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Liam Holden: Court Rules Army Torture Forced Murder Confession

BBC News: Julian O'Neill & James Kelly: The family of a Belfast man has been awarded £350,000 in damages after he was tortured into admitting killing a British soldier in 1972. Liam Holden was subjected to waterboarding techniques while in military custody and his treatment led to a confession, the High Court ruled. His conviction for murdering Private Frank Bell was quashed a decade ago. The last man in the UK sentenced to hang, Mr Holden died last September, aged 68. His death penalty was commuted and he was released 17 years into a 40-year sentence, the rest of which he spent on licence. He always maintained he was hooded, waterboarded and had a gun pointed at his head before wrongly admitting to shooting Private Bell. Mr Holden's murder conviction was finally quashed in 2012, and he was then awarded £1m for losses suffered due to the miscarriage of justice.

'Soldiers acted in bad faith' Delivering judgement Friday 24th March, ruling in the damages case against the Ministry of Defence (MoD), the judge said Mr Holden genuinely believed he was going to be killed. With paratroopers having wrongly and unlawfully induced him to make the admission, the MoD was held liable for his malicious prosecution and misfeasance in public office. "The plaintiff was subjected to waterboarding; he was hooded; he was driven in a car flanked by soldiers to a location where he thought he would be assassinated," said the judge. A gun was put to his head and he was threatened that he would be shot dead. "Hooding of the plaintiff, in the circumstances as alleged, constitutes inhuman and degrading treatment in breach of Article 3 of the [European Convention on Human Rights]," he said. The judge said that while the soldiers had an "honest belief" they were acting lawfully they knew their actions would injure Mr Holden and "unquestionably acted in bad faith". Their actions left Mr Holden with significant psychological effects, said the judge.

According to the Holden family and their solicitor, this was the first time a court had found waterboarding took place during The Troubles. After the ruling, the family expressed sadness and relief. "My father is not here to see this finished," his son Samuel Bowden told BBC Radio Ulster's Talkback programme. What he went through should never have happened... today it's all clear that he was innocent." At a previous court hearing, Mr Holden gave his account of his treatment by soldiers after his arrest. He said he was pinned to the floor while a towel was placed over his face. "They started pouring a bucket of water slowly through the towel," he said. he first thing I felt was the cold, then trying to breathe and then sucking water in through my mouth and up my nose. It was like you were just drowning." He said that up to four sessions of questioning and waterboarding were carried out.

Mr Holden was then hooded, dragged out of a chair and taken to a loyalist area of Belfast. "While we were driving one of the soldiers was tapping my knee with a gun, saying: 'This is for you'," he told the court. They took me out of the car and brought me into a field, put a gun to my head and said if I didn't admit to shooting the soldier they would shoot me." Asked by his barrister how he had responded to the alleged threat, Mr Holden replied: "I just said: 'I shot the soldier.' "[I] made a cock-and-bull story about where I shot him from, where I got the weapon, where I dumped the weapon and how I got away."

A forensic psychiatrist who examined Mr Holden in 2016 said he described being plagued by nightmares more frightening than any real-life experience. His son Samuel said his criminal record made it difficult to get work, leave the country or just "get a normal life going".

Error of Law 15 Convictions Quashed - CPS Offer Not to Retrial Accepted

[1] This application for judicial review culminated in an outcome which was largely agreed and which the court is content to endorse. The circumstances are unusual and unlikely to be repeated. Nonetheless, it is important to record what happened, where things went wrong and how they are to be corrected. We are indebted to counsel for their submissions and for their co-operative approach.

[2] The applicant has been anonymised as FN because he has already been punished for the offence which is the subject of these proceedings. The relevant events occurred more than a decade ago. In the opinion of the court, it is inappropriate and unnecessary to identify him and thereby open the door to a fresh round of publicity for what was criminal conduct on a comparatively minor scale. In addition, it should be noted that this ruling affects a number of other individuals who find themselves in similar circumstances.

[3] Background: The applicant was prosecuted for a single act of indecent assault against a female, contrary to Section 52 of the Offences against the Person Act 1861. The offence was committed in 2008 and a summons was issued in 2010. The applicant pleaded guilty before a District Judge later in 2010. His punishment was a conditional discharge and a requirement to sign the Sex Offenders' Register for 18 months.

[4] So far as the applicant, and indeed his victim, were concerned the matter rested there until 2020. However, it came to light in 2018 that as a result of a change in the law in 2009 (i.e. between the date of the offending and the date of the prosecution) there was a concern about the process which had been followed in 2010. Specifically, the issue was whether in 2010 the applicant should have been prosecuted before a District Judge or whether he could only be prosecuted in the Crown Court. That issue arose because an apparent change in the law in 2009 reversed the long-established practice that, as with many other criminal offences, a case could be brought either in the Magistrates' Court or in the Crown Court with the choice of forum typically depending on how serious the circumstances of the case were.

