees back to their home country. In 2006, joint deportations were stepped up particularly by Hamburg authorities and by June 2006, the European Border Agency, Frontex, had been given the task of organising joint deportations.

The EU ground for joint deportations was prepared in 2004 by the Irish Presidency of the Council of the European Union which started pressing for the collective expulsion of refugees and asylum-seekers to be enshrined in EU law. The proposal on "joint flights for removals" was agreed by the Council on 6 November 2003. The European Parliament was consulted on the proposal and after a lobby of more than 100 NGOs rejected it in March 2004

The Prüm Convention (Schengen III), signed on 27 May 2005 by Austria, Belgium, France, Germany, Luxembourg, the Netherlands and Spain, "on the stepping-up of cross-border cooperation", particularly to combat terrorism, cross-border crime and illegal immigration is another inter-state instrument that is being used by the biggest member states to push their security-driven policies into EU law: if immigration related aspects of the Prüm Convention are not transposed into the first pillar, i.e. EU law, the 15 Prüm states will start enhanced cooperation on joint return through intergovernmental agreements.

As outlined above, joint deportations have already been carried out on a number of occasions outside of the Prüm framework, EU law therefore only provides legal backing to existing practices rather that creating them. Activists have analysed the shift towards joint deportations using small charter flight companies as a reaction to the successful resistance by migrants and refugees to their deportations and public scandals created because of the deaths of deportees during their violent deportation. Image-pollution campaigns have also been successful in forcing companies to stop collaborating with governments in this practice.

KURIER article from 12.03.07:

http://www.kurier.at/nachrichten/oesterreich/63114.php

Two excellent background articles (in German) by the Austrian anti-racist portal no-racism.net on the Asylum Airline plans, participating charter flight companies and protests against the joint deportation practice: http://no-racism.net/article/1320 and http://noracism.net/article/1321

English background article from June 2004 by the Amsterdam-based Autonoom Centrum:

http://www.autonoomcentrum.nl/overdegrens/4/index_en.html

COUNCIL DECISION of 29 April 2004 on the organisation of joint flights for removals from the territory of two or more Member States, of third-country nationals who are subjects of individual removal orders (2004/573/EC)

UK Information Commissioner: "Surveillance society" a reality

The UK's Information Commissioner, Richard Thomas, has said the surveillance society he warned Britain was "sleepwalking into" is now a reality. Speaking in November 2006, following the publication of a report by the Surveillance Studies Network, he called for debate over the acceptability of the endemic surveillance we now live in:

> *We've got to say where do we want the lines to be drawn? How much do we want to have surveillance changing the nature of society in a democratic nation?*

The report warned that Britain is now the "most surveilled" western state with peoples' movements and activities routinely monitored by methods and technologies that they are largely unaware of. By 2016 the report foresees a multitude of ways in which new surveillance technology will have impacted upon our daily routines. Examples include large rises in aggressive consumer marketing, pay-as-you-drive schemes with cars tracked by Radio Frequency ID chips (RFID), and employers using medical records as a basis for allocating jobs. The report's co-writer, Dr David Murakami-Wood, said

> *We have more CCTV cameras and we have looser laws on privacy and data protection...We really do have a society which is premised both on state secrecy and the state not giving up its supposed right to keep information under control while, at the same time, wanting to know as much as it can about us.*

RFID chips and Oyster cards

An example of this is the fitting of around 500,000 wheelie bins throughout England with RFID chips that enable councils to monitor the amount of waste discarded by householders. The penny sized chip in each identifies the house number to the rubbish truck which then weighs the bins, records the amount of refuse inside it and, when back at the depot, transfers the data onto a central computer. The scheme will facilitate government plans to charge people on the basis of how much non-recyclable waste they produce. Further, many of the consumer products people eventually throw away now carry RFID chips similar to those implanted in the wheelie bins. In theory these can also be read by the truck's scanning equipment thus providing the potential for extensive profiling of peoples' purchasing habits. And yet, according to *The Register*, "in most cases home owners were not informed about the deployment of the technology."

In London Oyster cards used to travel on public transport are now routinely used by police to monitor the movement of suspects in criminal investigations. According to a More4 television programme, *Suspect Nation*, around 170 requests to examine Oyster card records are made every month. This is compared with 43 a year ago and only one 18 months ago. In response to these figures, Liberal Democrat MP Lynne Featherstone demanded "to know why it's risen by 300 per cent, why they are asking, what are they looking for and who they are after and did they get them? Are the people whose personal details are given to them [the police] notified?"

