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Caution do Not Commit a Crime Aged 17 Going on 18

Bev Higgs, Law Gazette: You are 17. You have allegedly committed a crime and are going to have your case tried in court. At your age, you are not yet legally allowed to vote, buy a drink at the pub or get married without parental consent. In the eyes of the law, you are a child. The backlog of cases in the courts is growing. Your alleged offence will not come to court for some time. Nobody can offer you assurance, so you wait, with a trial at some unknown point in the distance hanging over you. Months pass and you turn 18. Suddenly it is your turn to come to court.

Even though you were 17 when the alleged offence was committed, because you are now 18 the Crown Prosecution Service charges you as an adult and your case will be heard in the adult court, rather than the youth court. Here the court process is more formal, and it is not a given that any adjustments will be made to account for your young age. Youth court magistrates have training, expertise and experience in dealing with youth matters, such as considering defendants' needs and welfare and engaging with them to ensure they fully understand the proceedings. This is unlikely to be available to you in the adult court in the same way. In addition to this, the legal structures and principles of the adult court are very different. The principal aim of the youth justice system is to prevent offending by children and young people, and the court must also consider their welfare in accordance with the Children Act 1989. Cases should be expedited where possible. In the adult criminal justice system, however, sentencing has a greater focus on punishing and reparation. Sentences available to the youth court may be unavailable, and because you turned 18 before your first court appearance, you will now receive harsher treatment if found guilty. It does not matter that you were 17 when you committed the alleged offence.

The Magistrates' Association argues that if an offence is committed before a young person's 18th birthday, their case should be dealt with in youth court, even if they turn 18 before it comes to court. An overwhelming majority of our members voted in favour of this at our 2020 AGM and it is now a policy priority for us. If defendants are dealt with in the jurisdiction appropriate to their age at the time of their alleged offence, the youth justice principles and the structured decision-making of the youth jurisdiction can be followed, giving children and young people the opportunity to have their welfare taken into consideration and to access specialist services aimed at reducing youth offending. Cases in which a suspect is due to turn 18 must be prioritised so that a plea is taken in youth court, rather than adult court. In February, Rob Butler MP introduced a 10 Minute Rule Bill on this issue. This must now be a matter of priority. Recent data shows that it can take up to two years from arrest to trial: this is a significant period of time for a person as young as 18. These delays have been exacerbated by the Covid-19 pandemic, and are likely to remain for some time. For serious offences, this can mean defendants going to Crown Court instead of youth court, at a time when some trials for Crown Court are being listed as far ahead as two years. Variations in delays and listing across areas depends on local court capacity, so children and young people also face a 'postcode lottery' when it comes to accessing youth justice.

It is simply unfair to penalise young people for delays in the court system. To appear before the adult court for an offence allegedly committed while the defendant was still legally a child has the potential to trigger a range of consequences which can have a serious impact on their future, including education and job prospects and the loss of anonymity, which is afforded to defendants in youth court.Most young people, if given the support and opportunities to change their behaviour, do just that. If they remain in the youth jurisdiction, these young people will still have the chance to access youth diversion schemes intended to provide support to reduce offending. It is our duty as a justice system, and as a society, to give them this chance.

Surge in Young Criminals Serving Life Sentences as Gangs Seek to 'Overkill' Their Rivals

Charles Hymas, Telegraph: The number of young criminals serving life sentences has increased by more than 50 per cent in under a decade amid rising youth violence. Ministry of Justice (MoJ) data show the number of criminals aged 25 or younger sentenced to life with a tariff of at least 15 years in jail rose from 917 to 1,394 between 2013 and 2020, an increase of 52 per cent. That means that in just seven years, almost 500 more young men and women have been sentenced to at least a decade and a half in prison, according to the figures obtained under Freedom of Information laws by criminologists at Royal Holloway and Cambridge University.

Experts attributed the increase to growing gang violence where attacks were now much more savage than previously, making it more likely to end in murder and garnering tougher sentences from the courts. The murder rate increased by 35 per cent between 2015 and 2018, fuelled partly by the surge in knife crime, before plateauing in subsequent years at around 11 homicides per one million of the population, according to the Office for National Statistics (ONS). Soaring number of knife attacks - It is underlined by the 65 per cent increase in the number of under-19s treated in hospital for stab wounds in the past five years, according to data analysed by the crime consultancy and think tank Crest Advisory. The teenage murder rate in London is on course to be the worst since 2012 after the killings of at least 20 teenagers in just over six months. The previous high was 27 in 2017.

