

### **Hundreds of Mentally Ill Prisoners Denied Urgent Treatment in England**

Tom Wall, BBC: Freedom of information (Fol) responses from 22 NHS trusts reveal for the first time that just over half of the 5,403 prisoners in England assessed by prison-based psychiatrists to require hospitalisation were not transferred between 2016 and 2021 – an 81% increase on the number of prisoners denied a transfer in the previous five years. In some areas, the majority of mentally ill prisoners were not admitted, which could be the result of long delays or a trust refusing to take certain patients. Norfolk and Suffolk NHS foundation trust, which was rated inadequate by the Care Quality Commission last month, only admitted 16 of 41 prisoners referred in 2021. Essex Partnership University NHS foundation trust only admitted 24 of 57 prisoners referred in 2021. Lancashire and South Cumbria NHS foundation trust only accepted 18 of the 38 prisoners referred in 2021.

Peter Dawson, the director of the Prison Reform Trust, said the figures unearthed by the investigation suggested hundreds of very ill people were being denied the treatment they needed. "It is shocking that a growing number of people are not getting the transfer to hospital that clinicians say is essential for their mental health," he said. "Instead they are languishing in often overcrowded and dilapidated prisons. It is cruel and guarantees people will leave prison in a worse state than when they came in, with every likelihood that the behaviour that originally led to their arrest and conviction will continue." The joint investigation by the Guardian and BBC Radio 4's File on 4 programme, which is broadcast on 10 May, also found that seriously ill prisoners faced long waits in breach of government targets. NHS guidelines state that inmates should be transferred within 28 days of an initial referral. But figures, obtained from the Ministry of Justice, show prisoners waiting as many as 104 days after the department received a formal transfer application – which doesn't include the time it takes to assess prisoners.

These delays – in which prisoners' mental health can rapidly deteriorate, with some self-harming and others being placed in segregation cells – are often caused by a lack of suitable beds in admissions wards in secure hospitals, where sentenced prisoners have to be treated. NHS figures released under Fol rules show that all of England's high- and medium-security hospitals were operating above the Royal College of Psychiatrists' maximum bed occupancy rate of 85% on a single day in February.

### **Difficulty With Mental Health Cases**

Mental health is not an exact science. It is often more straightforward for a clinician to reach a diagnosis about a physical illness than it is for a mental illness. An expert psychiatrist or psychologist may be asked to make a diagnosis and comment on any deterioration in the person's mental health if they were required to leave the UK (including assessing the risk of suicide). Different medical professionals, with the same qualifications and experience, may reach different conclusions on these questions as they involve an evaluative judgement.

As noted by the Upper Tribunal in the first two paragraphs of the HA headnote, this makes it all the more important that the expert provides an objective and unbiased opinion: (1) Where an expert report concerns the mental health of an individual, the Tribunal will be particularly

reliant upon the expert fully complying with their obligations as an expert, as well as upon their adherence to the standards and principles of the expert's professional regulator. When doctors are acting as witnesses in legal proceedings they should adhere to the relevant GMC Guidance. (2) Although the duties of an expert giving evidence about an individual's mental health will be the same as those of an expert giving evidence about any other matter, the former must at all times be aware of the particular position they hold, in giving evidence about a condition which cannot be seen by the naked eye, X-rayed, scanned or measured in a test tube; and which therefore relies particularly heavily on the individual clinician's opinion.

The GMC (General Medical Council) guidance referred to states at paragraph 72: You must be honest and trustworthy when giving evidence to courts or tribunals. You must make sure that any evidence you give or documents you write or sign are not false or misleading. (a) you must take reasonable steps to check the information. (b) you must not deliberately leave out relevant information. This raises the question: what information is relevant? (i) Whether the proposed expert evidence will assist the court in its task; (ii) Whether the witness has the necessary knowledge and experience; (iii) Whether the witness is impartial in his or her presentation and assessment of the evidence; and (iv) Whether there is a reliable body of knowledge or experience to underpin the expert's evidence.

### **Women at Scandal-Plagued Prison Forced to Leave Without Stable Housing**

*Maya Oppenheim, Independent:* Almost seven in 10 women at a scandal-plagued prison are being placed at risk of homelessness due to being forced to leave jail without safe and stable housing to go to, inspectors have found. A damning report into HMP Bronzefield, a private prison, warned issues with female prisoners not being properly supported for their release are compounded by an "ongoing staff shortage" in the jail. HM Inspectorate of Prisons' report into Bronzefield, Europe's largest women's jail, comes after a newborn baby recently died after her mother gave birth alone in a cell at the prison.

