

### **Derek Patterson to the CRCC - Will it be Third Time Lucky**

Well, they refused my case twice in the past, but now they are reopening it on the 'Conviction & Sentence' side of things. I had a letter of apology from them as their caseworker, who was given my case, did nothing with it! CCRC has allocated a new caseworker, and they are doing a fresh review of my case after I raised a few points with them.

I have no record of violent crime. The only prosecution evidence was the word of another. There was no forensic or DNA evidence to support the conviction. Both forensic and DNA evidence rule me out of the crime. The alleged assault weapon was also ruled out. Experts on both sides agreed that the knife I was supposed to have used was not the knife that cut the clothing or injured the victims.

I have never given up hope, and in 2016 I managed to attract the attention of Bob Woffinden, an investigative journalist specialising in miscarriages of justice, who stated in correspondence, 'I do think it is inconceivable that you could have carried out this attack. Also 'stay feisty but keep calm! You can win this, and 'I do believe that your case is a compelling one. Sadly, Mr Woffinden was ill with cancer and died before he could take my case up with the authorities. The Leicester Law School Miscarriages of Justice Project has looked at my case and found significant discrepancies. Recently accessed police scene of crime photographs has confirmed contradictions in the prosecution evidence. Other support comes from 'Progressing Prisoners Maintaining Innocence'. Now I just have to wait, well aware of the fact, patience is a virtue - but waiting sucks, however, 'You Can't Hurry Love, or the CCRC.

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### **Jailing of Most Mothers For Non-Violent Crimes Should Stop**

Diane Taylor, Guardian: The imprisonment of many mothers serving sentences for non-violent and relatively minor crimes should be ended and community women's centres used instead, according to research that has found separation can increase the risk of children being exploited and cost hundreds of thousands of pounds for just a single case. A report from UK crime and justice consultancy Crest Advisory, called Counting the Cost of Maternal Imprisonment, has tracked the impact of the imprisonment of mothers on both them and their children and, for the first time, worked out the financial cost.

One of the cases that was tracked involved a mother convicted for drug possession with intent to supply. This led to her child being placed in care in a placement the child is at high risk of absconding from. The cost of imprisoning the mother and providing care for her child while she was incarcerated was almost £265,000. Along with the devastation felt by mothers about being forcibly separated from their children, the impact on their children can include school exclusion, suicide attempts, increased vulnerability to exploitation, mental health issues and youth crime.

The MoJ does not collect comprehensive data on how many imprisoned women have children or on the number of children affected by maternal imprisonment. It is thought that the total could be as many as 17,000 children each year in England and Wales. Only 4% of the prison population is female. The majority of women are jailed for non-violent offences. In 2020 72% of women were imprisoned for non-violent

offences and 70% sentenced to less than 12 months in prison. Some mothers hid the fact that they had children from social services when other family members were caring for them for fear that officials would put their children into care. The research includes interviews with mothers who have been in prison, adults who describe the long-term impact of them of having their mother imprisoned during their childhood and various professionals and charities working with women in prison. The report also conducted the first comprehensive polling of public attitudes towards the imprisonment of mothers. More than half of a nationally representative sample of 2,573 adults polled in August 2021 said that funds earmarked for 500 new women's prison places should be diverted to supporting more women with convictions in the community and three-quarters said that children separated from their imprisoned mothers should be offered counselling. However, more than a quarter said their support for a custodial sentence for a non-violent sentence increased if the woman was a mother and more than a third said that their opinion didn't change if the woman was pregnant at the time. The report recommends that mothers should only be imprisoned as a last resort with community-based women's centres used as an alternative for many women with convictions along with intensive support for children whose mothers are imprisoned. Julia Pitman of Crest Advisory, co-author of the report with Jessica Hull, said of imprisoning mothers. "Ultimately it is children who pay the highest price, left with the trauma of separation, which can have devastating consequences. Rather than building more prison places for women, the government must implement its own female offender strategy and invest in community alternatives that will keep families together." A Ministry of Justice spokesperson said: "While our view remains that custody should be the last resort for most women, a decision which is made by independent judges, we have made significant improvements to support female offenders."

