

### **Foston Hall Women's Prison Inmates Making 1,000 Calls a Month to Samaritans**

Samantha Dulieu, *Justice Gap*: A report by Her Majesty's Inspectorate of Prisons has found instances of self-harm were the highest in the women's prison estate at HMP Foston Hall and, for the first time, a women's prison scored 'poor' in more than a decade ago with the inspectorate calling it 'a rare and unexpected finding'. The watchdog criticised the lack of any strategy to reduce self-harm in the prison which holds 272 women and serious attempts by women to take their own lives were not always investigated. Messages left on the prison's crisis hotline had not been checked for six weeks on the day of the inspection. Inspectors reported that segregation and anti-ligature clothing to combat self-harm were over-used. One woman had been placed in anti-ligature clothing 87 times in the previous 12 months. Chief Inspector of Prisons Charlie Taylor said: 'The response to women in crisis was too reactive, uncaring and often punitive... It was no surprise that in our survey nearly a third of women told us they felt unsafe.' The report also found violence had increased dramatically within the prison, and the use of force by prison staff had doubled since the last inspection, to the highest rate in the women's estate.

Deborah Coles, the director of Inquest, called Foston Hall 'a dangerous and harmful place for women. 'Horrendous rates of self-harm, exacerbated by the impact of Covid and restricted regimes, punitive treatment and segregation for women in crisis. This is inhumane and unjust.' Emily Evison of the Prison Reform Trust criticised the government's strategy towards women in prison, saying: 'Women's prisons are expected to solve problems which are made worse by women being in custody. Nearly three-quarters (72%) of women entering prison to serve a sentence have committed a non-violent offence. Many women who offend suffer from drug and alcohol addictions and mental ill health. A large number of women in prison are victims of far more serious crimes than those for which they have been convicted. The answers to women's offending lie in proper treatment and support in the community and sustained investment in non-custodial alternatives. Building more women's prison places, as the government has committed to doing, is an irrational response.'

### **Foreign National Women More Likely to be Remanded in Custody than British Women**

Samantha Dulieu, *Justice Gap*: Often for less serious offences, according to new research. A study undertaken by the Griffin Society has found inequalities in the use of custodial remand, usually reserved for those accused of serious crimes, or those at risk of reoffending or not attending trial. This is despite 85% of foreign national women having been accused of 'less serious offences', compared to 71% of British female remand prisoners. The report details concerns that foreign national women make up a significant and increasing proportion of prisoners on remand, despite growing calls for custodial remand to be used only in exceptional circumstances. As well as detrimental impacts to wellbeing and livelihoods, defendants remanded in prison are more likely to plead guilty, less likely to be acquitted, and more likely to receive a custodial sentence.

Testimony from lawyers shows a lack of British citizenship or unsettled immigration status has become grounds for suspicion in bail cases. Some lawyers have suggested even where individuals have lived in the UK for many years, their 'foreignness' is used as evidence of a lack of community ties, and the risk of absconding overseas before a trial. As a result, foreign national women are sub-

ject to stricter conditions, such as surrendering their passport or depositing money or valuables as security. A barrister interviewed for the report explained how her client, a British woman born in Turkey, incorrectly gave her nationality as Turkish: 'The prosecution kept saying she was Turkish and that she lacks community ties in the UK. But she's British. She's been here since she was a baby and her entire family is here. I was like stop looking at her name...it was so racist.'

The report's author May Robson, a former Griffin Research Fellow, says this overuse of custodial remand for foreign national women has been compounded under the 'hostile environment' for foreign nationals. Under legislation introduced in 2007, all offenders sentenced to at least 12 months imprisonment who are from outside the European Economic Area can be automatically deported. Subsequently deportation where it is 'conducive to the public good', has become the primary purpose of punishment for non-citizens. Custodial remand has therefore become the default option for defendants who are assumed to be liable for deportation or removal. The Nationality and Borders Bill, which is currently moving through parliament, intends to increase the scope to deport foreign national offenders.

Robson told the *Justice Gap*: 'The systematic discrimination experienced by foreign national women is only likely to become more prevalent and entrenched in a criminal justice system which is increasing geared around deportation. The Nationality and Borders Bill, which is moving through parliament, intends to increase the scope to deport foreign national offenders. It will create new criminal offences, lengthen maximum sentences for other existing offences and give the Home Office power to strip citizenship without notice, thus bringing more foreign nationals into the ambit of the UK's automatic deportation system.' The report finds that foreign national women are also harmed by measures introduced to cut costs within the criminal justice system. Cuts to legal aid, the privatisation of translation services and the use of remote hearings marginalise a group already at significant disadvantage. Legal professionals criticised the treatment many of their clients faced, in particular considering they were at greater risk of being a victim of human trafficking or modern slavery. They said due to 'prejudice or barriers to disclosure' they are not often recognised as such. The compounding of these factors has left this group vulnerable to increased time on remand, poor defence or miscarriages of justice.

