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To Cut Reoffending Rates, Boris Johnson Should Pursue the Evidence – Not Votes

Eric Allison, Guardian: In a shortsighted stance, the prime minister is taking a hard line on prisons, opting for punishment over rehabilitation. In the 15 years since I've been doing this job, my hopes that I would see a decent and humane prison system in this country in my lifetime have seldom risen above the level of "unlikely". And a few times I have believed the state of jails in England and Wales simply could not get any worse, only to see it do so. The lowest point, until now perhaps, came during the reign of the book-banning justice secretary, Chris Grayling, from 2012-15. But even after his unlamented departure, there has been little for reformers to cheer, with ever-rising tides of self-harm, violence, overcrowding and squalor. And I can barely recall the last positive prison inspection report I have read.

There have been brief moments of hope. The last justice secretary, David Gauke, seemed to have a grasp of the basics when he proposed the abolition of short sentences – six months or less. All experienced prison watchers know that prisoners serving such short stretches seldom leave the confines of the local jails the courts send themto, which have the worst conditions in the penal estate. He intended to replace short sentences with community service orders and substance misuse programmes, both of which have significantly lower reoffending rates than short spells in prison.

Before losing his cabinet place, Gauke urged the new prime minister not to take the traditional Conservative hard line on crime, but to "follow the evidence, of what works and what doesn't". He quoted figures from the Ministry of Justice showing that reoffending costs the taxpayer about £15bn a year. Some hope. Boris Johnson has not only scrapped Gauke's forward-thinking plans on short sentences, he has announced he will build 10,000 new prison places and end the "early release" of prisoners. The plans have actually been in place since 2015, and "early release" – at the halfway point of fixed-term sentences – is dependent on the prisoner's good behaviour. But why let the evidence stop the flow of rabble-rousing rhetoric? Let the public believe that we have a "cock-eyed, crook-coddling criminal justice system" in place.

Depressingly, this approach may work for Johnson in electoral terms. Prisoners can't vote and don't garner much sympathy from those who can. Yet we already lock up more of our citizens, and for longer, than any other country in western Europe – with appalling results. Can you imagine the public sustaining a health service where the majority of patients don't get better? So why continue to pour money into a penal system that clearly fails both prisoners and public?

When I first entered prison as an adult, in the 1960s, the No 1 rule in the prison service manual read, according to my memory, the purpose of imprisonment was "to teach prisoners to lead a good and useful life". A pretty sensible commandment. Half a century on, prison rehabilitation projects have slipped further and further down the prison pecking order, with containment and punishment the priorities. A fortnight ago, Johnson spoke to the media from outside HMP Leeds, a jail that encapsulates all the problems found in many local prisons. It is old, overcrowded and unsafe. The last inspection report in 2017 found conditions had deteriorated since the previous inspection two years earlier – which saw the jail failing three of the four healthy prison tests. This time, inspectors reported, amid a host of failings, "several staff had been suspended or dismissed for misbehaviour when using force". Inspectors noted the "particularly troubling fact that, since the last inspection, there had been four self-inflicted deaths at the jail and another apparently similar death during this inspection". They record: "The day after the inspection ended, there was an apparent homicide, and a few days later, another apparently self-inflicted death."

A question to the prime minister: are the conditions you saw at Leeds, but failed to mention, bad enough to make criminals "afraid", as your home secretary wishes? Or do you propose to make them worse? Gauke's successor at the justice ministry, Robert Buckland, has kept a relatively low profile since entering parliament in 2010. But the QC's voting record, on serious social issues, does not point towards him adopting some of his predecessor's forward-thinking ideas, given he has consistently voted against same-sex marriage, gay rights and increases in state benefits. The one hope is that his legal background will encourage him to follow the evidence on prison reform.

More Britons Support Sex Work Law Reform Than Oppose It

More Britons believe sex workers should not be punished for operating out of brothels or on the street than those who think they should, an opinion poll commissioned by RightsInfo has found. Forty-nine percent of British people surveyed are in favour of decriminalising brothel-keeping, an offence punishable by up to seven years in prison. Meanwhile, 44 percent of people surveyed feel that sex workers should not face prosecution for street solicitation – in other words, offering their services in public – for which they can currently be fined up to £500 for a first-time offence. Less than a quarter of those surveyed are against relaxing police enforcement on brothels (22 percent), while 27 percent are opposed to ending penalties for street solicitation. The results of the poll, conducted by market research agency Survation, are based on views of more than 2,000 people in what is the first major test of public opinion on sex work decriminalisation in four years.

Decriminalisation of Brothel Keeping: It is technically legal to sell sex in Britain but several practical aspects of the trade are outlawed – such as street solicitation and working in a brothel. Around a fifth of people polled (21 percent) neither oppose nor support decriminalisation of either activity. *Decriminalisation of Street Solicitation:* The poll results come amid renewed debate on sex work law reform among MPs, unions, activists, as well as human rights and anti-trafficking groups. People are horrified that sex workers suffer so much violence and understand that the prostitution laws, which force women to work in isolation, increase the danger of attack. Niki Adams, English Collective of Prostitutes Tory MP Fiona Bruce, chair of the Conservative Party Human Rights Commission, last month announced her intention to table a bill to reform the UK's "complex, confusing and inconsistently applied" laws on sex work.

Activist group the English Collective of Prostitutes has long campaigned for decriminalisation, arguing that brothel-keeping laws undermine sex worker safety by forcing them to work alone or face possible arrest and prosecution. "This poll confirms our experience that the public supports decriminalisation," said the group's Niki Adams. "People are horrified that sex workers suffer so much violence and understand that the prostitution laws, which force women to work in isolation, increase the danger of attack. Politicians need to catch up with the public and decriminalise sex work as well as overturning the government's savage austerity cuts, which have left many women and single mothers in particular, with few other options to survive."

"Brothel keeping laws are preventing sex workers from working together for safety," she said. "When they take the risk and do so they will be anxious to call the police if any crimes are committed against them which, again, undermines safety." She added: "Use of soliciting legislation is criminalising vulnerable women, creating an adversarial relationship between

street sex workers and the police. This contributes to the under-reporting of a wide range of crimes committed against street sex workers, with perpetrators continuing to pose a threat to sex workers and other community members."

