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CCRC Refers Terrorism Related Conviction of Ismail Abdurahman to Court of Appeal

Ismail Abdurahman was convicted in February 2008 of assisting an offender and failing to disclose information about acts of terrorism. The charges related to the attack on the London underground on 21 July 2005 in which three devices were detonated but each failed to explode. Four men, Hussein Osman, Muktar Ibrahim, Yassin Omar and Ramzi Mohamed were all convicted of conspiracy to murder and sentenced to life imprisonment with a recommended minimum term to be served of 40 years.

At a separate trial at Kingston Crown Court, Mr Abdurahman was prosecuted as one of a group of people said to have given active assistance to the bombers. Mr Abdurahman pleaded not guilty but was convicted and sentenced to a total of ten years' imprisonment. He appealed and his sentence was reduced to eight years, but his appeal against conviction was dismissed. Mr Abdurahman applied unsuccessfully to the CCRC in 2009. He applied again in February 2017 having received in September 2016 a judgment of the Grand Chamber of the European Court of Human Rights ("ECtHR") in which the Court found that his Article 6 rights (right to a fair trial) were breached by the way in which he was dealt with by the police when interviewed as a witness.

Having conducted a detailed review of the case, the Commission has decided to refer the case to the Court of Appeal because it considers there is a real possibility that the Court will now quash the conviction. The referral is based on new evidence in the form of the judgment of Grand Chamber of the ECtHR which concludes that Mr Abdurahman's trial was "irretrievably prejudiced". The ECtHR judgment in the Case of Ibrahim and Others v United Kingdom (Applications nos. 50541/08, 50571/08, 50573/08 and 40351/09) is available at https://hudoc.echr.coe.int Mr Abdurahman has been represented in his application to the CCRC by Carters Solicitors, 47 Cumberland Street, Pimlico, London. SW1V 4LY.

Sheffield Tree Protesters Win £24,300 Wrongful Arrest Payout

Poppy Noor, Guardian: Campaigners who were wrongfully detained while protesting against tree felling in Sheffield have been given a £24,300 payout by South Yorkshire police. The seven protesters were arrested between November 2016 and February 2017 and detained for up to nine hours under an obscure trade union law that was incorrectly used, the police watchdog found last year. Protesters have accepted the payment, which came in an out-of-court settlement, but say they would rather have been given an apology. "This is about the right to peacefully protest. The [police] are very good at using taxpayers' money to get out of sticky situations instead of getting it right the first place. We just want an apology and an explanation," said Dr Simon Crump, one of the protesters who was arrested in 2016. The protesters are now pushing for an independent inquiry into the arrests, which they believe were an intimidation tactic to stop them from protesting. Crump said that his detention in 2016 left him feeling frightened and vulnerable, but vowed not to be put off from protesting in the future. "This is environmental vandalism and we need to stand up to it," he said. "We won't be put off by scare tactics and intimidation."

Their arrest and detention were deemed inappropriate following an investigation by the Independent Office for Police Conduct (IOPC). The protesters were arrested "for the prevention of harm and injury" under an obscure clause of the Trade Union and Labour Relations Act. In a statement, South Yorkshire police said: "The upheld appeals were not based on an error in law and rightly, no officers were found to have a case to answer for misconduct … No formal apology was requested as part of the civil claim."

The arrests are the result of a row between protesters and Sheffield city council over a controversial tree-felling programme during which the council took out an injunction to prevent activists from taking direct action. The programme sought to cut down thousands of trees to replace them with saplings. Sheffield city council originally claimed only 5,000 trees were earmarked for removal, but secret documents later revealed it could be as many as 17,500 – half the city's street trees. The tree-felling was was halted last year after dozens of people were arrested and the environment secretary, Michael Gove, called the felling programme "bonkers".

The council said that its outsourcing company, Amey, hired through a £2.2bn private finance initiative (PFI) contract, only felled dying, dead, or dangerous trees. But protesters accused the council of cutting down healthy trees because they were more costly and difficult to maintain than young saplings.

UK Police Use of Computer Programs to Predict Crime Sparks Discrimination Warning

Sarah Marsh, Guardian: The rapid growth in the use of computer programs to predict crime hotspots and people who are likely to reoffend risks locking discrimination into the criminal justice system, a report has warned. Amid mounting financial pressure, at least a dozen police forces are using or considering the predictive analytics. Leading police officers have said they want to make sure any data they use has "ethics at its heart". But a report by the human rights group Liberty raises concern that the programs encourage racial profiling and discrimination, and threaten privacy and freedom of expression.

Hannah Couchman, a policy and campaigns officer at Liberty, said that when decisions were made on the basis of arrest data it was "already imbued with discrimination and bias from way people policed in the past" and that was "entrenched by algorithms". She added: "One of the key risks with that is that it adds a technological veneer to biased policing practices. People think computer programs are neutral but they are just entrenching the pre-existing biases that the police have always shown." Using freedom of information data, the report finds that at least 14 forces in the UK are using algorithm programs for policing, have previously done so or conducted research and trials into them.

The campaign group StopWatch said it had "grave concerns around the effectiveness, fairness and accountability of these programs". Its chief executive, Katrina Ffrench, said: "We cannot be sure that these programs have been developed free of bias and that they will not disproportionately adversely impact on certain communities or demographics. For proper accountability there needs to be full transparency." These programs are often referred to as "black boxes" because the role each piece of data plays in the program's decision-making process is not made public. "This means the public can't hold the programs to account – or properly challenge the predictions they make about us or our communities. This is exacerbated by the fact that the police are not open and transparent about their use," the Liberty report concludes. The programs used by police work in two main ways. Firstly, predictive mapping looks at police data about past crimes and identify "hotspots" or areas that are likely to experience more crime on a map. Police officers are then directed to patrol these parts of the country.

Secondly, "individual risk assessment" tries to predict the likelihood of a person committing, or even be the victim of, certain crimes. Durham is among forces using such programs and has a system called Harm Assessment Risk Tool (Hart), says the report. Hart uses machine

learning to decide how likely a person is to commit a violent or non-violent offence over the next two years. It gives an individual a risk score of low, medium or high, and is designed to over-estimate the risk. The program bases its prediction on 34 pieces of data, 29 of which relate to someone's past criminal history.