### **Y'all Must Put in for Immediate Transfer to HMP Five Wells**

Looks more like a hall of residence than Cell Block H! Britain's £253 million eco-friendly 'prison of the future' with light and airy rooms, landscaped gardens, football pitches and NO bars on the windows has welcomed its first inmates. With bright and airy rooms offering gorgeous lakeside views, free use of football pitches and beautiful landscaped gardens, you'd be forgiven for thinking this was a modern university residency halls. Costing £253million to build, the Category C, all male lock-up is the UK's first privately run mega prison, which will have a clear focus on rehabilitating offenders. It was built from recycled materials and uses solar panels for some of its energy to reduce its carbon footprint. Lock-up has clear focus on rehabilitating offenders and is seen as flagship example of prisons of the future. It has been branded 'HMP Five Star' by social media users, with one describing it as 'better than Butlins'. Its buildings are in the shape of crosses and hold up to 1,680 inmates, who sleep in bright and spacious rooms It is seen as a flagship example of the Government's aim to create a 'modern, efficient prison estate that is fit for the future'. Run by G4S, its buildings are in the shape of crosses and hold up to 1,680 inmates, who will sleep in brightly decorated and spacious rooms - complete with bar-less sliding windows offering unobstructed views over the beautiful River Nene and a fishing lake.

### **Making Misogyny A Hate Crime Is Long Overdue**

Maira Rana, *Each Other*: The hatred of, aversion to, or prejudice against women – is becoming ever more common within our society, yet little is being done to tackle it effectively. With 86% of women in the UK aged 18-24 experiencing sexual harassment, it's clear to see that misogyny is rife. But despite its prevalence, misogyny is still not classified as a hate crime. Hate crimes are defined as crimes committed against an individual because they are part of or perceived to be part of a certain demographic. Currently, protected characteristics covered by hate crime law include race, religion, sexual orientation, disability, and transgender identity, but not sex and gender. The omission of these categories remains glaringly obvious after calls to add them to the list of protected characteristics covered by hate crime law were denied in the wake of Sarah Everard's murder, which re-ignited the conversation around women's safety and gender-based violence. It's wishful thinking to believe that misogyny neatly stays within the confines of being catcalled in the street or being groped on the bus or tram. Misogyny infiltrates every part of our society and touches the lives of women everywhere.

Even the Metropolitan Police, the service responsible for enforcing justice in the capital, is facing scrutiny for what critics like Sue Fish (former Nottinghamshire police chief) and MP Dianne Abbott describe as a culture of institutionalised misogyny. These concerns come after the prosecution of multiple officers for rape, reports of racist and sexist online chats between officers, and the prosecution of two officers for taking and sharing pictures of the bodies of murder victims Nicole Smallman and Bibaa Henry "for their own amusement". Women are often unsafe at the hands of the police, but what is disturbing is that, for many young women today, misogyny is also entrenched in schools and universities. Following the death of Sarah Everard, more than 54,000 testimonies of abuse and harassment in educational institutions filled the website of the anti-rape movement Everyone's Invited. This movement later inspired a BBC documentary, featuring Love Island's Zara McDermott, who discussed her experiences whilst interviewing girls up and down the country.

During my own years in high school, it was not uncommon to face misogynistic comments. In the midst of a conversation about female astronauts going to Mars, a boy sardonically remarked, "We want to build an actual establishment up there, not a kitchen". This sentiment was easy to find among many boys who would tell me and a number of my female peers, who also happened to be women of colour, that there was "no point" in getting an education, given that we would "end up at home with a husband and kids". It was always clear that, for many boys, the intent behind these comments was to exercise a sense of control and entitlement over girls in the class by making us feel intellectually inferior and guilty for daring to participate in our education. But the underlying racism hidden in a lot of these remarks often went unnoticed.

Having a South Asian heritage means that I often have to contend with a lot of stereotypes. Frankly, it's exhausting. I have to reckon with people's prejudices in regard to my gender as well as my ethnicity. However, I have noticed disparities in the ways in which racism and misogyny are handled – both within a school environment and more generally in society. Whilst it's true that allegations of racism can be dismissed or handled incorrectly, they are typically treated with more seriousness than allegations of misogyny. When girls speak up about mistreatment, they are often told that they are being too emotional or sensitive. It's ingrained within the culture too. Girls, from a young age, are told that if they are teased or taunted by boys in the playground, it's because "he fancies you". Those influencing and enforcing our laws often downplay the seriousness of misogyny and dismiss the dire need to tackle it. In 2018, Sara Thornton, the then chair of the National Police Chiefs' Council,

said that the focus should be on "core policing" due to "overstretched" police resources, rather than tackling misogyny. Dame Cressida Dick, who stepped down as commissioner of the Metropolitan Police yesterday, supported Thornton by saying: "In terms of misogyny, we have hate crime legislation currently. We have aggravating factors, racially, or race hate. We have specific statutes and offences, we don't have those in relation to gender-related crime or misogyny and, in my view, we should be focusing on the things that the public tell me they care most about."