Professor Teela Sanders, criminology expert at the University of Leicester who is also among the hub's chairwomen, added that UK law is "out of step with public opinion" and does not reflect "more liberal attitudes" towards sexuality seen in societal surveys. "The British public do not support a punitive approach to sex work but are open to decriminalisation," she said. "This result continues to suggest that if politicians were brave enough to think about the impracticalities of the current laws and how damaging they are, then there would not be a backlash." A 2015 poll conducted by YouGov asked the public whether it would support or oppose the "full decriminalisation" of prostitution, provided it was consensual, with 54 percent answering in favour and 21 percent opposed.

Dr Rosie Campbell OBE, York University, "Brothel keeping laws are preventing sex workers from working together for safety," she said. "When they take the risk and do so they will be anxious to call the police if any crimes are committed against them which, again, undermines safety." She added: "Use of soliciting legislation is criminalising vulnerable women, creating an adversarial relationship between street sex workers and the police. This contributes to the under-reporting of a wide range of crimes committed against street sex workers, with perpetrators continuing to pose a threat to sex workers and other community members."

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But organisations including Amnesty International, the World Health Organisation, UNAIDS and the Royal College of Nursing all advocate instead for the government to fully decriminalise sex work, including those paying for it. It is argued that penalising those buying sex means sex workers must still carry out their business in secret, making them more vulnerable to attack.

Since the Nordic Model was introduced in Ireland in 2017, reports of violent attacks on sex workers have increased by almost 50 percent, according to charity Ugly Mugs. There were around 900 in the year preceding the change and more than 1,400 reports the year after. In 2016, the Home Affairs Select Committee recommended that the government fully decriminalise sex workers as the best means of ensuring their safety. Responding to our poll, a Home Office spokeswoman said that it has no plans to change the law around prostitution and is committed to tackling the harm and exploitation associated with sex work. "That is why we commissioned research into the scale and nature of prostitution in England and Wales," she said. "We have some of the most stringent human trafficking and modern slavery laws in the world and are providing £100m in funding to tackle all forms of violence against women and girls."

Abuse and Negligence in Full Sutton Segregation Unit

Salutations once again from the circus that is the Full Sutton segregation unit trainwreck. Sadly nothing much here has changed and the saga continues with an unbelievable series of events, stranger than fiction, that shows no sign of abating. Imagine Shawshank Redemption meets One Flew Over the Cuckoo's Nest meets Porridge. An entertaining storyline if it weren't so serious and happening all around me. George Black reports from inside Full Sutton prison.

I can hardly hear myself think as I write this because four more cells (that's two more than yesterday) are in the process of being rearranged by guys obviously suffering from frustration and differing levels of personal mental health crisis who feel they have been left no alternative, and have decided as a last resort they will be heard at any costs. Between you and me, they might not fully appreciate how inconsiderate and out of tune their rhythms actually are, but even then they still have the full support of nearly every inmate in the seg.

More worrying is the dawning realisation that every person in this seg unit, inmates and staff alike, is being seriously desensitised to the daily ravages of war that tit-for-tat behaviours and others of an unprofessional nature are causing and are now so deeply entrenched that they are just accepted and expected and anything less than an inferno hardly gets any attention or even raises an eyebrow in response.

For example, since the Great Fire of Tuesday 14 May 2019, there have been a few others which were insignificant by comparison and forgotten about nearly as quickly as they were started and extinguished. The main participants in the Great Fire nearly died as a result of negligence: the new smoke alarm systems were turned off because they kept shorting the hot water supply; the nearest fire hose wasn't working; nor were any of the breathing apparatus masks, and nobody was responding to cell bells or to the whole seg shouting and banging on their doors. Because of this negligence being so apparent, the two main participants were moved to wings within two days, given TVs, taken off Basic regime, given a smokers' pack and provided with canteen that week. 'Rather than interview and contribute positively towards any rehabilitative efforts, some staff prefer to manipulate situations with unstable prisoners to create opportunities for personal entertainment. All this leads me to ponder that, while some inmates may or may not be guilty of lighting fires, the same doubt as to guilt cannot be applied to the nefarious activities of certain governors who are 100% guilty and deserve to be charged, convicted and imprisoned for their role in the cruel and unusual offence of 'psychological arson'.

The elements of this charge are providing the kindling and intentionally igniting the fuses of inmates in their care, who they know to clearly have fragile, emotional and mental health conditions. At some very vulnerable inmates' expense, there seems to be a managerial need to stoke the fires. This mainly occurs through a mix of subtle and craftily instigated head-games, straight out provocation/intimidation and the lowest form of all authoritative abuse, the tried, tested and well-established turning a blind eye and deliberately pretending to be ignorant trick.

A different governor attends the seg almost daily, on their flying visits, to verify our existence, and very little else of any meaningful consequence. Recently I have spoken to three different governors, each one of whom - after asking me if I was 'alive and well', and appearing to be a little confused and disappointed to learn from me that 'obviously I am still alive and no, I am not well' - reluctantly promised to come back after completing the seg unit rounds. Not surprisingly, none returned to finish their responsibilities.

Full Sutton seg unit has always been one of those places where the regime encourages inmates to turn on each other verbally, mentally and physically, like scenes from Lord of the Flies. This has always served the purpose of further dividing and conquering an already subjugated people, making us even easier prey.

Rather than interview and contribute positively towards any rehabilitative efforts, some staff prefer to manipulate situations with unstable prisoners to create opportunities for personal entertainment. Then there are the Judge Dredd types who prefer to apply additional punishments according to what they consider appropriate, based on their own warped perceptions of justice, and feelings of self-importance. What makes you laugh is that you have nursing staff in care homes being secretly filmed beating the crap out of their completely innocent, disabled patients, yet the governors of this prison would have you believe that nothing like that could ever go on here, because they are working tirelessly under very difficult circumstances to manage this unprecedented level of indiscipline, blah blah blah. So we are supposed to believe that while disabled people get beaten up by care staff (fact), convicted criminals are treated fairly…

Last night a prisoner was eating his own faeces and squirting it through his smashed observation panel out of his mouth and on to the landing, up the walls and everywhere he could reach. This morning every prisoner in the seg is being punished because we won't turn on this inmate. The only unusual thing about this situation is that he's started to use his mouth to spray the mess around; normally he just flicks it off a spoon.

