Miscarriages of JusticeUK (MOJUK)
22 Berners St, Birmingham B19 2DR
Email: mojuk@mojuk.org.uk Web: www.mojuk.org.uk

MOJUK: Newsletter 'Inside Out' 1015 (08/07/2024) - Cost £1

Women's Prisons Have Served Their Time They Should be Abolished

Eva Wiseman, Guardian: Women's prisons have long been suffering their own specific crisis-within-a-crisis. Rather than the problem being (as some commentators insist) the tiny number of trans prisoners, there is the self-harm (at its highest rate ever recorded last year, an increase of 63% – 11 times higher than in the male estate), mental health issues (suffered by 76% of women in prison) and the impact on prisoners' children. Pregnant women are seven times more likely to suffer a stillbirth than those outside prison.

Prison is not a safe place for women. Some 48% have committed an offence in order to support someone else's drug habit, which makes sense when you realise 70% of female offenders have experienced domestic abuse and over half have experienced abuse as children. They are largely incarcerated for petty crimes – women are far more likely to be criminalised than men if, for instance, their children refuse to go to school. Most are serving less than six months, often for shoplifting (women being disproportionately affected by the cost-of-living crisis), but however much time they get, their lives and those of their children are inevitably derailed for ever.

It's painful even to write this, to stack these sharp facts on top of each other, because it requires facing up to the women behind the statistics, each life and the compromises that shaped them. And that's before you look at the realities of the prisons themselves. An independent inspection of HMP Eastwood Park in 2022 found three women had died there that year and inmates were living in "appalling" conditions. A photograph of one cell appeared alongside reports. It showed a room that you might find in a dystopian Ikea after a terrible flood. Another cell was "blood-spattered, and some had extensive scratches on the walls, which reflected the degree of trauma [of] previous residents must have experienced". The inspection concluded that "no prisoner should be held in such conditions, let alone women who were acutely unwell and in great distress".

Jasmine York, jailed there for 10 weeks for her part in the kill the bill protest, said, "People self-harm in prison in ways that I have never even imagined." She told the BBC: "People are leaving and either re-committing or they're leaving in a body bag." New figures, released last month, suggest HMP Eastwood Park is not unique. The number of assaults and self-harm incidents in women's prisons in England and Wales has hit record highs. Which, I guess, should surprise nobody – this is what happens, isn't it, when traumatised people with mental illnesses are locked up in squalor, without real support or grounded hope, and blood on the walls.

It is possible (and would be deeply cost effective) to create new solutions for the tiny number of women who are a genuine threat to their communities and release the vast majority of women who are people who have been repeatedly failed by a system obsessed with punishment, rather than prevention. This spring the charity Women in Prison published a report about the value of women's centres. There are around 40 of these "one-stop-shops" across England and Wales, offering access to specialist advocacy, support on housing, debt, addiction, mental health, employment and education, domestic abuse, and parenting, all services that can prevent women from being swept into the criminal justice system, then struggling to surface. The report is oddly beautiful to read, both because it starts with a poem, and because in its humanity it exposes how dehumanising the existing alternative is – and offers another way. It's a reminder that the institution of the prison remains a blunt weapon, one that damages not just those inside its walls, but the rest of us, studiously looking away, too.

Black Men in Prison Fear That if They Are 'Too Black' They Won't Get Parole

According Dr Jason Warr a leading academic "It's like Chinese food. The Chinese food you get here [in the UK] ain't proper Chinese food. It's some plastic, watered-down s*** that White people can eat. That's what it's like being a Black Lifer in here: you gotta be some plastic, watered-down s*** that's acceptable to these White people, otherwise you ain't getting out." Tags, age 20 John Whitfield, in People Will Talk: The Surprising Science of Reputation, notes that our reputations do not belong to us, they're but mere reflections, living in the minds of others, shaped by stories. For Lifers, and other indeterminate-sentenced prisoners, how these stories exist in the minds of others, the way they are recorded, and the way they shape decisions made about them, become a fundamental concern. The Lifer cannot sit back passively and allow that story, that shaping of reputation, to occur without intervention, because if they do, that story will be full of horrors, full of risk. It is a story that will keep you inside. Black prisoners, in the traditionally 'White space' of prison, faced negative perceptions of their Blackness

In a 2019 article, '"Always gotta be two mans": Lifers, Risk, Rehabilitation, and Narrative Labour', I explored how Lifers tried to shape the story about 'risk' and 'rehabilitation' that existed about them 'on file', and in the heads of reporting authorities. I noted that such efforts are fraught with pitfalls – especially when progression and release are on the line. Whilst this is a reality faced by all on such sentences, the experiences of Black Lifers are complicated by the hidden legacies of racism and coloniality that infest the ideas and tropes that shape how their stories exist. Paul Gilroy called these racist and colonial ideas 'The Myths of Black Criminality'.