This idea that misogyny is not as important as racism trivialises the issue, and further plays into the mindset that women are troublemakers for taking a stand. The reality is that both issues desperately need to be tackled effectively because they are frequently interlinked. Making misogyny a hate crime would put the much-needed and long overdue support of the law behind women. Article 14 of the Human Rights Act (HRA) sets out the right to freedom from discrimination. Just as with issues like racism or ableism, misogyny is fundamentally born out of discrimination (in this case based on gender or sex) and there is no valid reason why it should be less deserving of criminalisation. Misogyny not only facilitates foul and sexist language but also makes for gender-based violence in the long term. Such violence has claimed the lives of countless women over the years. Femicide Census, an organisation providing 'comprehensive information about women killed in the UK', reports that a woman is, on average, killed by a man every three days. Whilst an endless number of cases never make the news, some recent, high-profile incidents include victims like Sabina Nessa, sisters Bibaa Henry and Nicole Smallman, Julia James and Ashling Murphy. Article 2 of the HRA pertains to the right to life. The threat of gender-based violence infringes on it. That is exactly why misogyny, its root cause, desperately needs to be made a hate crime.

### **'Kill the Bill': Surge in Bristol Riot Charges Prompts Alarm Over Civil Liberties**

*Tom Wall, Guardian*: Dozens of mainly young "kill the bill" protesters have been charged with riot – the most serious public order offence – following clashes in Bristol last year. The decision by Avon and Somerset police and the Crown Prosecution Service appears to be the biggest use of riot charges against demonstrators since the 1980s. The force launched one of its largest investigations after a confrontation between riot police and protesters opposed to the police and crime bill – which will allow the police to curb protests – spiralled into violent clashes outside a police station in Bristol on 21 March last year. It has been accused of giving the impression of "revenge policing" and giving in to political influences. The police claimed mobs of people attacked officers, damaged police vans and a police station in a night of sustained violence. But MPs later heard evidence that the disorder was sparked by the police pepper-spraying and beating demonstrators taking part in a sit-down protest outside the station. The all-party parliamentary group (APPG) on democracy and the constitution also heard that the police's use of force, including deploying dogs, batons, and shield strikes, known as "blading", was often considered disproportionate in the days that followed. The report says it was not clear who struck first but that there was "significant and serious" violence directed at police officers.

At least 62 protesters reported injuries over the course of the week, including 22 with head wounds and seven who required hospital treatment, whereas 44 officers were hurt. The force withdrew widely reported claims that officers suffered broken bones and a punctured lung. Protesters charged with riot, which is rarely used and requires the sign-off of the director of public prosecutions, could face jail terms of up to 10 years. Analysis of Home Office figures shows only 22 people have been convicted of riot since 2011. Avon and Somerset police

said it was still in the middle of one of its largest ever investigations after “police vehicles were damaged and set alight, officers were assaulted and our neighbourhood police station was vandalised during a riot in Bristol city centre on Sunday, 21 March 2021”.

Charges against 38 protesters come amid growing concern from civil liberty groups that protesters are facing ever more serious public order charges, which could have an impact on the right to protest. Detectives are still seeking 34 people in connection with the Bristol clashes, so even more protesters could be charged with riot over the coming months. Four of the people charged are homeless. Others have learning and mental health difficulties. Ryan Roberts – who attempted to set fire to occupied police vans in the most serious incidents of the night – has ADHD (attention deficit hyperactivity disorder) and was said to be living on the fringes of society. Roberts, of no fixed address, received a 14-year sentence in December.

Many protesters face trials later this year but some have already gone to court. So far, 13 people have been sentenced to a total of more than 51 years in prison, including five charged with riot for kicking police shields, throwing items at police, kicking police station windows and hitting police vans. A woman was jailed for five months for urinating at the feet of an officer. Jasmine York, who was charged after she complained she was beaten by officers and mauled by a police dog at the protest, was cleared of riot by a jury. The court was shown footage of York, 26, being struck at least three times by batons and bitten by a police dog. She was convicted of a lesser charge of arson for pushing a wheelie bin towards a burning car and will be sentenced next month. Another woman, Mariella Gedge-Rogers, was found guilty of riot.

Geraint Davies MP, chair APPG on democracy and the constitution, which investigated the disturbances in Bristol, criticised the police. “They massively overreacted at the time and were found out after they misled the press and tried to mislead our inquiry,” he said. He questioned whether the riot charges appeared to be “seeking to punish people in an excessive and disproportionate way, not just for protesting but for challenging the police”. Davies added that the police should not be handed even more powers in the police and crime bill. “The police abuse the power they have but the government still want to give them all sorts of new powers to restrict protests. They need more accountability not less.” Avon and Somerset police added that the MPs’ report also recognised that officers faced real violence and hostility and put themselves on the line to keep people safe.