This inmate is one of the stalwarts who have been smashing up, dirty protesting, self-harming, lighting fires, climbing on the netting and crying out for help for the past four months that I have personally witnessed. On 19 June every inmate in the seg heard a mental health nurse tell this prisoner to hang himself and stop wasting officers' time, after he and another prisoner had self-harmed.

A lot of inmates have reported to me that their Assessment, Care in Custody and Teamwork (ACCT) files have been closed, without their knowledge or consultation. Custody Managers are falsifying the documentation to exclude prisoners from participating and preventing the closure of these files, which provide inmates with support but mean staff have to make regular checks on them up to five times an hour. This is a scandal.

• On 30 May 2019 I submitted two 'confidential access' complaints to the Number 1 Governor and Chairman of the Independent Monitoring Board (IMB) concerning a prisoner who had self-harmed in a cell upstairs, smearing blood all over his walls. This prisoner was relocated into one of the old smashed up cells next door to me (cell 26), with no sink, toilet, furniture or bedding, and no working cell bell or observation panel in his door. He self-harmed again and was banging his cell door all night, as was the rest of the seg unit to get attention. He was also shouting out 'Are you going to answer my cell bell? Oh you can't, because I haven't got one.' I reported this incident to a governor the next morning. The governor documented on my file that I complained to him about my neighbour banging all night, when the truth is that I complained that a suicide risk prisoner was put in a cell with no working cell bell. This inmate was moved cells later the next day, self-harmed again and is now on a constant watch in the health care after another serious attempt.

• 'Polish', a persistent cell-smasher-upper, was refused numerous meals over a period of months. He was involved in numerous smash-ups and dirty protests, and incomprehensibly slashed himself up quite seriously 11 days before the end of his sentence. He told me that a governor had telephoned his mum in Poland and told her that her son was unable to phone her because he was being disruptive and had covered himself in excrement.

• On 3 July an inmate was refused his meal because he took too long to get off his bed. As a result he smashed his observation panel, ate some glass and, after speaking to a nurse, tried to hang himself. The noose slipped and he was left tip-toeing on the floor, shouting for his neighbours to call staff to cut him down. This prisoner could easily have died.

• An inmate who had a verbal disagreement with a female officer had a cup of urine thrown in his face by the seg cleaner the next day. When staff failed to intervene, this prisoner self-harmed in protest. • 'Listen', an already manic and highly agitated inmate, did not receive his canteen and tried to hang himself. Staff intervened and relocated him into the cell next door to me. He was refused his meal and then proceeded to smash up and self-harm again.

Staff have been conducting inmates' ACCT reviews out on the landings in open view and hearing of other prisoners (who have smashed out their observation panels in their cell doors). This is to cause the inmate on the ACCT to be distressed, embarrassed, intimidate and reluctant to take part in the review, because they are aware there is no confidentiality and that other prisoners will use any information they can to abuse them. (I have reported this situation to governors and the IMB, but I'm just met with goofy smiles and my complaint responses acknowledge this is a problem.) It is only a matter of time before someone dies and the truth is covered up with lies.

Please write letters of complaint to:

• Full Sutton governor Gareth Sands, HMP Full Sutton, Moor Lane York YO41 1PS

• Lisa Forbes MP, House of Commons SW1A 0AA, Email lisa.forbes.mp@parliament.uk

And copy to me: • George Black A3887AE, HMP Full Sutton, Moor Lane York YO41 1PS.

Robber Robbed, Whilst Robbing!

A man in Washington who called police to report that his car had been stolen wound up behind bars himself when police discovered he had allegedly been robbing a store across the street when his vehicle was taken. William Kelley made a call to the Kennewick Police Department at around 6 a.m. on Sunday morning to report the theft of his red 1992 Chevy pickup truck. Security camera footage obtained by the police show that a male on a bicycle was riding past the vehicle when he discovered the keys to Kelley's truck had been left on the seat. The individual then took his bike, placed it in the bed of the truck, and fled the scene of the crime in the stolen vehicle. However, upon further review of the security footage, police discovered that the reason Kelley was at that location early Sunday morning was because he was in the middle of allegedly stealing items from a business right across the street. Kelley was immediately jailed in the early hours of Sunday morning and charged with burglary, according to a statement by the Kennewick Police Department. Kelley's 1992 Chevy pickup truck has still not been located.

What is a "Deputy" in the Court of Protection?

A deputy is a person that is appointed by the Court of Protection to make decisions on behalf of someone who no longer has mental capacity to make these decisions.

Mental capacity is usually lost due to an impairment or disturbance in the functioning in the brain. These may be the result of: Dementia, Alzheimer's or other age-related conditions; Traumatic brain injury; Autism, learning disabilities, Down's Syndrome; or Substance abuse. It should be noted that there are numerous other factors that can cause somebody to lack capacity to make decisions in addition to those mentioned above.

Losing mental capacity means that individuals may require a separate person to make decisions on their behalf. These decisions can relate to matters involving the individual's health and welfare, for example; where they should live, the type of care they require and, on occasion, the type of medical treatment they receive. Individuals may also need someone to manage their property and financial affairs, which can include the management of their bank accounts, paying debts and taxes, and managing any property that they own.

Usually, a deputy is a family member or close friend of the person needing assistance, however, on occasion the Court of Protection will appoint an independent deputy from a panel of deputies in instances where the is not a suitable person able to take on the role of deputy. A deputy's decisions, regardless of whether they are making health and welfare or property and financial decisions must always be in the other person's best interests and should consider the actions and decisions that individual took in the past when they still had capacity. It is also a deputy's responsibility to apply a high standard of care when making decisions. They should, when necessary, consult others such as other relatives or relevant professionals when making their decisions as well as take appropriate measures to try and help the person without capacity understand the decision that has been made.

