drugs, phones, chargers and whatever and then launches the thing again outside. It's done in 30 seconds. None of the CCTV cameras is pointing at the sky. It's like ordering a Chinese. It's that easy. And it's lucrative. A £20 bag of heroin is worth maybe £100 on the inside. A smartphone will sell for between £800 and £1,000. There are plenty of drugs and phones in prisons. In fact, with all the cuts, it's easier to find a phone or drugs than it is a screw. Glyn Travis, of the Prison Officers' Association, told the M.E.N: "The use of drones is becoming quite common. Criminals will use any means whatso-ever to fund criminality inside the prison system. "Technology likes drones allows criminals to drop contraband virtually onto a pedestal. A drone might cost £300 or £400 but there's big money to be made. If it breaks, that's just short change." A Prison Service spokesperson said: "A drone was successfully intercepted by staff at Manchester prison on Friday 6 November.

Karen Walsh Blocked in New Bid to Overturn Conviction

A pharmacist jailed for murdering her elderly neighbour has been blocked from going to the UK's highest court in a new bid to overturn her conviction. Karen Walsh was found guilty in 2011 of killing 81-year-old Maire Rankin. Ms Rankin was found dead at her home in Newry, County Down, in December 2008, having been beaten with a crucifix. Judges in Belfast refused Walsh's legal team permission to reopen claims about how her level of drunkenness impacted on any intent to kill the pensioner. They ruled that no point of law of general importance had been raised worthy of consideration by the Supreme Court in London. It means Walsh has now exhausted all of her domestic appeal options. Walsh is currently serving a minimum 20-year prison sentence for carrying out the attack. Her victim had suffered up to 15 broken ribs during the attack and had also been sexually assaulted. During Walsh's trial, prosecutors said she arrived at Ms Rankin's home already drunk and with a bottle of vodka. It was alleged she attacked the Ms Rankin after being spoken to about her drinking.

Earlier this year, her lawyers appealed the guilty verdict by claiming the jury was misdirected on a key area. They said her conviction was unsafe and she should be granted a retrial. That challenge was thrown out, but Walsh's legal team returned to the Court of Appeal seeking leave to take her case to the Supreme Court. It was argued that the jury was not given proper guidance on whether she can have intended to kill or inflict serious injury to Mrs Rankin based on her level of intoxication.

A defence barrister told the court his client was said to have drank up to a third of a bottle of neat vodka that night. "The direction that should be issued to the jury is to satisfy itself, being a crime of specific intent, that this accused actually formed the specific intent," he said. "In this case that was not done, and what I'm asking is that the Supreme Court should actively consider this issue." But a judge said directions were given to the jury on the alcohol consumption issues. He dismissed the application and said: "It doesn't seem to us that raises any point of law of general public importance."

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 555 (12/11/2015) - Cost £1

Mark Dorling to Court of Appeal

The Criminal Cases Review Commission has referred the murder conviction of Mark Dorling to the Court of Appeal. Mr Dorling was tried at the Central Criminal Court in London in 2006 for the murder of Aaron Chapman. He pleaded not guilty but was convicted on 19th April and sentenced to life imprisonment with a tariff of 25 years. Aaron Chapman, a former prison officer, was attacked with a knife at his Surrey home in December 2002. The following day he died from multiple stab wounds. Mr Dorling sought to appeal against his conviction but his appeal was dismissed. He applied to the Commission for a review of his conviction in March 2012. Having considered the case in detail, the Commission has decided to refer Mr Dorling's murder conviction to the Court of Appeal. The referral is based new information that has emerged since the trial, and on other evidence that was available at the time of the trial but that was not disclosed to the defence. The Commission considers that this material raises a real possibility that the Court of Appeal will now quash the conviction. Mr Dorling is represented Mr Maslen Merchant of Hadgkiss Hughes and Beale, Birmingham.

Jeanette Burke to Court of Appeal

The Criminal Cases Review Commission has referred the conviction of Jeanette Burke to the Court of Appeal. Ms Burke appeared at Liverpool Crown Court in 2006 charged with one count of conspiracy to supply cocaine and another of conspiracy to supply heroin. She was one of a number of people prosecuted for these offences following a lengthy Merseyside Police and HM Customs and Excise operation known as Operation Lima. Some of the alleged conspirators pleaded guilty. Ms Burke was among a number of others who pleaded not guilty but she was convicted and sentenced to 20 years' imprisonment. Ms Burke appealed against her conviction but the appeal was dismissed in 2008. She applied to the Commission for a review of her case in 2012. Having considered the case in detail the Commission has decided to refer Ms Burke's conviction to the Court of Appeal. The referral is made on the ground that the non-disclosure of the bases of plea of co-accused conspirators potentially undermines the safety of Ms Burke's conviction and therefore raises a real possibility that the Court will now quash her conviction.

James Lee Dunn to Court of Appeal

The Criminal Cases Review Commission has referred the murder conviction of James Lee Dunn to Court of Appeal. Mr Dunn appeared at Birmingham Crown Court in July 2006 along with four other men charged with murder on the basis of joint enterprise. He pleaded not guilty but was convicted for the murdering a man who was who was shot multiple times and with two guns in a pub car park in Coventry in April 2005. Mr Dunn was sentenced to life imprisonment with a minimum term of 26 years. Mr Dunn appealed against his conviction but the appeal was dismissed in June 2009. He applied to the Commission for a review of his case in September 2013. Having considered the case in detail, the Commission has decided to refer Mr Dunn's conviction to Court of Appeal. The referral is based on previously undisclosed material relating to the reliability of a prosecution witness which raises the real possibility that the Court of Appeal will now quash the conviction. Mr Dunn is represented Mr Maslen Merchant of Hadgkiss Hughes and Beale.

Inspectors Find HMP Maghaberry to be 'Unsafe and Unstable'

A report on an independent inspection of Maghaberry Prison has revealed significant failures in local leadership combined with an ineffective relationship with senior management within the Northern Ireland Prison Service (NIPS), contributed to the high security facility becoming unsafe and unstable for prisoners and staff. The findings of the highly critical report were jointly published today (5 November 2015) by Brendan McGuigan, Chief Inspector of Criminal Justice in Northern Ireland and Nick Hardwick, Her Majesty's Chief Inspector of Prisons in England and Wales.

A multi-disciplinary team from Criminal Justice Inspection Northern Ireland (CJI), Her Majesty's Inspectorate of Prisons (HMIP), the Regulation and Quality Improvement Authority (RQIA) and the Education and Training Inspectorate (ETI) visited Maghaberry Prison in May 2015 to carry out the unannounced inspection. "What we found was a highly complex prison that was in crisis and it is our view that the leadership of the prison had failed to ensure it was both safe and stable," said Mr McGuigan and Mr Hardwick. "We had real concerns that if the issues identified in this report - which were brought to the attention of the prison leadership at a frank feedback session at the end of the inspection - were not addressed as a matter of urgency, serious disorder or loss of life could occur," added Mr Hardwick. The Chief Inspectors were also worried that a deliberate fire at Maghaberry's Erne House which had the potential to cause death or serious injury, had occurred in April, just weeks prior to the inspection. As a result the Chief Inspectors have recommended urgent action be taken to strengthen leadership and called for the circumstances and response to the fire to be subject to an independent review.

Highlighting some of the key findings of the inspection, the Chief Inspectors said more prisoners than before had reported feeling unsafe. Illegal and prescription drugs were also more widely available than in March 2012 when Maghaberry Prison was last inspected. - Staff absence was high which led to frequent and unpredictable disruption to the daily regime for many prisoners. This situation had a negative impact on relationships between prisoners and staff. - Inspectors found substantial numbers of prisoners were spending long periods of time locked up in their cells, limiting access to education, showers, opportunities to make telephone calls to family and friends and carry out everyday domestic tasks. This situation was frustrating for prisoners and contributed to the overall instability of the prison. - Levels of assaults and rates of self-harm at Maghaberry Prison had increased and Inspectors were told a great deal of bullying and incidents of physical violence were going unreported. - Staff morale within the prison was described as 'low' at the time of the inspection with some staff members subject to credible threats.

