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Baby Dies in UK Prison After Inmate 'Gives Birth Alone in Cell'

H*annah Devlin and Diane Taylor, Guardian:* Police are investigating the death of a baby in Britain's largest female prison after an inmate gave birth alone in her cell at night. The Guardian understands that the woman, who had been at an advanced stage of pregnancy, gave birth alone in her cell in the early hours of Friday 27th September 2019. A source with knowledge of the events said that when prison staff visited the woman's cell on Friday morning the baby was unresponsive. Vicky Robinson, the director at HMP Bronzefield, confirmed that a baby died at the prison on the 27th and said it was supporting the mother. South East Coast Ambulance Service confirmed it had received a call from the prison at 8.30am last Friday and that one ambulance attended the prison. Police were called shortly afterwards. Surrey police said in a statement: "The death is currently being treated as unexplained and an investigation is continuing to establish the full circumstances of what happened."

The case raises serious questions about how the woman came to be unsupervised and without medical support during her labour and birth, and about the conditions at the privately run prison. Robinson said: "We are supporting the mother through this distressing time and our thoughts are with her, her family and our staff involved. We are undertaking a full review and working with all relevant authorities during their investigations. It would not be appropriate to comment any further."

Bronzefield is Europe's largest female prison, holding up to 557 inmates, and is operated by Sodexo Justice Services. Concerns have been raised previously about the care of prisoners. In the case of Natasha Chin, who died at HMP Bronzefield in 2016, an inquest jury found that neglect and systemic failings at the prison had contributed to her death. Four women have died at Bronzefield since July 2016. There is a mother and baby unit at the prison and women whose babies are born in prison, or who already have a baby when they enter prison, can keep the infants with them until they are 18 months old. Every year, about 600 pregnant women are held in prisons in England and Wales, and about 100 babies are born there.

According to the Prison Reform Trust, women made up 5% of the prison population in 2018 with 7,745 women incarcerated. The majority of them, 82%, were sentenced for non-violent offences. Naomi Delap, the director of the charity Birth Companions, which supports pregnant women and new mothers in prison, said: "We are deeply saddened by the report of this incident in prison custody. Our thoughts are with the mother and all those affected by this tragic event. While the circumstances are still unclear and subject to ongoing investigation, this is a powerful reminder of the need for us to all ensure that pregnant and postnatal women have access to high-quality physical and mental healthcare in custody."

Jane Ryan, a solicitor at Bhatt Murphy Solicitors who specialises in cases of women in prison, said: "There are serious concerns raised about risk issues arising from lack of access to midwives when labour commences, access to pregnancy records and full maternity care. It is an indictment of our prison system that a woman was giving birth in a prison cell. There must be a full independent investigation, and possibly an inquest, into these horrific circumstances."

Dr Kate Paradine, the chief executive of the charity Women in Prison, said: "All mothers should have the right to give birth in dignity. But time and time again, we hear of situations where this isn't happening, with mothers regularly being denied access to the vital health and maternity care necessary to give birth safely. This has devastating consequences not only for the baby and mother, but also for the rest of the family they are separated from."

A spokesman for the Prisons & Probation Ombudsman, an independent body which investigates deaths in prisons and detention centres, confirmed that they are not investigating the baby's death and said it was not part of their remit.

Deborah Coles, director of the charity INQUEST called for an independent inquiry into the baby's death. "This is horrifying and exposes the utter inhumanity of a prison system where a woman can give birth alone in a cell and the baby dies.. The death of a baby behind bars warrants an independent inquiry. The fact that the PPO is not investigating makes this even more essential."

Home Office Admits Best Way to Radicalise Young Muslims – Send Them to Prison

[5.3 percent of the UK population (England & Wales) are Muslim. Nethertheless the proportion of prisoner in UK Prisons is 15%] There is a group of prisoners who although imprisoned for non-political offences subsequently become politicised or radicalised while in jail, and in both the USA and Britain this is a phenomenon that has become increasingly widespread. In the USA during the 1960s and 70s the radicalisation of ordinary black prisoners, in particular, was fostered by the centrality of imprisonment in the experience of black activists and revolutionaries like Malcolm X (who described prisons as "universities of revolution"), Eldridge Cleaver, George Jackson, H Rap Brown, Angela Davis and others. George Jackson described his own politicisation succinctly: "I met Marx, Lenin, Trotsky, Engels, and Mao when I entered prison, and they redeemed me". Thus, those whom W.E.B. Dubois described as an "army of the wronged" increasingly defined themselves as political prisoners who were the products of an oppressive political-economic order. This belief underpinned the praxis of radical groups such as the Black Panthers and Symbionese Liberation Army, and prisons were seen as the epicentre of a broader social and political revolution. The call for recognition of radicalised prisoners claim to political prisoner status underpinned prisoners' demands in a serious of protests that punctuated the 1970s in U.S. prisons such as Folsom, Soledad, San Quentin and, later, Attica.

