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Defendants Struggling to Understand Magistrates' Courts Without Lawyers

Jon Robins, Justice Gap: More than one in five defendants at trials in the Magistrates' Court had no lawyer, according to a groundbreaking mass court observation project which found defendants were left struggling to understand without legal help and often even the appropriate paperwork. CourtWatch London, organized by the charity Transform Justice, involved 82 volunteer members of the public visiting their local London magistrates courts and observing more than 1,100 hearings over a six month period ending last December. The courtwatchers, who sat in on 165 hearings where a defendant was unrepresented (15% of the total number), reported that 21% of defendants involved in trials did not have a lawyer. There were many reports of unrepresented lawyers not receiving the papers for hearings in advance.

One of the main themes of the research was the extent to which the courtwatchers themselves struggled to understand the court system. The observations suggested defendants were 'struggling too', authors Fionnuala Ratcliffe and Penelope Gibbs noted. 'People cannot have a fair trial without a clear understanding of what they are accused of, what is happening in court, and the implications of the court process,' they said. 'Our courtwatchers observed Magistrates' court often falling short.' The study opened with a quote from justice minister Mike Freer asserting that 'open justice' was 'a fundamental principal at the very heart of our justice system… justice must not only be done, but must be seen to be done'. Transform Justice reported that their volunteers were 'severely constrained' by a 'a court process that has de-priotised public access'. The response from court staff to observers 'ranged from assistance to puzzlement to hostility'.

The experience of courtwatchers was that the main 'open justice' hurdle was an inability to hear what was actually going on in court. More than three-quarters of proceedings (77%) could not be heard properly from the public gallery which is often behind a perspex barrier and reliant upon functioning microphones in the courtroom being effective. 'Audibility in the courtroom (or rather the lack of it) demonstrates the hierarchy of power and the semi-invisibility of those at the back of the court,' the report noted. 'The fundamental flaw in our court system highlighted by courtwatchers – that many defendants don't know what's happening in the court and so can't meaningfully participate in the process – needs urgent action,' Transform Justice argues. 'We need simpler court proceedings so the process is intelligible to a lay person and legal aid available for a wider range of circumstances.' Despite such reservations, observers reported that judgments of the courts were 'overall fair, reasoned, and practical'; but observers were 'shocked' at the inefficiency of the courts and how the time of professionals was 'wasted'.

Over one in five of the hearings involved a defendant who did not speak English as a first language. Despite defendants having a right to an interpreter if they can't speak the language, in half of those cases (104) an interpreter was not arranged with many left struggling to understand what was happening. One courtwatcher observed 'Clearly that defendant could not properly understand English (despite chief mag speaking loudly! LOL).'

Some observers were shocked by racial disparities in decision-making in a process where, on the basis of this exercise, almost one third of defendants are Black (30%) but only 14% of those sitting on the magistrates' bench (and only 4% of District Judges). For example, one volunteer reported: 'I spent all day in this room, three of the defendants were white, the others were Black. The latter were spoken to by the magistrates with disdain, I felt. None were offered support…. . The first White defendant was offered support for his problems. The lack of equality was disheartening and obviously unjust.' There was concern about the treatment of defendants with obvious mental health problems. 'Some defendants were visibly unwell; shaking, distressed, suffering, significant mental health conditions, or experiencing the effects of drug withdrawal,' Ratclifffe and Gibbs noted; and added that courtwatchers were 'alarmed' when such distress was not acknowledged by the court and hearings proceeded with no support. One observer recorded: 'This young woman could barely stand upon entering the dock. No apparent concern for her dignity, her hair was a mess and she was shaking uncontrollably initially… . Why is it tolerable for people to turn up in such distress and for that not to be addressed?' Other observers were frustrated at the futility of fining people who had no money – one noted that a £20 a month fine for someone on universal credit was 'a fortune'.

Courtwatchers were impressed by the conduct of some defence lawyers and alarmed at their indifference and lack of preparation of others ('… duty solicitor didn't seem to care – huffing and puffing about how he was getting late'). A number were struck by how 'isolated or even ignored' defendants were. Observers noted that the separation was exacerbated by the unnecessary overuse of the secure dock or glitchy videolinks with fixed cameras rendering defendants partially visible. Courtwatchers talk of the 'kindness', 'empathy' and 'patience' on the part of some judges; but there were also reports of bad practice. One observer described one judge as 'cold'. 'Observing his cases this morning has been very challenging,' they noted. 'I wanted to remind him he's dealing/working with human beings and needs to be more respectful and listen more.'

