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

MOJUK: Newsletter 'Inside Out' 1024 (23/10/2024) - Cost £1

4 Police Officers Under Investigation for Wrongful Conviction of Andrew Malkinson

Jon Robins, Justice Gap: A police watchdog is looking at several allegations relating to the Greater Manchester Police (GMP) investigation that led to Malkinson spending 17 years in prison for a crime he did not commit. The Independent Office for Police Conduct is looking at whether witnesses were offered any incentive to provide evidence, failures to disclose information that may have helped the defence at trial and concerns over the handling and disposal of items of evidence. 'Mr Malkinson is a victim of one of the worst miscarriages of justice in British history,' said IOPC regional director Catherine Bates. 'We continue to work hard to ensure his complaints are thoroughly and independently investigated. Following a detailed review of evidence spanning a period of more than 20 years, we have now informed four retired GMP officers that they are under investigation for potential gross misconduct.' One officer has also been informed they are under criminal investigation for 'potential misconduct in public office and perverting the course of justice' in relation to their actions during the police investigation and trial.

'Twenty years on from Mr Malkinson's wrongful conviction no police officers have yet faced any sanction for their role in the miscarriage of justice that he suffered, Greater Manchester Police are yet to admit their responsibility for what happened, and he is yet to receive any compensation,' commented Toby Wilton of Hickman & Rose who is represented Malkinson in relation to the police complaint. 'This announcement that four officers involved will now face a misconduct investigation, and one will now face criminal investigation, is an important first step, but it is vital that all those responsible at Greater Manchester Police, as well as the wider force, are held to account.'

Prisoner Denied Parole In Landmark Public Hearing Over Indefinite Jail Term

Exclusive, Amy-Clare Martin, Independent : IPP prisoner Nicholas Bidar's heartbroken family say he is losing hope of ever getting home as he languishes in a cell with only a bucket for a toilet. Britain's first IPP prisoner to make a public bid for freedom from an abolished indefinite jail term is "lost" and fears he will never be freed after a devastating parole refusal.

Nicholas Bidar was left broken and "humiliated" when a Parole Board panel refused to recommend his release or move to open conditions earlier this year. The 36-year-old was handed a controversial imprisonment for public protection (IPP) sentence with an eight-year minimum tariff for a string of robberies and using a gun to resist arrest aged 20 in 2008. But 16 years later, he is still being held in a maximum-security Category A prison with no release date.

To raise awareness of his plight, he applied to be the first IPP prisoner to have his parole hearing held in public after new laws came into force to increase transparency around parole decisions. Ahead of the landmark hearing in March, Mr Bidar told The Independent how the reality of his uncertain sentence has impacted him, adding: "Every day feels like torture. I struggle daily to get through the day." He insisted his status as a high-risk Category A prisoner had left him a "political prisoner" after a 2021 parole review had recommended him for progression to open conditions, but this was blocked by the secretary of state for justice, who refused to downgrade him. In their latest refusal, the Parole Board admitted his Category A status was "interfering" with his progress in prison and urgently called for this to be reviewed. But six months later, no such review has taken place.

Now his family says he has completely lost the person he was and he is losing hope of ever being freed from maximum security HMP Long Lartin in Worcestershire. "He has taken a massive step back," a family spokesperson told The Independent, adding there has been "no progress" regarding his categorisation. He's gone from a state of thinking, 'I am going to be home at some point', and now he says he's never coming home. It's not happening. That's his mindset – no one is going to help. He called us the other day, we had a prison video call. He just said what is the point in my waking up anymore? It's so difficult to hear that. He committed his crime and deserved to go to prison for it because it was wrong. It's so difficult when he's seeing people walk out of the door. Some of these people have committed sexual crimes or potentially murdered someone, and he's there for a crime he committed when he was 20."

IPP jail terms were introduced under New Labour in 2005 and saw offenders given a minimum tariff but no maximum. They were scrapped in 2012 amid human rights concerns, but not for those already detained. Of 2,734 remaining IPP prisoners with no release date, more than 700 have served more than 10 years longer than their minimum tariff. The government is facing growing pressure to resentence them after at least 90 inmates have taken their own lives under the jail term, which has been branded "psychological torture" by the UN. Mr Bidar acknowledged his offending was serious – including further assaults committed in prison and a period in which he escaped custody – admitting "I did wrong". But he insisted he had completed his sentence plan and told the parole board members: "I'm not that person anymore."

Mr Bidar's family fears that without hope of being released, he will only decline in prison. They also backed a private members bill tabled last month for all outstanding IPP prisoners to be resentenced. "If he stays in until he's 40 or 45 things are not going to get better," they added. "He's not going to learn any more lessons. He's just going to deteriorate. Keeping him in now doesn't achieve anything. It's causing IPP prisoners like him mental health problems." The family said conditions inside the maximum-security prison were squalid – with Mr Bidar spending 23 hours a day in a cell with only a bucket to use as a toilet. A recent water contamination issue left him vomiting into the same bucket for weeks, they added. "What he did was a long time ago," they said. "He was a young, stupid kid. But he just made the wrong choice and I just think he needs one chance."

