Woman In California Sentenced to Life For Chopping off Husband's Penis

A judge has sentenced a southern California woman who cut off her estranged husband's penis and tossed it in the garbage disposal to life in prison with the possibility of parole. Catherine Kieu, 50, was convicted by an Orange County jury in April of aggravated mayhem and torture following the July 2011 assault on her ex-husband. Kieu drugged her former spouse before tying him up and severing his penis with a knife. She then threw it into the garbage disposal unit. An attorney for Vietnam-born Kieu argued at trial that she had suffered sexual abuse as a child which left her with post-traumatic stress. She was remorseful about the attack, he said. After the sentencing hearing, the victim – identified only as "Glen" – said he wished Orange County Superior Court Judge Richard Toohey could have given Kieu more time behind bars, City

Nine Hampshire Police Officers to Answer for Misconduct *IPCC, 28 June 2013*

An investigation by the Independent Police Complaints Commission (IPCC) has concluded that nine Hampshire Constabulary officers have a case to answer for misconduct. In April last year the IPCC began an investigation into how the force handled an allegation that Jamie Dack had been assaulted in the weeks before his body was found on Sunday, 8 April 2012. IPCC investigators also examined how Hampshire Constabulary progressed reports from members of the public that Jamie was missing two days before he was discovered in a bin on Empress Road Industrial Estate, Southampton. The IPCC investigation concluded in March but publication of the findings has awaited the outcome of criminal proceedings at Winchester Crown Court. IPCC investigators concluded the officers, two inspectors, four sergeants, two police constables and a member of police staff had a case to answer following individual failings when dealing with either Jamie's assault or progressing information that he was a missing person. They have received management action from Hampshire Constabulary. Hampshire Constabulary has decided that another officer, a police constable, will attend a misconduct meeting following failings in the investigation into Jamie's assault. IPCC Commissioner Mike Franklin said: "Jamie's family have had to listen to harrowing details of his murder and once again my thoughts and sympathies are with them at this truly difficult time. "Our investigation identified a catalogue of basic failings by Hampshire Constabulary in their dealing with Jamie as a victim of crime and also when he was reported missing just two days before his body was discovered. Hampshire Constabulary has already taken action in response to the issues highlighted in our report." Lee Nicholls, who admitted murdering Jamie Dack, was given a minimum sentence of 34 years. Ryan Woodmansey, Andrew Dwyer-Skeats, and Donna Chalk, 22, were told they would serve a minimum of 30, 32 and 25 years respectively by a judge at Winchester Crown Court. s

Hostages: **Hostages:** 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, Sam Hallam, John Twomey, Thomas G. Bourke, David E. Ferguson, Lee Mockble, George Romero Coleman, Neil Hurley, Jaslyn Ricardo Smith, James Dowsett, Kevan Thakrar, Miran Thakrar,Jordan Towers, Patrick Docherty, Brendan Dixon, Paul Bush, Frank Wilkinson, Alex Black, Nicholas Rose, Kevin Nunn, Peter Carine, Simon Hall, Paul Higginson, Thomas Petch, Vincent and Sean Bradish, John Allen, Jeremy Bamber, Kevin Lane, Michael Brown, Robert Knapp, William Kenealy, Glyn Razzell, Willie Gage, Kate Keaveney, Michael Stone, Michael Attwooll, John Roden, Nick Tucker, Karl Watson, Terry Allen, Richard Southern, Jamil Chowdhary, Jake Mawhinney, Peter Hannigan, Ihsan Ulhaque, Richard Roy Allan, Sam Cole, Carl Kenute Gowe, Eddie Hampton, Tony Hyland, Ray Gilbert, Ishtiaq Ahmed.

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MOJUK: Newsletter 'Inside Out' No 432 (04/07/2013)

Ali Tahery - Hearsay Conviction Finally Quashed

Mr Tahery applied to the European Court of Human Rights (ECtHR) alleging that the judge's decision to allow a statement to be read from an absent witness violated his rights under Article 6 of the European Convention of Human Rights (ECHR). On 20 January 2009 the Fourth Section of the ECtHR ruled that the reading of the statement to the jury had violated Mr Tahery's rights under Article 6(1) and 6(3) of the ECHR.

Mr Tahery first applied to the Criminal Cases Review Commission in 2009 when the Commission concluded that it was unable to refer his case back to the Court of Appeal. In April 2012, following the Grand Chamber's judgment of 15th December 2011, Mr Tahery applied again to the Commission, who then did refer the case to the Court of Appeal.

In The Court Of Appeal (Criminal Division) On Appeal From The Crown Court At Blackfriars. On A Reference From The Criminal Cases Review Commission, Neutral Citation Number: [2013] EWCA Crim 1053 - Case No: 2012/07228/C3. Before: President of the Queen's Bench Division Mr Justice Openshaw and Mr Justice Stewart

Between: Regina Respondent - and - Ali Reza Tahery Appellant

Rebecca Trowler QC for the Appellant

Louis Mably (with David Perry QC on the written grounds in opposition) for the Respondent

Hearing date: 6 June 2013 - Decision handed down Thursday 27th June 2013

Judgment given by President of the Queen's Bench Division: Introduction

1. In this reference from the Criminal Cases Review Commission the appellant appeals against his conviction of wounding with intent at the Crown Court at Blackfriars on 29 April 2005 before HH Judge Byers and a jury. He was sentenced to 9 years imprisonment. During the trial, the statement of Mr Takhtshahi was admitted and then read to the jury under the hearsay provisions of the Criminal Justice Act 2003 (CJA 2003), as the judge found that Mr Takhtshahi was too frightened to give evidence.

2. On 24 January 2006 this court (Rose LJ, the then Vice-President), Rafferty J and Sir Douglas Brown) refused leave to appeal against conviction on the basis that the judge had followed all the paths set out in the CJA 2003, had properly admitted the statement and properly directed the jury on it. The Court, however, reduced the sentence to 7 years imprisonment.

3. The appellant then applied to the Strasbourg Court on the basis that the admissibility of the evidence contravened his rights under Article 6 of the Convention. On 29 January 2009 the Fourth Section declared the application admissible and found a breach of Article 6: see Al-Khawja and Tahery v UK (2009) 49 EHHR 1. The case was referred to the Grand Chamber, but its decision deferred until after the delivery of the judgment by the Supreme Court in the appeal in R v Horncastle [2009] UKSC 14.

4. On 15 December 2011 the Grand Chamber held that there had been a violation of Article 6 in the trial of the appellant through the admission of the statement of Mr Takhtshahi, awarded him €6000 and costs: see Al-Khawja and Tahery v UK (2012) 54 EHHR 23. On 12 April 2012 the appellant applied to the Criminal Cases Review Commission for a review of the conviction. The

Commission decided to make a reference to this court on 20 December 2012. The issue for this court to determine was whether in all the circumstances the conviction was safe.

5. After consideration of the detailed written submissions and a short hearing, we allowed the appeal and quashed the conviction for reasons to be given later. These are our reasons.

6. The issue in the appeal turns, in our view, on a reconsideration of the evidence and the directions to the jury in the light of the decision in R v Horncastle. We are bound by that decision and will apply the principles there set out. There have been some suggestions that there is a difference between those principles and the principles set out by the Grand Chamber in Al-Khawja and Tahery v UK, see: R v Ibrahim [2012] EWCA Crim 837. We consider that the differences are properly described (as they were by the then Vice-President, Hughes LJ) as being more of form than substance, see: R v Riat [2012] EWCA Crim 1509. Even if the differences are of substance, none is material to the present case.

7. It is therefore neither necessary nor desirable for us to express any further view on the issue considered in Ibrahim and Riat; what courts should in practice do is clearly set out Riat. As we are simply concerned with the circumstances of this case, we turn at once to consider the evidence at the trial, the significance of the evidence set out in the statement of Mr Takhtshahi, its apparent reliability and the ability of the jury to test and assess that reliability.

