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MOJUK: Newsletter 'Inside Out' No 966 (30/08/2023) - Cost £1

Gray's Inn Bomb Plot Trial: JB Acquitted on all Charges

JB, was unanimously acquitted on all charges for his alleged involvement in the Gray's Inn bomb plot. After a four-month trial at the Central Criminal Court, the jury returned unanimous Not Guilty verdicts for JB in respect of two counts of conspiracy to plant devices in London's legal district, and one count of money laundering in relation to 'hush' money and payment for the bomb plot.

The prosecution case was that Jonathan Nuttall, a businessman and millionaire suspected of being involved in an international money-laundering ring had targeted lawyers instructed in an asset forfeiture case. Nuttall instructed his chauffeur and a former Royal Marine to plant devices outside the offices of two barristers (one a deputy high court judge) working with the National Crime Agency in a multi-million-pound case against him and his wife.

The prosecution alleged the former marine had recruited his son, JB, to assist in the plot. The prosecution alleged JB was involved in surveillance trips in the lead up to the bomb plot, collected monies as payment for the plot, and received 'hush money' after his father was arrested. Through detailed analysis of the material, the Defence identified an additional trip by the former marine likely to have been a surveillance trip, in which JB was not involved, and further undermined JB's alleged participation on each of the dates he was said to have been involved in the bomb plot.

In a legally and factually complex case, the prosecution relied on large volumes of evidence, including prison call recordings, a covert recording of a prison social visit, financial material, cell site evidence, CCTV, social media communications, and substantial digital material from device downloads. Legal arguments by Jon and Rabah focussed on areas of disclosure, admissibility of covert recordings, and the money laundering count. The Defence case also spanned multiple sources of evidence, pulled together from unused material as well as defence-led investigations on behalf of JB**.**

Police Unlawfully Storing Personal Data of Suspects Who Were Cleared

Mark Wilding, Anita Mureithi, Open Democracy: Police forces are unlawfully storing sensitive data of potentially millions of former suspects who have never been charged with a crime, an investigation has found. Reports obtained by openDemocracy and Liberty Investigates reveal the government's biometrics watchdog has repeatedly raised concerns about police breaching rules by retaining information of people who had been arrested and then released.

Fraser Sampson, the biometrics and surveillance camera commissioner, highlighted data protection issues in 17 inspections over the past two years. Incredibly, he told us police forces have failed to get a grip on the problem in part because their ageing computer systems don't allow them to delete data entries in bulk. "It really isn't good enough," Sampson said. "Not only do you have potentially millions of people whose images are in police records, even though there are no guilty findings against them, but you can't even know how many there are... It is an intractable problem."

Campaigners and police monitoring groups say the revelations are yet another example of why public confidence in police is so low, particularly in communities that continue to be overpoliced. More than half the forces examined by the watchdog were found to be indefinitely retaining custody images, including those of people who were never charged or convicted of a crime – despite a 2012 ruling finding the practice unlawful. Several other forces were warned about their handling of DNA samples. They included Staffordshire Police, which was found to have adopted a blanket retention policy going far beyond what should only be used as an "exceptional power".

Sampson also found at least four forces were routinely searching the fingerprints of all arrestees against databases including the Immigration and Asylum Biometrics System, and warned them about the proportionality of running immigration checks on people who haven't even been charged with a crime. He told openDemocracy and Liberty Investigates: "If you have no reason to believe there is any immigration or asylum issue involved in an arrest, why would you check [fingerprints] against the database? I haven't had a convincing response to that question." And in one of the most significant data breaches, the Metropolitan Police was found during an inspection in July 2021 to be unlawfully holding almost 300,000 fingerprint records on a counter-terrorism database. The Met had received the records from foreign law enforcement agencies but did not do the proper checks to allow them to be legally retained.

Nour Haidar, lawyer and legal officer at Privacy International, said the findings show police are "not taking data protection seriously". She added: "It also shows there is little institutional understanding of the potential harms to individuals and our communities from the widespread collection and storage of their biometrics, and the impact this has on the right to privacy as well as the right to be free from surveillance while participating in civic life." There's no guarantee automated or data-driven systems do not reinforce discrimination

Kojo Kyerewaa of Black Lives Matter UK drew parallels with the Met's Gangs Matrix – a list of alleged gang members that disproportionately targeted Black men and was last year found to be unlawful after a legal challenge by Liberty. Kyerewaa said our investigation "reinforces the belief that Black communities should not put their trust in police… and gives further reasoning to our calls that the police do not make us feel safe". He added: "This shows that there is no regard for protecting people who have not been found guilty."