Priti Patel, has taken an active interest in recent operational policing decisions in Bristol. She described the pulling down of the statue of slave trader Edward Colston in June 2020 as “utterly disgraceful” and demanded an explanation from the then-chief constable about why officers did not intervene. Patel and the prime minister, Boris Johnson, also backed the police’s version of events following the “kill the bill” protests in Bristol. Patel said the law-abiding majority would be appalled by the actions of a “criminal minority”, while Johnson gave the police his full support and branded the protest “a mob intent on violence”.

Shami Chakrabarti, former shadow attorney general, feared Avon and Somerset police had been influenced by the government’s increasingly harsh and authoritarian approach to public dissent. “Charging people with such serious public order offences is going to chill dissent and protest, it is especially concerning when it comes after criticism of the force from the home secretary.” She added: “It is particularly worrying if people face serious charges after they have complained to the media about their treatment. Defensive and political policing only undermines public trust in the law.”

Matt Foot, a criminal defence solicitor, who is co-writing a book on the policing of protests, said his research suggested the sheer number of demonstrators charged with riot in Bristol was almost unprecedented. “This is by far and away the biggest use of riot charges since the mid-1980s – and in all likelihood the most under the current public order act.”

## Love, Lies and the Undercover Police

*Donna McLean* (Author of this article) is one of the women activists from the campaign ‘group ‘Police Spies Out of Lives, which supports women affected by undercover police abuses. Originally known by the pseudonym ‘Andrea’, she dropped her anonymity in 2020. We know of more than 30 women who were deceived into long-term, intimate relationships by undercover police officers, members of the secretive Metropolitan political policing units. Some 250 officers spied on more than 1,000 political groups since the formation of Special Demonstration Squad (SDS) in 1968. The SDS was disbanded in 2006, when the National Public Order Intelligence Unit took up the mantle. These undercover spies often formed relationships with women as part of their ‘tradecraft’, concealing their true identities with the help of state-produced fake ID such as driving licences and passports. We are told that the political policing unit was finally closed down in 2011. The first civil case was lodged against the Metropolitan Police and the Association of Chief Police Officers in December 2011. It involved eight women who were deceived into long-term intimate relationships by five officers who had infiltrated social and environmental justice campaigns. The eight women were represented by the human rights law firm Birnberg Peirce.

The women’s case included both common law claims and human rights claims. In both parts of the case the women faced legal battles by the police, who attempted to strike out the case, have the case sent to secret court, and attempted to hide behind the stock answer of Neither Confirm Nor Deny. The eight women asserted that the actions of the Metropolitan police officers breached their human rights, subjecting them to inhumane and degrading treatment, and disrespecting their private and family life and their right to form relationships without unjustified interference by the state. The Metropolitan Police agreed that they had abused their human rights, and issued a full apology, which was part of the settlement of the case. I was deceived into a long-term intimate relationship by the SDS officer Carlo Soracchi (‘Neri’). We met in London in September 2002, at an anti-war demonstration. Soracchi was a steward on the march, alongside my friend and work colleague Dan, and a wider group of trade union activists and anti-racist campaigners that I knew socially. At that time, I was working in a specialist hostel for former rough sleepers in south London, and I was a trade union rep for TGWU (now Unite). Carlo was a locksmith, working for a company in Kings Cross which exists to this day. Carlo and I hit it off immediately, and within a few weeks he had moved in to my flat. He asked me to marry him on Hogmanay, just three months after we had met, surrounded by our close friends. He even rang my mum to tell her the good news. We lived together for two years and we planned our future, including having children together. We even chose names for them.

My friends, family and work colleagues got to know Carlo. They loved and trusted him. He came on family holidays, attending key events such as my sister’s graduation and was welcome at work nights out. Carlo stayed overnight in my family and friends’ homes. To the outside world, we seemed like the perfect couple. I thought I had found my life partner. In 2004, Carlo appeared to suffer a catastrophic mental health breakdown. He had recently been made aware of sexual abuse within his family. Early in our relationship he disclosed childhood trauma and domestic abuse perpetrated by his father. But the new revelations of sexual abuse, against his sister, seemed to tip him over the edge. He lost an alarming amount of weight, his appearance changed dramatically, and I found myself living with a deeply troubled man. In the six months leading up to his final disappearance from my life, in November 2004, he went missing several times and even texted me on my friend’s 30th birthday saying he was suicidal. I felt helpless and the weight of worrying about Carlo had a massive impact on my life, undermining my ability to focus on work, and carving away at my physical and mental health. I ended up homeless myself, sofa surfing around south London for a few months until I built up my strength again.

It was in the summer of 2015 that I received a life-shattering message from an old friend.

