

MOJUK: Newsletter 'Inside Out' No 936 (01/02/2023) - Cost £1

CCRC and Independence

Hannah Quirk and Jon Robins, Justice Gap: If the public is to have confidence in the underfunded and struggling criminal justice system, it needs to have confidence that the processes are both fair and appear to be fair. It is not just that the prosecution and defence need to fight their cases – checks and balances are needed throughout the system, and that requires institutional and individual independence. It is disappointing, therefore that the Justice Select Committee has agreed to the appointment of Helen Pitcher OBE as the next chair of the Judicial Appointments Committee without recognising the obvious potential appearance of a conflict of interest with one of her other roles as chairman of the Criminal Cases Review Commission (CCRC), the body that investigates miscarriages of justice.

Both organisations have important roles in building public confidence in the transparency and integrity of the criminal justice system. The current shortage of judges is a significant factor in the trial backlog and there are longstanding concerns about a lack of diversity on the bench. The JAC was set up in 2006 to replace the discredited 'tap on the shoulder' process for choosing judges and to maintain and strengthen judicial independence.

The CCRC was set up in 1997 following the miscarriages of justice that came to light in the late 1980s / early 1990s such as Stefan Kiszsko, the Guildford Four and Birmingham Six, which shattered public confidence in the criminal justice system. The CCRC was a prototype – it was the first state-funded body in the world established to help those convicted who claimed to be innocent. A crucial feature was its independence – from politicians and the courts. It was set up as an 'arm's length' non-departmental public body, based in Birmingham rather than London, staffed by investigators with a range of professional expertise to investigate such cases and, where appropriate, get them back into court. Some of those who had campaigned against miscarriages of justice in the 'bad old days' were critical of the model chosen for the CCRC and the fact that its first chairman was a Freemason (at the time there were allegations about the police and judicial Freemasons colluding to support fellow members). Due to its efforts, almost 550 wrongful convictions and sentences have been overturned since it was founded including Derek Bentley, Barry George and the recent subpostmasters cases.

We both have a long-standing professional and academic interest in miscarriages of justice and the work of the CCRC which has faced enormous challenges. It is a relatively small organisation that, even twenty-five years after its foundation, is not well known. We have addressed its continuing struggles with asserting its independence from the Ministry of Justice and the Court of Appeal, (its founding statute means that it can only refer a conviction if it considers that there is a 'real possibility' that the appellate court would not uphold it. The Law Commission is currently reviewing this). We have criticised the devastating cuts to its budget. The CCRC suffered the greatest funding cut of any part of the criminal justice system – its budget was just £6m last year compared to £9.24m in 2004 – and its workload has more than doubled since 2010. Its referral rate has declined sharply, reaching a nadir of just a dozen cases in 2016 and 13 in 2017. The reasons for this are unclear and are likely to be multi-faceted but it has left the CCRC exposed to criticism.

Ms Pitcher told the Justice Select Committee that she did not perceive any "any overlap at all, or any potential conflict" between this role and her existing position as they were "of a very different nature." We disagree. The roles are different, and that should be a source of tension. The job description for the JAC role included working towards building 'a constructive relationship' with the judiciary; whereas the whole point of the CCRC is to refer cases where the judiciary may have erred, or where it may face criticism from the courts for referring a controversial or borderline decision. For the last 15 years, campaigners, lawyers, academics and Parliamentarians have complained that the CCRC has taken an overly cautious, deferential approach towards referring cases back to the Court of Appeal. Almost every case the CCRC deals with will already have been rejected by the Court of Appeal, but the Lord Chief Justice sat on the panel to choose the JAC Chair, and she in turn will help choose his successor when he retires in September. High Court judges may also hear applications for judicial review of the CCRC's work.

It is not clear that the CCRC still has the sense of organisational purpose that its champions envisaged. There are legitimate concerns about the CCRC and its independence from government and the courts. Two years ago, the High Court found that the CCRC's relationship with the Ministry of Justice had been 'dysfunctional. The poverty of this relationship undoubtedly tested the CCRC's ability to remain independent of MoJ, and to be seen to be so.' A parliamentary report published last year called on the CCRC 'demonstrate its independence from government'. When Helen Pitcher appeared before the House of Commons' justice committee at the end of last year prior to her appointment as chair of the JAC, she assured MPs that the CCRC, whilst 'somewhat dysfunctional' when she came on board in 2018: 'It is now not and works very well.' Again, harmony should not be the appropriate test of the CCRC's performance. The first chairman was of the Geldof-esque view that the Ministry should: "Get to know us. Give us the money. Leave us alone."

