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£86,000 Compensation for Prisoners whose Parole Hearings Were Delayed

Ellie Reeves MP: To ask the Secretary of State for Justice, what data his Department holds on the amount of compensation paid out in relation to parole hearings.

Damian Hinds, Minister of State for Prisons: Prisoners whose parole hearings have been delayed may be eligible to make a claim for compensation against the Parole Board. The Parole Board holds data on the compensation it has paid to eligible prisoners. In 2021-22, the last full year for which data is currently available, the Parole Board paid £86,000 in total in compensation to prisoners. Source: Hansard, Colum 79, 23/05/2023

CCRC: Modern Slavery Case Referred to Crown Court

A man who pleaded guilty to producing cannabis, despite being a victim of human trafficking has had his conviction referred to the Crown Court. Mr 'Q' was trafficked from Vietnam as a child in 2013 for the purposes of forced labour. In April 2017 he was convicted at Warrington Magistrates' Court of cultivating cannabis and sentenced to 20 months in custody. The CCRC believes that there is a real possibility that the Crown Court will overturn his conviction, as the legal advisors who represented him at court did not inform him about a possible defence under s.45 of the Modern Slavery Act 2015. Helen Pitcher OBE, Chairman of CCRC said: "Our review has found that this young man has been let down by a wide range of agencies involved in his prosecution. We believe there is a real possibility his conviction will be quashed because the guidelines suggest he should never have been prosecuted in the first place.

How Children of Prisoners are Abandoned by the State

Cherry Casey, Open Democracy: The government has no statutory duty to identify or support children whose parents are in prison. Why not? Discovering a child is living by themselves while their parent is in prison is not an unusual occurrence for Sarah Burrows. Sometimes it'll happen once a month. But in January last year, the founder of charity Children Heard and Seen (CHAS) was alerted to five separate cases across England and Wales. One was a 15-year-old boy, who had been alone for months – with no gas or electricity – after his mother had been jailed. Another time, a victim support officer visited the home of a teenage girl, only to find she had been alone since her father's arrest. A third time, a criminologist visiting a house for research purposes found just children living there. And so on. It's why Burrows set up the charity in 2014. It's the 21st century, she says, "how is it possible that there are children living alone?". The answer is because there is no statutory duty for any government body – whether it's the care system, the criminal justice system or the Department for Education – to identify or support children impacted by parental imprisonment. In the examples described above, after their arrest the parent failed to disclose they had a child at home (in all likelihood because of fear of social services intervention, says Burrows) and so the children simply fell through the cracks. This happened to Layla, who when she was eight – along with her six siblings – lived for several weeks without any parent or carer after her mother was arrested. "No one cared enough about who was going to look after us, we just got left," Layla, now 21, says. Her ten-year old sister was the eldest and "took on the whole clan". It was only when they took their malnourished six-month-old sister to the hospital that anyone realised their situation. "I received little to no support during the process of my mum being arrested and going to jail,' says Layla. "This impacted me hugely and I still struggle with attachment issues, poor mental health and poor physical health."

Research by Children of Prisoners Europe in 2019 found 25% of children aged 11 or over who had a parent in prison had an increased risk of mental health problems. Burrows says that when she set up CHAS, she was struck by the "shame, stigma, isolation and loneliness" that children were dealing with. Some were bullied at school, others faced violent attacks on their home. One story that particular resonated was that of a five-year-old boy who was the only one not invited to a classmate's birthday. Children of prisoners are routinely 'othered' by their friends, their community, even wider family members, she says, "because the offences [of their parent] are distasteful. It's simpler to see them as associated with 'something else', rather than as just a child."

Before he was arrested in 2015, Kat's* father was a well-liked figure in the community. After his conviction, however, Kat says "it flipped completely and even though I was just a child, people didn't want to know me." Feeling judged and ostracised by people at her school and in the community added an extra layer of self-consciousness to her teenage years, she says. However, Kat, now 21, did have individual support from her school mentor because her mother had informed the school of her father's situation. "I'm so grateful my mum was that strong. Many children don't have a parent who's able to ring up and tell anyone what's going on, and that's where the downfall is."

Child Impact Assessment Toolkit: Layla agrees that for a child going through such a complex experience, "just having someone who can listen to their worries is key". Today, she mentors children with a parent in prison, and has contributed to the creation of the "child impact assessment toolkit", a project led by Sarah Beresford in collaboration with the Prison Reform Trust. "The trauma that children go through when their parent goes to prison is huge," says Beresford, "particularly if they witness the arrest." This could be avoided if the systems and agencies that such children came into contact with – police and probation staff, social workers, teachers at school – had specialised training and adequate support to help them. Currently, this is completely lacking.