The radicalisation of ordinary prisoners in both the U.K. and the USA was channelled through both identity politics and the prisoner union movement. In the U.K. such groups during the 1970s were highly active in organised protests and uprisings against oppressive prison conditions, particularly for long-term prisoners. The politicisation of ordinary prisoners who link their imprisonment to broader social and political inequality and oppression, and prison as the epicentre of their struggle, transforming them into proto-revolutionaries striking out against the capitalist state, is a spectre that terrifies those responsible for managing and enforcing prison repression.

Islamic radicalisation within prisons is currently considered by the state a primary "intelligence and security concern", and a leaked U.K. Home Office document identifies prison as a "key site of radicalisation for young Muslims", justifying measures like the political vetting of imams before they are permitted to preach in jails and the creation of "separation wings" or isolation units for militant Muslim prisoners. In the U.K. the segregation or isolation of politicised and radicalised prisoners in separate wings and units is a method of control imported from British occupied and controlled Northern Ireland where during "The Troubles" Irish Republican prisoners of war were confined to the notorious H-Blocks of The Maze prison, which through the dirty protests and hunger strikes actually became an epicentre of the wider Irish Republican struggle. Concentrating radicalised prisoners in separation units and wings inevitably create greater sol-

idarity amongst those prisoners and re-enforces their radicalisation, and of course, in any case, political ideas and ideologies cannot be isolated or segregated, even within an oppressive institution like a prison. The treatment of politicised prisoners is always inevitably brutal and discriminatory, and within total institutions whose fundamental purpose is to tame and subdue the rebellious and disobedient poor, prisoners who develop a political consciousness and psychologically liberate themselves from existential and penal obedience are perceived by the prison system as the most dangerous of all the imprisoned.

Prisoners serving indeterminate or life sentences for non-political offences but who subsequently become politicised whilst in prison have a very minimal chance a hope of ever being released, even when their actual risk to the public is considered minimal or even non-existent. Officially, the prime criterion determining the "suitability for release" of indeterminate sentenced prisoners is their assessment as "low-risk" to public safety, but in fact what actually determines a ate sentence prisoner's chance of release is not the perceived of risk to the public, but their level of obedience to prison authority. Those life sentence prisoners who embrace an ideology considered by their jailers as "subversive" and "anti-authority" are viewed as the absolute antithesis of the "model prisoner" and therefore permanently "unsuitable for release". Prisons are microcosms of the society that creates them, and the treatment of prisoners who identify with a political belief system that directly challenges the authority and legitimacy of the state reveals the fascist core of that state, which has implications for society generally, especially during times of social unrest.

John Bowden, A5026DM, HMP Warren Hill, Hollesley, IP12 3BF

Counter-Terror Police Running Secret Prevent Database

Jamie Grierson, Gurdian: Counter-terror police across the UK have been running a secret database containing details of thousands of individuals referred to the government's controversial anti-radicalisation Prevent programme, the Guardian can reveal. The National Police Prevent Case Management (PCM) database is managed centrally by national counter-terrorism policing headquarters. It is accessible to all police forces across England, Wales, Scotland and Northern Ireland, and the Home Office are able to request data from it, according to documents sent to the human rights group Liberty and seen by the Guardian.

The stated aim of Prevent, a voluntary programme, is to divert people from terrorism before they offend and crucially deals with individuals who have yet to cross the criminality threshold. Each Prevent referral received is added to the PCM database by individual police forces, including personal details and reasons for the referral, but the person is not notified, responses to Freedom of Information (FOI) requests submitted by Liberty showed. Other agencies are able to request information held on the database.

The revelations about the existence of the database come at a time when Prevent is facing renewed scrutiny as an independent review begins, sparked by years of accusations that the programme had become a toxic brand that disproportionately targeted Muslims. Police chiefs said recording referrals ensured accountability and allowed forces to understand when vulnerabilities are increasing. Gracie Bradley, Liberty policy and campaigns manager, said: "This secret database isn't about keeping us safe. It's about keeping tabs on and controlling people – particularly minority communities and political activists. "It is utterly chilling that potentially thousands of people, including children, are on a secret government database because of what they're perceived to think or believe."

