served a threat message but again there was no evidence as to the cause of the threat. • On 7 December 2014 the Sunday World published an article under the heading: "Exclusive: Bombs and Threats as Rivals Fight for Deadly Business". The main theme of the article was that a band of INLA brothers were at the centre of a power struggle with Action Against Drugs. The article referred to the plaintiff and his arrest in connection with the murder of "low level drug dealer Danny McKay". • The Sunday World published further articles in December 2015 and January 2015 about an AK47 being rented out by Action Against Drugs. • On 30 January 2015, Harry McMahon, who had been arrested in October 2012 along with the plaintiff, was shot in the head. On 1 February, the Sunday World published an article which stated that the INLA had been "fingered" as the chief suspect in the attempted murder of Harry McMahon and that he was a close associate of the plaintiff who was described as the "Action Against Drugs boss". • On 3 February, the plaintiff claimed that a further threat was served on him by the PSNI but the court heard that there is no correspondence from the police which confirms the threat message or whether it was deemed to be credible. • On 9 February, the plaintiff was named in an item on an internet blog which aims to "keep the public updated on the activity and membership of the various dissident republican groups". The item stated: "Dissident hit target Harry "O" McMahon remains in a coma in hospital after being shot through the eye socket in Belfast. A man with two young kids watched as the hit man calmly and callously shot the close associate of Action Against Drugs chief Robert McAuley".

America: Young Black Man Jailed For $5 Theft Found Dead In Cell

Jamycheal Mitchell, who had mental health problems, was discovered lying on the floor of his cell by guards early last Wednesday26th August 2015, according to authorities. While his body is still awaiting an autopsy, senior prison officials said his death was not being treated as suspicious. Mitchell's family said they believed he starved to death after refusing meals and medication at the jail, where he was being held on misdemeanour charges of petty larceny and trespassing. A clerk at Portsmouth district court said Mitchell was accused of stealing a bottle of Mountain Dew, a Snickers bar and a Zebra Cake worth a total of $5 from a 7-Eleven. "His body failed," said Roxanne Adams, Mitchell's aunt. "It is extraordinary. The person I saw deceased was not even the same person." Adams, who is a registered nurse, said Mitchell had practically no muscle mass left by the time of his death. A few hours after Mitchell was arrested on 22 April by Portsmouth police officer L Schaefer for the alleged theft, William Chapman was shot dead by officer Stephen Rankin outside a Walmart superstore about 2.5 miles away in the same city. State prosecutor Stephanie Morales said on Thursday she would pursue criminal charges over Chapman's death. Except for a brief item stating that an inmate had been found dead, the story of Mitchell's death has not been covered by local media in Virginia.

Hostages: Mark Alexander, Anis Sardar, 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 Coleman, Neil Hurley, Jaslyn Ricardo Smith, James Dowsett, Kevan Thakrar, Jordan Towers, Patrick Docherty, Brendan Dixon, Paul Bush, 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 Allan, Carl Kenute Gowe, Eddie Hampton, Tony Hyland, Ray Gilbert, Ishtiaq Ahmed.

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MOJUK: Newsletter 'Inside Out' No 545 (03/09/2015) - Cost £1

Mark Alexander's Fight to Clear His Name

When retired English teacher Samuel Alexander disappeared in 2009, the alarm was soon raised. His body was later discovered buried at his family home. His son, Mark Alexander – a 22 year old law student and entrepreneur – was wrongly accused of the murder and is now serving 16 years mandatory life imprisonment. He has always maintained his unqualified innocence.

The case is highly unusual in a number of aspects, in that the time, method and circumstances of death were and remain unknown, and there is no direct evidence that Mark ever committed the crimes alleged. No DNA or fingerprints were found at the scene where the body was discovered and there were no traces of blood or even of a disturbance at the house. There are no eye witnesses and no murder weapon. In his sentencing remarks at Reading Crown Court, the Honourable Judge Reddihough commented that, "We may never know what happened to Samuel Alexander" and "there is little evidence as to precisely what happened". He was also "prepared to give the defendant the benefit of the doubt in terms of intent".

The motive was said to be that Mark wanted to get away from home because his father was "controlling and violent" towards him. The prosecution claimed that Mark's decision to move into a flat in London, rather than study in Paris, was the cause of an argument between them and that – fearing his father's reaction – "it was, in the end, simpler for him to kill his father rather than tell him" about his plans. This seems illogical, given that Mark was due to leave home either way. There is no evidence that Mark was either verbally or physically antagonistic toward Samuel, indeed, the evidence from prosecution witnesses is that "Mark was charming, gentle and polite, an exceedingly good son, and very respectful of his father".

The prosecution invited the jury to draw inferences from an accumulation of circumstantial arguments, each of which alone was unlikely to be sufficient to persuade a majority of the jury. As such, the case against Mark depends entirely upon the prosecution's creation of doubt as to his account of events. The prosecution were reduced to this because none of the evidence available rendered the defence's version of events impossible.

Burial: Samuel's body had been buried beneath three layers of professionally laid mortar and a further-fourth-layer of concrete, later identified as of amateur installation. Mark had ordered the concrete that formed this top layer himself on 17 November, taking delivery of it on 19 November, as part of ongoing construction work at the house. Mark freely admitted that he was responsible for this, indeed he'd conducted the work in front of witnesses, but said he had no idea at the time that his father's remains had been hidden within the layers below. He explained that when he visited the house to survey progress made by the builders since his last visit a month earlier, this particular site had been dug up and prepared with what looked like a specialist foundation. There is no evidence to identify when the site was prepared, or by whom, prior to Mark's arrival on 17th November.

The prosecution argued that if Mark was responsible for the top layer, then he must-by inference-have been responsible for all the layers, and thus the burial itself. This is not supported by the evidence. Stark differences between the materials, workmanship and methodology used in laying the mortar, as compared to the concrete, demonstrate that they were done by different people in two very distinct phases. This was confirmed by an expert geologist and

chartered surveyor, who described Mark's work as "less well-compacted and more voided at the upper edge and surfaces, suggesting a non-specialist installation and the absence of shuttering". By comparison, the "mix quality and consistency (both thoroughness of mixing and degree of compaction) of the mortar layers suggests preparation by an experienced person".

Date of Death: There is a 2-month-long period within which Samuel could have been killed. The exact date remains unknown, but for the purposes of their case the prosecution argued that this could only have happened on 5 September 2009, because this was Mark's last day at the family home before moving into his flat in London. It was on this basis that Mark was convicted. The prosecution relied chiefly upon evidence from an entomologist that Samuel's body had been "buried after exposure for a minimum of two months", to refute Mark's testimony that he had last seen his father alive on 15 October 2009.

If the prosecution are correct, then Samuel's burial in 3 layers of mortar could have taken place no earlier than 5th November. What the court failed to consider at trial is that, in all of November, Mark spent little more than 3 hours at the house over two visits – one and a half hours of which were spent taking delivery of 0.80 cubic metres of concrete that arrived on 19 November. Mark just wasn't there long enough to carry out the crimes alleged. It would have been impossible to excavate the 2 metric tonnes of soil, and then lay the 1.09 cubic metres of mortar, within such a short timescale – less still while avoiding detection or leaving any evidential trail in the process. Each layer alone would have taken 3 to 4 hours to dry before the next one could be added, never mind the amount of time required to mix and lay them professionally.

Mark's movements were meticulously accounted for at trial and are completely inconsistent with the prosecution's case. It doesn't stop there however, because the defence believe that the Crown's estimate as to Samuel's date of death is more than a month out. The entomologist explained that his calculations were reliable as long as the prosecution were correct to assume that Samuel's body had only ever been stored in a garage at the family home. "If that assumption was wrong, my estimate of when the body was last alive would be wrong". "If where the body was lay was 2 or 3 degrees warmer than in the garage, it certainly would have been sufficient to make a difference between the person last being alive in September, as opposed to the middle of October. A pathologist confirmed that "it is entirely plausible that the deceased could still have been alive in October".

