

Should we Imprison People For Being A Pain in the Neck?

Transform Justice: Anti-social behaviour is in the news. You wouldn't know from current political and think tank talk that anti-social behaviour is not technically a crime and that criminal damage and drug dealing are crimes. So the political war on ASB has got muddled. People are concerned that low level crimes are not being resolved. They have a point. We need to give the police the resources and the discretion to deal with low level crime out of court. Meanwhile, the problems of the actual ASB justice system are being ignored. Which means ASB itself (nuisance neighbours, people creating intolerable noise, begging) is not being addressed. The answer is of course not to ban people from begging or making noise, but to address the reasons why they are doing so. The newish version of the ASBO – the civil injunction – involves local authorities, police or housing associations applying to have an individual banned from doing certain things or being in certain areas. If the person breaches their injunction they are sent back to court for punishment. All the sanctions are civil but they include imprisonment. Judges' decisions are made on the civil standard of proof (the balance of probability), rather than the criminal standard – beyond reasonable doubt.

The think tank Onward have cited anti-social behaviour (ASB) as a key barrier to levelling up, and the Prime Minister said that ASB was a gateway to more serious crimes. It might be but, unfortunately, we know almost nothing about who commits ASB and what works in reducing it. For all the talk of the government's commitment to #CommonSensePolicing there has been no new policy or research on tackling anti-social behaviour since the Anti-social Behaviour, Crime and Policing Act in 2014. That introduced new sanctions for anti-social behaviour to replace the ASBO. In came the civil injunction and the community protection notice. As Chair of the then Standing Committee for Youth Justice I campaigned hard against the legislation, but we won only one concession – that children's ASB cases should be dealt with in the Youth Court not the County Court. Adult hearings moved from the Magistrates' Court to the County Court.

But the civil injunction system doesn't seem to be working to either reduce ASB or to meet the complex needs of those who create nuisance. Floyd Carruthers had suffered with mental health problems for over 20 years and had a diagnosis of paranoid schizophrenia. He had been living in Midlands Heart Housing for 30 years where he had a designated housing officer who was aware of his mental health history and that he was receiving treatment from the community mental health team. Even so the housing association sought to have an anti-social behaviour injunction imposed on him in March 2021 for instigating a neighbour dispute – "engaging or threatening to engage in conduct which is capable of causing nuisance or annoyance". The day after the interim injunction was imposed he knocked on his neighbour's door again. Twice. And the second time he damaged it. Midlands Heart Housing maybe forgot the heart in their name and sent Floyd back to court for breaching the injunction.

Civil courts have no expertise in dealing with vulnerable plaintiffs at risk of imprisonment. In this case District Judge Kelly consulted her ASB guidelines and sentenced Floyd to four months in prison – a far more punitive sanction than he would ever have got had he been prosecuted in a magistrates' court. The judge referred to the detention in prison as rehabilitative.

Unfortunately, as with most short prison sentences, it was anything but.

Information about Floyd's mental health problems did not reach the prison. He died on 14th June 2021 after staying in his cell in HMP Birmingham for four whole days and leaving many evening meals untouched. He was taken by ambulance to Birmingham City Hospital, where he was discovered to have bacterial endocarditis which had led to septic shock and multi-organ failure. The bacterial endocarditis likely developed while he was in prison, in the weeks or months before he collapsed. Floyd died mainly because of the failure of prison healthcare. But we should also challenge why he was there in the first place. Should mentally ill people be imprisoned because they are causing a nuisance? Can we not find another way of resolving neighbourhood disputes caused by troubled social housing residents?

Recent research by More in Common suggested that most people think anti-social behaviour should be treated as a serious crime. But I wonder if most people, having heard Floyd's story, would think that he deserved imprisonment just for being a pain in the neck? Especially since most people in the same survey expressed concern that mental health issues were being mistaken for crimes.

One Death Per Week Among Newly-Released Prisoners

One person per week dies within a fortnight of being released from prison, according to research by the Prisons and Probation Ombudsman. Between September 2021 and September 2022, the Ombudsman was notified of 48 deaths of people who had left prison within the previous 14 days. Half of the deaths were drug-related; 10 were self-inflicted; and others were from natural causes or yet to be determined. Each of the deaths was investigated separately by the Ombudsman. Some of the findings in the drug-related deaths related to the lack of 'through the gate' support for people at risk of substance misuse. In particular, some of those who died had not been provided with naloxone – a medicine that rapidly reverses an opioid overdose – when they were released. The Ombudsman noted that some people refuse naloxone, and recommended research to establish why this is and what can be done about it.