The CCRC's independence was supposedly guaranteed through the appointment of its 11 decision making commissioners under the Criminal Appeals Act 1995. The MoJ has imposed changes that have reduced commissioners' terms to one day a week contracts from the salaried, pensionable, predominantly full time appointments that were previously offered. One commissioner did not have his position renewed, apparently because he had the temerity to stand up to the Ministry of Justice officials.

We are concerned about the CCRC's culture. At the start of last summer, Jacob Rees Mogg opened the new CCRC's 'office hub', a curious choice for a justice watchdog. The CCRC then imposed a 'remote first' policy and staff including their investigators are only expected to be physically present for ten to 12 days a year. It is difficult to see how any esprit de corps can be built in this way or expertise can be shared informally.

Those who have been wrongly convicted have been failed by the criminal justice system in the most egregious way. It is understandably difficult for many of them to engage with official organisations or to have confidence in the appellate process. Like Caesar's wife, those working for the CCRC must be above suspicion.

Britain's 42 Coups Since 1945

The UK has planned or executed over 40 attempts to remove foreign governments in 27 countries since the end of the Second World War, involving the intelligence agencies, covert and overt military interventions and assassinations. In the 1950s, British regime change planning was relentless, with further known operations drawn up to promote uprisings against nationalist governments

Prison Reform Trust: Parole Data — A Partial Apology

The Ministry of Justice continues to evade questions, over the impact of its reforms to eligibility for transfers to open prisons. We have received an answer to our complaint about the ministry's failure to provide information about the impact of parole changes under the Freedom of Information Act. There is an apology for the delay. There could hardly not be, but it is welcome nevertheless. But the ministry maintains that it has provided the information we requested. In fact, the answer we got about the impact of the changes announced on 6 June provided only a small fraction of what we had asked for. It was a deliberate evasion. But we have sent in new, very carefully worded FOI requests in the hope of preventing a repeat performance and will be due answers early in the new year.

On the issue of whether the ministry has calculated the impact on prison numbers of the parole changes, again the answer avoids the central issue. As we have pointed out before, with a virtual ban on indeterminate sentence prisoners going to open conditions, either more people will be released from Category C prisons (which we doubt is the outcome ministers desire), or releases will be delayed in the majority of cases. If the latter happens, that can only have a significant and relatively rapid impact on prison numbers — at a time when the system is bursting at the seams. This isn't an issue about how the prison service chooses to fill spaces in open prisons — it's about the number of people it is going to have to care for overall and how these changes form no part of its current projections.

Ministers are obviously entitled to pursue policies which they decide — we can and do disagree — but their accountability ultimately is to parliament, the courts and the electorate. However, in a democracy ministers are not allowed to prevent proper scrutiny of the consequences of the policies upon which they decide. We will continue to hold them to a higher standard than they seem willing to adopt for themselves. Our work on parole reform: Many of the recent changes to parole have been issued on the basis of no consultation, no parliamentary debate and with nothing to explain what they actually mean in practice. We are seeking to inject openness and transparency into this process, and to provide prisoners and their families with the vital information they need.

HMP Isle of Wight Criticised For Unnecessary Restraints

Prison staff have been criticised by the Prisons and Probation Ombudsman for subjecting two prisoners to unnecessary restraints during hospital visits. In both cases the unwell men were escorted to hospital by prison officers from HMP Isle of Wight. When Robert Marti, 66, was taken to hospital in January 2021 after a 'code blue' emergency was called, a risk assessment stated that there were medical objections to the use of restraints, and that he had mobility issues and a restricted ability to escape. Nevertheless, the authorising manager stated that an escort chain was to be used and removed only for treatment. Marti died four months later.

Clive Collins, 79, was taken to hospital from the prison in March 2021. A nurse noted on his risk assessment form that he walked with a Zimmer frame, yet the authorising manager decided it would be appropriate to restrain him with an escort chain. Investigations into each death concluded that the decision to restrain the prisoners was unjustified. The Ombudsman recommended that "The governor and head of healthcare should ensure that all staff undertaking risk assessments for prisoners taken to hospital understand the legal position on the use of restraints and that assessments fully take into account the health of a prisoner and are based on the actual risk the prisoner presents at the time." In 2019, HMP Isle of Wight reviewed its decision-making process regarding security on escorted hospital visits after previous investigations by the Ombudsman had expressed concern about the unjustified use of restraints.

