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Family of Sheku Bayoh 'May Never Win Justice'

Maddison Fisher, Justice Gap: The family of a black man who died in police custody in Scotland say they 'may never win justice' because officers have been offered 'immunity' by the public inquiry into his death. In a public statement issued on behalf of the relatives of Sheku Bayoh and reported by the Press Association, solicitor Aamer Anwar said that 'undertakings' sought by the police officers that no evidence given to the inquiry by an officer would be used against them in criminal proceedings represented 'a convoluted form of immunity'. Lord Bracadale, who is leading the inquiry, is to request undertakings from the Solicitor General and Deputy Chief Constable of Police Scotland. He stressed the 'limited nature of the undertakings' but acknowledged that 'the exercise of the right against self-incrimination would be likely to have 'a profound effect on my ability to reach the truth of what happened'.

Anwar said: 'This inquiry owes its existence to the struggle fought by Sheku's loved ones and they believe the request for undertakings is an insult to the oath taken by police officers to uphold the law and an attempt to escape scrutiny.' Sheku Bayoh had been restrained by police officers in May 2015 in Kirkcaldy, Fife and never regained consciousness. He was found to have suffered 23 injuries, including a cracked rib and head wounds. Bayoh died of positional asphyxia after being held down by several officers; however, the Scottish Police Federation has emphasised the possible role of recreational drugs.

The inquiry into Bayoh's death is considering the extent to which Bayoh's arrest and subsequent death were affected by his race. Chair of the inquiry, Lord Bracadale stated that the inquiry into Bayoh's death would require 'access to full evidence from crucial witnesses' if it was to form complete findings. Scottish law allows police officers to refuse to answer a question if telling the truth would incriminate them. The family of Sheku Bayoh has expressed that they are 'bitterly disappointed' and believe that racial discrimination played a key role in his death. Aamer Anwar said: 'Kadie Johnson, Sheku's sister, has no doubt that the way he or her family were treated by the police and the justice system would not have happened had Sheku been white.'

UK Justice System Risks Causing Fresh Trauma to Women and Girls

Haroon Siddique, Guardian: The vast majority of vulnerable young women and girls in the criminal justice system have previously suffered abuse and violence and are in danger of being retraumatised by the experience, charities say. The Young Women's Justice Project report, published on Friday 4th March, urges the Ministry of Justice to act to break the "cycle of abuse, inequality and offending". The report, the culmination of two years' work, brings together existing data and research and shows that up to 90% of girls in contact with the youth justice system have experienced abuse from a family member or someone they trusted, and 63% of girls and young women aged 16-24 serving community sentences have experienced rape or domestic abuse.

Indy Cross, the chief executive of Agenda, which produced the report with the Alliance for Youth Justice, said: "It's shocking that most girls and young women in the criminal justice system have experienced trauma, and yet their specific needs are ignored in favour of punishment and exclusion. It's time that the criminal justice system stopped retraumatising vulnerable people and listened to what they are telling us. "We need girls and young women to be heard instead of harmed. Young women are being punished for their responses to trauma and the survival strategies they rely upon." There is greater prevalence of poor mental health among young women in the criminal justice system compared with young men and older women Girls in custody self-harm at much higher rates than boys. 74% of girls in youth custody have previously been permanently excluded from school compared with 63% of boys. Black, Asian and other minority women and those with experience of the care system are significantly overrepresented among young women who have come into contact with the criminal justice system. Sarah (not her real name), 22, who contributed to the report, said: "I've seen the worst in prison. I get flashbacks all the time. I see people trying to kill themselves, I see babies that have died in prison, pregnant women and stuff. And they don't care, the system does not care."

Recommendations in the report include prioritising investment in young women at all stages of the criminal justice system, listening to what their needs are, and ensuring that people working with them recognise and respond to those needs – including needs specific to women from minorities and from care. Pippa Goodfellow, the chief executive of the Alliance for Youth Justice, said: "Girls and young women's experiences of coming into contact with the criminal justice system are frequently characterised by multiple forms of disadvantage, including experiences of violence, abuse and exploitation. But throughout the system, from policing to prisons, rather than understanding these vulnerabilities and responding appropriately, they are often met with use of force, physical restraint and isolation." A Ministry of Justice spokesperson said: "Since we launched our female offender strategy in 2018 we have seen a 30% drop in the number of women entering the criminal justice system. "We are also investing tens of millions of pounds into community services like women's centres, drug rehabilitation and accommodation support. These will help all women, including those who may have experienced trauma such as domestic abuse, get their lives back on track."

