housing estate surrounded by razor wire. Anyone who enters its doors soon learns that appearances do not deceive. Nick Hardwick, the chief inspector of prisons, reported in 2013 that 1,600 men at Oakwood lived in a gang-dominated hell. Violence was everywhere. Investigators were told that addiction was so common, “you can get drugs here, but not soap”. Many officers opted for the quiet life. They were “passive and compliant, almost to the point of collusion, in an attempt to avoid confrontation”. When they didn’t back off, inmates pelted them with excrement. Hardwick effectively put Oakwood and its private manager, G4S, under special measures. Last week he reported that the jail had improved, but you only have to read the report to see that it had improved from the catastrophic to the merely disastrous. Prison gangsters were still demanding money with menaces for drugs, alcohol and illicitly traded medicines. Those who did not comply were “skanked” or “cut up”. The number of inmates on suicide watch remained extremely high. Since G4S opened Oakwood in 2012, thousands of men have been damaged or hooked on drugs. No one could say with confidence that they had been rehabilitated when they were released to live among us, not least because officers kept them locked in their cells when they should have been educating them.

When you look at Oakwood, it’s hard to tell who are the worse criminals: the prisoners on their wings or the G4S executives in their offices. But tempting though it is to damn a company, whose appetite for taxpayers’ money is matched only by its incompetence, condemnations miss the point that it is not the terrible managers of super-prisons who at fault, but the idea of mass incarceration itself. Every study by the National Audit Office or prisons inspectorate says that smaller jails have lower levels of violence and better relations between staff and prisoners. Frances Crook of the Howard League sounds almost weary when she explains that super-prisons cannot work because the thousands of inmates and the officers that guard them don’t know each other.

Look at how we are governed and it is easy to feel weary, too. Nothing is learned. No progress is made. Decade after decade, the same bad arguments recycled from the bottom of the Whitehall compost heap and presented as fresh initiatives. But exhausted cynicism is not the only option. In Scotland, Murphy, who is too glibly dismissed as a Blairite clone, mobilised impressive arguments against allowing the SNP to build a central holding pen for women. Scottish public opinion, including conservative opinion, accepted that they shouldn’t lose contact with their children when we already knew that their children would suffer. The nationalists had to retreat. Cheeringly, here in England we also have leaders who will make good, clear arguments. As recently as 2009, one politician exclaimed: “The idea that big is beautiful with prisons is wrong. I have spent some time at Wandsworth prison and was profoundly depressed by the size and impersonality.” The name of that politician? David Cameron. Whatever happened to him?

Hostages: Jamie Green, Dan Payne, Zoran Dresic, Scott Birtwistle, Jon Beere, Chedwyn Evans, Darren Waterhouse, David Norris, Brendan McConville, John Paul Wooton, John Keelan, Mohammed Niaz Khan, Abid Ashiq Hussain, Sharaz Yaqub, David Ferguson, Anthony Parsons, James Cullinene, Stephen Marsh, Graham Coutts, Royston Moore, Duane King, Leon Chapman, Tony Marshall, Anthony Jackson, David Kent, Norman Grant, Ricardo Morrison, Alex Silva,Terry Smith, Hyrone Hart, Glen Cameron,Warren Slaney, Melvyn 'Adie' McLellan, Lyndon Coles, Robert Bradley, John Twomey, Thomas G. Bourke, David E. Ferguson, Lee Mockble, George Romero Coleman, Neil Hurley, Jaslyn Ricardo Smith, James Dowsett, Kevan Thakrar, Jordan Towers, Patrick Docherty, Brendan Dixon, Paul Bush, Frank Wilkinson, Alex Black, Nicholas Rose, Kevin Nunn, Peter Carine, Paul Higginson, Thomas Petch, Vincent and Sean Bradish, John Allen, Jeremy Bamber, Kevin Lane, Michael Brown, Robert Knapp, William Kenealy, Glyn Razzell, Willie Gage, Kate Keaveney, Michael Stone, Michael Attwooll, John Roden, Nick Tucker, Karl Watson, Terry Allen, Richard Southern, Jamil Chowdhary, Jake Mawhinney, Peter Hannigan, Ihsan Ulhaque, Richard Roy Allan, Carl Kenute Gowe, Eddie Hampton, Tony Hyland,

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MOJUK: Newsletter ‘Inside Out’ No 518 (26/02/2015) - Cost £1

Kevin Nunn - Tom Conti Joins Fight to Prove his Innocence

A last-ditch attempt to compel a police force to hand over forensic samples Kevin Nunn believes can be retested to prove his innocence. Kevin says new techniques could be used on scientific evidence that was inconclusive or too small to be tested for DNA when he was arrested 10 years ago. The evidence includes a tiny trace of sperm found on his girlfriend's thighs, which he insists can't be his because he had already had a vasectomy; he believes a new test could identify the real killer. He is backed by actor Tom Conti, who has urged Theresa May to persuade police to let the samples be retested. In a letter to Mrs May, Conti wrote: "The Chief Constable of Suffolk refuses to hand over the exhibits. What could possibly be his reason? "Does he fear humiliation for his force if Nunn proves to be innocent? Is the Chief Constable himself actually the killer?" The actor has offered £1,000 to help pay for new laboratory tests. Nunn, 54, is serving life for the murder of Dawn Walker, 37, near Bury St Edmunds, Suffolk, in 2005. Her half-naked body had been burned, shaved and immersed in water before it was found on a footpath beside the River Lark more than a mile from her home at Fornham St Martin. At Nunn's trial, the prosecution said he had killed her in a jealous rage after she ended their two-year relationship, then lied and covered his tracks. Jurors unanimously convicted him. He denied murder, claiming they had parted amicably and he had left her alive and well to return to his own home, where she later left him a voice message saying: "I love you".

Nunn has been trying to get access to the samples for more than five years, but Suffolk Police have refused to hand them over. The force has been backed by the High Court and the Supreme Court in a legal battle over the obligation of police and prosecutors to disclose material to a defendant. Suffolk Police said: "The Appeal Court upheld Nunn’s conviction in 2007, where it was determined that there was ‘ample evidence’ upon which a jury could properly have convicted him of the murder of Dawn Walker. "The decision to refuse the claimant's request for material in this case was not taken lightly. Suffolk Constabulary took appropriate steps to seek legal advice both from county solicitors and the Crown Prosecution Service to ensure that this decision was lawful and appropriate."

The defence is now asking the CCRC to intervene, hoping it will compel police to provide the samples for testing. It could lead to an appeal against conviction. Nunn's solicitor, James Saunders, said policy in the US was for police and prosecutors to comply with any request to explore potential miscarriages of justice, even paying for the kind of forensic tests being sought. He said: "We should all be on the same page. If new tests can find out who killed Dawn Walker then it can prevent the same thing happening again. "Apart from the sperm, there were other exhibits such as the fleece and T-shirt she was wearing which could have the killer's touch DNA."

Nunn's sister, Brigitte Butcher, said his family were asking for a number of exhibits to be tested, not just the semen sample. She said: "We believe that DNA profiles could be found on various things the killer touched and together could actually identify the person responsible. It certainly was not Kevin." But for Dawn Walker's sister, Kirsty, the Nunn family's persistence in trying to prove his innocence has made it impossible for her and her relatives to grieve. She said: "For God's sake, please just let sleeping dogs lie. Bear the truth, know the truth, get to know your brother from others who knew him. Get to understand your brother without his lies."

Source Sky News: Justice For Kevin Nunn http://www.kevinnunn.webeden.co.uk/

Omagh Bombing Murder Trial to be Biggest in British History *David McKittrick*

A man accused of the murders of 29 people in the Omagh bombing is to face prosecution in what a defence lawyer described as "the biggest murder trial in British criminal history". Seamus Daly will go to trial over the crime following a decision by prosecuting authorities announced at a court hearing yesterday. Relatives of those killed, who have pressed for prosecutions and a full public inquiry into the incident, were in attendance. Although there have been a series of court cases resulting in convictions on related offences, no one has ever been convicted of the killings, which were caused by a dissident republican bomb attack in 1998. Michael Gallagher, whose son Aiden died in the explosion, was critical of police, saying: "We of course support the Police Service of Northern Ireland and Garda [the Republic of Ireland's police service] in their efforts to bring people to account for what happened at Omagh but they have had a very poor record."