To prevent self-inflicted deaths, the Ombudsman recommends better information-sharing between prison and probation staff. One man hanged himself two days after release, with probation staff unaware that he had been assessed as being at risk of suicide and self-harm at the time of his release. Housing was also found to be a key factor. One woman died of a drug overdose the day after she was released from prison, while believing that she was homeless. In fact, her community offender manager had secured temporary accommodation for her the day before she was released, but the woman was not told.

Prisoners' Health at 'Historically Low Levels

A report on prison healthcare has warned that men and women in custody have "mental and physical health at historically low levels" following the Covid-19 pandemic. The study by the prisoners' welfare charity Parents And Children Together (PACT), published in January, noted that prisoners have a life expectancy 20 years less than the general population, while half of all people in custody have a mental health problem and one in three has a serious drug addiction. Researchers spoke to 33 family members of prisoners. The majority said they had seen a significant decline in their loved one's mental and physical health during their time in prison, for reasons including the prison environment; delays in healthcare provision; regimes designed for security rather than wellbeing; inexperienced staff; and a lack of opportunity for families' voices to be heard.

Families felt that the roles they played prior to their loved ones' incarceration, as carers and providers of health advice or emotional support, were not recognised by prison staff. According to the report, called 'Nobody's Listening – What Families Say About Prison Healthcare': "The majority of families stated that communication between themselves and the prison had been 'very poor'. Families' engagement was restricted by: fear of repercussions and a lack of trust, challenges associated with maintaining contact, lack of recognition or response from prisons, patient confidentiality, judgement and discrimination, lack of information and inconsistency in prison practice."

In a foreword, Juliet Lyon, who stood down this year as Chair of the Independent Advisory Panel on Deaths in Custody, said: "This report is timely. COVID, and the prolonged period of extreme imprisonment and isolation in the face of it, has had a profound impact on prisoners' mental and physical health ... Since the onset of the pandemic, more than 40,000 prisoners and over 42,000 members of staff across England and Wales are recorded as having contracted COVID-19. Of these, it is not known how many are suffering from Long COVID – screening, diagnosis and treatment are still needed."

Revealed: Location of 500 New Women's Prison Places

Inside Time Reports: Controversial plans to build 500 extra prison places for women in England have been finalised with the unveiling of expansion schemes at five existing jails. More than half of the new places will be in open conditions, including open units at jails which were previously all-closed. A Ministry of Justice spokesperson said: "New open provision will provide an incentive for women to progress within their establishment without the need to move further from their families and support networks and the upheaval that goes with that. Expanding existing women's prisons will allow women to remain in their locality and reduce the need to move them to the next available site, which could be further from their home."

According to planning documents submitted to local councils, the Ministry of Justice intends to build the following extra places: Send: 100 new open places, 64 new closed places: Drake Hall: 25 open, 78 closed: Foston Hall: 50 open: Styal: 50 open: Eastwood Park: 3 open blocks (thought to be 75 places), 2 closed blocks (thought to be 52 places) Some schemes are still awaiting planning permission. The new cellblocks will be built to a standard design, each accommodating around 25 prisoners. In one planning document, the Ministry of Justice said they would be "akin to newbuild student accommodation".

The Government says the £150 million expansion of the women's estate is essential to cope with an expected sharp rise in the number of women in custody, caused by the recruitment of additional police officers and longer sentences. However, prison reform campaigners claim the construction scheme flies in the face of the Government's Female Offender Strategy, which calls for a reduction in the number of women in prison. The expansion of the women's estate is only a small element of the overall scheme to build 20,000 extra prison places in England and Wales, mostly for men, by the middle of this decade, at a cost of £3.75 billion.

Prisoner Litter-Pickers Quit for Better-Paid Jobs

A team of prisoners who cleared litter and tended to parks is being disbanded – because the men have found better-paid jobs elsewhere. Under a longstanding arrangement between Prescoed open prison in south Wales and Monmouthshire County Council, men from the prison would work on Community Improvement Teams for which the council paid them £15 per day. However, the council now says it is scrapping the teams because not enough prisoners want to be involved. Carl

Touhig, the council's head of neighbourhood services, told a committee of councillors: "We currently work with prisoners from Prescoed but it's getting more and more difficult to get those clients to come out and work with us and that is putting more pressure on the existing team and pushing that work back on the general workforce." A council report said the prisoners were finding better paid work: "The hourly rate is less than they are able to earn working on other placements and we have seen a reduction in [prisoners] over the years." Mr Touhig told the South Wales Argus: "The prison clients have been absolutely fantastic and their support on community projects and particularly Usk show has been amazing. They have worked with us on many projects, and it is with heavy heart we have proposed to disband the Community Improvement Team." He added: "We contribute to the volunteer prisoner costs at £15 per day."

