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

MOJUK: Newsletter 'Inside Out' No 584 (26/05/2016) - Cost £1

Court Finds Requirement to Self-Declare Criminal Convictions is in Breach of ECHR

Mr Justice Treacy, sitting in the High Court today, found that the statutory framework which requires persons with more than one conviction to automatically disclose them to employers violates Article 8 of the ECHR and is not "in accordance with the law" under Article 8(2) of the Convention. On 10 July 2015, Mr Justice Treacy found that the statutory framework that provides for the automatic disclosure of criminal convictions to employers is indiscriminate and unlawful because in the case of any person with more than one minor conviction it mandates the disclosure of all minor convictions and that those minor convictions will be available for disclosure forever, whereas a person with a single minor conviction will have that expunged from the records to be disclosed after 11 years. The judge also found that the statutory framework violates Article 8 of the ECHR in that it does not permit consideration of the relevance of the information to be disclosed or the proportionality of the disclosure.

The Department of Justice ("the respondent") appealed against this decision. On 8 March 2016, the Court of Appeal remitted the case back to Mr Justice Treacy to hear further argument and decide on the following matters: • Whether the self-declaration part of the scheme under the Rehabilitation of Offenders (Exceptions) (NI) Order 1979 ("the 1979 Order") is lawful; and • Whether the infringement of the applicant's rights under Article 8(1) ECHR is "in accordance with the law" under Article 8(2) of the ECHR.

The Obligation to Self-Declare Criminal Convictions: The applicant was convicted of four seat belt related offences arising out of an incident which took place on 4 May 1996 and was convicted of a further two seat belt related offences arising out of an incident which occurred on 17 June 1998. She was required to disclose them in a self-declaration form when applying for employment as a social care worker. The parties agreed that the statutory disclosure framework has "twin pillars": • The provisions of Part V of the Police Act 1997 ("the 1997 Act") (as amended) which provides for the disclosure on a criminal record certificate of any conviction where the person concerned has more than one criminal conviction of any kind; and • The self-disclosure arrangements under the 1979 Order (as amended in 2014) which provide that only certain convictions which are protected would not have to be disclosed in the course of an application for certain excepted classes of employment.

The court heard that both statutory regimes operate to catch persons who have been convicted of more than one offence and that the only difference between the two pillars is that on the one side the State stores and discloses the criminal record information upon receipt of an application or request to do so, whereas on the other side it is the job seeking applicant who is compelled by the statutory regime to make the disclosure if he/she wishes to be considered for a job. The applicant contended that Article 8 is engaged whether the disclosure of conviction material is made by the State or whether it is released by the job applicant as a condition precedent to engaging in a recruitment process or for receiving an offer of employment. She argued that the nature of the disclosure required is essentially the same.

Mr Justice Treacy accepted the applicant's argument that this approach overlooks the reality that a blanket disclosure approach is applied to those who acquire two or more convictions. He said it was simply not necessary to operate a system which requires the applicant to disclose her historic convictions for minor offences and for Access NI to reveal them on an Enhanced Disclosure Certificate ("EDC") for evermore. The judge said he had already found that the framework in Part V of the 1997 Act was unlawful and agreed that his reasoning was equally applicable to the self-declaration regime under the 1979 Order: "The applicant is required under the 1979 Order to disclose all of her minor convictions, and she will continue to be required to make these disclosures for so long as she wishes to engage in employment in the social care profession. The self-declaration arrangements are capable of producing precisely the same "irrational situations" or arbitrariness as the court identified at paragraph 40 of its judgment in respect of enhanced disclosure certificates ". Mr Justice Treacy therefore found that the requirements imposed by the 1979 Order interfere with the applicant's Article 8 rights and that there is no rational connection between the interference (caused by the requirement to self-declare minor offences committed nearly 20 years ago) and the objective of safeguarding vulnerable people. He also held that the requirement to self-declare violates Article 8 since the interference with the applicant's rights fails the test of "necessity".

In Accordance with the Law: The court was not initially invited to consider whether either pillar of the criminal convictions disclosure framework also failed to satisfy the first limb of Article 8(2) ECHR, namely whether the interference with the applicant's Article 8 rights was "in accordance with the law". The applicant submitted that both parts of the scheme failed to satisfy the requirement of legality because of the arbitrariness of the scheme and the absence of any mechanism to challenge the arbitrary outcome. Mr Justice Treacy said that where the State manages and stores criminal record data, it risks arbitrariness and it is likely to fail to meet Convention requirements as to the quality of the law if it discloses that data to third parties without regard to: the nature of the offence, the disposal in the case, the time which has elapsed since the offence took place or the relevance of the data to the employment sought; and if it fails to institute any mechanism for independent review. He considered that the fundamental flaw in the scheme is that a process for independent review was not in place at the time of the decision and that the approach of the scheme was so rigid and mechanistic that it produces arbitrary results.

The judge said that the review mechanism is focused on the contents of the criminal record and EDCs and provides for the possibility of removing spent convictions from these certificates if the independent reviewer is satisfied that removal will not undermine safeguarding or protection considerations. He noted however that the mechanism does nothing to address the interference with Article 8 inherent in the self-declaration arrangements under the Rehabilitation of Offenders legislation: "There is real force in the contention that the belated introduction of the review mechanism to enable a challenge to be brought to the content of the certificates points up the unlawfulness of the arrangements which were put in place at the time when the applicant was compelled to enter the impugned scheme in 2014." The judge said the respondent was plainly aware of the importance of a review mechanism when it introduced the changes in April 2014 and he referred to legal advice to the effect that "there needs to be some provision for a person to ask for discretion to be exercised in their particular case and that the absence of a review mechanism might render a scheme as wholly disproportionate".

Mr Justice Treacy said that the applicant is placed in the invidious position of either making the declaration and providing the criminal record information (thereby causing an interference with her Article 8 rights) or of protecting her right to privacy with the consequence that she would

in all likelihood have to walk away from the job application process. He said this state of affairs would continue indefinitely because the arrangements are not time limited as there is no cut off period for those with more than a single conviction. The judge accepted the submission that the arrangement under the 1979 Order is no less stringent and no less harmful for the fact that it is the citizen who is required to make the disclosure and not the State. He said it is the same private/personal data which is at stake and agreed that this aspect of the framework under the 1979 Order suffers from the same condition of "arbitrariness" which befalls Part V of the 1997 Act. Mr Justice Treacy concluded that the 1979 Order violates Article 8 ECHR since the interference with the applicant's rights fails the test of "necessity" under the second limb of Article 8(2) ECHR and that the 1979 Order and Part V of the 1997 Act each fail the requirement as to the quality of law under the first limb of Article 8(2) ECHR and, for this reason also, the applicant's rights under Article 8 ECHR have been violated. The Court of Appeal will reconvene to consider the respondent's appeal following the delivery of this judgment.

JR of Decision To Exclude Murder of Caroline Moreland In "Stakeknife" Investigation

Mr Justice Colton, sitting in the High Court today, granted leave to seek a judicial review of the Chief Constable's decision not to carry out an investigation into the murder of Caroline Moreland in the context of his investigation into the alleged activities of the agent known as "Stakeknife". The application was brought by Marc Moreland ("the applicant"), the son of Caroline Moreland who was abducted from her home in Belfast on 2 July 1994. Her body was discovered near Rosslea in County Fermanagh 15 days later. The applicant averred that she was abducted, interrogated, tortured and eventually shot by the IRA on the basis of an allegation that she had been working as an informer for the security services. He produced a transcript which it was claimed was taken from an audio recording of part of her interrogation in which she admitted passing on information to the security services about IRA activities. Caroline Moreland's death was investigated by the RUC but no person has to date been charged or prosecuted. The court was referred to an extensive body of material dating from 2003 onwards commenting on the activities of what has been referred to as "the IRA's internal security unit" and in particular the role played by a British agent allegedly known by the name "Stakeknife". It was alleged that he played a leading role in this unit and that he was permitted to continue his engagement with the IRA in order to enhance his position therein and to provide intelligence to the security forces. As a consequence it was alleged that he was directly involved in a series of murders including Caroline Moreland.