Prison Imposes New Curb on Books

HMP Littlehey, has imposed a limit on the number of books which may be sent to prisoners — raising concerns that further curbs could be on the way. Prisoners may now receive a maximum of four books per month from their families and friends. They must go through a complex process to obtain the books, filling in forms to specify what titles they are expecting and having their cell inspected before a senior manager grants permission.

Since 2015, the Incentives Policy Framework for prisons in England and Wales has stated that "Governors must allow books to be handed and sent in", and that this applies "irrespective of whether or not there are exceptional circumstances". There is nothing in the Policy Framework to say that Governors can limit the number of books, and it is thought that Littlehey is the first prison to impose a limit.

The Howard League for Penal Reform called the limit "arbitrary" and a "concerning precedent", and said it would write to the Prison Service to challenge it. However, when Inside Time asked the Prison Service about the limit, a spokesperson defended it, saying: "The Incentives Policy Framework does not specify that an establishment can't take local decisions to have a limit on the number of books that can be handed in or posted in."

Last April, after Inside Time uncovered cases of prisons breaking the rules by restricting books, Phil Copple, then the Director General of Prisons, wrote to all governors telling them to stick to the rules. He said at the time: "The policy on access to books is, as you will know, set out in the Incentives Policy Framework. This is clear that prisons must allow books to be sent or posted as long as they do not result in a prisoner exceeding the volumetric control limits, they meet with the standards laid out in Chapter 10 of the Public Protection Manual, and there are procedures in place to check the books for illicit enclosures."

In August, Littlehey Governor Olivia Phelps introduced a temporary outright ban on prisoners being sent books. This was replaced in September by her new policy, outlined in a 'notice to prisoners' which includes a ten-point list of instructions for men wishing to receive a book. It makes clear that the limit of four books per month applies even if an individual's property is within the volumetric limit.

The Howard League was the organisation behind the successful national campaign to overturn former Justice Secretary Chris Grayling's "book ban" in 2014. Andrew Neilson, the League's Director of Campaigns, told Inside Time: "Only last month, Ofsted revealed in its annual report the 'chilling effect' that the Covid-19 pandemic had on education behind bars. Surely, then, prisons should be doing all that they can to encourage reading, not imposing arbitrary limits on the number of books someone can receive. This is a concerning precedent, and we intend to raise it with His Majesty's Prison and Probation Service."

Prisons which have tried to restrict the sending-in of books to prisoners have claimed that there is a risk they could be used to smuggle Spice-type drugs into jails. However, Littlehey is a security category C prison — the lowest security level among closed prisons — and has a lower rate of drug use than most jails.

One Littlehey prisoner has written to Inside Time complaining of the difficulty he faced when his family sent him three paperbacks for Christmas, and comparing it with the relative ease of receiving books at his previous prison, which was in a higher security category. He said: "If an understaffed, demoralised, run-down Victorian B-Cat in West London can process a paperback book into the hands of a prisoner within a matter of days, it begs the question, what is going on at shiny new C Cat Littlehey?"

Victims of Torture in Immigration Detention Centres Placed at Risk

Alvi Sattar, Justice Gap: Flaws in the current process for identifying vulnerable people, including those at risk of suicide and worsening health, have left those in need of help without support, with continued detention placing them at greater risk. The report investigated the use of rule 35, the safeguarding mechanism designed to address the needs of those vulnerable adults. It involves an assessment from a doctor at the Immigration Detention Centre, who considers how continued detention would affect their condition. The Home Office then ‘weighs this health assessment against immigration and public protection considerations to decide whether detention remains appropriate.’ However, the process has been made ‘ineffective’, due to general distrust of detainees’ claims, delays, inadequate training, a lack of resources and mismanagement.

The report found that detainees were often not made aware about the availability of rule 35, and how it might help them. The findings speak to general criticism about the conditions in which asylum seekers have been kept, coming amidst calls for a public inquiry, led by Duncan Lewis solicitors, regarding the abuse of people held at Manston, a now infamous processing centre. Despite growing concern, according to Neal, the Home Secretary has recently abandoned regular inspections of detention centres.