[5] In September 2020, the applicant was informed in a letter from the Public Prosecution Service ("the PPS") that it was obliged to have the case listed before a District Judge to have the conviction rescinded i.e. set aside. The victim of the applicant's offence was similarly advised. The letter continued by stating that if the application was successful, all of the affected cases would be reviewed to consider whether there should be a fresh prosecution in any of them in the Crown Court. As it turned out the applicant's case is one of 15 across Northern Ireland in which offenders were prosecuted in a District Judge's court when, as a result of the 2009 change in the law, it may be that they should have been prosecuted in the Crown Court.

[6] It is to be noted that it cannot only have been defendants such as this applicant who were concerned about the events in 2020. For each defendant there is a victim or, perhaps, more than one victim. It is not difficult to imagine the dismay victims must have felt on learning that disturbing events from more than 10 years earlier were being resurrected. That is a matter which was acknowledged and was of specific concern to the PPS.

[7] The applications to rescind the convictions in all 15 cases were brought before a District Judge. Each of the 15 former defendants were put on notice of the application and were free to make submissions to the judge as to why he should not follow the course proposed by the PPS. None did so. The PPS application was not opposed. On 27 October 2020, having considered the legal basis for the application, which was opened to him in detail, the District Judge quashed each of the convictions and sentences. In doing so, he relied on Article 158A of the Magistrates' Courts (NI) Order 1981 which allows District Judges to reopen cases in order to rectify mistakes in certain circumstances.

[8] The next step for the PPS was to consider whether to prosecute any, or all, of the 15 defendants in the Crown Court. In the applicant's case (and in two others) a decision was taken that the case should proceed to trial. That decision was notified to the applicant by letter dated 2 December 2020.

[9] The December 2020 decision to prosecute the applicant for his offending in 2008 prompted a reconsideration by the applicant of the series of events outlined above. That reconsideration led to this application for judicial review in which the fundamental contention is that the 2010 conviction should not have been rescinded by the District Judge in 2020. The contentions which have been advanced to this court could have been but were not raised before the District Judge in 2020. Accordingly, this court is in an entirely different position to the District Judge who heard no opposition to the application to rescind the convictions.

[10] T*he Legal Mistake:* The applicant was prosecuted for indecent assault, contrary to section 52 of the Offences against the Person Act 1861. There is no dispute that until 2 February 2009 that offence could be tried summarily i.e. before a District Judge in the Magistrates' Court even though it could also be tried in the Crown Court. The provision which permitted that option is Article 45 of the 1981 Order which states: "(1) Where— (a) an adult is charged before a resident magistrate (whether sitting as a court of summary jurisdiction or out of petty sessions under Article 18(2)) with an indictable offence specified in Schedule 2; and (b) the magistrate, at any time, having regard to—(i) any statement or representation made in the presence of the accused by or on behalf of the prosecution or the accused; (ii) the nature of the offence; (iii) the absence of circumstances which would render the offence one of a serious character; and (iv) all the other circumstances of the case (including the adequacy of the punishment which the court has power to impose); thinks it expedient to deal summarily with the charge; and (c) the accused, subject to paragraph (2) having been given at least twenty-four hours' notice in writing of his right to be tried by a jury, consents to be dealt with summarily: the magistrate may, subject to the provisions of this Article and Article 46, deal summarily with the charge and convict and sentence the accused whether upon the charge being read to him he pleads guilty or not guilty to the charge. (2) The requirement of the notice mentioned in paragraph (1)(c) may be waived in writing by the accused. (3) A resident magistrate shall not deal summarily under this Article with any offence without the consent of the prosecution. ..."

[11] It is apparent from this paragraph that for the offence to be prosecuted summarily, four conditions must be satisfied: (a) The offence must be listed in Schedule 2 of the 1981 Order. (b) The defendant is put on notice and consents. (c) The prosecution consents. (d) The court agrees, having taken into account the factors in Article 45(1)(b).

[12] In 2008, changes were made to the law relating to sex offences in Northern Ireland which largely replicated similar changes in England & Wales. This was achieved through the Sexual Offences (NI) Order 2008. Among the changes were the introduction of a new offence of sexual assault, and the repeal of a number of offences including indecent assault and unlawful carnal knowledge.

[13] As is often the case, various parts of the 2008 Order took effect on different dates. For present purposes the relevant date is 2 February 2009, when the offences of indecent assault and unlawful carnal knowledge were repealed. But not only were they repealed, they were also removed from the list of indictable offences in Schedule 2 of the 1981 Order referred to in Article 45 – see paragraph 10 above.

[14] On the face of things, that meant that an offence of indecent assault committed in 2008 before the law changed could no longer be prosecuted before a District Judge even if all parties and the District Judge agreed that the case should be dealt with summarily. It now seemed that it must go to the Crown Court.

