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CCRC Refers Conviction of Trafficking and Modern Slavery Victim to Crown Court

The Criminal Cases Review Commission ("CCRC") has decided to refer to the Crown Court the conviction of young man who was trafficked to the UK in 2016 and later found working in a cannabis farm. In May 2017 before a Youth Court, acting on the advice of his lawyer, Mr K, then aged 17, had pleaded guilty to the production of cannabis. At the time of his arrest, charge, conviction, and sentencing there was evidence that suggested that Mr K was a credible Victim of Trafficking. However, when deciding whether to prosecute Mr K, the CPS failed to follow its own guidance around victims of trafficking. There is also new evidence that Mr K was a child victim of modern slavery and that his offending was a direct consequence of his trafficked situation. In these circumstances, Mr K may have had a defence under section 45 of the Modern Slavery Act 2015 but his lawyers at the time did not advise him of this. Following a detailed review of this case, the CCRC has decided that there is a real possibility that the section 45 defence would have succeeded in this case and that the prosecution of Mr K amounted to an abuse of process. There is therefore a real possibility that Mr K's conviction will be overturned on appeal. Helen Pitcher OBE, Chair of CCRC said: "This is a sad case involving a vulnerable trafficked child who was also a victim of modern slavery. Had CPS guidance been followed, and the correct legal advice given, it seems unlikely that he would have been convicted of these offences in the first place." Mr K was represented in his application to the CCRC by Birds Solicitors.

Around 50 Children Strip Searched by the Police Every Week – and Most Are Black

Udit Mahalingam, Justice Gap: Approximately 50 children a week for the last five years have been strip searched by the police, according to a BBC investigation into the practice following the outrage over the intimate search of 15-year old Child Q. 31 out of 43 police forces responded to freedom of information requests by Radio 4's File on 4 revealing that over 13,000 children under the age of 18 have been strip searched since 2017. More than half of these searches were conducted by the Metropolitan Police and a disproportionate number of black and mixed-race children were subjected to this process.

According to File on 4, separate data revealed that two-thirds of children who had been strip searched by the Met over the past three years were from ethnically diverse backgrounds. Reporter Jane Deith said 78 girls were strip-searched in London police stations last year – 32 were black or mixed race. 'We've seen how racial bias and stereotyping can play a part in officer's decision-making,' said Sal Naseem from the Independent Office of Police Conduct, referring to Home Office data revealing black people were seven times more likely to be stopped and searched than their white counterparts. Naseem is the IOPC's regional director for London. 'Stop and search is part of the policing toolkit, and the debate is often centred around the weapons we seize and the drugs we find,' he added. 'But we need to recognise and understand the trauma being caused to the maturity of people who are not found to have anything on them or haven't done anything wrong.'

Strip searches must be 'conducted with proper regard to the dignity, sensitivity and vulnerability of the detainee', according to PACE (Police and Criminal Evidence Act) codes of practice. Intimate searches must be conducted by officers of the same sex as the detainee and may only take place in the presence of an appropriate adult whilst at a police station; a minimum of two people, other than the detainee, must be present during the search. However, as revealed by File on 4, these procedural safeguards have been violated by the police under the excuse of preventing and detecting criminal behaviour.

The mother of a 15-year-old BAME girl told the BBC that her daughter was so traumatised after being strip-searched by Met officers that she tried to commit suicide. Olivia (not her real name), who her mother states suffers from autism and has other learning difficulties, was menstruating when she was handcuffed and strip-searched in front of male officers after spending more than 20 hours in police custody. Olivia was discovered to be in possession of a sharpened stick which she used to self-harm; she later appeared in court accused of possession of a bladed weapon but was later acquitted. Gail Hadfield Gardner, a lawyer who is currently pursuing a civil claim for damages on behalf of the family against the Metropolitan Police, said: 'The legal guardian, the person that has responsibility for that child needs to be informed. The strip search needs to be done in front of same-sex staff only, not same-sex staff with the opposite sex onlooking.'

When asked to comment on the apparent racial biases in policing, the Met's deputy assistant commissioner Lawrence Taylor defended the force's record. 'If you are black, you are six-and-a-half times more likely to be an offender of robbery, six-and-a-half times more likely to be an offender of youth violence, and even more importantly, you're three-and-a-half times more likely to be a victim of knife crime with injury and four-and-a-half times more likely to be killed.' According to Taylor, 'it is absolutely right that police focus where that harm exists – we're not targeting people, we are focusing on our intelligence-led policing.' Taylor reckoned that his force found criminal elements in 61% of the strip-searches they had conducted outside of a police station. He acknowledged that 'being subjected to any form of search' is 'no doubt a traumatic experience' and that it was 'inevitable' that police officers would sometimes cut corners due to the highly pressurised nature of their jobs. 'We've been very clear with officers that you must take a child-centred approach, you must consider safeguarding, and you must recognise that trauma.'