Suspected Poachers Eaten by Lions - That Should Teach Them to Fuck With Nature

Poachers who broke into a popular game reserve to hunt rhinos are believed to have been killed and eaten by lions. The owner of Sibya Game Reserve in Kenton-on-Sea, a coastal town in South Africa, said very little of the men could be recovered, Newsweek reports. Authorities recovered body parts, three pairs of shoes, wire cutters, high-powered hunting rifles with silencers, and a type of axe used for removing rhino horns. Park owner Nick Fox said: "The only body part we found was one skull and one bit of pelvis, everything else was completely gone. "There is so little left that they don't know exactly how many people were killed, we suspect three because we found three sets of shoes and three sets of gloves." Mr Fox said the incident was sad but should send a "message" to other poachers. "They came heavily armed with hunting rifles and axes which we have recovered and enough food to last them for several days so we suspect they were after all of our rhinos here. "But the lions are our watchers and guardians and they picked the wrong pride and became a meal."

Will a Prison Sentence Break Your 'Continuous Residence' in the UK?

Gherson Immigration: In the recent case Secretary of State for the Home Department (Appellant) v Franco Vomero (Italy) (Respondent), the respondent Mr Vomero, who is an Italian national, moved to the UK with his future wife, a UK national, in 1985. In 2001 he was sentenced to five years' imprisonment for manslaughter and was released in July 2006. On 23 March 2007 the Home Secretary decided to deport him under regulations 19(3)(b) and 21 of the Immigration (European Economic Area) Regulations 2006, which permitted the Home Secretary to deport a national of another member state where the removal was justified on the grounds of public policy, public security or public health. Regulation 21 gives effect to articles 27 and 28 of Directive 2004/38/EC ("Directive").

In October 2007, the Immigration and Asylum Tribunal ("IAT") dismissed Mr Vomero's appeal against the deportation decision. A Senior Immigration Judge then ordered that the IAT's determination be reconsidered. On reconsideration, the IAT allowed Mr Vomero's appeal, and this decision was in turn appealed to the Court of Appeal by the Home Secretary. The Court of Appeal dismissed the Home Secretary's appeal against the second IAT determination which resulted in the case being appealed up to the Supreme Court.

The Supreme Court unanimously allowed the appeal and concluded that it would be necessary for the tribunal, on remittal, to consider not only whether Mr Vomero has acquired a right of permanent residence since the date of the decision to deport him, but also whether there still existed "grounds of public policy or public security" within the meaning of article 28(1) of the Directive on

the basis of which his expulsion could be justified. We now wait to see, therefore, whether the court will consider the period of imprisonment for more than two years which Mr Vomero had undergone by 30 April 2006 as preventing him from acquiring a right of permanent residence on that date and whether a prison sentence would break 'continuous residence' in the UK.

The UK Immigration Rules provide that a person who has been residing legally in the UK for 10 continuous years can apply to settle in the UK. This is also known as an application under the Long Residence provisions. An applicant who has been granted settlement (also known as "indefinite leave to remain") under Long Residence provisions can stay in the UK without any immigration time restrictions. To qualify, the applicant must be able to show at least 10 years continuous "lawful residence" in any immigration category or a combination of different immigration categories. If the applicant is absent from the UK for a period of 6 months or less at any one time, the residence shall not be considered to have been broken. However, if the applicant has been convicted of an offence and was sentenced to a period of imprisonment or was directed to be detained in a young offender institution or secure hospital or has spent a total of more than 18 months absent from the UK during the whole period in question, 'continuous residence' shall be considered to have been broken for the purposes of settlement.

Judge Condemns "Embarrassing" Expert Who Used Expletive

Nick Hilborne, Litigation Futures: Mr Justice Martin Spencer: Expert's evidence was intemperate. A High Court judge has taken to task an "embarrassing" medical expert who made "continual apologies" and used "an expletive" during his evidence. Mr Justice Martin Spencer said he did not "altogether exonerate" Slater & Gordon, the claimant's lawyers, for allowing David Sandeman to go into the witness box despite "clear and obvious deficiencies" in his written evidence. "I regret to say that, in my judgment, Mr Sandeman's evidence fell far below the standard to be expected of a reasonable, competent expert witness, both in relation to the preparation of his reports and in relation to his preparing to give evidence. I could see no excuse for this whatever. I should say, though, that I do not altogether exonerate the lawyers who have represented the claimant because they allowed Mr Sandeman to go into the witness box despite these clear and obvious deficiencies in Mr Sandeman's written evidence, and this was something which should have been addressed by the lawyers long before the trial. In the end, the continual apologies from Mr Sandeman in the course of his evidence, as the magnitude of the deficiencies became apparent, were embarrassing".

Describing the expert's oral evidence as "unimpressive", Martin Spencer J said: "It was intemperate, at one stage he even used an expletive, and there was a failure on his part to address the questions that he was being asked: recognising the difficulties of some of the questions, not just from Ms Vickers for the defendant but also from the bench, he would stray into other areas and different areas so as to avoid answering the questions. "I had no doubt, listening to Mr Sandeman's evidence, that this was a deliberate ploy on his part to avoid answering the questions, rather than any kind of misunderstanding on his part as to what he was being asked, and the technique was adopted by him because of the difficulty he found himself in, in addressing the questions."

Martin Spencer J was giving judgment in Arksey v Cambridge University Hospitals NHS Foundation Trust [2019] EWHC 1276 (QB), a medical negligence case in which Margaret Arksey sought damages from the trust for failings to admit her to hospital swiftly enough and in the treatment of her cerebral aneurysm, which left her with "significant disability". The judge said the particulars of claim were based on a medical report by Mr Sandeman, a consultant neurosurgeon, who argued that had Mrs Arksey's condition been managed according to the relevant proto-

col, she would have been less likely to suffer the catastrophic haemorrhage that she did.

However, Martin Spencer J said Mr Sandemans' report on liability predated the exchange of pleadings, even though "no reasonable expert" would want to submit a final report until he had seen the defendant's witness statements. The judge said the expert did produce an "addendum report", but "astonishingly" this was served without any consideration of the amended defence.

Mr Sandeman met his opposite number, Mr Battersby, in December 2018, and saw Mr Battersby's two reports, which referred to relevant witness statements and provided a full medical history. This meant, Martin Spencer J said, that it would have been "obvious" to Mr Sandeman that Mr Battersby had access to medical records he had not seen, and he was reporting on a "false, or at least incomplete" basis.

