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MOJUK: Newsletter 'Inside Out' No 883 (26/01/2022) - Cost £1

Prison Officers Association (POA) Condemns Prisons White Paper

The trade union representing prison officers has issued a damning rejection of the Government's strategy for prisons, saying it "contains next to no credible solutions to the multiple problems plaguing our existing estate". Justice Secretary Dominic Raab published his Prisons Strategy White Paper on December 7, setting out wide-ranging proposals for reforms to prisons in England and Wales. The POA's General Secretary Steve Gillan published the union's response on December 30, after the union's National Executive Committee had agreed its position.

Gillan called Raab's document "76 pages of vague aspirations and feel-good gimmicks". He said the current problems in prisons "have made rehabilitation impossible and led to record levels of reoffending", adding: "The Prisons Strategy White Paper can most charitably be described as a missed opportunity to tackle the escalating prison crisis, and least charitably as a cynical smokescreen to hide an authoritarian lurch to US-style mass incarceration and cut-price labour – a very British prison-industrial complex." The POA claimed that the White Paper failed to recognise how austerity cuts during the 2010-2015 Coalition government, which led to staffing levels in prisons being slashed, had caused the current crisis. Gillan said: "The Paper's headline pledge to recruit 5,000 new officers seems extremely optimistic in light of the current recruitment and retention crisis." He said the White Paper's main contribution on education and rehabilitation was "praise for the potential of in-cell technology" rather than a clear and funded commitment to deliver it.

The POA claimed one aspect of the White Paper provided a "glimmer of hope": its conclusion that "mass unstructured social time can make some prisoners feel unsafe and can inhibit the ability of staff to manage risks of violence and bullying". Inspectors and prison charities have warned that this assumption, inspired by claims that the Covid lockdowns made prisons safer, could lead to prisoners being locked up for longer each day being denied the chance to mix with others in "association time". However, the union believes Raab has not gone far enough in the area of regime reform. Gillan says: "Running smaller-scale regimes with higher staff-to-prisoner ratios will be at the discretion of Governors rather than required by national policy, and the strategy shows no understanding that such initiatives need significant staff investment and so will be simply unsustainable with current staffing capacity."

One of the headline pledges in the White Paper was a commitment to provide more prison leavers with housing. But the POA said the Government had not gone far enough, saying: "To address the scandal of homelessness among prison leavers, where many ex-prisoners are handed a tent and directions to the nearest graveyard on release, the White Paper extends the 'new provision of temporary accommodation and support for up to 12 weeks after release' to all prison leavers. But it's not Resettlement Passports new leavers need, it's front-door keys – so where is the commitment to helping them onto housing benefits with deposits paid in advance to trusted landlords?" The White Paper promises an expansion of work opportunities for prisoners, saying this will provide a "sense of satisfaction from doing a proper day's work" and will let prisoners "earn a wage that will help them buy the things they need in prison and save for their release". But the POA is dismissive of this claim, saying it seems unlikely prisoners will be able to save up money whilst they are paid as little as £4 a week for their prison jobs.

Governor HMP Wormwood Scrubs Arrested Over Corruption Claims

Inside Time: A governor at Wormwood Scrubs is reported to have been arrested over claims of corruption. He and a member of staff at another prison have been suspended from work whilst the allegations are investigated. A Metropolitan Police spokesperson said: "A manager within Her Majesty's Prison and Probation Service was arrested on 14 December on suspicion of misconduct in a public office and drugs offences. The man has been interviewed and released under investigation pending further enquiries." A Ministry of Justice spokesman added: "Two members of staff have been suspended. It would be inappropriate to comment further while police investigate." The story was reported by The Sun, which said the investigation was being led by the Scotland Yard anti-corruption unit in tandem with the Prison Service counter-corruption unit. The allegations are said to relate to bribery and drugs. The newspaper reported that staff at Wormwood Scrubs had been informed by email of the man's suspension, and that he was not the governing governor but held a more junior management position.

Prisoners Rebel Against Lockdown Rules

Inside Time: Protests against Covid restrictions led to at least 15 incidents of "concerted indiscipline" in prisons in England and Wales last year, according to incident logs released by the Ministry of Justice. One of the largest incidents was at HMP Huntercombe, in Oxfordshire, where 51 residents occupied two exercise yards and refused to return to their cells. The Tornado team, a national unit of prison officers trained to deal with riots, was called in during the standoff on July 19, which lasted from around 5pm to 9pm. In response to a Freedom of Information request by Metro newspaper, the MoJ disclosed that 46 cases of concerted indiscipline were recorded over the six months to November – a period when many prisoners were spending more than 22 hours a day locked in their cells. In all, 13 members of staff were hurt. The newspaper's analysis of the incident logs disclosed that at least 15 of the incidents arose from complaints related to lockdowns and Covid precautions, such as lack of time outside cells, regime changes, and delays to medication. In other incidents, the cause of the indiscipline was not known or not stated.

