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Posthumous Justice for Another Member of the Shrewsbury 24

Jon Robins, Justice Gap: The conviction of a labour activist was overturned yesterday (17/02/2022) nearly 50 years after he was sent to prison for his role in the 1972 national builders' strike. Brian Williams was a member of the so-called Shrewsbury 24, the group of twenty–four union activists convicted of offences ranging from threatening behaviour to conspiracy during three trials in 1973–74 – as reported on the Justice Gap (see here). The 1972 building workers' strike resulted in the largest single pay increase ever negotiated in the building industry. The Shrewsbury 24 were trade union activists bussed to building sites in Shrewsbury and Telford in September 1972 as part of a unionized strike campaign to increase wages and improve labour conditions on building sites. Brian Williams pleaded not guilty throughout his 1974 trial, was convicted of affray and unlawful assembly and sentenced to six months in prison.

Last March, the Court of Appeal quashed the convictions of 14 members of the Shrewsbury 24, including the actor Ricky Tomlinson, following a referral from the miscarriage of justice watchdog the Criminal Cases Review Commission (CCRC). Brian Williams passed away in 2013. However, in September 2021, his daughter in law, Samantha Williams, applied to the CCRC for a review of his case. In December 2021, the CCRC referred the case to the Court of Appeal on the same ground as his 14 co–defendants. The CCRC had previously been of the view that Brian Williams had (in the words of his legal team) 'almost undoubtedly pleaded guilty at the beginning of the trial or the close of the prosecution case' but that was not the case.

'As a family we believe that Brian's conviction was undoubtedly life-changing and caused a lasting trauma,' Samantha Williams told the Justice Gap. 'For us the process of having his conviction quashed has not only allowed us to right a wrong which was done all those years ago, but has also allowed us to further understand the shocking truth of just how wrong this was.' This whole situation completely destroyed his wife, she was left in pieces,' she recalled. 'It was always like an embarrassing family secret, his auntie told her daughter for years that Brian was in the Army. She has also kept the cutting from the newspaper last year and she was made up to see that the convictions had been quashed. She thought this included Brian's conviction. She said that last year she thought it was a shame that June wasn't here to see that. This undoubtedly had a lasting negative impact on their marriage. Things changed forever.' She thanked her legal team including solicitor Paul Heron of the Public Interest Law Centre and barrister Piers Marquis of Doughty Street Chambers.

Actor Ricky Tomlinson, fellow Shrewsbury picket, said: 'It is great to hear that another one of my comrades has had his convictions quashed. The Shrewsbury pickets faced a political trial. The secret state and the government assisted in our convictions by helping produce the TV programme The Red Under the Bed, a distorted account of the builders' dispute. It was broadcast at the most damaging time for us – in the middle of the trial. After release, we all faced blacklisting and difficulty securing work – there needs to be a public inquiry into these events.' Paul Heron said he was grateful to the family of Brian Williams for pursuing this matter. 'The innocence of Brian and the Shrewsbury 24 is now established, but that is not where the story ends. Many of the 24 were unable to find work after events of 1972–4 due to industry blacklisting. Alongside the Blacklist Support Group we are calling for a public inquiry into blacklisting in the construction industry, including the collusion of government.'

Mayfair Diamond Thief Ordered to Pay Back £250 After £4.2m Haul

A thief who posed as a gem expert to switch diamonds worth £4.2m for pebbles has been ordered to pay back less than £250. Lulu Lakatos, 60, is serving a five-and-a-half year sentence after she was found guilty of conspiracy to steal. She told Mayfair jewellers Boodles she had been sent to value seven diamonds on behalf of Russian buyers. A proceeds of crime hearing was told Lakatos' only asset was the €293 (£245) in cash found when she was arrested. Judge Alexander Milne QC noted the "striking contrast" between the value of the stolen diamonds and Lakatos' available assets. Since the money had already been seized, he set a one-day default sentence and gave her a month to pay the debt. The hearing, on Friday 18th February was also told Romanian-born Lakatos, from Saint-Brieuc, Brittany, was expected to be extradited back to France. Romanian national Lakatos, who was convicted at Southwark Crown Court last July, was caught on CCTV as she used sleight of hand to switch a padlocked purse containing the genuine diamonds for a duplicate in March 2016. She left the shop and handed the gems off to an unknown woman linked to an international criminal gang which fled the UK for France within three hours. The purse containing the pebbles was placed in Boodles' safe and the ruse was only detected the next day. The real diamonds have never been recovered.