On 21 October 2015, the Director of Public Prosecutions announced that he has requested the Chief Constable to investigate a range of offences which relate to the activities of "Stakeknife". The investigations will seek to examine the full range of offences alleged to have been committed by the agent and any criminal activity that may have been carried out by security service personnel. The applicant issued judicial review proceedings challenging the Chief Constable's approach to the investigation, seeking an order compelling the PSNI to adopt a thematic or overarching approach to the investigation and to devote more resources. Mr Justice Colton said that the central issue in this case is whether or not the PSNI have a current legal obligation by reason of Article 2 of the ECHR to conduct a further investigation into the murder of Caroline Moreland. He held that, for the purposes of a leave application, there is an arguable case that Article 2 is engaged, that there is an arguable case that there is sufficient material to meet the evidential test, and that the PSNI is under an obligation to take further investigative measures.

The judge said it is important to recognise that he is only, at this stage, deciding the issue of whether he should grant leave to apply for judicial review. He said it is not the role of the court to become involved in the supervision of the investigation of a crime or to interfere with the operational decisions of an investigating authority without some clear breach of public law. He added that the court should also not impose a disproportionate burden on the investigating authority. Mr Justice Colton granted leave to the applicant to seek a judicial review of the Chief Constable's decision not to carry out an investigation into the murder of Caroline Moreland in the context of his investigation into the alleged activities of the agent known as "Stakeknife". The grounds upon which he granted leave are that it is arguable that the Chief Constable of the PSNI is under an obligation to carry out an Article 2 compliant investigation into the death of Caroline Moreland and that he has arguably acted unlawfully by reason of a failure to include an investigation into her death as part of the investigation into the activities of "Stakeknife"; the delay; the requirement to ensure an independent investigation; and a failure to involve the next of kin of the deceased to the extent necessary to safeguard their legitimate interests.

Still Fighting the Complacency at the Heart of Our Justice System

David Rose reviews Bob Woffinden's 'The Nicholas Cases: Miscarriages of justice used to be big news, and investigating them commanded big media budgets. In the 1980s, both Granada and Yorkshire television invested heavily in the issue, making films with high production values and months of research devoted to the cases they chose to examine.

In the nineties, both Channel 4 (Trial and Error) and BBC 1 (Rough Justice) had programme strands that covered nothing else. Print journalists – myself included – found newspaper editors keen and receptive to story ideas. Back in that glorious day, Bob Woffinden, then a freelance writer, was sought out by a large, mainstream publisher, Hodder & Stoughton, and secured an advance for his first book, which came out in 1987. Entitled simply Miscarriages of Justice, it presented both compelling narratives, on cases including the Guildford Four and the Birmingham Six, and cogent analysis on where the system was going wrong.

Perhaps we were all just too successful. In October 1989, in a special, hastily convened session of the Court of Appeal held at the Old Bailey, the old regime self-detonated. A stony-faced Lord Chief Justice Lane listened to prosecutor Roy Amlot QC explain that the shibboleths that had governed his entire working life, that police should be trusted and the confessions they secured were, almost invariably, genuine, were bogus. In fact, Amlot revealed, forensic analysis of the confessions to bombing public houses made by the Guildford Four had been fabricated: that in his unforgettable, unadorned words, 'the police must have lied.' That things had come to this point was largely the result of journalists who had been trying to demonstrate such things for years. In its wake came more high profile appeals, a Royal Commission on Criminal Justice, and the establishment of the Criminal Cases Review Commission – all desirable and positive things.

But along with all that came something else – a growing sense of complacency that British justice really was again the best in the world. Nowhere was that stronger than among the editors and programme commissioners who had once championed journalists such as Woffinden. Our courts, it was argued with increasing frequency, generally get it right first time, but when they don't, the system has the integrity to correct their verdicts. As a still-working investigative reporter, I know only too well how difficult it is to secure funding and support of the kind which used to be available. Reporting on miscarriages of justice has not gone away. But it's often carried out at the expense of those who still do this work, who when they embark on a case, can

have no great expectation of reward. If only that complacency were well-founded. As Woffinden shows in this new, essential book, nothing could be further from the truth, and if anything, in the wake of swingeing legal aid cuts, the situation is getting worse, not better. The principle of 'equality of arms' has been eroded to vanishing point. Bogus confessions have become far less prevalent, but in their wake have come convictions based on 'junk science' and media prejudice, in which juries have convicted on a basis just as flimsy as their predecessors four decades ago.

Meanwhile, the CCRC, gravely underfunded, weighed down by an ever increasing backlog, is simply unable to take up the slack. Woffinden argues it is also hampered by far too conservative an interpretation of its 'real possibility' test, which requires it to ask before making a referral to the Court of Appeal whether such a possibility exists of the verdict being quashed. He also says that in cases where the CCRC does refer, the court should simply grant an appeal after a formal ten minute hearing, and order a retrial.

The book's somewhat curious title refers to St Nicholas, aka Santa Claus, who partly owed his sanctification to saving three innocent men from execution in 330 AD. Most of its substance is, of course, more recent: accounts of ten cases, which saw people who were palpably not guilty or had deeply unfair trials imprisoned, most of them for life. Some are well-known. One of the most heartbreaking concerns Gordon Park, convicted of killing his wife Carol after her body was found in Coniston Water in 1997, 21 years after she vanished. Woffinden shows that the evidence against him was exiguous, and manipulated both by the media and police. Shockingly – albeit very conveniently – all records of the missing persons inquiry that dealt with her disappearance in the 1970s had 'disappeared'. Sentenced to life, and then denied an appeal, Park eventually committed suicide.

Another is that of the music mogul Jonathan King, jailed as a paedophile in 2001. Here the Crown altered its case at a very late stage, arguing that his offences were committed on different dates from those originally claimed. Subsequently, through exhaustive research, King has been able to prove that on the 'new' dates, when he was supposedly abusing a teenage boy in London, he was in fact in America. In any rational system, this ought to constitute overwhelming evidence he was wrongfully convicted. Yet he too has not been granted an appeal, and his huge contributions to the history of pop music have been airbrushed from public memory.

Other cases Woffinden examines are equally dismal – and ought, in any fair-minded reader, to induce a sense of rage. There is, for example, Glyn Razzell, convicted of murdering his estranged wife – whom a highly credible witness who knew her well saw after she disappeared. Throughout, Woffinden lets the facts speak for themselves, and writes in a clear, calm and highly readable prose. There can be no more vivid indication of the crisis of complacency referred to above than the fact that he has had to finance these investigations himself, while the book is, essentially self-published. It deserves the widest possible readership and impact.

Pfizer Acts to Stop Its Drugs Being Used in Lethal Injections *BBC News*

It has emerged that the largest US pharmaceutical company, Pfizer, recently took steps to prevent its drugs being used in lethal injections. "We strongly object to the use of any of our products in the lethal injection process for capital punishment," the company said. It stressed that its products were meant to save the lives of patients. The move reportedly shuts off the last remaining open market source of drugs used in executions in the US. Lethal injection has long been the most common form of execution in the US. Traditionally states relied upon a combination of drugs to put the inmate to sleep and restrict his breathing, leading to a cardiac arrest. A European Union ban on the export of such drugs in 2011 prompted American drug manufacturers to follow suit, leaving officials in search of new drug cocktails by which the lethal injection could be achieved. Two years ago an Oklahoma inmate - Clayton Lockett - took 43 minutes to die after being administered an untested mixture of drugs.