Joint Committee Supports Wide-Reaching 'Hillsborough Law'

Jack Sheard, Justice Gap: The Joint Committee on Human Rights has supported calls for a 'Hillsborough Law' to ensure that the government meets its human rights obligations, saying current proposals 'do not go far enough. The proposed 'Hillsborough Law' is designed to increase the effectiveness of inquests and inquiries. It would have three components – a statutory duty of candour on public authorities; legal funding for bereaved families; and the creation of an independent Public Advocate. The Joint Committee noted that 'institutional defensiveness remains a problem for public authorities', hindering efforts to establish the truth after major disasters. Existing proposals, such as in the Criminal Justice Bill rely on internal disciplinary processes, which would be difficult to enforce.

The Committee recommended a statutory duty of candour applying to all public authorities, obliging them to proactively assist legal proceedings and act in the public interest. The recommended duty should be reinforced by threat of criminal sanction. The Committee also addressed legal aid for bereaved families after major incidents. Presently, this is only provided under Exceptional Case Funding, which was available only for 750 of the 36,000 investigated deaths last year. Most families were left unrepresented against government-funded lawyers, leaving them 'traumatised, bereaved and confused'. The Committee recommended that non-means-tested legal representation be made available whenever the state has is represented. This representation should be proportionate to the government's own legal representatives, to ensure equality of arms.

Thirdly, the committee recommended the establishment of an independent Public Advocate. This role would assist the victims of major incidents through the legal process which follows. Such proposals are included in the Victims and Prisoners Bill, presently advancing through parliament in advance of the general election. The committee recommended that a Standing

Advocate be appointed within 3 months of the bill's passage, and individual advocates within 72 hours of any major incident. The Committee stated that these proposals are necessary to support the government's human rights obligations, under articles 2 and 3 – the right to life, and the prohibition on degrading and inhuman treatment. Taken together, these oblige the state to investigate deaths promptly and effectively. The Committee approved of the Government's signing of the Hillsborough Charter and commitment to transparency in public service, but 'it has taken too long to reach this point'. While some aspects of the Hillsborough Law appeared in other legislation, 'they do not go far enough'. There are currently 17 ongoing public inquiries. Approximately 35,000 inquests take place a year.

Delayed Parole Damages £73 Per Month A Pittance

Inside Time: The latest indelible stain from the MoJuand Parole Board is the sickening offer of just £73 per month for delayed parole damages. In January 2023, I was due to sit in front of the Parole Board. It was cancelled just a few days before, due to the death of the parole hearing chairperson. I then had to wait until June 2023 for the hearing, but that was also cancelled, in front of all parties, due to this prison not providing a security report. November 2023 brings the hearing finally. There were two recommendations for category D but the Parole Board refuses because I take on the system. The result is £73 per month over 10 months for delayed parole, and a judicial review application by my legal team. No category D until I now likely have to go over tariff. I have been 16 years in prison. I'm disabled and it is sickening.

Defend the Defense

Human Rightss Watch: When you find yourself in trouble with the authorities, the best advice is usually: find a good lawyer to defend you. In Belarus, however, this is pretty much impossible, especially if your case has anything to do with human rights. Belarusian authorities have used a lethal combination of repressive laws and measures to take over the legal profession. It's now under total state control. Authorities have been systematically retaliating against lawyers who defend clients in human-rights-related cases. They've revoked at least 140 lawyers' licenses. In at least six cases, they've imprisoned lawyers for representing clients fighting bogus, politically motivated charges. Obviously, the threat of such consequences is also intended to put others off.

But it goes even further. As a new report explains, authorities in Belarus have turned the Belarusian Republican Bar Association into another vehicle of government repression. In other words, the state is prosecutor, and the state prevents you from presenting an effective defense. Naturally, this is a disaster for anyone targeted by the state for exercising their rights or attempting to protect their fundamental freedoms. Belarus has some 1,300 political prisoners, and many have suffered serious abuses, including torture, in state custody.

Prostitution: Sentencing

Dame Diana Johnson Labour: To ask the Secretary of State for the Home Department, if he will make an assessment of the potential merits of raising the maximum penalty for offences committed under Section 53A of the Sexual Offences Act.

Answered by Laura Farris Conservative: The Government keeps legislation under review to ensure it keeps pace with the evolving threat of crime. Section 53A of the Sexual Offences Act 2003 is a strict liability offence. That means that, for the police to charge a case they need evidence that the suspect had paid for sexual services from an individual, and that that individual was subjected to force or control by another. They do not need to prove criminal intent. The

penalty for a Section 53A offence is a fine not exceeding level 3 on the standard scale (up to £1,000). In gathering evidence of a Section 53A offence, the police will prioritise actions that may lead to charges for more serious offences, such as modern slavery or causing or inciting or controlling prostitution for gain. The penalty for modern slavery is up to life imprisonment and for the latter offence up to 7 years' imprisonment.