West Midlands police are also leading on a £48m project funded by the Home Office called National Data Analytics Solution (NDAS). The long-term aim of the project is to analyse vast quantities of data from force databases, social services, the NHS and schools to calculate where officers can be most effectively used. An initial trial combined data on crimes, custody, gangs and criminal records to identify 200 offenders "who were getting others into a life on the wrong side of the law".

Supt Iain Donnelly, who is the project manager for NDAS, said: "[The project] seeks to use advanced analytics, otherwise known as data science techniques, to generate new insights from existing data already in the possession of police." He said the datasets being used were crime recording, incident logs, custody records, crime intelligence and conviction history from the police national computer (PNC) system. "We are not using data from non-police agencies," he said. Tom McNeil, strategic adviser to the West Midlands police and crime commissioner, said: "We are determined to ensure that any data science work carried out by West Midlands police has ethics at its heart … These projects must be about supporting communities with a compassionate public health approach." He said they have adopted a "transparent approach" working with human rights charities.

Until last March, Kent police used PredPol, a mapping program widely deployed in the US. The force is looking to invest in a similar predictive policing program available at a lower cost, or may develop its own. Kent said the £100,000 a year system was part of its focus on "finding innovative ways of working resourcefully" and that it was under ongoing analysis. Avon and Somerset police use both mapping programs and a broad range of controversial risk assessment programs. They use the latter to explore, among other things, a person's likelihood of reoffending, of being a victim of a crime and of being reported missing. "With so many predictive analytics programs or algorithms now in use it's even more important than ever to be asking questions about how an individual's risk is calculated, which factors are included and what is the margin of error when using these factors, [and] is someone asking whether the 'risk factors' are as accurate for black or BME people as they are for white people?" said Zubaida Haque, the deputy director at the Runnymede trust.

Millions of Hours' Unpaid Work Generated by Community Payback Orders

People serving community payback orders (CPO) since their introduction in 2011 have generated around seven million hours of unpaid work, according to new figures. The Criminal Justice Social Work 2017-18 statistics show 17,800 CPOs were commenced in 2017-18 and 75 per cent had an unpaid work or other activity requirement. In addition, just over 1,000 fiscal work orders commenced in 2017-18 including unpaid work and 86 per cent were successfully completed. Responding to the figures, Scottish Justice Secretary Humza Yousaf also confirmed plans to lay the order to extend the presumption against short prison sentences from three months to 12 after Easter. Subject to parliamentary approval, it is anticipated the extension will come into force in the summer.

Mr Yousaf said: "From refurbishing and redecorating local facilities to gritting roads in cold weather, unpaid work projects make a real difference to communities. With the total number of hours around seven million, and evidence showing that those released from a short prison sentence are reconvicted almost twice as often as those given CPOs, the value of community sentences is clear. We are working closely with councils, third sector partners and

Community Justice Scotland to strengthen the provision of alternatives to custody and support our hard-working prison officers by ensuring prison is focused on those people convicted of the most serious crimes and who pose the highest risk to public safety. As we plan for the extension of the presumption against short prison sentences, which is supported by empirical evidence and was backed by the vast majority of consultation respondents, we have protected and strengthened funding for Scotland's criminal justice social work services so that it now stands at just over £100 million. We also provide over £11.6 million to third sector organisations working to help reduce reoffending - keeping crime down and communities safe."

Nearly 65% of Prisoners at Women's Jail 'Show Signs of Brain Injury'

Frances Perraudin, Guardian: Nearly 65% of prisoners at a women's jail may have suffered traumatic brain injuries at some point in their lives, a study has found. Research by the Disabilities Trust and Royal Holloway, University of London, found that of the 173 women screened at Drake Hall prison in Staffordshire answering questions about blows to the head, 64% gave answers consistent with having symptoms of a brain injury. The symptoms of 96% of the women suggested that these arose from physical trauma. The work adds to a growing body of research on the over-representation of people with brain injuries in the prison population. In 2012, a university of Exeter report described traumatic brain injury as a "silent epidemic". In 2010 a study of 200 adult male prisoners found 60% had suffered a head injury.

Research has suggested that traumatic brain injury (TBI) could increase the likelihood of violent behaviour, criminal convictions, mental health problems and suicide attempts. "The needs of somebody in prison with TBI are likely to be complex, and the lack of understanding and identification of a brain injury results in a higher risk of custody and reoffending," said the Disabilities Trust. As part of its research, the trust established a Brain Injury Linkworker Service in the prison to provide specialist support to women with a history of brain injury. 62% of the women supported through the service said they had sustained their brain injury through domestic violence. Nearly half (47%) of the women had been in an adult prison five or more times. The statistics revealed that 33% had sustained their first injury prior to their first offence.

The Disabilities Trust called for the inclusion of brain injury screening to be a routine part of the induction assessment on entry to prison or probation services, and for staff to be given basic brain injury awareness training. Irene Sobowale, chief executive of the Disabilities Trust, said the study built on over five years of research into male offenders and brain injury. "For the first time in the UK, we have considered the specific needs and experiences of female offenders, who are some of the most vulnerable in the criminal justice system," she said. "There is much more work to be done to ensure that women with a brain injury are provided with effective support to ensure that they can engage in rehabilitation programmes and reduce the likelihood of reoffending. The Disabilities Trust looks forward to working with partners and government to achieve this."

Brothelkeepers Earned £3.8m While Police Focused On Other 'Serious Crimes'

Alex Shipman, Telegraph: A married couple who built a £3.8million brothel empire were allowed to continue operating by police for 14 years who instead focused on "serious types of organised crime", a court has heard. Sandra 'Sandy' Hankin, 55, and Mark Hankin, 57, made a fortune running two massage parlours where sex was sold for a minimum of £50 a time. The couple's brothel, called 'Sandy's Superstars', was said to have "flourished" in Northenden and Bury, Greater Manchester thanks to an agreement made with police.