[15] Why, and how, did that happen? It is now agreed that it is beyond doubt that an error was made in the provisions of the 2008 Order, specifically in Schedule 1 to that Order which provided that the reference in Schedule 2 to the 1981 Order of the section 52 offence of indecent assault should be removed. The fact that a mistake was made has been publicly acknowledged, both by the Department of Justice in a 2021 report and by the then Minister for Justice in the Assembly in September 2020. From their statements and investigations, it is apparent that there was never any intention to make the change and remove the possibility of a summary prosecution. Nor would it have made sense to make such a change since the system, with its inbuilt safeguards, was working well. Other changes to the law were intended but not this one.

[16] In fact not only was an error made, but it was an error which was contrary to the public interest because it removed the discretion to allow some comparatively minor sexual offences to be dealt with before a District Judge rather than being taken to the Crown Court. As has already been indicated above, that discretion could only be exercised if both the prosecution and defendant agreed to a trial before a District Judge and if the District Judge himself/herself agreed that such a course was appropriate.

[17] *Remedying the Mistake:* This court's attention has been drawn to the decision of the House of Lords in Inco Europe v First Choice [2000] 2 All ER 109. In that case the issue was whether words could, and should, be read into a statute where there was an error in an amending statutory provision. The judgment of the House of Lords was that in certain limited circumstances such an approach is appropriate.

[18] In his speech, with which the other Law Lords concurred, Lord Nicholls said the following at page 115: "I freely acknowledge that this interpretation of section 18(1)(g) involves reading words into the paragraph. It has long been established that the role of the courts in construing legislation is not confined to resolving ambiguities in statutory language. The court must be able to correct obvious drafting errors. In suitable cases, in discharging its interpretative function the court will add words, or omit words, or substitute words.

This power is confined to plain cases of drafting mistakes. The courts are ever mindful that their constitutional role in this field is interpretative. They must abstain from any course which might have the appearance of judicial legislation. A statute is expressed in language approved and enacted by the legislature. So, the courts exercise considerable caution before adding or omitting or substituting words. Before interpreting a statute in this way the court must be abundantly sure of three matters: (1) the intended purpose of the statute or provision in question; (2) that by inadvertence the draftsman and Parliament failed to give effect to that purpose in the provision in question; and (3) the substance of the provision Parliament would have made, although not necessarily the precise words Parliament would have used, had the error in the Bill been noticed. The third of these conditions is of crucial importance. Otherwise, any attempt to determine the meaning of the enactment would cross the boundary between construction and legislation: ..."

[19] Applying that three part test to the present circumstances, it is the judgment of this court that all three elements are satisfied: (i) The intended purpose of the 2008 Order was to update the law in relation to sexual offences, not to remove the jurisdiction of District Judges to hear certain cases on a summary basis in the interests of justice and where the prosecution and defence consent. (ii) The intended purpose was not given effect in this limited instance because the option of summary trial was removed without intention, reasoning or explanation. (iii) If the error in Schedule 1 to the 2008 Order had been noticed, the inclusion of section 52 of the 1861 Act in that Schedule would most definitely have been corrected and the reference removed.

[20] That finding is sufficient to dispose of this application, in the applicant's favour. On his behalf an argument was also advanced about the scope of Article 158A of the 1981 Order, which was the provision relied on by the PPS in its application to the District Judge to rescind the convictions. We do not find it necessary to reach a conclusion on that issue, which revolved around whether Article 158A allows only a sentence to be rescinded or whether it extends also to convictions.

[21] In conclusion, therefore, having considered submissions and authorities which might have been, but which were not, put before the District Judge, this courts concludes and declares that the following provisions of the Sexual Offences (NI) Order 2008 disclose a clear and obvious error in removing provision for summary prosecution of historical offences which was contrary to the intended purpose of the statute and are of no force and effect: (a) The following provisions of para 15 of Schedule 1 to the 2008 Order which deals with "Minor and Consequential Amendments": Magistrates' Courts (Northern Ireland) Order 1981 (NI 26) 15. In Schedule 2 to the Magistrates' Courts (Northern Ireland) Order 1981 (indictable offences which may be dealt with summarily upon consent of the accused)— (a) omit paragraph 5(a)(vii) (offence under section 52 of the Offences Against the Person Act 1861); (b) omit paragraph 10 (offences under the Criminal Law Amendment Act 1885); (c) omit paragraph 23 (offence under Article 21 of the Criminal Justice (Northern Ireland) Order 2003). (b) The following provisions of Schedule 3 of the 2008 Order which deals with "Repeals":

Extent of Repeal: The Magistrates' Courts (NI) Order 1981 (NI 26) In schedule 2, paragraphs 5(a)(vii), 10 and 23 [22] In light of that declaration, the decision of the District Judge dated 27 October 2020 whereby he rescinded the conviction of (and the sentence imposed on) the applicant for an offence of indecent assault, contrary to section 52 of the 1861 Act, is removed into this court and having been so removed is quashed accordingly. [23] It therefore follows that the decision of the Public Prosecution Service dated 3 December 2020 whereby the respondent decided to re-prosecute the applicant for the offence of indecent assault is declared unlawful. [24] The effect of this decision and these orders is that the applicant is restored to the position which he was in before the matter was brought back before the District Judge in 2020. [25] We shall hear the parties as to costs. [26] The parties are to have liberty to apply in respect of this order.

