G4S Security Guards Granted Limited Police Powers *Oliver Pritchard, The Comet*

[Chairman of Hertfordshire Police Federation Neal Alston, told PoliceOracle.com the increasing number of accredited persons was not a huge area of concern. "While there are always concerns around mission creep, we are fairly at ease with this because it is a not a new thing and there are now numerous individuals who have been given these powers."Obviously there are concerns about G4S following their performance in the Olympics and so on – and it is a shame we have had to go this way as a police service, but ultimately we are happy to work with anyone to assist with public safety."]

In an effort to stamp out anti-social behaviour and crime in Stevenage Leisure Park four security guards have been given 'limited' police powers, under the National Community Accreditation Scheme this week. It means the men can now order people who are breaking the law or behaving anti-socially to give them their names and addresses. Chief Insp Richard Harbon, who leads the police team in Stevenage, said: "These officers are now joining a growing number of partnership employees who have passed this Community Safety Accreditation Scheme. "This serves to further improve safety and reduce crime in the town." The powers also mean they will be able to confiscate alcohol from anyone under age and people who drink in restricted areas. They can also seize cigarettes and tobacco from anyone under 16. The men, who all work for the G4S security firm, will have to wear an identification badge whenever they are on duty. They have all completed a training and vetting processes and taken management and competence tests.

National Community Accreditation Scheme (CSAS)

CSAS is a voluntary scheme under which chief constables can choose to accredit employed people already working in roles which contribute to maintaining and improving community safety with limited but targeted powers. These roles include neighbourhood wardens, hospital security guards, park wardens, shopping mall guards and train guards. The scheme creates a framework for public and private bodies to work in partnership with the police, providing additional uniformed presence in communities and capitalising on the skills and information captured by those already engaged with the community. All schemes are managed, monitored and assessed at a local level by the responsible police force. Key benefits of the scheme include: increasing uniformed presence on the streets (CSAS accredited persons wear the uniform of their employing organisation, with a identification badge endorsed by the local police force):reductions in local issues such as street drinking, begging and dog fouling:saving valuable police time in community safety to deal with low-level crime and disorder:promoting greater business involvement with the police, and allowing the police to influence the training of businesses, eg security companies:promoting partnership working and the two-way exchange of information and intelligence between agencies

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, Ray Gilbert, Ishtiaq Ahmed.

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Statement from Roe 4 Republican Prisoners Maghaberry

There has been talk over recent weeks and months of 'optimism' regarding the potential for progress within the jail. David Ford's Assessment Team has told us that he is committed to implementing the August 2010 Agreement. This is a view echoed by the I.C.R.C., a body which he has now permitted to potentially chair the renewed forum mechanism, and which he had excluded previously, in defiance of the recommendations of his own Assessment Team's stocktake document.

In spite of the negative experience of previous dealings with the Jail Administration and the Stormont regime to which it is supposed to be accountable, Republican Political Prisoners (RPPs) could yet have had some faith in a potential for progress had it not been for the ever increasing, negative and regressive reality of the Jail Administration policy in Republican Roe House.

Fundamentally, there has been zero progress on the core issues: Controlled Movement, Forced Strip Searching and Enforced Isolation. Controlled Movement has been entrenched with the addition of a cage structure on Roe 4 landing. A structure which both the Prisoner Ombudsman and the Assessment Team stated was certainly not what they had envisaged in the stocktake. Forced Strip Searching of RPPs continues apace. Most recently a RPP was handcuffed to a member of jail staff for 18 hours while attending an outside hospital for a medical emergency. Despite this draconian security arrangement, the Jail Administration Governor still insisted on deploying the riot squad to forcibly strip search him on his return. Enforced Isolation, where once it was an exception, has now become the norm. More RPPs remain in isolation than ever before. Key to the isolation policy is MI5.

Since the emergence of the Stocktake and the DUP attack on it, the Jail Administration brought Governor Malcolm Swarbrick over from an English jail to 'manage' Republican Roe House. In that time he worked to contrive 'alarm' incidents on a wide scale; a process which culminated in his unleashing the riot squad on Roe 4 on 02/02/15, during which a RPP was badly beaten and denied medical attention. In spite of hundreds of Republican activists spontaneously deciding to organise a large protest at the front gate, the Jail Administration's only response was to lock down the Republican wing and deny RPPs legal and family contact for 2 days.

In an effort to retrospectively construct some political cover for their actions, a number of RPPs were taken to Antrim Barracks' interrogation centre to be questioned about bogus 'threats' to jail staff. Coupled with these actions external to the jail, the Jail Administration has also sought to cobble together all sorts of imaginary charges through its own internal 'disciplinary process'. This has been used as a means to deny RPPs paroles with their families. Where the Jail Administration has failed to impose charges in advance of paroles, they have deliberately introduced drug dog searches. When RPPs return from parole and refuse the drug dog search, citing the Jail Administration's prior acceptance and agreement of the fact that RPPs don't use drugs, they get charged by this same Administration and subsequently lose future paroles.

Central to so much of the recent upsurge of Jail Administration aggression has been the figure of Malcolm Swarbrick. However RPPs are not so naive as to believe he is singularly responsible; rather he is only the point of the spear. The reality is that it is the MI5 administered jail security branch which is the real driving force. In recent times this influence has increased.

The Assessment Team, Prisoner Ombudsman and others who see themselves as 'progressives' stated that many of the governors who had dealings with RPPs previously, had been replaced by others more amenable to progressive change. However, the reality has been at total odds with this. Amongst those brought in are governors Pat Grey and Colin McCready. Pat Grey is the former head of the Security Department at Maghaberry and Colin McCready is formerly Governor 5 at the Security Information Branch at the Jail Administration's Headquarters. By his own admission, McCready was key to MI5 decisions to place RPPs in enforced isolation. These individuals have been key to efforts to subvert the August 2010 Agreement. They are the personification of the 'security nexus' RPPs have identified as being central to the reactionary unionist culture within Maghaberry jail.

In the short time they have been in position, not only has the Jail Administration not moved to the 6 RPPs out on each landing as laid out in the limited vision of the Assessment Team's Stocktake document, but in fact, levels of Controlled Movement have increased. In the latest incident, Malcolm Swarbrick further limited the level of movement at a grille. Since then this whim has now been applied to all movement at all grilles on the Republican wing as 'policy'. The grille incident occurred in full view of the I.C.R.C. leadership and as such can only be viewed as a deliberate affront to that organisation. Furthermore, it could only have happened with at least the consent if not the connivance of the 'new', apparently 'progressive' former security governors.

RPPs have long understood that when the British establishment is dealing with its political enemies, it is generous with nothing but time. RPPs will not be drawn into a situation which is all process and no progress, even if it is chaired by an independent body such as the I.C.R.C.; while an MI5 led Jail Administration launches an all out constant effort to break the resistance of RPPs and impose a regime of criminalisation.

Republican Political Prisoners, Roe 4, Maghaberry, June 2015

Early Day Motion 176: Proposed Ban On Legal Highs

That this House recalls that the prohibition of drugs usually results in increased use as occurred with the prohibition of alcohol in the US; also recalls that the imposition in the UK of the harshest drugs prohibition in Europe in 1971 resulted in the increase in the total of heroin and cocaine addicts from 1,000 to 320,000; notes that the ban on legal highs in Ireland in 2010 has perversely increased their use to the highest in Europe; and regrets that the Government intends to repeat a failed remedy that will again criminalise a legal market and greatly increase police costs, drug abuse and deaths.

