

# The Howard

● Less crime ● Safer communities ● Fewer people in prison ● 2017: 2

## GIVING CHILDREN A SECOND CHANCE



Elly Godfrey/Alamy

**A MAJOR campaign by the Howard League for Penal Reform has helped reduce child arrests in England and Wales by 64 per cent in only six years.**

Frances Crook, the charity's Chief Executive, said: "We are ensuring that tens of thousands of children will have a brighter future and not be dragged into a downward spiral of crime and custody."

**Full story: Page 4**

## The Howard

## Lasting impact of drop in child arrests

**CHILDREN and young people are at the front and centre of this edition of *The Howard* as we celebrate a major Howard League success.**

In 2010, the year that the charity began campaigning to reduce child arrests (page 4), police in England and Wales made almost 250,000 arrests of boys and girls aged 17 and under.

The story since has been one of extraordinary change. By 2012 the number had fallen to 150,000 arrests a year. In 2016 it dropped below the 100,000 mark.

But the campaign does not end there. Children aged 16 and 17 who live in children's homes are 15 times more likely to be criminalised than other children of the same age. Our article (page 5) outlines the work that the Howard League is doing to change that awful statistic.

This edition of *The Howard* also examines the case of a boy who was isolated in his cell for months on end with only very limited access to education in a London prison (page 3).

Two other court cases of note are featured. The Court of Appeal has ruled that cuts to legal aid for prisoners are unlawful because they are inherently unfair (page 8), and the Supreme Court has found that the distribution of approved premises discriminates against women (page 3).

The prison system remains under immense strain. Assaults and incidents of self-injury are at record-high levels (page 7). Recalls to custody have risen sharply since the probation service was broken up and part-privatised (page 2). In 2016, almost 800 years of additional imprisonment were handed down to prisoners found to have broken prison rules (page 7).

***This is why the Howard League will keep working for a fairer society with less crime, safer communities and fewer people in prison.***

# Recalls to custody spiral out of control

**THE number of people being recalled to prison has spiralled out of control following a major shake-up to probation in England and Wales, analysis by the Howard League for Penal Reform reveals.**

Figures collated by the charity show that an extra 13,000 people have been sent back to prison since the Ministry of Justice introduced its Transforming Rehabilitation (TR) programme in 2015.

The surge in recalls has contributed to an exorbitant rise in the number of people who are behind bars as a result of breaching their licence conditions. That number has grown from 150 in June 1995 to more than 6,500 in March 2017 – an increase of almost 4,300 per cent.

As recalls have soared, so pressure has grown on a prison system already failing to cope with overcrowding, a lack of resources and record levels of violence and self-injury – a crisis that has been largely ignored during the general election campaign.

The Howard League is calling on the government to stop the widespread use of recall. The charity recommends that the Secretary of State for Justice should retain a residual power to recall a person to custody, to be used only in exceptional circumstances.

The majority of people sent back to prison are recalled for technical reasons, such as failing to attend appointments with probation officers. These cases could be better dealt with in the community and are often linked to services failing to support people properly on release.

Frances Crook, Chief Executive of the Howard League for Penal Reform, said: "The Howard League has presented a plan of action to the government to help solve the prison crisis.

"At the top of the list is the absolute necessity to deal with the out-of-control system of recalls."

Under the TR programme



**PLAN:** Frances Crook, Chief Executive of the Howard League for Penal Reform, said that tackling the sharp rise in recalls to prison was an "absolute necessity"

introduced by the former Secretary of State for Justice, Chris Grayling, the probation service was part-privatised and the supervision of people released from prison was extended.

The new legislation required that any person sentenced to a custodial term of more than one day must receive at least 12 months' supervision in the community. This meant that, for the first time, people released from prison after serving sentences of less than 12 months were subject to supervision.

Since the changes came into force in February 2015, there have been 12,806 recalls of people who had served prison sentences of less than 12 months.

The total number of recalls for all types of sentences has grown sevenfold in 15 years. In the year 2000-01, there were 3,182 recalls to custody. By 2003-04,

this number had risen to 11,268. It then rose steadily to 17,701 in 2014-15. In 2015-16 – the first full year after TR was introduced – overall recalls leapt to a record high of 22,412.

Some of those recalled to custody are prisoners who were given Indeterminate Sentences for Public Protection (IPPs). Despite progress made by the Parole Board in releasing IPP prisoners, the number who were behind bars after being recalled rose by 26 per cent between March 2016 and March 2017.