Function creep

This is an example of what the Surveillance Society Report identifies as "function creep" whereby:

> *personal data, collected and used for one purpose and to fulfil one function, often migrate to other ones that extend and intensify surveillance and invasions of privacy beyond what was originally understood and considered socially, ethically and legally acceptable(p9).*

The process is also illustrated by two voluntary trial fingerprinting schemes introduced at Heathrow airport in November 2006 for passengers travelling on Cathay Pacific and Emirates. Under the first, *miSense*, a scan of your passport photo page and right index finger are taken. This data is later used to secure access through the *miSense* automatic security gate which operates in addition to standard airport security. The second, more advanced scheme, *miSenseplus*, involves the taking of your passport details, email address, mobile phone number and full biometric details: ten fingerprints, a photo of your face, and a detailed image of both eyes (although only the print of your right index finger is ever used for the purpose of identification). You are also required to sign a consent form for your personal and biometric details to be used to conduct criminality checks. After this you receive a *miSenseplus* membership card which facilitates fast track immigration clearance on arrival and departure.

According to the *miSense* website, data taken under both schemes will be stored in accordance with the UK Data Protection Act 1998 and deleted upon completion of the trial. Further, access to the database will be limited to officers of the UK border control agencies and named employees of the technical maintenance businesses operating the two systems. But:

> *if you join miSenseplus, the data you provide may be checked against databases held by other UK Government departments and agencies for evidence of criminality. The results of searches against these databases may affect your ability to continue to participate in the trial but will not affect your right to travel.*

And beyond that:

> *The data you provide may also be disclosed to other government departments and agencies, local authorities and law enforcement bodies to enable them to carry out their functions, including the prevention and detection of crime.*

The vagueness of these clauses means that those participating in the trial will have no idea which bodies are holding their biometric data and what they are doing with it. They also cannot foresee the implications of whatever use it is put to or know that those running *miSense* will be able to fully recover and destroy all of their samples upon completion of the trial. The Surveillance Society report identifies this process of "data flow" and warns against its dangers:

> *While one major question is, how secure are databases from unauthorized access or leakage?(sic), a further and more vital one is, to what extent should data be permitted to move from one sphere to another? (pp.9)*

Biometrics, fingerprints and ID cards

The fundamental concern with using biometric data as a method of personal identification is that it is permanently attached to you. Unlike a pin number or password it cannot be cancelled or changed; if compromised it is compromised forever. Realistically we have no idea how secure our personal data is. Writing in *The Observer* Henry Porter has frequently warned that:

> *the most shocking part of Britain's frantic rush towards a fully fledged surveillance society...is the lack of security in the systems that are confidently held up to be the solution to the problems of 21st-century crime and terrorism.*

For example an inherent problem with RFID chips is that it is difficult to prevent them from transmitting their data to

unauthorised recipients. Because of this Porter argues that the new British passport is actually less secure than its predecessor:

> *In an experiment conducted for [the television programme] Suspect Nation, security expert Adam Laurie took just a couple of weeks to write a programme and add a scanner which would read any new British passport without it being open.*

When ministers, many of whom have little or no technical knowledge, zealously promote the creation of massive centralised databases and universal biometric identifiers they also create a very attractive target for criminals. Yet rather than adopting a cautious approach to the implementation of untested technology with unforeseeable security flaws the government is introducing more and more schemes which require us to provide our fingerprints.

In schools throughout England fingerprint identification systems are being introduced without parental consent for the purpose of class registration and library book lending (See *Statewatch* Vol 16 no3/4). On 4 March 2007 Home Office Minister Liam Byrne told *The Sunday Edition* television programme that the Identity and Passport Service wanted to keep a record of the fingerprints of all children over the age of 11. Meanwhile, if you wish to hire a car at Stansted airport you must now compulsorily provide a fingerprint. In November 2006 a roadside fingerprinting pilot scheme was launched for ten police forces. Drivers stopped by the police will have the option of giving a fingerprint, to be checked against the National Automated Fingerprint System in an attempt to establish their identity, or face being taken to a police station. The government has also funded a trial fingerprint security system in Yeovil to regulate entry into pubs and clubs. An unaccountable committee of landlords and police meet to determine from where offending individuals should be barred and for how long.

Of course when ID cards are eventually issued (the Identity and Passport Service estimates 2008/09) the entire population will have their fingerprints stored in the National Identity Register (NIR) along with 49 other pieces of personal information. In February 2007 the government confirmed that police would have access to the NIR to check fingerprint records against those found at every unsolved crime scene. The Liberal Democrat home affairs spokesman, Nick Clegg, protested: "we were left clearly with the impression that the police wouldn't simply be able to go on fishing expeditions just with their own say-so". This highly centralised register is also likely to become something of a holy grail for criminals with Microsoft warning it could lead to "massive identity fraud on a scale beyond anything we have seen before."