Anonymous Witness Testimony Breach of Article 6 'Right to Examine Witnesses'

Use of anonymous witness testimony without measures to compensate for the handicaps caused to the defence by the lack of a direct confrontation with the witness

In the Chamber judgment! in the case of Balta and Demir v. Turkey(application no. 48628/12) the European Court of Human Rights held, unanimously, that there had been: a violation of Article 6 § 1 (right to a fair trial) taken in conjunction with Article 6 § 3 (d) (right to examine witnesses) of the European Convention on Human Rights

The case concerned the applicants' conviction for membership of an illegal organisation, on the basis of statements by an anonymous witness whom the applicants were unable to question at any stage of the proceedings. The Court observed that the applicants and their lawyers had not had the opportunity at any stage in the proceedings to question the anonymous witness and to cast doubt on his credibility. The Court found that the domestic courts had not

Alleged victims of Janner said that they had received hand-delivered letters on Saturday informing them that the CPS's decision not to prosecute had been reversed. One, who has asked to remain anonymous, said: "It shouldn't have taken this long – 45 years for some – to get to this point. Saunders should go because she has tried to stop the truth from coming out." Another alleged victim, Paul Miller, accused Alison Saunders of incompetence. Miller, 53, from Leicester, claimed he was groped by the former Labour MP at the Palace of Westminster during a school trip when he was nine. He told the Sunday Express: "It's great news but Alison Saunders should be sacked. She's been proved to be incompetent in not making the right decision in the first place. Her position is now untenable." Simon Danczuk, the Labour MP for Rochdale, led calls on Friday for Saunders to resign following initial reports that the decision would be overturned. "All suggestions are that Saunders reached the wrong conclusion in April and this is not the first time she has made a major mistake," he said. "She has struggled in some of her decisions to pursue journalists through the courts, too. Her job is all about judgment."

David Davis, the Conservative MP and former shadow home secretary, said this was the right decision but questioned why it had taken Saunders so long to come to this "unusual" conclusion. "It is hard to know why she decided not to have a trial of the facts in the first place, only to decide to do so after the huge political furore," he said. "This has been a terrible process which has prolonged the misery not just for the alleged victims but also for Janner and his family." He stopped short of calling for her to resign, saying to do so would be premature. John Mann, the MP for Bassetlaw who has called for criminal inquiries into other historical claims of child abuse against former and existing Parliamentarians, said the decision should be welcomed because it would open doors for new inquiries. "This decision is a huge breakthrough. Hopefully, we will be able to look at the way MPs and peers have used privilege and their connections to stop inquiries into their alleged conduct," he said. Mann added that he did not want Saunders to leave her post. "This would be a distraction from the job in hand of uncovering the truth about alleged child abuse. She should be shouting much louder to get enough resources to properly resource her prosecutors who are looking into historical child abuse claims."

In a "trial of facts", the jury is asked to decide – on the basis of evidence adduced by prosecution lawyers and by lawyers appointed by the court to put the case for the defence – whether or not the accused did the acts he was charged with. Because the defendant cannot put forward a defence, there can be no verdict of guilty and the court cannot pass sentence. All the court can do is to make a hospital order, a supervision order or an order for the defendant's absolute discharge. Liz Dux, a lawyer from Slater and Gordon representing a number of the alleged victims, said: "My clients are delighted by this decision. It is a total vindication of why they challenged the original decision of the DPP. All they have ever wanted was to give their evidence in a court and have findings of fact established. They have been denied this right for many many years but now their faith in British justice is restored and they look forward to being listened to after so long."

75% Spike in Appeal Court Delays Blamed on Resources

The number of adjourned trials in the Court of Appeal has leaped by 75% in a year. HM Courts and Tribunals Service said 640 cases were adjourned in the Civil Division in the year ending 31 March. In the two previous years, the number of adjourned trials was 365 and 364 respectively. HMCTS also revealed that 297 of last year's adjournments were caused by a lack of judicial resources. The number of appeal court judges in April 2015 remained at 38, the same as a year earlier.The response also confirmed that court staff were given fresh guidance at the start of this year to avoid adjourning cases.

sufficient consideration to give a proper reply today. Perhaps I may take that away and come back to him. The simple answer to that question is: dialogue. *House of Lords: 24/06/2015 :Column 1582*

Pervinder Swarnn had had his conviction for assault occasioning actual bodily harm quashed at appeal. After his conviction, Swarnn discovered old text messages, which reminded him that on the weekend in question he had taken his girlfriend to North Wales. His assistant manager was then able to research the records and confirm this. This was therefore new evidence not available at trial and gave a plausible explanation for why it was not adduced at trial. The prosecution did not resist the appeal. R v Pervinder Singh Swarnn [2015] EWCA Crim 795 (Case No: 2014/1748/B3)

Michael Jagger (62) has had his conviction (for depositing controlled waste without a permit) quashed at appeal. In this case there was no question that material was deposited, but the appeal was based on the definition of the terms 'waste' and 'controlled waste'. In short, it was decided that the material was not 'controlled waste' at the time of deposit, as it was being used to fill a void which had created a serious risk of a wall collapsing with resultant risk to the public. The material was also totally harmless to human health. R v Jagger (Michael Edward) [2015] EWCA Crim 348 (Case 1401891 C4)

Sian Waters has had his conviction for robbery quashed at appeal. He had received (the circumstances of which are unclear) the victim's phone and some cigarettes and there was evidence that Waters said that the phone would be returned if a young person called Dale Holloway was persuaded to come and talk to him.The question that the appeal considered was whether the phone had been stolen or not. Robbery, in law, requires that the person taking the item(s) intends to permanently deprive the victim of the item in question. The argument here resolves around the issue: If Dale Holloway would not speak to them, would the phone be retained permanently? The appealcourt decided there was not enough evidenceto prove an intention to retain permanently. R vSian Waters [2015] EWCA Crim 402 (Case2014/2262/B5)

Chris Bateman (49) - a taxi driver - has had his drink-drive conviction quashed at appeal. After driving his vehicle, he had entered a club and drank around eight pints. It was after that when the police turned up, noticed he was drunk, and made him take a breath test, which he obviously failed. But as he was not drunk whilst driving, he had done nothing wrong. At appeal, CCTV showed what time he arrived at the club and also how many times he had bought drinks.

Lord Janner to Face Justice After DPP Ruling Overturned *Sandra Laville and Rajeev Syal*

Pressure is growing on the director of public prosecutions, Alison Saunders, to resign after her decision not to charge Lord Janner with a string of sexual abuse charges dating back to the 1960s was overturned in a review by an independent QC. Janner is to face justice in a trial of the facts following a review from an unnamed QC, the Crown Prosecution Service will announce on Monday. It will be the first time that allegations against Janner – which have been investigated in the past in three failed police investigations – will be aired in a courtroom. Saunders said in April it was not in the public interest to charge Janner, because he had dementia, which meant he was unfit to enter a plea. Her decision was challenged by alleged victims in a formal process known as the right to review. It is believed to be one of the first times that alleged victims have overturned a DPP's decision. Saunders overruled a specialist QC, Eleanor Laws, an expert in child abuse law, who recommended that the peer be charged. The DPP's decision led to an extraordinary rift with Leicestershire police, who spent two years investigating Janner in the latest inquiry and said Saunders' failure to charge him was "perverse". The force threatened legal action to overturn the DPP's decision.

implemented the procedural safeguards provided for by Turkish law, in cases involving the use of anonymous witness testimony, in order to counterbalance the handicap to the defence arising from the lack of a direct confrontation with the witness. It reiterated that any measure restricting the rights of the defence had to be strictly necessary; if less restrictive measures could suffice then those measures should always be applied.

