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

MOJUK: Newsletter 'Inside Out' No 909 (27/07/2022) - Cost £1

Prisoners Denied Access to Forensic Evidence in Bid to Prove Their Innocence

Adam Luck and Jon Ungoed-Thomas, Guardian: Campaigners call for reforms to allow those who claim to be wrongly convicted – such as Kevin Nunn, jailed for murdering his ex-girlfriend – to obtain information to appeal. Prisoners convicted of serious crimes who may be the victims of miscarriages of justice are being blocked from access to crucial forensic information that could prove their innocence, experts have warned.

Campaigners are calling for legal reforms to provide improved access to evidence that may help prove the innocence of the wrongly convicted. They say a supreme court ruling in 2014 is effectively being used to deny access to police files and evidence. The Law Commission, the statutory independent body that reviews the law in England and Wales, confirmed this weekend it is reviewing the law around criminal appeals. Appeal, a charity and law practice that fights miscarriages of justice, wants any review to include an overhaul of the rules of disclosure and a new independent body to oversee the regime.

James Burley, an investigator at Appeal, said: "I've no doubt there are innocent people who can't access evidence because of the fact that the law on post-conviction disclosure is so restrictive. It's incredibly unjust." Lawyers or investigators working on potential miscarriages of justice cases are routinely denied access to evidence, while court transcripts may only be made available at a cost of thousands of pounds. The supreme court case that set a legal threshold for getting access to evidence after conviction involved the case of former salesman Kevin Nunn from Woolpit in Suffolk. Nunn was convicted at Ipswich crown court in November 2006 for the murder of his former girlfriend, Dawn Walker.

The court had heard that her body was discovered naked from the waist down next to the River Lark in Suffolk and her body had been set alight with petrol. Nunn was convicted despite the fact there was no forensic evidence linking him to the crime and he had no history of violence. It was revealed in court that sperm had been found on the victim, even though the court was told that Nunn was effectively infertile. The sperm was not DNA-tested at the time, and Nunn sought access to the evidence for new modern tests to see if there was a match to any known offender or possible new suspect. In June 2014, the supreme court rejected his case, ruling access to such material is only required where "there appears to be a real prospect that further enquiry will uncover something which may affect the safety of the conviction". The court ruled this threshold had not been met.

"An innocent man's life and that of his family have been wrecked," said Nunn's sister Brigitte Butcher. "Kevin is still in prison after 17 years and will continue to maintain his innocence as he has done since 16 March 2005 when he was charged with murder." The case has had wider ramifications, with police forces routinely blocking access to evidence after conviction, citing the supreme court ruling. Louise Shorter, founder of Inside Justice, which explores potential miscarriages of justice and has taken on the Nunn case, said: "Access to those exhibits used to be on a case-by-case basis but there now seems to be an absolute blanket refusal, with forces saying we only release material to the Criminal Cases Review Commission [CCRC]."

The CCRC is a statutory body that reviews potential miscarriages of justice and can require the production of material from the police. "The Nunn judgment was intended to stop fishing expeditions," another investigator observed last week. "But it's only by going on fishing expeditions that you catch fish." Appeal says that one of the cases where the charity has been blocked from access to case files is that of Roger Khan, a vulnerable defendant convicted of attempted murder in Newton Abbot in Devon 2011. Khan represented himself at his trial.

The charity discovered one of the police investigators had a personal relationship with a possible alternative suspect, but the police refused a disclosure request on the exact links and the safeguards put in place to ensure the investigation was not tainted. An attempt to challenge the decision by judicial review was rejected in 2019 on the grounds that the charity had not met the threshold required in the Nunn ruling. Campaigners say the CCRC uses its powers conservatively and will only typically look at cases that have already been appealed.

A submission by Appeal to the Law Commission's review warns that the Nunn judgment "leaves wrongly convicted defendants without an effective means of accessing any evidence held by law enforcement that undermines the safety of their conviction". The Law Commission said: "In relation to criminal appeals, the lord chancellor [Dominic Raab] has suggested that the commission should review the law, with a view to ensuring that the courts have powers that enable the effective, efficient and appropriate resolution of appeals. "We are eager to take this work forward and are currently in discussions as to the scope of the project."

Law Reform Body to Look at Criminal Appeals: 'Root and Branch Reform is Vital'

Jon Robins, Justice Gap: The government's official law reform body has confirmed that it will look at the controversial law around criminal appeals and the statutory test applied by the miscarriage of justice watchdog before referring a case back to the Court of Appeal. The long awaited review by the Law Commission in its 14th programme, called for in last year's report by all the All-Party Parliamentary Group on Miscarriages of Justice (APPG) as well as the House of Commons' justice committee in 2015, was reported in the Observer in an article that focussed on post-conviction disclosure although it is understood the review will be broad in scope.