DNA: Databases and as a predictive tool

On top of this, Britain already has the largest DNA database on its population in the world with data held on over 3.5 million people. Anyone who has been arrested over the last four years is on it indefinitely (regardless of whether they were eventually charged with a crime) along with victims of crime and those who voluntarily provided a genetic sample to assist an investigation. In December 2006 the Home Secretary, John Reid, revealed that 1,139,455 people on the database had no criminal record. And as the database continues to grow by 40,000 profiles a month there has still been no public or parliamentary debate on the issue. This, and the lack of any real legislation behind the database, has given the police, and chief constables specifically, an inordinate amount of power. Tony Blair believes the size of the "database should be the maximum number you can get", while in November 2006 a senior Metropolitan police officer, David Johnston, called for everyone to be placed on a DNA database from birth.

Aside from the obvious concerns about innocent people being placed on a police database, there is already evidence of "data flow" into other unaccountable spheres. The Home Office has allowed other EU police forces to examine its records and in July 2006 *The Observer* revealed that LGC, a private firm responsible for analysing data for the police, had been secretly keeping biometric samples of hundreds of thousands of people. Extraordinarily in November 2006 Labour MP Ian Gibson "stole" the DNA of a minister by taking a glass from which they had been drinking to a laboratory where a match could be made. He did this "to show how easy it is to obtain someone's DNA...my whole point is that people need protection."

Originally designed as a mechanism to catch re-offending criminals the DNA database has become a predictive tool that targets people who have not committed any crime, but might do so in the future. Sir Bob Hepple, chairman of the Nuffield Council on Bioethics, claims Britain is turning into a "nation of suspects". In November 2006 *The Independent on Sunday* reported that, under new government guidelines, relatives of suspects in criminal investigations could have their DNA and medical records taken by police should they refuse to cooperate. The idea is that you can predict the identity of suspects by matching them to relatives already on the database with whom they share some of the same genetic markers.

It is this form of "predictive policing" that biometric security schemes and databases actively facilitate. The trend is already evident in Anti-Social Behaviour Orders (ASBOs), the government's flagship policy for dealing with any behaviour it deems undesirable. In most cases ASBOs are issued without the recipient having been charged with a crime and prohibit overtly non-criminal acts, in some cases for decades, on the premise that an individual is likely to offend. Over half of the 10,000 orders made since their introduction have been against children serving to stigmatise them at an early age. In September 2006 *The Times* reported that the government was piloting a scheme under which new mothers would be given a ten-minute test to identify whether their children are likely to develop anti-social behaviour in later life. And in a policy review, *Building on progress: Security, crime and justice*, published in March 2007, the government announced plans to "establish universal checks throughout a child's development to help service providers to identify those most at risk of offending." Children from families with very low incomes, or whose parents are incarcerated or drug dependent will automatically be deemed high-risk and "actively case managed" by children's trusts and youth offending teams from as early as possible.

Identifying “future offenders”

In a similar vein, the Metropolitan police has introduced pilot projects in five London boroughs to identify dangerous future offenders. Its Homicide Prevention Unit has compiled a database from the criminal and medical histories of thousands of men to predict whether they are likely to commit serious crimes such as murder and rape at some point in their life. Police would then decide whether to alert social services or pursue an arrest.

Early intervention could also soon be facilitated by high-resolution brain scans that claim to predict peoples' future actions by monitoring small changes in brain activity. Speaking to *The Guardian* (9.2.07), Professor John-Dylan Haynes, one of the neuroscientists involves in developing the technology, likened the techniques to "shining a torch around, looking for writing on a wall" and called for "ethical debate about the implications, so that one day we're not surprised and overwhelmed and caught on the wrong foot by what they can do." Barbara Sahakian, professor of neuro-psychology, went further, asking: "Do we want to become a “Minority Report” society where we're preventing crimes that might not happen?"

Another move towards this form of "predictive policing" is evident in the piloting of a scheme in which high power microphones are attached to CCTV cameras. Each device can monitor conversations up to 100 yards away for "aggressive

sounds" that may precede a violent encounter. A control room is then alerted and officers despatched to the scene while a hard disk incorporated into the system automatically records the conversation for later use. The technology is already operational in Holland and, in December 2006, *The Observer* reported that Westminster Council had been testing it in central London. Commenting on the scheme's introduction, former Home Secretary David Blunkett said: "As you walk down the street you expect to be able to have a private conversation. If you can't guarantee that...I believe we have slipped over the edge."

And yet perhaps the most alarming move came in March 2007 with the release of a government consultation paper entitled *Modernising Police Powers*. It plans to allow police to set up short-term detention centres in department stores and town centres to handle low-level offenders whose transport to a police station represents a time-consuming waste of resources. Instead they would be held for up to four hours, during which time police would be able to take fingerprints, photographs and a DNA sample. Worryingly, this practice would be extended to those guilty of non-recordable (unimprisonable) offences whose biometric data cannot currently be taken without consent. This is because:

> *The absence of the ability to take fingerprints etc in relation to all offences may be considered to undermine the value and purpose of having the ability to confirm or disprove identification and, importantly, to make checks on a searchable database aimed at detecting existing and future offending (p11)*

Police will be able to take biometric samples from anyone they suspect of having committed a crime including minor antisocial behaviour such as dropping litter. The paper also proposes the removal of the "unnecessary operational constraints" and "arbitrary and bureaucratic processes" that serve to separate the police fingerprint and DNA databases from the new NIR. In this way the former's primary function is now increasingly becoming that of the latter; establishing identity on a day-to-day basis.