The decision follows similar moves by more than 20 US and global drug-makers, according to a New York Times report. In a statement published on its website last month, Pfizer said seven of its drugs would only be sold to purchasers on condition that they would not resell them to correctional institutions. Pfizer said it offered the products because they saved or improved lives, and marketed them solely for use as indicated in the product labelling. "Pfizer makes its products solely to enhance and save the lives of the patients we serve," it said. "We are committed to ensuring that our products remain available and accessible to the medical professionals and patients who rely upon them every day." Human rights groups have long campaigned against using medicines for the purpose of capital punishment.

Asylum Seeker Through 90 Eggs at the Home Office Richard Spillett, MailOnline

An illegal immigrant who hurled 90 eggs at the Home Office headquarters because they had refused to grant him asylum in UK will be allowed to stay here. A court heard. Feridon Rostami screamed 'f***ing criminals' as he launched the barrage at the government office in Westminster in February this year. But despite being convicted of causing criminal damage and refusing to apologise for his actions, the 32-year-old is staying in Britain because Iran refuses to have him back. The Iranian's actions cost £405.37 to clean up from the side of the building after he was arrested at the scene on 2 February. A security guard reportedly ran for cover as Rostami carried out the protest with £7.29 worth of eggs bought from an off-licence in Shepherd's Bush. Prosecutor Les Rowley told Westminster Magistrates' Court: 'Mr Rostami has thrown 90 eggs at the building which we say is criminal damage because of the cleaning costs. He was aggravated by how the Home Office dealt with his asylum claim.' Rostami denied causing criminal damage and using threatening or abusive words and behaviour but was convicted after a trial. He insisted he had the right to protest at his treatment and thought the rain would wash the egg yokes off the building.

Kathleen Mulhern, defending, said: 'He's a man who feels highly aggrieved by his history at the Home Office, his choice of protest he believes was perfectly right in order to highlight his grievances.' Magistrates rejected Rostami's defence and handed him a 12-month conditional discharge and ordered him to pay £405.35 compensation to cover the cleaning costs. Chair of the bench Ronald Smith said: 'We have heard your own admissions that you did undertake the action alleged of throwing eggs. We don't consider your actions to be proportionate in the way that you protested so we find the criminal damage charge against you proved.' He continued: 'There is no dispute the language used took place. The offence is clearly made out in that the behaviour on that day did amount to threatening abusive or insulting words or behaviour.'

Rostami has been in legal limbo since coming to the UK illegally in 2005 claiming he was under threat of execution by the Iranian regime. The Iranian Kurd claims his father was killed there in 1991 and he says he is at risk of 'torture then murder' because he is a 'radical atheist' and part of a threatened ethnic group. Despite denying his asylum claim, the Home Office have been unable to deport Rostami because Iranian authorities refuse to take him without documents to prove his nationality. Rostami has previously been detained for refusing to cooperate with the documentation process, but in August 2009 Mr Justice David Foskett ruled he should be

released while there is no prospect of sending him back to Iran. The court heard he now gets by with a weekly £35 voucher from the Home Office that he can use in Tesco or Sainsbury's.

Speaking after his conviction, Rostami said he respected the magistrates' decision but remains frustrated with the handling of his asylum claim. 'If I go to Iran I will be tortured then murdered, I'm a radical atheist, I'm an advocate of atheism, a student of Richard Dawkins and Christopher Hitchens as well,' said Mr Rostami. 'I'm an Iranian Kurd as well so we always have problems with the regime but the main reason is the Iranian foreign policy which I have always disagreed with, particularly their attitude towards the state of Israel, their misogynist views, their treatment of women, and their disregard and neglect of the disabled.' Rostami, of Hayes, west London, must pay the compensation within four months.

CPS Remind Police the Dead Cannot be Prosecuted *Rachael Pells, Independent*

Chief constables have had to be reminded that the dead cannot be charged with criminal offences, after the Crown Prosecution Service complained of receiving a number of requests regarding dead suspects. CPS director Alison Saunders had to issue the notice to senior police officers to stop them from presenting CPS lawyers with endless files of evidence on dead suspects. In a directive published on the CPS website, Ms Saunders said: "Since deceased persons cannot be prosecuted, the CPS will not make a charging decision in respect of a suspect who is deceased. This applies in all cases where the suspect is deceased, including cases in which the police made a referral to the CPS for a charging decision prior to the suspect's death. The CPS will also not make hypothetical charging decisions." The advisory comes as prosecutors and police deal with a huge increase in investigations into past child abuse cases, including disclosures about Jimmy Savile. Prosecutors anticipate the number of historical cases being presented to continue to rise as the Goddard inquiry into institutional child abuse begins its public hearings into alleged cover-ups in Lambeth, the Catholic church, the Church of England and Westminster. Operation Hydrant, the primary national investigation into "non-recent" child sexual abuse, which is liaising with the Goddard inquiry, has more than 2,228 investigations on its database, including investigations into 302 people of public prominence. The suspects involved include 286 dead people.

Last month the former head of Britain's police chiefs called for less money to be spent on historical child abuse cases and more attention given to current cases. Sir Hugh Orde said resourcing a historical investigation over current day cases was a "back to front" way of using limited resources. The CPS said in its new advice that police may want to continue an investigation if a suspect dies during their inquiry, because living suspects could be linked to the dead person. However, Ms Saunders said, lawyers would not be giving hypothetical advice on whether the deceased could have been charged. "When advising on or making charging decisions in such cases, the CPS may need to consider the role played by the deceased suspect, and the evidence against that suspect," the guidance said. "Although the CPS may undertake a detailed review of the evidence against the deceased in these circumstances, it will not make a charging decision in respect of the deceased."

A Dead Loss!

Munich police have suggested alcohol might have been involved in the case of a 24-year-old funeral worker who lost a hearse with a body inside. The man stopped for lunch in Munich while transporting a woman's body from Italy to Poland, but couldn't find the vehicle again afterwards. He told police he had parked it "somewhere near the main railway station". It later turned up, unharmed, on the other side of town. There was nothing to suggest it was stolen or moved.Local police, hinting that he had too many drinks with lunch, said: "He wasn't very helpful and we think that alcohol may have come into play."

Use of Force Should be a Last Resort In Jails, Says Ombudsman

Staff face enormous challenges in keeping order and control in prisons, and the use of force must always be an option, but it should be a measure of last resort, said Prisons and Probation Ombudsman (PPO) Nigel Newcomen. Today he published a bulletin on further lessons that can be learned from investigations into complaints about the use of forcePrison Service policy on the use of force is set out in Prison Service Order (PSO) 1600 which says that "the use of force is justified and therefore lawful, only if: it is reasonable in the circumstances, it is necessary, no more force than necessary is used and it is proportionate to the seriousness of the circumstances." PSO 1600 makes clear that the type of harm the member of staff is trying to prevent should be considered. This may cover risk to life or limb, risk to property or risk to the good order of the establishment.

The PSO also states that staff should always try to prevent a conflict where possible and that control and restraint (C&R) "must only be used as a last resort after all other means of de-escalating the incident, not involving the use of force, have been repeatedly tried and failed." A previous bulletin on this subject, published in 2014, highlighted learning for prisons from investigations into complaints about the use of force. Additional lessons have been identified from more recent investigations. A number of these cases involved 'planned removals' where a decision has been taken to move a prisoner from their cell to another location and a C&R team of three staff wearing helmets and carrying a shield are assembled to carry out the removal.

The report found that: • in a number of cases, there had been no attempts to de-escalate the situation once the C&R team has arrived at the cell; • in some cases the team were told at a briefing that they should only give the prisoner "one more chance" to comply and then use force, which pre-disposed the team to use force; • there were some occasions where the Supervising Officer deferred to the lead ("Number One") officer rather than taking a supervisory role throughout the incident; • sometimes officers find it difficult when prisoners blatantly disregard their orders and may use one-on-one force rather than alternative disciplinary methods; • some prisoners don't get a proper healthcare examination immediately after an incident involving force, because they are too worked up; and • in some cases there have been suspicious similarities of language in Use of Force statements provided by different officers.