The toolkit aims to combat this, providing a framework that practitioners from a range of fields can use to understand how a child impacted by parental imprisonment is feeling, and determine what kind of support is needed. "We need long-term policy reform, but also actions that can be taken now within the current job descriptions that exist now," says Beresford. "For example, there could be a police officer whose role is focused on the children, who at the point of arrest takes them into another room, tells them their mum or dad is going to be safe, and asks if there's anyone they can call. It's simple stuff but none of that is happening." She cites the example of a judge in Scotland "who postponed the sentence for six weeks for the family to make proper childcare arrangements". That is the kind of system England and Wales should be aiming for, she says, "one that mitigates the impact on children as much as possible." The toolkit, which was published in December, is already used by some practitioners, including social workers, teachers and mentors in England and Wales, and is helping support pilot projects within criminal justice processes, such as in sentencing.

Abolish Short Sentences For Mothers: Dr Shona Minson from the Centre for Criminology at Oxford University agrees that suspended and deferred sentencing are both options that should be used more, and that short sentences should be abolished entirely, particularly for mothers. Some 70% of prison sentences handed to women are for less than 12 months, but spending just a few months in prison is enough for a mother to lose her home and often her children, says Minson. By identifying how many children of prisoners there are, then you'd have to do something about it. By not identifying it, it's not a problem. On release, Minson explains, the mother is in "this awful catch-22 situation

where she is recorded as 'intentionally homeless', meaning she doesn't get housing priority, meaning she's placed in a single room in a hostel, and she's not eligible to have her children back." The impact on children, who often bounce from one care arrangement to another, is severe, she adds. She gave a particularly harrowing example of a 15-year-old boy who was taken into care when his mother was imprisoned. At 16, he moved into a flat by himself. Soon after, his mother was released and placed in a homeless shelter, and he frequently left his placement to spend time with her. But at the age of 18 he took his own life, says Minson, "and it really was because of this level of disruption that occurred when he was a child."

Community sentences and prevention schemes could be implemented as alternatives to custodial sentences, says Minson, pointing to the women's problem-solving court (PSC) in Greater Manchester, where community orders are combined with progress reviews. "It's a fantastic model," says Minson, "because it actually treats people as people, allowing them to continue with their community ties, their children, their jobs, while helping them to address the issues that have led to their offending." Three more PSC pilots – for women and men – are to be rolled out in Birmingham, Liverpool and Teeside.

Importance of Data and Funding: Current figures for children in England and Wales with a parent in prison range from 96,000 children today to 310,000 every year – but these are estimates, there is no official data about the children of prisoners. This lack of robust research is a key barrier to offering such children the support they need, according to James Ottley, family and project operational manager at CHAS. "There isn't the data, there isn't the funding and it seems like there isn't the interest," says Ottley, adding that this feels like purposeful avoidance by the government. "By identifying how many children of prisoners there are, then you'd have to do something about it. By not identifying it, it's not a problem."

The Ministry of Justice refutes this, saying it is trying to improve its understanding of the number of children impacted by parental imprisonment. A spokesperson said this includes a "new screening processes to better identify and record offenders entering prison who have caring responsibilities" and investing £20m into a data programme to improve support for people with complex needs "including those with parents in prison". Taking data matters into its own hands, CHAS has partnered with the Thames Valley Violence Reduction Unit to create 'Operation Paramount' – a scheme that uses police data to identify the family of an adult who has been arrested, then offers them support and direction to services that could help.

Following a successful pilot, the scheme is to be rolled out across the Thames Valley region this year, while similar schemes are underway in south Wales and Birmingham. These are groundbreaking initiatives, says Burrows, but should be seen as just a start, and they won't identify every child affected. What is urgently needed, she says, is a data mechanism that identifies all children impacted by parental imprisonment, which should then be referred to the local authority multi-agency safeguarding hub to enable informed decisions around what support that child needs. He believes that children of prisoners should be eligible for the government's 'pupil premium' – a grant to improve educational outcomes for disadvantaged children, including those in the military. With the extra funding the premium provies, schools would have the capacity to offer individualised, expert support, such as educational psychologists and therapists. Until then, says Burrows, it remains on the shoulders of small organisations and charities such as CHAS to guide these children and their families through what is likely to be the most traumatic experience of their lives. She is rightly proud of what CHAS has achieved so far, but she says "we're a tinpot charity based in Oxfordshire, trying to reach everywhere. The problem is massive and strategically needs real change."