### **CoA Overturns Ruling in Sex-Worker Visit Case**

*Sam Tobin, Law Gazette:* Carers would be at risk of committing a criminal offence if they helped an autistic man visit a sex worker, the Court of Appeal has ruled, overturning what had been seen as a landmark ruling for people with learning disabilities and mental disorders. Under section 39 of the Sexual Offences Act 2003, a care worker who 'intentionally causes or incites' someone in their care with a 'mental disorder' to engage in sexual activity can be jailed for a maximum of 10 years. In April, the Court of Protection ruled that the carers for 'C' a 27-year-old man with autism and Klinefelter syndrome, would not be breaking the law if they facilitated contact with a sex worker. In that ruling Mr Justice Hayden, vice president of the Court of Protection, said that the 2003 Act is 'structured to protect vulnerable adults from others, not from themselves'. However, the Court of Appeal has allowed the secretary of state for justice's appeal, ruling that 'the words "causes or incites" found in section 39 of the 2003 act carry their ordinary meaning and do not import the qualifications identified by [Hayden J]'. Lord Chief Justice Lord Burnett, sitting with Lady Justice King and Lord Justice Baker, said in the ruling that 'the arrangements envisaged for securing the services of a sex worker would place the care workers concerned in peril of committing an offence contrary to section 39 of the Sexual Offences Act 2003'. One of the purposes of section 39 was to 'throw a general cloak of protection around a large number of vulnerable people in society with a view to reducing the risk of harm to them', Lord Burnett explained. 'To the extent that the provision discriminates against people in C's position by comparison with others in the care of the state (or more broadly) it represents the considered view of parliament striking balances in these difficult areas.' The Court of Appeal found that it was therefore unnecessary to consider the Secretary of State's 'wider argument' that the involvement of care workers in facilitating C's contact with a sex worker would be 'contrary to public

policy and on that basis should never be sanctioned by a court’.

### **Shane Bryant a Birmingham Black Man: Died from Unreasonable Force by Police & Public**

*INQUEST:* A jury has returned a critical narrative conclusion at the inquest into the death of Shane Bryant, finding that aspects of the force used to restrain him were unreasonable and contributed to his death. They also found missed opportunities by the off duty police officer in managing the ongoing restraint contributed to his death. Shane Bryant died following restraint by Leicestershire police and members of the public on the night of Thursday 13 July 2017. He was apprehended as he tried to flee the scene of an attempted robbery of a shop. He had been armed with a baseball bat but left the bat in the shop as he sought to escape. An off-duty police officer (‘Officer L’) galvanised members of the public in nearby pubs to intervene, shouting ‘Where’s your community spirit?’

Officer L accepted he placed himself on duty by his actions. He and another member of the public confronted Shane and an accomplice in the shop. The accomplice escaped. Shane was brought to the ground as he sought to escape. An initial brief attempt to restrain Shane was disrupted by Shane’s accomplices driving the getaway car towards the crowd. Shane was then brought to the ground for a second time and restrained in the dangerous prone position. Officer L was at Shane’s head and said he gave instructions and advice and had a bird’s eye view. Another of the restrainers was a retired police officer. For a period of minutes, Shane was held in a neck-lock by the retired officer. Then for several minutes more, he was held with his upper body in a ‘ground-pin’ and his legs locked in a ‘figure of four’. After around 10 minutes of prone restraint, Leicestershire police arrived. Shane was handcuffed, and arm and leg restraint straps were applied. Shane was left in a prone position for around a further five minutes after handcuffs were applied. It was only when he was formally arrested that he was discovered to be unresponsive. Paramedics began CPR before Shane was taken to hospital at Queen’s Medical Centre in Nottingham, where he was pronounced dead on 15 July 2017.

Shane was a 29 year old Black man from Birmingham. His family describe him as a much-loved person with a wide circle of friends. He was very close to his brothers, his nieces and nephews, as well as his mother who sadly died in 2020 having fought for justice for Shane, her youngest son. Shane has two young children, whom he loved very much. He had a history of mental ill health. He was diagnosed with ADHD and had behavioural problems as a child, which were often treated as discipline problems at school, and which led to anxiety and depression in adulthood. He was seeking support from the doctor and mental health services. The jury concluded that Shane’s involvement in the incident at the Co-op store and his resistance to being restrained contributed to his death. They also found that whilst much of the force used to restrain him was reasonable, aspects were unreasonable and contributed to his death. They also found that missed opportunities by Officer L contributed to Shane’s death, in relation to the management of the on-going restraint.

At the start of the inquest, the coroner ruled that the police and several witnesses be granted anonymity and their evidence was given from behind a large screen that divided the court room. Only the coroner, three members of the family, the lawyers and the jury were permitted to view the evidence from inside the screened area. Other members of the family, the public and the press had to listen to the evidence from outside of the screened area. A significant evidential aspect of the case was audio-visual material, comprising CCTV, mobile phone images, and bodycam footage from the police officers arriving on the scene. Despite the coroner ordering that pixelated versions of the audio-visual material should be shown on the public side of the screen, there was in fact no provision for this due to technical issues. This considerably impaired the function of the press in reporting on the case, because they simply could not follow the evidence.