Simon Harding, professor of criminology at the University of the West of London and director of the national centre for gang research, said the level of violence in attacks was higher than before as if there was a desire for "overkill". "It feels as if the aim is for overkill rather than just kill. There is a sense that an individual has to be rubbed out completely, not just stopped," said Prof Harding. "I see it more and more in the crimes that I review. There seems to be a level of savagery that at times surprises me." He said it was evident in a new tactic adopted by some gangs of using cars to mount pavements and knock down their target, before jumping out and stabbing them to death as they lay on the ground. Jaden Moodie, 14, was a victim of the tactic in 2019 when he was knocked off his moped by a gang of five young men in a car before being stabbed to death with such force that bone was damaged and his lung and liver punctured. Ayoub Majdouline, 19, was sentenced to life imprisonment with a minimum tariff of 21 years in prison for the attack in which he and four other gang members set out on a "killing" mission into a rival gang's territory in Leyton, East London.

Bragging Rights: Prof Harding said the motivation for such violence lay in the "bragging rights" that it brought, the dominance that they could display by doing it, and the need to "make your mark" because of the intense competition for turf and drugs between the gangs. David Wilson, emeritus professor of criminology at Birmingham City University, said two high-profile murders by teenagers in 2012 (one who killed his mother with a claw hammer and another where two brothers beat a homeless person to death) had shifted courts to take a tougher stance. "That creates the context in which there is a general toughening of the law and some of that toughening is also seen as being necessary for young people who commit violent crime," he said.

Almost 7,000 people in prison are serving life sentences in England and Wales, which is more than any other nation in Europe and more than France, Germany, Italy, the Netherlands, Poland and Scandinavia combined. Since 2013, there has also been an increase in the number of young black people serving long life sentences, now accounting for 29 per cent of lifers sentenced to minimum tariffs of 15 years or more when aged 25 or younger, up from 24 per cent in 2013. Serena Wright and Susie Hulley, of Royal Holloway and Cambridge University respectively, said the data exploded the “myth” that England and Wales were “soft” on sentencing. “It is clear to us that these phenomena have come about as a direct consequence of changes in legislation, which represent the Government’s desire to symbolically communicate its enduring commitment to law and order,” they said.

Smitten Prison Officer Helped Inmate Lover Escape

Caroline Lowbridge, BBC: A former prison officer has been jailed for forming a relationship with an inmate and helping him escape. Erica Whittingham, 33, became "smitten" with violent robber Michael Seddon after her marriage broke down. Derby Crown Court heard she believed Seddon loved her, but he then got into a relationship with another woman while on the run from HMP Sudbury. Whittingham, from Bramshall, Uttoxeter, was given a three-year prison sentence after admitting two offences. The first was harbouring an escaped prisoner, between 30 September 2019 and 18 March 2020. The other was misconduct in a public office, between 8 January 2017 and 3 October 2019, which related to the relationship she formed with Seddon. Mark Sharman, Whittingham's defence barrister, said she had been diagnosed with depression as a result of what happened. "She was smitten with this man," he said. "It is right that history is littered with the often foolish and extreme things people have done in the name of love."

The judge, Recorder Balraj Bhatia QC, said it was a "difficult and sad case". "I accept that you may have been going through difficult times, that your marriage of 11 years standing had dissolved, and you may have been emotionally vulnerable, but you knew what you were doing was wrong," he said. "The evidence makes it plain that you were responsible for escorting him away from those premises in due course, in the knowledge that he was an escaped prisoner." The court heard the pair met through work, when she was a custody officer at HMP Dovegate, a category B prison near Uttoxeter in Staffordshire. He was serving a sentence of Imprisonment for Public Protection (IPP) for robbery. These sentences were abolished in 2012, but were previously given to prisoners regarded as too dangerous to be released when their original sentences expired. Seddon was jailed in 2011 for tying up and attacking a 78-year-old man at his farmhouse in Bloxworth, Dorset.

His relationship with Whittingham continued after he was transferred to HMP Sudbury, which is an open prison in Derbyshire. He escaped from the prison on 1 October 2019. Police said he climbed over a fence as staff gave chase, then fled in a waiting car driven by Whittingham. She drove him to Stoke-on-Trent the following morning where he then caught a train to Liverpool. Daren Samat, prosecuting, said the pair remained in contact and met up "on no fewer than eight occasions" at various locations around the country, with Whittingham paying for accommodation and also hotel stays. However, he said there was a break between 22 January 2020 and 26 March 2020, when Seddon formed a relationship with a woman in the Bournemouth area.