The Law Commission confirmed to the Justice Gap that the review would take place following a letter from the Lord Chancellor to prisoner Mark Alexander via Andrew Selous MP – as reported on the Justice Gap here. The Criminal Cases Review Commission (CCRC), under the Criminal Appeal Act 1995, can only refer cases back to the appeal judges if it believes there is a 'real possibility' that the court will overturn the conviction. There has been increasing concern about the falling number of referrals made by the watchdog and a perceived reluctance to take on an increasingly hostile Court of Appeal.

The APPG was set up after the number of CCRC referrals hit an all time low of just a dozen in 2017. According to last year's Westminster Commission report into the CCRC by the APPG, 'the predictive nature' of the statutory test had 'encouraged the CCRC to be too deferential to the Court of Appeal'. The report by the commission chaired by Lord Garnier QC and Baroness Stern argued that the test acted as 'a brake on the CCRC's freedom of decision'. Instead it recommended that there should be 'a more objective test: that the CCRC is to refer a case if it considers the conviction may be unsafe, the sentence may be manifestly excessive or wrong in law, or that it is in the interests of justice to make a referral. This would encourage a different and more independent mindset'.

The charity APPEAL hopes that the review includes an overhaul of the rules of disclosure and the Observer article focussed on the chaotic approach to post conviction disclosure as a result of a 2014 Supreme Court ruling in the Nunn case (as reported here). The group, in a submis-

mental health team probably contributed to his death. “Overall, there were failings in the treatment and management of Wayne’s mental health which, in combination, possibly contributed to Wayne’s death. These included inadequate holistic care specifically communication and reviews between the mental health and physical health team, and the refusal to prescribe anti-psychotic medication on Wayne’s request. Furthermore, insufficient direct senior reviews and monitoring of Wayne’s mental health between Wayne and his treating consultant psychiatrist. “There were failings within the prison service which included the failure to consider and open an ACCT on 6 February 2019 as recorded in the Mercury Intelligence system. Alongside this there was the failure to carry out both the evening and morning roll call cell check on 15th and 16th March 2019. It is possible these could have influenced events.”

Overcrowding an ‘Enduring Crisis’ at HMP Low Moss,

Holly Bird, Justice Gap: Prison inspectors have described overcrowding at HMP Low Moss as an ‘Enduring Crisis’ in a their latest report, with the population at one of Scotland’s newest prisons ‘Far Exceeding Design Capacity’. Her Majesty’s Inspectorate of Prisons for Scotland (HMIPS) carried out an inspection of the all-male prison in Bishopbriggs, East Dunbartonshire, from January 31st to February 11th earlier this year. The prison, one of 13 operated by the Scottish Prison Service (SPS), was rebuilt in 2012 after its original buildings were demolished in 2007.

Inspectors raised specific concerns about ‘Project 100’, an initiative which aimed to increase the prison’s operational capacity of 784 prisoners by 100 spaces in response to Scotland’s growing prison population. The additional 100 spaces were created by placing bunk beds in cells designed for single occupancy, leading to cells that were ‘too small accommodating two prisoners’, and ‘not adequate for two people to live comfortably side by side’. This double-cellular accommodation became ‘particularly troubling’ during the Covid-19 pandemic, ‘when time out of cell was at a premium’. Inspectors noted that infection control protocols had violated imates’ right to a minimum of an hour’s outdoor exercise each day, with isolating prisoners often granted just one hour of fresh air every three days. Inspectors highlighted the constricted time out of cell as a human rights issue, but also indicated that the problem had been ‘addressed and resolved’ during the inspection.

Inspectors also raised serious concerns in relation to human rights in other areas of assessment at Low Moss. Inspectors wrote that effective accountability based on human rights standards in the prison was inconsistent: complaint forms were inaccessible to prisoners, and while human rights were not completely ignored, there was ‘minimal’ reference to standards, rules, and human rights-based criteria. Inspectors were additionally troubled by the potential for prisoners to be discouraged or intimated by staff not to pursue complaints. The prison had adopted a practice of keeping the relevant forms behind a staff desk, forcing inmates to request them from prison staff, which was described as ‘poor practice’. ‘Prisoners should be able to freely access complaint forms without the need to discuss the nature of their complaint with staff’, inspectors wrote. While staff pointed out drawers where the relevant forms were supposed to be freely accessible, these were empty at the time of inspection.

Healthcare needs and assessment within the prison came as the lowest-graded quality indicator in the report, receiving an assessment marker of ‘poor performance’. Between 70 and 80 prisoners over a three-month period had missed secondary care appointments due to a ‘deeply troubling’ lack of transport provision, presenting a ‘continued and significant risk to prisoners’ health and wellbeing’. Prisoner transport is run by GEOAmey, a private company that won the contract for the Scottish Court Custody and Prisoner Escorting Service

(SCCPES) in 2019. Inspectors urged GEOAmey and the SPS to provide a solution ‘without delay’ to ensure that prisoners get to hospital appointments when required. The report made clear that GEOAmey’s failings relating to transport provision was ‘an ongoing national issue’ across Scotland’s wider prison landscape, and had resulted in a number of other problems beyond missed hospital appointments. The ‘continued issue with transport provided by GEOAmey’ also included delays in prisoner transfers, meaning that due to an absence of healthcare staff upon late arrival, some prisoners were unable to access appropriate healthcare services. Inspectors noted that this issue has been escalated to GEOAmey’s Chief Executive.

