**Inmate Injury and Death Figures at Highest For a Decade** *Mark Tran, Guardian*

The number of people who have died, been assaulted or injured themselves in prison has risen to its highest level for a decade, figures show. Statistics published by the Ministry of Justice on Thursday show that 267 people died in prisons in England and Wales in the 12 months to the end of September 2015. The number included seven homicides – more than double the number recorded in any year since 2006. They also show that 186 prisoners took their own lives between October 2013 and September 2015, which means that, over the last two years on average, a prisoner in England and Wales has taken their own life every four days. Andrew Neilson, director of campaigns at the Howard League for Penal Reform, said: "These horrendous statistics spell out the scale of the challenge for the new secretary of state for justice and his ministers. It is surely evident that people are dying as a result of the cuts to the number of staff, particularly more experienced staff, in every prison."

The MoJ's latest safety in custody statistical bulletin also revealed that the number of self-injury incidents recorded in prisons in England and Wales rose by 21% to 28,881 in the 12 months to the end of June 2015. The increase in the number of deaths, assaults and self-injury incidents has occurred at a time when the prison population has risen, overcrowding has become more acute and there have been deep cuts to staffing levels, said the Howard League. As the latest figures were released, the Labour peer Lord Harris of Haringey who wrote a report into prison suicides, has raised concern about the government's failure to take action on recommendations he published earlier this year. Harris said he suspected an official response to his review was being held up by a "rearguard action" from figures within the Prison Service resisting change.

The review of self-inflicted deaths among prisoners aged 18-24 in England and Wales recommended new responsibilities for prison officers to take a direct interest in the progress of individual inmates, as well as early intervention to reduce numbers of young people being put behind bars. Harris told BBC Radio 4's Today programme that since he reported in July there had been "complete silence" on the part of the MoJ on how its thinking was developing.

He complained that his planned appearance before a ministerial board on deaths in custody was cancelled at short notice last week and that he was told it was "not worth it" for him to meet Michael Gove, the justice secretary at this point. Harris said he did not believe his report had been "shelved" but added: "My concern is that we've already had 12 young people take their lives in prison so far this year, in just nine months. The number of suicides across the board has risen really quite dramatically in the last year or so, so action needs to be taken. Every month that we don't take action we are wasting countless millions of having people in the prison system who don't need to be there, failing to rehabilitate those who can be rehabilitated and, what's more, lives are at risk."

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 & Miran 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 554 (05/11/2015) - Cost £1**

**R.E. v. the United Kingdom – Violation of Article 8**

Legal Safeguards Regarding Covert Surveillance of a Detainee's Consultations With His Lawyer Were Insufficient at The Time Of His Custody. The applicant in the case of R.E. v. the United Kingdom(application no. 62498/11), who was arrested and detained in Northern Ireland on three occasions in connection with the murder of a police officer, complained in particular about the regime for covert surveillance of consultations between detainees and their lawyers and between vulnerable detainees! and "appropriate adults"', In Chamber judgment" in the case the European Court of Human Rights held, unanimously, that there had been: a violation of Article 8 (right to respect for private and family life, home and correspondence) of the European Convention on Human Rights as concerned the covert surveillance of legal consultations; and, no violation of Article 8 of the European Convention as concerned the covert surveillance of consultations between detainees and their "appropriate adults".

The case was considered from the standpoint of the principles developed by the Court in the area of interception of lawyer-client telephone calls, which call for stringent safeguards. The Court found that those principles should be applied to the covert surveillance of lawyer-client consultations in a police station. The Court noted that guidelines arranging for the secure handling, storage and destruction of material obtained through such covert surveillance have been implemented since 22 June 2010. However, at the time of Mr. R.E.'s detention in May 2010, those guidelines had not yet been in force. The Court was not therefore satisfied that the relevant domestic law provisions in place at the time had provided sufficient safeguards for the protection of Mr R.E.'s consultations with his lawyer obtained by covert surveillance. As concerned consultations between a vulnerable detainee and an "appropriate adult", the Court found that they were not subject to legal privilege and therefore a detainee would not have the same expectation of privacy as for a legal consultation. Furthermore, the Court was satisfied that the relevant domestic provisions, insofar as they related to the possible surveillance of consultations between detainees and "appropriate adults", were accompanied by adequate safeguards against abuse.

Principal facts: The applicant, Mr R.E., is an Irish national who was born in 1989 and lives in Newtownabbey (Northern Ireland). The Regulation of Investigatory Powers Act 2000 (RIPA) and the Covert Surveillance Code of Practice permits, in certain circumstances, the covert surveillance between detainees and their legal advisor, their medical advisor and, in the case of vulnerable detainees, their "appropriate adult". Between 15 March 2009 and 8 May 2010 Mr R.E. was arrested and detained on three occasions in connection with the murder of a police officer believed to have been killed by dissident Republicans. During the first two detentions his solicitor received assurances from the Police Service of Northern Ireland (PSNI) that his consultations with Mr R.E. would not be subject to covert surveillance.

Mr R.E. was arrested for the third time on 4 May 2010. On this occasion, the PSNI refused to give an assurance to Mr R.E.'s solicitor that their consultations would not be subject to covert surveillance. Mr R.E. sought permission to apply for judicial review of this decision. In particular, he alleged that the grounds upon which the authorisation of such surveillance would be appropriate were not sufficiently clearly defined and that the guidance concerning the securing and destruction of legally privileged information was not sufficiently clear or precise. On 6 May

2010 he was granted permission to apply for judicial review and the court directed that any subsequent consultations with his solicitor and his medical advisor should not be subject to covert surveillance. Mr R.E. was released without charge on 8 May 2010. Mr R.E's application for judicial review was dismissed in September 2010. The court held that RIPA and the Covert Surveillance Code of Conduct were clearly defined and sufficiently detailed and precise. The Supreme Court refused Mr. R.E.'s application for permission to appeal in April 2011.

Complaints, procedure and composition of the Court: Relying in particular on Article 8 (right to respect for private and family life, home and correspondence), Mr R.E. complained about the regime - under RIPA and the Covert Surveillance Code of Practice - for covert surveillance of consultations between detainees and their lawyers and between vulnerable detainees and "appropriate adults". The application was lodged with the European Court of Human Rights on 7 October 2011. Judgment was given by a Chamber of seven judges.

*Decision of the Court Article 8 (concerning legal consultations)*: The Court reiterated the reasoning in its judgment in the case of Kennedy v. the United Kingdom (no. 26839/05 of 18 May 2010) concerning interception of communications. In that judgment the Court held that the domestic law provisions (part I of RIPA) covering the nature of the offences which could give rise to interception, the categories of persons liable to be the subject of interception and the provisions dealing with duration, renewal and cancellation of interception measures had been sufficiently clear. The Government argued that Mr R.E.'s case should be distinguished from the Kennedy case on the ground that the covert surveillance had been less intrusive than the interception of communications and that therefore the required level of safeguards should be less strict.

However, the Court considered that the surveillance of a legal consultation constituted an extremely high degree of intrusion into a person's right to respect for his or her private life and correspondence and consequently the same stringent safeguards should be in place to protect individuals from arbitrary interference with their Article 8 rights as in the case of interception of communications, such as a telephone call between a lawyer and a client.

The Court noted that, as in the Kennedy case, the domestic provisions with regard to covert surveillance (Part II of RIPA) had been sufficiently clear in terms of the nature of the offences which could give rise to such measures, the categories of persons liable to be the subject of surveillance and the provisions dealing with duration, renewal and cancellation of surveillance measures. Furthermore, guidelines to ensure that arrangements were in place for the secure handling, storage and destruction of material obtained through covert surveillance had been implemented by the Northern Ireland Police Service on 22 June 2010.