"The thing you learn quick is that them hate Black men. Not in an outright racist to your face way. In that subtle, behind your back, on paper, kinda way. That s*** just like a trap, man. It's on file, innit. If you're looking parole … You gotta learn that s***. Learn to … gotta be the quiet house n***** them want … he can get out, he's rehabilitated, not the loud, 'angry' man though …" Lox, 50s

These racist myths construct 'Blackness' in terms of colonial ideas of savage inferiority. The 'Black man' becomes something irrational, violent, rebellious, overly and aggressively sexual, something other than the White, pacified, colonial ideal. The problem is that even when the racist myths are long rejected, their legacies remain, hidden, in the expert risk constructions of the 'Black offender' that they are required to shed; and the White ideal exists in the ideas of rehabilitation that they are expected to adhere to. I explored how this reality was manifest in the way that social relations, appearance, and language use was judged. "The prison, dem started to see Black men as gang members, yeah? Gangs here, gangs there, gangs every-f***ing-where!" Titch, mid-40s As Titch noted, there was a widespread tendency for Black men, and especially young Black men, to be labelled as 'gang members'. Even if this was not true, the label shaped how their associating with others was judged. Nearly all of those spoken to stated that maintaining friendships, or familial relationships, resulted in allegations of maintaining 'gang ties'. Of course, if that label played a part in the way that your risk was perceived, then it had long-lasting consequences

"Once that gang thing on you, you're f**ked blood, you're not shifting that, you got to work round it. Otherwise you ain't getting out." Bigs, late-40s.

Appearance was a more problematic area, because negative judgements were often based not just on the person's visible 'Blackness' but their cultural manifestations of identity. As Nipsy noted: "Yeah, yeah, they said to me that I should stop wearing my trousers baggy, and cut my twists, stop speaking like roadman, as I came across as too 'urban'. I just looked at them like, 'Serious?', but yeah … they were fucking serious."

A more insidious effect of these legacies was how cultural behaviours and language use could be misinterpreted, such that it reinforced the racist 'Aggressive Black Man' trope. Bigs, who was post-tariff, gave an example of how he and a friend.

"Got strikes for being "aggressive" with each other. We was playing dominoes! You know how that goes, right? You're fronting each other … BOOM! Fuck you! Key Domino! Slam that s*** down … they said we were being violent. But that ain't true. We good friends, you get me? But they see normal hood s*** and think 'trouble'. Nah blood, but when you're Black …" Bigs

This could even occur when the staff member in question was acting with good intentions. Adjo explained that an officer involved in Black History Month commented in a light-hearted way on their loudness and 'aggressive' language, and mentioned this in a positive report of his involvement: "Thing is yeah, she hears the way we speak, the bass, the rhythm, the volume … she sees us, big, Black and she interprets that as violent, threatening. Not in an open way, as I said [before], but it's because that's what she's been taught, you get me? Now, what's frustrating, yeah, even though she's well involved and interested in Black History and racism and s***, I can't point this out to her. Can you imagine how that would go down? Nah man." Adjo, 22

This resulted in a situation where Black prisoners, in the traditionally 'White space' of prison, faced negative perceptions of their Blackness, yet were powerless to challenge this situation as they risked reinforcing those racist tropes. The men that I spoke to felt an overwhelming pressure to alter their Blackness, to perform a more institutionally acceptable Blackness, as a means of reducing risk and adhering to a White rehabilitative ideal. They were being forced into a penal double consciousness. The effects of this were profound, as were the consequences of getting it wrong.

Rex- V - Ammuod Osmen - Sentenced Reduced

On 19 January 2024, following his trial in the Crown Court at Harrow, the appellant was convicted of an offence of attempted robbery, contrary to section 1(1) of the Criminal Attempts Act 1981. He was sentenced on the same day to five years' imprisonment. The Recorder revoked a community order imposed in February 2023, to which we refer below. In error, no surcharge was imposed. The appellant appeals against his sentence with leave of the single judge. The offence took place at around 11.50 pm on 6 July 2023, when the appellant approached the victim, Mr Alsaheli, on Cricklewood Lane, London. He took hold of Mr Alsaheli's arm and pulled him towards a dark alleyway. Mr Alsaheli resisted, at which point the appellant appeared to pull something which he held to Mr Alsaheli's side. We are told that in evidence at trial the victim said that he did not see what this was and accepted that it could have been a finger. Mr Alsaheli pretended to take some cash from his pocket in accordance with the appellant's demands, but then pushed him away and began to film him on his mobile telephone. At this the appellant made off. No property was taken.

The appellant returned to the area as Mr Alsaheli was flagging down a passing police car. Mr Alsaheli took a further photograph and video of the appellant who had by now pulled his hood over his head and walked away. He was later identified by the police and arrested on 20 July 2023. He made no reply to questions asked in interview, but gave a prepared statement denying the offence.