However, "yet more astonishingly", the expert did not draw this to the attention of his instructing solicitor and "told me that it was only in the week before trial, when he had access to the trial bundle which contained the full medical records, that he had access for the first time to the full medical records". The judge went on: "He nevertheless went into the witness box and gave evidence affirming the accuracy and correctness of two medical reports which simply did not stand up to a moment's scrutiny, given that they had been prepared on a false and wholly incomplete basis." In contrast, Mr Battersby was a "wholly straightforward and reliable witness", who prepared reports which "fully complied" with the rules on expert evidence. "I had no difficulty in preferring Mr Battersby's evidence to that of Mr Sandeman on every point of dispute between them." Martin Spencer J ruled that there would be judgment for the claimant only for an admitted breach of duty relating to a delay in treatment, "but otherwise the claim fails".

Sheriff Forced to Hold Court In Van Because of Disruptive Prisoner

A sheriff was forced to sentence a man in the back of a prison van after he refused to leave the vehicle, The Times reports. Harrison Long, 28, had been brought to Selkirk Sheriff Court after having been found guilty of a machete attack. He behaved so disruptively, however, that the sheriff, depute fiscal, sheriff clerk and defence lawyer decided to conduct the hearing in the van. During the hearing he banged on the walls of the van and swore repeatedly. He was sentenced to 20 months' imprisonment, after which the sheriff read the sentence out again in open court for "public interest" reasons.

Expert "Failed to Provide Objective Opinion", says High Court

Neil Rose, Litigation Futures: An expert witness who said in oral evidence that he saw his role as presenting his side's case "in the most favourable light" has been criticised by the High Court. Mathew Gullick, sitting as a deputy High Court judge, said the expert had acted inconsistently with the duties of an expert as set out by the CPR. In Pepe's Piri Piri Ltd & Anor v Junaid & Ors [2019] EWHC 2097 (QB), a claim over a grilled chicken food franchise, the court received written and oral expert evidence from two chartered accountants, Simon Blake of Price Bailey for the claimants and Vivian Cohen of Frenkels Forensics for the defendants.

Mr Gullick said he agreed with claimant counsel Nigel Jones QC's criticisms that Mr Cohen's report was, in significant part, "more of a critical commentary on the claimants' conduct of the litigation than an assessment of their claimed losses". He continued: "In his oral evidence, Mr Cohen said in response to Mr Jones QC that, although his ultimate duty was to the court, where he was instructed by a particular party then he would do the best that he could to present that party's case in the most favourable light. "I do not regard Mr Cohen's approach, thus

explained, as being consistent with the duties of an expert under CPR part 35. It is not part of the duty of an expert to advance the case of the party instructing them, whether by advancing arguments of fact or law which are outside their expertise or by seeking to present that party's case in a favourable light. An expert witness should present evidence which is uninfluenced by the pressures of litigation and contains independent assistance by way of objective opinion."

The judge accepted Mr Jones QC's submission that Mr Cohen, insofar as he was critical of the claimants' case and of the evidence of Mr Blake, approached the exercise "more as an advocate than as an expert complying with the requirements of CPR part 35". He said it did not mean criticisms made by Mr Cohen were necessarily incorrect, but insofar as there was a conflict between the two experts, "I am constrained for these reasons to place little weight on the views of Mr Cohen".

The claimants succeeded against six of the defendants but were only awarded damages of £2,500, a tiny fraction of what they had sought. Last week, we reported on a High Court judge taking to task an "embarrassing" medical expert who made "continual apologies" and used "an expletive" during his evidence.L

Russia: Serious violations of the Convention in Respect of a life Prisoner

The case concerned criminal proceedings which led to the applicant being sentenced to life imprisonment. His complaints concerned the security cameras which operated in his cell 24 hours a day, restrictions on family visits, the length of his pre-trial detention, his conditions of detention and the fact that the proceedings were held behind closed doors.

In Chamber judgment in the case of Izmestyev v. Russia (application no. 74141/10) the European Court of Human Rights held, unanimously, that there had been: a violation of Article 3 (prohibition of inhuman or degrading treatment) of the European Convention on Human Rights, with regard to Mr Izmestyev's conditions of detention from 30 November 2007 to 6 November 2011 and the conditions in which he was transported to and from the courthouse during the criminal proceedings against him; a violation of Article 5 § 3 (right to liberty and security) The Court found that the decisions prolonging Mr Izmestyev's pre-trial detention had been worded in stereotyped terms and had not been based on any specific factual evidence. The authorities had thus kept Mr Izmestyev in pre-trial detention for more than three years on grounds which could not be regarded as "sufficient" to justify its duration; a violation of Article 6 § 1 (right to a fair trial). The Court found that the public's exclusion from Mr Izmestyev's trial at first instance could not be regarded as justified, since the first-instance court had decided to hold the entire criminal trial in camera solely on account of the fact that classified documents had been included in the case file, without however giving reasons for its decision and demonstrating that those documents were related to the subject matter of the proceedings and that their inclusion was essential. In addition, the court had not examined those documents in judicial session and had not relied on them in its judgment; and a violation of Article 8 (right to respect for private and family life).

The Court held, firstly, that restrictions had been placed on family visits to Mr Izmestyev during his detention in special-regime correctional colony no. IK–1. Secondly, the Court held that the Russian law lacked clarity with regard to the video surveillance of detainees serving a prison sentence and that Mr Izmestyev had not enjoyed the minimum degree of protection required by the rule of law in a democratic society.

Principal facts'The applicant, Igor Vladimirovich Izmestyev, is a Russian national who was born in 1966. He is imprisoned in Solikamsk (Perm Region, Russia). In 2007 Mr Izmestyev was suspected of involvement, as a member of an organised criminal group, in a murder com-

mitted in 2001. He was arrested and placed in pre-trial detention. Subsequently further charges were brought against him. He was charged with several offences committed between 1994 and 2006, including the setting up and running of a criminal gang, seven murders and acts of terrorism and attempted bribery. The domestic courts extended his pre-trial detention on several occasions during the proceedings, justifying their decisions, in particular, by the seriousness of the charges against him and the risk that as a former senator he might pervert the course of justice by exerting pressure on witnesses or other participants in the criminal proceedings.

In 2009, after the preliminary hearing, the court decided to hold the trial in camera on the grounds that public proceedings might disclose a State secret or other classified information protected under federal law (Article 241 § 2 of the Code of Criminal Procedure).