Police are Hounding Chris Mullin for his Source – That Freed the Birmingham Six

Guardian Opinion: Chris Mullin's exposure of the Birmingham Six's wrongful conviction was only possible because he was able to protect his sources. Now, more than 30 years later, that same man, Chris Mullin, found himself back at the Old Bailey on 23 February facing an action brought against him under the Terrorism Act of 2000 to make him reveal the sources of his information all those years ago. The Birmingham Six were jailed for life in 1975 for an IRA bomb attack on two pubs the previous year, which killed 21 people and injured more than 200. It was a grim, unforgivable crime and understandably the police were anxious to nail those responsible. They swiftly arrested five men on their way to Ireland for a funeral and a sixth the following day. After days of brutal interrogation, four "confessed", admissions that were immediately retracted once their violent ordeal ended. The government's forensic scientist claimed that at least two of them had been in touch with the explosive nitroglycerine. That evidence was discredited by the time of the trial – many household products and notably the pack of cards with which the men had been playing on their train journey before their arrest gave similar results – but the Six were convicted and jailed for life.

The late Peter Chippindale, who covered the trial for the Guardian, told his journalist friend Mullin that he felt that the police had got the wrong people. A spark was lit. While working for Granada Television's World in Action programme, Mullin set about trying to discover the truth by tracking down those really responsible. If it was possible to prove that others had carried out the attack, the Six could be shown to be innocent. Eventually he found the real men involved and interviewed them on the understanding that he would not identify them. In 1986, he published his account, Error of Judgement, and the following year became an MP for Sunderland South and continued to campaign. The Sun noted his persistence thus: "Loony MP backs bomb gang".

Other Irish cases – the Guildford Four, the Maguire Seven, Judith Ward – were also being exposed as miscarriages of justice. At their appeal on that fateful day in 1991, the Six were cleared. Some of them, Billy Power and Paddy Hill, in particular, have since lent their names and energies to free others wrongly convicted. Then in 2018, under pressure from relatives of those killed and the organisation Justice 4 the 21, came a decision to reinvestigate the case. The West Midlands police, a very different crew from the disgraced Serious Crime Squad of the 1970s, embarked on a fresh inquiry.

Mullin was asked to surrender all his data: notebooks, manuscripts and so on. He provided the notes of his interview with one of the men, Michael Murray, who was the bomb-maker and who had died 20 years ago, but declined to provide anything that would break his agreement. The police now seek a court order from a judge to force him to comply or face jail. There are precedents. In 1963, Reg Foster, the Daily Sketch's crime reporter and Brendan Mulholland of the Daily Mail were jailed for contempt of court for three and six months respectively for refusing to reveal the sources for stories about John Vassall, who had been convicted the previous year of being a Soviet spy. At the inquiry into the affair Foster delivered an impassioned speech in which he said: "I have been in journalism for 40 years. From the first I was taught always to respect sources of information." He added that he had lost many Fleet Street colleagues in the second world war and "I would feel guilty of the greatest possible treachery to them if I were to assist … in this matter." The Guardian faced its own crisis in the case of the civil servant Sarah Tisdall, who was jailed for six months in 1984 after leaking details to the paper about the arrival of American cruise missiles in Britain. The then editor of the Guardian, the late Peter Preston, was prepared to go to prison to defy a court order to provide material that would identify her, but was advised that it was more likely that an ever-increasing fine would be imposed on the newspaper. He described passing on the information as the "worst day" of his editorship and offered his resignation.

While Mullin has the strong support of the National Union of Journalists and from politicians ranging from Labour's Jack Straw and Charlie Falconer to the Conservatives' David Davis, he has been called "scum" by relatives of the victims and asked, "How do you sleep at night?" While one has great sympathy for the bereaved, the betrayal of sources – which in this case would be very unlikely to lead to any convictions – is not the path to be taken in any pursuit of justice. Journalists already enjoy little public respect. An Ipsos Mori poll in 2020 put the percentage of people who trust journalists to tell the truth at 23%; only politicians rank lower. Mullin is absolutely right to stand firm – especially at a time when attempts are being made to amend the Official Secrets Act to make punishing whistleblowers easier. If journalists routinely betray sources and break their word why should anyone ever trust them and how will scandals like that of the Birmingham Six – the likes of which continue to this day – ever be uncovered?

Labour's Hard Line On Crime is the Act of a Serial Offender

As deputy leader Angela Rayner recycles lines about being 'tough on crime', Nick Clark explains why the slogan helps the right: Keir Starmer's Labour has taken a darker, nastier turn. Taking their cue from one of the most disgraceful chapters in Labour's history, his leading politicians are competing to demand the most vicious punishments for petty crimes. Angela Rayner gets first prize for now. "On things like law and order I am quite hard line," she told an event last week. Police should be able to storm people's houses at three in the morning just to "antagonise them." Not only that, but they should shoot terror suspects first "and ask questions later." "Is that the most controversial thing I've ever said?" she smirked. But she knows that this time Starmer won't ask her to apologise—the message comes from the top.