Police had limited resources and priority was given to tackling brothels which used under-

age people, trafficked women or had links to organised crime. Prostitutes were given regular security and health care checks courtesy of NHS officials during their stints at Sandy's. But after regular complaints from locals both premises were raided by police and shut down in 2016. The massage parlour business was accredited with the Security Industry Authority and routinely paid its taxes with HMRC inspectors. The couple, of Corwen, North Wales, pleaded guilty to keeping brothels to use for prostitution at Minshull Street Crown Court in Manchester and were sentenced to six months in jail suspended for two years. Mrs Hankin, a former escort, will have to pay back £200,000 from her illicit activities while her husband, an engineer, must refund £150,000 under Proceeds of Crime rules.

Prosecutor Peter Cadwallader said: "The police have limited resources and therefore priority is given to those brothers that use underage people, trafficked women or are centres for other serious types of organised crime. Both brothels were well known to the police. The companies made and provided proper tax returns and paid tax with dividends on the company profit. The businesses were described as 'physical well-being activities'. But it was an illegal business." In UK law, it is not illegal to buy and sell sex - but running a brothel or coercing women into selling sex is. The brothels they ran also offered memberships to clients - and publicly promoted customer reviews of its services on their website. Dozens of call girls advertised on the website offered services such as "Foot Worship", "Face Sitting," "Two Girl Scene" and "Toy Show".

The court heard how Hankin took over the Northernden brothel formerly known as Coco's in 2002 after its previous owners left her in charge. She subsequently opened other premises in Bury. Two firms were set up to help with the administration of the enterprise - with one turning over £1,944,000 between 2011 and 2014 and the other £1,804,000 in the same period.

Lucie Wibberley, defending, said Mrs Hankin transformed the brothel known as Coco's from squalor after taking over in 2002. She added that Mrs Hankin wanted to provide a safe environment for sex workers. Ms Wibberley said: "The main order in the business was respect for the working women financially and safety care was also provided."

Sentencing, Judge Paul Lawton said: "There was an agreement between the police and those involved that if the premises operated correctly, no enforcement action would be taken. "This included no underage girls, no suggestion of coercion, the business not be used as a front for other organised crime and not affect the local community. "They ran the premises as legitimately as expected, the women were of adult age and appropriate to work, the premises looked after their safety, they were often searched by the Manchester City Council and had regular communication with HMRC. Bizarrely, customs officers knew about what was taking place, and they accepted the tax payments."

Child Abuse Victim Wins Appeal For Criminal Injuries Compensation

Scottish Legal News: A woman who was assaulted by her mother when she was a baby has won a long-running legal battle for criminal injuries compensation after taking her appeal to the UK Supreme Court. The Inner House of the Court of Session had ruled that it was within the UK Government's discretion for "socio-economic policy" reasons not to backdate a change to the scheme in 1979, under which victims of violence became entitled to compensation for injuries caused by a family member living in the same home, even though the rule was "discriminatory". But after appealing to the UK Supreme Court, the Ministry of Justice conceded that the so-called "same roof rule" was "unlawful".

The woman, Monica Allan, submitted a claim for compensation in November 2012 in respect of assaults upon her in 1968 and 1973, when she was aged three months and five years, by her mother, who was later convicted for the offences. But her claim was refused by the Criminal Injuries Compensation Authority because of an exclusion under paragraph 7(b) of the Criminal Injuries Compensation Scheme 2008, which provides that no compensation will be paid "where the criminal injury was sustained before 1 October 1979 and the victim and the assailant were living together at the same time as members of the same family". Under the original, pre-1979 scheme, claims for offences committed against a member of the offender's household were excluded altogether. The rationale for the rule was the difficulty in establishing the facts and to ensure that the compensation did not benefit the offender.

But the scheme's rules were changed following a review in 1978, which meant that for offences committed on or after 1 October 1979 an award could be made where the assailant and applicant lived together so long as the assailant had been prosecuted in connection with the offence, or where there were good reasons why a prosecution had not been brought.

However, for offences committed before that date the original rules were retained. Ms Allan lodged a petition for judicial review, arguing that the respondent acted "unlawfully" by withholding compensation on the basis of the same roof rule, and that the Secretary of State acted unlawfully by including the paragraph 7(b) exclusion within the 2008 scheme. She claimed that paragraph 7(b) of the 2008 scheme and the decision taken in terms of it were "discriminatory", being in breach of article 14 and Article 1 of the First Protocol (A1P1) to the European Convention of Human Rights, as a claim for criminal injuries compensation constituted a "possession" within the meaning of A1P1. The Lord Ordinary held that her claim for compensation did fall "within the ambit" of A1P1 in conjunction with article 14 and that the rule led to a "difference in treatment" between people in "analogous situation", but he dismissed the petition after ruling that that respondent had demonstrated that the discrimination was "justified". MA challenged the decision, but the Inner House refused the appeal.

Delivering the opinion of the court, the Lord Justice Clerk said: "In the circumstances, we are satisfied that a reasonable and objective justification has been made out. The discriminatory provision pursued a legitimate aim, which was to ensure long term sustainability of the scheme. "The means employed was proportionate in order to avoid exposure to claims of unknown dimensions and unreasonably to increase the administrative burden, thereby shielding future sustainability. The restriction of the scheme was a prudent policy decision concerning the allocation of finite resources in a matter of socio-economic policy. Neither the aim, nor the means employed, can be said to be manifestly without reasonable foundation, and there is no basis upon which the court may interfere."

However, having appealed to the Supreme Court, Ms Allan has now won her case after the Government withdrew its opposition. The Supreme Court's order states: "It is ordered that the appeal be allowed and the decision of the Inner House of the Court of Session dated 14 July 2017 be set aside; a declarator be made that the appellant is not prevented by paragraph 7(b) of the Criminal Injuries Compensation Scheme 2008 from being paid an award of compensation under the scheme; the decision 10 March 2014 of the Criminal Injuries Compensation Authority's claims officer withholding an award of compensation under the scheme be reduced." The Supreme Court also ordered that the respondent be liable to the appellant in the costs of this court and in expenses in the Court of Session, as taxed, it being reserved to the appellant if so advised to seek an additional fee under rule 42.14 of the Rules of the Court of Session or any further incidental orders made in relation to expenses.