'There's Nothing to do but Vape'

Inside Time: Prison welfare charities have warned that a surge in spending on vaping (inhaling vapour containing nicotine) by prisoners could reflect boredom with long hours of lockdown. Spending on vapes by prisoners on their weekly 'canteen' orders rose from £4.4 million in 2019/20 to £7.7 million in 2021/22, according to figures obtained by Metro newspaper under the Freedom of Information Act. Smoking tobacco was banned in all prisons in England and Wales in 2018, leaving vaping as the only way for residents to get a nicotine fix. Pia Sinha, chief executive of the Prison Reform Trust, said: "Prison is a stressful environment with many prisoners spending up to 23 hours a day locked in their cells with little to do. It is understandable therefore that many turn to nicotine for comfort."

And Andrew Neilson, director of campaigns at the Howard League for Penal Reform, said: 'This increased spend is, in part, a reflection of how the prison population has risen since the height of the Covid-19 pandemic. But it may also indicate how people in prison are turning to vapes and e-cigarettes to help get through the tedium of spending hours on end locked inside their cells. Fresh air, exercise and a range of positive activities are all essential to help people in prison to live more healthily." The Ministry of Justice told Metro: "Prison canteen services offer a wide variety of products (including vapes) to prisoners that are delivered by an approved national supplier responsible for sourcing products to meet the needs of the population. All canteen purchases are made by prisoners using their own money."

Prison Leaver Accommodation Doesn't Lead to Permanent Homes

Inside Time: Fewer than half of the prison leavers provided with temporary homes under a Government scheme go on to find permanent accommodation. The Community Accommodation Service Tier 3 (CAS3) scheme, launched in 2021 in five English probation regions, was meant to solve the problem of people being released from prison homeless and going straight back to committing crime. It offers 84 nights of accommodation to people who are leaving prison or an Approved Premises and are at risk of homelessness. However, people who have used the service have complained that they can be evicted after the 84 days, with too little support to find a permanent residence. New figures from HM Prison and Probation Service (HMPPS) show that of the 5,210 people who used CAS3 up to February 2023, 38 per cent then went into settled accommodation; 31 per cent went back to prison, either recalled or because they committed further crimes; 12 per cent went to transient accommodation; and 9 per cent were homeless or sleeping rough.

The proportion of prison leavers housed on the first night of release was 7.6 percentage points higher in the five CAS3 regions than in the rest of the country; but three months after release, the proportion accommodated was 0.7 percentage points lower in the CAS3 regions than in the rest of the country. The figures are included in a report published last week by the National Audit Office (NAO) which concludes that the Government is not consistently supporting prisoners to resettle into the community. The report, called "Improving resettlement support for prison leavers to reduce reoffending", also finds that: HM Inspectorate of prisons did not rate any prisons as "good" for resettlement and release planning in 2022/23, compared with 30 per cent being rated "good" in 2019/20; 38 per cent of prisoners released in 2020/21 reoffended in the following 12 months; The cost of reoffending to society is £17 billion a year;

A severe shortage of probation officers, and high caseloads, means HMPPS is not completing all the resettlement work it recognises as essential. Gareth Davies, the head of the NAO, said: "One of the core purposes of prisons and probation services is to prepare prisoners

for release effectively and ensure their smooth resettlement into the community. However, HMPPS and its partners across government do not do so consistently. “While HMPPS has made some progress in recent years around issues such as accommodation it must ensure the basics are in place, including defining clear roles and responsibilities in the resettlement system.” Meg Hillier MP, chair of the Public Accounts Committee, said: “Severe staff shortages and high workloads mean that government is not consistently getting the basics right to help prison leavers’ resettlement. HM Prison & Probation Service has launched new initiatives in housing and employment to help prisoners resettle. However, it must improve its understanding of what works so it can ensure these initiatives are making a real difference for the £550 million of taxpayers’ money it is investing.” Andrea Coomber, chief executive of the Howard League for Penal Reform, called the report “a wake-up call” and said: “A bloated prison system means scarce resources are being used to build more jails – rather than improving rehabilitation services and ensuring people don’t reoffend when returning to the community.”

Rex V Geordan Anthony Rees - Conviction Quashed

On 6 April 2021 in the Crown Court at Swansea the appellant changed his plea of guilty to three counts (Counts 3, 5 and 6), on an indictment which as a result of amendment that morning contained six counts. Counts 1, 2, 3, 5 and 6 alleged offences of violence against the appellant. Count 4 alleged a joint offence of assault against the appellant and his father, who was co-accused, and like the appellant, had pleaded not guilty when first arraigned. The case was listed for trial of both defendants on all counts on 6 April. After he entered his new pleas, the prosecution offered no evidence against the appellant on the remaining three counts and also against his father on the sole count he had faced. The appellant was then sentenced to a suspended sentence totalling 12 months, suspended for 12 months and subject to an unpaid work requirement of 180 hours. All the offences arose out of a violent incident at a street party held to celebrate VE day on 8 May 2020. The defence of the appellant to the charges which had been set out in a defence statement was self-defence, and he claimed that he had been the victim of serious violence. He had certainly been seriously injured in the incident.