He told me that a group of activists now believed that Carlo had led two completely different lives: one, with me, as a locksmith and left-wing activist and the other, with his wife and children, as a highly trained police officer, operating in the so-called elite SDS, a secretive unit within the Metropolitan police. For over a decade I had been oblivious to this reality, that the man I lived with was a spy, paid to lie by the state. I quickly met with the activists and researchers who had harboured these suspicions about Carlo's sudden disappearance. They had been researching his identity and whereabouts for a year and were able to provide me with incontrovertible proof that Carlo was an undercover police officer. Seeing his profession documented on his marriage certificate and his children's birth certificates was one of the most distressing aspects of the discovery. It made me question everything I had believed about that whole period of my life. I was appalled to learn that it was a prerequisite for him to be married; to have a stable home to go back to when his long undercover deployment ended.

Finding out the truth, or part of it, re-opened old and painful wounds. My truth became a fiction. For the second time, Soracchi and his paymasters had a devastating impact on my family life, my career and my health. I became distracted, sleepless, anxious. I launched a civil case against the Metropolitan Police, who admitted liability after three weeks, yet have consistently adopted a cruel and adversarial approach to litigation. My civil case against the Metropolitan Police remains unresolved after five long years.

Soon after my discovery in 2015, I applied to become a core participant in the public inquiry into undercover policing which was set up in 2014 by Theresa May, then Home Secretary, to investigate the conduct of undercover police officers in England and Wales. Initially we welcomed the establishment of the public inquiry, which was originally known as the Pitchford Inquiry. The remit was to investigate undercover policing in England and Wales, but this does not go far enough. In limiting it only to England and Wales, crucial information on the actions of undercover operatives travelling and infiltrating actions and movements in Scotland, Ireland and elsewhere is ignored.

Sir Christopher Pitchford stepped down due to ill health in May 2017 and sadly died later that year. The incumbent presiding judge, Sir John Mitting, has consistently made decisions that we feel benefit the police, who perpetrated these abuses, more than benefits us, the survivors. We have repeatedly asked for a panel of advisors to support Mitting as he lacks knowledge and experience in relation to matters of race, class, and gender. This request. Our requests have been constantly refused.

Like the other core participants, I am deeply frustrated by the lack of impartiality of the chair, and of his seemingly unfettered belief in what the police choose to tell him. Yes, that is the same Metropolitan police force whose officers spied on the Stephen Lawrence family, who were responsible for stealing dead children's identities, who colluded in the illegal blacklisting of thousands of construction workers and who systematically entered into long-term intimate relationships with women who believed them to be activists. Highly trained liars, yet Mitting accepts their false word at face value.

It is apparent that this was never about an individual officer's 'integrity'. These undercover operatives were trained and paid to lie. Sexual relationships were known about and signed off by these managers. Deceiving women into long term intimate relationships was a core part of the strategy. This was no accident, no 'rogue' officer taking advantage. This was systemic. It was institutional misogyny. It was state-sponsored abuse of women on an enormous scale. In the recent hearings, a former officer, when asked about the nature of sexual relationships with activists, compared them to 'sampling a product', as a cop infiltrating an organised crime gang might sample the drugs.

The Public Inquiry into Undercover Policing has been mired in arguments about procedure, anonymity orders and there has been obfuscation on the part of the police at every turn. The

inquiry should have concluded in 2018, but we only heard the first tranche of evidence in the in November 2020. It is now due to report in 2024, but I suspect there will be further postponements. The British establishment continues to cover up the undercover policing scandal, through a strategy of delays, smokescreens, and institutional dishonesty. I now will not give evidence (or hear Carlo's) until 2023 at the earliest. It should have been this summer. Any hope of moving on with my life is yet again thrown into the long grass. The cost of the inquiry to date (Feb 21) is an eye-watering £36,219,100.

Many of us targeted by these sinister secret police have campaigned for years to get answers, often carrying the weight of severe mental distress and trauma, because of the state-sanctioned abuses we were subjected to. The similarities between the other women's stories and my own are astonishing. At least twenty of the undercover officers deployed in political groups between the mid-70s and 2010 are known to have had sexual relationships, some lasting for many years. At least three fathered children with women activists.

Amongst the wider group of people affected by abusive undercover policing there are black-listed construction workers, miners from the 1984/85 strike, trade union activists, family justice campaigners, environmental activists, as well as the women like me, who were deceived into long-term sexual relationships. We have been fighting long and hard, collectively, for truth, justice, and access to our files. We are working alongside other core participants to try and make this inquiry worth our time and participation. The more public pressure felt by those under scrutiny, the more likely it is that we will achieve some justice. If those trying to get away with covering up their wrong doing believe no-one is scrutinising them, or that nobody cares, they are more likely to continue violating the human rights of others. I stand in solidarity with everyone affected by the spycops and their incalculable abuses. We will not be broken by their dirty tricks. If anything, this just makes us stronger.