Neal expressed concern at the level of unfounded cynicism amongst ‘staff and others involved in the process’, who ‘often held the perception that Rule 35 and other safeguarding mechanisms were being abused by detainees.’ Neal said that he did ‘not accept the limited evidence provided to support this assertion and there were few obvious activities underway to address this concern.’ The borders watchdog highlighted government inaction following previous reports. The Independent Chief Inspector said that following the second report, his concern was that: ‘the pace of change was too slow and the enthusiasm to protect vulnerable people in immigration detention was held back by a narrative that placed abuse of the system ahead of protecting the vulnerable.’ He added that it is ‘disappointing to see that little has changed.’

The attitudes of staff and other officials responsible for the welfare of asylum seekers reflects a trend of increased suspicion, reflected for example in the use of ankle monitors. It adds to growing concerns about the continued rollout of hostile immigration policy, inspired by a general mistrust of migrants rather than sound evidence and practical concern. Neal warned that ‘the Home Office must ensure that there is a sound evidentiary basis for its actions and that genuinely vulnerable detainees do not see the protections available to them rolled back.

Youth custody Leaving Age Lifted to 19

The age at which prisoners transfer from youth custody to an adult prison is being raised from 18 to 19. The move was announced by Prisons Minister Damian Hinds as a response to the population pressures in the men’s estate, which has seen the Government ask police forces to set aside 400 police cells to cope with an overflow of prisoners. By contrast, the youth estate – including Young Offender Institutions and the one remaining Secure Training Centre – have ample capacity as the number of children in custody has steadily declined over recent years. In a letter to Sir Bob Neill, Chair of the Commons Justice Committee, Hinds wrote that the capacity pressure in the men’s estate “allows us to take the opportunity to consider the transition of young people to the adult estate to ensure that this is safely managed, making best use of our estate capacity whilst considering the individual and moving away from the practice of presuming the automatic transition of a young person at their 18th birthday. Instead, we will look to transition young people up to their 19th birthday where appropriate.” Hinds pointed out that there have

already been cases of young men remaining in the youth estate beyond their 18th birthday, especially when they only have a short time left to serve before their release date. He added: “We have always taken a case-by-case view of transition from the children and young people’s secure estate to the adult estate, as reflected in our published transitions framework ... This case-by-case approach will continue.” In his letter, Hinds also said that Rainsbrook Secure Training Centre, from which all children were removed in 2021 amid concerns over safety, will not reopen. He said that the first Secure School, on the site of the former Medway Secure Training Centre, is on course to open in spring 2024.

Prison Officers Caught Smuggling Drugs

Inside Time: Eighty prison officers have been caught smuggling drugs into prisons in England and Wales in the past three years, the Government has admitted. Prisons Minister Damian Hinds disclosed the figure in the House of Commons, in response to an MP’s question. Between 2020 and 2022, a total of 22 officers were convicted of bringing drugs into jails, while a further 58 were dismissed from the service or excluded from their workplace. Hinds said: “The vast majority of prison staff are hardworking and dedicated. A minority of staff engage in corrupt activity which is often as a result of conditioning and manipulation by prisoners. HM Prison and Probation Service has a zero-tolerance policy to drugs conveyed into prisons and take appropriate action to a small number of prison staff who break the rules.” He added: “Our £100m Security Investment Programme, aimed at reducing crime in prisons, including reducing the conveyance of illicit items such as drugs and mobile phones, was completed in March 2022. This included increased resource to pursue corruption, as well as establish a new ‘Prevent’ function, aimed at building staff resilience against corruption.” It has long been thought that social visits are a major route for the supply of drugs into jails. However, during the Covid pandemic when social visits were suspended or heavily restricted, official figures for the number of finds of drugs in jails showed little reduction – suggesting that dealers were successfully bringing drugs in through other routes, such as corrupt officers.

Woman Who Brought Sex Discrimination Claim Against BBC Awarded Damages.

APPEAL: The BBC has agreed to pay thousands in compensation to a lone parent who believes she was discriminated against when she was prosecuted by TV Licensing, who prosecute many more women than men every year. Josiane, a lone parent struggling with household bills, was prosecuted for not paying her TV Licence fee during the pandemic. Although the charges were dropped after she sought legal assistance from the law practice and charity APPEAL, she described the experience as “deeply stressful” causing her “sleepless nights”.