The 44-year-old bricklayer who lives in Jonesborough, South Armagh, has been in custody since April of last year. He is one of four men who were ordered to pay more than £1.5m in damages to families of those killed in the bombing in a landmark decision by a Belfast civil court several years ago. Mr Daly, who was also one of five men alleged in a 2000 BBC Panorama programme to have been involved in the attack, was remanded in continuing custody until 10 March. Mr Daly faces 29 counts of murder over the explosion which claimed the lives of victims from Ireland, Britain and Spain, including a woman pregnant with twins. The incident is regarded as one of the worst atrocities of the Troubles. He also faces counts of causing the explosion and possession of a bomb in the town with intent to endanger life or property – and is further charged with conspiring to cause an explosion and having explosives with intent in connection with a separate bombing attempt in County Antrim in 1998. He denies all charges.

His counsel argued yesterday that there was no case to answer. He said the prosecution had obtained no new evidence since 1999, adding that although his client had been living openly at all times in Jonesborough, he now faced "the biggest murder trial in British criminal history". He said the evidence, which he described as "stale," was based on mobile phone records and "is in serious dispute and contention." He added that the primary witness put forward by the Crown "has perjured themselves in court". But a prosecution lawyer said the authorities in the Republic of Ireland had been asked for a substantial amount of evidence relating to mobile phones, which should be available in six weeks – while other material, subject to legal issues, could be resolved in a further four months.

Dissident republican leader Michael McKevitt, described as the leader of the Real IRA which carried out the Omagh bombing, lost his latest bid to secure early release in December last year. McKevitt, 65, was not specifically convicted of the Omagh attack but was jailed for 20 years in the Irish Republic on charges of directing terrorism and membership of the Real IRA. He argued he deserved lenience because he had been participating in prison activities. Although McKevitt has been behind bars for years, the organisation which he founded is, along with other dissident groups, still active in Northern Ireland under other leaders. Its violence has led to a number of killings, including the deaths of two soldiers.

[MOJUK comment: Another Miscarriage of Justice in the making. This trial will be another fine stitch up by the state, someone has to go down and no stone will go unturned to find shite to throw at the defendants. Disclosure of the actions of state agents before and after the bombing has already been buried and will stay buried. If an iota of he effort that is going into this prosecution was used against police/army/ other state agents, who have taken part in extrajudicial murders in N. Ireland, would need a new super sized prison, to hold the convicted.]

some of them." Outside court Mr Wilson's solicitor, Kevin Winters of KRW Law, said: "Today's ruling paves the way for this important case to go to a full hearing. "It's not only significant for the 19 ex-internees affected but is also relevant to legacy litigation generally. Since the start of this case two of the men involved have died. We hope that the case will now move very quickly given the age profile of the remaining plaintiffs."

Super - Jails are the Inhumane Mark of Ignorant Politicians *Nick Cohen, Guardian*

Stuffing prisoners into gang-dominated 'super-prisons' where excrement-pelted officers cower and soap is scarcer than drugs is a catastrophic error. The dishonesty of official crime policy cuts two ways. The authorities are treating men, women and, to their disgrace, children with deliberate cruelty. They are stuffing them into ever larger "super-prisons", run by negligent private punishment corporations and dominated by criminal gangs.

You cannot rehabilitate offenders in these anonymous warehouses, and the state's promise to prisoners that it will try to divert them from a life of crime is nothing more than a pious lie. The government's deception of the public is as great. If David Cameron were an honest man – my fantasy, I know, but indulge me – he would say: "We want to cram offenders into super-prisons because it saves money. We know we're not just putting them at risk, but the public, too. After the prison riots of 1990, Lord Justice Woolf's inquiry said Britain needed small local prisons, so that wives and girlfriends could visit inmates, and keep their relationships going.

"In truth, no one needed a judge to tell them that men with a family that will welcome them home on release are more likely to go straight. It's common sense. Unfortunately, common sense and austerity don't go together. I'm slashing funding for the criminal justice system – not just the prisons, but the police, and courts, too. Inevitably, my policies will result in more people becoming victims of crime. For me and my administration, their suffering is a price worth paying." Instead of levelling with the voters, however, David Cameron has put Chris Grayling, a bombastic and ignorant man, even by the standards of the modern Conservative party, in charge of justice. Humane treatment for prisoners no more concerns him than the human rights of the rest of the population. If this sounds like the whingeing of a bleeding-heart liberal, consider that there will be people you meet, who do not yet know that they will be robbed, beaten, raped and murdered as a result of Cameron's neglect of public safety. Some will even vote for him because they think Conservatives are tough on crime.

Public and private penal bureaucracies want super-jails because they are grand projects. Cost-cutting politicians like them because there are economies of scale in stacking inmates high and keeping them cheap. The Ministry of Justice plans to open Europe's second largest jail in Wrexham in 2017. About 2,100 men will be kept on the site of an abandoned factory. The Howard League for Penal Reform estimates that even if all eligible Welsh prisoners were sent there, they would fill only 25% of the cells. The remaining 75% of prisoners will be held far from their families. The jail will be a guaranteed relationship-breaker. After Wrexham, the ministry is planning to build one of Europe's largest children's prisons in Leicestershire, a coop for 320 children aged 12 to 17. Not to be outdone, Scottish nationalists, who can be as dangerous as English Conservatives, wanted to build a central super-prison for women in Greenock, Inverclyde. The SNP was happy to cut mothers off from their children until a campaign by Jim Murphy, Labour's new leader in Scotland, and women's groups forced it to back down.

It's not as if they don't know that gargantuan jails don't work. The largest prison in England at present is Oakwood near Wolverhampton. From the outside it looks like a jerry-built

sitive undercover cases. US District Judge Raymond Dearie also said the agents could wear light make-up and be identified using numbers rather than their real names.

At trial, prosecutors introduced testimony from the first of two witnesses, Najibullah Zazi and Zarein Ahmedzay, who both pleaded guilty to taking part in a thwarted plot to detonate home-made explosives in the New York subway. The Associated Press said Mr Naseer objected several times when Mr Nazi, a former New York resident, gave his evidence. One of his interventions was to object to the introduction of a photograph of bin Laden. “I agree with you that this case is not about 9-11,” Judge Dearie told Mr Naseer during a break. The judge decided, however, that Zazi should be able to refer to bin Laden in describing how he became radicalised. In a lengthy written statement submitted during the deportation proceedings, Mr Naseer claimed to come from a moderate Muslim family that stressed education. He said he went to Great Britain to get a degree in computer science, not to attack the West. “Committing terrorist acts is not justified and I do not consider this to be jihad,” he added. “I believe in spiritual jihad.”

Internment: Protestant Internees to Sue UK State

A group of 19 Protestant men jailed without trial in Northern Ireland in the 1970s has been granted leave to take legal action against the UK state. The government introduced a policy of detention without trial, known as internment, in 1971 during the height of the Troubles. Most of those interned were from a Catholic background. The 19 men allege the government abused its power by locking them up in a bid to balance mass Catholic internment. Lawyers for one of the men, James Wilson, claim there was an unlawful policy that only came to light decades later. Mr Wilson was arrested in 1973 and spent more than a year in custody. He is suing the Northern Ireland Office, the Chief Constable of the Police Service of Northern Ireland, the Ministry of Defence and Secretary of State Theresa Villiers.

Government legal representatives tried to have the case thrown out for being brought out of time. But at the High Court in Belfast, a judge refused to dismiss Mr Wilson's claims for unlawful arrest, false imprisonment and misfeasance in public office. He said: "They may or may not succeed later when the evidence is tested and the appropriate legal test is applied to the facts which have been established, but it cannot be said at this stage that these claims will fail." Mr Wilson's barrister said that the alleged policy remained concealed until official papers were released under the 30-year rule. It was contended that he was interned because he was a Protestant, in order to demonstrate the British state was not just detaining Catholics under that system.