According to the Institute of Race Relations, there's no guarantee automated or data-driven systems do not reinforce discrimination. As of March this year, more than 82% of people on the Gangs Matrix are Black, Asian or from other minority ethnic backgrounds, and 73% are Black. Black people are also seven times more likely to be stopped and searched than white people. A member of the Copwatch police monitoring network said the revelations came as "no surprise", adding: "It just goes to illustrate that they can't manage themselves, and they can't be trusted to be handling the data in that way."

A 2017 Home Office review of the use and retention of custody images advised police forces to regularly review and delete photographs. However, at 11 of the 17 forces inspected in the past two years, the commissioner found "custody images are not proactively reviewed and deleted where appropriate, unless an individual makes a specific request for deletion". Concerns about this were also raised by both of Sampson's predecessors in the biometrics commissioner role. Many of these images go on to be uploaded to the Police National Database, which currently holds more than 16 million images that can be searched using facial recognition technology. The inspections found many forces were "having difficulty" with deleting custody images because "the process is largely manual and very time consuming".

Katrina Ffrench, founder and director of UNJUST UK, a group that challenges discrimination in the criminal justice system, said she found the findings "deeply troubling" and suggested there was a "systemic effort to undermine data protection laws. We know that overpolicing, especially for racialised communities, is an ongoing reality, so we're concerned that the images being retained will disproportionately be of Black, Brown and dual heritage people," she added.

Police chiefs have recognised the legal and reputational risk posed by unlawfully held custody images. In a letter to forces last year, obtained by openDemocracy and Liberty Investigates, the National Police Chiefs' Council warned the retention of custody images "poses a significant risk in terms of potential litigation, police legitimacy and wider support and challenge in our use of these images for technologies such as facial recognition". "People may assume that because they're not found guilty and nothing's happened, the information will be disposed of, not realising that actually, it's been shared," Ffrench said.

Evidence from the Institute of Race Relations shows disproportionality in policing goes beyond stop and search and racial profiling. It extends to the use of force, arrests, strip-searches, fines, sentencing, imprisonment and the use of artificial intelligence and automated systems which rely on data collection. Human rights campaigners have called on the government to take action. Damini Satija, head of the Algorithmic Accountability Lab and deputy director at Amnesty Tech, said: "These findings raise worrying concerns about the UK police forces' continued exercise of blanket and indiscriminate retention of biometric data. We call for an in-depth review of existing laws, policies and practices on retention and use to understand the full extent of their impact on human rights."

A Met spokesperson said: "Since the 2021 inspection, the Met has deleted all fingerprint data which was deemed to be held unlawfully. We were unable to delete this data in bulk, and it therefore had to be deleted manually over a period of time. However, as an interim solution, the data was made unsearchable and inaccessible as soon as the issue was identified." They added the force "takes the processing, retention and deletion of data very seriously and we always endeavour to adhere to all legal and regulatory requirements." Chief constable Jo Farrell, the NPCC's data lead, said: "This is an incredibly complicated area for law enforcement to manage and the law has changed repeatedly. As such, we have been working to clarify the system under which retention, and deletion, can be undertaken and a programme team has been set up to accelerate this activity."

Recall Rules to be Eased on Indefinite Jail Sentences in England And Wales

Haroon Siddique, Guardian: Prisoners released on licence after serving time under an abolished and much-maligned indefinite sentencing scheme in England and Wales could have the period in which they can be recalled to prison halved under new rules. The changes to the imprisonment for public protection (IPP) scheme would mean that IPP prisoners could in theory have their licence period in which they can be recalled terminated five years after release rather than the current 10 years. The Howard League said it was "a positive step forward" but the government could go further and accept the recommendations of a justice select committee inquiry to remove the "stain" of IPP from the system. The committee's inquiry, published last year, called for the almost 3,000 IPP prisoners behind bars to be resentenced, but the government has rejected this.

IPPs were scrapped in 2012, and as of 30 June there were 2,909 IPP prisoners, more than half of whom – 1,597 – had been recalled to custody. The committee said there was a need to end the "recall merry-go-round" and recommended halving the time period after which the licence is reviewed. This was rejected by the then justice secretary, Dominic Raab, but his successor, Alex Chalk, is expected to accept the recommendation. The planned change in the licence period was first reported in the Times and confirmed by a Ministry of Justice (MoJ) source. They reiterated that there would be no resentencing of prisoners, claiming it would undermine public safety "by releasing dangerous prisoners into our communities".

IPPs were introduced in 2005 to indefinitely detain serious offenders who were perceived to be a risk to the public. However, the orders were used for a wide range of offences, with one

defendant receiving an IPP sentence with a minimum term of just 28 days but extended indefinitely. Another served 12 years after being imprisoned with a tariff of two years for stealing a bicycle. He was then moved to a mental health institution. Out of unreleased IPP prisoners, the majority (51%) have been held for at least 10 years beyond the end of their tariff.