Charlie Taylor, chief inspector of prisons, said: "Without stable, safe accommodation many women are liable to have mental health relapses, return to substance misuse and become involved in crime on release, creating more victims and, at great cost to the taxpayer, repeating the cycle and undoing the good work of the prison." Mr Taylor added: "They will inevitably be disappointed with the scores in this inspection which have declined in the areas of respect and rehabilitation and release planning, but there is much to build on after a difficult two years." The inspection of Bronzefield, which also houses female young offenders, found a shortage of pharmacy staff resulted in delays in prisoners receiving their medication - with the independent inspectorate also finding medicine is kept in a disorderly fashion.

Meanwhile, inspectors discovered there were too many women being held in jail as a so-called "place of safety" for acute mental health issues - adding that this is "a phenomenon which is particularly common in female prisons". Peter Dawson, director of the Prison Reform Trust, said: "Despite impressive work in some areas, so many of the problems documented in this report are simply beyond the scope of one prison to solve.

"Too many women with serious mental health problems are entering prison instead of treatment and care in the community. And too many women are leaving prison without stable accommodation. The government already has a female offenders strategy which, if properly resourced and backed with a detailed plan for implementation, would go some way to fixing these problems. Vulnerable women in prison need more than warm words from ministers.

They need them to deliver on their promises.” A previous report by the Prison Reform Trust found that 80 per cent of women in jail were there for non-violent offences, while Ministry of Justice data shows almost half of all female prisoners in England and Wales say they committed their offence to support the drug use of someone else.

Dr Jenny Earle, of the Safe Homes for Women Leaving Prison initiative, argued the problem of female prisoners “being released into various kinds of homelessness has been a running sore for years”. She added: “The government is presiding over systemic failure which continues to see vulnerable women released from custody with nothing but a small discharge grant and a plastic bag; this ruinous system sets them up for failure and leaves them vulnerable to harm and to reoffending. That one woman felt forced to spend two nights in the prison gatehouse on release shows just how serious this is – the loss of liberty preferable to the risks of destitution.” Dr Earle warned “teams of housing and resettlement workers have been slashed by budget cuts and new commissioning arrangements”. Inspectors did discover some positive findings, with almost three quarters of inmates who see themselves as having a mental health condition saying they were being “decently cared for”.

### **Governments Routinely ‘Over-Policing, Over-Prosecuting and Over-Punishing’**

*Samantha Dulieu, Justice Gap:* A global criminal justice watchdog has highlighted the global trend towards ‘over-incarceration’ and the use of criminal proceedings as a punitive measure of first resort. Fair Trials argues, in a new strategy paper, that countries around the world, in particular in the light of Covid-19 lockdowns, are using criminal powers to deal with social and healthcare issues that could be better addressed in other ways. The organisation highlights that this increase in the scope, breadth, and intrusiveness of many criminal justice systems ‘poses a grave threat to justice, fairness and equality across the globe’.

The group calls on states to reverse the criminalisation of behaviour that would be better addressed through investment in poverty alleviation, education, housing and healthcare, in particular through support around mental health needs and neurodivergent conditions. The strategy also addresses the disproportionate negative impact of punitive criminal justice systems on racial and ethnic minorities, as well as other poor or marginalised groups.

Global CEO of Fair Trials, Norman L. Reimer, said: ‘While protection of the right to a fair trial is essential to prevent injustice, our work increasingly recognizes that governments are routinely over-policing, over-prosecuting, and over-punishing. And they are doing so in ways that systematically discriminate against marginalised communities, including racial and ethnic minorities.’ In the new strategy the organisation has also opposed any privatisation of criminal justice processes and the use of technology and digitised processes that ‘erode individualised justice and perpetuate pre-existing systemic flaws.’ The report singles out the use of ‘abusive surveillance’, ‘artificial intelligence’ and ‘big data’, which they describe as symptomatic of ‘overly expansive’ policing. Reimer said in a statement this week: ‘Criminal justice reform requires that we tackle inequities at every phase of the process, including overly intrusive policing practices that target minorities and the poor through the abuse of surveillance technologies and artificial intelligence, and the use of expedited procedures that systematically coerce waivers of basic rights.’ ‘Given the abject failure over decades to remedy fundamental societal inequity, it is simply no longer acceptable to employ the hammer of criminal prosecution in the misguided belief that if governments just focus on policing, prosecuting, and punishing, the criminal law will one day deliver the answer to fundamental social problems that we know are more effectively and justly addressed through improved access to education, health care, and economic opportunity.’

