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Inmate Not Guilty After Six-Week Firearms Conspiracy Trial

MH was unanimously acquitted after a six-week trial at the Central Criminal Court. MH was charged on allegations of conspiracy to transfer a firearm and ammunition. During the conspiracy period, MH was in custody at HMP Wandsworth. The prosecution alleged that MH had facilitated the sale of a loaded firearm from his prison cell, using an illegal burner phone. The prosecution alleged the loaded handgun was sold on to two separate suspects who did not feature in the trial, and were known to have an interest in amassing weapons for the purpose of committing murder. The prosecution had previously alleged the firearms transfer was linked to contract killings. The Defence case involved comprehensive analysis of call data records, including patterns and sequencing, disclosure on prison material and intelligence, and a detailed examination of the prison regime at HMP Wandsworth. The jury returned Not Guilty verdicts after two days of deliberation. The case was prosecuted by King's Counsel and Junior.

Court of Appeal Quashes Sentence of Imprisonment for Public Protection

The Court of Appeal granted a 13 year extension of time and allowed the appeal of PF against the sentence of Imprisonment for Public Protection imposed in 2010 for an offence of Aggravated burglary. PF had remained in prison since his sentence. Farrhat Arshad, representing PF, argued that a lesser sentence would have adequately protected the public and argued that the trial judge had erred in imposing the draconian sentence. The Court agreed and replaced the sentence with an Extended Sentence resulting in the appellant's immediate release.

16 Year Old Acquitted on Murder and Manslaughter

In preparation of the case, experts were instructed on trafficking and child criminal exploitation, including an ex-Superintendent in the police. Defence analysis of the case, including the assessment of substantial police and social services records established that RS was a victim of exploitation, and the deceased and a prosecution witness had attempted to 'set up' RS along with his co-defendant to stab them. Legal arguments were prepared on admissibility of covert surveillance material, untruthful witness evidence sought to be adduced by the prosecution, and the decision to prosecute victims of trafficking. Following two days of legal arguments, the Crown offered no evidence on charges of murder and manslaughter against RS.

Inmate Acquitted of Assaulting Prison Officers

DE stood trial at the Central Criminal Court for two counts of assaulting emergency workers—prison officers at HMP Belmarsh—in October 2020. The prosecution relied on three prison officers, CCTV and bodyworn footage to prove their case. The prison officers gave evidence in support of each other. DE's raised self-defence and asserted the main complainant assaulted him first. The case involved extensive cross-examination on use of force and bodyworn policies at HMP Belmarsh, careful analysis of CCTV evidence and a detailed review of unused statements and unused bodyworn footage. Following a four-day trial, DE was acquitted of both counts.

HMRC Discontinue Investigation Following Early Challenge to Search Operation

HMRC has discontinued the six-year tax probe after failing to recover from an early successful challenge to the search and seizure operation. The investigation centred on a group of children's nurseries and an allegation that the directors had overstated the number of employees in order to fraudulently obtain working tax credit and public funding in respect of children's places at the nurseries. Embracing DWP enquiries, civil tax investigations and various seizures of cash from suspects, OFSTED also investigated several nurseries as a result of the Revenue's intervention. When HMRC applied for over thirty search warrants, the officers referred the court to what they perceived to be evidence of criminal activity with an estimated loss to the Revenue of £16 million.

The legality of the search warrants was challenged in an application for judicial review but HMRC quickly accepted that the warrants were unlawfully obtained and applied to the Crown Court to retain the unlawfully seized material pursuant to section 59 Criminal Justice and Police Act 2001. HMRC's application was unsuccessful in an important respect leading them to judicially review the judge's ruling. That application succeeded, but resulted in a second application under section 59 to examine the seized material. Seven independent counsel were appointed by HMRC to look at the documents. That exercise, together with the court hearings, took place over a period of eighteen months.

Over six years after the original arrests, HMRC closed the case. The passage of the investigation indicates the effectiveness of early challenges to search and seizure process from which errant authorities may never ultimately recover.

New Recruitment Process For Magistrates Has Failed

Transform Justice: A few months ago, a "whistleblower" contacted me about the new magistrates' recruitment process. They knew Transform Justice had advocated for a greater diversity of the magistracy and said that the new process was doing exactly the opposite. In 2020 and 2021, the Judiciary and the magistracy designed a major new recruitment drive and a new application process. Their aims were to recruit a lot of new magistrates, to diversify the magistracy and to make the new process speedier. However, the bones of the old recruitment process remained. Applicants still had to observe the magistrates' courts, work out whether their area had vacancies, fill in a lengthy application form and do an interview in front of a panel.