Imprisonment without trial began when soldiers and Royal Ulster Constabulary (RUC) officers swept into Catholic areas as part of Operation Demetrius in August 1971 More than 300 people were initially detained in what was then called the Long Kesh prison camp outside Lisburn, County Antrim. They were accused of involvement with the IRA. It would take another 18 months before anyone from a loyalist background was interned. Mr Wilson is one of 19 Protestants taking legal action against the authorities. Two of the others have died since proceedings were issued. The court heard that at the time Mr Wilson was involved in political activity. But his barrister said the government wrongly equated that with involvement in terrorism. Mr Wilson was never prosecuted for any offence during his internment. The judge was also told that a consultant psychiatrist has assessed Mr Wilson as having suffered a related injury. Counsel for the police and Northern Ireland Office said that the action should have been issued years earlier.

But rejecting attempts to have the action halted, the judge said: "I accept... that it is arguable that the plaintiff's right of action was concealed by fraud on the part of the defendants, or

Craigavon Two The Right to Highlight Injustice

The Justice for the Craigavon Two Campaign's decision to try and push a single into the UK Charts on St Patrick's week, has seen themedia in the North of Ireland go into hyperbole, with the Mayor of Craigavon contacting the BBC in London and the Apple Corporation in a bid to have our song banned. There is a long tradition of using music as a medium to highlight injustice, Bob Dylan's song the Hurricane and the Pouges Streets of Sorrow are two prime examples and there are many more. Our intentions are not to hurt the loved ones of Constable Stephen Carroll, but to highlight a continuing miscarriage of justice by all means at our disposal. We sincerely believe had it not been for campaigns such as ours in cases such as the Guildford 4 and Birmingham 6 the system would not have rectified its mistakes and those innocents would have remained in prison We call on the BBC and the Apple Corporation not to knee jerk into censorship but instead afford us the Justice for the Craigavon Two Campaign our democratic rights to free speech and protest. *Packy Carty/Justice for the Craigavon Two*

Why Is UK Refusing to Compensate Miscarriage Of Justice Victims *Duncan Campbell*

Welcoming guests to the Global Law Summit in London this week, the prime minister reassured the 2,000 delegates that “Britain continues to lead the way in promoting … the rule of law around the world”. But what sort of rule of law allows an innocent person to be locked up for many years and then denied any compensation for their wrongful imprisonment? Outside the summit jamboree, for which a ticket would cost you £1,750, were some people who could have given the delegates a slightly less rosy picture of Britain’s supposed superiority. They included those who had been wrongly convicted but who have been denied any redress under the ruling introduced last year, which virtually says that it is not enough to be innocent – in most cases you have to find the real culprit of the crime for which you were convicted before you can be compensated.

Among those challenging the new regulation is Victor Nealon, a former postman, who was convicted of attempted rape in 1996. He served 17 years, 10 years longer than his recommended tariff, because he continued to protest his innocence. In 2013, after fresh DNA evidence taken from the clothes of the victim pointed to “an unknown male” as responsible for the crime, Nealon was freed with just £46 in his pocket to try to rebuild his life. The Ministry of Justice now declines to compensate him because, under the new rules, his innocence has to be proved “beyond reasonable doubt”. Another man who feels equally bemused by this is Barry George, whose conviction for the murder of Jill Dando in 1999 was quashed in 2007. The police file on who was the real murderer in this case remains open, but George has never received compensation for his time behind bars.

There are a few cases where the real culprits of a serious crime for which someone has been wrongly jailed are later traced and convicted. Jeffrey Gafoor, the real murderer of Lynette White in Cardiff in 1988, was finally jailed in 2003 and compensation has rightly been paid to the Cardiff Three, the men wrongly convicted of that crime. (Shockingly, no member of South Wales police has yet been held accountable for their part in this scandal.) Colin Stagg, wrongly accused of the murder of Rachel Nickel on Wimbledon Common in 1992, has had the satisfaction of seeing her murderer, Robert Napper, locked up. But in most cases, there is no simple resolution. Nealon’s lawyer, Mark Newby, believes that the Ministry of Justice is now making it virtually impossible for anyone to be compensated unless someone else is convicted of the crime. The line from the ministry is that “there is no automatic entitlement to compensation but every application is considered on its merits”.

So what is the rationale for denying compensation? Presumably it was seen by a govern-

ment that has already slashed legal aid provisions as another handy way of saving money. But the money to be saved is relatively small: since 2008, payments have been capped at £1m in cases where the person has spent more than 10 years inside, and £500,000 in all other cases. Another factor may be that miscarriage of justice cases no longer attract the sort of media attention generated by the Guildford Four, the Birmingham Six, and Judith Ward. The television programmes that investigated them, Rough Justice and Trial and Error, have also been the victims of cost-cutting by broadcasters.

The justice secretary, Chris Grayling, who launched the summit this week, has already made a fool of himself by trying – unsuccessfully in the end – to limit prisoners' access to books and he may be reluctant to climb down now over another ill-conceived move. But summit delegates who are here to "celebrate judicial traditions and the fundamental importance of impartiality, integrity and fairness" might ask him, on behalf of the likes of Nealon and George, how any nation that professes to lead the world can wash its hands of those who have been so grievously treated by the criminal justice system.

Why a Wrongful Conviction is Like a Plane Crash – or Should Be

The civil aviation system and the justice system are two ubiquitous systems on which we absolutely depend daily; even with our lives. When either of these systems fails, the consequences are invariably tragic, impacting families and lives. When a plane crash occurs, the NTSB (National Traffic Safety Board) and the FAA (Federal Aviation Administration), along with local police, fire, and medical examiners, literally swoop in, and investigate the crash down to the minutest detail. Sometimes, even the FBI gets involved. See the article "Inside the Aircraft Accident Investigation Process" here. As a result of the investigation, there can be changes made to the air traffic control system, and orders can go out to aircraft manufacturers and airlines requiring design changes or inspections of aircraft, and whole fleets of airplanes can be grounded until changes or fixes are implemented. New training requirements can be established. All this is the absolutely proper and necessary thing to do. When a system that we all depend on fails, we need to understand what happened, understand why it failed, and make changes so it never happens again.

If this is true for the air travel system, and I cannot believe anyone would disagree with that, why should the same not be true for the justice system? It's a system on which we all depend. When it fails, lives are shattered, children are taken from parents, families are separated, innocent people are put in prison, and innocent people are even executed.

When a failure of the justice system occurs, what happens? Based upon my years of working in this, absolutely nothing. A wrongful conviction may be overturned, but nothing changes in the system as a result of it, and indeed, there is not even an investigation by an authoritative body to determine what went wrong, and how to fix it. My experience tells me that when the justice system fails, the response from the system is, "Oh well, too bad. Now on with business as usual." And the same failures keep happening over and over and over. Why can't there be an "NTSB" for the justice system? — a body with the authority and responsibility to examine justice system failures, and to take the necessary actions to ensure they don't happen again. This could absolutely be done on the state level. I find the logic of this inescapable. You cannot possibly build a credible, supportable argument against it. But knowing what I know about politics, legislatures, and human nature, I'm not optimistic. But how can you possibly argue that this wouldn't be the right thing to do? Phil Locke, Wrongful Convictions Blog

als, had been resolved. The inspectors also found that most prisoners were employed full-time and praised the wide range of therapeutic programmes and support for those with drug and alcohol problems. Hardwick, however, added that the use of force by staff was still high and almost double the levels of similar jails. There were also still high levels of bullying, often linked to debts incurred by an illicit trade in legal highs such as Black Mamba.

The MoJ initially rejected Hardwick's call for a full review of the lessons from Oakwood before the supersized prison-building programme goes ahead. "I am pleased the chief inspector has highlighted the significant improvements that have taken place at Oakwood. There are challenges involved in opening any new prison and the lessons learnt are always carefully assessed to improve future processes," said Michael Spurr, the chief executive of the national offender management service.