The lessons from the bulletin are that: • the arrival of the C&R team in a planned removal should be treated as a new situation; • briefings prior to a planned removal should cover the likely risks rather than being prescriptive about when force should be used; • the roles of the Supervising Officer and the Number One Officer in the C&R team are different; • a one-on-one use of force is very risky and should be used only if there is immediate risk to life or limb; • a brief view by a nurse through the hatch of a cell door will not meet the requirement for a prisoner to be examined by a healthcare practitioner following a use of force; and • staff must write their Annex A Use of Force statements independently.

Nigel Newcomen said: "In some ways it is reassuring that there are relatively few complaints to my office about alleged physical abuse of detainees by custodial staff. In 2014-15, of 2,303 complaints eligible for investigation, only 50 involved such allegations. They are, however, among the most serious and important complaints that I receive as they go to the heart of the humanity and legitimacy of the prison system.

Ensuring independent investigations into allegations of physical abuse is, therefore,

essential to maintaining safety and giving assurance of the proper treatment of those in custody. My investigations also ensure that staff are held to account for misbehaviour and I have had to recommend disciplinary action on a number of occasions. Equally, in other cases, my investigations have provided assurance that use of force by staff was appropriate and their behaviour exemplary in difficult circumstances. Prisons can be violent places and recorded levels of prisoner-on-prisoner and prisoner-on-staff assaults are at an all time high. Staff face enormous challenges in keeping order, so use of force must always be an option. However, it is only lawful if it is reasonable, necessary and proportionate. Use of force should always be a measure of last resort."

G4S Paid For Its Failure To Protect Children - Now The Youth Justice Board Should Go

Eric Allison and Simon Hattenstone, Guardian: On the 12th May Government report tore a strip off G4S, the world's biggest security firm. It was commissioned by the Ministry of Justice, following investigations earlier this year by Panorama and the Guardian exposed shocking abuses at a children's prison run by the company. It was no surprise that G4S stood condemned for the manner in which it has run its secure training centres in Britain, but what went almost unnoticed was that the report was equally scathing about the Youth Justice Board – the government body that exists specifically to ensure the safekeeping of our children in youth custody. In January, Panorama secretly filmed staff physically abusing children at Medway secure training centre, Kent, and boasting of using inappropriate techniques to restrain young people. Staff also bragged that they deliberately falsified records of violent incidents to ensure G4S was not fined for losing control.

Then, on 26 February, the Guardian revealed that the same kind of abuses had been alleged as far back as 2003, and that a whistleblower had written to all the relevant authorities – including the YJB – and nothing had been done. The Guardian also interviewed two former inmates of Medway: Roni Moss was left locked in her room by herself while having a miscarriage at the age of 15; Lela Xhemajli claims she was violently restrained on multiple occasions, and alleged that her face was repeatedly smashed in ice by a G4S officer. On the day the Guardian published its story, G4S announced that it was pulling out of UK children's services completely. The Ministry of Justice was quick to take action. After the Panorama transmission the Medway improvement board, which is responsible for the new report, was put in place by justice secretary Michael Gove. Last week it was announced that the National Offender Management Service would take over the running of Medway in July.

Sceptics were not surprised that G4S had let down its children – after all why should a private company whose principal motive is profit have our children's interests at heart? What was more disturbing was the YJB's role in all this. The board states that its remit is to "prevent children and young people under 18 from offending or re-offending – and ensure custody is safe and secure". This report raises doubts about the ability and commitment of the board to carry out the latter. The improvement board was concerned that complaints procedures and whistleblowing were not given enough priority by the YJB. It saw 35 documents relating to whistleblowing letters, dating back seven years, stating there was "very little evidence that a serious attempt had been made by the YJB to organise the evidence or analyse the data". An improvement board member spent two days organising and analysing the letters and found a number of themes emerging. They were sent from different parts of the country and referred to three secure training centres, all managed by G4S. They were sent by parents, professionals and both experienced and newG4S staff, who expressed "shock" at the things they had seen.

The YJB employs over 200 staff, yet did not manage to do in seven years what one person managed in two days. The improvement board states that the YJB initially failed to hand over other documents, including the 2003 letter from the whistleblower.

The improvement board said YJB senior management could not even articulate what it expected of G4S in terms of delivering its contract. It also noted that Nick Hardwick, former chief inspector of prisons, described the YJB monitoring model as "weak and ineffective". Perhaps this is most apparent in its willingness to defend G4S. The improvement board was shocked that after a damning report about Rainsbrook secure training centre last year by Hardwick, which found evidence of degrading treatment and racist comments from staff, the YJB chose to publicly endorse an alternative report written by a former director general of the prison service, Martin Narey, that concluded "very challenging children" were treated "overwhelmingly well". The Guardian revealed that G4S had commissioned this report, and though he stressed its "independence", G4S paid Narey for it.

The Medway improvement board's report also states that the YJB failed to deal with complaints from children appropriately. It cites the examples of a boy whose complaint to the YJB monitor was passed straight back to G4S staff. "Instead of supporting the monitor to resolve the problem, G4S staff told the trainee that the monitor had been talking about him, prompting the young person to confront the monitor and to avoid asking for help again." At the heart of the YJB's failings is a confusing dual function – to monitor the children's safety and to ensure contractual compliance. The report to the justice secretary states that this is further complicated because "accountability for outcomes appears to sit uneasily between G4S and the YJB." In other words, when G4S fails the YJB fails, so it is in the interest of both parties to mask failings. (In 2014, for example, the Guardian reported that both G4S and the YJB had to pay compensation to former trainees who had been unlawfully restrained.) The report says: "There is too much emphasis on control and contract compliance and not enough on the best interests and mental wellbeing of the trainees."

Violent restraints often happened away from CCTV cameras. But even when they occurred within the scope of cameras, the YJB monitor did not have free access to CCTV footage to review incidents, nor did she have her own login code. Thus she was reliant on someone else logging in before she could view CCTV. The report also notes that the monitor's office faced the outside of the building instead of internally to the "Greens" where activity regularly occurs. During our dealings with the YJB we sometimes felt it was more interested in protecting itself than the children. The YJB urged us not to name Moss and Xhemajli when asked to confirm certain aspects of their accounts. Its spokesperson said the board was concerned that "although the girls were now adults, they may not be fully prepared for the piece appearing in the media". This was despite the fact that both women repeatedly said they wanted to go public "to help ensure that other children would not suffer as we did". Would that the YJB had such courage and conviction.

Since the furore over Medway began, G4S, by surrendering its children's services contacts, has questioned its role. The MoJ, by accepting fully the contents of this important report, has done likewise. Thus far, the YJB has not followed suit, although it did issue a curmudgeonly statement saying, "As a matter of urgency, we enhanced our existing monitoring." The report says this about the children abused by those who were employed to protect and care for them: "At the heart of all this are some of society's most vulnerable young people, frequently victims themselves of previous experiences of abuse and neglect, whose complex needs are not being met." The YJB, in particular, has failed these children, and failed the society from which it assumes responsibil-

ity in loco parentis. And it appears to be unrepentant. It should be disbanded, now.