### **Ecuador Prison Riot: More Than 40 Inmates Killed**

*BBC News:* At least 43 inmates have been killed in Ecuador’s latest deadly prison riot, the public prosecutor has said. A fight broke out between rival gangs Los Lobos and R7 at a prison in Santo Domingo, some 80km (50miles) east of the capital Quito. Ecuador is battling a wave of gang violence, and has recently seen its most deadly prison riots in history. Parts of Ecuador are under a state of emergency because of the rising crime that has shocked the country. A total of 108 inmates escaped the prison during the riot and remain missing, the local police chief says. An additional 112 prisoners made it out before being recaptured, he added. Scores were injured in the riot, but the exact number is still unclear.

Ecuadorian newspaper El Universo reported that, according to the National Police Commander Fausto Salinas, the incident was triggered by a brawl involving the transfer of an inmate known as Anchundia into the prison. He had been one of the ringleaders who had caused a previous prison riot in April, the paper said. Pictures from outside the prison show bloodied inmates being carried from trucks to waiting ambulances. As news of the riot spread throughout the community, many relatives gathered outside the facility, distraught and desperate for news. Ecuador’s Interior Minister, Patricio Carrillo, wrote on Twitter that the government is working “to overcome the problems of the prison system, but it is complex to find quick solutions in an environment of... violence”. Nearly 400 inmates have now been killed in six separate riots since February 2021. One of the worst was in September, when 119 inmates were killed at a prison in Guayaquil in western Ecuador. Less than two months later, at least 68 prisoners died in fresh fighting at the same prison. The riots are particularly brutal, with some prisoners hacked to death, or beheaded with machetes.

### **Police Spy Who Stole Identity of Dead Baby Was Not Prosecuted**

*Rob Evans, Guardian Law:* For years, undercover police officers who infiltrated political groups regularly adopted the identities of dead children and used them to construct fake personas in what amounted to common practice in the covert deployments. Police chiefs have been forced to apologise for the use of the technique which has been condemned as being “ghoulish and abhorrent”. Prosecutors decided that it was not in the public interest to prosecute an undercover police officer who stole the identity of a dead baby, despite concluding last year that there was enough evidence to bring him to court. The police spy had taken the identity of Rod Richardson and used it when he pretended for three years to be an environmental and anti-capitalist protester. The real Rod Richardson had died two days after he was born in 1973. His mother, Barbara Shaw, pursued a long campaign to compel the police to disclose the truth of what had happened.

In 2013, political activists and the Guardian exposed Richardson’s undercover mission. At that time, Shaw said: “It’s wrong that someone took Rod’s identity without us knowing ... He is still my baby. I’ll never forget him.” Shaw died in May last year – two weeks before her family was informed by the Crown Prosecution Service of its decision. The CPS had initially concluded that there was a realistic prospect of securing a conviction against Richardson on the grounds that he had broken the 1925 Criminal Justice Act by making an untrue statement to obtain a passport. It then decided a prosecution was not in the public interest as Richardson had followed the training and working practices of the undercover unit to which he belonged. The decision was disclosed on Tuesday 10th May 2022, at the judge-led public inquiry that is examining undercover policing.

The inquiry is looking at how 139 undercover police officers spied on more than 1,000 political groups in clandestine operations that started in 1968 and ran for more than four decades. Many

of the undercover officers trawled through birth and death certificates to select suitable candidates. They then created aliases based on the details of the dead children and were issued with identity records such as passports, driving licences and national insurance numbers. The inquiry has heard conflicting explanations of why officers and their managers started using the technique in the 1970s. One explanation was they had learned that the Soviet spy agency, the KGB, used this tactic and believed it to be a secure method of creating alter egos. Another explanation was that they had picked up on it after the tactic had been popularised by the author Frederick Forsyth in his 1971 novel, *The Day of the Jackal* which was made into a film. Richardson is the last undercover officer known to have relied on this technique when he infiltrated leftwing groups between 2000 and 2003.

Fiona Murphy, representing six bereaved families, told the inquiry that they were devastated and horrified after learning that the identities of their dead children had been stolen by police spies. She said the undercover officers "developed practices that were the stuff of spy novels and movies, and the managers presided over that operation without regard for morality or legality". The inquiry is currently hearing two weeks' of public evidence that centres on the conduct of the managers who supervised the undercover operations between 1968 and 1982. A CPS spokesperson said: "We have huge sympathy for the family and understand our decision will have been disappointing, but our role is to always make fair and independent decisions based on the evidence."

#### **Sundiata Acoli: US Black Panther Wins Parole After Half a Century**

*BBC News:* A New Jersey court has granted parole to the oldest former member of the Black Panthers after nearly five decades in prison. Sundiata Acoli, 85, was sentenced to life in prison in 1974 for the murder of a police officer the previous year. Founded in 1966, the Black Panthers were a revolutionary black nationalist and socialist group espousing armed self-defence especially against police. Acoli was 35 years old at the time of the incident.