Little understanding or accountability

The role of biometric data has been extended far beyond aiding criminal investigations to one of monitoring, identifying and even predicting our actions. With this move police powers are growing at an alarming rate. New schemes, that determine that someone is likely to commit antisocial or criminal behaviour, and actively intervene in their lives on the basis of this finding, will essentially find them guilty outside of a court of law and make suspects of us all. For these stigmatised people, and for those with ASBOs, the onus is now on them to prove that they will not commit a crime; that they are innocent. And as our highly sensitive personal data continues to proliferate among government departments and agencies, even in other EU member states, there is little understanding of the enormous security risks involved or the need to ensure accountability for its use at all times.

"A Report on the Surveillance Society, for the Information Commissioner by the Surveillance Studies Network", September 2006; Modernising Police Powers, Review of the Police and Criminal Evidence Act (PACE) 1984, Consultation Paper, Home Office March 2007; HM Government Policy Review: Building on progress: Security, crime and justice; Independent 2/11/06, 26/11/06, 21/2/07; The Times 28/8/06, 29/9/06, 27/11/06, 15/3/07; The Observer 16/7/06, 19/11/06, 3/12/06; The Guardian 9/2/07, 28/3/07; The Register 20/11/06, 22/11/06, 26/11/06, 27/11/06, 20/2/07; BBC News 22/11/06; Evening Standard 16/11/06, 20/11/06; Police Review 17/11/06, 1/12/06.

NORTHERN IRELAND

The Death in Custody of Roseanne Irvine by Phil Scraton

> *The NIPS [Northern Ireland Prison Service] wishes to express its sympathy to the friends and relatives of Roseanne Irvine, a 34 year old female remand prisoner who was found dead in her cell at around 22.15hrs last night in Mourne House, Maghaberry. Her next of kin and the Coroner have been informed. (Northern Ireland Prison Service press release, 4 March 2004)*

On 13 February 2007 following a week-long inquest into Roseanne's death, the jury returned a damning narrative verdict. It stated: "The prison system failed Roseanne". She had taken her own life while the "balance of her mind was disturbed". Reflecting on prison officers' and managers' evidence that had demonstrated a fatal mix of complacency, incompetence and negligence, the jury noted the significance of "the events leading up to her death, ie long history of mental health difficulties specifically the incidents that occurred from 1-3 March".

The "defects" in the system listed by the jury were: "Severe lack of communication and inadequate recording"; "The management of the IMR21 (failure to act)"; "Lack of healthcare and resources for women prisoners". These had contributed to Roseanne's death as follows: "All staff were not aware of Roseanne's circumstances and could not act accordingly"; "Priority should have been made to see a doctor"; "Hospital wing was inadequate for female prisoners". The jury listed four "reasonable precautions" that had been neglected: "Could have been taken to an outside hospital/out of [hours] call doctor"; "Full briefing during handovers"; "Decisions to be moved from C1 to C2 should not have been made by a non-medically trained qualified staff member"; "To be paired up with friend in cell – more checks". "Other factors" were: "Prison is not a suitable environment for someone with a personality/mental health disorder." Under Northern Ireland's Mental Health legislation there is no other alternative"; "more ongoing training on suicide awareness for prison staff".

The Coroner announced his intention to write to the Director of the Prison Service and to the Secretary of State for Northern Ireland. Spontaneous applause from the three rows of family members erupted as the jury left the court. The verdict illustrated systemic failings in a prison severely criticised by the Prisons Inspectorate following its inspection in May 2002. Four months later Annie Kelly took her own life in a strip cell in the punishment block. At the time of the research, early in 2004, far from there being improvements in the regime to rectify its failings, it had deteriorated further. In particular vulnerable women suffering mental ill-health endured the consequences (see Scraton and Moore 2005).

In 2005 an inquest jury heavily criticised the Prison Service for its contribution to the death of Annie Kelly. The Human Rights Commission reiterated its call for a public inquiry into the circumstances surrounding both deaths encompassing the broader issues of institutional failings, managerial incompetence and regime breakdown.