Why Our Colonialist Past Continues to Taint Our Justice System

Greg Powell, Justice Gap: Many defence lawyers will recognise some of these names: Lindiwe Mutede, Liliane Makuwa, Alica Chiwanga, Wendy Chengetayi, Margaret Boateng, Rosiene Carneiro, Paris Osato, Rita Nenartoniene, Jacinta Kinbunyi, Valerie Ovieriakhi, Ruth Abumhere, Cynthia Acheampong. Ten years of cases reviewed in the Court of Appeal (2005-2015), a line of jurisprudence concerning cases of forged and false identity documents and the necessity for immediate custody. The over representation of women and men who are not white in the Criminal Justice System (CJS) has a substantial history. Some general issues are well documented. Each year it is estimated 18,000 children are separated from their mothers who enter custody. The average cost of prison per person is £56,415 a year; 9,051 women entered prison in 2014; 58% serve six months or less; 12% are foreign nationals, of whom a third are in prison for drug offences; 81% of all women prisoners have committed non-violent offences. It is an expensive system and rehabilitation for 'persistent' offenders is ineffective.

Multi-factorial explanations of 'offending' behaviour include poor education, mental and other health issues, drug use, employment and educational outcomes, a history of local authority 'care', housing, low income and class. There is eloquent work on passive and active social exclusion particularly around 'identity' and gang culture. Gus John says that the way people relate to themselves and to the world some '200 years after the abolition of slavery [is] totally bound up with our colonial past'. Sometimes there are riots or a murder that give rise to public inquiries and the conclusion that there is a pervasive institutional racism within policing and the CJS. Lord Scarman (1981) on the problems underlying the Brixton riots summarised by Ruth Chigwada-Bailey as: 'intense social deprivation, a history of unlawful policing, racially prejudiced police conduct'; and Macpherson (1999) following the murder of Stephen Lawrence: 'unwitting prejudice, ignorance, thoughtlessness and racist stereotyping which disadvantage ethnic minority people'. Meanwhile the population of judges in the CJS and the overwhelming majority of its personnel remain also overwhelmingly white, male and frequently privileged (private education and family wealth).

There is also that context highlighted by Gus John, a devastating history of a colonialism that depended on military repression to organise slavery, indentured labour and the plunder of raw materials. The political repercussions of that vast tale of repression and arbitrary location of peoples and boundaries still frames so many lives. The repercussions of colonialism and individual tales within the CJS are intimately related. A quick survey of the countries of origin of Lindiwe, Liliane, Alice, Wendy and the others reveals, Zimbabwe, Nigeria, Brazil, the Democratic Republic of the Congo and Ghana. The colonial inheritance within the UK and the CJS is a lived experience, further mediated by institutional racism, and manifest in social issues, access to housing, health, education,employment and the struggle to be legitimate as a migrant .

And so to the jurisprudence. Our authorities begin with David Kolawole (2004) who appealed a 16-month sentence of imprisonment for possession of two forged passports. The refusal of his appeal set a new benchmark for custody. The Court of Appeal quickly established a demarcation between passports used to gain entry (with the spectre of terrorism prayed in aid), and the conduct of working mothers using passports and other forged documents to gain employment and open bank accounts (six months in custody became the norm). The rationale is that a false National Insurance document used to gain work (the latter itself a pecuniary benefit obtained by fraud), by defendants without immigration status, 'undermines immigration control'; the presence of such people 'undermines the good order of society', 'constitutes a threat', is 'detrimental', and 'ordinarily the sentence..(is)..immediate custody. ' One answer to the question why are black women over represented in custody is this particular line of authority. Is it rational or justifiable?

These Court of Appeal cases are overwhelmingly black women with children and their most common occupation carers or cleaners. Hard low paid work. The way these broken threads of lives percolate through post-colonial history to become present in the imitation Gothic of the Royal Courts of Justice is hidden both by its complexity and a collective disregard. The costs of what are effectively three-month prison sentences (released after half sentence served) are absurd. The 'deterrence' of such sentences is unprovable and highly unlikely. This is because the immediate choices facing women in very difficult moments, to use a document to gain employment to support a family – or what? What are the choices: prostitution? surrendering children to care? homelessness? returning to even worse outcomes?

What is needed here is a re-evaluation. The welfare of children is totally disregarded in these authorities, despite the enormous amount of historical studies showing that separation from parents and in particular mothers has a devastating effect. The welfare of children so paramount in the family courts is completely disregarded in the criminal court. There are obvious alternatives. Community sentences, even suspended sentences at worst, and across the board a substantial investment in women's centres to support, rehabilitate and help reframe the lives of women who have come into contact with the CJS. The rationale that choices made by marginalised women 'undermine good order', is a chimera. It is a reflex that bears no relationship to the reality of the defendants but is rather a reaction to the politics surrounding the migration of poor working class people. Reality, proportionality and even economic sense should lead to very different outcomes and the overrepresentation of black women in the CJS in this instance at least ameliorated.

All This Talk of Reform Prisons is a Tragic Distraction *Richard Garside, Justice Gap*

The Ministry of Justice had hoped 'that prison safety would stabilise', the Conservative Chair of the Committee Bob Neill, said. 'In reality it has deteriorated further and continues to do so. This is a matter of great concern and improvement is urgently needed… This cannot wait'. So there is more than enough for Michael Gove to do to sort out the system-wide problems in prison. Which is why today's 18/05/2016, announcement of six 'reform prisons' is such a tragic distraction from the big challenges of prison reform. The proposition that reform-minded prison governors should have greater autonomy from what can be experienced as a stifling head office bureaucracy has a superficial appeal. But behind this lurks a multitude of problems.

The six reform prisons amount to a mere five percent of the current total of 121 prisons. If the reform prisons are successful on their own terms, the result will be half a dozen oases of progress, lost in a desert of deeply dysfunctional institutions. The reform prisons proposal is by no stretch of the imagination a serious response to the deep problems affecting the prison system. It is an eye-catching, small-scale experiment that will form the backdrop for shiny ministerial photo-opportunities while doing nothing to address the underlying malaise. That said, every effort will be made to drive through the reform prison model, at the expense of the wider estate. As today's press release makes clear, the planned nine new-build prisons will also operate on a reform prison model. The reform prisons are therefore something of a 'proof of concept' experiment, and the shape of things to come across the prison estate.

The proposals for greater governor autonomy also raise major questions. Consider this, from today's press release:'These prisons will give unprecedented freedoms to prison governors, including financial and legal freedoms, such as how the prison budget is spent and whether to opt-out of national contracts; and operational freedoms over education, the prison regime, family visits, and partnerships to provide prison work and rehabilitation services.' What does it mean for a governor to have 'operational freedoms' over education, or over family visits? Will it be Ipads and advanced IT skills training, or rote learning and spelling tests? Will it lead to greater family contact, less contact, or 'innovative' approaches that replace human contact with a video conference? Innovation and greater discretion at an individual institution level, in the absence of national standards and a coherent, estate-wide approach, can easily collapse into the merely idiosyncratic.

Reform prisons, the press release states, will also be established as 'independent legal entities with the power to enter into contracts; generate and retain income; and establish their own boards'. The idea that prisons should be income-generating entities is hardly a new one. Private prisons have for some years been part of the prison system. But the implication that reform prisons should operate as competitive, risk-taking outfits, pursuing exciting business opportunities to make up for a shortfall in cental government funding is profoundly wrongheaded.

What should the basis of a coherent programme of prison reform? First, and of critical importance, we need a sustained effort to reduce the currently high prison population. This was a point made only last week by Bob Neill, the former Justice Secretary Ken Clarke, and the former Chief Inspector of Prisons, Lord Ramsbotham. Indeed, Bob Neill told the BBC that 'we should be looking to start reducing the prison population straight away'. Michael Gove has recently emphasised that the government does not intend to use an 'artificial target' to manage down the prison population. We should be clear that the population has been artificially managed up, over a number of years, by successive administrations. The level of imprisonment in this, and any other country, is in good part a political choice. If we imprisoned today at the rate we imprisoned in the mid-1980s, when Mrs Thatcher was in Downing Street, there would be at least 30,000 fewer people in prison.