The shooting that led to Acoli's imprisonment followed a routine traffic stop on the New Jersey Turnpike. The ensuing gunfight left a New Jersey State trooper, Werner Foerster, dead, and another wounded. At the time, Acoli was traveling with Assata and Malik Shakur, two members of the Black Liberation Army, the armed wing of the Black Panthers. He was arrested after a police chase alongside Assata Shakur. Acoli has long maintained that he lost consciousness after being hit in the crossfire, and awoke to Foerster's dead body.

After being repeatedly denied parole since first becoming eligible 29 years ago, New Jersey's Supreme Court has now voted 3-2 to overturn a parole board ruling. In a written opinion on Acoli's case, the court's justices said that his prison record has been "exemplary" and that he had completed 120 programmes behind bars.

After being repeatedly denied parole since first becoming eligible 29 years ago, New Jersey's Supreme Court has now voted 3-2 to overturn a parole board ruling. In a written opinion on Acoli's case, the court's justices said that his prison record has been "exemplary" and that he had completed 120 programmes behind bars. In 2010, a state-assigned psychologist determined that Acoli "appeared remorseful" and had expressed "deep regret" for his role in Foerster's death. The psychologist's comments were echoed by Acoli at a parole board hearing six years later. "I deeply regret the actions that transpired," he said. "Those were turbulent and fearful times." But the parole board repeatedly denied his parole attempts, arguing that he could still pose a threat to the public. Writing for the majority, New Jersey Supreme Court Justice Barry T Albin wrote that the board's views were "not supported by substantial credible evidence". Among those who have spoken out against Acoli's release is New Jersey Governor Phil Murphy, who said in a statement that anyone who

kills a police officer should "remain behind bars until the end of their life". At least 12 aging members of the Black Panthers are still imprisoned in the US. The member he was arrested with, Assata Shakur - previously known as JoAnne Chesimard - has been a fugitive since a prison escape in 1977. She is believed to be in Cuba and remains on the FBI's most-wanted list. She remains to this day a hero to many US left-wing activists.

#### **Lord Chancellor Joins Calls on Law Commission to Review Criminal Appeals Process**

*Jon Robins, Justice Gap:* Dominic Raab has asked the government's official law reform body to review the controversial statutory test that has to be applied by the miscarriage of justice watchdog before referring a case back to the Court of Appeal. The Criminal Cases Review Commission, under the Criminal Appeal Act 1995, can only refer cases back to the appeal judges if it believes there is a 'real possibility' that the court will overturn the conviction. There has been increasing concern about the falling number of referrals being made by the watchdog and a perceived reluctance to take on an increasingly hostile Court of Appeal. Many critics have pointed out that this statutory test has operated as a constraint upon the watchdog including the House of Commons' Justice committee in its 2015 report and, most recently, the Westminster Commission which argued that the requirement acted as a break on the group.

In a letter to a prisoner Mark Alexander who claims to be wrongly convicted of the murder of his father, Dominic Raab struck a cautious note, saying: 'The alternative of not having a real possibility test implies that the CCRC would be referring cases where there was no real possibility of the Court of Appeal overturning them. "Real possibility" is already a far lower bar than exists, for example, when the Crown Prosecution Service has to make a decision about whether to charge someone (i.e., there has to be a reasonable prospect that a tribunal of fact, properly directed, would convict). If the CCRC were to adopt a lower bar and refer cases with no "real possibility" of success, they and other criminal justice partners would need to spend significant resources defending cases that may be bound to fail. This would have a human cost for the appellant (raising false hope) and the victim of the original offence.' However Raab then went on to say: 'Before considering this further, I need more evidence of the need for change and how that might impact on the wider criminal justice system. The Law Commission is best placed to provide such evidence which is why I have asked them to consider a review of the law in this area in the 14th work program.'

The development was welcomed by Barry Sheerman MP, chair of the All Party Parliamentary group on Miscarriages of Justice. 'This is a very promising and much needed step in a positive direction,' he commented. 'I hope it is followed by firm action from the Law Commission. Let us hope it will be accompanied by more resources for the CCRC.' One of the main recommendations of the Westminster Commission report on the CCRC, a group set up by the APPG, was to scrap the real possibility test which acted 'as a brake on the CCRC's freedom of decision'. The report called for 'a more objective test: that the CCRC is to refer a case if it considers the conviction may be unsafe, the sentence may be manifestly excessive or wrong in law, or that it is in the interests of justice to make a referral. This would encourage a different and more independent mindset.' Until the test was changed, the report's authors Lord Edward Garnier QC and Baroness Vivienne Stern urged the CCRC to be 'bolder in applying the current test and to adopt a broader interpretation of its power to refer cases in exceptional circumstances where there has not been an appeal'. The CCRC, in its response to the Westminster Commission report, backed the call.