Evidence at the trial - (a) The background

8. At about 12.30 am in the night of 18/19 May 2004, Mr Sadeghi was stabbed. Earlier in the night, the appellant was with some Kurdish friends in the street when he saw Mr Sadeghi whom he knew. Mr Sadeghi was working as a pizza delivery man. There was an altercation between Mr Sadeghi and the Kurdish men. Mr Takhtshahi who knew both the appellant and Mr Sadeghi heard of the incident and agreed to meet after Mr Sadeghi had finished working.

9. Mr Takhtshahi and Mr Sadeghi met in Kensington at the corner of Hammersmith Road and Avonmore Road at about midnight. The appellant then arrived and told Mr Sadeghi that he wanted a word with him.

10. It is clear that they went into Avonmore Road where a fight broke out; present were the appellant, Mr Sadeghi, Mr Takhtshahi, the appellant's uncle, Mohammed and at least two other Iranian men and some Kurdish men. It is also clear that during the fight, the appellant and Mr Sadeghi fought. In the fight Mr Sadeghi was stabbed three times in the back. Beyond that, the critical evidence conflicts.

11. The issue at the trial and for us is whether the Crown had proved that it was the appellant who stabbed Mr Sadeghi or whether he may have been stabbed by one of the others present. The issue turns on the evidence of those present which were before the jury at the trial; forensic evidence does not assist.

12. (b) The account of Mr Sadeghi) Mr Sadeghi said that after a verbal confrontation between him and the appellant, a fight between them broke out shortly after they had gone into the alleyway. After a minute he realised he had been injured. He tried to hold onto the appellant who said it was not him. He threw a couple of punches at the appellant, but they did not connect. The appellant placed his hand on his wound and sat him down. He recalled that there were a group of Iranians there when the fight started and a few people were near him when he was stabbed. In his cross examination he said that he did not see the appellant behind him; they were face to face. (c) The admission of Mr Takhtshahi's statement and his account

13. The judge heard evidence from Mr Takhtshahi from behind a screen that he had received threats and was in fear for himself and his family. A police officer gave evidence that the Iranian community of which he and the appellant were members were close knit; his

older children from school. The whole thing was extremely stressful.I felt that something was wrong with the baby and began having Braxton Hicks contractions," Wallace said. "I asked a doctor to examine me but instead was given paracetamol." Wallace had been having a biopsy for suspected breast cancer at the time she was accused of intimidating a witness. Cancer was confirmed, but her treatment was delayed because of her time in custody. She said: "After two days I was transferred from the police cell to HMP Peterborough and from there was rushed into hospital for an emergency caesarean. The worst part of the whole incident was only being allowed to see the baby who was very unwell for an hour three times a week. At one point she was put on a ventilator. I thought she might die but I couldn't stay with her because I was taken back to prison. She is almost two now but has got developmental delays which I believe could be caused by what happened to me in the police cell. " An inspector and the two sergeants are facing a gross misconduct hearing next month relating to the protracted handcuffing while in detention and in one sergeant's case of failing to provide adequate information to allow effective childcare. Carolynn Gallwey of Bhatt Murphy solicitors, who is Wallace's lawyer, said: "What is most shocking about this case is that it was a number of officers, across shifts and including supervising officers, who either actively took part in or didn't care enough to stop the humiliation, assault and abuse of a heavily pregnant woman." An IPCC spokesman said: "At the conclusion of the investigation, the IPCC recommended a number of officers face disciplinary proceedings and that three police officers have a case to answer for gross misconduct. "The IPCC is reconsidering an earlier decision not to refer its final investigation report to the CPS and will be discussing this with relevant parties." A Nottinghamshire police spokesperson said: "In March 2013 the force received the report and findings of the IPCC and is currently acting upon its recommendations, which include that a number of officers should face charges of gross misconduct and misconduct."

Mark Duggan: Application for JR into Police Protocol Rejected

Pamela Duggan - whose 29-year-old son Mark Duggan died after being shot in August 2011 - failed in a bid to launch a judicial review of Association of Chief Police Officers' (Acpo) policy. The shooting, due to be investigated at an inquest later this year, was followed by riots, two judges were told at a High Court hearing in London. Mrs Duggan wanted the High Court to analyse general advice given to police about conferring before giving accounts of incidents. She claimed that Acpo policy did not include "appropriate measures" to reduce the risk that officers directly involved in a fatal shooting conferred with each other before producing accounts. She also said that the Independent Police Complaints Commission watchdog had failed to issue guidance or take "appropriate steps". But Lord Justice Laws and Mr Justice Wilkie blocked Mrs Duggan's judicial review claim - which was publicly funded - ruling that she did not have an "arguable" case. Judges were told that armed officers - from the Metropolitan Police's CO19 firearm command unit - had stopped a taxi Mr Duggan was travelling in at about 6.15pm on August 4 2011.Mrs Duggan had said 11 officers had been involved and one had shot Mr Duggan twice and caused fatal injuries. "Widespread disturbances followed Mark's death," Hugh Southey QC had added, in a written statement given to judges. A number of reviews concluded that public anxiety about the police involvement in the incident and about the subsequent actions of the commission and police was an important contributory factor to the riots. The (judicial review) claim is not academic ... (Mrs Duggan) challenges Acpo's policy on conferring and the on-going failure by Acpo to issue appropriate guidance."

how necessary or appropriate it is to call law enforcement into health settings. .One person responding to our inquiry, who witnessed physical restraint on a ward, described what happened when staff were unable to de-escalate a situation and police were called in, 'storming the car-park, alarming visitors and patients'. They heard staff making accusations to someone, which did nothing to defuse things, and police mocking the situation." Mr Huish explained that his submission to the Home Office was in response to its review surrounding aspects of mental health legislation. Home Secretary Theresa May discussed this at the Police Federation conference last month.

At the event, Mrs May said police officers were spending too much time trying to ensure the safety of those with mental health issues. She added: "I want to work with the Federation to get things like mental health right, not just for the patients we're talking about but for the NHS and the police too. I believe things are better, indeed the outcomes are better for both the police and the public, when we work together." *Jack Sommers - Police Oracle, Date - 27/06/13*

Police Officers Eventually Charged Over Pregnant Woman's Ordeal

[IPCC Initially Refused to Recommend Prosecution!]

Misconduct charges follow IPCC investigation of woman's complaint that she was stripped and handcuffed for 11 hours *Diane Taylor, The Guardian, Friday 28 June 2013*

A police inspector and two sergeants are facing gross misconduct charges following a complaint from a pregnant woman that she was handcuffed for 11 hours in a police cell, stripped naked from the waist up and assaulted. Lynette Wallace, 42, went into labour 10 weeks early following the incident and was rushed into hospital for an emergency caesarean. She says her child is now suffering from developmental delays.

The misconduct charges against three officers in Nottinghamshire follow an Independent Police Complaints Commission (IPCC) report into the case. Wallace believes that the early onset of labour was a result of her treatment in custody, though this issue did not form part of the investigation. The report did not recommend referring the investigation to the Crown Prosecution Service for possible criminal charges, but the IPCC has told the Guardian it is now reconsidering this decision.

Wallace, a mother of seven from Nottingham, was arrested at her home on 7 July 2011, accused of arson with intent to endanger life and intimidating a witness. The charges were later dropped. At the city's Bridewell police station she was asked if she self-harmed; she said she had in the past but not for a long time. An officer told her she had to remove her trousers or she would cut them off with a knife. Wallace agreed to this and was taken to a cell.

