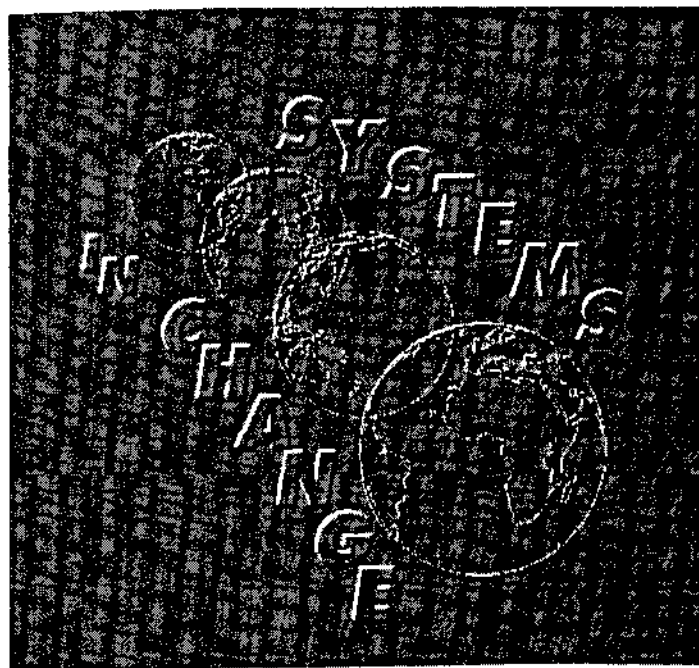


# **J** PRISON SERVICE JOURNAL

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# PRISON SERVICE JOURNAL

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### Subscriptions

HMP Leyhill,

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# Comment

## Do We Need So Many Managers?

Current concerns with security have pushed to one side the chance of radical change within the management structure of Headquarters. The review of the work of Area Managers which the Service has just undertaken and might have stimulated any change, was modified so as only to tinker with existing arrangements, however, Sir John Learmont is said to have in his sights a major change in management structures to go alongside his security recommendations.

In recent years we have been influenced by business management thinking in creating management structures hence the concept of Area Managers. That concept has served us well in providing governors during a period of change with much closer supervision and support than they ever experienced under Regional Directors. Such close supervision has brought problems too, in that so many Area Managers having been themselves governors fell into the temptation to second guess the governors for whom they were responsible. As time has gone on and Area Managers have become more and more removed from their experience of governing so they have adopted a role which is more in the style of an enabler than a super-governor. There has been less hands-on decision-making and more explaining policy and inviting the governor to define how that policy is to be achieved locally. In other words we were developing a role which fitted the Service. Its effectiveness could be measured in the general achievement of objectives and the raising of standards which has been recorded throughout the Service.

The disasters of Whitemoor and Parkhurst have challenged all that and set us back. More and more governors have been drawn into Headquarters to do work much more focused than that of Area Managers, for example, security specific tasks and leading audit teams. The pressure, as shown in leaked memoranda, is for the Area Managers to be much more like their counterparts in commerce where the Area Manager adopts a hands-on approach to his or her junior managers and may even chair meetings of the senior team in each of the prisons for which he or she is responsible. Such a style of management would have a

major impact on governors and raises the question of legal accountability for the running of the prison; the warrant for the court is quite clear. Such a change might make for a more clearly defined role for Area Managers and would take them out of the state of limbo in which many of them now feel they fall. No simple re-shuffling of boundaries will achieve such a change nor will more effective area teams working less on case work and more on briefing Area Managers on visits to their prisons although both those are much needed reforms.

At present Headquarters appears to be adopting a belt and braces approach continuing with Area Managers but bringing in numbers of additional governors to do specific tasks which cross Area boundaries. By taking the more able governors from prisons where they are most effective and in the lack of definition of their role in relation to that of the Area Managers the Headquarters organisation seems confused and some work gets duplicated. The need to be seen to be doing something in the wake of sustained public criticism is understandable but in the long run the current structure is untenable.

Some Area Managers are themselves feeling ill at ease with their role and the hope that they would bring policy and operational considerations together has never happened. Too many tasks have been heaped upon them and other ways have been found to inform policy with operational advice such as pilot projects for searching policy and drug testing; joint work on developing SSU operating standards between Directors and governors; functional meetings between HQ directorates and governor. The Area Manager has had little to do in these ad hoc arrangements. The apparent divide between policy and operations has always been more theoretical than real and Area Managers, most of whom are some years removed from the experience of governing, are seen more as creatures of headquarters than operational experts.

Area Managers can offer little in the way of specialist knowledge themselves and have to be supported by those who do have such knowledge for example, doctors, building and construction experts, legal

advisers. At the same time work at Headquarters is being devolved to governors and it is they who need to know where to go for expert advice and are finding it in the local community not HQ.

Where Area Managers come into their own is the handling of major incidents. Then it is extremely helpful for a governor to be able to talk to a familiar person who knows the establishment. If some means could be found to meet that need it is doubtful whether the Service would need the concept of Areas at all. The Areas themselves do not bring together establishments which actually do business with each other nor are they functionally similar. They exist only because Area Managers exist. A major reason for having a hierarchical structure is to arbitrate but this does not happen between prison governors because the establishments which need a resolution to a conflict are in different areas so the Area Manager has no authority to intervene or has to put it up the line.

What would the Service look like without Area Managers and their teams and advisors? Directorates would need to find other ways to monitor the work of establishments and information technology needs to be introduced faster and more effectively than at present to do so. Some support staff would be required to sift the data and put together pictures of establishments which were more than mere collections of figures. Audit teams could then be targeted at specific establishments where questions needed to be asked. Directorates may want their own technical advisors but there is little reason to persist with such expertise when it can be found locally.

We shall have to wait and see what Learmont suggests. Surely not a military model which would take us back to before Fresh Start nor toleration of the current muddle which is there only to meet the immediate political needs. The trick will be to produce a structure that is so satisfactory that it enables us all to put aside these introspective organisational struggles for many years and allow us to get on with our basic work ■

# BOVs

## EVOLVE OR ATROPHY

*Jo Margerison is a member of the Board of Visitors for Gloucester local prison and young offender remand centre since 1986. From 1989-92 she chaired the Board and is now deputy chairman and Training Officer. She has been a magistrate since 1975 and is Deputy Chairman of the South Gloucestershire bench and a member of the Gloucestershire Probation Committee.*

### Recent Changes

As Edmund Burke remarked: 'Nothing in progression can rest on its original plan. We may as well think of rocking a grown man in the cradle of an infant'. Among some Boards of Visitors (and prison staff) there is still regret that they no longer carry out adjudications. But old arguments are not going to be rehearsed and we have to take stock of our present uncertain situation.

The past few years have seen great changes for Boards. As well as losing their adjudicatory role and their power to restore remission, they are no longer involved in the parole process. Not so long ago, they had the power to suspend a prison officer, even a governor. The role of the Inspectorate has been enhanced.

The most recent development has been the appointment of the Prisons Ombudsman, Sir Peter Woodhead who will have no executive power, but access to the Home Secretary, Director General, and the media, as well as an annual report placed through the Home Secretary before Parliament, should enable him to deal fully with prisoners' complaints.

He is looking for a complementary link with Boards, and indeed will need to delegate initial investigations at establishment level to a local body, preferably Boards. He hopes to enhance the capability of Boards. Which begs the question, what then is their future role? While it is acknowledged that the removal of the adjudicatory function can only have weakened a Board's power within an establishment, BOVs should now be better placed, single-mindedly to undertake a pastoral role 'both more than inspection and less than management' according to Carol Martin and David Godfrey, in the British Journal of Criminology. The received wisdom is that Boards should now also be able to concentrate their watchdog attention on the use in prison establishments of disciplinary charges and administrative powers to control prisoners.

### Boards of Visitors Credibility

The reality is that their credibility is being constantly questioned. Martin and Godfrey's research supports this view. 'Despite the withdrawal of Boards' disciplinary powers, they were still regarded by most inmates as largely invisible, irrelevant, aligned with the prison management, and ineffective'.

Boards' credibility is also undermined in their dealings within the Prison Service. Matters raised in annual reports, as important enough to need a response from the Home Secretary seen now to be dealt with by the Area Manager's office, which re-drafts answers from the appropriate departments. My annual report for Gloucester for 1992 was, in any event, only responded to well into 1994.

There are innumerable Boards who are frustrated at having their occasional letters to Prison Service departments on burning issues unanswered, or responded to only after being pursued over many months.

A 21 member working party looking at home leave, had no BOV representation.

BOV approval and its watchdog role vis-à-vis prisoners going on Rule 43 are under discussion.

Should Boards begin by accepting that, at present, some prisoners find them ineffective and management biased, some Prison Service staff see them as amateurish and anachronistic and that the general public is hardly aware of their work, and then look at ways of re-focusing and developing their role?

Prison Rule 94.1 states:

*'The Board of Visitors of a prison shall satisfy themselves as to the state of the prison premises, the administration of the prison and the treatment of prisoners'.*

To that end they have unfettered access at any time to prisoners, documents (apart from medical records), any area of the prison and, within reason, to the governor and staff. As independent local watchdogs in every



prison establishment in England and Wales they are uniquely placed to be the eyes and ears of the public at large and the Home Secretary, to provide a safeguard for prisoners and in some circumstances to prison staff. They are aware of prisoners' needs and of how the prison is being run.

The Ombudsman is not alone in noting the dedication and workloads of Boards. The editor of this Journal (issue No. 87) goes further:

'Board members have untapped talents ... There is immense potential in Boards for a new dynamic in the Service which would counter the traditional pervading centralist tendencies of Headquarters and allow and encourage diversity in our institutions and a greater sense of local accountability'.

### **Role Re-Definition**

There is important work for Boards to do in these public institutions away from the public gaze. But, after such a period of change, their role needs re-defining.

The comprehensive BOV Handbook provides an unfailing guide to best practice. But in itself, it is not enough.

The dilemma that each Board member faces is how to ensure that he or she is perceived to understand fully, and be properly informed about the complex working of a prison establishment, while remaining approachable to prisoners and staff and 'conspicuously independent'.

There are five areas which, if developed, would strengthen the credibility and competence of Boards.

A commitment to regular training could be included at the time of appointment, and training required at least every three years, both at establishment and national level, led by appropriate Prison Service governor grades as well as experienced trained Board members as at present.

Best Practice seminars covering particular aspects of Boards' work could be held with a group of Boards within an Area.

A wide, diverse membership, representative of the community, including those with insight into a prisoner's life through similarities of age or background, would require flexible recruitment criteria. A need for a particular skill or life experience could be identified when new members are needed. The local and ethnic press and the local radio stations may well be pleased to run pieces on a Board's recruitment requirements. Otherwise, advertising in these media could be used.