However, at the time of Mr. R.E.'s detention in May 2010, those guidelines were not yet in force. The Court was not therefore satisfied that the relevant domestic law provisions in place at the time provided sufficient safeguards for the protection of material obtained by covert surveillance, notably as concerned the examination, use and storage of the material obtained, the precautions to be taken when communicating the material to other parties, and the circumstances in which recordings could or had to be erased or the material destroyed.

There had therefore been a violation of Article 8 of the Convention as concerned Mr R.E.'s complaint about the covert surveillance of his legal consultations.

Article 8 (concerning consultations between detainees and their "appropriate adults")

As concerned the surveillance of "appropriate adult" -detainee consultations, the Court held that, unlike legal consultations, they were not subject to legal privilege and therefore a detainee would not have the same expectation of privacy. The Court was satisfied that the relevant



ber of distinct functions. About 40% of the men held used the prison under its new role as a local resettlement prison serving the courts of the Thames Valley area and some further afield, and preparing men for release. For the remaining 60% of category C prisoners, it acted as a training prison. The prison had been through a difficult period before this inspection. However, the establishment had begun to turn the corner, although it was still getting to grips with its new resettlement function and progress was held back by significant staff shortages in a number of critical roles. A new community resettlement company, Thames Valley CRC, had recently taken over responsibility for resettlement services for medium- and low-risk offenders but it was too early to judge how effective the new arrangements would be. Some teething problems were evident.

Inspectors were concerned to find that: 23 recommendations from the last inspection has 'Not Been Achieved' and 16 only 'Partly Achieved' • prisoners from black and minority ethnic backgrounds reported much more negatively than the rest of the population; • data on levels of violence was unreliable and could not be used effectively to plan how to reduce violent incidents; • outcomes for prisoners with protected characteristics, such as disability, were not monitored adequately and the prison did not know if they were being treated equitably; • very large offender assessment system (OASys) backlogs hindered prisoners' progression and compromised the management of their risk; • although the prison felt calm, more prisoners than at the last inspection said they did not feel safe; • the rise in the availability and use of Spice was a serious threat, leading to debt and bullying and there was no effective prison-wide strategy to reduce the supply of drugs; • there had been five self-inflicted deaths since 2012 and although prisoners at risk of self-harm said they felt well cared for, not enough was being done to reduce the risk of further deaths and to implement the Prison and Probation Ombudsman's recommendations; • despite having enough places to meet the needs of the population, attendance at education and training was just 50% and inspectors found more than a third of prisoners locked in their cells during the working day; • the prison was on a restricted regime as a result of staff shortages; and • there was no strategy that set out how the prison would tackle the rehabilitation of its complex population, and offender management processes were undermined by acute staff shortages. • Inspectors made 89 recommendations.

However, inspectors were pleased to find that: • despite the staff shortages, relationships between staff and prisoners were generally good and inspectors saw effective direction of staff by supervising officers who had recently been reintroduced onto the wings; • the 'support and mentoring unit' was a very good initiative where prisoners who were identified as likely to struggle on normal location were allocated a mentor who helped them develop the confidence to integrate; • levels of self-harm were now much lower than in comparable prisons and prisoners subject to suicide and self-harm case management said they felt well cared for; • despite the overcrowding, the general environment was good; • health care was improving and was now reasonably good; and • the management of learning and skills and the quality of provision still required improvement, although action had been taken to halt a decline in performance and to address high staff absence levels.

Nick Hardwick said: "It is clear that there is a big job to do to improve HMP Bullingdon. A start had been made on this work prior to the inspection. Good relationships and a good environment created important foundations for progress and improvements in purposeful activity and health care were evident. Work on equality and diversity issues was just getting off the ground and the new CRC created both opportunities and risks. Nevertheless, at the time of the inspection, overall outcomes were not good enough and the prison carried some significant risks. This report sets out some priority recommendations which we hope will assist the prison in making the necessary improvements."

**Petition to Essex Police: Release All Jeremy Bamber Documents**

As 30 years have now elapsed since the tragedy took place, there is no beneficial reason for withholding the documents and photographs by refusing disclosure under Public Interest Immunity or for any other reason. The public have a right to insist that they are released to his Defence Counsel forthwith so that a fresh appeal can be lodged on Jeremy's behalf.Disclosure Required

1. Original handwritten logs and statements written by Malcolm Bonnett & PC West relating to Jeremy's father calling the Police between 03:00am and 03:30 am saying his daughter had gone berserk with the gun.

2. The original situation report radioed in by PS Bews calling out the firearms team because he'd seen Sheila Caffell moving in the house while Jeremy was with police. Also PS Bews and PC Myall's original witness statements written on the 7th August 1985.

3. The 06.9.85 Report by DI Kenneally stating that the evidence showed Sheila was responsible for murdering her family and then committing suicide.

4. Also required, the audio recordings of the open phone line at White House Farm recording the raid on the house by the Firearms Officers who broke in at 07:39am.

5. Original handwritten statements from first case investigation number SC/688/85 including those written by the raid team and all fifty-four (54) people who entered the house on the 7th August 1985.

6. Interviews from the DI Dickinson Enquiry including those from the forensic scientists Glynis Howard, Malcolm Fletcher, Graham Craddock and Graham Renshaw to discover if they wrote the same things to the Dickinson Enquiry regarding two sound moderators, that they later admitted to during the 1991 C.O.L.P Enquiry.

7. Public Interest Immunity file on Julie Mugford referring to her 'deal' with the Crown Prosecution Service in exchange for immunity from prosecution for five criminal offences three of which were unknown to the jury. Also disclosure of the Essex Police file on the £25,000 newspaper deal, agreed to in November/December 1985 (pre-trial) by Julie Mugford's solicitors.

8. Photographs of all the rooms in white house Farm including those containing firearms such as the main office, and the box room next to the Master bedroom. In November 2001, all the case negatives were in uncut complete strips of ten. By 2011 and their disclosure to Jeremy, someone had cut and removed seventy-seven (77) negative images from these film strips, which left sixteen (16) of them cut up into multiple pieces of two, three and four frames. Disclosure is required of all seventy-seven (77) photographic images.

9. Sheila Caffell's medical/psychiatric records referring to her conversations with her consulting psychiatrist where she informs him she was afraid she would kill her children - as he briefly mentioned at trial. Disclosure of her 1983 and 1985 diaries periods where she suffered severe episodes of psychosis.

10. Original forensic report by Renshaw referring to the blood in the sound moderator as identical to beneficiary of the Bamber estate Robert Boutflour, one of the relatives who found it after police searched the house and 'missed it'.

Jeremy Bamber A5352AC, HMP Wakefield, Love Lane, Wakefield

**HMP Bullingdon – Progress Held Back By Staff Shortages**

HMP Bullingdon had started to improve but needed to do much more, said Nick Hardwick, Chief Inspector of Prisons. A he published the report of an unannounced inspection of the local and resettlement prison in Oxfordshire. HMP Bullingdon held about 1,100 adult men and young adults at the time of the inspection. The prison had a complex population for which it needed to carry out a num-



domestic provisions, insofar as they related to the possible surveillance of consultations between detainees and "appropriate adults", were accompanied by "adequate safeguards against abuse", notably as concerned the authorisation, review and record keeping. Accordingly, the Court held that there had been no violation of Article 8 with regard to this part of Mr R.E.'s complaint. Article 41 (just satisfaction) The Court held that the United Kingdom was to pay Mr R.E. EUR 1,500 in respect of non-pecuniary damage and EUR 15,000 in respect of costs and expenses.

**Why is a Man Serving Life for a Murder that Feds Say Someone Else Committed?**

The Unusual Case of Lamont McKoy. By Andrew Cohen: It's been nearly 25 years since 18-year-old Lamont McKoy was convicted for the murder of Myron Hailey in Fayetteville, North Carolina. But evidence — that was never introduced at trial — suggests McKoy never murdered anyone. That didn't stop the North Carolina Court of Appeals, which on Monday rejected, without comment, a request by McKoy's attorneys to hold a hearing that would have addressed why this evidence was never revealed at trial. Or, for that matter, why it still is relevant today to help answer a basic question that has swirled around this case for decades: why is McKoy serving hard time, a life sentence, for a murder the feds later claimed was committed by another man?