Andrew Neilson, Director of Campaigns at the Howard League for Penal Reform, told the newspaper: "These incidents are symptoms of a failing, overcrowded system in which tens of thousands of people have been locked in their cells for months on end without purpose. "Up and down the country, the pandemic has put further strain on prisons and the people who live and work in them. Reducing the prison population is key. It would save lives, protect staff and prevent more people becoming victims of crime."

Among other incidents of indiscipline during the period, which were not known to be Covid-related: Six prisoners armed with razor blades attached to sharpened toothbrushes became "threatening and aggressive" at Erlestoke, in Wiltshire, June 3. Staff with from a wing during the seven hours of disorder which followed, and the Tornado team was called in. A prison custody officer was assaulted "several times" by two prisoners and hospitalised, as staff tried to break up a fight between two groups of young people at Parc, in south Wales, on July 18. An officer was treated for concussion after being assaulted whilst trying to break up a play fight between children at Oakhill Secure Training Centre, Milton Keynes, on August 14. A spokesperson for the Ministry of Justice said: "Assaults against staff will always be punished and we make no apology for our decisive action during the pandemic, which ultimately saved thousands of lives. Incidents of concerted indiscipline are down 40% and we are spending £100 million to bolster security – clamping down on the weapons, drugs and phones that fuel crime behind bars."

Scottish Conservatives Demand Withdrawal of Prisoners' Phones

Inside Time: The Scottish Conservatives have called for the withdrawal of the free mobile phones which were given to every prisoner in Scotland to maintain family ties during the Covid pandemic. Around 7,600 handsets were issued soon after the virus first struck in 2020. The initiative has been praised by prisoners' family charities, while the Scottish Government has said the phones are "vital in addressing the negative aspects of Covid-19 in our prisons". The Scottish Prison Service (SPS) has said it is "fully supportive of them continuing in use". However, the Tories demanded the scrapping of the scheme after figures obtained in a Freedom of Information request showed that nearly 1,900 of the phones had been confiscated due to misuse. Although the phones were meant to be tamper-proof, and allow calls to be made only to known and security-cleared recipients, there have been widespread reports of them being modified in order to make calls to unauthorised numbers – raising fears that they are being used to organise drug deals.

The figures, released by the SPS, showed that Barlinnie had the most confiscations of phones, with 342, followed by Edinburgh with 262 and Shotts with 196. Russell Findlay, Scottish Conservative Shadow Community Safety Minister, said: "This scheme was introduced in good faith at the start of lockdown but it has become a farce. These supposedly unhackable handsets were compromised almost immediately yet this was kept secret from the public and MSPs. "It is absolutely right that prisoners should have access to their families but this ill-conceived scheme has backfired badly… They must be withdrawn immediately and permanently, and any replacement must be safe and secure." The Scottish Conservatives have recently claimed victory in one clash over prison security, when the Scottish Government bowed to Tory demands to introduce photocopying of incoming mail in all Scottish prisons, so that recipients receive a photocopy rather than what was originally posted. The measure is intended to prevent the smuggling of Spice-type drugs into jails.

Nationality and Borders Bill Just Another Example of Bad Law-Making!

Alexandra Sinclair , Law Gazette: The Bill continues a trend that has been seen in many of the government's flagship, post-Brexit bills, namely the placement of wide delegated powers in primary legislation, leaving future policy-making in the hands of the executive. The Bill as it proceeds to the House of Lords contains 19 clauses which create or amend existing delegated powers and four Henry VIII clauses, which give ministers the power to amend and rewrite primary legislation. The use of delegated powers and Henry VIII powers undermines the government's claimed post-Brexit desire to return control of UK borders and immigration policy to parliament. Instead, many substantive clauses have been inserted at the last minute and other details have been left to delegated legislation, all of which concentrates power in the executive

When it was introduced, the Bill included six placeholder clauses; these are drafted as powers to make regulations and contain no substantive policy. The Bill went to committee in September but it was not until well into committee stage, on 21 October, that the placeholder clauses were replaced with substantive clauses. At the same time and without warning the government included four additional clauses. These were: • Notice of decision to deprive a person of citizenship (now clause 9) • Expedited appeals: joining of related appeals (now clause 23) • Removals: notice requirements (now clause 45) • Counter-terrorism questioning of detained entrants (now clause 74)

As a matter of principle, placeholder clauses are problematic for a number of reasons. Firstly, they are an indicator that legislation is being hastily introduced to parliament without adequate consideration of its content. The insertion of 10 new substantive clauses late in committee stage indicates that at the time of the Bill's introduction the government had not finalised important policy decisions and lacked a firm understanding of its intended course of action. Due to their late inclusion, the additional clauses were not included in the Impact Assessment (IA) of the initial Bill. An IA should include 'detailed consideration of the costs and benefits of the policy chosen and allow it to be compared with rejected alternative solutions'. This means that parliament has not had as much opportunity to assess the benefits and drawbacks of those provisions as it should have.

