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# 15 Things I Have Learned About Child Prisons Since the Death Of Gareth Myatt

Carolyne Willow, Open Democracy: Gareth Myatt died 15 years ago today after being restrained by G4S prison guards. Carolyne Willow shares some of what she's learned investigating the abuse and neglect of children in state care. Gareth Paul Myatt loved riding his bike, watching South Park and the Simpsons and playing chess. He was academically able. Racist bullying in his earlier years contributed to later struggles with his identity. Between the ages of 11 and 14, he lived in care on five separate occasions — three times in a children's home and twice with foster carers. By the end of 2003, Gareth was receiving no education at all.

On 16 April 2004, at the age of 15, Gareth was sentenced to custody for breaching a community order, assaulting a member of staff in his children's home and stealing a bottle of beer. He was admitted to Rainsbrook secure training centre, a child prison in Northamptonshire then run by the international security company G4S. That was a Friday. The following Monday, 19 April, Gareth refused to clean a sandwich toaster; another child willingly did so instead. An officer, David Beadnall, ordered Gareth to his cell, then started to remove his possessions. When Beadnall took a piece of paper containing his mum's new mobile phone number, Gareth was said to raise his fist. With the assistance of two other officers, Beadnall (6 feet tall and weighing 14 stone) held Gareth down in what was called the 'seated double embrace' restraint position. The officers dismissed Gareth's cries that he couldn't breathe; he lost consciousness and was pronounced dead on arrival at hospital. A judge was later to write: "Among the signs of distress which Gareth manifested during the critical seven minutes were these: he said that he could not breathe; he said that he was losing control of his bowels; he did so; he vomited; finally he slumped motionless. Each of these signs of increasing distress was readily perceptible to the officers". Gareth weighed just 6½ stone and stood less than five feet tall. Here are 15 things I've learned since Gareth's death.

1. Abuse and Trauma Characterise the Backgrounds Of Child Prisoners

Research commissioned by the Youth Justice Board reports that up to 92 per cent of children in custody have suffered prior physical or sexual abuse or neglect. Children's anguish and suffering often escape adults. We tend to fixate on their size and appearance and show little intelligent curiousity about the origins of their behaviour. Children in prison are three times more likely than other children to have suffered the death of a parent or sibling. Winston's Wish, the UK child bereavement charity, says that losing a parent or sibling "is one of the most devastating losses a child will ever face". I researched the backgrounds of children who have died in prison and found bereavement common. Kevin Henson's mother died of cancer on his 14th birthday. Before he hanged himself in prison, he wrote a note for his family: "Dear family, I'm sorry for doing this to you but I can't ride this amount of time in here without seeing Mum's grave". Up to 92% of children in custody have suffered prior physical or sexual abuse or neglect

2. Childhood Imprisonment is a Minority Experience Reserved for The Poor and Excluded Nearly half of imprisoned children are from black and minority ethnic communities, and they are significantly more likely to be put in segregation in young offender institutions (61 per cent compared with 47 per cent of all children) and significantly less likely to be offered help with being scared (17 per cent compared with 36 per cent). Official data shows that more than four in 10 children given custodial sentences were eligible for free school meals, a marker for poverty. A similar proportion has been in care or has special educational needs. Nine out of 10 children in young offender institutions have been excluded from school. Nearly half of imprisoned children are from black and minority ethnic communitiets.

3. Prison is the Absolute Worst Place to be for Children With High Levels of Need

Less than two weeks after Gareth's death, a coroner called for a public inquiry into the death of another vulnerable child who died in squalid conditions in a prison healthcare unit in 2002. Before hanging himself, Joseph Scholes had begged his mum to get him transferred to a children's home, information she passed to the prison. Joseph's phone call had, in any case, been recorded by the prison. This was a boy who had been sexually and physically abused in the past; he was being held in healthcare supposedly to keep him safe, with a concrete bed and wearing an anti-tear garment, described at his inquest as like a horse blanket, with no underwear underneath. Senior staff from his former children's home told the inquest that Joseph was well-mannered and polite and presented no major management problems when in their care. Before taking his life, Joseph — just one month after his 16th birthday — wrote his parents a note: "I'm sorry, I just can't cope". The Howard League for Penal Reform is representing a boy who, aged 15, was held for 55 days in solitary confinement. That's equivalent to the whole of the school summer holiday plus another 13 days. The boy's behaviour is violent and challenging. He has learning difficulties and a statement of special educational needs; he was first placed on the child protection register as a baby. One of the reasons a High Court judge found the boy was not subject to inhuman and degrading treatment during his solitary confinement was that he "also generally had a television, which can provide a form of stimulus and human voice". (This ruling was upheld by the Court of Appeal).

4. The Country's Largest Public Inquiry Says Children Remain at Risk of Sexual Abuse

The Independent Inquiry into Child Sexual Abuse set up by Theresa May, when she was Home Secretary, is investigating the failure of institutions to protect children from abuse, and what must happen now to keep children safe. In February 2019, on the publication of its report into abuse in custodial institutions, the inquiry's chair, Alexis Jay, said: "The harrowing accounts of non-recent child sexual abuse within custodial institutions were some of the worst cases this Inquiry has heard. But I am also deeply disturbed by the continuing problem of child sexual abuse in these institutions over the last decade. It is clear these children, who are some of the most vulnerable in society, are still at risk of sexual abuse". By July last year, the inquiry had identified 1,070 alleged incidents of child sexual abuse in custodial institutions between 2009 and 2017, with potentially 1,109 victims.

The abuse inquiry appears not to have investigated Warren Hill young offender institution, in Suffolk (now a men's prison), even though William John Payne, a former Royal Marine and prison officer was jailed in May 2010, after sexually abusing a 17-year-old boy — both inside the prison and after release. Prosecuting counsel told the court that Payne was able to abuse the boy "at every opportunity". Nor does the inquiry probe Downview prison in Surrey whose acting governor Russell Thorne was jailed for five years in 2011 for misconduct in a public office — that is, coercing a young female prisoner to engage in sexual acts with him for four years. One of the many hundreds of FOI requests I've pursued over the past 15 years revealed that four Downview officers had been suspended, dismissed or convicted between January 2009 and October 2013 "as result of a sexually inappropriate behaviour with women prison-

ers or a young offender". The local authority separately confirmed that "less than 10" girls made sexual abuse allegations against staff in the five years to March 2013.