Reform Needed to Tackle 'Stop and Search' Race Disparities

Jon Robins, Justice Gap: Police forces should adopt an 'explain or reform' approach to race disparities in their use of powers such as stop and search, the deployment of Taser and other types of force, according to proposals published by two leading police groups which this apologised for racism within forces. The Police Race Action Plan, has been developed jointly by the National Police Chiefs' Council and the College of Policing, proposes that oversight should include scrutiny of body-worn video footage of police interaction with Black people.

The report's authors acknowledge that Black people have significant lower than average rates of confidence in the police, 64% compared with an average of 74%, and powers like stop and search and use of force are 'disproportionately' applied to Black people. The report flags data showing that Black people are almost nine times more likely to be stopped and searched than White people and the rate at which force was used was five times higher for Black people. 'Policing lags behind almost every part of the public service as an employer of choice for Black people," they noted; adding that just 1.3% of police officers are Black, compared to 3.5% of the wider population and, so far, only been two Black officers have reached the ranks of Chief Constable or Assistant Commissioner.

'The relationship between policing and Black communities has been damaged,' the report agues. 'The overt racism many of the Windrush generation experienced included policing. The Scarman report, following the 1981 riots across England's major cities, identified the harmful impact of policing on Black Britain. Stephen Lawrence's murder in London in 1993 and the 1998

Stephen Lawrence Inquiry by Sir William Macpherson were watershed moments in facing up to racism in policing. The IOPC Operation Hotton report (nine linked independent investigations into Met officers mainly based at Charing Cross) shows the reality that racism still exists in policing.'

Key actions as set out in the plan include mandatory training for all officers and staff to increase the understanding of 'racism, anti-racism, Black history, and its connection to policing through introduction of a mandatory programme of training for all police officers and staff'; reducing racial disparities in misconduct and complaints processes; trialling methods for better enabling Black people to have their voices heard and to raise concerns; increased action to address the criminal exploitation of young Black men; improving police response to missing persons from Black communities; and introducing a national standard across all recruitment and promotion processes to minimise disparities.

In the report's foreword, Sir David Thompson, West Midlands Police chief constable and vice chair of the Chief Constables Council and Chief Constable Andy Marsh, chief executive officer of the College of Policing wrote that countries around the world were 'rocked by the outpouring of emotion' following the murder of George Floyd' in 2020. 'This was the same in the UK. Although this was a wider expression against societal injustice, it was about policing,' they continue. The co-authors accept that policing 'still contains racism, discrimination and bias'. 'We are ashamed of those truths, we apologise for them and we are determined to change them,' they say. 'We have much to do to secure the confidence of Black people, including our own staff, and improve their experience of policing – and we will.' They described the need for change as 'evident'. 'Policing lags behind almost every part of the public service as an employer of choice for Black people,' they write. 'Confidence levels are much lower, and our powers are disproportionately applied to Black people. In some crimes, victimisation rates are higher. Black officers and staff leave policing earlier in their careers than White staff and the fact we have only seen two Black officers reach chief constable or assistant commissioner rank in policing's history is a failure.'

According two the plan, the Independent Scrutiny and Oversight Board (ISOB), chaired by Barrister Abimbola Johnson, will have 'a critical role in scrutinising the plan and its delivery'. 'Data shows that sadly every aspect of policing produces or at the very least replicates racial disparities and racism: arrest; handcuffing; stop and search; strip searching; use of taser; remands in custody; and charging to name just a few,' Johnson says. 'When Black people are victims of criminality there have been unacceptable instances of them being let down and even actively harmed by the police who are meant to serve them. When Black people join the police, they fare worse than their White colleagues in terms of recruitment, disciplinary action, retention, and promotion.'

Courts Need To Tackle Ethnic Disparities in Sentencing

Georgia-Mae Chung, Justice Gap: The over-representation of ethnic minority individuals in criminal justice system statistics, including prison admissions and populations, has many causes. Research suggests that disproportionality is greatest at earlier stages of the criminal process, well before sentencing takes place. Further guidance could be provided for courts to better deal with ethnic disparities in sentencing, according to an expert sentencing advisory group. In a new report published by the Sentencing Academy, Julian V. Roberts and Andrew Ashworth analysed the Sentencing Council's guidance on how sentencing laws and information contribute to ethnic differences in outcomes. According to the 2017 Lammy Review into race and the criminal justice system, Black, Asian and other ethnic minority men were greater than 50% more likely than White men to plead 'not guilty' at Crown Court. According to 2019 data, 37% of BAME defendants who were tried in the Crown Court pleaded 'not guilty' compared with 27% of White defendants meaning BAME defendants were 35% more likely than White defendants to plead 'not guilty'.