Any rank of police officer or staff can access the database but users must be Prevent practitioners, who are vetted and given training prior to access. Chief constables are the designated data controllers within their respective forces. The exact number of individuals on the database is currently unknown but forces that responded to Liberty's request for information said all referrals were added at the time of receipt and official statistics show that 21,042 individuals have been referred in the three years to March 2018 alone. In the most recent year available, 2017/18, a total of 7,318 individuals were subject to a referral but 3,096 or 42% left the process requiring no further action and 3,466 left the process and were signposted to alternative services. The majority – 4,144 or 57% – were aged 20 years or under. Within this figure, 2,009 were under 15 and 2,135 were aged 15 to 20. Ultimately, only 394 were escalated to the Channel process, which provides specialist support to people who were deemed at risk of being drawn into terrorism following a number of assessments.

Police Prevent practitioners also have access to the Channel Management Information System which is a database of Prevent Channel cases, the responses said. CMIS is owned and managed by the Home Office. Information on the database is derived from referrals made by public servants like teachers and doctors as well as police, who are compelled to monitor and report signs of what they believe could indicate extremism under a controversial statutory duty. In its response, the Met police said an individual can challenge the decision and have their details removed but the challenge may not always be successful depending on the circumstances.

However, the force did not elaborate on how that would be possible given that individuals are not aware their details are entered on the database. Harun Khan, secretary general of the Muslim Council of Britain, said: "That a database is being compiled by police forces detailing every Prevent referral is deeply worrying. That it is secret is even more concerning. "This database – over and above being a hugely authoritarian tool – will mean that the vast majority of those referred, who are found to have no terrorism link, will still be perceived as potential risks by the state, and this will disproportionately affect Muslims "Our questions on transparency, accountability and oversight around Prevent now become even more important."

The independent review of Prevent, announced in January, attracted controversy itself when it emerged the man appointed to lead the exercise, Lord Carlile, had admitted to parliament that he "may be somewhat biased towards" the programme and had pledged his "considered and strong support" to it, prompting calls for him to step down. Further criticism was triggered by the terms of reference for the review, published last month, which suggested the exercise would not "consider past decisions" made under the programme. Lord Carlile sought to reassure critics by claiming that "everything is up for discussion, including scrapping" the programme.

One of four strands of the government's counter-terrorism strategy known as Contest, Prevent was created by the Labour government in 2003 and its remit was widened by the coalition government in 2011. The statutory duty on schools, NHS trusts, prisons and local authorities to report concerns about people who may be at risk of turning to extremism or terrorism was introduced in 2015. A National Police Chiefs' Council spokesman said: "The public would expect the police to maintain professional records of those individuals referred for support as potential victims of radicalisation. This is no different to the way we record other forms of supportive safeguarding activity such as child sexual exploitation, domestic abuse or human trafficking. "Good records ensure we are accountable, allow us to understand when vulnerabilities are increasing, and ensure we act consistently and proportionately, only taking action in those cases where our support is necessary. "If we did not maintain proper, legally compliant records, the public would rightly have far less confidence in the police."

Putting Their Foot Down

Scottish Legal News: An auction selling off 25 supercars from the son of Equatorial Guinea's president has accumulated €21.6 million. Swiss prosecutors seized the cars in 2016 when they initiated a corruption investigation against Obiang, likely heir of President Teodoro Obiang Nguema, who has ruled in Equatorial Guinea for four decades. Anti-corruption groups have long accused him of embezzling his country's funds to finance his playboy lifestyle. Under the Swiss penal code, prosecutors can choose to drop charges in this category if defendants offer compensation "and restore a situation that is in conformity with the law". In a deal with Obiang, the authorities ended their investigation in February but kept the supercars and received €1.4m to cover the costs of the case. Under the terms of the agreement, the money generated from the auction will go to charities which help the poorest people in Equatorial Guinea. The auction included Ferraris, Lamborghinis, Bentleys, a Maserati and a McLaren among others, TheLocal.ch reports. One bidder paid a world-record €7.6m for a very rare white Lamborghini Veneno Roadster, of which only nine exist.

Dispersal Prisons and Category A Status

Simon Price, serving prisoner: Introduction: In 2004 I was arrested in London for 'attempting fraudulently to evade the prohibition of goods' - cocaine discovered in a shipping container at the docks in Rotterdam and allegedly en-route to the UK. For this single failed attempt at _importation I was sentenced to 28 years with a consecutive term of 10 years for the non-payment of a confiscation order. A determinate sentence totalling 38 years was one of the longest ever imposed, certainly since 1961 when a Russian spy, George Blake, was sentenced to 42 years for allegedly sending 42 British agents to their death. Having spent the past 15 years as a Category A prisoner in various high security/dispersal prisons (where I remain only because the fine is unpaid) I feel it may be informative to provide a prisoner's opinion on both the operation of dispersal system and the impact that Category A status can have on prisoners. Naturally, my perspective is that of the anvil and not of the hammer and it may well be that many of the readers of this journal will be discontented by the highly critical conclusions that I draw from my experiences. I contend that dispersal prisons have become an outdated and insoluble problem and the concomitant Category A concept is so deeply flawed that it amounts to little more than an ill-informed subjective exercise in discretion that has remained virtually unchanged for over 50 years. No other policy has enjoyed such longevity.