The relationship with the governing governor is of crucial importance. A Board's effectiveness within an establishment is largely dependent on how well informed it is. Some Boards are using the annual Business Plan as a basis to monitor the work of the prison and will be kept up-to-date about it and the Strategic Plan at their monthly meetings with the governor; as well as individually, while covering their perception and experience of Boards and thus to what extent they are prepared to make available relevant information on a regular basis. A mechanism for ensuring that Boards received information on major issues would assist a Board's competence considerably.

It is also the governor who, in general terms, sets the tone as to how the Board is viewed by both staff and prisoners. In many ways, a Board's relationship with the governor is also pivotal to its perceived and actual performance, by the extent to which he or she facilitates their task, with both parties nevertheless remaining conscious of the need for a clear distance to be seen to be maintained between them.

It is now acknowledged that the BOV Liaison Section serves too many masters to function efficiently, and the Strategic Review in progress should identify how it can improve its service to Boards. There is apparently space at the Ombudsman's quarters where the Liaison Section would not be unwelcome. It would, however, be a pyrrhic victory if sparser lines of communication and less detailed knowledge of the working of the Prison Service organisation were the price to pay for this independence.

A Code of Standards would ensure a consistent approach in a few core elements, and could be upheld by tying in some achievable Key Performance Indicators with a Board's job description.

The ethos and aims of a Board might be looked at annually and a strategic view developed. A Board's effectiveness should be able to be demonstrated. Prisoners and staff, as well as members themselves, should see the Board as able to make a difference to the running of the prison.

Attention to these areas substantially enhance the credibility of Boards and strengthen their local position. The centralised trend within the Prison Service is being reversed by devolving more power to governors. This could also provide a new opportunity for Boards. It is significant that a noteworthy success in the past year was

achieved by the Pentonville Board when its persistent intervention resulted in immigration detainees being moved elsewhere, where they could be held in separate, and more appropriate, accommodation.

Nevertheless, a cohesive national structure is essential if the role of Boards is to be taken forward. Having two organisations concerned with Boards necessarily dissipates the strength of either body.

### **Boards' Membership**

Should Boards follow the lay magistracy and have a membership organisation? Over 30,000 (about 91 per cent) magistrates pay £20 a year to belong to the Magistrates' Association. It has 16 paid staff with full-time training and information posts. Its AGM is self-financing. Its policy is established by the elected members of a Council, by means of a tightly structured agenda and a system of committees which report to each council meeting, held thrice yearly. Discretion remains with individual benches, but its policy decisions and guidelines are now broadly accepted as emanating from local bench concerns as well as from national issues discussed at Council.

Boards are, however, much less homogeneous than magistrates' benches, not least because their responsibilities vary according to which type of establishment they monitor. Each has developed an individual character and places great importance and value on its local independence.

Can the issue of credibility be solved without the symbolic recognition (by prisoners as well as the world at large) of paid work, with the job description and accountability that it would entail? It was contemplated for Chairmen of the newly formed Probation Boards. To quote the Home Office Green Paper 'Supervision and Punishment in the Community':

'The Secretary of State might wish to appoint the Chairman ... and pay each a salary, in order to ensure that those filling the post have the knowledge, experience and skills needed to do the job effectively'.

Should Boards be given some executive authority to add strength to their daily discussions? Again, John Staples, a governing governor:

'To be given such power would not only attract a wider range of people ... but give them greater credibility in the eyes of prisoners.'

Boards could play a significant role in moving prisons towards the Woolf ideal of

community prisons. Why shouldn't they, as school managers do, play a part in the appointment of the governor and contribute to the setting of his contract?

There would, however, be deeply felt concern by many Boards that any remuneration would materially affect their perceived independence, even if payment were, like that of the Prisons Ombudsman, to come from outside the Prisons budget.

Should the recommendation of Lord Justice Woolf in his report (para 12.180) for a President of the Boards of Visitors be looked at again? The office and standing of a President would help to emphasise the independent nature of Boards, while at the same time he or she could liaise or bring pressure to bear where appropriate in the corridors of power. A President could develop more effective methods for recruiting new members, as well as establishing and monitoring best practice.

A further alternative would be a full-time Board monitoring a cluster of prison establishments, who would be accountable in the modern managerial mode. But the greatest asset of an individual Board, its on site knowledge of every aspect of an establishment and its ambience, would be considerably diluted.

### **Review of Boards' Role**

The terms of reference for a review of the BOV role have been drawn up and, subject to ministerial approval, will get under way early in 1995. Boards are, in general, aware that unless a clear and cogent argument can be made for their future development, perhaps linked in some way to the Ombudsman or the Inspectorate, they will simply wither away, despite their unique position in prison establishments.

However; the outcome of the review will only be deemed successful if subsequently matters raised by Boards are given proper and speedy consideration at every level, and they are widely viewed as effective and independent, working within a clearly defined core role and to standards that prisoners, the Prison Service and the public at large can consistently expect of them ■

# SPECIAL UNITS

**'I have revised my view that the dispersal system is a failed concept.'**

Being a case study in the recently published *Managing difficult prisoners: The Lincoln and Hull special units*, it is arguable that I am qualified to answer the question, posed by A. Keith Bottomley, 'What is special about special units?' (March 1994, Issue No 92). This is not the place to argue whether it is the dispersal system which is difficult or the prisoner who is difficult. What is obvious is that a problem exists. I recognized this and when I was shown a newspaper cutting which featured Phil Wheatley (then Governor of Hull Prison), whom I had met and respected as Deputy Governor at Gartree Prison, speaking about setting up the experimental Special Unit to house the 'mad and bad' and 'difficult and dangerous' – I kept this in mind for future reference. Because I believed that as a concept the dispersal system was a failure.

Whatever, by late 1989 I thought it was time we parted company and the look of relief on the Albany Governor's face when I suggested Phil Wheatley might take me said it all. Despite staff at the Hull Special Unit fearing my record, Phil instructed Pete Bennett (then Governor 5 in charge of the Unit) to inform the Special Unit Selection Committee that he wanted me. It was nice to feel wanted, for a change. The point being made here is that, whilst at Gartree, Phil had detected within me that nugget of gold but others had decreed that it was time I moved on and the opportunity was missed. Now Phil could afford to take a personal interest in me, being the captain of his own ship. This is really a story about people within the prison context, rather than a tale about a brick structure. To my mind, this is something special.

Before the Strangways Prison riot and the Woolf Report suggesting the introduction of contract/compacts, I wrote to Phil outlining my terms and he replied with his acceptance on the condition that there should be no unwarranted violence on my part. One of the major faults of the penal system (since the 18th century ideology took hold), is the belief that prisoners should be denied any self

determination. However, the sentence of the court does not impose upon the prisoner any duty to control their own behaviour. There is an assumption that the prison regime will enforce this. But if it did not offer me any incentives, why should I co-operate? The physical restraints did not imprison my mind. It possessed the residual liberty to say 'no'. Upon receiving my life sentence, the Department made the mistake of asking me which route I wished to take through it. And when I replied 'education', the Department spent the next 12 years trying to deny me access to learning.

The Special Unit educational co-ordinator, Ron Cooper, informed the Humberside University that because of my category A status I was still, in effect, on square one. It was a shock to hear this, but it made me all the more determined to make great strides and get ahead in leaps and bounds. Ron: 'saw the Unit operating through 'behaviour modification' in which education played a central role and in which the positive aspects of a person are reinforced and the negative ones played down. Thus, as one example, for a prisoner who was highly critical of the prison system and preoccupied with the rights of prisoners, the educational co-ordinator saw his teaching role as helping the prisoner develop a more systematic and disciplined approach to his written submissions (the R/C Forms were being tested in a pilot scheme at Hull Prison). By reinforcing this systematic and disciplined approach in a particular area, it was hoped that these attributes would be extended to his overall academic programme and to his behaviour generally'.

Later, when I was transferred to the Special Unit at Lincoln Prison, I was interviewed by Professor Norman Jepson but because time was short I agreed to write in response to any question he might put to me: 'This student records – "I approached (Ron) for some text books, as there were none in the Special Unit library. He brought me some of his own, subjects of Law, Sociology and Psychology. The latter two subjects I already

*John Hirst  
HM Prison  
Nottingham*

*The author is an experienced  
prisoner and in this article plots  
his route through the system.*

knew a bit about, but hardly anything on Law (except for knowledge of the Prison Rules – and penal history). I got totally absorbed by the Law and was surprised how it largely stopped short at the prison gates. As the citizen's rights are in case-law, I started bringing it mentally into the prison context and realised that (Ron) had given me the weapon to fight the system. Frustration/anger/violence could be channelled..." It was also Ron, following my approach to Phil, who found me a personal tutor to help develop in me the social-skills my upbringing had somehow left behind.

Lucy Vulliamy provided that outside touch I needed right then. She was not part of the system, and we built up a trusting relationship. Soon, her husband, Danny, who has lectured in Full Sutton and Lindholme, and is a friend of a former Governor at Hull Prison, also started to come in and see me in the Special Unit. They would discuss me at their home and their five children; Catherine, Aby, Ben, Tom and Lukas became interested in this 'John' character who appeared to them only as a 'ghost'. They wanted to see the real thing. I looked forward to meeting them at Christmas. There was only one problem, this man, who it was said appeared more intimidating than the Krays and Richardsons put together, felt intimidated by the prospect. Why I feared a family gathering, I don't know. But the fear was unfounded because the children were simply wonderful. Almost five years on, we still keep in touch and the beauty of this special relationship, a sort of adopted family, was discovered within Hull Prison Special Unit.

Another special relationship which developed, was that between my personal officer, Trevor Drewery, and myself. I didn't see him as a screw, but as a friend. I believe he went beyond the call of duty, and it was this that made him something special in my eyes. There were no rules laid down which stated he must encourage me to tidy up my cell by mucking in himself first. I was not offended by this 'intrusion' into my private space, rather I was amused by the gentle way he got bolder and bolder as each bit was tidied up without protest from me. Soon I found myself helping him, but in reality he was helping me to help myself. I would miss his company whenever he went on 'externals' and if by chance he did not mention when he was next on duty, or I failed to ask him, I would go into the office and check the duty rota to see how long it would be before I saw him again. Trevor would stick his neck out many times,

especially in staff room meetings when his might be the only voice in our corner. This took a lot of courage, and a lot of staff would not have thought me worth all the hassle. Like me, if he believed he was right he would stick his heels in and pips on the shoulder meant nothing against such determination. On one occasion he confided in me, 'I went all around the room and they all said that they thought you were a c\*\*\*. Yet when I asked them why they thought you were a c\*\*\*, none could offer any explanations'. Another time, he said 'John is right 99 per cent of the time. It's the way that he says it that is wrong'. Then when he wrote a submission for my Cat A review, on the left side of the paper he listed all the provocations that he felt I had suffered within the Unit; and beside each one down the right side he had written 'response, moderate'. Phil Wheatley also supported my decategorization to B. In an interview, he had stated *inter alia* that he considered me demanding and difficult but he also said that in his opinion I did not pose a risk to the public and that was what Category A was all about. I still keep in touch with Trevor, albeit not as often as he might like; in mitigation I plead pressure of studies (which have paid off by making me an acknowledged expert on prison law). And the time I now spend putting such knowledge to good use, by practising litigation against the Department, with the aim of securing much needed penal reforms.