Roberts and Ashworth suggested several steps which could be taken to prevent the exacerbation of ethnic differences through sentencing. For instance, they pointed out that ethnic minority defendants are less likely to plead guilty than other profiles of defendant and suggested that sentencers may inquire into reasons for a late guilty plea for all defendants. Another example is the mitigating factor of remorse, which Roberts and Ashworth state could be tackled by sentencers not penalising people for failing to show it in 'traditional manner'. They say that this demeanour could be due to factors such as a lack of understanding of the system, and a belief that they are or will be discriminated against and that this is more likely to impact young defendants from a Black and Minority Ethnic Background. At macro level, the report suggested research priorities that the Sentencing Council could pursue. This includes conducting research into the outcome of sentencing on those from different ethnic backgrounds for more offences and exploring the relationship between ethnicity and the length and requirements of orders, like community penalties. The publication also points out deficiencies in research so far. For instance, it states that 'very little' is known about ethnicity-related sentencing differentials in magistrates' courts, as 'most studies to date have been restricted to indictable offences in the Crown Court'.

The report acknowledges the Sentencing Council's current guidance on the impact of sentencing and on those from different ethnic backgrounds. All Sentencing Council guidelines refer to the Equal Treatment Bench Book, which serves the purpose of 'reminding sentencers of the need to consider equal treatment, and directing them to the information they need to help them to do this'. The material refers to 'two key findings: (i) the over-representation of BAME people at various stages of the criminal process, and (ii) the lower levels of confidence and trust in criminal justice found in BAME communities'. Roberts and Ashworth contrast this provision of information with 'specific guidance such as that contained in the guideline regarding sentence reductions for a guilty plea'. Nevertheless, they emphasise that sentencers should not take it upon themselves to 'correct' biases that may have appeared at earlier stages of the criminal process. The suggestion is that they should focus on ensuring that 'all offenders receive the same degree of individualised sentencing', as this will help to 'avoid exacerbating the problem of racial disproportionality'.

How Deportation Flights Affect Our Human Rights

Ella Hopkins, Each Other: On Wednesday the 18th May, the UK government deported seven Jamaican nationals living in the UK (According to reports, over 100 people were due to be on the flight, but it took off with just seven people, due to legal intervention). Under the UK Borders Act (2007), any foreign national who has served a prison sentence of 12 months or longer may face deportation. One father left behind his partner and his five-year-old daughter. For him, and for others in his position, it will be a struggle to see his family again, despite the right to a family life which is protected under the Human Rights Act (HRA). On the flight in question, the Home Office deported people who have lived in the UK and had served a prison sentence of 12 months or more for a criminal offence, such as cannabis cultivation. These seven individuals deported to Jamaica are just the most recent cases of people becoming separated from their families without money or a guaranteed safe place to stay.

Deportation can breach the right to a family life, which is protected under Article 8 of the Human Rights Act. But the right to family life is not absolute. Under current legislation, parents can be deported and permanently separated from their children living in the UK unless they win a deportation appeal on the grounds of a breach of human rights, which is no simple task. Black people are ten

times more likely to be sent to prison for a first-time drug offence Annie Campbell Viswanathan, director of Bail for Immigration Detainees, an organisation which challenges immigration detention in the UK, said that racism was "woven into" the UK's immigration policies: "It's a net that sweeps up anybody, regardless of their ties to the UK. It doesn't matter, in a way, what their offences are", she said, adding that the system "should not be 'doubly punishing' people" by deporting them. Intense trauma' inflicted on Jamaican community with Windrush connections

Karen Doyle, from Movement for Justice, an organisation that works with families to challenge deportation flights, has been supporting a mother and her five-year-old daughter whose father was on the deportation flight last week. Doyle said: "They will never be able to afford to go to Jamaica. The money that they used to pay for lawyers [to challenge the deportation decision] was non-existent money. There is no hope they will see him again unless they win his return." For many, deportation can leave families "completely broke" from having to pay legal fees for a deportation appeal. In addition to that, families then have to find a way to support their loved ones in another country. This can include making sure they have a phone and credit to arrange a place to stay from thousands of miles away.

Doyle said it is "devastating" for people deported on these flights. She spoke with one young man due to be deported on last week's flight to Jamaica. "When I talked to him on the night of the flight, the absolute terror in his voice was overwhelming. To experience that kind of terror and not being able to do anything about it changes you." More than half of those due to be deported on the flight last week were reported to have direct links to the Windrush generation. 'These are people with extensive and historical family connections', said Doyle, adding that they 'have grandparents and great grandparents who came to the UK and fought in the war'.

