Miscarriages of JusticeUK (MOJUK)
22 Berners St, Birmingham B19 2DR
Tele: 0121- 507 0844 Email: mojuk@mojuk.org.uk Web: www.mojuk.org.uk

MOJUK: Newsletter 'Inside Out' No 573 (10/03/2016) - Cost £1

Don't Blame Legal Highs for Prisoners' Problems. Blame Prisons

John Podmore, Guardian: David Cameron has described the state of our prisons as "scandalous", and given recent reports, you would be forgiven for believing that "new psychoactive substances" – NPS, or legal highs – are a major factor. The seemingly endless series of alarming reports from Nick Hardwick, the former chief inspector of prisons, has provided a catalogue of violence and medical emergencies associated with the use of NPS. The reality, however, is more complicated. For a start, we don't really know what drugs prisoners take: partly because we have never bothered to find out properly, and partly because prisoners themselves haven't a clue what they are acquiring through an illicit drug market – a handful of pills wrapped in clingfilm passed covertly around the wing does not come with an explanatory leaflet.

The term NPS covers a plethora of complex chemical substances constantly being modified and developed. The highly regarded European Monitoring Centre for Drugs and Drug Addiction stated that there were 280 potentially harmful legal highs produced in 2012 in Europe alone. "Spice, the one most often highlighted, has been around for years, but as with all illegal drugs, including heroin and cocaine, its strength and what it is cut with can vary. Prisons don't routinely test the chemical composition of what they find and hospitals tend not to carry out full toxicology reports on sick and violent prisoners. We simply have no real idea what prisoners are taking. There is undoubtedly a drug issue in prison, although not according to the National Offender Management Service which regularly produces the results of its random mandatory drug testing programme (MDT) as testament to the success of its drug strategy. The rate of positive tests has remained stable at around 7% for many years, below the target of 10%. But MDT is of little use except to those who need convenient statistics. Pilot schemes to include NPS in the programme will be equally ineffective.

Drugs are not so much the cause of the problems in our prison system as the consequence of a much wider malaise. A true analysis becomes subsumed under the tired old supply-reduction strategy. Perimeter security, shooting down drones and the usual begrudging nod to the inconvenient truth that is staff corruption fulfil the "something must be done" clamour. A real supply strategy would properly measure how drugs (and mobile phones) get into prisons. For now, a small clingfilm wrap emanating from a prisoner's orifice is a "find". So too is a kilo of cannabis strapped to the legs of a prison officer. But it is the demand side of the drug problem that we discuss least. A lot of money has been spent in prisons on drug treatment, and there are some very skilled people working day to day in difficult circumstances. The problem with those prisoners taking NPS is getting them into treatment, primarily because they don't see themselves as having a problem. Mixed messages from society at large about legality and harm compound the problem. But getting people into treatment and/or away from harmful lifestyles is a responsibility of the prison system. Yes, people need to take personal responsibility but that is precisely what prison takes away, and in the current crisis increasingly so. Banged up 23 hours a day in a large toilet with someone you have never met before – who wouldn't want a mind-altering substance? Meaningful work, education and training with a purpose all help. So too do positive interactions with staff, and modern-day access to family and friends outside. All these tactics can aid treatment.

Purposeful and constructive incarceration is not a holy grail, it is a responsibility the state takes on when it deprives people of their liberty. It has a duty to the communities that all but a handful of prisoners will return to. Bringing it about is not easy, but as Cameron said in his recent speech: we need to put professionals in the lead and to remove the bureaucratic micromanagement that disempowers them. This means prison governors taking responsibility for the totality of what goes on in their prisons: being passionate not just about drug treatment, but about all prison activities, and ensuring staff and specialists work together and not simply within the confines of central contracts. We should be optimistic about Michael Gove's new "reform prisons" where governors will have true autonomy and accountability. They are a paradigm shift in prison management and a challenge to the "blob" – the intransigent civil servants hoping it will all go away. Legal highs should not distract from the wider challenge. The only way to stop drugs coming into prison is for prisoners not to want them. Bringing that about would be true prison reform.

Campaign Group Led by Police Officials Calls For Rethink on War on Drugs

Damien Gayle, Guardian: Former and serving police officers and officials from Britain, Europe and the US have told politicians in Westminster that the "war on drugs" is lost and they must take the trade out of the hands of organised crime. They called for an evidence-based approach to drug use in the UK that seeks to not only minimise harm but also allow for the potential benefits that certain illegal drugs can have. Ron Hogg, police and crime commissioner for Durham, who is well known for instructing his force not to prioritise the prosecution of drug users, said it was time to give up on the war on drugs. "We are very clear in our view at Durham constabulary that war has failed, it was never likely to succeed and never will succeed," he said, while standing alongside Mike Barton, the chief of Durham police. "What we have to do is we have to change our views, we have to change the way in which we approach things. The whole purpose of any drugs policy must be to minimise the harm that those drugs cause to individuals, to our communities. It also needs to optimise the benefits that drugs could bring," he added, referring to the medicinal uses of cannabis. Hogg made his comments at the launch event at the House of Commons for Law Enforcement Against Prohibition (Leap) UK. First formed in 2002 by five former police officers from Canada and the US, the international organisation is now a UN-accredited NGO with about 180,000 members and supporters in 80 countries.

Neill Franklin, a former major in Maryland state police and executive director of Leap, said: "Leap's mission is to reduce crime, disease, death and addiction by ending the most socially destructive public policy since slavery, that is the war on drugs, the prohibition of drugs. "For over five decades, we have been attempting to solve a public health crisis with criminal justice solutions and the results are catastrophic." A recurrent theme among speakers was the harm caused by the war on drugs, as opposed to the drugs themselves. Peter Muyshondt, the director of operations of local police in Voorkempen, Belgium, told how he had been thrown into a moral conflict after his brother died of a drug overdose nine years ago. He said: "As a policeman, I have had to deal with more alcohol-related problems than with problems relating to cannabis. Not only in traffic, but in situations of public order, alcohol is frequently involved when it comes to accidents, fighting or public nuisance. But it's the national culture."

Speakers reiterated the inconsistency between alcohol, and the social damage that causes, and the ban on drugs, which have less negative impacts. Paul Whitehouse, former chief constable of Sussex police, pointed out the damage caused by drink-driving and alcohol-related domestic violence. "If we think alcohol is that bad, why don't we ban it? Because it won't

work, and you should take the same view on drugs," he said. Harms associated with drug use in itself could be mitigated by liberalisation, said Jim Duffy, a former inspector of Strathclyde police and one-time head of that region's Police Federation. He said: "The thing you have to remember about your drug dealers is they are the people who decide what drugs they will give away or sell to your children and to your grandchildren. "They are the people who decide what it's cut with, what the purity will be, what the strength will be, the effect. They don't ask for ID. They will sell it to whoever has the money. That's a shameful situation."

Franklin said he hoped that just as the UK had shown leadership in ending slavery in the 1820s, so the country could also show leadership on ending the war on drugs, with its disproportionate focus on minorities. He likened the current era's drug policies to the Jim Crow laws, which southern US states used as a means to legally target black people and throw them into jail where they could once again be used as slave labour. The current drug laws had a similar effect, he said, in disproportionately jailing black and minority ethnic offenders, even though white people abuse and traffic drugs at about the same rates.

National Audit Office Attacks Justice System Inefficiencies and Delays

Owen Bowcottt, Guardian: Complex sex abuse, organised crime and terrorism cases are creating longer delays on an already inefficient criminal justice system, the National Audit Office has said. Despite falls in the number of prosecutions, the report points out the two-thirds of trials do not go ahead on their scheduled day and concludes that the system is "not currently delivering value for money". Trial waiting times have increased by a third since 2013. The report noted wide regional differences in performance: in Wales, a victim of crime has a seven in 10 chance of their case proceeding on the scheduled day; in Manchester it is only two in 10. The mix of cases is changing, the NAO noted. There has been a 12% increase in the number of sex offence cases sent to the crown court over the last five years – up from 9,178 in 2010-11 to 10,309 in 2014-15. That trend is expected to continue. Historical and child sex abuse cases bring in vulnerable victims and witnesses, requiring additional support. Prosecutions for terrorism, organised crime, drugs and fraud are also growing.

