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

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Black Remand Prisoners Held 70% Longer Than White in England and Wales

Mark Wilding and Rajeev Syal, Guardian: Black defendants spend on average more than 70% longer in prison awaiting trial and sentencing in England and Wales than their white counterparts, according to new data revealing racial disparities at the heart of the criminal justice system. Figures obtained by the Guardian and Liberty Investigates through the Freedom of Information Act show the mean number of days spent on remand by black prisoners last year was 302 – compared with 177 days for white remand prisoners.

Defendants of all minority ethnic backgrounds spend considerably longer on remand than white defendants in prisons in England and Wales, according to the Ministry of Justice data. In 2022, mixed-race prisoners spent an average of 272 days on remand, while Asian prisoners were held for an average of 262 days. Last year the Guardian and Liberty Investigates revealed that a disproportionate number of people held on remand are black or of a minority ethnicity – and the extent of this disparity has been rising. People from minority ethnic backgrounds make up about 18% of the population of England and Wales, according to 2021 census data, but 34% of remand prisoners whose ethnicity was recorded, up from 29% in 2015.

While black people are more likely to be held in prison to await their trials and sentencing, and for longer periods, research suggests they are also far more likely to be acquitted than white defendants after their time on remand. Criminal justice NGO Fair Trials found that of 3,478 black people remanded in custody in 2021, 14% were acquitted at trial. In the same year, 17,538 white people were remanded in custody, but only 8% of these were subsequently acquitted.

Griff Ferris, the senior legal and policy officer at Fair Trials, said: "These latest shocking figures lay bare the racism and injustice hard-wired into the criminal justice system. Black defendants are again being treated significantly worse than white defendants, and held in prison awaiting trial. "This is despite the government's own figures showing that black defendants are more likely to be acquitted at trial, as well as more likely to not be sent to prison after being held on remand."

The newly released data also shows a lengthening in the periods prisoners of any ethnicity are being held on remand, as the justice system struggles to deal with court backlogs from the pandemic. In 2015, the mean number of days spent on remand for all prisoners was 128, but it now stands at 207. Court delays have also contributed to an overall rise in the remand population. According to official statistics, there were 14,591 people held on remand at the end of March – up from fewer than 10,000 before the pandemic. According to a MoJ spokesperson, by late 2022 it was the highest it had been for 50 years.

The percentage difference in the amount of time spent on remand by black prisoners compared with white has more than doubled since 2015, rising from a 33% disparity to 71%. While the remand population swelled, conditions in prisons significantly worsened during the pandemic. His Majesty's Inspectorate of Prisons found in a 2021 report that efforts to contain Covid-19 had "come at a heavy cost to prisoners". "Carl", a 28-year-old black British man who asked not to be identified by his real name, spent 10 months in prison awaiting trial for a charge of aggravated burglary. He was acquitted and released in early 2021. He recalled

his surprise at being arrested while working a shift as a delivery driver, then told he would not be going home before his case could be heard. I knew I was innocent," he said. "I thought I'd be released under investigation. When they told me I was being remanded, I was just like, how? I was confused – you can't really process it." Much of Carl's time in prison was under lockdown conditions. "We were spending 23-and-a-half hours in a cell, only coming out 30 minutes a day," he said. While awaiting trial, he missed the birth of his first child. "It ruined a lot for me," he said. "Now I'm still trying to get things back in order. Playing catchup isn't easy." Carl explained how he has struggled to adjust back to normal life after his release. "Trying to find that mental strength to keep persevering and push through isn't always the easiest … Sometimes I feel like my mind's exploding."

A government spokesperson said: "Sentencing and remand decisions are made by the independent judiciary, but this government is going further than ever to tackle discrimination in the criminal justice system. "This extensive work is ongoing and covers the entire process – from diverting ethnic minority youngsters away from criminality to new training to remove bias and increasing diversity in the judiciary."

'Routinely Violent': a History of Policing Protest

Jon Robins, Justice Gap: 'The government will always defend the right to protest,' said Priti Patel to the virtual Conservative party conference in 2020. 'That is a fundamental pillar of our democracy, but the hooliganism and the thuggery we have seen is not. It is indefensible.' In other words, the immediate past home secretary would defend the right so long as it didn't hold up the traffic or upset the law-abiding majority. Her Police, Crime, Sentencing and Courts Act 2022, described by Lib Dem peer and deputy assistant commissioner of the Met Brian Paddick as 'draconian and anti-democratic', is now on the statue books enabling the police to impose start and finish times as well as maximum noise levels.