The phrase "Labour is the true party of law and order" should provoke memories of resentment and fear. Shadow home secretary Yvette Cooper said it last week. But it's word for word what Tony Blair said when he was shadow home secretary in 1993. It was the beginning of the "tough on crime, tough on the causes of crime" policy that was a key part of Blair's government. It meant years of giving police new ways to harass and criminalise working class and young people—then hit them with lengthy prison sentences. Then, as now, this was part of Labour's response to

an unpopular Tory government—an attempt to outflank them and appear even more right wing. It's a dangerous tactic that can play into the hands of the right, spreading division and blame among the working class. But it was more than just a cynical manoeuvre.

There were politics involved. In a New Statesman article, Blair argued that crime was a "socialist issue." Working class people are most affected by crime, Blair argued, so being "tough on crime" was working class politics. Meanwhile, "Tough on the causes of crime"—among them "poor education and housing," and "low employment prospects"—created the thin illusion that Blair saw tackling poverty as the solution. But he meant something much different. Blair said that the real cause for crime was "our disintegration as a community." The answer was "a new bargain between the individual and society," with "rights and responsibilities" enforced by the state. This had nothing to do with socialism. Instead, Blair's inspiration came from hard line conservative thinkers from the US. They said the free market was the best way to run society. But they said there had to be ways of dealing with an "underclass" of people in poverty marginalised from society because they couldn't—or wouldn't—fit in. The poorer you were, the more likely you were to commit a crime—but poverty could be no "excuse." If you've turned to crime it's because you've got a bad family and no sense of respect.

The answer was a regime of blame and punishment. So one of the first things Blair's government did in 1997 was publish its "no more excuses" policy paper on youth crime. It included measures that allowed police to impose curfews and restrictions on children, and a "final warning" route towards prison sentences. It set the tone for years of new ways to criminalise working class people—often not for committing any crime. "Anti-social behaviour" became a new way for authorities to punish any behaviour they deemed unacceptable. The notorious Anti-Social Behaviour Order—Asbo—allowed a magistrate to punish anyone they decided had behaved "in an anti-social manner that caused or was likely to cause harassment, alarm or distress." Break the terms of your Asbo and you could end up in jail—even if what you've done isn't a crime. This was the ugly face of Labour's progressive sounding "community" politics. It went hand in hand with its embrace of business and the free market—and that's why Keir Starmer likes it

Falling Foul of Contempt of Court May be Easier Than You Think

The law on criminal contempt of court: Contempt of court is, as Lord Nicholls observed in Attorney General v Punch Ltd [2002] UKHL 50, "the established, if unfortunate, name given to the species of wrongful conduct which consists of interference with the administration of justice". It protects all courts, and also those tribunals which exercise the judicial power of the state (as opposed to having a purely administrative function). Although there are two main forms of contempt, criminal and civil, the question of whether contempt is criminal or civil does not follow from the nature of the court or tribunal's activity but from the nature of the act in question: R v O'Brien [2014] UKSC 23, paragraph 42, per Lord Toulson.

Criminal contempt encompasses conduct which goes beyond simple non-compliance with the order of a court, and constitutes a serious interference with the administration of justice, for instance by physically interfering with the course of a trial, threatening witnesses or publishing material likely to prejudice a fair trial: O'Brien, §39. Such interference can take many forms. Archbold: Criminal Pleading, Evidence and Practice (2022) sets out that criminal contempt may arise from defiance of orders: "to a person hindering or interrupting proceedings to leave": Webb, ex p. Hawker (The Times, 24 January 1899); "to desist from introducing matter ruled irrelevant into a trial or from acting in a manner offensive to the court": Davison [1821] 4 B. & Ald. 329;

Re Surrey (Sheriff) [1860] 2 F. & F. 234 that specified documents not be removed from court: Watt v Ligertwood (1874) L.R. 2 Sc. & Div. 361, HL. It is also a criminal contempt to take photographs in a court building in breach of rules prohibiting this: HM Solicitor General v Cox & Anor [2016] EWHC 1241 (QB). An advocate's wilful and deliberate disobedience of an order to attend court can amount to a contempt: Re West (Ian Stuart) (a barrister) [2014] ECAD Crim 1480. And, as the Counsel General and Crosland decisions show, disclosure of anything arising from a draft judgment, in defiance of an embargo, may also be a contempt.

