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INDEPENDENT MONITOR

THE ASSOCIATION OF MEMBERS OF INDEPENDENT MONITORING BOARDS

DEVELOPMENTS IN IMMIGRATION REMOVAL CENTRES

A VIEW FROM THE CORONER

SHORT PRISON SENTENCES: FOR OR AGAINST?

EDITORIAL

The most recent edition of the Prison Reform Trust's Bromley Briefings includes an article on the subject of indeterminate sentences. Dirk van Zyl Smit and Catherine Appleton examine the evidence from the United Kingdom and internationally. The findings are striking. The UK has more life-sentenced prisoners per 100,000 of population than any other country in Europe (even Russia). Such prisoners make up more than 10% of the sentenced population in UK prisons, again higher than any other European country (and in this respect even higher than the United States). The high number of life-sentenced prisoners is attributed to a number of factors, including the mandatory life sentence for murder and the wide range of offences for which discretionary life sentences are available.

It is not only the prevalence of life sentences that presents an attention-grabbing trend. The tariffs set as part of the sentence are long, and increasing. The average minimum tariff imposed for murder has risen from 12.5 years in 2003 to 21.3 years in 2016. In England and Wales the number of prisoners sentenced to a whole life term was nil in 1982; it rose to 22 in 2005, and to 63 in 2018. Although in law it is possible for the Secretary of State to release a whole life term prisoner, none has ever been released in the UK.

Sentences of Imprisonment for Public Protection were abolished in England and Wales in 2012, but not with retrospective effect. In September 2018 there were still 2,598 prisoners serving an IPP, 89% of whom had passed the tariff set by the court as the punishment element of the sentence. What is more, increasing numbers are being recalled to prison, threatening to boost the number of IPP prisoners.

A life sentence places the prisoner totally in the hands of the state. He has no guarantee of ever being released. That is not to say that there is no place for the life sentence (though some states manage without it), but there is a compelling case for caution in its use. Some years ago there was pressure from the higher judiciary for the replacement of the mandatory life sentence for murder by a fixed term sentence as determined by the sentencing judge. Whether such a change would be palatable to government in the current climate is doubtful, but the figures, and international comparisons, presented by van Zyl Smit and Appleton amount to a very strong argument for some reconsideration of the use of the life sentence in UK sentencing.

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Association of Members of Independent Monitoring Boards • amimb.org.uk

Our official address is 14 King Charles House, Cavalier Court, Bumpers Farm, Chippenham, SN14 6LH. AMIMB is a Charitable Incorporated Organisation and our registered charity number is 1164048.

Membership of AMIMB is open to serving members of IMBs in prisons and immigration removal centres in England and Wales. Associate membership is open to anyone interested in penal affairs.
AMIMB represents board members by presenting their views wherever they need to be known. AMIMB campaigns for change, both through its own efforts and by liaising with other groups, including via the Criminal Justice Alliance. Membership of AMIMB allows board members to have a say in the direction of boards and penal policy generally.

Independent Monitor

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A place for IMBs amid the 'general chaos'

FROM THE CHAIR
Chris Hammond

As the newly elected chair of AMIMB the editor has invited me to write a few words to the readership of the Monitor. I joined the IMB at Wormwood Scrubs eight years ago and at that time the huge cuts in the system that prisons have come to experience had not yet happened. The years since have seen an enormous decline in nearly every aspect of the national prison estate. The consequences for individual IMB members and their boards have been vast and acute as they have tried to ensure that prisoners continue to be treated fairly in what must be some of the most challenging circumstances since boards were created. I continue to meet people who cannot believe that IMB volunteers go into prisons, of all categories, daily, unannounced "armed with a whistle" to talk with prisoners as and when is necessary.

There has been a general realisation that the cuts in the budget of the then NOMS were far too deep and the more recent reforms, actual and proposed, are testimony to this belief. The swamping of many prisons with illicit psychoactive drugs, often brought in by drone, has been another additional factor adding to the general chaos.

Step in the right direction

The ten-prisons project is a step in the right direction for these reforms, with millions of pounds being spent on these ten prisons. However, this is only ten out of the hundred plus establishments, all of which need urgent attention. The recruitment of many additional staff has to be welcomed as is the reform of the Community Rehabilitation Company system, which in many regions has been quite disastrous. The realisation that one in five people leaving prison with a sentence of less than six months are homeless is nothing short of another scandal. The £6m pilot to provide stable accommodation for up to two years for people leaving HMPs Leeds, Pentonville and Bristol is to be highly welcomed and watched attentively for future wholescale action. The proposed changes to the probation service, which are intended in response to the recommendations of the Justice Select Committee, are another example of the change in thinking and the necessary reforms.

The demands for the public accountability of prisons have developed apace in the last eight years and the IMB plays a most important role in these demands. AMIMB welcomed the Karen Page review for the then National Council. It was quite clear that there need to be "improvements first and foremost in the IMB structures of governance". This has come about in the recent months with the appointment of the chair, Dame Anne Owers, and very recently the appointment of the management board and regional representatives. AMIMB looks forward to having a very positive relationship with those in the new structures. It is clearly of the utmost importance that volunteer IMB members have a voice via these and the AMIMB structure so that IMB Boards feel and know that what they daily experience is understood by "the powers that be". It is very encouraging that in recent times quite a few IMB statements about their monitoring of particular prisons have appeared in the national press and elsewhere.

AMIMB is of course a charity and its income comes from the annual subscriptions of its members. It is very conscious that it needs to expand its numbers both to fulfill its objectives and to be financially secure. It encourages members to introduce new IMB members to AMIMB. A joining form is included in this Monitor.

The tentative plans for 2019 include a visit to Leyhill and another to a northern prison, meetings in the north of England and in London with topics including OMIC, drugs and "What makes a good prison?" Details will follow both on our web site and our media outlets whose addresses are published in this magazine.

The executive committee is always pleased to hear from members about ideas for forthcoming events and of charities that would be willing to help to contribute to travel expenses of members travelling to AMIMB meetings.

DON'T FORGET OUR MEDIA PRESENCE

AMIMB is now active on Facebook, LinkedIn and Twitter

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Developments in immigration detention: lessons for prisons and IMBs

Stephen Shaw was Prisons and Probation Ombudsman between 1999 and 2010, and previously director of the Prison Reform Trust. Amongst other roles, he is currently Independent Assessor of Complaints for the Crown Prosecution Service. He has conducted reviews of immigration detention, and reflects upon recent developments and their implications for IMB members in the immigration estate – and prisons

Membership of an Independent Monitoring Board is scarcely the most fêted form of public service. Often it must seem a thankless task. And, while I have no wish to appear disobliging to you, gentle readers, for many years in your history – as IMBs, Boards of Visitors, Visiting Committees – the authorities paid what was little more than lip service to your reports and opinions.

I am sure it must sometimes feel that way still. The time it takes to appoint new members seems if anything to have got worse not better. And I have lost count of the times I have heard an IMB member say that they have been drawing attention to the same problems year-after-year, but nothing happens until the Inspectorate comes along and says the same thing only more publicly.

Yet in carrying out my two recent reviews of immigration detention for the Home Office (*Review into the welfare in detention of vulnerable persons, Cm 9186, 2016*, and *Assessment of government progress in implementing the report on the welfare in detention of vulnerable persons, Cm 9661, 2018*), I have been struck by what seems to have been a sea-change in the Home Office's attitude towards your work. Almost every time I spoke to officials about the immigration detention estate they would refer to this or that view that had been expressed by the relevant IMB. The current Immigration Minister has also emphasised the importance she attributes to your work (and has cleared a backlog of your reports built up under her predecessor).

One reason for this may be that, since the administrative split that led to the Prison Service forming part of the new Ministry of Justice in 2007, the Home Office has had very few people in positions of authority with any institutional experience whatsoever. The Home Office's own assurance mechanisms have also been weak. It has thus been forced to rely much more heavily upon what it has been told by IMBs to have a sense of what has been happening on the ground.

Be that as it may, my message in recent conversations and presentations to IMB members in the immigration detention estate is that you must not underestimate your influence. You really can, and do, make a difference.

I am no longer so close to HM Prison and Probation Service (perhaps they feel I have passed my sell-by date), so I don't know whether the Ministry of Justice has experienced a similar epiphany. But when the financial pressures continue to bear down on the prisons as they do (if austerity has been abolished as the Prime Minister has suggested, perhaps someone should tell HM Treasury), the Ministry of Justice too needs to appreciate the remarkable, often daily, oversight that is provided free, gratis and for nothing by IMB members up and down the country.

Immigration detention reforms

Other recent developments in immigration detention may be of wider significance to prisons. Because after a period of rapid expansion in the detained population since the turn of the century, the use of immigration detention is now on a rapidly downward path. By the middle of next year, the number of people in immigration removal centres will be 40 per cent lower than when I carried out the fieldwork for my first review in 2015. Four IRCs will have closed (Haslar, Dover, The Verne and Campsfield House), and a fifth one (Dungavel) would have done had there not been such strong political opposition in Scotland to the opening of a much smaller short-term holding centre at Glasgow Airport.

The direction of travel is clearly towards a concentration of detention beds around Heathrow and Gatwick.

There has also been a robust political and administrative response to my recommendations to reform immigration detention practice including the improvement of healthcare and day-to-day life for detainees, strengthening casework processes, developing 'alternatives to detention', and joining up Home Office and Ministry of Justice responsibilities. The Home Office has also taken on board my proposals to strengthen oversight and assurance processes.

Amongst other things, the Home Office is establishing a pilot project to deliver alternatives for detention for women at Yarls Wood (and pilots for other groups of especially vulnerable people should follow). The Home Secretary has also ended the practice of cramming three men into rooms designed for two and – overturning decades of Home Office orthodoxy – has commissioned a review of time limits for detention.

While austerity has been an important driver of these changes (immigration detention is expensive, and the Home Office is under particular pressures because of the likely need to expand the Border Force after Brexit), not everything has been about saving money. On the contrary, a level of under-crowding of IRCs is now being built-in, and all the IRCs are presently operating well below capacity. Moreover, the current escort contract is considerably more expensive than its predecessor – a recognition of the fact that driving down costs to the absolute minimum is consistent neither with decent treatment nor with overall efficiency.

Staffing levels

As someone who was trained many years ago as an economist, I understand the virtues of trying to achieve more with less. However, there comes a point – in prisons as well as IRCs – where the outcome is actually less for less. You could argue very persuasively that this is exactly what has occurred in HMPPS in recent years.

It is therefore interesting and encour-

aging that, in response to the vile abuse of detainees revealed by the BBC's Panorama programme in September 2017, the contractor at Brook House (with encouragement from the Home Office) has increased front-line staffing levels significantly. As in prisons, stripping out staff (especially experienced and supervisory staff) to reduce costs had resulted in a lack of control.

Indeed, when I visited Brook House on three occasions in 2017 and 2018, I found that in some units the staff had retreated to their offices. On one unit, there was a drug deal being conducted fairly openly in the absence of any staff whatsoever.

As I say, I can no longer comment with any authority on the state of the prisons. But I know that experienced observers say that they no longer feel especially safe on some wings and landings. Whether the recent increase in staffing numbers is making a difference I cannot say. Replacing someone with years of gaol craft with a new recruit straight out of college is not exactly replacing like with like.

Foreign national offenders

The reduction in the number of people detained in IRCs is much to be welcomed, and in the short-term I do not think it will be reversed. Indeed, the Shadow Home Secretary has said she would like to go further and close Brook House and Yarls Wood as well. In the longer run, however, things may be less rosy.

In some of the IRCs, over half of the detainees are time-served foreign national offenders (FNOs), and there has been no commitment to reducing their number or introducing a time limit on their detention. Many of these people speak with British accents, and have lived in this country since a very young age (a small number have even been born here). While they may have a foreign nationality, they have a distinctive British identity. In my view, the removal of those who came to this country as children and have no links to the country to which they will be 'returned' is morally objectionable – both in terms of the separation of the offenders from their families, and the impact of exiling our criminals upon mainly developing countries that lack the criminal justice infrastructure of our own. In effect, one of the richest countries on earth is exporting its lawbreakers to some of the poorest.