Never has our supposedly cherished right to protest been under such attack. A timely new book Charged: How the police try to suppress protest (Verso, 2022) explains how the policing of protest has been conducted in a routinely violent way for more than four decades. It reveals a shocking history of state-sanctioned brutality from striking miners assailed by mounted police officers at the Battle of Orgreave, to the 'kettling' of anti-capitalist protestors on Oxford Street, the cracking of the skulls of students protesting tuition fees (Alfie Meadow) and, most recently, the manhandling of women who came to the Clapham Common vigil to express outrage at the kidnap, rape and murder of Sarah Everard at the hands of a police officer.

Charged's authors, defence lawyer Matt Foot and journalist Morag Livingstone, make clear that such excessive force was not just signed off from 'above' but government ministers were complicit in writing the police's own manual – more on that later. The book claims that in every protest investigated the police were 'backed to the hilt' by the Home Secretary. Matt Foot is a solicitor who specialises in actions against the police at the human rights firm Birnberg Pierce. He is well known for his tenacity on behalf of notorious miscarriage of justice cases including Eddie Gilfoyle and Sam Hallam, both raise serious concerns about the conduct of the police. Morag Livingston is a documentary filmmaker. Their analysis exposes the myth of 'policing by consent', supposedly so different from (and superior to) the approach of our more authoritarian-minded neighbours. Our police, we are told, draw authority from those who are being policed as opposed to the might of the state and, in exercising their powers, rely on minimal force. Charged tells another story.

The politicisation of policing has never been so blatant as in recent years. The use of serving

officers as a photo opportunity became a cliché of Boris Johnson's premiership – for example, the former PM used ranks of police cadets as a backdrop to deliver a tubthumping pro-Brexit speech and joined officers on press-friendly raids complete with a bullet proof flakjacket (see also Priti Patel). The Washington Post identified such stunts as part of the 'Trumpization' of British politics. American politicians had 'long used soldiers and police as props' during political speeches, the Post noted. 'But in Britain, politicians have avoided such staging as inappropriate and tacky.' Until, that is, the arrival of 'Johnson, the country's convention-buster in chief'.

Charged charts the hidden history of protest, clash by clash, from the battle of the Beanfield, via Wapping, to the Conservative clampdown on the rave culture of the early 1990s when Michael Howard infamously attempted to outlaw rave culture by outlawing music defined as 'the emission of a succession of repetitive beats' under the Criminal Justice and Public Order Act. There is a connecting thread. In the wake of the Brixton riots of 1981, a new secret police handbook was introduced. The Home Office approved the Public Order Manual of Tactical Options and Related Matters which set out military-style tactics inspired by increasingly violent policing in the colonies used to suppress anti-imperialist resistance.

The 'sinister activities in the back rooms of the Home Office' in the early 1980s provided senior police officers with 'a comfort blanket', Foot and Livingstone argue. 'From that point forward, they knew that their new powers not only had the seal of approval from the Home Secretary, but also be instigated by his department, no doubt for his own political ends.' The manual first comes to light in 1985 at the trial of miners arrested at a mass picket at Orgreave. This is down to the persistence of Michael Mansfield KC who was defence barrister at the trial and writes the foreword.

The Blair years come in for critical scrutiny from Charged's authors with their 'frenzied approach to law-making' which led to, according to Nick Clegg as Liberal Democrat home affairs spokesman, 'thousands of new offences' and revealed an 'obsession with controlling the minutiae of everyday life'. As a result of New Labour's punitive turn, chief police officers felt emboldened to mobilise vast numbers of riot police to clamp down on protest. 'By this exceptional tactic, the police even went beyond their own secret manual,' the authors write. 'How far they had come from "normal policing".'

Nor do the media get a free pass. For example, it is reported that the BBC apparently reversed the order of their Orgreave footage in order to blame the miners for causing the violence. Charged is a compelling social history that goes beyond recounting the troubled relationship between the police and protestors but reveals the hidden power of the state to suppress legitimate dissent and stifle progress.

Why Every Criminal Record Should Not be a Life Sentence

Penelope Gibbs, Transdorm Justice: We attach shackles to those who have moved on from crime by publicising their crimes and forcing them to declare old and/or minor crimes when applying for jobs. Currently one in six people in England and Wales have criminal records. Even a teenager who gets a caution for throwing a ball through a window (criminal damage) will have to declare that crime to any potential employer for three months. Woe betides the 14 year old who gets in a playground fight and is convicted of affray. She will have to declare that record again and again if she wants to work anywhere near children and vulnerable adults, even if she just wants to volunteer.