### **How Human Trafficking Victims Can Appeal Against Criminal Convictions**

Freemovement: In *R v AAD, AAH, and AAI* [2022] EWCA Crim 106, handed down on Thursday 3 February 2022, the Court of Appeal (Criminal Division) has outlined avenues to appeal against criminal convictions for victims of trafficking who are confirmed as such after conviction. Immigration practitioners should be aware of these appeal options when working with trafficked clients. The two avenues to appeal are as follows:

#### *1. Arguing That a Conviction Following a Guilty Plea Is Unsafe*

The Court of Appeal confirmed that a victim of trafficking can submit that a conviction following a guilty plea is unsafe (see paragraphs 155-157). The court allowed the appeal of AAH, who had received a positive conclusive grounds decision (i.e. recognising her as a confirmed trafficking victim) after entering a guilty plea. It outlined the three categories of cases where a court may overturn a conviction following a guilty plea: where the defendant was deprived of a defence that was good in law; in cases of abuse of process, where it was not just to try the defendant at all; and where the admission of guilt was not true. Practitioners should be aware of the defence available under section 45 of the Modern Slavery Act 2015 which applies to those who have been compelled to commit an offence due to being trafficked or enslaved.

#### *2. Arguing That the Prosecution Was an Abuse Of Process*

The court also reopened the abuse of process jurisdiction for victims of trafficking issued with a conclusive grounds decision (see paragraphs 110-143). The abuse of process jurisdiction provides a route for a trial that is unjust to be stayed. It is available in cases where

it would be impossible for the accused to receive a fair trial, or it would be unjust to try the accused. Where the Crown Prosecution Service ought not to have prosecuted in the first place, a victim of trafficking can appeal against a conviction resulting from the prosecution. This is crucial in ensuring that the CPS complies with its duty of non-prosecution of trafficking victims. But following the decisions in R v DS [2020] EWCA Crim 285 and R v A [2020] EWCA Crim 1408, it had appeared that the abuse of process protection was no longer available in trafficking cases. In AAD, AAH and AAI, the court confirmed that the CPS can prosecute a victim of trafficking despite a positive conclusive grounds decision. But “what if the CPS has failed unjustifiably to take into account the CPS Guidance or... has no rational basis for departing from a favourable conclusive grounds decision?”

In principle such a scenario would, on ordinary public law grounds, seem to operate to vitiate that prosecution decision: whether by reason of a failure to take a material matter (viz. the CPS prosecution guidance) into account or by making a decision to prosecute which is properly to be styled as irrational. Consequently, such a prosecution may, in an appropriate case, be stayed. The court accepted that DS has been superseded by the 2021 European Court of Human Rights decision in VCL and AN v United Kingdom (application nos. 77587/12 and 74603/12), reported on Free Movement as Human rights court criticises CPS for prosecuting trafficking victims. In that case, the Strasbourg court stated that the prosecution of trafficking victims “may be at odds with the state’s duty to take operational measures to protect them”. As such, a prosecutor must have “clear reasons which are consistent with the definition of trafficking contained in the Palermo Protocol and the Anti-Trafficking Convention” to depart from an official decision that the person is a victim.

This led the Court of Appeal bench to reject the observation in DS that if there is no sound evidential (rational) basis on which to challenge the conclusive grounds decision, then “it will still not be an abuse of process, but the judge will consider any submission that there is no case to answer”. That, the Court of Appeal in AAD said, is clearly wrong: the abuse of process jurisdiction should be available as legal redress in the event that the CPS fails to follow its own guidance (paragraph 140)

### **Northern Ireland: Incarcerated Workers See Possible End to Prison Book Ban**

After months of campaigning the Incarcerated Workers Organising Committee (IWOC) have welcomed changes in current book ban throughout Prison System in the North of Ireland. In a statement released earlier a spokesperson said "We have finally seen some concessions from the Northern Ireland Prison Service (NIPS) in relation to the ongoing book ban across the North's Prison System. "Until now, the NIPS have refused to allow family or friends to supply reading materials such as books or independent publications to prisoners held in the North. We have continually argued that books and reading materials are an important asset to all those incarcerated, which should be a basic right to all those imprisoned. The NIPS have now taken the step to allow family and friends to leave books and other forms of reading materials into the prisons while attending visits, which are pre-arranged by appointment only. While this comes as a welcome development to those incarcerated, concerns still exist regarding the ability of prisoners to access these materials. Especially in circumstances where prisoners do not have any family, friends or loved ones living locally or whose family are unable to visit the prison. In doing so, incarcerated migrant workers and those who neither have the financial means to purchase reading materials will continue to remain in serious isolation due to the unjust nature of the prison regime. The NIPS must recognise the differing needs of incarcerated workers and immediately accommodate for non-discriminatory measures accordingly. As incarcerated workers, we demand a complete end to forced isolation of all prisoners and an end all restrictions on literature for all those incarcerated. An injustice to one is an injustice to all!"