Seddon was eventually arrested on 27 March 2020 and taken to HMP Winchester. His phone calls at the prison were monitored, and these revealed his relationship with Whittingham. Mr Sharman said his client had initially resisted Seddon's advances. "Mr Seddon had put some pressure on her for want of a better word, once he noticed she was no longer

wearing her wedding ring," he said. "She sadly, eventually, succumbed to the attentions of Mr Seddon and the advances he was making. "She is brutally honest in the pre-sentence report when she recalls that she had found someone to love her, someone she could talk to. Whether that was reciprocated or not, that was how she genuinely feels he felt towards her." Seddon was previously jailed for an extra six months after admitting escaping lawful custody.

Missing From Care: Listening to Children

Howard League for Penal Reform: Last year over 12,000 children who were looked after went missing in over 81,000 missing incidents. They are some of those at highest risk of going missing: 1 in 10 looked after children are reported missing compared to 1 in 200 children nationally and nearly 65 per cent of all looked after children were reported missing more than once in 2020. Going missing can be a warning sign of a range of serious harms including sexual and criminal exploitation; mental health issues; and unhappiness or abuse in the home. Looked after children may also go missing because they want to spend time with family or in their home area if they have been moved away to a placement, which in some cases may be unsafe. Evidence suggests that looked after children can be at increased risk of many of the harms known to be linked with going missing. It is therefore important that professionals and carers responsible for a child’s care prioritise the response to missing and know how and when to report an incident to the police.

However, there are also risks to reporting a child to the police as missing inappropriately. Recent research from the Howard League has shown that over-involving the police in a child’s life, including by reporting them missing unnecessarily, can cause significant harm and can damage the child’s relationships with the professionals around them. Guidance is currently being drafted to outline good practice for professionals when reporting a child missing from care. To inform this Missing People sought funding from the Timpson Foundation to carry out a small consultation project to hear from care-experienced children and young people themselves about what they think should happen.

The young people who took part in the consultation all had previous experience of going missing. They were asked questions about why looked after young people might go missing; what risks they might face; what should happen when they go; and what they want the professionals responsible for their care to know when making decisions about reporting children missing in the future. Key findings from these conversations with young people included: Young people want all professionals to stop making assumptions about them but instead to really get to know them and their unique circumstances: allowing that relationship and knowledge to inform decision-making rather than a more general process-driven approach. Young people felt there is more that can be done to prevent looked after children going missing. Trusted relationships, more flexibility in rules and boundaries, and listening and acting upon their wishes could all have an impact on reducing missing episodes. Young people do not think that the police should be called automatically or as a disciplinary measure. An unnecessary police response is seen as stigmatising and frustrating for looked after children, and many of them identified that it wouldn’t happen for their peers looked after by their families. However, young people did acknowledge that it is vital for the police to be contacted when a child is at risk of harm. When this does happen they asked for more respect and support from the officers who attend.

Quotes from the young people themselves highlight some of these points better than we can: “Talk to me, get to know me, don’t judge me, understand why I might go missing and help me manage those feelings and situations before it gets out of hand. Young people go miss-

ing for a reason, try to understand that. When we go don't be angry or make us feel bad." "When you aren't in a family home it's not the same, you don't wanna go back to a care home. Think about how to make them feel important, to feel at home [while in care]. When young people are settled they will want to come home." "Remember being in care isn't like being a normal teenager, so don't expect us to be normal. Try and understand our reasons, sometimes you need to leave us alone, you need to listen to what we say when we aren't happy and don't blame us for not being able to cope. Don't threaten my placement because I go missing." "It depends on the kid as to when the police should be called. Every kid is different." "Don't make me feel guilty or punish me, going missing might be how I cope when I can't ask for help."

There is much more we need to do as professionals to ensure that children missing from care are getting the right response, and much of it is a balancing act of respecting children's rights, privacy and independence, whilst also ensuring that no child is at risk and unlooked for. Recently there has been increasing discourse about the negatives in inappropriately or over reporting children as missing. The potential risks of criminalisation; the impact it has on children's perceptions of the police; and most importantly: young people themselves' views show that jumping to report is not in children's best interests.

However, there are very real risks in under-reporting too. We know that failing to report children missing can lead to sexual and criminal exploitation going unnoticed; can be influenced by compassion fatigue or frustration with some of our most regularly missing children who are often highly vulnerable; and can ultimately lead to serious harm happening to a child while no one is even looking for them. Recently we have heard of more examples of missing reports being refused by the police. In some cases this might be because they are not appropriate reports, but in others we have heard that real, immediate risks of harm are being pushed back. We need to move to an approach ensuring the right professional is responding to children at risk of missing at the right time, based on their individual needs and circumstances. It is vital that we find the right balance within this – ensuring that every incident is reported when a child is at risk, while also working much more closely with children to prevent them needing to be reported missing in the first place.