Shirley Debono, the founder of the campaign group IPP Committee in Action, said that while in theory the planned change was positive, the proof would be in the pudding as many had had the termination of their licence refused even after the current 10-year qualifying period. She said: "The resentencing part of the recommendations by the justice select committee is the only thing that is going to put this wrong right at the end of the day and I just feel like they're tinkering around the edges. They need to resentence them, it's the only thing that's going to fix it."

David Blunkett, the Labour home secretary who introduced IPPs, has admitted "I got it wrong", while the late supreme court justice Lord Brown called IPP sentences "the greatest single stain on the justice system". The justice select committee called them "irredeemably flawed" and said they had contributed to feelings of hopelessness and despair, resulting in high levels of self-harm and some suicides among prisoners. A Ministry of Justice spokesperson said: "We have already reduced the number of IPP prisoners by three-quarters since 2012 and are providing further support to help those still in custody progress towards release. We are carefully considering what additional measures might be put in place."

Anti-Racist Judges Need to "Speak Out" and Counsel Must Challenge Bench

Nick Hilborne, Legal Futures: Judges needed to "speak out" over racism in the judiciary and counsel should challenge the bench when they witness it, two leading barristers have argued. Keir Monteith KC, who led an academic report into racism and the judiciary last year, said that "nothing significant" had happened since then, apart from minor revisions to the Equal Treatment Bench Book. Most of the lawyers who responded to the research by Manchester University said they had witnessed judges acting in a racially biased way towards defendants, with people from Black backgrounds "by far the most common targets of judicial discrimination".

Mr Monteith said that, if anti-racist judges did not speak out, there would be another report in five or 10 years' time, which will "no doubt highlight how things have got worse. "I can see, with the right individuals, things changing quite quickly. I see lawyers who are up and coming, and a fantastic number of them don't take any nonsense and are anti-racist. As a result of the report, I have been contacted by judges who are going places and are very interested in developing anti-racist training. It would be an investment in the future if the government, or the next government more likely, puts some resources into having a truly anti-racist justice system."

Speaking on a Transform Justice podcast titled Can the Judiciary Become Anti-racist?, Mr Monteith, based at Garden Court Chambers, said the first step would be an acknowledgment that the justice system is institutionally racist. "If you can't acknowledge the problem, you'll never be able to fix it." Abimbola Johnson, a barrister based at Doughty Street Chambers and counsel to the UK Covid-19 inquiry, told the podcast about one judge who routinely asked defendants of colour about their immigration status, even if it had "no relevance" to the case. He never asked a White defendant about it. If the very first thing you do is to question someone's legal status in a country, it sets a tone that they are not one of the people who are welcome in the room and you will take it account in how you interact with them."

Ms Johnson said the judge could have seen their immigration status from the documents, but he was "enjoying it". She went on: "I thought it was appalling. I would challenge him on it. I don't think

I ever saw a White barrister challenge him on it. We really do have a duty as counsel to remain alert to these examples of injustice and challenge them." Ms Johnson said she could understand why ethnic minority barristers under-reported the racism they saw around them. It is extra burden on us and an aspect of work that we would not rather not take home. There is a concern that we will not be believed. What about the people who don't have that burden but do have a duty of care, not just to their clients, but also as an officer of the court, to ensure they are working in a system that is fair?" Mr Monteith said training was "not the answer" and "although it is superficially attractive, it is clearly not working". He went on: "Training does not provide an answer to the problem. It is an acknowledgement of the problem of institutional racism." He added that the Equal Treatment Bench Book needed a "significant review" and there should be anti-racism experts on its editorial board, which "should not be entirely made up of judges".

Focus on Prison Places A Political Ploy

Guarian editorial on the state of prisons (11 August), the prison population in England and Wales, over 86,000, is at a near record high, more than any country in western Europe. The government states its intention to create 20,000 new prison places by the mid-2020s, a matter of seeming political consensus. At the same time, the length of sentences is increasing inexorably.

Yet the weight of evidence is clear: prison does not work. It does not deter – there is no discernible link between levels of imprisonment and crime rates. Nor does prison rehabilitate – adults released from sentences of less than 12 months have a proven reoffending rate of 55.1%. And prison hardly delivers justice – most of those imprisoned are for non-violent offences. Indeed, prison itself is a site of violence and harm. In the year to June, 313 people died in prison, with 88 of those deaths self-inflicted, alongside almost 60,000 self-harm incidents. Prison is an ineffective, expensive intervention.