There is very little academic literature on dispersal prisons, including my own unpublished thesis, 'which has not benefited from the knowledge of Alison Liebling at the Cambridge Institute of Criminology and I am comforted that my conclusions are not entirely dissimilar to those of Professor Liebling who holds that 'the form, size and operation of high security prisons tell us much that matters about the nature of our society as well as the state of our prisons'. Category A applies to an academically overlooked cohort of prisoners officially defined as those 'whose escape would be highly dangerous to the public, or the police or the security of the State, and for whom the aim must be to make escape impossible. Once their status is confirmed by the Category A Committee or the Director of High Security Category A prisoners are held in the highest conditions of security in one of the five dispersal prisons, HMPs Full Sutton, Frankland, Long Lartin, Wakefield and Whitemoor that form part of the Long Term High Security Prison Estate ('the LTHSPE').

Dispersal prisons and Category A: The origins of dispersal prisons and Category A go back over 50 years to 1966 when the prison population stood at slightly over 22,500. A long-term prisoner was

categorised as someone serving a sentence of imprisonment of more than 4 years with only 878 adult male prisoners serving sentences of 10 years and over. However, following the abolition of the death penalty in 1965 and an increase in serious violent crime the courts were beginning to impose ever longer sentences leading to a sharp rise in the number of long-term prisoners. It is therefore unsurprising that the majority of prisoners sentenced to spend lengthy terms of imprisonment in extremely harsh conditions should be deemed potential escapees. To escape was, at least temporarily, to defeat the system and escapes from prisons and escorts were certainly not infrequent with 240 prisoners escaping between 1964 and 1966. However, amongst those escapees were three very high profile prisoners, two of the Great Train robbers and, even more significantly, the spy George Blake. It was the qualitative nature of those 3 escapes that provoked a political reaction. The Home Secretary appointed Earl Mountbatten to conduct a wide-ranging Inquiry into Prison Escapes and Security and the resultant report proved to be the catalyst for a complete reconfiguration of the prison system in England and Wales. Indeed, it is the the view of Professor Liebling that 'policy in relation to high security prisons shapes the tone of and practices in all penal establishments. I entirely agree.

Mountbatten recommended the implementation of a security classification system which designated the most dangerous prisoners as Category A and the least dangerous as Category D. The concomitant recommendation that the 120 prisoners already identified as requiring Category A status should be concentrated in a single maximum security island jail was not adopted despite Mountbatten's insistence that the two recommendations were indivisible. Fearful that concentrating such dangerous prisoners would result in an unsafe prison that would to be impossible to manage and might become 'a powder keg waiting to blow up '4 the Home Secretary sought a different solution. A committee chaired by Leon Radzinowicz, the first director of the Cambridge Institute of Criminology, was asked to review Mountbatten's proposal for concentrating Category A prisoners in a single fortress prison on a site adjacent to what later became HMP Albany. Whilst rejecting concentration in favour of a policy of dispersal the committee presciently concluded that 'The choice between concentration and dispersal is obviously one that is central to the future of any penal system' The committee's report 5 recommended that Category A prisoners should be spread amongst several high security prisons with appropriately upgraded perimeter security and within which they would be subject to a more relaxed regime. Regrettably the committee's idealistic concept of a liberal relaxed regime within a secure perimeter was only ever briefly achieved. The committee's recommendation that armed guards should enforce perimeter security" was rejected: as Mountbatten had noted what could appear to be an escape bid might in fact be a form of suicide".

Dispersal: It is clear that in 1968 the Prison Service did not fully appreciate the complexities involved in managing a network of high security prisons dependent for their continuing existence upon an unceasing supply of Category A prisoners. Dispersal has always been a problematical conflation of size, distribution and risk averse over¬regulation and events - riots and escapes - have demonstrated that the decision to accept the security categorisation recommendation proposed by Mountbatten whilst rejecting the concept of a single fortress prison was naive. It is notable that the concept of concentrating dangerous Category A prisoners in a single escape proof jail was supported by both the May Committee in 1974 and the Learmont report in 1995. As recently as 2016 the Acheson review into radicalisation recommended concentration rather than dispersal for those Islamist extremist prisoners described as 'a security threat group' Acheson felt that the delay in implementing his recommendations was to some extent due to those within Prison Service HQ who opposed his conclusions on

the issue of dispersal versus concentration. The eventual response was to create - but thereafter barely utilise - 3 so-called Separation Centres within high security prisons.