A Ministry of Justice spokesperson said: "It is right that IPP sentences were abolished. We are significantly shortening licence periods for some rehabilitated offenders and supporting those still serving these sentences. "Decisions about prisoner categorisation are regularly reviewed and the Prison Service conducts thorough risk assessments to determine the appropriate security category for each prisoner, based on the risk of escape, harm to the public, and the security and control of the prison."

Saria Hart: Serious Failings By Staff at HMP Foston Hall Contributed to Self-Inflicted Death

INQUEST: Saria Hart, 26, died in hospital on 13 October 2019 after ligaturing at HMP Foston Hall nine days earlier. She had been remanded to custody only seven weeks before. Now an inquest found that serious failings by prison staff contributed to her death. Saria was born in Tamworth, the third of seven children. Her family describe her as a sociable person with a big heart who loved being around people. She had a long history of anxiety, depression and self-harm.

On 14 August 2019, Saria was arrested. During her arrest, she threatened to self-harm and take her own life whilst holding a knife. Saria was subsequently remanded to Foston Hall on 16 August 2019. Before Saria arrived at the prison, the prison was informed that there was a self-harm alert for Saria. Her medical record, available to the prison, also detailed her history

of self-harm and ligaturing in prison previously, including at HMP Foston Hall. Despite this, following an initial screening and health assessment, no safety plan for prisoners at risk of suicide or self-harm (known as an ACCT) was put in place.

On 3 October, Saria was restrained by a number of prison officers following an incident on the wing in which she was allegedly abusive towards staff. As a result of this, she was suspended from her job as a wing cleaner, was placed on a basic regime losing access to certain privileges, and was placed in segregation pending an adjudication. The Custodial Manager involved in this incident gave evidence at the inquest and stated that "there was absolutely no need to segregate Saria". Later that day, Saria passed a handwritten note to a prison officer detailing her intent to take her own life if she lost her job. In response to this note, an ACCT was put in place which detailed that Saria was to be observed twice an hour by prison staff.

On 4 October, during Saria's ACCT assessment she disclosed that she wanted to die and that she had plans to end her life and refused to hand over razor blades in her room to staff. This information was not passed on to staff responsible for reviewing the assessment and devising a plan to manage Saria's risk. At the inquest, none of the staff conducting the ACCT assessment or review could be sure that they had seen Saria's note, which had prompted the opening of the ACCT in the first place. No steps were taken to remove high risk items from Saria's room, no referral was made to the mental health team, and her observation level remained at two per hour. Giving evidence at the inquest, one member of staff suggested that there was a blasé attitude towards notes from prisoners "threatening" self-harm or suicide, and that these notes were not taken as seriously as they should be.

Saria was taken straight from the review to an adjudication for the altercation which took place on the previous day. She was found guilty and was further punished, including by losing 50% of her earnings. At 3.40pm, Saria passed a second note to staff expressing her distress and further detailing her intent to take her own life. No action was taken in relation to this note. Shortly afterwards, at 4.45pm, Saria was found ligatured in her cell by the same member of staff that she had passed her second note to. An emergency 'Code Blue' was called and Saria was taken to Royal Derby Hospital where she passed away nine days later, on 13 October 2019.

The jury concluded that Saria died by suicide. They found a number of serious failings by the prison staff contributed to her death, including that: All relevant information / previous history was not available to be considered in the first ACCT review; After the adjudication, no further ACCT case reviews was implemented and no adequate immediate response was given to Saria's note; All previous self-harm / suicide attempt history attempt history was not considered at the first ACCT assessment review; ACCT assessment interview did not appropriately identify Saria's triggers and risks. The jury also considered that the absence of Saria's suicide note and ACCT document during the ACCT review and adjudication on 4 October meant that key information regarding her mental health and her risks was not considered and missed by staff.

Karen Brown, Saria's mother said:"Saria, our riri, was a bubbly, cheeky girl who loved being around people. We had our good days and our bad days like any other family, but she meant so much to all of us. We all miss her dearly and still think about her every day. We are still so hurt and angry that Saria died in circumstances where she was clearly begging for help and nobody took any notice. Five years on from Saria's passing, the jury has confirmed what we have always known – that more should have been done to prevent Saria's death." Erica San, of Bhatt Murphy Solicitors, said: "A number of preventative and risk reducing measures were available to the prison staff to manage Saria's risk: a safer cell with fewer ligature points, constant observations, removal of certain dangerous items from her cell. Instead, prison staff ignored and dismissed Saria's cries for help.