The prison system also badly needs institutional stability and action to ground prison regimes in decency and respect: for staff, prisoners, families and visitors. The awful recent case of Shalane Blackwood, who died in prison last year from a burst duodenal ulcer, following neglect by prison staff, is just one example of how far the prison system is from this goal. So there is much to do on prison reform, to deliver a legacy that any Justice Minister could rightly be proud of. It would also be a hard job to pull off, and a politically controversial programme of reform. The Prime Minister and current Justice Secretary no doubt understand this well. Which is perhaps why they prefer to play at being prison reformers, rather than doing the hard work involved in being prison reformers.

HMP Nottingham – Still Not Safe, Despite Some Progress Made

There was still too much serious violence and disorder at HMP Nottingham despite staff working hard to address this, said Peter Clarke, Chief Inspector of Prisons. A he published the report of an announced inspection of the local prison. HMP Nottingham holds just over 1,000 adult and young adult male prisoners. It was constructed in the 19th century but largely rebuilt between 2008 and 2010. It holds a range of prisoners, including those remanded by the courts, newly sentenced prisoners and prisoners nearing release. At its last inspection in 2014, inspectors were particularly concerned that levels of violence were far too high.

This more recent inspection was announced in advance to give prison leaders time to focus on addressing these concerns. This inspection found that the prison still faced many significant challenges, but while much work still needed to be done, managers and staff were working very hard to address areas of concern. Progress had been made in all four healthy prison areas: safety, respect, purposeful activity and resettlement, although this was not sufficient in every case to change the assessments inspectors gave.

Inspectors were concerned to find that: • 18 recommendations from the last inspections had not been achieved and 23 only partly achieved. • there was still too much serious violence and disorder despite real efforts made to address it; • high levels of force were used and, while governance of this had improved, some serious allegations about staff were not being taken seriously enough; • levels of vulnerability, in particular men with mental health problems, were higher than many similar prisons; • some men with complex combinations of vulnerability and problematic behaviour were being held in the segregation unit, which was inappropriate; • some wing-based staff remained distant and somewhat dismissive of the men in their care; and • offender management oversight arrangements needed to improve and some re-categorisation decisions were being wrongly made without appropriate risk assessments. • Inspectors made 48 recommendations

Peter Clarke said: "We were far more optimistic than when we last inspected in 2014. The decline in standards had been arrested, the culture within the prison had improved, and there was a real sense that the leadership of the prison had a grip on what needed to be done. The plans in place to make the prison safer and more decent were credible. However, much of the very real progress that had been made was fragile and a great deal of work was still needed to consolidate the position. There is no doubt that this prison has suffered from a lack of continuity and consistency in its leadership. At the time of this inspection there had been five governors in the space of four years. The current governor has grasped some difficult issues and laid some good if inevitably fragile foundations. However, our understanding is that he too will shortly move to another prison. For the future, every effort should be made to stabilise the leadership of this challenging prison."

Michael Gove, Talking Bollocks - Governing Governors' Forum.

Good morning, and thank you very much for that kind introduction. It is a great pleasure to be here today among so many motivated and dedicated governors at a time of exciting changes – and challenges - for the prison service. Looking around the room, I see a good number of familiar faces from my many prison visits and discussions. These have taught me so much about the scale of those challenges that you deal with every day.

Dare to be different - One of your number, Russell Trent - the governor of the new HMP Berwyn in north Wales - was on holiday recently when some of his plans for the prison suddenly attracted a wave of criticism. In his desire to boost rehabilitation he had spoken of wanting to create a prison atmosphere that was as close to 'normality' – to life on the outside - as possible. He had explained that when Berwyn opened, the 'men' – not 'prisoners' – would be held in 'rooms' rather than 'cells'. The men would have telephones in their rooms so they could ring their families and say goodnight. Prison officers would knock on the doors of those rooms before entering, as a basic courtesy. These cheap and simple measures, Russ pointed out, would make HMP Berwyn a decent place that would facilitate rehabilitation, and that could only be a good thing because keeping offenders from re-offending makes us all safer. As a former Royal Marine, Russ Trent is not one to shrink from 'incoming'. Even so, he did wonder how much trouble he would be in on his return from holiday. The answer, I'm glad to say, was none.

Quite the opposite. When it comes to governing prisons, Russ's instincts are absolutely right. Because the principal purpose of prison is rehabilitation. We want individuals who leave prison to be changed characters - to be redeemed, to have rejected violence as a way of settling disputes, to have overcome the impulsiveness, weakness and lack of self-respect which drew them into crime in the first place, to have become assets contributing to society rather than liabilities who bring only costs. And we don't make it easier to rehabilitate individuals back into society if, during their time in custody, they live in squalid conditions, face daily indignities and don't have the chance to form relationships based on mutual respect.

But in order to make prisons work we need to allow Governors to govern. At the moment you are held back - by too many rules, too much bureaucracy and, to be frank, the fear that if something goes wrong - or even worse - gets in the papers - then that's it - career over. So I have one essential message that I want to get across today. I am behind you; Michael Spurr is behind you - in your desire to lead your prisons, not just manage them. We want you to dare to be different - to exercise as much autonomy as possible - to be guided by moral purpose not manuals and rulebooks - in your mission to change lives for good.

If we want safer streets, we must first have safer prisons. If we give you - the people in this room - more freedom and support then I believe we can make all our prisons much more effective at rehabilitation. And that will serve the highest purpose of all - making our society safer, more secure and more civilized. When nearly half of those in prison go on to re-offend, we cannot say our criminal justice system is working. Only by changing how prisoners behave - when they're in our care - can we contribute effectively to public safety. But before we can do the necessary work of rehabilitation which will make our streets safer, we must first ensure that our prisons are made safer. Only when they are places of calm stability and order can we make the difference we need to.

I have nothing but admiration for those who work in our prisons: officers, teachers, chaplains, governors – all those who devote themselves to caring for offenders are, I believe, doing genuinely noble work. Work for which they don't get nearly enough recognition, praise and thanks. So nothing I am about to say is intended as criticism of those who work so hard in our prisons to keep society safer. Indeed I hope many prison officers - and those who work alongside them - will welcome a candid acknowledgement of just how difficult and dangerous conditions now are in our prisons. The most recent figures for deaths in custody and violence in prisons are terrible. There's no point trying to minimise, excuse or divert attention away from the increasing problems we face. One hundred self-inflicted deaths in custody, up from 79; assaults on staff up by36 per cent to 4,963; an increase of 25 per cent in incidents of self-harm.

I am grateful to the outgoing Chief Inspector of Prisons, Nick Hardwick, and his successor, Peter Clarke, for their unsparing focus on the problems we face. Nick drew attention to the accelerating increase in serious assaults in his annual report last July. Since then, report after report, while often praising the hard work and dedication of officers, has reinforced the scale of the challenges. Peter's report into Wormwood Scrubs published earlier this year - in which he condemned the institution as rat-infested, over-crowded and nowhere near safe enough - was particularly chastening. I was painfully reminded of just how far we have to go when I heard of the assaults inflicted on a male and female prison officer at the Scrubs just this weekend. These incidents weigh on my conscience. Our prisons need a radical programme of reform which will take several years to implement before they can make the positive difference I know you are all capable of delivering, but what prisons need now, most of all, is rapid

action to enhance staff safety and improve prison security.

We have taken some significant steps already. We have recruited 2,830 prison officers since January 2015, a net increase of 530. We are trialling the use of body-worn cameras; our tough new law on psychoactive substances comes into force at the end of this month – including sentences of up to two years for their possession in prison - and we are strengthening the case management of individuals at risk of harming others. The Violence Reduction Project is giving us a better understanding of the causes and characteristics of violence. A new project on suicide and self-harm will give extra support to vulnerable prisoners. But we need to do much more. I will be giving further details in the weeks ahead about other urgent steps we are taking to improve safety across the estate. I am - personally - delighted that work to enhance security in all our prisons is now being led by a new director - the superbly talented and experienced former Governor Claudia Sturt. She will be given the resources and support she needs to make a positive difference for good. And I want to work closely with her - and with all prison staff and their representative bodies - to make the changes we need.