The statistics that show that 75% of prosecutions brought by TV Licensing are against women, and Josiane believes that the BBC’s prosecution processes are discriminatory. Represented by Leigh Day, Josiane therefore brought a private law claim against the BBC for indirect sex discrimination, particularly for the way that TV Licensing (a trademark of the BBC) identify, investigate and prosecute cases for the non-payment of the licence fee. The two parties recently agreed to a settlement with the BBC awarding Josiane £6,500 in compensation.

Josiane previously threatened a judicial review claim against the BBC, also based on discrimination, which resulted in the BBC agreeing to conduct a Gender Disparity Review, overseen by Baroness Young of Hornsey OBE. She was represented by the Public Law Project in her judicial review claim. The gender review report was supposed to be published at the end

of 2022 but has been delayed. Josiane is also the author of a 250,000-strong petition on change.org. Josiane said: “I brought a discrimination claim against the BBC because I believe that the BBC’s processes for identifying suspects of TV licence evasion disproportionately disadvantage women. I accept that the BBC does not agree that this was what led to my prosecution, but I am pleased that they are undertaking another Review of the gender disparity in TV licence prosecutions and have accepted that mistakes were made in my case.”

Naima Sakande, Deputy Director of APPEAL said: “I am pleased that the impact of this unfair prosecution against Josiane has been acknowledged by the BBC. However, the BBC has failed to take responsibility or rectify its discrimination problem. Last year the BBC brought criminal prosecutions against nearly 50,000 people for not paying their TV Licence. Before the pandemic, this number regularly exceeded 100,000. Not only are the majority of these people women, many are also struggling financially and have other vulnerabilities. The impact of these prosecutions will land heavily on normal people during the cost-of-living crisis. That’s why APPEAL is calling on TV Licensing to suspend all prosecutions during the economic crisis.” Leigh Day human rights solicitor Kate Egerton said: “The stark gender disparity in TV Licensing prosecutions has been clear for over a decade yet the disproportionate prosecution of women increases year on year. It is our view that the BBC’s current policies indirectly discriminate against women under our equality legislation, and that this is unjustifiable and avoidable. We believe that there are a number of alternative measures for investigating potential TV licensing offences that would reduce the disproportionate impact on women; we hope that the BBC seriously considers these as part of its review and implements a lawful system

MPs Sound Warning as Number of Remand Prisoners Hits 50-Year High

Haroon Siddique and Rajeev Syal, Guardian: The criminal justice system is failing the ever rising number of remand prisoners in England and Wales, which is at its highest level for 50 years, MPs have warned. The House of Commons justice committee says the increase, and rise in length of time spent on remand, has been fuelled by the backlog in the courts and insufficient community provision for people with vulnerabilities. In a report, published on Monday 16th January 2023, it says remand prisoners face similar challenges to the wider prison population in areas including mental health, addiction and maintaining contact with family, but are not sufficiently supported, whether in jail or on release. It criticises the fact that people found not guilty at trial after remand are not entitled to any support at all – such as resettlement – on release.

Remand prisoners, many of whom will be found innocent, are often in custody beyond the statutory six-month limit, with recent figures showing that 770 prisoners have been held on remand awaiting trial for over two years, while entire jails are becoming dedicated to remand prisoners by default, the report says. The committee chair, Sir Bob Neill, said: “Custodial remand is a necessary tool in the justice system for protecting the public from dangerous offenders or ensuring those at risk of absconding are brought to trial. But too often it is being used as an easy option in cases of low-level repeat offending or social problems, with little thought for the lasting consequences this can have on the individual. “Depriving someone of their liberty under any circumstances can mean losing employment, accommodation and familial contact. For this to happen when an individual is yet to be convicted of a crime is a serious measure and should not be taken lightly. Yet those subject to remand are not given adequate support to mitigate these effects.”

The committee says it is concerned by the high number of women placed on remand despite often posing a low risk to the public and that many will not go on to receive a custodial sen-

tence. To reduce the remand population, the MPs call for use of non-custodial alternatives to be increased and for trial dates to be brought forward but express concern that it could rise further as a result of higher police numbers and a return to pre-pandemic case levels.