The most recent HMIP inspection found that the response to women in crisis was 'too reactive, uncaring and often punitive'. This was all too clear from the evidence heard at Saria's inquest, and there is no evidence that the attitudes of the prison officers who remain at HMP Foston Hall have changed." Selen Cavcav, Senior Caseworker at INQUEST, said: "Saria's last words to prison staff in a written note were: "I am done not being listened to anymore". Will her words which were ignored during her last hours be heard now by the government, parliamentarians and policy makers? Too many women like Saria have been ignored, disciplined, segregated and punished instead of being given the care they need and deserve. Since Saria's death, 38 people have died in women's prisons in the UK. Yet despite the long catalogue of failures and warnings from inquests and investigations, we continue to lock women up to die. How many more women need to die before we finally dismantle prisons and redirect resources to holistic, gender responsive community services?"

Failure to Provide Opiate Substitute Treatment in Prison

Was Inhuman and Degrading Treatment, Discriminatory & Breach of Privacy

Harte Coyle Collins: The High Court today (12th september 2024) delivered a radical judgment in a judicial review challenge against the South Eastern Health and Social Care Trust criticising the extreme delay a prisoner faced in being assessed for and getting access to the Opiate Substitute Treatment while a prisoner in Maghaberry jail. The court found that the absence of appropriate healthcare in the prison by the Trust amounted to inhuman degrading treatment, discrimination, and a breach of right to private and family life. The rights in issue included the client's right not to be subjected to inhuman or degrading treatment under Art 3 ECHR; his right to private life (Art 8 ECHR); and his right not to be discriminated against because he was a prisoner (Art 14 ECHR). The court declared that all 3 Convention Articles had been breached. Having been deprived of assessment and access to the opiate substitute treatment our client complained that he was detained in conditions which were not compatible with respect for human dignity and that he was treated unjustifiably differently, in comparison to those in the community seeking Opiate Substitute Treatment who are in similar position, because he was a prisoner. Mr. Justice McAlinden, in a detailed, comprehensive, and carefully considered judgment, granted the prisoner a Declaration under the Human Rights Act 1998 that his Human Rights were breached as a result of the conditions in which he was detained within the Northern Ireland prison estate. The prisoner applicant had still not been assessed for the treatment by the time of he was released, having waited over 3 years to be assessed. The High Court was provided with confirmation that once the applicant was released he was assessed and prescribed Opiate Substitute Therapy within 3 weeks.

Solicitor acting for the successful applicant Chris McCann said today; "This High Court judgment today is a welcome vindication of our client's human rights and indeed the rights of all those in prison with substance addiction. It shines a light on the inefficiencies of the prison healthcare provided by the Trust. This case has highlighted the alarming state of affairs within the Northern Ireland Prison estate with regards to prisoner access to healthcare. Prisoners are entitled to the same level of healthcare that they would receive in the community, yet this is not being delivered, causing unnecessary pain and suffering to prisoners with a knock-on effect to the public at large. We hope that this brave judgment brings focus to the funding needs for addictions treatment within the prisons in Northern Ireland." If prisoners with addiction issues are assessed and treated in prison and are appropriately medicated on a substitute program and are therefore stable when released, then the risk of them causing harm to the public is greatly diminished. In our view it is in everyone's interest, both for society and the prison population, that prisoners are able to avail of appropriate addictions treatment while in custody."

'A Wild Hypothesis': Medical Experts Challenge Science Behind Letby Convictions

Jon Robins, Justice Gap: Senior medical experts have challenged prosecution evidence linking Lucy Letby to the deaths of a number of babies and raised serious questions about her defence in court. One world renowned neonatologist told the BBC Radio 4's File on Four that he was 'very confident' that one of the babies died a natural death and dismissed the prosecution case as 'a wild hypothesis'. It was also claimed that's an x-ray seemingly indicating that the nurse deliberately pumped air into that child's feeding tube was taken before the nurse met the baby.

Lucy Letby was found guilty of murdering seven babies and attempting to kill six others at the Countess of Chester Hospital in a trial last year. Immediately after reporting restrictions were lifted following the completion of a second trial this year in which she was convicted of attempted murder, experts raised concerns about the safety of the conviction – several spoke to the Justice Gap. Last month, Lady Justice Thirlwall opened the inquiry into the deaths at the Countess of Chester Hospital with criticism of the 'huge outpouring of comment from a variety of quarters on the validity of the convictions'. 'So far as I'm aware, it has come entirely from people who were not at a trial,' she said. 'All of this noise has caused enormous additional distress to the parents who have already suffered far too much.' Dewi Evans, the consultant paediatrician and expert witness who was instrumental in convicting Letby, told the BBC that those challenging the verdict were 'grossly irresponsible' and their conduct was 'quite frankly disgraceful.'