Not up to Police to Decide Which Documents Should be Revealed to the Defence

SAFARI understands that in R v Fellows, 13 July 1985 (unreported) - Chief Justice, Mr Justice Skinner & Mr Justice McPherson, it was stated: "It is not the task of the police to decide which documents or statements should be made available to the defence. In future the Court of Appeal will not even look at the quality of the evidence withheld from the defence, but alone the withholding of evidence from the defence will give grounds for appeal." Presumably because it is 'unreported', SAFARI has not been able to locate this appeal so that this ruling can be cited. There are only a few references to it on the internet. While the disclosure of evidence (or failure to disclose it) is such an issue, SAFARI feels that the Fellows ruling should be reinstated.

America: Prisoner 19 Years in Jail Freed After Identical Twin Confesses

Iniside Time: An American man has been released from prison after serving 19 years for murder – after his identical twin confessed to the crime. Kevin Dugar, 44, was serving a 56-year sentence for shooting Antwan Taylor in Chicago 2003. He always maintained his innocence. At the time of the murder, Kevin and his brother Karl had been members of the same street gang. The victim was a member of a rival gang. When Kevin was first accused of the crime, he immediately thought his brother might have done it – but Karl denied it. Kevin refused a plea deal which would have seen him serve only 11 years if he admitted being the killer. He went to trial and was convicted by a jury

on the strength of eyewitness evidence. In 2013, Karl – by now serving a 99-year sentence for a separate incident of home invasion and attempted murder – wrote to Kevin in prison, admitting that he had been the killer and apologising for his actions, saying: "I could've told you what I did a long time ago. Bro I was scared to lose you lil brother … I was selfish … Please forgive me." The authorities initially refused to believe the confession, because Karl had nothing to lose by writing it, and because the twins had a history of impersonating one another. Eventually the case was taken up by miscarriage of justice campaigners, and last year the Illinois Court of Appeals granted Kevin a fresh trial. In January, he walked out of prison at last – although his movements are still restricted and he faces the possibility of being convicted again at retrial. Despite all he has been through, Kevin refuses to blame Karl for the sequence of events, saying: "I love my twin brother. It wasn't my twin's fault I was locked up." Kevin's lawyer Ronald Safer said the case was a tale "made for TV".

Prisoners do Have the Right to Complain

Paul C - HMP Hindley: I am sick of people perpetuating the idea that because we are in prison, we do not have the right to complain about anything. Yes, there's always someone with worse problems than us, but does that mean our problems are not real? Why should we just accept being lied to, stolen from and treated like crap every day? Because we are prisoners does that mean we don't have any human rights? "What about the right to a substantial meal, a good night's sleep, or a fair day's pay for a fair day's work? Oh, yeah, it's because we are in jail." At this prison, full-time workers are paid £5.50 per day, which wouldn't even get you an hour's work at minimum wage on the outside, so why is it okay in here? And why is it then acceptable for prisons to charge an exorbitant fee for PIN-phone credit from that same measly wage, when £10 can buy unlimited calls, texts, and data for a whole month outside? Of course, it's because we are in jail. Why is it acceptable to charge us £25 for a duvet or £10 for a pillow? Oh, yeah, we're in jail. Some people seem to have forgotten that we prisoners are not sent here to be exploited and punished – our loss of freedom IS the punishment. If you simply want to accept being mistreated and being ripped-off at every turn and working for a pittance, then that is your prerogative. But please don't expect the rest of us to swallow all this without question, because by doing so you undermine our efforts to make much-needed improvements to the system. Maybe if we, collectively, focused more of our energy on fixing the problems that cause people to be sent to prison in the first place, instead of shooting down anyone who dares to question the status quo, we wouldn't be building 20,000 more prison places. Don't ever stop standing up for what is right. We do have the right to complain, so please do not undermine that by perpetuating the idea that 'you're in jail, just get on with it'. We already have enough staff who think and talk like that, without cons mouthing their same mantra.

Prison White Paper Ignores Race, Say Charity Chiefs

Sixty charity leaders have written to Justice Secretary Dominic Raab to question why his Prisons Strategy White Paper appears to ignore the issue of race. The 76-page document, published in December to set out the Government's plans for prison, does not include the words "race", "racial" or "racism". It mentions "ethnicity" twice, once in relation to staff diversity and once about women in prison. The charity leaders point out that people from a Black and minority ethnic background are overrepresented in the prison population. They say: "The White Paper outlines its ambition for 'the biggest prison building programme' in a century, with no proposals for how existing racial disparity will be addressed or future inequalities prevented." Those signing include executives from the Prison Advice and Care Trust (PACT), Nacro, Unlock and the Prisoners Education Trust.