The lack of either odour emanating from the street-facing garage, or decompositional staining inside it – and the fact that the species of insect found on the body did not correlate with that found in the garage – indicates that Samuel's remains had in fact been stored elsewhere. Fractures identified by the pathologist were also consistent with transportation of the body. Given that the body had been burnt prior to burial, alarm bells should have started ringing when no sign f fire, smoke or soot contamination could be found at the house itself. All of the evidence suggests that the murder didn't take place there at all – yet this was never considered at trial. It is unclear why, in the absence of such evidence, the police failed to search the local area for clues.

If the prosecution were wrong and Samuel in fact died in mid-October 2009, Mark still couldn't have been responsible. He was sixty miles away by this point, studying at university in London, and – as the prosecution accept – had been away from home for a month by the time his visit on 17 and 19 November. The jury were never asked to consider whether the burial could have occurred prior to Mark's visit. In either scenario, however, Mark can only be innocent.

It should be possible to subject samples of the mortar to scientific analysis, to establish where the burial actually took place, using relative dating techniques. The very possibility of this never occurred to the prosecution or Mark's defence team, and so potentially exculpatory evidence

rights of the newspaper. He said this public interest in the publication is sufficient to justify the curtailment of any Article 8 right.

Harassment: Mr Justice Stephens noted the six matters which case law states have to be established in order to found a claim for harassment: • There must be conduct which occurs on at least two occasions; • The conduct is targeted at the claimant; • The conduct is calculated in an objective sense to cause alarm or distress; • The conduct is objectively judged to be oppressive and unacceptable; • What is oppressive and unacceptable may depend on the social or working context in which the conduct occurs; • A line is to be drawn between conduct which is unattractive and unreasonable, and conduct which has been described in various ways such as "torment" of the victim, or "of an order which would sustain criminal liability".

The judge said that press criticism, even if robust, did not constitute unreasonable conduct and did not fall within the natural meaning of harassment: "Before press publications are capable of constituting harassment they must be attended by some exceptional circumstances which justify sanctions and the restriction on the freedom of expression that those sanctions involve. Such circumstances will be rare." Counsel for the plaintiff accepted that there were no exceptional circumstances in this case and that interlocutory relief on this ground was not appropriate.

Conclusion: Mr Justice Stephens dismissed the plaintiff's application for an interlocutory injunction. He did not consider it likely that at trial the plaintiff would be able to establish a material connection between the publication of the articles or the publication of his judgment and the risk to his life. He concluded that there is a public interest in publication when balancing the plaintiff's Article 8 rights against the newspaper's Article 10 rights. The judge lifted the anonymity order and reporting restriction which had previously been placed on the proceedings.

1. This summary should be read together with the judgment and should not be read in isolation. Nothing said in this summary adds to or amends the judgment. The full judgment will be available on the Court Service website (www.courtsni.gov.uk).

2. The publications and threat messages referred to in paragraphs [12] – [28] of the judgment are as follows: • On 6 April 2014, the Sunday Life published an article under the heading "Suspect in drug dealer's murder has been named" stating that the plaintiff was identified in court papers published online detailing how he failed in an attempt to win a judicial review; • On 28 May the PSNI issued a "threat message" to the plaintiff informing him that "criminal elements plan to carry out an attack on [you] in the near future". The message did not identify the type of attack or the reason for the threat. • On 4 June the PSNI served a further threat message on the plaintiff which stated that "criminal elements intend to carry out a serious assault on a male called Robert McAuley". Again, the police did not provide any information as to why it was believed that there was a threat to the plaintiff. • On 6 July, the Sunday World published an article under the headline: "Robbing Hood: Anti-drugs gang boss raking in a fortune from dope peddlers". The article was accompanied by a photograph of an individual wearing a balaclava and boiler suit and brandishing a handgun with the caption: "Masked: Robert McAuley posing with a gun in front of AAD graffiti warning". The thrust of the article was that he was a suspect in relation to the murder of Daniel McKay and head of Action Against Drugs which "rakes in a small fortune "taxing known dealers"". The article also stated that the plaintiff had recruited disgruntled members of Oglaigh na hEireann. • On 27 July, the Sunday World published an article under the heading: "Vigilante has price on his head". It stated that "Bogus anti-drug vigilante Robert McAuley is on a dissident republican death list". The article asserted that the plaintiff was spreading his gang's operation to West Belfast and specifically targeting members of Oglaigh na Eireann which had responded by issuing a death threat. • On 28 July, the police

would not be sufficient to arrive at that conclusion but where the individual reasons on their own are insufficient they add to the cumulative impact."

Mr Justice Stephens cited the reasons for his decision as follows: • There is no direct evidence from the police or from the plaintiff that the risk was caused by or materially contributed to by the publications; • There were two threat messages to the plaintiff from the police before any of the articles were published in the Sunday World; • There was no association in time between the first and second threat messages from the police and the publication in the Sunday Life on 6 April 2014. • The third threat message from the police on 28 July 2014 is associated in time with the article published in the Sunday World on 27 July 2014 but the evidential strength of that association in time between the publication and the threat message has to be seen in the context of two previous threat messages unrelated to any publication. Also, if the allegations in the article are correct then the association in time is with the activities of the plaintiff rather than with the publication. • There was no threat message from the police in the hours or days after the publications in the Sunday World in December 2014. • The fourth threat message from the police on 3 February 2015 occurred days after a potentially lethal attack on Harry McMahon who was linked to the plaintiff in that both had been arrested on suspicion of involvement in the murder of Danny McKay. • There is evidence that the plaintiff was involved in criminal activity which would amply explain the risk to his life. The judge referred to an affidavit of Paula Mackin, the Sunday World journalist, in which she states that her information about the plaintiff comes from her credible and long standing sources (though she does not identify those sources).

The judge commented that against that evidence is the evidence of the plaintiff who denies that he is involved in any criminal activity. He took into account that the plaintiff had been convicted in August 2014 of two offences of dishonesty, aspects of his evidence which he did not consider to be reliable and that the plaintiff had chosen not to provide any background information to the court about how he earns a living, what his explanation was to the police about the suspicion of his involvement in the murder of Daniel McKay, what he was doing on the day of the murder and the attempts by him to distance himself from the allegations about his involvement in extorting money from drug dealers.

Article 8 ECHR: The question in this case was whether the Sunday World had published or intends to publish information in relation to which the plaintiff has an expectation of privacy. The Data Protection Act 1998 provides that "sensitive personal data" consists of information relating to, amongst other matters, the commission or alleged commission by a person of any offence, any proceedings for any offence committed or alleged to have been committed by him and the disposal of such proceedings or the sentence of any court in such proceedings.

Mr Justice Stephens said Article 8 is engaged as the Sunday World had published allegations that the plaintiff has committed and intends to commit criminal offences. The Article 8 right is a qualified right which can be interfered with in accordance with the law, to pursue a legitimate aim, and if necessary in a democratic society. The judge said the question of necessity in a democratic society requires consideration as to whether the decision is proportionate and strikes a fair balance between the competing public and private interests including the right of the press to freedom of expression: "Before interfering with those rights and under section 12(3) [of the Human Rights Act 1998] the plaintiff has to establish that if a court is considering whether to grant any relief which, if granted, might affect the exercise of the Convention right to the freedom of expression, that no such relief is to be granted so as to restrain publication before trial unless the court is satisfied that the plaintiff is likely to establish that publication should not be allowed." Mr Justice Stephens considered there is a public interest in the publication of the material and that the balance comes down firmly in favour of the Article 10

– proving that Samuel's burial happened while Mark was away – was overlooked at trial. Mark's legal team want to conduct these tests now, as part of fresh evidence to present to the Criminal Cases Review Commission and the Court of Appeal, challenging Mark's conviction. Any cause to doubt the prosecution's case now, is cause to doubt the safety of the verdict.