It was, to say the least, injudicious to reject the concept of a single maximum security prison in favour of having a potentially unlimited number of highly dangerous prisoners dispersed around a prison system which at that time did not have a single high security prison. The subsequent creation of an archipelago of dispersal prisons within which Category A prisoners would be apportioned amongst a wider prison population was a misconceived compromise that was inevitably bound to result in a intrinsically flawed concept. The current system has outlived whatever usefulness it once had with dispersal prisons becoming over regulated anachronisms that breach human rights. One of the fundamental flaws of the dispersal system has been the policy always to disperse those prisoners who require the highest conditions of security amongst a population of those who do not require such conditions thereby unwarrantably tainting all with the 'dangerous prisoner' label. In practice whoever is put into dispersal prisons soon comes to be seen as needing or deserving maximum security. Moreover, due to their extremely high staffing levels dispersal prisons are a severe financial drain on the limited funds available to the remainder of the prison estate

Notwithstanding that the principles of categorisation explicitly state that 'All prisoners must have assigned to them, the lowest security category consistent with managing their needs in terms of security and control and must meet all the criteria of the category for which they are being assessed' once the number of Category A prisoners in a dispersal prison is capped the cells that remain empty must then be occupied by Category B prisoners. Thus dispersal prisons become institutionally and inherently inequitable. A policy specifically designed unjustifiably to oblige Category B prisoners who neither merit nor require the highest conditions of security to experience excessive risk averse policies and repressive regimes in order disperse those prisoners who are classified as Category A is deeply discriminatory. Regrettably, that the ethical and conceptual objections to degrading people by using them as akin to spare parts is a practise that amounts to a human rights violation appears not trouble the prison service. For example, at HMP Wakefield, the most over-regulated of all dispersal prisons, less than 20% of prisoners are Category A yet the remaining 80% are unfairly obliged to endure almost exactly the same harsh and austere security restrictions that a repressive risk averse regime imposes on Category A prisoners.

William Blake's Proverbs of Hell (1790) records that 'Prisons are built with stones of Law, brothels with bricks of Religion' and whilst it is true that all prisons are the creation of law there exists no more regulated, inflexible institution than a maximum security prison where the exercise of absolute power can so easily become the antithesis of the rule of law. Dispersal prisons are explicitly empowered coercively to institutionalise societal insistence that offenders are controlled and restrained and the need to maintain security inevitably manifests itself in the implementation of an authoritarian regime and the coercive use of power is perceived by prisoners as an iron hand in an iron glove. Such absolute power inescapably becomes corruptive of human rights thereby leading to questions as to whether the pleasure of exhibiting power is a principal part of the gratification of cruelty.

Window dressing aside, there can be little doubt that power, control and restraint are the operative mechanisms of a dispersal prison and there is a palpable sense of antipathy felt by prisoners compelled to comply with rigid regulatory directives and subjected to strictly defined unyielding security measures. The more overly rule¬bound, and thus oppressive, the penal establishment the greater the sense of impotence, isolation and resentment engendered in

those it confines. Due to an abdication of judicial responsibility dispersal prisons were for many years islands of untrammelled executive discretion with those in control apparently believing that because they had power they had wisdom. This plantation overseer approach to penal management has spread estate wide and because those who have much for which to hope and yet nothing to lose are always dangerous this has inevitably resulted in serious disturbances with violent assaults becoming commonplace.

In legal terms dispersal prisons and to a very large extent remain paradoxical contradictions - over-regulated punitive establishments where prison managers cavalierly exercised the prerogative of power without responsibility and where the rule of law was more of a mirage than a reality. Reforming the system has not been easy for as Burke (1791) perceptively wrote 'Those who have once been intoxicated by power can never willingly abandon it.' However, with easier and greater access to the courts and a somewhat more interventionist judiciary it is prisoner litigation rather than statutory reform that has gradually loosened some - but not yet all- of the restraints that unnecessarily and negatively impact on the lives of Category A prisoners.