Phil Wheatley is now Head of DOCI and resides in his Ivory Tower at the Home Office, and writes whenever he has time available that is not taken up by Ministers and MP's. Pete Bennett is now Governor of Nottingham Prison, and returned from leave to find not only that his 'old friend' had dropped in to pay him a visit but that he had already scored his first legal victory within the prison. Pete's report to the Parole Board is very supportive and illuminating: 'having seen the progress he has made over the past five years, I am of the opinion that his request to be considered for Category D on a fast-track basis would be appropriate. Such an option would be fitting and an incentive to a prisoner who has made great progress since the days of his Category A status.'

Mr Hirst is a good example of an inmate who has responded extremely well to the Special Unit strategy. His change of behaviour is not of the brittle and uncertain nature of a sudden "conversion", rather it has been prolonged, rational and accompanied by growth in self knowledge as he listened to the advice of those whom he respects'.

It is doubtful had I stayed within the dispersal system such personal progress would have been noticed. The Prison Service is also changing for the better. I have revised my view that the dispersal system is a failed concept. If I can change, it can too. Here at Nottingham I can see Pete has brought some of the Hull Special Unit with him. I see no reason why the dispersal system cannot operate more effectively if each prison was broken down into smaller, more manageable units. Whilst I am not too much the idealist who thinks these would then become stress free zones, I am realist enough to argue that they would become stress reduced zones. When the dispersal/concentration debate first began, it focused only upon either black or white. The grey area in between, arguably, the happy medium was not struck. Before I

left Hull, one of the officers came to the conclusion that I was no longer a law breaker instead he saw me as a law maker. In Lincoln Prison, I met the psychology teacher Val Emmett who visits me now along with her husband. On the morning that I left Garth Prison, before I had a chance even to get out of bed, the Governor Roger Holding shook me by the hand and wished me 'good bye' as opposed to 'good riddance'. Not only do I believe what is special about Special Units should be filtered back into the dispersal system, the qualities they possess would be picked up by the receptive staff in other jails and the whole penal system would benefit by the experience. Within the 'system' are individuals, and it is these people upon whom the future depends. Time wasted is useless: time well spent, is a valuable resource ■

# AGAINST THE CULTURE OF MANAGEMENT

A personal polemic to re-invent 'The Governor'

*'... the big question is, on balance, "are things better" than they were as a consequence of this new business ethic?'*

What does a Governor of a prison do? To many – especially those outside of the Criminal Justice System – this must seem a rather simple question. After all the title 'Governor' implies both a role and responsibilities. Those working inside the Criminal Justice System would be able to provide a 'better' answer, which unfortunately would also reflect the confusion and contradiction which goes with the title. This confusion stems not so much from the responsibilities owned by the Governor – all agree on certain basic tasks – but from the competing philosophies which underpin the very nature of the job. Is a Governor a social worker, or head of a quasi-militaristic agency of 'law and order'? Is the Governor a civil servant, or the managing director of an independent small company? Does the

Governor work with inmates, challenging their offending behaviour, or does he manage staff, with all the inherent personnel and industrial relations issues that go with the territory? If all of these are true, which does he prioritise?

In some senses these questions are not new. Indeed, there have been debates about this very issue in most of the training courses for 'Assistant Governors' – the precursor of the new 'Accelerated Promotion Scheme' – throughout the 1970s and 1980s. (It was certainly something which I myself was asked to consider in my own 'AGs' course in 1983). What is new is an unsightly, and all-encompassing embrace of answer. Prison Governors, like prisoners themselves, are now considered to be part of a market culture, with a business ethic, and everything which is

*Dr. D. Wilson, Head of Inmate Activities, HMP Woodhill and shortly to take up post at the Prison Service College.*

done is geared towards that reality.

Structural examples of this emerging, and I would argue already dominating, culture permeate the Prison Service. Each Governor, for example, produces for his establishment a 'business' and 'strategic plan'; there is a 'market testing' process of various services within prisons such as catering or education; the 'private sector' bids for, and from April 1992, have managed prisons on a contract basis, providing 'competition' against the 'public sector estate'. Significantly the new Director General was appointed after a career in Granada, not the Civil Service.

Many of these changes have been under pinned by the Prison Service becoming an 'Agency' in April 1993. In itself this move was not unique, and matched, for example, what was happening in the NHS, and Higher Education. However, the effect of Agency Status has been marked. For example, budgets and personnel issues have been devolved, making Governors financially accountable for resources at their disposal, and sending most into a flurry of concern about 'financial awareness training'. Personnel, or 'human resources' functions have popped up all over the Prison Service as the realities of local recruitment and training have begun to hit home. One prison has even dispensed with the title 'Governor', and renamed the governing governor 'Managing Director', and its head of functions as 'Directors'. This fetish to 'manage' had led to many prison staff, partly for defensive reasons, enrolling in MBA courses. Indeed it is rumoured one 'new' university has identified this potential market, and is about to launch an 'MBA for Criminal Justice Personnel'.

What effect all this has on the prisoner is anyone's guess. Prisoners – largely ignored since the Woolf Enquiry – are the almost forgotten reality of the system. Indeed I attended one seminar recently, inwardly expecting the prisoner to be ignored, or re-designated as a 'customer', only to be dismayed to hear them described as 'units'. Prisoners, it would seem, have been reduced to the consequences of our new 'Key Performance Indicators' (KPIs), which measure, amongst other variables, the numbers of assaults, escapes and 'cost per inmate place'.

I hesitate to admit that I welcome some of these changes, but I do. The Prison Service needed to become more accountable for its work and resources, and in a sense of efficiency and order is a necessary precursor to productive work. It is also right and proper

that we plan for our future, and give ourselves a direction in which to head in the years to come. So, in essence, the big question is, on balance, 'are things better' than they were as a consequence of this new business ethic? Has the Prison Service benefited from all these changes in work culture?

Answering this question is not simple. Emotionally, for example, one wants to remember some golden age when things were wonderful, and everyone – staff, inmates, HQ and Trade Unions lived happily together, naturally co-existing and moving forward. There was of course no 'golden age' and too many Governors and others, were prepared to collude with that myth to buy a quiet life. Yet, equally, whilst adopting this brave new world of business ethics, we've also been willing to ignore the realities of our success – a success partly based on the checks and balances inherent within a structure, rapidly being dismantled of HQ, establishments, Governors and POA, staff and inmates. It is unusual for people to talk of 'success', but the Prison Service has always been too eager to run itself down. One example of success is without doubt the recent HQ initiatives on race, which pushed the Prison Service forward on this issue, and far in excess of what has been achieved by the courts or by the police. I wonder where a similar initiative will come from given the much emasculated centre.

There are many approaches which could be adopted in answering this question. I could, for example, simply list areas of good organisational practice in the past, and suggest why a 'business ethic' would have been unlikely to have followed a similar path. In particular I could talk about the imaginative work done by the Prison Service with disruptive prisoners, or of the work of HMP Grendon, which operates as a therapeutic community. This is work which cannot in any way be described as 'cost effective'. However, all that this would do is encourage a debate about the specific examples, and mask the real debate which is raging for the hearts and minds of the Prison Service. As a consequence I'd like to suggest an answer by re-examining the work of the Governor, and through them emphasise some realities which go beyond KPIs, and talk instead of some values and qualities which are in danger of being overlooked.

In doing so I don't pretend that all prison Governors have, or had these qualities, or did this work, or that only prison Governor's were involved. Indeed I would

argue that it is an inescapable fact that the Prison Service draws to its ranks a variety of people who, whilst they might be interested in a 'well paid job' or a 'career structure' are also attracted to the idea of a public service which wants to work with offenders. This attraction has often therefore meant that the person joining the Service has made a decision to leave the 'market place' behind, and work in an environment with a different ethos from 'profit and loss'. What follows therefore is, I hope, a clarion call to remember what it is prison Governors did, before they were told it really is just about 'management'.

Prison Governors as a group of people are by nature temperamentally inclined towards work with prisoners. They are people who 'want to help'. How they provide that help depends on many factors, and leads individuals to different conclusions. For some 'help' is expressed by becoming involved in offender behaviour programmes, and personally identifying themselves with the cause of rehabilitation; for others 'help' is expressed by ascending a career structure and moving the organisation forward, by making it sensitive to this reality. Inevitably, the temptation here is to list those Governors who fit these criteria, but I feel that this is a temptation to avoid. Prison Governors – like most senior managers – are also rather jealous and precious! However, these generalisations will be apparent to almost all. Please note that I used the word 'manager'. It is a complete fallacy to imagine that prison Governors have only recently started to 'manage'. If management is 'getting work done', then Governors have been doing that for years. Indeed, if many people in business had been managing with similar problems, constraints and public criticism most would have given up the ghost long ago.

This brings me to another generalisation about Governors, and it is a quality which I think they learned from long-term prisoners – they 'dig in'. As a consequence they are tremendously loyal to the organisation as a whole. They have not, for example, moved in and out of the Prison Service, or sought better paid jobs, despite high levels of skill and acumen. I think that this also partly explains the hostility to those public sector Governors who joined the private sector. (I will always find it an irony that if we're so much poorer as managers than those in the private sector why is it that the private sector only recruits public sector Governors!) It also helps to explain the interest in a prison Governor's public

statements when he chooses to speak out, as with John McCarthy or Brendan O'Friel. They have authority by their obvious identification with the organisation, yet also their readiness to express concern on behalf of the people within their charge, which might not necessarily 'please' others with an interest in the organisation.

In this respect I think that there is a third, and associated quality: prison Governors are prepared to take risks. They risk in many respects, but in particular and of note, they risk in their dealings with prisoners. They grant temporary release, or home leave, or escorted absences when it would be safer not to; they take chances with the type of regime they operate, and often the trust they place in inmates to help run that regime. Specific examples are numerous, but I wonder how many Governors are now re-assessing this quality in the light of a new business culture dominated by KPIs? Linked with risk is an ability to understand that there is not, and never will be 'an easy answer'. Prison Governors are almost unique in this respect. Whilst it is easy to make 'knee jerk' and invent seemingly simple solutions to virtually every problem that besets the Criminal Justice System – on behalf of this group, or that individual – the reality is very different. The appreciation of the reality comes, I believe, from our understanding of what it is we do with prisoners. Each has their own distinct story to tell and frustratingly that story – which so often proves to be true – is difficult to fit into any simple process of blame, or labelling.