Placeholder clauses also sit uneasily with the concept of parliamentary sovereignty. Important matters of policy should be placed in primary legislation so that they can be debated before laws are passed. The introduction of ten substantive clauses at committee stage significantly limits the time available for their appraisal. The Constitution Committee has said that it is not 'normally appropriate to insert new or substantial policy content into a bill at a late stage, as this may result in inadequate parliamentary scrutiny'. The upshot of this is that legislation does not receive the required public consultation and time for debate and review. Clause 9 gives the Home Secretary a number of broadly drafted exceptions to the requirement that a person should be given notice of a decision to deprive them of citizenship. The effect of not giving notice to an individual is that they cannot appeal that decision. Such a significant change to the law, and one which deprives individuals of their appeal rights, should not be introduced at such a late stage and in a way which circumvents – at least in one House - many of the safeguards built into our parliamentary process

The Bill includes four Henry VIII clauses; these are generally regarded as the most pernicious form of delegated legislation because 'they give the executive the authority to override the requirements of primary legislation and thereby directly violate the principle of 'parliamentary sovereignty'. Lord Judge has described every Henry VIII clause as a 'blow to the sovereignty of parliament'. The Nationality and Borders Bill contains one particularly wide clause of this nature. Clause 80 allows the minister to use regulations to amend any piece of primary or secondary legislation 'as the Secretary of State considers appropriate in consequence of this Act'. This wide power for ministers to rewrite primary legislation is narrowed only by the requirement that it is in consequence of the Act. Furthermore, appropriateness is a test based on the subjective judgment of the minister and therefore accords ministers a very broad discretion. The Delegated Powers and Regulatory Reform Committee has in the past recommended that powers should be restricted by an objective test of necessity rather than a subjective test of appropriateness.

Problematic delegated powers permeate the Bill. Clause 59 of the Bill delegates the power to the executive to make regulations to define who is or is not a victim of modern slavery or human trafficking. This delegated power is particularly concerning because the Modern Slavery Act already provides for the power to make regulations for this purpose. Using regulations under the Modern Slavery Act to designate victim status is more appropriate given that trafficking is an issue which affects both UK and non-UK nationals; it is not purely an immigration matter. It is therefore unclear why an additional delegated power for this purpose is needed in the NAB. It is arguably inappropriate for changes to the Modern Slavery Act to be made via an immigration bill.

Another worrying power is clause 52 of the Bill which empowers the Home Office to make regulations about the factors considered when conducting age assessments of asylum seekers. Currently under UK law social workers conduct age assessments. The proposed regulations place the burden on the child to show on the balance of probabilities that they are not 18 or older and allows the Home Office to overrule the assessments of local authorities. Clause 52 gives

the Home Office the power to make regulations specifying how the age assessment will be conducted including which scientific methods will be used. The use of scientific methods for age assessment is hugely controversial as 'there is no known scientific method that can precisely determine age'. It is troubling that instead of stating in primary legislation how it intends to use scientific methods in assessing age, the government has given the power to the Home Office to make regulations on this matter, thereby avoiding the scrutiny of both Houses of Parliament.

The Bill contains many other examples of changes to substantive policy that are ill-suited to delegated legislation. Clause 26 accords to the Secretary of State the power to make regulations specifying the criteria for determining which cases can be categorised as 'accelerated detained appeals' and can therefore be decided through a more rapid appeal procedure where applicants will have less time to prepare their appeal. Apart from specifying which detainees can be subject to the rapid appeal procedure the provision leaves all other criteria up to the discretion of the Secretary of State. Furthermore, the power to make these regulations is via the negative resolution procedure meaning there will be no opportunity for parliamentarians to debate the criteria selected by the Secretary of State. The use of the negative resolution procedure to enact this change is especially problematic given that a previous 'fast-track' asylum procedure was held to be unlawful by the courts(The Lord Chancellor v Detention Action [2015] EWCA Civ 840). The substantive features of the Bill are more than just examples of a weakened parliamentary process. They give rise to significant policy concerns. PLP and Justice have highlighted thatreductions in procedural fairness protections are littered throughout the Bill. In addition to the accelerated detained appeals process addressed above, clauses 20-25 of the Bill empower the Secretary of State to serve Priority Removal Notices (PRNs). PRNs shorten the time available for challenging a removal decision and prejudice any evidence provided after this date. The severity of these provisions is compounded by clause 27, which removes the right to appeal a decision from outside the UK once it has been certified as 'clearly unfounded' (a certification that can be made by giving minimal weight to any evidence received after the PRN cut-off date).