Principal facts: The applicants, Ahmet Balta and Ahmet Goksen Demir, are Turkish nationals who were born in 1974 and 1991 respectively and live in Tunceli. On 5 June 2009 the prosecutor's office heard evidence from an anonymous witness in the context of a criminal investigation into the activities of the PKK, an illegal organisation. The witness claimed to have identified Mr Balta and Mr Demir as members of that organisation. On 22 June 2009 the applicants were arrested and placed in police custody. On 25 June 2009 the prosecutor's office questioned them about their links with the PKK. During those interviews they disputed the statements made by the anonymous witness who claimed to have identified them. Mr Demir's lawyer requested that the witness's identity be disclosed. Both applicants were released the same day.

On an unspecified date Mr Balta, Mr Demir and 14 other persons were charged with membership of the PKK. On 16 September 2009, acting on judicial instructions, a judge questioned the anonymous witness. His evidence was heard in private, in accordance with Article 58 of the Code of Criminal Procedure and the Witness Protection Act (Law no. 5276). On 20 October 2010 Mr Balta and Mr Demir denied the accusations against them and contested the manner in which the evidence of the anonymous witness had been heard. On 21 October 2010 the Assize Court sentenced them to six years and three months' imprisonment for membership of an illegal organisation. On 10 December 2010 Mr Balta and Mr Demir appealed on points of law. The Court of Cassation upheld the first-instance judgment.

Complaints, procedure and composition of the Court. Relying, in particular, on Article 6 (right to a fair trial and right to examine witnesses), the applicants complained about the fact that they had been unable, at any stage in the proceedings, to question or to have questioned the anonymous witness whose statements, in their opinion, had served as the basis for their conviction. The application was lodged with the European Court of Human Rights on 19 June 2012. Judgment was given by a Chamber of seven judges. Decision of the Court: Article 6 § 1 read in conjunction with Article 6 § 3 (d) The Court reiterated that Article 6 § 3 (d) (right to examine witnesses) enshrined the principle that, before an accused could be convicted, all evidence against him must normally be produced in his presence at a public hearing with a view to adversarial argument. The rights of the defence required as a general rule that the accused should be given an adequate and proper opportunity to challenge and question a witness against him, either when that witness made his statement or at a later stage of proceedings.

The Court had spelled out in its case-law (Grand Chamber judgment in Al-Khawaja and Tahery v. the United Kingdom,15.12.2011) the criteria to be applied in cases involving statements taken from a witness who was absent from the trial. First of all, the Court had to verify whether there had been good reason for the inability of the defence to question or have questioned a witness against the accused. Next, it had to ascertain whether the testimony of the absent witnesses had been the sole or decisive evidence against the defendant. Lastly, the proceedings could be deemed to have been fair overall if there were sufficient counterbalancing factors in place, including measures that permitted a fair and proper assessment of the reliability of that evidence to take place.

The Court observed in the present case that the information in the case file offered no insight into the circumstances in which the witness had been granted anonymity or the authority that had taken that decision. The Government had provided no information on this point.

The Court noted that at the trial stage the evidence of the anonymous witness had not been heard by the trial court but by an Assize Court judge acting on judicial instructions, who had questioned the witness at a private hearing. The judge who had taken the witness statements had given no reasons as to why the witness's anonymity had been preserved or why his evidence had been heard without the defence being present. The judge had simply stated, without further explanation, that the witness had given evidence in private.

Likewise, the trial court had not stated the reasons that had led it to preserve the witness's anonymity and not to hear evidence from him in the presence of the defence. In dismissing the defence's request for the witness to be examined, the Assize Court had merely stated that the witness's identity could not be disclosed and that his statement had been taken on the basis of judicial instructions. Since the domestic courts had not demonstrated that they had sought to establish why the witness had been granted anonymity and why he had not given evidence in the presence of the defence, it could not be said that there had been good reason for preventing the defence from questioning the witness or having him questioned.

The Court noted that the domestic courts had taken into account a number of items of evidence in convicting Mr Balta and Mr Demir of membership of an illegal organisation. However, while the statement of the anonymous witness was not the sole evidence on which the applicants' conviction had been based, it had nonetheless been decisive. The finding that organic links existed between the applicants and the illegal organisation had been based mainly on the statements of the anonymous witness. The Court noted that, since the witness had never appeared before the judges of the Malatya Assize Court, the latter had not had a chance directly to assess the credibility and reliability of his testimony. The absence of this anonymous witness had denied the trial judges the opportunity to observe his conduct under questioning and to form their own opinions as to his credibility.

Lastly, the Court observed that the applicants and their lawyers had not had the opportunity at any stage in the proceedings to question the anonymous witness and to cast doubt on his credibility. They had therefore been unable to observe his reaction to direct questions that would have allowed them to test the reliability of his statements. Where the judge gave permission for evidence to be heard from a witness without the defence present, the anonymous witness could be questioned in a room away from the hearing room, with an audio and video link enabling the accused to put questions to the witness. The Assize Court had not followed that procedure, provided for by domestic law, and had offered no explanation in that regard. The court had apparently not even considered implementing the procedural safeguards provided for by Turkish law, in cases involving the use of anonymous witness testimony, in order to counterbalance the handicap caused to the defence by the lack of a direct confrontation.

As a general rule, any measure restricting the rights of the defence had to be strictly necessary; if a less restrictive measure could suffice then that measure should always be applied. However, the reasoning of the Assize Court's decision gave no indication that less restrictive measures had been considered. Accordingly, it could not be said that the procedure followed before the authorities had afforded Mr Balta and Mr Demir safeguards capable of counterbalancing the handicaps under which the defence had laboured. Consequently, having regard to the overall fairness of the proceedings, the Court held that the applicants' defence rights had been restricted to an extent incompatible with the requirements of a fair trial, and that there had been a violation of Article 6 § 1 taken in conjunction with Article 6 § 3 (d) of the Convention. Just satisfaction (Article 41) - The Court held that Turkey was to pay the applicants 2,000 euros (EUR) each in respect of non-pecuniary damage.

History of Executions at HMP Wandsworth *Amani Hughes,Get Surrey*

Years On, referred to the importance of having a national blueprint, which of course is now possible given that NHS England is the commissioner of specialist services throughout the country. I will also draw those standards to the attention of Paul Lelliott, the chief inspector of mental health within the CQC. I am sure that the CQC will wish to incorporate those standards into its inspection regime.

Lord Walton of Detchant (CB): Can the Minister say what qualifications are now required of doctors who are recruited to work in prisons? Can he further say what proportion of those who are now employed to work in prisons have had formal psychiatric training? Lord Prior of Brampton: I thank the noble Lord for that question. I hope he will think it acceptable if I reply to him in writing after this session.

Lord Dholakia (LD): My Lords, could the Minister explain why we lock up so many mentally ill offenders in prison institutions that are not fit for the purpose? Has he read yesterday's report by the prisons inspector, which describes one prison as containing "shocking" squalor, high levels of violence and drug abuse, and high levels of staff sickness? Would the Minister explain how many mentally ill offenders are in our prison institutions and what efforts are being made to place them where proper mental health care and social care are available?

Lord Prior of Brampton: There are, as the noble Lord knows, some 85,000 people in prison, of whom more than 70% have two or more mental health conditions. Many of them suffer from drug or alcohol abuse, and I think it is generally accepted that a number of those people could be better treated outside a prison environment. He will also know that the liaison and diversion services that were so highly recommended by the noble Lord, Lord Bradley, now cover 40% of the prison population. There is a proposal that that should cover the whole population by the end of the year, subject to evaluation of those pilot schemes.

Lord Bradley: It is vital that a prison has all relevant information about an offender's health needs when they arrive at prison reception. Does the Minister agree that an evaluation of the current health screen should be undertaken to improve the identification of mental health problems at prison reception and that the identification of learning disabilities should be part of that screen?

Lord Prior of Brampton: The noble Lord raised this in his report five years ago and in the follow-up report that was published more recently. A very early assessment of a prisoner when he arrives in prison is of course extremely important.