It is understood the investigators found that an officer then decided she might have been in imminent danger of strangling herself, so a decision was made to remove all her upper clothing. After this three officers rushed into her cell, forced her face down on to the bed, ripped off her T-shirt, cut her bra off with a knife, handcuffed her hands behind her back and left her. It was only when a custody nurse found her naked from the waist up that a T-shirt was put over her. Wallace was left handcuffed for 11 hours and then interviewed. When police wanted to handcuff her again she refused as she says she was in considerable pain. It is understood she was then punched repeatedly in the arm to force her to comply.

"The whole thing was a nightmare," said Wallace. "I wasn't expecting a police officer to come at me with a knife … to have a bunch of male police rush into my cell, restrain me and rip my clothes off was very traumatic. My arm went black from shoulder to elbow from where they punched me." She said she was particularly anxious about having been forced to abandon her children. The youngest was left with a neighbour and she kept asking who would pick up the

fears could not be overcome by the use of screens.

14. As a result of that evidence, the judge found that Mr Takhtshahi was genuinely in fear, but that it was not the appellant who had put him in fear. The judge then considered whether it was in the interests of justice to admit the statement. He accepted that there was a risk that the statement was unreliable as it was inconsistent with the other evidence, but that was the position in many cases; it was for the jury to assess its reliability. He would give them an appropriate warning. He also accepted that the statement was of great importance, but Parliament must have had in mind such a statement from a witness in fear being put before the jury. It was not unfair as evidence could be called in rebuttal, including evidence from the appellant; there was no other way in which the evidence could be put before the jury as Mr Takhtshahi had declined to give evidence even if screens were provided. The judge therefore admitted the statement.

15. In his statement Mr Takhtshahi said that the appellant took hold of Mr Sadeghi and told him to go round the corner. They went round the corner and began to fight. He tried to break them up. He then saw the appellant with a knife in his right hand. He held it in the air and then stabbed Mr Sadeghi twice in the back. The appellant was very angry. He went towards the appellant who then tried to stab him with the knife; he tried to grasp it, but the appellant tried to stab him in the neck. The appellant dropped the knife. No one picked it up. Mr Sadeghi tried to hit the appellant, but fell to the ground. The appellant hugged him and they then sat on a step. The appellant asked him if they would take Mr Sadeghi to hospital and not tell the police, but he phoned the police.

16. When asked about the incident at the scene, Mr Takhtshahi had not made these allegations against the appellant.

17. (d The appellant's account) The appellant's evidence was that Mr Sadeghi started to punch him to the face, causing his face to swell. He did nothing at first and then started to defend himself. Mr Takhtshahi came to separate them. Others came to help. When Mr Takhtshahi was between him and Mr Sadeghi he noticed a knife on the ground. He thought it was Mr Sadeghi's knife and threw it away. He did not know that Mr Sadeghi was injured.

18. Mr Sadeghi then accused him of knifing him. It was then he realised Mr Sadeghi was injured. He told Mr Sadeghi to sit down. He held his wound. When the ambulance arrived, he said that he did not do it and Mr Sadeghi said he knew that.

19. He did not give that account initially; instead he said that two black men had stabbed Mr Sadeghi; he made a statement to that effect and maintained that account in interview. He accepted that this was a lie and as a consequence he pleaded guilty to an offence of perverting the course of justice.

Our conclusion - (a) Should the statement of Mr Takhtshahi have been admitted?

20. In her very able submissions, Miss Trowler QC submitted that the statement of Mr Takhtshahi should not have been admitted.

i) The evidence was effectively the only evidence that it was the appellant who stabbed Mr Sadeghi.

ii) It was unsupported by other evidence.

iii) Although Mr Takhtshahi was, as the judge found, in fear, there was no evidence that it was appellant (or anyone acting on his behalf) who had brought this about.

iv) There were factors that, when taken in combination, created very substantial doubt as to the reliability of the evidence. In particular Mr Takhtshahi had a motive to lie; he was a friend of Mr Sadeghi and ill disposed towards the appellant and his Kurdish associates. The statement was inconsistent with the evidence of Mr Sadeghi.

v) There was no evidence available to the appellant with which to challenge the statement.

vi) The appellant was unable to call other witnesses as they were all members of the

"tight-knit" Iranian community;

vii) In these circumstances, neither the opportunity for the appellant to give evidence nor any direction to the jury could redress the disadvantage to the appellant.

viii) Therefore, no fair assessment of the reliability of the evidence could be made by the jury.

21. None of these matters is in itself decisive. We have to consider their cumulative effect.

22.(b The direction to the jury) In his direction to the jury, the judge warned them that they must be careful how they used the statement. He said: "It is right, as has been pointed out by the defence, that they were deprived of an opportunity to test that evidence under cross-examination. It is right also that you did not have the advantage of seeing the witness and his demeanour in court. You did not have the opportunity for him to think back and say 'possibly, because of things that I saw, I put two and two together and made five', as counsel for the defence invites you to say. In other words, you must always be alert to that he could put things that he did see together and come to the wrong conclusion. That is a way of examining his statement.

You must ask yourselves, 'can we rely on this statement? Is it a statement which we find convincing?' It is only if you are satisfied so that you are sure, that what is in that statement has accurately depicted what happened that night and what the witness saw, that you could rely upon it. That goes for any witness. It is only if you find that the evidence is compelling and satisfies you, so that you are sure, that you act upon it. So you must always ask yourselves 'is the statement that he made reliable?'

You must bear in mind also, importantly, that it is agreed and acknowledged that it is not the defendant who is responsible for putting the witness in fear. Nobody has suggested that it was the witness who stabbed Mr Sadeghi. Your task, therefore, is to look at the evidence that he gave to you, and you cannot have a copy of his statement so do not ask for one. Look at the evidence that he gave. Look at it carefully. If it is compelling, you may act upon it, if you are satisfied that it is true and accurate."

23. However the judge did not:

i) Direct the jury that the evidence of Mr Takhtshahi was critical in the case and there was no other supporting evidence. They should therefore be very careful before accepting it was true, particularly as he had made no allegations against the appellant when first questioned at the scene.

ii) Emphasise how important cross examination could be in exposing weaknesses in the evidence of a witness.

iii) Explain that it was a common experience that witnesses did not say precisely what they said in a statement and Mr Takhtshahi had no opportunity of qualifying what he had said.

iv) Explain that, as the statement was taken by the police and Mr Takhtshahi's English did not appear to be very good, the jury had to take into account the fact that the statement might not reflect what Mr Takhtshahi actually intended to say.

24. (c Our conclusion) It is evident from an examination of the directions given to the jury and the matters which were not included, that the judge would not have been able to direct the jury as to how they could assess and test the reliability of the evidence of Mr Takhtshahi in such a way that they could be satisfied that it was reliable. The objective factors pointed to its unreliability - his animosity to the appellant and his contradictory initial statement to the police. There was no evidence that supported his account that the knife was used by the appellant. There was, moreover, in reality no evidence which the appellant could call to rebut it.

25. If the jury did not have any means to assess its reliability, then given the factors pointing to its unreliability and its importance in the case, it should not have been admitted.

The World Health Organization report shows that 38 percent of all murders of women were committed by intimate partners (as opposed to 6 percent of murders of men). In the United States, other data also show that women are more likely to be murdered by a partner than by a stranger.

The consequences of violence on women's health are profound. Globally, 42 percent of women who have been abused suffered physical injuries, the World Health Organization report found. Human Rights Watch has heard the same in thousands of interviews with women victims of violence around the world. We also know from our research in Colombia, India, Uganda, and elsewhere that women still face barriers to accessing health care for such injuries. In addition to the physical damage, violence also has severe psychological consequences. For example, the report found that survivors of partner violence are twice as likely to suffer from depression.