Ministry of Justice figures show that most recalls to prison are for technical licence breaches, such as failing to keep in touch with probation officers, failing to reside at a specified address, and taking drugs or alcohol. If the person were not on licence, these behaviours would not be serious enough to warrant attention from

police or probation, let alone a custodial sentence.

Recall is the most bureaucratic form of imprisonment. Many people are recalled for only 14 or 28 days before being released on licence again – barely time to complete their induction to the prison, but long enough to put homes and jobs at risk and disrupt relationships with their families and other agencies.

The total costs of recall are not known, but the bill is high. Paying for all the prison beds that are needed comes to at least £230million per year.

The Howard League has highlighted that costs will also fall on the police, Community Rehabilitation Companies, the National Probation Service, charities and other agencies working with people following prison sentences. Employers are also affected, as they lose staff without notice.

## Case study: Man, 21, sent back to jail for seven months for getting into a taxi

**THE Howard League Legal Team has worked on a large number of cases of children and young people who have been administratively recalled to custody for breaches of licence involving minor infringements.**

### Bike broke down

**A 19-year-old man missed two appointments with his**

**probation worker – on the first occasion he rang ahead after his bike broke down; on the second occasion, he was 10 minutes late.**

**He spent one night away from his mother's house, after she asked him to leave during tensions over his missing sister. He was recalled to custody for 11 months.**

### Difficult news

**A 20-year-old man was recalled to prison for spending one night away from his approved premises after he received some difficult news about his late sister. He had returned of his own accord. He was re-released after a further seven months in custody.**

### Second SIM card

**A 21-year-old man was recalled to custody for getting into a taxi without the prior approval of his probation worker and having a second SIM card without prior approval. He was recalled to custody for seven months.**



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# Boy locked in cell for 22 hours a day was treated unlawfully, judge finds

**A BOY who was isolated in his cell for months on end and provided with only very limited access to education in a London prison was treated unlawfully, the High Court has ruled.**

The boy, who spent more than 100 days isolated from his peers and was deprived of adequate education, is represented by the legal team of the Howard League for Penal Reform.

The child, identified in court documents as AB, was locked in his cell for over 22 hours a day for more than 15 days at a stretch.

The court accepted that during the worst periods, when he had no educational provision at all, “the lack of mental and physical activity contributed to his frustration and so to his disruptive behaviour”.

Frances Crook, Chief Executive of the Howard League for Penal Reform, said: “This is an important judgment. The court has declared this boy’s isolation for certain periods and the denial of adequate education unlawful because it was against prison rules.

“It is disappointing that the court stopped short of accepting that keeping AB in isolation for over 22 hours a day was degrading and inhuman treatment. We will be seeking to appeal this part of the ruling.”

AB’s isolation was declared unlawful by the court for a total of 127 days because the prison failed to comply with its own rules around the removal of children from the usual regime in prison.

These rules, known as the Young Offender Institution Rules 2000, impose a range of safeguards and procedures to be put in place in light of the risks associated with isolation.

The same rules require that children in prison get at least 15 hours of education a week: AB had no education at all for the first 55 days at Feltham, and only 15 hours in total in a two-month period before the hearing. The court declared the failure to provide AB education unlawful.

The court received evidence from the Youth Justice Board that the shortfall in educational provision in Feltham was due to the risks the



**JUDGMENT:** The High Court heard that the boy, identified as AB, spent more than 100 days isolated from his peers

children posed to others or which others posed to them and staff shortages.

Even so, the court found that the rules do not permit education to be reduced below 15 hours a week for those reasons.

In giving judgment, Mr Justice Ouseley said: “It has not been possible to provide [education] because not enough thought, effort and resources have been put into it.

“I understand how doing so removes resources from elsewhere for someone who may not be thought deserving of so much attention.

“But that is not what the Rule permits, and there are obvious

reasons why those who are troublesome in the way AB is and for the reasons he is, cannot be left merely to drift in their education, as if they were responsible adults making adult choices. He is in his GCSE year and has special educational needs.”

The judgment was handed down only four days after Feltham was strongly criticised by Her Majesty’s Inspectorate of Prisons.

In its report on ‘Feltham A’, the part of the prison that holds boys aged 18 and under, the inspectorate reported that violence had escalated.

Her Majesty’s Chief Inspector of Prisons, Peter Clarke, wrote: “The

focus on keeping people apart rather than trying to change their behaviour has not worked. Feltham A is, quite simply, not safe for either staff or boys.”

Inspectors found that the regime did little or nothing to contribute to the boys’ education or safety. Forty per cent of the boys were locked up during the school day and 30 per cent were out of their cells for only two hours a day.