To an extent this stems from a fourth quality – visibility. Prison Governor's are always 'on show' to prisoners, and are made immediately responsible for their actions. Unlike managers in the private sector, poor decisions, or questions about decisions, do not wait until the annual shareholder's meeting to be resolved. Often, and occasionally painfully, the whole fabric of the prison can become unravelled through some sense of grievance and injustice nonsense, and the sooner we begin to remember what it is that we've achieved, and can do, the better ■



# Letters

## Dear Editor,

I am responding to Issue 94 of the Prison Service Journal, and the paper by David Miller. Interest in this important subject needs to be enhanced and maintained.

'HIV Positive Inmates' was based on research carried out in 1991. In that year Circular Instruction 30/91: 'Organisation and Procedures at Establishment Level' issued revised guidance on the approach to be used locally in relation to HIV and AIDS. The main aims of that policy statement were to prevent the spread of the infection; to protect the health of inmates and staff; to provide care and support for those infected.

Currently we have 106 centrally trained multi-disciplinary teams; 207 HIV counsellors have been centrally trained, and over 500 care and support officers have received awareness training. For the last four years medical update courses aimed specifically at prison medical officers have been held at the Royal Free Trust Hospital in London. Over 100 doctors have attended. Prison psychologists undertaking the Master of Science degree in criminological and legal psychology have a module on HIV awareness as part of their training. 120 staff have undertaken this.

The then Prisons Minister, Mrs Angela Rumbold, announced in December 1991 a Review of HIV in Prisons to be carried out by the AIDS Advisory Committee. This was completed in December 1993 and its recommendations have been put

to the Prisons Board. These are currently being considered, and the Director General will shortly be making recommendations to Ministers.

Most of the recommendations which are being developed build on current practices such as a protocol for the treatment of inmates with AIDS. Other recommendations concern measures that could be introduced to prevent the spread of HIV infection in prisons.

Running alongside the AIDS Advisory Committee's Review of HIV in prisons the Directorate of Health Care have been involved in two research studies: HIV Prevalence Survey (conducted by the Public Health Laboratory Service (PHLS), and funded by the Medical Research Council) and a Knowledge, Attitudes and Behavioural Patterns (KABP) study (conducted by Institute of Psychiatry).

The climate in prisons has altered substantially since the mid 1980s in regard to AIDS. At that time prisons were characterised by fear of AIDS and staff were antagonistic to prisoners with HIV. As a result Viral Infectivity Restrictions (VIR) were applied to prisoners with HIV. This was condemned by HMCI, national and HIV organisations and by the World Health Organisation. As a result of the education programme that has been undertaken the climate in relation to HIV has changed and most establishments no longer make use of VIR. Consideration is currently being given to abolishing the option of VIR.

Knowledge of HIV has

changed since the mid 1980s. It was felt that prisoners and staff needed to be made aware of new information. Work has recently been completed on two new video education packages. The first "AIDS: Inside and Out" is a revised version of the original film issued to all prisons in 1988. The changes focus on providing increased information regarding women issues and safer drug use. The second video "Talking about AIDS" comes in five parts: what is HIV?, HIV and safer sex, HIV and safer drug use, HIV and women, and facing up to HIV. Each module can be shown separately, or in combination with others, depending on the composition of the audience. It is planned that these packages will be released at the end of 1994.

The Directorate of Health Care has undertaken a substantial body of work in the three years since "The Second Sentence" was published. The Prison Service must build on the work that has been done to further reduce the fear and prejudice that AIDS engenders and to increase knowledge and understanding. The multi-disciplinary teams in establishments need to ensure that contingency plans are in place, that prevention efforts continue and that care and support mechanisms for people with HIV are developed locally.

**ROSEMARY J WOOL**  
Director of Health Care  
H.M. Prison Service



# IMPROVING CO-ORDINATION IN THE CRIMINAL JUSTICE SYSTEM

## *a challenge for the prison service*

The first of Lord Justice Woolf's 204 recommendations following his report into the Prison disturbances of 1990, though one that will not have had as much prominence to members of the Prison Service as many others, was that a national forum should be set up headed by a very senior judge and supported by a number of local committees with the aim of improving co-operation, co-ordination and consultation between the various parts of the criminal justice system.

Lord Woolf's observations hit home. Many of those engaged in criminal justice whether at the national or local level were immediately sympathetic with his observation that there was a need for greater co-ordination of activity in the criminal justice system. At criminal justice conferences organised by the Special Conferences Unit in the Home Office there is a recurring discussion along the theme of whether England and Wales had a criminal justice system or simply a criminal justice process. Certainly the system - if it is a system - is ridden with fault lines. At national level responsibility for criminal justice is shared between the Home Secretary, the Lord Chancellor, the Attorney General and the Secretary of State for Health. Additionally, and crucially, the judiciary in which I include the 30,000 or so lay magistrates are completely independent of Government, and quite properly so. Within the Home Office, which spends around 80 per cent of its money on criminal justice services, the activities of the Police, Probation and Prison Services cannot be said to benefit from a fully co-ordinated or coherent approach. At local level there is even more fragmentation in evidence, where Police, Probation and Prosecution Services often display a commendably independent but frequently inconsistent approach.

Following Lord Woolf's observations, the White Paper, "Custody, Care and Justice: The Way Ahead for the Prison Service in England and Wales", published in September 1991, announced the creation of a national

forum, to be called the Criminal Justice Consultative Council. The Council's terms of reference were to be as follows:

- a. to promote better understanding, co-operation and co-ordination in the criminal justice system, in particular by:
- b. considering reports about developments in and affecting criminal justice;
- c. considering other information about the operation of the system;
- d. overseeing the arrangements for special conferences; but excluding the consideration of individual cases.

The high level membership includes a Lord Justice of Appeal as Chairman, Permanent Secretaries from the Home Office, Department of Health and the Lord Chancellor's Department, a Chief Probation Officer, a Chief Constable, a senior Solicitor and Barrister, a Magistrate, a Circuit Judge, a Justices' Clerk, a Director of Social Services, the Director of Public Prosecutions and the Director General of the Prison Service.

The Council met for the first time in January 1992. At that time it was hoped the 24 local committees set up to underpin the work of the Council would be in operation from Spring of the same year. That they were not, was symptomatic of an understandable nervousness about the role of the judiciary in the new fora.

The previous Lord Chief Justice, Lord Lane agreed to Lord Justice Farquharson, a Lord Justice of Appeal and Judge Elizabeth Fisher, a Circuit Judge joining the Council, but on the understanding that the Council would be chaired by the Permanent Secretary at the Home Office. And Lord Lane considered that it was inappropriate for Judges to join the 24 local committees. However, the new Lord Chief Justice Lord Taylor decided that members of the judiciary could and should participate fully in the new liaison arrangements. Accordingly Lord Justice

*Martin Narey joined the Prison Service in 1982 as an assistant governor and served at Deerbolt and Frankland. He became a grade 7 in 1991 serving initially as Private Secretary to the Minister of State at the Home Office. He now works in C1 (Criminal Policy) Division.*

Farquharson took over chairmanship of the Council from Sir Clive Whitmore and 24 resident judges were identified to chair the local committees.

A great deal of time and effort was expended on deciding how many of the committees there should be. Some representations from various agencies argued strongly that the number should reflect their own organisational structure. But with 55 local probation services, 43 police forces, 31 chief Crown Prosecution areas (now reduced to 15), 15 prison service areas, 18 courts' administrators groups, not to mention 600 plus petty sessional divisions arriving at a structure for area committees that would satisfy all the players in the system was clearly impossible. Eventually the compromise of 24 committees was arrived at. This number ensured that, as far as possible, no committee would cover more than three small counties and that most committees would be aligned with county boundaries which, at least, had some relevance to magistrates courts and to the Probation, Crown Prosecution and Police Services.

The membership includes the Circuit Administrator from the Crown Court, a Chief Probation Officer, Chief Constable, Chief Crown Prosecutor, a Justices' Clerk, a Chairman of a Magistrates' bench, a barrister, a solicitor, a Director of Social Services and either the Prison Service Area Manager or a governor of a local prison.

In retrospect, setting up the structures was the easy bit. Since the first meetings in late 1992 and early 1993, area committees have struggled to identify a role for themselves and it is probably true to say that those areas which had a tradition of inter-agency working have found the process easier than those which have not. Ambitious ideas about managing the local criminal justice system, like some sort of executive board was soon abandoned but ideas that the committees - and indeed the Council - might have a role in policy formulation have persisted rather longer.

The terms of reference for the committees are quite straightforward:

'To promote better understanding, co-operation and co-ordination in the administration of the criminal justice system, in particular by:

- (i) exchanging information and by giving advance notice of local developments which may affect other parts of the system;

- (ii) formulating co-ordinated area priorities, strategies and plans to give effect to national and locally agreed policies;
- (iii) considering problems and issues raised by services and Court User Committees and developing solutions which can be implemented throughout the area;
- (iv) as necessary, considering issues and proposals from the Criminal Justice Consultative Council and raising issues with the Council or with Government Departments which seem to require a national solution;
- (v) promoting the spread of good practice.'

Two years on from the establishment of the Council and rather less than 18 months since the first area committees met it would have been encouraging to report impressive progress, but perhaps naive to have expected it. The complexities of the system are such that it should always have been expected that both the Council and the Committees would take some time to make a significant impact. Even so, there are some encouraging signs.

At national level the Council has:

- through a small sub-group chaired by Judge Elizabeth Fisher made a thorough investigation of the problems of race issues in the criminal justice system and in early July published an action plan including 50 recommendations on how race issues might be addressed across the system. Some of the recommendations were aimed specifically at the Prison Service;

- completed a great deal of work aimed at achieving the retention at magistrates' courts of cases which were being currently directed to the Crown Court yet receiving sentences within the power of the lower court. The Council has been cautious to claim credit in this area but following the publication of a paper on this issue and its consideration by area committees, the proportion of cases committed by magistrates to the Crown Court has fallen steadily and significantly. Related to this and just published this summer with the enthusiastic endorsement of the Lord Chief Justice the Council has republished the mode of trial guidelines which guide magistrates on which cases they should or should not retain;

- considered a paper prepared by Joe Pilling, the then Director General of the Prison Service, which was subsequently distributed to area committees on the subject of Prisoners

Awaiting Trial. It provided those working in the wider system, in some instances for the first time, with a frank account of the serious problems facing the Prison Service in accommodating remand and unsentenced prisoners. This has certainly prompted a great awareness at Council level and in area committees on the pressures on the Prison Service. The current Director General has been able to build on that by providing periodic papers to the Council on the population and accommodation pressures. At local level consideration of the issue has led to improved relationships between the courts and the Prison Service in, for example, the increased use of custody days in the magistrates courts. And very recently, Law Society members on area committees spoke enthusiastically about what they saw as the improved performance of the Prison Service, a phenomena they ascribed to the area committees' work;

- considered the recommendations of a Bar Council Report (and later the Royal Commission) on discounts for early guilty pleas. The conclusions of the Council were that the practice of sentence discounts needed to be made more explicit in order to encourage more defendants who would ultimately plead guilty - often on the day of the trial - to plead earlier. The Council's view was able to inform officials' consideration of this tricky issue and subsequently sentence discounts have been put on a statutory base in the Criminal Justice and Public Order Act.