Nothing about McKoy's case has been routine. On the night of January 25, 1990, prosecutors alleged that McKoy, as part of drug deal gone bad, shot Hailey in Haymount Hill, a Fayetteville neighborhood, while Hailey was driving away. Hailey's vehicle, prosecutors claimed, traveled a mile or so before he drove off the road, hit a tree, and bled to death. But one key piece of evidence, never introduced at trial, was the possibility that police were on scene when and where the murder allegedly took place. At the time of Hailey's demise, new evidence suggests, the police were at Haymount Hill in response to a previous, unrelated report of gunshots. Those responding officers, who stayed at the location for several hours, never reported hearing any subsequent shots, much less seeing or hearing McKoy murder Hailey. Nor did any witnesses report that additional gunshots were fired in that neighborhood that night. The following morning, police found Hailey's body about a mile away from Haymount Hill.

McKoy's current attorneys allege that the reason this evidence was not originally introduced to a jury is because police and prosecutors never disclosed it to McKoy's trial attorney. To this day, court papers indicate that no North Carolina court has heard testimony from the police officers whose narratives appear to contradict the prosecution's theory. Had McKoy's lawyer known that the police were at the scene of the alleged crime, at the very time the crime was alleged to have occurred, they would have raised that issue with McKoy's jurors.

There were other inconsistencies with the original case. At trial, prosecutors told jurors that McKoy had made incriminating statements to an officer while the two were sitting in a police car. McKoy, who has admitted that he dealt drugs in the early 1990s, has consistently denied that his comments ("I know it," he kept saying in response to police questioning) were a confession; he claims he was being sarcastic. Whatever the truth, the officer who heard them did not immediately arrest McKoy or subject him to further questioning, and prosecutors never introduced a signed or taped confession at trial. McKoy instead was arrested days later, after he voluntarily went to the police station at the request of the police.

The primary witness against McKoy was a man named Bobby Lee "Strawberry" Williams, who testified that McKoy had shot Hailey in that car. But Williams later recanted his testimony and claimed that on two occasions, local authorities offered him money to incriminate McKoy. There was no physical evidence linking McKoy to Hailey. The gun used in the murder was a .357

revolver. One prosecution witness told investigators that McKoy carried only a .22 handgun.

McKoy was convicted in 1991. At the time, a joint local, state, and federal task force was operating in that area of North Carolina. They charged and prosecuted a man named William Correy Talley on drug-trafficking charges in 1995, four years after McKoy was convicted. Prosecutors argued during Talley's trial and sentencing in federal court that they had proof that Talley, not McKoy, had killed Hailey. Federal prosecutors specifically alleged that Talley was the one who had fired in Hailey's car, in another Fayetteville neighborhood called Grove View Terrace. Like Haymount Hill, Grove View Terrace is about a mile up the road from where Hailey's car and body were found. The feds presented two witnesses to support their case that Talley, not McKoy, had murdered Hailey. When Talley was arrested, he was carrying a .357 revolver.

This testimony came to light four years after McKoy's conviction, but like the police evidence from Haymount Hill, it has never been fully explored in a state court hearing with witnesses examined under oath. How certain were federal officials that Talley, not McKoy, murdered Hailey? They objected to the fact that Talley's involvement in the Hailey murder was omitted from a pre-sentencing report, and the feds even had a state investigator testify that Talley killed Hailey. (Three documents, from before and during Talley's federal sentencing, reveal the extent to which federal and state officials believed Talley shot Hailey.) A task force comprised of local, state, and federal official arrested Talley. These officials were the very people who investigated and prosecuted McKoy; the detectives from the Fayetteville police department, for example, were on that task force and knew — or should have known — of McKoy's conviction. It's unclear why no one stepped forward to square the two contradictory versions of the murder.

Three judges have played key roles in ensuring that McKoy remains locked up. The first judge, in 1998, dismissed most of McKoy's post-trial claims — which included references to Talley — without holding a hearing. The only claim that judge allowed to proceed was one based on the idea that McKoy had received "ineffective assistance" of counsel. The next judge in the case held a truncated hearing in 2001 on that ineffective assistance of counsel claim alone and ruled against McKoy. The third judge, who presided over the case in 2013 and 2014, didn't hold a hearing or draft his own order denying McKoy's request for relief. Instead, he signed the order drafted for him by state attorneys, perhaps without even reading it since it still contained typos. (The state's Judicial Standards Commission has publicly reprimanded him for similar conduct in other cases.) In response to these claims, state lawyers have consistently asserted that McKoy "confessed" to that police officer. They also claim that the evidence of Talley's involvement in Hailey's death cannot be raised now because procedural rules bar the introduction of evidence judges say could have been introduced at or shortly after trial. It could not have been raised during McKoy's trial because it took place years before Talley was arrested and convicted, state attorneys concede, but it could have been raised shortly after McKoy's conviction, when jailhouse rumors of Talley's involvement began circulating.

Not only have there been no evidentiary hearings to explore the core questions of this case, the state judges haven't even allowed McKoy's current attorneys to get more access to evidence they say would further bolster their case (and could help them prove prosecutorial or police misconduct). The police have consistently said that all evidence required to be turned over to the defense was turned over to the defense. Prosecutors have long said they consider the matter closed. And so, evidently, have the courts of North Carolina.

McKoy's attorneys say they'll now pursue their extraordinary claims in federal court, where the standards of post-trial review in cases like this can be even more daunting than McKoy and his attorneys have so far found them to be.



The high court in London had previously dismissed the family's application for judicial review, rejecting their claim that the coroner, Judge Keith Cutler, misdirected the jury and there should have been an open verdict. Sir Brian Leveson, president of the Queen's bench division, who heard the case with Mr Justice Burnett and Judge Peter Thornton QC, said the court "recognised the tragedy" of the loss of Duggan's life, but ruled none of the grounds of challenge had been established. However, the decision left open the possibility of future civil action against the Metropolitan police.

Pamela Duggan, mother of the deceased, has said she remains "deeply distressed" about her son's death and the inquest verdict. His aunt Carole, 53, from central Manchester, said the family felt "extremely let down and disappointed" and that it was being blamed for the "uprising" of the 2011 riots that followed the shooting. Responding to Tuesday's ruling, Marcia Willis Stewart, solicitor for the Duggan family, said: "It's very good, and the judge's sentiments about significant public interest when people are shot by police, that's very good. They [the Duggan family] are pleased that the judge has considered this an important matter."

**Judge Sacks Son Who Charged Mother £400 for Each Visit to Nursing Home**

This Court of Protection case has, unusually, made the papers, and when you read the details you won't be surprised. What the judge described as a "callous and calculating" son charged his widowed mother, who suffered from dementia, more than £117,000 for "out of pocket expenses" visiting her in her nursing home. He had been in charge of her expenses since 2004 when Sheila (the mother) had been admitted to hospital under the Mental Health Act 1983. But alarm bells only went off after her unpaid nursing bills reached nearly £30,000. The Public Guardian launched an enquiry that led to this hearing of an application for the court to revoke the son's (Martin's) Enduring Power of Attorney ('EPA') and to direct him to cancel its registration. The Public Guardian also applied to freeze Sheila's bank account.