"The risk and impact of threats and acts of intimidation cannot be seen in isolation from the challenges faced by the leadership and staff of the Prison Service in managing the separated units, which consumes a disproportionate amount of management attention" said Mr McGuigan. "Giving preference to maintaining the regime for separated prisoners over every other area in the prison is unfair and has a negative impact on more than 900 men who make up the majority of the prison population." He continued: "This position is untenable and a radical new approach is now required. To assist with this process we recommend that should it remain necessary to manage the separated units in this way, their location, management, and resources should be treated as stand alone to that of the main prison."

The Chief Inspectors also highlighted their concern around health care provision within Maghaberry which was impinging on the prison's ability to function effectively. - "Inspectors were very concerned that aspects of health care provision had deteriorated since the previous inspection. In our view it was falling short and not meeting the complex needs of the prison

Of most concern to inspectors was the lack of any meaningful risk assessment when detainees arrive in custody or are released. The concerns identified have been repeatedly made known to HM Courts and Tribunal Service through the publication of individual reports and inspectors are not satisfied that they have been adequately addressed. The pockets of good practice inspectors found, and the fact that most court custody staff tried hard to treat people in custody decently, shows it is not inevitable that poor conditions and degrading, unsafe practices will prevail.

Overall, inspectors found that: • no single organisation exercised any effective leadership for court custody provision at local or national level; • no organisation has a good overall picture of the situation and physical conditions were poor, with deep cleaning and decorating clearly neglected for years; • the valuable insights of Lay Observers, whose independent scrutiny of court custody is of pivotal importance, are often overlooked; • contract management is focused on the timely delivery of detainees to court and little priority is given to ensuring detainees to do not spend long periods in court cells after their appearance is over; • deficits in aspects of detainee care, such as risk assessment, where poor care could result in serious harm to detainees themselves, staff or others, are allowed to remain almost entirely unaddressed; • established practices that are applied unquestioningly often cause the greatest disadvantage to the most vulnerable detainees, such as the handcuffing of disabled detainees in public; • while a few custody staff did attempt to ask detainees how they were feeling, it was often clear that they lacked training in risk assessment, meaning serious risks – that detainees might harm themselves or others, lapse from sleep into a coma, or become ill while in custody – were not managed; • pre-release risk planning was unusual with, on most occasions, only a travel warrant given to vulnerable detainees, in sharp contrast to police services, who recognise they have a duty of care; • often, HM Courts and Tribunal Service (HMCTS) managers were unaware of how bad conditions in the cells were or claimed that detainees only spent a couple of hours in them, while in reality, many detainees spent eight or 10 hours in a tiny cell with no natural light, sometimes no heating, that might be filthy; • provision for people who were pregnant, elderly or disabled was almost always inadequate and custody staff had little awareness of the needs of children; and • physical health care was poor, with treatment and medication often delayed in the belief it would be provided later in prison or police custody, though mental health was better.

Nick Hardwick said: "The treatment of detainees and the conditions in custody suites were very low priorities for the different organisations involved, which failed to adequately coordinate their custody roles. Inspectors could find almost no-one at local or national level who accepted overall accountability or saw it as their responsibility to address the inspectorate's recommendations. The treatment and conditions we found were the consequence. We found filthy, squalid cells covered in old graffiti. The needs of women, children or other detainees with particular needs were often not understood or addressed. Routine security measures were often disproportionate or inconsistent. Health care was inadequate. Of most concern and despite, in many cases, the best efforts of custody staff, we found a dangerous disregard for the risks detainees might pose to themselves or others. Court custody is an accident waiting to happen."

Prison Smugglers Crashed Drone Carrying Drugs & Mobile Phones Inside Strangeways

The damaged four propeller aircraft was found in a yard inside HMP Manchester. It was carrying a parcel stuffed with drugs and mobile phones. Police and prison authorities are now investigating the incident. One former inmate said: "Drones have been used to get phones and drugs into Strangeways for about a year. It's rife. Someone parks up outside the prison in a van with a drone with a camera on it. It goes up and over the wall and someone inside a cell just climbs up onto the radiator, opens the window and pulls the drone inside. He rips away the masking tape, takes the

which was completely out of character. He also became disengaged with staff. He was placed in a special accommodation cell. He was taken back to HMP Leeds the next day as HMP Everthorpe did not have the necessary expertise to manage his condition.

On the 24th July, Matthew was returned to HMP Leeds and taken straight to segregation. He had no medication on the 24th and received a delayed dose on the 25th. On the evening of the 25th July Matthew self harmed in his cell and an ACCT was opened. He was retained in segregation, but no exceptional reasons were identified or recorded to justify this. On the morning of the 26th, Matthew refused his medication and food. Despite his continued aggressive and bizarre behaviour Matthew was not examined by a doctor or any mental health practitioner. Later that morning Matthew was found hanging in his cell.

Evidence was heard from an Independent Consultant Psychiatrist who reviewed the care received by Matthew. His evidence was that it was likely Matthew was suffering from symptoms of his ADHD including restlessness, inattention, hyperactivity and impulsivity and this behaviour likely lead to his recall and also his behaviour when transferred to HMP Everthorpe. The expert was critical of the lack of urgent assessment being carried out on Matthew whilst he was in custody.

After four weeks of evidence the Jury returned a narrative conclusion. HM Senior Coroner Mr Hinchliffe advised he would be using his powers under Regulation 28 to make a report due to concerns that arose in Matthew's case. He intends to touch upon issues relating to suicide and self harm management training, process/policies/procedures and inadequacies regarding communication between the different healthcare teams. These recommendations echoes the ones made by Prison Probation Ombudsman who was also critical about the circumstances which led to Matthew's death.

The family of Matthew said: "The thing that hurts the most is that we believe Matthew's death was completely avoidable. Matthew was not depressed and we do not believe he wanted to die; he just wanted someone to listen to him and to help him. After listening to four weeks of evidence we believe that there were failings in Matthew's care and the cumulative effect of those failings means we as a family have to live the rest of our lives without him with us."

Deborah Coles, co-director of INQUEST said: "It is unacceptable that as a society we let someone like Mathew die in this shocking way in a segregation cell. Why are the mechanisms which were put in place after countless deaths in custody, not working to safeguard the lives of vulnerable people with serious mental health problems? We know that in a matter of months there was another death in Leeds prison in the segregation unit. These deaths highlight prison is no place for people with mental health problems".INQUEST has been working with the family of Matthew since July 2014. The family is represented by INQUEST Lawyers Group member Gemma Vine from Lester Morrill Solicitors in Leeds and barrister Richard Copnall from Park Lane Plowden Chambers in Leeds.

Court Custody – A Dangerous Disregard For Risks

Court custody was an accident waiting to happen and conditions were some of the worst inspectors have seen, said Nick Hardwick, Chief Inspector of Prisons. As he published a thematic review of court custody in England and Wales. The review draws together findings from inspections of 97 courthouses with custody facilities between August 2012 and August 2014. Inspectors' expectations of court custody are modest. Inspectors expect to see a clear strategy for and leadership of the custody function, that detainees are held for the shortest time possible and that their rights are respected. While they are in custody, detainees should be safe and treated decently according to their individual needs, and any health needs should be dealt with effectively.

population," they said. - "There were insufficient numbers of primary care nurses and problems in retaining staff. Some areas of health care including chronic disease management and substance misuse, were considered by Inspectors to be unsafe. - Delays and serious problems with the way in which medications were administered, particularly the practice of prisoners holding their own prescribed drugs created a risk of medicines being diverted and vulnerable prisoners bullied," the Chief Inspectors continued. "We have therefore recommended that health care services are urgently improved to ensure patient safety and requested that an action plan to address the concerns identified in this report be developed within one month by the South Eastern Health and Social Care Trust in partnership with the Prison Service."