Category A: The policy of dispersing Category A prisoners has resulted in operational perversity for in order to justify its raison d'etre, the dispersal system is obliged always to maintain a predictable but limited number of Category A prisoners. The reality was, or should have been, readily foreseeable: without the requisite number of Category A prisoners the extremely costly dispersal system which underpins the entirety of the penal estate would collapse. Whether or not prisoners are given Category A status is a question of a rapacious demand driving the requisite supply with security considerations an important yet nonetheless secondary element of a flawed discretionary process. Whilst there will always be some very dangerous offenders for whom escape must be made impossible their numbers are re_latively small. The data shows that they can adequately be confined within the secure perimeters of no more than two escape proof prisons. In November 2018 the five dispersal prison held a combined total of 741 confirmed Category A prisoners of whom 61 were 'natural lifers' and never to be released (FOIAs 110404/181115019: December 2018). Of the remainder, 604 have been Category A for more than 4 years, 476 have been Category A for more than 7 years and a quite astonishing 357 prisoners have been classified as Category A for more than 10 years (FOIA 190624014: June 2019). As the table shows the expense of maintaining the system is almost intolerable

	Average Population	Category A* Prisoners	Overall Resource Expenditure	Cost per prisoner
Frankland	808	254	£50,995,765.00	£63,103.00
Full Sutton	551	118	£38,122,251.00	£69,166.00
Long Lartin	514	102	£34,282,249.00	£66,675.00
Wakefield	734	130	£36,015,497.00	£49,079.00
Whitemoor	437	137	£36,673,256.00	£83,955.00
Total 3034	741		£196,049,018.00	£64,419 (Average)

*FOIA response from MoJ 181115019 dated December 2018:

The reality is that the overall number of confirmed Category A prisoners is effectively capped because the number of such prisoners that each of the five current dispersal prisons can accommodate is restricted by a self denying ordinance. For example, at HMP Wakefield Category A prisoners can only be located in alternate cells on only two of the four landings: they may not be placed in cells on the top floor or ground floor nor next to an end wall or

an empty cell or recess. Such limitations mean that Wakefield can hold no more than 150 Category A prisoners and my experience is that similar restrictive limitations apply at other dispersal prisons. Thus, when a dispersal prison reaches its Category A capacity it cannot accept ari.y new Category A prisoners unless existing Category A prisoners are downgraded or transferred. If there is already an overall sufficiency of Category A prisoners in the system then downgrades are expedited so that the more recently convicted Category A prisoners can be so allocated. The corollary is that when there is a deficit in the supply of recently convicted Category A prisoners those who are so classified cannot expect to be downgraded: unsurprisingly, many prisoners consider Category A status to be little better than a rigged lottery.

In reality the consideration of Category A status amounts to no more than a subjective exercise in discretion that has remained substantially unchanged since its inception more than half a century ago. It is significant that in 1968 the concept of Category A was based 'on the possible consequences of escape, however unlikely that seems, rather than the likelihood of escape. This approach has great advantages: it provides an insurance against the likelihood of guessing wrong.' That such· thinking remains in force can be seen from Public Records Office (Paper PB (1967) 31 within PRO ref PCOM 14/11) PSI 09/2015 which states that when deciding whether Category A status is necessary, consideration could - and should - be given to whether the stated aim of making escape impossible can be achieved for a particular prisoner in lower conditions of security, and that prisoner should then be categorised accordingly. However in a veritable Catch 22 type passage the PSI further states (para 2.2) that' This will arise in a limited number of cases since escape potential will not normall11 atfect the consideration of the appropriateness of Catezon1 A, because the definition is concerned with the prisoner's dangerousness if he did escape, not how likely he is to escape, and in any event it is not possible to foresee all the circumstances in which an escape may occur.'

From being a conceptual error in 1966 Category A has now evolved into a human rights failure. The Prison Service needs proactively to adapt to changing circumstances and the policy and criteria require root and branch reform. The theory is that prisoners should be categorised objectively according to the likelihood that they will seek to escape and the risk they would pose should they do so. However, theory, and a risk-averse bureaucracy notwithstanding, if a physically disabled prisoner lacks the ability to escape then, regardless of the criteria, he quite obviously should not be classified as Category A. On a daily basis the evidence of my own eyes confirms the fact that there are disabled prisoners, crippled by arthritis or handicapped by Parkinson's, who after a decade or more still remain Category A. Nevertheless, the organisational micro-management of risk concerning Category A prisoners overrides and supplants the human (and, sometimes, legal) rights of prisoners leading to many severely disabled prisoners being and remaining classified as Category A simply because it is believed that they might/would be dangerous if in the most unlikely of events they should/could escape. In 2018 there are Category A prisoners who for many years have been confined to wheelchairs because they have had a leg amputated or who suffer so badly from arthritis that they can only move - walk would not be an accurate description - with the aid of two sticks. Indeed, late in 2017 at HMP Wakefield one such disabled prisoner was discharged on parole after serving 54 years of a life sentence: despite having known for many months that he was to be released the authorities waited until the day of his discharge to downgrade him to Category B.