In 2010 the court found Mr Izmestyev guilty of the charges and sentenced him to life imprisonment. In 2011 the Russian Supreme Court amended that judgment, but retained the life sentence. It dismissed the applicant's complaint about the lack of a public hearing.

Complaints, procedure and composition of the Court. Mr Izmestyev relied on Article 3 (prohibition of torture and inhuman or degrading treatment) regarding his conditions of detention in remand prison SIZO-2; Article 5 § 3 (right to liberty and security) with regard to the length of his pre-trial detention; Article 6 § 1 (right to a fair trial) on account of the court's decision to consider the criminal case in private session; and Article 8 (right to respect for private and family life) in connection with restrictions on his family visits (a limited number of visits, a prohibition on telephone calls to friends and relatives, a lack of privacy and physical contact) and the 24-hour operation of a video camera in the cell in which he had been detained in special-regime correctional colony no. IK–1. The application was lodged with the European Court of Human Rights on 10 December 2010. Judgment was given by a Chamber of seven judges.

Decision of the Court - Article 3 (prohibition of inhuman or degrading treatment) The Court held that Mr Izmestyev's conditions of detention in pre-trial detention centre SIZO-2 between 30 November 2007 and 6 November 2011 and the conditions in which he was transported to and from the courthouse during the criminal proceedings against him had amounted to inhuman and degrading treatment, as the Government had failed to discharge the burden of proof incumbent on them and had not rebutted Mr Izmestyev's allegations that he had been detained and transported in conditions that were contrary to Article 3. There had therefore been a violation.

Article 5 § 3 (right to liberty and security) - Mr Izmestyev's pre-trial detention had lasted three years, eleven months and twelve days. Having regard to the considerable length of this period, the Court considered that the domestic courts ought to have provided convincing reasons for extending Mr Izmestyev's detention. It noted, however, that the decisions extending the pre-trial detention were worded in formulaic terms and had not been based on any specific factual evidence. The domestic courts had maintained the applicant in pre-trial detention by referring primarily to the seriousness of the accusations against him and the complexity of the criminal case. However, the seriousness of the charge could not, in itself, be a ground for an individual's detention being extended at a late stage of the proceedings. As to the complexity of the criminal case, this factor could indeed be relevant, especially in cases involving organised crime. In the present case, however, once the evidence had been secured and the criminal case referred for trial, it was no longer sufficient to maintain Mr Izmestyev in detention if there were no other tangible indications of a risk that the course of justice would be perverted as a result of the ties to organised crime. After completion of the preliminary examination, the domestic courts had thus kept Mr Izmestyev in pre-trial detention for at least two years and

seven months, always giving the same reasons and without citing tangible factual grounds. In addition, their decisions had been "collective" ones, in the sense that they had been adopted simultaneously in respect of the applicant and several of his co-defendants. In consequence, the Court considered that, in relying primarily and systematically on the seriousness of the charges against the applicant, the authorities had maintained him in pre-trial detention for more than three years on grounds that could not be regarded as "sufficient" to justify this duration. It followed that there had been a violation.

Article 6 § 1 (right to a fair trial) - The Court noted that Mr Izmestyev had alleged that only four documents out of the hundreds included in the criminal case file were stamped "top secret", and that the Government did not dispute this. However, the first-instance court had decided to hold the entire criminal trial in camera solely on account of the fact that classified documents had been included in the case file. The court had not given reasons for its decision so as to demonstrate that those documents were related to the subject matter of the proceedings and that their inclusion was essential. Equally, it had not examined those documents in judicial session and had not relied on them in the judgment convicting the applicant. Nor had it envisaged taking measures to limit the impact of the absence of a public hearing, for example by restricting access solely to the relevant documents and by holding only certain hearings in camera, although this option was provided for in the Code of Criminal Procedure. In consequence, the public's exclusion from Mr Izmestyev's trial before the first-instance court could not be considered justified.

The Court reiterated that a higher court could, in certain cases, rectify a procedural shortcoming before the first-instance court, for example by carrying out a complete re-examination of the case, so that all the evidence was produced in the presence of the accused at a public hearing with a view to adversarial argument. However, the Supreme Court of the Russian Federation had conducted no such re-examination in this case and had thus not made reparation for the lack of a public hearing during the criminal trial at first instance. There had therefore been a violation.

Visiting rights and contact with the outside world - The Court noted that in special-regime correctional colony no. IK-1 (Mordovia Region), Mr Izmestyev, as a prisoner serving a life sentence, had been subject to a strict regime. From 6 November 2011 to 25 November 2013 he had been able to maintain contact with the outside world by corresponding in writing. All other types of contacts had been limited. In addition, his relatives had been able to visit him in person only once every six months. The visits lasted for no longer than four hours, with the number of adult visitors being limited to two. He had been separated from his visitors by a glass partition and a prison guard had been present and within hearing distance at all times. The Court therefore held that there had been a violation of Mr Izmestyev's right to respect for his private and family life on account of the restrictions on his ability to receive family visits at the correctional colony from 6 November 2011 to 25 November 2013.

Video surveillance of the cell - The Court noted that the national legislation relied on as the legal basis for the interference with Mr Izmestyev's right to respect for his private life (specifically, Article 83 of the CECS2) lacked clarity, In particular, it did not make it possible to determine whether the domestic authorities' room for manoeuvre ("margin of appreciation") with regard to the procedures for initiating and verifying the use of video surveillance was limited to what was "necessary in a democratic society". The Court also took account of the way in which the highest Russian courts had interpreted the national law. It noted that the Constitutional Court had held that placing a convicted person under video surveillance was a consequence of sentencing an individual to a prison term and that this measure was one of the restrictions that a person could expect if he or she knowingly

committed a criminal offence. The Supreme Court had stated that placing a prisoner under video surveillance did not require that any specific decision be adopted in advance and that it was only necessary to inform the prisoner of the intended measure. The Court considered that Mr Izmestyev's case illustrated this point. The Government had not shown that the domestic-law provisions required that Mr Izmestyev's placement under video surveillance be carried out on the basis of a decision accompanied by explicit reasons, that is, analysing the factual reasons that would justify such a decision in the light of the aim being pursued, that the measure was limited in time or that the prison authorities were obliged to reconsider its merits on a regular basis. The Russian law was thus not sufficiently accessible and foreseeable, since it did not indicate with sufficient clarity the scope and manner of exercise of the relevant discretion conferred on the domestic authorities with regard to the video surveillance of convicted individuals who were serving a prison sentence. Mr Izmestyev had thus not enjoyed the minimum degree of protection required by the rule of law in a democratic society. There had been a violation of Article 8 of the Convention.