Crosland: breach of draft judgment embargo - The case concerned Tim Crosland, a barrister and director of the environmental charity Plan B, who represented it in earlier proceedings challenging a government decision about a new runway at Heathrow airport. The Heathrow proceedings reached the Supreme Court: R (Friends of the Earth Ltd & Plan B Earth Ltd) v Heathrow Airport Ltd [2020] UKSC 52. In that capacity Crosland received, on 9 December 2020, the draft judgment of the court, marked with the usual embargo notice effective to the date and time of handing down: 9.45am on 16 December 2020. On 15 December 2020 he communicated with media organisations and issued a statement via Twitter, disclosing the outcome of the appeal (the government had won). The Supreme Court requested removal of the tweet, which was not done. The court itself notified the media that the information concerning the appeal was subject to embargo, causing many to remove online articles until the embargo lapsed (though the Independent and Mail Online did not, according to the subsequent first judgment of the court).

In acting as he did, Tim Crosland had the very understandable motive of advancing a challenge to proposed Heathrow expansion because of the environmental consequences of growth in global air transport, including man-made climate change. But his action was, as the court recognised, plainly a contempt: he knew the parameters of the embargo and the law on which that rested, and knowingly breached it. This created a real risk of prejudice to the administration of justice by, if not addressed, diminishing confidence in or destroying the ability of courts to rely on confidentiality when representatives and parties are informed under caution of draft judgments, so the actus reus of criminal contempt was present. As to mens rea, the court recognised that criminal contempt requires intention to interfere with the administration of justice. But this can be inferred from the circumstances, so it is sufficient that an act is deliberate and in breach of the applicable order. On 10 May 2021, the Supreme Court found Crosland guilty of criminal contempt, fined him £5,000, and ordered him to pay costs.

In the second hearing, on 20 December 2021, the court considered his appeal, which it ultimately dismissed. In particular, the appeal panel: upheld the original finding that the interference with Article 10 ECHR freedom of expression rights was "prescribed by law"and proportionate, held that the first panel had taken into account the "motives, intentions, and beliefs" of the respondent, distinguished the road protest case, Ziegler [2021] UKSC 23, as depending upon the particular statutory provision there in question (which prohibits deliberate obstruction of the highway "without lawful excuse"). At the simplest level, one lesson to draw is that motive may matter, but cannot with confidence be said to offer any reliable basis for self-exculpation. More broadly the case provides a reminder, useful well beyond planning or even public law, of the importance of compliance with embargoes and other restrictions — and of explaining these to others. In the era of remote hearings it seems somewhat miraculous that (to my knowledge) no-one has yet been accused of recording a hearing in breach of embargo. Even allowing clients to circulate the Zoom link to a public hearing can get lawyers in serious trouble, as witnessed by Gubarev [2020] EWHC 2167 (QB), although the court did not go so far as to invite the Attorney General to initiate contempt proceedings.

An epidemic of embargo-breaking: As became clear, the Heathrow case was not the only instance of judicial attention to breach of an embargoed judgment recently. In Counsel General for Wales, the marketing staff at a barristers' chambers issued a press release about the result of a decision not handed down until the following day. In his judgment dealing with the fallout, the Master of the Rolls complained at paragraph 21 that the breaches that occurred here are not alone. I have become aware formally and informally of other breaches in other cases. It seems, anecdotally at least, that violations of the embargo on publicising either the content or the substance of draft judgments are becoming more frequent. The purpose of this judgment is not to castigate those whose inadvertent oversights gave rise to the breaches in this case, but to send a clear message to all those who receive embargoed judgments in advance of hand-down that the embargo must be respected. In future, those who break embargoes can expect to find themselves the subject of contempt proceedings…

The court at paragraph 28 noted that members of the Bar "either did not read or did not properly read emails they were sent [by marketing staff] in relation to the draft judgment, and no proper precautions or double-checks were in place to ensure that one employee's error came to attention" and that "counsel and solicitors are personally responsible to the court for ensuring that these mandatory requirements are adhered to. It is their duty to explain those same obligations on the parties to their clients". From the detailed conclusions (effectively instructions) which follow at paragraph 31, it is clear that access to information in draft judgments has itself to be carefully delimited respecting the purpose of disclosure under embargo, and that, for instance, marketing is not an adequate reason even for internal dissemination of information provided subject to embargo. The Master of the Rolls stressed the importance of proper compliance with embargoes applied to draft judgments. One reason for this is of course to avoid parties leaking tactically in anticipation of the eventual judgment, which could undermine or destroy the ability of the court to rely upon confidentiality in respect of drafts.