Evidence has since come to light, through a Serious Case Review of a healthcare visit "having occurred on 8 September", by which time Mark had, of course, moved out. This wasn't disclosed at trial and further undermines the prosecution's assertion that Samuel died on the 5th, since their case very much hinges on upon this date. Moreover, another trial witness admitted changing a statement she had made about an encounter with Samuel in October, when prompted by police to 'reconsider' her account.

Samuel's Past and Disappearance: One of the concerning aspects of Mark's case is the existence of significant unanswered questions as regards the deceased's life. The identity of those who Samuel had regular contact with – including carers, casual labourers and online associates – were not established by the police and never came forward. Many of these people had direct access to the family home but were neither traced nor excluded from the investigation. Despite the lack of direct evidence linking Mark to the crime itself, the police appear to have been convinced that they 'had their man' and seem not to have explored serious gaps in their knowledge of Samuel's interactions with others or the circumstances of his death.

Samuel was an extremely private man with a predilection for avoiding contact with even close relatives, if it suited him. In new evidence, his family relates how "he used to disappear and stop writing to us from time to time, then return again, saying he was busy or ill. We tried to telephone him several times and no-one was home. After that he changed the phone number and we did not know why". At trial neighbours described how "he was perfectly capable of dropping off the radar if he wanted". In fact, Samuel had been leading a double life for years, using multiple aliases (at least eight) and going to extraordinary lengths to maintain the secrecy of his activities. A Serious Case Review noted that "he seemed not to exist". Witnesses told the Court that Samuel "could easily accumulate many enemies" and "knew that he had many enemies". Yet, the police made no attempt to develop these lines of enquiry or investigate Samuel's fake identities. The scant attention paid to any alternative explanation for Samuel's death is one of the factors that makes us question the safety of Mark's conviction.

The prosecution relied heavily on the nation that the deceased's disappearance was wholly out of character and that Mark's failure to react to this was indicative of his guilt. This just isn't consistent with what we know about Samuel's lifestyle. New evidence form the Serious Case Review confirms that he was habitually elusive and that his "mon-engagement was familiar to staff". Nurses were often "unable to gain access" to his home and he often "failed to attend" appointments. This is at odds with the Crown's implication, for example, that Samuel abruptly ceased a previously regular contact with all medical professionals.

Although Mark was concerned at his father's silence – his continued calls going unanswered – this had become something of a norm to him and he assumed that this would eventually pass. It was only reasonable for Mark to expect that his father would disengage from time to time. In the circumstances of his father's strong preference for privacy, Mark's reluctance to take matters up with the authorities is perfectly understandable. In particular, he had been relying upon Buckinghamshire Adult Social Care to monitor his father's welfare, while he was away. Their lack of communication allayed his concerns and contributed to his assumption that all was well. They only informed him that there may have been cause for concern on the day of his arrest. The Serious Case Review found that this was caused by "a lack of scrutiny…passive oversight…and flawed practices" on their part.

Credibility: This, and other corroborating evidence, goes a long way toward rehabilitating Mark's credibility, undermined as it was by the Crown's emphasis upon false statements he had made to neighbours and to the police. Even though Mark admitted to these and gave innocent explanations for what he had said, the prosecution used this to cast doubt over the rest of his testimony. Mark's account went largely unsupported at trial, but can now be independently contextualised and corroborated to neutralise the Crown's attack.

In an effort to help the police with their enquiries, and in expectation of his father's return to resolve the misunderstanding, Mark proceeded for the first three hours in interview without a solicitor. Mark shortly discovered that his mother was, in fact, still alive, after being told the contrary for most of his life. This revelation, taken simultaneously with the news of his father's likely death, threw him into a state of turmoil and disarray. Over the course of his interrogation, Mark spent one hundred hours in solitary confinement. This had a profound and debilitating effect on him, given that he had no previous experience of police arrest. The prosecution later sought to capitalise upon honest mistakes made at interview.

Prosecutors repeatedly misled the jury during the opening of Mark's trial, for example: claiming that a water leak had been staged, when it was merely a burst pipe; or that saw blades were missing from an open packet, when the pack was in fact unopened. Similarly, lurid allegations that Samuel's body had been dismembered went uncorrected for over a week – despite having been discounted by the Crown's own experts a month earlier – allowing them to be sensationalised in the press. This would have had a damaging and irreparable effect on the jury, long after its retraction.

Financially and socially independent, Mark had no reason to wish his father any harm. Described by friends as "genuinely selfless", he had nursed his father back to full health in 2008, after a colostomy operation, which left Samuel wholly dependent on his son's care for more than six months. Prior to his arrest, in February 2010, Mark was running a successful software business, while reading Law at King's College London. He spent his gap year working at IBM, on the strength of his A-level results from Rugby School, where he won a scholarship.

Campaign: It is surprising that Mark was ever convicted on the basis of what was ultimately a weak and speculative prosecution case. Nonetheless, on 8 September 2010, after a six-week trial and more than twelve hours of deliberation, the conviction was finally secured by majority (10 of the 12 jurors). We are extremely concerned that Mark was found guilty, on the basis of doubt created about his version of events, rather than any evidence of his involvement in a murder. No such evidence exists. It is difficult to see how a proper acquaintance with Mark's case does not cause the suspicion that a grave injustice was done in his conviction and continues to be done in his imprisonment.

Mark has since been reunited with his mother, and spends his time studying, writing and playing his violin. Friends and colleagues continue to call for his conviction to be overturned, in a growing campaign supported by both sides of his family. We urge the Criminal Cases Review Commission torefer Mark's case to the Court of Appeal as a matter of urgency.

Supporters include: Terry Waite CBE, Rt. Hon. Mark Field MP, Reverend Canon Grant Fellows, SAFARI - Rt. Hon. Mark Field MP - "I am supportive of Mr Alexander receiving a retrial, in light of the lack of conclusive evidence". - SAFARI – "This is a case which clearly requires a thorough investigation to find the real perpetrator. There is obviously very serious doubt as to whether this crime was committed by Mark".

Terry Waite CBE - "I am disturbed by the conviction of Mark, as I find it difficult to believe that a complete forensic examination was conducted before the jury found him guilty by a majority verdict. It was pointed out by the judge in his summing-up that the evidence was

detention. He was unconditionally released the following day without charge. The judicial review application was heard in early 2014 with the principal ground of challenge being that the exclusion of the plaintiff and his legal representatives from the hearing was unlawful.

On 13 March 2014 the Divisional Court gave its judgment in open court. A summary of the judgment and the full judgment were published on the Northern Ireland Courts and Tribunals Service website. The judgment referred to the suspicion that the victim of the murder was a drug dealer, that the murder was perpetrated by members of the dissident IRA taking lethal action against drug dealers, that the plaintiff was suspected of involvement in the murder and that he may have had connections with dissident republican groupings. No application was made to the Divisional Court to anonymise the summary and judgment.

In paragraphs [12] – [27] of his judgment, Mr Justice Stephens sets out a chronology of newspaper articles published in the Sunday Life and the Sunday World which named the plaintiff and the threat messages served on the plaintiff by the PSNI. He considered that the gap between the date of the article in the Sunday Life and the date of the threat message was a strong indicator against the threat being caused or materially contributed to by that publication . He said the question for the court was therefore whether the subsequent publications in the Sunday World materially contributed to the renewal or the continued existence of the threats.

Articles 2 and 3 ECHR: Mr Justice Stephens said that where a positive operational duty to protect life under Article 2 arises the court, as a public authority, is required to address the issue of what proportionate response is required in the circumstances. He said the standard is "based on reasonableness" and the potential steps for the court in this case would be to anonymise the proceedings, to impose a reporting restriction and to grant an interlocutory injunction. The judge then considered whether, in this case, there is a real and immediate risk to the life of the plaintiff. It was submitted on behalf of the plaintiff that this had been established by the police threat messages and by the fact that Harry McMahon was shot in the head. The judge considered that in effect Sunday Newspapers Ltd agreed that there is a real and immediate risk to the life of the plaintiff as it alleged that there is a dangerous and lethal gang war taking place in which the plaintiff is participating. He also agreed that there is such a risk and that there is a real and immediate risk that the plaintiff would be subjected to torture and inhuman or degrading treatment contrary to Article 3 ECHR: "The remaining issue between the parties is whether these risks were caused by or materially (that is greater than marginally) contributed to by the publications."