The programme, which was broadcast 1rst October, spoke to one of the 280 medical professionals who signed a letter delivered to prime minister Keir Starmer as 'part of the campaign in support of Lucy questioning the evidence that's been used in court against her'. 'Nurses are now speaking out, and they are frightened,' she told the BBC. 'They feel they've lost their voice. They feel that they are no longer the patient-advocate. They feel that they have no duty of candour, and it is important that they are able to speak out and raise concerns.'

File on Four looked at a number of individual cases including Baby C born 10 weeks premature and weighing just under two pounds. Letby was found guilty of deliberately injecting air into the child's stomach via his feeding tube. Professor Colin Morley, a world renowned expert in neonatology, reviewed the evidence heard in court. Morley identified intestinal obstruction as the cause of death. Reporter Stephanie Hegarty said: 'You're saying quite clearly here, you believe this baby died of natural causes. How confident are you of that?' Morley replied he was 'very confident'.

'Clinically, the baby did have a bowel obstruction. I'm devastated for the families. Nothing is worse than losing your precious baby, and they've been told that the baby was murdered by Lucy Letby, which is awful. But my job is to tell the truth about what I think has happened. I just don't believe this wild hypothesis based on no evidence whatsoever, that somebody inflated the stomach enough to kill the baby.' Prof Colin Morley An X ray of the Baby C's stomach showing a huge bubble was one of the key pieces of evidence indicating air had been pumped deliberately via a feeding tube. It was claimed Letby had not met the baby by the time that the X ray was taken.

The programme also looked at other deaths including Baby F and Baby L. Letby was convicted of attempting to murder both by adding insulin to their feedbags on the basis of results from a test. Immunoassay results indicated insulin levels were abnormally high and the prosecution said the results proved they'd been poisoned by insulin. Dr Adel Ismail, a world leading expert on the immunoassay test, said that the test can produce 'misleading results'. 'If I have the slightest suspicion, the slightest, I would do a follow-up test to confirm the integrity and the veracity of the measurements. That confirmatory test is absolutely vital.' He was asked if this test shouldn't have been relied upon in court 'without proper verification'. Ismail replied that he wouldn't have

even forwarded the results to clinical colleagues 'without verifying the velocity and integrity'. It had been argued in court that it would have only taken a small amount of insulin to have killed each baby. However leading experts – Professor Geoff Chase, from the University of Canterbury in New Zealand and chemical engineer Helen Shannon – argued that significantly higher quantities of insulin would be needed to have harmed the babies and, in the case of Baby L, as much as 20-80 times more.

The program also heard from one of Britain's most senior pathologists with 25 years' experience who spoke out about the lack of expert witnesses for the defence. She was not named because she deals with bereaved families. She said she dealt with 500 deaths a year including many neonatal deaths. 'So I think that I have quite robust expertise,' she added. She reviewed the case of Baby O and agreed with an original post-mortem – death by natural causes from a liver injury. 'I'm not saying that she's innocent or she's guilty. What I'm saying is that the way that the pathology was presented is not convincing to me as a pathologist.'

Man Arrested on Suspicion of Murder After Prison Death

BBC News Dublin: A man in his 30s has been arrested on suspicion of murder after another man died following an incident at Cloverhill Prison in Dublin. Emergency services were alerted to the incident at about 05:30 local time on Saturday 5th October, Gardaí (Irish police) said. It is understood there was a row in a cell involving three prisoners, according to Irish broadcaster RTÉ. The victim, who was in his 40s, received treatment at the scene but was pronounced dead a short time later. It is understood he was from Ballyfermot in west Dublin and was known to gardaí for involvement in serious and organised crime. A second inmate received treatment for injuries which have been described as non-life threatening, RTÉ reported. Gardaí said they are continuing to investigate all circumstances surrounding the death. The scene has been preserved for full forensic and technical examination. The coroner has been notified and the services of the state pathologist have been requested. The prison service expressed its condolences and said that the death will be investigated by the office of the inspector of prisons.

Labour Government No Accurate Data on Courts Crisis - Fears of Soaring Trials Backlog

Andy Gregory, Independent: The government has failed to publish any data on the crisis in the criminal courts this year due to inaccuracies in its statistics, leaving the public blind amid fears the backlog of trials has soared to grim new highs. As it cancelled the publication of its data on the performance of the crown courts for the second quarter running this week, the Ministry of Justice (MoJ) blamed statistical errors, which it said date back at least three years. The latest data on the government website is from December 2023, which was published in March 2024. The MoJ insisted it will publish full, accurate statistics by the end of this year. Criminal lawyers told The Independent it was "unfathomable" the government did not have accurate data on the crisis unfolding in the courts – and warned victims and defendants suffering from this lack of grip daily "are the lost humans in this lost data". The quarterly data release was first cancelled during the pre-election period in June and was delayed once again this week.