"These cases can involve complex evidence and trials with multiple defendants," the report said. "The average length of a crown court trial increased from 11.5 hours in 2010-11 to 14.6 hours in the year to September 2015 … The average length of cases at Birmingham crown court has nearly doubled from 13.3 hours during April to August 2014 to 24.5 hours for the same period in 2015." Abolition of preparatory committal hearings in 2013, it is thought, may account for some of the increase. Last year the Crown Prosecution Service spent £21.5m preparing cases that were not heard in court. Crown court backlogs grew by 34% between March 2013 and September 2015; average waiting times for a crown court hearing increased by 35% to 134 over the same period.

While acknowledging conflicts of interest between prosecution and defence, the NAO is nevertheless critical of failures such as court over-booking. "Courts staff, acting under judicial direction … [are] scheduling more trials than can be heard so that there are back ups when one trial cannot proceed," it said. There have been some improvements in the management of magistrates' case, the NAO accepted. Deep cuts in spending have not helped: spending on the criminal justice system has fallen by 26% in real terms since 2010-11 and is to drop by a further 15% by 2020. The Ministry of Justice has pledged £700m to introduce more efficient digital working. That investment on its own will not solve the problem, the NAO fears. "The

system as a whole is inefficient because its individual parts have strong incentives to work in ways that create cost elsewhere," its report said. "As there is no common view of what success looks like, organisations may not act in the best interests of the whole system … Delays and aborted hearings create extra work, waste scarce resources and undermine confidence in the system." Other problems identified include poor initial charging decisions by police and CPS, inadequate preparation before trials, failures to deliver defendants to court from prison and failures by prosecutors to disclose evidence to the defence. Amyas Morse, head of the NAO, said: "Delays and aborted hearings create extra work, waste scarce resources, and undermine confidence in the system. "Some of the challenges are longstanding and complex – others are the results of basic avoidable mistakes. The ambitious reform programme led by the [MoJ, courts service], CPS and judiciary has the potential to improve value for money by providing tools to help get things right first time, but will not in itself address all of the causes of inefficiency. It is essential that the criminal justice system pulls together and takes collective responsibility for sorting out the longstanding issues."

Criminal Cases Review Commission (Information) Bill

The purpose of this Bill is to correct an anomaly in the drafting of the Criminal Appeal Act 1995, by which the Criminal Cases Review Commission was created. The task of the commission, an independent public body sponsored and funded by the Ministry of Justice, is to investigate possible miscarriages of justice, following the 1993 report by a royal commission into the circumstances of the mishandling of the cases of the Guildford Four and the Birmingham Six. The commission investigates convictions on application by an offender or, if an offender has died, at the request of relatives. All applications are free. The commission's remit covers only England, Wales and Northern Ireland, as do the provisions of the Bill.

If the CCRC concludes that there is a real possibility that the Court of Appeal will overturn a conviction, it can make a referral and send cases back so that an appeal can be heard. Sentences cannot be increased as a result of a defendant's application for review. The commission, whose annual budget is £5.5 million, receives between 1,000 and 1,500 applications a year, of which, in 2015, only 39 were referred back for review. This very low ratio of referrals to convictions indicates how uncommon it is for a sufficient weight of relevant, accurate and compelling new evidence to be put forward to justify an overturn. I put it to the House that it should be taken as an indication of the rigour and fairness of our justice system. It is, however, essential that whenever mistakes are made, they be redressed as quickly as possible. That is why it is so important that any barriers in the way of the public body responsible for investigating these mistakes be removed.

Under Section 17 of the Criminal Appeal Act, the CCRC has the power to obtain any relevant information held in the public sector—an essential weapon in its investigatory armoury. Provided that the power is used reasonably, it is not restricted for any obligation of secrecy or other limitation on disclosure, and includes information relevant to national security and personal information held by the police, prisons, the NHS and the Department for Work and Pensions. It can also request CCTV information from local authorities.

However, thanks to the drafting anomaly which I mentioned earlier, the CCRC does not have the same power in respect of material held outside the public sector, and has to rely on co-operation and favourable responses to requests for voluntary disclosure of relevant material from individuals and organisations. Although voluntary disclosure is not uncommon, an increasing number of organisations are citing a number of reasons why they cannot assist,

including recent trends in statutory data protection. Furthermore, voluntary disclosure often only follows protracted negotiations, which cause lengthy and expensive delays in the case review process. The CCRC cites four situations in particular in relation to the private sector which tend to disadvantage an applicant: inability to obtain information from a private individual; inability to obtain information from a private sector organisation; provision of partial information or a summary, which the commission is in no position to scrutinise or verify; and lengthy delays in the case review process caused by protracted negotiations within the private sector. What is particularly unfortunate is that the CCRC has experienced significant or repeated difficulties with some organisations or types of organisation, which has forced it to accept that further pursuit of information from them would be fruitless. This situation could have resulted in its inability to remedy a number of miscarriages of justice.

This problem has become much more acute in recent years because responsibility for much of the required material held by public bodies when the 1995 Act was enacted has now been passed to private sector bodies. Such organisations include some prisons; probation services, the majority of which are now contracted out; forensic science services, following the abolition of the official Forensic Science Service; private health clinics; and charities, including those treating substance misuse. Other private sector bodies from which material is sought include law firms, expert witnesses, campaign groups, news agencies, banks, private schools, public transport companies and shops and department stores.

The distinction between private bodies, from which the CCRC does not currently have statutory powers to compel disclosure, and those in the public sector, from which it does, is arbitrary because it could be a matter of luck or personal circumstance as to which one holds the relevant information in a case. For example, medical records that are statutorily available if an alleged victim is treated in an NHS hospital are not available if they are treated in a private clinic. Similarly, the CCRC can demand external CCTV footage from a public sector jobcentre on one side of the street but not from a shop on the other, possibly denying it important evidence. I could give many other examples but the point is that this arbitrary, random and unintended distinction should not be allowed to impede the justice system.

It is even more regrettable that a CCRC inquiry into a miscarriage of justice should be impeded by the refusal of a private organisation or witness to provide material, and the inability of the CCRC to compel disclosure of all relevant information can result in a flawed decision for and against an applicant. The victim of a miscarriage of justice could be made to suffer continued imprisonment and the social consequences of a criminal conviction. Conversely, the absence of all relevant information which could have persuaded the CCRC to turn down a case could result in an expensive referral to the Court of Appeal. In either case, unnecessary distress is caused to the victims of the crime in question.

The CCRC has long recognised that the ability to conduct case reviews is detrimentally affected by its lack of afforded legal power to obtain material held in the private sector, recognition of which was officially supported by the 2013-14 CCRC triennial review. There is already a precedent within the United Kingdom because the power the Bill seeks to give the CCRC was granted from the outset to the Scottish Criminal Cases Review Commission under Section 194I of the Criminal Procedure (Scotland) Act 1995. Under this legislation, the SCCRC is entitled to apply for a court order requiring a private individual or organisation to provide relevant material. In practice, the SCCRC finds that a reminder that it has the statutory powers to apply for a court order is usually sufficient to secure voluntary disclosure.

Indeed, only one case in 15 years has led to contested court proceedings.

Court of Appeal Gives Short Shrift to UK & USA Extradition Demands

[At the center of the argument was a controversial body of American law known as civil commitment, which says that after a convicted sex offender has served his prison sentence he can be forcibly committed to a mental hospital for an unspecified period in the interest of public safety. British judges have characterized these U.S. laws as draconian. Last year two judges in England's High Court refused to extradite Roger Alan Giese, to the USA, ruling that he could suffer a "flagrant denial" of his human rights if he returns to Orange County to face charges and – if convicted – possible civil commitment.]