How, Why, What, Where, And When?

Raymond Smith, Inside Time: The shock release of the Justice Secretary's response to the Commons Justice Select Committee report on Imprisonment for Public Protection (IPP) and his total rejection of their strong recommendations within it for resentencing, plus radical changes to the licence system after release is nothing short of a scandal. That leads to five questions that are more urgent, and infuriating. How did we get here? Why has this happened? What can we do? Where will we go? And above all, when will it end?

How We Got Here: A brief summary of the background. Imprisonment for Public Protection was introduced by the Labour Government in 2005. It enabled judges to add to a fixed tariff a provision where the person sentenced would not be released until found to be no longer a danger to society, and was a reaction to high profile serious offences that had been in press headlines. The man who introduced it, the then Home Secretary David, now Lord, Blunkett has since said it was wrongly used by the courts for people for whom it was not intended, young people whose crimes were not serious. Furthermore, he said that his original intention was that there would be specific courses for those put on IPP for them to look at and adjust the behaviour which had got them convicted in the first place, but in the years since the provision was added such courses were few and far between, and all too often those on IPP were in prisons where they did not exist. For those thousands who found themselves in prison with no fixed date for release going to Parole Boards only to be turned down as the terms of reference were so stringent, hope was all too often lost. Self harm was common, there were tragic suicides. In 2012 IPP was scrapped but that was only for new sentences. It was not made retrospective so those already suffering were left behind. This caused more stress and depression.

Many people, including families and reform groups, have campaigned over years to get this ended, and in 2021 the House of Commons Select Committee on Justice launched a major investigation into the sentence. They say they received more written evidence from people inside prison on this matter than on any other they have held. Their oral sessions were excellent as they took evidence from families, from experts, from psychiatrists, the Parole Board, and more. Their report was eagerly anticipated, expected in early 2022 but the amount of work and details required to not only identify the problems these thousands of people trapped in our prisons faced but also come up with a step by step guide to enable the Government to right this wrong was meticulous.

There was frustration felt by all those who cared deeply that summer came and went and the report did not appear, but when it did in September it was superb. It laid bare the cruelty and injustice of the sentence, and above all came up with two clear recommendations. The first was that each and every person still on IPP should be resentenced. They laid out how this could be done, and

had heard from witnesses including from the judiciary on methods by which this could be arranged, The second was that the extreme licence conditions imposed on all on IPP after release should be fundamentally changed and the length of time required on licence reduced from ten years to five. In a debate in the House of Lords, the Government indicated that upon receipt of this report they would take appropriate action. Now they have decided they will not.

Why Has This Happened? The Justice Secretary has stated that those in prison on IPP are “violent” and this is proved by the awarding of the sentence in the first place. He has asked the Inspector of Prisons to look at reasons people are recalled on licence and to review and “build on” progress he claims are being made in progression within the existing system. He has totally ignored the evidence collected by the Select Committee and effectively binned their report. So why has he taken this action?

Mr Raab has already meddled with the Parole System. He wants to take personal charge of releases because he is afraid of negative newspaper headlines when anything goes wrong. Given that year after year Parole and Probation as well as Prisons have seen their staffing levels reduced and their workload increased, he is making those on IPP the latest victims of Government failures and considered them perhaps an easy target. He is also making it harder for people to move to Open Conditions. This makes a lie of any professed aims he may claim to be interested in rehabilitation. He is taking away the hope of all those on this punishment.

A recent report published by the Prison Reform Trust Building Futures Team on long term prisoners shows that the release date is an important inspiration for people locked up and knowing that is coming encourages them to take courses, even on bricklaying, as they know they are building up their future lives. Sitting trapped behind bars not knowing when that release will come, and fearing that it never will, is the heavy weight on the hearts of those on IPP. Mr Raab sees those on IPP as 3000 people who would be released by him so he would get the blame for any problems from any of them. That should not be the action of a Justice Secretary. It is instead that of a man scared for his crumbling political career. Good Justice Secretaries are brave and make positive changes, They do not sit cringing in a corner scared in case anyone in the media criticises them.

What Can We Do And Where Will We Go? The Select Committee Report exists. It will not disappear. It is irrefutable evidence on which all efforts can be built, and it is important to note that the findings of fact have not been disputed by the Ministry. From their initial shocked and angry reaction we can see that the members of that Committee are not going to let this drop. They were visibly moved by the evidence they heard and read. This all party group and also those Members of the House of Lords who heard a Government Minister promise that the findings would be taken up are not going anywhere either. So there is a strong political base on which to build, and evidence to support it.