HMP Durham Drops Its Book Ban

Inside Time: Another prison has tried to ban families and friends from sending books to prisoners – despite a national Prison Service rule saying this is allowed. When the mother of a prisoner at HMP Durham sent him reading material in November, the prison refused to let him have it. She received a letter from CM Husband, of the prison's Reception unit, stating: "In terms of handing books in from friends and family, our local security policy doesn't allow this to happen due to the increase in NPS." [New Psychoactive Substances, or Spice-type drugs]. A rule introduced by the Prison Service in 2015, set out in the Incentives Policy Framework, says that "Governors must allow books to be handed and sent in" – and makes clear this applies to all English and Welsh prisons "irrespective of whether or not there are exceptional circumstances." The mother contacted Inside Time. After we raised the case with the Ministry of Justice, last month the mother received a second letter from CM Husband stating the prison was changing its policy after "receiving further information" about the national rules. The second letter said: "We will be updating our local policy here at HMP Durham, and I must formally apologise on behalf of the prison service." It added that the prisoner would receive what he had been sent on Feb 5 – although, according to his mother, he had still not got it when Inside Time went to press in late February. An MoJ spokesperson denied that Durham ever had a local security policy banning the sending-in of books.

Offending Behaviour Courses Slump Due To Covid

The number of prisoners completing offending behaviour courses has slumped to one-sixth of its pre-Covid level, official figures have shown. In 2019/20, before the virus struck, 5,216 people completed programmes in English and Welsh prisons. In 2020/21, the figure was only 833. Most courses were suspended in March 2020 when prisons went into lockdown. Because they tend to involve group work, they have been slow to restart whilst prisons maintain social distancing restrictions. Completing courses is often a condition for prisoners to be released on parole or moved to open conditions. The Parole Board has conceded that if a prisoner has been unable to complete a course that was recommended for them, even if it was due to Covid, this may count against them at their parole

Prison Officer Recruitment Campaign Targets Military Veterans

The Government is seeking to tackle staff shortages in jails with the launch of a fast-track recruitment scheme for Armed Forces leavers to retrain as prison officers. The Advance into Justice scheme will operate at 50 jails, mostly in the south of England and the Midlands, where staff shortages are most acute. Services personnel are being tempted with relocation packages of up to £12,000 on top of the standard annual starting salary of £24,427. A spokesperson for the Ministry of Justice said: "Veterans have a range of transferrable skills which meet the requirements of the prison officer role: good communication and influencing skills, commitment to quality, effective decision-making, care and understanding."

Women's Prisons 'Should Teach More Than Cleaning and Sewing'

MPs investigating prison education have been told that women's jails only offer training in careers that are seen as traditionally female. Business executive Sasha Simmonds told the Commons Education Committee: "It is unacceptable, in the world we live in today, to only be offering skills such as cleaning, sewing and hairdressing." Simmonds – who works for

O'Neill & Brennan, a consultancy which recruits ex-prisoners for the construction industry – told the MPs that she knew of women who worked in construction whilst on day release, but lacked the opportunity to learn skills such as bricklaying or carpentry which are widely taught in male prisons. Watchdog reports on UK women's prisons have highlighted the issue. The Independent Monitoring Board at HMP Low Newton has called for "additional less stereotypically women's employment opportunities", while inspectors found that women at HMP Cornton Vale in Scotland "were offered activities which have been stereotyped as 'appropriate.'"

Tenfold Rise in Cocaine Finds

Finds of cocaine in prisons have increased tenfold in the past three years, official figures show. Until 2018, there were fewer than 200 incidents per year of cocaine being found in prisons in England and Wales. This leapt to more than 2,000 incidents in 2021 – a steeper increase than for finds of any other drug. The figures were disclosed in Parliament in January by Prisons Minister Victoria Atkins, who pointed out that the Prison Service was spending £100 million on security measures including x-ray body scanners. Overall, drugs of different kinds were found in prisons on 20,295 occasions in 2021 – slightly down on the figure from 2021, but still above pre-Covid levels. Officials point out that an increase in drug finds does not necessarily reflect increased drug use, but can also show that the authorities are becoming better at detecting contraband.