The appellant was aged 25 years at the time of sentence. He had 17 convictions for 45 offences spanning October 2013 to May 2023. These included a conviction for wounding with intent in 2015, for which he was sentenced to three years' detention in a young offender institution, as well as one fraud and like offence and two theft and like offences. There were no prior convictions for robbery.

The appellant was in breach of a criminal behaviour order at the time of the offence in that he was not permitted to be in the area where the offence took place. He was additionally

subject to a community order imposed in February 2023 for possession of cannabis, breach of the criminal behaviour order, and driving offences.

In his sentencing remarks the Recorder described the offence as a late at night attempted mugging of a man on his own whose car had broken down. He said he was sure that it was the appellant's intention to cause Mr Alsaheli to believe that he was armed with a small knife. For this reason, he placed the offence within culpability category B within the relevant sentencing guideline. He placed it within harm category 3 on the basis that this was an attempted robbery and no harm was actually done. In so doing he observed that the appellant had followed the victim for two to three minutes, had attempted to conceal his identity to frustrate the police investigation, and was also in further breach of his criminal behaviour order. We pause to note that a category 3B offence within the guideline has a starting point of two years' imprisonment, with a range of one to four years.

The Recorder accepted that the appellant had made progress in prison, but otherwise found no mitigation. He came to the view that the aggravating factors took the offence out of the sentencing range for a category 3B offence and into category 2B. This affords a starting point of four years' imprisonment, with a range of three to six years. Observing that the people of the area were entitled to a break from the appellant's criminal activity, the Recorder imposed the sentence of five years' imprisonment.

Miss Sher, who represents the appellant before us as she did in the court below, submits that this sentence is manifestly excessive. In helpful and succinct submissions, she submits that whilst there were aggravating factors, as identified by the Recorder, these were not such as to elevate the offence from the appropriate guideline, let alone to a sentence 12 months longer than the starting point. She further submits that the facts were such that the case should have been categorised as a 3C offence in that there was no evidence of any weapon and only minimum force was used. In our judgment the Recorder, who had presided over the trial, initially properly categorised the offence within the guideline. Although no knife was seen, the appellant plainly wanted Mr Alsaheli to believe that he had a weapon. The offence can therefore be said to be one of medium culpability category B. There was no physical harm caused, and the offence therefore properly fell within category 3 harm.

In coming to the appropriate term, in our view the Recorder properly identified the aggravating factors. These include the time and place of the offending, as well as the appellant's previous convictions, although it is right to say that the more relevant of these was some years ago. In our view, the breach of the criminal behaviour order and the offending within the term of a community order were significant aggravating factors which, together with the other factors identified by the Recorder, justified a significant uplift to the sentence. We agree with the Recorder that there was little in the way of mitigation.

However, we find ourselves in respectful disagreement with the Recorder, that the aggravating factors took this attempted robbery into the next sentencing bracket. We find force in the appellant's submission that this was an offence which should not have been placed into the higher category. In our view, the range for the offence within the guideline category adequately catered for a just and proportionate sentence in this case. Taking all factors into account, were this the completed offence of robbery, we consider that a sentence at the top of the category range of four years' imprisonment would have been appropriate. We reflect the fact that this was an attempt by reducing the sentence by six months to three and a half years. In coming to the appropriate deduction, we have taken into account that this was a determined attempt to rob, thwarted only by the brave actions of the victim.

We give effect to that conclusion by quashing the sentence of five years' imprisonment and substituting one of three and a half years' imprisonment in its place. As we have reduced the appellant's custodial term, we consider it appropriate to impose the £228 surcharge which should have been imposed at the lower court. *To that extent this appeal is allowed.*

Rex - v -Wayne Clements - 'Venire De Novo'

Venire De Novo - An order made by the Court of Appeal ordering a *new trial where there has been a fundamental irregularity in procedure so serious as to render the original trial a mistrial.

1)Lady Justice Macur: For reasons that will become apparent below, it is unnecessary to refer to the details of the allegations against the applicant. However, for the avoidance of doubt, the provisions of the Sexual Offences (Amendment) Act 1992 apply to offences under consideration in this judgment. Under those provisions, where a sexual offence has been committed against a person, no matter relating to that person shall, during their lifetime, be included in any publication if it is likely to lead members of the public to identify them as a victim of the offence. The prohibition will apply unless waived or lifted in accordance with section 3 of the Act. This judgment is also made subject to an order pursuant to section 4(2) of the Contempt of Court Act 1981, postponing publication of any report of these proceedings until the conclusion of the retrial or trial in order to avoid a substantial risk of prejudice to the administration of justice in those proceedings.

2) On 30 January 2024, the applicant was unanimously convicted by a jury (who were 11 in number) of causing a child to watch a sexual act contrary to section 9(1) of the Sexual Offences Act 2003 and sexual communication with a child contrary to section 15A(1) of the Sexual Offences Act 2003. A majority direction was then given in relation to outstanding counts, in terms: "…I'm going to ask you to retire again, and I want to see if you can reach unanimous verdicts. If you cannot, then I can accept a verdict upon which at least nine of you are agreed. So nine/two, or 10/one, all right. Thank you very much, please retire."