The groups such as UNGRIPP and IPP Committee in Action will continue to press. Families will not vanish but must not now despair. For all 2022 the Select Committee was the light at the end of a long tunnel, and it would not be human if people do not feel despondent. However when individual cases are highlighted, with the original offence described alongside the basic tariff that reflects the severity or lack of from that offence, and that is compared to the length of time the IPP sufferer has spent inside, the public see it. We must not let Mr Raab get away with his false description of those on IPP as serious multiple offenders that he always trots out. Focus on people and not statistics.

I would hope that in addition to the Prison Reform Groups who have always argued strongly against IPP, those such as Amnesty and Liberty can give even more support. People in prison on IPP are political prisoners. The judicial system fixed a tariff appropriate for their original actions, the politicians invented IPP, then abolished it 11 years ago but refused to make that retrospective and

now a politician has decided to maintain that injustice. Mr Raab cannot be permitted to procrastinate by creating reviews of matters that the Justice Committee has already researched. Finally, this must be challenged in the Courts. After all “justice” is one of the specifically identified Human Rights in the UN declaration of 1948. Mr Raab has denied justice to all those in IPP.

When Will It End? I still believe that political action can be forced through now. The General Election will not be for another 18 months or even more and if there is a change of Government we must be honest and say that scrapping IPP would not be a priority for the vast swathe of new MPs who would be elected. However at this time we have an all party collection of Justice Committee Members who are both informed and seething. We have a Justice Secretary who is floundering on a wide range of matters including his Bill of Rights, the state of prisons, the backlog in the courts, and low staff numbers and morale across all the services and in my view whatever the outcome of the report into alleged bullying is on borrowed time. In fact I think that it is the bullying investigation that is keeping him in his job now as to have moved him this week would have appeared as the Prime Minister caving in to the pressure of those allegations. However once that is complete, he can be moved.

There are some in the Governing party now starting to push for Capital punishment, but far more who are actually decent thinking people and are repulsed by this foul populism. A lot of those know that their time as MPs is running out. Perhaps Sir Bob Neill and his colleagues can look at how they can find ways of forcing change, because with Lord Blunkett and the Lords’ support there are loud, respected, and articulate voices wanting to be heard. The dull, negative, voice of cruel reactionaries needs challenging. And the weak and empty response from the Ministry of Justice should be held up to the light of day.

Birmingham Four: An Utterly Islamophobic Verdict by a Jury Who Didn’t Care

The legal team of two men sentenced to life imprisonment for involvement in a terrorist bomb plot have spoken out about concerns about police corruption, the planting of evidence and falsifying of notebooks. In a new documentary screened a few weeks ago, in South London, the Birmingham Six’s lawyer Gareth Pierce claimed that the circumstances leading to the conviction of Naweed Ali, Khobaib Hussain, Mohibur Rahman and Tahir Aziz were ‘like being in a timewarp’. ‘There were cases in the 1970s and the early 1980s where West Midlands Police planted and fabricated evidence to such an extent that the squad responsible was completely disbanded and dozens of defendants convicted, one by one had their convictions quashed,’ said Peirce, who represents Ali and Hussain. ‘This case rests on the police fabrication and mendacity in the clearest way.’

The men (known as the Birmingham Four) were sentenced to life in 2017 after the jury accepted that they were a terrorist cell planning to hit military and police targets. Their trial played out against a backdrop of terrorist atrocities including the Manchester Arena bombing and the London Bridge attack. Three of the four men had previous terrorist convictions – Ali and Hussain travelled to Pakistan to attend a training camp but came back within two days when their families discovered where they were and insisted they return. Rahman also spent time in prison accused of possession of a publication with terrorist content.

The new documentary is presented by the former Guantanamo Bay detainee Moazzam Begg, now director of the CAGE. ‘During the trial, there had been four separate terrorist attacks,’ defence barrister Stephen Kamlish QC recalled. ‘People were getting increasingly nervous and scared about being the next victim. Who’s going to let somebody – let alone, a Muslim with a beard accused of terrorism – out at this time? It was just an utterly Islamophobic verdict by this jury who didn’t care that the whole of the evidence was bent.’

The key evidence against the four was the discovery of a terrorist kill kit – a part-constructed pipe bomb, an imitation firearm and a meat cleaver – in Ali's car as a result of an elaborate sting operation set by the security services. The men's legal team accuse the police of planting the kit and then fabricating their notebooks in a botched attempt to cover tracks. Ali turned up for his first day of work at 'Hero Couriers' – a fake company set up by MI5 and West Midlands Police – handing over his car keys to his new 'boss' so he could park his car. The prosecution case was that the would-be terrorist mastermind had hidden his kit in a JD Sports bag half-tucked under the driver's seat. Ali's 'boss' was the key prosecution witness in the trial – an undercover officer known only as 'Vincent'.