In summary Mr Hardwick said: "This was a concerning inspection of a prison which was as bad as any we have seen in recent years. When Maghaberry was assessed against the renowned 'healthy prison' standards, performance was found to have fallen from 'not sufficiently good' to 'poor' in relation to safety, respect and purposeful activity. Only in relation to resettlement had the standard of 'reasonably good' been maintained. In addition only 16 of the 93 recommendations made in 2012 had been achieved. We acknowledge that Inspectors met a number of good and motivated managers and staff within the prison. They gave us some hope that with the right kind of leadership and tangible support, Maghaberry could recover and reach a point where progress could be made," said Mr McGuigan. We welcome the actions taken to date by the Prison Service and the South Eastern Health and Social Care Trust to address the issues raised in this report. But given the serious concerns held regarding the operation of Maghaberry, Inspectors will return in January 2016 to carry out a further inspection to assess both the impact of the work currently underway and progress against the inspection recommendations. It will only be at this point following an impartial assessment that our concerns may be allayed," said Mr McGuigan.

The inspection was carried out in line with the HMIP's four tests of a healthy prison which look at safety; respect; purposeful activity and resettlement. An assessment of outcomes for prisoners and assessment of performance against the tests can fall within one of four judgments. They are 'outcomes for prisoners are good'; 'outcomes for prisoners are reasonable good'; 'outcomes for prisoners are not sufficiently good' or 'outcomes for prisoners are poor'. Further detail on the inspection criteria can be found within the inspection report. Of the 93 recommendations made by Inspectors in 2012, 16 (17.2%) were achieved; 28 (30.1%) partially achieved; 47 (50.5%) unachieved; and 2 (2.2%) superseded at the time progress was assessed in May 2015.

HMP Maghaberry - Issues Affecting Republican Prisoners Cannot be Ignored

The above report concerning Maghaberry Prison fully vindicates the long held position of Republican Prisoners and IRPWA spokespersons that Maghaberry Prison and those responsible for running it need to be confined to the dustbin of history. While the report clearly highlights the failings of the regime and rightly points the finger at its staff and those within its leadership, it falls short in calling for the heads of those ultimately responsible.

We in the Irish Republican Prisoners Welfare Association (IRPWA) hold no such reservations. We point the finger at those at the heart of the prison service headquarters whose policies led to such a damning report. David Ford, the so called Justice Minister at Stormont, is equally responsible as are all those constitutional politicians sitting in Stormont who were fully informed of the issues yet failed to ensure that real and radical change was brought about.

Indeed, this report is a damning indictment of Britain's policies in the Six Counties, enacted through its administrative government at Stormont. Sinn Féin and the SDLP in particular, need

to stop the pretence that Stormont is working and delivering for the people in this part of occupied Ireland and accept that it is a failed entity. To persist in this charade is to give cover to Britain's failed policies. Where this report fails, is in its vague and limited analysis in regards to Republican Roe House. Its authors prefer to cast some sort of culpability for the crisis in Maghaberry at the door of Republican Prisoners by referring to the mere existence of the 'separated regime' as in some way responsible. The following quotes are taken directly from the report:

* "The demands of the separated units are undermining the work of the whole prison

S48 Concern: The separated units are not managed on the same basis as the rest of the prison. They provide only a containment function but continue to consume a disproportionate amount of staff and management resources to the detriment of the majority of the population.

* Prisoners in Roe House continued to submit a large number of formal complaints, which had paralysed the system.

* A number of judicial reviews had originated from separated prisoners and were taking up a significant amount of management time.

* Staffing levels in the units were prioritised over any other area in the prison and the regime was maintained regardless of what happened in the rest of the prison. This meant that staffing was reduced in other houses, leading to further curtailments.

* Recommendation: If it is necessary to continue to manage the separated units in line with different criteria from the rest of the prison, their location, management and resources should be removed from the rest of the prison in order to prevent their significant adverse impact on the prison population as a whole."

One can clearly see from reading the above paragraphs that no attempt was made to reveal the real issues behind why Republicans in Roe House needed or required such 'demands', 'staffing' and 'management resources'.

• No mention of the core issues of controlled movement, strip searching and the isolation of Republican Prisoners.

• No mention of the issues at the heart of the complaints and judicial reviews initiated by Republican Prisoners.

• No mention of the failure to implement the 2010 August Agreement and a litany of recommendations from various bodies dating back years, including those of successive Prisoner Ombudsmen.

• No mention of the fact that the International Committee of the Red Cross had to be called in to Roe House following the failure to implement the Stocktake Report and who remain regular visitors to the Republican wing.

• No mention of the malign influence of MI5 and the staff and management who work directly for them as mentioned in the report by CAJ entitled: The policing you don't see.

The issues at the heart of the conflict within Republican Roe House require resolution and cannot be ignored. Republican Prisoners have identified what those issues are and how their vision of a conflict free environment within the prison can be created. The political will needs to exist to achieve this. Sadly, this report missed the opportunity to identify those issues and seriously pressurise those into creating the necessary change. Whatever the future may bring to Maghaberry Prison following on from this report, one can rest assured that Maghaberry will always be in the headlines until the issues identified by Republican Prisoners have been resolved and Britain desists from its current prison policies which like those it implemented in the past are doomed to failure.

Source: Irish Republican Prisoners Welfare Association, 05/11/2015

mation were kept from Wang's lawyers, they said. Pannick described the government's arguments as surprising and disturbing. If national security was deemed to outweigh Britain's international obligations, either parliament should pass a law to that effect or the UK should no longer subscribe to the European human rights convention, he said.

The Strasbourg court had procedures in place to protect confidential material, he said. Those who expressed concern about Britain's national security suggested it was based either on what they saw as the inefficiency of the court's procedures or their view that its judges could not be trusted, he added. Kirsty Brimelow QC, Wang's counsel in the earlier trial and appeals, said the case raised a serious question, not of Strasbourg interfering in British cases but of increasing secrecy in British courts. "Whilst we have been embroiled in political debates about 'mission creep', an expression referring to fears that the European court of human rights is overreaching into concerns of the UK, we have been losing sight of the dangers of secrecy overreach from the UK," she said.

The supreme court, led by Lord Neuberger, heard that in December 2013 the then foreign secretary, William Hague, issued a public interest immunity certificate – a demand to suppress information – when he said "there would be a real risk of serious harm to an important public interest" if Wang were allowed to disclose evidence heard in secret. Wang, the grandson of Mao Zedong's third in command, fled China and was granted refugee status in Britain in 1992. In 2009 he was convicted of the murder of 86-year-old Allan Chappelow, a retired journalist found battered to death at his home in Hampstead, north London. He was jailed for life with a minimum term of 20 years. The European human rights court does, on rare occasions, hear evidence in secret sessions from which the media and public are excluded. This happened in December 2013 when it adjudicated on rendition claims brought by a Saudi Arabian and a Palestinian against Poland, which was alleged to have operated a secret "black" site on its territory. Warsaw was eventually found to have violated their human rights.

Inquest into the Death of Matthew Stubbs HMP Leeds Concluded

Mathew Stubbs was a 36 year old man who struggled with mental health issues and ADHD for most of his life. He also suffered from PTSD and was suffering with traits of emotionally unstable personality disorder. Despite his problems, his family described him as being a person with a huge heart and beautiful smile who adored his children and was loving towards his family. On the 29th July 2013, Matthew died at Leeds General Infirmary, after being found hanging in his cell in the segregation unit at HMP Leeds on 26th July. Matthew was known to have made previous serious attempts on his own life both in the community and at least once when in prison. The Inquest heard that when Matthew was first recalled to custody and arrived at HMP Leeds on the 15th July his psychiatric history was noted in addition to the fact that he had not been taking his medication for ADHD which controlled his symptoms of impulsivity, mood swings, restlessness and engaging in risk taking activities.