3) Subsequently the jury purported to return a guilty verdict on count 1, which was sexual assault of a child under section 13, contrary to section 7(1) of the Sexual Offences Act 2003, by a majority stated of 9:2. No verdict was taken on an alternative count of sexual activity with a child, that being represented in count 2 on the indictment. The convictions concerned the same complainant. The jury returned a not guilty verdict in relation to an offence of sexual assault of another complainant under 13, and in accordance with the orthodox practice, they were not asked to indicate voting numbers.

4) The judge gave directions as to sentence. The court clerk then informed the judge that the common platform was rejecting the verdict. The judge then realised what had happened. He provided a written ruling on the verdicts and in relation to retrial, in which he stated that the verdict on count 1 was invalid and granting an application for retrial on count 2.

5) However, as the Registrar has rightly indicated in referring the resultant application for leave to appeal against conviction to the Full Court: "Where a conviction has been recorded the appeal is before the CACD pursuant to s.2 of the Criminal Appeal Act 1968 and the court could set aside the conviction: O'Donnell (Paul Anthony) [1996] 1 Cr App R 286. I am not aware of any authority that would support the suggestion… of the [judge's] ruling that there is any inherent jurisdiction for the Crown Court to set aside the verdict in these circumstances at least not where an unequivocal verdict has been delivered and the jury has dispersed. (see RN [2020] EWCA Crim 937).The verdict recorded in this case does not comply with s.17 of the Juries Act 1974."

6) Section 17(1) of the Juries Act 1974 provides: "(1) Subject to subsections (3) and (4) below, the verdict of a jury in proceedings in the Crown Court or the High Court need not be unanimous if— (a) in a case where there are not less than eleven jurors, ten of them agree on the verdict; and (b) in a case where there are ten jurors, nine of them agree on the verdict."

7) R v Patten [2019] 1 WLR 5265 is authority for the proposition that a majority direction that is inconsistent with the requirements of section 17(1) of the Juries Act 1974, does not of itself invalidate the verdicts which follow unless the verdict is expressed to be by a majority which is insufficient to meet the requirements of that section, as is the case here. That is any verdict expressed to be by a majority of 9:2 would fall foul of section 17(1).

8) In this case, the appropriate course is to issue a writ of venire de novo annulling the convictions. The application for leave to appeal and any subsequent appeal are unopposed by the prosecution , albeit that they are represented, as is the appellant, in order to express their mortification for having omitted to draw the requirements of section 17(1) to the attention of the judge below.

9) The prosecution seek a retrial on count 1, with count 2 as the alternative. No verdict was taken on count 2. The prosecution also seek to try counts previously severed by the Recorder in the court below, namely counts 4 and 5.

10) We give leave to appeal as indicated. We issue a writ of venire de novo which annuls the conviction on count 1. The acquittal in relation to the other complainant remains.

11) The allegations which found count 1, counts 4 and 5 and the alternative (count 2) are serious and concern allegations of sexual assault in which the applicant targeted a young and vulnerable complainant. The complainant remains engaged in the process and we see no prejudice to the appellant in ordering a retrial on count 1. Any issues of joinder of counts 4 and 5 and admissibility of the evidence will be considered by the trial judge. We therefore grant permission for a retrial on count 1. Any matters relating to the location and the identity of the judge to be appointed to preside over this trial should be made by the presiding judge of the South Eastern Circuit.

12) Finally, we endorse the per curium comments of the then President of the Queen's Bench Division (Sir Brian Leveson) at paragraph 29 of Patten: "The giving of a majority direction and the taking of verdicts can very often be regarded as a formulaic exercise to which limited attention needs to be paid by the parties. The present case demonstrates how unwise that proposition is. The need for all parties to concentrate at all times on the directions being given and the taking of verdicts is paramount." 13) Mr Clements will remain in custody.

Homeless Man Acquitted of Murder

A 39 year old, who in evidence described living on the streets of London like "living in a dangerous jungle" has been acquitted of murder. The man from Latvia said when he was set upon by another homeless man, in the area of Old Street, London, "that he feared for his life". The incident was captured on CCTV which showed the defendant stabbing out at the deceased whilst the deceased was on the ground. The defendant said that he believed the deceased was armed with a screwdriver. Two screwdrivers were found at the scene with the DNA of the deceased on them.

Sex Offender - Application for Discharge from Prison Should it be Heard in Public or Private.