Mr Justice Stephens said that at this interlocutory stage of the proceedings the plaintiff has to establish that at trial it is likely that that issue would be decided in his favour (section 12 of the Human Rights Act 1998 provides that if a court is considering whether to grant any relief which, if granted, might affect the exercise of the Convention right to freedom of expression that no such relief is to be granted so as to restrain publication before trial unless the court is satisfied that the applicant is likely to establish that publication should not be allowed). He said the requisite standard of proof is flexible but that the court should not make an interim restraint order unless satisfied that the applicant's prospects of success at trial were sufficiently favourable to justify such an order being made in the particular circumstances of the case: "Applying that flexible standard and on the evidence before me I hold on an interlocutory basis that the plaintiff is not likely to establish that the publication of the articles in the Sunday World or the publication of further articles have caused or will cause any or any material (that is greater than marginal) contribution to the risk to his life or to the risk of torture and inhuman or degrading treatment. I do so for a number of reasons some of which individually

Accused Fights Back- Harvey Proctor and the Administration of Justice

Recent years have seen numerous high profile arrests for historical sexual abuse of high profile public figures. Operation Yewtree (Jimmy Savile and others) appears to have been superseded (certainly in relation to column inches) by Operation Midland an investigation into a Westminster sex ring operating in the 70s and 80s in which names such as Edward Heath and Leon Brittan were identifed.

But what is different about Harvey Proctor? For years we have seen high profile figures refuse to comment on allegations, other than bland denials, no doubt acting on legal advice. They do not want to either prejudice any trial, or be tried in the court of public opinion i.e. social media. The only words out of Cliff Richard's mouth in the last 18 months was when he sang at Cilla Black's funeral. That was front page news.

The Police on the other hand use the media and public opinion to bring additional shame on those they investigate. Who can forget that when Harry Redknapp's house was raided by the Police, the first people on the scene (even before the Police) were a BBC News crew. They also use the publicity in the hope that further witnesses will step forward. Those that are acquitted blame the unfairness of the system, accuse the Police of a witch hunt, call for the accused to lose their anonymity and then thank their legal team!

Harvey Proctor is rewriting the rules - His house was raided on the 4th March 2015. He received a phone call from a journalist whilst the Police were still present. Within hours the national media had the story. Harvey Proctor was interviewed in April on suspicion of murder, torture and sexual activity with children seemingly based on the evidence of one witness called Nick, who of course remains anonymous. He was again interviewed this week with no conclusion in sight and according to Proctor with no further evidence.

So rather than disappear into the background, what did Harvey Proctor do? He called a news conference. He set out in detail every single horrific allegation made against him and set out his defence. He implored anyone who could support Nick's claims to come forward (obviously hoping no one will), accused the Metropolitan Police of a homosexual witch hunt, demanded the resignation of Senior officers and concluded by inviting the Police to charge him or prosecute Nick. Put up or shut up. Now everybody knows about Harvey Proctor. He is using the media to fight back and he is the first to do this. For that he is to be congratulated. However like any good poker player will tell you, you must be a world class bluffer or absolutely sure of his hand. I hope for Harvey Proctor's sake it is the latter.

Written by Max Saffman. Max High Court Advocate and has extensive experience of defending allegations of serious crime and sexual offences.

Court Dismisses Application for Injunction by Robert Mcauley

Robert McAuley ("the plaintiff") sought an injunction against Sunday Newspapers Ltd (publisher of the Sunday World) preventing it from "harassing, pestering, annoying or molesting him whether by publishing, distributing, broadcasting or transmitting any information relating to him". He contended that he was entitled to this relief on the basis of Articles 2, 3 and 8 of the ECHR and under the Protection from Harassment (Northern Ireland) Order 1997.

On 27 October 2012, Robert McAuley and Harry McMahon were arrested in connection with the murder of Daniel McKay in Newtownabbey two days beforehand. At the time of his arrest the plaintiff had a clear criminal record but background checks revealed that he may have connections with dissident republican groupings. On 29 October 2012 the plaintiff lodged judicial review proceedings to challenge a decision by a judge to grant an application to extend his

circumstantial, but even so, he was convicted and sentenced. It is in the interests of justice that Mark's request for a full forensic examination of the site be conducted without delay".

Mark's mother – "I have been blessed to have Mark back in my life after all these years. Mark was always a very caring son to his father. He showed unconditional love and always appreciated his dad's nurturing and encouragement to be a success. Mark has always made us proud parents. He nursed Sami when he was very ill with colitis, and that alone shows how much care and love he had for him. Mark made it his priority to support him when he needed his help. Any humane person can see that Mark would never wish to harm his dad in any way. I will only be at peace when Mark is free to live his life as it should be".

Mark's grandmother – "I still can't believe or understand why Mark is in prison. It doesn't seem right to us. A lot of people didn't like his father. Somebody knows what happened to Sami, but that person isn't Mark. Mark has been a victim in this as well as his dad. It's a very sad time for him, but the truth will come out. We will always support him, as does all the family".

Mark Alexander, April 2015 – "Over five years have passed now since my father's death – years dogged by grief, loss and injustice. Yet I try not to view my plight in isolation. I see my case as representative of a much wider miscarriage of justice phenomenon, in which some 3,000 innocent men and women are wrongly convicted each year in the UK alone. So long as I remain in prison, I will continue campaigning for justice, not only for my family and me but for the wider case of penal reform. If, though my case, I am able in any way to raise awareness of the urgent and continuing need for change in our justice system, then it may just make all this a little less meaningless. It is clearer to me now more than ever that some deeper purpose can be derived from tragedy and that channelling positive outcomes from seemingly senseless life events is possible. This is as much a fight for my father's dignity as it is a fight for my own freedom. I have faced many setbacks and I may well face many more, but the most important principle is perseverance. In the pursuit of truth, righteousness and vindication, it is essential to keep the flame of hope alive – to pick yourself back up and to bear the burden of injustice with dignity and strength.

Thank you to all my family and friends, who have stood by me, and to all those supporters who have joined us without knowing me directly. Your generous words and prayers have carried me through each obstacle and every disappointment – in moments of despair, exhaustion and disillusionment. Without you this would all be so much harder to bear. There is much left to be done, but with your help I know we will get there".

Mark Alexander A8819AL, HMP Gartree, Gallow Field Road, Market Harborough, LE16 7RP

CCRC Refers Murder Conviction of Jonathan Embleton To Court Of Appeal

Mr Embleton and two co-defendants pleaded not guilty but were convicted at Teeside Crown Court in November 2000 of the joint enterprise murder of Mohammed Sharif. Mr Embleton was sentenced to life imprisonment with a minimum term of 15 years. Mr Embleton appealed against his conviction but the appeal was dismissed in April 2003. He applied to the Commission for a review of his case in November 2010. Having conducted a detailed review, the Commission has decided to refer the case to the Court of Appeal because it considers that there is new evidence which raises a real possibility that the Court will quash the conviction. The referral is based on sensitive information. That information has therefore been provided by the Commission to the Court of Appeal and to the Crown Prosecution Service in a confidential annex to the Statement of Reasons. Mr Embleton and his legal team have been provided with a copy of the Statement Reasons but they have not been given the confidential annex.

'Unwinable' Cases Can be Won (Joe Stone QC - Doughty Street Chambers)

The so called "Unwinnable cases" are won on the basis of sound trial preparation, a genuine proactive defence and incisive cross-examination on the live issue at trial. So many Crown Court defences fail at trial because these 3 golden rules are simply not observed for a whole raft of reasons.