### **Devil's Advocate Giovanni Di Stefano Vindicated 2013 Conviction Quashed by CPOS**

In a scathing Judgement, published, Tuesday 15th February 2022, the Court of Public Opinion and Scrutiny (CPOS) quashed the conviction of the man known as the Devil's advocate who defended the likes of Saddam Hussein, Ian Brady, Slobodan Milošević, Charles Manson, and other Dictators and high-profile criminals. The Court of Public Opinion and Scrutiny was established in 2003 by retired Judges of the High Court and Crown Court to review the cases of those “referred” to the Court by a member Judge.

It is thought that a Crown Court Judge brought the case to the attention of the Court over a barrage of “things that went wrong” with Di Stefanos Trials in 2013, presided over by the now deceased Judge Alistair McCreath. The rules of the Court are in accordance with the same rules of the Court of Appeal and the Judges take the pseudonyms of Lord Datta, Lord Dayadhvam, Lord Damyata and their identities remain secret.

One of the retired High Court Judges said, “we do this to protect the integrity of the judiciary, but it is correct to say that some of the cases we have all participated in have left us disturbed enough to carry a weight on our conscience.” The Devil's Advocate told the Court that the current, “Court of Appeal Criminal Division had become “intellectually dishonest and of the countless misdirection's and what he terms “wrong turnings.” His Trial took place in 2013 and thereafter subsequent appeals. The full Judgement makes harrowing reading, and a jurist said, “the whole matter was so badly handled that the papers should be sent to the Attorney General for review as to whether anyone should be prosecuted.”

The Court heard evidence that Di Stefano's PNC (criminal record) had been falsified and that it included offences he “not only did not commit but could not have committed.” The Judge sentenced Di Stefano on the basis of a criminal record he simply did not have. He told the Court that when an “honest prison officer” obtained the real PNC in 2018 it was a surprise to all because “it portrayed the real position and that the Judge himself had been misled.” There were countless errors and equally countless occasions that the whole matter could have been rectified” but it has not. The Judges dug in their heels because they were too deeply involved. “The power to apologise is what is lacking in the Court of Appeal,” said Di Stefano. Last year after eight years in prison Di Stefano wrote to his Trial Judge Alistair McCreath who retired early after Di Stefanos Trial and joined the Parole Board of England and Wales. The letter which we publish in full makes important reading and it is thought that Judge McCreath may well have been the Judge who referred the case to this Court. “What is sad is that Judge McCreath replied to me replied to late last year. He said that I had been treated like a “drunken lamb at a wolf party,” said Di Stefano.” After nine years though it is a pyrrhic victory for both me, The Judge and the Prosecution. “No one has won, and justice has been badly scarred,” said Di Stefano. Asked what he would do now? Di Stefano replied, “See my mother aged 86 and I'm sure I will get a good telling off even at my age which may well be richly deserved,”

Jim Sheridan takes on ‘The Devil's Advocate’

Jim Sheridan, the six times Oscar nominated writer and director and his core documentary team has bought the exclusive rights to ‘The Devil's Advocate’, a biography of life with the infamous ‘lawyer’, Giovanni Di Stefano by his son Michael Di Stefano, and are currently in negotiations for a limited documentary series with broadcasters and major platforms. Sheridan, the acclaimed producer and storyteller has earmarked the story of the notorious lawyer, dubbed by the press as ‘The Devil's Advocate’, as one of his key projects for 2021 and 2022. Giovanni Di Stefano, □ Serving Civil Detainee Issues Claim Against Dominic Raab for 17 million Pounds  
Giovanni Di Stefano A9460CW HMP Huntercombe Henley-on-Thames RG9 5S

### **Indeterminate Sentence for Public Protection (IPP) - Must be Ended or Reformed**

The IPP sentence was introduced in England and Wales in 2005. It was intended for offenders considered 'dangerous' but whose offence did not merit a life sentence. In common with the life sentence it contains three elements. First, a 'tariff' that is a period of imprisonment judged to be a just desert for the crime committed. Second, an unlimited time of detention until the person can prove that they are no longer a threat to the public. Finally, release under licence. Despite its eventual abolition in 2012, thousands of people in prison and the community remain subject to the sentence and it continues to have considerable and long-lasting effects.

United Group for Reform of IPP (UNGRIPP) Campaigns on behalf of prisoners and ex-prisoners serving the Indeterminate Sentence for Public Protection (IPP) in England and Wales

*Conversion:* Convert each IPP sentence to a straight sentence, with a defined release date and license period (or a life sentence if the case merits it).

*Sunset Clause:* A 'sunset clause' is a maximum amount of time that a person who was given an IPP would be allowed to serve before they must be released.

*Executive Release:* This option would completely remove the IPP sentence from those thought to have received it most unjustly. This would be most likely to be those that received a tariff of under two years (because their crimes were less serious), who are still in prison.

*Change the Release Test:* Currently, the Parole Board must apply the 'Risk Test' to all people serving an IPP applying for release. They must prove that they are no longer a risk to society, which can be very difficult to do from prison. A proposed change to this test is that the burden should instead fall on the Parole Board to prove that the person is still a risk to society.

