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Parole – the Bailey Judgement – a Key Change Ruled Unlawful

Peter Dawsonm Prison Reform Trust: The High Court has published a judgement about the chaotic introduction of legislation and guidance that prevented the Secretary of State's experts from giving the parole board their view on whether a prisoner could safely be released or sent to open conditions. It could not be much clearer about the fundamental mistakes Dominic Raab committed in pushing it through. The brief history is that, following the embarrassment of cases where he had personally disagreed with a parole board decision in a high profile case, but was confronted with the fact that his own experts had agreed with the board, Dominic Raab decided to ban those experts from giving recommendations in all cases. This went much further than a proposal made as part of the "root and branch review" of parole published in March last year, which would have required a "single view" prepared by the Secretary of State in advance of hearings about the most high profile cases – expected to number about 150 a year. The change was given effect by an amendment to the secondary legislation that governs parole processes and in guidance to HMPPS staff issued in July 2022 and then amended in October 22.

Following a judicial review on behalf of two prisoners affected by this change, the High Court has concluded that both the secondary legislation and both sets of guidance are unlawful. This is what the court says: "There was no legal basis for these instructions, which would induce report writers to breach their legal obligations." The court has even invited further submissions on the question of whether the Secretary of State has required his staff to act in a way which is in contempt of court.

At the time this was all happening last summer, it was obvious that officials were having to cobble a policy together at breakneck speed, with no consultation and with only a hazy idea of what the justification for such a dramatic change might be. As a result of a Freedom of Information request from PRT, the private exasperation of the unconsulted Parole Board became public, and is quoted in the judgement. Officials were reduced to producing a "script" for staff appearing at hearings which would not have looked out of place in an episode of "Yes, Minister", as it tried to navigate through the challenge of sparing the Justice Secretary's blushes while meeting the legal and professional obligations of a witness to a judicial proceeding.

The full text of the judgement includes a fascinating and rarely seen glimpse of what was happening in the corridors of the ministry during the chaotic run-up to the new rules being introduced in June 2022. Extracts of minutes of meetings between Dominic Raab and the senior officials responsible show what was actually driving the change in policy. It bore little relation to the submissions made to the court at this judicial review. As the lead official for the policy put it: "This would fix(a) major presentational issue"

This was never about better decision making, or even public protection, but about political embarrassment. But on another central issue those meetings also reveal the private opinion of the Justice Secretary on a very central issue. The judgement repeatedly confirms that the Parole Board has a judicial, and therefore scrupulously independent function: "It is … well established that, when exercising powers in relation to the Board, the Secretary of State must not to do anything that undermines or would be perceived as undermining the independence of the Board or that encroaches upon or interferes with the exercise by the Board of its judicial responsibilities." And that is because: "A review of …. domestic (legal) authority demonstrates that the applicable principles first articulated in Strasbourg march in step with the doctrine of the separation of powers, which in this context is reflected in the common law principle that decisions about the liberty of the subject should be taken by a body which is independent of the executive and impartial as between the parties, save where Parliament expressly provides to the contrary."

That is both clear and, for most people, uncontroversial. But this phrase appears in a note of a meeting attended by Dominic Raab (the Deputy Prime Minister, or "DPM"), his Permanent Secretary and the lead policy official: "Outlined that he (DPM) believes the Parole Board is not judicial in its function but is a fact finding process" It really couldn't be any clearer that the DPM – Dominic Raab – is choosing to ignore what the law clearly provides.

This judgement really matters. As the court states, the Secretary of State's actions "may well have resulted in prisoners being released who would not otherwise have been released and in prisoners not being released who would otherwise have been released." This is not just poor policy making and poor administration, it's an undermining of a process designed to treat prisoners fairly and keep the public safe. But it matters also for what it shows about the presentational motivation behind the government's approach to the parole process, and for the Justice Secretary's fundamental refusal to accept that, in the absence of explicit statutory authority to the contrary, the liberty of the individual should be determined by a court, not by him.

This is all potentially relevant to legal challenges to the current refusal to send almost all indeterminate sentence prisoners to open prisons. But it is also relevant to the promised legislation which may give the Secretary of State the final say in decisions to release someone on parole. The rule change which the court has declared unlawful in this case was not even debated in parliament before it came into effect. It's crucial that both MPs and Peers – the legislature – now do their job of restraining this over-mighty executive.

Proven Innocent After 11 Years on Death Row

Evidence Based Justice Lab: John Grisham, a best-selling author and recipient of various accolades, writes fictional books on the most horrific of crimes. From his own imagination, using his legal background as a barrister, he has written numerous legal fiction stories which have caught the attention of many around the world for their horrific nature. For a non-fiction story to have caught his eye, it must have been shocking. To this day, he has only ventured into writing one non-fictional book in his career; when questioned he said that this was such a fundamental miscarriage of justice that he felt the need to share it.