The whistleblower had sat on a magistrates' recruitment panel for a long time and shared our passion for getting a broader range of magistrates. However, their experience last year suggested that the new recruitment process was alien to people who were not professionals. It was based on a set of competencies – as many professional jobs are. People who applied had to provide evidence that they met these competencies both in the form and in the interview. My whistleblower said professionals and managers knew the rules of the "game" and so played it better. I vowed to investigate.

There was no exemplar application form I could look at online, but I started to apply myself to get access to the questions. The form was very long and formidable. I was asked to give the name of two referees, one an employer, another whom I had known for at least three years and whom I did not live with. I think this would be an intimidating ask for many people, particularly as they would then have to get their employers' agreement to take the time off to be a magistrate without even having got an interview. Why can't the demand for referees come a bit later? Then to the competencies and many demands to "give us an example of how you demonstrate the attribute of "working and engaging with people professionally", "making fair, impartial and transparent decisions" etc. These are incredibly difficult questions to answer (partly because they are so abstract), and I am not convinced that they get to the heart of the qualities of a good magistrate.

The form was off-putting to anybody, particularly those without a university education. I could not believe it had been properly tested as working equally well across classes. I could find very little in the public domain about the design of the new recruitment process, so I sent a freedom of information request to the Judiciary. In their response, they could not or would not tell me exactly how they had tested the new process, particularly for impact on diversity.

Scroll forward a few months, and the government published the annual judicial diversity statistics, which show who has been recruited. The figures suggest my whistleblower was right: * Only 18% of those who showed interest in being a magistrate filled in the application form. * An even smaller proportion succeeded in becoming magistrates …only 829 in 15 months. * A higher proportion of white applicants than those of colour were successful. A smaller proportion (12%) of not white ethnic minority candidates were appointed than there are in the population (18%). * Candidates were more likely to be successful if they had been to a private school and less likely to get through if they did not go to university. * Those who were in managerial or professional positions had greater success and applied in greater numbers than those in other occupations such manual, clerical. * Despite a desire to make the magistracy younger, the majority of those appointed were 50+

Though well-intentioned, this new recruitment process seems to have failed on many counts. The greatest success was in inspiring interest. Over 33,500 people said they were interested in becoming a magistrate. However, this flame was extinguished by an off-putting form and an interview process which was just too difficult. I am not against a screening process for magistrates. However, it should not be akin to a camel getting through the eye of a needle. Magistrates should be sensible people with reasonable judgment. Nevertheless, we need to test that in a way that is not biased against black, brown and working-class people. If magistrates are not representatives of the people, they will lose their justification for presiding over courts.

Unacceptable Flaws and Failures of the Appeal System

The recent exoneration of Andrew Malkinson of a conviction of rape in 2004 where he was sentenced to a life sentence serves as a shocking reminder that the current miscarriage of justice Appeal process and its attendant so-called independent fail-safe system is so dysfunctional and ineffective that it is patently obvious it is long overdue for reform. For example, we learn Mr Malkinson had served 17-years imprisonment of a life sentence and had been released from prison on licence before he found lawyers who were willing to prepare a new dossier of evidence for the miscarriage of justice watchdog the CCRC. It is emphatically argued, if Mr Malkinson had not been released by the Parole Board which allowed him to continue his fight for justice on the outside, he would most likely still have been fighting to clear his name of this repulsive crime armed with only a pen and A4 pad from his prison cell similar to the author of this piece.

What is more remarkable, Greater Manchester Police (GMP), the prosecuting authority in this case, had found incriminating biological trace material of another unknown male suspect at the crime scene in 2003 and uploaded it onto the national police DNA database as long ago as 2010 without notifying Mr Malkinson. In other words, although the police were wholly aware that in all probability, another unknown male suspect was likely to be the perpetrator of the offence, they still kept Mr Malkinson in prison regardless. The reasoning behind this is unknown, but it is most likely GMP did not want to undermine the alleged viability of the conviction whilst searching for the real culprit. If this were so, where did these Spanish practices come from, as they should not play any part in English law? Similarly, the Casework

Managers at the CCRC considered not one but two formal applications from Mr Malkinson without any success as we assume they were also in the dark about the vindicatory DNA evidence sitting dormant on the national police DNA database.

This elicits, does it not, a vital question of how many more wrongly convicted prisoners are serving very long determinate and indeterminate prison sentences like myself, whilst the police are sitting on vital exculpatory evidence that would see them exonerated like Mr Malkinson? Some cynics may argue, it is highly unlikely that the Police Service are going to willingly disclose new evidence that irrevocably proves that they have convicted the wrong man or woman as it is not in their nature or indeed their obdurate police culture to fess-up to such grave incompetence and wrongdoing and incur all the reporting media attention and condemnation coming to offen. This ultimately suggests that British citizens have become the recipients of and participants in a covert two-tier English legal system, which embodies a punitive legal culture of a deserving and undeserving dichotomy appeal system.