It fails prisoners, their families, victims and communities. There needs to be a dramatic reduction in the prison population and an end to the costly prison-building programme, with resources diverted to welfare and community services – not least at a time of increasing inequality and austerity. After 200 years of systemic crisis and abject failure, prisons should be safe and secure places of last resort. They should not be cynically used by politicians for political ends that, given the seriousness of the situation inside, could end in more deaths and disaster.

Deborah Coles Executive director, Inquest

Joe Sim Emeritus professor of criminology, Liverpool John Moores University

Steve Tombs Emeritus professor of criminology, the Open University

UK Cops Share Dozens of Photos of Dead Bodies and Crime Scenes

Jenna Corderoy, Anita Mureithi, Guardian: UK police officers have shared dozens of unauthorised photos of dead bodies and crime scenes on messaging services such as WhatsApp in recent years, openDemocracy can reveal. In the first analysis of its kind, we found a catalogue of misconduct cases in which disturbing images were sent to cops' friends, family and colleagues. They include a Derbyshire Constabulary officer who received several images of a body and showed them to other colleagues in a parade room. In another case last year, a Leicestershire PC took a photo of a detainee "who had soiled himself". The officer was not sacked, with the force simply encouraging him to "learn from reflection". And in Essex, a police officer shared images of a vulnerable child under police protection with their girlfriend. Again, the PC responsible avoided action because he resigned before misconduct meetings took place.

In total, there have been at least 45 cases since 2015 where police officers were accused of taking unauthorised photos of bodies, crime scenes, victims of crime and detainees, according to freedom of information (FOI) responses. But that number could be higher as some police forces claimed it would cost too much to answer openDemocracy's questions. One police force said it could "neither confirm nor deny" whether any of its officers had been caught sharing pictures of bodies and crime scenes.

And although 13 officers were sacked or dismissed, many were allowed to keep their jobs while four simply resigned without facing any disciplinary action. Police forces have come under increased scrutiny over the conduct of their officers since the murder of Sarah Everard, who was killed by a serving policeman, Wayne Couzens, in south London. Officers were also discovered to have taken and shared photographs of sisters Nicole Smallman and Bibaa Henry after they were stabbed to death in 2020. Reacting to openDemocracy's findings, the sisters' mother, Mina Smallman, said she was "not surprised at all. I just feel so hurt on behalf of the relatives of the people whose pictures were taken," she said. "It is a dehumanising act. It reminds me of the lynching… This is a 21st century version of that. Someone taking pictures and sending them on to people, 'have a look at this'. That is what I think of an act like that."

The findings follow a review by crossbench peer Louise Casey earlier this year into the culture of the Metropolitan Police, which said the force suffered from institutional racism, sexism and homophobia. openDemocracy has previously revealed how hundreds of British police officers have been disciplined or dismissed in recent years for sickening uses of social media, and how Met Police officers kept their jobs after sending racist and sexist messages. Last week, the BBC revealed how six former Met Police officers have been charged with sending racist messages on WhatsApp.

'Look Who's Turned up Dead' - The Metropolitan Police Service told openDemocracy that it knows of four cases where officers took images of bodies. They include officers Jamie Lewis and Deniz Jaffer who were jailed in 2021 for taking and sharing photographs of Nicole Smallman and Bibaa Henry. Later in January 2023, another officer, Bonnie Murphy, was sacked for asking Lewis to send her a photo of a man's decomposed body. The Met Police said a fourth case is still "live" and that an ongoing criminal investigation is examining images of deceased people found on an officers' digital devices.

Outside London, our analysis suggests there have been at least a dozen similar cases since 2015, where officers have been accused of taking photos of dead people. Last year, PC Daniel Wallwork of Avon and Somerset Police was sacked after sending an image of a partially dressed dead woman from his personal phone, with the message: "Look who's turned up dead. At a hearing, Wallwork accepted misconduct, but argued that it didn't amount to gross misconduct. A representative speaking on his behalf claimed the image was not taken to "make fun or mock" the dead woman and that he "actually felt quite sorry for her".

Meanwhile, West Mercia Police said an officer was sacked for taking photos of a body that was found decomposing in water in 2016. And an officer in Derbyshire was accused of taking pictures while attending the scene of a sudden death, before sending the images to a family member of the deceased. In 2021, a Thames Valley Police officer took photos of a dead woman at a crime scene and shared them. The PC was further accused of trying to cover up what he had done. Northumbria Police refused to disclose misconduct details under the Freedom of Information Act. But one of its officers, PC Luke Dickson, was sacked last year after keeping photographs of decaying bodies on his phone, as well as sharing a "very sensitive" image of a domestic violence victim.