Just satisfaction (Article 41) - The Court held that Russia was to pay the applicant 10,000 euros (EUR) in respect of non-pecuniary damage and EUR 2,000 in respect of costs and expenses.

HMP Isle of Wight - Less safe, With Weaknesses in Release and Rehabilitation Work

HMP Isle of Wight – holding nearly 1,000 men convicted of sexual offences – was found to be a respectful prison but one where safety had deteriorated and rehabilitation and release planning was not sufficiently good. Most of the prisoners held at the time of the inspection in April and May 2019 were serving long sentences for serious offences. Forty per cent of the population were over 50 years old and a significant proportion were elderly and sometimes frail. Peter Clarke, HM Chief Inspector of Prisons, said the prison continued to house a very small remand population from local courts on the island, although it was ill-suited to this role.

Since the last inspection of Isle of Wight in 2015 the assessment of respect had slipped from good, the highest grading, to reasonably good, and safety fell from reasonably good to not sufficiently good. Purposeful activity remained at reasonably good and rehabilitation and release planning remained not sufficiently good. Despite the deterioration in safety and respect, Mr Clarke said, much positive work continued at the prison. "Relationships between staff and prisoners remained good, underpinning prisoners' experience of everyday life." Most prisoners said they had a member of staff they could turn to if they had a problem and living conditions were also reasonably good. Most prisoners could get 10 hours out of their cell each weekday and gym and library provision were good. Teaching and learning were also good and achievement rates were very high on most courses, though inspectors found a large number of prisoners underemployed in a significant number of wing roles.

More concerningly, Mr Clarke said, "we found prisoners had very poor perceptions of safety. In our survey, more than half said they had felt unsafe during their time at HMP Isle of Wight and nearly a quarter felt unsafe at the time of the inspection. While violence was still not widespread, it had risen significantly since the previous inspection and the response of managers was not good enough, leading to inconsistent challenge of perpetrators and little support for victims." Many Isle of Wight prisoners were held a long way from home and families experienced significant travel times and expense visiting the prison. It was therefore disappointing that support for prisoners to maintain contact with the outside world was limited to letters, phone calls and some fairly basic visits facilities.

The long-term, high-risk sex offender population presented significant challenges in

rehabilitation and release planning, Mr Clarke said. "We found a very similar picture to the previous inspection. Fundamentally, some good work was undermined by a lack of up-to-date assessments of risk and need, high offender supervisor caseloads and a lack of contact between offender supervisors and prisoners. "This meant the one-to-one motivational work needed with the large number of prisoners who were maintaining their innocence could not take place." Around half the men at the prison maintained their innocence.

Overall, Mr Clarke said: "HMP Isle of Wight is a respectful place where good relationships between frontline staff and prisoners result in many positive outcomes. However, there needs to be a better operational grip on safety. Managers need to address the weaknesses in offender management to ensure the prison fulfils its purpose of reducing the risks these long-term prisoners pose, both within the prison and, importantly, when they are eventually released."

HMP Pentonville - Poor Safety and Weaknesses Across All Areas

HMP Pentonville, one of the country's oldest and busiest prisons, was found by inspectors to be failing to meet the "undoubtedly great challenges" it faces, with safety assessed as particularly poor. However, Peter Clarke, HM Chief Inspector of Prisons, stopped short of invoking the rarely-used Urgent Notification (UN) protocol, which is designed to bring prisons with significant failings directly and publicly to the attention of the Secretary of State. Mr Clarke considered, but rejected, a UN at Pentonville at the inspection in April 2019 because, he said, the relatively new governor and his senior team, with active support from the (Prison) Group Director, appeared finally to be getting to grips with longstanding problems. "We found no denial of the gravity of the prison's situation, and there was a clear recognition of the scale of the work to be done." The problems were clear and serious. Built in 1842, and largely unchanged structurally since, Pentonville holds up to 1,310 adult men. It epitomises the challenges confronting ageing, inner-city prisons with transient populations, many with heightened levels of need and risk. Mr Clarke said that "the general failure to meet the undoubtedly great challenges faced by this prison and those held in it is reflected in our healthy prison assessments." Safety was poor and respect, purposeful activity and rehabilitation and release planning were all not sufficiently good.

Violence had increased markedly, by more than 50% since 2017, driven by gang affiliations, drugs, debt and a high proportion of relatively more volatile younger prisoners who were given no targeted support. A third of prisoners said they felt unsafe. Use of force by staff had increased significantly, yet oversight and accountability were lacking. There was good attention to gang issues and staff corruption but, drugs remained hugely problematic, with a random drug test positive rate of around 29%. There were weaknesses in the physical security of the prison and ineffective use of technology. There had been four self-inflicted deaths since 2017. Recommendations by the Prisons and Probation Ombudsman following investigations had been implemented well in relation to health care but less so by the rest of the prison. Case management support (ACCT) for those in crisis was poor. Living conditions for many prisoners were still poor, with many cells overcrowded or badly equipped.

Only 57% of the prisoners surveyed said staff treated them with respect, much lower than at comparable prisons. Inspectors received several reports suggesting a poor attitude among some staff, and there was evidence of some deep-rooted cultural problems that obstructed positive work with prisoners. Many staff were inexperienced, though they were being given reasonable mentoring and leadership Daily routines were more reliable but nearly a third of prisoners were locked in cell during the working day. Inspectors were concerned that 95% of prisoners under the age of 22 said they usually spent less than two hours per day out of

their cells during the week. There were enough part-time activity and education places for all prisoners, but despite some recent improvement attendance remained poor. The overall strategic approach to rehabilitation work remained weak.

Mr Clarke said that inspectors in 2017 had raised similar concerns to those in 2019 but noted, then, early signs of improvement. This, though, was “evidently a false dawn.” He gave “very serious consideration” to invoking an Urgent Notification but, he added, “managers and many staff at all levels throughout the prison told us they were committed to the changes that were underway and expressed confidence in the leadership of the establishment.” HM Prison and Probation Service (HMPPS) had ensured a recent influx of new staff.