Governors at the heart of change: Claudia's appointment embodies one of the central elements of our reform programme - putting Governors at the heart of driving change. The lesson of other public service reforms is that empowering managers at the frontline by giving them greater autonomy generates innovation. Proper accountability and scrutiny then identify which institutions and which innovations are driving the biggest improvements, so others can emulate them. From July 1, four trailblazing governors will be appointed to run prisons with the maximum possible level of autonomy under current legislation. But while these early adopters will have huge scope to innovate, every governor will be granted greater autonomy and expected to use new freedoms to improve rehabilitation.

In particular, I want to see prisoners spend much more time engaged in the sort of purposeful activity which prepares them for life on the outside - pursuing worthwhile educational qualifications, or working in an environment that will help them get a satisfying job on release. Not only are these goods in themselves, it's also manifestly the case that the more prisoners are engaged in activities which occupy their hands and minds, the more they see a link between their daily routine and a chance to succeed on the outside, the more they are given hope that by their own actions they can secure a better future - the less likely they are to feel frustrated, angry and un-cooperative. The more purpose there is in every prisoner's day, the more likely their prison is to be an ordered, safe and successful environment.

The review of prison education by the inspirational academy head teacher Dame Sally Coates will be published shortly. I mustn't pre-empt its full range of recommendations. But as the Prime Minister has already said, Sally will argue that governors should be given direct control of education budgets. It's a big change. But radical change is needed. The current level of education provision in prisons is frankly inadequate. While there are some inspirational teachers, quality overall is far too low. That's partly because the present system means that just four further education providers serve all prisons in England with an often unrewarding diet of low-level qualifications which do not open career doors. It's no good for prisoners - or society - if their experience of education is banal material tediously delivered which has little or no relevance to securing any sort of satisfying job. Education needs to give prisoners skills that will enable them to lead socially constructive and economically valuable lives. It should also provide prisoners with the chance to grow culturally and morally - to develop new interests and strengthen character. Critically, education should also help prisoners to acquire the social

skills and virtues which will make them better fathers, better husbands and better brothers. Ensuring that prisoners can re-integrate into family life and maintain positive relationships is crucial to effective rehabilitation. Families are one of our most effective crime-fighting institutions. And we should strengthen them at every turn. Under our reform plans, individual Governors will be able to demand that their current education provider radically improves - and if not, they can take their custom elsewhere. Governors will be held to account for educational outcomes and celebrated for the value they add - providing an additional incentive and reward for getting more prisoners to acquire meaningful qualifications.

Critical to our reform programme, however, is providing not just the right incentives to empower managers who want to support rehabilitation but also providing the right incentives for offenders themselves to engage in rehabilitative activity. That means giving Governors more control over how incentives are shaped for, and privileges granted to, the offenders in their care. Prisoners need to be able to see a direct link every day between engaging in purposeful activity and living in a more civilised environment.

We also need to review the position of prisoners who have received Imprisonment for Public Protection (IPP) Sentences. We must not compromise public safety but there are a significant number of IPP prisoners who are still in jail after having served their full tariff who need to be given hope that they can contribute positively to society in the future. We also need to enable Governors to release more prisoners on temporary licence. It can only enhance public safety if prisoners can gain experience of work and life on the outside prior to full release, learning how to conduct themselves properly and contribute effectively so they can integrate successfully back into society.

Giving prisoners incentives to change: Let me turn first to the Incentives and Earned Privileges (IEP) scheme. My colleague Andrew Selous has been consulting widely among governors, staff and others - to assess how well the current system is working. The answer - not very. The widespread view is that IEP does not do enough to encourage good behaviour, or contribute to rehabilitation. It is seen as bureaucratic and punitive, offering little difference between standard and enhanced levels. We propose to reform the system - giving Governors far greater autonomy to shape incentives and privileges in a way they consider right for their institution. We think there, of course, need to be minimum standards of decency and it's probably right to have a core framework around which individual approaches can be built. It seems sensible to have national standards on the number of privilege levels, the process governing reviews and appeals, and the transfer of privilege levels after a prison move. But while we need to respect the fact that prisons operate as part of an integrated system we must also recognise that prisons work best when leaders lead. It must be right that the man or woman in charge of any institution should be able to reward the behaviour that makes their institution work well in the way they think best. Or else what does leadership mean?

I was very struck by how effective autonomy over granting privileges can be when I visited the prison Nick Hardwick most admires in this country - the Military Corrective Training Centre (MCTC) in Colchester, Britain's custodial facility for men in the Armed Forces. The Commanding Officer there - the leader of the institution - has huge flexibility over how he grants privileges and additional freedoms to prisoners. Enthusiastic commitment to work and education secures the rapid accumulation of additional benefits. That not only contributes to an atmosphere of order and purpose, it helps accelerate the offender's journey back into the mainstream. Of course, the MCTC caters for a very specific type of offender but the principles behind the CO's approach are clearly applicable in almost any prison - as Nick Hardwick was right to point out in his report of March last year. 'The MCTC,' he noted, 'holds some complex and challenging detainees and there is much they do from which the civilian system could learn.' We want to learn from that, and will consult with governors over how changes to IEP will work in practise.

The next area I want to touch on briefly is the future for IPP prisoners. I was struck, like many others, by the candid admission from the former Home Secretary David Blunkett last month that these sentences had developed in a way he had never envisaged. I sympathise with his position. And in helping to resolve this issue I am grateful to be able to turn once more to Nick Hardwick - in his new role as Chairman of the Parole Board. There will always be some prisoners whose behaviour and attitudes render them a continuing danger to the public and who need to remain in custody for a significant time. But there are also - clearly - some prisoners who have served their tariff, who want to prove they are ready to contribute to society and who have been frustrated by failures in the way sentence plans have worked and bureaucracy in the parole system. I'm pleased work is already being done inside prisons to reinvigorate sentence plans in complex cases, leading to prisoners being released at an appropriate point. But more still needs to be done - and I have asked Nick to help develop an improved approach to handling IPP prisoners which keeps inside those who pose real risks to the public but gives hope and a reason to engage in rehabilitative activity to the majority.

Which brings me to the third area of change I wanted to touch on today - the use of Release on Temporary Licence (ROTL) to reintegrate offenders into society. Properly used, ROTL can do a huge amount to improve a prisoner's chances of finding a long-term job. ROTL removes the 'cliff edge' between custody and liberty, and enables prisoners to adjust to the expectations and demands of society. Allowing a prisoner out on temporary release is not a soft option - it is a preparation for the hard choices that life on the outside demands. ROTL requires prisoners to commit to proper work, the discipline of new routines and respect for new boundaries set by others. ROTL doesn't just help prisoners prepare for employment. It also helps prisoners strengthen the family ties which are crucial to rehabilitation.

Mothers can develop stronger relationships with their children; husbands can demonstrate they are ready to behave with greater consideration and regard for others. We know that the three most powerful factors helping to keep ex-offenders from re-offending are a good job, strong family ties and a stable place to live - ROTL makes all of them easier to achieve. The structure of ROTL was always reformist - it put power in the hands of individual governors. It was for you to decide – when you were confident that an offender's risk to others was diminishing – to give them the chance to grow into their imminent freedom. ROTL has made useful citizens - social assets - out of people who once generated only pain, injury and trouble.