"Sexually inappropriate behaviour" is one of those prison catch-all terms which hides what's happened to children. In March this year, a parliamentary written answer revealed that the prison service still doesn't keep any records of staff dismissed for sexually abusing children. The government's answer said: "Her Majesty's Prison and Probation Service (HMPPS) centrally holds the data on conduct and disciplinary cases. The data includes sexual harassment/assault; however, it is not specifically recorded as sexual abuse of children. The data also could relate to sexual harassment against other staff or children in these settings".

This is 16 years after the conviction of Neville Husband for sexual assaulting young people in Medomsley detention centre; Durham Police's Chief Superintendent told the abuse inquiry last year that there were 229 alleged victims of child sexual abuse there. Children were so terrified in that prison they would lie at the bottom of the stairs and ask other children to jump on them in the hope their legs would be broken, and they would be taken off the premises and therefore escape more abuse. Last month, five former officers were convicted of physical abuse.

#### 5. Children's Cries for Help are Ignored in Prison

There are countless examples of children begging for adult help. Among them: A 15-year-old girl miscarried alone in her cell in Medway secure training centre. She said officers dismissed her requests to be taken to hospital; instead the four or five officers who came to her cell handed over two sanitary towels and told her to go to sleep. That was in 2010. Shauneen Lambe, a lawyer who co-founded Just for Kids Law, told me about a boy with learning difficulties who vomited on first being put into a prison cell. He pressed his buzzer and couldn't believe it when officers laughed at him. Nick Hardwick, then Chief Inspector of Prisons, reported after one inspection that a boy in prison segregation with a lifelong medical condition pleaded with him tearfully to take him home to his mum. Jake Hardy, a boy with ADHD who was subject to horrific bullying by other child prisoners, wrote a note to his mum: "so mum if you are reading this I not alive cos I can not cope in prison people giveing [sic] me shit even staff". The inquest jury found that one of the many failures of the state to protect Jake's life was the prison not allowing him to ring his mum hours before he was found hanging.

The Independent Inquiry into Child Sexual Abuse has reported a crying boy being restrained "on all fours with the staff member squatting behind him, thrusting his hips towards the boy". This was in Rainsbrook secure training centre in 2014 — the same Northamptonshire prison in which Gareth was fatally restrained. A child's wrist was said to snap like a pencil during restraint; despite his continuing screams, officers forced his arms into a wrist lock position behind his back. He was left in his cell crying and in agony. When a prison nurse went to the boy, his mouth was still bleeding, and he had severe swelling and deformity of his wrist, loss of movement and pins and needles. A hospital had to anaesthetise him as they manipulated his wrist back into position. This was in 2011.

6. The MoJ Collects Data Children Being Restrained, But Not Clear What They Do With It The inquest process revealed the method of restraint which led to Gareth's death — the 'seated double embrace' — was used on children 369 times in the preceding 12 months. In nearly one in three uses, children had been harmed; this was "life-threatening" 10 per cent of the time. Gareth himself had been subject to the seated double embrace restraint on admission to Rainsbrook secure training centre, because he refused to undress for a routine stripsearch. Afterwards, he complained of pains in his chest.

#### 7. Prison Restraint Techniques Continue to be Extremely Dangerous

Last year, there were four incidents where a child suffered a serious injury and required hospital treatment following restraint, and 210 incidents involving a 'warning sign'. The Ministry of Justice defines warning signs as including: "Lost or reduced consciousness, abruptly/unexpectedly stopped struggling or suddenly calmed down, blueness of lips/fingernails/ear lobes (cyanosis), tiny pin point red dots seen on the skin (upper chest, neck, face, eyelids), difficulty breathing, complaints of feeling sick, vomiting, and complaints of difficulty breathing". A report I obtained recorded a child vomiting after being handed his inhaler to use while "under restraint" in 2013/14. That same year, two children — both asthmatic — were logged as appearing to lose consciousness during restraint.

Her Majesty's Inspectorate of Prisons reviewed the current system of restraint in child prisons — called 'Minimising and Managing Physical Restraint' — and published a report at the end of 2015. Among their shocking findings, inspectors found "inconsistent" accounts of an incident where a child was restrained face down and in a head-hold for 17 minutes in a secure training centre. Some officers wrote in their notes that the boy became calm, while others recorded that "he became 'unresponsive', started making gagging noises and spitting on the floor". There were four incidents in 2018 where a child suffered a serious injury and required hospital treatment following restraint

In September 2016, I obtained the independent medical advice given to the Ministry of Justice in respect of 66 different scenarios where restraint techniques may be used in child prisons, during children's escort to custody and when children are forced onto an aircraft for deportation. The scenarios were each rated on a scale of one to five for likelihood of risk, and one to five for the consequences to the child, with the worst, five, being the child's "death or permanent severe disability affecting everyday life". The independent medical adviser assessed 28 (42 per cent) of the scenarios as two or higher for likelihood of death or permanent severe disability. The inverted wrist hold — the most commonly used restraint technique (3,692 times last year) was assessed as being three on the one to five scale of likelihood of children suffering ligament/tendon damage and swelling which requires hospital treatment. This is officially described as non-pain compliant, though children report otherwise.

## 8. Pain-Inducing Restraint Legitimises Violence Against Children

In August 2017, children's rights charity Article 39 threatened legal action over escort officers being authorised to inflict pain as a form of restraint on children as young as 10. The escort officers can use pain-inducing techniques on the way to secure children's homes, but staff working in these settings are not allowed to deliberately hurt children. The Ministry of Justice reconsidered its policy as a consequence, and then committed to launch a wider review of pain-inducing restraint across all child prisons and the escorting process. Shortly after Article 39 applied for permission for judicial review, in October 2018, the government announced the wider review would be led by Charlie Taylor, the Chair of the Youth Justice Board – though in an independent capacity. Earlier this year in February, the Independent Inquiry into Child Sexual Abuse published its investigation into custodial institutions. The inquiry said that pain-compliant restraint should be seen as a form of child abuse, and that "it is likely to contribute to a culture of violence, which may increase the risk of child sexual abuse". It concluded the practice must be prohibited by law. The government has yet to respond to this finding. Successive governments have failed to act on similar recommendations from parliament's Joint Committee on Human Rights, the UK's four Children's

Commissioners, the UN Committee on the Rights of the Child, the UN Committee Against Torture, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, the Council of Europe's Human Rights Commissioner and a host of other organisations including the Equality and Human Rights Commission and the NSPCC.