The Home Office publishes police recorded crime data for the exploitation of prostitution offences (sections 52 and 53 of the Sexual Offences Act 2003) and modern slavery offences, but information about the facilitation of those crimes is not held centrally. Data is not available at the requested geographical level, however data by police force area can be found.

The Online Safety Act 2023 will place a duty on adult service websites to proactively identify and remove content linked to criminal activity and a duty to prevent illegal content relating to sexual exploitation appearing on their sites. Companies will need to adopt systems and processes to identify, assess and address sexual exploitation and human trafficking activity based on a risk assessment. Law enforcement is also running an adult service website referral pilot where adverts are referred to the Tackling Organised Exploitation capability (housed in Regional Organised Crime Units) to gather intelligence and identify organised criminal activity.

Dartmoor: 400 Shipped Out Over Radon Gas

Inside Time: More than 400 men have been evacuated from Dartmoor prison following the discovery of unsafe levels of radioactive radon gas. The Ministry of Justice announced in December that it was emptying parts of the jail due to the naturally-occurring gas leaking from the ground. Since then, the prison's population has been lowered month by month, reducing from 679 to 255 by the beginning of May – and putting extra pressure on the men's estate at a time when jails are mostly full. Radon can cause lung cancer with prolonged exposure. In December, when only 100 men had been shipped out, the Prison service released a statement saying: "A number of prisoners have been relocated as a precautionary measure after routine testing revealed higher-than-normal levels of radon. This is a temporary measure while work to permanently reduce radon levels is completed, and there are no safety implications to staff or prisoners who remain on site." Dartmoor is a men's category C prison in Devon, which opened in 1809. In 2021 it was announced that its closure, which had been scheduled for 2023, would be postponed indefinitely, as the Prison Service prepared for an expected sharp increase in prisoner numbers and a shortage of places to put them.

Unpaid Work for Rule-Breaking Prisoners

Inside Time: Prisoners who break the rules can be issued with 'payback punishment' – a form of unpaid work – in a new initiative aimed at improving behaviour in jails. Under changes to the Prison Rules in England and Wales which take effect on May, payback punishment will be a new option available to governors presiding over adjudication hearings. The unpaid work will need to be on "time-limited projects" in the prison, and be "rehabilitative or reparative in nature". It is intended to make prisoners take responsibility for their actions, let them make amends for their behaviour in projects that benefit other prisoners, and foster a sense of pride in their surroundings. The Ministry of Justice suggested that the tasks could include litter-picking, repairing broken items, or clearing disused spaces. They cannot duplicate routine maintenance work which would be done by paid contractors.

Payback punishment can be given out as an alternative to traditional sanctions for break-

ing prison rules – which include loss of privileges, confinement in cell, or days added on to the prisoner's sentence. A new rulebook, the Prisoner Discipline Procedures (Adjudications) Policy Framework, states that those handing out punishments should "Consider the use of 'do good, be good' activities where possible, ensuring they are perceived to be useful and rewarding and provide opportunity for meaningful skill development."

Outlining the change in a letter to the Commons Justice Committee, Prisons Minister Edward Argar said the system would "give governors the option to impose 'payback punishment'. This is unpaid work in the form of reparative activities such as fixing damages or improving physical aspects of the prison environment." Adjudications – a form of hearing to determine the guilt or innocence of a someone accused of breaking prison rules – are usually heard by prison governors but can, for more serious breaches, be heard by a visiting judge, known as an external adjudicator. Only governors will be able to hand out payback punishment, because it requires knowledge of what tasks are available in the jail.

If a prisoner is required to miss sessions of their regular prison job or education course in order to complete the unpaid work, they will still get paid for the sessions they missed – because making them forfeit their wage would be viewed as a 'double punishment', according to the Policy Framework. Payback punishment can be given to pensioners, even though they are not normally required to work in prison. They will also be available in young offender institutions for incarcerated children over the age of 14. The rules say that payback punishment can only be issued to a prisoner who agrees to take part in it – so if a prisoner were to refuse, it is likely that they would be handed an alternative punishment.

Secret Surveillance of Five Polish Nationals - Three Violations of Article 8

The case Pietrzak and Bychawska-Siniarska and Others v. Poland (applications nos. 72038/17 and 25237/18) concerned a complaint by five Polish nationals about Polish legislation authorising a secret-surveillance regime covering both operational control and the retention of telecommunications, postal and digital communications data ("communications data") for possible future use by the relevant national authorities. In particular, they alleged that there was no remedy available under domestic law allowing persons who believed that they had been subjected to secret surveillance to complain about that fact and to have its lawfulness reviewed.