Magistrates' Sentencing Reform Means More Prisoners

New powers to let magistrates jail people for up to a year will add to the pressure on prison places, the Government has admitted. Justice Secretary Dominic Raab announced the reform in January, extending the maximum sentence which can be handed down by magistrates from six months to 12, as a way to reduce the backlog of cases in the Crown Court. Ministers insist the change will not mean longer jail terms, or people being jailed who would otherwise not have been, because magistrates will follow the same sentencing guidelines as judges. However, Justice Minister James Cartlidge told MPs last month that as a result of the change, "Cases may complete more quickly which may impact the prison population. This additional impact has been factored into our modelling and we have considered the additional prison places that may therefore be needed as a result."

Policing Bill to End 'Slap on the Wrist' for Low-Level Offences

Aileen Colhoun, Justice Gap: Nestled amid the 14 parts, 20 schedules and 210 clauses of the Police, Crime, Sentencing and Courts Bill lies a substantial reform of the framework for adult out of court disposals. Part 6 of the new Bill, which is now entering the final stages before becoming law, significantly reduces the number of out of court disposals available to law enforcement agencies and thus increases the likelihood of an offender receiving a criminal record. This change has not, thus far, attracted a great deal of legal comment, but it could lead to significant implications for individuals facing the prospect of a 'low-level' criminal conviction. The new out of court disposals are a means by which a law enforcement agency such as the police can swiftly and efficiently deal with less serious offending, without commencing a criminal prosecution. In order for an out of court disposal to be valid, the offence must be eligible, and the offender must accept their guilt. There are currently a variety of different out of court disposals, of which three are not recorded on the Police National Computer. These are: community resolutions, drugs warnings (for cannabis and khat), and penalty notices for disorder. Under the proposed new Act only community resolutions will remain in place.

IPP Scandal: Prisoners Stranded as 'Non-Existent' Offences Added to Files

Jon Robins, Justice Gap: Prisoners stranded on indefinite sentences might have had their appeals rejected because non-existent offences had been incorrectly added to their files. Writing for Open Democracy Samantha Asumadu, spoke to the families and supporters of three prisoners serving IPPs (imprisonment for public protection) whose files, they claim, made reference to crimes they had never been accused of.

'In at least one case, we have seen evidence that a man was refused parole after authorities compiled a dossier that included non-existent offences,' writes Asumadu. 'In another, a man was beaten by other inmates who wrongly believed he was a sex offender after seeing an incorrect reference in his file.' You can read about the IPP scandal elsewhere on the Justice Gap – there are reckoned to be 1,700 IPP prisoners still in prison despite the discredited sentence being scrapped ore than a decade ago – see here.

The Open Democracy report highlights a Parole Board decision to turn down a request for parole by Welsh prisoner Leroy Douglas in 2020. 'In 2003, the seriousness of your offending escalated and you received [a] four-year sentence for robbery,' the Parole Board wrote. Asumadu writes: 'In reality, Douglas was behind bars on a separate sentence for the whole of 2003.' 'Leroy could not have been out committing crimes as he was in prison,' his aunt Norma Borrett said.It was not until 2021, more than a year after the inaccurate report was produced, that Douglas was finally deemed safe to transfer to an open prison. Douglas's hearings have been repeatedly delayed, according to the report – 'once because the Parole Board said it didn't have enough information and then again because a legal representative failed to turn up' – and he remains in a closed jail. The prisoner has served time in more than 30 different prisons. The Green peer Jenny Jones called the failure to tackle the IPP problem 'so patently wrong and unjust, it's hard to believe that it's real. Those IPP prisoners still held, suffer physical and mental health challenges as well as over-prolonged incarceration,' she said.

Prison-Based Addiction Treatment Pathways

Too many people with drug dependency "Are cycling in and out of prison. Rarely are prison sentences a restorative experience. Our prisons are overcrowded, with limited meaningful activity, drugs easily available, and insufficient treatment. Discharge brings little hope of an alternative…life. Diversions from prison, and meaningful aftercare, have both been severely diminished and this trend must be reversed to break the costly cycle of addiction and offending." Those are the words of Dame Carol Black in her groundbreaking independent review of drugs—a damning observation. The treatment system and effective recovery pathways from addiction in prisons are in desperate need of repair, yet the effectiveness of evidence-based, well-delivered treatment for drug and alcohol dependence is well established. When it is properly funded, it works: it cuts the level of drug use, reoffending, overdose risk and the spread of blood-borne viruses. Analysis of Her Majesty's inspectorate of prisons data from 2019 reveals that 48% of men surveyed by the inspectorate who reported having a drug problem said that it was easy to get drugs. The proportion of prisoners who said that they developed a drug problem while in custody more than doubled between 2015 and 2020. In the papers last week it was reported that the drug uptake in prisons in Northern Ireland has risen to an astronomical height. It is therefore clear that what the hon. Gentleman is saying about the UK mainland also applies to us back home. Does he agree that the premise of prison is to rehabilitate and that addiction pathways are the absolute foundation for the rehabilitation that he and I

want to see and that, to be fair, I think the Minister wants to see too? That can work only if funding is sourced and allocated UK-wide to make sure that it happens.