All those who applied to volunteer during Covid were subject to the highest level of criminal records checks. A friend who had long since been released from prison for fraud was not allowed to help in the car park of a Covid vaccination centre. A third of employers will automatically reject a potential recruit with a criminal record. The two thirds who don't automatically

reject may think twice about recruiting someone with a record if they have two equally suitable candidates. I'm not suggesting for a moment we have no criminal records checks. Of course employers need to know about very serious and recent offences. And they do – through the checks and through the barring system which prevents those convicted of offences like sexual assault from applying for certain jobs. But our system is now spewing out 7 million DBS (Disclosure and Barring Service) checks a year and these include information that is totally irrelevant to the job or volunteer opportunity.

Cautions are given by the police for lower level crime, like shop-lifting, or painting graffiti. People often accept cautions without having any legal advice and without understanding that the offences can appear on some DBS check years later. In the last five years the DBS issued 72,067 checks revealing cautions which are over a decade old. In many cases those who ask for a check can't even remember being stopped by the police, given they were not actually convicted.

Teenagers do stupid things. Most teenagers have probably committed some kind of crime but not been caught for it. Teenagers should stay on the straight and narrow, but shouldn't we readier to forgive those who don't? Particularly since the children most likely to be caught by police are from the communities (black, poor) who face the most challenges getting good employment. But we give our most foolish citizens few breaks when it comes to criminal records checks. Last year the DBS agency issued over 12,000 checks disclosing crimes committed when a child. Over 2000 of those checks revealed crimes committed over 40 years ago.

This level of disclosure is unnecessary and unfair. It's recognised in the USA as such and many States have a more progressive system of disclosing criminal records than ours. California has recently passed laws which allow people with convictions to apply to have their records "sealed" four years after leaving prison. We and the other supporters of the www.FairChecks.org.uk campaign are calling for change in the checks done in England and Wales – for we are all more than our past.

Police Apologise to Black Royal Marine and Pay Substantial Libel & Privacy Damages

Mark Henderson, Doughty Street Chambers: In a High Court hearing on 8 June 2022, Mr Justice Jay heard that the Chief Constable of West Yorkshire Police (WYP) agreed to pay substantial damages (in the sum of £67,500) to a serving Marine for libel and privacy breaches. The Chief Constable also made an unreserved apology and retraction. He committed, in open court, to "revised procedures and safeguards implemented as a result of this case" and expressed sincere regret for how the case had been handled in light of WYP's "commit[ment] to policing fairly and objectively, on behalf of all the communities it serves". An anonymity order protects the identity of the claimant – known as TJM - and his child. Mark Henderson, instructed by Filiz Kiani of Cohen Davis, acted for the claimant throughout the proceedings.

The concluding Statement in Open Court follows the preliminary trial judgment of Mr Justice Johnson in TJM v Chief Constable of West Yorkshire [2022] EWHC 2658 (KB) ruling on the meaning of an email sent by WYP to the Royal Navy (TJM's employer). WYP relayed allegations made against him and told the Navy that "The police will be seeking a charge of controlling and coercive behaviour/harassment against [TJM]." They asked the Navy "to look into an internal investigation into [TJM] as if in the case a criminal charge is unable to be brought against him, his behaviour … are far below the standard expected in the armed forces".

Only after sending that email to the Navy did WYP arrest TJM for questioning. He was then put on police bail for 16.5 months during which time WYP gave inconsistent accounts of the reason

for the prolonged police bail. No charge was brought. WYP's case at the Preliminary Trial was that the email meant that there were "grounds to suspect the claimant" of the offences (known as a Chase Level 2 meaning). TJM contended that the overall meaning was that TJM was guilty of the offences, and that WYP were urging a Navy investigation in case he could not be charged. Johnson J concluded that WYP had endorsed the allegations it relayed about TJM, and conveyed as a fact that TJM was guilty of two criminal offences and (as WYP's opinion) that his behaviour was incompatible with service in the Armed Forces. He held that WYP defamed TJM at common law.

The judgment is the only known case in the last decade since the Defamation Act 2013 in which the High Court has ruled that a police statement bore a 'Chase Level 1' meaning alleging that a person is guilty of an offence. Following Johnson J's judgment, WYP entered a defence of Truth to the meaning that TJM was guilty of the offences. TJM rebutted that and other defences raised by WYP. WYP then admitted liability for libel, misuse of private information, and breach of data protection duties. The size of the libel and privacy damages paid by WYP reflects the seriousness of the police making such allegations and the extent to which TJM and his child's privacy were invaded.

In the bilateral statement before Jay J, Mr Henderson explained that the Chief Constable of WYP "apologise[d] unreservedly to the Claimant for the distress and embarrassment that the publication of the false allegations has caused him and for the continuing damage and distress" and in addition to paying TJM substantial damages, "he was also here to confirm to the Claimant and the Court how lessons will be learnt from the unfair and unacceptable way in which the Claimant has been treated". Counsel for the Chief Constable confirmed this.