It is critical for any trial advocate to get a focussed DCS (defence case statement) out at an early stage which seeks core secondary disclosure documents. DCS with bland denials and endless shopping lists of items are all too commonplace and rarely effective. A good DCS should be a weapon in the defence armoury that should immediately put the prosecution on the backfoot not one that has the CPS lawyer yawning and reaching for a cup of coffee.

A sound case strategy, knowledge of the best experts to instruct for the specific case facts, a clear understanding of crime scenes (via views), a detailed understanding of evidence, early case conferences with clients/experts to identify the weaknesses on both prosecution/defence sides are all essential for the advocate that is truly interested in securing an acquittal for the client.

Defences which are put together as reactive last minute affairs are rarely robust and never immune from effective prosecution cross-examination. The defence should be the party that truly sets the parameters in which the trial is fought not the other way around.

If these rules are truly adhered to experience shows again and again (that like the Sonnex case) the unwinnable case on paper becomes the winnable case at trial. Those who ignore them (for whatever reason) will inevitably reduce the probability of an acquittal.

Announced Thematic Inspection - Close Supervision Centre System

"We were most concerned about progression and reintegration, which was critical to ensuring the system was not used just as a long-term containment option for very problematic and dangerous men. With some justification men complained about long periods of inactivity and a lack of progress through the system."

"Support to help prisoners maintain contact with family and friends was poor, which meant men were deprived of hope and motivation. We felt that these deficits needed prompt attention."

"Aspects of the environment needed to be improved and, critically, regimes needed to be delivered more reliably. Men also required greater opportunities to occupy their time purposefully, demonstrate changes in their behaviour and interact with families and friends."

"In addition, the reasons why a disproportionate number of black and minority ethnic and Muslim men were held in the system needed to be better understood, and action taken to address any identified issues of unfairness."

The Close Supervision Centre (CSC) system holds about 60 of the most dangerous men in the prison system. Many of these are men who have been imprisoned for very serious offences which have done great harm, have usually committed subsequent very serious further offences in prison and whose dangerous and disruptive behaviour is too difficult to manage in ordinary prison location. They are held in small units or individual designated cells throughout the high security prison estate. These men are likely to be held for many years in the most restrictive conditions in the prison system with limited stimuli and human contact. The system is run by a central team as part of the prison service high security directorate although day to day management is the responsibility of the individual prisons in which the units or cells are located. A further 14 men who do not quite meet the threshold for the CSC system are held under the 'Managing Challenging Behaviour Strategy' (MCBS) in similar but slightly less restrictive conditions. This is extreme custody and its management raises complex operational challenges and profound ethical issues.

'Urgent review' of Appropriate Adults Needed *Law Gazette*

Solicitors have urged the government to review, as a matter of urgency, the provision of appropriate adults (AA) for mentally vulnerable detainees in police stations after a report highlighted 'significant shortcomings'. The Home Office-commissioned report , There to help , found 'inadequate' police practices with respect to identifying suspects' vulnerabilities and the need for AAs, and highlighted limited availability and a variable quality of AAs. Police are required to secure an AA whenever they detain or question 'mentally disordered' or 'otherwise mentally vulnerable' adults, including people with mental illness, learning disabilities, traumatic brain injury, dementia and autism. The AA has a defined role, under the Police and Criminal Evidence Act 1984 (PACE) codes of practice, to 'provide support, advice and assistance necessary to ensure fair treatment, effective participation and guard against false confessions. AAs help the police to fulfil their responsibilities under PACE and are a critical safeguard against the abuse of police powers'. 'Many vulnerable adults do not receive the support of an AA or receive it only for part of the custody process,' the report states. 'This undermines their welfare, inhibits the exercise of their legal rights, risks miscarriages of justice and lengthens custody times potentially increasing the risk of self-harm.'

The National Appropriate Adult Network, a national membership body and charity supporting and representing organisations that provide appropriate adult services, was commissioned to examine current AA arrangement for vulnerable adults, identify shortcomings in provision and develop recommendations to ensure provision. Its 10 recommendations include amending PACE to establish an 'explicit' statutory duty on police officers to secure an AA for all mentally vulnerable adults, and for 'greater consistency' in courts' approach to the admissibility of evidence obtained in the absence of an AA. Based on a 'conservative' estimate, the report states full provision of trained AAs throughout the custody process would cost £19.5m a year, equating to £113,000 per local authority. Current national spending is estimated to be around £3m a year. The network recommended short-term programme funding of £3m-£5m a year to support the inclusion of AA provision within 'mainstream' budgets.

Avtar Bhatoa, chair of the Law Society's criminal law committee, said it was 'vital' the report's recommendations were implemented. 'With the right support, mentally vulnerable people are less likely to suffer an injustice or to waive their right to free legal advice through fear and misunderstanding, which can compound their disadvantage in the justice system,' Bhatoa said. Jonathan Black, a partner at London criminal defence firm BSB Solicitors, recalled recently encountering a case involving a teenage girl who was kept in a central London cell overnight due to an appropriate adult not being available. Black said it was 'inappropriate for her to be detained in a busy custody suite full of drunks on a Saturday night but the police were hamstrung as they could not bail her pending interview due to the nature of the allegation'. Black said an 'urgent review' of AA provision was needed 'as part of a wider consideration of the issues that we are raising with the Ministry of Justice at the moment. 'Under duty contracting, the shortage of representation in some areas will cause even greater potential delays for these young people as police struggle to organise the attendance of all relevant professionals'.

However, the report prompted some solicitors to question the need for AAs. Lee Davies, director of Swansea practice Goldstones Solicitors, said he could think of 'very few cases' where the presence of an AA 'has made a difference to the case'. 'However, for as long as they are still required by virtue of PACE, it is essential that they are able to attend as soon as possible as it is completely unacceptable that anyone is detained longer than they need to be because an AA is unavailable,' Davies said. Home secretary Theresa May said she commissioned the report 'to determine where the problems lie' as a result of a lack of AAs. The 'status quo', she said, 'is not acceptable' and her department was 'currently examining' the recommendations.

document with intent and that the statutory defence would probably have succeeded. This case is one of several involving asylum seekers and refugees that the Commission has referred to the appeal courts in recent months. Several other cases raising similar issues are currently being investigated by the Commission. Two articles written by the Commission discussing other cases and explaining the issues and the law in this area can be seen on the Law Society Gazette website

CCRC Refers Convictions of Jason Garland to Court of Appeal

Mr Garland appeared at St Albans Crown Court in 2007 charged with burglary, aggravated burglary and causing grievous bodily harm with intent. He pleaded not guilty but was convicted on 20th December 2007 and sentenced to 17 years' imprisonment. The burglary occurred in July 2006 at the Harvester Public House, Croxley Green, Watford. The landlord and landlady of the pub were attacked with knives and badly injured during the burglary. Evidence linking another man, Steven Ruffolo, to the burglary and attack led to his arrest a week after the incident. Mr Ruffolo was convicted in January 2007. Prior to sentence, he named Jason Garland as his accomplice. Mr Garland denied any involvement in the offence and relied on alibi evidence provided by his girlfriend. In 2010 Mr Garland tried unsuccessfully to appeal against his conviction. Later that year he applied to the Commission for a review of his conviction. Having conducted a detailed review of the case the Commission has decided to refer Mr Garland's convictions to the Court of Appeal.

The referral is made on the basis that the deliberate non-disclosure of information available to the police and the Crown, which could have affected the outcome of Mr Garland's trial, raises a real possibility that the Court of Appeal will conclude that Mr Garland's convictions are unsafe. The undisclosed information uncovered by the Commission and on which the referral is based is of a sensitive nature. It has therefore been provided to the Court of Appeal and to the Crown Prosecution Service in a confidential annex to the Commission's Statement of Reasons. Mr Garland and his legal team have been provided with a copy of the Statement Reasons but they have not been given the confidential annex. Mr Garland is represented by Henry's Solicitors, 72-74 Wellington Road South, Stockport, Cheshire SK1 1QZ.