Ron Williamson was a successful baseball player- a big name in his small town of Ada. Ada Oklahoma, mid America, is described by Grisham as old fashioned and rural, the sort of American small town you see in the movies. Except this small town had a loud character, and that was Ron Williamson. Disturbing the seemingly peaceful small town, following his failed baseball career due to a shoulder injury, Ron had to move back home to his parents' house. Suffering from depression he turned to alcohol to cope, and his mental health soon deteriorated. As a result, he became known as a so-called town weirdo, and people called the police on him because he would drunkenly sing along the streets at night or randomly decide to mow people's lawns without their permission. To many, these are classic signs of someone not coping well mentally. But to the Ada police department these were signs that he may be a horrific murderer and rapist. The link seems so tenuous, because it is. On December 8th, 1982, Debby Carter was murdered and raped when she returned from work after working at a bar. The

details of her brutal rape and murder are horrifying, described by the police as the worst they had ever seen. After 5 years of no successful arrests in the murder investigation, the police turned to Ron Williamson. The best evidence the prosecution could present was a dream that Ron described to the police.

In 1988, along with his drinking buddy Dennis Fritz, Ron Williamson was arrested for the murder. The evidence used to convict him can't even be called flimsy; it was worse than that. The best evidence the prosecution could present was a dream that Ron described to the police. After being interrogated for days on end and hearing the story all over town, Ron described to the police a dream that he had where he had murdered and strangled Debby. This dream was treated as a confession. To the Ada police the dream seemed sufficient to suggest that Mr Williamson was guilty. In fact, Ada has become infamous for this. In a book by Robert Mayer titled The dreams of Ada, Mayer describes how the small town was so obsessed with securing convictions that several of their convictions were based on "dreams" reported by the defendants. In Grisham's book he reveals the story of Tommy Ward and Karl Fontenot who were convicted for the murder of a store clerk based on a dream scenario that they described. These men spent 35 years in prison before being released after the State conceded that they were wrongly convicted.

In addition to this poor evidence, there was clear corruption at the heart of Ada's judicial system. Evidence suggests that the lead prosecutor, Bill Peterson, forced other prisoners to lie and create stories about Mr Williamson. He forced a witness to say that Mr Williamson was at the bar where Debby worked the night of the murder and made a deal with another prisoner, Glen Gore (remember this name for later), to say that Mr Williamson had confessed to the murder whilst waiting for trial, despite Mr Gore being in another part of the prison.

So, the prosecution's evidence was a dream confession and false witness testimony. Despite this, Ron Williamson was still found guilty at his trial. Since this was Oklahoma, a state which allows the death penalty, Mr Williamson was sentenced to death. However, the death penalty was not the only torture facing him; his increasingly deteriorating mental state was equally as tortuous. Mr Williamson was already suffering from mental health conditions, however being locked up exponentially worsened his mental health problems. Tragically, the state refused to address Mr Williamson's mental health problems even though he was clearly suffering. He would have episodes of yelling from his cell to then staying in bed for days. One of the prison doctors even recognised the severity of his deterioration and for years requested help, only to be rejected. Where Mr Williamson did receive help, it was minimal and not a sustainable solution. In the US there have been proposed bills to ban the death penalty for mentally ill prisoners, as they are not aware of the situation and consequences (see here). This, however, has been consistently rejected. The State did not seem to care about Mr Williamson or the truth, they focused exclusively on justice for Debby and in doing so tortured an innocent man. Mr Williamson spent 11 years on death row, and at one point was only 5 days off being killed.

Thankfully, the Innocence Project agreed to take on this appeal and with little investigation needed, the lawyers soon realised the absurdity of this case. How could someone be sentenced to death in the absence of any reliable evidence? His lawyer Mark Barrett highlighted the clear issues in the prosecution's case and Judge Seay ordered a retrial in 1999. In the late 90s, scientific advances meant that it was possible to accurately identify someone's DNA when biological material was left at the crime scene. For Ron Williamson, it was crucial in excluding him as the true perpetrator of the crime. The semen found inside Debby Carter did not belong to him and that his DNA was not found at the crime scene. Ron Williamson was finally exonerated on April 15, 1999, after spending 11 years on death row.

Death Penalty Should Never be an Available Sentence.

The fact that defendants risk being convicted on relatively little evidence means that while the death penalty is legal there will always be a risk that defendants who are innocent will be executed. This conclusion is supported by empirical research into the death penalty.