Female Offender Strategy – House of Lords Debate

Lord Bishop of Gloucester: To ask Her Majesty's Government what progress they have made in implementing the female offenders' strategy.

Advocate-General for Scotland Lord Keen of Elie: The Female Offender Strategy, published in June 2018, outlines the Government's long-term vision for improving outcomes for female offenders in custody and in the community. The strategy sets out a programme of work that contains a number of commitments that will take some years to implement. A new women's policy framework was published last December, and my noble friend Lord Farmer's review of family ties for female offenders is expected to report in the coming weeks.

Lord Bishop of Gloucester: I welcome that information from the Minister, which follows many positive commitments to the female offender strategy. However, we are still awaiting news of residential pilots, action to strengthen links between probation services and women's centres, the report from the noble Lord, Lord Farmer, and a national concordat. Given that many of the strategy's commitments have no clear timescales—indeed, in some cases the suggested deadline has already passed—how does the Minister plan to effectively monitor progress and stay on track?

Lord Keen of Elie: We are concerned to ensure that these recommendations are implemented as soon as practicable; indeed, the women's policy framework was implemented as of 21 December 2018. We are taking forward further work in partnership with other groups and parties. I note the work of the Nelson Trust, which I know the right reverend Prelate is directly involved in, which recently put in a bid for additional funding from the ministry to further its community work. We are encouraged by the strength of that and similar bids, and want to take that forward as soon as possible.

Lord Blunkett: If my noble friend Lady Corston were here, she would be enthusiastically supporting the right reverend Prelate in pressing for the review to be implemented as quickly as possible, not just on moral grounds but because the additional investment that the Minister has referred to is "spend to save". We could save an enormous amount of money by diverting into prevention and early intervention, rather than having women prisoners in the kind of conditions that I saw when I was Home Secretary.

Lord Keen: I entirely concur with the Lord's observations. Indeed, our Female Offender Strategy seeks to build on the seminal report of, Lady Corston, which goes back to 2007.

Baroness Burt of Solihull: The extension of mandatory post-custody supervision has disproportionately affected women. Recall numbers for men have risen by 22% since the changes were introduced but for women they have grown by 131%. Women are trapped in the justice system rather than being enabled to rebuild their lives. The Prison Reform Trust has called for mandatory post-custody supervision to be abolished. Does the Minister agree that the present system is not working, and does he have plans to review it?

Lord Keen of Elie: The idea of mandatory supervision for those serving a sentence of less than 12 months was introduced only quite recently. There is a disproportion between male and female offenders in that context—I quite accept that. Indeed, that manifests itself in various other parts of the prison and custodial system. At the moment, we are seeking to extend community centre services, to help to accommodate those released after short sentences, and to combine community services with treatment requirement protocols. That is extremely important, particularly for female offenders, where we see a vast proportion who have reported elements of mental health difficulty or who suffer from alcohol issues and, very often, drug abuse issues as well. Over and above that, an enormous proportion of these female offenders have at times been subject to domestic violence. We are trying to direct these services at these issues and will continue to do so.

Lord Selkirk of Douglas Does my noble friend accept that in recent years there have been a considerable number of pregnant women in prisons? Can he assure us that in every case the person concerned will be treated with sensitivity?

Lord Keen of Elie: This is a very important issue for us. In all cases where a female offender is in custody, we endeavour to ensure that birth does not take place within the prison system, but sometimes that cannot be avoided. We have extensive services for mothers and children up to the age of 18 months when it is necessary for them to be in custody—I emphasise the word "necessary". When an offender is reaching the end of a short sentence, steps are taken to try to ensure that mother and child are kept together. However, of course this cannot be done in circumstances where there has been a serious offence that results in a mother being in custody for a lengthy period.

Lord Beecham: The right reverend Prelate referred to the strategy envisaging greater use of residential and community services instead of custodial sentences. To what extent is that occurring? Are the Government still adhering to their policy of limiting funding of the strategy to £5 million over two years, replacing their previous plan to spend £50 million on five new prisons? If so, what is happening to the other £45 million?

Lord Keen of Elie: There is an important shift in policy away from custody as a means of trying to resolve these issues. That is why we moved away from the proposal for five community prisons; we hope they will not be required. Instead, we have shifted the balance in the direction of community services. We will pilot such community residential services in five areas to see how they work. For that purpose, we have committed funding of up to £5 million over the next two years, but of course that will not be the end of the matter. We will address the consequences of the pilot in these five areas and see how we can take things forward from there.

Lord Reid of Cardowan: Does the Minister recall that 15 years ago, during my noble friend Lord Blunkett's custodianship of the Home Office, the Sentencing Guidelines Council approved indeterminate sentences for more serious crimes, on condition that there should be a significant reduction at the lower end for less serious crimes, particularly for women and women with debt? Unfortunately, from the judiciary's point of view, that has never been fully implemented. May I congratulate the Government on moving away from custodial sentences and ask them to look to this long-standing recommendation that has never been fully implemented?

Lord Keen of Elie: I agree with the force of the noble Lord's point. In fact, Section 152 of the Criminal Justice Act 2003 clearly requires the courts to consider imposing non-custodial sentences unless otherwise justified. The Sentencing Council guidelines from 2016 reinforce this move. In addition to that, we have a judgment from the criminal Court of Appeal in the case of Petherick in 2012, which set out the criteria for sentencing in cases involving, for example, a female offender with dependent children. We have been moving in the right direction, but I accept that we have not moved far enough and we are determined to see if we can do that.

SCCRC Refer Sean Connelly to High Court of Justiciary in Scotland

The Scottish Criminal Cases Review Commission has referred the case of Sean Connelly to the High Court of Justiciary. In accordance with the commission's statutory obligations, a statement of reasons for its decision has been sent to the High Court, Livingstone Brown Solicitors and the Crown Office. The commission has no power under its founding statute to make copies of its statements of reasons available to the public.