A referral was made to the Mental Health In Reach Team and an appointment was arranged for him to be seen by the Psychiatrist on the 26th July. During that time Matthew was not assessed by a member of the Mental Health In Reach Team. A prison GP prescribed Matthew with 18mg of the Concerta (the lowest dose, and less than Matthew's normal dose) due to the fact that he had not taken his medication for a period of time. On the 23rd July, despite the fact he had not yet been assessed by a member of the Mental Health In Reach Team or a psychiatrist Matthew was transferred to HMP Everthorpe without his ADHD medication. Matthew exhibited extremely aggressive and violent behaviour and commenced a dirty protest

appeal, appeared to help put Foster's hopes of avoiding execution back on track when she acknowledged that state law could allow the case to be retried because "strong" new evidence had emerged. Her helpful intervention drew gasps from the audience and a stuttering response from Antonin Scalia, the most conservative of the nine justices and a fierce defender of the death penalty, who demanded that Burton repeat what she had just said.

"Well, that's the end of it, isn't it?" asked justice Stephen Breyer when she did. "It is. It is the end of it," Burton replied. "As much as I would like it to be [otherwise], when you have new evidence, such as in this case – and it is strong evidence – that the court feels like it has to look at, then you are beyond the [relevant legal] bar." The strong new evidence came in the form of notes taken by prosecutors when they were deciding which potential jurors to strike off the jury, which revealed they had designated all African Americans on the list with a "B" against their name. Of the six jurors marked "definite no" by prosecutors, five were African American, while the only white person struck off the list had a declared opposition to the death penalty so should not have been included anyway. Other black jurors were struck off for false reasons, such as misunderstood religious beliefs, or factors such as age that were not applied to white jurors.

The defence team argued the notes amounted to an "arsenal of smoking guns" and said it was vital that the supreme court reinforce its ruling in an earlier test case – Batson v Kentucky – which requires prosecutors to demonstrate that race is not the motive for striking off minorities from the jury. "If this court, as it said so many times, is engaged in unceasing efforts to end race discrimination in the criminal courts, then strikes motivated by race cannot be tolerable," said Bright. Once the procedural discussions were concluded, a majority of justices appeared to side with Foster, suggesting he may yet have his death sentence overturned and a retrial ordered. "Isn't this as clear a Batson violation as the court is ever going to see?" said justice Elena Kagan. Breyer claimed "any reasonable person looking at this" would agree that prosecutors were looking to "discriminate on the basis of race" when they removed all the black candidates from the jury.

The state of Georgia argues that the notes made by its prosecutors were merely a sign that they were aware of the sensitivity of dismissing black jurors and wanted to take extra care to record the non-racial reasons for their decision. But Foster's appeal rests on the argument that many of the reasons subsequently given by prosecutors do not stand up to close scrutiny and left him with a jury less likely to consider crucial mitigating factors such as alleged learning difficulties when deciding on his sentence. Justice Scalia argued it should be left up to the original trial court to determine whether the prosecutors had passed the so-called "Batson test" by coming up with valid reasons. "Surely it is the judge that hears the testimony who is best able to judge whether asserted reasons are phony reasons or not," he said. The case also still faces some of the potential procedural hurdles first raised by chief justice Roberts and will decided upon by the supreme court next year.

Wang Yam Convicted of Murder In Secret Trial Seeks To Take Case To Strasbourg

A Chinese dissident convicted of murder after a secret trial has appealed to Britain's most senior judges to overturn a ban on him taking his case to the European court of human rights. Wang Yam was convicted at the Old Bailey after a trial during which his defence was heard in secret on the grounds of national security. The way secrecy was imposed and the attempt to stop Strasbourg judges from hearing the case was fundamentally unfair, Lord Pannick QC, representing Wang, told the supreme court. Lawyers acting for the government said the defence Wang had mounted was so sensitive that it could not be shown to the European court of human rights. Even the reasons the trial judge gave for the need to suppress the infor-

Man Jailed for Smuggling Sandwich and Drugs Into Prison

Karl Jensen, 27 of Ladbroke Grove, was jailed for two and a half years Crown Court on Thursday, 29th October. CCTV footage showed him outside the jail tying the goods to a fishing line that was pulled into a cell. Jensen pleaded guilty to seven charges including conspiracy to supply a class A drug and three counts of conveying an article into prison. Met officers were alerted when prison staff spotted Jensen and Hutchinson in Artillery Lane near the prison on in October last year. Staff watched on CCTV as Jensen tied a bag to a fishing line and it was hauled up into the prison. The bag, which was found inside the cell, contained a five-inch blade, a Smartwatch, a mobile phone, cannabis and cocaine. Other smuggled goods included a McDonald's McMuffin, a plastic Kinder Surprise egg containing five Sim cards, a bottle of vodka and USB chargers. Det Con Andy Griffin said the combination of items "could have been deadly." There have been no further arrests in connection with the smuggling.

Multiple Failures led to the Death of Carl Foot at HMP Pentonville

The jury at the inquest into the death of Carl Foot returned a highly critical narrative conclusion identifying a number of failures by prison staff/senior management which contributed to Carl's death. 33-year-old Carl died on 09/12/2014 in the Royal London Hospital, having been found hanging in his cell in HMP Pentonville on 5 December. Carl had a long history of alcohol and substance misuse and had served a number of prison sentences for crimes related to his substance misuse problems. He had attempted suicide more than once outside prison and had spent time in a psychiatric hospital. Carl arrived at HMP Pentonville on 21/11/2014. He was due to attend court again on 5 December.

The inquest heard that during Carl's initial health assessment he told the nurse that he had no history of mental health problems and no history of attempted suicide or self-harm. The nurse did not read Carl's medical records from previous sentences and told the inquest that she was unable to do so because they did not come up on the prison computer system. Carl had scarring on his arm from previous self-harm but this was not seen by the nurse conducting the assessment, nor by the doctor at a medication review the following day. He received warnings for negative behaviour on 1 and 3 December. On 4 December Carl told his brother in law, who was also a prisoner in HMP Pentonville at the time, that he hoped to be released from court the following day and intended to spend time with his family. Due to an administrative error between the court and the prison, Carl was not called to attend court on 5 December. He was given a further negative behaviour warning in the morning and in the early afternoon was placed on the basic regime. Carl's cellmate was moved in the morning of 5 December, and Carl was left alone in the double cell. At some point following the third negative behaviour warning, three officers attended Carl's cell to remove his television. Carl did not react well.

At 1.53pm Carl began to press his cell bell repeatedly, turning it on 8 times in 5 minutes. An officer went to Carl's cell and repeatedly cancelled the bell as soon as came on, before walking away while the bell was still on. A prisoner in the cell opposite Carl gave evidence to the inquest that Carl told the officer that he was going to kill himself. The officer replied "do it if I care", before walking away. Carl's cell bell was pressed a further 4 times from 2.01pm until Carl pressed his bell for the final time at 2.51pm. No officers gave evidence to having answered any of these 4 calls. The inquest heard that all officers knew that they were expected to respond to cell bells within a maximum of 5 minutes. Carl's final cell bell, pressed at 2.51pm, was answered at 3.18pm by an officer from another wing who happened to be walking past. The bell had been unanswered for 27 minutes. Carl was found hanging from a sheet tied to the window bars. He was taken to the Royal London Hospital where he died 4 days later.

The jury concluded that had Carl been found found sooner there would have been a greater

chance of survival. Staff shortages were a contributory factor. Leaving Carl alone in his cell when he was most vulnerable and confiscating his TV and downgrading him to basic regime were also identified as contributory factors. Other failures they identified included: • Initial assessment by the nurse and the doctor failed to recognise evidence of self-harm on Carl's body. • Medical records were not discussed/reviewed • There was an administrative failure between court and prison regarding Carl's court appearance. •An inadequate response to the bells from prison officers. Bells were not answered within the required 5 minutes. • There was a failure of senior management to implement an effective control system regarding cell bells.