Overall, Mr Clarke said: “We left the prison with no illusions about the scale of the task ahead and with ongoing concerns about decency and safety for prisoners. The depressing cycle of promise and further decline cannot be allowed to continue. Managers appeared to be working together to bring about the changes that were needed. Indeed, many told us that within 12 months the prison would be vastly improved. We will test the reality of this claim through an independent review of progress (IRP), which will be followed in due course by a full unannounced inspection.”

Phil Copple, HM Prison and Probation Service (HMPPS) Director General for Prisons, said: “We are under no illusions as to the scale of the challenge at HMP Pentonville, but I share the inspectors’ confidence in this management team and fully expect to see real improvements. A new drugs strategy has been introduced at the prison to combine more cell searches with better addiction treatment, while a scanner to intercept illicit items in mail has been deployed. We are investing an extra £100m to boost security and safety across the estate to stop drugs, weapons and mobile phones getting in so we can protect staff, cut violence, and rehabilitate offenders.”

Russia Ordered to Pay Mother 12,700 Euros For Non-Pecuniary Damage

The applicant, Igor Rodionov, died on 22 May 2018. His mother, Tatyana Rodionova, has requested a review of the 11 December 2018 judgment of the European Court of Human Rights in accordance with Rule 80 of the Rules of Court.

Mr Rodionov’s mother pointed out that she was unable to obtain the enforcement of the above-mentioned judgment on account of her son’s death. She submitted that as his heir she should receive the amounts awarded to the deceased in the 11 December 2018 judgment.

In its judgment of 11 December 2018 the Court held that there had been a violation of Article 3 (prohibition of torture and inhuman or degrading treatment) of the Convention read alone and in conjunction with Article 13 (right to an effective remedy) on account of the applicant’s conditions of detention in remand prison no. IZ–47/1 from 18 August 2006 to 1 October 2008 and from 23 March to 21 August 2009, the conditions in which he had been transported to and from the Kirovski District Court in St Petersburg and placed in a metal cage during the criminal trial, as well as the lack of effective domestic remedies in that connection. The Court further ruled that there had been a violation of Article 5 §§ 3 and 4 (right to liberty and security), Article 6 §§ 1, 3 (b) and (c) (right to a fair trial), Article 8 (right to respect for private and family life), read alone and in conjunction with Article 13 (right to an effective remedy), as well as Article 10 (freedom of expression) and Article 34 (right of individual petition). The Court also decided to award the applicant the sum of 12,700 euros (EUR) in respect of non-pecuniary damage and EUR 3,500 in respect of costs and expenses. In its judgment today the Court decided to revise its judgment of 11 December 2018 and held that Russia was to pay Ms Rodionova EUR 12,700 for non-pecuniary damage and EUR 3,500 for costs and expenses.

Alabama Man Who Served 36 Years of A Life Sentence For Stealing $50 Freed

A man from Alabama who was sentenced to life without parole after stealing $50.75 from a bakery in his 20s is to be released after more than three decades in prison. Alvin Kennard, who was convicted of first degree robbery following the bakery incident, was 22 when he was first imprisoned in 1983. Now, 36 years on, the 58-year-old is finally to be free after a judge ordered his release from Donaldson correctional facility in Bessemer. Kennard was given the disproportionately harsh sentence under Alabama’s old Habitual Felony Offender Act, also known as the “three strikes law”. He had previously been sentenced to three years probation for three counts of second-degree burglary in 1979. Emotional friends and family leapt up and raised their arms in celebration in the court on Wednesday as circuit judge David Carpenter re-sentenced him to time served. “All of us [were] crying,” his niece, Patricia Jones, told WBRC. “We’ve been talking about it for, I don’t know, 20-plus years, about being free.” Kennard, who previously worked in carpentry and construction, reportedly told the judge he wants to work as a carpenter. He attended court shackled and wearing a red-and-white striped prison uniform. “He says he wants to get him a job, he wants to support himself, and we’re going to support him,” said Jones. Kennard’s attorney, Carla Crowder, who is executive director of Alabama Appleseed Centre for Law and Justice, said following the re-sentencing that Kennard is “overwhelmed”. “What’s extraordinary about Mr Kennard is that even when he thought he was going to be in prison for the rest of his life, he really turned his life around,” she said “He is overwhelmed at this opportunity, but has remained close with his family, so he has incredible support.” Crowder, who was appointed to Kennard’s case after it was spotted by a compassionate judge, said there are “hundreds” of prisoners in similar situations still imprisoned because they do not have attorneys. “It’s incredibly unfair and unjust the hundreds of people in Alabama serving life without parole for nonviolent, non-homicide crimes,” she added.

Miscarriage of Justice Fears Over Call Centre 'Meltdown'

Practitioners fear that suspects in police detention are being denied proper access to justice following reports that a call centre system for defence solicitors has gone into 'meltdown'. Under the Police and Criminal Evidence Act 1984, detainees are entitled to free and independent advice at any time while in police detention. However, solicitor Kerry Hudson, vice president of the London Criminal Courts Solicitors' Association, said police are struggling to log cases with the DSCC. he said: 'When they are getting through, we are hearing of delays of four or five hours between the police first call and the DSCC then contacting the solicitor. When they are contacting the solicitor, much of the key information is missing (including the detainee name in some cases) and the crucial DSCC reference number.

Serving Prisoners Supported by MOJUK: 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, Warren Slaney, Melvyn 'Adie' McLellan, Lyndon Coles, Robert Bradley, Thomas G. Bourke, David E. Ferguson, Lee Mockble, George Coleman, Neil Hurley, Jaslyn Ricardo Smith, James Dowsett, Kevan & Miran Thakrar, Jordan Towers, Patrick Docherty, Brendan Dixon, Paul Bush, Alex Black, Nicholas Rose, Kevin Nunn, Peter Carine, Paul Higginson, Robert Knapp, Thomas Petch, Vincent and Sean Bradish, John Allen, Jeremy Bamber, Kevin Lane, Michael Brown, Robert William Kenealy, Glyn Razzell, Willie Gage, Kate Keaveney, Michael Stone, Michael Attwooll, John Roden, Nick Tucker, Karl Watson, Terry Allen, Richard Southern, Jake Mawhinney, Peter Hannigan.