This appeal against conviction is brought with leave of the full court and involves a single ground, namely that the convictions are unsafe because they were the result of inappropriate pressure exerted by the judge and defence counsel. The law in relation to situations such as this was extensively examined in two decisions of this court in another case dealt with by the same judge who dealt with the present case in Swansea. Those decisions are reported as R v AB, CD, EF and GH [2021] EWCA Crim 1959 and [2021] EWCA Crim 2003. In that case also the judge had given an indication of sentence. In that case the indication was given in September 2021 and the decisions of this court were handed down on dates in December 2021. The present case, therefore, predated those events and the judge did not have the benefit of the guidance given by this court in those decisions. It is not necessary for the purposes of dealing with this appeal to rehearse or to attempt to rephrase the legal position set out in those earlier decisions in this judgment.

During the morning of 6 April 2021 the judge caused counsel for the parties to be called into court in order that a discussion could take place between him and them in court. It is clear from the transcript that the defendants were not present during that discussion. The judge began this hearing by apologising for interrupting conferences which he understood were taking place between the two defendants and their counsel. They were separately represented. Some observations by Mr Dyfed Thomas who represented the appellant on that occasion

suggested that he was considering the possibility prior to this hearing that there may be a compromise which would avoid a trial and that discussions in relation to that were on-going at the time when the judge had called the case on. Mr Tom Scapens, on behalf of the prosecution, informed the judge what pleas would be acceptable. The defendants were not, as we have said, present during this hearing. They clearly should have been. Prosecuting counsel said in terms that if the appellant pleaded guilty to Counts 3, 5 and 6 of the proposed new indictment the prosecution would offer no evidence against him in relation to Counts 1, 2, and 4, and would also offer no evidence against his father. The proposal relating to the appellant was followed by the exchange which we set out below, and after conclusion of that exchange, the prosecution made its position clear in relation to how those pleas, if entered by the appellant, would impact upon the case against his father.

The discussion then turned to the appellant's father, and the prosecution explained its position as set out above. This was a matter of interest to the appellant, both because his proposed pleas would remove the possibility of a criminal conviction of his father, and also because it appears his father was paying for his own defence. There seems to have been some discussion between lawyers about the expense in legal costs which would be saved if the case did not continue against the appellant's father. These costs are not recoverable in the event of acquittal. If, therefore, the appellant pleaded guilty to Counts 3, 5 and 6, he would be helping his father.

The appellant, his father and sister have made statements which we have read. They are critical of the conduct of Mr Thomas in some reasons. They suggest that he, in effect, bullied the appellant into pleading guilty. They say that the appellant was advised that if he was convicted after a trial he would be sent to prison but that the judge had offered a deal whereby he would plead guilty to only one offence and would receive a Community Service Order (as they call it). The statements also suggest that during this discussion the interests of the appellant's father were also mentioned. They say that counsel was not interested in fighting the case for him and that when the appellant protested his innocence during these discussions, counsel said that it was his job to keep him out of prison and this is what would happen if he entered the plea as proposed.

Discussion and Decision: Given the unsatisfactory nature of the proceedings before the judge, we have concluded that these convictions are unsafe. The judge allowed a situation to develop where counsel advised his client, because of what the judge had said, that he would not go to prison if he pleaded guilty, having previously advised him in clear terms that if he did not and were to be convicted by the jury, he would probably go to prison immediately. In fact, as we have explained, the only way in which what the judge said could be justified as a matter of law was if it were to be interpreted as meaning that the appellant was no longer at risk of imprisonment whatever he pleaded. That advice was certainly not given to him, and the position was left unclear.

On its own, the position of the appellant's father would not suffice to show that these convictions were unsafe. It very often happens that members of a family may be jointly accused and the prosecution may choose not to proceed against all of them if the principal offender accepts an appropriate share of the blame. We regard this as part of the background which makes the judge's indication as to sentence and the wa y in which it was given particularly unfortunate. However, it is the judge's indication on sentence which renders these convictions unsafe, and they will therefore be quashed.

Retrial? The alleged offences occurred in May 2020, very nearly three years ago. The appellant has served the 180 hours of unpaid work which was a requirement of the suspended sentence order. That order has long since expired. Although the incident was a serious one, the

prosecution did not seek to refer the sentence to this court as unduly lenient at the time and that puts the seriousness of the episode into a proper context. The prosecution, nevertheless, seek a retrial after this long passage of time.