Offenders have completed plumbing and heating qualifications under ROTL and now unblock U-bends for a living. We have turned out gym instructors, barbers, chefs, landscape gardeners, builders – even locksmiths and a Parliamentary researcher. The system, of course, is not infallible. Mistakes in the past led to an understandable tightening-up of the rules. When individuals abuse freedoms, regimes will be tightened. But ultimately, public safety is better served by allowing prisoners to develop the skills and characteristics they need to succeed on the outside through extensive use of ROTL than it is by keeping too many prisoners inside and then releasing them ill-prepared and unready for life outside - more likely than ever to go back to a life of crime. The number of prisoners to benefit from ROTL has fallen by 40 per cent since 2013. So I think now is the time for a change. After careful consideration, we have decid-

ed to give governors more control. Although it will take time for confidence in the system to return fully, I believe that it would be wrong to allow a very few high-profile cases, appalling though they were, to distract us from the long-term advantages for society of ROTL. With the help of careful assessment processes, I am confident that our reform-minded governors can identify the most promising candidates for a successful, safe, ROTL. Prisoners like Jason Ridgeway, a former Light Dragoon who served in Bosnia and later fell into debt, and was jailed for his involvement in a drug dealing operation.

Now in Kirklevington Grange Open Prison, in north-east England, he has been taken on as a general worker for the construction giant Balfour Beatty. He says his job has been crucial to his rehabilitation and wishes he didn't have to stay in prison for one full day each week even when work has been offered. His mother is not well, and he can now help her – a 'massive weight off my shoulders', he says. As for Balfour Beatty? Jason says: 'I can't big the company up enough for taking us on. What they get from us lads, the keen ones, is really hard work. They have absolute loyalty. 'So many people here are basically good, but they can be backed in a corner and desperate. This is a real way out.' Jason was speaking to an audience of employers, journalists and the intimidating figure of Andrew Selous. Another prisoner present – jailed for 14 years for 'gang-related stuff' – was so nervous that day he could barely speak. 'Go on Michael, you can do it,' bellowed his Balfour Beatty manager and mentor. And Michael did. 'I just want to say "thanks" for the chance,' he said. 'It means everything.' Let me repeat what he said, so simply. 'It means everything.'

In HMP Send, I recently met the impressive law student and mentor CJ, who wakes up at 4am to read her textbooks before heading off into London to counsel young people against joining gangs. 'I've spent over five years incarcerated,' she says, 'and RoTL has been one of the most rewarding, fulfilling, enlightening and freeing experiences of not only those five years, but of all the years of deception and darkness that preceded prison. 'Rotl gave me the chance to be the person I have always wanted to be: a productive, hardworking, respected member of a team; a responsible parent who can financially look after their child and family; a contributing member of society who takes pride in paying their taxes.' Productive. Hard-working. Respected. Responsible. Able to look after children and family. And a proud tax-payer! What more could any government or governor want of a prisoner?

Conclusion: Some people believe my reform programme to empower the men and women in this room has an ulterior motive. Not true. While I have the utmost respect for our private prison operators, I also have faith in NOMS, its leaders and its staff to turn around jails. Over the coming months and years, some change will happen quickly. The effects of other reforms will take longer, as we go further to help the most disadvantaged, and open up opportunities in education and work. NOMS' greatest resource is its people. Listen to their feedback and encourage their visions. You never know where the next big idea will come from, so empower everyone – up and down the ladder – to contribute and innovate.

By now, you will all know one of my favourite quotes on prisoners, from a speech made in 1910 by Winston Churchill as Home Secretary, when he urged us to find the treasure in the heart of every man. You may be less familiar with another inspirational penal pioneer, a direct contemporary of Churchill but one who campaigned for prison reform on the other side of the Atlantic. Thomas Mott Osborne was a wealthy Democrat politician who turned to good works, becoming chairman of the New York State Commission on Prison Reform in 1913. No armchair do-gooder, Osborne had by then spent a week undercover in the state's infamous Auburn high security jail - later writing an electrifying diary about his experience of its harsh regime based on silence, corporal punishment and labour. His time in Auburn was enough to convince Osborne that in the words of the great Victorian statesman – and one of my own heroes - William Gladstone, it was 'liberty alone that fits men for liberty'. He set up a Mutual Welfare League for ex-prisoners to help them find jobs, and, while they were looking, help with housing, food and clothing. His purpose was to 'bridge the gap' between their discharge from prison and ultimate rehabilitation. In New York, The Osborne Association still works on behalf of offenders – because the challenges they still face are only too familiar.

Osborne sounds like a man after my own heart. 'Not until we think of our prisons as, in reality, educational institutions shall we come within sight of a successful system,' he said of his approach. 'And by a successful system I mean one that not only ensures a quiet, orderly well-behaved prison, but has genuine life in it – one that restores to society the largest number of intelligent, forceful, honest citizens.' I particularly warm to Osborne's rallying cry as he took over as warden of New York's infamous maximum security jail, Sing Sing, in 1914. 'We will turn this prison from a scrap heap into a repair shop!' he declared. Let me thank you all, once again, for your tireless work keeping the public safe and our prisoners secure. And - now equipped through our reforms with the tools you need to run your own repair shops – thank you in advance for creating a new generation - of intelligent and honest citizens.

Chelsea Manning Files Appeal Against 'Grossly Unfair' 35-Year Prison Sentence

Jon Swaine, Guardian: Chelsea Manning has formally appealed against her conviction and 35-year prison sentence for leaking a huge cache of government documents, arguing that her punishment was "grossly unfair and unprecedented". Describing the sentence as "perhaps the most unjust sentence in the history of the military justice system", attorneys for Manning complained that she had been portrayed as a traitor to the US when "nothing could be further from the truth". "No whistleblower in American history has been sentenced this harshly," states the appeal, which also alleges that Manning was excessively charged and illegally held while awaiting trial in conditions amounting to solitary confinement. It suggests that her sentence be reduced to 10 years. The appeal sharply contrasts the government's punishment of Manning with the two years probation given to David Petraeus, the retired military commander and CIA director, who admitted giving classified information to his biographer, with whom he was having an extramarital affair. While Manning was a whistleblower, Petraeus "apparently disclosed the materials for sex", say Manning's attorneys.

Hostages: Naweed Ali, Khobaib Hussain, Mohibur Rahman, Tahir Aziz, Roger Khan, Wang Yam, Andrew Malkinson, Michael Ross, Mark Alexander, Anis Sardar, Jamie Green, Dan Payne, Zoran Dresic, Scott Birtwistle, Jon Beere, Chedwyn Evans, Darren Waterhouse, David Norris, Brendan McConville, John Paul Wooton, John Keelan, Mohammed Niaz Khan, Abid Ashiq Hussain, Sharaz Yaqub, David Ferguson, Anthony Parsons, James Cullinene, Stephen Marsh, Graham Coutts, Royston Moore, Duane King, Leon Chapman, Tony Marshall, Anthony Jackson, David Kent, Norman Grant, Ricardo Morrison, Alex Silva,Terry Smith, Hyrone Hart, Glen Cameron,Warren Slaney, Melvyn 'Adie' McLellan, Lyndon Coles, Robert Bradley, John Twomey, Thomas G. Bourke, David E. Ferguson, Lee Mockble, George Coleman, Neil Hurley, Jaslyn Ricardo Smith, James Dowsett, Kevan & Miran Thakrar, Jordan Towers, Patrick Docherty, Brendan Dixon, Paul Bush, Alex Black, Nicholas Rose, Kevin Nunn, Peter Carine, Paul Higginson, Thomas Petch, Vincent and Sean Bradish, John Allen, Jeremy Bamber, Kevin Lane, Michael Brown, Robert Knapp, William Kenealy, Glyn Razzell, Willie Gage, Kate Keaveney, Michael Stone, Michael Attwooll, John Roden, Nick Tucker, Karl Watson, Terry Allen, Richard Southern, Jamil Chowdhary, Jake Mawhinney, Peter Hannigan.