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INQUEST briefing on the restraint of children and SI 2007 No 1709 regarding changes to the Secure Training Centre Rules

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1. LAW TO BE CHANGED ON RESTRAINING CHILDREN IN SECURE TRAINING CENTRES

- 1.1 On Wednesday 13 June 2007 the Ministry of Justice laid before Parliament a Statutory Instrument (SI 2007, No 1709)¹ which seeks to amend the rules governing the use of force within Secure Training Centres (STCs). The Ministry of Justice is proposing to broaden the circumstances in which children can be forcibly restrained.
- 1.2 INQUEST is working with other organisations concerned with the rights of children to try and ensure that there is proper consultation and parliamentary scrutiny on the treatment of children in STCs. In particular there needs to be an exploration of the justification (if there is any) of why differing standards should apply to institutions run by private companies for profit than those that apply to local authorities detaining the same or a similar group of children. There also needs to be an examination of whether the measures proposed meet national and international human rights standards for the treatment of vulnerable children.
- 1.3 INQUEST urges parliamentarians to lay down prayers objecting to the SI and MPs to support EDMs 1714 and 1727 which calls for the withdrawal of these proposals. We also reiterate the call for a public inquiry into the treatment of children in the criminal justice system.

2. BACKGROUND TO THE RULE CHANGE

- 2.1 It is well-documented that there are high levels of restraint used against children in STCs and Young Offender Institutions². The recent inquest into the death of 14 year old Adam Rickwood, the youngest child to die in penal custody in modern times, revealed that restraint was used routinely with the STC environment (see below).
- 2.2 STCs are privately-run children's prisons. They are contracted and monitored by the YJB to safely supply secure accommodation for children. There are four STCs in England and Wales at Medway, Rainsbrook, Hassockfield and Oakhill. They are contracted and monitored by the YJB to safely supply accommodation for children. STCs detain children who are too young or too vulnerable to be placed in Prison Service-run Young Offenders Institutions (YOIs) but the staff receive less initial training than prison officers. A similar group of children are also detained in council-run Local Authority Secure

¹ Statutory Instrument 2007, No. 1709

² i) *The Carlile Inquiry*, Howard League for Penal Reform, 2006 ii) House of Lords debate on the treatment of children in custody since the Carlile report, Hansard, 29.01.07 iii) Annual report of HM Inspectorate of Prisons 2005-2006 published on 30 January 2007.

Children Homes (LASCH) which have a higher staff-child ratio and a higher level of staff training than in STCs.

- 2.3 When STCs were introduced in 1998 the intention was that the use of restraint would be modelled on the approach used in LASCHs, namely that it should be based on a principle that restraint should be used as a last resort and only in very limited circumstances in order to prevent harm to a child or others and damage to property. It was not intended that force would be used to ensure compliance with staff instructions. This was reflected clearly in the contract between the private companies that run STCs and the government. It was also reflected in the STC Rules,³ the statutory instrument that govern STCs. In a parliamentary debate Fiona McTaggart confirmed that to be lawful the use of restraint in STCs was strictly limited to the “harm principles” set out in the STC Rules:

“Staff may need to act quickly to prevent trainees from harming themselves, another trainee or a member of staff. It may also be necessary to restrain a trainee from damaging property or escaping from custody. Use of restraint must, of course, be lawful, and the use of restraint is authorised for those strictly limited purposes by rule 38(1) of the STC rules, which are a statutory instrument laid before Parliament.”⁴

- 2.4 The submission to the then Minister in the Home Office Alun Michael in February 1998 where he was being asked to authorise Physical Control in Care (PCC)⁵ expressly indicated that force could not be used simply to ensure compliance and indeed this is reflected in a specific contractual term in the contract between the then Home Office and the private contractors that run the STCs. This limits when force can be used mirroring the terms of the STC Rules 1998 and expressly indicating that force could not be used for compliance.

3. Recent restraint-related deaths of children in STCs

- 3.1 Two children have died in STCs and restraint was an issue in both cases. Gareth Myatt, who was 15, died on 19 April 2004 at Rainsbrook STC following the use of restraint by three officers. The inquest into his death is shortly to conclude. Adam Rickwood was 14 and is the youngest child ever to die in penal custody in the UK.
- 3.2 The inquest into the death of Adam Rickwood concluded in May 2007. Adam was found hanging in his room in Hassockfield STC at around midnight on 8 April 2004. In the hours preceding his death he was subjected to restraint by four male officers including the use of a

³ STC Rules 1998 rule 37 & 38.

⁴ Hansard 1 November 2005, Secure Training Centres (Restraint), Westminster Hall debate

⁵ Home Office approved methods of restraint used in Secure Training Centres.

technique designed to inflict pain known as “nose distraction”. This was said to have caused Adam to have a nose bleed for an hour. There was no suggestion that any of the criteria set out in the STC Rules had been met that could have justified Adam’s restraint. After his death a “statement” was found in his room in which he described in his own words what had happened to him:-

“My Statement [to the authorities]

On the 8th August at aprox 6.50pm, I was sat at the table on the wing 2 Bravo. And my friend was messing about, so he was put in his cell for 30 minutes (time out). When my friend was in his cell he asked me to go over to his door. When I went over he slid a piece of paper under the door and asked me to give it to a female member of staff.