Deborah Coles, co-director of INQUEST said: "Carl's death is another shocking reminder for the prison service that lessons are just not being learnt. 11 years ago Paul Calvert was also found hanging in the same prison whilst officers were playing back gammon rather than answering his cell bell. These deaths are unacceptable. Chief Inspectorate of prisons recently found that the prison was overcrowded, understaffed, and lacked management and leadership. Those comments chime with the jury's conclusions in this case."

£17.5 Million Spent on Police Informants - 'Best Value Policing'

Scott Docherty - Police Oracle: More than £17.5 million has been paid to police informants over the last five years with the Met making up over a quarter of the total. Forces spend an average of £100,000 a year paying people for information which has been deemed "an essential part of policing". The capital's police force came top of the list of UK forces with an average yearly spend of £1.2 million compared with the Police Service of Northern Ireland (PSNI) which spent nearly £420,000, in second place. A total of 31 forces responded to an FOI request for the amounts given to informants, or Covert Human Intelligence Sources (CHIS), with an average of £107,000 being spent by each force per year. Over the last five years the average annual spend has fallen by more than £600,000 and in the last financial year the total was just over £3 million. The most prudent of the forces was North Wales Police which averaged a yearly spend of £7,706.32. A Metropolitan Police spokesman said: "It's generally due to our size that we come out top on lists like this, along with the Metropolitan Police's national responsibility for counter terrorism policing."

The values of individual payments to informants was requested but declined on the grounds of it being too expensive or having the potential compromised the identity of individuals. Neil Woods, former officer and now chairman of marketing firm LEAP UK, says the use of informants was the "best value policing" in existence, but highlighted the dangers of using informants in drugs investigations. He told PoliceOracle.com: "It's an essential part of policing, the most important thing the police need is information about things that happen." In the 1990's, when he was a undercover drugs officer, he used to pay informants £20 for "general intelligence" and up to £80 for information that led to someone being charged. "We're not talking large amounts of money and the reason for that is that it would create problems in court, large amounts could provide a motive for someone to misrepresent information," he said. "But if you get information about a burglar, that information could halve a town's crime rate in half. It's the best value policing you can get."

However, throughout his time on drug investigations, Mr Woods realised the great lengths organised crime groups go to deter people from becoming informants. Leading them to sometimes carry out attacks on those who are even slightly under suspicion. "One suspected drug dealer was put in the boot of car and set fire to," he said, "On the whole, the police manage the safety of informants well but they don't take the wider picture into account. Mike Pannett, former Metropolitan Police officer, used to pay informants and underwent the informant handling course. He said: "I have dealt

difficult to understand and use". Its language is "archaic and obscure", the commission says. The act refers to concepts no longer recognised in law such as "felony", and includes obsolete offences such as "impeding an escape from a shipwreck". The act covers numerous other offences, including those known as ABH (assault occasioning actual bodily harm) and GBH (grievous bodily harm), but they are not coherently classified in order of seriousness.

The commission is recommending modernising the legislation based substantially on a 1998 bill drafted during an earlier Home Office attempt at reform. The bill clarified the hierarchy of offences and introduced a requirement that the defendant must have foreseen the level of harm caused. The new aggravated assault charge would carry a maximum sentence of 12 months and be triable only in magistrates courts, the Law Commission report proposes. "It would allow prosecutors to divert low-level injury cases from the more expensive crown court to the magistrates court, in line with the proposed increase in magistrates' sentencing powers from six to 12 months introduced by the Criminal Justice Act 2003."

More than 70% of ABH cases dealt with by crown courts receive sentences of 12 months or less. One problem the proposals will face is the government's apparent reluctance to bring into effect the legislative change giving magistrates the power to sentence offenders for up to 12 months for a single offence. Launching the report at Bangor University, Prof David Ormerod QC, law commissioner for criminal law and evidence, said: "Violent behaviour results in up to 200,000 prosecutions each year but the law under which violent offences are prosecuted is out of date and confusing for the courts, defendants and victims. "If implemented, our recommended reforms will produce a clear, modern statutory code to deal with offences of violence. A logical hierarchy of clearly defined offences will allow prosecutors to make more appropriate and efficient use of valuable court time."

Commenting on the report, Richard Monkhouse, the national chairman of the Magistrates Association in England and Wales, said: "We welcome this recommendation as we have been calling for extended jurisdiction to hear cases carrying 12-month sentences for some time now because it makes sense, and it will save money by speeding up the system, especially for victims who sorely need speedier justice. Magistrates are trained, ready and able to handle cases with longer sentences – we see this as an opportunity for the government to trust our members to do the job they signed up for."

US Supreme Court Weighs 'Strong' New Evidence of Racial Bias in Jury Selection

Dan Roberts, Guardian: A lawyer for the prosecution came to the rescue of a prisoner on death row on Monday in a dramatic twist to a US supreme court case described as one of the most egregious cases of courtroom race discrimination seen in decades. Timothy Foster, a black teenager who confessed to the murder of a white woman in Atlanta in 1986, is appealing his death sentence after legal notes subsequently emerged that revealed how all the black jurors at his sentencing were singled out and excluded from the jury. But despite a sympathetic reception when the case finally reached the US supreme court after 29 years, Foster's appeal risked immediate collapse when chief justice John Roberts surprised court-watchers by questioning whether he had the power to order a retrial in the case.

More than half of the opening argument from veteran civil rights lawyer Stephen Bright was taken up as he struggled against Roberts's technical challenge, which suggested the case should merely bounce back to the Georgia supreme court rather than be overturned. Georgia's deputy attorney general, Beth Burton, who was meant to be arguing against the

don't understand Pashto." Hall asked: "Your friends must have hated Western people. They knew about a plot to kill a lot of people… so they must have hated people in the West". Farooq replied: "I didn't know. They were cricket players. They used to come round for food."

Much of today's evidence was heard in closed proceedings, with Farooq, Sharif and their lawyers excluded from the courtroom. Stephanie Harrison QC, for the two men, yesterday said this was a "handicap". She said: "How can the court decide if material is incomplete, inaccurate or misleading if the person it refers to is excluded from seeing it?" In her closing statement today, she said the Home Secretary made "a fundamental error in assessment", adding: "You are making a decision of extreme gravity with serious consequences for the individuals you've made it on…you need to have a cogent basis to conclude that an individual has involvement in some capacity in a plot that was intended to cause mass casualties."

The Home Secretary argues that the exclusion decision was based on the future risk the appellants posed to the national security of the UK. Mr Justice Mitting said that if the Secretary of State had accepted evidence from the security services that was incorrect there was no question of assessing the appellants as posing a future risk.

The relationship of Abid Naseer to the other 11 men arrested in 2009 appears to have been central to UK security service worries. Now aged 29 he is in a US jail having been convicted in March for terror offences including a plot to blow up the Arndale Centre six years earlier. When he was convicted eight months ago, there were demands for the UK's Crown Prosecution Service to explain itself. Why was it unable to press charges in the UK in 2009, senior policing figures asked? In response, the CPS repeated its line that "evidence in our possession…which would have been admissible in a criminal court [in the UK] was very limited.

"Crucially, there was no evidence of training, research or the purchasing of explosives. We had no evidence of an agreement between Abid Naseer and others which would have supported a charge of conspiracy in this country." MI5 had produced evidence of what they said were coded emails between Naseer and an overseas al Qaeda commander in which a bomb plot was discussed. Rizwan Sharif and Umar Farooq admitted meeting him – at a party and just the once. But the security services insisted they had more evidence. However, that evidence has never been made disclosed to the public, or even to the two men themselves.