Paris Garden Renamed after Mahsa Amini Who Died in Police Custody

Authorities in the French capital have renamed a garden after a young Iranian-Kurdish woman whose death in police custody in September last year sparked months-long anti-government protests. "In tribute to this Iranian Kurdish student who died at the age of 22 after being arrested by police for having worn her hijab improperly, the Jardin Villemin was renamed "Jardin Villemin – Mahsa Jîna Amini," the town hall of Paris's 10th district said on its Twitter account on May 23. Anger over Amini's death in Tehran prompted Iranians to take to the streets nationwide to demand fundamental economic, social and political changes. The security forces have unleashed a brutal clampdown on the women-led protest movement, killing more than 520 people during demonstrations and unlawfully detaining over 20,000 others, activists say. Following biased trials, the judiciary has handed down stiff sentences, including the death penalty, to protesters.

Mexico's President States Willingness to Negotiate Peace Deals With Cartels

A conversation with Falko Ernst of the International Crisis Group about the likelihood of Mexico's government reaching a peace deal with the country's drug cartels. Mexico has one of the highest murder rates in the world. Last year alone, more than 30,000 people were killed in the country, many of them ensnared in the ongoing violence between rival cartels. Now Mexican President Andres Manuel Lopez Obrador is publicly stating his willingness to negotiate peace deals with the country's most powerful cartels. It's an attempt to stop the bloodshed. His comments came after an activist whose brother went missing called on the cartels to end the practice of forced disappearances.

The number of criminal groups, active armed criminal groups in Mexico, has more than doubled over the past decade. And we are looking at about 200 non-state armed groups active in Mexico on the ground today. And over the past and the current administration, they have been able to further accentuate their power over territories, populations, illicit economies and politics. And they're exercising great violence against especially civilian populations, which have been left vulnerable to their increasingly predatory practices.

Mexico's president has publicly said he is open to these peace deals with the cartels, how likely it is that this idea would become a reality. The reality is it has already become a reality under this and current administrations as well. So you have a routine engagement on an informal level outside of the law between state, including military forces, and these armed groups. They negotiate their permanence. They share territory. And sometimes this is driven by agendas of self-enrichment that are well present within the state. So on an informal level, we already have that.

So the problem has been, under this administration specifically, that essentially criminal groups, some of which I talked to as part of my work, have been told, including by the armed forces, that if they curb spectacular violence, public violence, shows of force that make the headlines, that they will be granted leeway to govern their own territories. The problem is that this can be a part of a pacification strategy, but that this and previous administrations haven't formulated a long-term plan of how to unwind criminal power, for which it would need disciplinary tools to rein in their power over populations.

I just want to know what you think, then, ultimately needs to happen to reduce the violence in Mexico. Well, right now, I mean, the problems are so overwhelming that any administration coming in will find it really, really hard to have the financial and institutional tools at hand to meet all of these challenges across the board wholesale. And what they would need to do is to focus and concentrate resources and efforts to specific regions that still produce the bulk of lethal violence.

'Punitive' Victorian Law Imprisons Mother of Three for Late Abortion

Samantha Dulieu, Justice Gap: A mother of three has been given a 28-month prison sentence for terminating a pregnancy outside the legal time limit. In what has been criticised as an overly punitive application of UK abortion law, the woman was sentenced at Stoke-on-Trent Crown Court on Monday, for 'administering poison with intent to procure a miscarriage'. The law under which she was sentenced dates back to 1861.

During the early stages of the pandemic, the woman contacted the British Pregnancy Advisory Service (BPAS) who were able to provide abortion medication via post to avoid spreading Covid-19. The court heard that she lied to the telephone advisor in order to procure the drugs, and took them when she was around seven months pregnant. Evidence including her internet search history showed that she knew she was over the legal time-limit for an abortion, although as she was not able to attend a clinic for a scan she did not know by exactly how much.

Criticism of the judgment has been widespread, with many questioning the public interest of imprisoning a mother of three who is unlikely to reoffend. The sentence seems to go against Sentencing Council guidelines, which advise against custodial sentences for cases where the impact on dependants would be 'disproportionate to achieving the aims of sentencing'. The Judge advised that he had taken mitigating circumstances, including the fact that one of the children has special needs and will struggle without their mother's care and support, into consideration. The judge added in his remarks that had the woman pled guilty in the Magistrates Court, the sentence would likely have been suspended. He said this was 'among the many tragedies of the case', raising questions about the extent to which the woman is being punished for receiving poor legal advice.