Concluding the report, inspectors wrote that ‘the inspection undoubtedly highlighted a number of issues where improvement is necessary and where, with creative thinking, the limitations of the existing pandemic are not an insurmountable barrier to progress’. Despite this recommendation, at the time of inspection, there were ‘no plans to end ‘Project 100’’. Although the Scottish Government’s aim is to use custody ‘only where there is no alternative’, Scotland’s prison population rate is the highest in the UK and is among the highest in Europe.

‘Price to Pay’ From Prisoners Being Locked up 23 Hours a Day, Warns Inspector

Noah Robinson, Justice Gap: The chief inspector of prisons has condemned the ‘blank inactivity’ of prisoners across the estate and the failures in rehabilitation in his annual report. Forty years on from the first such report, Charlie Taylor highlighted the ‘lack of progress’ in providing purposeful and meaningful activity and warned of the long-term effect of lockdowns within prisons. Taylor stated that there was ‘no doubt that there will be a price to pay’ from prisoners being locked up for extended periods of time, particularly during the periods of national lockdown. Currently, more than half of male prisoners (51%) and more than three-quarters of female prisoners (76%) are recorded as suffering from mental health difficulties. Prisoners often complained of the toll of being locked up for long periods of time. The report found that more than half (53%) of all prisoners were in their cells for at least 22 hours on weekdays, in some cases worse on weekends. Whilst this was in part caused by the pandemic, staff shortages also caused the issue with increased operational challenges, such as at HMP Mount.

‘We do not yet know what the longer-term effect of lockdowns will be on prisoners, but there is no doubt that there will be a price to pay for the loss of family visits, the limited chance to socialise with other prisoners, the lack of education, training or work, the curtailing of rehabilitative programmes, the cancellation of group therapy and the dearth of opportunities for release on temporary licence,’ unless these men are given the support that they need, there is the potential that they will lead long lives of criminality – creating victims, disrupting their communities and placing a huge burden on the state.’

In an ‘overtly cautious’ and ‘sluggish’ return to purposeful activity, Taylor described that there was ‘not enough ambition’ from some governors to restart following the lifting of national restrictions. Eight out of the 20 assessed prisons were ranked as poor for improvements to purposeful activity following inspections and 12 out of 20 were ranked as not sufficiently good for rehabilitation. The report captures a ‘depressing picture of poor outcomes for prisoners and low purposeful activity scores’, Taylor stated. With almost six out of 10 adult prisoners (57%) having literacy levels below those expected of an 11-year-old, the report highlighted how the prisoners ‘were learning to survive in prison rather being taught how to succeed when they were released’.

Safety outcomes were not sufficiently good in half of prisons inspected and one in five prisoners told inspectors they currently felt unsafe. This was evident in both adult male and female

Thamesmead, London SE28 OEB www.justiceforkevan.org

HMP Maghaberry: Prisoners Gain Access to Jail Building's Roof

Four prisoners have been referred to the police for investigation after gaining access to the roof of a building at Maghaberry Prison. The Prison Service said the prisoners got on to the roof of the Mourne complex on Wednesday 13th July. A spokesperson said the incident was "brought under control" without anyone being injured. They added: "The area will be assessed to ascertain how the prisoners were able to access the roof. "The four prisoners will be charged under prison rules and their actions will be referred to the PSNI for investigation." The rest of the prison was unaffected during the incident.

Penal Policy Requires a Political Reset

Commenting on the HM Inspectorate of Prisons annual report today (13 July), Peter Dawson, director of the Prison Reform Trust said: "Penal policy requires a political reset is the main conclusion we can draw from the Chief Inspector's annual report. This government boasts about its intention to have 20,000 more people in prison by 2026, but the report could not be clearer about the likely outcome if the system continues as it is. Lock 'em up and throw away the key might be a good policy for an election campaign, but this report shows that it actually makes us all less safe. Perhaps uniquely amongst public services, we can get a better result by shrinking rather than growing our use of prison. There has never been a better time to seize that opportunity, but it will take a change in the political approach to make it possible."