Background Facts and Law: There was an ongoing dispute in the run up to the application in this case. Martin claimed that his mother's care fees should have been publicly funded under section 117 of the Mental Health Act 1983, but the Powys Local Health Board contended that, although Sheila was sectioned under section 2, she was never sectioned under section 3 of the Mental Health Act 1983 and was, therefore, not eligible for public funding under section 117 of the Act. In the light of this, the Public Guardian believed that while Martin attempted to resolve this dispute, it would be in Sheila's best interests that he continued to pay her care fees. If it transpires that she qualifies for NHS Continuing Health Care and has been eligible for a period of time, then Martin will be entitled to claim a refund on overpayment of care fees. As it happened, Martin claimed his usual daily charging rate when he was a self-employed independent consultant prior to his retirement. He stated in his witness statement that he did not think this self-remuneration was excessive: If I had not spent the large amounts of time on this case, then my mother's estate would still be illegally paying the full costs of care.

The Court's decision: It did not take long for the judge to issue the order revoking Martin's power of attorney. One would be "hard pressed", he declared, "to find a more callous and calculating attorney, who has so flagrantly abused his position of trust. Martin hasn't paid his mother a personal allowance since June 2014 because toiletries were free in her previous residential care home and he resents having to pay for them now in the nursing home in which she has been living since February 2013. He even begrudges her having her hair tinted".

Indeed, so provoked was the judge by the son's attitude in this case that he was prepared add his own thoughts to the Public Attorney's claim, that the amount of £117,289.45 was 'an excessive amount to claim for out of pocket expenses." Lush J stated that charging one's elderly mother a daily rate of £400 for visiting and acting as her attorney is repugnant.

broadsheet newspaper. Whilst relying heavily on the new(ish) 'transparency' within the family justice system (as championed by the President of the Family Division, Sir James Munby, in a number of well-known cases) she has equally wanted to remain within the law in what she reports. She has made a number of sensible 'concessions' about how she would prepare her article, for example as to anonymisation and as to how she would deal with the ages of the children and so on, to avoid "jigsaw" identification.

She had drafted a consent order regarding publication which the local authority did not oppose; however it had to be authorised by the court since whichever order the judge made would be contra mundum. The judge therefore granted a reporting restriction order along the limited terms sought by the journalist, allowing publication of the essential details but forbidding the disclosure of any material that might lead to the identification of the parties.

**Duncan Lewis Solicitors Establishes Civil Actions Against Police Department**

In the event of police misconduct, the effects can have a long -term detrimental impact on the victim's liberty, health or ability to pursue their chosen career and challenging the police without specialist legal assistance can prove complex. The Duncan Lewis Action Against Police department can provide this specialist assistance and help to bring a successful claim for the victims of; False imprisonment; Wrongful arrest; Wrongful detention; Malicious prosecution; Assault by police officers; Unlawful stop and searches; Judicial review of decisions by the police and IPCC; Search warrants; Property claims; Breach of privacy rights; Retention of DNA and police records; Adverse criminal record certificates ("CRB checks" or "DBS checks"); Unlawful police cautions; Human Rights Act and Data Protection Act issues; Human Rights Act and Data Protection Act issues; and Discrimination on grounds of race, gender, or other characteristics

**Mark Duggan's Family Wins Right to Appeal Against Lawful Killing Finding**

*Damien Gayle, Guardian:* The family of Mark Duggan have been granted permission to appeal against a high court decision that the jury at the inquest into his death were right to rule that he was lawfully killed. Ruling that an appeal had a chance of success, Lord Justice Sales said although the earlier court decision had been "cogent", the questions for the jury at the inquest had been "framed too narrowly". The outcome of the appeal rests to a large extent on the decision of the European court of human rights in the case of Jean Charles de Menezes, the Brazilian electrician shot dead by police in 2005. That case will decide whether the principle of self-defence, used by the officer who shot Duggan, must include an element of objective justification for the subjective belief that the victim posed a threat. Sales denied a request by the Crown to expedite the appeal so that it was heard before the ECHR had an opportunity to rule on the De Menezes case.

the Duggan family had warned Sales that if he denied the appeal there was a risk the decision could be contradicted by judges in Strasbourg. He said: "It seems to us that there is an unfortunate risk that if you were to refuse permission, the grand chamber (of the ECHR) could submit a judgment saying that we were right." The decision hung on whether the basis for the belief that Duggan was armed and dangerous when he was shot in August 2011 was justified. At the inquest hearing, the officer who shot Duggan, known as V53, had said he believed the 29-year-old was carrying a gun. However, the jury accepted that Duggan had thrown away the gun after the minicab he was riding in was stopped by the police, and that when he was killed he was in fact unarmed. Nevertheless, they accepted by an eight-to-two majority that he was lawfully killed on the basis that the officer believed he posed a threat.



**Court Refuses Application for Leave to Appeal by Hazel Stewart**

*Summary of Judgment:* The Court of Appeal today Wednesday 21st October 2015, refused an application by Hazel Stewart for leave to appeal against her conviction for the murder of Trevor Buchanan on the basis that she had abandoned this appeal in 2013 and there were no grounds for the court to re-open it. Hazel Stewart ("the applicant") was unanimously convicted by a jury at Coleraine Crown Court on 2 March 2011 of the murders of Lesley Howell and Trevor Buchanan. She was sentenced to life imprisonment and ordered to serve a minimum term of 18 years. In March 2011 the applicant served Notice of Appeal in relation to both convictions but in October 2011 her application for leave to appeal was amended to relate only to the murder of Lesley Howell and contained no reference to the murder of her husband. At the hearing of the appeal, the applicant's counsel said that she was not pursuing an appeal against her conviction for the murder of Trevor Buchanan because of the concessions and admissions she had made during police interviews to the effect that she effectively facilitated and assisted Colin Howell in his murder and therefore "the view was taken that a sustainable appeal in respect of that murder could not be made". The Court of Appeal upheld the applicant's conviction for the murder of Lesley Howell and noted in the judgment that the appeal in relation to the murder of Trevor Buchanan had been abandoned. In February 2014, the applicant filed further grounds of appeal in relation to the application for leave to appeal against her conviction for the murder of Trevor Buchanan. She submitted that the abandonment should be declared a nullity as she had not authorised it and claimed that her legal representatives had not advised her that withdrawing the appeal would have the consequence of it being treated as having been dismissed or refused by the court. The applicant further submitted three fresh grounds of appeal relating to the trial judge's direction to the jury.

*Abandonment:* Lord Justice Gillen, delivering the judgment of the Court of Appeal, set out the legal principles that govern the concept of abandonment of an appeal. These state that a Notice of Abandonment of Appeal is irrevocable unless the Court of Appeal treats that Notice as a nullity. The "nullity test" is that the court is satisfied that the abandonment was not the result of a deliberate and informed decision but that "the mind of the applicant did not go with his/her act of abandonment". Bad advice, which has resulted in an unintended or ill-considered decision to abandon the appeal, may constitute grounds for nullity of abandonment. Lord Justice Gillen also set out the circumstances in which the Court of Appeal has power to re-open an appeal. The core principle is that it is in the interest of the public in general that there should be a limit or finality to legal proceedings and consequently, where a person convicted of an offence on indictment appeals against that conviction, and that appeal has been determined on its merits, the court has no jurisdiction to re-open it on fresh evidence coming to light save in two circumstances: where the decision on the original appeal can be regarded as a nullity; or where, owing to some defect in the procedure the appellant has suffered in injustice. Lord Justice Gillen said that, as a consequence, the exercise of the power to re-open an appeal will arise only in the most exceptional circumstances.

The applicant submitted that the consequences of abandonment had never been properly explained to her. The Court of Appeal referred to notes of meetings and consultations involving her, her husband and family members. Lord Justice Gillen said it was clear that the implications of abandonment had been fully explained to the applicant's husband however the court was prepared to proceed on the assumption that she had not been expressly told that abandonment constituted dismissal. The Court, however, did not accept that it could be rationally argued that the applicant's mind "did not go with the stated abandonment" in that she

fully accepted the advice of counsel that the appeal in the case of the murder of Trevor Buchanan was groundless: “Self-evidently all avenues of investigation had been exhausted with reports from medical and psychiatric sources in an attempt to challenge the admissions she had made. She knew that that quest was finished. What other course was then open to her but to abandon the appeal? Had it proceeded without realistic arguable grounds it would have been dismissed in any event?”