Modern, progressive society should aspire to something more than having prisons there for punishment. The function of prison should be to rehabilitate, reduce reoffending and help those in prison to build productive and meaningful lives. "Transparency and accountability of the commissioning and delivery of substance misuse services in prisons, including through publishing how much money is spent each year on these services", and ensuring that "everyone leaving prison has identification and a bank account and that those who cannot claim benefits online get the opportunity, from the day of release, to access DWP's telephony service." For those who do reach the threshold of a custodial sentence and enter prison, the only answer to deliver change and break the cycle is to ensure there is access to treatment services within prison and on release. Sadly, the sharp decline in recovery services, particularly in prisons, mirrors the sharp decline in recovery services in the community. That has been further exacerbated by the pandemic, where prison regimes have entered strict lockdowns. One practical challenge is that efforts to tackle drug use in prison are often undermined by the widespread availability of drugs across prison estates. Time, energy and resources end up being consumed by cracking down on the illicit supply. How can policy deal with that challenge, while also dealing with the demand for these substances and the root cause of that? Security can do only so much without a parallel commitment to reducing demand. The Government should ensure that they are committed to acting on both.

We know that, with access to properly resourced, person-centred, trauma-informed care, people can and do make positive changes to their lives. For prisoners, that care cannot stop when they walk from the prison gates. Many prisoners with drug problems are still being released on Friday afternoons, with nowhere to stay, no access to appointments at probation or drug services, no Naloxone and nothing but £46 in their pocket, with predictable results. Transition between prison and the community must be prioritised to ensure a significant increase in engagement and community treatment on release. Every person in recovery is proof of the transformational change that is possible. For those who doubt whether someone in prison can address their addiction and make positive changes, I recommend taking the time to look at the fantastic "More Than My Past" campaign by the Forward Trust. The sad reality is that the UK was once a leader in offering accredited addiction and recovery programmes in prisons. At the beginning of the last decade, there were over 100 programmes in England and Wales in prison settings, with over 10,000 prisoners participating. Today, access to accredited addiction and recovery programmes is a prison postcode lottery. There is no national standard, and the latest figures suggest that the number of people participating in accredited services in prisons is below 200 per year.

In 2012, the Rehabilitation for Addicted Prisoners Trust—now the Forward Trust—managed 14 intensive accredited addiction and recovery programmes in prisons across England, serving around 1,200 people per year. Independent evaluations showed that those programmes helped thousands of people into recovery from addiction, and that prisoners who completed those programmes were 49% less likely to be reconvicted compared with those who completed other programmes. By 2020, most of those programmes had closed due to lack of funding, and only around 300 people were able to access them. As it stands today, after two years of covid restrictions, only four programmes of this kind are still running, with only one currently operational. Despite the evidence, access is sparse, and prisoners have to transfer in order to access such services.

The Health and Social Care Act 2012 transferred responsibility for commissioning health services in custody from Her Majesty's Prison and Probation Service to NHS England. Funding

for prison healthcare and substance misuse services fared well compared with the local authority funded services in the community, but there have been other consequences. Physical healthcare services in prisons have improved, but as Dame Carol pointed out, the arm's length approach to commissioning substance misuse services in prisons has been widely criticised. Contracts are often placed with general healthcare providers, then further subcontracted out, and the system becomes fragmented and unaccountable.Toggle showing location ofColumn 405WH Since that transfer, there has been an alarming reduction in the range of provision in prisons, particularly in recovery-oriented services. Fewer than 200 prisoners are accessing accredited, structured addiction and recovery programmes, and in its "Alcohol and drug treatment in secure settings" report, the Office for Health Improvement and Disparities showed that there were 43,255 adults in alcohol and drug treatment in prisons and secure settings between April 2020 and March 2021—a drop of around 3,000 from the previous year. However, that figure of 43,255 prisoners accessing the treatment system does not tell us anything about how many were accessing recovery-oriented services. Can the Minister tell me what that treatment consists of, considering that accredited addiction and recovery course attendance has plummeted so drastically? With this new strategy, will the Minister also commit to restoring accredited addiction and recovery programmes to former levels and making them available in every prison?