However, I see few signs of a sustained change in Home Office practice. Furthermore, if any time limits were to exclude FNOs, they would do little or nothing to affect those who are detained in IRCs the longest.

If I may be forgiven a further glance into my crystal ball, it is also worth saying that any longer-term reliance of the economy, post-Brexit, upon migrants with time-limited work visas may increase the number of people not compliant with immigration enforcement. (It is young people who will make up the majority of these workers, and young people have a tendency to fall in love, to have children, and to value Western materialism over an uncertain future in their home countries.) There must also be considerable uncertainty about their compliance with future immigration rules on the part of EU nationals here already.

Global migration flows are also unlikely to reduce (I recently learned of a survey in one West African country that reported that half the young people there aspired to live and work in Europe). Immigration was a driver of Brexit and it remains a toxic, divisive subject throughout Europe that can be readily exploited, and of which all main political parties are cautious.

> **Immigration was a driver of Brexit and it remains a toxic, divisive subject throughout Europe**

The potential for wrongdoing

As a liberal reformist, unashamed of both the adjective and the noun, I have spent much of my professional life trying to make prisons and – more recently – IRCs into better places. As I have indicated in this article, I think that the two reviews I have conducted for the Home Office have been amongst the most influential pieces of work for which I have been responsible. But I am all too aware that the notion of the 'good prison' or the 'good IRC' would be regarded by many critics as oxymorons.

So far as those IMB members involved in IRCs are concerned, you must never forget that control over immigration is necessarily coercive, and that vulnerability is intrinsic to the migrant experience – and to immigration detention. Never forget too that the potential for physical or verbal abuse is ever present in any closed institution – indeed, as recent scandals in the Health Service, the Church, and care homes for children and the elderly, have shown, that potential is there whenever one group of people can exercise power over others. What happened at Brook House was no different in kind from the malpractice that occurred at Yarls Wood and Oakington in the noughties, and which I investigated when I was Ombudsman.

The example of Oakington is particularly telling. Now long since closed, this was a very favourably regarded detention centre that had opened its doors to upwards of 100 staff from different Non-Governmental Organisations. Yet it harboured within it what I was to describe as a "sub-culture of abusive comment, casual racism, and contempt for decent values". If this could occur at Oakington – widely regarded as the most benign of all the immigration detention centres – it could happen anywhere, and the revelations of the extent of its hidden nastiness came as a huge shock to everyone when it was revealed in undercover reporting by the BBC. (You can find my report on Oakington at https://s3-eu-west-2.amazonaws.com/ppo-dev-storage-4dvljl6iqfyh/uploads/2015/11/special-oakington-irc-051.pdf. I probably should not say so, but I think that it retains a resonance today.)

Implications for monitoring

The lesson for IMBs – as for all of us with the opportunity and duty to report upon the state's use of coercive power – is first and foremost to retain a sense of shock and surprise. Just consider the level of healthcare need in IRCs, for example. It is frankly not normal if half or more of the detained population are on medication or asking to see the doctor every week.

Likewise, it is important to look beyond the apparently amiable and respectful relationships that the best staff can build up with those in their charge. During the course of my Home Office reviews, I felt that the very good staff-detainee relationships at both Dungavel and Campsfield House were masking the fact that some physical conditions were actually very poor.

Similarly, vary your monitoring habits: the days and times you visit, the places you look at, the people with whom you speak. Make a special effort to reach out to those who are 'hard to reach' – those who have little English, or who seem particularly disaffected.

Finally, don't put all your eggs in the one basket of the IMB Annual Report. Take the Home Office at its word, and make sure that if there are issues to raise they are escalated now and not in six months' time.

And if these lessons hold true of IRCs and the Home Office, I see no reason to suppose they do not apply equally to the prisons and the Ministry of Justice. IMB membership may often feel unrecognised and unappreciated, but its value and significance are in inverse proportion to its glamour – and have never been higher.

Inquests into prison deaths

The unacceptably high level of deaths in custody means that all too often IMB members will attend an inquest. Chris Woolley, HM Assistant Coroner, South Wales Central Coroner Area, explains the purpose and procedures of an inquest.

Every inquest can be a tense experience for those who participate in it, even for the coroner conducting it. Inquests into deaths in prison can be particularly so. The prisoner who died was in the care of the state which should have protected his or her life. The prisoner's loved ones may well be upset and angry over the death and expect answers from those caring for the prisoner. The prison authorities themselves will be anxious to learn from the death so as to prevent future deaths. The prison officers coming to the inquest as witnesses can expect to be challenged, and even blamed, for their actions or lack of action. An inquest into a prison death will invariably be conducted in a high emotional temperature. It will always be held before a jury (unlike most inquests) and this will add to the sense of public scrutiny and interest.

Purpose of the inquest

An inquest into a prison death will have the same objectives as any other inquest. Its purpose is to establish the answers to four questions, and four questions only – who the deceased was, and how, when and where the deceased came by their death. An inquest is not a mechanism of blame: that task is left to the civil courts. It is (or should be) an impartial inquiry into the facts of a death so as to answer those four essential questions.

Article 2

In one important respect, however, an inquest into a prison death will be different from an "ordinary" inquest. Because the prisoner died in the care of the state their right to life under Article 2 of the European Convention on Human Rights is engaged. At the start of the proceedings the coroner will make the decision that the prisoner's Article 2 rights need to be explored. What this means, in practical terms, is that the inquest will be more far ranging in its scope than a non-Article 2 inquest. It will look at events perhaps months or even years before the death; it will examine systems and procedures; and the coroner may call witnesses to give evidence about matters that may appear somewhat remote from the death. For instance in one Article 2 inquest into a prisoner who suffered from epilepsy I called an expert medical witness to describe how epileptics should be looked after outside the prison system. In another inquest into the death of a mental patient compulsorily detained who had escaped and been killed (as he was in the care of the state Article 2 was engaged) I called evidence about police search procedures with dogs and helicopters.

Pre-inquest procedures

As soon as the death is notified to the coroner, an inquest will be opened. This takes place in open court and the public can attend. The coroner, having opened the inquest will set a date for it to be heard. In an Article 2 inquest this may be an indicative date only, and there may need to be one or more pre-inquest reviews to establish the scope of the inquest, who will need to be called, and whether any experts will be needed. Under the terms of the Coroners and Justice Act 2009 an inquest into a prison death will need to be heard before a jury. Summoning the jury will take time. The objective nevertheless is to hear all inquests, however complex, within 12 months of the death and this is the timescale which most coroners will aim to achieve.

If a person is going to be involved as a witness they will not generally need to attend any pre-inquest review. It may be important, however, to make any leave commitments known to those representing the prison authorities so that they can be taken into account when setting the date. Once a date is set a coroner can be a very unforgiving person and witnesses have had to cancel their holidays in order to attend an inquest.

The coroner will also identify in this phase those who are "Properly Interested Persons" (PIPs) and those who simply need to be called as witnesses. The family members will always be PIPs; the prison authority will be a PIP, as may the Chief Constable if the police were involved in any death. A prison officer who may have been directly involved in the death (and subject potentially to blame or criticism) may also be a PIP. The importance of this status is that a PIP is entitled to be represented and to take part in proceedings by questioning witnesses and making legal submissions to the coroner. A witness has no such right, and will be simply called to give evidence.

The inquest itself

The first day of an Article 2 jury inquest will be taken up by swearing in the jury (in contrast to the criminal courts there are only 11 members of an inquest jury) and by the coroner's introduction of the case to them. Even though a PIP is entitled to be represented there is no right for any advocate to address the jury themselves – all directions and summaries of the evidence and law must be done through the coroner. The coroner will then call the evidence in a more or less chronological order. Sometimes the inquest can be over in two days, but more often in a complex inquiry it will stretch into two weeks. The coroner will question the witnesses first, and then the advocates (or PIP in person) have the right to ask questions of the witness. In the case of family members their cross-examination may be hostile and blaming (as may indeed be the cross-examination of an advocate for the family) but the coroner will be astute to prevent haranguing of a witness. The coroner will intervene to clarify a question, or to prevent a question that does not bear on one of the essential questions to be asked in the inquest. For example I once intervened to prevent a question from an aggrieved ex-girlfriend of the deceased as to why she was not invited to the funeral – that was not a relevant question for the inquest.

For anyone called as a witness it is important not to be defensive or evasive. This will be picked up immediately by the coroner and will prompt even more searching questions. Coroners by nature are very inquisitive people. A witness in an inquest is moreover obliged to answer the coroner's (and anyone else's) questions on pain of imprisonment – it is not for nothing that the process is called an "inquisition". There is one exception to this: where by answering the question the witness might expose themselves to criminal proceedings (for instance by admitting that they supplied controlled drugs) then they are not obliged to answer the question. The coroner will issue a warning before any question is asked which may be likely to expose a person to such proceedings.

The conclusion of an inquest

After all the evidence has been called the PIPs have the right (in the absence of the jury) to address the coroner on law. They have no right to address the coroner on the evidence, and no right to address the jury at all. Skilled inquest advocates will often try to make up for this by asking questions of the witnesses in a histrionic manner eyeballing the jury as they speak – a somewhat annoying habit which coroners often have to control.

After any speeches the coroner will call the jury back in and sum up the law and evidence to them. This can often take up half a day (or more in a very complex inquest). The jury will then go out and deliberate. In contrast to a criminal jury an inquest jury has to work hard. They will often be given a questionnaire covering the essential questions the inquest has raised, and in an Article 2 inquest they may be called upon to decide whether the conduct of the prison authorities or staff has contributed to the death. No jury is however allowed to make recommendations, or to name any person who may be thereby exposed to criminal or civil proceedings.

A jury will often come back to the coroner asking for assistance on the law or to be reminded of the evidence – they can be out for days. Once they reach their conclusion (it is no longer called a verdict) they will come back into court to announce it.

Publicity at an inquest

An inquest is held in open court with full access allowed to the public and the press. The openness of an inquest is an important feature of the inquisitorial process, since one of the most important functions of an inquest is to dispel doubt and rumour and to provide an objective account of the death. The coroner has very limited powers to restrict publication of the evidence at an inquest – the most commonly used power in fact is under the Children and Young Persons Act 1933 which enables the coroner to restrict the publication of a child's evidence where that would identify the child. A coroner will also routinely restrict publication of legal argument submitted in the absence of the jury. No one is allowed to take photographs of the witnesses, jury or coroner within the precincts of the court.

Regulation 28 reports

These are reports to prevent future deaths. In a complex case issues of systems and procedures will often arise, and the coroner can write a report of any concerns that have arisen in the inquest. In one Article 2 inquest into a prison death I was concerned that first-time prisoners (who may be more suicidal) were not identified on prison systems as vulnerable and made a report to the Governor on this. In another case I was concerned that the British National Formulary did not adequately describe the side effects of a particular drug and made a report to the editor about this. Regulation 28 reports are copied to the family, the other PIPs, and the Chief Coroner himself who publishes them all. Very often the thought that some improvement is being effected through the inquest is a great consolation to the family on the loss of their loved one.

> **The openness of an inquest is an important feature of the inquisitorial process**

Recent developments

Until the Coroners and Justice Act 2009 all deaths in prison, including natural deaths, had to have an inquest and be conducted before a jury. This might include, for instance, the death of a civilian contractor in the prison or a prisoner who died an entirely natural death. Since the Act these categories of deaths are not included and there is no need for any inquest into a natural death. In all other categories however (such as suicide, unlawful killing, or even when the cause of death is unknown) an inquest before a jury is required.