Jayland Walker: Autopsy Shows Black Man 'Shot Or Grazed' 46 Times

Sam Cabral, BBC News: A 25-year-old black man killed by Ohio police last month had 46 gunshot wounds or graze injuries on his body, an autopsy report has found. The medical examiner said it was impossible to know which bullet killed Jayland Walker, or how many shots were fired in total. The report comes two days after hundreds mourned his death in the city of Akron, which remains on edge. According to the medical examiner, Walker sustained serious injuries to his heart, lungs and arteries in the 27 June shooting in the city of Akron. He was killed at the end of an attempted traffic stop that began over minor equipment violations and quickly devolved into a roughly six-minute pursuit. Authorities have said he fired a single shot 40 seconds into the chase.

Police body camera footage shows Walker, in a ski mask, jumping out of the moving vehicle from its passenger side and ducking into a parking lot where police opened fire on him from multiple directions The footage is too blurry to accurately determine what authorities called a "threatening gesture" he made before he was shot. However, Walker was unarmed at the time and his family, through lawyers, have said there was no need to kill him. Police found an unloaded handgun, one clip of ammunition and a wedding band in the driver's seat of his vehicle. Initial findings showed more than 60 wounds on Walker's body. Summit County medical examiner Dr Lisa Kohler said it was "very possible" one bullet may have caused multiple entrance wounds.

The eight officers involved in the shooting - seven of whom are white, and one of whom is black - are on paid leave as the state of Ohio investigates. The footage is too blurry to accurately determine what authorities called a "threatening gesture" he made before he was shot. The National Association for the Advancement of Colored People, a civil rights organisation, made a direct plea to US Attorney General Merrick Garland, the country's top prosecutor, to open a federal investigation into the incident and hold the officers accountable "to the fullest extent of the law". The prosecution rate for US police officers in fatal shootings remains

low, but recent cases have recast the conversation.

Support for Victims and Potential Victims of Trafficking In Prison

Following judicial review proceedings brought by the Anti-Trafficking and Labour Exploitation Unit (ATLEU), the Secretary of State for Justice has agreed to commence the development of operational guidance relating to victims and potential victims of modern slavery for staff working in prisons and to use his best endeavours to publish that guidance by 31 October 2022.

The Justice Secretary has agreed that the operational guidance will include: notification of reasonable and conclusive grounds decisions to prison staff including key workers; provision for a specific assessment of the modern-day slavery needs of any prisoner who has a reasonable grounds or conclusive grounds decision; provision for prison officers to inform partner agencies, including The Salvation Army, before a potential or confirmed victim of trafficking is released from custody. The Claimants argued that the Justice Secretary's failure to make arrangements for the assessment and support victims and potential victims of modern slavery was (i) discrimination contrary to Article 14 ECHR; (ii) irrational; (iii) in breach of the relevant statutory guidance; and (iv) contrary to the systems duty under Article 4 ECHR.

Calls for PSNI to Stop Strip Searching Children

Police Service of Northern Ireland (PSNI) should stop the practice of strip searching children, according to Amnesty International and senior political representatives. It was recently revealed by The Detail that, in 2021, there were 34 instances in which under-18s were strip searched by the PSNI and that two of the cases involved young people aged between 12 and 14. Strip searches involve the removal of clothing and can include the exposure of intimate body parts. However, they differ from intimate searches which involve the physical examination of a person's body orifices other than the mouth. The PSNI has maintained that none of the 34 strip searches of under-18s in 2021 involved intimate searches. No drugs, weapons or anything else harmful were found as a result of 91% (31/34) of the strip searches. In addition, in 14 of the 34 cases, the PSNI was unable to provide any justification for why the strip searches were conducted – even though officers are obliged to record this information. The Detail's findings resulted in calls for the PSNI to stop strip searching under-18s.

Patrick Corrigan, Amnesty International's Northern Ireland programme director, told The Detail: "The use of strip searches against children constitutes a serious violation of their dignity and human rights. Further, it shows serious disregard for the PSNI's commitment to human rights and the UK's obligations under international human rights law to uphold the rights of the child. We call on the PSNI to end this shocking practice immediately." Alliance's John Blair, who was a member of the last Policing Board, told The Detail: "These statistics are deeply distressing and are clearly unjustifiable, particularly given the proven low rate of outcomes from the practice. It should be a priority for the new term of the Policing Board to seek to end it." Sinn Féin's policing spokesperson, Gerry Kelly, told The Detail: "Sinn Féin are very concerned about these reports of strip searching procedures on children under-18 by the PSNI. The practice of strip searching is entirely out-of-step with any semblance of human rights standards and should be ended. I will be raising these reports with the Chief Constable."