Jerry Petherick, of G4S custodial and detention services, added: "Opening any prison is a complex process and our experience shows that it takes time to develop the experience of staff, fully embed the prison regime and establish links with local partner agencies. Today's report recognises that the hard work of our team at HMP Oakwood is paying off."

However Frances Crook, of the Howard League for Penal Reform, disagreed. "We are told that lessons are learned, but every single private prison ever opened has started with huge problems – and some both continue to have, and to cause, huge problems," she said. "The government is planning to squander vast public funds on building a super-jail in Wrexham but is refusing to learn the lessons from the social, financial and personal harm caused by Oakwood."

MI5 Agents to Wear Make-Up and Wigs During Trial *Andrew Buncombe, Indpendent*

A Pakistani terrorism suspected deported from Britain two years ago was part of a global al-Qaeda plot to attack targets in Britain, the US and Denmark, a court in New York has been told. Prosecutor Celia Johnson told the court on Tuesday that Abid Naseer, who was arrested in Britain in 2009 and later released without charge, headed a terror cell located in the northern British city of Manchester. She said he was part of an al-Qaeda effort to infiltrate Western society. "That was the whole point of the Western operatives," Ms Johnson told the court, according to the Associated Press. "They knew how to blend in and conduct reconnaissance and pick the best target. [Their goal] was to repeat the devastation of 9/11."

Mr Naseer, 28, was one of 12 people arrested in Britain amid suspicions they were members of an al-Qaeda-backed terror cell. At the time, the then Prime Minister Gordon Brown described the network as a "very big terrorist plot". After no explosives were found, the men were released without being charged but ordered to leave the country Mr Naseer avoided being sent to Pakistan after arguing that he would be mistreated there. He was eventually deported to the US in January 2013 after prosecutors announced they wanted to charge him with trying to blow up the New York subway and Manchester's Arndale shopping centre. Mr Naseer has denied the charges and said that he wanted to represent himself. Denying that he was a member of al-Qaeda, Mr Naseer referred to himself in the third person and said on Tuesday: "He has no extremist or jihadist views." The trial of Mr Naseer is significant for many reasons, not least the twisting efforts by the authorities in the US to bring him to trial. The hearing will be the first to include evidence discovered in the Abbottobad compound of Osama bin Laden by US special forces who killed the al-Qaeda leader in the spring of 2011.

The trial is also expected to see agents from Britain's MI5 giving evidence against Mr Naseer wearing wigs and disguises. A US judge ruled last month that six agents who conducted surveillance on Mr Naseer in Manchester could protect their identities after hearing they still worked on sen-

detention in Antwerp and Merksplas prisons, taken as a whole, had reached the minimum threshold of seriousness required by Article 3 of the Convention and amounted to inhuman and degrading treatment. Conclusion: violation Article 3 unanimously. Article 41: EUR 10,000 in respect of non-pecuniary damage; claim in respect of pecuniary damage dismissed.

Article 46: The problems arising from prison overcrowding in Belgium, and the problems of unhygienic and dilapidated prisons, were structural in nature and did not concern the applicant's personal situation alone. The conditions of detention about which the applicant had complained had been criticised by national and international observers for many years without any improvement apparently having been made in the prisons in which he had been detained. On the contrary, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) had observed in 2012 that the problem of prison overcrowding had continued to worsen in Belgium during recent years. Furthermore, none of the remedies referred to by the Government could at the present time be regarded as an effective remedy that had to be exhausted. Accordingly, the Court recommended that the respondent State envisage adopting general measures in order to guarantee prisoners conditions of detention compatible with Article 3 of the Convention and also to provide them with a remedy capable of putting a stop to an alleged violation or permitting them to obtain an improvement in their conditions of detention.

ECtHR Factsheet on Detention conditions and treatment of prisoners
(<http://www.echr.coe.int/Documents/FS_Detention_conditions_ENG.pdf>

Chief Prison Inspector Calls for Review of Super-Jails *Alan Travis, Guardian*

Nick Hardwick urges government to investigate mistakes at opening of G4S-run Oakwood before building more supersized prisons: The chief inspector of prisons has called for a full review of the lessons learned from the opening of the troubled G4S-run Oakwood prison before any more "supersized" jails are opened. The privately run 1,500-capacity prison near Wolverhampton was famously castigated within 15 months of its opening in April 2012 as a jail where it was "easier to get hold of illicit drugs than a bar of soap". The prison inspectors said in their latest assessment of Oakwood that despite high levels of violence, bullying and incidents of self-harm, the jail has "turned the corner".

Nick Hardwick HMCIP said: "There is more to do, but the determined way the director and staff have made improvements following significant criticism should be acknowledged. However, the difficulties Oakwood and other new prisons experienced immediately after opening resulted in unacceptable risks and very poor outcomes for the prisoners held at the time. There are plans to open a number of large establishments in the coming years. I recommend that ministers undertake and publish a review of the difficulties Oakwood and other new prisons experienced after they opened and ensure the lessons learned are factored into plans for the opening of other new establishments." Ministry of Justice plans for a wave of "supersized jails" include the opening of the largest prison in Britain so far, the 2,100-capacity Wrexham jail being built on the site of an old Firestone factory.

The Oakwood report published on Wednesday 18/02/15 details the findings from an inspection carried out in December. The inspectors found that 18 months after their previous damning report significant improvements had been delivered, with reduced levels of violence and a much calmer atmosphere in which most prisoners felt safe. The inspectors said most prisoners were in single cells that included showers and sanitation and phones, from which they could make outgoing calls at their own expense to a list of approved numbers.

Most of the difficulties in getting hold of basic items, such as soap and cleaning materi-

Critical Findings Into Death Of Colin Holt Following Restraint by Police

The inquest into the death of Colin Holt concluded on Tuesday 18 February 2015 with the jury finding that 3 police officers failed to comply with their duty of care for Colin after he had been restrained in the prone position with his hands cuffed behind his back. The jury found that this position was maintained throughout the restraint of Colin which resulted in the compromise of his breathing and subsequently caused his death by positional asphyxia. Colin Holt died on 30 August 2010. He suffered from mental health problems and had absconded from the hospital where he had been sectioned. Police were subsequently called and attended his property where they entered and restrained him. Colin had no history of ever behaving in a violent manner and had no criminal convictions.

The inquest at Maidstone Coroners Court heard that the police attending to locate Colin had a statutory power to detain a person absent without leave following a section 2 Mental Health Act Order. However this power did not extend to entering private premises (which requires a warrant to be obtained). The initial police entry into Colin's property was therefore unlawful, and in excess of their powers. After two police officers entered the property there was a brief struggle, after which the officers handcuffed Colin and positioned him in a prone position over a chair. A third officer arrived and was also involved in the restraint of Colin before additional officers arrived and paramedics were called. Colin could not be resuscitated and died.

The jury stated that they believed "it was reasonable initially to place Mr Holt in the prone position following the application of handcuffs, however it was not necessary for him to be maintained in this position for the duration of the time whilst under the control of Officers 1 and 2". The police officers gave differing accounts of the events during restraint. However, all of the police officers who gave evidence agree that they had a duty of care to ensure a detained person was breathing. The medical experts who gave evidence agreed that, on the balance of probabilities, had Colin be repositioned earlier after he was initially restrained he would not have died.

The jury concluded that: • "On a balance of probabilities the failures of Officers 1 and 2 to re-position Mr Holt after he was handcuffed contributed more than minimally, negligibly or trivially to Mr Holt's death; • When Officer 1 left, Mr Holt was in an impaired state of consciousness and Officer 2 probably said words to the effect that: Mr Holt is out cold. If Officer 2 said these words he would have been aware that Mr Holt was in an unconscious state which then required first aid/ medical assistance; • When Officer 3 took sole control of Mr Holt he failed to recognise that Mr Holt was in an impaired state of declining consciousness and take any action to re-position Mr Holt and seek assistance. This failure more than minimally, negligibly or trivially contributed to the death of Mr Holt." After an IPCC investigation following Colin's death, two officers were charged with misconduct in public office. They were acquitted at Maidstone Crown Court in May 2013.