Until the decision in Maughan v Coroner for Oxfordshire [2018] EWHC 1955 (Admin) any conclusion of suicide had to be reached on the criminal standard i.e. beyond reasonable doubt. This meant that a jury had to be sure that a person had not only done the act that had caused the death, but had done so at all times with the intention of killing themselves, whereas other conclusions – such as accidental death or death from drugs/alcohol – had only to be reached on the balance of probabilities. The decision in Maughan has now altered this. A suicide conclusion is now to be arrived at on the balance of probabilities, although still only after all other possible conclusions have been considered and rejected. How this will affect the overall figures for recorded suicide rates across England and Wales remains to be seen. Coroners are often reluctant to bring in conclusions of suicide, and many have previously sheltered behind the old standard of proof.

Involvement of the IMB at an inquest

There is always the possibility of an IMB member becoming involved as a witness to an inquest. This may arise where the IMB member has spoken to the deceased before his or her death and where the conversation may reflect on the deceased's state of mind (e.g. suicidal intent). The coroner will wish to explore this. There may well be a note of a significant conversation (but not of a "passing the time of day" exchange) and the note likewise may be admitted into evidence by the coroner. The IMB, or its members, may also be involved if the board has raised with the prison Governor an issue of relevance to the inquest (such as staffing in the healthcare centre). The IMB may be involved in a question of prison practice or policy that has relevance to the inquest. The individual member, or a representative member, may be called to give evidence in all these circumstances.

Conclusion and advice

For anyone called as a witness, or as a PIP, to an inquest, the prospect may be a daunting one. However no one should attend an inquest expecting trouble – if they do it will generally materialise because the coroner will sense anxiety, and will ask questions about what may lie behind this. Anyone called as a witness to the inquest should remember that it is a neutral and fact finding inquiry. The coroner will probably have far more experience of dealing with prison deaths than the witness or PIP, and will be fully aware of the pressures that all who live and work in prisons face on a daily basis.

The coroner will not be interested in mud-slinging, and will prevent questions of this nature being put to a witness. The coroner will not however intervene to prevent challenging questions that may bear on the issues in the inquest. If witnesses give their evidence in a full, balanced and honest manner, acknowledging that something might have been done better or that a system could be improved, then the coroner is likely to have all the more respect for them. At the conclusion of the witness's evidence the witness may ask to be released, and if there is no objection from any PIP the coroner is likely to release the witness. A PIP is entitled to be represented and this is recommended (especially if the PIP is entitled to such representation through an association or union) as it will take a lot of the burden of preparation away from the PIP.

Prisoners' physical healthcare needs and quality of care

Dr Miranda Davies is a senior research analyst at the Nuffield Trust, and is leading an 18-month research project exploring prisoners' physical healthcare needs and quality of care. As the project reaches the 12-month mark she reflects on the experience so far of carrying out research in prisons and looks ahead to the potential implications of the work for monitoring prison healthcare.

Prison healthcare is coming under increasing scrutiny. The recent Health & Social Care committee prison healthcare inquiry[1] raised concerns which will be common ground for IMB members in their own reporting – poor living conditions, violence, longstanding health inequalities and the impact of novel psychoactive substances such as spice. There is also more frequent mainstream media interest in this area – reports regarding healthcare for pregnant women in prison being a recent example[2], drawing upon interviews with women in prison about their experiences of pregnancy and birth.

The Nuffield Trust project is funded by the Health Foundation, an independent charity committed to bringing about better health and health care for people in the UK. The project grew from a desire to help fill the gap in knowledge around the physical healthcare needs of prisoners – specifically the numbers gap. We started by carrying out a literature review of what is already known about prisoners' physical healthcare needs. This will be used to guide a second phase of work describing prisoners' use of hospital services using routine healthcare data (Hospital Episode Statistics). Although mental health is a significant issue in prison we have chosen to look just at physical health in our work on the basis that the physical healthcare needs of prisoners have traditionally received less research attention. Physical and mental health are clearly related though, and we anticipate highlighting the interaction between physical and mental health needs where data allows.

At a basic level there are many things we just do not know about the physical healthcare needs of prisoners. Drawing back to the example of women in prison who are pregnant, we do not know for sure how many women in prison give birth each year, and this type of descriptive information is vital in order to understand the scale of different health needs and advocate for appropriate support to be in place[3].

I started this project with very little knowledge about prisons and therefore an important preparation phase involved visiting prisons and also talking to people inside and out of prison involved in all aspects of prison life. This included healthcare staff, advocacy groups such as the Howard League and Birth Companions, academic researchers, professional membership bodies such as the Royal College of General Physicians Secure Environment Group and the British Medical Association, representatives from HMPPS and HMIP to name but a few. It quickly became apparent that health in prisons is deeply entangled with all aspects of prison; the nature of individual prison regimes, rehabilitation, access to education and employment and preparation for release were just some of the wide ranging issues that were raised.

I have also visited five prisons so far and have met a number of IMB members too – thank you to those I have spoken to who have helped me understand the work of the IMB and AMIMB. The prison visits have been vital to get a sense of what healthcare looks like in prisons ranging from the reception healthcare checks to inpatient facilities and clinics. The visits also bring to life the 'day-to-day' of prison. Obviously there are differences between prisons, but actually seeing a prison cell, visiting healthcare and speaking to staff makes it easier to understand the realities of meeting healthcare needs in prison for both prisoners and those with a role to play in how care is delivered.

A further reason for meeting with people who work in prisons and prison healthcare was to form an expert panel who could advise the project team and bring different perspectives and context to the work. The panel, which includes a representative from AMIMB, has met twice since the start of the project and we will meet once more as the project reaches its final stages to think about the practical recommendations of this work.

Away from the prison visits and wider meetings, the literature review of existing evidence regarding prisoners' physical healthcare was needed so that analysis of hospital data could build on work that had been already been conducted and target gaps in knowledge. We limited the literature review to materials (research, reports and policy documents) from 2006 onwards, this being the time when healthcare within prisons moved to an NHS delivery and commissioning model. This particular time-span was chosen on the basis of considering what is known about the quality of care for prisoners since the move to NHS control of healthcare.

The literature review itself has been a labour intensive process as much of the available materials fitting our specific constraints is published in reports and policy documents and has therefore required a significant amount of hand searching. This has led me to think about the importance of where work carried out in prison is published. Anecdotally, I think back to a Head of Healthcare I spoke to who said they found it challenging to keep aware of good practice going on in prison healthcare unless knowledge of specific programmes or approaches came from their personal network of contacts. On this basis we are going to target our literature review at an open access format if possible, so that, simply put, it is easier for others to find and access in future. On an associated note, I was interested to read recently about the Butler Trust project currently in progress to visit every prison in England and Wales, and on completion write a book specifically about good work and ideas that were seen (see www.goodbookofprisons.com for updates of each visit).

Thinking about the next six months, we will now start to look at Hospital Episode Statistics data to see how prisoners from across England have used hospital services in the last year (2017/18) and what this tells us about the health of prisoners more broadly. The approach we are using could also be applied to prisons in Wales but this project is unfortunately limited just to those residing in prisons in England

because of the way hospital data is organised. Data regarding people in England is held separately from data specific to residents of Wales, meaning analysis of Wales data would be a separate piece of work due to the need to collect parallel permissions and approvals.

The data we are using documents people's use of healthcare outside prison to inpatients, outpatients and A&E meaning that we will not explicitly know about care received within the prison itself. The advantage of using this data set though is that it allows us to look across prisons in England as a whole. Depending on the quality of the data we can explore differences between prisons, or categories of prisons, which may point to the way healthcare is provided as well as the needs of prisoners more broadly. The findings from the literature review will guide what we look at within the data as well as thinking about where our work might be able to add value in terms of addressing gaps in knowledge.

What might this work mean for monitoring prison healthcare? There is a clear drive for measurement of outcomes in prisons and it is hoped that this work will provide ideas of specific individual health outcomes which give a nod to care quality. There is a time challenge in prison in terms of how long it takes for material to be shared (particularly publicly) and therefore monitoring health outcomes in the here and now is difficult at best. In our work we will be making simple descriptive comparisons of prisoners' use of hospital services to the wider non-prisoner population based on age and sex. This may be another way to determine which health outcomes are key for monitoring purposes given that healthcare in prison should be equivalent to healthcare in the community.

If this work is successful it offers the potential for applying a consistent, replicable methodology to look at changes over time in the health of prisoners based on their use of hospital services, perhaps focusing on specific areas of interest (such as older prisoners) or as a measure of the impact of changes in health care policy. The final report will be published in spring/summer 2019. If any IMB members have a particular interest in prison healthcare and would be interested in talking informally about this area I would be pleased to hear from you: miranda.davies@nuffieldtrust.org.uk

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The case against short custodial sentences

Revolving Doors Agency is leading a national campaign, Short-sighted, calling for a new presumption against short prison sentences of less than six months[1]. Their Deputy Chief Executive, Vicki Cardwell, lays out the case.

Short prison sentences do not work and this is why. More than half of all people sent to prison are sent there for less than six months[2]. This is causing widespread harm, undermining public safety and contributing to churn and volatility in our prisons.

The current state of play is that short prison sentences are not reserved as a punishment of last resort. Recent data lays this out starkly. In 2017:

- Over 44,000 people were sentenced to less than six months in prison
- Of whom 30,000 were sent for less than three months and
- Of whom 12,000 people were sent for less than one month[3].

The overwhelming majority of people serving sentences of less than six months are in prison for non-violent offences. Some common offences that receive a short time in custody are theft and drug offences[4], linked to underlying problems such as poverty, drug addiction, homelessness and mental ill-health. Indeed, the most common offence for which people are sentenced to prison is theft.

The Justice Minister Rory Stewart MP, summed up the problem recently in front of the Justice Select Committee "The wrong kind of short sentence actually endangers the public because the wrong kind of short sentence increases the chance of reoffending."

This is borne out by the evidence on reoffending rates. Data obtained by Revolving Doors shows the reoffending rate for prison sentences of less than six months is 68%. This is much higher than the average rate across all sentences, and even higher than those on sentences of less than one year.

It is unhelpful simply to compare community sentences with short term prison as they are not directly comparable. However, the government's own analysis with matched offenders (similar offences and similar histories and backgrounds) demonstrates that the difference in reoffending is attributable to the sentence type. This data robustly shows that short term prison drives people to reoffend more frequently and more seriously - a bad outcome for everyone. A community sentence, which can for example include unpaid work and help to tackle causes of offending such as drug addiction or mental ill-health, can reduce reoffending more effectively.

Imagine a doctor sitting in their surgery with a patient in front of them. The doctor has two medicines available, one of which they know is proven to have a greater chance of working, and another likely to make the patient sicker. While efficacy is not the only consideration when passing a sentence, it is clearly an important one to reduce the numbers of future victims.

It is obvious why short sentences drive up reoffending rates and compound existing disadvantage and problems. When people go to prison for a matter of weeks or months they can lose their tenancy, their job, have breakdown of relationships – all of the factors proven to support desistance from crime and allow people to build a new life.

As prison staff, governors and people with lived experience repeatedly tell us, short sentences do not allow time to do

Wrong book or wrong library?

The other side of the argument is presented by Ken Pease, criminologist and visiting professor at University College, London, Loughborough University, Manchester Business School and the University of Chester, and Elizabeth Bourgeois, adult chair at Bradford and Keighley Magistrates' Court.

Clare Balding describes how she came to recognise her sexual orientation by saying that after dating men and finding the experience unsatisfying, she realised that she was making the mistake of looking for the right book in the wrong library. Happily, she and Alice Arnold have mutually found the right book. The argument for abolition of short prison sentences is a bit like that. It is the wrong starting point for evidence based reform of criminal justice.

There is arguably no area of public policy to rival criminal justice in its misrepresentation of the true crime and justice landscape. Between us, the writers have well over half a century of practical experience (and published research) in a range of operational contexts from policing through sentencing to parole. In this brief note we identify three inconvenient truths which provide the necessary basis for challenging recent Scottish proposals to abolish prison sentences of less than one year.