Boys, like AB, on the most restricted regime could have as little as 30 minutes a day out of their cells for showers, phone calls and time outside. All children had every single meal alone, locked in their cells.

Feltham had enough school places and teachers, inspectors found, but fewer than half of the boys were getting to lessons – 19,000 hours of schooling had been lost in the past year due to non-attendance and cancellation of classes.

On average boys were receiving just half of the 15 hours required each week. The education outreach provision did not meet the needs of children who did not attend classes.

Some boys were given as little as 10 minutes in the open air each day. Inspectors were concerned that the “lack of sunlight and exercise must carry implications for the health and well-being of teenage boys”.

# Howard League intervenes in landmark case for women released from prison

**THE distribution of approved premises (APs) discriminates against women, the Supreme Court has ruled in a landmark case in which the Howard League for Penal Reform intervened and submitted expert evidence.**

Living in APs may be a condition of release on licence for certain prisoners. They are all single-sex establishments.

There are 94 APs for men, located throughout England and Wales, with several in London. There are only six for women, in Bedford, Birmingham, Leeds, Liverpool,

Preston and Reading, and none in London or in Wales.

This means that women are much more likely than men to be placed in APs that are far from their homes and families. They may suffer long-term disadvantages in terms of accommodation, rehabilitation and employment, as well as in re-establishing their relationships in their community after release.

The issue in the appeal was whether the current distribution of APs constituted unlawful sex discrimination against women.

The case was brought against the

Secretary of State for Justice by Ms Coll, the appellant, a woman from London, who upon release from prison was forced to relocate to Bedford and resettle in Milton Keynes as a result of the lack of any APs for women in London.

In ruling for the appellant, Lady Hale found the question of direct discrimination in the case a simple one, stating that “being required to live in an AP a long way away from home is a detriment. A woman is much more likely to suffer this detriment than is a man, because of the geographical distribution of the small number

of APs available for women. This is treating her less favourably than a man because of her sex.”

The ruling comes 10 years after a ground-breaking report that recommended major reform of the criminal justice system to better meet the needs of women. The author of the report, Baroness Corston, found that women had been “marginalised within a system largely designed by men for men for far too long”.

Frances Crook, Chief Executive of the Howard League for Penal Reform, said: “A decade has passed

since Baroness Corston presented, with cross-party support, important proposals for an entirely different approach to supporting women in trouble with the law.

“In the intervening period, successive governments have done little to give effect to those recommendations.

“This judgment sends a strong message to the government. It shows that if the criminal justice system continues to fail to assess, identify and meet the needs of women, our courts may rule this unlawful.”

# Fall in child arrests...

Keeping children out of the criminal justice system helps prevent crime. This is why the Howard League for Penal Reform is working closely with police to reduce arrests and make communities safer.

**ARRESTS of children in England and Wales have fallen by 64 per cent in the last six years, figures published by the Howard League for Penal Reform reveal.**

Research by the charity has found that police made 87,525 arrests of children aged 17 and under last year, down from almost 250,000 in 2010.

The statistics underline the success of a major Howard League programme, which involves working with police forces to keep as many boys and girls as possible out of the criminal justice system.

The total number of arrests has fallen every year since the Howard League campaign began in 2010, and the impact can be seen in every police force area in the country.

Keeping children out of the criminal justice system helps prevent crime. Academic research has shown that the more contact a child has with the system, the more entrenched they are likely to become, which increases reoffending rates.

Frances Crook, Chief Executive of the Howard League for Penal Reform, said: "For the sixth year running, we have seen a significant reduction in child arrests across the country. This is a tremendous achievement, and we will continue to support police forces to develop



**PROGRESS:** The Howard League for Penal Reform will continue to support police forces to develop good practice

their good practice and reduce the number to an absolute minimum.

"Police should be applauded for their positive approach, and the Howard League is proud to have played its part in a transformation that will make communities safer.

"By working together, we are ensuring that tens of thousands of children will have a brighter

future and not be dragged into a downward spiral of crime and custody."

Every police force in England and Wales made fewer child arrests in 2016 than in 2010. All but four forces brought down their number of arrests by more than half.

There were 703 arrests of primary-age children (10- and

11-year-olds) in 2016, a reduction of 18 per cent from 2015.

The statistics have been published in a Howard League briefing, *Child arrests in England and Wales 2016*, which shows how reducing the number of children entering the system has stemmed the flow of children into custody.

Between 2010 and 2016, the

number of children in prison in England and Wales fell by 58 per cent.