The European Court of Human Rights held, unanimously, that there had been three violations of Article 8 (right to respect for private and family life and correspondence) of the European Convention on Human Rights in respect of the complaints concerning the operational-control regime, the retention of communications data for potential use by the relevant national authorities, and the secret-surveillance regime under the Anti-Terrorism Act.

Given the secret nature and wide scope of the measures provided for by the Polish legislation and the lack of effective review by which persons who believed that they had been subjected to surveillance could challenge this alleged surveillance, the Court found it appropriate to examine the legislation at issue in abstracto. It considered that the applicants could claim to be the victims of a violation of the Convention, and that the mere existence of the relevant legislation constituted in itself an interference with their Article 8 rights.

The Court then held that all the shortcomings identified by it in the operational-control regime led to a conclusion that the national legislation did not provide sufficient safeguards against excessive recourse to surveillance and undue interference with individuals' private life; the absence of such guarantees was not sufficiently counterbalanced by the current mechanism for judicial review. In its view, the national operational-control regime, taken as a whole, did not comply with the requirements of Article 8. It further considered that the national legislation, under which information and communication technologies ("ICT") providers were required to retain communications data in a general and indiscriminate manner for possible future use by the relevant national authorities, was insufficient to ensure that the interference with the applicants' right to respect for their private life was limited to what was "necessary in a democratic society". Lastly, the Court concluded that the secret-surveillance provisions in the Anti-Terrorism Act also failed to satisfy the requirements of Article 8 of the Convention, noting, among other points, that neither the imposition of secret surveillance nor its application in the initial three-month period were subject to any review by a body that was independent and did not include employees of the service conducting that surveillance.

ECHR Multiple Violations Chechen Supreme Court judge and Her Opposition-Activist Family

In Chamber judgment1 in the case of Zarema Musayeva and Others v. Russia (application no. 4573/22) the European Court of Human Rights held, unanimously, that there had been: violations of Article 2 (right to life), 3 (prohibition of inhuman and degrading treatment), 5 § 1 (right to liberty and security), 6 § 1 (right to a fair trial) and 18 (limitation on use of restrictions on rights) of the European Convention on Human Rights. The case concerned Zarema Musayeva, wife of a former Chechen Supreme Court judge, who was forcibly removed in January 2022 by the police from her home in the Nizhniy Novgorod region in Russia and taken 2,000 km away to Grozny in Chechnya, as well as her subsequent detention and the administrative and criminal proceedings brought against her there. It also concerned the ill- treatment that Ms Musayeva and her husband and daughter had been subjected to by the Chechen police, against the background of repeated public death threats against them by high-ranking Chechen officials, including the President Ramzan Kadyrov, who had promised to "hunt them down" and "cut their heads off".

The Court found that the Russian authorities, whose representatives had been the source of the death threats, had to have been aware of but had done nothing about the real and immediate risk to the lives of Ms Musayeva, her husband and their daughter. It also found that they had been ill-treated by the Chechen police and that Ms Musyeva's arrest and detention had been arbitrary and intended as retaliation against her family, who were involved in human-rights work and opposition activities in Chechnya. The hurried administrative proceedings against her, without legal representation and while she was quite obviously unwell, had breached fair trial guarantees. Lastly, the Court held, unanimously, that in early March 2022 the Russian authorities had stopped providing updates on medical treatment given to Ms Musayeva, who suffers from diabetes, in spite of an interim measure it had issued, in violation of Article 34 (right of individual petition).

Stop and Search Use on Children Doubles

Rebecca Ingall, Justice Gap: The Observer reveals that the number of stop and searches on children under 10 has significantly increased since 2014. Between 2009-2013, an average of 227 children per year were stopped and searched. In 2023, this had doubled: at least 432 children under the age of criminal responsibility were searched by police forces in England and Wales in 2023.

Nearly a quarter of those searches were conducted on those from black, Asian and minority ethnic backgrounds and were disproportionately high compared to population representation. 79% of all searches led to no further action from officers. The highest number of searches on children under 10 was Avon and Somerset, at 117, followed by Kent and the Metropolitan

police. The Observer identified two forces (Kent & Devon and Cornwall) which had recorded strip-searches on children under 10 where officers removed 'more than just outer clothing'. Police reform campaign group StopWatch said that using stop and search on children under 10 was 'nothing short of a human rights violation'. 'Children's vulnerability to psychological suffering and intimidation during and in the aftermath of a strip-search in particular cannot be overstated. The police cannot undo the trauma they cause.'