On 3 February 2017, at Paisley Sheriff Court, Mr Connelly was convicted of offences under the Misuse of Drugs Act 1971 and the Electricity Act 1989 and was sentenced to five years'

imprisonment. His sentence was subsequently reduced to four years' imprisonment following a successful appeal. The commission has decided to refer Mr Connelly's case to the High Court of Justiciary because it believes a miscarriage of justice may have occurred in respect the charge relating to the production of a controlled drug, by virtue of a material misdirection by omission by the presiding sheriff at Mr Connelly's trial.

Judge Puts Accent On Tough Love

A judge warned a teenager from Co Clare that he would be sent to Oberstown for so long that he would return home with a Dublin accent if he breached his bail conditions again, the Irish Examiner reports. The 17-year-old boy, who is alleged to have committed a number of thefts last year, appeared before Judge Patrick Durcan in Killaloe Children's Court yesterday. He was sent to the Oberstown Children Detention Campus for four days last week after breaching his bail restrictions by being out in Limerick after his curfew. Judge Durcan granted the teenager bail again, telling him the four-day stint was intended as just "a taste", but warned him: "If you breach the bail conditions, then I will send you to Oberstown for 18 months and you will be there for the summer, next Christmas, and the following summer. "You will have a Dublin accent by the time you come back down to Clare."

Police Forces Using Predictive Policing Techniques Drawing On 'Problematic' Data

Aqsa Hussain, 'The Justice Gap': One in three police forces are using predictive policing techniques to crunch data without proper consideration of implications for civil liberties. The human rights group Liberty has sent freedom of information requests to all 43 police forces in England and Wales which reveal that 14 including the Metropolitan Police, West Yorkshire, Merseyside and the West Midlands have rolled out techniques or were about to do so 'without proper consideration of our rights' or the 'discriminatory impact' of such technologies.

Predictive policing aims to anticipate where crime will occur, when it will occur, and even the profile or identity of the perpetrator of the potential crime. According to Liberty, the programs were 'far from… neutral, incorporate human biases, exacerbate social inequalities and threaten our privacy and freedom of expression'. The report focuses on two techniques. Predictive mapping includes identifying hotspots and directing police to patrol these areas. Liberty's report stresses that this sort of policing needs to end as it relies on 'problematic historical arrest data and encourages the over-policing in marginalised communities'.

The second type of predictive policing is the individual risk assessment program which considers the likelihood of someone committing an offence based on factors such as previous criminality and their postcode. These individuals are then made to attend rehabilitation programmes, among varying approaches taken by the different police authorities. Liberty states that this 'encourages discriminatory profiling' with decisions being made which do not have enough human oversight and cannot be challenged sufficiently.

'Predictive policing is sold as innovation, but the algorithms are driven by data already imbued with bias, firmly embedding discriminatory approaches in the system while adding a "neutral" technological veneer that affords false legitimacy,' commented Hannah Couchman, a policy officer for Liberty. 'Life-changing decisions are being made about us that are impossible to challenge. In a democracy which should value policing by consent, red lines must be drawn on how we want our communities to be policed.'

The report highlighted HART, the Harm Assessment Risk Tool, used by Durham police,

which uses 'machine learning' to decide how likely person is to commit an offence over the next two years. The program gives the person a risk score of low, medium or high based on an analysis of 34 pieces of data, 29 of which refer to a person's past criminal history. Other data relied upon include a person's postcode which, Liberty argues, can act as a 'proxy' for race. 'This is why research on algorithms using the criminal justice system in the US showed that even where race was not included in the data the algorithm used, the algorithm still learned characteristics in a way that is discriminatory'.

The HART program was also supplemented by data from the consumer credit agency Experian which classified people into what Liberty called 'spurious groups' – for example, 'a crowded kaleidoscope' which is, apparently, 'a low income multicultural family working jobs with high turnover and living in cramped houses or overcrowded flats'. According to Liberty, that data set even linked names to stereotypes. According to Liberty, 'people called Stacey are likely to fall under "families with need" who receive a range of benefits'.

The report highlights four key issues raised by predictive policing strategies. Discrimination as a result of programs making decisions though 'complex software that few people understand' which adds 'unwarranted legitimacy to biased policing strategies that disproportionately focus on BAME and lower income communities'. Secondly, declining privacy and freedom of expression rights as a result of the use of 'big data' allowing large amounts of personal information to be accumulated to build profiles which the authorities can monitor. Liberty call this 'a dangerous emerging narrative (which) requires us to justify our desire for privacy, rather than requiring the state – including the police – provide a sound legal basis for the interference'. Thirdly, a lack of human oversight due to the fact that humans are simply not able to deal with the 'automation bias' prevalent in these systems. Finally, a lack of transparency as predictive policing is referred to as a 'black box' with no public understanding of how algorithms make their decisions. 'A police officer may be hesitant to overrule an algorithm which indicates that someone is high risk, just in case that person goes on to commit a crime and responsibility for this falls to them – they simply fear getting it wrong,' the group argues. '… [It] is incredibly difficult to design a process of human reasoning that can meaningfully run alongside a deeply complex mathematical process."

Liberty flags up American research from 2015 (Big data and predictive reasonable suspicion, University of Pennsylvania) that 'without the requirement of some observable activity' the odds increase that predictive stops will 'target innocent people, criminalize by association, and negatively impact individuals based on little more than a hunch supported by non-criminal facts'. 'While it may seem a laudable aim to prevent crime before it ever occurs, this is best achieved by addressing underlying social issues through education, housing, employment and social care. The solution does not lie in policing by machine.'