When I gave the paper to her she told me to get in my room. I asked why and she said 'Just go in' then at that point I refused because there were no explicit reason for this. Then she called for first response (assistance from other staff). When the other staff came they all jumped on me and started to put my arms up my back and hitting me in the nose. I then tried to bite one of the staff because they were really hurting my nose. My nose started bleeding and swelled up and it didn't stop bleeding for about one hour and afterwards it was really sore. When I calmed down I asked them why they hit me in the nose and jumped on me. They said it was because I wouldn't go in my room so I said what gives them the right to hit a 14-year-old child in the nose and they said it was restraint.”

- 3.3 It became clear at the inquest that the circumstances in which Adam had been restrained were commonplace and that children were regularly being restrained to punish and to secure compliance outside the STC Rules. Safeguards put in place to protect vulnerable children were not affording them the protection they should have under the law nor has the monitoring of the Youth Justice Board identified and acted upon this unlawful practice. The inquest heard that in the year leading up to Adam’s death restraint was used in Hassockfield - which only has a capacity of 42 children - on 972 occasions. Between November 2005 and October 2006 restraint was used 3036 times in STCs that hold a total of 240 children.⁶

⁶ Lords written answers nos. HL560-563 12 December 2006.

4. FOLLOW UP WORK

- 4.1 As a result of concerns about unlawful practices that had emerged at the inquest, Bhatt Murphy solicitors,⁷ the lawyers for Adam's mother, wrote⁸ to the Youth Justice Board (YJB) and the Secretary of State for Justice to ensure that children in STCs were being treated in accordance with the law. In response the YJB enclosed a letter⁹ that had been sent to STCs indicating that although presently restraint could not lawfully be used to ensure compliance with staff instructions that they were working with the Ministry of Justice to amend the rules and that changes to the STC rules were imminent.
- 4.2 In light of this INQUEST raised its concerns with other organisations and met with the Office of the Children's Commissioner. We also wrote¹⁰ to the relevant Ministers in the Ministry of Justice, the family MP and the YJB.
- 4.3 On 13 June 2007 without consultation or debate a statutory instrument was laid in Parliament. The effect of the new SI is an attempt to dramatically widen the circumstances under which restraint can "lawfully" be used against children.
- 4.4 Any suggestion that this is not a change in the law but simply clarification is in our view incorrect. At the inquest into the death of Adam Rickwood the YJB's lawyers accepted that the analysis of family lawyers was correct, namely that force used in order to ensure compliance with staff instructions for good order and discipline was unlawful. It would be right to say that the contractor at Hassockfield, Serco, did not accept this argument and this led to the letter of claim to the YJB which has triggered both the letter from the YJB to the contractors and the proposed change to the STC Rules 1998 .

5 CHILD DEATHS IN CUSTODY

- 5.1 Since 1990 there have been 29 deaths of children in custody in England and Wales, two of these in Secure Training Centres where restraint was an issue. In our view this proposed change amounts to state sanctioned child abuse against some of society's most vulnerable children which we fear will lead to more restraint, damage and harm to children and ultimately more deaths.

⁷ Mark Scott is the solicitor for the families of Adam Rickwood and Gareth Myatt. Bhatt Murphy solicitors, 27 Hoxton Square London N1 6NN Tel: 020 7729 1115.

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⁸ Bhatt Murphy letter of 10 May 2007.

⁹ Letter from YJB to STC Directors 25 May 2007.

¹⁰ INQUEST letters 25 & 29 May 2007.

- 5.2 INQUEST has long argued that there needs to be a proper understanding of how vulnerable children should be treated in the criminal justice system. To this end we reiterate calls¹¹ for a properly resourced public inquiry in order that the families of the 29 children who have died in custody since 1990 can have some hope that proper lessons can be learnt from their children's tragic deaths.

6 ABOUT INQUEST

- 6.1 INQUEST is the only charity in England and Wales that works directly with the families and friends of those who die in custody. This includes deaths at the hands of state agents and in all forms of custody; police, prison, young offender institutions, secure training centres and immigration detention centres.
- 6.2 Our casework service informs our research, parliamentary and policy work and we are widely consulted by; government ministers and departments, MPs, lawyers, academics, policy makers, the media and the general public.
- 6.3 INQUEST has worked since 1990 on a number of restraint-related deaths in police, prison and psychiatric custody, many of which have generated high profile media coverage and public disquiet. A number of these cases resulted in unlawful killing verdicts and other critical inquest findings and led to coroners' recommendations to prevent future similar deaths. They have also generated significant parliamentary debate and inquiry. These deaths have resulted in enhanced awareness of the dangers associated with particular methods of restraint and led to changes in policy and practice.
- 6.4 INQUEST has particular concern about the high levels of restraint used against children in custody and its effects. We have produced case briefings on the restraint related deaths of 14 year old Adam Rickwood and 15 year old Gareth Myatt and a published a book on the subject of child deaths in custody (*In the care of the state?*, Deborah Coles & Barry Goldson, 2005). Details of how to obtain copies of these publications can be found on our website (www.inquest.org.uk).

¹¹ *Why Are Children Dying in Custody?* INQUEST July 2006.