In a separate report published on Monday, HM Inspectorate of Prisons (HMIP) said a prison that released up to two high-risk sex offenders a month was failing to prepare inmates effectively for the community. Prisoners at HMP Isle of Wight were not always identified or discussed ahead of their release to make sure risk management plans were robust, HMIP said. It found acute staffing shortages had slowed progress to deliver programmes at pre-pandemic levels and included a severe lack of qualified psychologists. Inspectors were concerned that one in five prisoners left the prison, which holds about 1,000 prisoners – almost all convicted of sexual offences – without a sustainable place to live. Only 30 prisoners had completed an offending behaviour programme for those convicted of sexual offences. Charlie Taylor, the chief inspector of prisons, said: “HMP Isle of Wight is a training prison – its primary purpose is to support rehabilitation and prepare prisoners for release including those who pose a high risk of harm to the public but it’s failing to do so.”

A Ministry of Justice spokesperson said: “All remand prisoners can access education, drug treatment and mental health support, and we have increased this support by training more than 25,000 staff in suicide and self-harm prevention. We are also reforming the law so people cannot be remanded solely for their own protection on mental health grounds.” They added that remanded defendants are waiting 15 weeks for trial on average.

MI5 Subversion Further Highlights the Injustice Suffered by the Craigavon Two

As has been written over a number of years, the case of the Craigavon Two (C2) is a shocking miscarriage of justice. The C2 are Brendan McConville and John Paul Wootton from the Craigavon area in the north of Ireland. They’ve been in prison since March 2009 for the killing of police officer Stephen Carroll. And that’s despite the farcical evidence and ludicrous eye witness testimony presented at their trial. A group called the Continuity IRA (CIRA) claimed responsibility for Carroll’s killing. The two men and their justice campaign teams maintain their innocence and believe they have suffered a miscarriage of justice.

And now, following revelations in Belfast’s Sunday Life on 15 January, their convictions must stand on even shakier ground. Because the Sunday Life’s article revealed that an MI5 agent attempted to subvert the C2’s justice campaign. This will strengthen the calls for their case to be returned to the court of appeal.

New revelations: The Sunday Life revealed that: A human rights organisation founded by MI5 agent Dennis McFadden was an intelligence services ruse to infiltrate and sabotage republican justice campaigns. That organisation was called Justice Watch Ireland (JWI). But, as the Belfast paper wrote: McFadden’s real interest lay in attempts by republicans to overturn the convictions of Brendan McConville and John Paul Wootton

Former Sinn Féin Councillor Angela Nelson, who once headed the C2 justice campaign organisation, claimed “McFadden stymied her efforts”. Nelson claimed McFadden blocked her attempts to go on a speaking tour around Ireland to highlight the injustice suffered by the C2. Additionally, he refused to hand over passwords for C2 justice campaign social media accounts. He also blocked her attempts to reach out to Irish people in the US for campaign support. Nelson claims she kept McFadden “at arm’s length” as she never trusted him.

MI5 infiltration and campaign set backs: Since 2009, the C2’s justice campaign has suffered a series of serious set backs. Even before their case went to court, prison staff planted personal details of the prison governor in McConville’s cell. This was done in an attempt to

make it look as if McConville was collecting personal information on the governor. This would then serve to implicate McConville and intimidate the governor. Then, their 2014 appeal against their sentences was unsuccessful. In fact, later that year Wootton's sentence was increased from 14 to 18 years. While inside, McConville suffered a stroke. McConville's family claim the prison authorities "didn't even tell us". And all the while, according to the Sunday Life, their campaign was being "subverted" by an MI5 agent.

In October 2020, following the original revelation about McFadden's role as an MI5 agent in the north of Ireland, McConville told The Canary: Dennis unlawfully obtain[ed] legally privileged information pertaining to the appeal strategy and proposed witnesses. This information was unlawfully used by MI5 to manipulate the outcome of the Appeal. Dennis abused the trust and confidence within the campaign and family home.

Some Light on the Horizon: Despite these set backs, the justice campaign continues. In fact it's been with the Criminal Cases Review Commission (CCRC) since 2016. The CCRC "looks into criminal cases where people believe they have been wrongly convicted or wrongly sentenced." Since its creation in 1997, it has referred 800 cases to appeal. The silver lining in this MI5 cloud of subversion, could well be the CCRC sending McConville and Wootton's case to the appeal court. One of the families told this journalist: The campaign will continue to highlight this current miscarriage of justice and will do so until these wrongful convictions are overturned

Anti-Apartheid Protesters' Historic Convictions Overturned by Crown Court

CCRC: The historical convictions of three anti-apartheid protesters which were sent by the CCRC to the appeal courts in November of last year have been successfully overturned by the Crown Court today (17 January 2023). On 12 May 1972, a group of protesters from the Putney Young Liberals took part in a demonstration aimed at disrupting the departure of the England rugby union team from the Star and Garter Hotel in Richmond ahead of a tour of South Africa. A total of 14 people were arrested and charged after sitting in the path of the coach – resulting in 13 people being convicted following trial.