The Court of Appeal considered that even if she had been informed that the abandonment of her appeal constituted dismissal, she would have followed precisely the same path she did in the knowledge that once the appeal was dismissed her only course of action would be to revert to the Criminal Cases Review Commission in the event of fresh evidence emerging. Lord Justice Gillen said that this effectively terminated the issue before the court but considered that it was in the public interest to make it clear that even had the Court of Appeal concluded that the purported abandonment was a nullity, the appeal would still have failed on the basis that the fresh grounds now put before the court are without foundation.

*First Ground of Appeal* – The Makanjuola Principle, was that the trial judge should have formally directed the jury to look for other supporting evidence of her guilt before acting on the evidence of Colin Howell who was an accomplice to the two murders. It was claimed on her behalf that Colin Howell’s evidence manifestly placed the applicant as a willing participant in both murders but this could have been motivated by his desire to ameliorate his sentence, or because the applicant had broken up their relationship. It was also contended that Colin Howell had told lies about this matter over a lengthy period of time.

The Court of Appeal concluded that there was no foundation to this ground of appeal for the following reasons: • There was clear supportive evidence for the involvement of the applicant by virtue of the admissions she made to the police in the course of her interviews and consequently the need for any warning about Colin Howell’s evidence was “diluted to the point of being unnecessary”; • The trial judge drew detailed attention to the inconsistencies in Colin Howell’s evidence and specifically to the need to exercise care in considering that evidence.

*Second Ground of Appeal* – Good Character, was that the trial judge, in directing the jury as to the applicant’s good character, had withheld from the jury entirely the limb of that charge relating to propensity. Lord Justice Gillen said that before charging the jury, the trial judge discussed with counsel the proposed contents of his charge on the issue of good character which did not contain any reference to propensity. The draft was accepted by both prosecution and defence counsel. The applicant now submitted that there was no apparent justification for the direction as to good character being silent as to propensity. The Court of Appeal said it was entirely satisfied that the trial judge gave a perfectly adequate charge and that it failed to see what the addition of a propensity reference could possibly have added to the charge in the particular circumstances of this case: “She had clearly admitted to police the circumstances and nature of her involvement with Howell in this murder. These admissions had not been challenged in cross examination and she had not given any evidence to the contrary about them to the court. It would have been perverse on the part of the jury to have concluded that she had not made such admissions. Moreover the case was never presented on the basis that the police through clever or resourceful questioning had bullied, misled or tricked her into making these admissions. On the contrary they were presented in a completely unchallenged fashion.” Lord Justice Gillen said that the only question therefore for the jury was to determine what they made of her admissions – did they constitute the crime of murder and reveal the



risks, into the balance." He said: "I am very conscious of the fact that many will consider C simply does not deserve this level of care and consideration." Many would feel the application for anonymity was to ignore "the terrible, terrible pain he has caused and the great public interest in his case". But if the court did not intervene "everything said (about C) is liable to be published to the whole world and be on the internet for ever and a day". The Media Lawyers Association has intervened and told the court the case "raises significant issues about the open justice principle" and anonymity can only be justified "where it is strictly necessary". The association contends there can be no presumption that mental health patients are entitled to anonymity when they are involved in human rights cases in the civil courts.

**Woman Born a Man Sent to All Male Prison Sparking Fears For Her Safety**

*Louie Smith, Daily Record:* A transgender woman who was born a man has been sent to an all male prison sparking fears for her safety. Tara Hudson, 26, has lived as a female all of her adult life and undergone six years of gender reconstruction surgery. The make-up artist was jailed for 12 weeks after admitting an assault during an incident in a bar last Christmas. But magistrates ruled Tara should serve her sentence inside a Category-B male prison because her passport says she is still a man. Her mum condemned the move saying even doctors have confirmed she is now a woman . Tara’s mum Jackie Brooklyn has written to the prison governor as she fears her daughter will be targeted by the male prisoners.

She said: “There’s nothing male about her, nobody would know the difference. She looks like a woman. She’s gorgeous. “We think it’s totally outrageous. I don’t think she will cope well at all. I just feel the men are going to go after her. It’s going to be humiliating. I just want to get my daughter into a safe, female environment where she belongs and will continue to fight the decision.” Tara, who was born Aaron, admitted assault after an incident at a bar on Boxing Day 2014. She changed her plea to guilty in September and her mum was expecting her to be put on an electronic tag and made to undergo an alcohol awareness course. At worst she thought she would be sent to an all-women prison by the magistrates in Bath, Somerset. But instead she was ordered to serve her time at HMP Bristol - a Cat-B prison holding around 600 young adult and adult men.

**Judge Allows Publication of Article About Children in Care** *UK Human Rights Blog*

Transparency in the Family Court: Before the court were cross applications by a journalist and the local authority regarding care proceedings which the former wished to report. The individual in question was a mother (representing herself in these proceedings) who had had a number of children taken into care in the past. Her life had been “blighted” historically by serious mental health problems which have at times made it unsafe for her to care for her children. At the time of this application, it seemed, those times appeared to be behind her. Be that as it may, she and her children had been through the care system on a number of occasions.

She had shared this experience on social media sites, and had described, in particular, how she fought for her youngest child (a child who was removed at birth) and how she eventually succeeded in having that child live with her. Bodey J, who had read some of her online articles, found them “balanced and responsible”. They recognise her own failings in the past. They are in some respects critical of some professionals in the care system, but over-archingly are written to help others in the care system by sensible, practical and sensitive advice to people in times of need.

The freelance journalist opposing any reporting restriction order wished to interview the mother and to write an “in depth report” into the care system, for publication in a serious

primary materials of the decisions of judges are now more widely available than ever. And, free sources of secondary materials that explain the decisions of judges in clear language are blossoming – the Justice Gap is a prime example. The UK Human Rights Blog is now a mainstay of clear and accessible explainers of human rights decisions. The UK Criminal Law Blog offers a wealth of easy-to-read coverage of criminal law and sentencing. The Supreme Court has itself broken new ground by producing short, punchy summaries of its own decisions, which are available as soon as judgments are given. And finally, the ICLR has been publishing free summaries of decisions from the High Court to the European Court of Justice for the past eight years on its website.

The combination of the increasing number of people going into court on their own behalf, coupled with the effects of the doctrine of precedent, presents those charged with reporting the law with a challenge that is just as serious as the chaos ICLR was established to cure 150 years ago. What is certain is that the decisions of judges apply to all of us and it is vital that they are made accessible, in every sense of the word, to all.

**Killer's Supreme Court Fight for Anonymity** *Tom Morgan, Telegraph*

A convicted murderer who committed crimes "high up on the scale of horrific" is fighting to keep his identity secret after being released from prison. The killer - referred to only as "C" - believes he has the right to keep his identity secret from the press and public since winning parole. "I am very conscious of the fact that many will consider C simply does not deserve this level of care and consideration" Details of his offending cannot be reported while the Supreme Court, the highest court in the land, makes a decision. C's lawyers are challenging a Court of Appeal decision to refuse him anonymity, which was made while he was detained and receiving treatment for mental illness. The case is potential legal landmark paving the way for other mental health patients to claim anonymity when involved in action in the civil courts. C triggered the legal fight when he applied for a judicial review of a decision to refuse him unescorted leave in the community. He has been allowed back into the community on licence by the Parole Board and is in the process of changing his name. The appeal court judges upheld a ruling by High Court judge Mr Justice Cranston that C - initially referred to as "X" - could be named during the review application.