I have multiple sclerosis and lack manual dexterity yet for .14 years I remained classified as Category A. There were no courses for me to do and, exceptionally, I remained adjudication free. When after some 14 years the Director of High Security eventually decided to downgrade me he stated that he did so 'despite my adversarial behaviour and non-payment of the confiscation order'. By 'adversarial behaviour' he meant my conduct in seeking to achieve my legal rights in a lawful way and seeking, often successfully to obtain a remedy in the courts. What the security implementations contingent on the non-payment of a confiscation order are remain unclear to me. Clearly that such considerations could be perceived as justification for 14 years of intrusive security measures is indicative of the spurious reasons that in so many cases appear unjustifiably to influence the decision making process.

Conclusions: As currently structured the dispersal system is a wasteful and unnecessary resource serving no uniquely meaningful purpose and the expense of maintaining the system is almost intolerable if not unsustainable. The current financial data for the dispersal system shows that overall resource expenditure on the dispersal estate amounts to over £196 million yet less than a quarter of the prisoners are Category A. Correctly allocated, the more than 75% of lower category prisoners could safely and securely be held in the Category B training establishments within the LTHSPE at a cost of some £33, OOO a year So to do could provide savings of at least £50 million a year. In the past decade no prisoners have escaped from any LTHSPE establishment and there simply is no need or justification for elderly and disabled prisoners to be designated as Category A and allocated to dispersal establishments. The criteria for Category A status is in urgent need of revision

As individual establishments within a supposedly integrated system the five dispersal prisons are not only inequitable but disappointingly unsymmetrical. For example, the mining of data provided by the Ministry of Justice and the Parole Board indicates that if two identical Category A offenders receive identical indeterminate sentences it is not unlikely that the offender allocated to HMP Wakefield will serve two or three years longer than the offender allocated to another dispersal. The data demonstrates that in recent years a Category A prisoner allocated to Full Sutton cir Long Lartin is 5 to 6 more likely to be recommended and approved for downgrade than a prisoner allocated at Wakefield. Historically, Wakefield has always been an excessively risk averse and over-regulated establishment and many prisoners believe that it is the excessive and unwarranted deference shown to the psychology department that has resulted in Category A prisoners at Wakefield not being recommended for downgrade by the LAP in the numbers and frequency comparable to other dispersals. A Category A prisoner who is not recommended for downgrade by the Local Advisory Panel (LAP) will need to wait 5 years before his case can be considered by the Category A Committee where the Director may, but rarely does, decide to downgrade. The consequential effect is that the Parole Board are far more likely to recommend for Category D status (or release) an offender who has spent some 5 years as a Category B than an offender whose downgrade has been delayed because of his allocation to Wakefield. In the case of indeterminate sentence prisoners not only does classification . as Category A necessitate having to endure restrictive conditions of imprisonment but it can potentially determine the length of time the offender will serve . and this determination can be negatively affected by allocation.

When giving evidence on radicalisation to the Justice Select Co~ttee in 2016 former prison governor Ian Acheson described NOMs (then recently re-branded as HMPPS) as an out of touch organisation that had been replaced 'by a largely unchanged senior management team and a heritage of corporate ineptitude. The prison system has been in free-fall for some time. It has neither the resources nor the leadership to cope with serious challenge.' Albeit from

the opposite end of the penal spectrum I echo those views. To make better use of public funds the dispersal prison system should -and quite easily could - be reduced to no more than two establishments. A Prison Estate Transformation Programme that does not reform a predominant dispersal prison system will do no more than tinker at the edges of a troublesome problem. There needs to be a review of the criteria for Category A status with the Category A Team and Committee replaced by those more capable of innovative thinking. A moribund policy of rigidity combined with an entrenched resistance to change has lingered too long in the high security estate and there is a urgent need for new policies that can have a significant impact on the whole of the prison system.

Simon Price v. the United Kingdom, Application no. 15602/07, 15 September 2016

Fraser Simpson, UK Human Rights Blog: In a unanimous decision, the European Court of Human Rights has held that the proceedings that led to the conviction of Simon Price for drug trafficking charges were entirely compliant with Article 6, ECHR. Despite the inability to cross-examine a key prosecution witness, the Court considered that in light of the existence of supporting incriminating evidence (amongst other factors) the proceedings as a whole were fair. Previously I made comments on a similar decision earlier this year in Seton v. the United Kingdom, Application no. 55287/10, 31 March 2016 (see previous UKHRB coverage here) highlighting the dilution of the right contained within Article 6(3)(d). Instead of upholding the right to cross-examine witnesses, the Court's current approach places an undue weight upon the existence of supporting incriminating evidence.