Three inconvenient truths can be summarised as follows:

1 *The respite afforded to the victimised public is totally discounted by official measures of penal success.* The worm in the bud of criminal justice is that it is primarily offender centred. Miscarriages of justice are taken as synonymous with wrongful convictions. Reconviction rates are calculated differently for custodial and community sanctions. The former are dated from release and the latter from sentence. This removes from the statistics the delay in the opportunity to reoffend afforded by custody. Community sentences are made to look more successful by ignoring the swifter revictimisation of the public. The elephant in the room throughout criminal justice is likely harm to the public, especially its chronically victimised segments.

2 An offender's likelihood of reconviction is pretty much as predictable before

any meaningful rehabilitation or sort out issues like housing for release. The evidence backs this up; one in four people sent to prison for less than six months are known to be released to homelessness[5]. The real numbers are likely to be higher.

People with lived experience are clear that whatever the policy states, people on short sentences do not have proper sentence planning and are unlikely to access treatment. It can take days or weeks for an application to be processed and responded to.

Unfortunately, we know that short custodial sentences are still used when other options are available. Very recently a respected women's centre tweeted that a woman they were working with was sentenced to five weeks inside and that her drug treatment programme would therefore be disrupted.

Additionally, the public strongly oppose the use of prison for petty crime. A new poll commissioned by Revolving Doors[6] found that:

- 80% of the public think that theft of daily essentials such as food, sanitary products and nappies does not warrant a prison sentence.
- 74% of the public think people with drug or alcohol addictions belong in treatment programmes instead of prison.

Given the facts above, Revolving Doors Agency has called on the government to introduce a presumption against the use of short custodial sentences of less than six months, requiring the court to impose such a sentence only if no other appropriate disposal is available and to record publicly the reason for a custodial sentence.

This approach does not remove the court's discretion; it is a presumption not a ban. Therefore, under these proposals offences that are serious and/or risk harm, such as domestic violence, can be dealt with appropriately by the courts.

At the same time there is a need to strengthen community sentences so that they command public confidence and are able to deal effectively with some of the underlying causes of persistent, petty offending, including drug or alcohol misuse and mental health. We recognise the constraints on the magistracy and that many magistrates would like to see robust, effective community options. We want to work with them and others to strengthen and support these options, including women's centres.

There is, however, no value in continuing with the failed policy of short sentences while we wait. Clear direction from government on the need to reduce inappropriate short sentences should be the catalyst for action. Our campaign, Short Sighted, has garnered support across the political spectrum, including from Police and Crime Commissioners, sentencers and a former Attorney General. We have also seen real impact with a strong shift in tone from Ministers. As the Justice Secretary told *The Daily Telegraph* in July "short sentences should only be used in extreme circumstances because they don't work".

To conclude, some of the most shocking figures are the rates of suicide on release from prison. Today men leaving prison are ten times more likely – and women 40 times more likely – to die by suicide compared to people in the general population. We cannot ignore the fact that the majority of people serving destructive short sentences are there for non-violent offences, often living in the context of extreme poverty and significant trauma. There is a well-evidenced overlap between victims and offenders, particularly clear in relation to the 'revolving doors' group. Instead of falling into the often false trap of 'victims vs offenders' we should look for solutions that enhance community safety and increase confidence in the system for all. We can and should do better.

www.revolving-doors.org.uk
@revdoors

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2 For the purposes of this article, we define short sentences as last than 6 months. This can be defined as up to 12 months. Revolving Doors Agency is campaigning for a presumption against sentences of less than 6 months.

3 HC Deb, 10 December 2018, cW https://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2018-12-04/198931/

Table 2.5b Offender Management statistics quarterly, England and Wales Quarter: July-September 2017, Prison population: 31 December 2017.

5 http://www.revolving-doors.org.uk/blog/channel-4-news-covers-our-new-foi-data

6 Populus poll of 944 adults in England and Wales commissioned by Revolving Doors Agency. Fieldwork undertaken 12th-13th February 2018.

a sentence is chosen as it is later, i.e. sentence choice is currently largely irrelevant to future criminality. Differences in rates of reconviction between sentence types are almost totally accounted for by the generally greater offence seriousness and worse criminal record of those given custodial sentences. If matters were otherwise and there were robust and powerful treatment effects, then point 1 above would cease to apply, because what is good for the offender in terms of fewer reconvictions would also be good for the public.

3 Short prison sentences make only a meagre contribution to the prison population. Aspirations significantly to reduce the prison population by diversion of those serving the shortest sentences are naïve or disingenuous. Since this note is a reaction to the suggested abolition of short prison sentences in Scotland, it seems fitting to illustrate the point using a Scottish example. A recent BBC radio *Law in Action* programme included an interview with a Minister in the Scottish government "One of the things that I think is particularly important is the issue of reducing the number of short term prisoners…Over the course of a year we will probably have a total of 4000 short term prisoners. That's of a total prison population of some 7500 prisoners."[1] The clear inference is that some four-seventh of the sentenced population are short-termers. The truth is otherwise. The Minister no doubt has access to statistical support, but we have to rely on Chart 3.6 of the relevant Scottish government report[2]. It will suffice to make the point. The chart shows some roughly 2200 prison receptions during a year are of people sentenced to three months or less. Since they spend so little time in prison, they contribute (at a generous estimate) perhaps 250 to the prison population, some 3% of the total. Think hospital admissions and population. People undergoing hip replacement will account for numerous admissions, but a small proportion. This is not statistical point scoring. It is simply that those who are the most plausible candidates for diversion from custody are those who would make the smallest impact on the prison population size.

The note so far has argued that the apparatus of criminal justice policy needs recalibration in favour of the public, and in particular victim interests. This is an old argument, but honoured only in the breach in official discourse and official statistics. For example, to supplement reconviction statistics, how about routine statistics which detail the number of victimisations suffered at the hands of those recently discharged from custody (and other sanctions)? Second, how about a change of policy direction whereby prevention is given centrality, thus addressing 100% of crime rather than the 2% which result in an offender being officially sanctioned? Third, how about an independent fact checking agency which calls into question spurious claims about the impact that would be made by reforms like the abolition of short prison sentences?

If Scotland wants an evidence based system, what should it do? Beside the public and prevention focus advocated earlier, how about a prison building pro-

Continued overleaf

SENTENCING

Continued from previous page
gramme of small and uncrowded facilities, which David Farrington and Chris Nuttall showed four decades ago to be associated with below expected reconviction rates? All the decent and constructive work in prisons must be applauded and extended. Prisoners go to prison as a punishment not for punishment. The abolition of short sentences is an ill-considered tinkering with the system which may be politically attractive but misses all the important evidence based initiatives with longer term promise. It will share the fate of all such enterprises of the last century. But an account of this is for another time.

We know that there is a vast body of academic literature which is researched from their perspective which explains how expensive, deeply unpleasant and personally disruptive prison is to offenders' accommodation, access to benefits, and to family life and so on. That goes without saying. Sentencers, shaped by guidelines, try everything in their armoury to keep offenders away from prison. In fact research from Civitas found that it is practically unheard of for anyone (0.2% of offenders) to be sent to straight to prison from a magistrates' court without having been before the bench on a previous occasion.

We have been approaching the matter of short prison sentences from the offender's point of view.

This is the lacuna which short sentence abolitionists seldom refer to and which academics seldom research. What is happening at the previous court hearings, prior to the hearing where the custody threshold is finally passed? The defendant is warned of consequences at every stage from the fines stage upwards; that if, for example, the fine is not paid as the court orders then they will be brought back before the court and may be sent to prison. The warning of consequences appears routinely as the severity of the sentence escalates. It is embedded in court pronouncements. When defendants leave the court they can be in no doubt that it has the power to carry out its threat. Then it is over to the offender to make the binary choice whether, for example, to comply with court orders or risk facing the consequences. As the offences become more serious, fines may be followed by a community sentence. This gives sentencers a huge range of measures to try and turn the offender's life around and consequently reduce reoffending behaviour. The measures must include a punitive element, but also a rehabilitative activity too. Non-compliance must have conseqquences.

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IMBs

A night visit to HMP High Down

Sue Bird of the High Down IMB describes her board's nocturnal venture

Having finally decided to make a night visit to the prison and agreeing a date between ourselves, the bigger issue was finding someone at the prison who knew the protocol to arrange it. We have previously made late evening visits to the establishment but never broken the night state.

I knew that all that needed to happen was that an IMB password be secured in the safe, but felt it inappropriate to tell the security governor the process. He finally got back to me with exactly that, which was all done in good humour. I received no resistance from the prison at all, instead a more quizzical look of "really, are you sure??". Obviously, we did not disclose the date of our intended visit.

In November four of us met in the prison car park at midnight, two members had come from a gig which lightened the mood. We took nothing into the prison barring a note book and pen.

The door bell at the front gate was answered by a newly in post officer that none of us knew. When we told him who we were said "sorry I can't let you in, you are not authorised". I went on the explain that we had secured a password in the safe which would secure our entry. We heard no more for about 15 minutes, but we did see an ambulance arrive with blue lights which was let in the vehicle entrance. Guessing that something serious was happening inside we remained patiently outside. We later learned that a prisoner had seriously self-harmed, but then refused go to in the ambulance.

What to wear

For those that do not know, HMP High Down was built on the old Banstead Asylum site on the Downs in Surrey and the wind blows a gale across the prison making us agree to think more carefully at what we should wear for our next night visit.

Shortly afterwards I was asked for our password, and then the night orderly officer came onto the intercom explaining that there was an emergency and we could not come into the establishment until this had been dealt with. True to her word we were admitted at 12.40 am. The orderly officer was a CM that we knew well, and we later heard that when she got the message from the gate, she initially considered calling the police in case the security of the prison was about to be compromised. However, she looked on the camera and saw our lanyards.

After a full search we had a tour of the residential areas where we were given time to speak to the officers/OSGs, learning about the jobs that needed completing overnight. We also checked the ACCTs and realised what a time consuming job this alone is. High Down, as a local CAT B, has a large number of ACCTs open at any one time. We were accompanied by the orderly officer and two officers, all female.

We were able to check on the times that the last prison escort van arrived at High Down and how long it took to locate the man to a cell. The last van arrived at 20.05 from a Crown Court which had probably 'risen' at 16.30 and the man was finally in a cell at 21.13. It hit home at the length of day he must have had, particularly if it was his first time in custody. Staff said this was early for a Friday night, and we are aware that the final prisoners are not always located to cells until the early hours which has a knock on effect to staffing rosters.

We were surprised at how quiet it was; late evening visits tend to be very noisy with televisions and radios blaring out and shouting between cells. The only noise was from us sadly discussing the rats scurrying around on the lower walkways outside the residential units. We were amazed by the number of checks and forms that had to be completed by the orderly officer which involved "walking" the entire establishment. Many gates are left open for ease of movement and these have to be locked

If we had any tips they would be

- Wear warm comfortable clothes including shoes
- Wear your lanyards
- Don't forget your password
- Be patient – the officers still have an operational role
- Don't stay too long!

before the patrol state is broken in the morning. Any sceptical thoughts about "sleeping on the job" were soon lost by the sheer size of the responsibility of the night shift.

The second emergency of the night came across the radio which halted our tour and we attended with Oscar 1. Medical staff were in attendance as a man was having breathing problems. As a decision was being reached as to whether an ambulance was required (High Down also has an inpatient wing) we agreed that we had taken up a lot of their time and if there was an escort available, we would leave the establishment. We were also aware that the orderly officer was considerably behind on her night checks. We left the prison at about 03.30 following another search.

What value did we get from the visit? We were able to monitor matters such as ACCT records, the late arrival records, noise levels, emergency procedures and the nursing provision in the inpatient facility. Importantly, we were seen by some prisoners and staff who realised that we are not just a nine-to-five operation. We certainly gained insight into the difficulties faced by night staff. As a group, we agreed that it was a particularly worthwhile monitoring visit and would fully recommend doing it. We shall certainly be diarising them quarterly.

Who do we think we are?

Anne Rogers of the IMB at HMP Brixton argues that carelessness in our use of language can jeopardise how others see us

IMB publicity focuses, quite rightly, on our independence - the fact that we are members of the local community, monitoring the treatment of prisoners from a perspective completely separate from, and uninfluenced by, the views of the prison's managers, the broader prison service or the Ministry of Justice.