Independent Domestic Violence Advocates in Specialist Courts – a Backfire Effect?

Transform Justice: Do programmes and interventions used in the criminal justice system work? Sometimes the best ideas fall flat on their face. And we only find out through quantitative research and evaluations. *The sex offender treatment programme – an offender behaviour programme designed to reduce sex offending – was designed and accredited by experts. It ran for years before an impact evaluation discovered not only that it didn't work, but that the prisoners who completed the programme were more likely to offend again than those who didn't.* The programme was promptly abandoned. Unfortunately, most other offender behaviour programmes run in prisons and by probation have no impact evaluation so, for all we know, they could be doing harm, good or nothing at all. We have few high quality evaluations of domestic abuse interventions designed to protect and support victims or to reduce the offending of those who commit domestic abuse. The main programme delivered in prisons and by probation (Building Better Relationships) has never had an impact evaluation in the ten years it has been running, doctorate research by Dr Nicole Renehan, suggests it doesn't work for many men with complex needs.

One of the major challenges facing those trying to get cases to court is victim "attrition" – that a high proportion of victims who report domestic abuse don't want to stick with the criminal justice process. Those that do get to court can find the process traumatic. So campaigners in 2005 designed a new role – the IDVA or independent domestic violence advocate. IDVAs support complainants before (for high risk only) and during the court process. They give them emotional and practical support, explaining how the process works and sitting with them. They don't give legal advice. A number of qualitative studies have shown how highly complainants value this service. Consequently the government has backed the expansion in their use and of their "sister" advocates, independent sexual violence advocates.

Until recently no one has checked what effect IDVAs might have on court outcomes and repeat victimisation, presumably because they have assumed that satisfaction with service is correlated with positive outcomes. But a new study suggests the link is broken – that use of IDVAs is correlated with some quite negative outcomes for the victims. The research was based on a

specialist domestic violence court where IDVAs are available to support complainants some days a week but not others. The researchers (senior police officers doing postgraduate study at the University of Cambridge, including Jackie Sebire ACC Beds) crunched all the outcome data for that court, comprising 559 domestic abuse trials. The data showed significant differences between days when the IDVA was available – and therefore presumably used by complainants – and days when there was no IDVA to support people. Cases heard on days with access to the IDVA service at court were found to have a 12% reduced likelihood of their accused abusers being convicted, a 10% increased risk of repeat victimisation, and the harm of repeat crimes is 700% higher than victims whose cases were heard without that opportunity.

These are pretty surprising statistics, given that IDVAs are designed to make a positive difference to domestic abuse victims. There is of course no evidence of causation, but the correlation between the presence of the IDVA at court and more negative outcomes for the victims demands urgent further research to work out what is going on. Particularly since the Ministry of Justice recently announced further significant funding for IDVAs and ISVAs: "Crucially, £16m will fund the recruitment of more independent sexual violence and domestic abuse advisers across the country. They provide emotional and practical support for victims, while guiding them through the criminal justice process which many can find daunting".

There has been very little reaction from the government or domestic abuse charities about this important research. It is indeed disappointing for IDVAs and the organisations that support them. But the most important thing is to acknowledge the findings, discuss what they might mean and commission new research to check these findings and to deepen understanding of what works in reducing domestic abuse. There is already good (College of Policing) evidence that criminal sanctions do not reduce abuse. If you look at the sanctions meted out in the magistrates' court, that makes sense – why should a fine or community payback change abusive behaviour? Why not resolve such incidents without going to court? Maybe we need to go back to first base and test or re-test all interventions designed to prevent and reduce abuse to check whether they work. And by work include a range of outcomes including victim wellbeing and feeling of safety as well as what effect the intervention has on police call-outs, repeat victimisation and offending. With finite resources to support victims and change abusive behaviour, we can't afford not to follow the evidence.

Human Rights Reform: 'Incoherent, Based on Misunderstanding and Biased'

Rudy Schulkind, Justice Gap: As the government's consultation closes, we reflect on a set of proposals that show callous disregard for human rights in the UK. While some of these proposals will simply be unworkable or make our judicial system more complex and costly to the public purse, others will diminish access to fundamental rights and put the government further beyond the reach of challenge and scrutiny. Contained within the consultation document itself are a number of alarming proposals. The government wants to introduce a threshold test of 'significant disadvantage' for human rights claims – something that we believe would be unnecessary, counter-productive and deny redress to people whose rights have been breached. Like many other proposals in the government's consultation, far from streamlining the system, this would introduce costly additional stages to cases which would require additional pleadings, witness evidence, hearings, appeals and satellite litigation.