Lord Bishop of Bristol: Given the complex needs of so many prisoners and the fact that those needs have to be addressed consistently, does the Minister agree with me that the risks associated with such prisoners could be greatly reduced were all operational staff in prisons given training on mental health awareness?

Lord Prior of Brampton: The right reverend Prelate's comments are true throughout the whole healthcare system and would also apply to nurses in physical health surroundings. Training in how to recognise and deal with people suffering from mental health problems would be a huge benefit.

Lord Ramsbotham (CB): The figures that the Minister cited come from the last survey of psychiatric morbidity in prisons, published in October 1998. Since then, the morbidity profile has changed. Is there any intention to conduct another survey so that the figures are up to date and people know the size and shape of the problem with which they must deal? Lord Prior of Brampton: I am not aware of any current plans to conduct a survey similar to the one to which the noble Lord referred from 1998.

Lord Roberts of Llandudno (LD): What action will the Government take in Wales, where health is devolved to the Welsh Assembly but prisons are part of the Home Office remit? How will those two different aspects of government work together?

Lord Prior of Brampton: The Lord raises an issue to which, I confess, I have not given

these proceedings to include a claim that there has not been compliance with the requirement of promptness and reasonable expedition in relation to this outstanding aspect of the procedural obligation.

Nicole Richess (20) has been jailed for 30 months for falsely accusing two army soldiers of trying to rape her. She had, in fact, had consensual sex with the two soldiers and was too ashamed to tell her partner that she had cheated on him. Officers began to realize Richess was lying when they gathered the accounts of the soldiers and her friends. The judge told Richess her lies had an 'insidious and corrosive' effect on public confidence and the justice system.

Emma Gallagher (23) has received a nine month prison term suspended for two years for perverting the course of justice after she falsely accused a man of raping her in an attempt to get a free lift home from the police. Gallagher eventually admitted her lie.

Hannah Mcwhirter (21) has been convicted of wasting police time by making false rape claims against a married couple after they had all spent the night together in a hotel room. The sexual activity was actually consensual, and she even exchanged texts with the couple afterward to say how much she had enjoyed herself. McWhirter's boyfriend eventually saw the texts and confronted McWhirter after which she admitted that they'd spent the night together but said it had actually been a forcible rape. Eventually McWhirter admitted she had been a willing participant in the threesome. Aberdeen sheriff Graham Buchanan deferred sentence for reports. McWhirter was released on bail.

Chantel Clark (36) has been convicted of making a false allegation of rape against a taxi driver. Clark pleaded guilty to a charge of falsely making a rape claim. Clark had told police officers: "I feel so ashamed. I have been unable to sleep or eat. I want to apologise for the problems I have caused."

Prisons: Mental Health

Lord Patel of Bradford asked Her Majesty's Government what steps they are taking to achieve parity of esteem between mental health and physical health in prisons.

Lord Prior of Brampton: My Lords, achieving parity of esteem between mental health and physical health in prisons is a government priority. Following the 2009 review by the noble Lord, Lord Bradley, we ensured that prisoners can access equivalent health services to people in the community. The Government's mandate to NHS England has objectives to achieve parity of esteem, including in health and justice settings, and to develop better offender healthcare that is integrated between custody and community, including developing liaison and diversion services.

Lord Patel of Bradford: I thank the Minister for that Answer. I am sure he will be aware that a great deal of effort has been made to improve data accuracy and the quality of recording of mental health diagnosis in NHS trusts, including new coding standards, all as part of preparation for a national payment tariff for mental health, similar to those for people in hospitals with physical health conditions. Can the Minister describe, first, how this will be implemented in the prison setting? Secondly, what support will his department be giving to implement the standards for prison mental health services, which the Royal College of Psychiatrists published recently due to, as it said, the lack of a national blueprint for mental health services for people in the criminal justice system?

Lord Prior of Brampton: I thank the noble Lord for his two questions. On the first, about coding, it is very important that we get the tariff right and that it does not become just another measure of activity but that outcome is built into that tariff. Paul Farmer, the chief executive of Mind, is preparing a report for NHS England, which will include proposals for the tariff and payment systems. That will include health in prisons as well as outside prisons.

The second question was about the standards issued recently by the Royal College of Psychiatrists. The noble Lord, Lord Bradley, in his foreword to The Bradley Report Five

John George Haigh, who dissolved his victims' bodies in sulphuric acid, and a man who broadcast pro-Nazi propaganda during WWII were among dozens of criminals sent to the gallows at the former Surrey House of Correction The Surrey House of Correction was the foreboding original name for HMP Wandsworth when it opened in November 1851. Deemed until 1889 to be in Surrey as it was south of the River Thames, the prison went on to gain notoriety for the dozens of criminals who were executed there during the 20th century. They included the 'Acid Murderer', 'Lord Haw-Haw' and Derek Bentley.

Wandsworth only took condemned prisoners from Surrey in the first instance, but with the ending of executions at Lewes after 1914 it began to deal with death sentences from Sussex and then also from Kent when the execution facility at Maidstone was closed down. There were 37 hangings between January 1939 and December 1945, while a further 31 executions took place in the following 17 years.

In August 1949, John George Haigh was sent to the gallows in Wandsworth for murdering six victims before dissolving their bodies in sulphuric acid. Nearly four years later, a case sparked outrage when Derek Bentley was hanged in January 1953 for the murder of PC Sidney Miles. Bentley, who had a serious learning disability, was convicted of murder despite not actually firing the gun that killed the police officer. His conviction was quashed in 1998, seven years after Christopher Eccleston portrayed him in the film, Let Him Have It.

Wandsworth was also the site of executions for treason and spying during the two world wars, including William Joyce, better known as 'Lord Haw-Haw', who broadcast pro-Nazi propaganda on the radio during World War II. Earlier in 1905, brothers Alfred and Albert Stratton were hanged at the prison for the murders of shopkeepers Thomas Farrow and his wife Ann in Deptford, south London. They were the first men to be convicted of murder based on evidence obtained from fingerprints.

Two IRA members, Joseph O'Sullivan and Reginald Dunne, were hanged in 1922 for the murder of Field Marshall Sir Henry Wilson. Sir Henry, an Irishman who had reached the highest rung of the British Army, was shot outside his London home. In 1961, the prison saw its last two executions, ending with Henryk Niemasz that September.

Convictions For Violence Against Women Hit Record High

Martin Evans, Telegraph, 25/06/2015: Domestic abuse cases have reached an historic high and now account for 14 per cent of all prosecutions going through the courts, new figures have revealed. Almost 100,000 criminal cases were launched against abusive partners last year, with a record 68,601 resulting in successful convictions. The rise comes after a concerted effort by the police and prosecutors to take the crime more seriously and a broadening of the definition of domestic abuse to include offences such as revenge porn and coercive control. New guidelines issued by Alison Saunders, the Director of Public Prosecutions in December sought to overhaul the way domestic abuse cases were handled.

Prosecutors were urged to take a much more open minded approach when considering who the victims of domestic abuse were after campaigners successfully argued that domestic abuse was a largely hidden crime with only the most severe and repeat offenders being brought to justice. Official figures from the Crown Prosecution Service (CPS) also showed that record numbers of men were being prosecuted for violent crimes against women, including rape and so-called honour based violence. In total, some 107,104 cases concerning violence against women and girls were prosecuted during 2014-15, a rise of 18.3% on the previous year.

The number of those convicted rose to its highest level at 78,773 - up 16.9% on the previous year, while the CPS said it was also investigating more historic allegations following the Jimmy Savile sex abuse scandal. Ms Saunders said: "This is really good news for the victims of these dreadful crimes and is also testament to the hard work we have done recently to encourage victims to come forward, to work better with the police and ensure specially trained prosecutors bring the right cases to court. There has been an 18% rise in domestic abuse prosecutions, reaching over 90,000, which is in no small part due to increased public awareness in reporting such cases, as well as the dialogue surrounding new laws involving coercion and control which will be introduced later in the financial year. We are responding to these changes quickly, and have published new guidance for prosecutors on handling cases of domestic abuse."