Allowed to Keep Jobs - Despite the disturbing nature of the incidents, several police forces have allowed officers to keep their jobs – even after admitting they took unauthorised photos. They include a separate case in Derbyshire, where a PC was sent several images of a body and showed them to other colleagues. They kept their job and were simply referred to an internal process known as "reflective review", where "key lessons" are "identified" and "learned". Another officer in North Yorkshire was allowed to do a "reflective review" after taking unauthorised pictures of a dead body in 2021. And Dorset Police said that an officer received a written warning for taking a photograph of a dead woman and forwarding it to a colleague.

The same thing had happened in West Yorkshire Police in 2015, with a "final written warning" being given. Greater Manchester Police refused to release details, telling openDemocracy it would cost too much to comply with our FOI request. But in 2021, it was reported that a police officer had sent a picture of a body to a member of the public. The officer received a written warning. As well as taking pictures of dead bodies, officers across the country have been accused of using their personal phones to photograph crime scenes. One PC was found to have images of individuals who had been arrested or detained on their phone. Another took an unauthorised photo of a detainee "immediately after a difficult arrest" and shared it with colleagues. Last year, an officer for Staffordshire Police used their personal phone to record CCTV footage of a crime suspect being forcibly restrained before sharing it on WhatsApp.

Others were accused of taking pictures of road traffic accidents and crime scenes. They include an officer for Devon and Cornwall Police who shared a photo of themselves and a colleague at a crime scene via WhatsApp. Officers in Kent and Hertfordshire have also been caught taking pictures of cannabis plants and a cannabis factory, which were shared with members of the public.

Acquittal of Nurse Accused of Sending Threats to Members of the Lords

The defendant had sent letters to Lord Sandhurst and Baroness Chisholm in October 2021 asking them to support the Assisted Dying Bill, those letters having allegedly contained a white powder (sucrose) intended to be mistaken for anthrax. He denied having put any powder in the envelopes, and Dr Waleed Fawzi gave evidence for the defence that he was in any event likely to have been suffering from a dissociative disorder at the time due to the overwhelming stress of caring for his terminally ill partner. This could explain significant gaps in his recollection and rebut the alleged purpose of causing anxiety or distress.

Almost Half Crown Prosecution Service Letters Sent to Public 'Below Standard'

Alexandra Topping, Guardian: Victims of crime receiving written responses with errors and spelling mistakes, and overall only a third of letters found adequate: Almost one in every two letters the Crown Prosecution Service (CPS) sends to people who have made complaints – including victims of crime – are not good enough, with many containing incorrect basic details or spelling mistakes, or lacking information about delays, according to a damning official report.

The watchdog for the CPS has urged the organisation to "act urgently to get a grip of this situation", warning that mistakes undermine public confidence. While some improvements have been made, the report states that overall, "the quality of letters has deteriorated" since the inspectorate last examined complaints in 2018. An inspection of 351 written responses from the CPS to complainants, about two-thirds of whom were victims of crime, found that only 66 were considered to be of "good quality", about a third (32%) were "adequate", while 49% did not meet the required standard.

The report on complaints follows a thematic inspection in 2018 in which almost 75% of letters were not meeting the standard expected. But while the overall percentage of acceptable letters had

increased, the number of good letters had fallen from 25.7% to 18.8%. There had been "insufficient overall progress", said HMCPSI's chief inspector, Andrew Cayley KC. Cayley said: "Many written responses go to victims of crime, and the fact they are still receiving formulaic letters, or where basic details are wrong, is disappointing. The CPS must act urgently to get a grip of this situation. This is not a case of us singling out letters which had simple spelling mistakes – there were real inadequacies, and a review of the system is needed now to restore confidence."

The inspection found that 32.5% of responses were sent late, but there were significant regional variations, with the worst performing CPS area responding to only 16% of letters on time. The CPS was "also poor at informing complainants of delays in the handling of their complaints", according to the report. Of the 116 cases where there was a delay, the CPS failed to send a holding letter in 61 cases. And while the majority of holding letters informed the complainant when they could expect a response "many failed to give a reason for the delay".

A CPS spokesperson said: "We are pleased there have been significant improvements since our last inspection in 2018, with empathy, timeliness and our acknowledgment of mistakes all highlighted as strengths. We recognise that there is more that can be done, and we will continue to drive forward improvements so that we can provide the best possible service for victims." Andrea Simon, executive director of End Violence Against Women Coalition, said victims too often received CPS letters "containing generic and vague 'cut and paste' [text] from templates, having a general lack of compassion towards the recipient. It is highly concerning that such poor progress has been made […] and that there are still significant failures to notify victims about delays to their cases or signpost them to help and support."