In the US 136 prisoners have been released from death row since 1976, some of whom it is now clear are innocent. One recent academic study used statistical analyses and available data to suggest that at least 4.1% of death sentences in the US are likely to be being imposed on innocent people (see here). This highlights a serious risk that the death penalty is being used on innocent people. If the death penalty was the sentence given to Mr Williamson, it can clearly be handed down in cases where the evidence against a defendant is far from overwhelming. And not all defendants will have the ability to later demonstrate their innocence through DNA testing.

Whilst we cannot be sure whether those who have already been executed are innocent, there are several cases which would indicate that this is certainly the case. For example, Ruben Cantu was executed in 1993 after being convicted of murder during an attempted robbery. Tragically, after his execution the key witnesses in the case came forward saying they felt pressured and afraid of the authorities and did not accurately tell the truth. Additionally, Cantu's co-defendant signed a sworn confession that Cantu was not with him on the night of the crime, thus resulting in the district prosecution himself admitting the death penalty should not have been sought. Luckily for Ron Williamson, he was saved from the death penalty – though only by five days. From this case alone, it is clear that we must question just how many innocent people have been wrongly executed. The Netflix series Innocent man, which is based on Mr Williamson's story as well as the series The Innocence Files highlight the failures within the judicial system. Given these failures it is hard to see how anyone could advocate for the death penalty even with safeguards. Safeguards clearly do not always work.

Deadly Digital Dehumanization Rise of the Machines and the Fall of Human Control

Human Rights Watch: We often hear about "the rise of the machines," but the flip side of that is what we should really be concerned with: "the fall of human control." Those of us focused on human rights are worried in particular about what it means for the use of force. Who is making the most important decisions – decisions that could harm people, even decisions of life and death?

For years, we have been warning about fully autonomous weapons, also known as "killer robots," which would be able to select and engage targets in war zones (or even in policing) without any real human control. Yes, it's the plot of a hundred science fiction movies, but the threat is very real. Many countries are already using precursors to these weapons, like armed drones. Without a ban on "killer robots," governments will take the next step and start delegating life-and-death decisions to machines. From being in charge of the machines, human beings would become their subjects. We would be little more than data points, which the machines would use to decide about who lives and who dies.

Experts have given this process a name, digital dehumanization, and the idea can apply beyond weapons systems – think, self-driving cars or medical diagnoses. But when humans are reduced to data, and that data becomes the basis for decisions that can negatively affect their lives, we've replaced the concept of human responsibility for errors with a kind of "automated harm." In a conflict zone, the consequences would be catastrophic. Without someone – some human being – to hold accountable for an atrocity, it is pretty much impossible to achieve any justice. A massacre of civilians in a conflict zone would be presented as a design problem rather than a war crime. And our digital dehumanization would be complete.

When True Crime Really Matters

Neil Root, Justice Gap: A new documentary series puts the much-needed spotlight on miscarriages of justice and how the system has sometimes failed, leading to terrible, even fatal consequences With the current true crime documentary and drama tsunami dominating our television screens and streaming services, varying from award-winning investigations and reportage to crassly opportunistic ambulance-chasing, a new series focusing on the failings of our justice system is a must-watch for those who care about what happens to people and justice.

"Wrongly Accused", which is passionately presented, written and investigated by Louise Shorter, alumni of the classic BBC injustice strand Rough Justice and the co-founder of the miscarriage investigative charity Inside Justice, gives viewers a deep insight into five tragic cases, covering half a century. Cases where the lives of human beings were needlessly destroyed, and on one occasion (in)judiciously ended, for heinous crimes they didn't commit. Each case is afforded two episodes, the first of each looking at the original investigation which led to a person being falsely accused, with the second episode covering the evidence that led to the apprehension of the real killer. By comparing the two investigations, the series vividly highlights how things can go wrong, either by incompetence, tunnel vision, or even willful manipulation of the wrongly accused.

Louise Shorter interviews those close to each miscarriage- the families and legal counsels, and in one case, a miscarriage victim himself, a man for whom she was pivotal in proving his innocence. Along the way, the key mistakes and tipping points from the pursuit of justice into the shadow of injustice are revealed, followed by how the truth was thankfully finally reached, but after a great deal of damage had been done.

Working back in time from the present, the first case is that of Barri White, a man accused of the murder of his girlfriend Rachel Manning in December 2000. White was convicted and serving life in prison when he wrote to Louise Shorter, who had worked on the original case, and with the aid of a team of forensic experts they undertook a further investigation, and we learn how they meticulously worked to prove White's innocence. Then there is Christopher Jefferies, who was arrested on suspicion of murder when his tenant in Bristol, the landscape architect Joanna Yeates, was found dead near to her home in December 2010. Harassed and hounded by both the police and the press, Jefferies was only exonerated when Joanna's real killer was uncovered, and able to start to rebuild his life and reputation.