1. The Government of the United States of America appealed against the refusal by a District Judge of the Government's request for extradition of the Respondent Mr Giese. On 7th October 2015 the court handed down a judgment upholding the decision of the District Judge that extradition of Mr Giese would be inconsistent with his Convention rights. On 21st December 2015 the court handed down a further judgment dismissing the appeal. The Government has subsequently made written applications to re-open the appeal pursuant to rule 50.27 Criminal Procedure Rules 2015 (formerly rule 17.27 of the previous Rules), or alternatively for permission to appeal to the Supreme Court pursuant to rule 50.25.

13. We reject those submissions. The Government had known for months that it was at the very least possible that the issue of offering an assurance might arise in these proceedings, and had therefore had ample opportunity to consider whether it would be willing to offer any assurance if that issue did arise. Following the court's judgment on 7th October 2015, the Government was given additional time in which to consider its position. The Government then offered the assurance which it was prepared to offer. The e mail sent by the court at 2012 on 29th October was plainly expressed in provisional terms; and even if it was thought to offer comfort to the Government, that thought must have been dispelled within less than 24 hours, when Mr Giese's representatives made clear their opposition. The court made this point entirely clear in the e mail of 16th December. We think it quite inappropriate for one party to proceedings to seek to use an indication of the court's provisional view in the way in which it is here being used. If the approach for which the Government argues were correct, no court would ever be able to assist the parties to litigation, and to promote proper case management and the saving of costs, by indicating a provisional view.

14. The issue at the hearing on 9th November was as to the adequacy of the assurance. We deprecate any suggestion that the court should have engaged in some sort of negotiation with the Government (or indeed with Mr Giese) as to the adequacy of the assurance or as to possible alternative terms: it was for the parties to make their respective submissions, and for the court to reach a conclusion. If (which we doubt) the usual restriction on distribution of the draft judgment caused a real difficulty about taking instructions in advance of the hearing, the remedy lay in an immediate application to the court for permission to take the necessary instructions and/or for an extension of time.

15. For those reasons, we are unable to certify that there is any point of law of general public importance. It follows that the application for certification and for permission to appeal fails in limine: see Extradition Act 2003 s32(4)(a).

16. We turn to the application under rule 50.27 to reopen the appeal. Mr Cadman submits that the Government should be allowed to reopen the appeal because the Government "has had no effective opportunity to express whether it is minded to amend the letter of assurance and thus assuage the concerns of the court". He submits that, in the light of the e mail of 29th October 2015, no further instructions were sought from the Government, and none could be

sought when the draft judgment was circulated and the court's concerns about the offered assurance first became apparent. He submits that the circumstances are exceptional, and that real injustice will be caused to the Government if the appeal is not reopened.

17. We reject those submissions. It seems to us that Mr Watkins in his written submissions has provided a complete answer to the application. As we have already indicated, we reject the implicit suggestion that the court should have engaged in negotiations in pursuit of an acceptable form of assurance. We repeat that any practical difficulty about taking instructions could and should have been dealt with by an appropriate application in advance of the hearing date.

18. The reality of this application, contrary to the submissions of the Government, is that it is an attempt to "have a second go", so as to be able to put forward a revised form of assurance in the hope that it may prove acceptable. That is not a proper use of rule 50.27. The Government was given an opportunity to offer an assurance if it wished to do so. It proposed an assurance on the terms it felt to be appropriate. It cannot now say that the court's decision, not to accept that assurance as sufficient in the circumstances of this case, gives rise to real injustice, or that the circumstances are exceptional. 19. We therefore refuse the application to reopen the appeal. 20. For these reasons, both applications fail and are refused.

Family Rules Fit For Bonfire Only, Says Top Judge

Family court rules are unintelligible for the increasing number of litigants in person and are mostly ignored by lawyers, the top specialist judge in England and Wales has told barristers. Sir James Munby, the president of the family division of the High Court, described the current rules as "a masterpiece of traditional, if absurdly over-elaborate, drafting". However, he went on to tell a meeting of the Family Law Bar Association that "they are unreadable by litigants in person and, truth be told, largely unread by lawyers. They are simply not fit for purpose." Munby described the "Red Book", the family law rules bible, as being similar to its civil law counterpart, the "White Book". "It is a remarkable monument of legal publishing, but, I fear, fit only for the bonfire. Rules, to the extent that we still need them, must be short and written in simple, plain English. But in reality, much that is currently embodied in rules will in future simply be embedded in the software of the digital court." The judge reiterated his support for the family court to evolve into being a problem-solving court. Doing so, he said, "improves the outcomes for children. It improves the lives of parents. And it saves money - large sums of money - for a variety of public purses".

'Far-Right Terrorism Needs More Police Attention' *Ian Weinfass - Police Oracle*

Law enforcement and policy-makers should pay more attention to the threat from "lone wolf" actors inspired by far-right extremism, the authors of a new study have said. A study analysed the impact of "lone actor" attacks across Europe since 2000 - and estimates the far-right accounts for a third of all such cases. The report says: "Right-wing lone actors were less likely to have been under active investigation by authorities than religiously-inspired individuals. "Policymakers and the police must give greater consideration to the threat from far-right lone actor terrorism, and not underestimate its capacity when compared with Islamist extremism." The Syrian refugee crisis is being said to having added to the likelihood of increased attacks against vulnerable civilians. Of 72 successfully launched attacks studied, some 38 per cent were "religiously inspired", whereas far-right incidents accounted for 33 per cent - and had a much higher casualty rate. Calling for greater infiltration, monitoring and banning of far-right groups, the report states that Islamist-inspired attackers often displayed clear links to proscribed organisations such as Al-Qaeda, whereas far-right extremists were likely to have been inspired by legal entities like the English Defence League. It notes that there are no right-wing groups on the EU's list of proscribed terror organisations.

Attacks occurring in the period include the 2013 murder of Birmingham pensioner Mohammed Saleem and mosque bombings carried out by Pavlo Lapshyn. The report was only examining lone actors - defined as "the threat or use of violence by a single perpetrator or small cell" acting for political reasons, but without the explicit direction of others - therefore it excludes numerous major organised incidents such as the two Paris attacks last year. The study was carried out by researchers from the Royal United Services Institute,Leiden University, The Royal Institute of International Affairs Chatham House, and the Institute for Strategic Dialogue, with input from the National Police Chiefs' Council. Asked last year if more resources should be diverted to tackling the threat of the far-right, Lord Alex Carlile - who reviewed UK terror legislation for ten years - said: "As far as far-right extremism is concerned, happily, in this country far-right extremism has been fairly limited. "The attention that has been given to it has been proportionate. I would not like to divert resources from much more threatening and imminent threats in order to symbolically say that we are covering right-wing extremism to the same extent. Right-wing extremists, on the whole, broadly are pretty incompetent. "If you look at the criminal cases that there have been, mostly they have been bumbling and idiotic; whereas you cannot, I am afraid, say the same about the [people who perpetrated both the] Glasgow Airport bomb plot, for example, and [the bomb plot] which nearly killed 200 young women dancing in a club just at the bottom of Haymarket."

Prison Reform Possible Without Reducing Inmate Numbers, Says Gove

Michael Gove insisted it was possible to implement prison reform without reducing the number of prisoners, and in an interview with the Guardian said that political tensions over his position on Europe will not derail his programme of reforms. The justice secretary said that there was no need to “manage down the prison population” or to introduce an “artificial target” to reduce the number of prisoners, revealing that the Treasury had promised him sufficient funding to “keep prison numbers stable” despite wider pressures on the public finances. The revelation sits uneasily with Gove’s new image as a champion of penal reform and will disappoint campaigners, who see a radical reduction in prison numbers – which have risen from 45,000 in 1990 to almost 86,000 today – as central to reform of the penal system. Until now, the justice secretary has avoided the highly politically sensitive question of the rising prison population in the handful of speeches he has made on prison reform. The prime minister also side-stepped this issue when he made a speech on the need for a “truly 21st-century prison system” last month.