What the Bill represents is a scrutiny deficit on both ends of the legislative process: the Bill confers broad powers to ministers which are not receiving adequate parliamentary scrutiny, while in its substantive provisions it is limiting the avenues for post facto appeal. By combining poor law-making practices with the slashing of substantive procedural rights, the Bill poses a unique threat to both access to justice and the rule of law.

Ulster Troubles: Police 'Failed To Warn Murder Victims About Threats'

Julian O'Neill, BBC News: Police failed to warn several murder victims - including two Sinn Féin councillors - that they were under threat, a report on Ulster Defence Association (UDA) attacks has stated. The police ombudsman looked into 19 murders, including the Greysteel massacre, and its report uncovered no evidence police had prior knowledge of any of the shootings. But it found "collusive behaviours". This included indications members of security forces passed on information. Other examples cited were intelligence and surveillance failings leading to the arming of loyalists and the deliberate destruction of records relating to informants. The ombudsman also expressed "significant concerns about police conduct".

The Police Service of Northern Ireland (PSNI) said policing was much changed in the present day and that it remained committed to bringing the killers to justice. The 336-page report covers 11 sectarian attacks carried out by a UDA faction in the north west between 1989 and 1993

and claimed using the cover name of the Ulster Freedom Fighters (UFF). Some of the victims were killed in random attacks, but others were individually targeted as members of Sinn Féin or the IRA. Among the victims were Sinn Féin councillors Eddie Fullerton and Bernard O'Hagan. The report has taken years to compile, following an initial complaint made by Mr Fullerton's family in 2006. The report stated that the 56 year old was one of six people murdered whose names had been found in caches of loyalist intelligence information recovered by police. Most were not informed they were under threat - a contravention of procedures. The report was unable to conclude if notification "in itself" would have been sufficient to protect people. However, a threat notification "would have allowed them to review their personal safety measures".

Ombudsman Marie Anderson said that in 1989 the police were aware of the "growing threat" posed by the North West UDA. She went on: "This increased threat was not initially accompanied by a policing response proportionate to the increased risk to members of the republican and nationalist communities. What is the UDA? The Ulster Defence Association, formed in 1971, had tens of thousands of members at its peak. It killed hundreds of people during the Troubles in Northern Ireland and often claimed responsibility for sectarian murders using the cover name the Ulster Freedom Fighters (UFF). A security assessment in 1985 found that 85% of the intelligence used by the UDA to target people originated from the police and army and it was heavily reliant on leaks of information. The UDA remained a legal organisation until it was banned in August 1992.

Notorious attacks by the UFF included the shooting dead of five Catholics at a Belfast bookmakers in 1992 and the Greysteel massacre the following year. In November 2007, the UDA issued a statement saying: "The war is over". It later said it had stood down the UFF and all UFF weapons were being put "beyond use", but that did not mean they would be decommissioned. In 2018, the then PSNI Chief Constable George Hamilton said members of the UDA were still involved in organised crime. Her report also stated there were links between the UDA and members of the police and the Army's Ulster Defence Regiment (UDR). But police failed to deal "appropriately" with members of the security forces suspected of, or involved in, the passing of sensitive information. One of two former police officers she reported to the Public Prosecution Service (PPS) during the course of her investigation was suspected of leaking information. The other had failed to disclose a suspect in one of the shootings was also an informant. The PPS directed that neither individual should be prosecuted.

What led to Northern Ireland's conflict? Mark Thompson, of Relatives for Justice, speaking on behalf of a number of the victims' families, said they had been "vindicated in their long-held belief that collusion was a dominant theme in the murders". Ms Anderson's report stated that "generally" police investigations into the attacks were prompt and thorough, resulting in a number of convictions. It also found a number of instances where they obtained information from informants which disrupted the UDA and "may have saved lives". The worst of the attacks was at The Rising Sun bar in the village of Greysteel in County Londonderry in October 1993, which left eight people dead - seven Catholics and one Protestant. One of the gunmen shouted "trick or treat" before he opened fire. It was in retaliation for the IRA's Shankill bombing a week earlier. The report stated that while it was predicted UDA activity would escalate in response to the bombing, there "was no specific intelligence that the North West UDA was planning an attack". PSNI Deputy Chief Constable Mark Hamilton said: "The peace process has changed the context for policing.