Some committees have developed more quickly than others but some have already begun to make an impact on local issues. For example:

- the Gloucestershire and Wiltshire Committee have attempted to identify improved working practices between the different agencies to reduce delay at the Crown Court;
  - the London South and Surrey Committee identified areas where the unnecessary use of police officers in attending court as witnesses could be reduced;
  - the Northumbrian and Durham Committee have tackled the problem of delay in the listing of criminal trials due to the limited number of expert witnesses;
  - the Staffordshire and Shropshire Committee identified a lacuna in the law relating to the service of summonses by post. Representations were made to the Council and subsequently an amendment has been made to the current Criminal Justice and Public Order Act; and
  - in West Yorkshire, committees established a unique inter-agency information data base which allows the committee to follow the passage of defendants trials through the criminal process, using over 40 key indicators.
- And there are numerous other examples which together constitute important progress. If this progress is to be continued and expanded it will of course be as a result of the commitment of the various members. To date Prison Service Area Managers and local Prison Governors have made a particularly effective contribution bringing to the committees not only a Prison Service point of view but, where appropriate, a wider Home Office view. Half yearly briefing meetings led by Phillipa Drew have been effective in keeping the Area Representatives up to date with wider criminal policy. Their commitment is well justified. There can be little doubt that criminal justice processes can be made more efficient. The primary victim of a failure to achieve improved efficiency, particularly when that results in protracted remand times, and elongated cases is the Prison Service. Prison Service representatives on area committees have a unique opportunity to bring the consequences of the system's inefficiencies to the attention of those in the wider system. The Service can only benefit from that ■
- the Northamptonshire and Leicestershire Committee devised a scheme agreed between all agencies aimed at fast-tracking criminal proceedings where children would be appearing as witnesses. Subsequently the Council commended similar schemes to the 23 remaining committees;
  - the Cumbria and Lancashire Committee tackled the issue of witness care and identified key features necessary for improvements and has also developed a local inter-agency strategy for the diversion of mentally disordered offenders;
  - the Devon and Cornwall Committee has worked with the local Health Authority to improve inter-agency working relating to drug related crime;

## Scene from here

*Under this title the Journal invites someone who is not a member of the Service but who knows us well to contribute a reflection on some aspect of our work.*

# S.T.E.P. PROGRAMME

*Martin J. Coulter, the author, reflects upon a placement at HMP Full Sutton organised under the auspices of the Shell Technology Enterprise Programme 1994 and managed jointly by the prison and Humberside Education Business Partnership, a branch of the Training Enterprise Council.*

### Introductory Summary

My name is Martin Coulter and I am presently a B.Sc. (Hons). Geography undergraduate at the University of Aberdeen. It was at my university careers office that I learned of the S.T.E.P. placement opportunity, and so, to beat the rush, I sent off my application in early February of this year. I was delighted, if not a little apprehensive, when, in June, I received a letter from HM Prison Service concerning a possible opportunity at Full Sutton's maximum security prison.

After researching the placement and being interviewed by the prison Governor, Director of Personnel and Training and the Senior Psychologist (my prospective supervisor) I was fortunate enough to be accepted; dependant upon security vetting!

My task was to carry out a communications audit of the prison staff; prisoners, I was relieved to find, would not be directly involved. Firstly, the audit required a review of the structures and mechanisms by which information in all forms was communicated within the Full Sutton establishment. Once carried out, this objective appraisal of the present communications systems, when employed alongside the Prison Service Goals and Values<sup>1</sup>, enabled me to produce a 'HM Prison Full Sutton Staff Communications Policy Document'. Furthermore, I then drew up a prospective 'Communications Action Plan' with the objective of improving staff communications: in keeping with the prison's commitment to staff training and development, outlined in the establishment's yearly contract.

### Account of Placement

On arrival at Full Sutton, one of the six dispersal<sup>2</sup> prisons in England and Wales, my view of the prison environment was clouded by scenes from 'Porridge' and 'Escape from Alcatraz'. Even though I knew these would not be in any way representative of the reality and that I would be entirely safe during my placement there were still doubts lurking in the back of my mind. As it turned out some were founded but most, fortunately, were not.

My first few days of familiarisation were especially long and tiring. On first introduction a common question was to ask how I felt about coming to work in the prison, 'like my first day at secondary school' was the response that best fitted. Firstly, I had come to an alien and potentially dangerous new workplace. Also I had no keys and even a trip to the toilet required the assistance of someone in the psychology unit, which was where I was based. Soon I got used to my lack of independent mobility and this did at least help to concentrate my mind whenever I made arrangements to interview anyone in another part of the prison.

After several weeks I began to see the prison as it really was. A highly professional establishment, committed to evolving in line with the new Home Office directives regarding the Prison Service. Generally, staff were positive about what the prison had achieved and was hoping to achieve; morale appeared to be high. Despite this the militaristic nature of some areas of the prison meant that I could not let my guard down and strict formality had to be adhered to.

During the first few weeks, in order to complete the task satisfactorily, it helped to

1. The HM Prison Service Purpose, Vision, Goals and Values were drawn up by the current Director General of the Prison Service, Derek Lewis; they represent the Prison Service's Mission.
2. Prisons in which a method of dispersing the highest category prisoners, Category A, amongst Category B prisoners, in certain maximum security prisons, is employed.

understand fully the following question. Why was a S.T.E.P. student given the task of carrying out this communications audit at this prison? In order to answer that it is necessary to outline some of the background to the Prison Service as it currently stands.

Her Majesty's Prison Service is going through a period of rapid change at present. Prisons now have agency status and with that much greater devolved power and accountability than they have enjoyed in the past. Although still publicly funded, prison budgets are now agreed in a contract prior to the commencement of the business year. Drives for improved efficiency and a new and more proactive style of management have thus necessitated a greater emphasis on devolved power at job ownership within the prison itself. This in turn has warranted the closer monitoring of staff performance. Therefore, a review of establishment wide communications and a statement of the prison's policy regarding communications was a natural progression.

Furthermore, Full Sutton is attempting to become recognised by the Investors in People<sup>3</sup> (I.i.P) initiative. This further commitment to staff training and development and the role that effective communication plays in staff development is the backdrop from which my placement project was developed. A project which involved meeting the following targets:

- a Reviewing staff communication within the prison.
- b Writing a 'HM Prison Full Sutton Staff Communications Policy Document'.
- c Drafting a prospective 'Communications Action Plan'.

Prison accountability also includes the resourcing of staff time and the cost effectiveness of employing a S.T.E.P. student to complete the task represents a small use of resources, not to mention good public relations.

It is for all of these reasons that Full Sutton took the positive step of employing a vacation student when in past years they would perhaps have not.

I consider the completion of the documents, listed above, including as they do

a devised policy as well as solutions to the existing shortfalls of the communication processes within the Prison, to be my primary achievement during my time at Full Sutton.

During my placement I found few difficulties working within the prison environment. The full backing of the prison's board and in particular the Governor, Mr John Staples, gave me the required 'clout' to work in all areas and arrange interviews with staff throughout the prison.

The main challenge was to overcome the scepticism of prison officers who regard studies into working functions as, at best, alien to the prison regime, and, at worst, the attempts of managers to impose further changes and greater workloads. On most occasions this was overcome by, firstly, being honest about the reasons for my study: an initiative, set up with I.i.P. standards, to develop and enable staff to carry out their work more easily and effectively. Secondly, by being firm and direct with my questioning: encouraging constructive criticism while at the same time keeping to the relevant issues.

Almost without exception I found a friendly and outgoing but professionally firm and formal approach to each personal challenge stood me in good stead. On one occasion, confusion over the arranged date of an interview caused me to stand up a rather fearsome and short tempered manager. At our next chance encounter I immediately recognised that attribution of blame was irrelevant. The onus was on me to get him to aid me in my inquiries. In direct language I apologised unreservedly and arranged another time for our meeting. I believe this regained his respect and the next meeting was very successful.

To a certain extent I recognise my generally welcome reception as a product of the good morale and successful management of the prison. Nevertheless, experienced prison staff do not suffer young inexperienced and uncertain students gladly: tread carefully but confidently became my motto.

My relationship with my project supervisor, the Senior Psychologist, Sue Lloyd, was positive and progressive. Sue allowed me absolute freedom to formulate the exact aim of the project and between weekly reviews I was given the responsibility for setting the work agenda: arranging interviews, collating information, devising solutions to

3. Investors in People U.K. Ltd. is a private company, originally set up within the department of Employment, whose 'National Standards' are benchmarks employed on a national basis by local Training and Enterprise Council consultants. Successful attainment of these standards leads to the recognition of the organisation as an Investor in People.

communications problems and finally, producing and presenting the completed task. I have not felt led or constrained in any way although I believe that this is partly due to my own initiative; displaying the willingness and ability to progress steadily with the task.

I found it frustrating that despite having control over the pace and direction of my own work the large number of employees and the bureaucratic nature of the prison dictated that my findings and policy had no immediate influence on the working of the prison. My only formal executive line, to the Governor, was the presentation of my completed work at the end of eight weeks. However, it is worth stressing that the inability to get things done was merely as a result of the size of the establishment and the sensitive nature of the day to day prisoner control and industrial relations rather than any lack of commitment to staff ideas on the part of the Senior Management Team. As for working to deadlines, completing my work has been very difficult. Motivating myself to collate my research, putting it all down on paper, while resisting the feeling that the end product must be perfect, have been constant challenges. Producing the documents is not dissimilar, in itself, to academic tasks I've carried out in the past. However, on this occasion my work will have practical consequences and there is the extra pressure of having colleagues expecting and relying on you to do a good job. Despite this, the satisfaction of prospectively doing a good job has been very rewarding and more than makes up for any heavy expectations I have felt from members of the prison staff.

Why do I believe my work will be acted upon? Firstly, Full Sutton has, in line with Prison Service directives, made improved communications a management priority; including the 'In Year' contract target of the formulation of a staff communications policy. Also, there is recognition of the need for

improvements; a fine tuning, on what I have already found to be an adequate communications structure. I believe that my suggestions, while being innovative and workable, fill the existing gaps in communication. Furthermore, those staff with whom I have discussed my proposed ideas have reacted very positively to their future implementation.