The Northern Ireland Commissioner for Children and Young People (NICCY), Koulla Yiasouma, told The Detail: "Police powers such as stop and search and strip searching should only be used sparingly and as a measure of last resort. The statistics highlighted by The Detail show that this is not the case and NICCY will continue to raise this with all relevant policing bodies in our engage-

sion to the Law Commission, argues that the law on post-conviction disclosure as set out in Nunn leaves wrongly convicted defendants 'without an effective means of accessing any evidence held by law enforcement that undermines the safety of their conviction'. 'Essentially, this is because it places those seeking post-conviction disclosure in a Catch-22. To make a successful request, the law requires a requestor to pinpoint the existence of specific exculpatory material held by law enforcement – yet the only means of discovering that such material exists will almost always be through having access to law enforcement material and proactively searching for it.' As reported by the Justice Gap, it is now 'nearly impossible' for the victims of wrongful conviction to access material held by the police that might assist any appeal.

APPEAL flags practice in Louisiana where those investigating potential miscarriages of justice are allowed full access to files held by police and prosecutors on a case once a conviction is final. According to Innocence Project New Orleans, of the 48 people in Louisiana who have been exonerated since 1990, 'at least 43 exonerations were based on public records'. 'The current law on post-conviction disclosure should be replaced by a statutory right of access that gives appeal representatives and unrepresented appellants a right of controlled access to all non-sensitive material held by the police and prosecution on a case,' the group says. 'As Louisiana demonstrates, such a broad right of access is the only reliable way to ensure that withheld exculpatory evidence comes to light and can be used to exonerate the wrongly convicted.'

'The risk of miscarriages of justice is unacceptably high in this country,' comments Charlotte Threipland of APPEAL. 'Evidence is being routinely withheld and prematurely destroyed from would-be appellants. The legal thresholds for having a conviction reviewed and then quashed by the Court of Appeal are unattainably high. That's why we are delighted that the Law Commission is considering criminal appeals as part of its 14th programme of law reform. Root and branch reform is vital to ensuring wrongful convictions are identified and overturned.'

Miscarriage of Justice Press Conference 12th of October 2022

Calls for a judicial inquiry into all the cases from 1982 -2016 in Wales. We are holding a press conference at the Norwegian Church in Cardiff Bay on the 12th of October 2022 At 11am. In relation to a judicial inquiry into all the miscarriages of Justices cases from 1982-2016. We want an inquiry for the victims of the miscarriage of justices and for all the victims families who have been denied justice. We want a full judicial inquiry set up by a retired High Court Judge to look at what has gone wrong in each case and why these miscarriages of justice occurred in the first place. Secondly to look to see about bringing accountability for those who caused the injustice Whether this be the Police, Crown Prosecution Service, individuals including solicitors and the barristers concerned. We call to have all the cases reopened as detailed in my book The Dossier for all the victims families who have not had justice and should form part of the judical inquiry process.

Guest speakers calling for a Judicial inquiry are as follows: 1. Rhys Ab Owen AM Plaid Cymru. 2. Adrian Stone wrongly accused the Welsh Conspiracy Case. 3. Dr Dennis Eady Cardiff Innocence Project. 4. Dr Michael Naughton Founder of the Innocence Project UK. 5. Author John Morris The Clydach Murders. 6. Award winning Author Michael O'Brien the Cardiff Newsagent Three. 7. Steven Fettah father of a victim of a miscarriage of Justice Joe Fettah. 8 Paddy Joe Hill wrongly convicted and one of the Birmingham Six. 9 Phil Parry Award winning Journalist. 10. John Actie wrongly accused of the Lynette White Murder.

After the press conference we will be walking to the Senedd to present a copy of my book as evidence to the Welsh Assembly Members to support our calls for such an inquiry and

raise this issue with the English Government.

Inmate Wayne Hurren Died Through Failings by Prison Mental Health Services

Doughty Street Chambers': The jury's verdict in the inquest into the death of Wayne Hurren decided that he died from suicide after suffering a mental health relapse after failings in his treatment. The jury also found that failings by prison staff may have contributed to his death. Wayne's family was represented by Tom Stoate of Doughty Street Chambers' Inquests and Inquiries Team. Wayne Hurren was found unresponsive in his cell at Wormwood Scrubs on 16 March 2019 with a self-inflicted wound. He was 58 years old. He had a longstanding diagnosis of Schizoaffective Disorder and died after a relapse in his mental illness which followed a decision by prison psychiatrists to stop, and later to refuse Wayne's own request to reinstate his antipsychotic medication. Wayne was never assessed by an outside psychiatric unit, despite the fact that two different independent psychiatrists instructed by Wayne's defense lawyers deemed him unfit for trial and recommended that Wayne be admitted to a psychiatric unit for assessment treatment.

Wayne's condition began to deteriorate when his prescribed depot injections were stopped by a prison psychiatrist on August 7, 2018. Although this was said to have been done on the understanding that a review would take place regarding whether Wayne required alternative antipsychotic medications, that review that never took place. This meant Wayne was without a prescription of antipsychotic medication for the first time in decades. Wayne later requested and was refused his antipsychotic medication. He repeatedly expressed that he was in pain and that his body was "crying out" for depot injections; and it was recorded that he was struggling to sleep, and that he felt "nobody cared" about how he was.