British Prisons: Broken System or Perfect Business Model?

Elavi Dowie (A0444EF) HMP Lindholme: I was convicted in 2021 and sentenced to eight years in prison for breaches of court orders imposed by the Family Court. Prior to breaching the aforementioned court orders I was a father, a musician, a YouTuber and I had just gained a place on a post-graduate law degree course. I was not involved in a life of crime, so when I was convicted and sentenced, I was sold the idea of rehabilitation, education, progression to an open prison and the idea that I could turn around my life and work towards my release, engaging in Open University study. I was told and sold the idea that he Prison Service was not there to punish me, that losing my liberty was the punishment.

But then the reality started to place its indelible mark on my soul. There was no keyworker who I was told would be assigned to me to encourage, inspire and assist in my sentence plan. There was no sentence plan. There was no exposure to positive influence or structure to enable progression. The only reality was the overcrowded, violent drug-riddled university of criminality that you see in the media.

During my two years in prison so far, I witnessed the injustice of the appeal process. I witnessed the most heart-breaking and extreme cases of mental illness. I lived through suicide after suicide. One drug overdose after another. Daily, weekly, monthly acts of violence. I witnessed more drugs in prison than I have ever seen outside. I have seen the blatant corruption of officers who facilitate a drug trade so lucrative that drug dealers would rather operate from prison than in the community.

I began to see just how many remand prisoners were needlessly held in prison and how many people were in prison because of drug addiction. A perpetual loop of low level crime to feed out of control drug usage. To study prison policy and found breach after breach. Not only to prison instructions but in terms of human right violation and an incentives system not used to reward and promote good behaviour, but designed to punish and degrade.

In 2017 the Lammy Report recommended prisons have an Incentives Forum and the Prison Service adopted the recommendation. It stated that a forum must be in place to review the fairness and effectiveness of the local incentives policy. Forums must involve staff and prisoners, including Black, Asian and Minority Ethnic (BAME) and Gypsy Roma and Traveller prisoners, and all groups with protected characteristics. There is no forum here. There is no fairness here. There is no equality here. And what about the holy grail of rehabilitation? Is the reason for the system I describe simply an unfortunate accident? Is the system broken or is it like that by design? Is it really the perfect business model?

To answer we have to ask other questions like is it in the interest of the Ministry of Defence to rehabilitate when it uses my labour to sew its logos for £2.50 per day. Is it in the interest of DHL, who make millions supplying me with my weekly canteen in which I pay over the odds for coffee, milk, bread etc out of the £2.50 I am paid per day? Or of His Majesty's Prison and Probation when they make millions charging for the television in my cell or photocopies for my legal case?

Is it in the interests of GeoAmey or Group 4, who make hundreds of millions transporting prisoners to courts and prisons? Or of prison education departments paid by government to put people through low level courses that never progress to usable qualifications?

You give people no opportunities and every opportunity to reoffend. You leave mental health issues undiagnosed or untreated and mask the problem with drugs. You make family relationships near on impossible to maintain. You pay prisoners insufficient money to save for a future. You systematically degrade, dehumanise and demonise them. You reward bad behaviour and condone criminality in prison, knowing that this behaviour will continue on the outside, ensuring a return to prison. You make sure drug-driven criminality prospers in prison, feeding addictions and criminality.

You may think that this does not make sense, but you only have to look to the plight of the IPP prisoners. Even after this sentence has been decreed inhumane, these prisoners are still being held at His Majesty's pleasure. Is this not enough evidence that the true agenda is to keep the prisons full?

I am writing this because I know that I am not who I was. I am now a person who is unmoved, unafraid and undeterred by violence. I see violence and inhumanity too often for it to shock me. I trust no-one and I allow no-one to become close to me. I do not show kindness because my kindness is taken for weakness and I never cry because all my human emotions have been buried in the grave of my soul. I chose to be none of these things but that is what this environment has created. I would love to give back to society a proud, loving, sensitive black man, creative in nature with a degree and a love of humanity; however the prison service wants to give back to you an angry black man with no hope, mentally ill, prone to violence and criminality, and destined to come back to this place or one like it.