Dean Bryant, Shane’s brother, said: ‘We extend our heartfelt thanks to the coroner and particularly to the jury for giving us justice for Shane. The jury’s conclusions reflect the concerns we’ve had about Shane’s death from day one. We were let down by the IOPC investigation, but the inquest process has brought the true facts to light. As a family, we’ve always said that Shane deserved to end up in prison for his role in an attempted crime that night. He did not deserve to end up in a coffin. The jury’s conclusion vindicates us in this conviction. This is an important step in our struggle for justice for Shane and for proper accountability for his death. We will now be considering the further legal avenues open to us in light of the evidence that has emerged during the inquest and the jury’s conclusion.’

The family were represented by solicitors from Deighton Pierce Glynn, Elliot White and Sarah Ricca, who said: ‘Prone restraint all too easily becomes lethal force. Its use in this case, against a Black man fleeing the scene of an attempted robbery, no longer armed, by a crowd drawn from nearby pubs, and that included prominent roles played by an off-duty police officer and a former police officer, is deeply concerning. The jury’s conclusion shows that they shared this concern. Shane’s family are deeply moved by and grateful for the humanity and decency evident in the jury’s conclusion. The jury did not let Shane’s involvement in an attempted robbery displace his right to be treated as a human being in any attempt to bring him to justice.’

Anita Sharma, Head of Casework at INQUEST said: ‘It is clear that in the circumstances, Shane should have been arrested. Instead, he was brutally restrained for 17 minutes by officers and members of the public resulting in his death. Evidence points to black men disproportionately dying following police restraint and underscores concerns of racism and discrimination. Death after death, we have to ask, why are lessons not being learnt by those responsible on an individual and institutional level? There is also a disturbing trend of anonymity being granted to police officers at inquests and hearings into contentious police related deaths. The process for holding police to account must be an open and transparent one to assuage public concern about cover ups and to ensure accountability.’

### **SFO Withheld ‘Potentially Embarrassing’ Evidence in Unaoil Bribery Probe**

*Kate Beioley, Financial Times:* The UK Serious Fraud Office deliberately withheld “potentially embarrassing” evidence about the conduct of senior executives during an investigation into bribery at oil and gas consultancy Unaoil, the Criminal Court of Appeal heard on Thursday. Lawyers acting for Ziad Akle, a former Unaoil executive who was convicted and jailed for bribery last year, told the three judges that the anti-graft agency withheld documents that revealed the extent of the relationship between senior officials, including its director Lisa Osofsky, and an unofficial agent acting for the Ahsani family, who founded Unaoil. Akle is appealing against his conviction and five-year sentence, claiming the SFO abused legal process during its investigation. He alleges the agency encouraged David Tinsley, a former US Drug Enforcement Administration official and fixer for the founders of Unaoil, to induce him to plead guilty while he was trying to secure a lenient deal for his clients, who were also suspected of bribery. Akle pleaded not guilty at trial.

The fresh details will heap further pressure on the SFO over its handling of the investigation. Last year, the agency announced an independent review into the relationship between senior executives, including Osofsky, and Tinsley after the trial judge criticised them for allowing a “freelance agent” to become involved in the case. The agency has put the probe on hold until the conclusion of all legal proceedings in the Unaoil case. One of the two other men convicted has launched a separate appeal. Adrian Darbishire QC, Akle’s barrister, told the judges on Thursday that the SFO had

refused to hand over numerous documents detailing meetings and texts between Tinsley and senior SFO officials until it was expressly ordered to do so by the Court of Appeal in July. According to Akle's case, Osofsky told Tinsley in a message that she would like to "spend a solid hour together just us" to which Tinsley replied "yes that is my desire". Akle contends there were over 40 calls or meetings between Tinsley and senior management that went unrecorded.

Darbishire said the SFO had not kept records of the decision-making behind "that dogged refusal to disclose this material". He put to the court that as the material "was potentially embarrassing" and that refusals of this kind were "exceptional if not unheard of" was it "unfair then, to put those two things together... and say somebody didn't want the material disclosed, so it wasn't disclosed?" Akle alleges the SFO acted unlawfully by encouraging Tinsley to meet him and another defendant behind the backs of their lawyers in order to try to secure convictions. In court filings the SFO conceded that the Tinsley contacts were "inappropriate" but not "egregious misconduct" that would amount to breaching Akle's right to a fair trial. Michael Brompton QC, representing the agency on Thursday said there may have been "plenty of bad judgment" but there was no "bad faith" on the part of the agency, or any conspiracy. He added: "The existence of evidence was not deliberately suppressed", adding "what happened here was a far lesser species of misconduct" than that which would have constituted an abuse of process. Over the two-day hearing this week, the SFO also denied that its chief investigator Kevin Davis had deliberately wiped his phone of text exchanges with Tinsley by entering a wrong password several times. Brompton said Davis had shown "carelessness" but that he had not wiped his phone deliberately.