An independent consultant psychiatrist acting as the court's expert witness, Dr Dinesh Maganty, told the inquest: At the time of his death, Wayne was suffering from a relapse of his Schizoaffective Disorder, resulting in impulsive behaviour which increased his risk of self-harm; The decision of the prison mental health team to refuse to prescribe Wayne his antipsychotic medication was "extremely brave" and a decision "no reasonable body of psychiatrists would logically support"; The withdrawal of antipsychotic medication in persons with severe and enduring mental illness should be done gradually and under close supervision, ideally in a hospital setting; and The physical symptoms Wayne was suffering from in the period leading up to his death were likely to have been amplified in his mind to the point that he was catastrophising' them. This, along with low mood and impulsive behaviour, should have been recognised as typical of a relapse in Schizoaffective Disorder. On the afternoon of 15 March 2019, according to Wayne's friend in the next cell, Wayne began to give away his personal belongings to other prisoners. That day Wayne rang his emergency bell seven, which was out of character for him; he also barricaded his cell with furniture. Wayne's friend in the neighbouring cell later heard what he thought was Wayne smashing furniture in his cell at around 22:00.

The night duty officer who oversaw the residential night wing log claimed to have completed his mandatory wing roll checks that night and in the early morning and signed the roll check to that effect. CCTV footage in fact showed that he did not undertake any check (the night officer was later made subject to disciplinary proceedings in relation to these failings but resigned before they could be completed). At 08:50 on March 16, 2019, Wayne was discovered unresponsive in his cell by another prison officer conducting a morning roll check.

The inquest concluded that Wayne died of suicide whilst suffering from a relapse in his mental ill health. The jury delivered a highly critical narrative conclusion, stating: "Wayne's relapse in combination with the failure to recognise and understand the symptoms of relapse by the

prisoners as well as in youth facilities. Urgent notifications were issued at both Rainsbrook and Oakhill due to high levels of violence and the subsequent failures to make adequate progress. The report drew on five inspections of women's prisons that took place since May last year (Downview, Foston Hall, Low Newton, Send and Styal) and flagged the differing needs of women in prison. According to the inspection, mental health problems remained 'a far more prevalent issue for women in prison' with some sent there due to the non-availability of mental health facilities in hospital; but the inspectors noted 'the lack of data collection' meant the extent of the problem was 'unknown'. 'Many women left prison without a safe and sustainable place to live, but the extent of this problem was not fully apparent due to poor-quality data,' it added.

Muslim Prisoners Threatened With Solitary Confinement in Repressive Control Units

KevinThakrar for FRFI: In April 2022, the government published a report into 'Terrorism in Prisons' authored by Jonathan Hall QC, its 'Independent Reviewer' of terrorism legislation. Writing from high security prison HMP Belmarsh, Kevan Thakrar describes Hall's report as wholly dishonest, racist and Islamophobic. Hall says he felt he had to begin looking into the subject following media accounts of events classified as terrorism that featured serving or ex-prisoners, but his motivation is undoubtedly very different. In 2015 Her Majesty's Inspector of Prisons (HMIP) was forced to document the disproportionate use of the Close Supervision Centre (CSC) system against Muslim men. HMIP did not call this blatant discrimination out for what it was, as those of us who reported it to them were requesting, but instead asked the CSC Management Committee (CSCMC) to look into the figures and explain them.

Before HMIP returned to the CSC two years later, around 20% of the CSC population who were Muslim were removed from the books, being transferred to Secure Hospitals (Broadmoor, Rampton and Ashworth) under the Mental Health Act or moved to Her Majesty's Prison and Probation Service (HMPPS)' own Personality Disorder Units at HMP Frankland and HMP Whitemoor. The few who could not be railroaded in these ways were returned to other prison locations. This was the first time that any such progressive transfer from a CSC had occurred within five years. Although the figures remained disproportionate, HMIP accepted the claim that no discrimination was occurring.

Unsatisfied that the CSC system could no longer be openly used as an unofficial punishment against Muslims, the HMPPS management had to come with a new idea. The CSC had been designed as an experiment to break the spirit of prisoners who prison management had taken a dislike to, through indefinite detention in solitary confinement, after previous oppressive systems had been found to be unlawful. The primary process the CSC had to replace was the Special Security Units (SSUs) which had been used to discriminate against Irish political prisoners for years until exposed in an Amnesty International report. Never blessed with the greatest minds, HMPPS management had the innovative idea to bring back the SSUs, but this time targeting Muslims rather than the Irish, with some fancy rebranding under the title of Separation Centres (SCs).