Stephen Knafler QC, appearing for C, argued legal challenges involving mental health patients should be held in private - or at least with the individual's identity protected. Mr Knafler had accepted in the appeal court that C's criminal activity was "high up on the scale of horrific". He told the justices that all mental health tribunals protected the identities of patients, and there was no reason why High Court and appeal court hearings should be any different. He acknowledged the "fundamental common law principle" that court cases must be held in public, but argued mental health cases were "a protected class" and fell outside the general rule. Mr Knafler said that if he was not right on that broad argument, the "exceptional" circumstances of C's case meant that he was entitled to anonymity in any event.

The QC told the justices - Lady Hale, Lord Clarke, Lord Carnwath, Lord Wilson and Lord Hughes - the most intimate and private details about patients were revealed at legal challenges to decisions about their treatment. Patients were "under an extreme level of compulsion" and had no real choice about those "extremely frank" details being disclosed to courts and tribunals. If their identities were revealed, and the details of their case and treatment became public knowledge, without identity protection they could face a "media bombardment" and be put at physical risk, or risk of being shunned, and attempts to rehabilitate them could be impeded.

Mr Knafler said: "The courts below simply failed to bring the physical risks, and other



relevant intent? He said that in this context a direction on propensity would have been meaningless – "the full nature of the admissions made by the applicant to the police would have left us with no feeling of unease as to the guilty verdict".

*Third Ground of Appeal* – The Lucas Direction, was that the trial judge failed to properly direct the jury as to the significance of the lies, maintained for many years, that the applicant had told to the police and others before and during the original investigation, at the inquest, and during the early stages of her police interviews. Where the prosecution seeks to rely on the fact that the defendant has lied, for example, to police a judge may give a Lucas Direction which reminds the jury that the lie alone is insufficient evidence and they should look to see if other evidence corroborates guilt. The Court of Appeal concluded that the criticism of the trial judge's charge to the jury was without substance. Lord Justice Gillen noted that a draft of the charge had been circulated to counsel who had no issue with it. He further noted that the judge's charge to the jury dealt with this issue without contextualising it in the Lucas framework and the Court of Appeal had no doubt that the jury would still have had that in mind when dealing with this aspect of the applicant's character.

Conclusion: The Court of Appeal determined that the appeal by the applicant against her conviction for the murder of Trevor Buchanan was abandoned and therefore dismissed. It found no grounds for declaring that abandonment a nullity and said that even if it had been persuaded to do so the fresh grounds now brought are without foundation. The application for leave to appeal was refused.

**Stakeknife: IRA's Most Senior Double Agent to be Quizzed About 24 Murders**

West Belfast man Fred Scappaticci denies he was a British agent. The IRA's most senior double agent is to be investigated about the murder of at least 24 people. The army agent, who was given the codename Stakeknife, has been named by the BBC as west Belfast man Fred Scappaticci. He has denied he was an agent. Northern Ireland's director of public prosecutions wants the new investigation to look at what information the army, MI5 and the Royal Ulster Constabulary's Special Branch received from Stakeknife. Barra McGrory QC said those who received information he passed on will also be investigated. The Police Service of Northern Ireland have yet to confirm who will conduct the investigation. In a statement, Ass Ch Con Will Kerr said: "Police had received a referral from the director of public prosecutions which police were addressing. It would be inappropriate to comment further."

Scappaticci is alleged to have been the most high ranking British agent within the Provisional IRA who was given the codename 'Stakeknife'. He was the grandson of an Italian immigrant who came to Northern Ireland in search of work. He has admitted, in the past, to being a republican but denies claims that he was an IRA informer. He is believed to have led the IRA's internal security unit, known as 'the nutting squad,' which was responsible for identifying and interrogating suspected informers. Mr Scappaticci left Northern Ireland when identified by the media as Stakeknife, in 2003.

Mr McGrory said: "I have been made aware of the scope and range of possible offences that may have been carried out by this individual and also members of intelligence agencies," he said. "This information has been provided to me by the office of the Police Ombudsman, Dr Michael Maguire, which is now concluding a painstaking review of all available material. A common link across a significant number of potential crimes, including murder, was the alleged involvement of an agent of military intelligence codenamed 'Stakeknife'."

BBC NI Home Affairs Correspondent Vincent Kearney said the scale of the allegations against Stakeknife and his handlers are said to be colossal. "Given that some of the alle-

gations concern former members of RUC Special Branch, it is likely that Northern Ireland's chief constable will ask an outside police force to conduct the investigation," he said.

Northern Ireland's Police Ombudsman is investigating the murders of alleged informers by the IRA - and Stakeknife's alleged role in them. The director of public prosecutions said Dr Maguire had carried out a "comprehensive review" of material emanating from three investigations carried out by Lord Stevens. Ex-Met Police commissioner Lord Stevens led three government investigations into security force collusion in Northern Ireland.

**'It's Like Burke and Hare Reviewing Graveyard Security'** *Justice Gap*

The Society of Editors earlier this week launched the 'Hands Off FoI' campaign to protect the Freedom of Information Act, following the appointment of an 'unbalanced' independent commission to review the legislation. The Act was passed by New Labour in 2004 to promote accountable and transparent government – and, famously, one of Tony Blair's biggest regrets – is a powerful tool for investigative journalists. For example, FoI requests by journalists Heather Brooke and Jon Ungoed-Thomas culminated in the MPs' expenses scandal, and just last week a FoI request by the BBC revealed that black people were three times more likely to be Tasered by police in England and Wales than white people.

The appointment to the commission of several known sceptics of freedom of information has caused concern. For example, the commission includes former justice secretary Jack Straw, who called for the Act to be rewritten and who Liberty criticized as an unsafe guardian of British freedoms. Other members of the five-person commission include former Conservative leader Lord Michael Howard, whose expenses were exposed following a FoI request, Lord Carlisle, who condemned the 'criminal' publication of information leaked by Edward Snowden, and Ofcom Chair Patricia Hodgson, who is on the record criticizing the Act. Their appointments have been widely condemned by freedom of information campaigners. For example, Lord Anthony Lester, one of the architects of the Human Rights Act, tweeted thus: Current proposals, which could be introduced into Parliament by December, include charging for FoI requests, relaxing procedural rules to make it easier to refuse requests because of expense, and expanding ministers' powers to veto disclosures. Nick Turner, the incoming president of the Society of Editors and leader of the 'Hands Off FoI' campaign, described the government's review as a 'cynical and, indeed, dangerous backward step in the long fight for greater openness and transparency' and Norman Lamb MP, a Liberal Democrat who served as a minister in the coalition government, criticized the 'outrageous' proposals and urged people to 'fight for open government!'

**Turgunov v. Russia (no. 15590/14) - Violation of Article 3 if Extradited**

The applicant, Botir Turgunov, is a national of Kyrgyzstan who was born in 1979 and lives in St Petersburg (Russia). The case concerned his complaint that his extradition to Kyrgyzstan would expose him to the risk of ill-treatment. Mr Turgunov, who is of Uzbek ethnic origin, left Kyrgyzstan for Russia in July 2010, following inter-ethnic clashes in the town of Osh where he lived. In April 2012 the police in Osh charged him in his absence with participation in the mass riots and several other offences. In January 2013 he was arrested in St Petersburg and subsequently remanded in custody; his detention was extended several times. In July 2013 a Russian deputy Prosecutor General granted the request of the Kyrgyz authorities for his extradition. Mr Turgunov's appeal against that decision was rejected by the St Petersburg City Court, the decision being eventually upheld by the Supreme Court in February 2014.



**Decisions of Judges Apply to us all – They Need to be Accessible to All**

The rule that judges, when deciding the cases before them, should follow the decisions of judges in earlier cases with similar facts, is the defining feature of the English legal system. The purpose of this rule, known as the doctrine of precedent, is to promote consistency in the law and how it is applied. Without this rule, it would be impossible for us as citizens to regulate our behaviour in line with the law, because there would be no way of knowing what the law was. Essential to our legal system, therefore, is a method of reporting and publishing the decisions of judges so that they are accessible so that we can identify what the law on a particular subject actually is. It was for this purpose that the Incorporated Council of Law Reporting was created in the mid-Victorian era.