I hope I have given an idea of the truth of British prisons and you will consider next time you read about how someone released from prison reoffends exactly why this has happened. Was it because probation failed and that was the result of a broken system? Or was it because we have designed a system to profit from the most traumatised and dehumanised people in our society? The perfect business model?

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'Lodged in Skulls': The Army's Deadly Plastic Bullets Scandal

Anne Cadwallader: The Ministry of Defence knew metal end-caps fitted to plastic bullets could remain attached on firing, potentially 'lodging in the skulls' of anyone they hit - but authorised the weapon's continued use in Northern Ireland. The danger of the metal caps transforming a plastic projectile into a metallic one was kept from bereaved families The cover-up continued even after the authorities were warned in 1982 of at least two examples where the metal caps had "lodged in skulls, once fatally"

Sixteen people were killed by rubber or plastic bullets during the Troubles (a seventeenth was killed by a fall after being hit by a bullet). Some victims had been involved in street disorder but others were passers-by. Eight of the dead were children under 16. None were armed. Rubber and plastic bullets have never been deployed in England, Scotland or Wales, whereas over 120,000 such rounds were fired during the three decades of conflict (1968-1998) in Northern Ireland. British soldiers killed 11 people while police from the Royal Ulster Constabulary (RUC) killed six.

By 1982, the authorities were aware of a forensic report implicating a metal end-cap in the death of a 15-year-old Derry schoolboy, Paul Whitters, killed by a plastic bullet the previous year. Paul was shot during street disturbances associated with the H-Block hunger strikes, causing him such catastrophic brain injuries that, ten days later, his parents agreed to his life support machine being switched off in a Belfast hospital. The army knew its plastic bullets were faulty by 1982.

Cover up: Thirty years later, his family discovered that in 2011 the British government had unilaterally decided to partially close the official file on the circumstances of his death until 2059, later extended to 2084 (half of it was open but 93 pages remained closed). This was, allegedly, on grounds of data protection although the victim's family had not asked for the names of those responsible to be released. In any case, the name of the RUC man who had fired the bullet, and the Inspector who had issued the order, had been known since the inquest. The family waged a four-year campaign for access to the full file, finally succeeding in October 2022 when the last two pages were released to them and their solicitor – Padraig Ó Muirigh – 41 years after Paul's death.

Faulty Ammo: In the file was a medical report stating that, during tests carried out on Paul Whitters' body, the writer "formed the opinion that it [his injury] was likely to have been affected by a baton round carrying with it in flight, the metal cartridge seal". This revelation came, however, soon after London published its so-called "Legacy Bill", which seeks to close down any legal paths for people bereaved in the conflict seeking justice through the courts.

Paul Whitters (right) was killed in 1981. This could mean the Whitters family is precluded from applying for a new inquest and from taking civil action seeking further disclosure. The dead boy's mother, Helen, told Declassified UK: "We are not giving up hope of a new inquest based on the new evidence. Clearly the MoD did all it could to prevent the public finding out while the police so-called 'investigation' was based on a false premise". The victim's sister, Emma, who was born two years after Paul was killed, says it has been hard to watch her mother's suffering over the years. "The British government says it wants truth and reconciliation, but how is that possible when an inquest verdict stands, based on untruths and part-truths?" Paul Whitters is not the only person where the metal caps are implicated in a fatal outcome. The same declassified document in which he is referenced names a 33-year-old man killed in July 1981.

Untested Guns: Plastic bullets continue to be used in Northern Ireland, most recently last year in Belfast when loyalists rioted against the implementation of the EU's Northern Ireland Protocol. This was despite an admission in a declassified document that the weapon was never fully medically validated. The 1984 document, uncovered by The Pat Finucane Centre in the UK National Archives, states that, when the older-style "L67" plastic bullet gun was replaced with the newer "Webley-Schermuly" device, the move was not medically approved. The document, which we found in 2010, states that the newer weapon had already been in "extensive field use with the police on the streets of NI" for the previous two years (i.e. since 1982). Further, the document suggests retrospective medical validation might be "an unnecessary waste of time" as a "failure to clear the weapon for use by the Army could raise politically sensitive and embarrassing questions over its use by the RUC".

Avoidable Deaths: It would appear that the security and lives of people in Northern Ireland was trumped on this occasion by concern over "politically sensitive and embarrassing questions". These revelations, while they were broadcasted in a BBC Northern Ireland documentary this week, remain virtually unreported in Great Britain. The first child killed by a plastic or rubber bullet in Northern Ireland was 11-year-old Francis Rowntree, shot dead on 20 April 1972. An inquest ruled in November 2017 that his killing was unjustified and the soldier responsible had used "excessive force" causing skull fractures and lacerations of the brain.