Pain-Inducing Restraint to be Banned in England and Wales Children's Prisons

Simon Hattenstone, Guardian: The new Ministry of Justice policy for England and Wales, which follows a review completed by the now chief inspector of prisons, Charlie Taylor, in 2020, will be effective from February 2024. It states that it is "never acceptable to deliberately cause pain when a non-painful alternative can safely achieve the same objective". In his review Taylor criticised the restraint regime (known as MMPR – minimising and managing physical restraint), saying: "I believe that this places the use of pain-inducing techniques on a spectrum that makes it an acceptable and normal response rather than what [it] should be, the absolute exception." Taylor said MMPR "has contributed to the overuse of these techniques that I so frequently witnessed during this review".

Three official methods of pain-inducing restraint are still in use in children's prisons, involving the infliction of severe pain to the area below a child's ear ("mandibular angle technique"), thumb ("thumb flexion") and wrist ("wrist flexion"). But the MoJ has conceded that a fourth technique ("inverted wrist hold") causes "considerable pain and discomfort" and agreed to recategorise it after Taylor's review concluded that it had "become a pain-inducing technique in all but name". Staff will only be allowed to use techniques that deliberately cause pain when they are responding to a situation where someone's life is threatened "or there is risk that they will suffer a significant or life changing injury". The policy document states that any time an "emergency intervention technique" is used it must be reported to the Youth Custody Service and that staff "will be expected to be fully accountable for the action taken".

The policy will be implemented 20 years after 14-year-old Adam Rickwood killed himself at Hassockfield secure training centre in County Durham following a restraint by four Serco officers for non-compliance using a technique called "nose distraction", which involved a karate-like chop to the nose. Rickwood left a note behind asking "what gives them the right to hit

a 14-year-old child in the nose?" Six hours after the restraint he hanged himself. The "nose distraction" technique was suspended three years after Rickwood's death and finally withdrawn in 2008. At a second inquest into his death in 2011 it was ruled unlawful. But officers in children's prisons have continued to be authorised and trained in the use of pain-inducing techniques despite condemnation from Council of Europe and UN anti-torture bodies and the UK's children's commissioners.

In 2016, the Guardian revealed that a report commissioned by the MoJ found some authorised restraint techniques could kill children or leave them disabled. An internal risk assessment of restraint techniques, seen by the Guardian, showed that certain procedures approved for use against non-compliant children carried a 40-60% chance of causing injuries involving the child's airway, breathing or circulation, the consequences of which could be "catastrophic".

In 2019, the Guardian reported that children were still being restrained unlawfully at Medway secure training centre for "passive non-compliance" and officers were deliberately using techniques to inflict pain on them. This was despite a Panorama documentary three years earlier exposing staff at the centre, then run by the security company G4S, abusing children and boasting about using restraint as a cover for their mistreatment. The independent inquiry into child sexual abuse said in 2019 that pain-inducing techniques were a form of child abuse that must be prohibited by law. It repeated this recommendation in its final report issued last October.

The Ministry of Justice launched the review of the use of pain-inducing restraint across all child prisons and escorting procedures after the children's charity Article 39 applied for judicial review in 2018. This followed the discovery that escort officers had been empowered to inflict pain on children during their journeys to secure children's homes despite such treatment being banned within the local authority-run establishments themselves. Article 39 also obtained an assurance from the government that restraint would not be used by escort officers to make children follow orders. The four pain-inducing techniques currently authorised in children's prisons were used in 1,258 separate incidents last year. The inverted wrist hold is the most commonly used to inflict pain – accounting for 97% of incidents involving deliberate pain in 2022-23, according to freedom of information data provided to Article 39.

Carolyne Willow, Article 39's director, said: "Had ministers and the prison establishment listened properly to children nearly 20 years ago, and drawn a line in the sand after Adam's preventable death, this policy change would not have dragged on to 2024. We will continue to closely monitor and hold government and institutions to account, since this is an area of policy replete with broken promises and catastrophic child protection failures."

Sexual Assault Trial in Sheffield Collapses After Juror Falls Asleep

A sexual assault trial in Sheffield has collapsed after a member of the jury fell asleep and missed "important evidence", it has been reported. The judge said the situation was astonishing, after he was told that another juror had been unable to hear the complainant giving evidence because of tinnitus. A third juror had to be sent home from the trial at Sheffield crown court after falling ill with an infectious disease, the BBC reported. Judge Richardson KC ordered that the defendant should face a retrial. He said: "Too much has gone wrong in this case. We really must start again and do it properly. "It's astonishing that firstly one juror should fall asleep during an important trial and secondly that another juror should have, late in the day, reported to the court that he had not heard material portions of the evidence."