Jailed Gangster 'Had Sex Morning, Noon and Night' *Siobhan McFadyen, Daily Mirror*

A notorious gangster who was jailed for a drive-by shooting has been taking selfies of him enjoying sex sessions while in hospital. Declan Madigan, 29, of Newark, Nottinghamshire - who is paralysed from the chest down following a car accident in four years ago - was also allowed takeaway deliveries to his bedside. Madigan holds the record of being the youngest person ever to have received an Anti Social Behaviour Order handed down when he was just 14 for over 100 offences. The notorious drug dealer was recently moved to Medway Hospital in Gillingham, Kent for a two-week stay after complaining he had lost the use of his arms. But while he was on leave from HMP Swaleside, on the Isle of Sheppey, his 23 year-old girlfriend Karen Robson shot footage of the pair performing sex acts while a prison guard appears to be sleeping next to him. Miss Robson told the Sun she spent up to 18 hours-a-day with Madigan lying in bed, ordering pizzas, fish and chips and Chinese food as well as enjoying steamy sex. She said: "Declan's supposed to be a high risk prisoner but his mates could have busted him out if they'd wanted. '[The guards] just kept saying how easy it was. We'd buy them food and they would just eat it all with us. They would either leave the room when we had sex or just draw the curtains round his hospital bed and let us get on with it.' "I used to walk in without showing ID at about 9am and stay with him till 3am. In 2009, Madigan was blocked from applying for legal aid by a judge after he inherited £50,000.

With the exception of HM Inspectorate of Prisons' thematic reports published in 1999 and 2006, our reviews of the CSC system have been limited to looking at individual units during inspections of the host prison. This provided us with very little opportunity to report on system-wide issues, such as governance, decision-making and progression. We therefore decided to develop a methodology for inspecting CSC units as a discrete system using a set of bespoke expectations or inspection criteria. We also decided to look at the small number of prisoners managed by the CSC central team under the managing challenging behaviour strategy. A draft set of expectations was developed, aiming to capture the key outcomes for prisoners held in the CSC system; they were used for the first time during this inspection. We plan to develop these further in light of this inspection and to publish them before we revisit CSCs in the future. In the meantime, the results of this inspection provide an important benchmark for calibrating the results of future inspections. We were assisted in this inspection by an expert advisory group and we are grateful to the prisoners and staff we interviewed and surveyed to help us understand how the system worked.

We found that clear progress had been made in clarifying the aims and processes of the CSC system. The aim of the system was to remove the most dangerous prisoners from ordinary location, manage them in small highly supervised units and use individual or group work to reduce their risks so they could return to normal or other suitable location. We found that decisions to select prisoners for the CSC system were based on a clear set of published criteria and a robust risk assessment. After selection a series of reviews was conducted to chart progress and review allocation decisions. However, there was no independent scrutiny or external involvement in decision-making to promote objectivity and ensure fairness. This was particularly important given the highly restrictive nature of the units, restrictions on access to legal aid and the difficulties prisoners had in being deselected.

Leadership of the system as a whole was clear, principled and courageous. However, while the central management team could directly influence decision-making and system-wide issues, it had limited control over the day-to-day management, staffing and delivery at unit level, which were ultimately the responsibility of the host prison governor. We found the delivery of some important processes varied and a minority of managers and staff did not understand the ethos of the system or embrace their role within it. This needed to be addressed to ensure that the management structure fully supported the system's aims. Use of data to monitor trends and drive quality improvement needed to be improved. Key data was often not disaggregated from the host prison data so important information specific to the CSC system could not be identified.

We were concerned about the almost unregulated use of designated cells in segregation units. This often led to prisoners being held in segregation units for many months or even years, with poor regimes and little emphasis on progression, which was contrary to the prison rule 46 under which they were held. The centrally managed MCBS units also needed improved governance. It was unclear how they sat within the system as a whole and management arrangements and progression opportunities also lacked clarity. The work placed huge demands on managers and staff and it was reassuring that some good support was provided, although individual personal development sessions needed to be offered more reliably. Staff in the units received good basic training, but many told us additional specialist training was required to help them understand and manage some prisoners' behaviour.

Nearly all prisoners had a care and management plan. While the quality of plans varied, staff understood the men in their care well, enabling them to manage problematic behaviour effectively and promote change. Chaplains played an important role. Despite the significant risks the men posed, the majority of prisoners and staff felt safe. It was commendable that most security restrictions and behavioural management work appeared measured and proportionate. Nevertheless, some

incidents were very serious, and the ongoing risks to staff and prisoners were high. Serious and credible threats had been made against staff and prisoner on prisoner violence had caused life changing injury. Care for those at risk of self-harm, a high proportion of the men held, was good and levels of self-harm were low. The management of use of force and other control methods was proportionate.

Daily living conditions in the small units were cramped, particularly in Full Sutton, Manchester and Wakefield. One prisoner described the experience as being 'like a submarine' – which captured both the claustrophobic nature of the environment and the isolation in which prisoners lived. Prisoners had a very restricted view or outlook and some units had little natural light. While some units had made efforts to add interest to communal areas, others lacked character or colour. Exercise yards were austere cages. The units were generally clean and men received the everyday basics. Men were able to personalise their cells. Given the restricted nature of the regimes offered and most men's inability to move out of the units, more needed to be done to offset the real potential for psychological deterioration by the more imaginative provision of both in and out of cell activities. Staff-prisoner relationships were reassuringly good. Regular staff knew the men very well and worked with them constructively, but the frequent deployment of staff from other areas of the host prison into CSC units was destabilising because these staff did not know the men as well. Health care arrangements were equitable and largely met the needs of the men held; psychological and psychiatric services were strong, although there were some issues relating to information-sharing.

While men with protected characteristics received good individual support, we were concerned to see a very high proportion of black and minority ethnic prisoners and Muslim men held in the system. We were encouraged that the central management team had assessed key processes to identify inbuilt bias and commissioned research to look at the underlying reasons for the imbalances. Once the results of this review are known we would expect immediate action to address any issues leading to an adverse impact on any of the groups held.

We were most concerned about progression and reintegration, which was critical to ensuring the system was not used just as a long-term containment option for very problematic and dangerous men. While we saw some very good psychologically informed group and individual work taking place in all the units we visited, which included work to address radicalisation, the range offered was somewhat limited. With some justification men complained about long periods of inactivity and a lack of progress through the system. Time out of cell was too variable, and in some cases amounted to prolonged solitary confinement. Regimes at nearly all units were underdeveloped and subject to regular curtailment; they also failed to offer further education opportunities. In addition, support to help prisoners maintain contact with family and friends was poor, which meant men were deprived of hope and motivation. We felt that these deficits needed prompt attention.

We do not underestimate the risk the men held in the CSC system pose or the complexity of working with them. The overall humanity and care provided to men whom it would have been easy to consign to the margins of the prison system was impressive. The system had a clear set of aims, was basically well run and founded on sound security and psychological principles and sought to contain men safely and decently. There were, however, a number of important issues that needed to be addressed. Management arrangements needed attention to ensure delivery was consistent and independent scrutiny and external involvement in decision-making were required to provide transparency and rigor and to ensure fairness.

The use of designed cells needed far greater scrutiny and control and there needed to be more clarity and regulation concerning the centrally managed MCBS prisoners.

relationships. She was denied a valuable working life that may have brought with it not only pecuniary profits but also the intangible benefits of doing well in one's occupation. The enormity of this loss is made still more staggering by the significant period of time for which that loss was suffered." Ms Beckett slammed the DPP outside court as a "flawed" and "broken" system. "I've been dragged through hell," she said.