Deborah Coles, co-director of INQUEST said: "INQUEST is deeply concerned at the high number of police related deaths of people with mental health problems in circumstances involving the use of restraint. The dangers of positional asphyxiation are well known and yet people are continuing to die, raising questions about police attitudes to restraint including a disregard for the safety and wellbeing of vulnerable people in their care. This case highlights the lack of learning and accountability from previous deaths and the need for rigorous oversight and monitoring of police use of force."

Sharon Holt, Colin Holt's sister and David Holt, Colin Holt's brother said: "Our brother Colin is greatly missed. The only thing we have of him are our fond memories which can never be

taken away from us. The investigations into his tragic death have been a long and extremely traumatic time for the whole family. Colin died in August 2010 and our Mum sadly passed away in April 2013 so she was never able to hear any answers as to the circumstances of his death. The authorities that had a duty of care in helping Colin failed him and the family miserably. They abused their position of trust. Colin had no previous convictions and no history of violence. We were appalled by the evidence we heard, officers' accounts differed, there was a catalogue of failure and our brother was treated in an inhumane way. The jury have concluded what we have always believed that the actions and inactions of the police officers who restrained Colin caused his death. We were disgusted to hear that two of the officers involved in Colin's death, instead of taking responsibility, are suing the Chief Constable for Kent for £50,000 each. We would like to thank our lawyers Mark Scott of Bhatt Murphy Solicitors and David Bentley QC of Doughty Street Chambers, the coroner Allison Summers and the jury for their sensitivity in the handling of this inquest, and Andy Ryden and Allex of the IPCC. God bless you Colin."

Family represented by INQUEST Lawyers Group members Mark Scott & Rachel Etheridge of Bhatt Murphy Solicitors and David Bentley QC from Doughty Street Chambers.

Conditions of Detention of a Severely Disabled Prisoner Violation of Article 3

In ECtHR Chamber judgment in the case of Helhal v. France (application no. 10401/12) the Court held, unanimously, that there had been: a violation of Article 3 (prohibition of inhuman or degrading treatment) of the European Convention on Human Rights The case concerned the compatibility of a disabled prisoner's state of health with his continuing detention and the arrangements for his care in prison. The Court found in particular that, although the applicant's continuing detention did not in itself constitute inhuman or degrading treatment in the light of his disability, the inadequacy of the physical rehabilitation treatment provided to him and the fact that the prison premises were not adapted to his disability amounted to a breach of Article 3 of the Convention.

Principal facts: The applicant, Mohammed Helhal, is an Algerian national who was born in 1972. He is currently serving a 3D-year prison sentence for murder, attempted murder and assault. He has been detained since September 2014 in Poitiers-Vivonne Prison. On 28 March 2006, while he was in prison in Nancy, Mr Helhal fell several metres while trying to escape. He sustained a fractured spine resulting in paraplegia of the lower limbs and urinary and faecal incontinence. Following the accident he was transferred to prisons in Mulhouse, Metz, Fresnes and, in 2009, to Uzerche Prison.

On 12 August 2010 Mr Helhal applied to the Tulle judge responsible for the execution of sentences to have his sentence suspended on medical grounds. He argued that the prison premises, and especially the sanitary facilities, were not adapted to his disability, which left him confined to a wheelchair, that the physiotherapy he had received was inadequate and that he had to be assisted by another prisoner designated to help him, placing him in a humiliating position in relation to his fellow prisoners. On 3 February 2011 the Limoges court responsible for the execution of sentences rejected his application, taking into account the concurring opinions of the two medical experts it had appointed, and held that the applicant's condition was compatible in the long term with his imprisonment. However, the court observed that Uzerche Prison, where Mr Helhal was being held at the time, was not adapted to his disability and that there were other establishments, in particular Fresnes and Roanne prisons, that would be better equipped to receive him. The applicant appealed against the judgment. On 3 March 2011 the Limoges Court of Appeal upheld the first-instance judgment. An appeal on points of law

McGuffin said the original group of 12 had been chosen solely for geographical reasons. Northern Ireland was divided into three areas – Belfast, Counties Down and Armagh, and Counties Derry and Tyrone – and four men were from each area. All were from Republican families, some were IRA men, although none 'top brass', whereas others, such as Paddy Joe McClean, a 38-year-old civil rights activist and remedial school teacher, were clearly not. After Ballykelly the men were sent to Long Kesh paramilitary prison. Seven were soon released and of the other seven, six were still interned after two years. None were ever convicted of an offence. McGuigan had been told by the prison Governor on his arrival that the only way out was through the front doors. On 2 February 1972 he did just that, walking through the main gate dressed as a priest and becoming the first of only a handful of men ever to have escaped Long Kesh. He sent a postcard to the Governor a few days later thanking him for his advice.

A breakthrough for the Hooded Men finally came in 2013. Declassified documents uncovered at the National Archives by the Pat Finucane Centre human rights organisation revealed not only the existence of the interrogation site at Ballykelly, but also a letter from the Home Secretary Merlyn Rees in 1977 to the Prime Minister James Callaghan. It states: "It is my view (confirmed by [Northern Ireland Prime Minister] Brian Faulkner before his death) that the decision to use methods of torture in Northern Ireland in 1971/72 was taken by ministers - in particular Lord Carrington." At the European Court in the 1970s, British Government officials suggested that the men had not been held at Ballykelly leading campaigners to accuse British officials of deliberately misleading the Court. In December last year Ireland officially asked the ECtHR to revise its judgment after studying the documents.

Liam 'Davey' Rogers is the only one of the men not to form part of the legal process and he has declined invitations to attend reunions. The office of Lord Carrington, now 95, did not respond to requests for comment. "The case of the Hooded Men then became the benchmark by which other countries measure their 'enhanced interrogation programs and continues to be used to justify the use of torture by democratic societies," said Dr Lauretta Farrell, a US academic writing a book about the Hooded Men. "That is why the men have decided to bring their case back to the European Court – to ensure no other man or woman experiences the same horrific treatment they did, at the hands of a so-called 'civilized' nation."

Who are the Hooded Men? Those detained on 9-10 August 1971 as part of Operation Demetrius were Kevin Hannaway, Francis McGuigan, James Auld, Joseph Clarke, Patrick Shivers, Patrick J. McClean, Michael J. Donnelly, Michael Montgomery, Patrick McNally, Brian Turley, Gerrard McKerr and Sean McKenna. Liam Rogers and Liam Shannon were arrested in October 1971. Sean McKenna died after suffering a heart attack on 5 June 1975. He was 45. Michael Montgomery died on 1 December 1984 after suffering a heart attack, Patrick Shivers died the following year from stomach cancer aged 54. The legal team is representing 10 of the 11 survivors and families of the three men who have died. Liam 'Davey' Rogers is not taking part in the legal action. Paul Gallagher, Independent, 20/02/15

Vasilescu v. Belgium - Degrading and Inhuman treatment in Prison

Conditions of detention amounting to degrading and inhuman treatment: violation Article 3:

Facts - The applicant complained before the European Court that he had been detained in overcrowded prison conditions and sometimes in cells with no toilet facilities or access to running water. He had also had to sleep on a mattress on the floor for several weeks and had been exposed to passive smoking. Accordingly, the applicant's material conditions of

that only the passage of time can test the appellant's sincerity of his recent assertions. The Court of Appeal affirmed the decision of the trial judge to impose an indeterminate custodial sentence with a minimum term of five years on three of the counts. The Court removed the extended period of five years licence which was imposed on the other three counts and left in place a determinate sentence of five years imprisonment on each count to be served concurrently with each other and with the indeterminate custodial sentence.