Exclusion decisions prevent people from returning to or entering the UK. The Home Secretary makes them against individuals who are 'not conducive to the public good'; in many citizenship stripping cases where the individual is abroad an exclusion decision against them will also be made. There is no right of appeal except by way of judicial review.

Victoria Parsons, Bureau of Investigative Journalism

Let Magistrates Deal With More Assault Cases, Says Law Reform Body

Owen Bowcott, Guardian: Magistrates courts should be empowered to deal with thousands more assault charges every year rather than sending too many cases for expensive trial in the crown court, the Law Commission has said. In a report calling for replacement of the "outdated" 1861 Offences Against the Person Act, the law reform body proposes creating a new "aggravated assault" crime to cover the gap between common assault and the more serious actual bodily harm (ABH). Threats of rape or of causing serious injury, the commission suggests, should also become crimes in the same way that threats to kill are already illegal.

There are more than 26,000 prosecutions each year under the Offences Against the Person Act and about a further 100,000 for assault, the report says, "but the act is notoriously

with informants who have offered up some of the most important information that could not have been got by other means. "Having good informants is part and parcel of policing." One force said in its FOI response: "CHIS can provide unrivalled access to crime groups and play an integral role in the gathering of intelligence used to combat and reduce crime. "The results achieved from intelligence greatly outweigh the cost of rewards paid to CHIS."

Where Now for the Rule of Law? *Kate Beattie, UK Human Rights Blog*

The reforms to judicial review proceedings in Part 4 of the Criminal Justice & Courts Act 2015 have been closely analysed in a timely report by JUSTICE, the Public Law Project and the Bingham Centre for the Rule of Law. In his foreword to the Report, Lord Woolf speaks of his "fears for damage to the rule of law" from the changes, and urges those interpreting Part 4 to interpret and apply the legislation in a way which avoids or least interferes with the rule of law. Let's start with the basics - the function of judicial review. As explained in the Introduction: Judicial review is the mechanism which allows people to challenge unlawful actions by public authorities before an independent and impartial tribunal. In a country with no written constitution to regulate the relationship between the citizen and the State, this function takes on a particular constitutional significance. It is a crucial check on the abuse of power, working to ensure that Ministers and other public authorities act within the rules set by Parliament and in accordance with their common law duties. Access to judicial review is a key element of our unwritten constitutional arrangements for the protection of the rule of law. The Report quotes Lord Dyson in R (Cart) v Upper Tribunal [2011] UKSC 28:...there is no principle more basic to our system of law than the maintenance of the rule of law itself and the constitutional protection afforded by judicial review.

Turning to the four main areas of reform brought in by Part 4:

1. Materiality and the highly likely test - A duty on the court to refuse permission for judicial review or relief where the outcome would be "highly likely" to make no substantial difference for the applicant in the claim – see section 84. The Report notes that the common law has always recognised the courts' discretion to limit access to judicial review in cases where a challenge could have made no material difference to the outcome in an individual case - but also the impropriety of courts substituting their view of the substantive merits of the case. The Report urges a "highly cautious" approach to the highly likely test with the court only refusing an application for permission for judicial review if it can confidently conclude, without detailed inquiry, that the highly likely test is a knock-out blow. "Very remote" - i.e. so unlikely that it does not warrant the court's intervention - is suggested as the appropriate threshold (e.g. winning the lottery twice? The Report cites a Mirror article which considers such highly unlikely events...) The Report also urges caution when applying the highly likely test to substantive rather than procedural errors, and suggests that cases involving minor procedural defects may still need to be heard where it would be in the public interest to do so. It astutely points out that it gives rise to the prospect of a "dress rehearsal" permission stage, risking greater cost and delay (and thereby defeating the purpose of the reform).

2. Financial disclosure and judicial review - A new financial disclosure obligation on judicial review claimants to disclose how their claim is being funded before their application can proceed – see sections 85-86. One of the most concerning parts of the reforms relates to financial disclosure obligations and their potential impact on the willingness of claimants, including public interest groups and charities, to bring judicial review claims. Coupled with the rules on interveners and costs (see below), this risks creating a chilling effect on public law challenges. The provisions are to be supplemented by rules of court, drafted by the Rules Committee. The Report notes that the financial disclo-

sure obligations will have to be applied in a manner consistent with the right to respect for private life under Article 8 ECHR and the right of access to the courts under Article 6 ECHR. It urges that the information required must be circumscribed and limited to what is necessary, and that adequate safeguards are required for non-disclosure to other parties and to the trial judge. The Report gives a stark warning about the potential impact of these reforms: The legislation is unclear and ill-defined; further legal uncertainty in the rules of court which govern the extent of the information to be disclosed by applicants will compound the likelihood that these measures will have a chilling effect and will act as a deterrent to those seeking legitimately to challenge unlawful public action.

3. Interveners and costs - A new duty on the court to award costs against interveners in any case where specified criteria are satisfied - see section 87. It is unclear what kind of problematic interventions the reforms are targeted at, especially given the need for the permission of the judge to make an intervention in the first place. As the Report notes, interventions have proved valuable to the senior judiciary. The new provisions go further than existing practice by creating a new duty to award costs against the intervener where specific conditions are satisfied, including where the intervener has acted in substance as the sole or principal party, where their evidence and representations have not been of significant assistance to the court, where a significant part of the intervention related to matters that it is not necessary for the court ot consider or where the intervener has behaved unreasonably. The Report concludes: To ignore the significantly higher deterrent effect of a potential costs order on the voluntary and not for profit sector would substantially limit the ability of the court to hear reasonable, helpful interventions, a result inconsistent with the intention of Parliament.

4. Costs capping orders - The framework for the operation of Protective Costs Orders (PCOs) has been placed on a statutory footing - see sections 88-90. The Report expresses concern that any new criteria in regulations which operate fundamentally to undermine the ability of the court to provide costs protection in public interest cases will be subject to question. A new statutory limit restricting the power of the court to make costs capping orders until after permission has been granted could be applied in a manner which fundamentally limits the purposes of the provisions. Finally the Report notes the heady pace of change in recent years and their particular impact on access to the court for claimants – through heavier procedural burdens, new limitations on access to legal aid and inhibiting access to sources of third party support. The constitutional function of judicial review creates a particular imperative for evidence-based and cautious reform, in a manner consistent with the rule of law. While there may be means to further increase the efficiency of the process, any further reform should be evidence based, proportionate, consistent in its impact on both claimants and respondents and respectful of the fundamental role which the remedy plays in our constitutional framework. Let's hope Lord Woolf's fears aren't realised...

"Automatic" Justice? Is Technology Eliminating the Presumption of Innocence?

Phil Locke, Wrongful Convictions: A recent legal research paper from the School of Law at Queen Mary University of London has raised the issue of technology's impact upon the criminal justice system, and how its effect may be replacing presumption of innocence with presumption of guilt. A truly frightening prospect. The nature of evidence in the justice system has steadily been evolving to be ever more founded in technology, be it legitimate and proven technology … or not. And the tendency is for the prosecution (and police) to say, "We have 'scientific' evidence of your guilt; therefore, you are guilty."

And here's the problem: much of this "technology" has not been verified and statistically validated. It just gets presented in court as "science," and judges, lawyers, and juries don't have

'Wrongly Accused' Bomb Plotters Sue Theresa May Over Ban On Re-Entering UK

Two Pakistani men alleged to have been part of an al Qaeda plot to blow up Manchester's Arndale shopping centre six years ago have launched a court battle to overturn a Government ban on them re-entering Britain. Rizwan Sharif and Umar Farooq, now living in Pakistan, yesterday began a judicial review of a Home Office decision to exclude them from the UK, a banning order that came months after the terror case against them collapsed due to lack of evidence. A judge described the evidence he had so far seen underpinning the exclusion order as "threadbare". The pair were among 12 mostly foreign students arrested as part of controversial Operation Pathway in April 2009. Memorably, the police raids in Liverpool, Manchester and Lancashire had to be rushed forward at the time after then Assistant Commissioner Bob Quick of the Met Police's counter-terror squad accidentally allowed details of the operation to be photographed as he arrived for a Downing Street briefing. The 12, all but one of whom were in the UK on student visas, were alleged to have been part of a plot to detonate a bomb at the busy Arndale Centre in Manchester during Easter 2009. It emerged MI5 had been tracking their movements for weeks. No bomb was ever found and the British case against the 12 collapsed within a fortnight. No UK charges were ever brought.