#### 9. The Prison System is Resistant to Change

Fourteen-year-old Adam Rickwood hanged himself with his trainer laces in August 2004 after being inflicted with the 'nose distraction' — the name given to the prison restraint technique which involves a sharp blow to the nose. Adam's nose bled for around an hour and officers refused to take him to hospital. The jury at the second inquest into his death (2011) found the use of this technique had been "unjustified, unreasonable and disproportionate" and therefore unlawful. Although it was withdrawn from secure training centres some months after Adam's death, the 'nose control' was still used in young offender institutions. Eventually, it was withdrawn from these child prisons too — but only after the mandibular angle technique was put in its place. This involves the application of severe pain to a child's neck. This looks very like the restraint used on 'Billy' in BBC Panorama's undercover footage of child abuse in Medway secure training centre three years ago.

Following the deaths of Gareth and Adam, a review recommended a new system of restraint. That's how 'Minimising and Managing Physical Restraint' (MMPR) came about. But instead of asking child care professionals to develop appropriate restraint techniques, the Ministry of Justice commissioned the National Tactical Response Group, described in this Sun newspaper video as the "prison service's SAS". MMPR uses restraint techniques which are exactly the same or amended from those used in adult prisons. I know this because I tried for seven years to force full disclosure. The main reason I lost my FOI (Freedom of Information Act) case (which went as far as an application to the European Court of Human Rights) is that the Ministry of Justice fears transparency would destabilise adult prisons — because, officials say, there is overlap in the techniques and adult prisoners could study the children's training manual in order to subvert restraint. This was one of the claims previously made by the Youth Justice Board, when it refused to publish the full details of the techniques used in secure training centres pre-MMPR. In that case, the Information Commissioner ordered transparency and the Board agreed to release the document days before a tribunal. Two years later, when the MMPR manual was published with 182 redactions, we were back to secrecy.

The coroner conducting the inquest into Gareth's death made 34 recommendations, including that children must be given the opportunity to write their own account of a restraint incident. The Youth Justice Board initially rejected this recommendation, citing children's poor literacy. However, it then arranged for independent advocates to attend debriefing sessions with children, to enable the child's perspective to be heard. At the end of January 2019, the serious case review into child abuse in Medway secure training centre revealed that advocates from children's charity Barnardo's visit children to offer help, but only after their first experience of restraint. The dangers are obvious. Children repeatedly restrained are likely to be the most vulnerable and in greatest need of assistance. Moreover, officers who seek to abuse children through restraint will know that the possibility of independent scrutiny and help for the child will be relaxed after their first restraint.

#### 10. Local Authority Protection of Children in Prison is Inadequate

Local authorities are legally required to investigate and take action to safeguard a child's welfare when they have suffered significant harm. This duty applies to all children living in their area, including children in prison. The Howard League for Penal Reform won a High Court legal challenge 17 years ago confirming this fact. Six local authorities in England currently have child prisons in their area. In 2015, I asked local authorities to provide data on abuse

and neglect allegations against adults working in child prisons, the number of statutory child protection enquiries and details of the outcomes of these investigations. Three of the six local authorities provided no data at all. Staffordshire (Werrington young offender institution) didn't respond. Leeds (Wetherby young offender institution) and Medway (Cookham Wood and Medway secure training centre) both said it would cost them more than £450 to find the information. Northamptonshire had data for one year only, showing there had been 25 allegations against adults working in Rainsbrook secure training centre in 2014/15.

The serious case review following the BBC Panorama investigation showed "serious and undetected deficiencies" in how Medway Council responded to abuse allegations. That was published in January 2019. An earlier investigation — by a Board set up by the then Justice Secretary Michael Gove after the Panorama programme — found 14 child protection referrals were made between February and October 2015, with the local authority concluding that none was substantiated. The reason? There was no CCTV evidence to back up children's accounts. Official letters were sent to children to this effect. The Youth Justice Board was in receipt of 35 whistle-blowing letters — received over the preceding seven years. Moreover, the Independent Inquiry into Child Sexual Abuse discovered 44 sexual abuse incidents in respect of Medway secure training centre between 2012 and 2017.

Two local authorities gave full responses to my FOI, though the data was not at all reassuring. The London Borough of Hounslow said it received 82 referrals across the three years in respect of Feltham young offender institution, leading to 28 statutory child protection enquiries. However, 100 per cent of the 82 allegations were found not to be substantiated. Milton Keynes had 86 referrals in respect of Oakhill secure training centre, 33 statutory child protection enquiries were undertaken and just eight (9 per cent) allegations were found to be substantiated. The serious case review following the BBC Panorama investigation showed serious deficiencies in how Medway Council responded to abuse allegations

#### 11. Power Defends Itself

The inquest into Gareth's death heard that restraint trainers at Rainsbrook secure training centre had nicknames like Clubber, Mauler, Crusher and Breaker. A senior G4S manager later told the press this had been taken out of context. The staff member known to her colleagues as Clubber, for example, liked to go to night-clubs, he said. A review of restraint established after the deaths of Gareth and Adam Rickwood noted that "almost all submissions" (including from the Department of Health) said pain-inducing restraint should be withdrawn. Yet the review authors concluded it was necessary "as an alternative to prolonged use of non-compliant restraints that can cause danger to young people". The case of David 'Rocky' Bennett was cited in support.