Although children under 10 cannot be charged with a crime if they break the law, they can still be subject to interventions and safety orders from the police. Additionally, parents or guardians may be held criminally liable, or children can be taken into care. More than 200 of the searches related to illicit drugs, and 87 related to suspicions of carrying offensive weapons.

In April, the Observer revealed that thousands of children under 18 had been strip-searched by police last year, with black, Asian and mixed-race children significantly more likely to be targeted. Earlier in May, police minister Chris Philip stated that stop and searches were 'not used nearly enough' by police, and they ought to increase to address knife crime adequately. The Home Office said that 'stop and search is a vital tool for tackling crime and protecting communities' and that 'safeguards exist to protect children who are subject to stop and search, and police have a legal duty to consider children's safety and welfare'.

However, StopWatch reiterate that 'law enforcement measures currently in place do not meet these standards and therefore cannot be seen as an effective way of safeguarding them. Children should be able to live a police-free childhood as far as possible'.

CCRC Refers Man's Sentence to Court of Appeal for Credit For Time Served

The Criminal Cases Review Commission (CCRC) has referred a man's sentence for murder and violent disorder to the Court of Appeal. Hugo Nwankwo-Ekeh was convicted on 20 December 2012 at the Central Criminal Court of murder and violent disorder. He was 16 years of age at the time of the offences. Mr Nwankwo-Ekeh was sentenced to life imprisonment with a minimum term of 16 years. The CCRC received an application for review of Mr Nwankwo-Ekeh's sentence in February 2021. A further application for review of his conviction was received in November 2021. Following a thorough review, the CCRC has decided to refer Mr Nwankwo-Ekeh's sentence to the Court of Appeal. At sentencing, Mr Nwankwo-Ekeh was not credited with time he had spent in custody whilst on remand. In addition, new psychiatric evidence and legal argument indicates that the sentence may be manifestly excessive. The CCRC has concluded there is a real possibility the Court of Appeal will reduce Mr Nwankwo-Ekeh's sentence. A review into Mr Nwankwo-Ekeh's conviction is ongoing.

Prisoners Attempt Escape From Crumbling Cell Using Plastic Cutlery

Jennifer Zhou, Justice Gap: Prisoners at HMP Winchester on 'several occasions' had used 'simple implements such as plastic cutlery' to dig through crumbling cell walls, according to a prison watchdog. The memorable example of the disrepair of our prisons was included in the annual report of the Independent Monitoring Body (IMB).

Over the last year there were more than 37,700 visits to prisons, young offender institutions and immigration removal centres by 132 IMBs. The annual report highlights issues including overcrowding, violence, self-harm as well as conditions so dilapidated that they 'gave rise to security concerns'. At Winchester, on one occasion a prisoner attempted to dig through their

cell wall to the landing. At a separate facility, HMP Pentonville, had to delay its window-replacement scheme because there were not enough empty cells to move prisoners into. This was despite the fact that the scheme was 'deemed extremely important for escape prevention'.

'The physical state of disrepair across the prison estate, and some YOIs and short term holding facilities, meant some detained people were living or held in unacceptable environments,' commented IMB national chair Elizabeth Davies. 'Adult prisoners were kept in conditions described as inhumane, sometimes without access to basic sanitation, which had serious implications for their hygiene and dignity. Some children lived in poor conditions due to delayed maintenance and repairs.' Other prisons had inadequate sanitation facilities, with defunct shared toilets, showers with broken floors, and faulty heating systems subjecting inmates to alternating extreme heat or cold. Some prisoners resorted to washing their hands with bottled water and using buckets as toilets. This resulted in what the IMB described as 'serious consequences for hygiene and dignity'.

Apart from deteriorating infrastructure, the report also revealed rising levels of violence and disorder. Illicit items were an issue across all prisons, especially the drug Spice. Linked to this were concerns over the use of force to keep prisoners in order. Not only were staff too slow to turn on body worn cameras, they also used force disproportionately against Black, mixed-race, and Muslim inmates at some prisons. The IMB has previously raised concerns about racial disparity in use of force incidents. The imbalance remains 'unexplained'. Once inmates exited prison, their prospects appeared to be little better. The IMB revealed that high numbers were being released homeless, and often not in the area where they had been imprisoned.

Murder Acquittal at Central Criminal Court

A man accused of participating in a brutal murder in South London was yesterday acquitted at The Central Criminal Court, following a 7 week trial. The accused (RF) was represented at trial by David Bentley KC, leading Evans Amoah-Nyamekye – and instructed by Steven Bird at Birds Solicitors. A co-defendant was convicted of the murder, which was alleged to have arisen in the course of an international arranged marriage scam. RF was convicted of a lesser charge of false imprisonment.