Kamlish said that the case stood out in more than 40 years at the Bar. 'In many miscarriages of justice, you get one small piece of evidence which over the years gains significance and then you can crack the case. But here all the evidence, from the beginning right to the end, has so many features which are palpably false, made-up, fake... Any open-minded observer knowing the evidence would have realised that this case was a fit up organised by a small number of police officers.'

'An an Oscar-winning performance' The documentary highlights a series of major inconsistencies with the prosecution case. According to Kamlish, 'Vincent' had knowledge of the evidence that he could only have known if he himself had planted it – he correctly described the firearm to his supervisor as a 'Beretta air pistol' despite the fact its appearance was that of a standard weapon and at a time before its status had identified. The men's lawyers claim that 'Vincent' rewrote his notebooks and, in so doing, listed entries in the wrong date order so events appeared before they had happened. The issue of fabricated notebooks was feature of the Birmingham Six and the other Irish cases. 'The whole system's computerised, everyone was meant to put in a report on the day,' recalled Peirce. 'Whereas Vincent had to make up an entire month's notes to try and get a different colour bag into his notebook.'

It was also claimed that 'Vincent' and other officers perjured themselves when they claimed that they were not in touch with each other during the trial. This was exposed not be true. One deleted and subsequently recovered text from Vincent read: 'I'm determined to put in an Oscar performance when I get in that box.' At one point, it was revealed that one of the jurors had a crush on one of the officers giving evidence after banter between the officers was overheard by the Guardian's reporter (described as 'more akin to Celebrity Love Island than the serious business of the Old Bailey'). 'What was emerging in the trial was that officers were in touch with each other while they're giving evidence, meeting in lay-bys to discuss their evidence in advance and there was inappropriate prior knowledge of what evidence is going to be found,' explained Gareth Peirce. 'If you had been representing someone wrongly convicted, and you came upon this evidence years later, it would be the key to the door. This would be evidence you couldn't ever have dreamed of- clear police complicity. We couldn't believe the jury could believe the prosecution case.' Pierce was so concerned about the trial that her firm published a public statement on behalf of Naweed Ali and Khobaib Hussain saying that the lawyers were 'profoundly concerned that the jury in this case has got it wrong'.

'Recent history is quickly forgotten, yet the present case carries disturbing echoes for us of the case of the six innocent Irishmen, also from Birmingham, wrongly convicted of the bombing of two Birmingham pubs in 1974. The impact of the bombings themselves continues to this day, but so too does the impact of the police evidence on which the convictions were based – found 16 years later to be evidence created by police manipulation and fabrication that had been successfully suppressed.' You can read the full text here of the statement here. There was a failed appeal and an application is expected to be made to the Criminal Cases Review Commission shortly.

Mariam, Khobaib Hussain's sister told the Justice Gap about her brother's previous terrorism conviction. 'He's my only brother,' she said. 'He was brought up in a household full of girls and he was my best friend. He was influenced by the Internet or other people, it's shocking but he didn't actually commit an offence at the time. They came back on the first flight home.' The family thought that Hussain had travelled up north to attend a mosque in Dewsbury during Ramadan and were shocked to discover that he had gone to Pakistan. According to Mariam, her brother 'totally regretted his decision'. As a result of the Pakistan trip, he spent 22 months in prison. 'His life after that was turned completely upside down,' his sister recalled. 'He did his sentence. He wasn't allowed to come home. He was on licence conditions, so he had to stay with my grandparents.'

Mariam Hussain recalled her brother coming out of prison in March 2015, only to be 'recruited' by Hero Couriers the following August and subsequently arrested. She claimed he was being harassed by West Midlands police and one officer told him: 'We are going to grow old together.' 'We had raids on our home and racist officers to deal with,' she said. 'It destroyed our family's future. Now it's six years on, and he's in prison. He's hit 30 – this has been going on since he was 18 years. It's a constant journey and a struggle that we are continuing to fight.'

Inquest Into The Springhill Massacre (Alleged Muder of 5 Catholics by the Army)

The inquest touching upon the deaths of John Dougal, Patrick Butler, Fr Noel Fitzpatrick, David McCafferty and Margaret Gargan will commence on 20 February 2023 at Laganside Court, Belfast before the Coroner, the Honourable Mr Justice Scoffield. The inquest is collectively known as 'the Springhill Inquest'. On 9/10 July 1972, John Dougal, 16 years old, Patrick Butler, 37 years old, Fr Noel Fitzpatrick, 42 years old, David McCafferty, 15 years old, and Margaret Gargan, 13 years old, died after sustaining fatal bullet wounds in the Springhill / Westrock area of Belfast. This inquest, the second into the deaths of the 5 deceased, was directed by the Attorney-General for Northern Ireland following an application by the families. This inquest is included within the 5 year legacy inquest plan.