The AG's role in policing contempt: Another still topical case deserves recollection in this context. In July 2020, after the embargoed Court of Appeal judgment in the case of Shamima Begum had gone out in draft, but before hand-down, the Sun ran a story containing details of the decision, with critical comment attributed to "senior government sources". The story was later removed. In a subsequent hearing, Lady Justice King described the matter as "a very serious potential contempt". The Treasury Solicitor, Sir Jonathan Jones QC, carried out an investigation, which reportedly "failed to find evidence of a leak, but discovered the ruling had been shared more widely than expected and some security procedures 'had not been followed correctly'". A spokesperson for the Attorney General said that "after very careful consideration… contempt proceedings will not be instigated". In the Begum case, the person or persons responsible could not be found. By contrast, TIm Crosland identified himself immediately and publicly.

But the passing on of Sir Jonathan's report to the Attorney General, and the apparent lack of any further enquiry regarding a very serious breach of embargo — apparently by persons in the employ of the state or others directed by them — unfortunately returns another matter to mind. At the very head of the present government there has been regular, gratuitous breaking of pandemic lockdown laws and a conspiracy to hide this requiring an investigation first by the Cabinet Office and now by the Metropolitan Police. There is separately concern about the experience, standing and independence of the Attorney General. Among the nagging questions raised by the contempt cases is whether the Attorney can always be relied upon to satisfy the critical responsibility for detecting and addressing criminal contempt attached to that post. And if he or she from time to time cannot, who else can?

CCRC Watch, a New Empowering the Innocent (ETI) Project

Seeks to highlight the limitations of the CCRC in dealing with applications from alleged innocent victims of wrongful convictions due to restrictive nature of the 'real possibility' test. It features articles which centre on applications that are rejected by the CCRC not because applicants are not innocent but, rather, because they are not deemed to have the so called 'fresh' evidence required to have their case referred back to the Court of Appeal (Criminal Division). Overall, CCRC Watch offers constructive critiques and recommendations for how the CCRC might better fulfil its public mandate to assist innocent victims to overturn their wrongful convictions. It is aimed at giving voice to alleged victims of wrongful convictions who have been rejected by the CCRC because they are not deemed to have the necessary fresh evidence to fulfil the real possibility test. We are inviting alleged victims of wrongful convictions, their families and friends to write articles for CCRC Watch to raise awareness of the failing of the CCRC and strengthen the call for it to be reformed or replaced with a body fit for the purpose of ensuring that ALL wrongful convictions can be overturned - not only those deemed to have fresh evidence. There are also a couple of articles on CCRC Watch, one is new and reports on a FoI re ex police officers as caseworkers at the CCRC and the other is an article about Jeremy Bamber's latest application to the CCRC, which draws from 347,000 documents that were not disclosed to his defence team at his trial.

Should Ex Police Officers be Allowed to Work as Case Review Managers at the CCRC?

The Criminal Cases Review Commission (CCRC) is the only avenue open to alleged victims of wrongful convictions who wish to challenge their conviction after they have failed in their first appeal. In this article, Bill Robertson considers the role of ex police officers working as CCRC caseworkers or Case Review Managers (CRMs) who review applications. Reflecting on information from a Freedom of Information (FoI) request, he questions whether the CCRC should ever employ ex-police officers to carry out reviews of applications by alleged victims of wrongful convictions. The CCRC employed 64 CRMs in January 2022, six of whom they estimate are former police officers. I received this information via a Freedom of Information (FoI) request. It represents just under 10% of CCRC CRMs, which might seem a reasonable proportion. However, after reflection and consideration of other factors revealed by the CCRC in my FoI request, I find this deeply problematic and have provisionally concluded that the CCRC should never employ ex-police officers, for the reasons that I outline below.

Context is always of vital importance with recent revelations suggesting that it is no longer viable for the police to maintain that a police officer who commits criminal acts is simply “one bad apple”. In miscarriage of justice circles it is held widely that the entire police orchard may well be rotten to its core, with corruption and abuse of power affecting all police forces around the country. As this specifically relates to the Metropolitan police, the largest police force in the country, at the time of writing the Mayor of London stated publicly that it needs to show urgently that it has an “effective plan for restoring the trust and confidence of Londoners in the police and to drive out the culture of racism, homophobia, bullying and misogyny which clearly still exists within its ranks.” By implication, the CCRC might well employ CRMs who may have been exposed on a daily basis to the toxic police culture now being reported in the media. And, as the majority of the cases referred to the CCRC involve allegations of corruption against police officers, do we really expect that a former police officer, with a valuable police pension to protect, will diligently and without favour strive to uncover police corruption?

Is it not also possible, that other caseworkers at the CCRC, perhaps also wrestling with allegations of police wrongdoing, could seek guidance from an ex police officer, which could influence the caseworker to decide not to refer a submission? This idea is strengthened with the importance of former police officers working as CRMs at the CCRC being trumpeted in terms of the experience and knowledge that they provide to the ‘successes’ of the investigative process. They told me that: “Amongst the casework staff are a number of former police officers who bring valuable knowledge and experience which supports us in finding and investigating possible miscarriages of justice”. On the other hand, the fact that 58 of the current caseworkers are not ex police officers suggests that police investigative experience is not an essential requirement of the job. So, why employ any former police officers in a role that inevitably requires the post holder to confront police corruption?