Treatment of 'Hooded Men' in N. Ireland - Benchmark for US 'Torture'

When Amal Clooney flies into Belfast shortly to meet a group of former Irish prisoners known as 'The Hooded Men' it will be the latest chapter of an extraordinary story concerning a quest for justice that has lasted almost half a century. The international law and human rights specialist has joined the legal team representing all but one of the surviving men who say they were tortured under the British Government's internment programme. More than 340 men were rounded up on 9-10 August 1971 but a group of just 12 were chosen for "deep interrogation" and subjected to hooding, prolonged stress positions, white noise, sleep deprivation and deprivation of food and drink – the torture methods developed by the British Army during the Troubles and collectively known as the "five techniques". Two more men suffered the same treatment later that year.

The Hooded Men won their case against the UK in 1976 when the European Commission of Human Rights ruled the techniques were torture, but the findings were overturned by the European Court of Human Rights (ECtHR) on appeal two years later. It ruled that while the five techniques amounted to "a practice of inhuman and degrading treatment" they did not cause suffering of the intensity and cruelty to constitute torture. Francie McGuigan, one of the Hooded Men, told the Irish Times in a prophetic warning at the time: "I think Strasbourg has now allowed all countries to use a certain amount of what they classify as degrading and inhuman treatment."

The 1978 ruling was subsequently used as justification for the George W Bush administration's infamous 'torture memos' outlining what interrogation techniques could and could not be used on detainees. Shortly afterwards the CIA was using the five techniques in Iraq, Afghanistan and around the world. In light of new evidence confirming a policy of 'torture' had been authorised by ministers - specifically the Secretary of State for Defence Peter (now Lord) Carrington – the group, backed by the Irish Government, has asked the ECtHR to reopen the case, censure the UK and officially classify the men's treatment as torture. Victory would be a huge embarrassment for both the UK and the United States.

Under Operation Demetrius the Hooded Men, aged between 19 and 42, were taken to one of three holding camps before transfer to RAF Ballykelly, in Co Derry. The numbers 1-12 were inked on the back of their hands and soles of their feet before they were stripped naked, weighed and examined, hooded (tightened so the men could barely breathe), forced into prolonged stress positions, beaten with fists, feet and batons, thrown against walls, dragged through a gauntlet of club-wielding guards and deprived of food, water, and sleep. Jim 'Archie' Auld, an unemployed 20-year-old dental technician, said the white noise was so bad he tried to kill himself by ramming his head onto a water pipe. He broke down after coming around, realising he was still alive. McGuigan, 23 at the time, described the Ballykelly room as a "torture chamber". After three days of beatings and standing against a wall without food, drink or rest, he began to hallucinate and believed he was dying. "I actually prayed for death," he said.

The men also call themselves 'The Guinea Pigs' believing the five techniques were used by the British to test the efficiency of their interrogation techniques. In his book The Guineapigs John

lodged by the applicant was dismissed by the Court of Cassation on 31 August 2011.

Decision of the Court Article 3: The Court first reiterated the content of the State's duty of care towards sick prisoners as established by its case-law. The State had to be satisfied that prisoners were fit to serve their sentences, provide them with the necessary treatment and adapt the overall conditions of detention to individual prisoners' state of health.

Regarding the applicant's continuing detention, the Court agreed with the domestic courts that Mr Helhal's fitness to serve his sentence had not been called into question. His disability had been taken into account in refusing his request for a suspension of his sentence, a decision which had also been based on two concurring medical expert opinions. The Court therefore concluded that Mr Helhal's continuing detention was not in itself contrary to Article 3.

However, as to the quality of the treatment, the Court considered that the national authorities had not done everything that could be expected of them to provide Mr Helhal with the rehabilitation treatment he needed. In particular, he had had no physiotherapy sessions at all between 2009 and 2012 and just one short session a week since then. The Court added that the mere fact that Mr Helhal had been reluctant to seek a transfer to Roanne Prison could not be invoked by the national authorities to justify their failure to take action.

Lastly, with regard to the conditions of detention, the Court took the view that the assistance in washing himself provided to Mr Helhal by a fellow inmate in the absence of showers suitable for persons of reduced mobility did not suffice to fulfil the State's obligations with regard to health and safety. In conclusion, the Court held that, while Mr Helhal's continuing detention was not in breach of Article 3, the non-existent or inadequate treatment and the need for him to be assisted by a fellow inmate in order to take a shower had subjected him to a level of suffering exceeding that inherent in detention, and therefore amounted to a violation of Article 3. Just satisfaction (Article 41): The Court held that France was to pay the applicant 7,000 euros (EUR) in respect of non-pecuniary damage and EUR 4,000 in respect of costs and expenses.

Alan Turing Demand Government Pardon for 49,000 Other Men Guardian

The family of the code breaker Alan Turing will visit Downing Street on Monday to demand the government pardons 49,000 other men persecuted like him for their homosexuality. Turing, whose work cracking the German military codes was vital to the British war effort against Nazi Germany, was convicted in 1952 of gross indecency with a 19-year-old man, was chemically castrated, and two years later died from cyanide poisoning in an apparent suicide. He was given a posthumous royal pardon in 2013 and campaigners want the government to pardon all the men convicted under the outdated law.

Turing's great-nephew, Nevil Hunt, his great-niece, Rachel Barnes, and her son, Thomas, will hand over the petition, which attracted almost 500,000 signatures, to 10 Downing Street. Ms Barnes said: "I consider it to be fair and just that everybody who was convicted under the Gross Indecency law is given a pardon. It is illogical that my great uncle has been the only one to be pardoned when so many were convicted of the same crime. I feel sure that Alan Turing would have also wanted justice for everybody."

Matthew Todd, the editor of Attitude Magazine, who will also visit Downing Street, said: "Generations of gay and bisexual men were forced to live their lives in a state of terror. Men convicted of gross indecency were often considered to have brought huge shame on their families and many took their own lives. We still live with the legacy of this period today and it's about time the country addressed this appalling part of our history." Benedict

Cumberbatch's Oscar-nominated portrayal of Turing has brought the pioneering scientist's story to a wider audience. The film follows him from his days as a second world war code breaker at Bletchley Park to his work at Manchester University, which saw him hailed as the father of modern computing, and his tragic death. Turing led a team decoding messages at Bletchley Park, whose work remained secret until many years after the end of the war, and also designed the Bombe machine which decrypted German messages. Their work helped shorten the conflict and saved many thousands of lives.

Kingsmill Massacre Inquest: Irish Police 'Dragging Their Feet' *BBC News*

Police in the Republic of Ireland have been accused of "dragging their feet" in providing documentation to an inquest into the deaths of 10 Protestant workmen murdered by the IRA. Traditional Unionist Voice leader Jim Allister made the comments after receiving a letter from the Irish justice minister. He wrote to Frances Fitzgerald seeking the reason for a delay in providing material to the inquest. It relates to the Kingsmill massacre. On 5 January 1976, the 10 textile workers were travelling home on a minibus in the heart of rural County Armagh, when they were murdered. Mr Allister said that in October he wrote to Ms Fitzgerald protesting at the delay in Irish police "dealing with this vital matter". He said he had now received a reply that "indicates little action. Yes, it contains platitudes and soothing assurances, but, patently, nothing of substance has been provided or resolved," he said. So, much for all the hot air at Stormont House about full disclosure in historic cases. Dublin is still dragging its feet." In his letter to Ms Fitzgerald, Mr Allister said there had been an "unacceptable delay" that was "causing needless grief to families which have waited decades to reach this stage". He said he was writing to ensure the "documentation is furnished forthwith".

Ms Fitzgerald said the Northern Ireland Senior Coroner John Leckey had contacted Gardaí to seek access to material in their investigation files that might be relevant to the inquest. "You will, of course, appreciate from your professional experience that the context in which a request for documentation is made by a coroner in one jurisdiction to the police service in another jurisdiction, such as in this case, raises specific and complex legal issues with regard to disclosure, particularly when the documentation may form part of an open criminal investigation, may be security sensitive and may contain personal information," she said. She added that Gardaí "must be guided by their legal advice in respect to the issues arising". She said police in the Republic of Ireland had met with the Northern Ireland Coroner's counsel and solicitor and were in discussions with them as to the legal issues arising.