An "open" verdict was recorded at an inquest into the event, which has since sometimes been called "the forgotten massacre", because it has been overshadowed by the Bloody Sunday mass shooting in Derry just a few months earlier, in which British soldiers shot 26 unarmed Catholic civilians, only half of whom survived; and the even closer-by Ballymurphy massacre the prior year, in which members of the same battalion killed 11 civilians over three days. During the several decades since the Springhill incident, there has been intermittent pressure-group campaigning by relatives of the casualties, seeking a new legal inquiry into the event. The Attorney General for Northern Ireland, John Larkin QC, announced that new inquests have been scheduled into the deaths that occurred in the Springhill incident.

Parole Changes – a Solution in Search of a Problem

Sometimes it pays to ask the obvious question. Dominic Raab's determination to stop lifers and IPP prisoners getting to open prisons started in February last year when a lifer absconded from North Sea Camp open prison, was arrested four days later and returned to a closed prison. There has never been any suggestion that the person in question committed any offence while unlawfully at large. So we thought someone should ask how often any lifer or IPP prisoner who had absconded from an open prison had committed a serious further offence – or indeed any offence – while unlawfully at large. Incredibly, the government doesn't know and hasn't thought it necessary to find out. <https://rb.gy/2z5ibc>

Everyone understands that the parole process is about assessing risk, and making a judgement about how it can be managed. The law makes it perfectly clear that decisions should err on the side of caution and they certainly do. But it cannot make sense to shut down a process — a period spent in open conditions — which helps both the assessment and the management of risk when there is no evidence that it has caused the harm that the change in policy is designed to prevent. Thousands of people serving life or the IPP sentence stand to be denied the opportunity to go to an open prison without any evidence that the risk that justifies that policy change has ever materialised.

In its Prisons Strategy White Paper the government set out five values that it said underpinned all of its policy. The last of them reads as follows: “We seek out best practice and evidence of what works to inform all that we do.” There’s good evidence from the MoJ itself that access to release on temporary licence leads to better resettlement outcomes, and an impressive track record of very low reconviction rates for lifers who progress to release via an open prison. But there doesn’t appear to be any evidence to support the abandonment of that proven good practice. It’s hard to see the point of proclaiming your values if you’re not prepared to stick to them. Peter Dawson, Director, Prison Reform Trust

Black Men Seven Times More Likely to Die Following Police Restraint

- but Racism Not Being Addressed: Families of Black people who die following police contact cannot get accountability for racism from a system that is not “fit for purpose”, a new report from INQUEST has revealed. In ‘I can’t breathe’: Race, death and British Policing, INQUEST investigated the processes, procedures and evidence base of the Independent Office for Police Conduct (IOPC) and the coronial system to examine how accountability for racism is delivered. This has been a long-standing problem in Britain, but concerns were heightened in the wake of the George Floyd murder in 2020. INQUEST found a system which works against delivering accountability, that appeared blind to the evidence and where racial discrimination was not addressed meaningfully. The detailed report makes the following issues clear for the first time: Official data never before made public shows that Black people are seven times more likely to die than White people following the use of restraint by police.

No death of a Black person following police custody or contact has led to officers being disciplined for racism, at a conduct or criminal level. Despite the stark racial disproportionality evidenced in data, none of the accountability processes effectively or substantially consider the potential role of racism in deaths. Britain’s leading human rights lawyers told INQUEST that the role of racism is not adequately scrutinised by post-death investigation system. The report features new data and analysis. It includes powerful interviews with expert human rights lawyers who are members of the INQUEST Lawyers Group, and five bereaved family members who have been through the legal processes.

The question of whether racism contributed to the treatment of a loved one is invariably in the minds of Black families, but not one most felt they could raise. In the aftermath of these deaths, the bereaved families’ testimonies evidenced the police’s attempts to demonise them and their loved ones, as they sought to minimise possible wrongdoing. Patterns arising from deaths evidence racist stereotypes of Black men from police, equating them with dangerousness and criminality. Officers were often quick to escalate the use of force, particularly against those in mental health crisis. The potential role that racism might have had in the police’s treatment of Black men is entirely absent from the official version of these deaths. Racism is not being addressed or challenged by the police watchdog (IOPC), coroner’s or the Crown Prosecution Service. Police

officers and forces are resistant to facing up to the reality of institutional racism. Lawyers report that they are often uncooperative when questioned and simply deny their actions are influenced by racism. The police watchdog is failing to challenge the police.