A man brutally stabbed a 25-year-old man to death and held his mother captive with cable ties after falling out over a sham marriage scam. Riches Obi was repeatedly stabbed in the chest at his home near Elephant and Castle, south-east London, in November 2020. His mother, Bernadette Ortet, was found bound with cable ties in a bedroom at the property. Ms Ortet was alleged to have been involved in a sham marriages scam and at the time was a case worker for a firm of solicitors specialising in immigration and nationality. After a two-month trial at the Old Bailey, Jurick Croes, 38, of no fixed address, was found guilty of murder and false imprisonment. Raichell Felomina, 40, of no fixed address, and Suvenca Martis, 34, of Forest Hill, south-east London, were convicted of false imprisonment but cleared over the killing.

MET Police Officers Remain on Duty Without Vetting

*Finlay Egan, Justice Gap:*In the last five years, 53 police officers had their vetting withdrawn while serving in the Met. A spokesperson for the Met explained that 'after removal of vetting, officers can no longer perform their role or access any police systems and face gross incompetence proceedings.' In April 2023, the Metropolitan Police Service became the first force to implement a new process, known as Operation Assure, for reviewing the vetting of serving officers and staff where concerns have been identified regarding their behaviour. This process arose after the convictions of serial rapist David Carrick and rapist and murderer Wayne

Couzens who were both serving officers when they committed their crimes.

In February 2024, a report published by Lady Elish Angiolini found that ‘failures of vetting policy and practice are a depressingly familiar refrain in policy’ and that ‘Wayne Couzens should never have been a police officer’. Last year, The Independent reported that ‘three-quarters of police officers and staff accused of violence against women are not suspended by their force despite the allegations against them.’ One of the issues regarding the vetting process is the lack of transparency. Habib Kadiri, executive of police reform StopWatch, states that ‘police chiefs, as a matter of principle, owe it to the public to be transparent about the decisions they make regarding the conduct of their officers.’ The chair of parliament’s Women and Equalities committee, Caroline Nokes MP, has said that ‘following high-profile criminal cases against serving Met officers, trust in the Met has never been lower.’

HMP Guys Marsh - Inadequate Care Contributed to Death of Frazer Williams

Inadequate diagnosis and treatment of Frazer Williams’ mental health condition was among the probable causes of the 28-year-old’s death at HMP Guy’s Marsh, a jury unanimously found. The management of Frazer’s risk at HMP Guys Marsh; and inadequate safeguarding measures taken after he was informed that he would be transferred to a psychiatric hospital for inpatient treatment were also cited as contributing factors in Frazer’s death on 7 March 2022. In their conclusions given on Friday 17 May, the jury identified missed opportunities to improve Frazer’s mental health including inadequacies in the prison system’s suicide and self-harm safeguarding process, known as Assessment, Care in Custody, and Teamwork (ACCT) and a multidisciplinary forum for discussing complex prisoners, known as Safety Intervention Meetings (SIM), which the jury described as inadequate in detail and lacking in documentation.

My Letter of Rejection - Raymond Smith for Inside Time

I have taken a major decision about my future and wanted to tell you all first. I have decided that I shall reject all approaches from various political parties after the next election and turn down the job I am sure they would wish to offer me. Justice Secretary. I had planned how it could be achieved without the hassle of getting elected to the House of Commons, by accepting a peerage in the way David Cameron (now Baron of Chipping Norton) got his latest paid hobby as Foreign Secretary. I had even picked my title, Baron Smith of The Emirates (football stadium, not airline or Arab state) but I suppose that will now not happen. Might have got me a free season ticket. But having had a look at the mess the system is in, I can do without the hassle.

A building somewhere in south-west London - I am afraid there is no other place to start than HMP Wandsworth, which cannot be described in any other way than as a complete mess – well, not without obscenities, anyway. The letter of notification of special measures issued by the prison inspectorate this week is horrifying, and only made worse by the fact that it is not surprising at all. The notice lists a series of failures at the prison. There’s the appalling lack of security, not even improved after the alleged escape; the number of self-inflicted deaths this year alone; increasing violence; availability of illicit drugs; severe overcrowding; reports of poor treatment of prisoners by officers; lack of education and training opportunities; failures to access exercise; excessive time locked in cells; inexperienced staff; and high sickness levels. The prison management, they say in an understatement, was poor. The inspectors did not even mention the Governor having been threatened with contempt of court proceedings for failing to release a prisoner when ordered by a Judge to

do that very thing as the man was being wrongly detained. The Governor resigned after the inspection but before this notification was published.