As in 2015, arrests of girls are falling at a faster rate than arrests of boys. Police recorded a 69 per cent drop in girls' arrests between 2010 and 2016, and the number of girls in penal custody fell by 78 per cent during the same period.

## Research highlights need for formal sentencing principles for young adults

**THE Sentencing Council should work towards developing formal sentencing principles for young adults, similar to the principles that are in place for children, a report published by the Howard League for Penal Reform and the Transition to Adulthood (T2A) Alliance recommends.**

The report, *Judging Maturity: Exploring the role of maturity in the sentencing of young adults*, presents research by the Howard League, the world's oldest penal reform charity and a founding member of the T2A Alliance.

The Howard League analysed

174 court judgments in cases involving young adults, focusing on how judges considered the concept of maturity.

The findings suggest that the age and maturity of young adult defendants are not sufficiently considered by the courts at present.

However, the research also shows that where a young adult's immaturity is raised by court professionals, the courts are well placed to factor it in to achieve better outcomes – and more likely to do so if sentencing guidance encourages it.

There is substantial evidence that young adults – aged 18 to 25

– should be treated as a distinct group from older adults, largely because they are still maturing – neuroscience research has proven that brain development continues well into the mid-20s.

Reaching adulthood is a process, not an event, and the key markers of adulthood, such as independent living, employment and establishing relationships, happen at different times for different young people.

Young adults are more likely to be caught up in the criminal justice system than older adults.

They face significant difficulties coping in prison, where both the suicide rate and violence

rates are higher among their age group than among the prison population as a whole, and they have higher reconviction rates following release than older adults.

Between 2006 and 2016, 164 people aged 18 to 24 died in custody, including 136 who died by suicide.

While there is a wealth of guidance and case law concerning the sentencing of children, there is no set of principles to ensure that judges take a tailored approach to sentencing young adults. Tens of thousands of young adults who appear before the courts for sentencing each

year would benefit from a distinct approach.

Frances Crook, Chief Executive of the Howard League for Penal Reform, said: "The evidence that young adults require a distinct approach is now overwhelming.

"This important research shows that the courts are well placed to tailor their approach to meet the needs of young adults but currently have insufficient guidance in order to apply the evidence on developmental maturity in a consistent way.

"Clear, principled guidance could make a real difference to the outcomes for young adults facing sentence."

# ...but we can do more

Children aged 16 and 17 living in children's homes are 15 times more likely to be criminalised than other children of the same age. Instead of being criminalised, these children need acceptance, stability, affection, help and support.

**THE criminalisation of children in residential care risks compounding a sense of rejection and damaging their mental health and emotional well-being, research published by the Howard League for Penal Reform reveals.**

A briefing paper, which tells the stories of several children supported by the charity, recommends that children's homes and police need to be aware of the damage caused by frequent placement moves and other instabilities, such as changes of social worker or school.

Children aged 16 and 17 living in children's homes are 15 times more likely to be criminalised than other children of the same age. Instead of being criminalised, these children need acceptance, stability, affection, help and support.

Like any child, children who are criminalised while living in children's homes have great potential to live fulfilled and successful lives. Opportunities are being missed to recognise their potential and to provide the environment and support to enable them to thrive.

The briefing is the first of a series to be published as part of a two-year Howard League programme to end the criminalisation of children living in residential care.

During the programme, the charity will seek to clarify why so many children in children's homes find themselves in trouble and to work with police and children's homes to identify examples of

best practice to prevent their unnecessary criminalisation.

Frances Crook, Chief Executive of the Howard League for Penal Reform, said: "The criminalisation of children in residential care should be a national concern and the Howard League is working to address this issue with interested parties across the country – from police forces to residential care providers and government agencies such as Ofsted.

"Our legal team, which works with children and young people in trouble with the law, has plentiful evidence that the damage caused by multiple rejections is at the heart of individual stories of young people caught up in the criminal justice system.

"For many children, they may feel rejection from being taken into care, may be rejected and excluded from school, and then, once in the



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**INSTABILITY:** The criminalisation of children in care should be a national concern

criminalised and not supported in the appropriate way.

"Challenging behaviour must be recognised for what it is. Children's

children are being criminalised while they are living in children's homes. Local authorities are only required to tell the government

are in care for less than 12 months.

Given that more than half of children who left care during the year 2015-16 had been in care for under a year (in their latest period of care), it seems likely that official figures hugely under-represent the extent of the problem.