Evidence of this is clearly evident in the Malkinson case where as a wrongly convicted rapist he was deemed undeserving of a full and thorough investigation by the CCRC. Inasmuch as the CCRC would have discovered that the police were, de facto, actively searching for new unknown male suspect by way of biological trace material on the national police DNA database. In essence, we learn, the police were wholly prepared to callously let the wrongful conviction stand until a new male suspect arose on the police DNA database. Put another way, the police were more concerned about the integrity and reputation of the force rather than the potential innocence of a

It is acknowledged, however, the GMP have apologized to Mr Malkinson for playing a pivotal role in his nightmare ordeal of not only being wrongly convicted of rape in 2004, but also serving seventeen years in prison without an identified release date; being placed on the Sex Register and enduring all the castigation and denigration that is generated by that condemnatory label on prison landings and in the community per se. Words cannot begin to describe what this man went through. It was particularly gracious of Mr Malkinson --- notwithstanding all the trials and travails that he had gone through whilst in prison and beyond --- to mention the victim at the epicentre of this terrible crime and how she must be feeling after learning that she had helped the police to convict the wrong man for this repellent and repugnant sexual crime. More especially, as the police e-fit of the offender at the time of the offence looked nothing like Mr Malkinson.

All in all, this is a miscarriage of justice where no one is victorious. For example, as the police are still looking for a name to match the biological trace material on the national police DNA database. The victim has been left more confused and traumatised than ever after the judgement. Mr Malkinson lost seventeen-years of his life in top security prisons up and down the country where he shunned social visits with his family in order to prevent heartahce and suffering. Of equal importance, we learn the Court of Appeal has been clinically exposed for all to see as an ancient and entrenched institution that sets the bar of exoneration way too high in a liberal democratic country. And lastly, it appears, we learn, the CCRC only perform to the requisite standards of miscarriage of justice investigation when lawyers as Mr Malkinson proclaimed: "handed it to them on a platter".

On a more progressive note, however, it is persuasively argued, it is high time that new specific legislation is enshrined in law which proclaims any person who has any knowledge, information or evidence of a potential miscarriage of justice are duty bound by law to present it to the lawyers of the person involved. Failure to do so, the offender would open to the allegation of perverting the course of justice and on conviction face a substantive custodial prison sentence. This includes any person, police officer, CPS lawyer, forensic expert, et al, who wil-

fully frustrates and impedes with intent the lawful submission of the miscarriage of justice process. Hereby known as "Malkinson's Law'. This law would be made retrospective to hold any person to account who currently have knowledge, information or evidence of an unsolved miscarriage of justice of those in prison custody or not. The law should also have "Amnesty Clause" whereby potential offenders could come forward and surrender any relevant information that could overturn a wrongful conviction. Those offenders who are found to knowingly fail to abide by the new law should be subject to the full rigour of the Act.

It is further argued, once Malkinson's Law is enacted, it is hoped; the legal profession will experience a radical decline in the perennial misuse and abuse of the police disclosure process in our courts which undeniably has blighted the trial process over the last century and more and resulted in incalculable miscarriages of justice within the British criminal justice system. Any constructive criticism and comments on this matter are welcome.

Terence G. M. Smith (BA Hons) A8672AQ HMP Warren Hill 28 July 2023.

Open Conditions — A Welcome Reversal, But More Clarification Needed

Following Alex Chalk's welcome decision in July to reverse Dominic Raab's damaging changes to the criteria for open conditions transfers, PRT has received a letter from the Director General of Operations at HM Prison & Probation Service, Phil Copple, outlining the new criteria which will replace them. In this blog, deputy director Mark Day explains what this new information reveals and the questions that remain. The letter makes clear that from 18 July 2023 the secretary of state, or officials under approved delegated authority, will approve an indeterminate sentenced prisoner (ISP) for open conditions only where:

* the prisoner has made sufficient progress during the sentence in addressing and reducing risk to a level consistent with protecting the public from harm (in circumstances where the prisoner in open conditions may be in the community, unsupervised under licenced temporary release); and * the prisoner is assessed as low risk of abscond; and * there is a wholly persuasive case for transferring the ISP from closed to open conditions. This means that cases awaiting a decision from the secretary of state on whether to accept or reject a Parole Board recommendation for a move to open conditions will be considered under the new test, regardless of when the Parole Board Panel made their recommendation.