So what needs to happen next? First, these statistics and the work of human rights and women's organizations around the world show the importance of accessible, non-discriminatory, and adequate health services for all women and girls. To address this, the World Health Organization has developed new guidelines for the health sector, which call for women-centered care, better training for health workers, and comprehensive care including contraception. Besides this, Human Rights Watch's work has shown that we need accountability in health systems to address health system failings and monitor progress. However, a better health response is not enough. We need to get the numbers down, and we know that requires advancement of women's rights more broadly. Governments should invest more in prevention, which should include challenging social norms that discriminate against women, strengthening women's economic rights, and ending discrimination in the workplace and education. Crucially, governments also have to improve the police response to violence against women. A persistent lack of access to justice and professional response by police fuels a culture of impunity, as our work in Belgium, Afghanistan, the United States, South Africa, Canada and many other countries has shown. The new World Health Organization data should be a call to action for all governments to prevent abuse of women like Amina, and to take immediate steps to ensure that all survivors can access dignified health, justice, and social services.

Mental health: 'Police Officers Should Not Restrain Patients'

Police Staff association wants police officers to stop restraining mental health patients in healthcare environments. Healthcare professionals should use their training on the control of mentally ill patients to restrain them rather than relying on police officers, Federation officials have said. Kevin Huish, the Fed's lead on mental health issues, said that mental health professionals receive specialist training in the control and restraint of mentally ill patients and have powers to sedate them.

Officers are only trained to subdue, restrain and arrest violent people, he added.

In a submission to the Home Office he said that police officers should not be called to mental health premises to assist in the restraint of aggressive or violent patients. He told PoliceOracle.com: "People in mental healthcare settings are ill and are not always in control of their actions but all should still be treated with dignity and respect by all professionals who come into contact with them. "It is not always easy and frequently very difficult but that is why mentally ill people have been sectioned in the first instance and those caring for them are fully aware of this." Mr Huish was speaking after mental health charity Mind noted sharp differences between how often different mental health trusts called officers to restrain patients when their staff could not cope with them. The charity asked 55 mental health trusts how often they called police to restrain patients. Those that responded noted 361 incidents among 27 trusts in 2011/12 - one trust recorded doing this 100 times while three said they had never called officers out in the same period. "Given this variation in the need to call the police, it raises the question of

over public services – they have seen the profiteering of energy and water companies – let alone the railways. When voters had a chance to choose whether police services should be privatised at the PCC elections in November last year, they rejected it in West Midlands and in Bedfordshire, where G4S was trying to win business. The people of Lincolnshire were denied this opportunity and had the contract forced on them by the outgoing police authority which was well past its sell-by date."

The Lincolnshire PCC is legally obliged to publish the contract (Elected Local Policing Specified Information Order 2012) but, as far as UNISON is aware, has failed to do so. UNISON calls upon him to comply with the law and publish the contract now; if it is so good, what has he got to hide?"

10 other forces signed up to exercise an option on the G4S Lincolnshire framework; to date none has decided to join. In fact earlier this year, three of these forces -Cambridgeshire, Bedfordshire and Hertfordshire – specifically decided not to join the G4S Lincolnshire framework.

Drug traffickers Detained on the High Seas for 18 days Without Judicial Supervision should have been brought before a judicial authority immediately they arrived in France

In Chamber judgment in the case of Vassis and Others v. France (application no. 62736/09), which is not final1, the European Court of Human Rights held, unanimously, that there had been: a violation of Article 5 § 3 (right to liberty and security) of the European Convention on Human Rights. The case concerned drug-trafficking suspects who were placed in police custody for 48 hours prior to their first appearance before a judicial authority, having already been detained on the high seas for 18 days without any supervision by a judge.

The Court observed that judicial supervision through the first appearance of an arrested person must be rapid and automatic in order to detect any ill-treatment and to prevent unjustified restrictions on individual freedom, within a strict time-frame leaving little room for flexible interpretation. The fact that its case-law allowed for the first appearance before a judge to take place after two or three days, without breaching the rule on promptness, did not mean that the authorities could freely dispose of such a period in order to complete the prosecution case file. In addition to the fact that the interception had been planned, a transfer time of 18 days should have enabled the applicants' arrival in France to be organised so that they could be brought before a judge immediately. As that had not been the case, the Court found that the applicants' placement in police custody had entailed a violation of Article 5 § 3.Just satisfaction (Article 41) The Court held that France was to pay Mr Vassis, Mr Bardoulis, Mr Kamara, Mr Taylor and Mr Thomas 5,000 euros (EUR) each, plus any tax that might be chargeable on that amount, for non-pecuniary damage, and EUR 2,750 to M. Kamara and EUR 2,990 to Mr Vassis, in addition to EUR 6,000 to the applicants jointly, plus any tax that might be chargeable on those amounts, in respect of costs and expenses.

Violence Against Women World Wide Epidemic *Human Rights Watch*

Physical and sexual violence against women is more common than most health risks that affect women most, such as breast cancer. An estimated 35 percent of women worldwide have experienced physical or sexual violence by a partner, or sexual violence by a stranger. The World Health Organization calls this a public health problem of epidemic proportions.

Domestic violence truly happens everywhere. Though there are clear differences between regions, the World Health Organization statistics-and Human Rights Watch's work around the world-show the global nature of this human rights abuse.

As a woman, you're more likely to be murdered by your partner than by a complete stranger.

Furthermore the directions given by the judge would not in any event have been sufficient. 26. We therefore considered the conviction unsafe, allowed the appeal & quashed the conviction.

Sam Hallam Forced To Clear His Name Again *Sarah Morrison, Independent, 25/06/13*

Second ordeal for Sam Hallam months after jail release : Sam who spent seven years in jail for a murder he did not commit was allegedly injured by police and charged with assault just months after his release, it can be disclosed. Sam Hallam, one of Britain's youngest and most well-known victims of a miscarriage of justice, was arrested on suspicion of assaulting three police constables in December last year, just seven months after his murder conviction was overturned. The Independent can reveal that he was acquitted of all the charges against him last week after a judge reportedly criticised the way a Metropolitan Police officer handled the case. Mr Hallam's lawyer, Matt Foot, from Birnberg Peirce & Partners, accused the police of "extraordinary" behaviour, adding that his client was "very upset at having to go through this" again.

Mr Hallam, 25, from Stoke Newington, was just 17 when he was arrested for the murder of trainee chef Essayas Kassahun, 21, in Clerkenwell, central London, in 2004. He spent seven years in prison for a murder he always denied. His conviction was quashed last year after judges were told he was the victim of a "serious miscarriage of justice". Crucial evidence was left undiscovered on his mobile phone for years. But Mr Hallam was arrested again on 8 December last year, after officers stopped the car that he was travelling in with his brother, Terence, 33, Jaki Bell, 26, and Robert Fitzgerald, 27. Mr Hallam was charged with three offences of assaulting a constable. During last week's trial, the judge reportedly criticised the investigating officer for failing to produce notes about her attempts to locate CCTV footage or for acquiring potential evidence from Mr Hallam's phone.

Mr Foot told The Independent: "It is somewhat extraordinary that in the same year Sam Hallam was released from prison for a murder he had nothing to do with, following in large part the police's failure to carry out cursory inquiries on CCTV and his mobile phone, he has been exonerated on further charges following police's apparent inability to make proper inquiries on CCTV." Mr Foot said that, in court, officers said they were assaulted by the group, but they could not attribute violent actions to any one individual. The Hallam brothers and Bell all denied assault and were cleared of 11 charges on Friday. Mr Fitzgerald was convicted of assaulting two constables.

According to a court report in the Hackney Citizen newspaper, Mr Hallam said he tried to use his mobile to film an officer "roughing up" his friend, when he was hit with a "glancing blow" on his back from a police truncheon. He said he was tripped up by a plain-clothed police officer. A Met spokesperson said: "Having been made aware of criticism of the police investigation, a senior officer from Hackney Borough will ensure that this matter is looked into."