Inquiry into Islamophobic Prison attack

The Secretary of State for Justice has commissioned an independent investigation into an Islamophobic attack on a prisoner by another prisoner at HMP Bristol in June 2014. The victim, whose identity cannot be revealed for legal reasons, sustained serious brain damage and remains in a minimally-conscious state as a result of the attack. The attacker was convicted for attempted murder in December 2014. The victim's family is devastated by these events and is supported by the charity Stand Against Racism and Inequality (SARI). The family had to lobby the Secretary of State for months to commission an independent investigation into the victim's near-death, of which very few have ever been commissioned. The inquiry is being conducted by Rob Allen, an academic with experience of these investigations. Alex Raikes MBE, Strategic Director of SARI said: "We welcome this independent investigation on behalf of the family who came to us because of tragic circumstances and a horrific hate crime. SARI is keen to support this family in any way we can to get to the bottom of what happened and moreover we hope the findings will lead to a safer environment for all prisoners." The victim's solicitor Jane Ryan of Bhatt Murphy said: "The family now look to the independent inquiry to scrutinise the wider circumstances of these tragic events in the hope that other attacks can be prevented". The family will not be giving interviews to the media while the investigation is ongoing.

Met Officer Who Slept With Rape Victim Dodges Gross Misconduct Charge

Sandra Laville, Guardian, 24/06/2015: A Metropolitan police detective who admitted having sex with a rape victim intends to retire and therefore avoid disciplinary action for gross misconduct in direct contradiction of new rules brought in by the home secretary. Robert Dawson, a detective sergeant from the Metropolitan police's specialist sex crime unit, has said he had intercourse with a woman who had made an allegation of rape that he was investigating. The officer was acquitted of a criminal charge of misconduct in public office earlier this month but is still facing a gross misconduct hearing for inappropriate behaviour with a victim. Although he was still an officer under suspension, he successfully applied to retire from the force 10 days ago – a decision that is being challenged by the victim and the Independent Police Complaints Commission (IPCC).

The woman said in a statement to the Guardian: "I am very distressed to learn that his suspension has been lifted and he is allowed to return to work as a police officer again. I expected a hearing as a consequence of my complaint. He should be disciplined for what he did. He should not be able to retire like nothing happened. I feel so scared that a police officer could

taken by the SOSNI. Mr Justice Stephens rejected this submission and considered there was nothing inappropriate about a decision of a Secretary of State being taken on a collective basis on behalf of the entire government by a group of interested Ministers including the Prime Minister.

In Part Ten Mr Justice Stephens considered the challenge by the applicant that the SOSNI failed to give proper weight to a number of factors when reaching his decisions. He held, however, that the SOSNI's ultimate decision was not so unfair as to be a misuse of his powers or was Wednesbury unreasonable.

Part Eleven of the judgment deals with the contention by the applicant that in refusing to establish a public inquiry and instead ordering a review the SOSNI acted in a manner that was incompatible with her human rights pursuant to Article 2 ECHR and therefore in breach of Section 6 of the HRA for the reasons that it will not be effective, it will not be public and it will not safeguard the interests of the applicant and her family or allow their participation to the requisite standard.

Justice Stephens said it is not an irresistible requirement under Article 2 that a public inquiry should be held. He noted that the ECtHR did not order that a public inquiry should be held and that the Council of Ministers had accepted that the requirements of public scrutiny and accessibility of the family have been met. The judge referred to the public statement by the DPP(NI) in 2007 which was made without having access to the documentary evidence that was subsequently made available to Sir Desmond de Silva. He referred to the on-going police investigation which is considering the de Silva report and the new documentary material and the fact that this will be considered by the DPP(NI) who, if a decision is made not to prosecute, will then have an obligation publicly to make known his reasons for that decision. Mr Justice Stephens considered this to be the outstanding issue under the Article 2 procedural obligation but said that this does not mean that the further investigative measures require a public inquiry or impossible or disproportionate burdens on the authorities.

Mr Justice Stephens therefore rejected the applicant's contention that in refusing to establish a public inquiry the SOSNI acted in a matter incompatible with the procedural obligation under Article 2. He determined, however, that the procedural obligation has not been fully met: "The Article 2 procedural obligation will be met if the de Silva report, the documents disclosed to Sir Desmond, the documents generated by Sir Desmond are all considered by the PSNI and the DPP(NI) with the assistance of independent senior counsel and thereafter if the prosecutorial decision is not to prosecute, then reasons are given publicly."

He commented that there also has to be compliance with the requirement of promptness and reasonable expedition in relation to this outstanding aspect of the procedural obligation: "The issue as to whether in addition to the failure of promptness and reasonable expedition found by the ECtHR in Finucane v UK there has been a further failure subsequent to the publication of the de Silva report has not been argued in these proceedings. However the language of matters being undertaken "in due course" and matters being "compromised" and "delayed" by "budgetary constraints" without any explanation as to the budgetary requirements or the attempts to meet that budget, does not sit easily with the context of grievous breaches of the most fundamental obligations of the State and the correct earlier political determination in 2010 and 2011 at the highest level to secure the effective implementation of domestic laws which protect the right to life." Justice Stephens said he would hear Counsel as to whether he should allow an amendment of the applicant's challenge to allow that issue to be litigated in these proceedings and if so, he would adjourn the matter to allow evidence to be filed.

Conclusion - Mr Justice Stephens dismissed the application for judicial review except in so far as it relates to a continuing procedural obligation on the State to investigate the murder of Patrick Finucane. He will give the parties an opportunity to make submissions about whether it is appropriate to amend

national security requirements and of concerns that a public inquiry which risked collapsing would not be in the public interest. He said the applicant was informed in 2010 that the decision to establish a public inquiry was to be reconsidered and was invited to make, and made, representations.

Justice Stephens noted that the decision making process recognised that there were wider interests to be considered which should be taken into account before arriving at an informed decision as to where the balance of public and private interests lay. He said the decision not to hold a public inquiry was connected to the decision to establish the independent de Silva Review. He said the expectation of a public inquiry was not totally defeated but rather a review was to be conducted by a person who was completely independent, who has an international reputation, who was to be given full access to all documents, who could declassify and publish documents, who had the assistance of government and who had an assurance from the Prime Minister that there must be no attempt to hide the truth. The review process would be quicker than a public inquiry and would put less pressure on public finances and the report would be published: "So prospectively it could be anticipated that the facts surrounding the murder of Patrick Finucane would be subjected to a most rigorous forensic examination and that the findings would expose those facts, whatever they might be, to public scrutiny. That was an appropriate prospective assessment. The overall level of review by this court is limited given the macro-political context and on the basis of such a limited review I do not consider that the frustration of the applicant's expectation and the decision to set up the Review is so unfair as to be a misuse of the SOSNI's power."

Part Seven of the judgment deals with the contention by the applicant that, by virtue of the fact that she had a substantive legitimate expectation that a public inquiry would be held, she also had a procedural legitimate expectation that she would be consulted about the review process that would be held instead of a public inquiry. The SOSNI contended that, as a result of the consultation process around a public inquiry, the applicant had made it clear that any process would be insufficient if it did not include the power to compel witnesses and that those views were considered. Mr Justice Stephens considered that the consultation process was sufficient to allow the applicant to express views about the alternatives to a public inquiry and that she did in fact articulate her views that the only appropriate process was a public inquiry at which witnesses could be compelled to answer questions. He considered that if there was a procedural legitimate expectation it had been met. He further considered that the applicant had not established an express or implied clear and unambiguous representation that she would be consulted about all possible evolving options if it was decided not to hold a public inquiry.