'A review is long overdue,' said Glyn Maddocks, a special adviser to the APPG. 'For years now, critics including the likes of the House of Commons justice committee and, most recently, the Westminster Commission have called on the miscarriage of justice watchdog to be bolder and refer more cases. It needs to be supported in doing so and scrapping the real possibility test is the obvious place to start. The test means that the CCRC is obliged by statute to "second guess" the Court of Appeal and that's an inappropriate constraint upon the group – as is its completely inadequate funding. The criminal justice system needs a CCRC that's firing on all cylinders.'

\*In 2015 the House of Commons' justice committee called on the Law Commission to review the Court of Appeal's grounds for allowing appeals, as well as to look specifically at whether there needs to be a change in the law to 'allow and encourage' the court to quash a conviction where it has a serious doubt about the verdict even without fresh evidence. However, and as reported on the Justice Gap, the then Lord Chancellor Michael Gove rejected the proposal. The MPs took evidence from a dozen experts and received some 47 written submissions, but Gove rejected their work on the basis of an assurance from the organisation that was being criticised. 'We note the views expressed by the former Lord Chief Justice, Lord Judge, and we do not believe that there is sufficient evidence that the Court of Appeal's current approach has a deleterious effect on those who have suffered miscarriages of justice,' Gove wrote.

Concerns about the real possibility test have dogged the CCRC since it was established in 1997 – the journalist and former CCRC commissioner David Jessel called the test the group's 'baptismal curse'. The CCRC theoretically has power to send a case back to the Appeal court when there are no new arguments or evidence available; however, as Carolyn and Mai Sato pointed out (in their 2019 book *Reasons to Doubt*) that power has never been used. In its 25 year history the CCRC has only ever sent two cases back to the Court of Appeal a second time.

The history of miscarriages of justice was, Jessel explained at a Justice Gap debate, 'all about banging on the doors of the Court of Appeal and sending cases back until they got it bloody right – whether it was Carl Bridgewater or the Birmingham 6. Sending it back until the penny dropped. At the same event, the veteran human rights lawyer Gareth Peirce said the Court of Appeal has 'always behaved when there is an appeal like headmaster expelling a pupil: "I do not wish to see you in my school again...".'

### **Leo Norney: Soldier Wanted to 'Waste Somebody' Before Teen Died**

*BBC News:* A soldier who was at the scene when a teenager was shot dead in west Belfast spoke of wanting to "waste somebody" shortly beforehand, a former soldier has told an inquest. Leo Norney, 17, was killed in the Turf Lodge area in September 1975. Soldiers from the Black Watch regiment said he had opened fire on them. But residents said he was the innocent victim of an unprovoked attack. The original inquest in 1976 returned an open verdict. On Monday 10th May 2022, the former soldier, referred to as M2, told an inquest in Banbridge that he had falsified his previous statements and that his patrol had not been fired on the day Mr Norney was killed. The witness said he wanted Leo's family to know the truth about what happened more than 40 years ago. The bulk of his evidence centred around the actions of Cpl John Ross MacKay, who died in 2015.

**Rifle Shots Fired** - M2 said that after an attack on the soldiers' base in which no one was injured, he returned to his room where two other soldiers, referred to as M1 and M3, were there with Cpl MacKay. In a statement to the inquest, read out by counsel for the coroner Ian Skelt, M2 said: "I recall him telling me that we were going to waste somebody tonight. "I can't recall his precise language, but it was words to that effect. I recall he used the word waste. I immediately responded by saying

I would not be involved in what he was suggesting and that he must be mad." In the statement, M2 said he did not recall Cpl MacKay saying who the target would be or where or how it would happen. M2's statement described the events of the patrol before the incident in which Leo was killed.

The witness described being at a security fence in west Belfast and glancing over to Cpl MacKay and seeing him firing his rifle several times towards an area known as Shepherd's Path. He said he did not recall hearing or seeing any other gunshots before Cpl MacKay fired his rounds. M2 said M1 also fired a single round of his rifle shortly after at a Mini car parked close by, but added he could not recall where the car was struck. He recalled being ordered to take cover at waste ground and hearing a person groaning from the direction of Shepherd's Path. I looked towards the area the noise came from and saw a soldier who I recall being Cpl MacKay standing beside or on Shepherd's Path."

'Violent and Unpredictable' - He said he saw a soldier, who he believed was Cpl MacKay, point his rifle towards the ground and fire one round which he believed struck the concrete path. M2 told the hearing he did not see a body from his position, but recalled hearing Cpl MacKay kicking an unseen object on the ground. When asked by the coroner why he gave a false narrative of events, M2 said he was scared of Cpl MacKay who was a "violent and unpredictable person". I had just seen what I had seen and I wasn't going to put myself in a position of going out on patrol with someone who had done that," he said. If he had done that to somebody that he didn't know, what was the next thing? He had a lot of influence, I wasn't prepared to put myself in harm's way." M2 told the inquest that before now, he had been scared to tell the truth. But he added: "If I could turn the clock back, it would not have happened. "I am deeply sorry Leo Norney died and his family had to suffer."