Parliament Needs To Reform Joint Enterprise If Courts 'Close Ranks'

Jon Robins, 'The Justice Gap': Parliament should reform the controversial law of joint enterprise if the courts chose to 'close ranks', according to a member of the all party parliamentary group on miscarriages of justice. Addressing a meeting of the group in the House of Commons last week, Lucy Powell MP pointed out that there had been no successful appeals since the Supreme Court ruled that the controversial law had taken 'a wrong turn in 1984'. The Labour MP for Manchester Central was speaking last week ahead of the three year anniversary of R v Jogee in which Lord Neuberger said it was 'the responsibility of this court to put the law right'. 'Joint enterprise started out as a policing tactic and then a prosecution tactic and has been used in an almost lazy way of not having

to meet the evidential bar, especially in very serious offences,' Lucy Powell said. 'The courts took a wrong turn in 1984. This court is always very cautious before departing from a previous decision. It is the responsibility of this court to put the law right.'

The chair of the all party group Barry Sheerman MP announced that there would be commission on miscarriages of justice which would be taking evidence from the victims of miscarriages and their families. The funding for the commission is to come from a US law firm. There was an AGM before last week's meeting attended by the Conservative chair of the justice committee, Bob Neill, Conservative MP Crispin Blunt, Labour's Lucy Powell and Ellie Reeves and the cross bench peer Baroness Vivienne Stern.

Lucy Powell told the meeting that 'over half of those serving life sentences under joint enterprise are from BAME backgrounds; over half of them are under the age of 25 and many under the age of 18 years'. She spoke about a case in her constituency in which 11 young black men from Moss Side faced charges of murder. Seven of them were convicted of murder and four of manslaughter. The youngest was only 14 and many of them were not previously known to the police. 'The vast majority of the young people and children serving life sentences are there because of joint enterprise,' she said. 'We have in excess of 350 lifers under the age of 18 and, in the whole of the rest of Europe, there are two or three.'

Powell paid tribute to the campaign group JENGbA (Joint Enterprise Not Guilty by Association) for putting the issue on the political agenda. JENGbA is to hold a demonstration outside the Supreme Court next Monday on the three year anniversary of the Jogee ruling. 'The Supreme Court said that over a 30 year period the law has been wrongly interpreted. So you would think that many cases would warrant an appeal,' Powell said.

In November last year the Court of Appeal dismissed the case of Laura Mitchell which, as Powell noted, many lawyers and campaigners regarded as 'really low hanging fruit – an obvious case that warranted an appeal'. 'The judiciary, the police, and the prosecution don't want to give a chink in the armour that something has gone wrong. It would open the floodgates on many dozens, if not hundreds of cases of miscarriage. So they're closing ranks and, as a result, nothing is getting through,' Powell said.

The MP argued that politicians now needed to step in where the courts have failed. 'We've come to the conclusion in Parliament – many MPs across parties who have been been working with JENGbA for years – that the law needs to change. We need to rectify the law because it is not happening by itself through caselaw.'

Glyn Maddocks, a lawyer who specialises in criminal appeals and who helped set up the all party group, said that 'the Supreme Court opened the door and the Court of Appeal closed it'. 'That is what the Court of Appeal does. It's not just with joint enterprise cases but with lots of other cases and that feeds back to the Criminal Cases Review which, in turn, is very reluctant to refer to the Court of Appeal. The Court of Appeal is one of the major problems.'

JENGbA's Deb Madden called on parliament to act. 'We have sat in appeal after appeal. They aren't looking for justice. If the Supreme Court in the Court of Appeal are closing ranks and protecting their own, change has to come from Parliament. We need firm action on

There was also frustration at this month's ruling of the Supreme Court in the cases of Sam Hallam and Victor Nealon. The two men had their convictions overturned but were denied compensation by the Ministry of Justice on the grounds that they were unable to prove their innocence. The Supreme Court justice rejected their argument that the compensation regime introduced in 2014 contravened the presumption of innocence. Sam Hallam's lawyer Matt Foot said that the ruling represented

a 'nadir'. 'According to the system that we have now, there are no miscarriages of justice. Nobody last year received compensation for a miscarriage of justice – so that means there aren't any,' Foot said. 'That is how the system has decided to deal with this problem by hiding it.'

The test case was 'not about the money', he said. 'Yes, it's important that people get a step back up in society. But that's not the point. Sam Hallam isn't even identified as a miscarriage of justice. How do you begin to move on in prison when you are stuck inside for something you didn't do?' The Supreme Court ruling 'cemented the fact that they are not going to recognise anyone who cannot prove their innocence'. 'Nobody in this room could prove that they did not do that murder – least of all Sam,' he added. 'You can claim compensation if you trip over a broken paving stone in this but if you're wrongly, and knowingly wrongly imprisoned, you can't claim compensation,' said JENGbA's Deb Madden. 'We are at a real breaking point in this country. We need action from parliament. We have had prisoner committing suicide and family members committing suicide because they don't see any hope.'

The End is Nigh for Prisoner Release!

1) Reconsideration of Parole Board Decisions: Creating a New and Open System

Decisions on whether a case should be reconsidered will be taken by judicial members of the Parole Board. Reasons for their decisions will be provided to victims. We will make provision in the Parole Board Rules to implement these changes later this year. Between now and then, we will put into place the necessary guidance, training and resources need to operate this mechanism.

2) Review of the Parole Board Rules and Reconsideration Mechanism

If there is a seriously flawed release decision by the Parole Board it can be looked at again without the need for judicial review.

3) New improvements to Parole Board Transparency and Victim Support

Sweeping changes to the parole system to improve transparency, offer better support for victims and new powers to reconsider decisions have been announced by the Justice Secretary David Gauke, following a review of the Parole Board's rules.

HMP Durham – Urgent Need to Address Drugs, Violence and Deaths

HMP Durham, a heavily overcrowded prison, was found by inspectors to have significant problems with drugs and violence and worryingly high levels of self-harm and self-inflicted and drug-related deaths. 41 recommendations from the last inspection had not been achieved.

Durham became a reception prison in 2017. Around 70% of the 900 men in the jail were either on remand or subject to recall and over 70% had been in Durham for less than three months. On average, 118 new prisoners arrived each week. Significant numbers of prisoners said they arrived at the jail feeling depressed or suicidal. Self-harm was very high.