### **Half of Black Boys Subject to Court Orders Suffer Racial Discrimination**

*Noah Robinson, Justice Gap:* Half of all black boys subject to court orders suffered racial discrimination with many having a 'fatalistic acceptance' of their experiences, according to a prison watchdog. A new report from the HM Inspectorate of Probation into the experience of black and mixed heritage boys in the criminal justice system, inspecting nine youth offending services and 173 cases (59 out-of-court disposals and 114 court cases, here), called for 'urgent improvement' to tackle 'insufficient' services. In the vast majority of cases, the impact of this discrimination had 'not been explored or considered'. This was exacerbated by the failure of staff to raise concerns when they felt a child had been discriminated against. The inspectors recommended that this 'should form the basis of any intervention', particularly as a 'striking feature' of offending was that it was 'grounded' in the children's environment. Shadow justice minister David Lammy tweeted that it was 'another damning report'.

The impact of 'stop and search' on black boys was a 'significant concern', especially in London, with the practice often enforcing acceptance as being 'just the way it is'. One boy reported being stopped and searched five times a week. According to the inspectors this was a 'stressful experience' that had become 'become normalised and an accepted part of everyday life'. 'Some of the boys who had moved from London to other parts of the country spoke of the relief they felt at being able to go about their daily activities without being stopped and searched,' the report said. 'When they reflected on this, they recognised the impact it had on their sense of wellbeing.' The inspectorate recommended that the Home Office should release statistics on 'stop and search', broken down by ethnicity, to tackle the issue.

Inspectors reported a lack of understanding about disproportionality: 2.8 times as many black children come to the attention of the youth justice system as would be expected from the given population. This has been increasing since 2010, with the proportion of black children in custody rising by 14% from 21% in 2010 to 35% in 2021. The report describes how 'until

recently, there had not been sufficient impetus to improve and deliver high-quality services'. Whilst it recognised the improvements made by the Youth Justice Board, these had 'disproportionately benefitted white children', recommending further measures and guidance to address these failures. There was 'stark shortfalls' in the services provided to black boys, with recent cuts to funding for youth and community services cited as a challenge. Out of 164 staff surveyed, less than a quarter said they had access to the right specialist and mainstream services. The report described how the relationship between a child and their YOS worker was the 'most important factor' in supporting their engagement through the criminal justice system.

Living in a war zone': 'The boys often live on large estates or in densely populated areas, where they have less control over who they come into contact with. In this setting, they do not have the same opportunities to opt in or out of relationships that other children might have. It is in these circumstances that they can become vulnerable to grooming and child criminal exploitation, something that we saw in a significant number of the cases that we looked at. One boy described his local area in London as a 'war zone', stating that making the wrong decisions can lead to being killed or sent to prison. Another child described the stress that he had felt living in London and the positive changes to his life brought about by moving to a new environment where he felt safe and supported. He told us: 'I'm going to college on a part-time course and I play for a semi-professional football club... I'm in a different programme right now. I'm staying with family and they are keeping my head straight and making sure I don't slip up. I feel that I am in a better place up here so everything is working great.'

It is well documented that, when children are exposed to a traumatic event, including violent crime, their response may vary. Some children become fearful. They may prefer to stay at home, and they may have trouble sleeping and concentrating in school. Some children exposed to violence start to resolve their own conflicts in a violent manner, especially if they don't have access to the support and guidance that they need to help them. Others can become desensitised to violence and the pain and distress of other people. Some retreat into a shell, avoiding people and the world around them. Children with long-term exposure to violence are at an increased risk of: behavioural, psychological and physical problems; academic failure; alcohol and substance use; adolescent anti-social behaviour; and adult criminality. When children repeat the violence, they have experienced themselves without suitable and effective support and interventions, they can perpetuate a cycle of violence that continues through future generations. This reflects what we saw in the cases we looked at, where boys often had older siblings and other family members who had been involved in crime, and which had affected them in their formative years.'

### **One in Ten Cases Sent to CoA by CCRC Turned Down at Least Once**

Jon Robins, Justice Gap: More than one in ten cases sent to the Court of Appeal by the miscarriage of justice watchdog have been turned down at least once by the body, according to figures revealed by a Sunday Times investigation. Responses to a freedom of information request revealed that on 90 occasions the Criminal Cases Review Commission initially refused to refer a case to the appeal court and only did so after fresh applications were made. Of this number, 58 led to the quashing of convictions. 'For most of these innocent people, it meant years wasted relying on a lawyer or charity to investigate,' wrote Emily Dugan in yesterday's Sunday Times which is running a podcast on the case of Andrew Malkinson – the CCRC is presently looking at its third application. You can read Bob Woffinden writing for the Justice Gap on the Malkinson case here. The CCRC told the Times: 'We are always willing to look again at cases and sometimes we are able to refer a case which did not previously meet the statutory test for referral.'