It is a disappointment that I will not have any further direct input into the development of the communication networks at Full Sutton. I will not have the opportunity to see the accepted ideas and policy come into operation, at least not as anything other than a visitor. Nevertheless, I feel confident that the part I've played in the development of the prison's functioning communications will go some way to improving staff work conditions. This may also lead towards the prison meeting the standards which are prerequisites to its recognition as an Investor in People.

On a purely personal basis the placement has enabled me to reinforce my confidence in working and succeeding in the 'real world'. I now have a far clearer picture of my own strengths, to be developed, and my weaknesses, which I hope to reduce. Working through the S.T.E.P. appraisal form with my supervisor, someone with relevant experience and insights, was a far more valuable tool than any self evaluation: despite having to relate to criticism as well as praise. The challenge of finding the right career now looks less daunting.

The experience of working in the Prison Service, although only for a brief period, has been one of the most challenging and consequently rewarding periods of my life. I would like to thank Full Sutton, S.T.E.P. and the H.E.B.P. for what has been a marvellous opportunity to develop myself and my future career prospects. I only hope that the work I've done has gone some way to repay this debt ■

## Verbals

'... prisoners ... need to learn to address their offending behaviour. They need to learn to control their anger, and to understand the gravity of their crimes and the suffering of their victims. They need to learn the practice of work. They need the social education which for many others began with parents and nursery schools and was learned in childhood and in teenage years.'

Judge Stephen Tumim, Report of Her Majesty's Chief Inspector of Prisons, April 1993-March 1994



The articles brought together under this heading are somewhat disparate but with one exception talk about prison systems where change within the system is happening alongside major upheaval in the societies which those systems serve. The exception is the article entitled 'Conflict Resolution in Prisons'. The title was the theme of the Conference to which the talk on which the article is based was given and the reason for that theme being used was that so much of Africa is undergoing great political, social and economic change as another article, the one on South Africa, underlines.

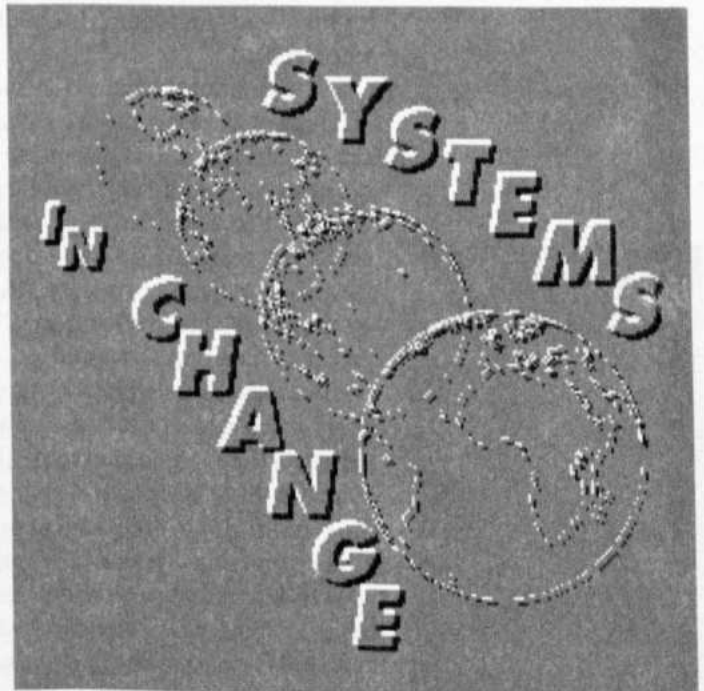
Several of the articles are written by members of the Prison Service in this country who were invited to offer their views and opinions on penal reform in the countries they visited. It is an irony that despite the poor press the Service receives in this country we are regarded highly by so many countries both in Europe and elsewhere and have been for many years. They envy our varied regimes, the capacity to handle so many complex issues and the high calibre of our staff and the quality of the work they do.

There is a danger that the respect in which we are held can lead to thoughtless imitation. There is value in exchanging views and seeing how other systems work but the different cultural contexts in which we work must not be ignored.

In Uganda they are well ahead of us in ensuring prisoners are accommodated close to home and they have no need to use segregation for protection as we do, however, a prisoners' possessions often amount to only two blankets and at times it is uncertain whether adequate food supplies can be maintained. In many countries prisons are run not by the Ministry of the Interior, our Home Office, but by the Army and that has implications for the way prisons are managed. Perhaps the Learmont report will make this less of a difference than now it appears?

Currently our Service seems to be looking towards the USA for a lead but to do so without appreciating the reliance of the Federal system on guns for maintaining security and the acceptance in US Society of the gun may be to draw the wrong conclusions. Nor do we want to import the inhumanity of many US institutions and their apparent indifference to the exploitation of one prisoner by another. Indeed such abuses are a major issue in the US itself and suing the prison governor for lack of protection against fellow prisoners has become the primary reason for US prisons to be challenged legally.

As we seek solutions to our problems from America it is salutary to remember that even as we were told Alcatraz was closing and concentration had ended so Marion was being born to give the lie to that observation. So, too, as we move into 'boot camps' the US is closing some down and modifying others. We need to be outward looking and inquisitive about how other countries run their prisons but deeply cautious in translating practices from one system to another.



# THE PROBLEMS OF A PRISON SYSTEM

## during a period of transition towards democracy

Dr Zdenek Karabec

*This paper was presented by Dr Zdenek Karabec, Director General of the Prison service in the Czech Republic, at a conference on The Reform of Criminal Law, and on the Reform of the Prison System, sponsored by the Council of Europe, held in Bishkek, Kyrgyzstan between 30 August and 3 September 1993.*

*It has been prepared for publication by Dr Andrew Coyle, Governor of Brixton Prison, London, England.*

### **The Prison System and Community Order**

The prison system in any community reflects general political, economic and social conditions. The way in which a community, through the organs of the state, deals with offenders tells us about the relationship between the state and its citizens, particularly in respect of human rights.

In countries where there is an absence of democracy, where citizens are unable to voice their opinions on matters of common order through different political parties and parliament, it is very likely that government will take the opportunity to interfere in all aspects of public life, and to force citizens to accept state ideology.

If this ideology is intent on creating a communist or other totalitarian state it is likely that human rights will be ignored or suppressed in the name of so-called higher objectives. A community based on this foundation will segregate groups of citizens according to class, according to their political allegiance to the party in power, according to their social position, and according to many other criteria. There will be no question of equal human rights and existing inequalities will be perpetuated.

In communities such as this offenders are regarded as people who, by virtue of their crimes, have placed themselves outside the bounds of society. Because of that the law entitles the state to deal with them in an arbitrary manner. That is bad enough. But recent experience in so called socialist countries is that the criminal law and other legislation can be twisted to accommodate political and ideological objectives. People are likely to be prosecuted and sentenced simply because they are inconvenient to the state. There is little difference in the treatment of the criminal, and the political non-conformist. The criminal law is used, or rather abused, to influence people's political, economic, and other actions. The offenders, whether they be criminals or merely individual who have

proved inconvenient to the state, are then labelled and treated as enemies of the state.

### **The Object of Punishment**

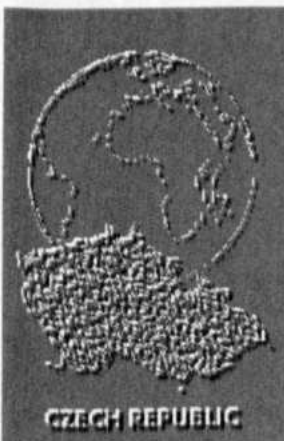
If offenders in totalitarian countries are labelled as enemies of the state, then state authorities consider themselves entitled to exercise power over them in any way. Forced labour camps, group punishments, mental and physical torture have all been commonly used in the recent past. Given the principle that offenders would only be reformed if they spent a long period in prison, sentences of inordinate length were passed, even for the most petty offences. Only in this way could re-education of the offender be guaranteed.

In every former communist and socialist country prisoners were used as cheap labour. The planned economy depended on their labour. They were given work which honest citizens refused to do because health and safety conditions were so bad. Prisons had the appearance of concentration camps. Conditions were justified with slogans such as, 'Only through hard work can offenders pay for their crimes' and 'Only honest labour can cure an offender'. In addition new legislation called the Correctional Working Law was introduced.

### **Military Elements Inside Prisons**

The regimes in all prisons and the training of prison staff were geared towards the purpose described above. The prison system was organised in a military manner. Staff had military ranks. Their conditions of service were the same as other members of the armed forces, the army, police, and people's militia. The military model was obvious in all that happened inside the prisons. Prisoners were subject to rigorous drill, to isolation, and contacts with the outside world were reduced to a minimum.

The most important considerations in recruiting new staff were political reliability, allegiance to the regime and ideological training. They were also encouraged in the





notion that they were superior to the prisoners and had power over their lives.

### **The Main Stages of Transformation**

The features described so far have been more or less common to every prison system in all the republics of the former Soviet Union, and in all the so-called socialist countries in Europe and elsewhere. Prison systems in central European countries, such as the former Czechoslovakia, Poland, Hungary, East Germany, and so on, were characterised by a high ratio of prisoners to the general population, by the prosecution of political offenders, and by the military structure.

Alongside the strengthening of the democratic elements which followed the fundamental political changes in all the countries of the former Soviet bloc in the late 1980s and the early 1990s, came a transformation in the prison systems of these countries.

What were the main elements of this transformation and what are the major problems which now have to be faced? In the light of our experience over the last two or three years, we can make the following comments:

#### ***Compensation for Injustice***

Once the major changes got under way and the totalitarian regimes began to fall apart there was strong pressure to deal, as a matter of urgency, with all the cases in which citizens had been unjustly sentenced. This pressure came from the community, and also from the people who were in prison. There were riots in prisons in Czechoslovakia, Poland, East Germany, and in other countries which had to be put down. Some of the injustices of the former regimes were dealt with by collective amnesties, by individual pardons, and by the political rehabilitation of the people involved.

#### ***Removal of Prison Staff***

Prison systems had to be seen to put their own houses in order. This meant that staff who had been directly involved with the injustices of the previous regime had to go. In Czechoslovakia, for example, 1,500 staff out of a total of 7,500 were dismissed.

#### ***Working out a new Framework for a Prison System***

The next task was to create a new framework within which the prison system would operate. In the first place, this meant bringing it into line with international conventions and treaties on human rights. This was described in general terms as 'the

humanisation of the prison system'. This was a means of emphasising that as countries moved towards democracy there had to be a recognition of the human rights of all citizens, including those who were prosecuted or imprisoned. This was a major difference from the former totalitarian systems.