Seventy-one per cent of children who were criminalised in 2015-16 while living in residential care, for whom data is available, were found to have emotional and behavioural health that was of borderline or actual concern.

Seventy per cent were taken into care because of acute family stress; family dysfunction; parental illness or disability; or absent parenting. An additional 14 per cent were taken into care primarily because of abuse or neglect.

## WHAT THE MEDIA SAY...

*"Policing must understand the rejection felt by looked-after children to prevent unruly behaviour turning into a criminal record.*

*"Figures from the Howard League for Penal Reform show young people aged 16-17 in children's homes are 15 times more likely to be criminalised than others of the same age."*

**(Police Professional, 10 July 2017)**

care system, they face a series of rejections through changes in care placements and social workers. These feelings of rejection can be compounded if children are

homes and police ought to respond sensitively so that children do not have their life chances blighted by an unnecessary criminal record."

It is not known exactly how many

about convictions by children who have been looked after continuously for at least 12 months. This means that data is not collected on the criminalisation of children if they

## "Sarah was arrested at the children's home at around 1am and taken away in handcuffs..."

**THE briefing contains the stories of young people helped by the Howard League's specialist legal team, all of whom were criminalised whilst living in a children's home. The stories are based on anonymised material and pseudonyms are used throughout.**

### SARAH

Sarah had a row with one of the care home workers; she threw a mug, which broke and a piece caught one of the carers on the jaw. There was no lasting mark. One of the carers later told the police that as soon as the mug was thrown one of the carers had said that they needed to call the police.

*Sarah was arrested at the children's home at around 1am and taken away in handcuffs.*

### ALEX

*Alex came into care at the age of 13; in two years he has moved between 11 placements, the longest lasting four months. The placements were a mix of foster care and residential children's homes. They were in a variety of locations, some many miles from his home and outside his home local authority. When a placement couldn't be found, Alex was sometimes moved back in with his parents for short periods until they said they couldn't cope and asked for him to be taken back into local authority care.*

*Alex was diagnosed with*

*several medical conditions which affected his behaviour and emotional well-being, including ADHD and Aspergers.*

*A social worker reported that due to Alex's constant moves every six to eight weeks, he had been unable to access much-needed services. Another social worker concluded that Alex had not had the opportunity to address the issues in his life because of his many changes of accommodation.*

*Alex's education was badly affected by the constant moves, even though he was assessed by a professional as being very capable educationally. In one placement he successfully applied for an apprenticeship but this opportunity was lost when another placement broke*

*down and he was moved on again.*

*The impact on Alex's emotional well-being was noted by professionals: one social worker characterised Alex as feeling uncared for and ascribed this to his apparent lack of empathy for others.*

*The case notes suggest that Alex's feelings were accurate; in addition to the many moves, there are references to a care home manager telling the police that the home no longer wanted Alex to live there following damage to items valued at under £10. Alex was keenly aware that the manager wanted to get rid of him; he told the police that*

*he had been in lots of different homes in the past and that he knew the manager didn't want him in this one.*

### ROSIE

*Rosie intervened in an argument between two other girls at a children's home she had recently been moved to against her wishes. The argument became heated and one of the girls accused Rosie of grabbing her hair and spitting at her.*

*The home called the police and Rosie was later stopped in the street by the police and arrested for assault. After several months of uncertainty, the Crown Prosecution Service informed Rosie that she would not be prosecuted.*

## Redesign justice at Keble College event

**CIVIL rights, trust and fairness will be among the topics up for discussion at a major justice conference to be held by the Howard League for Penal Reform.**

Leading academics from the UK and abroad will give presentations at the Redesigning Justice event at Keble College, University of Oxford, on 21 and 22 March 2018.

The conference promises to shine a light on seemingly intransigent aspects of justice systems, including what equality and legitimacy mean 50 years after the assassination of Martin Luther King and why prison is still so central to justice responses to crime.

The Howard League is looking for papers from academics, policy-makers, practitioners, PhD students and researchers from within the criminological and legal disciplines.

The charity is also keen to include contributions from fields of study including philosophy, geography, political science and economics.

[www.howardleague.org/events/redesigning-justice-promoting-civil-rights-trust-and-fairness](http://www.howardleague.org/events/redesigning-justice-promoting-civil-rights-trust-and-fairness)

## Lawyers network

**THE next meeting of the Lawyers Network Group, held by the Howard League for Penal Reform in association with Garden Court Chambers, will be on Tuesday 17 October 2017, from 6.30pm until 8pm.**

The Howard League will present its research and legal work as part of its two-year programme to end the criminalisation of children living in residential children's homes.