To me the real scandal is that the Chief Inspector starts off by pointing out the Inspectorate had warned about these matters three years ago when they wrote: “Leaders in this crumbling, overcrowded, vermin infested prison will need considerable support from the prison service.” No such support was given, and the numbers imprisoned there have actually increased since, not decreased as they said was urgently needed. These overcrowded conditions are found in all the old, large, Victorian prisons, indeed almost all prisons. Similarly the poor state of the crumbling buildings, problems with sewage and other basic services leading to vermin infestations. Whilst good governance inspires good staff performance and reduces sickness absenteeism, any deterioration in the fabric of the building can lead to a sudden crisis even where the overall standards are far higher than at Wandsworth. I really do not want that headache.

Previous Solutions No Longer Available - In 2017, when HMP Liverpool was in crisis, the number of prisoners held there was reduced by 500 and the prison was refurbished. With a new Governor in place, matters improved within three years. However, now the entire prison estate is overcrowded, so how can that be replicated to help Wandsworth? Where could 500 people be sent, when everywhere is full? It does not seem to be an option, but has to happen, somehow. Then there is the choice of a new Governor and other senior staff. If people are moved in from successful places to fill these gaps, even on a temporary basis to put things right, how will that impact on the places from which they are being moved? How can experienced staff be found? It would be disastrous to solve the major problem we face in Wandsworth by creating a series of new catastrophes elsewhere by disrupting places that are at this moment just about coping. I would not wish to take those decisions.

What I find is encouraging, though probably would not were I Justice Secretary, is the community pressure now on Wandsworth. This is inspired by former Quaker Chaplain Liz Bridge, featured within Inside Time, and the charity she set up to ease the lives of those inside, but now banned from the place. Her campaign’s public meetings have been packed with families of those in the jail along with other local residents, attended by MPs, and their passion cannot be ignored. There is no doubt at all that this type of approach will be followed in other places, and that would be a very good thing. But probably not for the Prison Service or Justice Secretary. As an aside, Chief Inspector Charlie Taylor is excellent and follows a line of superb predecessors. Were it down to me I would plead with him to sign him up for a renewed contract when his current one expires.

However I have no idea why the key problem, that of shovelling too many into our jails on a regular basis, is being allowed to continue. Sentences are getting longer, and new crimes are being created to lock up more people. For instance, we are likely to criminalise things that may irritate people, such as holding up traffic on environmental protests, by designating the actions as a form of ‘terrorism’. There are already laws on criminal damage. You do not stop passionate climate campaigners by threatening them with prison. The two elderly people who tried to break the glass on the Magna Carta in the British Library the other day are hardly terrorists. Certainly not ISIS members, but probably have ISAs. We already have enough laws and too many in our jails.

Don’t panic. Do plan - It seems impossible to take necessary action, such as early release. New guidelines, which have just replaced the last set of new guidelines, would permit some people to be released 10 weeks before the end of their sentence, though nobody knows who will qualify, and from the reaction you might believe that they were going to open the gates and let everybody charge out to cause chaos and mayhem in a rerun of the storming of the Bastille. Historical note. There were only seven people in the Bastille at the time. It started as 18 days, then increased to 60 in March,

now up to 70. Those criticising this decision should remember that they would all have been coming out sometime, and there is no evidence at all that those final 10 weeks will change the future intentions of the person being released. However, where the critics have a point is that all these changes will prevent proper preparation for release by the prison administration and put more pressure on the overstretched probation service. Mistakes have allegedly already been made. To perform properly they need time and support to arrange housing. Preparation for release is already inadequate, and this will make it worse. But I cannot think of any alternative, and trust probation will just about cope.

This crisis is not new, it has been forecast for months, but steps to prevent the crisis have not been taken. We pay lip service to extending and improving community sentences which would not only reduce the numbers going to prison but are shown to reduce reoffending. The Justice Secretary jumps from one emergency measure to another because he cannot get long-term solutions agreed, and is in danger of resolving a problem by turning it into a crisis and then a catastrophe, as we see at Wandsworth. Yet the current postholder, Mr Chalk, is actually a very committed and talented man, tied up by political needs, and the Opposition seem to be sitting back and just moaning about everything. Complaining that not enough new prisons have already been built is not much of an answer at all. The irony of all this is that the crime rate is continuing to fall year on year, whilst the number of people we lock up is growing. The policy of locking people in police cells because prisons are full continues, and goodness knows what will happen should we ever get around to fixing the excessive delays in holding court cases. We have nowhere to which we can send people on remand, though there are far too many of those anyway. We will end up with a waiting list for prison places in the way we have a waiting list for hospitals if we carry on like this, the Judge pronouncing that the accused is sentenced to 18 months, so should turn up at the front gate of HMP Brixton on March 15th 2029 to take their allocated place in a cell. It has to stop.