### **The Fundamental Issues**

In order to achieve this humanisation, it is necessary to face up to certain major issues. These include the following:

#### ***Improving the Physical Condition in the Prisons***

Totalitarian regimes paid little attention to the physical conditions in prisons. Prison architecture should take account of health and hygiene, and such matters as the need for educational facilities for prisoners. No consideration was given to any of these matters under previous regimes. Most prisons in former socialist countries are temporary buildings or have been converted from other use. To bring them up to a proper standard would cost an enormous amount of money.

In totalitarian regimes almost everything was based on the principle of collectivism. The re-education of convicted prisoners also began from the premise that a group of prisoners can influence each of its members. Prisoners were accommodated in large rooms with up to 20 or 30 in overcrowded conditions. It is not difficult to imagine the sort of things which went on in such conditions where prisoners were beyond the sight and care of staff.

Prisons will have to be re-built a step at a time until the following conditions are provided:

- Prisoners held two or three to an appropriate sized cell;
- Space so that every prisoner can be employed either in a workshop or on a farm and rooms for education as well as for religious activities;
- Satisfactory heating, lighting, ventilation, hot water for washing, and proper cooking and eating facilities;
- Basic medical care;
- A proper staff alarm system for the safety of staff and to prevent escapes; modern security technology to replace such traditional systems as watch-towers and dogs.

Another problem is the location of many prisons. They were sited beside large industrial



complexes and mines, or in isolated spots, so as to provide a cheap labour force. As a result, it is impossible for prisoners to maintain real contact with families or close relatives and the task of finding accommodation and employment on release becomes very complicated. We will have to set ourselves the task of establishing regional prisons so that prisoners can maintain contact with outside society.

At the moment, these are no more than ideals. It is not possible today in post-communist countries to provide large scale funds for the prison system. This is understandable, because education, health, and social welfare, have prior calls on available state funding. Neither can prisons be improved at the expense of providing proper housing, food and employment for people as a whole.

#### ***Changes to the legislation concerning pre-trial detention and imprisonment***

One of the first changes required as a country moves towards democracy is to the whole basis of legislation: first the penal code, and then other primary statutes. There must be a new definition of what constitutes an offence and what punishments are applicable to these offences. The countries of central and eastern Europe which are members of the Council of Europe and those which aspire to become members are bound to accept the European Convention on Human Rights. Articles 5 and 6 of this convention make specific reference to the rights of persons who are deprived of their liberty while awaiting trial. Most countries incorporate the obligation of the European Convention on Human Rights and other international conventions into their own criminal justice legislation. Often this can only be done if existing national legislation in respect of pre-trial and convicted prisoners is amended or entirely new legislation is introduced. In the former Republic of Czechoslovakia, for example, immediately after the revolutionary changes of the late 1980s and early 1990s, the prison act was amended. Now parliament is discussing new legislation for pre-trial detention.

It is worth pointing out to all former totalitarian countries that any legislative amendments should take close account of the UN Standard Minimum Rules for the treatment of Offenders, and the European Prison Rules.

It is also important to make constitutional and legislative provision for external supervision of the prison system. In the Czech Republic, for example, this is carried out by the Committee of Defence and Security

of the Czech Parliament. In Poland an independent representative has been appointed to deal with alleged violations of human rights, including those of prisoners. It is particularly important that such an independent element should be introduced in post-communist countries where the function of the public prosecutor is being re-assessed. It is well known that the Soviet style public prosecutor had tremendous jurisdiction over all areas of public life, including pre-trial detention and imprisonment. From 1 January 1994 the office of the General Prosecutor of the Czech Republic will become the office of the State Procurator, and will be part of the Ministry of Justice. Prosecutors will no longer have any jurisdiction over prisons.

#### ***The Organisation of the Prison System***

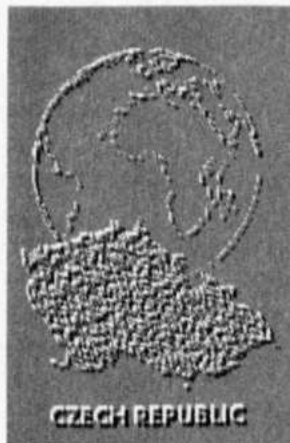
If the prison system is to have a new set of objectives it will also require a new organisational structure. As described above, the prison systems in former totalitarian countries were organised on the military model and prisons were managed on military lines. Staff carried the same ranks as the military. We have to move to a more general arrangement whereby employment in the prison system is considered merely as service to the state and prison staff are regarded as state officials. In future staff in the prison system will be civilians although it will be necessary for some security to be provided by prison staff who carry arms.

In the Czech Republic we propose in the immediate future that one third of the staff should be recruited as civilians. These will work in the departments which are responsible for economic, financial, supplies, stores, and medical matters.

#### ***A New System of Pre-Trial Detention and Imprisonment***

Once a country has accepted the international conventions on human rights these must be applied even to people who are held in detention awaiting trial, or who have been imprisoned. In the first place this means applying the presumption of innocence to all people who are detained awaiting trial. The rights of such an individual must only be restricted to the extent necessary for detention.

Once a person has been sentenced to a period of imprisonment and is deprived of liberty the authorities must not forget their obligation to help his or her eventual re-integration into society. This means preparing prisoners for release. During their time in captivity prisoners should be given access to education and skills training. They should also



be given the opportunity to spend their leisure time in prison constructively.

Separate arrangements should be made for different categories of prisoner so as to minimise the negative influence of the prison environment. Recidivists, dangerous and aggressive prisoners should be separated from other prisoners. Juveniles should be kept apart from adult prisoners. People sentenced for minor offences, such as road traffic violations, should not be put with violent offenders or those convicted of sex offences.

In former totalitarian regimes undue emphasis was placed on the significance of prison labour. It was seen as the main vehicle for reform of the individual. At the same time the system of prisoner labour was misused. It is worth pointing out that even in democratic countries sentenced prisoners are obliged to work. For sentenced prisoners work is seen as part of the punishment of imprisonment, and is not considered to be slave labour. In post-communist countries we are faced with a new problem. With the transition to a market economy there has been a significant reduction in the work available for prisoners. Under the previous planned economy, state-owned enterprises needed a great deal of unskilled prisoner labour. Within a market economy there is no need for such a labour force, particularly where there are high levels of general unemployment. In this situation the best that prisons can do is set up their own simple form of production, or to become involved in farming. It will be easier to sell products made in prisons than to sell the labour of prisoners.

### ***Training Prison Staff***

Staff play a key role in any initiative aimed at helping prisoners to reform. Their involvement is even more crucial in any attempt at changing a whole prison system. The changes in former totalitarian systems have meant that staff have lost many of their former privileges and powers. For that reason they are reluctant to become involved. The staff also find it difficult to respect the human rights of prisoners when major incidents occur. Instead they revert to the practices of the former regime. Prison staff must adopt high professional standards if they are to treat remand and convicted prisoners in accordance with the UN Standard Minimum Rules and the European Prison Rules.

In countries which are now moving towards democracy it is necessary to re-train prison staff. Every employee has to be convinced that the prison system must change and must be trained afresh in how to treat prisoners.

New recruits should be given lengthy periods of training before they take up duty. The experience in democratic countries shows that this training cannot be completed in a matter of weeks. It has been found that it should last about two years.

### ***International contacts and co-operation***

It is not easy to create a new prison system. It is really encouraging that former so-called socialist countries, and those which gained freedom after the disintegration of the USSR can count on broad international support during their transition towards democracy. This applies in the prison system as well as in more general spheres of public life. There are many institutions linked to the Council of Europe which can give practical help and advice. These include the Committee for Penological Co-operation, the Commission for Human Rights, and many others. This present seminar, arranged by the Council of Europe, with experts from several countries taking part, is an excellent example of this. Similar seminars on themes such as criminal law, penology and human rights have already been held or will be. They present great opportunities for experts from different countries not only to meet and to co-operate but also to make personal contact.

It is very useful for the prison staff of former totalitarian countries to visit prisons in democratic countries in order to see at first hand the conditions for pre-trial and convicted prisoners.

### **Conclusion**

Solving the problems of penology during a period of transition towards democracy is not a simple matter. Sufficient resources and a will to succeed are necessary. The public also has to be informed and convinced. This takes time and it is likely to be several years before the process is completed. There will be gains and losses.

The economic, political and social situation in every country striving towards democracy is different. The prison systems in each of these countries also start their transformation from different points. They have different priorities and a different rate of change. However, the important thing to remember is that it is possible to effect change in a prison system. How this is done will depend on the situation in each country ■





# ALBANIA

## PRISON SERVICE REFORMS

Peter Leonard

*In April 1994, Allen Davis and Peter Leonard went to Albania to begin giving the Prison Service there some assistance to bring about reforms. In this article Peter offers a personal view of that work, the problems facing the Country and its Prison Service.*

*At the time of writing the article, Peter was governor of HMP Lindholme and Allen, governor at HMYOI Swinfen Hall*

Albania is a small country in the Balkans. It shares borders with Greece, Macedonia and the former Yugoslavia. For 50 years it was subject to the most repressive form of communist dictatorship. After the Second World War the egocentric and xenophobic Envar Hoxha ruled the country first with help from the Soviet Union then, until 1970, from the Peoples Republic of China. Once the Chinese withdrew Hoxha pursued policies of isolationism and totalitarianism which suffocated economic development and resulted in an almost complete denial of human rights. After his death, in 1985, some faltering attempts at reform were made by his successor but Albania remained an isolated, stagnant state. Early in 1990 there was a great deal of social unrest with rioting and attempts at mass emigration. This continued until March 1992 when the third election in as many years gave office to Dr Sali Berisha and his Democratic Party.

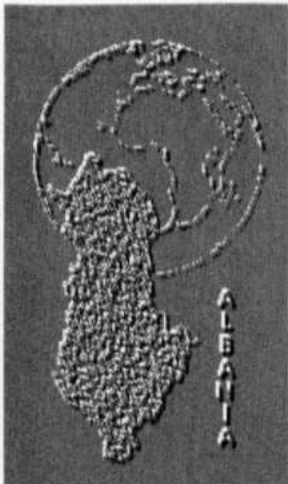
The privations and cruelty of 50 years have left deep scars in the Albanian people and a government facing extremely serious economic and social problems. It is a country which needs help to find its place in the modern international community, to address its internal problems and to develop its self esteem. We are proud it was to Her Majesty's Prison Service Albania turned for some of that assistance and we are privileged to be a very small part of the process.

Firstly we were asked to work with Albanian officials in preparing Statements of Purpose and Vision, to identify values and goals and to work up a medium term plan. As a second phase we were invited to devise a training strategy to be delivered in the Autumn of 1994. For the first part we visited the country between 6 and 27 April 1994. Our arrival at Tirana was less auspicious than we would have liked. Landing an airliner at the capital's airport must be like trying to skateboard down a cobbled street balancing a 20 foot plank across one's chest. Then came

the problem of Allen's computer or rather the printer for it. Custom officials are suspicious people whatever their nationality and Albanian officials are no different. They doubted the legality of taking the equipment into the country and arguments about working for the Albanian government held no sway with them. Eventually the problem was resolved by a grinning taxi driver who simply picked up the printer and wandered in the direction of the car park.