"The Police Service of Northern Ireland now have greatly improved policies and procedures which guide our response to potential threats and how we approach criminal investigations and the man-

agement of intelligence. "These policies and procedures are firmly embedded in principles of the Human Rights Acts 1998. We welcome the fact that the Ombudsman has recognised these positive developments in her report. "The Police Service of Northern Ireland remains firmly committed to bringing those responsible for these murders to justice. "We appeal to the community for information that will assist our Legacy Investigation Branch detectives in their investigations.

'blatant Disregard For Life' The UFF claimed responsibility for the 1991 gun attack which killed Patrick Shanaghan in Castlederg, County Tyrone. His family have welcomed some aspects of the Ombudsman's report which said that their concerns about collusion in regards to his death were "legitimate and justified". The report touched on the fact that a police officer had prevented a local doctor from giving Mr Shanaghan medical treatment at the scene of the shooting. However the family was also critical that the Ombudsman was not able to deal with their claims that in the lead up to his killing, Mr Shanaghan had been subjected to harassment and death threats from police officers. In a statement, the family said, "What is most distressing for us was the blatant disregard the police had for Patrick's life and the inexcusable refusal of police to allow medical assistance for Patrick after he was shot. "As in life, Patrick was in death, denied the most basic of human rights."

Prima Facie Case and Extradition From the UK

Extradition is a complex area of law and it is crucial that anyone who is the target of an extradition request seeks specialist advice as soon as possible. While one may often think that a court in the UK needs proof of guilt to extradite a person, in reality, the number of countries that are still required to show a prima facie case is limited. What is a prima facie case? In English law, the Latin term prima facie is used to describe either presentation of sufficient, upon initial examination, corroborating evidence by a party in support of its claim (a prima facie case), or a piece of evidence itself (prima facie evidence). Is it necessary for UK Courts to establish a prima facie case as part of deciding on extradition? Historically, the prima facie case requirement was a necessary element of the extradition process, reflecting the alignment of the extradition proceedings with the domestic criminal committal proceedings. This requirement enabled UK courts to establish that there was a case to answer as part of deciding whether a requested person should be extradited. Furthermore, the existence of prima facie evidence requirement assisted with ensuring the quality of extradition requests which the United Kingdom was ready to act on.

However, this requirement was relaxed over time following changes to domestic committal proceedings and further to considerations that the double jeopardy rule, political motivation protections and the rule regarding speciality already provided sufficient protection for the requested person against unjust or oppressive extradition requests. Furthermore, in 1991 the United Kingdom ratified the Council of Europe Convention on Extradition 1957 ("ECE") without any reservation. The ECE does not foresee a prima facie evidence requirement in support of the extradition requests.

What is the position under Part 1 of the Extradition Act 2003? Currently, under Part 1 of the Extradition Act 2003, there is no prima facie evidence requirement in respect of extradition requests from the countries designated as category 1 territories. This category encompasses all member states of the European Union. What is the position under Part 2 of the Extradition Act 2003? This is also the case for certain designated territories under Part 2 of the Extradition Act 2003, notably, the Contracting Parties to the ECE, as well as Australia, Canada, New Zealand and the United States. For other category 2 territories, in accordance with section 84 of the Extradition Act 2003, a judge is required to decide "whether there is evidence which would be sufficient to make a case requiring an answer by the person if the proceedings were the summary trial of an information against him".

Want to Build Trust in the Police? Detain Less Children

Fionnuala Ratcliffe, Transform Justice: Is detaining someone in police custody worth it? The police in England and Wales detained approximately 800,000 people in police custody in 2019. It's seen as a somewhat necessary evil; an unpleasant experience for the person detained, but needed to allow the police to gather reliable evidence (including via interview) and progress a case swiftly. But a new research article from Miranda Bevan on the experiences of children and young people in custody asks whether detention in custody is doing lots of harm and little good. The primary purpose of police custody is the production of reliable evidence. Miranda Bevan found that this objective was being severely undermined by the fact children have such a terrible experience when they are in there. The stress and 'pain' of custody for children meant their main priority was to end the experience as quickly as possible. The results are a disaster for fair trial rights: to avoid delaying release further, children were waiving legal advice or were reluctant to say when they didn't understand what was happening at interview. Some children chose to be silent throughout their interview in order to get out quicker. This means the child may be interviewed by officers without a lawyer present, when they are tired, stressed, and so desperate to be released that they're willing to say whatever will end the process soonest. Evidence obtained under these circumstances can hardly be called reliable. The research also surfaces some troubling wider implications of custody use on children's perceptions of the legitimacy of the police.