However, unknown to the trial or fellow defendants was that one of the group was an undercover police officer, who continued to participate in group defence discussions and report back to the police.

After making the decision to refer the case to the appeal courts in November 2022, the CCRC said the police had failed to reveal the participation of an undercover police officer to the prosecutor or court. In light of these revelations, the CCRC considered there was a likely chance the convictions would be overturned as an abuse of process. The appeals which heard today at Kingston Upon Thames Crown Court related to the cases of: Christabel Gurney – convicted on 14 June 1972 of obstructing the highway and obstructing the police Ernest Rodker – convicted on 12 July 1972 of obstructing the highway and obstructing the police. Jonathan Rosenhead – convicted on 12 July 1972 of obstructing the highway.

Helen Pitcher OBE, Chairman of CCRC said: "We referred these cases because the courts in 1972 were misled, and the defendants' basic legal rights were breached. During our investigation we saw evidence of deliberate and persistent non-disclosure by the police which was sanctioned by senior officers. The CCRC was confident that once the Crown Court heard the full facts surrounding these historical convictions, they would be overturned. Public confidence in the police and our public institutions is very important. Whilst these cases date back a long time, old convictions can have a profound impact on the lives of those concerned. It is never too late to challenge a miscarriage of justice, and this has been evidenced today."

Historical background to the cases: This miscarriage of justice related to a group of protesters who aimed to disrupt the England rugby union coach en route to play in apartheid-era South Africa. The protesters assembled and sat down in the path of the coach, and a total of 14 people were arrested and charged. 13 were later convicted following trials at Mortlake Magistrates' Court in June and July 1972. Unbeknown to almost anyone at the time, one of the group was an undercover police officer (known as "HN298") from the Metropolitan Police's Special Demonstration Squad ("SDS").

The officer had protested alongside the group, was arrested at the scene, and convicted alongside them under his assumed name. Contrary to guidance in force at the time, the SDS failed to reveal the presence of HN298 to the investigating officers, the prosecutor or the court. The undercover officer was also party to discussions about defence tactics and legal advice that had been provided to the other defendants. He reported this information back to his superiors, therefore breaching the confidentiality between his co-defendants and their lawyers. In view of the recent judgement the CCRC continues to appeal for other members of the Putney Young Liberals connected/convicted as a result of this protest to come forward, so that their cases can also be considered. The new information at the heart of the CCRC's referral was provided by the Undercover Policing Inquiry ("UCPI"). These were the first cases referred to the CCRC by the UCPI.

Notes to readers: The UCPI was set up in 2015 to examine undercover policing in England and Wales since 1968. It followed the review into undercover policing carried out by Mark Ellison QC. The UCPI's remit is to investigate the contribution of undercover policing towards preventing and detecting crime, assess the adequacy of regulation at the time, and review the extent of the duty to make disclosure during an operation, identifying any scope for miscarriages of justice to have occurred where proper disclosure was not made. More information about the UCPI can be found on their website: <https://www.ucpi.org.uk>. The UCPI has an independent panel (which consists of senior members of the CPS and police) which considers cases where the UCPI believes a miscarriage of justice may have occurred. The panel considers if further action needs to be taken – including whether a case should be referred to the CCRC. The SDS was formed in 1968. It was originally set up to investigate anarchists, but the focus developed to extreme left-wing groups, with a focus on gathering intelligence, rather than evidence. The SDS was part of Special Branch and known for its secrecy.

Treatment/Outcomes for Black/Asian/Ethnic Individuals in the Criminal Justice System

Afzal Khan: To ask the Secretary of State for Justice, pursuant to the Answer of 29 November 2022 to Question 95928 on the Lammy Review, how many of the accepted recommendations of that review have been implemented in full.