Struggling families face thousands of pounds in legal fees to challenge deportation. In 2012, immigration rules changed, which made it harder for foreign criminals to appeal deportation by invoking their right to a family life under the European convention on human rights. It restricted what could be defined as a breach of the right to family life in legal challenges to deportation. Under these new rules, a claimant has to prove that it is 'unduly harsh' for a child to leave the country with a deported parent, or to live without the parent, for deportation to be considered a breach of Article 8 rights.

Additionally, the government made changes to the Legal Aid, Sentencing and Punishment of Offenders Act. This included cuts to legal aid and excluded the majority of people claiming the right to family life from financial support. As a result, many families cannot afford legal action. In the past two years, the rate of deportation appeals has halved.

Families for Justice, a group of mothers, daughters and sisters whose loved ones have been deported, stated: "This law has made many of us into single parents, depriving our children of their fathers and leaving us financially and socially disadvantaged." Speaking about the link between 12-month sentences and deportation, Doyle deemed it wrong and called for opportunities for rehabilitation: "These are people who have served their time and deserve the opportunity for rehabilitation as much as anyone else. There isn't a single family that I've spoken to over the years that hasn't been treated terribly or taken advantage of."

The Home Office stated: "People with no right to be in the UK, including foreign national offenders, should be in no doubt that we will do whatever is necessary to remove them. This is what the public rightly expects and why we regularly operate flights to different countries." "The New Plan for Immigration will fix the broken immigration system and stop the abuse we are seeing by expediting the removal of those who have no right to be here."

15 Year Old Accused of Rape - Aquitted After 13 Day Trial

Farrhat Arshad, Doughty Street Chambers, represented a 15 year old accused of Rape. Following a 13 day trial at Snaresbrook Crown Court, the jury unanimously acquitted the defendant. The trial had been adjusted to ensure the defendant had a fair trial. He had the services of an intermediary throughout, the Court agreed to shorter sitting days and questioning of the defendant was modified.

HMP Winchester One of the Most Violent Prisons in The Country

"When prisoners spend all day locked in their cell, talk about rehabilitation is just pie in the sky. It's hard to imagine a bleaker assessment than when the Chief Inspector writes 'staffing levels were not sufficient to deliver a decent regime and current recruitment did not keep pace with staff departures'. This is not about Covid and it's not solved by building new prisons. This report shows the government urgently need to get to grips with the basics of delivering a safe and decent prison system." Prison Reform Trust

Winchester is a small, Victorian, local prison that serves the courts in south and central England. At the time of our inspection it held nearly 500 prisoners in the main category B prison and a small, separate category C facility. Over half of the prisoners were unsentenced.

At our last inspection in 2019, we found a prison struggling with high levels of violence and which was providing prisoners with very little time out of cell. On our return, we were disappointed to find that – despite some limited progress our healthy prison test scores remained the same. Winchester continued to be one of the most violent prisons in the country.

While there had been impressive work to reduce the risk posed by some of the most violent prisoners, there was no meaningful strategy to understand and address the causes of violence within the main population. Most prisoners were locked in their cells for 22.5 hours a day, and even more at the weekend. The enthusiastic education managers were very frustrated by the prison's inability to get prisoners to classrooms and workshops, both consistently and on time. This made it impossible to plan work programmes because they did not know who, if anyone, was going turn up each day. There was no assessment of the skills of prisoners when they came into the prison, which meant that those who had been employed in the community were not provided with suitable work.

As during our 2019 inspection, men on the category C side of the prison did not have enough to do. We found a group of relatively low-risk prisoners who were bored and frustrated by the lack of activity, while workshops were underused and the gardens were out of bounds. There is huge scope to develop the offer for these prisoners and create a thriving, productive environment which will support sentence progression and provide an incentive to prisoners on the main site.

Despite some improvements to the fabric of Winchester's buildings, such as new showers on some wings, ongoing issues with the water supply meant that fewer prisoners than any prison we have visited were able to have a daily shower. Many of the cells, particularly on the C4 landing, were covered in graffiti or dilapidated, with worn out furniture and lavatories. Leaders had put up posters around the prison showing their aspiration for how cells ought to look, but there was no credible plan for how or when these improvements would be made.