Some police see police custody as helping set kids on the straight and narrow – that a night in a police cell can be the short, sharp shock needed to stop offending behaviour. But Miranda Bevan found no evidence to support the idea that an unpleasant experience in custody might 'set them on the right path'; quite the contrary. The overwhelming reaction of children to detention was one of resentment towards the police. Children described being treated 'like an animal' or 'as if you're not a real human'. As one young person said: "by putting you in a room, making you sit by yourself, it's not going to make you accept, reflect on the thing you've done. It's going to make you think like, 'You lot treat me like shit. I might as well do worse things in there'". This bitterness was amplified if the child went on to be released by the court, as usually happens (approximately 4 out of 5 children detained post-charge by the police go on to be released by the court). More worrying still was that several teenagers said that, as a result of their custody experiences, they wouldn't trust the police or go to them for help in future: "it's the sort of thing where if I needed them I wouldn't even bother… I just wouldn't wanna call 'em, just because I don't think they're that nice people. Since I was in there for so long and they were useless when I was in there, I just don't really think they're that trustworthy."

So not only does police custody yield questionable evidence, but it is also damaging police legitimacy in the eyes of children and young people. Improvements could be made to custody legislation and policy to improve the experience of detention, so children (and adults) aren't quite so inclined to sabotage their future prospects in order to get out of there. But Miranda Bevan argues that there will always be a huge power imbalance in custody, with competing interests, and this is unlikely to change. The answer is to use police custody less.

HMICFRS, who conduct inspections of police custody suites, are consulting on a new set of expectations for police custody. These new expectations are an opportunity to reinforce the importance of only detaining where necessary. For example, by applying closer scrutiny to the appropriateness of the decisions to detain and keep detained. They could also compare use of alternatives to custody, such as voluntary attendance, across forces to encourage ways of gathering evidence that don't require detention. We also advocate for greater use of out of court

disposals as an alternative to custody and charge. Out of court disposals bring trust issues of their own; they all require some acceptance of responsibility, and there is evidence that this is a barrier for racially minoritised communities who are mistrustful of the police and justice system in general. A new report suggests ways that OOCD policies could be changed to remove some key barriers to use. Evidence is stacking up that police custody can do more harm than good, particularly for children. A fair and effective criminal justice system would use police custody less.

Peers Reject 'Single Sex' Prisons Proposals

Jon Robins, Justice Gap: Peers debated an amendment to the Police, Crime, Sentencing and Courts bill seeking to secure 'single sex' prisons by ensuring prisoners were accommodated 'by reference to their sex registered at birth'. The proposed legislation was accused of perpetuating stereotypes of trans women and withdrawn. Introducing the amendment, Lord Blencathra said that 'the needs of women in prison matter, and these needs mandate single-sex provision'. 'Women in prison are acknowledged to be an exceptionally vulnerable group and cannot simply choose to use a different space which remains single-sex,' he said.

The Conservative peer argued that the female prison estate was 'a definitive example of a space that should be single-sex'. 'If women in prison cannot be guaranteed single-sex spaces, no woman or girl can,' he said. 'Hospital wards, changing rooms, rape crisis centres, refuges and toilets in schools – I am talking about anywhere where women and girls, for reasons of dignity, privacy and safety, require single-sex spaces.' The amendment came under heavy fire from peers. For example, Lord Pannick highlighted the plight of a person born male who had lived as a woman for 20 years 'even if they have undergone sex reassignment surgery, even if they have a gender recognition certificate, and even if they are assessed as posing no risk whatever to other women'.

Under the proposals, Pannick pointed out that the Home Office would be obliged to place them in a men's prison or put them in specially segregated facilities. 'The former option of putting them in a men's prison would be a disaster; it would obviously be enormously dangerous to such a person,' he said. 'Placing them in specially segregated facilities would be demeaning; it would fail to recognise what legislation in this country has recognised for the last at least 15 years: that people who happen to be born in the wrong sex deserve our compassion and deserve recognition of their position.' Lord Hope of Craighead said it was 'a great mistake' to legislate. 'It may be that the prison estate will be big enough in years to come so that one can segregate by gender reassignment in special prisons of their own, but we are nowhere near that at the moment and the proper way to deal with this is to rely on the discretion that exists at present.'