Abortion in the UK is governed by 1967 legislation which grants medical professionals an exception to the 1861 Offences Against the Person Act, which outlawed the procedure. Under the Abortion Act, doctors can provide abortions where they believe several legal tests are

satisfied. Due to the existence of regulated abortion services in the UK the law is generally interpreted to be lenient, provided a woman is within the legal 24-week time limit. However, this cases raises questions about the continuing existence of a harsh criminal law, enacted in the Victorian era, in the regulation of a common and safe medical procedure.

Politicians, campaign groups and medical organisations have come forward to criticise the severity of this sentence. Stella Creasy MP said 'This case reveals bitter truth contrary to what some claim abortion is not legal in England – and you can be prosecuted for having one. No other healthcare procedure has such a status. No other patient group would be treated this way. It's time to change law and trust women.' BPAS released a statement calling for the law to be changed, referring to the case of a young mother who was prosecuted last year after her own medical team referred her to the police, and that of a 15 year old girl who was accused of having an illegal abortion after a stillbirth and was driven to self-harm. They have planned a march this weekend, with with the Women's Equality Party and the Fawcett Society, to call for the law to be reformed.

Caroline Nokes MP, Chair of the Women and Equalities Committee confirmed on Monday night that she supported legal reform. She tood The World Tonight: 'We heard from the judge in this case that he believed there was a clear case for parliament to reconsider the legislation surrounding abortion, I think he has a valid point. This is not something that has been debated in any great detail for many years now and cases like this, although tragic and fortunately very rare, do throw into stark relief that we do rely on legislation that is very very out of date'.

Judge Refuses METs Application for a Slavery and Trafficking Risk Order

Laura Stockdale, Doughty Street Chambers: was instructed to represent TA, aged 24, following his conviction for two drugs conspiracies for which he is serving a 14 year imprisonment sentence. The Metropolitan Police applied for a Slavery and Trafficking Risk Order (STRO) on the basis there was a risk TA would be involved in county lines drug dealing and the trafficking of children upon his release. Laura Stockdale successfully opposed the imposition of an STRO, arguing that the order was not necessary since TA was serving a long custodial sentence and had made positive progress towards rehabilitation, as well as the imposition of licence conditions when released on parole. The case involved review of voluminous evidence and disclosure from the earlier criminal trial, as well as extensive legal argument on the approach to the imposition of ancillary orders on young offenders serving long custodial sentences.

Met Police First to Apologise for LGBT+ Maltreatment

Kylee Borg, Justice Gap: The Metropolitan Police Commissioner, Sir Mark Rowley, has released a public apology to the LGBT+ community for his force's history of discriminatory behavior. The apology came in the form of a personal letter addressed to human rights activist Peter Tatchell following Tatchell's launch of his #ApologiseNow campaign. The letter, which was read aloud during alaunch event, accepted responsibility for the institution's allowance of persecution of the LGBT+ community. 'The Met has had systems and processes in place which have led to bias and discrimination in the way we have policed London's communities,' Rowley said. 'I am clear that there is much for us to do. I am sorry to all of the communities we have let down for the failings of the past and look forward to building a new Met for London, one all Londoners can be proud of and in which they can have confidence,' he added.

Tatchell acknowledged in his response that this apology was a step in the right direction. 'We thank Sir Mark Rowley for being the first UK police chief to say sorry,' he said. 'His apology is a ground-

breaking step forward that will, we hope, spur other police forces to follow suit. It draws a line under past Met persecution. This will help strengthen LGBT+ trust and confidence in the police; encouraging more LGBTs to report hate crime, domestic violence and sexual assault.' Tatchell's #ApologiseNow campaign aims to elicit apologies from all UK Chief Constables for their past discriminatory practices. At the launch event, members of the LGBT+ community who have been victims of police maltreatment were given the opportunity to share statements, including a video testimony from late TV star Paul O'Grady. Tatchell says he hopes Rowley's apology will ignite a movement for repairing past injustices done to the LGBT+ community at the hands of the police. 'If the police say they have changed, they need to show it by acknowledging past wrongs,' the human rights activist said. 'They need to follow the lead of the Met Police Commissioner. All Chief Constables should apologise for the many decades of past police harassment. Apologise now!' The campaign was not the first to call out UK police institutions for their history of discrimination. In March, the Casey Report and year-long review of the institution 'condemn[ed] the force as institutionally racist, misogynist and homophobic, referencing racist officers and staff, routine sexism, and "deep-seated" homophobia.'