Ms Fitzgerald said they were "jointly exploring" ways in which they could support the work of the coroner in the case to the "fullest extent" compatible with the relevant legal requirements. "I know you will appreciate that any such process must be in accordance with the law in both jurisdictions and will join with me in the hope that the current discussions bring about a resolution which will be acceptable to all parties," she added.

Senior Investigating Officers: Investigative Mindset 'ABC' Rule

Decision making also relies upon good information which must be carefully scrutinised, reviewed and assessed. It involves remaining sceptical and testing the accuracy, reliability and relevance of material relied upon. This rule is known as the 'ABC' principle: A—Assume nothing; B—Believe nothing; C—Challenge (& check) everything! Nothing should be taken for granted nor accepted at 'face value'. It is a mistake to assume things are what they seem.

ousness, failed to give sufficient credit for the early guilty plea, was unaware of fresh information that the appellant was no longer likely to be involved in this kind of offending , failed to give proper regard to the fact that an indeterminate custodial sentence was concerned with future risks, failed to assess the tenor of many of the covertly recorded conversations which revealed that the appellant displayed a tendency to exaggerate his own importance, and afforded insufficient weight to the fact that no attempt was made to injure any person including the Governor who was neither compelled to move home nor "inconvenienced" as a consequence of the appellant's conduct.

Lord Justice Gillen, delivering the judgment of the Court of Appeal, considered that the assessment made by the trial judge that the appellant was dangerous was unimpeachable. He referred to case law on the concept of dangerousness and said the Court of Appeal was satisfied that the appellant clearly came within this category for the following reasons:

His previous convictions betrayed a "strong terrorist bent"; The nature and circumstances of the current offences reasserted the pattern of offending and demonstrated a continuing strain of terrorist thinking and attitude despite his release from prison; The steps he had taken to distance himself from terrorism by his removal from the separated wings in Maghaberry were "all rather late in the day" occurring only a few weeks before his appeal; and He had shown himself to be a "determined and dedicated terrorist" in the past.

The Court of Appeal then turned to the next stage of the process and considered whether the trial judge was justified in his conclusion that an extended custodial sentence would not be adequate to protect the public from serious harm. Lord Justice Gillen said that the trial judge was justified in this conclusion. He said the concept of future risk in the context of indeterminate custodial sentences was significant in this case – whether the level of risk should be judged on the basis of the risk the appellant would present upon release from prison or whether his risk should be assessed on the basis that he is presently at large from the time of sentencing. The Court of Appeal adopted the view that in considering whether an indeterminate sentence should be passed, a judge should determine whether or not an accused is dangerous within the terms of the legislation at the date of the sentencing hearing.

Lord Justice Gillen then turned to the issue of public safety. He said that in considering this issue, the judge must address the future and take into account in so doing all the relevant circumstances, evidence or material which will bear upon this predictive decision. He said the trial judge did not go on to expressly consider this second stage and address the future by assessing the risk to the public posed by the commission of future offences by the appellant. The Court of Appeal entertained some misgivings that the trial judge had not referred specifically to this is his judgment but was satisfied that he could have come to no other conclusion apart from the one that he did and could find no material upon which the trial judge could have based a finding that the appellant had evinced a capacity for change:

"Notwithstanding the further information that came before this court and which was not before the learned trial judge, we are satisfied that the pattern of terrorist offending in which this appellant has engaged in the past, coupled with the chilling expressions of terrorist commitment which he evinced in the course of the surveillance recordings, all make it clear that there is neither an alternative nor cumulative method of dealing with him at this stage other than an indeterminate sentence which will provide the necessary public protection against the risk which he poses of engaging in further terrorist activity."

Lord Justice Gillen added that the developments which have occurred since November 2014 are all too late in the day to convince the court that it should change its view. He said

and hatred. It was indiscriminate and led to the potential for public order situations to develop. It was an attempt to hunt a sex offender, to drive him from his home and to expose him to vilification. All of the content of the profile/page "Keeping our Kids Safe from Predators 2" in relation to CG was oppressive and unreasonable and there was a course of conduct over a period of time which amounted to harassment of CG and which both [Facebook] and [Mr McCloskey] knew or ought to have known amounted to harassment of him."

The judge found that Mr McCloskey was liable to CG for misuse of private information and for unlawful harassment. He made no findings against Mr McCloskey or Facebook in relation to the 1998 Act as there was no pleaded case in these proceedings. He found however, that Facebook misused private information in not deleting the postings either between the date they were posted and taken down, or the date of receipt of the letter from CG and the date taken down. Mr Justice Stephens also made an injunction against Mr McCloskey preventing him from harassing, pestering, annoying or molesting CG whether by publishing, distributing, broadcasting or transmitting any information on Facebook or otherwise. He also ordered Facebook to terminate the profile/page "Keeping our Kids Safe from Predators 2". Finally, the judge awarded CG damages of £20,000 (£15,000 against Facebook and Mr McCloskey in respect of the postings by Mr McCloskey and £5,000 against Facebook in respect of the postings by RS).

Sean Kelly Loses High Court Appeal Against Indeterminate Custodial Sentence

Sean Kelly ("the appellant") pleaded guilty to six terrorism related counts. The court heard that in the period leading up to his arrest, the appellant was under surveillance and recordings were made of conversations he had with his co-accused, Sharon Rafferty, between 9 November 2011 and 27 March 2012. On 30 March 2012, surveillance officers were deployed in the Carrickmore and Creggan areas. They observed the appellant, Ms Rafferty, another co-accused Aiden Coney and another male walking into Formil Woods. Gunfire was heard and an examination of the Wood revealed strike marks on trees and targets pinned to them. The appellant pleaded guilty to possession of a firearm, attending a place used for terrorist training and preparation for terrorist acts on the basis that he had engaged in target shooting but did not bring the firearm or ammunition to the wood or remove it from the wood. The appellant did not give any explanation for his actions on that day during interview.

The appellant also pleaded guilty to collecting personal details of a governor of the NI Prison Service. He was recorded during a meeting with Ms Rafferty saying that he gave the "leadership" the names, addresses, cars and photographs of the Governor of Maghaberry and took them to the house twice. The appellant further pleaded guilty to organising a terrorist training event and possessing two blank firing guns which were associated with terrorist training. Again these convictions were based on recorded conversations with Ms Rafferty.

The trial judge considered the appellant to be dangerous because the detailed recordings of his conversations betrayed continuing support for terrorism, he had spoken of escalation of such activity, and he had a significant previous conviction for attempted murder and had returned to active involvement in terrorism despite his early release pursuant to the Good Friday Agreement. The trial judge concluded that an extended custodial sentence would not be adequate for the protection of the public and imposed an indeterminate custodial sentence with a minimum term of five years in respect of three of the counts and an extended custodial sentence of five years with an extended licence period of five years in respect of the other three counts.

Counsel for the appellant contended that the trial judge erred in his determination of danger-

Senior Investigating Officers (SIOs) must try to seek corroboration, recheck, review and confirm facts, information and material. Applying scepticism is the best approach before placing too much reliance on information. Good SIOs are confident and wise enough to remain sceptical and challenge or check everything by good probing

Problem solving: Decision making involves an element of problem solving. Detective work requires a sequential and logical approach and there are some useful techniques aimed at simplifying the process. The aim is to incorporate a methodical collection and analysis of information and alternative solutions into a process that will help generate well-informed decisions. Good problem-solving skills are an important part of decision making and will produce different options, leading to a more informed, rational choice and decision. There are different varieties of problem-solving models, though most contain a similar structure. One recommended contains a simple step by step process and involves choosing a course of action or decision only after collecting sufficient information, then analysing the pros and cons of alternative solutions before making a choice. The 'investigative mindset' rule applies when considering alternative solutions and options for making key decisions. The more alternatives considered, the greater the chance of not missing the best option or solution. The decision may be to choose various options for different tactical stages and timescales of an investigation, eg in the short, medium or long term. Alternative options can also be graded as part of a contingency, eg plan A or plan B. One method of analysing the pros and cons or advantages and disadvantages of options is to examine their strengths, weaknesses, opportunities and threats (SWOT analysis). For example, looking at what threats there are (such as time, resources and cost implications) against what opportunities the option can provide.