But Gove rejected the “view that says it is only possible to rehabilitate if you dramatically reduce the prison population”. “If you were to be seen to be artificially attempting to manage the population down, I think it would have a harmful effect on the criminal justice system overall,” he said in an interview with the Guardian, following two pieces of reporting about problems at the country’s biggest and most overcrowded prisons, Oakwood and Wandsworth. Gove may be anxious to avoid the criticism faced by his predecessor but one, Kenneth Clarke, who described the prison population in 2010 as “astonishing” and made a commitment to reducing numbers by 3,000 in four years. Subsequently he faced widespread attacks from right-wing newspapers (the Sun described him as “soft on the causers of crime”) and he was moved on from his post in a reshuffle in 2012 before reductions were made. “I’m confident that we can keep people in safe and decent circumstances in prisons

which are at or near capacity without needing to manage down the population," Gove said

Sean Rigg: Case Against Five Police Officers Referred to CPS

Vikram Dodd, Guardian: Prosecutors are to consider whether they should bring criminal charges against five police officers over the arrest, restraint and detention of Sean Rigg, a musician who died in Metropolitan police custody. The Guardian understands that misconduct in public office is one of the potential offences to be considered. Rigg, 40, died on 21 August 2008 at Brixton police station in south London. On Tuesday 1st March 2016 the Independent Police Complaints Commission (IPCC) said it had passed the case to prosecutors after its investigation indicated "that a criminal offence may have been committed". An inquest jury in 2012 found police actions had contributed to Rigg's death, after he was held down in a V shape in a prone position for eight minutes. The Crown Prosecution Service will now decide whether the conduct of any of the officers – who are understood to deny any criminal wrongdoing – could amount to criminal conduct.

Those referred to the CPS include a sergeant and officers of police constable rank. One of the PCs had attempted to resign from the Met to become to become a Church of England minister, but the request was blocked. The IPCC's deputy chair Sarah Green said: "Having reviewed the evidence and the final report I have decided to refer this investigation to the CPS to determine whether any criminal charges should be laid. The evidence relates to the actions of five police officers." The IPCC had initially cleared police after an investigation now admitted to be flawed. But an inquest jury found the Met failed to uphold the detained man's basic rights.

Sean Rigg's sister, Marcia Rigg, welcomed the IPCC's decision. She said: "I and the rest of Sean's family welcome the decision by the IPCC to refer these officers to the CPS. We hope the CPS makes a decision to charge as soon as is reasonably possible. We have had to battle every step of the way through two separate investigations (one failed) and a lengthy inquest into Sean's death to get to the bottom of what happened to my brother and to hold the officers involved to account for their conduct." Rigg said all the officers concerned should be suspended, and this was "essential for ensuring continuing public trust in the police". Two of the five officers referred to the IPCC are currently suspended, while three are not. Rigg, 40, who had paranoid schizophrenia, was living in a south London hostel in August 2008. Police were called after he allegedly smashed up a gazebo and made karate moves, which staff saw as threatening. Three hours after the first 999 call, police responded and officers restrained Rigg and took him to Brixton police station, where he later died.

Omagh Bombing: Seamus Daly Murder Case Collapses *David Young, Independent*

Prosecutors have dropped the charges against a bricklayer accused of murdering 29 people in the 1998 Omagh bomb. Seamus Daly, 45, had been on remand in prison since being charged with the Real IRA atrocity and a range of other terror offences in April 2014. Seven years ago, Daly was one of four men successfully sued for bombing the Co Tyrone market town when he was found liable for the attack in a landmark civil case taken by some of the bereaved families. No-one has ever been convicted of the murders in a criminal court. Daly, from Co Armagh, has always denied involvement in the bombing which inflicted the greatest loss of life of any terror atrocity in the history of the Northern Ireland Troubles. The dead came from both sides of the Irish border, England and Spain. One of the victims was pregnant with twins. The dramatic decision by the Northern Ireland Public Prosecution Service (PPS) comes before Daly's case had even reached the floor of the Crown Court. A pre-trial hearing commenced in Omagh Magistrates' Court last week to establish whether the evidence in the case was of sufficient strength to warrant such a trial.

That decision has now been taken out of District Judge Peter King's hands, as the PPS has withdrawn the charges before the preliminary hearing had reached conclusion. A PPS lawyer officially withdrew the prosecution during a routine magistrate's hearing at Ballymena Courthouse, Co Antrim, on Tuesday morning. As well as the 29 murder counts, Daly, from Kilnasaggart Road, Jonesborough, Co Armagh, had faced charges of causing the August 1998 explosion and possession of a bomb with intent to endanger life or property. He was further charged with conspiring to cause an explosion and having explosives with intent in connection with a separate dissident republican bomb plot in Lisburn in April of the same year. All charges have now been dropped. In 2009, Daly and three others were ordered to pay £1.6 million in damages to the bereaved relatives - money they are still pursuing.

Daly faced a civil retrial after successfully appealing against the original finding, but the second trial delivered the same outcome as the first, with judge Mr Justice John Gillen ruling him responsible for the attack. In 2007, south Armagh electrician Sean Hoey, who was then 38 and from Jonesborough, was found not guilty of the 29 murders after a marathon trial at Belfast Crown Court. At the time, trial judge Mr Justice Weir heavily criticised the Royal Ulster Constabulary and its successor, the Police Service of Northern Ireland, for their handling of the investigation. Michael Gallagher, whose son Aiden was killed, said he was unhappy that information was circulating on Tuesday morning about the collapse of the case, yet he and other families had not been informed by the authorities. "We have been failed once again by the police service, by the prosecution service, by the government and by the criminal justice system," he said.

Ched Evans Appeal to be Heard Tuesday 22nd March

CCRC referred the conviction of Ched Evans to the Court of Appeal last October. Mr Evans appeared at Caernarfon Crown Court in April 2012 charged with rape. He pleaded not guilty but was convicted and sentenced to five years' imprisonment. Mr Evans sought leave to appeal.His application for leave to appeal was heard and dismissed by the full court in November 2012. He applied to the Criminal Cases Review Commission in July 2014. The CCRC received further submissions from Mr Evans' legal representatives in January and April 2015. Following an in depth, ten-month long investigation, the Commission decided to refer the case to the Court of Appeal. The referral was made on the basis of new information which was not raised at trial, and which in the view of the Commission, could have added support to Mr Evans's defence at trial and therefore raises a real possibility that the Court of Appeal may now quash the conviction. Court of Appeal judges will now consider the safety of his conviction at a hearing on Tuesday, March 22.

CCRC Refers Murder Conviction of Kerry Holden to Court of Appeal

Kerry Holden pleaded not guilty to murder when she stood trial at Nottingham Crown Court for stabbing Luke Moran to death in the early hours of Sunday 21st August 2011 after a party in the Clifton area of the city. It was the prosecution case that Ms Holden stabbed Mr Moran once in the chest. There were, however, no witnesses to the stabbing and there was no forensic evidence connecting Ms Holden to the attack. Ms Holden was convicted of murder by a majority verdict on 8th March 2012 and sentenced the same day to life imprisonment with a minimum term of 18 years. She appealed against her conviction but the appeal was dismissed in June 2013. Later that year she applied to the Criminal Cases Review Commission for a review of her case. The Commission has decided to refer Ms Holden's murder conviction to the Court of Appeal because it considers that new evidence relating to an alternative suspect that has emerged since the trial now raises a real possibility the Court will quash the conviction. Ms Holden was legally represented during her application to the

Commission by Jessica Vogel of Carringtons Solicitors, 1 Arkwright Street, Nottingham. NG2 2JR.