The prison had struggled to recruit and retain enough staff and this problem was directly affecting the day-to-day running of the jail, where at times there were simply not enough officers to ensure even the most basic regime for prisoners. Officers were frequently cross deployed from the gym and the offender management unit which meant access to these services was further reduced. Leaders will need to develop an understanding of why so many officers (in an affluent part of the country with low levels of unemployment) are leaving the prison and put in place

some meaningful support to help retain good staff members during their first year of service. Inspectors were frequently impressed by many of the officers and staff, who showed great skill and dedication in their work, despite the many challenges that they had faced over the last two years. Leaders had managed to keep visits going during the latest lockdown and this was a real achievement, given how frequently the prison was short staffed.

There is no doubt that the pandemic has limited some of the progress at Winchester, but leaders have failed to show enough real, sustained grip. If it is to improve from this disappointing inspection, the prison will need leaders to be active and visible on the wings, and set clear, measurable targets for improvement so that prisoners are safer, kept in decent conditions and given enough to do during the day. *Charlie Taylor HM Chief Inspector of Prisons*

Violence HMYOI Werrington 'Higher Than Any Other Establishment in UK

"The government's provision of custody for children is in disarray. The promise of a new strategic approach, with a commitment to 'secure schools' made as long ago as 2016, has simply not been delivered. This latest, shocking, inspection report about an institution once held up as a model of good practice shows how urgently a coherent plan is needed. It is deeply worrying that ministers appear content with a forecast that the number of children in custody will increase, at a time when so much of the provision to hold them — public or private — is in crisis. Nothing could serve public protection worse than continuing to send children to places that are clearly failing in their rehabilitative mission." A report released by Her Majesty's Inspectorate of Prisons following a surprise inspection of Her Majesty's Young Offender Institution (HMYOI) Werrington, near Stoke-on-Trent, found levels of violence and use of force at the prison to be higher than any other establishment in England and Wales. Children's perceptions of safety were also worse than at any other young offender institution (YOI). In response to the report, Andrea Coomber, Chief Executive of the Howard League for Penal Reform, said: 'This is one of the most horrifying inspection reports that the Howard League has seen. It is a 69-page document of failure that could be summarised in just seven words: prison is no place for a child.' HMYOI Werrington currently holds 66 children aged 15-17. The latest inspection report, covering the period from late January to early February 2022, outlined the institution's failings in relation to leadership, safety, care, purposeful activity, resettlement, and set out key concerns and recommendations, commenting on progress made since the last inspection in 2020. The report noted a deterioration in three out of four healthy prison tests for regard children's establishments: safety, purposeful activity, and care. These three areas were assessed as 'poor' – the lowest possible rating – while the fourth, resettlement, remained the same.

16 per cent of children surveyed for the report said they felt unsafe at the time of inspection, and levels of violence over a six-month period were 'higher than in any other establishment in England and Wales', resulting in 31 children attending hospital during that period, and 399 weapons being found over the past year – double the number found the previous year. Children told inspectors that the reason they carried weapons was because 'they did not have confidence in the ability of staff to keep them safe'. Leaders had adopted a strategy of managing violence that involved 'keep-apart' lists of children who were in conflict with each other, and where there was a risk of violence if these individuals came into contact. Of a population of 66, there were 263 of these 'keep-aparts'.

The report noted that this strategy was 'a reactive process of risk avoidance, rather than risk management' and had the effect of impacting 'every aspect of life for the children', notably access to other services within the prison like education, sport, behaviour programmes, and visits. Andrea Coomber commented that 'rather than solving problems, staff have relied on trying to keep children apart. [This strategy] does not appear to have made the jail any less toxic, and the boys have been denied access to education that might help to guide them away from crime.'

Call For Evidence: Criminal Injuries Compensation Scheme

Since 2012 many victims of serious and violent crime are not entitled to compensation under the scheme if they have an unspent conviction. This means that people with unspent convictions who are themselves the victim of a crime, are effectively denied their status as victims by the state. People affected by this rule have included victims of sexual abuse and other serious crimes, whose own offending can be clearly linked to the crimes committed against them and the trauma they have experienced. In 2021 the High Court ruled that the government must hold a public consultation on this issue, following a successful challenge by a courageous woman named Kim Mitchell, who had experienced childhood sexual abuse – but had been refused compensation by the scheme due to a conviction for a public order offence.

We Need to Hear From You - Almost a year since the high court ruling, there is still no sign of the promised public consultation. So we're gathering our own evidence. We want to hear from people with criminal records and those who work supporting them, about what impact the exclusionary rule has had. If you've been denied compensation because of an unspent conviction, we want to hear about how this has affected you. We're also interested in hearing from people with criminal records more generally, about how this discriminatory rule makes you feel about your place in society. Please take a few minutes to complete our anonymous survey. https://rb.gy/bciwia Your responses will be used to build evidence and support our campaign against this rule.