"Failure to Agree"

Born October 1969 in Belfast Roseanne Irvine was the youngest in a family of seven children. According to her pre-sentence report she witnessed and was subjected to violence within the family although one of her sisters recalls a happy childhood. She enjoyed school, left at 16 to enrol at a youth training scheme and then worked in a local factory. In 1991 she became pregnant. Soon after the birth of her daughter she began to suffer from depression followed by alcohol dependency. From early 1994 until September 2001 she was treated on 38 separate occasions

for anxiety, depression, alcohol intoxication, overdosing, self harm and attempted suicide. This included numerous admissions to hospital, mental health and psychiatric units. In 2001 a consultant psychiatrist diagnosed "chronic psychosocial maladjustment" exacerbated by alcohol abuse. This was interpreted as "borderline personality disorder".

She was considered a loving and caring mother but because of "repetitive episodes" of self harm and alcoholism her daughter was placed on the Child Protection Register cared for by her older brother and his family. In February 2002 another of Roseanne's brothers died in a hostel fire. His sudden death had a deep impact on her mental health. She attempted suicide and was admitted to hospital. The day after her release she drank heavily and set fire to her home. With no previous record of offending behaviour she was charged with arson. On the day she was admitted to prison on remand, 22 March 2002, an IMR21 (prisoner at risk of suicide) was opened. She was located on the C2 committals landing where a nurse officer carried out an initial check but she was not seen by a doctor. A second IMR21 was opened six days later confirming she was a "potential suicide risk" but again the doctor did not visit her.

On 9 April 2002 a Prison Officers, Association (POA) representative wrote to the Governor informing him that Roseanne had attempted suicide during the previous night guard period. At 10.05pm there had been an emergency unlock. Roseanne had strangled herself with a ligature and was "lying face down". The Night Guard stayed with her until a hospital officer arrived from the male prison hospital. This took 35 minutes. Soon after midnight she was examined by a doctor who recommended her transfer to the male prison hospital for "special care" (the purpose-built healthcare centre in the women's unit had been mothballed). The transfer did not happen and Roseanne was taken to the "Prison Support Unit", known as the punishment block. She was dressed in an anti-suicide gown, no underwear and placed on 15 minute observation in a strip cell. Referring to criticisms of prison management following a previous death in custody, the POA letter asked:

Why does the management of the Prison Hospital continue to ignore the contents of the Suicide Awareness Manual?

Why are the hospital management so reluctant to accept female prisoners and why are those prisoners who are admitted to the Prison Hospital returned to Mourne House after the briefest possible stay?

Why are IMR21's raised by Mourne Wing staff constantly brushed aside after a token examination by a Hospital Officer?

Why did it take approximately thirty-five minutes for the Night Guard Hospital Officer to reach C2 on the night of the incident in question?

Why was Irvine not admitted to the Prison Hospital immediately after attempting to take her own life?

Why was [she] placed in a Segregation cell in Mourne PSU [prison support unit]? (Letter dated 9 April 2002)

In a subsequent letter to the Governor, the POA reported that again Roseanne had attempted to take her own life: "To our dismay once again the regulations laid down in the Suicide Awareness Manual were ignored" leaving her "in her own cell and placed on fifteen minutes observation by the night guard" (Letter undated). It had been agreed previously that prisoners on "special watch" would not be accommodated on residential landings. Yet the healthcare Governor and the prison doctor were "of the opinion that prisoners who are not in clinical need should be kept in a Residential House". The POA, however, considered that "prisoners deemed to be at risk of self harm" should be "placed in the Health Care Centre and treated by Nursing Officers". Soon after the POA registered a "failure to agree" with the Governor stating:

Hospital management are continuing to ignore the regulations governing the treatment of prisoners who are attempting self-harm. This is placing an intolerable burden on discipline staff by placing these prisoners in residential units instead of the healthcare centre. Prisoners deemed to be at risk of self-harm by medical staff should be placed in the prison hospital. (19 April 2002)

In May 2002 the POA Chairman advised a health care meeting that it was "necessary to have a Health Care Officer in Mourne House during association and at night and requested the matter be looked into" (Meeting Minutes). This was a consequence of Roseanne's self harming and attempted suicide. Subsequently he stated:

There are only two health care officers at night on the male side. If you have two medical emergencies you've had it. You must have a health care officer available for Mourne House at all times. (Interview, March 2004)

Following a further meeting in June 2002 the POA noted that the Governor had accepted the "manual" might not be used appropriately in responding to self harming prisoners. He had stated that admission to the prison hospital was based on a medical assessment of clinical need and self harm was "not necessarily a medical problem" but a "multi-disciplinary problem". Further, a working party on the implementation of new suicide awareness arrangements was in process and a recent healthcare review had recommended handling "at risk prisoners...on normal location". The POA requested "a review into the possibility of re-opening Mourne [women's] healthcare centre" (Interview, March 2004).