### **Global Prison Population Hits All Time High as 400,000 New Jail Places Created**

Jon Robins, Justice Gap: Over the last year 24 countries announced plans for or started building new prisons facilities creating at least 437,000 more spaces worldwide. The extent of this global trend is revealed in a report published today by the Penal Reform International (PRI), together with the Thailand Institute of Justice. Despite calls to reduce prison numbers over concerns about the pandemic on vulnerable prisoners, the group reckoned the global prison population had hit an all-time high with an estimated 11.5 million people in prison worldwide and some 119 countries operating above their official prison capacity including 11 with occupancy levels higher than 250%.

In February our government confirmed plans to 'deliver the biggest prison-building programme in more than 100 years'. 'Our unprecedented prison-building programme is the largest in more than a century and will deliver an additional 20,000 prison places by the mid-2020s,' said the Lord Chancellor Dominic Raab. The PRI note that the prison population in England and Wales has 'almost doubled in 25 years' and reports, on government projections, there will be a further increase of just under 100,000 places by 2026, as a result of the recruitment of an extra 23,400 police officers.

'With overcrowding in prisons affecting every corner of the world it is clear that no government can build their way out of this problem,' commented Olivia Rope, the PRI's executive director of Penal Reform International. 'The human rights of people in cramped conditions are at even greater risk with the combination of increasing violent conflicts, the impacts of climate change with disastrous natural hazards and extreme temperatures coinciding with the ongoing global COVID-19 pandemic. The solution is clear and well-evidenced – rather than expanding prison capacity, we need an expansion in the availability and use of alternative sanctions that decrease prison numbers, coupled with decriminalisation and depenalisation of certain offences.'

The PRI highlight the large proportion of the the prison population comprising young adults in England and Wales – see table. The report reports that studies have found that children and young adults ‘often come from backgrounds involving violence, abuse and exploitation’ and, for example, 45% of the children and young adults in a youth justice centre in New Zealand had been ‘in child protection and came from backgrounds of trauma and neglect’. It continued: ‘The experience of young women coming into contact with the criminal justice system in England and Wales is also frequently underpinned by experiences of violence, abuse and exploitation, poor mental health, addiction, exclusion from education, poverty and having no safe place to call home.’

Some countries, the PRI say, are ‘explicitly following’ an ‘American model’ of massive prison complexes. In Egypt, the President announced last September that an ‘American-style’ mega prison will soon be opened with a reported capacity of 30,000. In Turkey, the floorspace of new prisons constructed after 2016 has reportedly increased by an average of 50%, compared to the period between 2012 and 2016 when the failed coup took place. According to PRI, Turkey accounts for more than half of the 437,000 new spaces, and Sri Lanka one fifth, with both countries adopting US-style mega prisons. The report also identifies a general trend towards bigger prisons in ‘more remote locations, which can limit the availability of services and the ability of families to visit their loved ones in prisons far away’. The PRI notes: ‘A movement to reverse this trend of large prisons in favour of smaller prisons is garnering support. In Europe, a network of organisations, Rescaled, is advocating for a shift away from prisons to the concept of small-scale detention houses. Support centres around the growing body of evidence that prison architecture and design is critical to achieving humane treatment of people imprisoned and achieving positive outcomes.

### **No More Free Phone Calls For Women In Prison**

*Inside Time:* Free telephone credits worth £10 a week for every woman in prison, which were introduced by the Government to avert a mental health crisis in female jails, have been quietly abandoned. Shortly after the Covid pandemic struck in 2020, when social visits were suspended, free phone credits were introduced for all male and female prisoners in England and Wales. Men received £5 a week while women received £10 a week, in recognition of the extra importance of family contact to women in prison.

The free calls for men were halted last October, as social visits restarted. At the time, a decision was taken to continue with the free calls for women, because self-harm rates in women’s prisons increased during the pandemic and are now seven times higher than in men’s prisons. However, the free calls stopped at the start of April in most women’s prisons. No public announcement was made. Confirming the move to Inside Time, a Ministry of Justice spokesperson said the free calls stopped at the end of March at most women’s prisons, and would be phased out entirely by the end of June. The spokesperson added that free calling had always been intended as a temporary measure to help prisoners stay in touch with family and friends while no social visits were taking place.