Shabana Mahmood, in one of her first acts as justice secretary, is said to have ordered a "complete audit" of the data upon learning of the issue when entering government, and officials said they were working with the statistics watchdog to remedy the error. "It is extremely concerning that the quarterly criminal court statistics have not been published for the first six months of the year," says Nick Emmerson, Law Society of England and Wales president.

You cannot solve a problem if you cannot measure it. Without robust, rigorous and comprehensive data collection the government cannot hope to understand what is going on in our courts or be able to address the huge backlogs. Victims and defendants spend years in limbo waiting for justice as the backlogs continue to grow. The misery faced by all those caught up in these unacceptable delays will not go away unless the government fixes this data challenge and begins to rebuild the foundations of this vital public service."

4 Prison Staff Arrested at HMP Parc

None of the four have yet been charged: Four members of staff have been arrested at HMP Parc in South Wales on suspicion of assault and misconduct in public office. South Wales Police said the arrests followed reports of a series of incidents at the prison, which is operated by private contractor G4S. The Government has faced calls to take over the running of Parc following a spate of deaths this year, some of them drug-related. Detective Chief Inspector Dean Taylor said concerns were raised on September 18 about the conduct of staff at the prison. "Officers are at the early stages of the investigation and are working closely with G4S while inquiries are ongoing," he added. The four people arrested as part of the investigation are a 23-year-old woman and three men aged 45, 25 and 35. An HMP Parc spokesperson said: "The vast majority of our staff are hardworking and honest. We are absolutely committed to rooting out any wrongdoing. We take these allegations very seriously and are fully supporting the police with their investigation." A new director was appointed for Parc in June this year. Welsh Social Justice Minister Jane Hutt said earlier in September that since that appointment the prison had been "much, much, more stable".

Construction Firm ISG's Collapse Threatens Prison-Building

The Government's prison-building programme faces the risk of delays following the failure of construction company ISG. The firm is one of the biggest players in prison upgrades and new construction work, at a time when the country faces a shortage of cells which has forced successive governments to introduce early release schemes. The contractor started work earlier this year on a combined £135 million upgrade for HMP Guys Marsh in Dorset and HMP Liverpool. The £79 million project at Guys Marsh was due to deliver two new house blocks, one with 122 cells, the other with 59, to increase capacity by 31 per cent. At HMP Liverpool, ISG's £56 million contract is for a full overhaul to support the prison's proposed change in status from a Cat B to a Cat C facility. ISG is also lined-up as main contractor for a £300 million new Category C super prison in Buckinghamshire, at a site next to the existing HMP Springhill and HMP Grendon. ISG is one of the biggest contractors by spend with the Ministry of Justice and has places on major frameworks including its £1 billion New Prisons Programme and £2.5 billion Constructor Services Framework.

Figures compiled by construction data specialist group Barbour ABI show ISG is currently onsite on projects worth £1.7 billion, with a further £1.9 billion of work in the pipeline. Another of its current contracts outside government work is the £150 million fit out of Google's new headquarters building at King's Cross. Reports say that ISG had 2,400 employees, but 2,000 jobs have been axed and it is suggested the only staff remaining will be kept on to assist administrators. Government building projects including expansion of prisons could therefore be paused. The Cabinet Office said it has implemented detailed contingency plans and departments were working to ensure sites are safe and secure. A Ministry of Justice spokesperson added: "We have robust contingency plans in place to mitigate the impact on our prison and court estate of ISG going into administration. We will work with administrators and will find alternative ways to deliver these projects where necessary."

Struck Back at Police in Self-Defence - Perfectly Legal

Jessie Smith, Doughty Stret Chambers: Secured a unanimous acquittal at Oxford Crown Court following a 5-day trial by jury. BB was charged with assault of an emergency worker, following an incident on the steps of Reading Crown Court involving 15 police officers. The defence case was that police were acting unlawfully, having punched the defendant in the head, pepper sprayed him within centimetres of his face, kicked him in the back and produced a taser. The defendant was not under arrest at the time police used force, and nor was he committing any criminal offence. The defendant gave evidence that he struck back at police in lawful self-defence. The case explored the boundaries of police use of force, the manner in which violence is justified and recorded, and the limitations in statute and common law.

CCRC Refers Sexual Offence Conviction to the Court of Appeal

A sexual offence conviction has been referred to the Court of Appeal by the Criminal Cases Review Commission (CCRC), after it was discovered that evidence may not have been disclosed to the defence before trial. Steven Johns was convicted of a sexual offence in 2020 and was given an extended sentence comprising 10 years imprisonment with a one-year extended license period, a sexual harm prevention order, and a restraining order. The alleged incident occurred between 2004 and 2006, and the complaint was made to police in 2017. When Mr Johns was interviewed by police in 2018, he denied the allegations. Mr Johns applied to the CCRC in November 2021 after an application to the Court of Appeal was turned down. A CCRC investigation has determined that important evidence may not have been disclosed to the defence before trial.