Lord Cashman accused the amendment of perpetuating 'the stereotype of trans women and trans men as sexual predators – as a threat to other women, and trans men as a threat to the wider society'. Baroness Jones of Moulsecoomb, acknowledging that she was going to 'get abuse' for her views, noted situations where women had experienced sexual predation by men who have falsely identified as women. 'My party's policy is that trans men are men and trans women are women, and I do not have a problem with that, but there are occasions when women in women's prisons experience sexual predation by men who have falsely self-identified as women. The noble Lord, Lord Cashman, said that we are saying that all trans women are sexual predators. We are not saying that – of course not.' 'What we are talking about here is keeping people safe. Vulnerable people of all kinds, whatever trans identity or sexual identity they have, should be kept safe. Clearly, prisons are the worst possible places to keep people safe; they are a nightmare.' Withdrawing his amendment, Lord Blencathra referenced

Lord Pannick's argument that his amendment would mean that transgender prisoners should 'either be stuffed into the male estate or put into some ghastly specially segregated facility'. 'That is exactly the current MoJ policy,' he added. 'All transgender prisoners coming into the prison estate start off in the male estate… . Some 90% of trans women prisoners stay in the male estate and then some are moved to the women's estate.'

Black People Disproportionately Represented In 'Missing' Reports To The Police

Elena Colato, Justice Gap: Black people are disproportionately represented in 'missing' reports to the police comprising 14% of the missing persons population, according to new research. The report by the charity Missing People has found that racial discrimination has a major impact in subsequent investigations. The number of people who have died whilst missing reached an all time high of 955 in 2019/2020, a steep rise by over a third since 2016 (34%). The research also revealed that confidence in the police investigations was lowest in black communities. It was noted that there are often a variety of wider frustrations from those affected by such investigations, however the report concluded that we must recognise the frustrations of people of colour are largely 'distinct from these broader frustrations'. The families involved suggested that people of colour are 'more likely to be assumed to be taking part in criminal activity' or making 'poor life choices' instead of being viewed as vulnerable. Others reported that they were interviewed 'like criminals' as if they had something to do with their child's disappearance, something they feel wouldn't have occurred if they were white.

Police officers spoke out about discrimination. 'As one of very few minority police officers, I usually ended up dealing with BAME missing persons and/or their families,' one officer told researchers. 'White officers would generally do computer checks and leave it at that. Supervising officers would mark up and falsify records to show enquiries were being made.' 'Children missing from secure homes were not given the priority,' the continued. 'Vulnerable people were not given the priority. When it came to a white family, senior officers and the press would get involved. More checks were done as were more door knocking. There was a stark difference.'

A major finding of the report also related to the lack of media coverage of missing people of colour. It touched on what was labelled the 'missing white woman syndrome', described as a phenomenon of the media's extensive coverage of 'white, often middle-class, women and girls who have gone missing'. The report concluded that the police should implement specialised training to target racial discrimination. A police officer alleged that 'white officers would generally do computer checks and leave it at that' and 'supervising officers would mark up and falsify' findings in cases of people of colour. Despite this, the Met have not acknowledged race as a factor in the handling of missing person investigations. An investigation into the recent tragic case of Bibaa Henry and Nicole Smallman found that the Met failed to follow its missing persons policies, and the service the family received from the police was 'unacceptable'. However, it did not find racial bias to be a factor in the mishandling of the case'. The mother of the women, as well as three ex-senior officers, challenged that view.

Policing Bill Risks Entrenching 'Failed and Unjust' Law of Joint Enterprise

Jon Robina, Juarice Gap: Proposals under the Policing Bill risk entrenching the 'failed and unjust' law of joint enterprise by stealth, according to campaigners. Liberty and JENGbA (Joint Enterprise Not Guilty by Association) have warned that 'the worst and most discredited injustices' of the common law doctrine would be replicated under plans for Serious Violence Reduction

Orders (SVROs). Under joint enterprise people can be convicted of violent crimes even if they did not commit the violent acts. In 2016, the Supreme Court in a case called Jogee ruled that the law on joint enterprise had 'taken a wrong turn' more than three decades ago.Joint enterprise has led to bystanders being convicted of the most serious crimes. Research has found that 37 percent of people serving prison sentences due to Joint Enterprise are black – compared to just 3.3% of the population as a whole. SVROs, as proposed under the the Police, Crime, Sentencing and Courts Bill, could be given to an individual if they knew, or ought to have known, that someone else had a knife or would use a knife. The police would then be given the power to stop and search people who have an SVRO without suspicion at any time in a public place.

Jan Cunliffe, JENGbA's co-founder, explained that the Supreme Court acknowledged that Joint Enterprise was wrong in 2016. 'This Government still hasn't done anything to rectify those wrongful convictions. To push through legislation, that will create further damage to families and communities all over the country proves they have no appetite for strengthening our criminal justice system, but rather a desire to destroy any remaining semblance of justice, fairness or equality.' Jun Pang, policy and campaigns Officer at Liberty, said that joint enterprise was widely recognised 'as an unjust way of dragging people into the criminal justice system, and is used overwhelmingly against people from poor and minoritised communities, especially Black men and children'. 'The Supreme Court has shown how joint enterprise has been misused. SVROs will entrench this injustice and extend the surveillance, punishment, and criminalisation of already over-policed communities.'