*Shorten, and Reform:* The License Period: Currently people serving an IPP can apply to have their license removed after 10 years in the community (although there is no guarantee of this happening). This option would reduce that period (most suggest 5 years). It would also involve other changes, such as requiring the Parole Board to approve recall to prison, and disallowing recall for minor license breaches.

*End the IPP Sentence Upon Release:* This option proposes that a person's IPP sentence should be ended once they are released from prison. Any further offences by that person should be given a fresh sentence.

*Justice:* The IPP sentence should be abolished retrospectively, and every IPP should be resentenced according to the seriousness of their crime. Whilst it continues to exist, the license portion of the IPP sentence should be reformed to make it fit for purpose. Every IPP should receive a full package of support, that reflects the damage caused by the sentence.

### **200 Trials Abandoned in Three Months Because of Non-Availability of Defence Lawyers**

*Jon Robins, Justice Gap:* Almost 200 criminal trials had to be abandoned between July and September 2021 because there was either no prosecution or no defence advocates available compared to just six cases for the same period in the previous year. The chair of the Criminal Bar Association, Jo Sidhu QC has revealed that one in four of those 194 cases concerned serious and violent offences. 'We are dealing with a national crisis,' he wrote in an article for the Times.

Criminal barristers are threatening to strike closing down the courts, as reported by BBC News. Last month an independent review for the government said the legal aid budget needed an immediate injection of £135m to reverse a huge loss of lawyers. In his Times article, CBA chair Jo Sidhu QC argues that the justice secretary Dominic Raab last week 'pleaded' for criminal barristers to be patient in 'their demands for substantial and expedited injections of funding to legal aid pay'. He

continued: 'Dominic Raab's plea came with an assurance – but no guarantee – that some sort of funding offer will be made and implemented by the autumn by which time criminal practitioners will have waited four years since an independent review into criminal legal aid was first committed to by ministers.' The government's 'repeated intransigence' had led to barristers leaving the profession. 'But more importantly, patience is not an option for all the victims of crime whose interests are safeguarded by barristers to prosecute, and for defendants who pay the price for endless delays to trials, remanded in prison without trial or left in limbo on bail,' he continued. 'Complainants and defendants are like suffer as they see trial dates repeatedly delayed by sometimes five or more years since an offence was first reported. The situation is getting worse.'

According to the BBC, Dominic Raab has promised his response by the end of March, which will then go out to consultation but barristers say that's too long to wait. 'The results of our survey in January were resoundingly clear: 94% of criminal barristers who responded demanded that, by 14th February, the Secretary of State for Justice should give an undertaking that he would provide his full response to [the legal aid review] and complete any consultation process by the end of March,' commented Sidhu. 'The deadline has now passed and we have received no undertaking. Following a meeting of the CBA executive this evening it has therefore been resolved that we will now proceed to a ballot for action to be issued on 28 February.'

### **England and Wales to Get Extra 4,000 Prison Places in Record Expansion**

Heather Stewart, Guardian: Dominic Raab has announced the creation of 4,000 new prison places in England and Wales, as the government plans for an increase of almost 25% that could take the prison population to an all-time high. There were 79,765 prisoners in England and Wales in the week ending 11 February, according to Ministry of Justice figures, while the maximum capacity in the system was 81,368. The latest announcement of 4,000 new places, which will include extending or refurbishing 16 prisons, is part of a plan to provide 20,000 "innovative" new prison places by the mid-2020s. If all these were taken up, it would push the prison population to its highest ever level, above 100,000. The previous peak was 88,000 in November 2011. Prisons being extended or refurbished as part of the new announcement include Birmingham, Liverpool and Norwich. Projects have already been completed at four other prisons, including Feltham and Aylesbury. The Ministry of Justice is also planning to build six new prisons – with the department stressing the benefits for the local economy in terms of job creation. Raab, the justice secretary, said: "Our prison-building programme will deliver an extra 20,000 prison places by the mid-2020s to punish offenders, deter crime and protect the public.

Serving Prisoners Supported by MOJUK: Derek Patterson, Walib Habid, Giovanni Di Stefano, Naweed Ali, Khobaib Hussain, Mohibur Rahman, Tahir Aziz, Roger Khan, Wang Yam, Andrew Malkinson, Michael Ross, 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, Warren Slaney, Melvyn 'Adie' McLellan, Lyndon Coles, Robert Bradley, 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, Robert Knapp, Thomas Petch, Vincent and Sean Bradish, John Allen, Jeremy Bamber, Kevin Lane, Michael Brown, Robert William Kenealy, Glyn Razzell, Willie Gage, Kate Keaveney, Michael Stone, Michael Attwooll, John Roden, Nick Tucker, Karl Watson, Terry Allen, Richard Southern, Peter Hannigan