David Bennett died following restraint in a medium mental health secure unit. The inquiry panel into his death stated "its firm view that it was not appropriate to inflict deliberate pain during any form of restraint of a patient, whatever the circumstances might be. Any patient who required physical restraint was by definition in a medical emergency". Besides, David Bennett died following protracted restraint — nurses held him face down for 25 minutes after a painful thumb lock was used on him.

Three inspectorates judged Rainsbrook inadequate at keeping children safe in May 2015. G4S responded by commissioning its own report — from Martin Narey who had been in charge of the prison service before becoming the first Chief Executive of the National Offender Management Service. Afterwards, he ran Barnardo's for six years. Narey had also previously been an occasional paid adviser to G4S. The Youth Justice Board's then Chair thanked Narey for his report on Rainsbrook, via a press release published on the government's website.

Although commissioned by G4S, Narey explained that he saw the Board as the "primary recipient" of his assessment. His report said: "My test in visiting places of custody for over thirty years is to reflect about how I'd feel if my son or daughter were incarcerated there. In Rainsbrook's case, I would consider him or her to be safe and to be generally well treated."

Two of the inspectorates' findings were so devastating the details were kept out their report. Narey himself conceded that one of these was "disgusting"; he was disappointed there was no police prosecution against staff. It appears from information published by the Independent Inquiry into Child Sexual Abuse that this involved a child taking another into his cell to defecate on his head as a punishment. Two members of staff saw this happening and chose not to intervene. The other incident not revealed in the inspection report involved the sexualised restraint of a crying child (see above), with an officer on all fours. Narey additionally discusses the inspectors' concerns about a child with a fractured wrist not being taken to hospital for 15 hours. Since all of these incidents occurred prior to the inspection, he dismissed the inspectorates' conclusion that the child prison was presently unsafe.

## 12. Child Prisons Are Recycled, Rebranded

Over the past 160 years, we have had reformatories, borstals, approved schools, remand centres, detention centres, youth custody centres, young offender institutions and secure training centres. Each rebranding has retained the core aim of locking child offenders in institutions markedly inferior in design, safety and status to those provided for more deserving children. The first experimental secure school, which will be run as both an academy school and a secure children's home, is due to replace Medway secure training centre, against calls for the prison to be closed. This is despite the decades' of abuse and suffering there, and the shocking failure of local authority safeguarding arrangements. Why? One answer recently given by the government is that the Ministry of Justice owns the site.

#### 13. 'Learning the Lessons' isn't Happening

Having read every press release, statement and report concerning the mistreatment and deaths of children in prison over the past 20 years, I have grown weary of official pledges to learn the lessons. This was not the language we expected from parents who had abused or seriously neglected their children when I worked in a local authority child protection team. We looked for empathy, regret and a clear commitment to change, often with a period of very intensive support and scrutiny. Child abuse in families was never, ever, knowingly allowed to continue.

#### 14. No Sense Of Urgency In Closing Child Prisons

More than two years ago, the Ministry of Justice declared it shared Charlie Taylor's vision to "in the longer term" replace young offender institutions and secure training centres with secure schools. Since then not a single child prison has closed. There has been no watershed moment, like there was with children in care, when central and local government publicly faced up to the extent of abuse and mistreatment in residential care.

15. Decency, Strengths Human Potential of Children in Custody Not Recognised or Valued Whenever I hear adults decrying violent and damaged 'youths', I think about the children I met and interviewed for the Carlile Inquiry over a decade ago. In beautifully ordered cells, children offered me their beds to sit on while they took the floor. They showed me their certificates and photos, talked warmly about their parents and families and freely and openly admitted to having done wrong. They told me about the pain, humiliation and anger they felt during restraint, strip-searching and segregation; some gave physical demonstrations of having hands gripped round their neck and being pushed violently to the floor.

I remember the senior G4S manager, who tried to stop me having these private conversations, saying the Youth Justice Board backed him up. I can still hear the heavy banging on the cell doors from officers' fists and the bellowing that my time was nearly up. All of the information I have sought and published over the past 15 years concerns children in the care of the state. These children are among the most vulnerable in our society, their wrongdoing often a response to appalling hardship and abuse. In prison, they experience new depths of violence, chaos and deprivation. This is a system which tells children they are not worthy, and tolerates and perpetuates serious harm. Nearly one in five children in young offender institutions surveyed by prison inspectors last year said they felt unsafe "now".

# HMYOI Cookham Wood Young Offenders - Urgent Need to Tackle Culture of Fighting

HMYOI Cookham Wood, near Rochester, holding 165 boys aged between 15 and 18, was found to be a "largely settled" establishment but one that also struggled to prevent the boys fighting. Peter Clarke, HM Chief Inspector of Prisons, said Cookham Wood faced the challenges of holding a group of young people with complex needs, a significant minority of whom were facing quite considerable sentences for serious offences. The YOI was last inspected in 2017 and the assessments in December 2018 remained the same – insufficiently good in safety, purposeful activity and resettlement, but reasonably good in care. Inspectors, however, had identified improvement within the assessment bands. Fewer boys in the inspection survey said they felt unsafe – 10% compared with 25% in 2017 – and there were promising initiatives to encourage better behaviour, including a family sports day identified as good practice. 27 recommendations from the last inspection had not been achieved

However, violence and use of force by staff were high – though de-escalation was good – and dealing with assaults and fights was a central challenge for the YOI. The report noted that "staff were constantly caught up in the management of extensive and complicated keep-apart protocols which forced them to unlock and lock up children individually in case they might fight or attack others." In some part of the YOI these "cumbersome" unlock practices resulted in a limited regime for every child located there.

Boys spoke of the 'rules of the game' in relation to fighting: "a culture had been established whereby there was an obligation on children to fight with children from a different postcode, gang or wing. However, this obligation ceased when a child moved onto the enhanced wing or the resettlement unit. Once there, children were 'allowed' to socialise with the former enemy because they now shared a desire to protect the enhancements and privileges available to them on these units."

Managers and the psychology team were recommended to talk to the boys "to learn more about their propensity to fight and to understand why the 'rules of the game' change" and work towards a significant reduction in keep-apart protocols. The need for this was clear. Mr Clarke added: "Some young people, because of keep-apart restrictions, spent almost as much time each day being escorted to and from activity as they did in the activity."