ICLR was established in 1865 by a group of lawyers driven to distraction by the difficulty they faced in trying to discover what the judges in the courts were doing. Prior to 1865, there was no single, systematic mechanism for publishing judgments. Back then, law reporting was carried out as a private profit-making enterprise by lawyers of questionable competence and in a style that probably caused more problems than it solved. Different reporters covered the same case but reported different outcomes and reasoning, and coverage was sporadic – scattered across a vast number of different publications, which made it necessary to buy all of them in order to achieve comprehensive access. These reports, despite their deficiencies, were eye wateringly expensive and difficult to get hold of.

The formation of ICLR was a quantum leap for access to the decisions of the courts and cleared away the chaos that had gone before. For the first time, law reporting was carried out by a single organisation in a systematic fashion by people who knew what they were doing. Cases that changed the law or clarified it (cases that created "precedent") were carefully analysed, digested and included in England's first regular series of reports: The Law Reports. And most importantly, as a charity, ICLR sold its reports at prices consistent with the cost of production on a not-for-profit basis.

The Law Reports, which continue to be published monthly, provided the blueprint for virtually every series of law reports published in the UK since the reign of Queen Victoria. But, a great deal has changed over the past 150 years. One change, in particular, is that the number of cases being fought by parties without legal representation has increased at an alarming rate. The recent surge in the so-called phenomenon of 'self-representation' has rightly caused some collective head scratching at organisations like ICLR. Whilst publications such as The Law Reports clearly improved access to the decisions of judges, the reality is that the style of law reporting crafted over the last 150 years has always been targeted at a legally qualified audience. For judges and lawyers, law reports are 'tools of the trade'; for legal academics and students, they are a source of learning.

Law reporting proper offers little to the growing number of people who lack legal training but nevertheless require the ability to access, understand and deploy the decisions of judges in court themselves. Judgments are by their nature often complex and long winded. The purpose of law reports is to provide the (professional) reader, by way of the headnote, with a clear insight into what a particular case was about and what was decided, without the need to wade through judgment itself. However, the compressed, legalistic drafting style of headnotes is not easily comprehensible to the general public. Moreover, law reports cost money, which poses yet another significant barrier to their use by self-represented litigants. The challenge for law reporters is to recognise and satisfy the needs of this new and rapidly growing audience: individuals without legal training who are forced to represent their interests in court without the help of lawyers.

The rise of online information has helped to move things in the right direction. An enormous archive of judgments is now freely available (albeit, without headnotes) on BAILII – where the

**Concerns Over DNA Analysis Spur Review of Hundreds of Texas Cases**

Prosecutors in Travis and Williamson counties will review hundreds of criminal cases after learning of scientific concerns with the way examiners analyze evidence that includes genetic material from multiple people.In a statement, Travis County District Attorney Rosemary Lehmberg said her office also discovered an issue with the database it uses to calculate DNA statistics, which are presented in court as probabilities that a given sample included the DNA of a certain person. Lehmberg says her office is unsure how many Travis County cases are affected but says it is working to identify them and notify the parties involved. "The potential impact of changes to the mixture protocols and the database is still unknown, but they may have a material impact on some criminal cases," Lehmberg said. "This is expected to be a large undertaking, requiring the addition of attorneys and paralegals to our Conviction Integrity Unit. In the interim, this office will work to facilitate any requests for DNA reviews based on the changes."

The FBI first notified crime labs across the country this spring that it had discovered state labs were using outdated protocols to interpret results from DNA data. The problem led to prosecutors overstating the reliability of some DNA evidence in court, which is often presented as accurate to within a fraction of a fraction of a percent. The errors were said to have affected thousands of cases going back to 1999, but officials initially downplayed the impact, saying they were unlikely to result in dramatic changes. The rumble began in Texas when district attorneys started asking Texas Department of Public Safety forensic labs to retest evidence for use in upcoming trials. Among the first was Galveston County District Attorney Jack Roady, who asked for DNA samples to be reassessed in a murder case and discovered a big change in the likelihood that the DNA was unique to an individual. Now the Texas Forensic Science Commission, which sets standards for physical evidence in state courts, and the Texas District and County Attorney's Association are working with counties on addressing the issues. The Department of Public Safety sent a letter Sept. 10 notifying state officials of the changes.

But how widespread the problem is and how many cases will be affected across the state remains in question. The Department of Public Safety controls only eight of the DNA crime labs in Texas; counties and police departments oversee others. The advent of DNA testing revolutionized criminal investigations for its reliability in tying suspects to objects collected at the scenes of crimes. But the forensic science continues to evolve and interpretations of the results constantly change. In the latest interpretation guidelines, a given sample will have lower probabilities, translating to more conservative statistics, the DPS letter said. "Just to be on the safe side, they are not going to count all the data they can count," said Rob Kepple, the executive director of the Texas District and County Attorney's Association.

The old testing could have determined that there was a probability that someone's DNA was included in an evidence sample, but the new testing could show that scientists can't determine whether someone's DNA was included, Kepple said. "That's important for a defendant to know." Such disclosures are important as labs test smaller and smaller traces of DNA found on objects, such as firearms or countertops. Travis County officials Wednesday declined to comment further on the issue.

Williamson County District Attorney Jana Duty said she found out about the changes in DNA mixed sampling in September. Her office reports that since 1999, it has 955 mixed DNA samples associated with cases that are affected by the new interpretation of the DNA tests. County commissioners there will consider next week whether to hire an investigator for about $28,000 to notify those included in the samples to give them the opportunity to decide whether they want their results retested. "It is hard to tell if the outcome of any cases will change, as this is all very new to us," Duty said. *Claire Osborn and Jazmine Ulloa - American-Statesman:*



Following Mr Turgunov's request, in February 2014 the European Court of Human Rights applied an interim measure, under Rule 39 of its Rules of Court, indicating to the Russian Government that he should not be extradited for the duration of the proceedings before the Court. Both Mr Turgunov's application for refugee status and his request for temporary asylum in Russia were rejected. Relying in particular on Article 3 (prohibition of torture and of inhuman or degrading treatment), Mr Turgunov complained that if extradited to Kyrgyzstan he would be subjected to torture or inhuman or degrading treatment or punishment because he belonged to the Uzbek ethnic minority.

Violation of Article 3 – in the event of Mr Turgunov's extradition to Kyrgyzstan: Interim measure (Rule 39 of the Rules of Court) – not to extradite Mr Turgunov – still in force until judgment becomes final or until further order Just satisfaction: The Court held that its finding of a violation constituted sufficient just satisfaction for any non-pecuniary damage suffered by Mr Turgunov.

**Violation of Article 3 – HIV Failure to Provide Adequate Medical Treatment**

Lunev v. Ukraine,Savinov v. Ukraine, Sergey Antonov v. Ukraine, Sokil v. Ukraine 9414/13): All four cases concerned allegations of inadequate medical care in detention for prisoners suffering from HIV (human immunodeficiency virus). In two of the cases, the applicants also alleged that they had been put under psychological and/or physical pressure in order to discourage them from bringing their complaints before the European Court of Human Rights. The applicants had all already been suffering from HIV for a number of years before their arrest and detention.

The applicant in the first case, Andrey Lunev, is a Ukrainian national who was born in 1977. He was arrested on suspicion of drug trafficking in January 2012 and sentenced in February 2013 to six and half years' imprisonment. That decision was however subsequently quashed and the criminal case against him remitted for fresh consideration by a court. Ultimately, in June 2013 he was placed by a court under house arrest in the town of Bryanka, Ukraine, given that he required medical treatment which he could not receive in detention. He alleges that, despite being diagnosed as HIV-positive on being placed in pre-trial detention, he was only given a cell count test one year later in February 2013 and prescribed with antiretroviral therapy only in April 2013.