Of the 12, only Abid Naseer, the alleged ringleader, was ever convicted – but that was in the US earlier this year. After the UK case collapsed, Naseer was extradited to the US in 2013. He was prosecuted under a law that allows US authorities to pursue terrorism cases even if they take place overseas. He was found guilty by a Brooklyn court eight months ago for plotting terror operations in Manchester and New York. Of the 11 others, one was a British national who was freed, one was an Afghan who was deported because he had been in the UK illegally, while nine faced deportation proceedings to Pakistan. A number of those left the UK voluntarily, after which the Home Secretary signed exclusion orders that banned them returning.

Farooq, now 31, and Sharif, 32, had been two who left voluntarily in September 2009. They maintained their innocence but were later excluded by the Home Secretary on the grounds their presence in Britain was not conducive to the public good. The Home Office yesterday told the Bureau that due to the ongoing case it was unable to clarify whether it was Theresa May or her predecessor, Labour's Alan Johnson, who signed the order in 2010. The three-day hearing at London's Special Immigration Appeals Commission (Siac) was covered by the Bureau of Investigative Journalism as part of its long-running examination of the use of secret evidence in counter-terrorism cases, such as citizenship stripping. The two men, who have been giving evidence via video link, say they were not aware of their legal rights to challenge the exclusion orders five years ago, a major reason for the delay in bringing the judicial review.

Siac judge Mr Justice Mitting is considering whether the Home Secretary had sufficient evidence to exclude them or whether it was a decision made in error, based on incomplete or inaccurate facts. Some of the evidence is deemed so sensitive to national security that it is being heard in closed court sessions. But after hearing several hours of evidence in open session yesterday, Mr Justice Mitting said that based on what he had seen so far, "the reasons for saying the decision should be maintained are threadbare". He said: "We have to ask ourselves [in the closed proceedings] if there's an innocent explanation for what the Secretary of State relies on." In evidence yesterday, Farooq and Sharif said they had met Abid Naseer only once – at a house party. They said they spoke different languages and had completely different interests. While they enjoyed cricket, clubbing and food, they said he seemed "serious" and "religious". Jonathan Hall QC, for the Home Secretary, asked Farooq what had been his impression of Naseer. Farooq, an Urdu speaker, replied: "What I remember about Abid Naseer…one thing I noticed is his long beard which is unusual in UK. He spoke Pashto. I

Complaints, procedure and composition of the Court: The applicant complained that his forced removal to China would expose him to the risk of being convicted and sentenced to death, which would be in violation of Article 2 (right to life) and Article 3 (prohibition of inhuman or degrading treatment). He also complained that he did not have an effective remedy available in respect of that complaint, in breach of Article 13 (right to an effective remedy). Finally, he submitted that the conditions of his detention, both in the detention centre for aliens and in the police station, had been in breach of Article 3.

Decision of the Court - Article 2 and 3 - the applicant's potential removal

The Court found that Russia was bound by an obligation, under Articles 2 and 3, not to extradite or deport an individual to another State where there existed substantial grounds for believing that he or she would face a real risk of being subjected to the death penalty there. Russia had not ratified Protocol NO.6 and Protocol No. 13 to the Convention, which abolished the death penalty. However, in view of Russia's undertaking to abolish the death penalty, upon becoming a member of the Council of Europe - partly fulfilled through a moratorium on that form of punishment - the Court considered that the finding in its case-law that the death penalty had become an unacceptable form of punishment applied fully to Russia.

The Russian courts had not made an assessment of the risks of the applicant being subjected to the death penalty and to inhuman treatment if he were deported to China. The Court was not convinced by their argument that the exclusion order against him did not automatically entail his deportation to China and that he could still leave Russia for another country. Russian legislation provided that foreign nationals in respect of whom an exclusion order had been issued were to be deported if they failed to leave the country. The exclusion order against the applicant mentioned explicitly that he would be deported if he did no leave Russia before the stated deadline. Given that his Russian passport had been seized and there was no evidence that he had any other identity document to leave Russia and enter a third country, the Court accepted the applicant's submission that he was now at imminent risk of deportation to China. It had moreover not been disputed by the parties that there was a substantial risk that if deported to China the applicant might face the death penalty following conviction. His deportation would therefore be in violation of Articles 2 and 3 of the Convention. In view of these findings, the Court did not consider it necessary to examine the complaints separately under Article 13.

Article 3 - detention conditions: It had not been disputed by the Russian Government that the applicant had been detained in solitary confinement, in nearly absolute social isolation, during his entire stay of more than four months in the detention centre for aliens. The national authorities had not given any justification for this confinement and there was no evidence in the Government's submissions to the Court that an assessment of the necessity of this form of detention had been made. The Court referred to the findings of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) in its 2011 report, according to which solitary confinement can have immediate damaging effects. Moreover, the applicant had been in complete ignorance as to why and for how long he had been placed in such confinement, which must have increased his distress. His solitary confinement had therefore amounted to inhuman and degrading treatment, in violation of Article 3.

The Court found a further violation of Article 3 on account of the conditions of his detention at the police station. He had been held there for two days, although the facilities had been designed for detention not exceeding three hours. In particular, the cell did not have a toilet or sink, no bed, chair or table, only a bench, and there was no access to fresh air and daylight. Just satisfaction (Article 41) - The Court held that Russia was to pay the applicant 5,000 euros (EUR) in respect of non-pecuniary damage and EUR 2,100 in respect of costs and expenses.

a clue as to whether or not it's actually accurate or relevant. How do you know the latest "computer app" is actually true and accurate? You don't. We've seen frequent examples of so-called forensic "science" being proven wrong. Just three of these would be 'Compositional "analysis of bullet lead (CABL)', 'Microscopic hair comparison, and Bite marks'. There are currently thousands of cases under re-investigation as a result of scientifically flawed FBI hair comparison work and testimony. There are some infamous cases of fingerprint identifications being wrong; one of these being the case of Brandon Mayfield. Most people, (including lawyers) don't understand that there is huge margin for error in locating a cell phone through cell towers.

The agents of the justice system – lawyers, judges, police, and especially juries – have been notoriously ignorant regarding the scientific, technological, and mathematical issues of evidence. This is why so much of the justice system depends upon so-called "experts" to try to understand and explain what all the technology means; but, these experts, often self-styled, may be legitimate — or they may not be. Unfortunately the lawyers, judges, and juries have no way to tell. Defense attorneys will most commonly not technically question (cross examine) prosecution "experts." This is too bad, because, in my opinion, a technically knowledgable and logically-penetrating defense attorney could just "take apart" many prosecution "experts" – even medical doctors. The typical legal defense strategy is to present "your own" expert, which puts the poor jury in the position of having to decide which of the dueling experts to believe. All this, unfortunately, leaves the justice system, and the defendant, at the mercy of "experts," and there is no scientific way built into the justice system to sort through which "science" is true and correct, and which is junk – and which experts are truly expert, and which are charlatans. From the conclusion of the paper: "Our deepest concern is the emergence of a potentially unfettered move towards a technologically driven process of 'automatic criminal justice.'" We – all of us – have a problem. The justice system was never conceived or designed to comprehend the explosion of technology. And the lawyers and judges are not trained or prepared to deal with it. It's a problem.