Most young people said they felt respected by staff and inspectors saw evidence of care and compassion from staff, despite many being relatively inexperienced. Most staff were growing in confidence, were knowledgeable, and spoke positively about those they cared for. Living conditions and cells were mostly good, although inspectors were concerned about a number of cells extensively covered in graffiti, including gang-related signs and "unacceptable images of violence and racism." The amount of time that young people spent unlocked was slightly better than in 2017 but inspectors still found that a quarter of the boys were locked up during the working day. Though education and training required improvement, the YOI could show good examples of boys getting jobs on release in football, the arts and catering.

Overall, Mr Clarke said: "We believed Cookham Wood to be an institution that was progressing but not yet to the point where this could be recognised in our healthy prison assessments. The institution was nevertheless well led by a governor and team that seemed receptive to innovative ideas and were working hard to support a relatively inexperienced staff group to grow in confidence and competence. Priorities for the year ahead remained the reduction in levels of violence and ensuring young people were required to engage in purposeful activity consistently." Inspectors made 50 recommendations.

# HMP & YOI Bronzefield Women Only - 70% of Inmates Have Significant Mental Health Problems

HMP Bronzefield in Surrey, the largest women's prison in Europe, was found to have outcomes for the prisoners which were reasonably good or better across HM Inspectorate of Prisons' healthy prison tests. With a capacity of up to 557 prisoners, and opened in 2004, the Sodexo-operated jail holds women ranging from those on remand to those considered as requiring high security restrictions. 12 recommendations from the last inspection had not been achieved. Mr Clarke, HM Chief Inspector of Prisons, said: "This was our first inspection of Bronzefield since 2015 and, as we did then, we found the prison to be an excellent institution." Bronzefield was an "overwhelmingly safe prison."

However, the population had "become more challenging in recent years, with many experiencing significant mental health problems." Nearly 70% of prisoners in the inspection survey reported having a mental health problem. "Recorded violence had increased markedly since our last inspection (in 2015) but most incidents were not serious. Arrangements to reduce violence and support victims required some improvements, although weaknesses were mitigated by some very strong informal support offered to prisoners." An investigation by the Prisons and Probation Ombudsman (PPO), following the self-inflicted death of a woman in 2016, had raised significant criticisms, but recommendations made by the PPO had been addressed. Self-harm among prisoners remained high, but overall the care for those in crisis was good.

Bronzefield had a clean and decent environment and its key strength was the quality of staff-prisoner relationships. "Most prisoners felt respected or had someone they could turn to for help. The interactions we observed were impressive. The promotion of equality was appropriately prioritised" Mr Clarke said. Most prisoners had a good amount of time out of cell and there were sufficient activity places for all. Education, skills and work provision had improved considerably, while achievement among learners had also improved. Ofsted inspectors judged provision to be 'good' with some outstanding features. Work to support rehabilitation and release planning would have benefited from a more comprehensive needs analysis but, despite this, the quality of offender management and the effectiveness of resettlement planning were good and public protection work robust. The high standard of family support was commended as good practice.

Mr Clarke said: "Bronzefield seemed to us to be meeting nearly all its key objectives. There was work to do – a priority being the reduction of violence – but the overall success of the prison was built on healthy and supportive relationships and the knowledge and understanding the Bronzefield staff had of their prisoners, many of whom had high and complex support needs. In addition to the prison being a safe place, prisoners were treated with care and respect and were helped to progress through their sentence ultimately to the point of release. We leave the prison with a small number of recommendations we hope will assist in further progression and congratulate the managers and staff on what they have been able to achieve." Inspectors made 26 recommendations.

#### Rape Cases 'Could Fail' if Victims Refuse to Give Police Access to Phones

Owen Bowcott, Guardian: Complainants in rape and serious sexual assault cases who refuse police access to the contents of their mobile phones could allow suspects to avoid charges, the director of public prosecutions (DPP), Max Hill QC, and a senior police officer have warned. New national consent forms authorising detectives to search texts, images and call data are proving controversial, Metropolitan police assistant commissioner Nick Ephgrave has admitted, as the difficulties of disclosure in the digital age risk pitting the pursuit of justice against preserving privacy.

Hill, who has been DPP since last November, said: "You can end up in an extreme case where there's there's outright refusal [by a complainant] to allow access [to mobile phone contents] ... and that can have consequences for our ability to pursue a prosecution. "We are not interested in someone's mobile device just because they have one ... It's [about] having a conversation to take them through [the process] if there's material on a device which forms a reasonable line of inquiry. There are some pretty hard and fast rules about the circumstances in which private information ends up in the hands of a public court." Everyone, he said, needs to understand that if they get caught up in a crime, whether as witness or complainant, there may be information on their mobiles that is relevant.

In a briefing aimed at explaining the dilemmas faced by officers and prosecutors, Hill and Ephgrave called for people to have "trust and confidence" in the criminal justice system if investigators are to reverse recent sharp falls in prosecution rates. Last year the number of rape charges fell by 23%, to its lowest level in a decade, following the collapse of a series of trials in late 2017 due to problems of disclosure. Defence lawyers accused police and the Crown Prosecution Service (CPS) of failing to hand over crucial evidence that would have exonerated their clients. The setbacks have forced detectives and prosecutors to take more time and care handling cases – consequently reducing the throughput.

Around 93,000 police officers and staff have been undergone disclosure training in the past year to ensure they appreciate that providing the defence with timely access to relevant evidence is obligatory, Mike Cunningham, chief executive of the College of Policing, revealed. The underlying problem is the volume of text, video and call records now available in even routine cases, particularly in domestic abuse or sexual assault allegations involving people who already know each other. If the contents of an average Samsung S8 mobile were printed out, for example, Ephgrave said, it would produce millions of A4 sheets. Police are currently piloting three artifical intelligence schemes to ease the burden on officers reviewing records.