From 1 August the previous directions to the Parole Board will be revoked and replaced with directions that reflect the above. There are a number of crucial differences between the new criteria and those introduced by Dominic Raab in June 2022. We particularly welcome the removal of the considerations of whether "a move would undermine public confidence in the criminal justice system" and whether "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". In practice, both of these criteria proved difficult to interpret or define, and lacked detailed supporting guidance. PRT's scrutiny of the changes identified that it was these two criteria which had led to the dramatic reversal in the proportion of Parole Board recommendations for a transfer being rejected by the ministry.

In his letter, Phil Copple explains the changes as follows: "We are removing the consideration of whether 'a move would undermine public confidence in the criminal justice system' because this is highly subjective and, as a result, has been difficult to apply in practice. We are replacing the consideration of whether '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' with consideration of whether 'there is a wholly persuasive case for transferring the ISP to open conditions'. This mirrors one of the criteria that was in place between 2014 and 2021 but, when taken together with the other two steps of the test, the changes we have made ensure that the overall criteria are more prescriptive."

While the new criteria would seem to be a significant improvement, the proof will be in whether they lead to a fairer and more transparent process and an increase in the proportion of Parole Board recommendations for a transfer being accepted by the ministry. There are some outstanding questions regarding how the new criteria will operate in practice. We have written to the prison minister Damian Hinds seeking clarification on the following points:

1 We have some concerns regarding how the first criteria will be applied, and particularly the potential for confusion between the test for transfer to open conditions and the test for suitability for temporary release. 2 We remain concerned that the third test that there must be a "wholly persuasive case" for a transfer — a test which will only be applied by the Ministry of Justice in its consideration of Parole Board recommendations — remains overly subjective. 3 We ask the minister to commit to transparency and accountability in how the new criteria are applied, including clarifying the process for considering Parole Board recommendations by the ministry and publishing detailed and regular data on outcomes.

Less positively, Phil Copple's letter makes clear that any case which had a recommendation from the Parole Board accepted or rejected under the previous criteria will not be reopened or reviewed. These prisoners will need to wait until their next review until their suitability can be considered against the new test.

Prisoners who had their cases considered under the previous criteria will understandably feel a sense of unfairness given that the government itself has now admitted that these criteria were overly subjective and required revision after just over a year of their operation. It will be particularly galling for those prisoners who were recommended for a transfer by the Parole Board but subsequently had that recommendation rejected by the ministry. We appreciate that there are practical difficulties to retrospective application; but believe that the situation of these prisoners requires careful consideration. With this in mind, we have asked the minister for his consideration and response to the following policy options: 1 governors have discretion to request a review sooner than usual for people whose case warrants it? 2 Could the Secretary of State reconsider all positive Parole Board recommendations which were rejected by the ministry based on the previous criteria, but through the lens of the amended test? As with our previous work on this issue, we will publish the minister's response on the PRT website when we receive it. *Mark Day, Deputy Director, Prison Reform Trust*

CCRC Refer Saliah Mehmet and Basil Peterkin to COA

Haroon Siddique , Guardian: Two men who died with convictions based on evidence from a disgraced police officer with a history of racism and corruption have had their cases referred back to the courts. The referral of the cases of Saliah Mehmet and Basil Peterkin by the Criminal Cases Review Commission (CCRC) comes after nine other convictions relating to British Transport Police (BTP) officer DS Derek Ridgewell were quashed.

Ridgewell, who framed the Oval Four and Stockwell Six, died in 1982 in prison, where he was serving a sentence for conspiracy to steal mailbags, having previously secured convictions against Mehmet and Peterkin for the same offence. Mehmet and Peterkin were both sentenced to nine months in prison in 1977 over the theft of parcels from the Bricklayers Arms

goods depot in Southwark, south London, where they worked. In 1980, Ridgewell was jailed for seven years for stealing mailbags worth £364,000 from the same site. His colleagues DC Douglas Ellis and DC Alan Keeling were sentenced to six and two years in prison respectively. Peterkin, who died in 1991, Mehmet, who died in 2021, and the 10 others who stood trial with them all claimed that items found in their possession had been planted, and that any claimed admissions of guilt had been fabricated by the police.

Peterkin's children, Basil, Janice and Lileith, said: "Our father's conviction was devastating for him and our whole family. He never got over it. He felt such shame that he left his home in the UK to try to start afresh. We now know that the officer who arrested our father was found guilty of the very crime he had accused our father and others of committing. That officer was corrupt. We want justice and we want our father's name cleared." In 2021, BTP apologised to the British black community for the trauma caused by Ridgewell's actions in light of the miscarriages of justice involving the Stockwell Six, who were accused of attempting to rob the corrupt officer on the London Underground, and the Oval Four, who were accused of "nicking handbags" on the tube.