The series next delves into one of the murkiest miscarriages in British criminal history, that of Timothy Evans, who was erroneously hanged in March 1950 for the murders of his wife Beryl and baby daughter Geraldine, at the notorious 10 Rillington Place in London's Notting Hill. Evans's landlord John Christie was the star prosecution witness against him, and only later was Christie revealed to be a depraved serial killer. In an extraordinary and exclusive interview, Evans's sister Mary, now 94, tells her story for the first time, reliving the terrible events that led to his death, and how she has had to live for over seventy years with the pain of the grave miscarriage that allowed the state to execute her innocent brother.

The case of the arrest and imprisonment of Colin Stagg for the brutal murder of Rachel Nickell on London's Wimbledon Common in August 1993, to which her two-year-old son was tragically a witness, is also investigated. As well as spending over a year in prison, Stagg had to endure over a decade of speculation and finger-pointing until Rachel's true killer, Robert Napper, was unmasked and brought to justice. Another key strand examined is that of how the leading criminal psychological profiler Paul Britton was long blamed for this miscarriage, and how an eyewitness persuaded the police that Stagg was the culprit. A number of experts involved in the case reveal their first-hand accounts of the investigation in Wrongly Accused.

Finally, there is the case of Stefan Kiszko, who was wrongfully accused of the murder of Lesley Molseed, an 11-year-old girl in Rochdale, with only his mother and a crusading solicitor fighting for his innocence. He spent sixteen years in prison, until forensic evidence proved that Kiszko couldn't have committed the murder, and it was revealed that the police investigation was extremely flawed. Ronald Castree was eventually convicted. In a powerful interview, Castree's son, Nick, reveals how his father destroyed the lives of everyone he met, including his own family.

This series explores these seminal miscarriage cases in depth, from multiple angles, and leads to a greater understanding of how our justice system works and can sometimes go very wrong. This is important, and not just to remember those who suffered, and sometimes became broken or died because of something they did not do; these injustices also led to greater pain for the families of murder victims, as the real killers roamed free for years.

True crime isn't just entertainment, these are real lives, and it's so important to highlight that such a miscarriage could happen to any of us, or somebody that we love.

Gerard McDonagh Application to Direct a Separate Trial Refused

he five defendants in this case face various charges arising from a street brawl that occurred at Coolcullen Meadows, Enniskillen, on Saturday, 11 April 2020. The charges emanate from a verbal confrontation between members of the Joyce and McDonagh families which then escalated into a serious physical confrontation between Joseph Joyce and Ellen Joyce on the one hand and Gerard McDonagh, Jimmy McDonagh, John Paul McDonagh and Caroline McDonagh together with other members of the McDonagh family more peripherally involved in a non-criminal manner. Tragically, what has been described by the prosecution as a "full scale street battle," resulted in the death of John Paul McDonagh ("the deceased").

Matter for Determination: The defendant, Gerard McDonagh, brings an application to sever the indictment and asks the court, in the exercise of its discretion, to direct a separate trial of this accused. The prosecution and the legal team on behalf of Joseph Joyce oppose any severance of the indictment. For the reasons considered in detail below, the prosecution argues that the charges faced by all accused are founded on the same facts and consequently the defendants and respective counts are correctly joined on the single bill of indictment.

[30] I have considered carefully the written and oral submissions made by the parties. [31] Section 5(3) of the 1945 Act gives the court a power to order a separate trial of any count or counts in an Indictment where, before trial or at any stage of a trial, the court is of the opinion that a person accused may be prejudiced or embarrassed in his defence by reason of being charged with more than one offence on the same indictment or where for any other reason it is desirable to direct that the person should be tried separately for any one or more offences charged in an indictment. [32] As stated by the House of Lords in Ludlow, the judge has no duty to direct separate trials under section 5(3) unless, in his opinion, there is some special feature in the case that would make a joint trial of the several counts prejudicial or embarrassing to the accused and separate trials are required in the interests of justice. [33] In Ludlow, Lord Pearson further stated at p. 245: "In my opinion, this theory - that a joinder of counts relating to different transactions is in itself so prejudicial to the accused that such joinder should never be made - cannot be held to have survived the passing of the Indictments Act 1915 … In my opinion, the manifest intention of the Act is that charges which either are founded on the same facts or relate to a series of offences of the same or a similar character properly can and normally should be joined

on one indictment, and a joint trial of the charges will normally follow, although the judge has a discretionary power to direct separate trials under section 5 (3)."