In September 2002 Roseanne was involved in a further incident. Again the POA sent a memorandum headed: "Treatment of Prisoners deemed to be at risk of Self-Harm" (16 September 2002). It noted that Roseanne had "committed an act of self harm on C2 landing" and "As usual the regulations contained in the Inmate Suicide Awareness Manual...were ignored by Prison Management". The Duty Governor had "left instructions that Irvine should be placed on fifteen minutes observation and remain in her cell on C2". The POA commented "Once again Night Guard Staff untrained in medical procedures are being placed in an intolerable situation". He was unequivocal that prisoners "on special watch cannot remain on a residential unit".

"Care" in the Community

In October 2002 Roseanne was sentenced to two years on probation. She went to live at Bridge House, a therapeutic community for women with complex mental health needs. She settled in Bridge House but she was returned to prison in August 2003 for breaching her probation order. Again she was placed on an IMR21. By November she had served her time and was discharged from prison. On release she lived in a hostel but without a therapeutic facility available her problems with alcohol, glue, gas and drugs worsened. She transferred to another hostel where she was very unhappy because of intimidation by men living there. She moved to a flat but her habit impelled her back to the hostel. According to a nun with whom she had regular contact, "her mood became very low and she said she wanted psychiatric help" (Interview and Correspondence, 2004). One night she was expelled from the hostel and left on the streets. The hostel social worker considered Roseanne required appropriate psychiatric care. She was given a psychiatric hospital appointment for early February 2004. On 21 January while out with others from the hostel she was attacked by one of the group. She was frightened and asked to be taken to prison for safety.

Within two weeks, following a further suicide attempt, Roseanne was admitted to hospital. The nun visited her and found her "very withdrawn and depressed". Yet Roseanne was optimistic she would receive care and treatment through her hospital appointment. The following afternoon the nun visited her again:

When I arrived I could see Roseanne was very depressed and did not

know what was happening to her. She had seen [the consultant] in a room with many other people, which she found very distressing, and was unable to communicate. I went to see the ward sister who came with me to Roseanne's bedside and told her that she was being discharged under the care of the community health team. Roseanne was very distressed.

Roseanne was discharged from the hospital without medication. The hospital had no information on her whereabouts. She was taken to the Homeless Advice Centre and allocated a place in a house occupied by men who suffered multiple problems, mainly alcohol and drugs related. She was "very frightened" living at the house. The caretaker was on duty only from 7pm until 7am. Roseanne kept her February appointment with the consultant who told her that she should be in hospital. An appointment was made for her to attend the day hospital for medication. The nun continued to visit Roseanne:

I went to [the house]. I could not get in several times. Then on one occasion a drunk man answered the door and he told me Roseanne was out. I left a message for Roseanne to phone me. I eventually got to see Roseanne. I brought another sister with me as I was afraid to go into this house by myself. Roseanne was in a terrible state of depression, confusion. She said she was frightened "out of her mind", had taken drugs, drink and glue and no medication.

The nun was concerned that Roseanne had not been visited at the house to assess the appropriateness of the conditions under which she was living. She telephoned Roseanne's care manager and reported that Roseanne "was depressed, suicidal and unable to stand, her eyes rolling". The care manager arranged for Roseanne to attend the day hospital. That evening she telephoned "quite drunk and suicidal". Within a week she was in police custody and "appeared in court in her pyjamas". She had set fire to her room at the hostel and was charged with arson. On 20 February Roseanne was remanded in custody.

Roseanne's Death

When Roseanne arrived at Mourne House she was "health screened" by a Nursing Officer. Her "risk classification" was assessed as "No risk indicated at present" yet a further entry recorded she had attempted hanging only six days earlier. It was also noted that she had self harmed to her face and arms three days earlier. In the section on information supplied by the police or other agencies regarding mental or physical health concerns there was no entry. Yet the PACE form from the Police Service of Northern Ireland accompanying Roseanne to prison was explicit. The form required the police to note potential exceptional risk. Under the heading "May have suicidal tendencies" three ticks had been entered alongside two handwritten asterisks. Under "Physical illness or mental disturbance" it had one tick. In the section "Supporting Notes" the words SELF HARM were written in capitals, underlined, with two asterisks. There followed, also underlined with accompanying asterisks, the handwritten comment, "Informed C.P.N that she would cut herself if the opportunity arose". The asterisks and underlining were in red ink. On her arrival at prison the "health screening" ignored the contents of the PACE form.

On 1 March Roseanne told a prison officer that she intended to hang herself. The officer opened an IMR21 and Roseanne was put in an anti-suicide gown her underwear removed, supplied with an anti-suicide blanket, potty and a container of water and transferred to C1. This was variously labelled "close supervision" or "special supervision" yet in reality it was the punishment block. Women who repeatedly self harmed or were considered a suicide risk were "managed" in Mourne House by being put in a strip cell, locked up in isolation for 23 hours a day. They had no contact with other prisoners and minimal contact with staff. During the following morning Roseanne was discussed by two Governors and a Senior Officer but she was left on C1. A nursing officer also stated that Roseanne had threatened to set fire to herself. She was scheduled to attend "sick parade" in line with the IMR21 requirements to be seen by a doctor. It was cancelled and the duty doctor was not made aware of her condition. The healthcare section of the IMR21 remained blank. During the day an officer recorded that she was distressed in the strip cell and had pulled hair from her scalp. Despite this and without a doctor's opinion she was returned C2 during the evening of 2 March.