N. Ireland: Patrick Livingstone has 1975 Murder Conviction Quashed

A man jailed for the murder of a council worker in Belfast has had his conviction quashed. Senior judges declared significant unease about the safety of the verdict returned against Patrick Livingstone. It followed the so-called "good samaritan" killing of Samuel Llewellyn in 1975. Mr Llewellyn was abducted as he delivered hardboard to repair homes damaged by a bombing on the Falls Road in west Belfast in August 1975. The council cleansing department worker was taken to a house in Leeson Street where he was shot dead. His body was wrapped in a sheet and put in the back of a van that was then set alight. Their ruling was based on the alleged brutality of RUC officers involved in securing a statement implicating the west Belfast man.

The only evidence against Mr Livingstone at his trial came from three RUC officers who

later interviewed him at Dundalk Garda Station in the Irish Republic and claimed he confessed to the murder. It was alleged that he taunted the policemen about the shooting, boasting they could do nothing about it because he had no intention of crossing the Irish border. He disputed their account and denied the killing, with his defence claiming the RUC witnesses had concocted a lying account. However, he was subsequently convicted at Belfast City Commission in May 1977 and sentenced to life imprisonment.

His case was reopened and referred back to the Court of Appeal by the Criminal Cases Review Commission (CCRC), the body set up to examine potential miscarriages of justice. The challenge centred on alleged police brutality towards another man who said he was beaten into signing a statement that claimed Mr Livingstone admitted the shooting to him. His allegations included: being put against a wall and hit across the stomach; having chest and head hairs pulled out; and being hooded, spun around and hit across the feet for up to 45 minutes. The CCRC also investigated the quashing on appeal of another man's convictions for assaulting two of the RUC officers who testified at the murder trial.

Ruling on the case alongside two other judges, Lord Chief Justice Sir Declan Morgan held that the fresh evidence should be introduced. He said the claims of police mistreatment were never tested and would have opened a line of inquiry "which might have affected the credibility of the police witnesses". Sir Declan Morgan said: "Because of the non-disclosure the appellant lost the opportunity to pursue that line of argument." Evidence had also been raised of potential wrongdoing in testimony from at least some of the police interviewers, the judge held. He said: "For the reasons set out we have a significant sense of unease about the correctness of this verdict and accordingly allow the appeal."

Mr Livingstone, 62, has described the decision as a vindication of his fight to clear his name, the outcome had been "a long time coming".. He now plans to seek compensation for the 17 years he spent in prison for the murder. *BBC News, 25 June 2013*

Northern Ireland Prisoner Wins Temporary Release Case *BBC News 25th June 2013*

A life-sentence prisoner has won his High Court battle over being denied a further temporary release for allegedly returning to jail drunk. Convicted robber James Clyde Reilly's challenge was conceded by the Northern Ireland Prison Service ahead of a planned High Court hearing. His lawyer said the Prison Service had failed to ensure procedural fairness. The lawyer said Reilly should have been breathalysed to confirm no drink had been taken. Reilly, 45, is serving out a discretionary life sentence at HMP Maghaberry for robbery, attempted robbery and possession of an imitation firearm, offences committed in London.

With his tariff set at six years and eight months, he was transferred to Northern Ireland in 2007. As part of an ongoing process to decide when he can be freed he was subject to a series of unaccompanied temporary releases (UTRs). In January he was let out, only to return smelling of drink. Reilly claimed there had been a mishap in the car taking him back to prison, with another passenger opening a tin of beer that fizzed up over his coat and hair. According to papers in the case, a duty governor decided he had been drinking and refused to give him an opportunity to explain. He was strip-searched, subjected to a drugs test procedure, held in isolation and treated as someone who had breached the terms of his UTR, it was claimed.

Reilly's lawyers argued that he should have been breathalysed to confirm no drink had been taken. A judicial review of the decision to then refuse him a UTR in February was due to get under way in court. But instead Mr Justice Treacy was informed a settlement had been

home without warning last year, because of flimsy evidence that she was about to be married off. The out-of-hours service was used the evening before she was snatched and only a barrister representing the local authority gave evidence. The family sued and were paid thousands of pounds in damages. A barrister connected to the case said: "It's a major thing to sweep into someone's house to remove them on the basis of evidence, without the family saying anything. It may be there are cases where there's a risk, but I'm not sure."

Drug overdose man 'allowed to choose to die: Late on a Sunday night, Justice Sir Mark Hedley decided to let a man with mental health problems die of an overdose rather than pump his stomach, because he believed the man "had capacity" to refuse treatment. The judgement was never recorded or published. Sir Mark, now retired from the bench, said of his ruling: "I decided he had capacity, so he died that night. That's exactly what he wanted to do." He added: "It was a phone call at 10 o'clock on a Sunday night. Actually directly from a consultant at the hospital, though usually they come through lawyers. There would have been no [published] order at all because once I'd made a finding of capacity, there was no jurisdiction for the court to act. We got hold of the official solicitor to seek his views, but no application was ever made, other than notionally by a consultant, who was really just saying "what do I do?' It was the usual thing that life-saving treatment was ridiculously simple - it was just a wash-out, and the person wouldn't let them do that. [The doctor] wanted to know whether he should sedate him and do it anyway, on the entirely understandable basis that doctors save lives. There were members of the patient's family there and I managed to talk to one of them. They said "we think he's completely wrong but he knows his own mind, this is what he's been saying...'. He was in his Eighties and his wife had died the month before and he had nothing left in life to live for. That's how he saw it."

Organ transplant granted over mobile phone outside a zoo: Justice Hedley was on a day off outside Chester Zoo when he ruled that a Jehovah's Witness (whose religion prohibits the transfer of blood and organs between people) should have an organ transplant. He said: "It was the not unusual problem of a woman needing a life-saving transplant that was a Jehovah's Witness and nobody would consent. In fact it's relatively straightforward because they don't tend actively to oppose. The [ruling] was made by mobile phone in the back of a car outside Chester Zoo. It was a full-scale hearing and a BT conference call recorded it. My wife said it was the only time she'd heard me making judgments."

Long Arm of the Law, Oops, Sorry, Meant the Long Arm of G4S

G4S controls 18 operational and organizational services within the Lincolnshire Police force, including the control room, the crime management bureau, firearms licensing and custody, and is responsible for 575 police staff.

Keep Police Accountable to Public: UNISON, the UK's largest union, today hit back at claims by G4S over potential savings if police services were privatised, saying that they were over-hyped and not substantiated by figure work. The union is warning that privatising police services will undermine public confidence in the impartiality of the police, as well as making the service less accountable.

Ben Priestley, UNISON national officer for police staff, said: "The G4S contract with Lincolnshire is a secret contract that we cannot investigate to substantiate the claims being made for it; despite it being paid for by taxpayers money. The public rightly views the privatisation of key police services with deep suspicion. It makes policing less accountable, they are not subject to Freedom of Information requests meaning that important information can be withheld from public scrutiny.

"The public are not fooled by the over-hyped claims that private companies make when taking

emergency service is only supposed to be used when there is "a clear risk that someone may suffer serious loss or harm" without immediate action, but lawyers say it is often used in many less urgent circumstances. The Court of Protection handles 24,450 cases a year, of which some 1,200 involve a full court hearing. A Freedom of Information request to the Ministry of Justice by The Independent has established that no official records are kept of how many judgments are made out-of-hours.

Mr Hemming, the chairman of the All Party Parliamentary Group on Family Law and the Court of Protection, will call for an inquiry into the out-of-hours service by the Justice Select Committee in an Early Day Motion. He said the out-of-hours service was "the most extreme version" of the Court of Protection, "where the family are not told about it but the judge is called to rubber-stamp a decision". He told The Independent: "I was shocked when I found out this was going on. The court is there to protect people, but seems more concerned about protecting local authorities and their incomes. I've been to see ministers several times and they're just not interested in looking at individual cases. They turn a blind eye to the problem. It's a disgrace." On-call judges are only supposed to be contacted when an immediate decision needs to be made; for example for urgent medical treatment or to prevent someone being removed from the place where they live. "There are very few cases which can't wait until Monday morning. For example, any cases involving turning off of machines can wait," Sir Mark said.