Migrant Sex Workers - We Speak But You Don't Listen

Ava Caradonna, Open Democracy: On 11 August 2015, Amnesty International passed a resolution calling for the decriminalisation of sex work. It was a sweet summer victory that was the result of years of sex worker organising. This hard won and well fought for achievement inspired a tremendous sense of victory within the sex worker movement as well as howls of protest from what Laura Agustin terms the 'rescue industry' and their misguided abolitionist allies.

However the Amnesty resolution, as well as most other decriminalisation policies, will have little or no positive effect on our lives as migrant sex workers. In fact, certain short cuts towards such a goal might inadvertently turn us into collateral damage. What is clear is that we have reached a historical moment, one in which the political significance of sex worker rights has finally started to gain momentum and traction. This is why it is crucial that we, as migrant sex workers, address some of the conflicts of interest between the aims and strategies of the sex workers' movement as they are currently configured and the strategies and realities of migrant sex workers themselves. In other words, there is a considerable distance in our experiences of criminalisation and stigma that doesn't afford the majority of migrant sex workers a smooth or safe landing into a world of regulated and legal sex work.

Sex work is work? - There is no doubt that the Amnesty resolution furthers the aims of the sex workers' movement for the full decriminalisation of sex work. The loudest opposition to decriminalisation is the rescue industry: composed of abolitionists who promote the 'Swedish model' and individuals and organisations who employ 'anti-trafficking' discourses without ever challenging the power structures that enable the trafficking and exploitation of workers. Most abolitionists believe that sex workers have 'false consciousness' as a result of trauma either leading to sex work or sustained while working. They view our work as one in which we are repeatedly raped. Sex work must be rape, according to the abolitionist logic, because no one can consent to selling sex. We are criminalised, arrested, and rescued for 'our own good'. Much of our time as activists is spent trying to dispel the notion that sex workers are always already victims, in order to assert our agency. We want to be clear: if you come from a situation of poverty, the only thing you have to survive is your body. We maintain that while choice under capitalism is a fictional concept, this does not entitle anyone to deny us our ability to express our demands and improve our situations. It is useful to distinguish between the terms choice and agency. The former insinuates a fictional context in which we all have 'equal' options in life and unlimited access to resources. The latter recognises our capability to make plans, to have strategies, and to act within a limiting structure. Our lived experience as well as considerable academic evidence shows that the rescue industry is causing serious harm to the sex worker movement and exposing individual sex workers to increased risk, arrest, and stigma.

As migrant sex workers we are targeted both as sex workers and as migrants. We share all the oppressions of national or settled sex workers, but not all the proposed solutions. Of course the category of 'migrant sex worker' is misleading, as we have many different stories and come from multiple situations. For some of us, even the main demand of the sex workers' movement to recognise sex work as work is a double-edged sword. For migrants the question of work, to undertake any work, is often considered the most heinous crime against the state that we can commit. If we are caught in the act of working, our best immediate survival strategy is to argue that we were NOT working and that we were in fact coerced. To put it simply, if you are defined as a trafficked woman then you have some rights and access to resources, if you are defined as a migrant sex worker you don't.

If you are either an undocumented migrant or a documented visitor / migrant with no permission to work in the UK and no recourse to public funds, and are busted for sex work, you will

be deported and often banned from re-entering the country or the entire EU. You will have no access to legal aid, you will be incarcerated, and you will be exposed to threats and sometimes violence from the police. Even if you are a migrant sex worker with short or long term permission to work in the UK, it is quite possible that you could lose this coveted status because engaging in sex work can be interpreted as a violation of the 'good character' clause of UK immigration laws.

Full decriminalisation of sex work would put one class of migrant sex workers – those already allowed to work in the UK – in a much-improved position. This only holds, however, if such change was accompanied by anti-discrimination legislation and anti-stigma education strong enough to prevent immigration authorities from revoking our status on account of deviance or suspected anti-social tendencies. But even such a progressive legislative and political u-turn on prostitution polices would leave undocumented migrant sex workers, or migrant sex workers without work permits, in a very similar position to the one we occupy today: excluded from access to justice, exposed to violence and blackmail, and faced with limited survival options.

Like aid from a war plane - At the moment the sex workers' movement can't offer much to a migrant worker targeted by the authorities. We do not have the resources at our disposal that the rescue industry does. However, if you are categorised as a trafficked woman, you have recourse to a comparatively (if still inadequate) well-funded framework of support and some legal prospects. You will not be instantly removed. You will have access to legal aid – one of the only few categories of migrants in the UK still entitled to this nearly eradicated service. You will have access to temporary housing and sustenance, mental health support, and even professional training. In some circumstances you may even be able to file an asylum claim. While your chances to win are ridiculously slim, this will buy you time before your eventual displacement. The rescue industry works within the normative border regime and offers certain migrant sex workers with their backs against the wall some more options.

However as a strategy it is a fraught one, as it is really difficult to fit all the criteria. If you want to fight for your papers through this route, you have little possibility to do so successfully. You have to be consistent in your story no matter how many times you have to repeat it, and each agency will check. If you are a migrant sex worker there is a strong possibility that one day you will be raided and, in most cases, you will have nothing to lose in trying to exploit the anti-trafficking law. But it is hard to achieve a positive outcome. The irony, of course, is that anti-trafficking laws allow the police to raid houses, flats, etc. when there is a suspicion of trafficking, so the same law that you may try to exploit is the reason why you were incarcerated in the first place.

In our organising efforts in workplaces we hardly ever meet sex workers without documents nowadays, and certainly not in the numbers that we used to. Migrant sex workers are missing from more than the agenda of the political debate about sex workers. They are largely missing from public life in London. Since the police raids that occurred in the lead up to the London Olympics, followed by the raids on Soho during Operation Companion in December 2013, flats were shut down and undocumented migrants were forced underground. The ongoing police repression has pushed more and more people into precarious and dangerous situations.

So let's be clear: the rescue industry's aid is like provision parcels dropped over a freshly bombed zone. Most of us know that such food parcels are charity you would not have needed before your benefactor made you destitute. We know that they are not enough because they are not intended to restore your self-sufficiency. We know that they are offered free of charge at an extortionate price. But many also know that these toxic provisions may be the only tangible sustenance around. And if you try shooting the planes out of your sky, the

offensive parcels will either be withheld, or exchanged for cluster bombs. As an immediate survival strategy, sometimes being a victim is more effective than being a freedom fighter.

Snooper's Charter Shows Government's Total Contempt For Privacy

Carly Nyst, Guardian: The government proposed a fundamental shift in the relationship between citizens, the internet and the state in its 300-page draft investigatory powers bill. Under the law, now christened the snooper's charter, almost every digital communication and movement would be logged by telecommunications companies, intercepted by intelligence agencies and subject to scrutiny. But when the government introduced the bill into parliament on Tuesday, it demonstrated not only its disregard for privacy but its contempt for that other key pillar of British society: democracy. The bill contains some of the most intrusive surveillance powers imaginable, including some that are not currently found in any other country in the world. Cyber security is to be sacrificed at the altar of "national security": government hacking would become legal, bulk datasets collected and mined, and encrypted services subject to state restrictions.