Approximately eight years ago, the Applicant was sentenced to a custodial term for an offence of indecent assault upon a woman. When he was sentenced, the Court ordered that a period of seven years should elapse before the Applicant is permitted to apply under Article 5(5) of the Sex Offenders (Jersey) Law 2010 ("the Law") to be no longer subject to the notification requirements of that Law. The Court made a number of restrictive orders at the same time, which have now expired. These included an order that he not contact or attempt to contact his victim directly or indirectly. The Applicant complied with these restrictions. Early this year the Applicant became eligible to apply to have the notification requirements lifted. During the period of the notification requirements, the Applicant has complied fully with his obligations in terms of cooperating with the Offender Management Unit of the States of Jersey Police and has not re-offended. We refer to the decision of S v AG [2023] JRC 140, where the Court said the following: The first matter the Court

needed to determine was whether or not the application should be heard in public or in private. The starting point for such consideration is the decision of the Royal Court in Jersey Evening Post v Al Thani [2002] JLR 542, where Bailhache, Bailiff, having reviewed the relevant case law in respect of open justice summarised the position thus: "16. The aim therefore is to do justice to the parties before the court. That aim must not be stultified by a rigid application of the principle that justice must be done in public. Yet the principle of open justice should not be displaced as a matter of convenience or expedience, or to avoid embarrassment to one or more of the parties, but only if it is necessary to do so in the interests of justice."

These proceedings under the Law are civil proceedings and not criminal proceedings in nature. The Law is silent as to whether or not such an application should be determined in public or in private, and in 2015 the Royal Court adopted a Practice Direction which says that such an application should be listed for hearing in private but that 'the first matter for consideration by the [Court] will be whether the case should be heard in private or in public'. The principles upon which the Court should consider this application have been considered in a number of previous cases including AG v Roberts [2011] JLR 125, AG v L [2016] (2) JLR Note 7; [2016] JRC 152 and Av AG [2020] (1) JLR N1; [2020] JRC 004. The relevant principles that emerge from these cases and the evolution in the approach was recently charted in an article entitled 'The Principle of Open Justice' written by Sir Philip Bailhache in the Jersey and Guernsey Law Review published in October 2022. As noted by Sir Philip, recent judgments 'appear to have taken a more liberal stance in relation to applicants seeking to lift the notification requirements' under the Law in that in A v AG, (cited with approval in certain following cases) the Court held at paragraph 15 that ' .... applications under the Law may be distinguished from the Al Thani approach in this limited respect - the burden should not lie in any sense with the offender seeking an order for a hearing in camera, requiring him to prove that it is the only way in which justice could be done'.

Although this may only be a difference in emphasis and may not affect the outcome of application, we agree with Sir Philip's observation at paragraph 45 of his article to which we have referred where he says: "The burden of showing that the needs of justice require the Court to sit in private should always lie with the offender seeking an order under Article 5 of the [Law]. The burden of proof must lie somewhere. It surely should not lie with the Attorney General to have to satisfy the Court that it should sit in public."

Sir Philip goes on to say that this is consistent with the approach in Al Thani and referred to paragraph 16 of the judgment in this case as quoted above. He concludes: "The lodestar is necessity. The presumption is that the Court sits in public. That presumption may be displaced only if it is 'necessary' ... in the interests of justice".

We Agree With That Approach." In this case, the Applicant contends that there are reasons of general application in favour of the hearing being in private. Such reasons are expounded in paragraphs 5 and 6 of the decision of the Royal Court in V -v- AG [2024] JRC 044 including the proposition that the Register of Offenders would become unmanageable if no one was ever removed from it and publication of such applications would act as a deterrent to those making applications as they would fear the attendant publicity. Indeed, in the present case the police make the same points at paragraph 5 of the Offender Management Unit report.

The Applicant also contends that there are reasons germane to himself in favour of hearing this application in private. Primarily, as referred to at paragraph 7 of the judgment in V -v- AG [2024] JRC 044, the Applicant submits that he is a good candidate for denotification and given there is substantial merit in his application (as we will come to shortly,) it is in the public interest for the application for privacy to be granted.

The Offender Management Unit support the hearing being held in private and note that the Applicant's wife may struggle to tolerate any adverse publicity and may feel the need to protect her children from the same. The Unit also makes the point that it is in the public interest for those who no longer pose a considered risk of sexual offending being removed from the Sex Offenders Register as otherwise resources would be diverted from the management of higher risk offenders. We agree that in the circumstances of this case it is necessary for this application to be determined in private.

As to the merits of the application, we have been assisted by two reports. First a report prepared by the Probation Service. The probation officer notes that the Applicant's personal circumstances are stable. He lives in the family home with his wife and their children. The probation officer agrees that the risk of sexual offending in the Applicant's case is now low and supports the application.cThe Offender Management Unit report notes that the Applicant pleaded guilty to the original offence. He is remorseful for his conduct. He has been routinely risk assessed during the period of management in accordance with two tools, one familiar to the Court namely the SA07 Stable Risk Assessment which is conducted annually. More recently another new actuarial tool, the Static 99 Assessment has been introduced and has been used by the Offender Management Unit for last few months or so. This takes into account unchangeable factors, such as age and sexual and criminal offending history. The outcome of the assessment of both tools is then considered together.