MoJ Ordered to look Again at Victims' Compensation Scheme

Monidipa Fouzder, Law Gazette: The High Court has ordered the Ministry of Justice to conduct another public consultation on the Criminal Injuries Compensation Scheme, in a judgment that could have significant implications for the government's decision-making process. In Kim Mitchell v Secretary of State for Justice, Mrs Justice Lang DBE ruled that the justice secretary acted in breach of the claimant's legitimate expectation that he would carry out a lawful consultation on potential changes to the Criminal Injuries Compensation Scheme, including the revision of an exclusionary rule recommended by the Independent Inquiry into Child Sexual Abuse. The challenge was brought by Kim Mitchell, a victim of child sexual abuse. The judgment states that Mitchell, who was represented by the Centre for Women's Justice, waived her right to anonymity. Mitchell's application in October 2017 for compensation from the Criminal Injuries Compensation Authority, an executive agency of the Ministry of Justice, was refused due to an unspent conviction. The government stated in its 2018 Victims Strategy that, to improve access to compensation, it would abolish the rule which denied compensation for some victims who lived with their attacker prior to 1979 and 'consult on further changes to the scheme', including exploring the inquiry's recommendations. However, a consultation paper published last year stated that 'after careful consideration' the government could not commit to changing the exclusionary rule.

Mrs Justice Lang said people would have understood from the Victims Strategy that 'the defendant was promising that there would be a public consultation on further changes to the scheme, including the inquiry's recommendation to revise the exclusionary rule'. She said: 'In my view, they would not have reasonably understood the key paragraph to mean that the consultation on the inquiry's recommendation to revise the exclusionary rule would only take place if the defendant was in favour of a revision because there are no words which qualify the promise in that way, either expressly or impliedly. They would reasonably have understood the word "consultation" to mean that they would be given an opportunity to express their views on the inquiry's recommendation, and that the defendant would take their views into account before making his final decision as to whether the rule should be revised. 'In my judgment, this representation was clear, unambiguous and devoid of relevant qualification. It was therefore sufficient to found a legitimate expectation.'

CWJ solicitor Debaleena Dasgupta. who represented Mitchell, said: 'If it was not for Ms Mitchell's determination and willingness to hold the justice secretary to his promise, this consultation would not be going ahead. Too often the government makes public statements which imply they will address concerns, but then take decisions behind closed doors which don't.' A government spokesperson said: 'We have noted this judgment and will consider our next steps.'

HMP Leed Punished Inmates by Restricting Showers

Maya Wolfe-Robinson, Guardian: Prisoners were unlawfully prevented from showering daily as punishment for poor behaviour, with shielding and self-isolating inmates also unable to do so, according to a damning report. The Independent Monitoring Board (IMB) at HMP Leeds also expressed "great concern" that an incident of a prison officer using undue force with a prisoner situated on the ground was not reported to the police. The officer was later dismissed after an investigation. The annual report on the category B prison reveals that incidents of self-harm increased during periods of lockdown, and five prisoners killed themselves this year. Board members expressed concern of the "indignity of sharing a small cell" in which prisoners were forced to eat and use the toilet.

Inspectors in June 2020 observed staff members punishing inmates by withdrawing access to a shower, sometimes for more than a day. The report from Her Majesty's Inspectorate of Prisons said this practice would "always be unacceptable" but was "especially inappropriate" because of the hot weather at the time. The IMB report notes it stopped after the inspectors' visit, but that not all prisoners were able to shower every day if they were isolating or shielding. The prison in Armley, built for 600 men in 1847, now has a capacity for 1,110 people. During 2020, the inmates were confined to their cells for 23 hours a day – with 30 allotted minutes for exercise and 15-20 minutes for a shower – from March to December. The members said that while the cost of single-cell accommodation would be prohibitive, the board "cannot consider that it is acceptable that the consumption of food occurs in the same space as integral toilet facilities".

The report says that "curtailed, strict regime with confinement" meant that "levels of violence reduced dramatically", although each time the regime was relaxed, incidences of bullying and violence would increase. There were 265 instances of violence recorded last year, 170 of which were prisoner-on-prisoner assaults or fights and 95 of which were assaults on staff. A total of 675 incidents of self-harm were recorded – a drop from the previous year, when Ministry of Justice data recorded 1,062 self-harm incidents at the prison, the highest figure since comparable records began in 2004. The report said the chair of the IMB, made up of unpaid members of the public appointed to monitor the day-to-day life in their local prison,

attended a “use of force scrutiny” meeting where video footage was shown of a “prison officer acting in such a forceful way with a prisoner on the ground that he was suspended pending investigation and subsequently dismissed from the service”. “It is of great concern that the board later found out that this matter had not been reported to the police,” it continues.