The session will be held at Garden's Court Chambers, 57-60 Lincoln's Inn Fields, London, WC2A 3LJ.



**If you would like a large print version of this newspaper, please contact the Howard League for Penal Reform on 020 7249 7373.**

# Police chief to address Howard League members

**THE Commissioner of the Metropolitan Police, Cressida Dick, is to be the guest speaker at the Howard League for Penal Reform's AGM and Public Meeting.**

The event will be held at the King's Fund in London on the evening of Wednesday 8 November 2017.

Cressida Dick's speech will come at the end of a busy day of activities for the Howard League, including a major policing conference and the presentation of national awards to projects that have helped guide people away from crime.

Cressida Dick became Commissioner of the Metropolitan Police in March 2017, having previously held a number of senior roles at the force.

She led the national security operations for the Queen's Diamond Jubilee and the Olympic Games in London in 2012, and she headed the investigation into the 2013 murder of soldier Lee Rigby.

The Metropolitan Police has worked closely with the Howard League to reduce arrests of children. The number of child arrests made by the force has fallen by 56 per cent in six years – from

46,079 in 2010 to 20,387 in 2016.

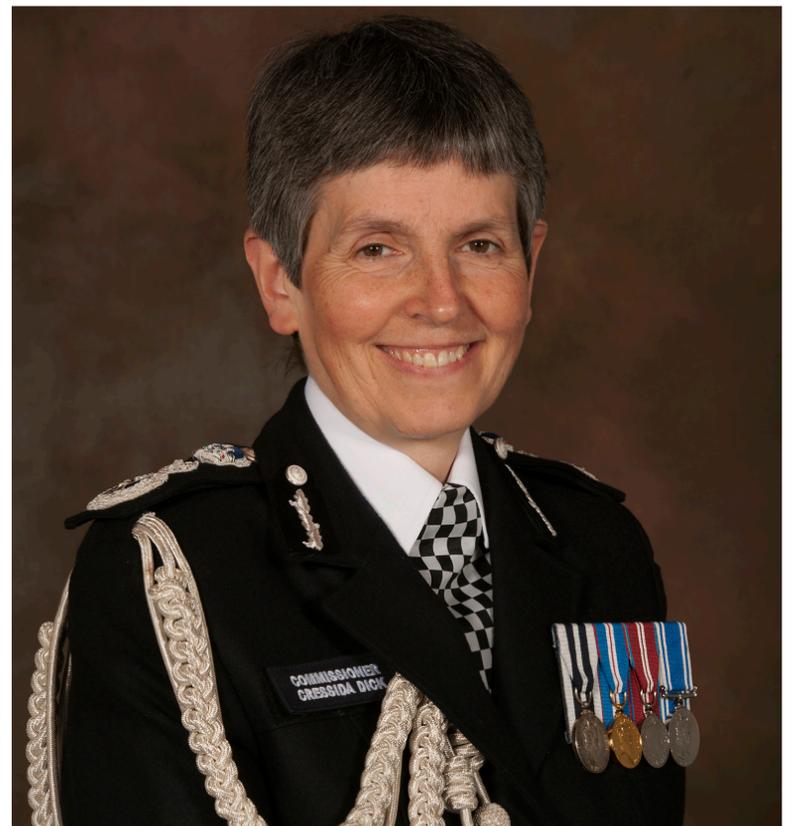
Before the speech, the Howard League will hold a one-day conference, called Policing the Community.

Speakers to appear at the conference include Frances Crook, Chief Executive of the Howard League; Karyn McCluskey, Chief Executive of Criminal Justice Scotland; Olivia Pinkney, Chief Constable of Hampshire Police; and Sophie Linden, London's Deputy Mayor for Policing and Crime.

The event will give delegates the opportunity to find out more about best practice in policing and diversion from crime and custody.

It will feature the presentation of the 2017 Howard League Community Awards, which recognise dozens of schemes from across the country that reduce crime and transform lives for the better.

Catryn Yousefi, Programme Manager at the Howard League for Penal Reform, said: "Evidence shows that projects which help to keep people out of the criminal justice system, by providing alternative, proportionate, effective and targeted interventions, will reduce the risk of reoffending."



**SPEECH:** Cressida Dick leads the Metropolitan Police

### EVENTS AT A GLANCE

**17 Oct: Lawyers Network Group meeting (6.30pm)**  
Garden Court Chambers, 57-60 Lincoln's Inn Fields, London, WC2A 3LJ.