### **The Number That Wasn't in the Budget For Prisons**

*Peter Dawson, Justice Gap:* The average cost of holding a prisoner for a year is around £43,000. We've somehow become conditioned to the government parading policy failure when it boasts of spending an extra £4 billion to build more prison spaces. Just how many more seems to change with the weather, but the budget put it at 20,000. So, that's £4 billion capital money not spent on public transport, or refurbishing schools or hospitals, but on institutions to hold people largely in idleness, paying no tax and silently generating unseen costs for the families they leave behind. £4 billion spent on institutions that all the evidence shows are more likely to increase reoffending than reduce it. £4 billion required largely because successive governments have legislated to increase sentence lengths just to appear "tougher" than their political opponents, and the financial consequences of all those expedient announcements come home to roost long after they have been made.

But what about the number that wasn't in the budget, simply because it's money the Chancellor doesn't have to find for the next three years? The average cost of holding a prisoner for a year in 2019 was around £43,000. Let's be kind to the Chancellor and not inflate that figure for the last 2 years. It still means a future annual cost to run these new prison places of £860 million. The Chancellor found he had a back pocket, and doled out an extra £450m in total to the Ministry of Justice. The largest chunk of that is destined for the courts to start to deal with the backlog of unheard cases that existed before the pandemic but has been made even worse by it. So where exactly will nearly double that amount be found to run all these new prisons in 3 years' time? And the year after that? And the year after – for the couple of centuries that we keep our prison buildings operating in this country? Just for context, the average salary of a nurse is £31,000, so a total cost to the employer of around £35,000. So the decision on new prison building actually equates to 24,500 nurses we can't recruit because the government wants to sound tough – not just now, but for as far ahead as the eye can see. The government will say that it wants to reduce reoffending, perhaps hoping we will conclude that one day it might actually close some prisons and reduce the waste of human capital they represent. But you won't find an assumption in the budget that suggests the government has any such intention. Even the most straightforward reform – practically and politically – of investing in women's centres in the community in order to reduce prison places for women, is timidly avoided. Who knows what job Rishi will be doing when the bill for running all these new prison places falls due. But the taxpayer is going to have to cough up, whoever the Chancellor is.

### **Self-Harm Among Female Prisoners Surges by 47% to Record Levels**

*Maya Oppenheim, May Bulman, Independent:* The increases are part of a wider trend of declining mental health for women in prison and serve as a sobering reminder of the damaging impact prison has. Self-harm among female prisoners surged drastically to record levels in recent months, new data shows. Ministry of Justice statistics show self-harm among female inmates rose by 47 per cent in the three months stretching until June 2021. This is far higher than the 8 per cent increase during the same period of time in male prisons. Overall, there was a 16 per cent annual increase in the rate of self-harm incidents among female prisoners between June 2020 to June 2021, which is the highest level for the last 10 years. While self-harm in the women's prison estate has been rising since 2017, incidents have soared since highly strict regimes and rules were rolled out in jails in the wake of the Covid crisis.

Sorana Vieru, of Women in Prison, a leading charity helping women locked in the criminal justice system, said: "This huge jump in self-harm incidents on the last quarter highlights the devastating mental health crisis for women in prison. However, the increases are part of a wider trend of declining mental health for women in prison and serve as a sobering reminder of the damaging impact prison has. We must not continue to ignore the fact that prisons are not safe and do not enable recovery

but thwart it." Ms Vieru warned the newly released data is even more troubling given the government pledged funding for 20,000 more prison places, including 500 for women's prisons, during the Spending Review this week. "Instead the government can and must use this to invest in community-based services that support women to tackle the issues that sweep them into crime in the first place, like domestic abuse and mental ill-health," she added.

While Zahra Wynne, of Revolving Doors, a charity which helps people trapped in the cycle of homelessness, crime and mental health issues, told The Independent: "The Ministry of Justice state that the sharp increase in self-harm in women's prisons is 'primarily driven by a reduction in self-harm in the previous quarter compared to the recent trend'. "However, if you look at the year-on-year data, self-harm in women's prisons has been steadily rising for a decade. "Women with lived experience of imprisonment tell us that prison is a traumatising experience – which only exacerbates the trauma from domestic violence, poverty, substance misuse and homelessness that many women in prison have faced."

A previous report by the Prison Reform Trust found 80 per cent of women in jail were serving sentences for non-violent offences. A former female prisoner, who chose to remain anonymous, previously told The Independent she encountered many women self-harming in jail – adding that she herself suffered from a great deal of "unaddressed trauma" while inside. "I saw lots of women self-harming," she said. "You could see their distress – it was an absence of attention for many of them and feeling like not having someone to recognise they were alive. They were isolated and isolated again. It was a sign of distress and not having anywhere else to take it."