The government will limit people's ability to pursue a rights-based claim alongside another type of claim. It is also seeking to limit access to damages for people whose rights have been breached, under the apparently innocuous intention of 'strengthening the courts' discretion' in granting remedies. Like many proposals, this is put forward to resolve a problem that there is no evidence for

and would have the opposite effect of the government's stated aim. The government is also seeking to 'restrain the ability of the UK courts to use human rights ref to impose 'positive obligations' onto our public authorities'. This misconstrues the nature of fundamental rights. Rights create corresponding obligations, and few if any rights could be meaningfully secured if corresponding positive obligations were simply ignored. Our understanding of rights and what is required to guarantee a right evolves over time and can never be fully foreseen at the time a right is first recognised.

While the consultation paper often raises concerns (often with scant supporting evidence) about the cost to public authorities of unmeritorious claims, in many instances the proposed remedy is to curtail the availability of meritorious ones. This approach harms access to justice without solving the alleged problem. Of particular concern are the government's proposals to curtail access to human rights for people facing deportation, either through limiting the rights that people can appeal to, or preventing the courts from overturning deportation decisions made by the secretary of state. Their proposals would ensure repeated and serious breaches of fundamental rights, inconsistently with the stated aims of the consultation. Moreover, they ignore the fact that the government's decisions in human rights cases are often flawed – from June – September 2021 52% of human rights refusals were overturned on appeal (here).The proposals would force children forced to grow up without a parent and therefore punish the children for the actions of their parents.

Alongside 20 organisations we have written to the government highlighting appalling flaws in the way that the government put forward its case in the consultation doc. In making the case for tougher deport laws and arguing that people are abusing the system, the government has used a "case study" about a man that they believe should have been deported, without mentioning the fact that he was born in the UK, had indefinite leave to remain and since the age 9 has never left the UK. Another case cited failed to mention particularly striking facts about a man who had been in the UK for over 30 years and was deeply socially and culturally integrated here. Hiding crucial facts that don't support the government's claims seems to reflect the Government's general approach towards the Human Rights Act.

Justice Secretary Dominic Raab made use of an equally misleading case study at the Conservative Party Conference – arguing that the man he spoke about was a typical example of abuse of deportation laws, without clarifying that the case was determined before changes to the law in 2014 made it much more difficult to succeed in deportation appeals, and involved a man who had arrived in the UK aged four and was to all intents and purposes British. The affair brings to mind 'catgate' – where then Home Secretary Theresa May justified tougher deportation laws, incorrectly claiming that a man avoided deportation because he "had a pet cat". It is alarming to see evidence deployed in such a brazenly misleading way to justify trampling on fundamental rights.

Equally, the government uses data going back to 2008 to allegedly demonstrate that many deportation appeals succeed, obscuring more recent trends flowing from changes to the law in 2014. BID's own FOI requests show that there are in fact now far fewer appeals lodged on human rights grounds (and still far fewer allowed) in the deportation context than the figures cited in the consultation document might appear to suggest. We are concerned that, faced with a lack of evidence to support its position, the government has disingenuously elected to present information in a misleading way to generate support. Many of the proposals are moreover incoherent, are premised on apparent misunderstandings of the current legal position, and/or go far beyond the recommendations of the expert panel that the government recently commissioned to review aspects of the Human Rights Act. A number are framed in a biased manner, seemingly aimed at eliciting desired responses than drawing from a range of well-informed sources. This calls into question the entire consultation exercise. We call on the government to reconsider this baseless attack on fundamental human rights in the UK.

Brook House IRC Inquiry: Senior Staff Knew Custody Officers Were Smuggling

Samantha Dulieu, Justice Gap: The ongoing inquiry into conditions at Brook House Immigration Removal Centre has heard that senior staff likely knew custody officers were smuggling drugs to detainees. A former member of staff at the removal centre, which was subject to an investigation by BBC Panorama in 2017, has alleged that management 'knew who was bringing in drugs, but they were not doing anything about it'. The inquiry has heard that the availability of drugs within Brook House, in particular spice and cannabis contributed to the poor mental health of detainees. As previously reported by the Justice Gap, several former staff members have alleged that custody officers themselves smuggled drugs and other contraband into the centre.