Prisoners need to believe in our independence if they are to trust us to assess how fairly or otherwise they have been treated, and to accept that our assessment will sometimes support them and sometimes the prison. But I would be surprised if anyone reading this had never heard a prisoner say that they think the IMB is in the pocket of the prison. In part this view might be the natural cynicism of the disempowered, but it is inevitably affected by how we conduct ourselves as IMB members. We need to be walking the tightrope of independence, whatever we do or say.

Monitoring a specific prison, as we do, has a lot of advantages. It means we learn in detail how the establishment operates; we know where to go for information; we are there when the prison has not been spruced up for a visit from the Minister or an impending inspection; we see whether conditions are improving or deteriorating over time; we have the chance to build the mutually respectful relationships with staff that are necessary if we are to be taken seriously. But because we visit regularly it is easy to feel that we belong and to start referring to it as "our" prison. Even if all we mean by that is "the prison we monitor" we immediately sound less independent and more like part of the establishment. And there is a real danger that we slide into using the wrong pronoun more widely.

In the past couple of months I have heard members of four different boards say: "We don't give men in seg. a tv"; "We released a prisoner in error last week"; "When it is cold we give men coats so they can exercise outside"; "We don't send men out on ROTL". I do not doubt that some, perhaps all, of these remarks came from good and dedicated IMB members, but anyone who heard them would be left wondering who the speaker worked for. If we say these things we are identifying very strongly with the prison and are wobbling on the independence tightrope. This increases the risk that we lose our footing completely, and start to moderate criticism of the prison in our annual report, maybe play down the prison's shortcomings when the Ombudsman comes to call, or even ask the Inspectorate to go easy on our prison "because they are doing their best".

If prisoners hear us, or read such language in our annual report, is it any wonder that they think we are part of the establishment and not independent? We need to remember who we are, and tailor our language to our responsibilities.

Repatriation of foreign national prisoners

Board members may well have had an inquiry from a foreign national prisoner about the possibility of serving his sentence in his home country. Anu Liisanantti of the charity Hibiscus provides a comprehensive guide to the process

The term "foreign national prisoner" encompasses many different people currently in the UK prison system who do not hold a UK passport. They may have come to the UK as children with parents, or have been born in the UK from parents who never naturalised them, or be second generation immigrants; they may be asylum seekers or may have been given indefinite leave to remain as a refugee; they could be European nationals; those who have entered the UK illegally or were in the UK as students, visitors or workers who have become involved in the criminal justice system.

UK legislation

The Repatriation of Prisoners Act 1984 enables foreign national prisoners to request a transfer back to their country of origin to serve their sentence. Sentenced prisoners from a country which is a signatory to transfer conventions or bilateral agreements can apply for repatriation if they have at least six months left to serve, and no outstanding appeals. The practical reason for setting a minimum period still to be served is that transfer procedures take time to complete. If there are fewer than six months left to serve there may not be sufficient time to carry out the transfer procedure, although where there are compelling or compassionate reasons, and both states agree, transfer may be possible in a shorter time.

One of the principal requirements of the Act was that the prisoner gives his or her consent to transfer. However, recent regional instruments that bind the United Kingdom remove the consent requirement in certain instances. The 1984 Act therefore had to be amended to reflect that a prisoner's consent is now only necessary if required by the relevant international arrangement

The terminology used to describe the two states that are parties to a decision to transfer a sentenced person can vary. The country in which the sentence was imposed can be referred to as the sentencing state or the "issuing state", as in this article. The country to which the sentenced person may be, or has been, transferred in order to serve his or her sentence can be referred to as the receiving state or the "executing state", as in this article.

UK's agreements

The UK is party to multilateral agreements relating to prisoner transfers:

- *The European Convention on the Transfer of Sentenced Persons* is an international treaty, effective from 1985, regulating the transfer and social rehabilitation of imprisoned persons. To date it has been ratified by 66 countries, including states outside the Council of Europe. This gave foreign nationals convicted of a criminal offence the possibility of serving their sentences in their home countries.

It was replaced in 2011 by an EU Framework Decision that requires signatories to accept transfers in most cases. Prisoners can challenge decisions to repatriate and the prisoner's opinion is taken into account, with a full response sent to the prisoner before the application is forwarded to the executing state. As outlined further on, this rarely results in a favourable decision for the prisoner. In other words, while both countries have to implement the Framework Decision for the process to work, a prisoner could be transferred without agreeing to it.

- UK is also a state party to the *Scheme for the Transfer of Convicted Offenders within the Commonwealth* which lays out the conditions for transfer of prisoners between Commonwealth countries, and requires the prisoner's consent to repatriation. Although the parties to the agreement include a number of countries with a large number of their nationals in UK prisons, many countries have not implemented the scheme, and it has rarely been used.

Furthermore, UK has bilateral prisoner transfer agreements with a number of countries. These agreements exist and operate simultaneously with multilateral conventions.

Compulsory transfers

After a foreign national person has been sentenced, the case will be referred to the Home Office for deportation action. If a deportation order is made the case is then referred to the Ministry of Justice who might decide to start the transfer process early without the prisoner's consent. This is known as compulsory transfer.

Prisoners identified as suitable for compulsory transfer will be informed of this by the Cross Border Transfer Section and will be invited to make written representation against the decision. A prisoner will normally have 28 days in which to make representations. If requested by the prisoner, they should be allowed to contact their legal adviser.

When repatriation has been approved and a date of transfer agreed with the receiving jurisdiction, establishments will be required to make arrangements for the transfer of the prisoner to an appropriate prison for departure. The Cross Border Transfer Section will inform establishments when arrangements should be made. As transfer will normally take place shortly before the date of departure from the UK, it is essential that the prisoner's property and private cash is transferred with the prisoner. Prisoners will normally be allowed to take hand luggage only with them on departure from the UK. Prisoners should be asked to make arrangements for the disposal of any property in excess of this before transfer to the departure prison. A record of the transfer or disposal of any property must be kept. The issuing state (UK) will escort the person to the executing state and will then hand him/her over to the authorities in the executing state. From this point the person will be subject to the laws, rights and policies of the executing state and have no further association with the issuing state.

Voluntary transfers

A voluntary transfer is where the foreign national prisoner asks to be transferred to his/her country of nationality or country of permanent residence before the end of their sentence. All cases considered for repatriation are dealt with by the Cross Border Transfer Section.

How to apply for a transfer

An applicant needs to submit a Repatriation Application form, together with supporting documentation, that will be forwarded to the Cross Border Transfer Section which then consults with the UK Secretary of State and the government of the executing state to decide whether repatriation is appropriate.

Every international agreement on pris-

oner transfer will contain its own requirements. The most common requirements are:

- The prisoner is a national of the receiving state. In some rare cases persons with established roots in another state may be considered for transfer even if they are not nationals of that country;
- The sentence is final and so is not subject to appeal;
- The offence giving rise to the sentence is an offence in the receiving country;
- There are at least six months of the sentence outstanding, or the sentence is indeterminate; and
- Both the sentencing and receiving state consent to the transfer.

Unlike compulsory transfers, prisoners serving less than four years can in some cases be considered for voluntary transfer, and it will be considered on a case by case basis. Foreign national offenders are also eligible for early removal from the UK under the Early Removal Scheme.

Time served in the UK is taken into account. The sentence can be administered in accordance with local laws, although this cannot lengthen the original sentence. The extent to which the sentence can be adapted may be limited by the terms of the transfer agreement, and the prisoner will not necessarily be given a definite release date prior to the physical transfer, as this cannot be calculated until they have actually transferred.

The cost of voluntary repatriation has to be covered by the person who made the application. The prisoner has to pay for their own ticket but not those of the guards who might accompany them. Some states, however, require the prisoner to meet all costs associated with the transfer. Prisoners need a valid travel document to facilitate transfer as the lack of it can often slow the process down. In Europe, countries can provide a 'European Travel Pass' document for a single journey, rather than provide a new passport.

Human rights implications

One requirement not widely mentioned, but which may arise as a matter of law and which should as a matter of policy, is that the human rights of the person to be transferred must be safeguarded. States may be forbidden, as a matter of national law or of binding international law, to transfer a sentenced person whose fundamental human rights would be threatened by transferring him or her to another country in order to serve the sentence. This is of particular relevance where the issuing state seeks to remove a sentenced person without their consent. It may entail obtaining assurances from the executing state that the person's fundamental human rights will not be infringed.

Challenges

There are many factors complicating the transfer process:

Legal and administrative differences

Whilst the EU Framework Decision provides a mechanism for the transfer of sentenced EU-nationals within EU member states to enhance the individual's social rehabilitation, there are ongoing issues in the execution of transfers due to countries' different legal and administrative structures and processes. Furthermore, each country has a separate piece of legislation which specifies the authorities responsible and the process of actual transfer when it takes place. Experts responsible for the transfer of sentenced prisoners have expressed difficulty in obtaining and understanding early release arrangements in other member states.

Lack of accurate information

Hibiscus's own prison staff have observed that many prisoners are not offered accurate information about the voluntary repatriation process. This is partly due to the complexities of procedures in different countries, and therefore limited knowledge of foreign national officers and legal professionals who support foreign nationals.

Prisoners do not give their final consent to the voluntary transfer until the end of the process. Once both states have agreed, the prisoner should then be provided with detailed information about the transfer and administration of the sentence. If they are not content, they have the right to withhold consent and withdraw their application. However some of Hibiscus's clients in prisons were not aware that following a voluntary transfer the rules of early release, sentence remission and prison conditions follow the local law of the destination/home country. For example, some countries automatically release prisoners from prison halfway through their sentence, while other countries release prisoners two-thirds of the way through their sentence. Our concern is that inadequate information could lead to a situation where prisoners who initiate the voluntary transfer may unknowingly end up remaining in prison for longer in their country of return than they would have in the UK system.

Time limits

The time it takes to apply for a transfer varies greatly, and the person might come

Continued overleaf

STEP BY STEP TRANSFER PROCESS

1	Application
2	Review by the issuing state (UK)
3	Approval or dismissal
4	Prisoner submitting reasons not to transfer (applicable with compulsory transfers)
5	The above representations/reasons are responded to
6	Sentence reviewed by the executing state (destination country)
7	Sentence is agreed between executing and issuing state
8	Transfer date agreed
9	Travel to executing state
10	Sentence is served in executing state until release

REPATRIATION

Continued from previous page
to an end of their sentence before transfer is processed. Once the executing country has the application (either voluntarily or from UK authorities) they should reply within 90 days under the EU Framework Decision, but in practice this can take longer. The delay is often caused by the court process for recognition of a transfer request[2], but also by complexities of the translation process, working out sentence length, requests for more information, or lack of information about the person's immediate needs (e.g. in cases of disability). There is no formal mechanism for recording the length of time that enforcement decisions or practical transfers are taking. Most authorities will only consider pushing the applications to be processed more quickly when they are strong compassionate grounds to do so (e.g. in case of a life-threatening illness).

EU referendum and Brexit

There has been some speculation in the UK media that Brexit might halt the transfer of EU prisoners back to their home countries to serve their sentences. The government has yet to set out its intended course of action, and no change will happen to the EU Framework Decision until the UK actually leaves the EU. When the UK is no longer able to use the EU Framework Decision, it is likely that it will revert to using the Council of Europe's transfer convention which has an additional protocol to which the UK is signed up, removing the requirement for the prisoner's consent in certain instances.

Recommendations

Foreign national officers in prison and legal professionals should have at least the basic information about the transfer process in order sufficiently to inform and advise foreign national prisoners.

Embassies and consulates could play a more important role in engaging with their nationals before and during a transfer process.

Furthermore, Europris Resource Book on Transfers recommends a telephone information line providing prisoners and their families with information on the transfer process, supported by a factsheet available in multiple languages detailing the stages of the transfer.

Many aspects of the process are dealt with in factsheets provided by the charity Prisoners Abroad.