The new data also reveals that the rate of self-harm among children in custody has increased by 27 per cent over the past year – the highest level since at least 2014, when the current records began. The rate of self-harm incidents fell substantially during the first nine months of the pandemic but has increased in each of the latest two quarters, surging by 65 per cent in the three months to the end of June 2021. It comes amid mounting concern about the youth custody estate. Two secure training centres – which are designed to house child prisoners aged 12 to 17 – have been forced to close in recent years due to poor conditions, and the third and only remaining facility was recently found by inspectors to have "widespread failings". In light of the figures, shadow youth justice minister Anna McMorrin called on ministers to "urgently set out how they plan to improve conditions for children and staff in the youth estate". "Under the Tories, violence and self-harm have spiralled out of control in youth custody. The government must commission an independent review into youth custody to develop a long-term strategy for young offenders and to get a grip on this crisis they've created," she said.

### **Life Sentence Only Possibility of Release on Parole After 40 years' Violation of Article 3**

*ECtHR:* The applicants, József Bancsók and László Magyar, are Hungarian nationals who were born in 1979 and 1960 respectively. They are serving life sentences in prison in Hungary. Mr Bancsók (application no. 52374/15) was sentenced to life imprisonment for murder in June 2013, with eligibility for release on parole once he had served 40 years in prison. After his sentence was upheld on appeal in 2015, Mr Bancsók lodged a constitutional complaint. He argued that setting the earliest date of his release once a term of 40 years had been served was contrary to the case-law of the Court and constituted inhuman treatment. The proceedings are still pending. Mr Magyar (application no. 53364/15) was sentenced to life imprisonment in September 2010, without eligibility for parole, under articles of the Criminal Code in force at that time. However, following the Court's judgment in *László Magyar v. Hungary* (no. 73593/10, 20 May 2014), in which a violation of Article 3 was found, his sentence was reviewed to include eligibility for release on parole after 40 years of

imprisonment. Mr Magyar subsequently lodged a constitutional complaint in 2015, arguing that setting the earliest date of release once a term of 40 years had been served was contrary to Hungary's obligations under the Convention. The proceedings are still pending.

*Complaints, procedure and composition of the Court:* Relying on Article 3 (prohibition of inhuman or degrading treatment), the applicants complained that life imprisonment with a possibility of release on parole after 40 years amounted in practice to a whole life sentence and that they in effect still had no prospect of release. They alleged therefore that their sentences constituted inhuman and degrading punishment and were in breach of the Convention. The applications were lodged with the European Court of Human Rights on 7 October 2015 and 20 October 2015 respectively. Given the similar subject matter, the Court examined the applications jointly in a single judgment.

*Decision of the Court Article 3:* The Court dismissed the Government's objection concerning the non-exhaustion of domestic remedies, noting that both sets of proceedings before the Constitutional Court had been pending since 2015, which undermined the potential effectiveness of that remedy in their cases. It reiterated that a life sentence could be compatible with the Convention only if there was both a prospect of release and a possibility of review from the outset. The Court had already held that where domestic law did not provide for the possibility of such a review, a whole life sentence did not measure up to the standards of Article 3 of the Convention. Moreover, comparative and international-law material showed clear support for the institution of a dedicated mechanism guaranteeing a review no later than 25 years after the imposition of a life sentence, with further periodic reviews thereafter. It noted that the 40 years during which the applicants would have to wait before they could expect to begin to be considered for release on parole was significantly longer than the maximum recommended time frame. It therefore concluded that their sentences did not, in effect, offer any real prospect of release, and were thus not compatible with the Convention. There had accordingly been a violation of Article 3. Just satisfaction (Article 41) The Court held that Hungary was to pay Mr Bancsók 3,000 euros (EUR) and Mr Magyar EUR 10,600 in respect of costs and expenses. The finding of a violation constituted in itself just satisfaction for any non-pecuniary damage sustained.

### **Prisoners Detained at Gates and Sectioned Under Mental Health Act**

Inside Time: Prisoners who have completed their sentences are being stopped as they walk out of the gates and detained under the Mental Health Act in a practice known as 'gate sectioning'. People held in this way are taken straight from the jail to a secure mental health facility without being able to enjoy the freedom they were expecting. Prisoners who are diagnosed as requiring specialist care can be transferred to a secure mental health facility during their sentence, but watchdogs have repeatedly complained about long delays to transfers, which authorities blame on a shortage of mental health beds. Critics say that 'gate sectioning' demonstrates that the beds can be found when the authorities need them.