Justice Harrison said Ms Beckett had been denied the right to a normal life and it is now impossible to tell what could have been. "It is not possible to know what would have been the life that Ms Beckett would have led if she had not faced any of the charges for which she was put on trial that are the subject of these proceedings," Justice Harrison said. "These reasons are by coincidence published on the twenty sixth anniversary of Ms Beckett's arrest. The benefit of hindsight over such a long period does not improve the view of what might have been but for those events."

During a hearing in the matter last year, Ms Beckett told the court that she first met Detective Sergeant Peter Thomas, the man who would later prosecute her, in 1983. He was investigating a fire at her delicatessen business in Taree in the state's mid-north coast in late 1983. Sgt Thomas, she said, began making a series of unwanted "suggestive" comments. In one instance at his office, Ms Beckett said he had insisted she listen to the song Islands in the Stream, which lyrics include, "All this love we feel needs no conversation". "He told me it could be his and my song," Ms Beckett recalled in 2014. When she lodged a series of complaints with the force about Sgt Thomas's alleged misconduct, Ms Beckett says she was harassed and eventually charged with arson herself - a case that never proceeded. In 1987, she then married local panel beater Barry Catt, whom she says was a friend of Sgt Thomas In 1989, when Mr Catt was facing charges of his own, she says Sgt Thomas began investigating her.

Justice Harrison found on Monday that the evidence establishes that Detective Thomas harboured an intense dislike for Ms Beckett and that the fallout from the delicatessen fire was the cause of it. "Detective Thomas utilised the legal system in a way that did not secure justice but perverted it," he found. *Amy Dale and AAP, The Daily Telegraph, Australia*

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CCRC Refers Case of S to Court of Appeal

Mr S, an Iranian national, arrived at Manchester Airport in February 2009 on a flight from Brussels. He approached an immigration officer and presented a Danish passport. Home Office checks showed that the passport had been reported as lost or stolen in March 2006. Mr S admitted that the passport was not his. He told immigration officials that he had left Iran five months earlier and he had travelled through several countries using various false passports provided by agents to whom he had paid thousands of Euros in order to help him leave Iran. He said he was fleeing the country because he believed the authorities there were looking for him in connection with a public demonstration in July 2008 at which he burnt an Iranian flag, and because of his father's political activities.

Mr S was arrested and subsequently charged with possessing a false identity document with intent contrary to section 25(1) of the Identity Cards Act 2006. On the advice of a solicitor he pleaded guilty at Manchester Crown Court in March 2009 and was sentenced to 12 months' imprisonment. In 2012, the Home Office granted him refugee status with five years' leave to remain. He applied to the Commission for a review of his conviction in August 2013.

Having reviewed the case in detail, the Commission has decided to refer Mr S's conviction to the Court of Appeal because it considers that the there is a real possibility that the Court will quash his conviction. The referral is made on the basis that Mr S had a statutory defence available to him under section 31 of the Immigration and Asylum Act 1999 to the charge of possession of a false identity

cer had performed Hitler salutes at the probation board of a German inmate. Lingard highlighted her concerns to her line managers. Within 48 hours, she said, 'word spread that I was "a grass" and suddenly I was discriminated against, intimidated and stonewalled. 'Work became a very hostile, unsafe environment. Backs literally turned whenever I entered a room or corridor and gates slammed in my face. I was made to feel as if I had done something dreadful, and that I was going to pay for it.' she said. 'I just couldn't carry on. I couldn't sleep or eat. I was 32 weeks pregnant, had previously suffered two miscarriages and I was losing weight.'

An initial investigation - later described as 'poor' and 'not professional' by the tribunal - found 'no evidence' to support Lingard's allegations. Despite approaching Slater, the prison governor, and the PSU - which briefly investigated her claims but failed to discover the truth - her complaint went no further. Demoralised, Lingard turned to her brother, John Sturzaker, a lawyer, for help. 'Carol was right to report the allegations but I was astonished that the matter had not been sorted out in 18 months and was appalled at how it was handled,' said Sturzaker. In April 2004, Lingard brought a claim before the employment tribunal. She found out that Wakefield had taken steps to medically retire her. 'Their own doctor told them that my illness was caused by their actions,' she said angrily. The tribunal attacked the senior management at the prison and the service. Its judgment was peppered with damning judgments: 'startling and disturbing,' 'seriously flawed judgement,' 'collective failures,' 'beyond belief,' 'miscarriage of justice,' and 'serious misgivings'. 'Carol was a successful, highly regarded member of staff who made five serious allegations and was instantly regarded as the problem' said Sturzaker. 'A corporate inability to properly investigate and a contempt for those who are brave enough to report wrongdoing emerge from this judgement - she was failed all the way to the top.'

Roseanne Beckett Awarded $2.3 Million for Wrongful Conviction

Twenty-six years to the day after Roseanne Beckett was arrested for trying to kill her husband, she has been awarded $2.3 million plus costs for malicious prosecution. Roseanne Beckett, formerly known as Roseanne Catt, was released from jail in 2001 after serving 10 years of her 12-year sentence for soliciting the murder of her ex-husband, Barry Catt. Her conviction was quashed in 2005 by the Court of Criminal Appeal following a judicial inquiry into allegations she was framed. After years of legal arguments she has successfully sued the state of NSW, with Justice Ian Harrison on Monday awarding her more than $2.3 million plus legal costs. “Victory, at long last victory,” said Ms Beckett, who was in tears after the judgment was handed down. I have been going to bed with it for 26 years. I have woken up with it for 26 years. I have had nightmares.” In his judgment, spanning more than 900 paragraphs, Justice Harrison slammed the conduct of now deceased NSW police officer detective Peter Thomas, who he said came to see Ms Beckett “as his nemesis”. He found that Ms Beckett had proved the “malice” intent of her claim based on his conduct.

“Ms Beckett says that if she had not been prosecuted by Detective Thomas, tried and imprisoned for over ten years, her future might have been “like any other normal woman, mother, or member of a community,” Justice Harrison said. “The fact that the State has managed successfully to defend a substantial proportion of Ms Beckett’s claims in these proceedings ought not be permitted to disguise the fact that Detective Thomas’ determination to get square sullied his objectivity. “In the ten years of her incarceration, Ms Beckett was denied the basic human right of liberty and she was separated from her family, her friends and her community. She was deprived of her role as a mother. She lost the opportunity to engage in social and romantic

Aspects of the environment needed to be improved and, critically, regimes needed to be delivered more reliably. Men also required greater opportunities to occupy their time purposefully, demonstrate changes in their behaviour and interact with families and friends. In addition, the reasons why a disproportionate number of black and minority ethnic and Muslim men were held in the system needed to be better understood, and action taken to address any identified issues of unfairness. Nevertheless, the CSC system provided a means of managing the most challenging men in the prison system in a way that minimised the risks to others and offered men the basic conditions to lead a decent and safe life. We support the continued commitment to resource and support it and commend many of the people who worked positively within the system, despite some of the obvious risks and challenges. *Nick Hardwick HM Chief Inspector of Prisons*

Criminalising Asylum-Seeking in Ireland: the Case of Walli Ullah Safi

*Hassan Ould Moctar :*The harsh institutional approach to asylum seeking in Ireland is indicative of a mentality that places a severe and punitive burden of proof upon the asylum seeker. .On 13 July, a 21-year-old Afghan man by the name of Walli Ullah Safi was discovered on the side of the M7 road in Naas, Ireland. He spoke no English and had no knowledge of what country he was in. He ended up there after leaving his home country three months previously and allegedly travelling across Europe in a container as a stowaway. His ordeal was not to end at this point however; two weeks later, he would find himself imprisoned, taken hostage and subjected to brutal mental and physical violence. His experience is the product of an inefficient, ineffective, and inhumane Irish asylum system, and it embodies Europe’s collective failure to respect basic human rights in addressing the issues of migration and asylum.