Mike Freer: We welcomed the light shone on the criminal justice system by David Lammy's 2017 Review, and we accepted 33 of the 35 recommendations from it, rejecting only the 2 that were matters for the independent judiciary and therefore the Government is not able to take a position on. Since the Government published the response, we have been clear that where a recommendation could not be implemented in full or exactly as set out, we would take alternative action to achieve the same aim. As such, we committed to actions against each of the 33 accepted recommendations. Of those actions we committed to in 2017, almost all have been completed, with work done against each of the accepted 33 recommendations. There are 4 recommendations with actions outstanding from our original commitments. Whilst most of the actions from 2017 have been completed, we recognise these actions were a start, not a complete solution. As such, we are going beyond just these commitments, and the recommendations, in our work to address race inequalities in the criminal justice system, such as the work outlined in the Inclusive Britain Strategy.

HMP Isle of Wight – Failure to Prepare for the Release of High-Risk Prisoners

A prison that houses high-risk sex offenders is failing to prepare effectively for their release into the community, a new report confirms. HMP Isle of Wight releases one or two high risk prisoners per month, but evidence from the inspection suggested that these prisoners were not always identified or discussed at a multidisciplinary forum ahead of their release to make sure risk management plans were robust. Inspectors were concerned that one in five prisoners left the prison without a sustainable place to live.

Only 30 prisoners had completed an offending behaviour programme for those convicted of a sexual offence. Acute staffing shortages had slowed progress to deliver programmes at pre-pandemic levels and included a severe lack of qualified psychologists. Poor access to offending behaviour programmes was a particular issue for the approximately 130 prisoners serving indeterminate sentences, for whom completion of these programmes is often a requirement for parole. Standards had declined across all four healthy prison tests, with inspectors having particular concerns about the rising rates of self-harm and the number of suicides. The standard of case management documents for those at risk of self-harm was inadequate, and prisoners spoke to inspectors about a lack of care shown to them by some staff.

Staff shortages plagued HMP Isle of Wight. Just over a third of officer posts were either vacant or the staff were not deployable to operational duties, leaving too few officers on the wings to provide a proper regime. Unemployed prisoners spent less than two hours out of their cells each day during the week. Inspectors found many employed prisoners also locked up due to a lack of instructors, despite the published regime promising eight hours out of cell Monday-Thursday. National shortages of prison staff have affected the entire estate, but the problem has been particularly acute in long-term high secure jails such as Swaleside, Woodhill, and the Isle of Wight. The mixture of inexperienced staff and experienced prisoners, compounded by the boredom and frustration of being locked up most of the day, tends towards an environment in which both officers and prisoners feel unsafe and unsupported.

Charlie Taylor, Chief Inspector of Prisons, said: “HMP Isle of Wight is a training prison – its primary purpose is to support rehabilitation and prepare prisoners for release including those who pose a high risk of harm to the public but it’s failing to do so. Their time in prison presents an opportunity to reduce their risk of reoffending, and that opportunity is being lost when, instead of taking part in education, work and training, men are sitting locked in their cells all day. When it comes to the end of their sentences, too many men we know pose a risk of harm to the public are being released without a sustainable place to live and without proper planning around protecting victims of their crimes and often inadequate contact with local probation services. This is frightening. The prison service has to take serious and immediate action to address this.”

Commenting on the findings of conditions at HMP Isle of Wight by HM Inspectorate of Prisons today, Peter Dawson, director of the Prison Reform Trust said: “This is a deeply worrying report. Ministers cling to the fiction that prisons are returning to normal, but the chief inspector uncovers yet another story of chronic staff shortage and operational failure. Two consequences result. People whose release depends on the Parole Board’s assessment of the risk they pose are denied a fair opportunity to make their case. And people who will be released without that assessment are not given the support they need to ensure that the public are protected. Ministers will point to their £4 billion plan for new prisons. But building more prisons when the government can’t make a success of the ones it already has is a recipe for costly disaster.”

Hi Folks,

Impossible for me to read handwritten letters. Typed letters, no problem whatsoever.

Since January, I have received several handwritten letters (all different handwriting) from those of you inside, about eight in all. None of them had the prisoner's name, prison number or the prison where they were writing from. So no idea who sent them!

Now aged 79, I will be 80 on 17th May this year!

My days of Galivanting, Cigarettes, whisky and wild, wild women are long past.

My eyes are fucked, and my dick is the same; not sure you all need to know that!

I implore you to resend if you have sent a handwritten letter to me since 1st January. But please take care to make your writing is legible!

Your messages are very important to me.

Especially if you have updates on your case and are any nearer to release.

Moreover, do remember to print your name, prison number, and location.

In solidarity, John O for MOJUK