Sir Mark says he made out-of-hours decisions in "three or four" cases between 2007 and 2012. He did not record all the phone hearings he made out-of-hours, but said: "There's a duty to keep a note. I've kept them, but I've never been asked for them."

Usually only the barrister for the local authority or health trust is involved out-of-hours, but they are obliged to present the whole case, not just their own. Yet they often only represent one side of the story over the phone and there is no obligation to have a barrister representing the interests of the patient. Ordinarily an order is written and a summary of what is said is published, but if the judge decides the patient has capacity to make the decision, then there may be no records at all. Hearings are often not recorded, which means transcripts can be unavailable, limiting the ability to appeal against a decision. The same barrister said that he had been involved in "several" out-of-hours cases, none of which had been recorded. He said this was often an issue of lacking the basic technology to record a call.

Mark Paulson, head of family and social justice for the Law Society, said: "Appropriate transparency is essential to maintaining public confidence in the courts. The Court Service should consider how it can support the judges who are being asked to make these difficult decisions."

A spokesman for the judiciary said: "In the Family Division and the Court of Protection there will be cases which are matters of life and death and so urgent they cannot wait until the following morning. In these cases speed is of the essence. It will not always be practical for written evidence to be considered, for the conversation to be recorded or for both parties to be notified. The decision cannot be delayed until all these things are in place."

A Ministry of Justice spokeswoman said: "The presiding judge will only make an order out-of-hours if it would be against the interests of a vulnerable person to delay it. When an application is accepted the decision is made with the same degree of seriousness and diligence as any other judicial decision, and is subject to the same rights of appeal. Most applications to hear a case out of hours are not accepted." Below Case studies: Rushed justice

Woman seized from home over 'bogus' forced marriage risk: The Independent has been told that a middle-aged Asian woman with learning difficulties was taken from her family

reached in the case. The judge agreed to the resolution, understood to include Reilly's legal bill being paid. Following the outcome his solicitor claimed the prison service had failed to ensure procedural fairness for Reilly. "They proceeded to find Mr Reilly was drunk when in fact they refused to permit him an opportunity to explain the circumstances, Mr Reilly should not have been forced to bring this case to the High Court because of the failings of the governor," he added. "It is regrettable that some five months have passed since the alleged incident without any progress in our client's pre-release plan. "The prison service have conceded this case only on the eve of the hearing, causing an increased burden on the taxpayer."

Prisoners: Mental Health *House of Lords / 25 Jun 2013 : Column WA128*

Lord Patel of Bradford to ask Her Majesty's Government what assessment they have made of the prevalence of (1) psychosis, (2) depression, (3) anxiety disorders, (4) personality disorders, (5) alcohol dependency, and (5) drug dependency, among offenders under probation supervision in England and Wales. To ask Her Majesty's Government what assessment they have made of the prevalence of (1) psychosis, (2) depression, (3) anxiety disorders, (4) personality disorders, (5) alcohol dependency, and (5) drug dependency, among prisoners in England and Wales. To ask Her Majesty's Government what plans they have to conduct an update to the survey of Psychiatric Morbidity Among Prisoners in England and Wales, published in 1998.

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe): No assessment has been made by the Government regarding the prevalence of psychosis, anxiety, depression, personality disorder and alcohol or drug dependency amongst offenders under probation supervision or of prisoners in England. Decisions about assessing the prevalence of these conditions in Wales are matters for the Welsh Government. The Government regards the Office of National Statistics (ONS) 1998 survey, Psychiatric Morbidity among Prisoners in England and Wales as the most reliable survey of mental illness and substance misuse amongst prisoners to date. The ONS estimated that about 90% of adult prisoners had at least one of five disorders considered in the survey (personality disorder, psychosis, neurosis, alcohol misuse and drug dependence. There are no current plans to repeat the ONS survey.

Double Jeopardy Case: Wendell Baker Guilty Of Rape *BBC News, 25th June 2013*

A man has been found guilty of raping a pensioner in her bedroom, under the amended double jeopardy law. Wendell Baker, 56, of Walthamstow, east London, had denied raping Hazel Backwell, then 66, at her home in Stratford, east London, in 1997. In 1999, a judge decided the case could not proceed for legal reasons and Baker was found not guilty. A legal change in 2005 allowed retrials in certain circumstances and a new hearing took place at the Old Bailey. The jury found Baker guilty after deliberating for just over an hour. The judge said he would consider a life sentence. It can now be reported that Baker has previous convictions for burglary, that he pleaded guilty in August 1993 to assaulting his girlfriend and admitted affray in May 2001.

Baker was acquitted of raping Ms Backwell, who died in 2002, when the first trial judge ruled DNA evidence had not been collected correctly and could not be used. Jurors were told Ms Backwell suffered a "terrifying ordeal" and thought she was going to die. Baker broke into her home as she slept, tied her hands behind her back with flex and then beat and raped her. Afterwards, he ransacked her house before leaving her trapped in a cupboard. Baker denied raping Ms Backwell, telling the court he had been framed by police who he claimed had hounded him for years. After hearing he had been found guilty, Baker called out from the

dock: "I deny the charge and I'll never accept what you have to say."

Det Ch Insp Chris Burgess from the Metropolitan Police said: "This has to be one of the most vile and evil crimes that the public will read about and will know about. The idea that Baker was able to get away with it in 1999 and he got away with it because the law wasn't applied properly, it would seem at that time. It was an injustice - a true injustice - it was the most evil crime, and it's right that we pursue justice now."

A statement was read out from Ms Backwell in the court: "I just thought, 'finish it, end it, get out'. I asked him to help me up but he told me to get up myself. I thought I was going to die."

Ms Backwell's family said: "Hazel never got over her ordeal and the family believe she died with a very sad and broken heart. After the rape and attack her life was never to be the same again. This led to the last few years of her life being very lonely and sad and very afraid. They said they were very grateful that after 15 years, the police and Crown Prosecution Service were able to get a conviction. On behalf of Hazel Backwell the family are very pleased that justice has now been done but it is sad our mum is not here to witness the outcome."

R v Noshad Hussain (Draft Judgements - Duties on counsel/solicitors explained)

Lord Justice Treacy: Last week this court heard the Crown's appeal against a terminating ruling whereby the Circuit Judge stayed criminal proceedings against Noshad Hussain. The issue in the case for this court was whether the judge's ruling could be categorised as one which was not reasonable for him to have made. At the end of the hearing the court reserved its judgment, indicating that judgment would be handed down in the usual way. All professionals who appear before this court understand what that means. It means that in accordance with settled practice the court will, on a strictly confidential basis, provide the professionals concerned in the case with a draft of the judgment which it intends to hand down within a short time of communication of the draft. It is clearly understood that that document is strictly embargoed and that its contents are confidential to counsel and solicitors involved in the case. The substance of the court's decision is permitted to be communicated to the client no more than one hour before the giving of the judgment. The judgment provided to the professionals is a draft judgment. It is not necessarily the final form of this court's judgment.

On the morning of Wednesday 8th May, this court sent out the court's draft judgment in this case to counsel indicating that the judgment would be handed down at 10 am (10/05/13)this morning. The purpose of the provision of draft judgments in this way is a facility afforded to the legal profession so that counsel can inform the court if there is any important factual error or omission within the draft judgment, as well as lesser matters such as typographical defects. A second important purpose of the facility is to give counsel time to consider any applications which may arise as a result of the indicated judgment so that any application can be made to the court at the time of hand down. As already stated, the document communicated to counsel is on the front page marked in the clearest terms to indicate its confidentiality and that it represents at that stage merely a draft rather than the final form of the court's judgment.