In relation to the SA07 Assessment, the Applicant has scored "low" during all recent tests. A score of between 0 and 3 results in a low-risk score - 4 to 11, medium and 12 or above, high. Only two factors resulting in the Appellant "scoring". In each domain an individual scores 0, 1 or 2. Such scores are a positive indicator of risk are static factors, in that they are unlikely to change or cannot change. The first of these factors is that the Applicant, notwithstanding his supportive family is relatively socially isolated, has few friends and rarely leaves the house, and the second factor arises from the circumstances of the original offence.

As to the Static 99 test this is, we were told today, a more advanced and complex tool which takes into account more material. Collectively both tests take a number of hours to apply and result in a detailed analysis of risks. The outcome of an assessment using this tool is that an offender will either be at very low or below average or average or above average or well above average risk of future sexual offending. In this case the facts of the original offence, which cannot be changed, (although may become more remote in terms of distance of time) result in the Applicant being assessed at average risk.

In the professional judgment of the Offender Management Unit and the officer who gave evidence before us today, notwithstanding his overall assessment of average risk according to the combined effect of the two tools to which we have referred, having regard to the Applicant's conduct over the last several years, his domestic situation and all the circumstances of the case including the fact that the factors leading to him scoring on these assessments are static and unchangeable, the risk of future sexual offending in this case is low. The report notes that the Applicant has always been cooperative with supervision and recognises the impact of his offending.

The victim of this offence has been contacted. Initially she said that she understood that the Applicant cannot remain subject to notification requirements indefinitely and was comforted by the fact that the risk of reoffending has significantly reduced in this case. She has reflected on this and subsequently wrote to the Offender Management Unit by email. She refers to the prolonged and continuing effect the offence has had upon her. She is concerned that the Applicant will cease to be managed by the Offender Management Unit, and she is worried that she might encounter the Applicant again. The Court sympathises with these concerns and had there been any evidence of the Applicant contacting or attempting to contact his victim

in any way during the years since he committed the offence, then we would not consider granting his application today. However there is no such evidence, and we note that the police have offered their continuing support to the victim. The Offender Management Unit report concludes by noting that the Applicant is now living a more productive lifestyle and that there is no indication that he has a proclivity to sexual offending. His application is supported.

We must apply the test in Article 5(6) of the Law which says: "(6) The court must not make the order applied for under paragraph (5) unless it is satisfied that the risk of sexual harm to the public, or to any particular person or persons, that the person subject to the notification requirements of this Law poses by virtue of the likelihood of re-offending does not justify the person's being subject to those requirements." Having regard to all the circumstances of this application we are satisfied that the risk of sexual harm to the public or any particular person or persons the Applicant poses by virtue of the likelihood of his re-offending does not justify him remaining subject to the notification requirements and accordingly he is no longer subject to such requirements.

New Claims Police Tampered With Evidence That Jailed Jeremy Bamber

Glen Owen, Mail Online: Jeremy Bamber's 39-year campaign to prove he is innocent of the White Farm murders has received a boost from an investigation that raises serious questions about his conviction. He is serving a whole-life tariff for the murders of his adoptive parents Nevill and June Bamber, both 61, his adoptive sister Sheila Caffell, 28, and her six-year-old twins Daniel and Nicholas. All were shot at the Essex farmhouse on August 7, 1985. Bamber has always said he is innocent and that Sheila, a paranoid schizophrenic, carried out the murders before shooting herself. He is the only whole-life prisoner in the British prison system to maintain his innocence.

Now a 17,000-word investigation published by The New Yorker, is understood to have highlighted more than a dozen apparent discrepancies in the prosecution's case. The magazine tracked down officers who were present in the aftermath of the murders and who are believed to have substantiated Bamber's claim that police tampered with the crime scene to effectively frame him. The investigation is also understood to raise questions about the beleaguered Criminal Cases Review Commission (CCRC), which Bamber's legal team says has failed to act on submissions that would exonerate him.

Justice Secretary Shabana Mahmood has called for the resignation of Helen Pitcher, chairman of the CCRC, over the case of Andrew Malkinson, who spent 17 years in jail for a rape he did not commit. An investigation into the CCRC's role by Chris Henley KC found it had missed several opportunities to refer the case to appeal. Malkinson, who was released only as a result of forensic tests by campaigners, said on proving his innocence: 'I'm not the only one.'

The New Yorker, which has also raised questions about the safety of nurse Lucy Letby's conviction for murdering seven babies, has been investigating the Bamber case since last October. It has focused on claims that Essex Police lied about evidence, altered witness statements, passed evidence to a third party, withheld and concealed evidence and tampered with a crime scene after the murders at the family's farm near Maldon, Essex. Bamber says his sister Sheila, a diagnosed paranoid schizophrenic, feared having her children taken into care, suffered a psychotic episode and carried out the murders before turning the gun on herself.