House of Lords Declares Open Season on Raab's Open Conditions Criteria

Mark Day, Prison Reform Trust: On Thursday 26th May) the House of Lords held an important debate on the impact of the changes to the criteria for transfer to open prison conditions, introduced in June 2022 by the former justice secretary Dominic Raab. In this blog, deputy director Mark Day examines what the government's response tells us. "To ask His Majesty's Government what proportion of Parole Board recommendations for prisoners to be transferred to open conditions were accepted by the Secretary of State for Justice from January to March; and on what grounds such recommendations can be rejected." The debate was triggered in response to this oral question tabled by the Liberal Democrat Peer Baroness Burt. As Baroness Burt acknowledged in the debate, the answer to this question had in fact already been revealed in the government's answer to a written question tabled by the former Home Secretary Lord Blunkett, which was published on 27 April. The answer showed that from January to March 2023, the secretary of state considered 90 recommendations by the Parole Board for a prisoner to be moved to open prison. The secretary of state accepted 14 recommendations and rejected 76.

What does this new data tell us? Adding these figures to those obtained from a previous answer to a written question tabled by Kim Johnson MP, we now have five quarters of data on the impact of the changes. This data is produced in the table below. On the positive side, the data show that the number of decisions being taken by the Ministry of Justice has returned to a similar level seen before the introduction of the new criteria. This should mean that the significant delays prisoners have been experiencing in obtaining a decision may begin to reduce. We will submit a Freedom of Information request to find out how long prisoners are waiting to obtain a decision from the Ministry of Justice.

Less positively, the data reveals that the overwhelming majority of Parole Board recommendations for a transfer to open conditions continue to be rejected by the government, with five out of every six recommendations being refused in the latest quarter. This is an improvement on the 97% rejection rate seen in the second quarter of 2022. But it still represents a massive reversal of the trend prior to the introduction of the new criteria, when only one in 10 Parole Board recommendations were rejected.

What justifies such a significant reversal in policy? It's a question that clearly exercised many of the peers participating in the House of Lords debate. Baroness Burt asked what is the point of the Parole Board "making referrals if the Secretary of State is not going to listen?" In a similar vein, Lord Blunkett asked why, if the Parole Board was following the criteria set down

by the Ministry of Justice in its own decision-making, was the ministry continuing to reject the overwhelming majority of the board's recommendations?

The minister Lord Bellamy responded "The Secretary of State's view is that the Parole Board is not entirely following the change in criteria that was adopted in June 2022, particularly in regard to the essential nature of the move to open conditions to inform future decisions about release. There is indeed a further condition that the 'transfer to open conditions would not undermine public confidence in the Criminal Justice System'. That is a matter for the Secretary of State."

Why are cases being rejected? PRT has previously criticised the vagueness of the new criteria and the lack of transparency in how they are being applied by the ministry. Under the new criteria, the secretary of state (or an official with delegated responsibility) will accept a recommendation from the Parole Board only where: the prisoner is assessed as low risk of abscond; and a period in open conditions is considered essential to inform future decisions about release and to prepare for possible release on licence into the community; and a transfer to open conditions would not undermine public confidence in the Criminal Justice System.

The Parole Board is required to apply the first two criteria in its own decision-making but is not obliged to follow the third, which is determined by the secretary of state. A Freedom of Information request made by PRT uncovered the reasons given by the Ministry of Justice when Parole Board recommendations were rejected for cases between June and November 2022. It showed that nearly two in five cases (38%) were rejected on the grounds of public confidence. These cases are being rejected by the Ministry of Justice on the basis of a criterion that is not specified in any published guidance and over which an individual prisoner has absolutely no control. Another Freedom of Information request revealed that not a single case had been referred to the secretary of state personally and that each decision had been overseen by one unnamed official in the Ministry of Justice. We will submit a Freedom of Information request to update this information now that new data are now available.

What impact will these changes have? Our scrutiny of the changes suggests that we have gone from a system where the majority of decisions were made according to the transparent recommendations of an independent Parole Board; to one where they are decided by an unnamed and unaccountable official according to ill-defined criteria behind closed doors. Despite the minister's assertions, peers are right to question the legitimacy of a system where the Parole Board is charged with making recommendations according to criteria set by the Ministry of Justice when the overwhelming majority of those recommendations continue to be rejected by the same department. "The principal reason that people are worried about this is because they believe that release straight from closed conditions and high security conditions increases the risk of reoffending and that a period in open conditions is very helpful in reducing that risk."

Baroness Chapman: In the longer term, the changes are likely to have a significant impact on the sentence progression of indeterminate sentenced prisoners, limiting their opportunity to demonstrate reduced risk and thereby increasing the length of time they are likely to spend in preventative detention. The changes also undermine the important role of open prisons in public protection, and the opportunity they provide for indeterminate sentenced prisoners, under carefully controlled conditions, to take up volunteering and employment opportunity in the community and re-establish links with families prior to their release. These are all factors which evidence shows reduce the risk of reoffending.