## You Can't Arrest Your Way Out of Record Drug-Related Deaths

Guardian: In what is effectively de facto drug decriminalisation, people caught in possession of personal amounts of controlled substances in a number of police areas are being directed towards treatment and education services through "diversion schemes", rather than facing prosecution. The radical policies, often spearheaded by elected police and crime commissioners (PCCs), come amid a growing realisation that reoffending and drug-related harm can be reduced by adopting a public health approach and inviting people to address their own substance use. At a "divert" meeting in Newbury, Berkshire, people speak candidly of their own drug use, appearing humbled and ashamed while retelling their experiences. "I got caught as a first-time offender when I was 18," says one, without revealing which drug they were caught with. "If I hadn't gone on this course my life would have been screwed because I'd have had a criminal record saying I'd done drugs." Another person says the diversion scheme is "a really important step forward" and should be adopted by the rest of the country, although he

is clearly frustrated he is spending his evening in this way. "There's no point criminalising people if, in my eyes, they haven't done anything necessarily to hurt anyone else," he says. "The only thing I do is weed, and that makes me a criminal."

Just over 1,000 people in England and Wales were imprisoned in 2017 for possessing drugs, with around 22,000 others handed down non-custodial sentences. Despite recent decreases, drug offences overall make up the second largest proportion of recorded crimes, and a person found in possession of class A drugs, such as heroin or cocaine, will still almost certainly be taken into custody in most parts of the UK. A combination of the prevalence of drug use (one in 11 16- to 59-year-olds used drugs last year), the example of pioneering approaches abroad – from decriminalisation of drug use in Portugal to consumption rooms in Denmark and Germany – and, crucially, the fact more people die from overdoses in the UK than anywhere else in Europe, has prompted police to take matters into their own hands. This is amid government intransigence and a staunch refusal to diverge from a law and order approach to drug use.

How drug offences are enforced is decided by local forces, led by Labour PCCs such as Ron Hogg in Durham and David Jamieson in the West Midlands, along with Plaid Cymru's Arfon Jones in north Wales. All have overseen great changes in recent years as arrests have fallen dramatically. Diversion schemes for possessing controlled drugs have been in place across Avon and Somerset and Durham for more than two years, while Thames Valley recently extended its limited pilot ahead of a likely wider rollout later this year that could take in Theresa May's constituency, Maidenhead. Cleveland began its own pilot to divert people earlier this month, and north Wales will start in October. "This is about getting people to be honest about their drug use," says chief inspector Jason Kew, of Thames Valley police, who is sitting in on the divert meeting. "We have to take a pragmatic approach, and custody is not the right place for vulnerable people at risk of harm. They need wraparound, holistic support. You can't arrest your way out of record drug-related deaths." After the session, he tells me that creating non-judgmental gateways to drug services without stigmatising people and destroying their future opportunities is crucial to reducing harm. "Some people will see a health-based approach as going soft on drugs, but there is absolutely nothing soft about preventing death. Diversion is far more arduous than receiving an opportunity-ending caution or charge."

Through a street-based pre-arrest scheme, Thames Valley police in Newbury offer people caught in possession of drugs the option of entering recovery and education services run by a charity, Swanswell. "I was told if I didn't attend this I'd be prosecuted," says a service user. "They said I had two options, either you go down the criminal route, or the divert route." He agrees the choice was a "no-brainer". If I hadn't gone on this course my life would have been screwed. I'd have had a criminal record saying I'd done drugs In the first three months of the pilot, police apprehended 35 people for possessing drugs, mainly cannabis. Of those, 34 undertook the diversion drug classes run by Swanswell and one was referred to a treatment centre because his problems were more severe. Drugs workers at Swanswell say that without the scheme the young people may never have sought help to address their use of drugs. They add that many of those who attended betrayed their ignorance over the harm cannabis can pose.

The recovery worker leading the session refers to the World Health Organization's classification of addiction as a disease, dependence syndrome, due to the pathological changes wrought by drugs creating desires that can be immensely difficult to control. As the service users nod solemnly, they get back to identifying problematic behavioural patterns and discussing the psychology behind substance misuse. "Substance use disorder is primarily a

health issue," the addiction specialist tells me afterwards. "There are significant negative consequences which arise when individuals find themselves embroiled within the criminal justice system as a result of their drug or alcohol misuse. "This can create a self-reinforcing cycle of prosecution, imprisonment and release without any support to address the underlying issues. Employment prospects and housing can be negatively impacted, and problematic use remains unaddressed. Programmes such as this allow individuals to access harm reduction."

Martin Powell, from Transform Drug Policy Foundation, a charity campaigning for effective legal regulation of drugs, explains that diversion schemes are proven to reduce rates of reoffending, with only 4% of those referred to Durham's "checkpoint" scheme convicted in the following 18 months, as opposed to a 19% reoffending rate over 12 months previously. "The criminal justice route doesn't provide assessment or education – just stigma – and stigmatising people who use drugs drives those in need away from help," he says, adding that it releases police to focus on other offences. Amid cuts to police budgets putting unprecedented strain on forces, each non-arrest saves an average of 12 hours of police time – Durham is estimated to have saved £160,000 a year – and officers have reported that they are apprehending more dealers due to greater intelligence and more time available.

West Midlands previously piloted a scheme to divert drug offenders into recovery, aspects of which it incorporated into its operational policy. The force's lenient approach to those caught with cannabis, pursued partly because it does not want to harm "life chances" by giving people a criminal record, was brought into focus on Saturday 6 April when the Daily Mail declared "Cannabis surrender" on its front page. In a 2017 evaluation of its drug policy, a Home Office report said: "There is, in general, a lack of robust evidence as to whether capture and punishment serves as a deterrent for drug use." A Home Office spokesman says: "The police have a range of powers at their disposal to deal with drug-related offences in a way that is proportionate to the circumstances of the offender and the public interest." He adds: "The government has no plans to decriminalise recreational drug use."

## More Than 2,500 Prison Staff Disciplined in Five Years

Jamie Grierson, Guardian: More than 2,500 prison staff have been subject to disciplinary action in the last five years, including for relationships with inmates, assaulting prisoners and racism, the Guardian can reveal, as the government prepares to launch a unit to tackle corruption in jails. A total of 2,666 prison staff in England and Wales were subject to disciplinary action between mid-2013 and mid-2018, according to data released by the Ministry of Justice (MoJ) under the Freedom of Information Act. The most common reason for disciplinary action was breach of security, which can include bringing drugs and mobile phones into prisons, with 960 workers subject to this charge.