The CCRC said the latest referrals came as a result of investigations into the "historical racist and corrupt practices" of Ridgewell and that it had tracked down the families of the convicted men to let them know of their right to appeal. Mehmet's children, Regu, Arda and Onur, said: "After fleeing war in Cyprus, our father started a family in this country. This conviction left him a changed man who never again trusted the police. It had a traumatic effect on our mother and our whole family for decades, including making us homeless. We are pleased and relieved that this case is going to the court of appeal. The behaviour of Ridgewell was atrocious, and we are hopeful that our father's name will finally be cleared." Mehmet and Peterkin were both convicted of conspiracy to steal. Mehmet was also convicted of handing stolen goods, and two counts of theft. They were accused of relabelling parcels to direct them to alternative addresses and then selling the goods that were inside. They always maintained their innocence.

In 2018, Stephen Simmons, who was found guilty of stealing mailbags based on Ridgewell's evidence, had his 1976 conviction quashed, having Googled his arresting officer and then taken his case to the CCRC. Helen Pitcher, the chair of the CCRC, said: "On top of considering more than 1,400 applications per year, our case review managers have used their investigative powers to track down family members of two men who may have died with unsafe convictions. We are continuing work to identify other potential applicants. I urge anyone else who believes that they or a loved one, friend or acquaintance was a victim of a miscarriage of justice to contact the CCRC – particularly if DS Derek Ridgewell was involved."

In a joint statement, Basil Peterkin's children Basil, Janice and Lileith said: "Our father's conviction was devastating for him and our whole family. He never got over it. He felt such shame that he left his home in the UK to try to start afresh. We now know that the officer who arrested our father was found guilty of the very crime he had accused our father and others of committing. That officer was corrupt. We want justice and we want our father's name cleared."

The Criminal Cases Review Commission has now referred 11 cases that relied on evidence from disgraced British Transport Police Officer DS Derek Ridgewell. As part of their arduous investigations into Ridgewell's crimes, the CCRC tenaciously tracked down the families of the convicted men to let them know of their right to appeal. This included; scouring ancestry and property websites - reviewing physical records from the National Archives - considering coroner's reports - contacting lawyers from the original case - seeking information requests from local authorities in order to contact family members

Kevin Clarke: Family Respond to Gross Misconduct Decision

INQUEST: Three Metropolitan Police Service officers will face proceedings for gross misconduct or gross incompetence in relation to the restraint related death of Kevin Clarke in 2018, the Independent Office for Police Conduct (IOPC) have announced today 03/08/2023. This follows a reinvestigation by the police watchdog. Their initial investigation failed to identify any criminal or misconduct issues with police actions. Kevin Clarke, a 35 year old Black man, was experiencing a mental health crisis when he died following restraint by Metropolitan Police officers in Lewisham, South London, on 9 March 2018. During the restraint, which lasted 33 minutes, he told officers "I can't breathe" and "I'm going to die". An inquest in 2020 found Kevin's death was contributed to by "inappropriate" restraint by police. Two police constables will now face gross misconduct hearings, and one police sergeant will be subject to gross incompetence proceedings. The IOPC also announced today that another police constable should be subject to the reflective practice review process. However, the IOPC decided not to send a file of evidence for the Crown Prosecution Service to consider any criminal charges for any of the nine officers involved in Kevin's death. The Metropolitan Police Service must now arrange for the misconduct proceedings for the officers. If found guilty, the sanctions range from written warnings to dismissal without notice.

Research by INQUEST found that Black people are seven times more likely to die than White people following the use of restraint by police. Yet the investigation systems fail to address racism or enable justice or accountability.

Wendy Strachan, the mother of Kevin Clarke, said: "We are relieved that the IOPC has finally come to a decision following the conclusion of its reopened investigation into Kevin's death. This process has taken nearly two years and our family is emotionally and physically exhausted with the delays and constant battle with the IOPC. We wouldn't have had to go through this painful wait if the IOPC had carried out a proper investigation the first time round. We are grateful to our lawyers at Saunders Law who had to fight for the IOPC to re-open the investigation, despite the inquest jury concluding that the actions of some of the police officers contributed to Kevin's death. We had hoped that more officers would face misconduct proceedings, but it is positive that more officers will face misconduct proceedings this time than following the IOPC's original investigation."