A separate report published into a prisoner’s suicide in 2018 found that an officer had been sacked afterwards for not checking on him hourly and faking records. There have been 15 self-inflicted deaths of prisoners housed in HMP Leeds since January 2015. During a visit to HMP Leeds in 2019, Boris Johnson said he did not want “to see prisons just be factories to turn bad people worse”. A Prison Service spokesperson said: “The inspection found prisoners were treated fairly and humanely. “We took swift action to ensure all prisoners had access to showers daily, while every use-of-force incident is reviewed and investigated when necessary.”

Frances Crook: Reform of Prisons Has Been My Life’s Work, But They Are Still Utterly Broken

Nobody really cares about prisons. They are so far removed from the experience of most people and they are, apparently, full of horrid people. Occasionally, the media will run stories about rat-infested cells or suicide rates, but because so few people have anything to do with prisons, the stories soon fade and life for those on the outside continues as normal. But prisons matter. It matters who goes into them. It matters what happens inside them. And it matters how much they cost. Although prisons too often function like black holes into which society banishes those it deems problematic, the state of our prisons tells a story about all of us. Prisons reflect society back to itself: they embody the ways we have failed, the people we have failed, and the policies that have failed, all at immense human – and economic – cost. As chief executive of the prison reform charity the Howard League for the past 35 years, reforming prisons has become my life’s mission. In October, I will leave my work with one sad but inescapable conclusion: prisons are the last unreformed public service, stuck in the same cycle of misery and futility as when I arrived.

If a time traveller from 100 years ago walked into a prison today – whether one of the inner-city Victorian prisons or the new-builds where the majority of men are held – the similarities would trump the differences. They would recognise the smells and the sounds, the lack of activity and probably some of the staff. It is not only the buildings that have stayed the same – it is the whole ethos of the institution. Prison is an unhealthy place. Most prisoners have come from poverty, addiction and social deprivation cemented by decades of failed social policy. Many arrive with long-term health problems, and in prison their health deteriorates further. While life expectancy and the quality of life for much of the country has advanced significantly in the past three decades, prisoners are considered “old” at 50. In the 12 months to June 2021, 396 people died in prison custody – some from Covid, some from suicide, many from “natural causes” that few of us on the outside would consider natural in middle age. Even before prisons were locked down during the pandemic, it was normal for men – who make up 95% of the prison population – to spend almost all day in their cells. Wing-cleaning or an education class might occupy a few hours on a weekday. A shower every few days might offer brief respite. Men spend the day, and sleep, in ill-fitting, saggy prison uniforms, unwashed for days on end, waiting to be released.

Mealtimes provide structure, but not sustenance. Breakfast is a pack of white bread, a small bag of cereal and a small carton of milk, provided at tea-time the day before. (Inevitably, it is consumed that night.) They wake hungry, without food until lunch at about 11am – usually a small, soggy baguette, a packet of crisps and an apple, if they’re lucky. One hot meal comes with stodge and vegetables cooked beyond the point of identification at about 5pm. The

sheer monotony of life inside does nothing for the mental health challenges many prisoners face. Addictions worsen, with drugs readily available across the nation’s prison estate. Lockdown may have ended what little human contact prisoners had with the outside world. It did nothing to stem the flow of narcotics.

On release, many face homelessness and joblessness and may well have lost any family contact they had before incarceration. The people we step over in the street, for whom we sometimes buy a sandwich or a cup of coffee, are often people recently released from prisons. It is hardly surprising that about half of those released are reconvicted of a further offence and end up back inside. It is a merry-go-round but without cheer. Minister after minister has done nothing to address the central question haunting our prison system: what is it all for? Each new secretary of state arrives with a new idea – improving a handful of prisons, building a few new ones, or getting people on to sex offender courses – and millions are duly splurged on the latest fad. But it does not face up to the problem that is the prison system as a whole.

At the heart of prisons is the fact that they are fundamentally unjust. They embed and compound social, economic and health inequalities. They disproportionately suck in men from poor, Black and minority ethnic backgrounds. They do nothing to help people out of crime. We only have to look at the internal punishment system to see that unfairness is the name of the game, with Black people significantly more likely to be physically restrained and punished than their white counterparts. The whole system needs radical overhaul, starting with a swingeing reduction in the number of people we imprison. Custody is the most drastic and severe response the state has at its disposal and should only be used in exceptional and rare instances – either for the most egregious crimes, or when someone poses a serious and continuing threat to public safety.