Although at risk, still on the IMR21 and without medical examination she was returned to an ordinary cell. It had multiple ligature points and she had access to a range of ligatures. Once again sick parade was cancelled and she was not seen by a doctor. Officers reported her as being "calm" and "in good form". In the afternoon she was visited by the prison probation officer who informed her Roseanne's social worker was negotiating a meeting at which a visit from her daughter would be arranged. The probation officer stated that she gave Roseanne a handwritten note to that effect. The note was never found. After the visit from the probation officer Roseanne became upset and told officers that she might not be able to see her daughter again.

During a short evening unlock Roseanne stated that she had taken "5 Blues" supplied by another prisoner. Officers assumed the tablets to be diazepam. In fact they were Efexor. She was already on a range of medication including Efexor: omprazole; diazepam; chloral betaine; chlorpromazine, Inderal LA; Largactil. The Governor, in another part of the male prison, was informed of the alleged overdose. He stated later that he ordered an immediate cell search. This was not carried out and the women were locked in their cells for the night. The Night Guard with responsibility for C2 stated that she did not know that Roseanne was on an IMR21, nor did she know that she had taken a drugs overdose. At approximately 9-15pm she was seen sitting on her bed writing a note. She asked for the light to be turned out. Just over an hour later she was checked. She was hanging by the neck from the ornate bars of the window. She had made a noose from a draw cord in her pyjama bottoms and attached it to a sheet through the bars. Her feet were on the ground.

An officer who entered the cell stated:

Although RI was "on" an IMR21 [prisoner "at risk" of suicide] and we were aware that there was a strong possibility that she was liable to attempt suicide, we were unable to avert this suicide, as it was impossible to observe her continually throughout our shift...Not only was it a very stressful and traumatic experience having to deal with this unfortunate death, it has been made worse by the fact that although we were aware of the situation, we were helpless to prevent it. (Interview, March 2004)

The Immediate Aftermath

The death of Roseanne Irvine was particularly shocking by its apparent inevitability. As an officer put it: "We have our own list, our own worries as to specific women who might have died... she displayed the symptoms, the prior attempts. The warning bells were there" (Interview, March 2004). A professional worker stated that "everyone realised that Roseanne had great needs but it [the provision] fell short because no-one put their hand up for overall responsibility" (Interview, March 2004). Given Roseanne's personal history of self harm and attempted suicide, the lack of an effective care plan for such a vulnerable young woman raised serious concerns about the circumstances in which she died. She had arrived in prison in a deeply distressed state and was very worried she might lose access to her daughter. Another prisoner recalled:

She was always talking about her wee daughter. She loved her so much she talked about [her] every day. She hadn't seen her daughter for three weeks and she really missed her. She said to me that she did not think she would see her again because what her social worker told the prison officer to tell her. She told Roseanne that [her daughter] was happy and it would not be right to bring her up to the prison to

see her. That really hurt Roseanne. You could see it in her face when she was telling me. It was Roseanne's child and she had every right to see her. (Interview, March 2004)

A prison officer stated that Roseanne "was not getting to see her daughter" but did not know why. She continued: "In a letter a week ago she told her daughter that she was not well, but that she really missed her and wanted to see her. She loved her daughter but she was ill and it [the illness] was no fault of her own" (Interview, March 2004).

From the accounts of other women prisoners on C2 Roseanne had suffered in the punishment block. One woman stated that "she had had to lie on wood" and another commented that she "was sore on her back after the punishment block" (Interviews, March 2004). In fact she had lain on a concrete plinth without a mattress or a pillow. Still considered at risk, her return to C2 gave her access to several ligatures in a cell with multiple ligature points, not least the patterned metal-work of the cell window bars. She received no counselling, had little meaningful contact with staff and was locked up, unobserved, for extended periods.

A woman prisoner stated that on the evening of her death "Roseanne told me not long before we got locked up that the staff did not check on the women every hour and she said to me that one of these nights they will find someone hanging and they will be dead. That very night Roseanne was found dead" (Interview, March 2004). She continued:

If the staff had checked on Roseanne more often that night she might be alive today. They knew she was down...The girl needed help which she did not get. She was so down. This place is like hell on earth.