It will come as little surprise to many Britons that the government has contempt for privacy. In the last decade we have seen the roll-out of mandatory data retention and the secret expansion of digital surveillance, revealed only because of the actions of an American whistleblower. Prior to the publication of the draft bill, in November 2015, it had been 15 years since parliament had modernised its surveillance powers, and an overhaul of police and intelligence authorities with regards to the internet was sorely needed. Yet suddenly, with the publication of the draft text, the government decided that time was of the essence. When a joint committee was appointed to scrutinise the bill, it had 52 working days to consider the oral evidence of 59 people and 1,500 pages of written submissions. Two other committees also conducted rapid reviews of the dense legislation during the three short months between the publication of the Draft Bill and its introduction into Parliament. All three found the draft bill, at best, problematic; the Intelligence and Security Committee (ISC) issued a scathing critique, which cut particularly deep given the Committee's historically close relationship to the security services. The ISC found the lack of emphasis on privacy protections "surprising" and cautioning the government against using terrorist attacks as an excuse to override civil liberties. It recommended the government did away with invasive powers such as bulk hacking and introduced a new section of the Bill specifically dedicated to protecting privacy.

Prisoners Doing Paid Work in Prison are in Law an Employee of the MOJ

Mrs Cox, worked as the catering manager at HM Prison Swansea. She was in charge of all aspects of the catering, including the operation of the kitchen producing meals for prisoners. She supervised prisoners who worked in the kitchen alongside other civilian catering staff. On 10 September 2007 Mrs Cox instructed some prisoners to take some kitchen supplies to the kitchen stores. During the course of this operation, one of the prisoners, Mr Inder, accidentally dropped a sack of rice onto Mrs Cox's back, injuring her. Mrs Cox brought a claim against the Ministry of Justice (MOJ) in the Swansea County Court.

His Honour Judge Keyser QC found that Mr Inder was negligent, but dismissed the claim on the basis that the prison service, which is an executive agency of the Ministry of Justice, was not vicariously liable as the relationship between the prison service and Mr Inder was not akin to that between an employer and an employee. The Court of Appeal reversed the decision, finding that the prison service was vicariously liable for Mr Inder's negligence. MOJ appealed the question on the MOJ's appeal to the Supreme Court concerns the sort of relationship which has to exist between an individual and a defendant before the defendant can be

made vicariously liable in tort for the conduct of that individual.

Lord Reed gives guidance on the sort of relationship which may give rise to vicarious liability. In Various Claimants v Catholic Child Welfare Society [2012] UKSC 56, ("the Christian Brothers case"), Lord Phillips mentioned five factors which make it fair, just and reasonable to impose vicarious liability on a defendant, where the defendant and the tortfeasor are not bound by a contract of employment [19]. Lord Reed explains that these five factors are not equally significant. The first factor, that the defendant is more likely to have the means to compensate the victim and can be expected to have insured against vicarious liability, is unlikely to be of independent significance in most cases [20]. The fifth factor, that the tortfeasor will have been under the control of the defendant, no longer has the significance it was sometimes considered to have. In modern life, it is not realistic to look for a right to direct how an employee should perform his duties as a necessary element in the employment relationship [21]. The remaining three factors are inter-related.

These are (1) the tort will have been committed as a result of activity being taken by the tortfeasor on behalf of the defendant; (2) the tortfeasor's activity is likely to be part of the business activity of the defendant; and (3) the defendant, by employing the tortfeasor to carry on the activity, will have created the risk of the tort committed by the tortfeasor [22]. A relationship other than one of employment is in principle capable of giving rise to vicarious liability where harm is wrongfully done by an individual who carries on activities as an integral part of the defendant's business and for its benefit (rather than his activities being entirely attributable to the conduct of a recognisably independent business of his own or of a third party), and where the commission of the wrongful act is a risk created by the defendant by assigning those activities to that individual [24].

The general approach described in Christian Brothers is not confined to a special category of cases, but provides a basis for identifying the circumstances in which vicarious liability may in principle be imposed outside employment relationships. It extends the scope of vicarious liability beyond the responsibility of an employer for the acts and omissions of its employees in the course of their employment, but not to the extent of imposing such liability where a tortfeasor's activities are entirely attributable to the conduct of a recognisably independent business of his own, or of a third party. This enables the law to maintain previous levels of protection for the victims of torts, despite changes in the legal relationships between enterprises and members of their workforces which may be motivated by factors extraneous to the enterprises' activities or attendant risks [29].

The defendant need not be carrying on activities of a commercial nature. The benefit which it derives from the tortfeasor's activities need not take the form of a profit. It is sufficient that there is a defendant carrying on activities in the furtherance of its own interests. The individual for whose conduct it may be vicariously liable must carry on activities assigned to him by the defendant as an integral part of its operation and for its benefit. The defendant must, by assigning those activities to the tortfeasor, have created a risk of his committing the tort [30]. A wide range of circumstances can satisfy those requirements, and defendants cannot avoid vicarious liability on the basis of arguments about the employment status of the tortfeasor [31].

Prisoners working in kitchens are integrated into the operation of the prison. The activities assigned to them form an integral part of the activities the prison carries on in the furtherance of its aims, in particular the provision of meals to prisoners. The fact that these aims serve the public interest is not a bar to the imposition of vicarious liability. The prison service places these prisoners in a position where there is a risk that they may commit a variety of negligent acts in carrying out assigned activities, which is recognised by the provision of health and safety training. The prisoners work under the direction of prison staff. Mrs Cox was injured as a result of Mr Inder's negli-

gence in carrying on activities assigned to him, and the prison service is therefore vicariously liable to her [32].

The MOJ's arguments that requiring prisoners to work serves the purpose of rehabilitation and that the prisoners have no interest in furthering the objectives of the prison service are rejected. Rehabilitation is not the sole objective. Penal policy also aims to ensure that convicted prisoners contribute to the cost of their upkeep. When prisoners work in the prison kitchen they are integrated into the operation of the prison, and their activities are of direct and immediate benefit to the prison service itself [34].

The fact that a prisoner is required to undertake work for nominal wages binds him into a closer relationship with the prison service than would be the case for an employee, and strengthens the case for imposing vicarious liability [35]. Payment of a wage is not essential for the imposition of vicarious liability [37]. Nor is it necessary for the prison to have an unrestricted pool from which to select a workforce. The prisoners who work in the kitchen are selected with particular care, having regard to the risks involved [38]. In cases where the criteria set out in Christian Brothers are satisfied, it should not generally be necessary to reassess the fairness, justice and reasonableness of the result. The criteria are designed to ensure that vicarious liability is imposed where it is fair, just and reasonable to do so [41].

CCRC Refers Case of Mr X A Zimbabwean national to Court of Appeal

Mr X, A Zimbabwean national, arrived at Manchester Airport in November 2007 and presented a false passport to the authorities. He immediately admitted that the passport was not his and said he wished to claim asylum. Mr X said the false passport had been provided by the agent he had paid to help him escape from Zimbabwe where he said he was under pressure from the Government to inform against members of the Movement for Democratic Change and said his life would be in danger for refusing. Mr X was charged on 19th November 2007 with having a false passport contrary to section 25(1) of the Identity Cards Act 2006. On the advice of a solicitor he pleaded guilty at Manchester Crown Court on 27 November and was sentence to eight months' imprisonment. Mr X was granted asylum in August 2008.

Having considered the case in detail, the Commission has decided to refer Mr X's conviction to the Court of Appeal. The referral is made on the basis that he should have been entitled to rely on the statutory defence available under section 31 of the Immigration and Asylum Act 1999 to the charge of possessing a false identity documents with intent. The Commission therefore believes there is a real possibility that the Court will conclude that, in all the circumstances, the statutory defence probably would have succeeded and that it should be set aside Mr X's guilty plea and quash his conviction. Mr X was not legally represented in his application to the Commission. This case is one of several involving asylum seekers and refugees that the Commission has referred to the appeal courts in recent months. Several other cases raising similar issues are currently being investigated by the Commission.