The police argued that Bamber must have carried out the murders because the gun had been fitted with a silencer, which made it too long for her to be physically able to shoot herself, but ballistics experts have subsequently cast doubt on whether the rifle was fitted with a silencer. Police also said if she had gone on a rampage her feet would have been covered in blood and that this was not

the case. But a picture of her feet obtained by Bamber's lawyers shows bloodstains.

Police had initially worked on the theory that Sheila, a model known as Bambi, had been responsible. They put Bamber at the centre of the probe after his girlfriend Julie Mugford – whom he had two-timed – claimed he had confessed to her his plans to hire a hitman to kill the family. The hitman she named had a cast-iron alibi and was released. Bamber's lawyers also unearthed a police phone log of a call on the night of the killings from Nevill. The log, entitled 'daughter gone berserk', noted Mr Bamber had said his daughter had stolen one of his guns and gone 'berserk'.

A bloodstained Bible, found by Sheila's side and open at pages containing Psalms 51-55 – on the struggle between good and evil – was never forensically examined or produced at trial, despite requests from Bamber's solicitor. Commenting, Bamber said: 'If restaging of the crime scene is a major new point in The New Yorker story, that will enable us to go directly back to the Court of Appeal, which I hope will be within a few days of us having the fresh evidence in our hands. 'The Court of Appeal have already said restaging the crime scene would be a moral sin, so we'll be straight back to the Court of Appeal ASAP, asking for bail pending a full appeal.'

A spokesman for Bamber's campaign said the New Yorker investigation highlighted a key issue raised in the report on CCRC failings in the Malkinson case – 'a refusal to carry out any investigations into submissions that are presented to them'. They added: 'The CCRC have had Jeremy Bamber's latest submissions since March 2021 and… they have not investigated any of the key exculpatory issues they contain, which demonstrate Jeremy Bamber's innocence.' The CCRC said it 'makes impartial, evidence-based decisions'. Essex Police have long cited Bamber's failed appeals when asked about the safety of the conviction.

Two Prison Murders in One Day

Two murder inquiries have been opened after two prisoners died on the same day in separate incidents at privately-managed jails in England. At Sodexo-run Peterborough, Gareth Jones, 42, was assaulted. He was taken to Peterborough City Hospital but died on July 13. A 26-year-old man was arrested on July 12 and has been charged with murder. And at Serco-run Dovegate, police were called shortly after 9am on July 13 following a reported stabling. The victim, 42-year-old Stephen Strutt, was taken to hospital in a critical condition but died as a result of his injuries, according to Staffordshire Police. A 46-year-old prisoner was arrested on suspicion of murder.

A spokesperson for the force said: “He has been released on bail as we continue to investigate. Specially-trained officers are continuing to support the man’s family at this difficult time.” A Serco spokesperson said: “We can confirm the death of a 42-year-old man at HMP Dovegate. The matter is now being investigated by the police.” Homicide deaths in English and Welsh prisons are rare. In the 46-year period from 1978 to 2023 there were 90 homicides in prisons, an average of two per year. There were two in 2023, one in 2022 and one in 2021.

17-Year-Old Boy Has Died at Polmont Young Offenders

The Scottish Prison Service (SPS) confirm that Jonathan Beadle did on Saturday July 13, but gave no further details. It was reported that he was believed to have taken his own life. There will now be a fatal accident inquiry in accordance with standard procedures. A spokesperson for the SPS said “Every death prison custody is a tragedy for all who knew the victim. Following the death of anyone in our custody we inform the Police, and the matter is reported to the Procurator Fiscal.” Jonathan had been in a secure children’s unit before being moved to Polmont. In March 2022, the Scottish Government had said that 16- and 17-year-

olds would no longer be placed in young offenders' institutions, saying they would end the placement of Under 18s in custody "without delay" and pledged to fund care-based alternatives and shift the approach from "one of punishment to one of love and support."

This followed Scotland's Chief Inspector of Prisons, Wendy Sinclair-Gieben, saying that sending 16- and 17-year-olds to Polmont, and in particular those who had not even been convicted, was a breach of their human rights. The Children (Care and Justice) (Scotland) Bill, which sets out that children under 18 would no longer be sent to prison, received Royal Assent last month and became an Act of Parliament, while separate legislation passed by Holyrood to incorporate the United Nations Convention on the Rights of the Child passed in to law on 15 July.

Prison Officer Admits Sex With Inmate in Cell

A HMP Wandsworth prison officer who was filmed having sex with an inmate has admitted misconduct in a public office. Linda De Sousa Abreu, 30, was on duty at the south London prison when she entered the prisoner's cell on 27 June and had sex with him. The encounter was filmed by another inmate and went viral on social media. She was subsequently identified by HMP Wandsworth staff and was arrested by the Metropolitan Police at Heathrow Airport. De Sousa Abreu, 30, of Fulham, south-west London, pleaded guilty to one count of misconduct in a public office at a hearing at Isleworth Crown Court. The prosecution's case was that De Sousa Abreu had wilfully committed misconduct in a public office by abusing her position as prison officer to have sex with an inmate.