Deborah Coles, Director of INQUEST, said: "Kevin Clarke was in mental health crisis. He needed care and compassion and instead was subject to excessive, inhumane restraint by police which contributed his death. It was the robust scrutiny at the inquest that exposed this, and revealed serious concerns about the initial investigation undertaken by the police watchdog. Without the pressure on the IOPC by the family's lawyers to review the inquest evidence, this misconduct decision would not have come about. Once again, we question whether the IOPC can do the job we need it to do to hold the police to account for criminality and wrongdoing. Five years on, we must not forget the toll that these protracted processes and long struggles for justice and accountability have on bereaved people. We must now see urgent progress on the misconduct hearings, and accountability for all the officers involved in Kevin's death."

Cyrilia Davies Knight, the lead solicitor for the family of Kevin Clarke, said: "It was important that the IOPC re-opened its original investigation as evidence heard during Kevin's inquest was inadequately considered during its original investigation. It was also important that the IOPC reevaluated the behaviour of the attending police officers, in light of the jury's damning conclusions in Kevin's inquest. However, the length of time that Kevin's family have had to wait for this outcome is unacceptable. The ongoing delays continue to have an emotional impact on them. These delays are systemic and need to be urgently addressed if bereaved families are going to have any faith in the IOPC."

1,300 Deprivation of Liberty Orders Made Against Under 18's

Lottie Winson, Local Government Lawyer: The national Deprivation of Liberty (DoLs) Court received a total of 1,389 applications in the 12 months since its launch in July 2022, according to the latest data collected by Nuffield Family Justice Observatory (NFJO). On average, there have been 117 applications per month, with the highest number of applications issued in August 2022 (136 applications). In the most recent month, June 2023, there were 98 applications.

The National DoLs Court was set up by the President of the Family Division, Sir Andrew McFarlane, to improve the process for considering applications for under 18's to be deprived of their liberty under the inherent jurisdiction of the High Court. The NFJO noted that in some cases, a 'repeat' application is issued for the same child – for example, to extend or vary an existing order. So far, there have been 147 repeat applications or cases that involve the same child. This means that a total of 1,249 children have been subject to DoL applications at the national DoLs court since 4 July", the organisation revealed.

Looking at how the number of applications vary by region, the NFJO found that between July 2022 and July 2023, just over a fifth (21.2%) of all applications were made by local authorities in the North West of England, followed by 16.8% of applications from local authorities in London, and 11.8% from local authorities in the South East. The data revealed that local authorities in the North East have made the fewest number of applications (3.9% of the total). The NFJO noted that this pattern of regional variation has "broadly remained the same" since July 2022. It was found that the majority of children (59.4%) involved in applications were aged 15 and above, with a "small minority" relating to children under the age of 13 (9.2%), said the NFJO.

Lisa Harker, director at Nuffield FJO, said: "This data shows that over 1200 children have been deprived of their liberty in a year, an extraordinary increase in number compared with previous years. They include many highly vulnerable children who are being placed far away from home in unsuitable, unregistered accommodation, with their movements and contact with friends and family being severely restricted. We know from our previous research that there is no evidence that these are temporary fixes and children are living in circumstances that are likely to exacerbate their trauma because there is nowhere else for them to go. Action is desperately needed to develop local placements with care that can meet children's needs and ensure meaningful change to their circumstances and health and wellbeing. It is essential that there continues to be monitoring of this situation and we are pleased that HMCTS [HM Courts and Tribunal Service] has confirmed it will start to collect and publish data about deprivation of liberty cases from July."

The 12-month initial pilot phase of the national DoL court has now come to an end. Outlining the next steps for the court in 'A View from The President's Chambers: July 2023', the Family President revealed that the National Deprivation of Liberty (DoLs) pilot and the existing guidance in support of Ofsted were "in the process of being reviewed".

Prison Living Costs Rule Scrapped For Wrongly Convicted

A controversial rule which deducted living costs from compensation paid to wrongly jailed people has been scrapped. The government rethink follows the case of Andrew Malkinson, who spent 17 years in jail for a rape he did not commit. He welcomed the move but said he still faces a two-year wait for his payment. Speaking to the BBC, Mr Malkinson said: "It's a step in the right direction. But there's much more that needs changing too. You know, you don't want to just put a sticking plaster on something that's mortally wounded." MPs said individuals whose payments were reduced should now be reimbursed.

Justice Secretary Alex Chalk confirmed the rule would be scrapped, calling it a "common sense change which will ensure victims do not face paying twice for crimes they did not commit". He said: "Fairness is a core pillar of our justice system and it is not right that victims of devastating miscarriages of justice can have deductions made for saved living expenses." But the government has not committed to reimbursing wrongly convicted people who have had the deduction applied to their compensation since the rule was introduced.