CCRC Refers Case of Mrs V to the Court of Appeal

Mrs V, a Cameroonian national, attempted to use a false passport to board a flight to Canada at Birmingham Airport in March 2007. When questioned by an immigration officer she admitted that she had travelled to the UK from Nigeria in February 2007. She said that when she attempted to board the flight to Canada she was trying to get away from the man who brought her to the UK and was using a passport she took from him. She was charged with having a false passport contrary to section 25(1) of the Identity Cards Act 2006. On the advice of a solicitor Mrs V pleaded guilty in May 2007 at Warwick Crown Court and was sentenced to eight months imprisonment. Mrs V was granted leave to remain in the UK in July 2008. Having considered the case in detail, the Commission has decided to refer Mrs V's conviction to the Court of Appeal. The referral is made on the basis that she should have been entitled to rely on the statutory defence available under section 31 of the Immigration and Asylum Act 1999 to the charge of possessing a false identity documents with intent. The Commission therefore believes there is a real possibility that the Court will conclude that, in all the circumstances, the statutory defence probably would have succeeded and that it should be set aside Mrs V's guilty plea and quash her conviction. Mrs V was not legally represented in his application to the Commission.

'Drugs Are Part of A Much Wider Problem in Our Jails' *Alex Cavendish, Justice Gap*

Recently, we've seen Nick Hardwick, the former Chief Inspector of Prisons, warning of the threats posed by what are now being called 'New Psychoactive Substances' (NPS), variously known by generic names such as Black Mamba, K2 and Spice, as well as 'herbal highs'. In addition, there is rarely an official report on any specific establishment that doesn't flag up the rising tide of drug use. The most recent warning reports about NPS – all published during February this year – have concerned HMP Cardiff (causing 'horrific injuries'), HMP Dovegate (a 'major contributing factor' in riots), HMP Bristol ('a huge and disruptive' problem) and HMP Ranby ('overwhelmed', with fears for the prison's stability and safety). However, in reality pretty much every prison in the UK now seems to be affected by what resembles an epidemic of drug abuse and violence. The national and local media are also reporting on the crisis. There is a regular demand for 'insider' comment and over the past year or so I've been interviewed on Channel 4 News, BBC Newsnight, Radio 4, Radio 5 Live and have also been quoted in a feature in The Economist.

Of course, drugs are only part of a much wider problem in our jails. The prison drugs trade goes hand in hand with violence, bullying and self-harm. It may well be one factor fuelling the rising suicide rate. Based on my own observations in several different prisons, I believe that there is also a close correlation between the internal prison drug trade and the widespread availability of illicit mobile phones and SIM cards. Ironically, evidence of prisoner-on-prisoner violence inside jails occasionally leaks out through photos and videos made on these contraband mobiles. Unmonitored mobile communications are a vital tool in the smuggling business. Orders for 'product' can be placed with suppliers, gang members, family or associates back in the home community. Arrangements for mules and package drop-offs can be made. Prices in other jails can be compared and debtors who have been transferred when still owing money can be tracked and pressured to pay up – or can face punishment beatings on arrival in their new location. Debtors' families can be intimidated or threatened unless their loved one's debts are settled, either in cash or through being forced into smuggling drugs during visits.

Personally, I believe the 'legal high' problem began to escalate significantly during 2012. I first became aware of 'Spice' in a Cat-B prison when a Dutch lad, inside for drug dealing offences, started supplying pinches to other cons to mix with their regular rolling tobacco ('burn'). I heard whispers about fresh deliveries coming in, although the route was never disclosed. Within a couple of months, use on our wing, and others across the prison, became commonplace. These early substances seemed closer in effect to traditional cannabinoids. They relaxed the user and people just dozed off, although a few did vomit or shake. I recall having to support one mate who had been smoking the blended tobacco back to his cell

and put him to bed before wing staff noticed the state he was in. He just slept it off, but complained of a stonking headache the next morning. I'm sorry to say that this didn't discourage him and he was soon a regular 'spice head'. Gradually, other 'brands' of NPS arrived in prisons: Black Mamba, Amsterdam Gold, China White. Most were substances that mimicked the effect of cannabis, although others were closer to cocaine (methylphenidates). The latter substances tend to make users excited and sometimes aggressive. Both main types of high can fuel a sense of paranoia – something that is already rampant behind bars – and this can also lead to violent outbursts and other very disturbed behaviours.

One of the additional complications in prisons is that a significant number of inmates are already taking medication prescribed for depression or other mental health conditions. Some are on the methadone programme for heroin addicts, while others are using meds issued to others but sold or traded on the wing as a commodity. When you add NPS – the chemical composition of which is never certain – the result can be a dangerous form of Russian roulette. Will the impact be pleasant and relaxing, or will it induce vomiting, racing heart rates and even fits? There have even been reports of prisoners being used as guinea pigs in crude chemical trials to see what effect a new batch of contraband substance is likely to deliver. Whether the participants are willing or are being bullied or threatened into testing these highs is difficult to determine, but evidence suggests that such practices are going on in certain establishments.

Culture of violence: I have seen at first hand the negative impacts of widespread drug use in prison. Evening roll-checks in open prison where a long line of spaced-out cons staggered towards the office. Washrooms covered in vomit, WCs blocked, inmates passed out on the floor or heaving on their bunks. Ambulances – dubbed 'mambulances' – at the gate to pick up yet another prisoner who had been found lying on the floor in his own excrement and urine while having a fit. The culture of violence is perhaps the worst aspect. A young, vulnerable lad being summoned to a cell far from the wing office to be systematically beaten by three much larger cons until he was battered, bloody and sobbing because he couldn't pay his drug debts. I heard his pleas for mercy and then his screams. He was forced to clean up his own blood with his clothes before his tormentors kicked him out onto the wing, still deeply in debt and terrified of the next torture session he might face.

In open prison I have seen prisoners throwing away any chance of release on parole for years because they had run up drug debts they couldn't pay. They then felt obliged for their own safety, or that of their families, to request a transfer back to a closed prison or even to abscond by running off. Drugs – legal and illegal – get into our prisons because there is a growing demand. Life in many jails is now so grim, with restricted regimes, 23 hour bang up, little opportunity for work, education or exercise, that gambling with your health by smoking, sniffing or swallowing God knows what is considered a risk worth taking just to 'get your head out between the bars', as I've heard it called. My own estimate is that 40-50% of inmates were using by 2014, but more recent studies by leading academics working in this field suggest that as many as 60% of serving prisoners are likely to be misusing NPS or other drugs. Moreover, the current absence of any Mandatory Drug Testing (MDT) for legal highs has made it almost impossible to prove that a prisoner has been using a contraband substance. Until and unless effective detection can be introduced for the wide range of chemical compounds (which change regularly), there is very limited deterrence in prison. At present, the usual disciplinary charge is possession of an unauthorised item, rather than a specific drugs offence.

Being a cog in the prison supply chain can be profitable, although nothing like as advantageous as it is for the barons who supply in bulk. Given the relative cheapness of legal substances on

the street (sold as herbal incense), the returns can be substantial, while the actual risks of prosecution are very low. Like all contraband, drugs of every kinds are smuggled into prisons through a wide range of routes. Newly arrived prisoners may be 'packing' or 'plugging' (concealing packages of drugs and other items in their rectums), while small wraps of drugs or pills can be passed over in the visits hall by family, friends or criminal associates. Even the nappies of visiting babies can be used. Attempts are also made to throw packages over high prison walls, while more recently there have been instances of small drones being used to breach prison security.

Staff shortages, poor morale on the frontline, too few security officers, not enough trained drugs dogs… all of these issues play contributory roles in producing an environment where the risks of smuggling contraband are considered worth taking – especially for the barons who get others to do most of the dirty work for them. Add in overcrowded wings populated by willing consumers and the stage is set for a perfect storm of drug-fuelled debt and violence, with the inevitable casualties. It's also worth remembering that some of the worst, most violent prison riots in world history have occurred when rioting inmates have looted internal medical facilities after staff members have lost control.