Give Prisoners Laptops and Broadband, say MPs

Inside Time: MPs have called for major reforms to prison education, which they found to be in a 'perilous state due to a continual decline in funding'. A report by the all-party Education Committee, published last month, found that education in prisons "plays a key role in changing lives and improving people's futures". Among the improvements the MPs want to see are in-cell laptop computers with secure internet access for all prisoners who are studying, wider access to student loans, and a Deputy Governor of Learning appointed at every jail. Other recommendations include: * Prisoners taking part in education should be paid at least as much as those in prison jobs; *All prisoners should have a 'Digital Education Passport' which follows them around the estate, so that education does not start afresh each time they are transferred to a new jail; *Educational needs should be taken into account when deciding when and where prisoners should be transferred; *A rule which makes prisoners with more than six years left to serve ineligible for student loans should be scrapped.

MPs pointed to a report by Dame Sally Coates in 2016, which said that education should be put at the heart of the prison system. They warned of "missed opportunities" and said: "Six years later, we are concerned that this aspiration has still not been realised." Education in prisons is outsourced to private providers. Following the Coates Review, the contracts were retendered but governors were not able to choose, and the same four providers won all the contracts. Of 32 prisons inspected by Ofsted in 2019/20, none were judged as providing "outstanding" education and only nine were "good", with the rest assessed as "requires improvement" or "inadequate". The report, titled Not just another brick in the wall: why prisoners need an education to climb the ladder of opportunity, calls for a "wholesale review" of the system, saying: "The vision of Governor autonomy, as set out by the Coates Review, has not been realised by the new contracts." It adds: "Prison education must be understood in broader terms than just improving the employability of a prisoner. Education allows a prisoner to gain self-confidence and provides mental health benefits in isolating conditions, while improving their behaviour in prison. Education has a value in itself, developing the person as a whole."

During the inquiry, 52 serving prisoners wrote in to the committee to share their experi-

ences of prison education and their ideas on how to improve it. Among the witnesses questioned by the MPs was Inside Time journalist Ben Leapman, and the committee adopted his suggestion to turn one prison into a 'secure campus' offering face-to-face degree-level teaching. The report says: "We recommend that the Government establish a pilot scheme establishing specialised prisons with a focus on education, run in partnership with a local university, a further education college, or other recognised quality educational providers."

Robert Halfon, the Conservative MP who chairs the committee, said: "Prison education is in a chaotic place. Shambolic transfer of records, no assessment for educational needs and the lack of access to modern learning tools add up to paint a dismal picture … There must be a root-and-branch overhaul that extends throughout prison culture." The findings of the report were welcomed by prison education charities. Francesca Cooney, head of policy at the Prisoners' Education Trust, said: "Today's report is a call for immediate action from the Ministry of Justice. Prison education has been underfunded for many years and is at the bottom of the class when providing outcomes for prisoner learners." Peter Stanford, director of the Longford Trust, said: "As the Select Committee's report sets out, next to nothing has happened about the vast majority of Coates recommendations. So it makes them all over again. Will it be different this time round? Well, I have faith that, if you say something sensible often enough, eventually someone will listen."

Remand Custody Decisions Made in Minutes With no Reasons for Detention Given

Jon Robins, Justice Gap, Almost two thirds of hearings in the magistrates' courts dealing with remand were dealt with in under five minutes and often with no reasons given for holding people in custody, according to a new study. The small-scale survey conducted by Tom Smith, associate law professor at the University of the West of England, revealed that reasoning for pre-trial detention decisions was provided in less than half of hearings studied – with nearly 60% providing no reasons for the decision. It was found that in 65% of hearings observed, pre-trial detention matters were dealt with in under five minutes, with just under 20% spending five to ten minutes on such matters.

The legal charity Fair Trials recently highlighted the plight of thousands of people being held on remand for months, sometimes years, far beyond lawful time limits – as reported here. The research focuses on adult pre-trial detention in the Magistrates' Courts and drew on observations of 28 pre-trial detention hearings as well as a survey of lay magistrates and defence lawyers. According to Fair Trials, 'huge decisions on removing people's liberty and remanding them in custody are being made in just a few minutes'. The study also found that judges' reasons for remanding people in custody were often not given and, where they were, decisions were 'often generalised and not linked to the specifics of the individuals' cases'. In most cases where no reasoning was given, the defendant was refused bail and remanded in custody.

As explained in a new article by Smith published in the European Journal on Criminal Policy and Research, a court must be satisfied that there are 'substantial' grounds to detain a defendant based on the risk that they will fail to surrender, interfere with evidence or witnesses or else commit further offences. The Bail Act 1976 includes a presumption in favour of release which can be overturned if exceptions set out in statute are satisfied. As Smith puts it: 'This implies that a thoughtful, individualised rationale is expected for each decision.'