A woman in her cell on C2 could hear another woman "squealing and shouting" to Roseanne but "no buzzer went off". She was convinced that the officers had turned off the emergency cell buzzers. Another woman stated:

What happened to Roseanne was frightening. You think you're going to bed safe and you wake up and ask a warder where someone is and they say she hanged herself...All she wanted was to see her child but they didn't listen to her. Roseanne's death could have been prevented. (Interview, March 2006)

The impact on the other women prisoners was immediate:

The next day I just sat and cried. I then had panic attacks. They didn't get the nurse over. I pushed the [emergency] button and they came to the door. I asked to see the nurse and they just said "No". They said, "You're not allowed to push the button. It's for emergencies only". I said I was having a panic attack. They said, "Take deep breaths". It was early evening. I sat up on the bed with a pillow and cried and cried. (Interview, March 2006)

Roseanne's closest friend on the landing, Jane (pseudonym), was devastated and was transferred to the male prison hospital where she was interviewed several days after Roseanne's death. The interview took place in an office and the level of constant noise outside was intense. It seemed out of place in a healthcare facility accommodating acutely disturbed and distressed patients:

While we were talking the daily routine of the prison hospital was happening beyond the door...loud male voices shouting and laughing; jokes and banter between staff; the constant rattling of keys; whistling; telephones ringing; people's names being shouted down corridors. All interpersonal communications seemed at full pitch. (Fieldnotes, March 2004).

Throughout the interview Jane was agitated and cried. Initially she had difficulty in focusing and apologised constantly for her emotional and physical "state". Although continuing to cry, Jane gathered herself:

The way that girl was treated the system let her down. There should be a hospital for women. It was disgusting, dirty in here...I always told her not to do anything to herself. I tried to see her that night but we only got 20 minutes out [of the cells]. I started to write things down myself. I wrote there should be more support for women with mental health problems. (Interview, March 2004)

Jane talked about her own mental health problems: "You get no support, the staff ignore you". She had twice received visits from a psychiatric nurse "then it was stopped"; there was "no support for women with depression". In the prison hospital "you're locked up 23 hours a day". She continued:

If you're sitting there [in the cell] for hours there's stuff that goes through your mind. If I don't get out today I'll plan something. They think there's nothing I can do but I can. They think they know everything but they don't. I've got a plan, I know what I'll do. My first cousin hung himself.

She had not wanted to be transferred to the male prison hospital, "it's filthy". Jane was held in strip conditions. The bed was bolted to the floor and the metal toilet, with fixed wooden seat, was open to observation. It was described by a senior orderly as a "basic suite" which the staff tried "to keep as clean and tidy as possible given the circumstances".

Jane wanted relocating to Mourne House where she could have contact with other women. She had been under the impression that her move to the prison hospital had been for "one or two nights".

The doctor doesn't want me to go back over there but I can talk better over there. Over here they don't even talk to you and it's supposed to be a hospital. Here, if you feel really down they don't care.

The isolation, particularly from other women, was the most difficult aspect of the 23 hour lock up: "I've never been in prison before. I hate getting locked up...it brings memories back to me". She disclosed a history of sexual abuse, "I'm lying trying to sleep, thinking about these things". She continued:

In the hospital they [male prisoners] talk filthy and dirt with the other prisoners. A man exposed himself. Said, "I'll give her one". He thought "I'll pull it out 'cos there's a woman there". We were all outside together. One man is in for sexually abusing a child. We have to have association with them. They are crafty, some of them. I told them [staff] about what the man did but they never did anything about it. I did not feel safe around them.

Her account was deeply disturbing. The senior orderly on duty confirmed that Jane had been on association with male prisoners in the recreation room. He explained:

There are difficulties housing women prisoners in a male ward. These are acutely disturbed prisoners...Unlock depends if there's sufficient female staff. But they do have association with male prisoners. (Conversation, March 2004)

On hearing Jane's experiences in the recreation room the orderly stated that they always made sure that a female member of staff was with her but he did not contest Jane's version of events. The "situation" in the prison hospital was "acute and volatile". For Jane, grieving the loss of her friend while struggling with her past memories and current fears the experience of incarceration was "like a nightmare and you think it's never going to end". She said that if "they'd doubled me up [shared cell with Roseanne] then I could have saved her life. She was worried about whether she would ever see [her daughter] again". Jane's concern was that "there'll be more deaths in this prison because people don't get the help they need". She wrote later:

I have four kids and four grandkids and I miss them all so much. I keep thinking to myself I will never see mine again. I love them all so much too. But to me time is running out for me. I can't take much more. Every day is like a nightmare. (Letter, March 2004)

This account is based on research into the imprisonment of women and girls in Northern Ireland carried out on behalf of the Northern Ireland Human Rights Commission in 2004 and published as Scraton, P and Moore, L The Hurt Inside: The Imprisonment of Women and Girls in Northern Ireland Belfast, NIHRC, 2005. Roseanne Irvine died in prison while the research was being undertaken and both researchers gave evidence at her inquest 6-13 February 2007.

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CONTENTS

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