The CCRC told me that in fact they do not keep any records of how many of their staff are former police officers, indicating that perhaps the CCRC have never considered the issues around the employment of former police officers. The figure of ‘6’, they told me, is an educated guess. In response to further questions, I was referred to an internal code of conduct.

I asked the CCRC: What procedures are in place at the CCRC to ensure that a member of CCRC investigative staff is not assigned to a case where their previous employer is alleged of wrongdoing? For example, where a CCRC staff member is a former police officer, what measures are in place to prevent them from investigating former colleagues, or their former employer, for example a police force? What procedures are in place requiring a CCRC employee to declare a vested interest in a case referred to the CCRC? If a member of CCRC staff is approached by a third party seeking to influence the outcome of an investigation, what procedures must be followed to report such an approach?

The CCRC commented: “We do not routinely exclude former police officers from cases involving allegations of police misconduct, just as we do not routinely exclude former defence lawyers from cases involving allegations of defence misconduct. We do, however, expect any member of staff - or Commissioner - to recuse themselves from any case in which the circumstances may give rise to a perceived conflict of interest or a perception of bias. Each case is considered on its own facts, but it is unlikely that the mere fact of being a former police officer would be sufficient, whereas a personal connection to the force, unit or individual(s) against whom allegations are made may give rise to a perceived conflict and the member of staff would not, therefore, be involved in the case”.

This response causes me great concern in respect of the potential for bias and corruption. While the CCRC say that “a personal connection to the force, unit, or individual(s) against whom allegations are made may give rise to a perceived conflict”, this still leaves the door open to endless possibilities for a CCRC staff member to behave in a prejudicial manner. For example, during their careers, police officers from, for example, Essex Police will invariably forge close working relationships with police officers from bordering counties and police districts. In particular, the Metropolitan Police and City of London Police. The matrix of contacts can be complex, not a straightforward matter for any organisation to identify. It is not enough to say that a connection to the force, unit or individual(s) involved would debar a caseworker from working on a case. Pressure can, and I am certain is, brought to bear from seemingly unconnected links between caseworkers and former police colleagues.

Former police officers could be influenced in a number of ways prejudicial to the alleged innocent victims of wrongful conviction asking for their case to be reviewed. Enough is known

about unconscious bias to suspect that due to bias in favour of the prosecution, or unwillingness to consider police corruption, a submission may be rejected. A caseworker could reveal details of the submission to the police force that is the subject of the complaint, permitting evidence to be destroyed or manipulated. The 'punishment' for a caseworker who transgresses is simply a financial punishment and it appears that only upon "summary conviction" a fine is levied. There is seemingly no criminal offence or punishment for disclosing materials submitted for review by the CCRC, or even a suggestion that the guilty staff member would lose their job.

Annex Two of the CCRC Code of Conduct - Caseworkers are required to abide by a Code of Conduct. Annex Two of the CCRC Code of Conduct covers disclosure offences. It states: A person who is or has been a member or employee of the Commission shall not disclose any information obtained by the Commission in the exercise of any of their functions unless the disclosure of the information is excepted from this section by section 24. Section 24 outlines a wide-ranging list of circumstances that would exempt an employee from the offence of disclosing information. For example: "The disclosure of information, or the authorisation of the disclosure of information, is also excepted from section 23 by this section if the information is disclosed, or is authorised to be disclosed, for the purposes of— (a) the investigation of an offence, or (b) deciding whether to prosecute a person for an offence". This exemption would appear, at face value, to enable a police officer to say to the CCRC that they require disclosure of information so that they can ascertain whether any offences have been committed in obtaining the information. The offences do not have to be 'real', simply suspected. A person who is or has been an investigating officer shall not disclose any information obtained by him in his inquiries unless the disclosure of the information is excepted from this section by section 24. (Section 24 lists many exemptions). A person who contravenes this section is guilty of an offence and liable on summary conviction to a fine of an amount not exceeding level 5 on the standard scale.