INQUEST’s analysis of official data from the IOPC found that the categorisation of certain deaths is obscuring the extent of racial disproportionality by excluding many of the most contentious restraint-related deaths of Black men. *The Home Office has therefore claimed (2021) that Black men are not more likely to die in custody cases where use of force or restraint is present. INQUEST’s analysis of data on all police restraint related cases shows that Black people are in fact seven times more likely to die than White people when restraint is a feature.*

Using INQUEST data from casework and monitoring between 2011 and 2021, 52 Black people died in or following police custody and contact. Of the total number of deaths recorded 13% were Black people, who are therefore four times more likely to die than the proportion of the population they represent. Deaths of Black men continue at disproportionately high levels, with the latest cases such as Chris Kaba, Oladeji Omishore, and Godrick Osei serving as a reminder of the urgency of the action needed.

Deborah Coles, Director of INQUEST, said: “The evidence is stark. Deeply rooted patterns of systemic racism, across police forces and across time, are resulting in disproportionate numbers of deaths of Black men following the use of restraint. Investigation and oversight bodies are failing to examine the potential role of race and racism in deaths involving police. This renders racism invisible in the official narratives and prevents justice, accountability and change. Now is a time of intense scrutiny on policing, yet politicians from across the political spectrum are not responding to the evidence. Institutional racism is embedded in police culture and practice which equates Black men with dangerousness and criminality.

As well as making a range of recommendations on addressing institutional racism within policing and improving post death investigation processes, INQUEST are calling for transformative change to prevent future deaths and harms. The Government must decrease reliance on policing and investment in the criminal justice system. Public funding and policy must prioritise welfare, health, housing, education, youth services and social care to tackle the root causes of these issues.” The report features in depth interviews with five bereaved families who have been through the post death processes. Their insights included the following.

Wayne McDonald, brother of Adrian McDonald, said: “George Floyd said the same thing as Adrian: ‘I can’t breathe’. When Adrian says, ‘I can’t breathe’, the officer’s told him ‘well, you’re talking aren’t you?’. The whole culture has to change.”

Marcia Rigg, sister of Sean Rigg, said: “I hear the officers on the witness stand and the pattern is that the police are scared of Black men. ‘He was so strong, we were sweating, he was resisting’ they said. It’s nonsense. We’re not stronger than anybody else. We’re not madder than anybody else. We’re just trying to breathe, because somebody is on your neck.”

Aji Lewis, mother of Seni Lewis, said: “They treated Seni in such an appalling way. No empathy. No thought. And the same language that comes up at inquests where Black people are concerned. They spew out the same thing, ‘big, black and dangerous’.”

Margaret Briggs, mother of Leon Briggs, said: “It was discrimination all the way. What the police perceived Leon to be, Leon wasn’t. He wasn’t aggressive. He wasn’t out there to hurt anyone. He needed help.”

Carla Cumberbatch, sister of Darren Cumberbatch, said: “Darren died because he was a Black man. He wasn’t acting violently or threateningly. He was scared. It was a medical emergency. Instead of calling an ambulance - they called for backup.” Source: INQUEST

New Modern Slavery Guidance For Prison Staff

Freemovement: In early July 2022 a consent order was made between the Anti-Trafficking and Labour Exploitation Unit (ALTEU) and the Secretary of State for Justice confirming that the Secretary of State would develop guidance on victims and potential victims of modern slavery for prison staff. That guidance has now been published. The aim of the guidance is to help prison staff to understand what modern slavery is and how to spot the signs and take action. Importantly, it explains what the National Referral Mechanism (NRM) is and how the referral process works, including what ongoing support might be necessary after a reasonable or conclusive grounds decision. It provides information on how to safely support and manage those at risk of or who have been confirmed as victims of modern slavery within the context of accommodation, translation and interpretation services, medical treatment and information on accessible rights and services, including assistance during criminal proceedings. A prisoner needs assessment form has been developed to assist in identifying what support might be needed. Guidance has also been produced for prisoners, to assist with their understanding of what modern slavery is and to confirm what support might be available to anyone who thinks they might have been a victim of modern slavery.

HMP Exeter Becomes First Adult Prison to Receive Two Consecutive Urgent Notifications

In 2018, HMP Exeter was subjected to an urgent notification due to its inability to keep its prisoners safe. Despite some small improvements and potentially promising work, the “repeated” poor levels of care meant that inspectors “[were] left with no alternative” but to invoke their first ever second consecutive urgent notification. Support of new arrivals was highlighted as particularly crucial given the prison’s current population. More men than those at similar prisons had mental health and substance misuse needs, and the levels of self-harm were the highest of all male prisons. 77% of the prisoners stated that they had a mental health condition against the comparator of 60%. Since the last inspection in 2018, there were 10 further self-inflicted deaths and a further 626 incidents of self-harm.