So rather than fill the CSCs with Muslims, they would all now be sent to an SC, but in order to achieve this, a new Prison Rule would need to be created. The propaganda regarding so-called unmanageable extremists within prisons went into overdrive. This then led to the introduction in 2017 of Prison Rule 46A, which some may think has a striking resemblance to CSC's Prison Rule 46. From the moment of their creation the SCs have struggled to line up with the hype, with only a handful of guys sent there, as quite simply the 'Muslim threat' never really existed in the way it was portrayed. With Hall's report all this could change. The already low bar set to qualify for the label of Islamic Extremism through tools such as the widely

discredited Prevent programme has been dropped further, to the extent that ALL practising Muslims now fit the criteria. This will undoubtedly lead to further over-policing and harassment, resulting in resistance to the discrimination, which in turn will be cited as evidence of the threat needing to be policed. Contrast this with Hall's claim to have found no racist or far-right extremism within prisons, despite evidence showing this to be the fastest growing threat in this country with growing numbers of prisoners who belong to far-right groups like Britain First and National Action.

For the past decade the most disruptive and insidious gang operating within prisons has gone by the name 'Piranhas'. This group was started by some foolish Scousers who thought it would make them look cool, while they sat in the segregation units of high security prisons in isolation for their own protection, after they had been stupidly shouting extreme racist abuse when first placed there. They have been responsible for multiple random attacks on other prisoners, generally of the Islamic faith, including a violent gang rape in HMP Forest Bank which they filmed on a smuggled mobile and uploaded to the internet for all to see. They now control the majority of contraband within most northern prisons and have changed the culture and stability which once existed within long-term prisons. This is all well-known, but for Hall it is apparently more dangerous when someone calls Muslims to pray in line with the obligatory requirements of the religion.

Regardless of these facts, it was the sleight of hand that was most alarming from these press releases fronted by Hall. After setting out his fictional account of how Muslim prisoners should be isolated from the mainstream prison population and falsely blaming 'human rights' as the reason the Separation Centres are barely used, if you blinked you would have missed them announcing a 60% increase to CSC capacity to tackle these Muslim prisoners. But wait, the SC is where those deemed to hold extremist views go, not the CSC, so why boost the budget and capacity for the wrong place? Well, it seems that what Hall has been paid to do is scaremonger to excuse the wholly unnecessary growth to the inhumane CSC system, and what better way to do that than wrap the taxpayers' expense in the words of terrorism.

When I was first detained in the CSC system in 2010, the population was limited to around just 25 men. Since then, although the total prison population has remained around 80,000, the CSC has doubled in capacity, with four extra CSC units being opened to accommodate the increase. It did not need to happen. If anything, the CSC was already too big and with the extra capacity came the extra difficulty for those of us made victims of the process to escape back into mainstream prison population. That will now undoubtedly worsen but the problem here is simple. While operating at maximum capacity there is no space for new CSC referrals, yet the CSCMC refuses to progress those of us already under their management, making this exclusive club one-in, one-out. If the extra 60% capacity courtesy of Hall does turn out to be exclusively Muslim then we will be in an even more discriminatory position than in 2015, as most of those in the CSC will be Muslim again, while the SC, which has to date been solely for Muslim men, also remains operational.

It should be noted that many of the Muslim men who have been held in the CSC and SC have never been convicted of any terrorism-related crime, unlike the National Action fascists, and have never joined any prison gang, unlike the Piranhas. I suppose for Hall it was easier to target those unlike himself - men who are accepting of others regardless of their skin colour and who turn to Allah for a better life rather than corruption. I understand the fear preventing too many others inside the system from speaking out about his disgrace but what can they do to me? I am already in the CSC.

Kevan Thakrar A4907AE HMP Belmarsh (Segregation Unit), Western Way,

ment and monitoring processes." Commissioner Yiasouma said the use of these powers in this way "results in many young people feeling they have been discriminated against and in turn can lead to a drop in confidence in the police. Young people must be able to see the PSNI as a service that is there to protect them. Regrettably, the use of these powers in this way undermines this and leaves some young people feeling they are being unfairly and not equally treated."

These calls for the PSNI to change its approach follow Queen's University Belfast's senior criminology lecturer, Dr John Topping, and the Children's Law Centre's policy officer, Claire Kemp, also criticising the police's strip searching of under-18s. Dr Topping said strip searching under-18s is "hard to justify on any grounds as an effective power in dealing with children except in the most necessary of circumstances". Ms Kemp said the figures are "deeply shocking and concerning", and that the PSNI should stop strip searching under-18s immediately as the practice represents a "fundamental breach of children's rights".

PSNI Chief Superintendent Sam Donaldson said: "Unfortunately there are occasions when it is necessary and proportionate for police officers to conduct strip searches of under-18s", but that they are only conducted "when authorised by a custody sergeant and are carried out in a place of privacy by a suitably qualified/trained officer of the same sex, giving appropriate respect to preferred gender identity, as the individual being searched. PSNI's 'Policing Powers Development Group' will look at the data uncovered by The Detail and that "any trends or issues arising will be addressed. We continually seek to learn and improve the processes we employ to help keep our communities safe and will always take on board any learning from the experience of others."