More recently, a coroner presiding over a new inquest into the death by plastic bullet of yet another child, Stephen Geddis (aged 10), ruled that the soldier responsible had lied giving evidence. A declassified document in this case revealed a handwritten note – added to a typed "Director of Operations" brief from 1975 – reading "Comfortable! In his coffin!". Alan Hepper, a senior principal engineer since 1988 at the Defence Science and Technology Laboratory, was an MoD witness at Stephen's inquest. Hepper accepted in his evidence that no fewer than three government agencies had ruled by early/mid 1974 that plastic bullets should not be bounced off the ground, yet this continued to be the guidance given to soldiers. The army's prolonged use of faulty ammunition is not confined to Northern Ireland. Declassified uncovered how British troops in Kenya fired mortars fitted with faulty fuzes. The fuzes would fall off on impact, rather than detonate. In 2015, a Kenyan boy picked up one of these mysterious metal objects, which exploded in his hands. The child lost both arms and an eye. The MoD knew the type of explosive used in the fuze was faulty six years before the incident.

A Matter of Semantics Rather Than Substance'

Patrick Maguire, Justice Gap: Accountability is one of those irresistible principles of governance. It stands alongside other broadly defined precepts such as transparency, integrity, effectiveness and so on. Its allure lies in the fact that no one can argue it ought not to apply to the actions of public authorities. But what makes accountability such a pressing concern extends beyond the exacting scrutiny it entails, to the very concept of duty-bearing, and to the idea that acknowledging a problem is often the first step towards solving it. Speaking truth to power has its own kryptonite: where the mere recognition of wrongdoing by duty-bearers is so contested that the impetus for reform becomes illusory rather than actual. Accountability becomes a matter of semantics rather than substance.

In many ways, the idea of accountability is at the very core of policing in any democratic society. The notion of 'policing by consent' is rooted in the belief that for the police service to be effective, it must enjoy the support of the public in its actions. The role of this consent crystallizes most visibly in the police disciplinary system. The public, by having the right to complain about the conduct of officers, implicitly accept that they will be governed by forces who not only maintain and enforce professional standards across their ranks, but acknowledge when breaches have occurred following robust investigation and inquiry.

The centrality of this facet of policing to the maintenance of public confidence in law enforcement is perhaps one of many reasons why Baroness Casey's review of the Metropolitan

Police Service has generated such a visceral reaction from individuals across the political spectrum, within policing and amongst civil society. Clocking in at 363 pages, the final report of the review, as summarised by Baroness Casey in her foreword, 'makes a finding of institutional racism, sexism and homophobia in the Met.' The review placed particular emphasis on the role played by the 'culture of denial' within the force; rather than embracing or learning from its mistakes, 'it looks for, and latches onto, small flaws in any criticism, only accepting reluctantly that any wrong-doing has occurred after incontrovertible evidence has been produced.'

To describe the reaction by stakeholders in policing to the report as divided would be an understatement. The National Black Police Association, an organisation which supports Black and Minority Ethnic (BME) staff and officers across forces in the United Kingdom, welcomed the report from Baroness Casey in its entirety and noted that it highlighted 'long standing issues which our association has raised with those in positions of power and influence over many years.' By contrast, the Metropolitan Police Federation (MPF) – the staff association to which every constable, sergeant, inspector and chief inspector in the Metropolitan Police Service belongs, totalling more than 30,000 officers – stated that 'the narrative in the media and from some police leaders and politicians over recent weeks that police officers should be guilty until proven innocent is not acceptable.' The MPF's implicit categorisation of the report as applying to 'a small number of individuals' and its pledge to protect officers 'traumatised by the constant attacks to their proud profession' was summarily criticised by Abimbola Johnson, a barrister and chair of the Independent Scrutiny & Oversight Board of the Police Race Action Plan.

Yet it is perhaps the reaction of the Met Commissioner, Sir Mark Rowley, in his interview with Sky News that underscores the persistence of the 'culture of denial' and the slipperiness of accountability within the force. On one hand, he conceded that he 'absolutely accept[ed] the diagnosis that Louise Casey comes up with' and accepted that 'we [the Met] have racists, misogynists and homophobes in the organisation.' Indeed, Rowley appeared to depart from the 'bad apples' approach to police misconduct and accepted that there were 'systemic failings, management failings and cultural failings'. Yet when pressed on the reason why he would not use the term "institutional", as was explicitly stated in the report, the Commissioner went on the defensive, noting that the term 'institutional' was 'very ambiguous' and that it was 'pointless to argue about definitions.' In support of this contention, Rowley argued that the definition of institutional racism used by Sir William Macpherson in the final report of the Stephen Lawrence Inquiry differed from that used by Baroness Casey in her most recent review.