The applicant in the second case, Eduard Savinov, is a Ukrainian national who was born in 1970. In June 2008 he was sentenced to a combined term of nine years' imprisonment following convictions of drug-related offences, theft and inflicting grievous bodily harm. He was, however, released in June 2013 in view of his serious health problems. Mr Savinov, HIV-positive for 20 years, alleges in particular that he only started receiving antiretroviral treatment at the end of December 2012 through the assistance of an NGO.

The applicant in the third case, Sergey Antonov, is a Ukrainian national who was born in 1975. He was arrested in September 2012 on suspicion of theft and his case was transferred to court for consideration on the merits in June 2013. The last known information as to his whereabouts is that he was transferred to a correctional colony in Buchanska in September 2013 to serve a sentence. Mr Antonov alleges that, despite the prison authorities being aware that he was HIV-positive, the first attempt to find out what kind of medical treatment he required had only been made at the beginning of January 2013, four months after he had been placed in pre-trial detention. He was prescribed with antiretroviral therapy in March 2013.

The applicant in the fourth case, Maksim Sokil, is a Ukrainian national who was born in 1981. He was placed in pre-trial detention in February 2012 and sentenced in September 2012 to two years' imprisonment for drug-related offences and theft. He was released in January 2014 having served his sentence. Mr Sokil alleges that, although he had been HIV-positive since 2008

and spent the majority of his detention as a patient in various medical facilities, the treatment prescribed to him was mainly symptomatic. He thus only received antiretroviral therapy in August 2013, nearly a year and half after he had been placed in detention.

The Government argue, in all four cases, that the applicants had been provided with medical care for their health problems in detention, receiving the treatment necessary and being under the supervision of medical specialists. In the case of Mr Lunev, they further allege that his state of health had been aggravated by his refusals to have blood tests and to be treated; and in Mr Sokil's case that it had been impossible to prescribe antiretroviral treatment because he first had to be treated for tuberculosis.

Relying on Article 3 (prohibition of inhuman or degrading treatment), all four applicants complained about the inadequate medical care provided to them during their detention. Mr Antonov and Mr Savinov also alleged under Article 13 (right to an effective remedy) that national legislation had not provided for effective remedies with which to complain about inadequate medical care in prison. Mr Antonov also complained under Article 34 (right of individual petition) that he had been subjected to psychological pressure to dissuade him from maintaining his application to the European Court, alleging that, as a result of the intimidation, he had signed a note in July 2013 stating that he had had no complaints about the prison medical staff. This note was submitted by the Government to the European Court in the current proceedings. Mr Lunev further alleged under Article 3 and Article 34 that he had been ill-treated in detention in January 2013 by two police officers who had wanted to intimidate him into withdrawing his complaint to the European Court about the inadequate medical care and that the ensuing investigation into his allegation, terminated after one month due to lack of evidence and then on two further occasions following remittals by a court or the prosecutor due to shortcomings, had been ineffective.

In the case of Lunev: Violation of Article 3 - in respect of the failure to provide adequate medical treatment in detention Violation of Article 3 (investigation) No violation of Article 3 (alleged ill-treatment) No violation of Article 34 Just satisfaction: EUR 10,000 (non-pecuniary damage) - In the case of Savinov: Violation of Article 3 - in respect of the failure to provide adequate medical treatment in detention between November 2011 and March 2013 Violation of Article 13 Just satisfaction: EUR 10,000 (non-pecuniary damage) and EUR 910 (costs and expenses) - In the case of Sergey Antonov: Violation of Article 3 (inhuman and degrading treatment) Violation of Article 13 Violation of Article 34 Just satisfaction: EUR 7,000 (non-pecuniary damage) - In the case of Sokil: Violation of Article 3 (inhuman and degrading treatment) Just satisfaction: EUR 7,500 (non-pecuniary damage)

**Pakistani Police to Stop Planting Evidence** *Scott Docherty - Police Oracle*

Officers are being taught forensic skills in a bid to clean up the country's criminal justice system. The Pakistani Police's first murder squad has announced it will no longer fabricate evidence in a bid to improve public confidence. Officers have been paired with university graduates who have had training in forensics, report writing and interrogation, in a bid to end shady practices in the criminal justice system. Courts are heavily reliant on witness testimony and evidence found at the scene leading officers to admit that there was a pressure to plant evidence in the past.

Pakistan's hideously underfunded police force only gives 25 days extra training to its homicide officers and only pays investigation expenses in around half of cases. Hassan Abbas, expert on police reforms, told Reuters: "Basic problems like lack of police training, political interference and lack of funding are still not being addressed. "Announcing new units is nice for the media, but the basics are still neglected." [There was is such thing as a valid document in Pakistan, as the fake and genuine ones are produced by the same officials]



**Abuse of Republican Prisoner's Family** *Republican Political Prisoners, HMP Maghaberry*

On Wednesday 21st October 2015, the daughter and grandchildren of a Republican Prisoner were leaving the Maghaberry visits area when it was noticed that every visitor except them were having their "visitor's slips", which contains their photograph and personal details, returned by the guard, as is policy. The visitor began to question why her slip had not been returned. The female guard in question, who was wearing a poppy, contrary to the prison regulations and has been noted on a number of occasions for her belligerence and ignorance toward Republican Prisoners families, aggressively stated that the slip was not being returned. When this was challenged by the girl and her brother, who had been present on a separate visit, the guard told her "you won't be back here" and hit an emergency alarm. The notorious Jail Riot Squad arrived followed by a day Governor leaving the young grandson terrified and crying.

Other visitors offered to take the child out of the situation but the Jail staff responded by locking the turnstile and door; thus trapping the child in a highly charged situation. This is no surprise given that they were engaged in abusive behaviour followed by attempts to cover their tracks. Such bigotry and abuse has been noticeably on the rise of late.

The Republican Prisoner in question was asked by Jail Staff to write an impact statement because the Jail intends to bar the Republican Prisoner's daughter and his son. This is to justify the abusive behaviour of Jail Staff and undermine a current complaint to the Prison and the Prisoner Ombudsman in relation to the incident. Republican Prisoners have made it clear, on a number of occasions, including when attempts were made to change visiting arrangements, that we will not tolerate any form of harassment or intimidation being perpetuated against our families.

**Kingsley Burrell Police Restraint Death: Police Officers Referred to CPS** *BBC News*

A police watchdog has referred a complaint made by the family of a man who died while under restraint to the Crown Prosecution Service (CPS). Kingsley Burrell, 29, was detained in March 2011 after West Midlands Police attended a disturbance in Birmingham. He later died from a cardiac arrest. In May, an inquest ruled prolonged restraint and a failure to provide basic medical attention contributed to his death.Three officers are being investigated. A statement from the Independent Police Complaints Commission said in 2013 it had found there was a case to answer for gross misconduct against three officers, on the grounds of honesty and integrity in the accounts they provided to investigators. A misconduct hearing is pending.

After the inquest the IPCC received a complaint from Mr Burrell's family about evidence given by the police officers. A second investigation has been carried out and a referral made to the CPS for it to consider whether criminal offences may have been committed. A fourth police officer faces a misconduct charge for gross use of force. West Midlands Police said it was co-operating with the IPCC and the CPS and awaited the outcome.

In July 2014, the CPS said there was insufficient evidence to prosecute anyone over Mr Burrell's death. He had been detained under mental health laws after calling emergency services to the Haymer shop in Winson Green on 27 March, claiming he had been threatened by two armed men while with his four-year-old son. CCTV footage revealed no sign of armed men, but showed Mr Burrell looking agitated near the counter. Police officers told the family he had gone "berserk" in the ambulance and attacked his own son, and had to be restrained. During the inquest his sister, Kadisha Brown-Burrell said she had visited the mental health unit at the Queen Elizabeth Hospital and had been concerned by his condition. After the inquest Ms Brown-Burrell said if there had been an unlawful killing verdict the family would "see that as having justice".