REFERENCES

1 section 44 of the Police and Justice Act 2006

2 Most countries (not the UK) require judicial recognition of transfer request and the enforcement of the sentence following transfer

THEATRE

Changing lives – and minds – through theatre

Clean Break is a theatre company with an independent education programme. Its work with women in prison is described in this article, edited by its Executive Director Erin Gavaghan, for publication from a longer blog written by Anna Herrmann which became available on Clean Break's website in January 2019.

Clean Break changes lives and changes minds through theatre – on stage, in prison and in the community. Founded in 1979 by two women prisoners at HMP Askham Grange who believed that theatre could bring the hidden stories of imprisoned women to a wider audience, it is still the only theatre company of its kind remaining true to these roots; inspiring playwrights and captivating audiences with the company's award-winning plays on the complex themes of women and crime.

Joint Artistic Director Anna Herrmann reflects on *Thick as Thieves* recent prisons tour and Clean Break's approach to presenting theatre in women's prisons.

"Clean Break's plays tell the hidden stories of women who have experience of the criminal justice system to audiences across the UK. We believe they should also be seen by women currently serving prison sentences as we know they rarely get the opportunity to see their own experiences portrayed sensitively or without judgement on national stages, television screens or in the media. By seeing these stories shown compassionately, individual women's emotions of pain and isolation in relation to their own story might, for a short time at least, be lessened and new possibilities of hope, community and feeling understood might take root."

Taking plays about women caught up in the criminal justice system into women's prisons has often been questioned by others: why would women living through the challenges of issues such as poverty, abuse or distress want to see these exact same issues on stage? Why not commission plays which purely entertain and provide an outlet and a moment of escape and freedom from this?

"We believe that women should have this opportunity as well, however, our focus is to create theatre which holds a mirror up to women's lives and to spark a creative conversation with the audience about their lives, futures and potential."

In Autumn 2018, Clean Break co-produced a tour with Theatre Clwyd of award-winning playwright Katherine Chandler's *Thick as Thieves*, directed by Clean Break's Joint Artistic Director Róisín McBrinn. The play toured to theatre venues in Mold, Salisbury and Hull as well as three women's prisons: HMPs Styal, Downview and Askham Grange and a Community Rehabilitation Company.

The play tells the story of a meeting between two sisters who have not seen each other in many years. Through conversation, their past unravels and the abuse and neglect that they suffered as children is revealed. The play highlights the enduring effects of childhood abuse on the life chances of adults, and asks questions about what is neglect and how do we change. It is a painful story but there is hope and the possibility of reconciliation in the end.

"The play is powerful, the story feels real and reflective of many women; therefore we had to consider responsibly how to bring this into prisons. How could we ensure that women prisoners seeing the play had the support structures in place to cope with any difficult and strong emotions it evoked? It was important for them to have the full experience of the production, not edited excerpts. Alongside the play we offer theatre and writing activities designed to explore the themes. These women are not passive, but very much active agents, bringing their own ideas and experiences to the work, and creating their own responses."

We began the process of developing our activities in these prisons in conversation with the education departments and key staff there. Our aim was to ensure that the women who participated knew in advance what the themes are and were able to make a choice about their participation. We limited the size of the groups of participating women to ensure that all who saw the play could also take part in all the workshop activity. We ran taster sessions in advance to prepare and address any con-

cerns they might have and give them the choice to withdraw."

The programme for *Thick As Thieves* featured preparatory drama work, watching the play, and a workshop for the women to process the themes and create their own responses; this could be extended to include exploration of the themes over several days and facilitating the women to write their own scenes which are then performed by the professional actors of the play.

"The acting in the play was outstanding with a nuanced script and it was wonderful that the actors returned for further role play, to interact with the learners. The Clean Break team were great to work with."
Nicola Murray, Education Department HMP Styal.

Participants were invited to imagine positive futures for characters, which the actors then improvised providing a future focus and creating a sense of possibility. Care is taken not to feed feelings of hopelessness that might exist already.

In creating their response pieces, we handed over the narrative to the participating women. We did not ask them to write their own stories, but to work in the realm of their imagination, creating characters sparked by the story and the themes that had resonated for them. Each woman told a different story. And each woman's starting premise was that she did not believe she could do it. And when they saw the actors perform their pieces, there were many tears of joy and pride at what they had achieved. Everyone in the space was profoundly moved by this shared experience. Their overwhelmingly positive feedback confirmed this. The difficult themes of the play had spoken truthfully to the audience – but it had not been too much.

Clean Break celebrates its 40th anniversary throughout 2019. Its spring season includes Inside Bitch (above), a co-production with the Royal Court Theatre from 27 February to 23 March.

"Bringing Thick as Thieves into prisons has reaffirmed my assertion that women in prison benefit hugely from seeing truthful plays which reflect their lives and from having the opportunity to work through the themes and have the space to express their own voice and become the writers and performers themselves. As the company turns 40 in 2019 and the rate of women's incarceration is yet to reduce, we have strengthened our mission to create ground-breaking work with women with lived experience of the criminal justice system at its heart."

Graduate prison officers leading reform

Natasha Porter, CEO of Unlocked Graduates describes the genesis and development of a scheme to entice graduates into careers in the prison service

As members of an Independent Monitoring Board, readers will already be acutely aware of the severe challenges facing the criminal justice system. Newspaper headlines and government statistics all confirm what you will have seen first-hand: on pretty much every conceivable metric, our prisons are struggling. For me the most shocking statistic is that nearly half of all those in prison will reoffend within a year of being released. This is simply unacceptable, and it is why we created Unlocked Graduates as a way to diversify the prison workforce and bring new ideas into the system.

The Unlocked Graduates programme grew out of the Coates Review of prison education. I was a member of the panel tasked with looking at workforce issues. The report argued that education needs to be put at the heart of the prison service if government is serious about the rehabilitation of prisoners. The report made a range of recommendations to improve prison education. We also realised, however, that if we were serious about a culture of rehabilitation driven by education, we could not focus solely on what happens in the education block. If we did, we would miss some of the most vulnerable prisoners who simply never made it that far.

We realised that it was prison officers who had the greatest contact with this group of prisoners – and therefore could make the biggest difference. But unlike, say, teachers or nurses or psychologists or any of the other specialist staff that might enter a prison, this was not a role which most people know much about.

As someone who had worked as a frontline teacher after being recruited by the graduate scheme Teach First, it was an obvious next step to consider whether such a model could be created for the prison service. Unlocked Graduates was therefore established with the explicit aim of reducing reoffending rates by recruiting and training ambitious graduates at the heart of the prison service.

We believe the prison officer role is the one that can have the greatest effect on prisoners and on prison culture. Working face-to-face, day-to-day with prisoners, a good officer is a mentor, negotiator, teacher and so much more. They have unprecedented access to some of the most vulnerable people in society, and unprecedented potential to help them. But unlike other similar jobs, this is not something that is widely recognised. Prison officers are, by and large, invisible public sector workers, and the job is – paradoxically – considered by many to be both too dangerous and too boring.

When we surveyed students at top universities it was clear that it is a job – and indeed a sector - that was not even on the radar of graduates at the most competitive universities. This is hugely problematic. We are not arguing for prison officer to become a graduate-only profession, but we do believe that, for better or worse, society judges our best and brightest to be those who go to a small number of elite universities. And we know that this group go into other public sector roles, from teaching, to the police, to medicine. If we truly believe that the prison officer role is important, then surely some of that group should be working in our prisons.

Leadership development

Over the last two years, over 2,500 graduates and career changers have applied for our unique leadership development programme, attracted by the idea of not only leading prison reform, but also gaining skills that will make them stand out from any crowd. Having rigorously assessed them for the qualities they will need on the landings, such as leadership and resilience, we put them through their paces with our intense training programme. We have placed 150 frontline prison officers in 14 prisons across London and the south east; they are working with over 10,000 men, women and children in prison.

How have we done this? First, we offer them exceptional support. Being a prison officer is a tough job, especially when you are starting out, and being able to lean on those with greater experience is invaluable. Every participant on our programme is given access to a Mentoring Prison Officer, an experienced prison officer who offers advice and answers questions. And our Unlocked Graduates are placed in prisons in groups, so they have a supportive peer group from day one.

Secondly, we tailor the programme to make it attractive to our target audience. That means, for example, unique aspects that make us stand out from the huge range of other opportunities they could take. It also means recognising that 80% of millennials say they will be in their next career for less than two years – a job for life is no longer an attractive proposition to most young people. With that in mind, we offer our participants the opportunity to take on work placements, ongoing career development, and a bespoke, fully-funded master's degree – a real draw for students coming out of university in debt or career changers later in life.

Last, but definitely not least, it is about myth-busting. It is about going onto campuses up and down the country, and speaking to hundreds, if not thousands, of students, about the reality of what the prison officer job entails. It is about convincing professionals five or ten years into their careers that this is an opportunity where they will be able to really help vulnerable individuals – to go home in the evening believing that they have made a difference. And it is about reassuring them that if this

is an idea that appeals to them, they should go for it!

Of course, myth-busting goes both ways. Some people are sceptical about the impact that graduates (and Unlocked Graduates) can have. We are incredibly proud of what our officers are achieving, so it is important to dispel some of the misconceptions about what we are looking to do.

Despite our focus on those with degrees, we do not exist to prove that graduates are naturally better than pre-existing officers, or that studying at university for three years suddenly equips you to turn around a prison. We are simply trying to correct the under-representation of a demographic that most other employers are desperate to attract, and bring in some different ways of problem solving. Nor do we recognise the out-of-date stereotype of graduates as middle-class "snowflakes." Students nowadays come from all backgrounds, and our participants should be celebrated for choosing this career over easier options. In fact, one in five of our officers come from a BAME background, 80 per cent went to a state school and over half were the first in their families to go to university.

Another concern is that our participants are free to leave after two years. Given the recent issues with staff shortages, surely it is irresponsible to allow more prison officers to leave? In fact, the scale of our programme means we never planned to be the solution to any major shortfall in officer numbers. But, while we expect many of our participants to stay within the prison system (and hopefully rise up the ranks as well), we actually believe that participants leaving to pursue other careers can directly benefit the prison service as well. So much of what is wrong in prisons today is the result of what a closed-off, insular world it is. We want former prison officers to go out into society and share what they have seen, and indeed come back into the prison service with some organisational solutions from other sectors too. Consider the impact of a CEO who employs ex-prisoners, or a politician who advocates prison reform in parliament. These are also valid future paths for our Unlocked Graduates.

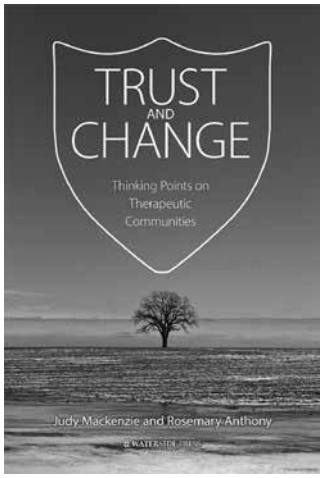
Making a difference

But if we are only employing a relatively small number of new prison officers, what hope can we really have of making any difference to the situation as is stands? This leads me to perhaps the most exciting part of the Unlocked Graduates' vision. We are supporting our participants not only to be great officers, but to be great leaders as well. We see them not only coming up with fixes, but sharing them too, in order to promote better working cultures.

This goes beyond the prisons that our officers are currently working in. We want to create a body of knowledge about what does and does not work when it comes to reducing prisoner reoffending, and make sure it is accessible and implementable across the country. That is why our Unlocked Graduates work in groups to contribute to a policy paper that will be shared with the Ministry of Justice. Starting with their first-hand experience, we are asking them to come up with evidence-based solutions to problems they have dealt with. We know there is no one-size-fits-all silver bullet for the prison system, but there are lots of incremental fixes that, together, can be transformative.