Several people had noticed the juror had been falling asleep during the trial and the judge

said it had been established that the juror missed "important evidence". The juror with tinnitus, an ear disorder, had only revealed he was unable to hear the evidence from earlier in the trial at a late stage, leading to him being excluded from the trial. It emerged on Monday 21/08/2023, after the remaining 10 jurors had retired to consider their verdict on Friday, that the third juror had a highly infectious illness and would also have to be discharged. Although it was legally possible for the case to proceed with just nine jurors, the judge agreed to dismiss the jury. Richardson: "I do so with a very, very heavy heart – but the fairness of these proceedings is sacrosanct." The defendant may face a retrial with a new jury next year.

Is There Any Point in Pre-Charge Bail?

Transform Justice: A lot of criticism has been levelled at the police in recent years – some justified, some not. Lawyers have been particularly unhappy about release under investigation (RUI), with suspects being left in limbo for months, if not years, while the police investigate the crime. Long periods of RUI are terrible for suspects, alleged victims and for lawyers (who are not legally aided for work during RUI). Senior police leaders were also concerned about RUI since they felt it gave officers an excuse to delay investigations.

The police held up pre-charge bail as a better alternative to RUI, but the argument was flawed. The answer to RUI was to speed up investigations not to put more suspects on pre-charge bail. But advocates for giving police greater discretion to use pre-charge bail were successful in getting the law changed in the PCSC Act.

Pre-charge bail is a peculiar creature. It is used when suspects are being released from custody – when the police don't yet have enough evidence to charge someone but they want to "keep tabs on" them. They can subject the suspect to pre-charge bail with or without conditions (eg to report to a police station regularly or not to go to a certain area). However it is framed, pre-charge bail is an infringement on the liberty of someone who has not even been charged with a crime.

But the weirdest thing about pre-charge bail is that it is punitive, bureaucratic and stigmatising but also unenforceable since breach of pre-charge bail is not an offence. People can be arrested for breach of pre-charge bail conditions but can't be charged for the breach. Theoretically, the arrest for breach of pre-charge bail could lead to a charge for the original offence, but that necessitates the police finding the so far missing evidence to charge.

We had concerns about the new legislation, and it smacks of lack of parliamentary scrutiny. But the new police guidance on how to use the law compounds the muddle. It encourages officers to use pre-charge bail without evidencing why, and does not mention at any point that breach of pre-charge bail is not an offence. It encourages officers to arrest for breach of pre-charge bail conditions without pointing out that arrest is pretty pointless unless there is new evidence to support charging the original offence.

Pre-charge bail has two overt justifications – to keep tabs on suspects and to protect alleged victims. When dealing with victims the guidance again ties itself in knots, partly because the new legislation is not based on evidence. The guidance says that victims should be consulted about pre-charge bail conditions (whether to impose and what particular conditions to use), even before officers have established that a crime was committed. The guidance says victims think they are safer if pre-charge bail conditions are used, but this is based on small scale qualitative research. Victims who think they will be safer are presumably responding to what they have been told? Meanwhile, there is no evidence that pre-charge bail does protect alleged victims nor what effect different conditions have. I'm also not convinced victims are

told pre-charge bail conditions are unenforceable – if they were I doubt they would be persuaded of their efficacy.

The guidance does admit that there is no evidence pre-charge bail impacts offending, but also says that police should take positive action when conditions are breached to ensure "that the suspect is aware that further offending behaviour will not go unaddressed and may act as a deterrent to suspects, who may otherwise believe there is no consequence to a breach of police bail conditions". "Further offending behaviour" implies the suspect is guilty of the offence for which they were arrested and have committed an offence through breaching bail. But they haven't. And the threat of "consequence to a breach of bail conditions" is empty since there is no real consequence. Nor should there be, given the suspect has not actually been charged with a crime, and may never be.

It is a tenet of English law that those accused of crime should be free until they admit guilt/are tried in court. This guidance supports police to restrict the liberty of people who haven't been charged with a crime and to give alleged victims the illusion of being protected, without any evidence they can be. The problems of the guidance derive from the original legislation, which was muddled. But in trying to make the legislation make sense, the guidance may be letting down both suspects and alleged victims.

Serious Data Breach by Police Forces Affecting Victims of Crimes and Witnesses

Leigh Day Solicitors: Leading data breach lawyers say that the recent announcement by Suffolk and Norfolk police forces that it has inadvertently included details of victims and witnesses, involved in domestic and sexual abuse cases, within responses to Freedom of Information ("FOI") requests is likely to lead to substantial claims for compensation by those affected.