Peter Clarke, HM Chief Inspector of Prisons, said: "Our overriding concern was around the lack of safety. Since the last inspection in October 2016, there had been seven self-inflicted deaths, and it was disappointing to see that the response to recommendations from the Prisons and Probation Ombudsman (which investigates deaths) had not been addressed with sufficient vigour or urgency. "There had also been a further five deaths in the space of eight months where it was suspected that illicit drugs might have played a role." Drugs were readily available in the jail and nearly two-thirds of prisoners said it was easy to get drugs; 30% said they had acquired a drug habit since coming into the prison. "These were very high figures", Mr Clarke said, though the prison had developed a strategy to address the drugs problem.

The leadership, Mr Clarke added, was "immensely frustrated by the fact that they had no modern technology available to them to help them in their efforts to stem the flow of drugs into the prison. We were told that they had been promised some modern scanning equipment but that it had been diverted to another prison." The scale of the drugs problem and related violence meant that technological support was urgently needed. Since the last inspection at Durham in 2016, violence had doubled and the use of force by staff had increased threefold, though some of the increase in force may have been due to new staff who were not yet confident in using de-escalation techniques. Governance of the use of force had improved. Mr Clarke added: "There were some very early signs that the level of violence was beginning to decline, but it was too early to be demonstrable as a sustainable trend."

Alongside these concerns, inspectors noted "many positive things happening at the prison." These included the introduction of in-cell phones and electronic kiosks on the wings for prisoners to make applications, which had "undoubtedly been beneficial". The disruption caused by prisoners needing to be taken to court had been reduced by the extensive use of video links. A new and more predictable daily regime had recently been introduced, increasing access for men to amenities such as showers and laundry on the wings. "For a prison of this type, the time out of cell enjoyed by prisoners was reasonable and it was quite apparent that, despite its age, the prison was basically clean and decent," Mr Clarke said. It was also good that the leadership saw new staff as an opportunity to make improvements, not an inexperienced liability.

Overall, Mr Clarke said: "There was no doubt that there was an extent to which HMP Durham was still going through the process of defining, refining and responding to its role as a reception prison. The very large throughput of prisoners gave rise to the risk that taking them through the necessary processes could predominate over identifying individual needs and ensuring favourable outcomes. However, the prison was aware of this risk. The most pressing needs are to get to grips with the violence of all kinds, make the prison safer and reduce the flow of drugs. Only then will the benefits flow from the many creditable initiatives that are being implemented." Inspectors made 55 recommendations.

Clicking Oon Terrorist Propaganda Even Once Could Mean 15 Years In Prison

Lizzie Dearden, Independent: Anyone who views terrorist propaganda once online can be jailed for up to 15 years under new laws that have sparked human rights concerns. MPs had urged the government to scrap plans to criminalise viewing "information useful to a person committing or preparing an act of terrorism", which goes further than much-used laws that made physically collecting, downloading or disseminating the material illegal. A United Nations inspector accused the government of straying towards "thought crime" with the proposal, which originally stated that people would have to access propaganda "on three or more different occasions" to commit a terror offence. But the benchmark was removed from the draft law, meaning a single click is now illegal.

Security officials have told The Independent that discretion will be exercised and the law will help prosecute extremists in cases where other offences cannot be proven, or to prevent radicalization. A report by the Joint Committee on Human Rights said the offence "is a breach of the right to receive information and risks criminalising legitimate research and curiosity".

The new law was introduced as part of the Counter-Terrorism and Border Security Act, which received royal assent this week. Max Hill QC, the former Independent Reviewer of Terrorism Legislation and current Director of Public Prosecutions, told the committee he found lengthy prison sentences "difficult to countenance when nothing is to be done with the

material" last year. It makes statements that are "reckless as to whether a person will be encouraged to support a proscribed group" illegal, and entering "designated areas" abroad. The areas, to be defined by the government, are expected to include territory controlled by terrorist groups and warzones.

Last month, security minister Ben Wallace told MPs the law would help prosecute foreign fighters, but it cannot be applied retrospectively to hundreds of Isis supporters who have already returned to the UK. "We are all struggling in the West to deal with the emerging threat of foreign fighters as failed state safe areas are becoming the routine," he said. "Members on both sides of the House rightly get angry when foreign fighters come back and we cannot prosecute them, because gathering evidence of deeper and more complex offences is very challenging." The Independent understands that because the law exempts people who remain in such areas involuntarily, it cannot be applied to British Isis members captured in Syria.

Last month, the government accepted amendments to create specific exemptions including humanitarian work, journalism and funerals. Corey Stoughton, advocacy director at Liberty, said: "Despite a series of amendments brought about by concerted campaigning, this act remains a grave threat to our human rights. It unnecessarily adds to the raft of existing counterterror legislation, introducing harsh sentences for ill-defined offences related to travelling overseas and browsing the internet. It risks stifling dissent and making thought crime a reality." Convicted terrorists will be required to provide additional information to the police in line with registered sex offenders, and the law also includes a new power to detain people suspected of "hostile state activity" at ports and borders.

Sajid Javid, the home secretary, said 2017's terror attacks and the Salisbury poisoning showed the threat posed to the UK by terrorists and hostile states. "Keeping people safe is my number one job and this important piece of legislation will help do that," he added. "The Counter-Terrorism and Border Security Act gives the police the powers they need to disrupt plots and punish those who seek to do us harm."

Referring Cases of Wrongful Conviction 'Not The Be-All-And-End-All', Says CCRC

Will Bordell, 'The Justice Gap': The CCRC was set up as a result of a royal commission on the day the Birmingham Six walked free. The new chair of the miscarriage of justice watchdog has said that sending cases back to the Court of Appeal was 'not be the be-all-and-end-all'. Helen Pitcher OBE made her comments after the publication of a review of the Criminal Cases Review Commission (CCRC) recommended that it should focus on the most serious cases, dropping investigations into summary convictions and sentence-only cases.