The former shadow justice minister Baroness Chapman got to the nub of the issue in her question to the minister in the debate: "the principal reason that people are worried about

this is because they believe that release straight from closed conditions and high security conditions increases the risk of reoffending and that a period in open conditions is very helpful in reducing that risk. Will the Minister return to the House at a future date to inform us of what has happened as a consequence of the decisions taken by the Secretary of State? Preventing a period in open conditions does not prevent release. All it does is prevent preparation for release." The minister's reply that "in modern thinking" open conditions were not the "only route" to progression towards release was thin to say the least.

So what is the real reason for the policy? During the debate, PRT trustee Lord Garnier sought assurances from the minister that politics played no part in the 76 recommendations which were rejected by the ministry. Lord Bellamy replied that "those decisions were all taken on the merits". Many prisoners will find that hard to believe.

Prisoners: Undocumented Migrants

Foreign national offenders (FNOs) should be in no doubt of our determination to deport them and more than 13,000 have been removed between January 2019 and December 2022.We are doing all we can to ensure that FNOs cannot frustrate their removal process through new provisions introduced by the Nationality and Borders Act and the Illegal Migration Bill. The Act makes it easier and quicker to remove FNOs and those with no right to be in the UK. It extends the period an FNO can be removed from prison under the early removal scheme (ERS) from a maximum of 9 months to 12 months, providing the minimum requisite period has been served. The UK and Albania signed a Prisoner Transfer Agreement with Albania in July 2021 which commits that Albanian nationals in prisons in England and Wales serving sentences of 4 years or more will be sent back to serve the remainder of their sentence in Albanian prisons. In May 2023, the UK and Albanian governments agreed a ground-breaking arrangement which builds on this agreement that will see hundreds of Albanian prisoners returned to their home country in exchange for UK support to help modernise the Albanian prison system.

Mental Health Concerns - Hear Me Speak

Emma Guy, Each Other: The Metropolitan Police Service receives a call about a mental health concern every four minutes. They send an officer to respond to a mental health-related call every 12 minutes. Now, as Met Police Commissioner Sir Mark Rowley tells health chiefs his force will no longer respond to most mental health calls from the end of August, the new Hear Me Speak campaign is calling for better legislation, guidance and training around policing in the context of mental health crisis and, crucially, to involve those with lived experience in shaping this legislation, guidance and training from start to finish. It is inviting the organisations responsible for providing guidance and training to police forces across the UK to acknowledge the evidence that the current approach to policing mental health problems is failing, and to recognise the urgent need for change.

There has been a continuous rise in mental health problems among children and young people in recent years. In 2022, one in six children aged between 7 and 16 had a mental health problem, an increase from one in nine in 2017. Not all police forces seek out the views of people with lived experience and/or use that lived experience when carrying out consultations on the design of future services. The number of people detained by the police under Section 136 of the Mental Health Act 1983 has been increasing in recent years. Additional data from the text-message support service Shout suggests that in around 15% of conversations where the police are mentioned, texters said that they wanted to end their lives, had a means and had

a timeframe, but did not want the volunteer to call the police. Reasons given by texters for refusing police intervention included fear of being issued with a Section 136 notice, which allows the police to detain them under the Mental Health Act, and fear of how they might be treated. António Ferreira is a multi-award-winning mental health activist, campaigner, public speaker, disruptor and expert by experience. As a teenager, António experienced traumatic mental ill-health. At around 15, he was referred to the local Child Adolescent Mental Health Service (CAMHS) and shortly after experienced his first mental health crisis. António told EachOther: "Based on my experience, and others' experience, the guidance and training police officers receive around mental health could be strengthened. Officers should have the appropriate knowledge and skills to respond compassionately to people experiencing mental distress." The campaign's vision is to contribute to systemic and longer-term change by instigating adequate training and support so that the police feel better equipped to deal with mental health crises appropriately and sensitively.

LGBT People - Disregards and Pardons Scheme

Sarah Dines MPParliamentary Under-Secretary of State for the Home Department: I am pleased to announce that the Government are today bringing into force sections 194 and 195 of the Police, Crime, Sentencing and Courts Act 2022 which will extend the scope of the Government's disregards and pardons scheme. This is a significant step forward in addressing the wrongs of the past when LGBT people were criminalised for their sexuality in civilian life and while serving in the armed forces.