HMP Barlinnie at Risk of Catastrophic Failure

Scotland's largest jail is so overcrowded and outdated that it could suffer a "catastrophic failure" at any time, its governor has said. Barlinnie prison in Glasgow is running at 140% capacity with just under 1,400 prisoners when it was designed for 987. A replacement for the 140-year-old jail was due to open in 2025 - but that has been pushed back to 2027.

Are Scotland's prisons fit for purpose? Governor Michael Stoney said: "This prison can't last that much longer. The infrastructure fails consistently." He told BBC Scotland's Drivetime programme: "At some point it may be a catastrophic failure, by then it's too late. We know that day is coming. A lot of my time is just trying to keep the prison functional. If dates like building and completion stretch further, then the risk gets greater year on year."

The Scottish government has said it is committed to building a new safe and secure HMP Glasgow. Scotland's prisons are under the spotlight again after an Irish judge blocked a man's extradition to Scotland on humanitarian grounds. Judge Mr Justice Paul McDermott said Richard Sharples faced being locked up for 22 hours a day in less than three metres (10ft) of space. He said Scottish authorities could not guarantee that Mr Sharples' complex mental health needs could be met at either Barlinnie or Low Moss prisons. And he raised fears that there was a "real and substantial risk of inhuman or degrading treatment", The Times reported. The Crown Office and Procurator Fiscal Service (COPFS) has said it was considering the terms of the ruling.

In 2020, the prisons watchdog, HM Inspectorate of Prisons (HMIPS), deemed Barlinnie to be no longer fit for purpose. An inspection found overcrowding could be in breach of UN human rights agreements. Intense strain. International inspection organisations have also condemned some of the facilities in the jail. Barlinnie's governor has praised his staff for keeping the prison running while under intense strain. But he highlighted continued problems, including: Ever-stronger drugs being smuggled in - Keeping "enemy" prisoners apart in confined spaces - Assaults on staff breaking up prisoner violence

Michael Stoney also revealed shower facilities are so scarce that it can sometimes take all day to accommodate every prisoner. He believes a move to a new HMP Glasgow - first approved by Glasgow City Council in 2020 - could lead to a 20% reduction in reoffending due to increased rehabilitation services. But at the moment, he said the job of prison officers "Had become harder" because of issues including the increased use of psychoactive substances among inmates. "These drugs are affecting them in a way we've never seen before. You've got an officer who has a great relationship with somebody and all of a sudden they've taken something and change character. Two days later when they come round and are back to a normal person, they either can't remember what they've done of they're very apologetic and teary because that's not them. If we walked into A Hall just now and I showed you the must-keep-separate list, I don't know how the staff do it - keeping all these people apart and still running the regime. The new prison design is creating all these opportunities to place people properly. They will reduce violence among the prison population themselves, and invariably you will reduce violence towards staff."

'Safe and Secure Accommodation' The Scottish government said it was committed to replacing Barlinnie with a new HMP Glasgow to deliver safe and secure accommodation. It said that estimated costs and timescale for the jail - to be built near Provan gas works - would be known when the final design was completed. Mr Stoney believes a new fit-for-purpose facility on the 22-hectare site would have huge benefits for the prison population and the general public. He said: "I have made bold inferences that we would reduce reoffending by the people that pass through our doors by about 20%. That's because, if we are confident in our capacity and the professionalism of our staff and the care and compassion they have, they will make a huge difference if given the time. We have to be bold about it - we are getting a big investment and we have to be bold by saying we'll give you a big return."

Asylum Seekers Don't Need 'Direct Evidence' if They are Being Covertly Monitored

In WAS (Pakistan) v Secretary of State for the Home Department [2023] EWCA Civ 894, the Court of Appeal has given guidance on the lower standard of proof in asylum appeals. WAS claimed to be at risk because of his involvement with MQM-London, a UK-based faction of a Pakistani political party. The Upper Tribunal found that if his activities had come to the adverse attention of the Pakistani authorities then he would be at risk on return. It accepted that they had some knowledge of MQM-London's activities, were interested in identifying members and supporters, and monitored social media activity. It concluded, though, that there was insufficient evidence to draw conclusions about 'the level of and the mechanics of monitoring' in the UK. WAS's claim he may have been identified was therefore speculative, the Upper Tribunal said. It dismissed his appeal.