Juliet Lyon, Chair of the Independent Advisory Panel on Deaths in Custody, sounded a warning about the practice when giving evidence last week to MPs on the Commons Justice Committee for their inquiry into women in prison. Although gate sectioning can affect both men and women, surveys show that women in prison have higher rates of mental ill health than their male counterparts. There have been a number of incidents, particularly in relation to women, where they thought they were leaving, they've been literally at the gate ... and then they are sectioned and taken away and put in secure care. That simply can't be right. It's a very cruel thing to do, and it indicates that prison has been allowed to hold on to someone whose behaviour and health has been very, very poor and

they've been very damaged by it. But this 'gate sectioning' is something that's occurring more – and it has got to be stopped, it's not the right way to proceed at all." Her comments were endorsed by Sandra Fieldhouse, leader of the women's inspection team at HM Inspectorate of Prisons, who was giving evidence to the Committee alongside Lyon. Figures released by some prisons demonstrate that the practice is not uncommon. At HMP Durham, seven men were 'gate sectioned' in the year 2019/20, compared with 15 who were transferred to mental health facilities before their release date, according to the prison's Independent Monitoring Board. And according to a Royal College of Psychiatrists newsletter, HMP Thameside saw eight 'gate sectionings' in 2020, compared with 61 prisoners transferred to mental health facilities during their sentences. The newsletter called gate sectioning "a last resort approach to avoid sudden release from custody for someone who is mentally unwell" but admitted that it is "not ideal in prison setting".

Critics of gate sectioning say that making people wait until their release date before they are taken for specialist care demonstrates that mental health problems are taken less seriously than physical health problems, arguing that "We wouldn't ask someone with a broken leg to hobble around waiting until release for treatment." Addressing delays in transferring mentally ill prisoners to appropriate institutions, Prisons Minister Victoria Atkins told the House of Commons last week: "We have a responsibility to ensure those in prison receive appropriate care in the right setting, at the right time. Transfer from prison to hospital for those with severe mental health issues can take too long – we acknowledged this in the Government response to the independent review of the Mental Health Act. Since then, NHS England has published guidance to speed up transfers and we have committed to legislate and enshrine a 28-day limit on such transfers in statute."

### **40,000 Prisoners' Hospital Appointments Cancelled**

Inside Time: More than 40,000 hospital appointments for prisoner were cancelled in a single year, an analysis of NHS figures has shown. A study found that 42 per cent of outpatient appointments made for prisoners in 2019/20 were missed, compared with only 24 per cent of appointments made by the general public. Researchers from Nuffield Health said that a shortage of prison officers to escort prisoners to hospitals was often to blame, and warned that the delays to care could be putting people's health at risk. Out of the 101,000 appointments which prisoners should have attended during the 12-month period, 18 per cent were missed with no advance warning given – which is three times higher than the rate among the general public. The latest figures for 2019/20 include the first month of the Covid pandemic. Dr Miranda Davies, one of the report's authors and a Nuffield Trust senior fellow, said: "There are worrying signs that the measures put in place to protect prison staff and prisoners from Covid-19 are actually worsening the poor access to essential hospital care that prisoners already faced. We know that even before the pandemic, the prison estate was holding more prisoners than it was ever designed for. On top of this, the loss of experienced prison staff means conditions in prisons are challenging and prisoners just aren't getting the access to health services they need." The new report, published this month and called "Injustice? Towards a better understanding of health care access challenges for prisoners", also analyses the medical problems for which prisoners require hospital treatment. The most common cause of prisoners being admitted to hospitals as inpatients was injury or poisoning, which was most common among those aged 30 to 39. Prisoners overall had less hospital treatment than would be expected for people of their equivalent age in the community, suggesting there is a level of unmet health-care need in prisons. Older prisoners, in particular, went to hospital less often than would be expected. The report says: "It is likely that the gap for older prisoners at least in part reflects an access challenge due to the pressure on escort availability in the face of steep demand, driven by levels of violence and self-harm in the younger age groups where rates are higher than expected."

### 32 Years on From the Exoneration of the Guildford Four

19th October 2021, marked the thirty-second anniversary of the quashing of the wrongful convictions surrounding the pub bombings of Guilford and Woolwich and the exoneration of Paul Michael Hill, Gerry Conlon, Paddy Armstrong and Carole Richardson. After their arrest, the police elicited coerced confessions using tactics ranging from intimidation through to torture, including expressed threats against family members and utilising the effects of drug withdrawals. Gerry's father, Giuseppe Conlon, travelled from Belfast to London to help his son get proper legal representation. He was arrested, along with a further six family members known as the 'Maguire Seven', all seven being charged with being the bomb makers of the explosives used in the Guildford bombings. He died, an innocent man, in an English prison in 1980.