In Part Eight of the judgment Mr Justice Stephens held that the SOSNI and all involved in the decision making process took the commitment made by the previous Government in 2004 into account. Part Nine deals with the applicant's allegation that the consultation process was a sham from the outset. Mr Justice Stephens referred to his detailed outline of the decision making process (Part Four of his judgment) and said there was no direct evidence that the decision had been taken at the earliest stages of the process and no direct evidence of a closed mind. He said the policy was that whilst generally against open-ended, long running and costly public inquiries into the past in Northern Ireland, these decisions should be made on a case by case basis: "It is not an absolute policy evidencing a closed mind. The process which I have set out showed that in fact there was a detailed consideration of this particular case involving anxious consideration of the impact of the various policy options. I do not consider that the process was a sham or that the mind of the SOSNI was closed."

The applicant also contended that the decisions were driven by the Prime Minister and not

do that to me when I was at my most vulnerable and that nothing is being done about it. I feel even more vulnerable now because I have no faith in the justice system or the police to protect me.'

Dawson was given permission to retire by Fiona Taylor, the deputy assistant commissioner of the Metropolitan police professional standards department. She lifted Dawson's suspension last week, paving the way for his retirement. The decision by Taylor appears to be in direct contradiction of new rules brought in by home secretary, Theresa May, this year to prevent police officers resigning or retiring to avoid disciplinary action that could lead to their dismissal. She had previously said that 144 police officers facing gross misconduct investigations resigned or retired and escaped any sanction between December 2013 and August 2014.

A statement from the Met suggested the force was still considering an application from Dawson to retire, but no final decision had been made. The officer, the spokesman said, was on restricted duties, following the lifting of his suspension. However, legal sources close to the case said the Met had no power to prevent Dawson from retiring now that he was no longer under suspension. Dawson was put under investigation by the Met's professional standards department after the woman made a complaint that in 2010, while investigating her rape, the detective had abused his position to groom her and have sex with her.

She reported being raped in 2009 by a work colleague. Dawson, a detective from the Sapphire Unit in Stratford, east London, led the investigation, often visiting her at home on his own. The detective was charged with a count of misconduct in public office and faced trial at Southwark Crown court this month. Dawson, who had access to the woman's medical records, which detailed her history of depression and self harm, admitted to the jury that he had sex with the rape complainant on one occasion. He denied a second sexual encounter.

The 49-year-old married officer said he felt sorry for the victim when the Crown Prosecution Service announced they were not going to charge her alleged rapist. "I felt the only person she would talk to is me and I wasn't going to leave her," he told the jury, denying that he was grooming or wooing her. The court heard Dawson sent her texts including one saying: "U R not alone. I am here and always will be. I think U R so brave, I wish I could do more." Other texts were littered with smiley faces and kisses, including one which urged the woman to "trust me x". A jury acquitted Dawson of the criminal charge of misconduct in public office earlier this month, but he still faces a disciplinary case of gross misconduct for inappropriate behaviour with a victim.

In January, May introduced new regulations to stop officers avoiding disciplinary action by quitting a force. May said the idea of officers avoiding disciplinary action by leaving directly damaged public confidence in the police. "The public rightly expects police officers to act with the highest standards of integrity and for those suspected of misconduct to be subject to formal disciplinary proceedings," said May. "The ability of officers to avoid potential dismissal by resigning or retiring is an unacceptable situation."

Susan May: 'She Lived the Injustice Every Minute of Every Day'

Christabel Mccooey, Justice Gap: The miscarriage of justice watchdog the Cases Review Commission (CCRC) first became acquainted with May's case shortly after its inception in 1997. Whilst the Court of Appeal is the only body with the power to formally overturn wrongful convictions, the CCRC has become a gatekeeper and place of last resort for those maintaining their innocence. Tasked with reviewing possible miscarriages of justice, the CCRC refers cases back to the Court of Appeal where it finds there is a 'real possibility' that the conviction would not be upheld. The watchdog found May's case passed the 'real possibility' hurdle and referred it back to the Court of

Appeal in 1999, though the Court ultimately dismissed it in 2001. A second application shortly afterwards was unsuccessful. However, in 2010, having gained access to previously undisclosed police records and forensic expert reports, May and her supporters made a final application to the CCRC, which affirmed the existence of enough 'fresh evidence' to warrant a new investigation.

However, five years later and the CCRC has still not reached a final decision: 'We find the length of time it is taking extremely disturbing and distressing,' says DorothyCooksey, 'Susan expected every day to hear positive news from the CCRC.' 'At the moment, the CCRC seems to have slowed to a virtual stop,' comments Eric Allison, the Guardian prisons correspondent and long-time supporter of Susan May. 'If you look at the case of Eddie Gilfoyle, his lawyers submitted compelling evidence of his innocence in 2010 and the CCRC are still sat on it. Eddie has been released from jail of course; but like poor Susan, he will never be "free" while his conviction remains in place. What can possibly cause the CCRC to wait so long before deciding to refer back or not? It's a disgrace.' Richard Forster, chair of the CCRC recently reported to the Justice Committee that the body had suffered more cuts than any other part of the criminal justice system; he added that the CCRC 'needed just £1m – 0.1% of the Ministry of Justice's £9bn budget or the price of a Tomahawk' – to clear the growing backlog of prisoners alleging to be victims miscarriages of justice. Are the funding problems to blame for the long delays? 'Yes, the government are to blame for the cuts, including legal aid, which are bound to lead to more miscarriages. But the CCRC have never been pro-active, have never really investigated cases. And I have always had the impression they look for reasons NOT to refer.' Eric Allison

'Susan lost 12 years in prison; she missed the birth of her grandchildren, her mother's death and so many other things. She deserves to have her name cleared no matter how long it takes.' May was convicted of murdering her elderly Aunt Hilda Marchbank in 1997 after she was found beaten and suffocated in her home. The crux of the prosecution case against May rested on 'bloody' fingerprints found on the wall. However, after uncovering a series of botched tests and police inadequacies, including the failure to disclose the sighting of a red car used by a known heroin addict outside Marchbank's house on the night of the murder, forensics later showed that the handprint was in fact sweat, and made before the murder. May's case was referred to the CCRC in 2010 and now remains with the watchdog 'under investigation.'

Susan May maintained her innocence throughout the 12 years she spent in prison, despite warnings that she would not be released by the parole board unless she showed remorse. When May was eventually freed in 2005, she continued her battle to clear her name. Dorothy Cooksey, one of the founders of campaign group, Friends of Susan May (FOSM), recalls: 'Susan and I were just ordinary small town wives and mothers when she was thrust into this world of prisons and courts and barristers. We couldn't believe our justice system was so flawed it could have made such a mistake, we trusted it completely.' In one of her final interviews with the BBC, May commented on the impact of her conviction: 'It's destroyed my health. I've had a few scares. But I'm hoping the fight to clear my name will help me overcome my health problems because I'm determined to see it through. I can't give in. I can't let it go.' However May lost her battle with breast cancer shortly afterwards and died on 12 October 2013.

Asked whether they would continue their efforts to clear May's name now that she passed away, Cooksey comments: 'There was never any question that we, her family and friends, wouldn't carry on the fight. While that wrongful conviction still stands Susan's name is tarnished in the records and history books, and her children and grandchildren live under that dark cloud. What we've been fighting for over 20 years is the unfairness, imbalance and lies embedded in the criminal justice system – all these things are still there and the danger

eral public of both Northern Ireland and the Republic of Ireland as an integral part of the peace process. The rationale for making such a promise was that certain cases from the past which give rise to serious allegations of collusion by the security forces remain a source of grave public concern. The only relevant qualification to that promise was that the public inquiry had to be recommended by Justice Cory. As soon as that recommendation was made then there was a substantive legitimate expectation that a public inquiry would be held. I also conclude that the promise did not extend to a promise that it would be a public inquiry of the kind recommended by Justice Cory. There was no representation to that effect."