[34] In the exercise of my discretion, I am not prepared to direct a separate trial in respect of Gerard McDonagh or any of the defendants. My reasons are as follows. [35] Firstly, the charges against all the accused are founded on the same facts and, accordingly, as stated by Lord Pearson in Ludlow above, the defendants are correctly joined on one indictment. The main body of evidence upon which the prosecution seeks to rely is captured on the CCTV footage and You Tube footage. It will be open to the jury, having viewed the CCTV and the You Tube footage and having heard the evidence, to draw its own conclusions as to the alleged factual matrix and all issues that may be introduced by the defence, including self-defence, mens rea states of mind (intent to cause GBH as opposed to ABH or otherwise) and the parameters of attempted GBH in the absence of actual GBH.

[36] Secondly, in the interests of justice, the offences should be tried jointly before the same jury so that the same treatment and the same verdict shall be returned against all those concerned in the same offences arising out of the same factual circumstances. There is a real risk that if the offences were tried separately, potential inconsistencies might arise if different juries are asked to decide the said interlinked events. It is my view that the jury should hear and see the whole story, not just a partial story that would inevitably follow in the event of severance of the indictment.

[37] Thirdly, no argument has been advanced that the said bill of indictment which includes all the counts is confusing for the jury and that it will be too difficult for them to disentangle. Rather, it is my view that severing the indictment could lead to confusion as the jury will left to speculate as to the whereabouts or involvement of the parties who have been severed into a separate trial. The said parties are clearly present and can be readily identified on the CCTV and other video evidence and any such speculation will inevitably create unfairness and prejudice for the defendants.

[38] Fourthly, if it appears during the course of the trial that the joinder of the charges against the defendants in a single indictment operates to cause prejudice, the court has power to postpone the trial as necessary and/or discharge the jury pursuant to sections 5(4) and 5(5) of the 1945 Act. Such safeguards will operate in this case. [39] Finally, it is my opinion that the avoidance of any risk of improper prejudice can be achieved by careful trial management and careful directions to the jury in the court's summing up.

Portrayal of 'She-Devils' Miscarriages of Justice: Women

Beth Mann, Justice Lab: Identified miscarriages of justice in woman have a different overall profile from those in men. Our Miscarriages of Justice Registry suggests that the most common causes of miscarriages of justice in men are false or misleading witness evidence from a non-complainant and false or misleading confessions, but the most common causes of miscarriages of justice in women are inadequate disclosure and false or misleading forensic science. One striking feature of miscarriages of justice in women is that approximately 25% of the identified cases (13/53) involve women who have been wrongly convicted of harming a child in their care. A similar theme can be seen in the United States National Registry of Exonerations. In a 2014 report, that Registry noted that 40% of female exonerees were exonerated of crimes with child victims. One such case was the case of Sabrina Butler.

Sabrina Butler is a Black American woman, who has survived a tragic miscarriage of justice. In 1990 she was sent to Death Row, later becoming known as the first female to be exonerated; but not before spending 6 years in prison for a crime she did not commit. On April the 12th 1989 when she was just 17, Sabrina's nine-month-old son died of a hereditary kidney condition. Almost a

year later, Sabrina was sentenced to death, falsely accused of taking her own child's life. Butler has now shared her story, highlighting the pitfalls of the American criminal justice system. From being prevented from attending her baby son's funeral, to coerced false confessions, she experienced a significant failure of justice. So, if her son died of a hereditary kidney condition, how did Butler end up being the prime suspect in a murder investigation?

When Sabrina first realised her son was not breathing, she attempted to resuscitate him. Later on, she gave various accounts of what happened, from a fictional babysitter, to jogging with and without the baby. But crucially, she signed a statement confessing that she had punched the baby in the abdomen in response to his consistent crying. This statement was focused on by the prosecution focused upon in her trial. Her defence team called no witnesses, and instead relied on cross-examinations of the prosecution witnesses. Many reading this may question why on earth an innocent mother would confess to such actions against their own child. But, when reading Butler's recollections of her interrogation by law enforcement officers, the pressures become clearer; "I was alone with no lawyer or parent with me. I told him I tried to save my baby. He wrote down what I said and threw it in the garbage. He yelled at me for three hours. No matter what I said, he screamed over and over that I had killed my baby. I was terrified. I was put in jail and not allowed to attend Walter's funeral. Ambitious men questioned, demoralized and intimidated me. In that state of mind, I signed the lies they wrote on a piece of paper. I signed my name in tiny letters in the margin to show some form of resistance to the power they had over me."