**30 Oct: Howard League lecture held in memory of Lord Parmoor (6pm)**  
Clifford Chance LLP, 10 Upper Bank Street, London, E14 5JJ.

**8 Nov: Policing the Community conference and Community Awards (9.30am)**  
The King's Fund, 11-13 Cavendish Square, London, W1G 0AN.

**8 Nov: AGM and Public Meeting (5pm)**  
The King's Fund (as above)

**21-22 Mar: Redesigning Justice: Promoting civil rights, trust and fairness**  
Keble College, Oxford, OX1 3PG.

For more information about all events, visit:

[www.howardleague.org/our-events](http://www.howardleague.org/our-events)

## Sir James Munby to give 2017 Parmoor lecture

**THE President of the Family Division of the High Court of England and Wales is to deliver the 2017 Howard League lecture.**

Sir James Munby is a leading judicial voice on children and young people. His landmark judgment in November 2002 on the application of the Children Act 1989 to children in prison was the first major legal case brought by the Howard League legal team.

The Howard League is celebrating 15 years of legal work with children and young people in prison, many of whom have benefited from the impact of Sir James's decision.

The Howard League lecture is held annually in honour of the late Lord Parmoor, a Howard League supporter and donor.

This year's lecture will be delivered on Monday 30 October 2017 at 6pm at Clifford Chance LLP, 10 Upper Bank Street, London, E14 5JJ.



# Punishments pile more pressure on failing jails

**ALMOST 800 years of additional imprisonment were imposed on prisoners found to have broken prison rules last year, as jails across England and Wales descended further into chaos.**

Research by the Howard League for Penal Reform reveals that prisons are routinely and increasingly resorting to draconian punishments in a counter-productive attempt to regain control.

It shows that almost 290,000 additional days of imprisonment were handed down to prisoners during 2016 – a 75 per cent rise in only two years – as jails have been brought to breaking point by overcrowding and staff shortages.

The Howard League has calculated that the additional days imposed in 2016 alone will cost the taxpayer about £27million.

The findings are published in *Out of control: Punishment in prison*, the latest in a series of Howard League reports examining how prisons respond to misbehaviour. It reveals how disciplinary hearings, known as adjudications, are used overly and inappropriately, with even minor infractions such as disobedience and disrespect being punished with additional days of imprisonment.

The report calls on England and Wales to follow the example set by Scotland, where the use of additional days of imprisonment was scrapped about 10 years ago.

Officials and governors in Scotland could find no evidence that abolishing the use of additional days had a negative impact on behaviour, and Scottish prisons have become safer since the change was made.

Scrapping the imposition of additional days of imprisonment in England and Wales would stop a vicious cycle. Currently, punishments pile more pressure on the prison population and worsen overcrowding, which in turn creates conditions for drug abuse, violence and other types of misbehaviour.

Frances Crook, Chief Executive of the Howard League for Penal



PrisonImage

**CONTROL:** Almost 800 years of additional imprisonment were imposed on prisoners for breaking rules in 2016

Reform, said: "It is surely time to follow the example set in Scotland, where scrapping additional days' imprisonment has made prisons fairer and safer.

"There are more constructive ways to deal with misbehaviour than simply locking up people for longer, which puts even more pressure on the system."

The Howard League has found that additional days of imprisonment are imposed arbitrarily in England and Wales, and the severity of punishment varies from prison to prison, creating a sense of unfairness and injustice.

A total of 12,100 additional days of imprisonment were imposed on

prisoners in Aylesbury prison last year – more than any other prison in England and Wales. During the same period, Bedford – a similarly-sized prison located only 26 miles away – saw only 411 additional days' imprisonment handed down.

In the private sector, there were striking differences even between prisons run by the same company.

At Thameside, a large local prison run by Serco and holding an average of 1,200 men, a total of 113 additional days was handed down in 2016.

In comparison, Doncaster prison, also run by Serco and holding about the same number of men, saw 6,981 additional days handed down.

## Rising tide of violence and misery in prisons

**THE number of assaults and incidents of self-injury in prisons in England and Wales have risen to record highs, figures seen by the Howard League for Penal Reform reveal.**

Official statistics, published by the Ministry of Justice, show that 26,643 assault incidents were recorded in the 12 months to the end of March 2017 – a 20 per cent increase on the previous year. Assaults on staff rose by 32 per cent.

Serious assaults, including those

requiring medical attention at hospital, have almost trebled in four years.

There were 3,606 such incidents recorded during the 12 months to the end of March 2017 – a 22 per cent increase on the previous year.