After being found on the M7, Walli was arrested and charged on the grounds of being a ‘non-national’ without any documentation. He was subsequently sent to Cloverhill prison, before briefly being released and then immediately rearrested for the same offence. In spite of clearly being a candidate for the asylum process, no such application was made on his behalf, with authorities opting to treat him as a criminal rather than a potential refugee. In a radio interview, his solicitor argued that the Gardaí (Irish police) had no choice other than to place him in custody. He also stated that Walli’s personal story of how he ended up in Ireland was of no professional interest or value to him, unwittingly reflecting the degree of official concern with accommodating asylum seekers in Ireland.

Welcome to Ireland: .On 30 July, a riot broke out in Cloverhill prison, during which Walli was viciously assaulted and taken hostage by prison inmates. His arm was broken and his face slashed with a make-shift knife during the attack. The day after this incident, a demonstration was organised by the Anti Racism Network Ireland outside the Department of Justice and Equality, demanding that Walli be immediately released from prison and placed within the asylum process. The demonstrators argued that he should never have been put in prison. Their demands were partially met, as Walli was then allowed to formally apply for asylum. He remained in a high support unit of Cloverfield until a court hearing on 5 August. He has since been granted bail and released.

Even when granted access to the asylum process however, the prospect of entering into the asylum-seeker accommodation system, known as ‘Direct Provision,’ by no means implies that the indignity and human rights violations that Walli has thus far endured will be completely alleviated in the coming months or even years. Direct Provision accommodation centres are privately run facilities designed to house those awaiting an asylum decision. In May of this year, a government report

into Direct Provision found conditions in the centres to be "cramped" and "intolerable", concluding that the system was "not fit for purpose". Asylum seekers in Direct Provision are denied the right to work and are instead given a weekly allowance of €19.10 and provided with paltry canteen meals at fixed times throughout the day. The average duration of stay in this system is five years, with some reportedly waiting up to eleven years for their applications to be processed.

Reforms, or 'pull factors'? The detrimental psychological and social effects of what is effectively a system of state-sanctioned poverty have been well documented. A radio investigation in September revealed that female asylum seekers housed in Direct Provision centres have resorted to prostitution in order to make ends meet, while in May the Health Information and Quality Authority concluded that Direct Provision was a "toxic environment" for children to be raised in. Among the issues identified by the Irish Refugee Council facing children in the Direct Provision system are: poverty, social exclusion, malnutrition and inadequate access to education and developmental opportunities. In spite of all of this, the state refuses to consider abolishing or even substantively reforming this system, with the Minister for Justice recently arguing that such reform could create a "pull factor" for migrants and asylum-seekers coming to Ireland. In other words, state-sanctioned poverty is to be cynically used as a deterrent to prevent others from daring to seek refuge in Ireland from war and persecution.

The harsh institutional approach to asylum seeking in Ireland is thus indicative of a mentality that places a severe and punitive burden of proof upon the asylum seeker; those who apply for protection must undergo a period of effective imprisonment while the slow process of investigating the validity of their claim takes its course. The prevalence of this mentality serves to explain why the immediate reaction on the part of Irish authorities to the discovery of a young, clearly distraught Afghan man on the side of a road was to treat him as a criminal, rather than even entertaining the infinitely more plausible possibility that this was a person who had fled a conflict zone and should therefore be treated as a refugee. The Irish asylum system will continue to generate stories like Walli Ullah Safi as long as a mentality of hostility and suspicion rather than of compassion and empathy informs the approach to migrants and asylum seekers that arrive in our country.

Judge Blocks Disclosure in Death Penalty Case *Michael Cross, Law Gazette*

A High Court judge has spoken of ‘very considerable unease’ in ruling that two men facing the death penalty for the murder of two Britons in Thailand should not have access to a British police report into their case. In Zaw Lin and Wai Phyo v Commissioner of Police for the Metropolis Mr Justice Green denied an application under the Data Protection Act 1998 by two Burmese nationals on trial in Thailand. The two are accused of the murder of tourists David Miller and Hannah Witheridge and face the death penalty if convicted.

The accused men say that confessions they had given to the Thai police were obtained through torture. At the prime minister’s request, the Metropolitan Police produced a report on the case to brief the victims’ families. Under the government’s policy not to assist foreign authorities in death penalty cases, the judgment says that the Met’s engagement was limited to ‘observing and recording the investigation’ by Thai police. A precondition for Thai cooperation was that the report be kept confidential.

However the claimants sought access under the Data Protection Act to information relating to them, saying it might be of of use to their defence. The police refused on public interest grounds. The judge said that under the act he had to balance the interests of the police against those of the claimants. While overriding confidentiality could have ‘a very serious adverse effect’ upon international cooperation by police forces, the claimants submitted that these

considerations cannot prevail in death penalty cases. Ruling that the public interest arguments of the police were ‘strong’, the judge said: ‘The disclosure of even a small portion of the report would have a serious chilling effect because even a minor release could be seen by foreign counterparties as reflecting a more systemic risk that the ability to enter into confidentiality arrangements would be subject to override by the courts.’

Disclosure might also risk undermining the criminal proceedings in Thailand, he said. In any case he said ‘there is nothing in the personal data which would be of any real value to the claimants’. Thus the police arguments suffice to outweigh the claimants’ otherwise strong interest in access. However Green noted that: ‘In coming to this end result I nonetheless feel very considerable unease.’ He said that he did not have direct knowledge of the way evidence has been tendered in the trial or how the accused might structure their defences.‘I have had to work these out for myself. This has not been a comfortable process.’

Victory for Jail Abuse Whistleblower *Sarah Sims, Guardian*

A prison service whistleblower who alleged a litany of abuse at a high-security jail is set to gain a six-figure sum in compensation after winning a claim for unfair dismissal. Carol Lingard, 37, saw her promising 15-year career as a prison officer destroyed when she reported claims of prisoners being bullied and intimidated at Wakefield prison in west Yorkshire. An employment tribunal earlier this year, where Lingard won her case, heard that colleagues treated her as 'a grass' and her managers failed to take her complaints seriously. Examining the two unsuccessful investigations into her claims, the tribunal heavily criticised the Prison Service management, including the former governor John Slater, the former deputy governor Colin Blakeman - now governor of Leeds prison - and the deputy director of the service, Peter Atherton. Lingard has since received an apology from the director general of the Service, Phil Wheatley, who acknowledged that the organisation, its Professional Standards Unit (PSU) - established by new whistle-blowing legislation - and his deputy all failed to deal properly with her allegations.

Although she can toast her victory, Lingard is angry that she lost her job as a senior prison officer over her allegations - which have still not been fully investigated. 'I began losing my hair, large clumps of it,' she said. 'I've been out of work for two-and-a-half years and I am still taking medicine for anxiety. 'I don't think any prison employee today would go to the PSU with their concerns. I was consistently deemed the problem, all the way to top management.' Lingard got her first job in the prison service aged 20, and after 10 years' service she was no stranger to the harsh realities of life behind bars when she joined Wakefield as a senior officer in January 1999.

Wakefield has around 580 inmates, including Roy Whiting, the killer of eight-year-old Sarah Payne and Ian Huntley, who murdered Holly Wells and Jessica Chapman, both 10. In August 2002, when Lingard first made her allegations, she ran B-wing with 180 prisoners and 40 staff. 'My appraisals had been fantastic. I was the only senior officer picked for fast-track governor assessment,' she said. The tribunal heard that Lingard was vilified as a whistleblower after her string of allegations, which centred on one prison officer. She claimed the officer warned a sex offender he could get slashed by other inmates if he was found with images of children. Lingard alleged that the officer then attempted to have the material planted in the prisoner's cell.

Tensions were running high against paedophiles at Wakefield after the murder of Holly and Jessica. Whiting had been attacked and there was more trouble brewing. Lingard alleged that the officer had forged another prisoner's records to show poor behaviour and that he was involved in a suspicious assault allegation against the same inmate. She claimed that the offi-