There has been significant research into why innocent people falsely confess to a crime they did not do. In summary, false confessions most likely occur due to three factors (see here for more information): custodial and interrogative pressure, defendant psychological vulnerabilities (see here for more information) and a lack of transparency regarding evidence. From this list we can clearly see that Sabrina's case involved at least 2, if not all 3 of these elements. Most concerningly, Sabrina's accounts describe dangerous levels of police interrogation pressure. Combined with her being a young female and a recent mother who had just lost her baby son, there is no doubt over her psychological vulnerabilities at the time of experiencing this pressure. Many of the miscarriages of justice involving women do not even involve a false confession. Potentially, women in these situations are susceptible to being judged more harshly and to having unreliable evidence against them more generally interpreted as reliable or even conclusive, due to gender stereotypes. In a 2019 report, Appeal, a charity fighting miscarriages of justice, have noted the risk that gender-stereotypes play out against women in these types of case (see here). Women who are accused of a crime against a child, especially their own child, are judged negatively and harshly for allegedly violating social stereotypes.

In England and Wales, the majority of miscarriages of justice involving women in cases of this type involve false or misleading forensic evidence. In many cases, this evidence came from a now discredited paediatric pathologist, Dr. Roy Meadow. The below are some examples of women in England and Wales whose stories are detailed in our registry, who were wrongly convicted, and later acquitted, of harming children in their care. Their stories can help us to understand how evidence may be misinterpreted in such cases, how this might lead to miscarriages of justice, and the influence those miscarriages of justice have on victims who are already grieving for the loss of a child.

Sally Clark – A mother wrongfully convicted of killing her two baby sons, who died just a couple of years apart. She was sentenced to life imprisonment in 1999 but acquitted in 2003 when it was shown that expert evidence presented against her was unreliable. Sadly, Sally struggled to cope after her conviction was overturned and died in 2007. Angela Cannings – A mother wrongly convicted of killing two of her three babies who had died as a result of sudden

infant death syndrome. She was imprisoned in 2002 but acquitted a year later. She continues to suffer a complicated relationship with her surviving child as a result of her experience. Suzanne Holdsworth – A babysitter accused of murdering her neighbours 2-year-old son. She was sentenced to life in prison in 2005 but was found not guilty at a retrial in 2008 when new evidence suggested the child may have died of a seizure. Donna Anthony – A mother falsely accused of killing her two babies, convicted in 1998 and acquitted 6 years later when it was shown that expert evidence presented against her was unreliable.

These cases combine devastating circumstances relating to the loss of a child with vulnerable women who are susceptible to judgment and stereotypes prior to their conviction. These are just some of the cases we are now aware of, sadly, it is likely that many have slipped under the radar. As more potential miscarriages of justice, it is important to consider the evidence that is introduced in such cases and how the system can ensure it is effectively scrutinised to an extent that meets relevant scientific standards. By creating an awareness of the problem, we can work with legal and medical professionals to develop solutions.

Daniel McConville: Watchdog Calls for Changes After Prisoner Death

BBC News:A report into the death of a 22-year-old prisoner has called for improvement in how people with complex needs are assessed and managed while in jail. Daniel McConville died in Maghaberry Prison in 2018, shortly after he warned staff that he intended to self-harm. The prison ombudsman investigated after Mr McConville's family raised concerns about his treatment in custody. But the ombudsman said she found no evidence to suggest Mr McConville was assaulted or bullied by prison staff. "The care provided by the Prison Service was appropriate based on the information and knowledge available to prison officers," the report by Prisoner Ombudsman Lesley Carroll concluded. However, she added that prison staff managing Mr McConville on a day-to-day basis were "unaware of much of his background" and she has made recommendations to improve the supervision and care of inmates with neurodevelopmental disabilities.

'Challenging behaviour' The prisoner, who had 80 previous convictions, had a documented history of self-harm, drug abuse and depression. He had been prescribed anti-depressants, but was without access to this medication on three occasions in jail and it was not present in his body at the time of his death. During his early childhood, Mr McConville was also diagnosed with a learning difficulty and Attention Deficit Hyperactivity Disorder (ADHD). I am concerned that the needs of those who face multiple challenges in their lives, including multiple low-level health diagnoses, could be better addressed while they are in custody," Ms Carroll said. Using prison records, her report documents the events leading up to the night of 29/30 August 2018, when Maghaberry staff found Mr McConville unresponsive in his cell. Following a number of short stays in custody throughout his youth, he was charged with burglary and theft in June 2018 and was remanded in custody. During a 70-day detention period, Mr McConville had several health assessments and moved cells seven times.

Behaviour was 'challenging for prison staff' He also had altercations with other inmates, lost privileges after breaking prison rules and complained that he had been assaulted by prison staff. "Based on materials examined as part of this investigation and the significant number of interviews conducted, I was not able to substantiate the allegations made of mistreatment and bullying," the ombudsman concluded. "It seems more likely that, at least in part, Mr McConville's behaviour was challenging for prison staff who had very little understanding or knowledge of his underlying conditions." However, her report also noted at the time of his death, the prisoner

was being managed under the Supporting People At Risk (SPAR) process and was therefore considered as being at "increased risk" of self-harm and suicide. She added that the evidence suggested that Mr McConville had not taken his prescribed anti-depressant medication for at least a week prior to his death and that this "also put him at an elevated risk of suicide".