Explaining the decision to give women in prison more free phone credits than their male counterparts, Jo Farrar, chief executive of HM Prison and Probation Service (HMPPS), told the Commons Public Accounts Committee in February 2021: “We have been particularly concerned about the self-harm figures for women during this period. Women have really struggled, I think, through the COVID period, so we have had a taskforce looking specifically at women in custody during this period, and [introduced] a number of things to help them –

such as the PIN credit, across the estate but slightly additional for women. With 3,200 women currently in custody in England and Wales, continuing with the £10 a week free phone credits would have had a notional cost to HMPPS of £1.7 million per year. Other temporary measures introduced to help both male and female prisoners during the Covid crisis, such as additional food packs and free television rental, ended last October at the same time that men stopped receiving free phone credits. The installation of landline telephones was also accelerated during the Covid crisis so that every woman in prison now has a phone in her cell, whereas many male prisoners still rely on payphones on landings which they can only access during the short period each day when they are allowed out of their cells.

### **Child Defendants in the Pandemic – Did the Wheels Of Justice Keep Turning?**

*Transform Justice:* Should a child learn that they have been convicted of murder while they are on video and everyone is in the courtroom? That happened last summer at Reading Crown Court. The 14 year old defendant had been in court for the rest of his case but someone who lived in his accommodation (a YOI/secure children’s home) tested positive the day the jury was ready to give their verdict. The boy had not tested positive for covid but was not allowed to come to court. The judge decided it was in the interests of justice not to delay the verdict until the defendant could come to court. That meant the child heard the verdict in a separate room, connected only by video, without his lawyer with him or anyone else whom he knew well. Should we ever put a child in this position, pandemic or not? Someone involved justified it – the boy and everyone else would have had to wait a couple of weeks for the verdict if the defendant had not been on video. But I’m not convinced. It seems totally inhumane for a child to hear they have been convicted of murder on a video link. Could he not have had a rapid PCR test? Or been removed from that accommodation immediately to return to court in a few days (assuming he still tested negative)?

That story speaks volumes of the huge (perhaps unjustifiable) compromises that were made in the name of protecting people in courts from Covid. But even recently I heard of another example where compromises were still being made in the name of keeping the wheels of justice turning. In a London Crown Court a joint enterprise murder trial was being held. Most of the defendants were children when the offence occurred but have now turned 18 and are being held in a London prison, not far from the court at the crown flies. The court didn’t have enough cell staff to look after all the defendants so the judge asked these young defendants if they would like to attend the hearing on video from the prison. Some agreed. But during the hearing their camera was turned off so nobody, including the jury, could see whether the defendants were actually there or not. On at least one occasion they appear to have been taken away from the video link room by staff prison staff while the trial was still in session – from 11.30am until lunch – with the court blissfully unaware the defendants were not present. Without young defendants present in the court, how could anyone know they “effectively participated” – understood what was going on and could communicate with the court? If they missed any of the proceedings, they may have missed some witness evidence they believed to be untrue.

All the evidence we have about young defendants who appear on video suggests they find it more difficult to effectively participate. Covid experience has reinforced this. Over a hundred Youth Court magistrates contributed to Magistrates’ Association research on justice during the pandemic. An overwhelming majority of youth court magistrates who responded were negative about the use of video. Many had experienced hearings where the child (under 18 year old) defendant was on video from police custody/prison/community and nearly all had experience of defence or prosecution appearing on video. Youth court magistrates found it more diffi-

cult to engage with children on video and to get them to understand the approach of the youth court. “Without all parties in court together, [it was] impossible to have a conversation and let the [child] know we were working for the best result for him/her.”

Magistrates felt children found it difficult to understand people’s roles when there were many appearing on different video links. Magistrates also felt remote links should be used for some administrative hearings; but posed challenges when used for substantive hearings: “Remote links have their place, for example the prisoner remaining in prison. But advocates are less effective when using links, and evidence is often harder to discern. The quality and reliability, and ease of establishment of links must be improved if courts are to benefit from an expansion of their use.”

A new report from the AYJ on youth justice in the pandemic reinforces concerns about using video links for child defendants. A lawyer interviewed echoed magistrates’ concerns about the suitability of defendants appearing from the community: “A very vulnerable young person, a 14 year old, charged in relation to county lines...he ended up taking the video link... from a car and there were a lot of technical issues ...by the time all the tech was sorted, it was already an hour and he was quite visibly distressed...I just thought that was just not appropriate for a 14 year old” – Youth justice lawyer. People made compromises in the pandemic to keep the wheels of justice moving. Everyone went an extra mile to try to prevent child defendants appearing on video. (Shout out to the Met and West Yorkshire police who resisted pressure to have children appear on video from police custody). But when children did appear on video, it confirmed that those who struggle to participate in actual court will nearly always find video disconnects them even further.