The Court of Appeal said this was an error. Lady Justice Elisabeth Laing, giving the leading judgment, rhetorically asked what evidence the Upper Tribunal expected. Echoing the classic statement by Sedley LJ in YB (Eritrea) v Secretary of State for the Home Department [2008] EWCA Civ 360, she observed that direct evidence of covert monitoring and its mechanics was unlikely to be available. The absence of such evidence shouldn't therefore be fatal. The standard of proof in asylum claims, she emphasised, is low. WAS didn't need to show that he had definitely come to adverse attention, but only that there was a real risk he had done so. It was agreed that he had attended protests at Downing Street and outside the Pakistani High Commission, and he could have been photographed without his knowledge.

A related error was the Upper Tribunal's all-or-nothing approach to credibility. The Upper Tribunal found that WAS had exaggerated the level of his involvement with MQM-London. It concluded from this that his involvement was too limited to attract attention. What it should have done, Elisabeth Laing LJ said, was consider the possibility that the truth was somewhere in between. This is consistent with previous Court of Appeal reminders that someone who lies about one thing isn't necessarily lying about everything.

This is the second Court of Appeal decision this year to find that the Upper Tribunal has imposed too high a standard of proof. Asylum claims are by their nature speculative; decision makers are predicting what might happen if someone is returned. It may be natural to look for concrete evidence before concluding they're at risk. WAS reminds us that this isn't always possible, and certainly isn't necessary. The life-and-death issues at stake, and the fundamentally unknowable activities of state agents, mean that sometimes inferences have to be drawn. In an atmosphere of increasing cynicism towards asylum seekers, it is refreshing to read a judgment that recognises this.

Serving Prisoner With a 36HH Bust Wins A Sex Discrimination Claim

Inside Time: Because prison bras were too small for her. The woman, in her 40s, asked staff for a bra because she did not have one that fitted properly. Women and men in prison are entitled to clothes including underwear, and prisons normally provide a range of sizes. However, the woman was told by staff at her jail in England that the biggest bra available was a 40E. She tried it and found that the cup size was too small, whilst the size around her back was too large. She told Inside Time: "It went around me one-and-a-half times." An additional problem was that standard prison bras lack underwiring. She said: "There's no point in giving a woman my size a bra without underwires. It just won't do the job."

The woman submitted a complaint on a COMP1 form, and received a reply stating: "Sorry, the largest we stock is size E, please contact healthcare or management to order some." She discussed her problem with a prison officer, who suggested that it may be a case of sex discrimination – so she filled in a Discrimination Incident Reporting Form (DIRF), ticking a box to indicate that she was complaining of discrimination on grounds of gender. In April, she received a reply from her prison's Diversity and Inclusion Manager stating: "I acknowledge that this is unacceptable, and a decency issue, and I apologise that this has not been fixed … I will be upholding this DIRF." The reply also pledged: "We will ensure that the size of bras available are larger in the future so we can accommodate for all women." In July, the women was finally given three underwired 36HH bras in a range of colours, which had been ordered in from lingerie maker Fantasie. They would cost £35 each if purchased online. She told Inside Time: "The bras came, and they fit! They are very comfortable and nice to wear."

Her success suggests that other women facing similar problems might benefit from complaining. However, those who do not know their correct bra size face an additional problem – as women's prisons do not offer a measurement service. A Prison Service spokesperson told Inside Time that if a prisoner needs clothes outside the sizes regularly stocked, governors or directors must allow garments which fit to be handed in by family or friends – or, if this is not possible, buy the necessary clothing in the correct size. The rule applies to both public and private prisons.

Met Only Authorised Baton Rounds For Black-Led Events FOI Reveals

Mark Wilding and Vikram Dodd, Guardian: The only events for which Metropolitan police chiefs authorised the potential use of baton rounds in the past six years were black-led gatherings, documents show. The weapons, intended to be a less lethal alternative to regular firearms, have been cleared for use at Notting Hill carnival since 2017 and the Black Lives Matter protests in 2020. Known as plastic bullets, baton rounds have never been fired during public order incidents on the British mainland, but have been used in Northern Ireland, where earlier versions of the weapons led to deaths.

The authorisation emerged in documents released after a freedom of information request by Liberty Investigates, the results of which were shared with the Guardian. Amnesty International said the decision to authorise their use was an example of institutional racism in the Met, which the force denies. A report by Louise Casey in March found the Met to be institutionally racist. A spokesperson for London mayor, Sadiq Khan, who oversees the Met, said the revelation was "very concerning" and that he would seek answers from the force's leaders.cThe Met said: "It is inaccurate and irresponsible to imply the ethnicity of those likely to be involved in an event or protest influences the tactics considered."Britain's biggest police force said the baton rounds were authorised for use at Notting Hill carnival and the BLM protests because of heightened fears of disorder.