The article explains how the use of pretrial detention has varied over the last two decades with approximately 10,000 persons in detention on any given day between 2014 and 2019. However, over the last two years numbers have peaked at 12,727 in June last year. A 2016 study of decisions to detain highlighted a lack of engagement with individual cases as well as significant

problems with disclosure of evidence by the prosecution. According to Smith, one of the co-authors of the 2016 report, evidence provided to the defence was 'often tardy, minimal or incomplete'. The 2016 report led to amendments to the criminal procedure rules to ensure 'sufficient time' is taken for decision-making, that prosecutors share evidence and case materials with the defence, that the defence have time to consider material, and that courts fully explain the reasoning for their remand decisions by reference to the specifics of a case. According to the latest study, in cases where no proper reasoning was given, more than 80% involved the refusal of bail and detention of a defendant. According to Fair Trials, this study provides 'strong suggestions' as to why the remand population has grown in the last few years hitting a record high in 2022.

PCSC Has Passed – But People With Criminal Records Still Face A Long Wait

A lack of joined up thinking will stop key changes taking effect for at least a year. The Police, Crime, Sentencing and Courts Bill (PCSC) has received royal assent, and some positive changes that Unlock has been campaigning for are now written into the law. We should have been celebrating as thousands of people see their convictions become spent sooner. And yet, we have learned that the rules determining spending periods have not actually changed and DBS certificates will continue using the old ones for at least another year. This is because other pieces of regulation need to be written to put the new legislation into practice, and – we are told – it takes time to update the IT systems at the DBS.

Thousands of people will continue to be impacted by criminal record disclosure for a year longer than the law says they should. Parliament has already decided that their spending periods are unjust, and yet people must continue to disclose until the bureaucracy catches up. Over 100,000 people who were supposed to see their opportunities increased and discrimination lessened by PCSC will continue having to disclose their record.

About 60,000 people were supposed to see their record for a community order immediately become spent when PCSC was passed; almost all of those will now be forced to wait the full 12-month disclosure period, as if PCSC had never happened. Around 40,000 people who completed short prison sentences in 2020/21 will also have wait out the whole original disclosure period. Thousands more who served four or more years for non-violent crimes before 2015 will have to keep waiting another year for the first opportunity for their convictions to be spent. This delay hurts real people, who will continue to face stigma and discrimination, and have their privacy invaded in an unjust way.

Perhaps it was optimistic to think that the PCSC changes would happen immediately. Especially where government IT systems are involved there will inevitably be delays. But spending is not a complicated system. The change from two years to one, or 12 months to six is a trivial one. If you know the sentence, the new rules can be applied instantly. The overwhelming majority of criminal records can be updated with the flick of a switch. Of course systems need to be accurate and need to be tested, but this change in disclosure periods has been well known about since 2020. There haven't been any major changes to the legislation since the government's white paper, and broad cross-party support for reduced disclosure periods means that even an unexpected change of government was unlikely to derail this legislation.

Most shockingly, this change is being implemented outside the DBS's ongoing technological evolution, which is planned to continue until at least 2026. Even though PCSC was known about years in advance at the Ministry of Justice, the DBS were not able to plan it into their digital strategy. This lack of joined up thinking means that changes will be made on whatever systems are live today, without considering that whole new systems may only be weeks behind them. Sadly

this pattern of poor planning and long delays is all too familiar. After the last major change to spending periods in 2012, and our landmark supreme court case in 2018 securing changes to filtering, it took 18 months or more to actually change the system in practice. Even when the government is making positive changes to criminal records, they still do not seem to understand that thousands of people are being impacted every day by bad laws that should be changed.

All the evidence feeding into PCSC showed that reducing disclosure periods had zero public cost and would help to reduce reoffending. Given the ongoing harms that the existing law inflicts, we hoped that there would be more urgency in bringing in the new law, but it seems that delivering these changes sits further down the government's agenda. What this delay does do is give us time to reflect on the changes that PCSC did not make. One possible cause of delay is the complex aspects of the spending regime, including 'drag-through' and the impact of ancillary orders. A good number of people currently impacted by drag-through will suddenly cease to be affected when spending periods change, but it's hard to know how the DBS system will interpret and handle them. Testing is surely required. But drag-through is an inherently unjust part of the law that deliberately aims to be punitive. PCSC should have abolished this rule and allowed each offence to be treated individually, which in turn would have made implementing the legislation much easier.

The same goes for ancillary orders, which can result in minor convictions staying unspent for many years, or even for life. The new rules will of course have to be tested to ensure that this still works properly. However, PCSC never asked whether it should work like this, or whether excluding ancillary orders from spending would work better. This is odd, since PCSC's rationale is that longer spending periods are harmful and shorter ones are more positive.