Prisoners were found to have been locked up for extended periods of time during the induction, with some not receiving prescribed medication. Prisoners who had recently started alcohol detoxification or opiate substitution therapy were not routinely seen, contradicting national guidance. Care plans instigated by the GP were not always followed, and prisoners were not appropriately monitored. The induction process remained “chaotic and lacked proper leadership oversight.” Many of the cells on the first night centre were poorly equipped, containing graffiti and broken furniture. The conditions of the cells on the wings were similar; many had no glass in the windows, exposed electric wires, floors in need of repair and mould. Only 29% of prisoners were found to engage in purposeful activity. On average, an unemployed prisoner would spend an hour in open air. Inspectors were disappointed with the implemented daily regime that did not maximise prisoners’ time out of cell to engage in activity.

Whilst the level of assaults on prisoners had reduced since last inspection, it remained 50% higher than comparator prisons. During the previous 12 months, there had been 250 assaults, 124 of which were on prisoners. ‘The gap in understanding why it occurred was ill informed largely due to the poor quality of investigations,’ inspectors found. The “constant change” of managers hampered “robust” progress to safeguard outcomes for prisoners, reflecting the findings in 2021. Leaders were unaware of key failings in the early provision and had failed to ensure consistent care of those at risk of self-harm. ‘Without further support from leaders in HMPPS to improve the stability of the leadership team, progress will be slow,’ inspectors stated. - Rob Preece, Communications Manager at the Howard League for Penal Reform described the “devasting” report” as “merely the latest chapter in a long, tragic history failure”.

Government is ‘Monitoring’ Human Rights Lawyers

Adam Bychawski, Open Democracy: The government is “monitoring” human rights lawyers, a Home Office minister has admitted in Parliament. Immigration minister Robert Jenrick made the extraordinary statement during a debate in Parliament on Monday about far-right protests in Liverpool, after claiming that human right lawyers “exploit and abuse our laws”. It comes two years after Britain’s top lawyers warned the government that its inflammatory rhetoric about the legal profession was putting people at risk in the wake of a knife attack. Jenrick was responding to a question from Liberal Democrat MP Alistair Carmichael, who had challenged him to provide evidence for his claim that lawyers were abusing the law.

The minister did not do so, but said: “We are monitoring the activities, as it so happens, of a small number of legal practitioners, but it is not appropriate for me to discuss that here.” Human rights lawyers said the comments could lead to more violence and demanded answers about the extent of the surveillance and its legality. Jenrick also confirmed that the Home Office was also monitoring the far-right organisations responsible for a riot outside a hotel used to temporarily house asylum seekers in Knowsley, Liverpool. It comes as the first stage of a years-long inquiry into state spying on activists and trade unions concludes this week.

Tackling Violence Against Women and Girls

Suella Braverman, Home Secretary: Violence against women and girls (VAWG) are despicable crimes that must be tackled with a whole-of-society approach. These crimes are deeply harmful, not only because of the devastating impact they can have on victims, survivors, and their loved ones, but because of the harm they inflict on wider society. Domestic abuse alone affects 2.4 million adults every year. One in five cases of murder and manslaughter is domestic abuse-related, and a Home Office funded project found that there were 64 victim suicides following domestic abuse in the year to March 2022, although this is likely to be an underestimate. Families should never have to grieve loved ones who have lost their lives through domestic abuse-related murder, manslaughter and suicide.

This Government have made tackling violence against women and girls a key priority. The 2022 cross-Government tackling domestic abuse plan committed to investing over £230 million over three years. The plan complements the tackling violence against women and girls strategy, published in 2021, which committed to supporting victims and survivors with more than £300 million being invested in that year. The strategy aimed to ensure that women and girls are safe everywhere—at home, online, at work and on the streets. Together these commitments aim to transform the whole of society’s response to these crimes with actions to prevent abuse, support victims and pursue perpetrators, as well as to strengthen systems to respond to violence against women and girls.

But the fact remains that these crimes are still far too prevalent, and we need to go further. On Monday 20th February, we announced a package of measures that will bolster the work to hold perpetrators to account and better support victims. It is completely unacceptable that women and girls are still subject to these crimes and I am committed to tackling offenders and providing victims with the support and justice they deserve. I believe this type of crime can be prevented and I am taking action to reduce the terrible harm it causes. I want to ensure the public we are managing and targeting the most dangerous offenders. This is why we will legislate so those with convictions of controlling or coercive behaviour (CCB) with a sentence of twelve months or more imprisonment or a suspended sentence will be subject to more intensive management by police, probation and prison service