Abiding by that principle would virtually empty our prisons of women and children, and drastically reduce the number of men behind bars. Most women are either on remand or serving a short sentence. Many are survivors of domestic abuse. Vanishingly few have committed violent crimes that warrant incarceration; fewer still could be reasonably considered to pose an ongoing threat to society. They, along with the 500 children who are currently incarcerated, should be managed in the community by specialist local authority-run services that provide the support, rehabilitation and education that will save them from further imprisonment. Thousands of men would benefit from similar support, whether that’s community addiction services, decent housing or mental health facilities. The number of people in prison in England and Wales today sits at 78,600. That number could and should plummet – and swiftly. Margaret Thatcher – no softie on criminal justice – managed with less than half that number of prisoners. The Netherlands has drastically cut its prison population and is closing its prisons. A shrunken estate could be transformed so that prisons become places of purpose where people receive holistic support, quality care, meaningful skills and education, in an environment that is as similar to the society they will eventually re-enter as possible.

Over the past 35 years, I hope that I have contributed to making things just a bit better. I am most proud of the work we have done with police forces to reduce the arrests of young people, saving hundreds of thousands of children from experiencing the trauma and lifelong damage of being arrested. But the state of our prison system, the leviathan that continues to devour lives and resources and contaminates political discourse, remains my most bitter regret. A small, ethical and compassionate prison system would save the taxpayer a fortune, change lives and transform incarceration for good. It does not have to be like this.

Frances Crook, Howard League for Penal Reform

Parole Board Decision Not to Progress Prisoner to Open Estate - Wrong in Law

A judge in the Outer House of the Court of Session has reduced a decision not to progress a prisoner serving a life sentence in closed conditions at HMP Edinburgh to the open estate after he petitioned for a judicial review of the decision. George Smith was jailed for the murder of his neighbour in 1985. The 14-year punishment part of his sentence expired in 1999. He argued that the decision not to progress him to open conditions was unfair as he had not been invited to attend the meeting of the Risk Management Team at which the decision was taken. The petition was heard by Lord Braid. The petitioner was represented by Leighton, advocate and the respondent, the Scottish Ministers, by McGuire, advocate.

Following his imprisonment in 1985, the petitioner was transferred to open conditions. However, he was transferred back to closed conditions in 1995 after he confessed to a social worker that he had raped his victim before he murdered her, a fact which had previously not been known. Since then, he had remained in closed conditions. At a meeting of the RMT on 18 November 2020, it was recommended that the petitioner progress to the National Top End, which has semi-open conditions, rather than to fully open conditions. The Parole Board's reasoning for this decision was that it was satisfied it was necessary for the protection of the public that the petitioner should be confined and accepted recommendations that a phased return to society was necessary in his case.

The petitioner maintained that the effect of the RMT's decision would require him to spend another two years in the NTE before he could progress again. While it was not a hard requirement that he spent time in the open estate prior to release, in practice the timeframe for his potential release had been delayed. Counsel for the respondent explained that no consideration had been given to inviting the petitioner to the meeting because of a blanket policy previously implemented during the pandemic to suspend the attendance of prisoners at RMT meetings. The petitioner averred that he had completed his application for progression on the understanding that he would be permitted to attend the meeting. It was submitted for the petitioner that the procedure adopted by the RMT was unfair. Had the petitioner known he would not be invited, there was more he could and would have said in his application. The assurance he had relied upon in believing he would be able to attend, even if it fell short of giving rise to a legitimate expectation, should be taken into account in assessing any procedural unfairness.

In his opinion, Lord Braid began by noting: "The nature of the decision was one which was likely to have a significant impact on the petitioner's release date, and, as such, one which had the potential to significantly affect his rights. It has a clear bearing on the date when he may be considered by the Parole Board to be suitable for release. While the RMT minute records that a move to NTE would 'benefit' the petitioner, it is not suggested that the benefit would consist of an expedited release date." Assessing the circumstances that led to the decision, he said: "The first whiff of unfairness comes from the apparently blanket instruction, due to Covid, that no prisoner was to attend any RMT. This runs counter to the implicit acknowledgement in the guidance that there will be cases where fairness does require the prisoner's attendance at the RMT meeting. Although the guidance requires consideration to be given to this in each case, that was not done here."