These are all issues that we will continue working on going forward, but the delays really do highlight how far we have to go before government really understands the reality of living with a criminal record. We are glad that they have taken on board the idea that shorter disclosure periods help people to move on, but structuring these changes so that almost no-one who is impacted today will actually benefit shows a baffling lack of connection to people with criminal records. A year is a long time for anyone who is trying to get a job, find a house, or buy car insurance. UNLOCK will keep fighting, and keep carrying your voices to the top of government, until they really understand how the laws they make impact people.

Frustration as Prisoners' Time Out of Cell at HMP Belmarsh Cut

Holly Bird, Justice Gap: Prison inspectors have described prisoners' frustration at HMP Belmarsh as their time out of cells on 'association' was frequently cut due to staff shortages. The review by HM Inspectorate of Prisons follows the last full inspection of the high-security prison carried out in November 2021 which reported that less than one in four prisoners (23%) were engaged in out-of-cell purposeful activity and, whilst most prisoners had 45-50 minutes outdoor exercise a day, some got as little as 30 minutes. Outcomes for prisoners in relation to purposeful activity had been rated 'poor', with the majority of inmates spending 23 hours or longer locked up in their cells. Association had not been available at all in the main prison since March 2020 when lockdown was imposed in response to the Covid-19 pandemic.

During the recent follow-up inspection, Chief Inspector Charlie Taylor noted that some improvement had been made, with most prisoners now receiving 45-60 minutes of exercise and up to 1.5 hours of association time per day. However, time out of cell was judged to be 'still inadequate'. Despite assurances that prisoners would receive the increased association time, this

was 'regularly curtailed to an hour, mainly due to a shortage of staff', which was 'causing frustration' among prisoners. While both the gym and the library had reopened and social visits had resumed, prisoners were having to choose between these activities and on-wing association, as they took place at the same time. Activity time was also affected by restrictions on the mixing of different housing blocks in an effort to minimise violence and conflict.

This latest review also outlined concerns about data collection in the prison, noting that 'the prison's data were too poor to show how many prisoners were engaged in activities on any given day, or how frequently individual prisoners were in activity'. The lack of effective collection, analysis, and use of data was found to be a problem across several key areas, including safety, violence reduction, use of force by staff, self-harm, and resettlement post-imprisonment.

Overall, the review judged that out of the 10 recommendations made in November, 'good progress' had been made in just one area, and 'reasonable progress' in seven. 'No meaningful progress' had been made in two areas: release planning and rehabilitation, and inadequate public protection phone monitoring—risking 'potentially serious implications'. While attempts had been made to address most of the 10 recommendations, Taylor concluded that advances in relation to several objectives were 'recent and fragile'.

Police Treating Victims 'Like Suspects' Over Indiscriminate Collection of Data

Jon Robins, Justice Gap: The data watchdog has called on police forces to immediately halt collecting excessive amounts of personal information from victims of rape and serious sexual assault cases. In an opinion published today, the Information Commissioner argued that victims were being 'treated like suspects' insofar as they were being told to consent to hand over 'extraordinary amounts of information' about their lives in 'the immediate aftermath of a life changing attack'. There have been repeated calls to stop so called 'digital strip searches', blamed for plummeting conviction rates; however there have also been concerns raised by defence lawyers and campaigners about the risk of wrongful convictions in light of high profile disclosure failures such as the Liam Alan case.

The watchdog has found police ask victims to consent to them (known as 'Stafford Statements) accessing significant amounts of personal data including information from school records, medical histories and social service records. 'Our investigation reveals an upsetting picture of how victims of rape and serious sexual assault feel treated,' commented John Edwards, UK's Information Commissioner. 'Victims are being treated as suspects, and people feel revictimised by a system they expect to support them. Change is required to rebuild trust that will enable more victims to seek the justice to which they're entitled.'

The Information Commissioner's Office report argues that the National Police Chiefs' Council 'must mandate to all police forces throughout the UK that they must cease using statements or forms indicating general consent to obtain third party materials (i.e., Stafford statements)'. 'Data protection is not a barrier to fair and lawful sharing and acquisition, but data minimisation is key. Any personal data obtained relating to a victim must be adequate, relevant, not excessive and pertinent to an investigation,' the ICO says.

Jayne Butler, chief executive of Rape Crisis, said that for 'far too long the police and CPS have been requesting, and at times, demanding unreasonable and excessive amounts of personal data from rape victims and survivors. It feels like to report a rape is to effectively give up your right to privacy: to expect justice you must expect scrutiny'.