We think it right to say in this context that what went wrong here was principally the responsibility of the judge, but it was a responsibility which was to some extent shared by all parties. Something occurred which should not have occurred and nobody objected. It was, as we have said, at least the responsibility of the prosecution to ensure that any indication as to sentence or discussion on that subject should take place in the presence of the defendant concerned. In the modern practice it is the responsibility of the prosecution to ensure that the position of the Attorney General as to referring any sentence which may be unduly lenient is preserved. The prosecution has a formal role in the Goodyear process to achieve that object, and there is no reason why that should not also be required in less formal discussions of this kind in the unfortunate situation where they arise. Staying silent during this process which led to the convictions being quashed and then seeking a retrial when that has happened is not, in our judgment, an altogether attractive course to take.

Although we consider that this was a serious incident which actually did require an immediate custodial sentence in the event of conviction, we consider that in the light of all which has happened, the interests of justice do not require a retrial, and we decline to order one. In those circumstances, we do not consider that we are bound by Mr Leathley's invitation to us to direct a retrial and we decline to accept that invitation, whether proffered by him or by the prosecution. The order we make is, therefore, that these convictions are quashed, and we do not order a retrial.

Court of Appeal Confirms Refusal of Habeas Corpus for British Citizens in Syrian Camp

The appeal of C3 and C4, two British women who travelled to Syria to join the Islamic State in Iraq and the Levant who were subsequently detained in a camp in northern Syria, has been dismissed. The case is C3 & Anor v Secretary of State for Foreign, Commonwealth & Development Affairs. Since the collapse of ISIL in 2016-17, C3 and C4 have been detained Camp Roj in northern Syria. Conditions in the camp are dire. You can read more about the background to the case, the conditions in the camp, and why the Divisional Court originally refused the applications for habeas corpus here.

C3 and C4 were previously deprived of their British citizenship. This was overturned by the Special Immigration Appeals Commission because the decisions would have rendered them stateless. C3 and C4 brought their applications for a writ of habeas corpus on the basis that the Secretary of State could secure their release from detention, including making requests to those in charge of administration in the camp (AANES), and organising emergency travel and documentation.

The Secretary of State argued that this would mean expanding the scope of the writ of habeas corpus beyond the circumstances in which it has been held to be available in previous case law because it involved the Secretary of State making a number of discretionary decisions (including securing consular assistance, travel documentation and travel arrangements). The AANES authorities were prepared to release C3 and C4 but because they required these arrangements for the release to go ahead, it is them, not the Secretary of State, "who are determining whether, and in what circumstances [they] can be released and who, thereby, control their custody". The Secretary of State may be able to assist in the release, but their ability to do so does not mean that they have custody of, or control of C3 and C4. The Divisional Court concluded that in these circumstances, the writ of habeas corpus is not available. This appeal was limited to the question of whether habeas corpus lies in the circumstances of the present case. Ultimately, habeas corpus is not the correct vehicle for this challenge. If habeas corpus was issued it would have the effect of bypassing any examination by the courts, of the kind that would occur in judicial review proceedings, of the legitimacy of the Secretary of State's reasons for not being prepared to accept the AANES's offer. C3 and C4 argue that the Secretary of State has the de facto power, by making the appropriate "official request" to release them from detention. In these circumstances, he is regarded as having control over their detention such that habeas corpus is an available remedy. But the official request is not the only step that needs to be taken. It is important to note that the government not only does not have actual custody of C3 and C4, but it was also not involved in their original detention and "a writ of habeas corpus to issue in those circumstances would be unprecedented".

Previous case law concerning control of individuals in detention where habeas corpus is considered concerns instances where the government has been responsible for the original detention of an individual but had transferred him to the custody of a foreign government: "Where B has first detained A but has passed actual custody to C, it is fair to regard B as responsible for A's continuing unlawful detention if in practice they have the power to procure his or her release by C: it was B who created the "detention situation" (if I may be forgiven the phrase) in the first place. By the case is different where B had nothing to do with the original detention. It is hard to see why in that case the fact that they may have, for an unconnected reason, de facto power to procure A's release justifies subjecting htem to a peremptory remedy for a situation which they have done nothing to create…. B may of course in particular circumstances, as discussed in Abbasi, be under a public law duty to take steps to try to procure A's release, but that is not the same thing as treating them as a constrictive custodian for the purpose of habeas corpus." In addition, acceptance of the AANES's offer would not by itself be effective to procure C3 and C4's release or the transfer of their custody to the UK government. They would only be released on the basis that the UK undertook to repatriate them, and only if the conditions of travel and documentation arrangements could be satisfied. The AANES's offer was qualified and conditional and therefore not sufficient to justify the issue of a writ of habeas corpus.