He continued: "The Covid cart cannot be allowed to drive the fairness horse, any more than considerations of cost can be determinative. It is for decision -making bodies, such as the RMT, to devise procedures which remain fair notwithstanding the strictures imposed by the pandemic. It should be observed that the attendees at the RMT meeting all attended in person." Considering the assurance given to the petitioner that he would be allowed to attend, Lord Braid said: "In those circumstances the very least that fairness required, if different circumstances (Covid) rendered his attendance impossible (or undesirable for health reasons) and if attendance by remote means was not possible, was that he be informed of that fact, so as to give him the opportunity to make further and fuller representations if he wished." He concluded: "While recognising that the dividing line between 'unfair' and 'could have been more fair' is not necessarily an easy one to draw, I am satisfied that in this case the line has been crossed and that the procedure adopted was unfair." For these reasons, the decision of the respondents was reduced.

Kevin Clarke Death: Police Watchdog Reopens Investigation

Diane Taylor, Guardian: The Independent Office for Police Conduct (IOPC) has reopened its investigation into the circumstances surrounding the death of Kevin Clarke, a mentally ill black man who could be heard saying the words "I can't breathe" while he was being restrained by police shortly before he died. The watchdog has admitted the words heard on police body-cam footage were not explored with the police officers when they were interviewed by IOPC officials. The decision to look at the case again follows findings by an inquest jury last October about failings by police and ambulance services to respond appropriately to Clarke's mental health crisis. The jury found that the police's inappropriate use of restraints contributed to Clarke's death. The IOPC said issues raised during Clarke's inquest in October 2020 had prompted it to review its original investigation.

Deborah Coles, the director of the charity Inquest, said: "It defies belief that a black man can die at the hands of the police with audio recordings saying he cannot breathe and the IOPC fail to interrogate this with police officers. What an indictment of the investigation undertaken. This would not have been exposed without the family's legal representation at the inquest." Clarke, 35, died in March 2018 in Lewisham, south-east London, after he was restrained by up to nine Metropolitan police officers. The inquest jury delivered a narrative conclusion that Clarke had died as a result of acute behavioural disturbance, in a relapse of schizophrenia, leading to exhaustion and cardiac arrest. The restraint used by officers, which caused Clarke to struggle, was cited as one of several contributing factors. Clarke, who had been diagnosed with paranoid schizophrenia in 2002, was living in supported housing at the Jigsaw Project, a residential support service, at the time of his death.

The jury said: "It is highly likely that at least one officer heard Mr Clarke say 'I can't breathe,' on one of the occasions he repeated it. Despite this, no action was taken other than one officer saying: 'You've got to breathe, you've got to breathe, breathe, deep breaths.'" Police had been called twice to Clarke that day because of concerns by staff at the Jigsaw Project that his mental health was deteriorating. On the first occasion he was standing in the street holding a cup of drinking yoghurt. Wendy Clarke, Clarke's mother, and the family's solicitor, Cyrilia Davies Knight of Saunders Law, welcomed the decision to reopen the investigation although the law firm said the original investigation should not have been closed. Wendy Clarke said the family were not "overly optimistic" about what the outcome might be, but added: "We are, however, still hopeful that those police officers involved in Kevin's death will be held to account by this investigation."

The Met said it would fully cooperate with the new investigation. Bas Javid, a deputy assistant commissioner, said: "Mr Clarke's death was a tragedy and, as a police service, we have acknowledged our failings and apologised. Our thoughts and sympathies remain with Mr Clarke's family and friends. "We continually review our policies in line with national guidance around restraint as well as how we assist those in mental health crisis and are working with colleagues nationally to consider our training and guidance to officers in dealing with these kinds of fast-paced and challenging incidents. "It would be wrong to pre-empt the outcome

of the IOPC investigation but if it recommends further ways in which we can improve our service these will be considered, in addition to any misconduct matters that may arise." The watchdog said that after legislative changes introduced in February 2020 it could reinvestigate a matter where there were compelling reasons to do so. IOPC officials said another factor in the decision to reopen the investigation was that the findings of the pathologist had changed as a result of new information that emerged at the inquest.

New Police CCTV Use Rules Criticised as Bare Bones

BBC, News: A proposed code of practice covering police use of live facial recognition in England and Wales has been criticised by human rights groups. Live facial-recognition systems compare faces captured on closed-circuit television with those on a watch-list, alerting officers to a match. Former CCTV watchdog Tony Porter said the new rules were "bare bones" and offered unclear guidance. And two campaign groups have called for the practice to be ended entirely. The Home Office said the new guidelines, included in the first update to the Surveillance Camera Code of Practice in eight years, empowered police and maintained public trust.