Legal Toolkit: Representing Pregnant Woman/Mothers in the Criminal Justice System

Written by three barristers at Doughty Street Chambers (Maya Sikand KC, Pippa Woodrow and Hannah Smith) and Janey Starling, co-director of Level Up, is designed to equip lawyers with the core legal arguments, tools and resources to effectively represent pregnant women and mothers of infants at all stages of the criminal justice process including bail, sentencing and appeals against sentence. Whilst we use the term "pregnant women", the toolkit applies to all individuals who experience pregnancy in the criminal justice system. Additionally, whilst this toolkit is focussed on the position of mothers, who are usually the primary carers of young children, much of the material will be of use to all who rear children. Also provides practitioners with key prison law issues facing incarcerated mothers and pregnant women.

Falsely Imprisoned Claimant Can Keep Damages Despite 'Barefaced Lies'

John Hyde, Local Government Lawyer: A falsely imprisoned man has been allowed to keep part of his award from a civil claim against a police force despite a court finding he told 'barefaced lies' about injuries suffered. In Reynolds v Chief Constable of Kent Police, the claimant Andrew Reynolds had initially lost his entire claim after a finding that he had been fundamentally dishonest. But on appeal, while accepting that Reynolds lied about the nature of his injuries, Mr Justice Sheldon said the claim for false imprisonment was separate to the personal injury claim and so should not be lost under fundamental dishonesty rules. 'As a matter of principle and on the particular facts of the instant case, the false imprisonment claim was not itself "a claim for damages in respect of personal injury",' said the judge. 'As a result, the trial judge was not empowered by section 57 of the 2015 act to dismiss the false imprisonment claim and thereby extinguish the claim for damages for that tort.'

Reynolds had brought proceedings in the county court in relation to his arrest in 2015 at his

parents' home. He claimed for false imprisonment based on being detained for six days and 13 hours as a result of the failure to conduct a lawful arrest. If the detention was unlawful, then the force applied to him was alleged to constitute an assault. Reynolds claimed that he suffered loss and damage, including a fractured vertebra, during his arrest. A trial took place before Her Honour Judge Brown sitting with a jury at Canterbury County Court. The jury found that Reynolds had behaved in an aggressive manner after being arrested and had not proved he was dragged along the ground or that a police officer knelt on his neck, punched and kicked him. The county court judge found that Reynolds lied about aspects of his arrest and he had planned to give a false account that would form the basis of a claim against the police. She dismissed the claim in full, including the £6,000 that the parties were agreed Reynolds would have been awarded in damages for false imprisonment.

On appeal, Mr Justice Sheldon said it was open to the trial judge to find that Reynolds had told 'barefaced lies', given the contradiction between his account and that of the arresting officers. This went to the heart of the claim for assault but not the claim for false imprisonment. 'The circumstances surrounding Mr Reynolds' back injury followed, but were not caused by, the false imprisonment,' said the judge. He asked the parties to agree on damages for false imprisonment and remitted the issue of costs.

Only 1 in 15 Prisoners Takes a Risk-Reducing Course

Inside Time: Figures from the Ministry of Justice showed that in the year to March 2024, only 5,383 prisoners in England and Wales started an accredited offending behaviour programme (OBP). The annual total has risen for three years in a row, but is still below what it was in the last full pre-Covid year, 2019/20, when 5,726 prisoners started an OBP. During the pandemic, programmes were halted and the annual total for the number of starts slumped below 1,000 in 2021/22.Just one in 15 prisoners took part last year in courses designed to cut their risk of reoffending. Prisoners frequently complain, in letters to Inside Time, about the difficulties they face when trying to get a place on an OBP. For those serving life or Imprisonment for Public Protection (IPP) sentences, successfully completing an OBP is often essential in order to demonstrate to the Parole Board that they have reduced their risk level and can be released safely.

However, there has been a long-term decline in the number of prisoners who take part in programmes. In 2010/11, more than 19,000 prisoners started courses. The annual number of starts fell by 70 per cent over the following decade, even before Covid struck. The Ministry of Justice has put the drop down to a shift in emphasis from short courses to longer, more complex programmes. A comment by Ministry of Justice statisticians, published alongside this year's annual data, said: "The number of prisoners starting and completing accredited programmes increased for a third year running and participation has nearly reached pre-COVID levels." Also a long-term decline in the number of prisoners who take part in OBPs. In 2010/11, more than 19,000 prisoners started them. The annual number of starts fell by 70 per cent over the following decade, even before Covid struck. The Ministry of Justice has put the drop down to a shift in emphasis from short courses to longer, more complex programmes.