The impact of the emphasis placed on sufficient supporting evidence is again seen in this judgment. Fundamentally, it appears that the Court's three-step test from Al-Khawaja and Tahery v. the United Kingdom [GC], Application nos. 26766/05 and 22228/06, 15 December 2011 has almost morphed into a single step test – was there other supporting evidence securing the conviction other than the evidence of the absent witness? The previous first step regarding the existence of good reasons for non-attendance is no longer decisive. Secondly, in assessing whether the evidence in questions was "sole or decisive", the existence of other incriminating evidence clearly influences the Court's conclusion. Finally, the Court drastically lowers the threshold for the sufficiency of counterbalancing factors in the event that the absent witness evidence is less important (which, again, is heavily influenced by the existence of additional incriminating evidence!). It appears that the stronger the case against the applicant, the less likely it is that the right under Article 6(3)(d) will need to be respected.

Read more: UK Human Rights Blog, https://is.gd/zzT2IT

Apple of his Eye

A man who says he was encouraged to try homosexuality by an iPhone app has launched a lawsuit against Apple for "moral suffering" because he ended up with a boyfriend. The plaintiff said he received an anonymous payment of 69 "GayCoins" on a cryptocurrency payment app, accompanied with a message along the lines of "don't judge without trying". In the complaint, filed with a district court in Moscow, plaintiff D. Razumilov wrote: "I thought, indeed, how can I judge something without trying it? And decided to try same-sex relationships. "I can say after the passage of two months that I'm mired in intimacy with a member of my own sex and can't get out. I have a steady boyfriend and I don't know how to explain it to my parents. He is seeking one million rubles (around £12,455) from Apple for "manipulatively pushing me towards homosexuality", causing him "moral suffering and harm to mental health".

Deprivation of Liberty for 16 and 17 Year Olds

Transparency Project:In In the matter of D (a child) [2019] UKSC 42, the Supreme Court has decided that the parents of a 16 or 17 year old cannot consent to their child being deprived of his or her liberty. In 2014, in the Cheshire West case, the Supreme Court decided that a person was deprived of their liberty for the purposes of Article 5 of the European Convention on Human Rights if they were subject to continuous supervision and control, and not free to leave the place where they were living. It did not matter that those arrangements had been put in place to meet the person's care needs, or to keep them safe and well – if it was a deprivation of liberty for a person without a mental disability or disorder to have their freedom limited in that way, then the same must apply to a person with a mental disability or disorder. Human rights are for everyone, and the important procedural safeguards that Article 5 contains – in particular access to a court or tribunal to challenge your deprivation of liberty – needed to be applied to people who could not consent to their care arrangements.

The Background: In D's case, there was no dispute that he was subject to continuous supervision and control and not free to leave – he was being cared for in a residential placement with locked doors. Nor was there any argument (by the time of the Supreme Court hearing) that this was imputable to the State, since the local authority had arranged his placement. The critical question for the Supreme Court was – since parental responsibility extends up to the age of 18, could D's parents consent to the deprivation of liberty on his behalf? If they could, then there would be no deprivation of liberty at all, as Article 5 is only engaged if there is a significant limitation on the person's freedom which is imputable to the State, and there has been no valid consent to that state of affairs. If D's parents could give consent on his behalf, then the procedural protections of Article 5 would not apply to him. The Decision: The Supreme Court decided by a 3-2 majority (which reflected the 3-2 female/male split of the judges) that D's parents could not consent on his behalf. Baroness Hale was clear that the restrictions on D went beyond those that would be part of normal parental control of a 16 or 17 year old without a mental disability. Applying the same logic and principles from Cheshire West, if the parents of a 16 or 17 year old without a disability could not consent to their child's deprivation of liberty, nor could those of a 16 or 17 year old with a disability. Human rights are for everyone.

The Implications: This judgment will be significant for local authorities and health bodies who have placed young people in institutional settings where they are subject to a high degree of supervision, including residential schools, or who are in receipt of particularly significant care packages at home. When the new Liberty Protection Safeguards come into effect, in October 2020, these deprivations of liberty will be able to be authorised administratively by local authorities for anyone aged 16 or over. But until then, the only means of authorisation is by an order from the Court of Protection. The Supreme Court's reasoning also raises the possibility that parents of a child under the age of 16 may not be able to consent to their deprivation of liberty either, since the key issue is not the child's age, but how different the restrictions placed on them are to those that would be part of normal parental care. Since the Liberty Protection Safeguards will only apply from age 16, there may remain a cohort of young people with disabilities who will continue to require court orders to authorise the arrangements for their care and residence.

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.