'Intimidate protesters' In August 2020, Ed Bridges, of Cardiff, won a court case after twice being filmed by South Wales Police's automatic facial-recognition van. On the final occasion, the former Lib Dem councillor was attending a peaceful protest. "I take the view that in this country we have policing by consent and the police should be supporting our right to free protest, rather than trying to intimidate protesters," he told BBC News, after his court victory. In its judgement, the Court of Appeal said more checks should have been made to ensure the live facial-recognition (LFR) algorithm used had no gender or racial bias - and tighter regulations were needed. Liberty lawyer Megan Goulding, who worked on Mr Bridges's case, told BBC News: "One year since our case led the court to agree that this technology violates our rights and threatens our liberty, these guidelines fail to properly account for either the court's findings or the dangers created by this dystopian surveillance tool. "Facial recognition will not make us safer, it will turn public spaces into open-air prisons and entrench patterns of discrimination that already oppress entire communities". 'Dystopian Surveillance' The new code, which covers CCTV use by local authorities and the police, says LFR deployments should: take into account any potential adverse impact on protected groups: be justified and proportionate: quickly delete any unused biometric data collected: follow an authorisation process: set out and publish the categories of people sought on the watch-list and the criteria on which the decision to deploy is based

Dystopian - A state or society where there is great suffering or injustice. The campaign group Big Brother Watch also called for the technology to be banned and said the code legitimised the use of an invasive surveillance technology. However the Ada Lovelace Institute told the BBC, the updated camera code, "provides important additional guidance around the use of biometric technologies such as LFR in surveillance cameras". But it said, "far more still needs to be done to ensure that the rules concerning the use of a technology as powerful and controversial as live facial recognition are clear, comprehensive and provide adequate protections from potential harms". 'Somewhat surprised' After the Bridges case, Mr Porter, the then Surveillance Camera Commissioner, produced 72 pages of guidance on the use of LFR, for police forces in England in Wales. He said: "It covered ethics, governance, leadership, the technical development of watch-lists - and I was somewhat surprised the redraft of the code was 'de minimis'," a legal term describing something too small to merit consideration. He says the proposed Home Office code as currently written is very "bare bones". "I don't think it provides much guidance to law enforcement, I don't really it provides a great deal of guidance to the public as to how the technology will be deployed", he added.

Mr Porter, now chief privacy officer for a facial-recognition supplier, added it was strange the new code would not cover organisations such as Transport For London, which owns thousands of cameras but would cover small councils. The current surveillance-camera commissioner has also previously suggested expanding the code to cover CCTV operated by government departments. 'Widespread invasiveness In a statement the Home Office told the BBC, "The Government is committed to empowering the police to use new technology to keep the public safe, whilst maintaining public trust, and we are currently consulting on the Surveillance Camera Code." "In addition, College of Policing have consulted on new guidance for police use of LFR in accordance with the Court of Appeal judgment, which will also be reflected in the update to the code." It added that all users of surveillance camera systems including LFR are required to comply with strict data protection legislation. In 2019, Information Commissioner Elizabeth Denham said the police should slow down their adoption of LFR. "Never before have we seen technologies with the potential for such widespread invasiveness," she blogged. And her office now says it will be responding to a consultation on the updated code. "Data-protection law sets a high bar for police forces, public authorities and businesses to justify the use of live facial recognition (LFR) technology and its algorithms in public places," a representative said.

Prison Officer Jailed For Six Years - Demanding Sex From Female Prisoners

BBC News: David Whitfield, 36, of Colman Avenue in South Shields, took advantage of the women between 2011 and 2016 at HMP Low Newton in Durham. Following a trial at Teesside Crown Court, he was convicted of committing misconduct in a public office. He was cleared of sexual assault on one woman. The court heard he abused his position of power to "extract or encourage" the inmates to carry out sex acts. Prosecutor Anne Richardson said Whitfield would enter one prisoner's cell while she was naked and brush against her. The pair regularly engaged in sex acts although it did not progress to intercourse, the jury was told. In return, she was given advance warning of cell searches and any confiscated items would be given back to her. Whitfield would also watch the inmates through their cell hatch and indicate he wanted them to undress and touch themselves. On visits to one woman he told her he "wanted a little show", Sentencing him, Recorder David Gordon described many of the inmates as vulnerable after having previously suffered abuse. He said Whitfield "methodically, routinely and cynically took advantage" of them when they were under his control. He added: "You actually undermined prison discipline by tipping the inmates off about any cell searches so they could hide drugs or tobacco. "You have brought shame on your family, betrayed your hard-working colleagues and betrayed the trust of 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