In just two years, we have gone from what some might have considered an impossible dream, to a rapidly growing organisation that is making a real difference on the ground. Not too long ago, it would have seemed fanciful that students would opt to work in prisons of all places; today, over 1,000 people have started an application to join our third cohort. There are hundreds of intelligent, passionate, motivated people out there who would never ordinarily consider working in the prison system. Our mission is to continue to get as many of them as possible to lead change from the inside.

BOOK REVIEW



Trust and Change: Thinking Points on Therapeutic Communities

Mackenzie, J, and Anthony, R.
2018 Waterside Press £16.50

This book is the result of the collective experiences of two highly qualified therapists working within Therapeutic Communities (TC). As they explain in their introduction, it is a book, "that explains the basics,..invites reflection..it has been asking to be written for many years, waking us at night with echoes and memories.."

The text provides admirably clear and straightforward descriptions of what the TC is, and how it needs to function in order to promote significant change of behaviour.

The book demystifies the TC process offering descriptions of the 'four pillars" of TC:

Democratisation: the process of creating an atmosphere of openness, and allowance for each prisoner to be heard. Tolerance: the ability within a group of people to learn to accept individual differences, Communality: the creation of group members to take responsibility for the welfare of each other, and Reality Confrontation: one of the most challenging areas of changing ingrained patterns of behaviour often unconsciously repressed.

Many of the men and women in our prisons are severely psychologically damaged individuals who have become socialised into criminal activity and thinking, TCs are not easy for the men or women within the community as the TC is a 24/7 activity. The work within the TC aims to challenge the prisoner's previously learnt behaviour and encourage new ways of thinking, for example to replace anger or violence as a response.

The book is presented in a very accessible way for any reader who does not have an in-depth understanding of forensic psychology. It is littered with many examples from prison practice, for example from

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ReSTART - a joined up approach to a complex problem

Celia Howells is a member of the IMB at HM YOI Feltham. She describes with enthusiasm her encounter with the charity ReSTART

I am trying to sing Robbie Williams' *Angels*, but the tears I am holding back prevent the words coming out. Around me, the room is filled with enthusiastic voices of all ages. In front of me is a choir. Behind me, men who waited on my table earlier are singing their hearts out, their faces alive and full of happiness.

The reason I feel so incredibly moved is that this is no ordinary occasion, but a charity launch at The Clink, HMP Brixton. The choir comprises mainly City lawyers, who give their time to go in to prisons and sing with prisoners. The waiters are serving prisoners at HMP Brixton. They are smartly dressed, friendly, polite and personable. Those eating are a mixture of people working in the criminal justice system – mentors, donors, and those who founded and are growing the charity ReSTART.

The ReSTART team consists of a lawyer, an accountant, business start-up coaches and tax and finance specialists. ReSTART aims to reduce reoffending by creating sustainable self-employment and employment opportunities run both inside prisons and through the gate. It comprises Enterprise Exchange, Enterprise Inspiration and Beating Time. Enterprise Exchange has worked with over 1,000 people. Enterprise Inspiration is a community interest company that supports businesses set up by ex-offenders. Beating Time has worked in ten prisons and with over 400 prisoners in the last four years *(a full description of its work may be found in the September 2017 edition of the Independent Monitor – Ed).*

A six day Start–Up course run by KPMG mentors runs alongside a continuous choir and performance programme. In addition, a dedicated coach and a support worker help overcome the mental and practical hurdles to rebuilding a life on release. After release, business and financial advice is provided, small grants can be made and an employers network helps those who want employment to find jobs.

People can only make the most of opportunities like ReSTART if their mental health is sufficiently good. Group singing significantly improves mental health and wellbeing by suppressing stress hormones and producing endorphins which make us feel positive. Psychologists have also found that choirs are the fastest way to create social bonds and a meaningful sense of social inclusion. A choir models a thriving community and what it feels like to have a place in one.

Singing develops team work – commitment, focus, listening, expressing and controlling emotion, being creative and courageous. Choirs build confidence and self-belief. Performing requires giving of oneself and developing a sense of worth. These are all essential for either employment or self-employment.

The Ministry of Justice has identified seven desistance factors which prevent reoffending:

1. Hope and motivation
2. Being able to contribute
3. Identifying yourself as something other than 'criminal'
4. Being believed in
5. Being economically active
6. Having supportive relationships
7. Having somewhere to live

As well as directly addressing five of the above factors, ReSTART helps prisons improve their outcomes on Purposeful Activity, Decency, Safety and Resettlement.

The programme starts inside the prison with 25 men forming a choir. Ten men from the choir then join a Start-Up Course and plan a concert for employers, family and friends. Post release, a support worker provides through the gate support. Funding and professional support are available and there is access to an employers' network.

Most employment processes filter out those with criminal convictions so many opt for self-employment. A "Dragons' Den" style fun day enables prisoners to pitch their ideas for self-employment. Corporates can bring their entire team to a Business Challenge Day.

The programme runs for 15 weeks, costing £1,400 per prisoner. Given that the cost of reoffending is around £290,000 per prisoner, ReSTART is a highly cost effective means of helping ex-offenders.

I'll leave the last word to Gavin, who at the age of 30, has been in prison 18 times. During his last sentence he kicked his drug habit, was the brains behind the winning team at Business Challenge Day and sang a solo in front of 40 people backed by the choir. This gave him the confidence to apply for a job and he started work with Blue Sky, one of ReSTART's employment partners. "Finding Choir was wicked. It brought me out of my shell and made me feel good. I've met some lovely people. This time last year I wouldn't have got that interview and if I had I wouldn't have turned up."

Beating Time
www.choirsbeatingtime.org
Enterprise Exchange
www.enterpriseexchange.org.uk
Enterprise Inspiration
www.enterpriseinspiration.co.uk

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the TCs at HMP Grendon and Dovecote, and it is evidence based. Outlines of recent research into the effectiveness of the TC are included, an important area in these days of ensuring value for money in prison rehabilitation and reduction in offending behaviour. Of note is a study at HMP Grendon which demonstrated that reoffending is at least 20% lower than in the general prison population after a minimum exposure to the TC experience of two years.

The writing style is engaging and at times conversational, occasionally prompting questions to the reader, and encouraging personal reflection. There are chapters on how 'boundaries' with prisoners need to be maintained, sections on 'grief and loss' or 'failure to mourn', and how these impact upon the prisoner's behaviour. There is a chapter on additional therapeutic aspects, such as small groups and complementary therapies.

This text is an excellent introduction to TC work and is valuable for any IMB member whether working in a TC applied prison, or not. It deserves to be on all IMB members reading lists.

Dr Rob Wondrak
IMB Chair HMP Grendon

Monitoring segregation

On 13 November 2018 AMIMB held a workshop on the topic of "Segregation" looking at how we can monitor it more effectively. Anne Rogers of Brixton IMB provides this report.

The opening speakers were Jade Glenister, Assistant Coordinator of the UK National Preventative Mechanism (UK NPM) and Senior Policy Officer at HMIP and Dr Kimmett Edgar, Head of Research at the Prison Reform Trust (PRT). The IMB role in the UK NPM, covered by Article 19 of the Optional Protocol to the Convention Against Torture (OPCAT), is 'to regularly examine the treatment of detainees and make recommendations to authorities to ... prevent torture and other ill-treatment'.

While the UK NPM has never identified an instance of torture, it does find and make recommendations about ill-treatment. It is currently producing some written guidance with respect to ill-treatment in the use of force and restraints, personal dignity in detention and the physical conditions of the place of detention. The IMB secretariat produces an annual assessment of compliance on behalf of boards, but the UK NPM also welcomes direct approaches from individual IMBs and can advise how best to raise our concerns with Ministers or HMPPS.

Kimmett Edgar's recent report on segregation, 'Deep Custody', co-written by Dr Sharon Shalev and available on the PRT website, found that almost two out of five prisoners had engineered their segregation – generally to avoid debts or drugs on the main wings and/or to precipitate a transfer. A small minority of prisoners prefer the relative peace of segregation and the better access to staff that it offers. However, PSO 1700 is clear about the risk to mental and physical health of continued isolation, which often aggravates the behaviours that led to segregation, and it is important that it is truly an option of last resort.

The speakers suggested that IMB members checked that:

- other options were considered prior to segregation;
- the nurse making the segregation risk assessment knew the prisoner well enough to make a sound judgement
- Segregation Review Boards were multi-disciplinary, with decision-making shared among members, including the prisoner and the sending wing
- plans for reintegration were considered from the outset
- phased reintroduction to normal location was considered
- the unit was clean, safe and well-maintained
- special clothing was used only very exceptionally (there are other ways of keeping someone safe than removing their clothing)
- segregated prisoners were given an explanation of the regime and received it consistently
- access to regime (showers, phone, exercise, reading material) and in-cell facilities (radios, TVs, kettles) were restricted only after individual risk-assessment and not denied as a matter of policy
- segregation did not lead to solitary confinement (defined as 22 hours or more without meaningful human contact: being given food or medication, a quick check or hello through the door is not enough – a proper conversation is required).

In the case of prisoners self-isolating on the main wings, having a cellmate might not be enough to avoid solitary confinement, depending on the relationship.

During the afternoon there were presentations from Sharon Whitmore (Safety Lead for the London Prison Group) and Professor Geoff Shepherd (HMP Bedford IMB).

Defensible decisions

Sharon ensures that prisons in her area make defensible decisions about segregating men on open ACCTs and continuing segregation beyond 42 days. She underscored the importance of all segregated prisoners having a reintegration plan from the moment of their arrival in segregation as well as adequate peer support (eg from Listeners).

Sharon was open to local policy variations for segregated prisoners as long as decisions were adequately justified. Variations certainly exist: members present described conditions where difficult-to-move segregated prisoners could be transferred from prison to prison in one local area in a 'virtual seg'; had no access to in-cell electricity; had no access to TV regardless of IEP status (very common); had no access to coats in order to take outside exercise in cold weather; were not allowed trainers (only slippers) other than for outdoor exercise. Asked about mental health training for segregation officers she pointed out that all would have SASH mental health training (which I thought was mandatory for all uniformed staff, but might have expected seg staff to need additional skills). She did however confirm that a prison should be able to provide a coat for any prisoner (whether or not in the seg), and that all segregated prisoners should have access to a radio. She also said that it was good practice for there to be a core group of governors who led segregation review boards, so that there was continuity of information across boards. She suggested boards invited the regional Safety Lead to a board meeting.

Geoff Shepherd described some focused monitoring by the IMB at HMP Bedford into the standard of ACCT documents. He was critical about the poor level of completion of ACCTs, particularly the lack of individualisation of risk-assessments and care maps. His professional experience as a clinical psychologist is that outcomes are improved significantly by focusing on understanding the individual and taking their risk triggers and coping strategies into account.

Yet in Bedford IMB's interviews of 20 men who were on an ACCT or had been very recently:

- only 42% felt that they had been listened to and involved in the ACCT process
- of the 59% who were able to identify particular times or places when their feelings of self-harm were the strongest, this information was recorded in fewer than half of their caremaps.
- most prisoners could identify coping strategies which they had found helpful in the past, but only in 25% of cases were these recorded in the ACCT
- only 30% felt that frequent observation was helpful and yet 63% had felt unable to influence the frequency of observation

The PPO Annual Report (2017) commented that, 'current prison suicide prevention measures are badly in need of updating and streamlining'….. 'without which we can question their fitness for purpose'. Until they have been reviewed and revised Geoff recommends that IMBs check ACCTs for the sort of individualised information he describes and press for more involvement of prisoners in the evaluation of ACCTs and in ACCT training for staff.