Court of Session: Partners in Crime Have no 'Family Life'

The Outer House of the Court of Session has dismissed challenges brought by two convicted paedophiles to the Scottish Prison Service's refusal to allow them to visit each other in prison. The decisions were challenged under articles 8 and 14 ECHR, as it was claimed that the prisoners were in a homosexual relationship. Charles O'Neill and William Lauchlan, described by the judge as "predatory paedophiles", were serving life sentences in HMP Glenochil and HMP Edinburgh respectively. The pair had murdered the mother of a boy who they were sexually abusing after she threatened to report them to the authorities. Her body was dumped in the Firth of Clyde. Both were also serving concurrent sentences for a number of sexual offences.

Since 2010, when they were sentenced to life imprisonment, O'Neill and Lauchlan had made various requests to visit each other. Until very recently, the prison service had refused these requests. Under rule 63(8) of the Prisons and Young Offenders Institutions (Scotland) Rules 2011 there was an entitlement to visit a prisoner in another prison but only in "exceptional circumstances". The petitioners (or applicants) argued that as they were in a relationship the refusal to allow visits violated their right to respect for family life under article 8, and that they had suffered discrimination on the basis of their sexual orientation.

Article 8: The decisive issue under article 8 was whether the petitioners' life together was of sufficient quality to engage the protection of the article. If not, any decision by the Prison Service to refuse inter-prison visits could not violate their right to respect for their family life. The judge

was clear that despite the horrendous crimes committed by the petitioners it was not permissible under the ECHR to deprive prisoners of their human rights unless such deprivation was necessarily incidental to incarceration. Like everyone else, prisoners enjoy the protection of article 8 and there is no justification for denying inter-prison visits as part of their punishment.

It was for the petitioners to demonstrate that they were in relationship of sufficient 'quality' to engage article 8. The evidence was equivocal, suggesting that the motivation for seeking more contact with one another was to assist with preparations for various legal proceedings. There were also contradictions in the evidence as to whether the two had a sexual relationship. Moreover, since September 1997, O'Neill and Lauchlan had been simultaneously at liberty for only 32 months which, it was argued for the respondents, was scarcely enough time to constitute a 'life partnership'. These were relevant factors for the judge, but not determinative.

The key consideration for the judge was that during their brief spells of liberty the most powerful evidence of the petitioners' togetherness was their involvement in sexual offending against young males. Referring to the comments of the sentencing court in 2010, the judge found that for many years the petitioners' whole lives had been focussed on finding victims to groom and sexually abuse. The quality (or otherwise) of their life together was demonstrated by the depraved offences of which they were convicted. The criminal record showed that the petitioners were "partners in crime" rather than "partners in love".

The judge accepted that it was dangerous to pass judgment on the value of someone's family life, but it had to be done. He concluded that, on the evidence, the life which the petitioners had together was "so negative that it cannot be 'family life' as that concept should be understood." Their relations with one another "do not engage, do not attract the support of, do not merit the protection of, the 'family life' provisions of article 8 ECHR". The petitioners had failed to show that they had a life together of a type and quality which engaged article 8. At the end of his judgment, the judge emphasised the need to maintain respect for the ECHR as a source of law. He held that to extend protection for qualified rights such as article 8 to "egregious conduct far beyond European norms…undermines respect for the Convention and the rule of law." Whilst the prison service was free to arrange inter-prison visits for the petitioners, the Convention could not oblige it to do so.

Article 14: The judge dealt with the allegation of discrimination under article 14 very briefly. As the Prison Service had not failed to secure the petitioners' rights under article 8, it followed that there had been no violation of article 14. Technically, this is the wrong way to frame an article 14 analysis. Article 14 prohibits discrimination in the enjoyment of Convention rights but to engage article 14 it is not necessary to show a violation of, or even an interference, with another Convention right. It is enough that a particular decision falls within the "ambit" of a substantive right making it possible for article 14 to be engaged even though article 8 rights have been secured (otherwise, article 14 would be redundant). However, given the judge's conclusion that the petitioners did not enjoy a relationship of sufficient quality to engage article 8, it could be said that the decision to refuse inter-party visits would not fall within the "ambit" of article 8. In this case at least, the point is academic.

Conclusion: Given the broad concepts of family life under the ECHR it is increasingly rare for a court to find that article 8 is not even engaged on the basis of the type of relationship in question. Clearly the judge had little time for the petitioners in this case, describing their crimes as being of "extreme depravity" and commenting on their "litigiosity". Whilst the judge emphasised the importance of extending human rights protection to everyone, he was concerned about the damage to the reputation of the Convention and the rule of law that would follow if the protection of family life were to be extended to the relationship between the petitioners. In this regard, he was surely correct.

Expulsion of Criminal to China Would Expose Him to Risk of Death Penalty

In Chamber judgment! in the case of A.L. (X.W.I v. Russia (application no. 44095/14) the European Court of Human Rights held, unanimously: that the applicant's forcible return to China would give rise to a violation of Article 2 (right to life) and Article 3 (prohibition of inhuman or degrading treatment) of the European Convention on Human Rights; andvthat there had been a violation of Article 3 of the Convention on account of the conditions of the applicant's detention in a detention centre for aliens and on account of the conditions of his detention at a police station. The case concerned, in particular, the complaint by a man residing in Russia and wanted as a criminal suspect in China that if forcibly returned to China, he would be at risk of being convicted and sentenced to death. The Court considered that, given that the exclusion order against the applicant mentioned explicitly that he would be deported if he did not leave Russia before the stated deadline and that his Russian passport had been seized, he was at imminent risk of deportation to China where he might be sentenced to death. Russia was bound by an obligation, under the Convention, not to expose him to such risk.

Principal facts: The applicant, Mr A.L. (or X.W.), lives in Elista (Russia). According to his own submissions, he is a Russian national, A.L., born in 1972. According to the Government, he is a Chinese national, X.W., born in 1973. The applicant was arrested in St Petersburg in March 2014 on suspicion of having murdered a Chinese policeman in 1996. He had been placed on Interpol's list of wanted persons as a criminal suspect following an arrest warrant issued in his respect by the Chinese authorities. A district court in St Petersburg subsequently ordered his detention pending receipt of an official extradition request. When the Chinese authorities had failed to submit the request within the relevant timelimit, the prosecutor ordered the applicant's release.

However, he remained in detention, and on the day following the order for his release, the district court found him guilty of the administrative offence of unlawful residence in Russia of a foreign national. The court considered that he was a Chinese national rather than a Russian national. A few days later, the Federal Migration Service found that he had obtained his Russian passport in the name of A.L. unlawfully. The judgment finding him guilty of the administrative offence was quashed on appeal and the district court, to which the case had been remitted, eventually terminated the proceedings on 30 August 2014.

On 31 August 2014 the applicant was released. His Russian passport, seized upon arrest, was not returned to him and he was served with a decision by the regional department of the interior declaring that his presence in Russia was undesirable and that he was to leave the country before 3 September. The exclusion order and the decision to seize his passport were eventually upheld on appeal in February 2015, the courts holding that the applicant could avoid deportation to China by leaving Russia for another country. In the meantime, in June 2014, the European Court of Human Rights had granted the applicant's request for an interim measure (under Rule 39 of its Rules of Court) and indicated to the Russian Government that he should not be forcibly removed to China or any other country for the duration of the proceedings before it.

From 18 April to 29 August 2014, the applicant was held in a detention centre for aliens in St Petersburg, and from 29 August until his release on 31 August 2014 he was held in an administrative detention cell in a police station. He maintains that the detention conditions in both facilities were extremely poor. In particular: during the first few days he was held in a windowless punishment cell with no access to food, water or toilet facilities; and he was held in solitary confinement and total isolation for more than four months, receiving only infrequent and short visits by his wife, having no access to any media or books and no possibility to use his mobile phone. The Russian Government contest his allegations.