'Enthusiastic participant' She telephoned the prison as she fled to the airport, to catch a flight to Madrid, to say that she was not returning to work and that her husband would return her equipment. De Sousa Abreu, who holds a Portuguese passport, was granted conditional bail, and is set to next appear at Isleworth Crown Court on 7 November. Tetteh Turkson, from the Crown Prosecution Service (CPS), said: "This was a shocking breach of the public's trust. "De Sousa was clearly an enthusiastic participant who wrongly thought she would avoid responsibility." He added that De Sousa had "no option but accept she was guilty" due to the strength of the case against her.

Extradition Refuesd on Several Grounds

On 11 July 2024, District Judge Curtis discharged an extradition request which related to a female requested person, AH, sought by Hungary in relation to theft offences. AH had initially travelled to this country with her baby daughter 3 years ago. Not long after her arrival, she had been coerced into sexual exploitation which had lasted for two years. In the interim, she had been arrested on the first of two extradition requests. She was bailed back to the exploitative location (then unbeknownst to the court). AH tried to escape on two occasions but was found and returned by one of the abusers. On the third occasion she managed to leave and handed herself in to police. Subsequent to her arrest on the extradition request, AH's daughter was taken into foster care. By the time of the extradition hearing, the family court was considering placement of AH's daughter for adoption.

During the extradition proceedings, AH's extradition legal team made a trafficking referral to the National Referral Mechanism, the framework for identifying victims of human trafficking or modern slavery and ensuring they receive appropriate support. The UK has a two-stage procedure provided for in the NRM to determine whether someone was a victim of human trafficking: an initial decision on whether there are Reasonable Grounds to believe that the person is a victim, and a subsequent Conclusive Grounds decision. By the time of the extradition hearing a 'Reasonable Grounds' decision had made. As a result of this background, the

case was anonymised under section 1 of the Sexual Offences (Amendment) Act 1992.

AH submitted that her discharge should be ordered on the basis of section 21A proportionality; section 21A Article 8, given the exceptionally severe consequences extradition would give rise to and noting the potential impact on her daughter, in particular; and, section 25 on account of her very poor physical and mental health which included conditions linked to serious liver disease issues, major depression and PTSD. It was also argued that extradition pending a positive Conclusive Grounds decision by the NRM would give rise to a breach of Article 4 (the prohibition of slavery and forced labour). Extradition prior to such a decision would breach Article 4 given the live investigation into the RP's potential status as a victim of modern slavery and any subsequent investigation into the criminal behaviour of her abusers. [See, MS (Pakistan) [2020] UKSC 9]. Amongst other things, the court's attention was drawn to the legal and policy commitments to ending violence against women, including sexual exploitation. Judge Curtis noted the submissions were "compelling" and discharged the request. The CPS did not appeal and accordingly, extradition was refused.

Record-High Levels of Self-Harm in Women's Prisons Highlight Mental Health Crisis

Incidents of self-harm among women in prison have reached record-high levels over the past 12 months, according to the latest Safety in Custody update from the Ministry of Justice. The data reveals a stark increase in self-harm incidents by 29% in women's prisons, with an 'alarming rate of 341 incidents per 1,000 women.' As stated in the report, the frequency of self-harm in women's prisons is now more than eight times higher than in men's prisons, raising serious concerns about the mental health support available to incarcerated women.

Sonya Ruparel, CEO of the charity Women in Prison (WIP), expressed deep concern over these findings as she stated, 'seriously unwell women are being sent to prison when in fact they need medical or psychiatric support,'. Instead of being a place of rehabilitation, prisons are in fact 'traumatizing women and creating mental health concerns.'

The voices of those who have experienced the system firsthand further emphasis the urgency of the issue. Nadia, who spent five months in prison waiting for her trial to begin, described her experience as akin to 'walking onto the set of One Flew Over The Cuckoo's Nest.' 'Many of the girls there should not be in prison, they need proper help,' Nadia stated. Furthermore, Nadia recounted the screaming and banging at night leaving her petrified. Ultimately, Nadia reported that due to this experience, she now has PTSD. According to the Safety in Custody Statistics of England and Wales, there has been an increase in the number of self-harm incidents by 24%. Katie, another woman recently released from prison, attests to this statistic by sharing her experience of self-harming multiple times a week. Yet despite her severe mental health struggles, she was denied access to mental health services.

Katie felt as if she needed help as she was mentally unwell. However, as authorities just titled her as a 'prolific self-harmer', she was never given mental health services. Women in Prison, a national charity that delivers support for women affected by the criminal justice systems in prisons, is advocating for a shift in how society responds to women facing mental ill-health, abuse, and poverty. Their campaign, "The Answer Is Not Prison," launched ahead of the general election, calls on the government to prioritize prevention and community-based support over incarceration.

Bishop calls on justice secretary to review Jason Moore conviction after CCRC close case. (Full details in previous issue 989' of 'Inside Out')