Annex Five of the CCRC Code of Conduct covers the rules regards the handling of possible conflicts of interest and/or bias, actual or perceived. It states: 9 Should a conflict arise in relation to any application to the Commission, the board member or employee should raise the concern immediately it is identified. The Director of Casework Operations will record instances of conflict in an internal register kept for the purpose. 10 In casework matters it is not always possible to identify all potential conflicts when an application is first received. Whenever a board member or employee identifies a potential conflict at any stage of a case in which he or she may be involved, he or she should declare the potential conflict to the Director of Casework Operations. The declaration of potential conflict will be recorded in an internal register kept for the purpose. 11 Save as is required by the Commission's policies as regards other employment or appointments within the Criminal Justice System, board members or employees are not prohibited from undertaking legal work in their private capacity during their time at the Commission. However, they should not accept instructions to advise or represent parties involved in any proceedings against the Commission or in the outcome of which the Commission might reasonably be thought to have a material interest. Should they find themselves in such a position, they should withdraw from the case. This also applies to any board member or employee who is instructed or approached to advise in relation to a case submitted, or likely to be submitted, to the Commission for review.

The information provided to date has prompted me to ask a series of further questions of the CCRC: How many caseworkers have recused themselves from considering a submission in the past 5 years? For what reason have those caseworkers recused themselves? Has any caseworker ever been found guilty of the offence of disclosure as defined in Section 23? If so, has

any caseworker ever been fined or otherwise disciplined? What is the standard scale of charges? What is a level 5 charge? When a caseworker is assigned to a case, does the person making the submission have any right to appeal against the caseworker assigned? Does the caseworker assigned to a case have to reveal their CV and previous work history to the applicant? What are the arrangements for the security of case papers submitted for consideration by a caseworker? Are there arrangements in place to ensure that only the named caseworker can access the submission documents? Are case papers considered to be confidential at all times? This subject seems to be one of the most important considerations in order to ensure that justice is not only done but that it is also seen to be done in the processing of submissions to the CCRC. Further research into this topic is ongoing. Bill Robertson has researched alleged miscarriages of justice for around 20 years and advised on several cases, including the most recent application to the CCRC by Jeremy Bamber. He serves as Deputy Editor of CCRC Watch.

Do People Who Get in Trouble With The Law Deserve Double Punishment?

Penelope Gibbs, Justice Gap: Many people get in trouble with the law when young, either as teenagers or in their twenties. They are wired to take silly risks and are often led on by others. Some have real difficulties at home or school – difficulties which don't excuse crime but do explain it. Many are exploited by older and more sophisticated people. Getting into trouble with the law often involves getting a police caution or a conviction in court. Receiving that punishment should be the end of it for youthful mistakes. But it is far from the end of it.

Our criminal records disclosure system means that a youthful mistake can haunt you for ever – in effect be a life sentence. Conditional cautions and convictions have to be declared to any new employer for at least three months after someone has accepted the punishment, sometimes much longer. And some cautions and convictions have to be disclosed for ever. So if you set alight a toilet roll in the school toilet as a prank and got involved in a fight as a teenager and were convicted at court, those crimes will hamper your ability to get some jobs for life. The offences are revealed in an enhanced DBS check, which you need to get for thousands of jobs including teaching, childminding, care assistant, and taxi driver. Of course, an employer may still give you the job if you are a good candidate, but they could also reject you because of your criminal record.

The PCSC bill has some progressive measures to lower the barriers created by criminal records – the periods during which people with convictions have to declare them to employers will be shortened. But the criminal records checks system remains unfair – people are still faced with having to declare very old or pretty minor convictions to potential and current employers. Criminal records hold people back from applying for jobs and for promotions as many employers reject those with any record. A new campaign – www.FairChecks.org.uk (set up by the charities Transform Justice and Unlock) – is calling for public support to change the law. In particular, so that: Cautions never automatically appear on criminal records checks - - People can wipe the slate clean of childhood offences - Those who have been sentenced to very short or suspended prison sentences do not have to declare them for life

Rachel is an example of someone whose life has been completely changed by an offence committed when a teenager. She was 19 when she went to prison for four months for arson, after pleading guilty to doing 'the stupidest thing'. Despite turning her life around and staying out of trouble with the law since her conviction, the offence continues to show up on the checks which employers carry out for work in the guidance and advice sector, where she has ambitions to work. She had also wanted to study a social care degree at university but her conviction pre-

vented that. Instead, it took Rachel, now mother of a teenager, 11 years to find work because of her conviction. She couldn't go to college and had housing problems due to her criminal record. Rachel finally found work at the age of 30, mainly in the security industry which she hates. She wanted to volunteer for Citizen's Advice – but their insurance said no. 'I did the stupidest thing when I committed a crime when I went off the rails in a personal crisis. I'm not making excuses – but I've done my time and I'm still being punished 18 years on. The criminal records system is farcical and unfair. It doesn't help people not to commit crime and I've had 11 years on benefits because of it. No-one tells you when you're a teenager and reckless that stupid things you do then have implications for housing, college and education, it really gets to me and I want to scream that at young people today. I know it's important to keep society safe but people need to have a fair chance to change and rehabilitate. The records system needs to change.' If you support reform in criminal records checks, do join the movement at www.fairchecks.org.uk.