'Do nothing', 'defer' or 'monitor' options: Sometimes a decision has to consider whether any action is necessary. It may be, for example, that cost outweighs gain. Therefore there may be an option to 'do nothing' (ie take no further action), 'defer' (put off until later) or 'monitor' (eg wait and see). In an arrest decision example, it may be that a suspect is detained in prison or critically ill in hospital. This may provide an option to 'defer' an arrest until such time it becomes feasible—a decision that can be monitored and remain under review.

Source Police Oracle: Blackstone's third edition of the Senior Investigating Officers' Handbook.

Facebook Fined £15,000 for 'Outing' Convicted Sex Offender

Summary of Judgment: Mr Justice Stephens, sitting today Friday 20th February 2015, in the High Court Belfast, awarded £20,000 damages to a convicted sex offender who took an action against Facebook and the operator of a Facebook page entitled "Keeping our Kids Safe from Predators 2". The first defendant, Facebook Ireland Limited, hosts a page operated by the second defendant, Joseph McCloskey, entitled "Keeping our Kids Safe from Predators 2" . It also hosts a page operated by a person referred to in court as RS (although they are not his real initials) who is the father of one of CG's victims. The plaintiff, CG, was convicted in 2007 of a number of sex offences and was sentenced to ten years imprisonment. He was released on licence in 2012. He currently lives with his disabled father and has regular supervised contact with his disabled adult child. He is under supervision in the community under the terms of the Public Protection Arrangements and has been assessed as not presenting any significant risk to members of the public. CG brought an action seeking damages and an injunction on the basis that Facebook and Mr McCloskey have misused private information, are in breach of Articles 2, 3 and 8 of the ECHR, and are guilty of actionable negligence.

Also on the basis that Facebook was in breach of the Data Protection Act 1998.

CG's action relates to three separate series of postings on Facebook. The first was posted on Mr McCloskey's profile page on 22 April 2013 and attracted up to 180 comments, all of which were hostile to CG. The contents were removed at the latest by 6 June 2013. The second series of postings was on RS's profile page on 13 November 2013 and the content was removed on 4 December 2013. This posting resulted in CG's photograph being shared 1,622 times as well as the area in which he was believed to live. The third series of postings was again on RS's page on 23 December 2013 and removed on 22 January 2014. CG gave evidence that he was extremely concerned by the postings and lived in increased fear as he anticipated violence being inflicted on him. The court heard that this impacted on his relationship with his disabled child who was concerned about being seen in his father's company. Social Services in conjunction with the Probation Service suspended supervised contact until issues arising from the publication had died down.

The court heard details of the system operated by Facebook to remove content which it considers presents a genuine risk of physical harm or a direct threat to public safety. The system requires an individual to provide the Uniform Resource Locator ("URL") for each posting about which complaint is made. Mr Justice Stephens commented that this is a laborious task to undertake as it involves clicking on the page and each comment or individual posting and then writing down and recording accurately the URLs for each posting. He added that Facebook require reasons as to why each posting should be removed. The judge said that this "merely creates the potential for entering into endless and in some circumstances fruitless correspondence because with each new posting there is a new URL so there is an endless potential to identify each URL given the speed with which comments can be added".

Facebook did not call anyone to give oral evidence at the trial. This meant that the court had no evidence in relation to a number of issues and had only evidence by way of affidavit as to whether the Data Protection Act 1998 applied to it given that it was a company incorporated in the Republic of Ireland. Mr Justice Stephens said that Facebook should have been aware of Mr McCloskey's activities from the earlier litigation (XY v Facebook Ireland Ltd [2012] NIQB 96) and should have had the capacity, resources and knowledge to look for and to assess material in relation to CG without receiving any letter of claim or complaint from him. The judge also noted that Facebook had given no specific evidence as to what knowledge it had of the complaints made on behalf of CG and how expeditious its training, supervision and compliance procedures were. He drew from this the adverse inference that the complaints system would not withstand independent scrutiny and was inadequate:

"Despite the lack of evidence as to its internal procedures it was asserted on behalf of [Facebook] that it had acted expeditiously once it had received proper notification from [CG] of his complaints in relation to the three series of postings. It was also asserted that it had inadequate notification from [CG] in order to determine whether the content was unlawful. There was simply no evidence to support either of those propositions. If the address of a sex offender was published on Facebook together with an incitement to physically assault him at that address then such a posting would be obviously unlawful and expedition would require immediate removal."

Mr McCloskey described his Facebook page as a way to name and shame sex offenders, provide emotional support for the victims of sex offences, and set up a database of all known sex offenders in NI. He told the court that he did not make any money from the site but devotes thousands of hours to scouring newspapers and reposting material about sex offenders. He said he did not really care about what was posted on his first site "Keeping our Kids Safe from

Predators" and accordingly took no steps to control it. Mr Justice Stephens considered that Mr McCloskey is "totally indifferent as to the lawfulness of his conduct safe in the knowledge that he cannot suffer any financial penalty" given his lack of resources: "I consider that [Mr McCloskey] set up and operated the profile page … to destroy the family life of sex offenders, to expose them to total humiliation and vilification, to drive them from their homes and to expose them to the risk of serious harm. I consider that he knowingly encourages harassment of sex offenders by other individuals by the comments he makes and by the aim and purpose of the profile/page."

Mr Justice Stephens went on to consider the legal principles. He said the case against Facebook was one of misuse of private information and the case against Mr McCloskey was misuse of private information and harassment. He referred to the Data Protection Act 1998 ("the 1998 Act") and held that CG had an expectation of privacy in relation to matters relating to any offences committed or alleged to have been committed by him and the sentencing of any court in such proceedings as well as his photograph, address or information about family members. He added, however, that that expectation of privacy has to be balanced against the Article 10 ECHR rights to freedom of expression of Facebook and Mr McCloskey: "There are obvious competing interests as to disclosure of despicable criminal conduct. The balance quite clearly comes down in favour of disclosure at the time of conviction. However years after an individual has been convicted of criminal offences there could be a different outcome to the balancing exercise so that disclosure is not appropriate. For instance disclosure of spent criminal convictions would only be appropriate in very limited circumstances. The balance in each case depends on a detailed analysis."

The court also considered the principles set out in the Electronic Commerce (EC Directive) 2000/31/EC and the related 2002 Regulations. The Directive provides that Member States shall not impose a general obligation on an information society service ("ISS") provider (such as Facebook) to monitor the information which they transmit or store, or a general obligation actively to seek facts or circumstances indicating illegal activity. Under the Regulations an ISS will not be liable for damages where it does not have actual knowledge of unlawful activity or information and is not aware of facts or circumstances from which it would have been apparent to the ISS that the activity or information was unlawful. If it obtains such knowledge then it will not be liable if it acts expeditiously to remove or disable such information.

Facebook contended that in order to have actual knowledge it has to have received notification from a complainant including identification of the content by specific URL. The company asserted that it acted expeditiously as soon as it received the proper notification from CG but called no evidence in relation to this. Mr Justice Stephens did not accept that there was a requirement to give notice in any particular manner or from any particular person as actual knowledge of unlawful activity in this case could have been acquired from the previous litigation or the letters which had been sent by CG or some elementary investigation of the site. He said that Facebook has considerable resources at its disposal and "does not require to have spelled out to it on each occasion with inappropriate precision the particular laws of the UK which are in issue and which are being contravened". He added that it can also be assumed that Facebook knows that harassing and threatening violence against sex offenders together with attempts to publicise exactly where the sex offender lives are also unlawful being the misuse of private information and contrary to public policy.

Conclusions: Mr Justice Stephens concluded that the information being published by Mr McCloskey "harmed the public interest creating a risk of re-offending: It incited violence