The MoJ statisticians added: "Prior to the COVID-19 pandemic, volumes of starts and completions fell steadily between 2009/10 and 2020/21. This was mainly due to changes in accredited programme delivery in custody, driven by changes in programme ownership and reinvestment favouring longer, higher intensity programmes (including some one-to-one programmes) rather than shorter, moderate intensity programmes. The number of commissioned completions has therefore decreased despite maintaining investment." The current range of courses, which tend to focus on particular types of offending such as violence or sexual offences, are to be replaced with more general courses known as Next Generation. During 2023/24, the figures show that 44 prisoners started a Next Generation programme and 14 completed one.

In the Netherlands, We're Closing Our Emptying Prisons

What can other countries learn from how we did it? The Dutch prison population has fallen by more than 40% – and awareness of the harms of harsh sentencing could explain why

Early October, I went to the cinema in the Dome prison in Haarlem. This monumental building – a vast, panopticon-style facility first opened in 1901 – is one of more than 20 Dutch prisons that have closed in the past decade. Some of them have ended up serving significantly more enjoyable purposes, such as this cultural hub.

The Dutch have seen their prison population decrease by more than 40% over the past 20 years. At the other end of the spectrum, Britain has the highest rate of incarceration in western Europe, and is struggling with an unprecedented prisons crisis. Britain's minister of prisons, James Timpson, calls the Netherlands a source of inspiration. What could the Dutch system teach the rest of the world? First, the declining prison population is not actually the result of recent policies by visionary politicians. Much of it is due to changes in reported crime and the nature of crime. As in many other western countries, the number of violent crimes has significantly dropped in the Netherlands in recent decades.

This does not necessarily mean that there is actually less crime overall, as Dutch criminologist Francis Pakes, professor at the University of Portsmouth, who has studied the reasons for the emptying Dutch prisons, told me: "There is less conventional, violent crime, like murder. On the other hand, a lot of conventional crime went online and is less visible. And it is quite possible that there is a kind of organised crime that we have little visibility on. But fewer serious cases are coming to the police and courts." And so fewer people end up in jail.

But while the Dutch don't have a model policy the world can copy, the overall Dutch attitude towards imprisonment could be instructive. According to Pakes, the Dutch are much more aware that a stay in prison does more harm than good. Society may be rid of a criminal for a while, but in many cases, criminals simply resume their activities when they leave prison. They may become more ruthless, due to the violent prison climate in which they have had to survive. And perhaps they have a wider criminal network that they built up behind bars.

This also applies to shorter sentences. Even these can completely turn an offender's life upside down. You can lose your job, home and social network. And you rarely become a better person during a short stay in jail. Due to the excesses during the Nazi occupation in the second world war, there is a culture in the Netherlands of not imposing long prison sentences. In Britain and also the US, the culture is different: many British and American politicians advocate for harsher sentences to present themselves as strong leaders. However, more politicians – often rightwing ones – in the Netherlands are now doing this, too.

It is not uncommon for British judges to impose what seem to the Dutch relatively long sentences for minor offences. Dutch judges are much more inclined to give community service or a suspended sentence in similar cases. Research shows that this is not only cheaper but also reduces the likelihood of reoffending. Even in cases where prison time is given, the lengths of sentences for lesser crimes such as theft have declined significantly over the past decade, although the lengths of sentences for violent and sexual crimes went up.

This attitude of Dutch judges is not the reason for the recent decline in the prison population. But the Netherlands has consistently had a lower proportion of people in prison than places such as England and Wales, and especially the US. Long sentences put enormous pressure on the prison system. And, given the staggering costs on society, if this money were spent on prevention instead, it could pay for some wonderful things.

In any case, the Netherlands has at least one hopeful message for other countries: it is not a given that prison populations must always increase. Moreover, it is not necessarily true that society becomes less safe with fewer people in jail. Despite their emptying prisons, the Dutch can still walk the streets safely at night, especially compared with say, Britain, where incidents of crime and concern about crime is higher.

Apart from looking at the Netherlands, Timpson might also consider the remarkable prison system of Norway. Its prisons are often small and very focused on reintegration. They are designed so that daily life can proceed as normally as possible. As a result, inmates are less alienated from society. It is easier for them to integrate than for a person coming from an overcrowded British prison, where they have been locked up for 22 hours a day because the staff couldn't manage otherwise. In such cases, the transition to the outside world can be extremely abrupt. You may see someone reoffend within the first few days after their release. You can argue whether a system from a sparsely populated country like Norway is suitable for Britain or other large countries. But it is also clear that the British system has reached its limits and that a new approach is not a luxury. James Timpson is willing. We in the Netherlands will be interested to see what plans he will come up with. *Source: Renate Van Der Zee, Guardian*

Stop and Search 'Mission Creep' Disproportionately Targets Marginalised Groups

A new report by the charity StopWatch has found that stop and search powers fail to reduce violence, but drag racialised groups into the criminal justice system. According to the report, civil orders like Knife Crime Prevention Orders (KCPOs) and Serious Violence Reduction Orders (SVROs), intended to cut crime, make no material difference. The Home Office has admitted there is 'no evidence of their impact'. One impact assessment went as far to concede that SVROs do not 'necessarily lead to more weapons being detected or seized'. Although civil orders themselves aren't criminal offences, breaching their terms can result in criminal sanction. The report raises alarms over a concerning 'mission creep', where these orders are being used in a far broader context than originally planned, often tied to racial profiling and the criminalisation of society's most vulnerable.