In a debate in the House of Lords this week on the Bill, the government announced plans for a targeted pilot of the proposals. The Lib Dem peer and former police officer Lord Paddick described the proposals as 'dreadful'. 'Public trust in the police has been seriously undermined and distrust is even worse among the communities most seriously affected by knife crime,' the former police officer said. 'Allowing the police free rein to say whatever they want in support of an SVRO will make a rapidly deteriorating crisis of confidence in the police service even worse.' Baroness Meacher quoted a study by Metropolitan University which examined 109 joint enterprise cases involving women and girls. 'The study found that none of the women involved had used a deadly weapon and in 90% of cases they did not engage in violence at all. In half the cases, the women were not even present at the scene,' he said.

Two Prisoners Punished for Singing Anthems/Reading Poems Violation of Article 10

In the case of Mehmet Çiftçi and Suat İncedere v. Turkey (applications nos. 21266/19 and 21774/19) the European Court of Human Rights held, unanimously, that there had been: a violation of Article 10 (freedom of expression) of the European Convention on Human Rights. The case concerned the sanction of one month's deprivation of means of communication imposed on the applicants by the prison management for singing anthems and reading out poems (in December 2016) in memory of the prisoners who had lost their lives during the "Return to life" operation conducted by the authorities in prisons in December 2000. The Court found that the disciplinary sanction imposed on the applicants constituted interference with their right to freedom of expression. It held that, notwithstanding the mildness of the sanction imposed on the applicants, the Government had not demonstrated that the reasons cited by the national authorities as justification for the measure complained of were relevant and sufficient, or that the measure had been necessary in a democratic society.

Principal facts: The applicants, Mehmet Çiftçi and Suat İncedere, are Turkish nationals who were born in 1952 and 1971 respectively. At the material time they were detained in Edirne Prison. In December 2016 the two applicants, together with 26 other prisoners, read out poems and sang anthems in memory of the prisoners who had died during the "Return to life" operation conducted by the authorities in prisons in December 2000. In January 2017 the prison management decided to impose a sanction on them in the form of one month's deprivation of means of communication, taking the view that their actions during the event amounted to the disciplinary offence of "singing anthems or chanting slogans without justification" under Law no. 5725 on the execution of sentences and preventive measures. In October 2017 the Edirne enforcement judge, ruling on an appeal by the applicants, lifted the sanction imposed by the prison management on the grounds that the offence in question was not made out. In November 2017 the Edirne Assize Court set aside the enforcement judge's decision, finding that the decision issued by the prison management had complied with the procedure and the law. In November 2018 the Constitutional Court declared the individual applications lodged by the applicants inadmissible.

Decision of the Court, Article 10 (freedom of expression). The Court held that the disciplinary sanction imposed on the applicants for reading out poems and singing anthems in memory of the prisoners who had died and been injured during an operation conducted in prisons amounted to interference with their right to freedom of expression. The interference had a legal basis in the form of Law no. 5275 and had pursued, in particular, the legitimate aim of preventing disorder. Referring to the principles derived from its case-law on freedom of expression2 , the Court noted that in the present case it was impossible to determine on the basis of the decisions issued by the national authorities whether the sanction imposed on the applicants had been necessary to achieve the legitimate aims pursued by the authorities. The prison management, in imposing the sanction in question, had simply indicated that the applicants' actions amounted to the offence referred to in section 42(2)(e) of Law no. 5275. Likewise, the Assize Court, in its decision setting aside the decision of the enforcement judge lifting the sanction, had merely stated that the prison management's decision had complied with the procedure and the law. The Constitutional Court had subsequently stated in general terms either that there had been no interference in the present case with the rights and freedoms protected by the Constitution, or that the interference did not amount to a violation. Hence it was not clear from those decisions that the national authorities had carried out a proper balancing exercise, in accordance with the criteria laid down in the Court's case-law, between the applicants' right to freedom of expression and the legitimate aims pursued.

Consequently, the Court found that, notwithstanding the mildness of the sanction imposed on the applicants, the Government had not demonstrated that the reasons cited by the national authorities as justification for the measure complained of were relevant and sufficient, or that the measure had been necessary in a democratic society. There had therefore been a violation of Article 10 of the Convention. Just satisfaction (Article 41) The Court held that the finding of a violation constituted in itself sufficient just satisfaction in respect of the non-pecuniary damage sustained by the applicants.

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