A Fresh Start for the Criminal Records System - One mistake should not define someone for life. FairChecks is a movement calling for a fresh start to the UK's outdated criminal records system, because everyone deserves a genuine chance to move on. If you support reform in criminal records checks, do join the movement at https://fairchecks.org.uk/

Prisoners Faced 'Significant Human Rights Concerns' During Pandemic

Zaki Sarraf and Jon Robins, Justice Gap: As a result of restrictions imposed during the first year of the pandemic including isolating prisoners held in conditions that amounted to solitary confinement, prisoners faced 'significant human rights concerns' according to watchdogs. The National Preventive Mechanism (NPM) comprises 21 independent bodies that inspect and monitor places of detention and its latest report published last week focuses on the calamitous impact of the Covid 19 pandemic. 'Serious safeguarding concerns were raised about the lack of social care provision for some very vulnerable prisoners with disabilities,' wrote the NPM's chair John Wadham in th report's introduction. Some children spent 'extremely limited amounts of time out of cell' which, he said, was 'both disproportionate and avoidable'. 'Almost all detainees in long-term detention settings in the UK faced issues in maintaining contact with their families as in-person social visits were suspended,' he continued.

The report confirms that the restrictions were unprecedented, widespread and lengthy – leading to patients facing severe delays before being moved to less secure facilities in the community. The NPM reported evidence of isolating prisoners being kept in conditions that 'meet the widely accepted definition of solitary confinement'. For example, HMI Prisons reported some quarantined, isolated or shielded prisoners in England and Wales were effectively held in solitary confinement 'and, in some cases, in prolonged or indefinite solitary confinement, prohibited under the Nelson Mandela Rules'. One example included a women's prison where inspectors found that 'symptomatic prisoners were isolated for seven days without any opportunities to leave their cells, even for a shower or time in the open air'. Independent Monitoring Boards also reported 'extreme measures' used for isolating prisoners in June 2020. 'At one prison, healthcare staff visited isolating prisoners only on the first and fifth day of their 14-day isolation. Concerns were expressed that prisoners were 'reluctant to reveal COVID-19 symptoms to avoid such extreme isolation'.

NPM members recorded the impact of such restrictive regimes on prisoners' mental health. For example, one IMB in an open prison noted that in normal times, fewer than 3% of those transferring from closed prisons required mental health assessments. 'In three months during autumn 2020, this rose to between 27% and 17% per month,' the report said The report highlights the plight of children in children. In May 2020, the Children's Commissioner for England reported that some children in young offenders institutions and secure training centres were allowed 'at most three hours and as little as 40 minutes outside their cells per day'. It flagged 'concerning disparities' in regimes and, for example, time out of cell was around 40 minutes at Cookham Wood, one hour at Wetherby and just over three hours at Parc. The prisons inspectorate found that nearly all children had been locked up for more than 22 hours every day since COVID-19-related restrictions began, some 15 weeks prior to their visit. By January 2021, 'indicative data' suggested that the average time out of cell for children in YOIs in England was 4 hours and 40 minutes which was up by one hour from August 2020. However, the NPM noted. this average covered 'a wide range of actual regimes' and reflected 'large differences'.

Short Custodial Sentences – Are They Effective?

Every day in Magistrates' Courts up and down the country people are being sent to prison for short sentences measured in terms of weeks or months. Whilst, presumably, all of us would accept that there are very many occasions when a custodial sentence must be imposed more and more questions are being asked about whether depriving people of their liberty for a limited period achieves anything. In a recent Guardian article John Bache, the former chair of the Magistrates Association, referred to short custodial sentences as being handed out by default. He highlighted the fact that many of the people committing multiple offences have underlying problems such as mental health difficulties or drugs and alcohol problems and said "I don't see that short prison sentences actually achieve a great deal." Commission of further offences: Obviously short sentences do mean that offenders are punished by being locked away for a period of time but it is clear that they do little to prevent further offending in the future. There is hardly any provision in prisons to address the sorts of problems that people serving these sentences often have. Once people are released they are made subject to periods of licence and supervision by the probation service for the next 12 months. However, it remains the case that nearly two thirds of people sentenced to a prison sentence of less than a year go on to commit another offence within twelve months of being released. The Sentencing Council state that there are a number of purposes that the courts must have in mind when they come to sentence someone. These are punishment, the reduction of crime, reform and rehabilitation, protection of the public and making offenders give something back. Perhaps it is time for there to be a far greater emphasis upon reform and community based sentences focusing upon rehabilitation for those convicted of less serious matters.

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