Whilst acknowledging 'the continued excellent work' of the Commission, the tailored review of the CCRC revealed that its referral rates were at an alarming low-point. Out of all applications that the CCRC has received since 1997, 3.3% have been referred to the Court of Appeal. However, only 2.2% of applications were referred in 2014-15 and that proportion fell below 1% in 2016-17. In the period from April until December 2017, the slump continued, with just 0.5% of all applications resulting in a referral. Over the CCRC's 22-year lifespan, it has referred an average of 33 cases per year. In 2016-17, just 12 cases were referred back to the Court of Appeal. Last year, that figure rose only marginally to 19 cases. The review quoted a solicitor who expressed concern that 'its referral rate is quickly moving towards the point of vanishing'.

Commenting on the feedback from the tailored review, the CCRC chair Helen Pitcher said that 'the number of cases we refer for appeal, while clearly very important, should not be

the be-all-and-end-all of the Commission.' 'I think perhaps too little attention is paid to the other outcomes of the Commission's work, such as the considerable value we bring to the justice system in the de facto audit of the safety of convictions and correctness of sentences in each case we consider but do not refer, and the feedback we provide and warnings we give to other parts of the justice system when we see worrying trends.'

The CCRC was set up as a direct result of a royal commission launched on the day that the so called Birmingham Six were set free. The Runciman commission called for a new body to 'consider allegations put to it that a miscarriage of justice may have occurred… and, where there are reasons for supposing that a miscarriage of justice might have occurred, to refer the case to the Court of Appeal'.

Paddy Hill spent 16 years in prison wrongly convicted in relation to the 1974 Birmingham pub bombings. 'The CCRC was set up in order to overcome the failure of the UK judicial system in its approach to miscarriages of justice. Its purpose was to examine intractable cases that couldn't rely on the appeals process as it stood,' Hill told the Justice Gap yesterday. Paddy Hill, who is also founder and director of MOJO, noted that whilst the process of review was 'part of their function, it's not an end in itself'. 'If the CCRC fails to properly investigate, or refer these cases to the Court of Appeal then it is, by definition, not fit for purpose. After all, we are all aware that the problem of wrongful conviction hasn't gone away. The problem lies in the CCRC's failure to properly use the investigation powers they have. In an ideal world, anyone who suffers an injustice should be able to seek redress but the CCRC's resources and powers should always be used on the cases of those who are serving long term prison sentences as opposed to the cases of those who may have a problem related to their asylum status or even dangerous dog cases.'

Haiti Prison Break: All Inmates Escape From Aquin

All 78 inmates of a prison in southern Haiti have escaped from captivity, according to the country's police. The detainees reportedly made their escape from Aquin prison while police were distracted by anti-government protests nearby Haiti's national police force said it has launched an investigation into the incident. It comes after days of demonstrations against President Jovenel Moise, which have left at least four people dead. Speaking with Haiti newspaper Le Nouvelliste, Chief Inspector Ralph Stanley Brice said the prisoners had initially left their cells for a scheduled shower. They later refused to return to their cells, and took advantage while police were distracted by a demonstration by protesters outside the prison and its adjoining police station. Mr Brice added that barricades made by protesters had blocked police reinforcements sent from Les Cayes, a town nearly 34 miles (55km) away.

N, Ireland Sean Graham Shop Killings: Police Sorry for Disclosure 'Error'

BBC News: The Police Service of Northern Ireland (PSNI) has been accused of a "cover-up" after it failed to reveal "significant information" about a loyalist gun attack that left five people dead. The attack at Sean Graham's bookies in south Belfast in 1992 was carried out by the Ulster Freedom Fighters (UFF). The PSNI has apologised and said it never sought to deliberately withhold the information. However, Chief Constable George Hamilton is facing a call to resign. Billy McManus, whose father was one of the victims of the attack, said: "They're saying he's retiring and he wants to retire - he should resign. "He's led us up a garden path. He knew, the PSNI knew these files were here, they just hid them, from the Police Ombudsman."

The Police Ombudsman has opened new inquiry lines after finding out about more material linked to the attack. It said that the problem had arisen due to issues including human error, "the sheer volume of the material involved and the limitations of the archaic IT systems". The families of the victims have previously said they believe there was collusion between the killers and security forces in the betting shop shootings. "Police have now also identified a computer system, which they say had not been properly searched when responding to previous requests for information," said Dr Maguire. "It would seem information which police told us did not exist has now been found."

The material has led the Police Ombudsman to examine new lines of inquiry into the Ormeau shootings, events connected to loyalist paramilitaries in the north west of Northern Ireland between 1988 and 1994 and the murder of teenager Damien Walsh at a coal depot in west Belfast in 1993. Police Ombudsman reports into those investigations will now be delayed. Dr Maguire said that "in the interests of public confidence in policing" he has asked Stormont's Department of Justice to commission an independent review into the methods police use to disclose information.

'Knock-back after knock-back' - The Committee on the Administration of Justice (CAJ) said the development showed that "the practice (of withholding information and delaying disclosure) is still continuing". "[It] is deeply shocking and the claim that it is due to human error simply insults our intelligence," it added. "The Police Ombudsman's office relies on the PSNI acting in good faith to assist it in its investigations as RUC archive material remains within its control. "These developments clearly expose the lack of willingness or capacity of the PSNI to provide full disclosure to the Police Ombudsman to allow him to carry out independent and effective investigations."

Mark Sykes, who was injured in the shooting, said he felt "sick, angry and lied to". "We had been told time and time again when we met Mr Maguire that he had all the information that he needed to do this report," he added. "To be told yesterday that there were documents withheld from him was sickening."

'Full, unfettered access' The PSNI's Deputy Chief Constable, Stephen Martin, apologised to the families of the attack victims. "We deeply regret that the researchers responding to the Police Ombudsman for Northern Ireland's (PONI) request were unable to find and disclose it," he said. The "error became apparent", he said, when a researcher working elsewhere in the PSNI "found the material while preparing for disclosure in response to civil litigation". He said that there was a number of reasons why one researcher found the material while others did not, including "differing levels of experience and knowledge of our researchers".

Mr Martin said that the PSNI's chief constable has concluded that the best interim solution for public confidence in policing would be to give "appropriately vetted" Police Ombudsman staff "full and unfettered access" to its legacy systems. He also said the PSNI hoped to make substantial changes to its procedures for disclosing information in the coming months and it welcomed any independent review of its system.

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