Other charges included assault or unnecessary use of force against prisoners, for which 204 staff were disciplined, inappropriate relationships with a prisoner (64), racial harassment (19) and trafficking (28). There was also action over abusive language, sexual harassment and being unfit for work due to drink or drugs. It is understood the Ministry of Justice will soon launch a counter-corruption unit (CCU) as the department battles with a fractious prison estate overcome with drugs, violence and poor mental health among inmates.

The formation of a counter-corruption unit was announced in the Government's Prison Drugs strategy, which was published earlier this month. The most recent figures show that in the year to March 2018 the number of incidents in which drugs were found in prisons increased to 13,119, up 23% from 10,666 in the previous 12 months. The number of mobile phone and sim card dis-

coveries increased by 15% in the same period: there were a total of 10,643 incidents where mobile phones were found and 4,729 incidents where sim cards were found.

A lack of experienced prison officers has been blamed in part for the difficulties faced by the service. As of 31 December 2018, there were 22,722 prison officers in bands three to five, considered to be key operational grade in public-sector prisons, of whom 42% had less than three years' experience. In its response, the Ministry of Justice said: "The vast majority of prison officers and other staff carry out their duties to the high standards the public rightly expect, but the small minority who fall short of those standards are held to account. Allegations of inappropriate behaviour, though rare, are taken extremely seriously and are immediately investigated. We do not hesitate to take action where there is evidence of misconduct."

The data released to the Guardian shows the prison service launched 6,597 investigations into misconduct between mid-2013 and mid-2018, including 2,270 into breaches of security, 718 into assault or unnecessary use of force against a prisoner and 174 into inappropriate relationships with prisoners. A total of 567 officers were sacked in the same period, including 84 for breach of security, 68 for assault or unnecessary use of force against a prisoner and 39 for an inappropriate relationship with a prisoner.

The MoJ started to build its new counter-corruption unit last year after a root-and-branch review of how to tackle corruption within the prison service. It had hoped to launch in February but was delayed. The counter-corruption strategy has four pillars that mirror the Home Office's counter-terrorism approach: protect, prevent, pursue and prepare. The unit will prioritise "pursue" by providing support to prisons and probation to progress intelligence reports. The unit will have a small national team and larger regional teams. Last year, the MoJ advertised for a head of the unit. It was expected the unit head would lead a team of 26 staff spread across the country.

In January, a prison officer, Jade Hicks, 35, was jailed after smuggling cannabis for an inmate she had befriended. Hicks, from Hemsworth near Pontefract, West Yorkshire, met the man when she worked at HMP Leeds. In a separate case, Gemma Farr, from Draycott, Derbyshire, who worked in a prisoner rehabilitation role at HMP Dovegate in Staffordshire, was jailed for delivering contraband to prisoners. Last year, Iain Cocks, a prison officer who had a sexual relationship with an inmate, was jailed for four years. Cocks, 51, had a relationship with the female prisoner for nearly two years at HMP New Hall near Wakefield, where his wife was also working at the time. Cocks, from Barnsley, South Yorkshire, had consensual sex with the inmate in a cell and a laundry room. In December, two prison officers were jailed for assaulting a 17-year-old inmate at Wetherby young offender institution in 2016. Mark Burnett was sentenced to 15 months and Daniel Scott to 10 months. The teenager was being escorted through a corridor when Burnett shut the door to the exercise yard and said: "Do you think it's funny to assault a prison officer?" Burnett, 50, who had been a prison officer for nearly 20 years, then punched the teenager in the face, and his colleague Scott, 28, also hit the inmate.

Peter Dawson, the director of the Prison Reform Trust and a former prison governor, said misconduct among prison staff was "massively" damaging. "Staff bringing drugs in is probably the easiest way of bringing a large quantity of drugs into a prison," he said. "The more you tighten up other forms of getting drugs in, the more pressure staff will come under and the more they will look like the obvious way to achieve it. "Prisoners generally if asked this question will say of course staff are involved and will probably identify corruption as one of the main routes of getting drugs into prison. It's relatively low-risk, it's relatively low-cost and you can bring in large amounts." He added: "Prisoners rely on staff to be honest in many ways. A corrupt member of staff is damaging because they will feed an alternative source of author-

## Millions Spent Compensating Wrongful Convictions

*McCracken, BBC News NI:* More than £9m has been paid in compensation since 2010 to 16 people who have had their criminal convictions overturned in Northern Ireland. New figures show that 84 people were wrongly convicted of crimes between 2007 and 2017. Charges ranged from murder to rape and included people serving life sentences.

At least half of those who had their convictions overturned spent time in prison, amounting collectively to more than 100 years in custody. The figures were obtained through a series of Freedom of Information (FOI) requests sent by BBC News NI. One man, who spent three years in prison as a teenager for a conviction that was overturned 30 years later, has spoken about the significant impact it had on the rest of his life. Figures provided under FOI to BBC News NI show that a total of 84 defendants have had at least one criminal conviction overturned in the Northern Ireland Court of Appeal between 2007 and 2017. The figures show that at least 46 people served prison sentences for convictions that were subsequently quashed. The longest single prison sentence served was six years. Twelve people who had their convictions overturned were serving life sentences.

Dr Hannah Quirk is a former case review manager at the CCRC. She now lectures in criminal law at King's College London with an expertise in wrongful convictions and miscarriages of justice. Reacting to the figures, she said: "I understand that people will be surprised as one person who is wrongfully convicted is one too many. "But it's important to also understand what is meant by wrongful conviction. It would be very unusual for the Court of Appeal to say someone is innocent, instead it decides whether any new evidence has come to light that makes a conviction unsafe." She added: "So not all these cases will necessarily be about innocence and more about if the criminal justice system applied the rules fairly at the time and whether or not if the trial happened today that the person would be convicted based on the latest available evidence."