The data is stark: Black people comprise up to two-thirds of KCPOs, despite representing only 4% of the UK population, while Black men in particular are singled out as the most frequent targets of SVROs. Moreover, around 20% of Public Spaces Protection Orders, which were intended to address antisocial behaviour, are being disproportionately used against rough sleepers. Habib Kadiri, executive director of StopWatch, argues that civil orders have long been used to over-police marginalised communities under the guise of tackling antisocial behaviour. He warns that their broad application lowers the standard of proof and embeds racial injustice within policing practices. Kadiri is calling for a complete overhaul of stop and search powers to prevent further erosion of civil liberties. *Source: Bradley Young, Justice Gap*

CoA Rules in Favour of Nigerian Communities Over Pollution By Oil Giant Shell

The appeal, which was granted on Friday 11 October 2024, overturns a High Court ruling in March 2024, which would have made it practically impossible for people to bring environmental claims involving multiple incidents of pollution. The claims, where were started nearly 10 years ago, should now finally move forward to a full trial with disclosure of important Shell documents. More than 13,000 members of the Bille and Ogale communities say each community has been subject to around a hundred oil spills from Shell Nigeria's infrastructure which have devastated their land, waterways and drinking water, leaving them unable to farm and fish.

The CoA dismissed the previous ruling that found that, because the claimants have been unable to link particular areas of damage to individual oil spills, the claims should be treated as a "Global Claim" - a type of legal action only ever used in contractual disputes in the construction industry. Under a Global Claim, the Bille and Ogale communities would have had to prove that Shell was responsible for 100% of the pollution that has impacted their environment. If there were any other sources of pollution for which Shell was not responsible, each individual's claim would fail. Lawyers at Leigh Day, who represent the two communities, feared this would have made it practically impossible for people to bring environmental claims following repeated incidents of pollution in future, unless they could prove the same polluter was responsible for all the pollution that has impacted them.

Daugaard Sorensen v. Denmark ECtHR Held Unanimously Violations of Articles 3 & 8

Article 3 (prohibition of inhuman or degrading treatment) of the ECtHR

Article 8 (right to respect for private and family life) of the Convention.

The case concerned the withdrawal of charges against the applicant's alleged rapist, in view of errors that had occurred at the Regional State Prosecutor's Office, in particular a failure to comply with a statutory time-limit. The Court found in particular that at least three consecutive errors had been committed – and acknowledged – by the prosecution service. Regardless of who had been responsible for failing to ensure compliance with the prescribed deadline, the result remained the same; the charges against the alleged perpetrator had been dismissed. As a result, Ms Daugaard Sorensen had been deprived of an effective prosecution or judicial review in respect of the alleged rape that she had reported to the police. Therefore, the Court concluded that there had been significant flaws in the procedural response to her allegations. Denmark had thus failed to fulfil its duties under those Articles of the Convention.

Nsingi v. Greece ECtHR Held Unanimously - Wrongfull Imprisonment

Violation of Article 5 §§ 1 and 5 (right to freedom and security / right to compensation). The case concerned the rejection of the applicant's claim for compensation for having been imprisoned pursuant to a sentence that had been handed down in respect of a different person, for whom he had been mistaken at the time of his arrest. On 6 June 2018 the applicant was arrested by the police and, after verification of his identity, was registered under the name of an individual who had been sentenced to eight years' imprisonment for drug possession. The prosecutor ordered that he be sent to prison. On 20 June 2018 the applicant demanded that he be released, objecting that he was not the person who had been convicted and sentenced. The Criminal Court dismissed the applicant's objections without giving reasons for its decision. The Court took the view that the complete lack of reasoning in the Thessaloniki Criminal Court's judgment had clearly been in breach of the principle of protection against arbitrariness enshrined in Article 5 § 1, having regard, in particular, to the fact that the applicant was, at the time, imprisoned pursuant to a judgment imposing an eight-year prison sentence on a different person. As to the right to compensation provided for in the Code of Criminal Procedure (CCP), the Court pointed out that the Thessaloniki Criminal Court had dismissed the applicant's claim on the ground that his situation did not fall under any of the cases mentioned in Article 533 of the CCP and that Article 564 of that Code did not secure a right to compensation for prisoners whose objections had been allowed. And therefore took the view that, in interpreting Article 533 of the CCP as it had, the Criminal Court had taken an overly formalistic approach that was not in keeping with the spirit of Article 5 § 5.