Comment: C3 and C4's case was summarised in four points: The Secretary of State was in reality the only person who could bring about their release, including arranging their children's repatriation: 1)The shocking conditions of their detention 2) The real reasons for the Secretary of State's unwillingness to make the request for release was his concerns about national security 3) The Secretary of State's conduct deprived them of their fundamental rights as citizens to enter the UK. 4) If C3 and C4 were able to present themselves at a consulate in Iraq or Turkey, for example, the government would not be able to refuse to issue them and their children documentation. But suggesting that the government have a "responsibility" to procure their release from their current position, given the AANES's offer, might not be an apt label. The combination of factors listed above are instead "based on the requirements of justice and humanity".

C3 and C4's case is dire. There may be a powerful case that neither the difficulties in release nor the national security concerns can justify a refusal to take steps to secure their release and repatriation. But the case before this appeal court was limited in scope and the court concluded that there was no justification for a remedy of habeas corpus in circumstances where the Secretary of State does not have the necessary control over C3 and C4's detention. Judicial review would be a more appropriate vehicle for such a case because the court could consider the lawfulness of the refusal of assistance in accordance with the principles in the case of Abassi. In the meantime, the UK remains an outlier amongst Western nations in refusing to repatriate British citizens in the camps of north-east Syria.

King's Award for In-Cell Laptop Firm Coracle

Inside Time: A company which provides prisoners with computers to use in their cells has received the King's Award for Enterprise. Coracle began providing the laptops in 2017, using an offline system where the devices are regularly updated from a memory stick to get around the ban on prisoners using the Internet. Its service is now available in 86 prisons in England, Wales and Northern Ireland – used mostly by prisoners doing Open University or other distance learning courses. It was one of only nine companies to win the prize in the Promoting Opportunity category. Coracle's founder James Tweed said: "Over the past six years, we've spent time in institutions up and down the country, working with offenders and staff to increase access to digital education in prisons. There have been many challenging days for myself and my team. So to have our hard work and efforts recognised by the King is an enormous honour and something which the team is incredibly proud to have achieved. "They say prisoners serve at His Majesty's pleasure. But I feel sure our new King will take rather more pleasure in hearing how we are trying to help people find a new way for inmates to approach life."

PRT Comment: Inspectors Review Progress at HMP Pentonville

Commenting on the Independent Review of Progress of HMP Pentonville by HM Inspectorate of Prisons today (22 May), Pia Sinha, chief executive of the Prison Reform Trust said: "HMP Pentonville's Independent Review of Progress is the perfect example of how, despite a backdrop of severe overcrowding pressure, a resilient leadership team has ensured that reasonable progress has been made in five out of the nine recommendations. However, any progress made on enhancing safety and reducing violence will be fragile. Despite welcome progress in some areas, this report also contains a stark warning from the Chief Inspector to prison leaders. As one of the oldest Victorian local prisons in the country, Pentonville was originally designed to hold just 520. Today it holds 1,100 men. As we approach the summer, cramped, airless cells designed for one will now hold two or even three men. Ministers need a plan to reduce the unnecessary use of custody so prisons like Pentonville have a fighting chance of maintaining a safe, decent and rehabilitative regime."

Indefinite Jail Terms are State-Sanctioned Cruelty

Rev Dr David Kirk Beedon: George Monbiot (The law is gone but they are still in jail: who will free Britain's most wronged prisoners?, 18 May) succinctly captures many of the injustices of sentences of imprisonment for public protection (IPP). I wish to highlight two dimensions to this cruel and unusual punishment that were prevalent when I interviewed men serving the sentence as part of doctoral research I conducted as a (now former) prison chaplain.

First, the risk they pose to the public is an important consideration to a parole board – rightly so. But the effect that indeterminate incarceration has on their wellbeing is not given proportionate weight. The deterioration in mental health with associated increased self-harm and suicide risks are well documented. This is state-sanctioned cruelty. *Second,* as Monbiot's article suggested, many people serving this sentence have come from tragic backgrounds. This hope-crushing sentence inflicts further harm, for which the system of incarceration is largely responsible. What I experienced as most heartbreaking while a prison chaplain was that the humanity of those on an IPP sentence didn't seem to count as much as it did for others in custody. Public risk always trumped personal risk to their own wellbeing, and they were blamed for the predictable way that they responded to the systemic harm inflicted on them. So they remained trapped in this Kafkaesque nightmare.