### **Prisoner Tried to Swap Places With Brother**

*Inside Time:* A bold attempt by a prisoner to escape by swapping places with his brother during a social visit has been foiled by sharp-eyed staff. The 24-year-old prisoner was said to have handed over an armband which residents are required to wear in the visits hall at the UK’s newest prison, HMP Five Wells. His brother put it on and joined other prisoners who were returning to their cells at the end of visiting time. The Sun, which reported the incident, said that a prison officer spotted the difference in clothes between the two men and challenged the armband-wearing brother before the prisoner was able to walk out with the other visitors. Following the incident on April 11, the prisoner – who was sentenced last year to a five-year term – was reported to have been sent to the jail’s Care and Separation Unit and put on the Escape List. He was later said to have been transferred from category-C Five Wells to category-A Woodhill. A spokesperson for G4S, the private contractor which operates Five Wells, told the newspaper: “Vigilant staff immediately intervened and there was no security breach. A Northamptonshire Police spokesperson said: “An investigation into the incident took place.” Initial reports of the incident alleged that the two men were identical twins, but it was later said that this was not the case, and they are just brothers.

### **Prison Governor Jailed For Text Messages to Prisoner**

*Inside Time:* The 47-year-old woman, who worked as Governor at HMP Onley and is married to another member of staff there, called the 30-year-old prisoner “babe” in WhatsApp messages recovered from his phone after it was found in April last year. A photograph of her was also on the phone. She pleaded guilty to an offence under Section 44 of the Serious Crime Act 2007 of engaging in communications with an illicit mobile. She had worked for the Prison Service for 20 years and passed exams to reach governor grade five years ago.

Sentencing her Northampton Crown Court, Her Honour Judge Adrienne Lucking said:

“The training and requirements for the standard of conduct for governors would have been very clear in your mind. Your offence is aggravated by your serious breach of trust; such conduct undermines the safety and good order of Her Majesty’s prisons. It was a highly inappropriate relationship – that was clear from the messages recovered. Your culpability was high. Because of the position you are in, the only punishment in this case is imprisonment.” The prisoner was handed a two-year sentence for possessing the illicit phone.

In a victim impact statement to the court, the prison’s deputy governor said that “corruption” in a prison can have a “far-reaching” impact and affect “trust between staff and prisoners”. Det Insp Dan Evans, who led the police investigation by the East Midlands Special Operations Unit which led to the two arrests, said the governor “was a senior figure within the Prison Service, a public servant expected to behave to the highest standards, but this was serious misconduct on her part and only serves to erode confidence in the service as well as potentially undermine the complete security and good order needed to run a prison”. He added: “This was a complex investigation, but working in partnership with colleagues in the Prison Service, I’m pleased we have rooted out a corrupt senior prison officer.”

### **Powers For Magistrates to Send People to Prison 12 Months Have Come Into Force.**

*Inside Time:* The Ministry of Justice announced on May 2 that a change in sentencing rules has taken effect throughout England and Wales. Previously, magistrates were only able to jail people for a maximum of six months. The new powers affect people convicted on a single count of a “triable either-way” offence, such as burglary – in which defendants are allowed to choose whether to have their case heard by magistrates or in a Crown Court. When someone is convicted in a magistrates court and the magistrates feel that they deserve a longer sentence, they can be referred to the Crown Court for sentencing. When Parliament approved the rule-charge earlier this year, to increase the maximum sentence that can be imposed by magistrates, the Government claimed it would allow magistrates to deal with more cases, thus helping to cut the backlog of cases in the Crown Court – which grew during the Covid pandemic as some courts were shut. Announcing that the new powers had come into effect, Justice Secretary Dominic Raab said: “We are doing everything in our power to bring down the court backlog, and doubling the sentencing powers of magistrates will create more capacity in the Crown Court to hear the most serious cases.”

The move was welcomed by Bev Higgs, National Chair of the Magistrates’ Association, who said: “The Magistrates’ Association has long called for this measure; it will lead to more timely justice that can only benefit all court users – defendants, complainants and witnesses.” However, legal experts claim the impact of the change will be uncertain, because some defendants who previously chose to have their cases heard in magistrates courts in the hope of a shorter sentence may now opt to go to Crown Court instead, thus increasing the backlog rather than reducing it. People given longer sentences by magistrates may also appeal to the Crown Court in larger numbers. The Government has included an “off switch” in the legislation, so that the change can be reversed if it does not have the hoped-for effect. Legal commentator Joshua Rozenberg, the former presenter of BBC Radio 4’s Law in Action, said: “Will these reforms reduce the backlog of cases waiting to be tried in the Crown Court? The only honest answer is that nobody knows. That’s why the government has given itself the power to change its mind.”