Following my recent blog post on the subject of corruption among prison staff (read here), I have received messages of support from both serving and ex-prison officers who resent the 'rotten apples' in their ranks, as well as predictable pressure from a few vocal individuals who would prefer me to 'shut up' and stop drawing attention to the issue, even though these serious problems are also being flagged by Nick Hardwick, former senior police officers and others who have first-hand experience of corruption in our prisons. I am personally convinced that the sheer quantities of drugs and mobile phones currently available in our prisons would not be possible without some degree of involvement by individual members of staff. This includes a small minority of uniformed officers, but also some civilian workers and authorised contractors who enjoy freedom of access to specific prisons. In addition, almost any external consignment entering prison gates could conceal contraband items ready for internal contacts to retrieve and pass on. With its usual sense of 'urgency' the government recently moved to criminalise the manufacture and sale of psychoactive substances (although not the mere possession) by means of the controversial Psychoactive Substance Act (2016) which will come into effect in April. However, there is doubt whether the new legislation will really reduce demand or consumption – whether in prison, where possession will become a new criminal offence – or out in the wider community. Judging by the failure of the so-called global war on drugs over decades, the prospects for success do not appear very positive. What is certain, however, is that there is no end in sight to the drug-fuelled crisis wreaking havoc across our prison system.

HMYOI Werrington – Safety Concerns

Safety had deteriorated at HMYOI Werrington, but it was positive in other areas, said Martin Lomas, Deputy Chief Inspector of Prisons. As he published the report of an unannounced inspection of the young offender institution near Stoke-on-Trent. HMYOI Werrington can hold up to 142 boys aged between 15 and 18. At the time of the inspection, Werrington was in the early stages of implementing the extended education day for young people and was doing so with a largely new staff and management group. There are now fewer children in custody and Werrington, like other similar establishments, holds some boys who are very difficult to manage, but with the problem of limited options regarding accommodation. These factors had contributed to a concerning deterioration in safety, and the perception of safety. In contrast, the establishment had done well to maintain positive findings in the areas of respect, purposeful activity and resettlement.

Inspectors were concerned to find that: • 20 Recommendations from the last report had not

been achieved and 9 only partly achieved. • high levels of violence and significant evidence of bullying explained why one in four boys reported feeling unsafe at the time of the inspection and half said that they had been victimised by other boys; • there were some good formal structures to support the most vulnerable, but incidences of self-harm and the numbers subject to case management for those at risk of suicide or self-harm (ACCT) were still too high; • the management of poor behaviour was a weakness, as low-level anti-social behaviour sometimes went unchallenged by staff, while the few incentives to behave really well were regularly withdrawn to accommodate the poorly behaved and the vulnerable; and • equality and diversity work was weak: little had been done to understand why the 50% of the population who were Muslim and/or from a black and minority ethnic background held such negative perceptions and consultation in general was ineffective. • Inspectors made 63 recommendations

Martin Lomas said: "While we were greatly concerned about the deficiencies in the management of safety at Werrington, we found managers and staff to be receptive to our findings and were confident that they would make concerted efforts to make the establishment safer. Their success in maintaining positive outcomes in our other tests of a healthy prison, despite some significant challenges, was commendable."

Unannounced Inspection of Heathrow Immigration Removal Centre Harmondsworth Site

40 recommendations from the last inspection had not been achieved and 24 only partly achieved. Harmondsworth was last inspected in August 2013, when it was run by the GEO Group. At that time, we were concerned to find that uncertainty about the future of the contract had undermined progress and created an atmosphere of drift which was having a tangible negative impact on the treatment of and conditions for detainees. Many of the concerns that we identified in 2013 have not been rectified and in some respects matters have deteriorated. The lack of investment in the last stages of the previous contract was evidenced in particular by the appalling state of some of the residential units. While the decline had been arrested by the time of this inspection, the centre had not yet recovered and we identified substantial concerns in a number of areas. The vulnerability of the detainee population appeared to have increased since the last inspection. In our survey, 80% of men said that they had had problems on arrival and nearly half said they had felt depressed or suicidal. However, despite an improved reception environment, early days risk assessment processes were not good enough and the complex mix of detainees on the first night unit made it impossible for staff to provide a calm and supportive environment for people undergoing one of the most stressful periods of their lives. More detainees than at the last inspection also reported feeling unsafe or victimised, but safer custody structures to help managers to interrogate and address such concerns were underdeveloped. While use of force was not high and subject to good governance, some detainees were segregated for too long, and we were not assured that this serious measure was always justified or properly authorised.

Many men were held for short periods but well over half were detained in the centre for over a month and some for very long periods. Eighteen detainees had been held for over a year and one man had been detained on separate occasions adding up to a total of five years. The quality of Rule 35 reports was variable but nearly a fifth of these reports had identified illnesses, suicidal intentions and/or experiences of torture that contributed to the Home Office concluding that detention could not be justified. This unusually large number reflects the vulnerabilities identified in our survey. The centre has a mix of older and newer, prison-like accommodation. Some of the newer accommodation was dirty and run down but the condition of some parts of the older units was among the worst in the detention estate; many toilets and showers were in a seriously insanitary condition and many rooms were overcrowded and poorly ventilated. An extensive programme of refurbishment was underway, the impact of which we will report on in future inspections. The centre should never have been allowed to reach this state.

We saw little positive engagement between staff and detainees, and staff had too little understanding of the backgrounds and needs of the people in their care. There has been little discernible change in this finding over the course of the previous three inspections, suggesting a need to address the issue through concerted long-term work. Equality and diversity work was improving but outcomes were still poor overall. Detainees had very little faith in the complaints procedure. Health care was recovering from a low base but substantial concerns remained – for example, over medicines management. The chaplaincy provided valued support for detainees and the cultural kitchen was a positive development. Given the importance of constructive activity to detainees' mental health and well-being, it was surprising that activity places were underused. Despite some improvements in access to activities, movements were still too restricted which affected detainees' ability to reach the available resources. There was less work available and poor use was made of some recreational facilities. Only a third of detainees said they could fill their time at the centre. By contrast, the centre had substantially improved preparation for release and removal, and had engaged particularly well with some third-sector agencies. Welfare work had improved and Hibiscus Initiatives offered practical assistance in preparing detainees for discharge. Visits provision was generally good and many detainees received support from the local visitors group, Detention Action. Overall, while this report describes some good work, it highlights substantial concerns in most of our tests of a healthy custodial establishment. While the state of drift that we described in our last report has been arrested and the direction of travel is now positive, it is unacceptable that conditions were allowed to decline so much towards the end of the last contract. Inspectors made 65 New Recommendations. The Home Office and its contractors have a responsibility to ensure that this is not allowed to happen again. Following the inspection, we were informed by the Home office that lessons had been learned and that a new set of principles were established to prevent a recurrence of this situation. We will assess the success of these measurements in due course.

Liberty Cries Foul - No More Fucking and Blinding on Salford Quays

Salford City Council passed a Public Space Protection Order (PSPO) which deems it a criminal offence to use "foul and abusive language" at Salford Quays. Thousands of football fans use the waterfront as a route to and from the Old Trafford football stadium. Anyone caught breaching the rules is liable for a fixed penalty notice of £90 or a summons with a maximum penalty of £1,000 on conviction.The swearing rules were backed by 76 per cent of 130 residents in a local vote.But human rights group Liberty says the council has breached the right to freedom of expression by criminalising offensive speech.

Hostages: Sally Challen, 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, Hyrone Hart, Glen Cameron,Warren Slaney, Melvyn 'Adie' McLellan, Lyndon Coles, Robert Bradley, John Twomey, Thomas G. Bourke, David E. Ferguson, Lee Mockble, George Coleman, Neil Hurley, Jaslyn Ricardo Smith, James Dowsett, Kevan & Miran Thakrar, Jordan Towers, Patrick Docherty, Brendan Dixon, Paul Bush, Alex Black, Nicholas Rose, Kevin Nunn, Peter Carine, Paul Higginson, Robert Knapp, 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.