Thomas Green V Secretary Of State For Justice - Decision Quashed

Mr Green is serving a life sentence for murder as a Category A prisoner, the highest security category in the prison estate. Early last year the Parole Board recommended that he be transferred to open conditions, which is the lowest security category. The Secretary of State rejected that recommendation in a decision in June 2022. In this judicial review the claimant challenges that decision. He is a Category A (Standard Escape Risk) prisoner, detained at HMP Whitemoor. He was a career criminal with cash-in-transit armed robberies, including the shooting of security guards. He was sentenced to life imprisonment for murder in 2000. He was also sentenced for firearms offences. He shot his victim using a 12 bore sawn-off shotgun, striking him first in the lower abdomen and then at close range to the back of his head. The sentencing judge described it as akin to an execution. He buried the body in a shallow grave in his back garden and built a patio on top of it. His tariff was fixed at 14 years and one day. That period expired in February 2013. He is now in his early 70s.

Categorisation review: For the purposes of this judicial review, the appropriate stating point is the claimant's categorisation review in October 2021, conducted in accordance with PSI 08/2013. The outcome was that he remained a Category A prisoner. The claimant challenged the review in R (on the application of Green) v Secretary of State for Justice [2023] EWHC 626 (Admin). HHJ Karen Walden-Smith held that it was not unfair for the Secretary of State to maintain his category A status without holding an oral hearing.

What the Category A team considered is summarised in the Secretary of State's June 2022 decision. The Category A team noted that the claimant's behaviour had been good during the reporting period. However, it said, regime compliance alone, or simply the absence of "offence paralleling behaviour", did not provide sufficient evidence of a significant reduction in his risk if he were unlawfully at large. The team took the view that it still needed clear and convincing evidence that the claimant had significantly addressed the risk factors shown by his offending. The team noted that the claimant had recently undergone some medical procedures and spent some time in healthcare. However, there was no evidence that his health or mobility significantly reduced his risk or showed that escape was impossible in less secure conditions.

Claimant's Grounds Of Challenge: The claimant advances his challenge on two grounds, Ground 1, that the Secretary of State failed to evaluate the Parole Board recommendation to transfer to open conditions in accordance with his published policy; and Ground 2, that there was a failure to give good reasons for preferring the evidence of one expert over the evidence of the other experts. As to the Ground 1, the claimant submitted firstly that the Secretary of State in relying on the ground at paragraph 5.8.3 of the policy (there is not a wholly persuasive case for transfer) did not properly evaluate the Parole Board's recommendation in a legally compliant manner. To do this he needed to find that the Parole Board's recommendation for good reason appeared to be unjustified or inadequately reasoned. In other words, he had to evaluate the Parole Board's reasoning and determine whether it was cogent and his conclusion reached after a proper evaluation of the evidence.

Instead, the claimant contended, the Secretary of State had listed various factors in favour of progression to open conditions, followed by a list of factors which he asserted were against that course. There was no consideration or evaluation of the Parole Board's reasoning and there was no basis for finding that it was not cogent, inadequately reasoned, had overlooked relevant evidence, or failed to apply the correct test. The claimant also submitted under Ground 1 that the Secretary of State also failed to apply his own Directions to the Parole Board which, he contended, was required by paragraph 3.8.18 of his policy, for example, that it is

particularly beneficial for indeterminate sentence prisoners who have spent a long time in custody (as the claimant has) to move to open conditions.

Ground 2 is that the Secretary of State failed to give good reasons for preferring the evidence of one expert over the evidence of the other experts. If the Secretary of State was to disagree with the majority recommendation of the professionals, which the Parole Board had accepted, there was a heightened duty to give reasons. Cited in support was Crawford v Parole Board of Scotland [2021] CSOH 44, [16], per Lord Braid; R (Wells) v Parole Board [2019] EWHC 2710 (Admin), [40], per Saini J and R (O'Sullivan) v Parole Board [2009] EWHC 2370 (Admin), [13], [18], per Irwin J. In particular, the Secretary of State did not engage with criticism made of Ms Tapley's report, the claimant contended, that she had omitted to update the 2018 HCR-20 risk assessment when significant circumstances affecting the claimant's risk factors had taken place.

Discussion: In this case the Secretary of State was not rejecting a factual finding of the Parole Board nor a finding where it enjoys a particular advantage. Rather he was disagreeing with its assessment of risk. This was a straightforward difference in the assessment of risk on the same facts. He was entitled to substitute his own views on risk if he disagreed with the Parole Board on that question. It was a matter for him to decide that despite the Parole Board's recommendation there was not a wholly persuasive case for transferring the prisoner to open conditions, provided he accorded appropriate respect to the views of the Parole Board and gave reasons for departing from them.

To my mind it cannot be said that the Secretary of State did not engage with the Parole Board's reasoning. He adopted a proper approach, taking account of the positive features that had been presented in the evidence before the Parole Board and its reasoning, going on to explain why he considered the balance of risk differently. He preferred the evidence of the prison psychologist, Ms Tapley, about risk over that of the claimant's prison offender manager, Mr Mobius, his community offender manager, Ms Breeden, and the independent psychologist, Dr Beckley. He was giving greater weight, as he was entitled to, to the view of one professional over the views of the other professionals.