In the absence of a clear and unambiguous definition of 'institutional' racism, sexism and homophobia, there will inevitably be disagreement about the extent of the problem. Yet what matters is not what precise iteration of institutional prejudice exists within the Metropolitan Police, but rather the fact that a perception of the problem exists. In the absence of any evidence to the contrary, Baroness Casey's review amounted to an independent and impartial investigation into the standards of professional behaviour and culture within the police force. Mark Rowley's acceptance of the Casey Review on one hand and his defensiveness surrounding his refusal to the use of the word "institutional" on the other only corroborates its findings in relation to the 'culture of denial' within the Metropolitan Police: the emphasis on small flaws in any criticism, and the subsequent abrogation of responsibility until more cases of egregious wrongdoing come to light.

The role played by the defensiveness of law enforcement in the facilitation of police misconduct has not gone unnoticed. In 1999, the Macpherson Report explicitly noted that institutional racism 'persists because of the failure of the organisation openly and adequately to recognise and address its existence and causes by policy, example, and leadership.' Macpherson further warned that 'without recognition and action to eliminate such racism it can prevail as part of the ethos or culture of the organisation.' The Casey Review only illustrates how this process of denial has perpetuated various other forms of discrimination across the full range of administrative and operational activities within the Metropolitan Police. In response to the findings of the report, the Mayor of London Sadiq Khan said that 'this must be a watershed moment for policing in London.' The disjunctured reaction from stakeholders in policing does little to quell fears that this moment may be illusory rather than actual.

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

Hannah Summers, Nic Murray, Guardian: 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%.

Meanwhile, 12% of babies had a low birth weight, compared with 6.5% among the general public. Stillbirths were at a rate of 27.1 per 1,000 births compared with 4 per 1,000 for the wider population. This is up from a rate of 20.9 compared with 4.2 for the period 2015-2019. On average, there were 29 pregnant women in prison during 2021 and 2022 and 50 births to women spending time in custody over the same period, according to Ministry of Justice figures. Of these, 94% (47) took place in a hospital and three occurred either in transit to hospital or within a prison.

Birte Harlev-Lam, executive director at the Royal College of Midwives (RCM), said the "shocking" statistics should jolt the Prison Service and government into action. It is a national scandal that women are still giving birth in prison, and it's a practice that needs to stop," she said. Last year, the RCM was among those to sign an open letter to the Sentencing Council calling for a review of sentencing practices for pregnant women. Harlev-Lam said the "potentially fatal impact" of a custodial sentence should be taken into consideration. There has been growing concern about the incarceration of pregnant women after the deaths of two babies in custody in recent years.

Laura Abbott, associate professor in midwifery at Hertfordshire University, said: "In-cell births are not uncommon and women are giving birth in the prison estate, without qualified midwifery support and in non-sterile, inappropriate environments, far more often than they should be." Rebecca, who did not want to give her real name, was 17 weeks' pregnant when she was sentenced to prison. She rarely saw a midwife and became so underweight that she was booked in for an induction. However, when the day of her hospital appointment arrived, she sat waiting with her bag but nobody came to collect her. "I was told: 'We haven't got enough staff to get you out'," she explained. "I was waiting for hours. I felt helpless and abandoned and like nobody cared about me or my baby's safety. We were just an inconvenience." After an emergency C-section, Rebecca's baby was seriously ill and taken to the neonatal unit. "They tried to take me back to prison but I was hellbent on breastfeeding, so I was able to stay." Back in prison, she was placed in the mother and baby unit but lived in constant fear of having her baby removed. "While nursing my newborn, I was living in a state of continuous anxiety. I wasn't coping but I couldn't tell anyone in case they took my child." She recalls an incident when one of the babies on the unit had breathing difficulties. "We were so worried waiting for the ambulance but there was no rush on the part of the guards. The babies aren't prisoners, they have a right to emergency care."

In 2019, a vulnerable 18-year-old gave birth alone in a prison cell more than 12 hours after her calls for a nurse were ignored at Europe's largest women's prison in Ashford, Surrey. A damning report by the prison watchdog concluded maternity services at HMP Bronzefield were "outdated and inadequate". Then, in 2020, a women gave birth to a stillborn baby in a prison toilet at HMP Styal in Cheshire without medical assistance or pain relief. A prison nurse failed to respond to emergency calls after Louise Powell, who was not aware she was pregnant, developed agonising stomach cramps.

Kath Abrahams, chief executive of the pregnancy charity Tommy's, said women in prison come from some of the most deprived backgrounds so are more probable to experience a high-risk pregnancy. "Socioeconomic factors like smoking, poor mental health, domestic violence, diet, obesity and substance misuse will increase the risk of stillbirth. But we know that, with the right care, many of these women can be supported to have healthier pregnancies with better outcomes for mothers and babies."

The Sentencing Council is due to review whether there is a need for new guidance on sentencing pregnant women. Janey Starling, co-director of Level Up, which campaigns for gender justice, said: "It's long overdue to end the practice of sentencing pregnant women to custody. When supported in their communities, they can give their baby the best start in life."