[An article by Geoff Shepherd on Bedford IMB's research appears in the December 2017 edition of the Independent Monitor – Ed]

Report summaries

Patience Seebohm of the Pentonville IMB selects and summaries some recent reports from IMBs and the Inspectorate

Bedford (Local, Cat B)
Bedford prison holds up to 487 men in a mix of Victorian and 1990s accommodation. In September 2018 HMCIP invoked the Urgent Notification (UN) protocol, finding standards had dangerously declined since 2009, continuing unchecked despite a riot, a Performance Improvement Plan (2016) and finally Special Measures (May 2018). Inspectors feared a complete breakdown in order and discipline, with assaults on officers the highest in the country and use of force nearly three times higher than at similar prisons. Most officers lacked experience; prisoners were often insubordinate with impunity. The adjudication system was in disarray. Lack of funding and technology hindered drug reduction; one in five prisoners acquired a drug habit here. High numbers self-harmed, receiving little support. Living conditions were dire: rat-infested, with huge arrears of repairs and decrepit facilities. Few men attended activities. Those with disabilities often relied on other prisoners for help. Inspectors questioned whether prison leaders could achieve the necessary change. In response, the MoJ reduced the prison population, increased funding and training with several new initiatives.

The IMB covered the year ending June 2018, but as they wrote their report the inhumane conditions and violence worsened; the Board concurred with the UN in September. Earlier there had been some improvements, but efforts were undermined by instability in the regime, inexperienced staff and the lack of a decent environment. The IMB found mental health services inadequate, the Segregation Unit 'appalling', and the planned implementation of Universal Credit 'scandalous' as released men would have to wait 8 weeks for benefits.

Deerbolt (YOI and Adult Training prison, Cat C)
Deerbolt, County Durham, opened in 1973 as a purpose-built borstal. When HMCIP visited in April 2018 it held 408 offenders. All had at least six months left to serve; over half were deemed to pose a high risk to others. Safety and respect were 'reasonably good', but violence and drug abuse had risen while use of force needed closer governance. Access to work and education was poor, with a third of the young men said to be unlocked for less than two hours a day. No programmes addressed sexual offences. Deerbolt had no resettlement function but in 2017 180 prisoners were directly released, receiving insufficient support. HMCIP felt the management could, with Prison Service support, address these issues.

The IMB (2016/17) also reported a mixed picture of supportive treatment alongside significant concerns. Staff shortages and turnover were blamed for constraints in the regime. The failure of contractual services, especially those provided by Amey for transport and maintenance, frustrated fair treatment and resettlement support. The geographical isolation of Deerbolt limited family contact and visits. Where resources allowed, however, staff addressed limitations and maintained a decent environment.

Kirkham (Open Cat D)
HMCIP visited Kirkham, near Preston, in June 2018 when it held 589 men of all ages. Most were serving long sentences (over 4 years to life) and came to Kirkham for resettlement. Prisoners felt safe; there was little violence, bullying or use of force. However, staff/prisoner relationships were often poor and disrespectful. The food, health services and (relatively modern) physical environment were good but equality issues needed more attention. Learning, skills training and ROTL were good; previous high levels of absconding were reducing. Resettlement support was good. Overall, Kirkham was an effective prison.

The IMB (2017) found treatment to be fair and humane. Living accommodation was good but there were continuing issues with the maintenance contractor, Amey, particularly affecting showers, toilets, heating and water. Prisoners questioned access to ROTL while absconding was high. The IMB welcomed prisoner consultations and good prisoner property processes.

Manchester (Core Local, Cat A and B)
When HMCIP visited Manchester (June 2018) it held 940 men including 32 Cat As in a separate unit. Management anticipated an imminent transition to a Cat B training prison, retaining its high security unit. Inspectors found conditions had deteriorated in recent years. There were three self-inflicted deaths in the last six months; only rehabilitation and release remained reasonably good. Levels of violence and use of force were now similar to comparable prisons. Despite good interventions inspectors felt the prison took insufficient account of poor living conditions, staff attitudes and illicit drug use. The environment was dirty, encouraging vermin. A small but influential group of staff impeded the positive aims of the prison, although most were respectful and supportive. Despite sufficient activities being available, 40% of prisoners remained locked up during the working day. HMCIP considered that basic standards, including those regarding reception and equalities, needed improvement.

The IMB (2017/18), reporting three months earlier, thought that prisoners were treated fairly and affirmed effective partnerships to support release and employment. However, Manchester shared problems found elsewhere: failings by Amey, the maintenance contractor, generating unacceptable living conditions; staff shortages which impacted on

Bedford

prisoner behaviour; lost property and an ageing population.

Styal (Closed prison for Young and Adult Women)

Women at Styal, Cheshire, are on remand, immigration detention or serving sentences ranging from days to life, often less than 3 months. Many have experienced trauma, domestic violence and abuse, intertwined with a history of self-harm, mental health issues and substance misuse. When HMCIP visited in April 2018 they were struck by the skilful staff team managing this complex population of 441 women. Accommodation in 16 Victorian houses included a drug recovery unit, mother and baby unit and open house outside the gate.

Outcomes for safety were good, as high levels of self-harming, drugs and bullying were more often addressed by interpersonal skills than disciplinary processes. Most staff were respectful and caring but staff shortages had curtailed activities. Resettlement initiatives endeavoured to break the cycle of re-offending, but were hampered by a lack of sustainable housing and community-based support.

Like HMCIP, the IMB (2017/18) criticised poor maintenance and repairs. The board thought that the poor performance of the contractor, Amey, endangered the buildings' structural stability. The board also wrote that prison was not appropriate for the many women with severe mental distress. Despite these and other issues, overall the service was good and resettlement especially so.

The Mount (Training and Resettlement, Cat C)

HMCIP visited The Mount, Hertfordshire, in May 2018 when most of the 978 prisoners were under 40 years old and serving long sentences, often relating to violence and drug offences. Over 130 had indeterminate sentences. In 2015 inspectors described the prison as a successful, relatively modern prison, but by 2018 it had seriously deteriorated, partly undermined by staff shortages, culminating in major disturbances in 2017. The Mount was failing in its key mission to train and rehabilitate, with insufficient work, learning and resettlement support. A quarter of those released were immediately homeless. High levels of violence often related to drugs and debt with not enough done to tackle drug use. Staff/ prisoner relationships were poor and use of force relatively high. Positive initiatives such as restorative justice needed development. Four self-inflicted deaths took place since 2015, although care for those in crisis was now good. Managers needed more resources but also needed robust strategies around achieving change.

The IMB (2017/18) pinned the start of The Mount's downward spiral to 2015 when it took on a resettlement function for young, violent men often involved with illicit drugs. Staff shortages contributed to a severe lack of safety and no predictable regime. The introduction of a limited but consistent regime sparked the riots but eventually fostered greater safety. Access to work, education and even fresh air remained poor, but were improving. Training outcomes and effective resettlement were not yet achieved; lack of housing prevented men taking up employment.

Tinsley House Immigration Removal Centre (IRC)

Tinsley House IRC, close to Gatwick airport, comprises an adult centre and family detention accommodation in separate units, inspected separately by HMCIP in April 2018. G4S managed these and the neighbouring IRC, Brook House. Most of the 137 detainees were in the adult centre, which was found to be calm and stable. While staff / detainee relationships were generally good, many detainees were deeply anxious about their future, at risk of self-harm and without enough to do. Rule 35 protection, whereby those tortured will not be detained, was failing. Yet help for those in crisis was generally good and welfare support was excellent. The Pre-Departure Accommodation for families had been used for 19 families in 11 months; only four were deported, suggesting that fewer could have been detained given the damaging impact of detention especially on children who saw their parents restrained and distressed. However care and support were good and most families left within three days.

The IMB (2017) found that on the whole detainees felt safe and were treated respectfully. Key complaints were around reduced unlock time and reduction of rooms for worship from three to two which led to a petition from Muslims (the largest faith group) and others. These problems remained unresolved. Other complaints included IT, food, healthcare and boredom.

Wakefield (High Security, Cat A and B)

Wakefield is a lifer centre focused on those convicted of serious sexual offences. When HMCIP visited in June 2018 it held 709 men, of whom 60% had life or IPP sentences. Almost half were aged between 50 and 91 years. The prison was respectful and calm with an atmosphere of good order, safety, security and decency. Prisoner/officer relationships were good, strengthened by key workers, but BAME men were less satisfied. Purposeful activities were increasing but not yet sufficient. HMCIP were impressed by initiatives and good work across all healthy prison tests. In contrast, delays in transferring prisoners under the Mental Health Act were especially acute here, prompting the Chief Inspector to call upon the Prisons Minister for cross-departmental action. These delays partly explained the unacceptable average of a five month stay in segregation.

The IMB, reporting nearly a year earlier (2016/17), made similarly positive observations, commending the ethos of responding to prisoners with humane, person-centred interventions. However, they were also concerned about the long period some people with severe mental ill-health and others remained in segregation. They criticised inadequate resources for older prisoners and the contractor, Amey, for delays which put at risk the ageing fabric of the prison buildings.

SNIPPETS from Sisyphus

Judith Kazantzis

Judith Kazantzis, who died in September, was a poet and a political activist. She was the daughter of penal campaigner Lord Longford. Brian Guthrie, the immediate past editor of this journal, wrote (Guardian 3rd December 2018) a postscript to her obituary in which he tells of having met her at an event and having persuaded her to write an article for the magazine. In the April 2006 edition she wrote about her perspective on the years her father spent visiting prisons, and his dedication to the rehabilitation of Myra Hindley. In the December 2006 she then wrote a critique of a visit to Maidstone prison. Brian praised her humanity and her clearsighted and uncompromising writing.

Prison building

In a written statement to the House of Commons on 29th November Prisons Minister Rory Stewart reaffirmed the government's intention to build up to 10,000 new prison places to replace old unsuitable buildings. He announced that HMPPS would not be allowed to bid for these contracts unless private sector bids fell short of the required standard. It would, however, provide what he termed a public sector benchmark against which private sector bids could be assessed. The first projects planned are for new-build resettlement prisons at Wellingborough and Glen Parva. The POA is reported to be very unhappy with the exclusion of HMPPS from the bidding process, and has said that it will vigorously oppose any plans to transfer any public sector prisons into the private sector.

Telephones

The announcement of expenditure on in-cell phones was met with widespread approval. They are to be installed in another 30 prisons, bringing the total number of prisons with that facility to 50. The press release stressed the importance of maintaining family ties, as well as reducing tension on wings by eliminating queues for phone calls. The hope that it would reduce the demand for illicit mobile phones seems a little more optimistic. It also introduces the prospect of intra-cell tension, as one prisoner tries to phone home whilst his cellmate turns up the volume on the television.

The development was not universally welcomed. Andrew Rosindell, Conservative MP for Romford, was quoted as criticising the availability of "creature comforts" for prisoners, whilst the director of Civitas commented that families were not always a good influence, and that the easier availability of phones raised the risk of witness intimidation. Calls are, of course, recorded, and available only to pre-approved numbers. They are also very expensive by any standard.

In another move to reduce the use of mobile phones in prison the Prisons (Interference with Wireless Telegraphy) Act 2018 has just received royal assent. It allows the Secretary of State to authorise phone companies to disable or disrupt mobile signals in a prison to prevent the use of mobile phones or to detect their use. Presumably this provision may present some technological challenges; it would not go down well with the general public if those living close to a prison also find themselves unable to make or receive calls on their mobiles.

Baroness Trumpington

There was a good deal of publicity following the death of Baroness Trumpington in November. She was a lively public figure whose profile was boosted when she was caught on camera flicking a V-sign at a colleague during a House of Lords debate. In her obituaries little mention was made of the fact that she was a member of the board of visitors at HMP Pentonville from 1975 to 1981. She herself referred to it in her autobiography, but only in passing. Your editor attempted to interview her about her recollections of that experience. Although she expressed enthusiasm for the idea, and spoke warmly about her time on the board, the interview was ultimately frustrated by her ill health.

Population figures

At the end of December the total prison population was 82, 384 of whom 78,603 were male and 3,781 female.

AMIMB statement of purpose

AMIMB works to maximise the effectiveness of its members by providing:

- **encouragement in the robust and efficient performance of their duties**
- **training support**
- **best practice advice on the treatment of prisoners and the administration of prisons**
- **information on relevant developments in penal affairs**
- **support for members who seek advice in times of difficulty.**

AMIMB also helps to enhance public awareness of the work of Independent Monitoring Boards.

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