In doing this he explained with sufficient clarity why he reached his decision, and the considerations he had taken into account. I accept the submission of the Secretary of State that it cannot be said that his decision leaves room for genuine doubt as to what he has decided or why. The caselaw the claimant cited, involving judicial review of the decisions of the Parole Board, not the Secretary of State, does not mean that there was a heightened duty on him to give reasons for preferring Ms Tapley's opinion when it disagreed with the recommendation of the other professionals, which the Parole Board had accepted.

Nor do I accept the claimant's submissions about the Secretary of State needing to follow his Directions to the Parole Board. This is a misreading of what was paragraph 3.8.18 (before its amendment), which required the Secretary of State to ensure that the Parole Board took into account his directions to the Board. The language of the Directions makes clear that they are designed for the Parole Board, not him. They are not a statement of the policy that the Secretary of State must apply when deciding whether to depart from its recommendation, although they are the sort of matters which he might want to refer to in making his own decision.

There remains the criticism made of Ms Tapley's report by Mr Mobius, that Ms Tapley had not updated the 2018 HCR-20 risk assessment when significant circumstances affecting the claimant's risk factors had taken place in the meanwhile. That criticism was before the Secretary of State before his June 2022 decision. It was also before the Category A team,

as Mr Mobius explained in his March 2022 letter. As I have said the point was advanced by the claimant as an omission in the Secretary of State's reasons. It cannot succeed on that ground alone. To go anywhere it must constitute a breach on conventional public law grounds.

In his June 2022 decision letter the first reason the Secretary of State gave for his rejection of the Parole Board's recommendation was the Category A team's finding, and the second, Ms Tapley's view which, the decision letter said, "aligns with the recent position of the Category A team assessing your risks". The absence of an up to date HCR-20 risk assessment cast a shadow over both reasons, in other words, two of the four reasons which the Secretary of State gave against the claimant's transfer to open conditions. A material consideration is one realistically capable of causing the decision-maker to reach a different conclusion: R (on the application of Friends of the Earth Ltd) v Heathrow Airport Ltd [2020] UKSC 52, [116]-[119], per Lords Hodge and Sales (with whom other members of the Supreme Court agreed). In my view the HCR-20 risk assessment was a material consideration. There was a failure on the Secretary of State's part to take it, or at least its absence, into account. Consequently, there was a flaw in his decision rejecting the Parole Board's recommendation in conventional public law terms. That vitiates his decision.

Conclusion: Decision is quashed and remitted for the Secretary of State to make a fresh decision.

The Same Old Merry-Go-Round

Inside Time: As a two=strike lifer I have served over 20-years of a 2-year tariff. Fair enough, I have been out and been recalled too during this time. I have seen many two-strike lifers fail when psychology or mental health have become involved in their sentences. IPP prisoners too. IPP lifers and two-strike lifers all end up in the same boat. I have now fallen into this trap myself, with psychology saying I now have mental health problems. I was put in the healthcare unit to be 'observed', and I played up because I didn't want to be there, and I was sectioned under the suspicion of Schizophrenia. I told everyone that I have no mental health problems I was just playing up because I was not happy. I was sectioned for 6-months, which does not count towards my sentence. After 6-months the diagnosis was 'no mental health problems, so out of the 4 doctors and me, it was the prisoner who got the diagnoses right. So, I was sent back to prison. When I got the report back from the mental health hospital, it said I have no mental health problems, but I do have a personality disorder. So, psychology passed me to mental health and mental health then covered their arses and passed me back to psychology with a personality disorder now attached. I have watched other two-striker's and IPPs on this merry-go-round for years and now I am stuck on that same merry-go-round and there seems no way of getting off it. It is another weapon that can be used against me because it is yet another excuse not to release me. The illegal and barbaric sentence I am serving because a previous government made a mistake, which they now admit. I will pay the price for that mistake for the rest of my life.

10,000 Russian Inmates Released from Prison to Fight in Ukraine Killed

The head of Russian mercenary group Wagner said around 10,000 prisoners who had been recruited to fight in Ukraine had been killed on the battlefield. Yevgeny Prigozhin made international headlines six months into the invasion of Ukraine after he was seen touring Russia's prisons and offering amnesty to those who agree to fight, provided they come back alive. "I took 50,000 prisoners of which around 20% were killed," Prigozhin said in a video interview published late on Tuesday 23rd May. He added that a similar proportion had been killed among the general population who had also chosen to enlist with the mercenary group.