He then considered whether the SOSNI had identified any overriding interests to justify the frustration of the expectation that there would be a public inquiry. He referred to the SOSNI's Written Ministerial Statement which was laid in Parliament on 11 November 2010 which included five public interest factors which could justify the frustration of the expectation:

- The conclusions of reviews and investigations into the case and the extent to which the case has caused, and is capable of causing, public concern;
- The experience of the other inquiries established after the Weston Park commitments;
- The delay that has occurred since the 2004 announcement and the potential length of any inquiry;
- Political developments that have taken place in Northern Ireland since 2004; and
- The potential cost of any inquiry and the current pressures on the UK Government's finances.

The judge held that the SOSNI had established that they were overriding interests which as far as the decision maker was concerned justified the frustration of the expectation. He further held that the SOSNI's decision was clearly concerned with macro political issues of policy. He said there were numerous pointers in that direction including the impact of the decision on relations with the Government of Ireland, the political parties in NI and the rest of the UK, on the peace process and on public finances. He also said the promise was made to a wide range of persons and bodies and was part of a complex interlocking process. He concluded that the overall context is that the SOSNI's decisions were in the macro political field and therefore the court is limited in the intensity of the review that it can carry out.

He then turned to consider whether the frustration of the applicant's expectation was so unfair as to be a misuse of the SOSNI's powers. He said that fairness to the applicant has to be seen in the context of a breach of the most fundamental obligation of the state to protect the life of a citizen, the undoubted collusion by servants of the state (none of whom has been prosecuted or disciplined) and whether a review (as opposed to a public inquiry) is an effective way of getting to the truth. He noted that none of the investigations to date have been able to compel any witnesses or suspects to answer any questions and this also has to be seen in the context of deficiencies in the written documentation which may not reflect the truth or is missing. A further issue is the elapse of time and the impact this has on the ability to remember events or the fact that some of the witnesses have since died. Mr Justice Stephens said the court also had to balance whether an inquiry would be prolonged, costly and with a significant risk of judicial review applications and felt that in this case any public inquiry would be significantly longer than the Billy Wright, Robert Hamill and Rosemary Nelson inquiries . He said the SOSNI's decisions had been taken at a time of financial restrictions following the downturn of the economy in 2008 which represented a significant change of context.

Mr Justice Stephens considered the process by which the decisions were made to be fair both in relation to the applicant and also in relation to the wider interests concerned. He said the applicant was afforded the opportunity to make representations, there had been discussions with her about the possible form of any public inquiry; she was aware of the concerns as to how to deal with the

made a recommendation to the Committee of Ministers that the requirements of public scrutiny and accessibility of the Finucane family had been met in light of the publication by the DPP(NI) of the detailed statement of reasons for his decision not to prosecute and the lack of challenge to the adequacy of those reasons. The recommendation was not dependent on a public inquiry being held. Mr Justice Stephens stated that, as part of these proceedings, he had requested information from the DPP(NI) whether the additional material contained in the de Silva report had been considered by him and if so, whether any decisions have been reached and any public explanation given. The DPP(NI) wrote to the court on 11 June 2015 to advise that there is an ongoing police investigation which is considering the de Silva report and documents and that the PSNI and DPP(NI) are both aware of and are pursing the procedural obligations under Article 2.

In Part Six, Mr Justice Stephens considered whether the applicant had established a promise to hold a public inquiry, whether the SOSNI identified any overriding interest to justify the frustration of the expectation, whether the decision in this case lies in the "macro-political" field and whether the frustration of the applicant's expectation was so unfair as to be a misuse of the SOSNI's powers. On the question of the promise to hold a public inquiry, Mr Justice Stephens referred to the Weston Park proposals which provided for a judge to be appointed to undertake an investigation of allegations of collusion in the cases of the murders of Chief Superintendent Harry Breen and Superintendent Bob Buchanan, Patrick Finucane, Lord Justice and Lady Gibson, Robert Hamill, Rosemary Nelson and Billy Wright. The proposal stated that "if the appointed judge considers that in any case [the investigation] has not provided a sufficient basis on which to establish the facts, he or she can report to this effect with recommendations as to what further action should be taken. In the event that a Public Inquiry is recommended in any case, the relevant Government will implement that recommendation".

The applicant considered that this was a "clear and unambiguous representation devoid of relevant qualifications" that a public inquiry would be held. The applicant also relied upon the letter appointing Justice Cory to undertake the investigations which stated that "In the event that a Public Inquiry is recommended in any case the relevant Government will implement that recommendation".

On 1 April 2004, Justice Cory's report was published. He said that because he had no power to subpoena witnesses or compel the production of documents it followed that he could not make findings of fact based on the examination and cross examination of witnesses and he concluded that a public inquiry should be held in five of the six cases he examined, including the murder of Patrick Finucane. Justice Cory went on to set out what he considered was the kind of public inquiry needed. The applicant asserted that, in light of these factors, there was a legitimate expectation that a public inquiry into the death of her husband would be established.

The SOSNI accepted that these statements were made but contends that it was not a commitment to hold a public inquiry unlimited by time or future circumstance and cannot reasonably have been understood as such. It was argued that the circumstances bearing on the public interest in establishing such an inquiry were susceptible to highly significant change and that any commitment of this kind must of necessity incorporate an implicit, but obvious, qualification that the ultimate decision to establish the inquiry would be subject to an assessment of the public interest at the time that decision is being made. Mr Justice Stephens rejected those contentions:

"I conclude that there was a promise which was a clear and unambiguous representation devoid of relevant qualifications that a public inquiry into the death of Patrick Finucane would be held. The promise was not only to the applicant but was also to the government of the Republic of Ireland, to the political parties at the Weston Park conference and to the general that they could affect another innocent person's life in the same way is still there.'

Demonstrations [Wearing Face Masks]

What plans the government have to consider further the banning of the use of masks by demonstrators in order to avoid identification; and what assessment they have made of the current policy's impact on police forces and members of the community. Lord Bates: Face coverings can be worn in public places for a variety of legitimate reasons. In the context of a public order situation, where face coverings are being worn with the express intention of concealing identity, section 60AA of the Criminal Justice and Public Order Act 1994 enables a police officer in uniform to require any person to remove any item which the officer reasonably believes is being worn wholly or mainly for the purpose of concealing their identity. Section 60AA also enables a police officer in uniform to seize any item which they reasonably believe any person intends to use to conceal their identity. A refusal to comply with a direction under this section of the Act is punishable by a fine of up to £1,000 and/or one month's imprisonment. These powers only apply in the locality and for the period for which an authorisation under section 60 or section 60AA of the Act has been given by a police officer of the rank of inspector or above. An inspector's authorisation lasts for a maximum period of 24 hours, unless a police officer of the rank of superintendent or above authorises their use for a further 24 hours. There are currently no plans to ban the use of masks in public order situations.