£17,500 Awarded for 40 Days of Unlawful Detention During the Pandemic

Freemoevement: In R (Abulbakr) v Secretary of State for the Home Department [2022] EWHC 1183 (Admin), the High Court has ordered the Home Office to pay a detainee £17,500 for 40 days of unlawful detention caused by unreasonable delay in providing a release address. The figure is high for the length of detention concerned, given the lack of any "initial shock", and represents a criticism of the department's failures on bail accommodation and recognition of the hardship of being detained during the pandemic. It will be a useful figure for obtaining significant damages in similar cases.This judgment is a follow-up to R (Abulbakr) v Secretary of State for the Home Department [2020] EWHC 3905 (Admin) (not publicly available but can be found on Westlaw). In the substantive judgment, Mrs Justice Foster found that the claimant had been unlawfully detained for 40 days because of a failure to arrange release accommodation, which overlapped with a period during which there was no realistic prospect of removal within a reasonable time. The issue before the court in the new judgment was the appropriate amount of damages, as the parties had been unable to agree.

Foster J declined to award aggravated or exemplary damages as punishment for the errors which led to the delay in finding accommodation, concluding that: I do not agree with the Claimant that this case is analogous to Muuse: it is a far less egregious example of executive failing, it consisted of a series of careless mistakes, a failure to check – on more than one occasion – the detail of this particular Claimant's circumstances, and an unsatisfactory approach to the presumption of liberty.

However, when reaching an overall award of basic damages, the court awarded the claimant a relatively high amount, notwithstanding that there had been no "initial shock" of incarceration: Taking these matters into account, and in light of the helpful updated figures by reference to earlier authorities in my judgement, as at today's date, allowing for an element of current inflation, the appropriate award is £17,500 to represent all of the effects of the

detention. This is a "global" basic award. I have notionally added to a foundation figure of £15,500, an uplift of £2,000 to reflect both the extra time in prison, rather than administrative detention, and COVID circumstances, with more emphasis upon the latter.

Although the claimant failed to obtain aggravated or exemplary damages, the overall result is excellent given that he was lawfully detained for a significant period and his detention had become lawful again by the time the court reached its substantive judgment.

Government Must 'Get A Grip' on Failing Strategy for Vulnerable Children in Custody

A cross-party group of MPs have condemned failures to provide suitable provision for vulnerable children in custody and called on government to 'get a grip'. The Public Accounts Committee (PAC), which examines the value for money of government projects, say they are 'unconvinced' by government efforts to overhaul provision for children in custody. Their report, published third week of July, examines delays by the Ministry of Justice (MoJ) and Her Majesty's Prison and Probation service (HMPPS) to provide secure schools to replace current provision for children in custody. The MoJ accepted the need to build more secure schools in order to meet the complex needs of vulnerable children seven years ago, but the first is unlikely to open until 2024. The PAC say this means many children are currently receiving 'substandard care' with this particularly impacting highly vulnerable young girls. According to the PAC, the delay is partly because the MoJ 'failed to recognise' the need for legislation to permit a secure school to be run by a charity. The MoJ originally estimated it would cost £4.9 million to refurbish and convert the former Medway STC site but 'having developed its understanding of the requirements' it now estimates that it will cost £40 million which is the same as the 'initial capital… for building a brand new secure school'.

Children in custody are currently held in Secure Training Centres and Youth Offender institutions, which the recent MacAlister review said were 'wholly unsuitable' for accommodating children in the criminal justice system. The PAC is highly critical of the MoJ for failing understand what works in terms of early intervention. 'The MoJ wants to focus on intervening earlier to deliver better outcomes for children,' it says. 'But it does not yet understand the most effective ways to divert children away from entering the youth justice system, such as through community resolutions.' It says the ministry is 'focused on developing and improving YOI provision' despite recent criticism in the independent review. The number of children in custody fell by 73% in the decade to 2021–22, from 2,040 to 560 children. In April this year there were 432 children aged 10-17 held in custody however, according to the report, the number of children in custody in the UK is expected to more than double by 2024. The PAC is concerned that 'too many children are being held many miles away from home'. The idea for secure schools was to have small, local provision with children being housed closed to home.

Dame Meg Hillier MP, Chair of the Public Accounts Committee, said: 'Secure schools were heralded as the solution for the youngest and most vulnerable in custody. It's time for the Department to get a grip on the programme it announced its support for seven years ago. We urge the government to understand the impact that custody has on children, particularly those held in unsafe conditions or those receiving substandard care. It is clear that the government lacks a coherent strategy for youth custody which must have at its heart the need to reduce the number of children entering the criminal justice system and providing sufficient safeguards for those that do.' The government faces 'a double disaster' of a growing number of children in custody, as well as 'spiralling costs' jeopardising the safety and security of facilities.