'You go into survival mode': Charlie McMenamin was 16 years old in April 1978 when he was arrested and charged with a number of terrorist charges in Londonderry. He spent three years in prison. In 2007, almost 30 years later, the Court of Appeal ruled that he was wrongly convicted and found he was in a training school on the day he was alleged to have been involved in a gun attack on soldiers in Derry's Bogside. The Court of Appeal found evidence showing that an official at the Director of Public Prosecutions at the time told police that the charges were not to be proceeded with, but that was never passed on to the prosecuting lawyer. Mr McMenamin said: "You have to remember I was 16 years old and I was being told by my legal people that if I fought the charges I could go to jail for 17 years. "I was really reluctant to admit to something I hadn't done, but eventually I just give up because I didn't have faith in the justice system either way." Mr McMenamin spent two years on remand and served a further year of his prison sentence.

"Jail was tough, I got a lot of beatings. I felt why should I be here, so I just fought against the system. "I was being told I was a political prisoner, but I was saying I wasn't because I was in jail for something I didn't do. So as a teenager I had all those battles going on as well, but you just go into survival mode." He said the experience changed the course of his life.

"When I came out of jail, everything had changed, friends had moved on. I had a girlfriend, my teenage sweetheart, and in my last year in prison she died of cancer. "Even practical things like travelling, I couldn't go to America and employment was a problem. It had huge impact on the rest of my life." In its conclusion, the Court of Appeal said it was left with a "sense of unease" about Mr McMenamin's case. It raised concerns about his age at the time and the fact he was denied access to a solicitor or an appropriate adult until after he had made admissions to an offence which was accepted by the prosecution he could not have committed. "I fought the case for my family. My mother and father, who are now both deceased, had lived with it their whole lives. "When I found out the conviction had been overturned I was actually physically sick, it was like the whole thing had left me and I was a different person."

The court service said it could not provide a breakdown of why each of the 84 criminal convictions were overturned because of the time and cost involved in a manual trawl of individual judgments. Deputy director of the Committee on the Administration of Justice (CAJ) Daniel Holder said there was a public interest in finding out more about why convictions were overturned. He said: "I am surprised that this exercise has not been undertaken in order to identify and remedy any emergent patterns. "One of the alarming issues from the legacy of our past is the circumstance where information is withheld from prosecutors and the courts to provide cover for the activities of paramilitary informants, who themselves were allowed to operate outside of the law." Those who have had convictions overturned can apply for compensation. The Department of Justice in Northern Ireland has had responsibility for compensation since the devolution of policing and justice in April 2010. Compensation is calculated by independent assessors who look at what the person was convicted of, what the punishment was and what consequences it had on the person's life and whether they had a criminal record before. The Department of Justice said when considering an appeal for compensation for a criminal conviction there must have been grounds to support the appeal decision that a person experienced a "miscarriage of justice".

#### Petition of Giovanni Di Stefano

Declares that the petitioner is currently held in custody at HMP Highpoint, a national of of Italy and born on the 01/07/1955 in Petrella Tifernina, Campobaso, Italy. The petitioner is serving a sentence imposed by Southwark Crown Court of 14 years by HHJ McCreath on 27/03/ 2013. The petitioner is a foreign national prisoner subject to deportation the order of which was served on 27/06/2013. Parliament enacted the Criminal Justice and Immigration Act 2008 specifically with S. 34(5) amending the Criminal Justice Act 2003 by inserting S.259A. The purpose Parliament enacted this Act and section was to permit foreign national prisoners and others who had served half the requisite custodial period of any sentence to be removed from this jurisdiction provided that those could satisfy the Secretary of State for Justice that they had "settled intentions" of not returning by residing in the country to which they are removed. Section 259A of the Criminal Justice Act 2003 would come into force on such a day as the Secretary of State may by Order appoint. It is now 11 years since the Criminal Justice and Immigration Act 2008 has been enacted. The Secretary of State for Justice has yet to commence this section of sovereign statute that Parliament enacted. The petitioner thus humbly requests that the House of Commons does press the Secretary of State for Justice to forthwith commence this section which would immediately ease the burden on a much overcrowded prison estate allowing the Home Office to remove all those immediately who gave their settled intention to reside outside this jurisdiction and those who could satisfy the Statute. There is no valid reason why after 11 years the Secretary of State has not commenced this section.

Observations from the Minister of State, Ministry of Justice (Rory Stewart): The Government have the following observations to make: Section 259A was inserted to the Criminal Justice Act 2003

## Applicant's Confinement in Security Wing Of Prison Had No Legal Basis

In November 2011 T.B. was sentenced to four years' imprisonment for premeditated murder, aggravated rape and aggravated sexual constraint, for killing a prostitute in a particularly heinous manner, after raping her twice. The Juvenile Court supplemented his sentence with a protection measure, in the form of placement in a specialised closed centre with treatment for mental disorders. In May 2012 the public prosecutor for minors sought his placement with medical treatment, when he reached 22, in a closed and secure institution. On 20 June 2012 the district office ordered T.B.'s placement in accordance with the first paragraph of Article 397a of the Civil Code in security wing II of Lenzburg prison. On 18 August 2015, and after spending three years in security wing II, the applicant was transferred to the prison's general unit for the execution of sentences. The placement was extended several times and, on 11 June 2018, the Family Court, in extending the placement until the end of September 2018, decided that after that date T.B. would be placed in external accommodation, which was the case as of 28 September 2018. European Court of Human Rights held, unanimously, that there had been: a violation of Article 5 § 1 (right to liberty and security) of the European Convention on Human Rights. The case concerns the applicant's "placement for assistance purposes" in the period from April 2014 to April 2015. The Court observed that the applicant had been placed in the security wing of the prison solely on the ground that he represented a danger for others. It noted that the Federal Council had explained that the protection of third parties could constitute an additional factor for an assessment of the situation but that it was not decisive by itself. The Federal Court had, moreover, expressly emphasised in its leading decision that any deprivation of liberty "for assistance purposes" on the sole ground of endangering others was not prescribed by law and did not constitute a valid ground for such placement. The Court concluded that the applicant had thus been imprisoned without a legal basis and purely by way of preventive detention in the prison.

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.