And that is why I could not take the Justice Secretary's job. Members of Parliament do not have the collective courage to take the decisions needed to turn things around, by sending fewer people to prison and freeing those like IPPs who should not be there, because sections of the media will not like it. Justice is too important to leave it to "here today, gone tomorrow" politicians chasing votes. Party political debates are flimsy, the real thought and sense coming from the cross party Select Committees ignored. The problem of overcrowding has been known for years. Wandsworth is the latest result of that. Panic measures will not solve it, a change of approach to dealing with crime is required. But instead we get press scare stories of rampant violence threatening our way of life, as if thefts have just been invented and there were never gangs in the past. The chances of the system being properly funded are disappearing into the distance.

Or should I take the job? We know what is needed. People who have been failed by the school system should not have to go into prison to be taught how to read and write, and to be trained into a career that will build them a future. Mental health services need building, not cutting back, and those suffering from such stresses should not be threatened with loss of benefits if they do not 'pull themselves together', but supported. Victims of childhood abuse, a high proportion of those locked up, should not be punished. Cut the numbers in prison, who cost £50k per year each, and stop building prisons. Instead, build supportive community facilities, and convert the old Victorian hell holes to create new educational resources. Some prison governors introduce excellent initiatives and make vast improvements to the jails they manage, but even these are threatened by overcrowding. Yet we have the information. The piles of excellent reports from professionals, from Parliamentary committees, from prison inspectors and monitoring boards, and from campaigners, grow higher and higher but remain untouched, the issues left to fester.

If only we could take control of criminal justice out of party politics, create a proper budget, then

ensure it grows year on year by the inflation rate; add mental health services into the system; promote positive programmes similar to those in other European countries where they have greater success in rehabilitation; boost probation; and devise community sentences including education, training, and community work. Streamline the courts, with prison the last resort not the first. And where it is clear there are major problems on the way, as with overcrowding, do not wait until the last second to fix it. Surely that is absolutely obvious. It is like standing in front of a giant dam, watching cracks develop, then placing an order for a couple of buckets for when it bursts. On reflection, perhaps one of my main selling points to be Justice Secretary is that I have a very modest view of my own talents. I do not consider myself to be exceptionally knowledgeable or talented, and certainly not a genius. Because you would have to be a real genius to create a system any worse than the one we have now.

Merry Go-Round of Constant Prison Transfers - Violation of Article 6 § 1

The applicant, Thomas Wick, is a German national who was born in 1975. He is currently in detention in Berlin. The case concerns the applicant's repeated transfers from one prison to another, within short periods of time, while serving a prison sentence. Relying on Article 6 § 1 (right of access to a court) of the Convention, the applicant alleges that, as a result of these transfers, the courts – to which he applied for rulings on the lawfulness of his placement in solitary confinement and under video surveillance and on his transfers – would lose jurisdiction and deliver conflicting decisions. Violation of Article 6 § 1 Just satisfaction: The applicant did not submit any claim for just satisfaction. ECtHR Press Release Tuesday 4th June

Radical Changes That Are Needed to Fix the Failings of Our Prison System

It is undeniable that the justice system is in complete disrepair (The Guardian view on prison overcrowding: a justice system in meltdown, 24 May) and that both victims and the accused deserve better. But the answer is neither to develop a more "efficient" way of processing offenders nor more prison-building. Sadly, in the context of a general election, politicians of any stripe are even less likely to admit the truths we all know, not least from a stream of reports and recommendations from the prisons inspectorate, investigation and monitoring boards, reviews, inquiries, coroners' reports, and testimony from prisoners and their families. That is: there is no evidence base for the claims that prisons keep "us" safe; nor that they deter; nor that they rehabilitate. Further, what we do know from all official reports is that prisons are dangerous sites of demoralisation, degradation, self-harm and death. They house people who, for the most part, have been failed by the state, those who in fact require support in terms of housing, employment, addiction and mental health. Prisons and the extent of our prison population are a national shame. The perilous state of prisons and their failure will only be stopped by a radical change in sentencing policy, a halt to prison-building, dramatic reduction in the prison population and investment in communities, community services and radical alternatives to custody.

Deborah Coles Executive director, Inquest, Joe Sim Emeritus professor of criminology, Liverpool John Moores University, Steve Tombs Emeritus professor of criminology, the Open University

Unlawful Treatment of Newly Arrived Unaccompanied Asylum Seeking Children

In a final judgment handed down 5th jJune 2024 the High Court held unlawful the use by Kent County Council of "s. 11 notices" (referring to section 11 of the Children Act 2004), purporting to justify its continued failure to comply with the mandatory duties it owes under the Children Act 1989 to provide accommodation, care and protection to all unaccompanied asylum-seeking children arriving in its area.