On 28 August 2018 - the day before Mr McConville was found unresponsive in his cell - he alleged he was being bullied by staff on the landing of Erne House. He threatened to cut himself if he was not moved from his cell and, as a result, a senior prison officer interviewed him and opened a SPAR. This action required staff to observe Mr McConville every 30 minutes. The following day, the prisoner appeared in court via video-link to apply for release on bail. The court refused, because no bail address could be secured for him. He returned to his cell and prison records state that checks were carried out exactly every 30 minutes from 21:05 until he was found unresponsive at 23:04. An ambulance and fire fighters were called but Mr McConville was pronounced dead shortly after midnight on 30 August. An inquest into the cause of his death is pending.

The ombudsman's report contains five recommendations, including a suggestion of better communication between the police and prison services about the progress of investigations into prison assaults. She also recommended that prison staff and health workers should access training on neurodevelopmental disabilities including ADHD to "inform practice in response to behaviour and presentation of individuals in custody". "While I have found that Mr McConville's care was within standards, I am also convinced that there is considerable work to be done to ensure that the notion of rehabilitation is a reality for young men such as Mr McConville", she concluded.

Anniversary of the Quashed Convictions That Led to CCRC's Creation

On 14 March 1991, the convictions of a group of men known as 'The Birmingham Six' were overturned by the Court of Appeal after being declared unsafe and unsatisfactory. Hugh Callaghan, Patrick Joseph Hill, Gerard Hunter, Richard McIlkenny, William Power and John Walker were each sentenced to life imprisonment in 1975 for alleged involvement in bombs being exploded in two Birmingham pubs. The case was one of a number of high-profile convictions from the 1970s that were later recognised as miscarriages of justice, and led to the establishment of a Royal Commission on Criminal Justice in 1991. The recommendations of the Royal Commission led to the Criminal Appeal Act of 1995 which established the Criminal Cases Review Commission in 1997. Since then, the CCRC has investigated thousands of applications of potential miscarriages of justice – and sent 810 cases back to the courts on the basis that there is a real possibility they will overturn the conviction, resulting in 551 convictions or sentences being overturned.

CCRC chairman Helen Pitcher OBE said: "The overturning of the Birmingham Six's convictions 32 years ago today changed the course of history for the correction of miscarriages of justice in England, Wales and Northern Ireland. The CCRC's creation – and the help we have given to hundreds of people who had been wrongly convicted or sentenced – was a lasting legacy of that impactful decision by the Court of Appeal. The CCRC remains committed to upholding fairness, equality and the integrity of the justice system, and I am very proud of the work we do to investigate and where appropriate refer cases that should be reconsidered by the courts." At no cost to applicants, the CCRC reviews criminal cases where applicants believe that they have been wrongly convicted or wrongly sentenced. If the organisation finds something wrong with a conviction or sentence, they can send the case back to the relevant appeal court. Barring exceptional circumstances, to refer a case the CCRC usually relies on significant new evidence or argument that was not available during the court proceedings that led to the conviction or sentence.

Prisoner's Punishment Corrected Following Extradition and Sentencing Errors

The Court of Appeal has quashed a prisoner's conviction for failing to surrender to custody and credited 100 days against his sentence following a referral made by the Criminal Cases Review Commission in September 2022. Joseph Tsang was sentenced to 15 ½ years in prison for sexual offences and failing to surrender in custody. The CCRC referred his case to the courts due to concerns about the lawfulness of one of the convictions and the sentence. During its review, the CCRC found that the authorities in Hong Kong had not provided consent for Mr Tsang to be prosecuted for failing to surrender to custody, making that conviction unlawful. The review also found that the sentence failed to recognise that Mr Tsang had spent several months on electronically monitored curfew and served time in prison in Hong Kong before being extradited. On 15 March 2023, the Court allowed the appeal against conviction with the result that Mr Tsang's sentence was reduced to 15 years imprisonment. The Court also ordered that the 100 days spent on qualifying curfew will count towards his sentence. The CCRC did not refer Mr Tsang's convictions for sexual offences to the Court of Appeal.