By lunchtime on Wednesday of this week it was clear that at least one newspaper and the broadcast media in the area from which this case emanates were aware of the result of the case. There therefore had been a clear breach of the court's order and the terms upon which the draft judgment had been provided. Moreover, this was in the context of a sensitive case involving sexual allegations made by a young complainant. She was entitled to learn of the result of the case in an appropriate way and not be put at risk of learning the result via sec-

including barristers and the High Court - knows how many such judgments are made. One chambers says its barristers alone deal with about 10 to 15 cases a year.

John Hemming MP described the use of out-of-hours hearings by local authorities as "appalling", and accused ministers of complacency in failing to investigate the practice. Legal experts believe the out-of-hours service can be used cynically to rush through rulings that would be more rigorously opposed in court. Some hearings have allegedly been so one-sided that in at least one case legal action was later taken to compensate the family involved. The Court of Protection makes welfare decisions on behalf of those deemed incapable of choosing for themselves. Written evidence is rarely used out-of-hours, so the judge usually relies on an over-the-phone case summary by one barrister.

A leading barrister said: "There's no real investigation out-of-hours over whether [an action] would be appropriate. It's just the local authority ringing the judge up. The parents are not part of the proceedings, so it's on full trust that the barrister gives their side. We can see from the transcripts that judges don't ask enough questions and the barristers don't tell them the other side of the story." The lawyer asked not to be named for fear of being accused of contempt of court for even discussing the proceedings with a journalist. Another barrister said of the out-of-hours service was being abused: "The more interesting ones are welfare questions rather than medical because they're often not genuinely urgent." The barrister had the case where a middle-aged Asian woman with learning difficulties was seized from her family home, where she had lived all her life, because of fears she would subject to a forced marriage.

The Independent was told that, after a few weeks in care, the woman was returned home and has never married. The out-of-hours service was used the evening before she was snatched, and only a barrister representing the local authority gave evidence. They allegedly failed to put the other side of the case properly or to speak to the parents. The family sued and several thousand pounds were paid in a damages settlement. "It's a major thing to sweep into someone's house to remove them on the basis of flimsy evidence, without the family saying anything", the barrister said. Judges do their own investigations but some do it really badly. They often just get one person's side of the events and panic and rush off and do something drastic because [they think] they're going to get into trouble. The kind of investigations they do before taking that kind of action are completely inadequate." In a second case, a judge decided at 10pm that a suicidal man with mental-health problems could be allowed to die of an overdose rather than order doctors to pump his stomach. The decision was never published or recorded.

Speaking to The Independent, Sir Mark Hedley, who retired as a High Court judge in January, said of his ruling: "I decided he had capacity [to refuse treatment], so he died that night. That's exactly what he wanted to do... That one never found its way into any report of any sort." In another case, Sir Mark was called on his mobile phone outside a zoo one weekend and asked to rule on whether a Jehovah's Witness with learning difficulties should have an organ transplant. He said: "The transplant case was made in the back of a car outside Chester Zoo... My wife said it was the only time she'd heard me making judgments."

In March, another judge allegedly ignored expert evidence that a man did not have capacity to deny himself life-saving treatment after a quick phone chat one evening. A barrister said: "the judge had a conversation with a patient that others weren't party to and it wasn't recorded and he decided to refuse life-saving treatment... I was shocked." The doctor later went on to persuade the patient to accept treatment, but the judge's ruling was to let him die.

As in other courts, a judge is on call between 4pm and 9am and over the weekend. This

Operation Nexus. But the use of intelligence in deportation cases is not the only one of its methods which is causing concern. For Rita Chadha, chief executive of Refugee and Migrant Forum of East London (RAMFEL), the operation's aggressive targeting of foreign nationals - whether homeless people, suspected offenders or victims of crime, has frightening implications for the relationship between the police and the community. The Met/ Home Office co-operation now goes way beyond placing immigration officials in custody suites, according to RAMFEL. A Nexus officer was part of a recent 'beds in sheds' operation, and immigration officials are increasingly involved in stop and search street checks. RAMFEL noticed, a month or so ago, that the sleeping bags of migrant rough sleepers (EU and non-EU) were being 'confiscated' by police, who were also questioning homeless people about their receipt of benefits.

Rita Chadha is concerned that the operation is blurring the lines between the criminal justice system and immigration control, is deterring vulnerable people and victims of hate crime from going to the police to report attacks and is destroying the trust of BME and migrant communities in the police. 'It is ironic', she says, 'that the Met seems to be champing at the bit to ask for positive discrimination in terms of recruitment, but can't see how that it is the fundamental rule of law and police powers that are causing such concern amongst migrant communities. The fact that the initial reference group that met to look at Nexus, two days before it started had virtually no migrant representation, says that in London the police still have a long way to go to really understanding local communities, they have just got their head around understanding black and minority ethnic, (and even that not too well) it may take several more decades to understand migrant communities, but perhaps that is part of the plan.' She points out that there was no equality impact assessment prior to the introduction of Nexus, and that consultation was extremely limited. Organisations such as BID and Detention Action, which deal with migrants in detention, are seeing more and more people detained through Nexus, and she believes that grass-roots community groups need to understand that the nature of policing is changing dramatically and that police accountability is being lost. Migrant communities cannot be short-changed when it comes to justice, without the whole system of legal protection of rights being irretrievably damaged.

Revealed: UK Justice Dispensed Out of Hours Down the Phone Line

Investigation by 'The Independent' shows judges making life-or-death decisions away from the public gaze - Emily Dugan, Indpendent, Sunday 23rd June 2013

It only takes 237 words written by a single social worker on form COP3 (a Court of Protection "Assessment of Capacity" application) for a judge to decide to imprison someone in a care home. I know because I counted the words in the assessment relating to case I am involved with. John Hemming. The Court of Protection is facing fresh questions about transparency, as The Independent reveals that its judges are making life-or-death decisions over the phone, with incomplete evidence, in proceedings that are not always recorded. The out-of-hours rulings about care or medical treatment are sometimes made following one-sided testimony, an investigation by this newspaper has uncovered.

In one case, a judge allowed an Asian woman with learning difficulties to be seized from her home on the basis of "flimsy" evidence that she was about to be married off - leading to a damages settlement against the council. In another, a man with mental-health problems who took a drug overdose was allowed to die following a late-night decision that was never recorded. A senior MP will call today for an urgent inquiry into the practice after it emerged no one -

ond-hand hearsay and in a potentially inaccurate way.

The harm done in this case is compounded because the solicitor involved in the case, Miss Dean, contacted the local newspaper and said that her client had been cleared. She left a message to that effect. That was wholly inaccurate. She has accepted in what she said to the court today that her intention was to convey the fact that he was not guilty of the allegations. The reason why that information was inaccurate was because this court's decision involves no judgment as to whether the complaint made was true or untrue and involves no judgment as to whether Noshad Hussain was guilty or not guilty. This court's decision was that the Circuit Judge's ruling to prevent a further trial of the allegations taking place was not a decision which was in the circumstances unreasonable. That is all that the ruling amounts to. No court, either this court or the Crown Court, has pronounced on the rights and wrongs of the allegations which Noshad Hussain faced. For purely technical reasons an acquittal has been ordered by this court because of the provisions of section 61(3) of the Criminal Justice Act 2003. That is the price which the Crown pays for pursuing an ultimately unsuccessful appeal against a terminating ruling.

We have asked those concerned with this matter to attend court this morning as the breach of the court's order is one which is taken extremely seriously. We have heard from the well of the court, but not on oath, from Mr Kershaw, counsel in the case, Miss Dean, the solicitor who instructed him and who has handled this matter throughout and who was present at the hearing before the court last week, and also from Mr Fiaz, who is a partner in the firm of West Midlands Solicitors who employed Miss Dean.