The original scheme was established in 2012 to enable men to apply to have certain homosexual offences for consensual sex removed from their records. This extension to the scheme will widen the scope to include any repealed or abolished offence that was used to criminalise same-sex sexual activity. The scheme will continue to apply to both civilian and service offences and conditions will remain in place to ensure that only those circumstances befitting of a disregard will be removed from the record. Individuals will be able to apply to the scheme using an application form which has been published today on gov.uk along with accompanying guidance. Parliament, 13/06/2023, https://tinyurl.com/bdvm8h54

Lord Chief Justice Says Courts and Prisons Should be Run Separately

Inside Time: The most senior judge in England and Wales has suggested that the Justice Secretary should be stripped of responsibility for running prisons. Lord Burnett of Maldon, the Lord Chief Justice, said there was "an obvious potential conflict of interest" in having a single Government minister responsible both for jails, and for the courts and judges which send people to them. Prisons were run by the Home Office until 2007, when the then-Labour government transferred responsibility to the Lord Chancellor, the minister responsible for courts – who took on the additional title of Justice Secretary. In a speech welcoming Alex Chalk to the role of Justice Secretary and Lord Chancellor, Lord Burnett proposed that the arrangement should be reviewed, commenting: "That marriage may not have been made in Heaven".

The intervention comes as prisons are facing a capacity crisis due in part to the number of people being sent to them by judges. One of the roles of the Lord Chancellor is to defend the independence of the judiciary. An illustration of this delicate balance came in March when Dominic Raab, then the Justice Secretary and Lord Chancellor, wrote to the Lord Chief Justice warning him of the impact that current levels of crowding in jails are having on prisoners. Following Raab's letter, the Senior

Presiding Judge of England and Wales issued guidance to courts to consider prison crowding levels when passing sentence. In his speech, Lord Burnett told Chalk: "The functions of Lord Chancellor in a modern age might be thought enough to keep a minister fully occupied … But then along came prisons, bringing with it an obvious potential conflict of interest and problems themselves enough to consume the energies of a superhuman. When political breathing space allows, the time may well have come for the role of Lord Chancellor to be looked at again. The question is whether the current arrangements appropriately serve the administration of justice, which is one of the building blocks of society." Commentator and former BBC legal correspondent Joshua Rozenberg, who reported the speech, wrote on his blog: "Burnett did not say whether he thought prisons should revert to the Home Office or go to a new department. The allocation of government business between ministries is a matter for the prime minister of the day. It is unusual for the chief justice call for changes in the machinery of justice but Burnett has little more than two months left to serve before he retires from the judiciary and he appears to be seizing his opportunities."

Colin Pitchfork: Recall to Custody Was "Flawed and Not Supported by Evidence"

Alex Smith, BBC News: Pitchfork was jailed for life for raping and strangling two 15-year-old girls, Lynda Mann and Dawn Ashworth, in Leicestershire in 1983 and 1986. The 63-year-old was released in 2021, before being arrested and sent back to prison two months later. Following a hearing held in private in April, the Parole Board has decided Pitchfork can be released. Pitchfork was the first murderer to be convicted using DNA evidence. In its decision, the Parole Board "Determined that it was no longer necessary for the protection of the public for Mr Pitchfork to remain confined and thereby directed his release.The prisoner had committed shocking, serious offences, causing immeasurable harm to his victims," it said. The panel noted that Mr Pitchfork has been in prison for a very long time. His behaviour for almost all of that time has not caused any concern... and the evidence before the panel demonstrated that he had learnt the lessons that he had been taught and had worked out how to apply them in practice."

Lin Garner, a friend of Dawn's mother Barbara, told the BBC "it's hard to put into words how we feel. I know the torture they have gone through and now they are going through it over and over again. It makes you feel so despairing. Both families must be going through hell again. Barbara is devastated, each time it happens it's another knife, it's like a torture. We know there are rules but following the rules doesn't make it right. There isn't a rulebook for this, it's about people and about getting real justice."

'Flawed' Pitchfork, jailed for a minimum of 30 years in 1988, was originally deemed suitable for release in 2021 - after serving 33 years - a decision that sparked a public outcry and saw the government challenge it. Since then the government has announced changes to the parole system, which include giving ministers powers to block the release of serious offenders. Pitchfork was recalled to prison shortly after his release, after he was understood to have approached young women on multiple occasions while out on walks from the bail hostel where he was living. He was arrested after probation staff raised concerns about his behaviour. But the Parole Board panel found Pitchfork's recall to custody was "flawed and not supported by the evidence". On his initial release, on 1 September 2021, Pitchfork was ordered to undertake polygraph testing as part of his licence conditions. But it later emerged this could not lawfully be applied to his licence "because he had completed the determinate sentences for the sexual offences he was convicted of and the condition could not be attached to his licence for the offences of murder".