EDM 987: Prison Education

That this House notes the importance of prison education being at the heart of rehabilitation, and its power to unlock potential and reduce reoffending;

is alarmed by the dire state of prison education, with experts and authoritative bodies including the Chief Inspector of Prisons, Ofsted and the Education Select Committee warning of poor outcomes due to a lack of learning by prisoners;

believes the current for-profit system of prison education wastes millions of pounds of public money each year and encourages a race to the bottom between the four main providers in terms of quality of education, suitability of curricula and conditions of staff employment;

and therefore calls on the Government to use their pledged launch of a Prisoner Education Service to bring the delivery of prison education back into the public sector, with standardised qualifications, curricula and staff contracts.

Parliament, Tabled by Zarah Sultana MP, on 20 March 2023, Signed by 24 other MPs

Race-Conscious Legal System Vital to Eradicating Institutionalised Racism

Julia Budzynska, Justice Gap: A report released by the Howard League states that the legal system's "colourblind" and "race neutral" approach to the law is a barrier to challenging racism and discrimination. Written by Dr Alexandra Cox, Senior Lecturer at the Department of Sociology at the University of Essex, the report shows how lawyers are in a unique position to identify and address racism at every stage of the justice system. It aims to explore the racial disparities and the general approach towards race in the law.

Race-conscious advocacy can be used to effectively understand how racial disparities and discrimination shape an individual's experiences in the justice system. The report explains that practitioners involved in the research felt they had few opportunities to address the negative impacts of racism relevant to their cases in criminal courts. Neutral and "colour-blind" language was employed in these cases, effectively overlooking racial disparities and discrimination. A study conducted in the course of writing the report explained that practitioners often face opposition in courtrooms when addressing the impacts of race and ethnicity in decision-making by legal authorities.

By engaging in race-conscious advocacy, lawyers can address their clients' negative experiences with the justice system, while also expanding their personal knowledge of structural racism. The

report identified the difficulty faced by lawyers when it comes to maintaining relationships with clients from ethnic minority backgrounds. It argues that clients cannot be effectively represented if their experiences of discrimination cannot be addressed or are overlooked. The Howard League report identifies increased funding for combating structural racism as a key solution. This would facilitate increased awareness and education concerning structural racism and its impact, and help create a race-conscious legal system. The report explains that a successful way of combating racism in the legal system is to introduce experts who understand racial realities and the extent of structural racism. This can in turn address accumulated systemic disadvantages affecting clients.

Foreign National Offendes

Lord Bellamy: As of 31 December 2022, there were 9,797 Foreign National Offenders (FNOs) held in prisons in England and Wales, with the top ten origin countries being Albania, Poland, Romania, Ireland (Republic of), Lithuania, Jamaica, Pakistan, Somalia, Portugal, and Iraq. We do not disaggregate prison run costs by nationality and the cost to hold individuals depends on category. Our unit costs for holding prisoners are published on Gov.uk alongside the HM Prison and Probation Service Annual Reports and Accounts. Under the Early Removal Scheme (ERS) and Tariff Expired Removal Scheme (TERS) FNOs are removed from the UK, they are not released from their sentence and are liable to continue their sentence should they return to the UK. ERS applies to those serving determinate sentences, and TERS to those serving indeterminate sentences (Life or Imprisonment for Public Protection, which stopped being used in 2012). Between January 2010 and June 2022, the Home Office removed 22,707 FNOs through ERS with 1,322 of those in the year ending June 2022. Since its implementation in May 2012, 571 FNOs have been removed through TERS. The disparity in numbers under the two schemes is due to there being significantly fewer FNOs with indeterminate sentences than determinate, and the need for the tariff to be expired before they can be removed.

A Foreign National Offender may access legal aid if they satisfy the relevant eligibility criteria: their legal issue is in scope, as set out in the Legal Aid, Sentencing and Punishment of Offenders Act 2012, and they pass relevant means and merits tests. For immigration matters, all immigration detainees held in prison can access 30 minutes of legally aided legal advice. This provides a functional equivalent to the advice available to detainees held in immigration removal centres. Broader access to public funds would be based on the immigration status of an individual. The Bill of Rights will strengthen the wider framework around appeals made on Article 8 grounds (the right to private and family life) by foreign criminals subject to deportation. Clause 8 of the Bill sets out how the courts should consider the compatibility of new deportation laws. Clause 20 of the Bill of Rights establishes a threshold for successful appeals on Article 6 grounds. This new provision is intended to strengthen the existing approach in this area.

Pregnant Women in English Jails Seven Times More Likely to Suffer Stillbirth

Women in prison have a seven-times higher probability of suffering a stillbirth than those in the general population – an increase from a five-times higher probability since the data was last collected two years ago – the Observer can reveal. Figures obtained through freedom of information requests sent to 11 NHS trusts serving women's prisons in England also showed that for the years 2020-22, 25% of babies born to women in prison were admitted to a neonatal unit afterwards – almost double the national figure of 14%.