The result of the information provided to the court shows that Mr Kershaw received the draft judgment. He understood the confidentiality provisions. He spoke to Miss Dean on two occasions, as he was entitled to, in relation to the outcome of the case and sent her a text. He says he made it clear to her that what the court had provided was a draft. However he did not say any more than that to her and in particular did not expressly say to her that the result of the case as communicated was embargoed and confidential until judgment was handed down today. He assumed that Miss Dean, as a solicitor, would have been aware of the position both from the fact that she was a solicitor and secondly from the fact that she had attended in court last Friday when the court referred to the way in which judgment would be handed down.

In breach of the terms of the embargo, Miss Dean acknowledges that she contacted Noshad Hussain's family. She says the family were keen to clear their relation's name after substantial publicity given in the media to the allegations surrounding this and other allied cases. Accordingly, she contacted a local newspaper. She left a message for a reporter interested in the case to convey to him that her client had been cleared. As previously stated, this was a wholly inaccurate representation of what the court's judgment meant and she should have realised this. Miss Dean also contacted the police, again in breach of the order, to ask for the return of property which had been seized. Even the Crown under the terms of the embargo is not permitted to convey the court's draft ruling and judgment to the police responsible for bringing the case. Miss Dean says that she did not appreciate the duty of absolute confidentiality.

What happened was to open Pandora's box and it is undoubtedly the case that news of the result of this case has spread prematurely in the community concerned, with no doubt the result of Miss Dean's erroneous comment on the effect of this court's decision being promulgated. As matters have turned out, the complainant did not learn of the results through gossip or contact from any person who should not be in possession of the information. This court lifted the embargo so that a responsible police officer could inform the complainant and that

was the first she had learned of these matters.

We have come to the conclusion that all three persons who have attended court this morning are in one way or another at fault for what happened. Mr Kershaw, who did not provide an emailed copy of the court's draft judgment which would have made the position clear beyond any doubt to Miss Dean, should have made the position clear to her about the embargo and acknowledges that he did not do so but relied on assumptions. Miss Dean as a solicitor is at fault for not knowing the position, and if she did not know, she should have taken steps to take advice or to check before taking the action which she did. It is clear from the evidence we have heard from Mr Fiaz, the partner in the firm concerned, that contact of this sort with the media is not the policy of the firm of solicitors but it appears to us that there has been a defect in the instructions and/or supervision given to Miss Dean to make her aware of her responsibilities to this court in situations such as this. All three parties who have appeared before the court therefore must in those different ways shoulder the blame for what we regard as a significant breach of a court order.

The system of embargoed judgments is a useful facility afforded to the legal profession which ordinarily works well and without difficulty. It can only work effectively if the terms on which such judgments are communicated are respected. This court will be alert to act in the case of any breaches. If breaches of this sort were to recur, and certainly if they were to recur with any frequency, then consideration might have to be given to withdrawing the facility in the future. Those who enjoy the benefit of such a facility are expected to understand its terms and conditions and to abide by them and to ensure that employees such as Miss Dean are properly trained or instructed.

Breach of a court order can result in serious consequences. In this case there has been slackness and a failure of supervision, rather than deliberate flouting of the order. We have decided to take no further action in the matter, but we anticipate that this ruling may appear in reports available to the legal profession. A failure of this sort may be dealt with more severely in the future. We acknowledge that each of the parties who has appeared before the court this morning has tendered their apologies to the court in sincere terms which we are satisfied are entirely genuine. We acknowledge those apologies made.

Deportation on Suspicion - Operation Nexus *Frances Webber for IRR*

The high-profile deportation of a suspected, but unconvicted, serial rapist opens the door to the risk of serious injustice. It was a shrewd move on the part of the Metropolitan police and Home Office to use the case of Lincoln Farquharson, a man charged with rape on five separate occasions between 2006 and 2011, tried twice but never convicted, as a pilot for their new partnership which promises to deliver deportation on suspicion. In the Home Office press statements and media reports celebrating Farquharson's deportation, the man's predatory attacks on women, including multiple rapes and the use of firearms, were emphasised in a way that made it difficult to disagree with the man's removal from the country. But what we need to be concerned about is that his case heralds the widespread use of 'intelligence-based' deportation, supplementing the deportation of foreign offenders with deportation of foreign suspects.

Theoretically, anyone who is not British can be deported on 'conducive' grounds (ie, that the person's removal from the country would be 'conducive to the public good'). But until the Farquharson case, there were few exceptions to the policy that only those with fairly serious criminal convictions would face deportation on these grounds, and published Home Office policy on deportation for criminal conduct refers only to deportation 'following conviction'. This means that criminal conduct has had to be proved in the criminal courts, on evidence which

could be tested by cross-examination, before it could be relied on in deporting someone from the country. The big exception has always been national security, where the home secretary (in practice, the security services) could always rely on 'intelligence' to support the case that a proposed deportee represented a threat to national security.

Now, the exception is apparently to become the rule. The Met has announced that it plans to use Operation Nexus, its joint operation with the Home Office which has led to immigration officials being embedded in seventy-two police custody suites across the capital, to deport an extra 2,400 'foreign criminals' each year.[i] But the Home Office will not apparently await the outcome of criminal trials, but will initiate deportation proceedings straight away, and Met police intelligence files will be used to persuade the immigration tribunal that deportation is justified.

Fair trial? There are a number of problems with deciding whether someone's behaviour merits deportation. Intelligence, unlike evidence, is very difficult to challenge. It is generally fragmentary, scraps of gossip and rumour from unknown sources, which by its very nature is extremely difficult to challenge. But at the same time, those hearing it often act on a 'no smoke without fire' principle. In a criminal court, a jury is warned not to convict unless they are sure the accused is guilty, so the evidence of guilt needs to be strong. In a deportation appeal, the test is merely whether the Home Office can justify the decision - the judges do not need to be sure of someone's guilt provided there are grounds to believe he or she is undesirable.

Obstacles to justice: The injustice of being 'tried' on scraps of untestable 'intelligence' will in all probability be compounded by procedures which prevent proposed deportees even seeing the material on which the decision to deport them is based. We can be fairly sure that, if police intelligence is used in ordinary deportation cases, the secret procedures currently used in the Special Immigration Appeals Commission (SIAC) for national security deportations, which deprive proposed deportees of the evidence and even the detailed reasons for their deportation, will be extended to deportations based on suspicion of criminal conduct. The extension of closed material procedures to ordinary deportation cases has been made possible by the passage of the Justice and Security Act, which was pushed through parliament despite the grave concerns of many leading lawyers and judges about the damage such procedures will do to the rule of law. We are likely to hear the same arguments as are currently used in SIAC about the vulnerability of informants and the dangers of letting 'criminals' know intelligence-gathering methods, to justify deportees being kept in the dark about the allegations justifying their deportation.

As if that were not injustice enough, those facing deportation will not even have the benefit of legal advice and assistance to fight their deportation, unless they have money. Since April 2013, there has been no legal aid for deportation cases (unless they are fought on asylum grounds or because of a fear of torture or the death sentence in the destination country). Proposed deportees will be at the mercy of the Home Office and the immigration tribunal, unless they can find lawyers to represent them for free. Effectively, they are to face decisions to deport them blindfolded and with both hands tied behind their back.

Lawyers representing foreign national offenders on deportation appeals say this is the worst time they can remember for those seeking a fair hearing of their claim to remain in the UK for family reasons. Tribunals cowed by the unrelenting attack on judges who allow deportation appeals on Article 8 (family life) grounds are now refusing appeals even by those who have lived in the UK since infancy. Now, they will be deporting unconvicted suspects on allegations which cannot be properly tested.

Criminal justice or immigration control? Deportation is the desired end product of