The four were convicted on 22 October 1975 of murder and other charges, and sentenced to mandatory life imprisonment. Carole Richardson, a minor of 17 at the time of the bombings, received an indeterminate "at Her Majesty's Pleasure" sentence. Mr Justice Donaldson, who also sat on the bench for the Maguires' trial, expressed regret that the Four had not been charged with treason, which still carried the death penalty. Although there had been no capital punishment in the United Kingdom since 1964, treason still carried the death penalty until 1998. Tariffs for those sentenced to life in prison had yet to be introduced, and release was entirely at the discretion of the Home Secretary. For the three men, all of whom in their twenties at the time of the trial, sentences of 30 years for Gerry Conlon, 35 for Paddy Armstrong and until "great age" for Paul Hill were recommended.

Both the Guildford Four and the Maguire Seven initially sought leave to appeal and were refused. In February 1977, during the trial following the Balcombe Street Siege, four members of the IRA instructed their legal counsel to draw attention to the fact the Guildford Four were totally innocent and serving massive sentences. The Home Office issued, in 1987, a memorandum acknowledging that it was unlikely that the Guildford Four were involved in terrorism, but that this would not be sufficient evidence for a ground of appeal.

In 1989 a fresh appeal was underway, with human rights lawyer Gareth Peirce representing the four with the exception of Paul Hill. During the pursuit of this appeal, it became apparent that evidence had been tampered with, and suppressed, by the police. After a long and challenging campaign for justice The Four were released on 19 October 1989. Their horrendous ordeal by this point had lasted more than fifteen years. Much of the lasting damage could never be repaired. The convictions of the Maguire Seven were quashed in 1991. Over 700 files remain closed to this day in what is a commitment to secrecy, despite campaigning from the families of those injured and killed in the attacks.

### Penelope Jackson – Verdict and Sentence

*Centre for Women's Justice:* We are horrified that Penelope Jackson has been convicted of murder by a 10 to 2 majority verdict and sentenced to life with a minimum term of 18 years, following her trial at Bristol crown court. As the evidence revealed, Penelope was a victim of sustained coercive control over her 28-year relationship with the deceased. Evidence was heard before the court which showed that she had to get a tattoo placed on her bottom saying she was the property of the deceased - to stop his jealous and possessive behaviour. Like many victims of coercive control she did not perceive that she was a victim until after the offence when she escaped his abuse and control.

This is a classic case of a slow build-up of fear and anger arising from the controlling behaviour, which became more unbearable when she was trapped in her home with her abuser during lockdown. This finally led the defendant to lose complete control and stab the

man she had been married to for 24 years and father of her daughter. Penelope who is now 66 and of entirely good character will not be eligible for release until she is 84. There is nothing to suggest she represents a risk to anyone other than the man who treated her so cruelly for years. It is understood Penelope Jackson's defence team will be appealing the conviction. Sally Challen, whose own conviction for murder was overturned in 2019 said: "I am appalled, upset and I cannot believe that the dinosaurs in the Judicial System and the CPS haven't learnt from my case. My love goes out to Penelope's family" Harriet Wistrich, solicitor for Sally Challen and Director of the Centre for Women's Justice stated, "The majority jury verdict and harsh sentence of the judge shows that there is a long way to go before victims of coercive and controlling behaviour can get justice and the understanding they deserve. There needs to be a radical transformation of the criminal justice system which is still steeped in misogynistic myths and stereotypes. Women are punished most severely if they resist, whereas men who snap and kill for no reason get off lightly. Contrast this case with the recent cases of Anthony Williams who strangled his wife to death and was sentenced to five years, or Sam Pybus who strangled an extremely vulnerable woman Sophie Moss to death during a drunken episode of so called "rough sex" who got 4 years 8 months"

### Unannounced inspection of HMP & YOI Downview Women's Prison

Downview is a closed training prison in south London that held 210 women at the time of our inspection, nearly three-quarters of whom were serving sentences of over four years and 40% were assessed as presenting a high risk of harm to others. Many women were still locked in their cells for too long, with some only getting out for an hour-and-a-half a day. Relations between staff and women were not as good as we have seen in other women's prisons. We were given many examples of staff members being rude, dismissive or unhelpful. This was particularly worrying in a prison that holds such a vulnerable population and was in marked contrast to the quality of relationships we reported in our inspection of nearby HMP Send. It was also concerning that local and national leaders had not identified improving the quality of relationships in the prison as a priority. The women held at Downview generally behaved well and levels of violence were low, but more could have been done to encourage good behaviour. At the start of the second week of our inspection, the prison introduced a new regime that was designed to make sure that women had more time to complete domestic tasks, socialise and exercise, particularly those who were in work. Leaders had failed to communicate this change clearly and during the week both staff and women often did not know what they were supposed to be doing or where they were supposed to be, which they said was consistent with a pattern of poor communication in the prison. Leaders needed to make sure that there was adequate consultation and more thorough communication, through a wider range of channels, before changes were made.

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 Cullinane, 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