Deported to South Korea Despite Doubts Over Murder Conviction *David Powell, Mirror*

A man who killed his wife in a Snowdonia fire has been deported to South Korea - even though doubts remain over his conviction. Jong Yoon Rhee started the blaze in 1997 and was convicted of murdering his wife Natalie at a trial the following year. Last month, after serving 18 years, he was escorted from HMP Gartree, a category B prison in Leicestershire, and flown back to his native country. He is believed to have left there, aged eight, in 1972. It was in April 1997 that the couple were staying at a 17th century cottage near Llanrwst. Rhee told a trial at Chester Crown Court that they were awoken by fire. Natalie was hesitant about jumping through the bedroom window so he went first and would have caught her. She, however, didn't follow and died. CPS said he torched the cottage to claim £250,000 to cover gambling debts. But a forensic expert alleged that there were flaws in the fire investigation and that Natalie, 25, died accidentally from smoke inhalation, according to reports in magazine Private Eye. The expert, Dr Roger Berrett, of Forensic Access, alleged that another expert - an electrical engineer who is now dead - "leaned over backwards" to support the prosecution case, it states in the magazine's "Miscarriage of Justice" section. From South Korea, Rhee told the magazine he would maintain his innocence. The Home Office told the Daily Post it takes the protection of the public "very seriously" and will deport criminals. A spokesman said: "We do not routinely comment on individual cases. Foreign nationals who abuse our hospitality by committing crimes in the UK should be in no doubt of our determination to deport them. We take our duty to protect the public very seriously - we have removed more than 24,000 foreign national offenders since 2010." While North Wales Police couldn't comment on the deportation.

The CCRC said it had looked at Rhee's conviction repeatedly. "We have considered Mr Rhee's 1998 murder conviction on three separate occasions in 2000/2004/2010. "In spite of having looked into the case in great detail the CCRC has been unable to identify grounds upon which to refer Mr Rhee's conviction back the CoA. The CCRC has supplied detailed reasons for its decision in relation to each review in a document called a statement of reasons. These were sent to Mr Rhee and his legal team." Statutory restrictions placed on the commission by the Criminal Appeal Act 1995 (Section 23) mean that the CCRC cannot make those docu-

ments public. Rhee and his representatives are able to make them public if they choose to.

Geraldine Finucane's Application for Judicial Review Dismissed

Summary of Judgment: Mr Justice Stephens, sitting today in the High Court in Belfast, dismissed an application for judicial review by Geraldine Finucane of the Secretary of State's decision not to hold a public inquiry into her husband's murder. He held, however, that the State had not fully met its procedural obligation under Article 2 of the ECHR because the investigation into the new evidence arising from the de Silva report was still outstanding and he invited submissions as to whether the proceedings should be amended to seek an order that there had been a failure of the requirement of promptness and reasonable expedition in the investigation since the de Silva report. Geraldine Finucane ("the applicant") lodged an application for a judicial review of the decision of the Secretary of State for Northern Ireland ("SOSNI") in 2011 to hold a review into the death of her husband, Patrick Finucane, rather than a public inquiry of the kind recommended by Mr Justice Peter Cory in 2004.

The applicant challenged the decision on the following grounds:

• She had a substantive legitimate expectation that a public inquiry would be held into the murder of her husband of the kind recommended by Justice Cory;

• She had a procedural legitimate expectation that she would be consulted in advance about any decision to establish a "review" or any procedure other than a public inquiry;

• There was a failure to properly take into account the existence of the applicant's legitimate expectation in deciding not to hold a public inquiry;

• The consultation process was a sham in that from the outset the SOSNI was intent on not having a public inquiry and had no intention of departing from the Government's previously declared policy of "no more open ended and costly inquiries into the past";

• There was a failure to take into account relevant factors and various irrelevant factors were taken into account so that the decision of the SOSNI was a decision that no reasonable decision maker could have taken;

• In refusing to establish a public inquiry the SOSNI has acted in a manner that was incompatible with the applicant's rights pursuant to Article 2 ECHR in that the procedural obligation applies and there has been a failure to comply with it.

Mr Justice Stephens' judgment set out the legal principles which he sought to apply, the factual background and sequence of decisions which led to the challenge before reaching his conclusion. In Part Two he considered the principle of substantive legitimate expectation. There are two stages to the enforcement of a substantive legitimate expectation by the courts. The first stage is whether the applicant has established as a matter of fact the existence of a promise which was a clear and unambiguous representation devoid of relevant qualifications. The judge noted that even if the applicant establishes as a matter of fact the existence of a promise that is not the end of the matter as Governments are entitled to change policy in the public interest. The second stage, which accommodates a change of policy, is for the court to consider whether the consequent frustration by the SOSNI of the applicant's expectation is so unfair as to be a misuse of the SOSNI's powers. The judge stated that a fair balance has to be struck between the interests of the general community and the interests of the individual. He referred to case law which looked at the distinction between promises involving "wide ranging macro-political issues of policy" and promises made to an individual or specific group. He said the court then needs to take account of the existence of the expectation in deciding whether or not there are good reasons for overriding it or whether the frustration is so unfair as to be a misuse of the respondent's

powers. If so, the court then needs to consider what is the appropriate remedy.

Mr Justice Stephens then considered the nature of the procedural obligation under Article 2 ECHR, the legal test for its domestic application and whether factually it applies in this case. He considered that the court is bound by the reasoning in the Supreme Court's judgment in the case of McCaughey and held that on that basis the Article 2 ECHR procedural obligation on the state to carry out an effective investigation into the death of Patrick Finucane would apply even though the death occurred before the Human Rights Act 1998 ("HRA") came into force on 2 October 2000. Case law was cited by the respondent which suggested that the lapse of time between the death ("the triggering event") and the commencement of the HRA 1998 ("the critical date") should be no more than ten years (in this case the death occurred 11 years and 6 months before the HRA came into force). Mr Justice Stephens, however, considered that the ten year time factor is not conclusive but that the test is that the lapse of time must remain "reasonably short" and that what is reasonably short will depend on the context: "In this case the RUC and the Army positively obstructed and thereby initially prevented and ultimately delayed investigations. I consider that the genuine connection test has been met as the period of time between the triggering event and the critical date is reasonably short given the obstruction of the investigation by the RUC and the Army. Accordingly I consider that the genuine connection test has been met and that as a matter of domestic law the Article 2 ECHR procedural obligation applies to the death of Patrick Finucane."

Mr Justice Stephens said that the murder of a solicitor involving collusion by state agencies negates the very foundations of the Convention and he agreed that the adoption of a regime of "murder by proxy" whereby the murder of individuals within a state's jurisdiction was facilitated by agents of the state negates the very foundations of the Convention and indeed of a democratic society. He held that the procedural obligation applies in this case on the basis of the ECHR values test. The judge further held that the new documentary evidence obtained by Sir Desmond de Silva as part of his review (which was published in 2012) and which was not available to Sir John Stevens or Justice Cory, amounted to plausible or credible pieces of evidence relevant to the identification and eventual prosecution or punishment of the perpetrator of an unlawful killing and on that basis the test for the revival of the Article 2 ECHR procedural obligation has been met.

He then looked at whether, in considering if there has been compliance with the procedural obligation in this case, the court is obliged to take into account decisions of the European Council of Ministers. He said that where there is a clear decision of the European Council of Ministers whose effect is not inconsistent with some fundamental substantive or procedural aspect of our domestic law, and whose reasoning does not appear to overlook or misunderstand some argument or point of principle, it would be wrong for the court not to follow that decision.

Part Three of the judgment sets out the factual background to the murder of Patrick Finucane and the sequence of events in relation to the investigation of the murder and of collusion. It details the investigations which have taken place including the initial RUC investigation, the inquest, the three reviews by Sir John Stevens (referred to as Stevens 1, 2 and 3), the review by Justice Cory as a result of the Weston Park Agreement, the investigation by Anthony Langdon, the detailed statement issued by the DPP(NI) of the reasons for no further prosecutions arising out of the Stevens 3 investigation, and the review by Sir Desmond de Silva QC.

Part Four details the sequence of events leading to the SOSNI's decision not to hold a public inquiry and to establish an independent review. Part Five summarises the findings of the Committee and Council of Ministers. In 2008 the Secretariat of the Committee of Ministers