Prisons recorded 40,414 self-injury incidents during the 12 months to the end of March 2017 – a 17 per cent rise from the previous year. This is the fifth successive quarter when incidents of self-injury have reached their highest-ever level.

The figures show that 316 people died in prisons during the 12 months to the end of June 2017, slightly down from 322 during the previous year.

They included 97 people who lost their lives through suicide – 91 in men's prisons and six in women's prisons.

This is a slight fall from the previous year, when 107 people lost their lives through suicide.

Annual performance rankings show that the number of prisons with the lowest possible rating

has risen from six to 10.

Bedford, Bristol, Brixton, Guys Marsh, Hindley, Birmingham, Liverpool, Pentonville, Wormwood Scrubs and Wandsworth are all rated as performing at a level that causes "serious concern".

Frances Crook, Chief Executive of the Howard League for Penal Reform, said: "The rising tide of violence and human misery gets higher and higher as chronic overcrowding and staff shortages continue to drive the prison system into chaos.

"How many people have to die before action is taken?"

"The new Secretary of State for Justice must act now to stop the death toll.

"The first step to recovery is to recognise that there is a problem. The second step is to do something about the problem.

"By taking bold but sensible steps to reduce the prison population, we can save lives and prevent more people being swept away into deeper currents of crime and despair."

# Cuts to legal aid for prisoners are unlawful, Court of Appeal rules

**CUTS to legal aid for prisoners are unlawful because they are inherently unfair, the Court of Appeal has ruled in its judgment on a legal challenge brought by the Howard League for Penal Reform and the Prisoners' Advice Service (PAS).**

The ruling is an important step forward in making sure that people in prison move through the system more safely and more efficiently. This will make the public safer and ease pressure on a prison system at breaking point.

Since cuts to legal aid for prisoners came into force in December 2013, violence and self-injury in prisons have risen to record levels. Almost 300 people have lost their lives through suicide.

More prisoners than ever before have called the Howard League and PAS to seek help. Calls to the two charities' advice lines have increased by almost 50 per cent since the cuts were imposed.

The legal challenge by the Howard League and PAS began in 2013. At that time, prisoners were completely shut out from any possibility of getting legal aid for a wide range of problems.

In the time between then and the cases coming before the Court of Appeal in January and February this year, the government conceded on four areas of concern. This left five key problems for the Court of Appeal to consider and, in three of the five, judges found the cuts to be inherently unfair.

Lord Justice Beatson, giving judgment, said: "[A]t a time when... the evidence about prison staffing levels, the current state of prisons, and the workload of the Parole

Board suggests that the system is under considerable pressure, the system has at present not got the capacity sufficiently to fill the gap in the run of cases in those three areas."

Frances Crook, Chief Executive of the Howard League for Penal Reform, said: "This decision will make the public safer. It vindicates our concerns that cuts imposed by the former Lord Chancellor, Chris Grayling, in 2013 presented a grave risk that prisoners would become stuck in a broken system.

"This sends a clear message that important decisions about prisoners cannot be made efficiently or fairly in the face of these cuts. We look forward to hearing from the Ministry of Justice with its plans to give effect to the judgment."

Deborah Russo, Joint Managing Solicitor of the Prisoners' Advice Service, said: "This is an unprecedented and groundbreaking legal victory in which the vulnerability of the prison population is fully recognised as a key factor in its limited ability to access justice.

"Common law came to the rescue of a marginalised and often forgotten sector of our society."

Simon Creighton, solicitor for the charities and representative for the Association of Prison Lawyers, said: "Access to legal advice for prisoners makes prisons fairer, safer and better at rehabilitating prisoners.

"This was first recognised in the Woolf report a quarter of a century ago and this judgment underlines that it is still true today."

Rebecca Hilsenrath, Chief



PrisonImage

**JUDGMENT:** The ruling on legal aid is an important step forward to making sure that people in prison move through the system more safely and more efficiently

Executive of the Equality and Human Rights Commission, which intervened in the case, said: "It's a hallmark of a democratic legal system that it is fair and robust for all users.

"Without access to legal aid,

prisoners with learning difficulties and mental illness would not be able to participate effectively in important decisions about their future, placing them at a significant disadvantage.

"We welcome today's judgment

that will ensure our legal system continues to provide legal help during these hearings."

The charities' arguments challenging the cuts were heard by three Court of Appeal judges in January and February 2017.

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By becoming a member, I would like to give a monthly amount you add your voice to our movement and help ensure its success. Our members are our strength, our advocates and our most important source of knowledge and financial support.

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