The police forces have posted a joint statement confirming that they will be notifying 1,230 individuals that have been affected by the data breach. The statement confirms that a technical issue led to sensitive personal information being included in response to FOI requests relating to crime statistics, issued by the forces between April 2021 and March 2022. The forces have confirmed the data was 'hidden' from anyone opening the files, though should not have been included in the responses. Ongoing investigations have been unable to confirm how widely the information has been accessed.

The data affected by the breach includes 'personal identifiable information on victims, witnesses, and suspects, as well as descriptions of offences. It related to a range of offences, including domestic incidents, sexual offences, assaults, thefts and hate crime'. Suffolk Police's Temporary Assistant Chief Constable, Eamonn Bridger, who led the investigation on behalf of both forces, apologised for the data breach and the impact on those affected. The forces confirmed that affected individuals will be contacted by letter, phone or in person by the end of the September. The data breach has been reported to the Information Commissioner's Office (ICO) and comes less than a year on from Suffolk Constabulary's previous data breach affecting victims of sexual offences, in November 2022.

Sean Humber, a data breach specialist and partner at Leigh Day, who has successfully acted in a series of claims relating to the unauthorised disclosure of confidential information over the last 20 years, including claims against the police, stated: "This is a serious data breach given the sensitivity of the information involved. Disappointingly, with proper policies and practices in place, it was also entirely preventable. The first priority is to understand what has happened, including exactly what personal data has been released and address any risks posed to those affected."

'Wheels Are Coming Off' Miscarriage of Justice Watchdog, Warns Legal Expert

Emily Dugan, Guardain: The Guardian revealed on Friday 25/08/2023, that Helen Pitcher, head of the Criminal Cases Review Commission (CCRC), was pictured barefoot outside a mussels bar promoting her holiday home business while her organisation was in crisis over its handling of the Andrew Malkinson case. The photo was posted on LinkedIn on 15 August by a company she directs, which rents luxury waterfront properties in Perast, Montenegro. The caption read: "Having an amazing time at Milos Mussels bar." On the day it was posted, serious concerns had been raised about the CCRC's handling of Malkinson's case, which Pitcher had not commented on, and Malkinson was calling for an apology.

Barry Shearman MP, chair of a parliamentary group on miscarriages of justice, said Pitcher's focus on other projects, including co-directing Perast Paradise Properties, was a symptom of cuts to justice budgets that meant her job was reduced to "up to 10 days" a month. "The justice system is in tatters. It is the most diminished of all departments financially since 2010, with more cuts than anyone else. They do everything on a shoestring. This woman was never appointed on a full-time basis. This is one of a portfolio of jobs because they don't offer a proper salary or position to do it. With small resources and a part-time job, what do you expect? … This is the phenomenon you get when the justice system is rotten to the core."

Pitcher, who has eight other jobs in addition to chairing the CCRC and was awarded an OBE for services to business in 2015, said: "The CCRC is a remote-working organisation, and I sometimes work from a property I own abroad." Glyn Maddocks KC, who specialises in representing victims of suspected miscarriages of justice, said the latest scandal was a sign that "the wheels are coming off" an organisation that has been cut back by the MoJ. "It's a ridiculous way to organise any organisation, particularly something as important as this," he said. "You've got part-time commissioners, a part-time chair."

'Contempt of Court' – Yet More Confusion and Inconsistency Over Naming of Guilty Party

Yet again a judgment in a contempt of court case has revealed problems around transparency and open justice. The case is Esper v NHS North West London Integrated Care Board [2023] EWCOP 29; [2023] WLR(D) 300, and is a decision of Mr Justice Poole. This case has also revealed inconsistencies within and between a key practice direction and recently updated rules of court, and differences of approach between senior High Court judges. In these circumstances, it seems difficult to expect ordinary mortals to follow and understand the law, the key purpose of which is to prevent criminal penalties (including imprisonment) being imposed against someone in secret. It is particularly difficult because, as we discovered, the relevant rules and practice directions are not at all easy to find.

The contempt: The case arose in the Court of Protection, and concerned the breach of a court order (not to make contact with the protected party, EB) by the defendant, now named as Dr Esper. The judge dealing with the case, District Judge Beckley, found Dr Esper in contempt but decided not to impose any sanction. The main issues on the appeal were not about the rightness of that decision, which was not appealed, but about the district judge's refusal to make an order anonymising Dr Esper during and after the contempt proceedings and in any published judgment. It is explained in the judgment that Dr Esper is a relative of AB, not a clinical professional in the case. Although the judgment of Poole J considers whether Dr Esper should have been allowed to remain anonymous, the real issue at the heart of the case was about whether, in a case about contempt of court, that was even possible.