Shayne Munroe, speaking to the inquiry triggered by the Panorama documentary, said her reports of drugs and other contraband went unheeded: 'Whenever a detainee told me about staff bringing in drugs or contraband, I submitted an SIR [Security Information Report]. I never saw that anything was done (e.g., increased staff searches when entering the building) and I came to the view that the security team and senior management must have been aware that it was going on but were choosing to ignore it.' She also told the panel that staff were not searched on entering the premises, indeed that she was only searched once during her 18 month tenure: 'Brook House policies seemed to make no impact on drugs entering the centre. In my view the volume of drugs that were available could not have entered solely through visitors, which meant that somewhere in the process Brook House policies were being broken.'

The inquiry has also heard allegations of racism and bullying by staff at the centre, with Munroe stating during this hearing that she was accused of smuggling in drugs herself: 'It was assumed that I was involved in drugs because I was a black woman from South London.' Further former staff members and detainees of Brook House are due to give evidence in this second stage of the hearing, with the panel re-convening next week.

"Unwinnable" Cases Can Be Won

The so called "Unwinnable cases" are won on the basis of sound trial preparation, a genuine proactive defence and incisive cross-examination on the live issue at trial. So many Crown Court defences fail at trial because these 3 golden rules are simply not observed for a whole raft of reasons. It is critical for any trial advocate to get a focussed DCS (defence case statement) out at an early stage which seeks core secondary disclosure documents. DCS with bland denials and endless shopping lists of items are all too commonplace and rarely effective. A good DCS should be a weapon in the defence armoury that should immediately put the prosecution on the backfoot not one that has the CPS lawyer yawning and reaching for a cup of coffee. A sound case strategy, knowledge of the best experts to instruct for the specific case facts, a clear understanding of crime scenes (via views), a detailed understanding of evidence, early case conferences with clients/experts to identify the weaknesses on both prosecution/defence sides are all essential for the advocate that is truly interested in securing an acquittal for the client. Defences which are put together as reactive last minute affairs are rarely robust and never immune from effective prosecution cross-examination. The defence should be the party that truly sets the parameters in which the trial is fought not the other way around. If these rules are truly adhered to experience shows again and again (that like the Sonnex case) the unwinnable case on paper becomes the winnable case at trial. Those who ignore them (for whatever reason) will inevitably reduce the probability of an acquittal.

(Joe Stone QC - Doughty Street Chambers)

Justice for the Forgotten (JFC)

JFC Founded 26 years ago in 1996, initially to campaign for justice for the victims and survivors of the Dublin and Monaghan bombings. These coordinated no-warning attacks caused the greatest loss of life in a single day of the conflict – 34 civilians were killed, including two babies and a full-term unborn baby. Three bombs exploded in Dublin during the Friday evening rush-hour on 17 May 1974 and a fourth bomb exploded in Monaghan town less than 1.5 hours later. In total, 27 died in Dublin while seven lost their lives in Monaghan. JFF is the only organization supporting victims of the conflict in the Republic of Ireland. Since 1996 we have expanded greatly and now support almost 60 families and over 200 individuals. The majority of the families we support lost their loved ones in cross-border (where the perpetrators travelled from Northern Ireland to the Republic of Ireland, carried out attacks and returned to Northern Ireland) bombings and shootings. Most of these families suffered their loss in the early-mid 1970s. Because of the age profile, family members are, unfortunately, dying every year. Nobody has ever been convicted of any of these attacks.

Six of our cases, representing a total of 39 deaths, along with many others where the deaths occurred in Northern Ireland, are being reviewed by Mr. Jon Boutcher's Operation Denton (part of Operation Kenova) team and five of those six cases (38 deaths) are also being investigated by the Police Ombudsman for Northern Ireland (PONI). A more recent case where the relative's death occurred in the 1990s was accepted for investigation by PONI eight years ago. It has not yet been commenced due to PONI's lack of resources. Starving PONI of resources appears to be British Government policy to restrict its capacity to investigate cases where London may find the conclusions embarrassing. The Dublin and Monaghan bombings families are taking a civil case in the High Court, Belfast against the MOD and the Chief Constable of the RUC. This case has been delayed for several years and we are awaiting a ruling on whether the case can proceed due to jurisdictional and time issues. If these families are successful in having their case heard, families of other attacks will follow.

Several other cases have no avenues open to them. We had been relying on the Stormont House Agreement (SHA) being implemented so as to provide these families with some opportunity for truth recovery. Had it been established, we would have pressed the Irish Government to set up a corresponding Historical Inquiries Unit (HIU) in the Republic of Ireland which was not planned for in 2014. We are awaiting the completion of Operation Denton and PONI investigations as well as developments in the Dublin/Monaghan civil case. If the British proposals are implemented it will mean a blocking of all avenues to truth and justice for the families we support. This will have a devastating effect on them all.

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