An NHS spokesperson said: "The latest data shows the rate of stillbirth overall in England is 19.3% lower than the rate in 2010 – but any baby lost to a stillbirth is one too many. The NHS continues to take action to reduce stillbirths and neonatal deaths as well as working hard at ensuring pregnant women in secure environments receive high-quality, safe specialist maternity care."

A government spokesperson said: "We know that 60% of women who end up in custody have experienced domestic abuse and 50% have drug addictions, which is why custody is always a last resort for women. "It's also why we have taken decisive action to improve the support available, including specialist mother and baby liaison officers in every women's prison, additional welfare observations and better screening and social services support so that pregnant prisoners get the care they require."

Prisons: Education Question for Ministry of Justice

To ask His Majesty's Government, what is their timeline for the (1) development, and (2) delivery, of the model to deliver prison education when current contract arrangements for the Prison Education Framework end. MoJ: We are creating a Prisoner Education Service (PES) that will ensure prisoners improve skills such as literacy and numeracy, acquire relevant vocational qualifications, and access employment and training opportunities on release. We have already begun making investments including through the recruitment of new Heads of Education Skills and Work and Neurodiversity Support leads in prisons. We are also working with employers to improve skills training and deliver apprenticeships for prisoners. New successor contracts to the current Prison Education Framework (PEF) arrangements will be an important part of PES. Early development of the successor contracts commenced back in April 2022 with a period of initial market consultation involving input from stakeholders and potential suppliers, to help shape thinking on the new procurement and contracting arrangements that will improve performance, quality learner engagement and value for money. Additional market warming sessions were held in November 2022 and February 2023, with further feedback gathered. The procurement process for new successor contracts is due to commence in summer 2023. Contracts are due to be awarded to successful bidders in autumn 2024 and are expected to go live in April 2025.

Police Watchdog Refers Chris Kaba Shooting Officer to CPS

Samantha Dulieu, Justice Gap: The Police watchdog has referred a file of evidence to the Crown Prosecution Service (CPS) following a homicide investigation into the fatal shooting of Chris Kaba in September last year. The Independent Office for Police Conduct (IOPC) has released a statement confirming their homicide investigation has concluded, and the CPS will now decide whether to charge the Metropolitan Police Officer who has been under criminal investigation.

Chris Kaba was killed in Streatham Hill, South London, on the 5th September 2022 by a single gunshot fired into the vehicle he was driving. Kaba's family gave a statement today describing this step as 'necessary and welcome'. They have urged the CPS to 'do their bit and provide their advice to the IOPC urgently'. They continued: 'We very much hope that the CPS advise in favour of a prosecution and that the truth will emerge, without delay, through criminal proceedings. Our family and community cannot continue waiting for answers.'

The charity, INQUEST, has been supporting Kaba's family. Their Director, Deborah Coles, said of the decision: 'The deaths of Black men following the use of lethal force by police are at the sharp end of the racism we see institutionalised in police culture and practice. Chris Kaba's death has rightly generated significant public disquiet at a national and international level about how the state and its agents are held to account for killing its citizens. The rule of law must apply equally to all citizens including those in uniform. The Crown Prosecution Service must ensure effective and prompt decision making.'

The IOPC has faced criticism for the length of time taken to conclude their investigation, with the lawyer representing Kaba's family saying investigations like these should take 'weeks not months'. The Director of the IOPC, Amanda Rowe, said: 'This was a tragic incident and our investigators have been working hard to ensure that our comprehensive investigation has been completed without undue delay and within the six-to-nine-month timeframe we provided.' The CPS will now decide whether the firearms officer in question will face prosecution.

Prisoners' Release: Temporary Accommodation

Question for Ministry of Justice: What assessment they have made of the relationship, if any, of the rate of reoffending with the availability of a place for prisoners to stay upon release.

Response: The number of prison leavers housed upon release from prison in 2021-22 was 43,521 and this represents 86.8% of the total number of prison leavers for the period where the destination is known*. This is an improvement of approximately 6.6 percentage points on 2019-20. *Cases are not included when the accommodation status is unknown (for a reason other than awaiting assessment) or provided by the Home Office Immigration Enforcement Service. Prison leavers without settled accommodation are 50% more likely to reoffend than those who have stable accommodation. A settled place to live is key to reducing reoffending, cutting crime and protecting the public. Probation practitioners are better able to robustly supervise an offender and protect the public when they know where they are living. The government is committed to end rough sleeping and tackling offender homelessness. Our Prisons Strategy White Paper set out our plans to reduce reoffending, including improving prison leavers' access to accommodation. This includes expanding nationally the transitional Community Accommodation Service Tier 3 (CAS3) to all probation regions, so that prison leavers who would otherwise be at risk of homelessness, can access temporary accommodation for up to 12 weeks.