Minor irritations can happen anywhere and those of our arrival were soon overshadowed by the genuine warmth of the Albanian people who were pleased foreigners are helping them on their road to reform. Laws preventing contact, even denying foreigners entry to Albanian homes, have only recently been repealed and there is a great desire to know more about the West. They have little themselves and spend a great deal of time apologising for the inadequacies of accommodation or food or equipment or leisure facilities but they are generous and hospitable as one often finds with people who have few material possessions. We had to learn humility and to accept hospitality with good grace; to refuse in deference to their poverty would be the worst kind of arrogant insolence.

One consequence of democratisation is all politicians and senior officials are inexperienced in administration. The greater majority of public employees have been in the post for two years or less, which means, for the present at least, the whole infra structure of society is weak. Officials are uncertain about their duties, have insufficient confidence to use initiative and stick rigidly to rules or to job descriptions for fear of blame or worse. Jobs are hard to come by, families must be fed and there is always the memory of the fate of defaulters under the former regime. The people in the public service are certainly not stupid, we found them well motivated to improve the way things are. They are, however, hamstrung by restrictive bureau-



cracy and the lack of dynamic tradition.

Albania then is a country ripe for exploitation by the very worst the West has to offer. Already the foreign gangsters have moved in to run rackets of various sorts. Beggars on the streets hand their meagre gleanings to sharp suited young men. Young women are taken from their families for a life of prostitution elsewhere in Europe or sold into forced marriages in Macedonia. Protection is offered to bar keepers by men who openly carry guns. Soon drugs will be more freely available on the streets and will bring their attendant miseries with them. Soon too the burger joints and disco bars will come to give international blandness to a society which has not yet rediscovered its own traditions.

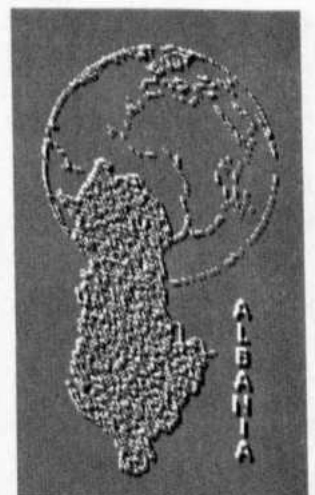
In our work with the Albanian Prison Service we are attempting to keep these factors at the forefront of our thinking. We are not here, we keep reminding ourselves and the officials with whom we work, to replicate the English and Welsh prison system in Albania. Our task is to assist in the development of a prison service which has the hallmarks of modern humane treatment but remains Albanian in character. No one can have confidence in a prison service which isolates itself from the society it serves and for Albania this means prisons will have to progress at a pace dictated by general social reforms. To bring about dramatic improvements too quickly will add to social unrest because prisoners will be seen as enjoying conditions better than those of the general public. To lag too far behind with prison reforms will leave the administration open to accusations of inflicting the same cruelties as the hated former regime. Similarly we know as Governors that the change inside prisons must be introduced at a measured pace. Changes in society will create expectations for change amongst prisoners but too much change too quickly will destabilise the already fragile relationship between the guards and their wards. Helping an emerging service to preserve the fine balances between these factors is only one of the fascinating aspects of this project.

Just how do you go about trying to help another country to improve its prison service? Well, just like the porcupines making love, the short answer is with great care. The first thing we did was to try to learn something of the country before we went. With Albania it is not easy. Its years of seclusion mean few reference books exist and those that do are out of date or wildly inaccurate. Even decent

maps are hard to come by and unreliable. Nevertheless with some some perseverance we managed to glean a few facts especially about the recent history of the country. Information about the facilities which are available is essential and here a briefing from colleagues who visited the country previously proved invaluable. In a sentence the briefing was, 'if you are likely to need it take it with you and don't depend on the electricity supply'. Especially we learned we needed a good medical kit containing everything from plasma replacement to insect repellent.

Having arrived for the first phase of our work we started the process of learning, we were not there to tell but to assist which meant we needed information. Having invested time in establishing good working relationships with our Albanian colleagues we set about the task of getting them to tell us all they could about their system and the context in which it operates. The problems of translating between Albanian and English and trying to understand cultural differences made this slow and painstaking work. Our colleagues desire to be as helpful as possible and their natural politeness sometimes made us feel like grand inquisitors but, whenever things got too intense, we broke off for coffee and gave them a chance to joke about our pathetic attempts to use a few words of Albanian. We then visited five of the seven prisons and tested what we had been told against observed reality. We spoke with staff at all levels and with prisoners and began to discuss ideas of how things might change. Here we were especially impressed by expressions of the willingness to improve the regimes and by the questions we got about our own prison system.

The preparation of the statements of Purpose and Vision were demanding exercises carried out after we had learned about the Albanian system. First we had to explain to various officials what each one was, the audience both were aimed at and the consequences of their adoption. As we drafted the two statements we were conscious of providing the Albanian Service with the philosophical framework within which it could develop the yardsticks against which it was capable of measurement. As with everything else in the project, it was important to be realistic, to be testing without building in inevitable failure, and the meaning behind each word had to be explored to ensure translation into Albanian would not alter or distort the sentiments and aspirations expressed. Finally we arrived at forms of



words which we could be satisfied with and were acceptable to our Albanian colleagues.

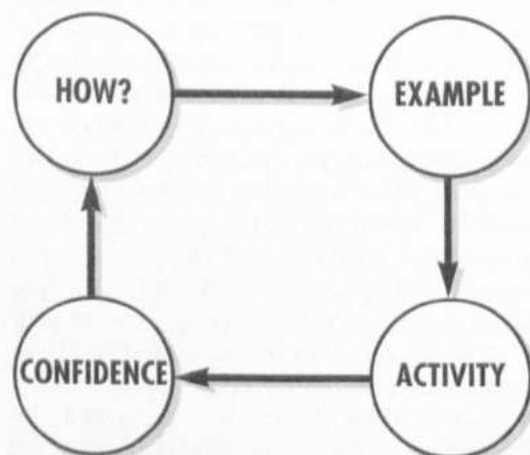
#### **The Statement of Purpose:**

'The Albanian Prison Service contains in appropriate conditions prisoners sentenced by the courts. It preserves and protects their human rights and provides training which encourages their rehabilitation'.

#### **The Statement of Vision:**

'Our vision is to provide standards of security, treatment and activity which have the confidence of the Albanian people and the international community'.

Having produced these statements we turned to practical ways of translating them into action. Firstly we developed a 'dynamic model of values' to enable the service to begin making the cultural changes necessary.



The question, 'how?' is the dynamic factor model. Example is the ways managers and staff show they have accepted the Statement of Purpose and Vision and the philosophy underlying them. In turn this influences their activity, the ways subordinates and prisoners are treated. This leads to improved relationships with less authoritarian emphasis and results in greater confidence between parties. It then leads back to the question, 'how?' but with the increased confidence to ask, 'how can we do it even better?' Our Albanian colleagues saw considerable mileage in this model, as a teaching aid, not least of all because theirs was the major hand in developing it.

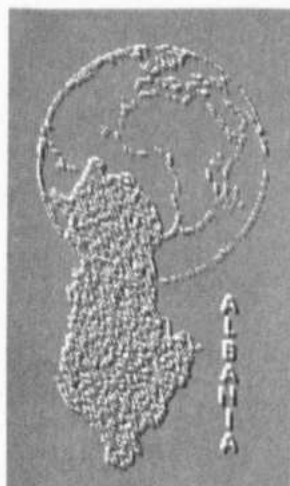
The second way in which we offered practical assistance was to produce a set of 23 recommendations all of which, we believe, are capable of acceptance and implementation.

Our observations in the five prisons taught us that things were not especially good and we heard that conditions for remand prisoners were much worse. The Albanian Prison Service only has accountability for sentenced prisoners, remand prisoners are the responsibility of the police. Though we had no mandate to look at the remand situation we recommended pre-sentence prisoners be brought under the care of the Prison Service. Admittedly sentenced prisoners are held in mainly old, run down establishments where physical security is poor and facilities generally inadequate, but we believe material conditions can be improved significantly without massive expenditure.

The prisons are a legacy of the former regime which relied on harsh regimes and armed guards to maintain order and security. Neither the resources nor the knowledge have existed yet to alter this significantly although some improvements have been attempted. For the most part staff and prisoners stand around for hours at a time, without anything to do or incentive for doing anything. Prisons are regarded as either 'open' or 'closed' the distinction being in closed establishments prisoners spend much of their time locked in small dormitories. The only activity, for most, is one hours exercise in closed prisons and sport in open ones. All prisons have perimeter walls and fences with observation towers and staff with automatic weapons. Visits are allowed each week and, once each month, there are conjugal visits for males and family visits for females. In reality visits put a considerable strain on impoverished families forced to make long and expensive journeys and bring food to supplement the meagre diet. In our recommendations we have suggested ways of giving more purposeful activities to staff and prisoners and to provide a balanced but inexpensive regime. We have also shown ways in which the standing of the Service can be enhanced in the eyes of staff and public.

Having completed the first phase of work we produced a brief management summary of our report, including the main recommendations and an action plan for the following six months and left these with the General Director and the Ministry of Justice. On our return to England we produced our detailed report lodging it with our own headquarters, the Foreign and Commonwealth Office as well as sending copies to the Albanian Service.

At the time of writing we are waiting for the Albanian response to the first phase of the project. Providing we get clear





commitment to take the work forward we have planned to return in October 1994 to deliver the training phase.

Finally, as our Governor colleagues scowl over their T and S budgets, who pays for all this? Well the answer is, of course, the tax payer. But the funding for our trip came through the Foreign and Commonwealth Office 'Know How Fund'. This exists to provide technical assistance to the countries

of central and eastern Europe and the former Soviet Union. It supports the transition to democracy and encourages investment by British companies. The Council of Europe has expressed an interest in our work and we wait to see whether it and the European Commission can develop a co-ordinated approach to helping the social institutions of a sad but deserving country ■

# CONTRACTING FOR PRIVATE PRISONS IN QUEENSLAND, AUSTRALIA

## *Lessons for penal policy*

The debate surrounding whether private prisons will improve the correctional reform process has yet to be properly explored in Australia. This paper provides a specific analysis of the availability of contracts for the management of private prisons in Queensland, Australia. An evaluation of the effectiveness of Freedom of Information legislation in Queensland is undertaken as a method to obtain contract, tender, financial and policy information held by the Queensland Corrective Services Commission (QCSC) and private companies. Suggestions for improvement of the contracting process are made in view of the deficiencies identified in earlier sections.

### **Introduction**

Private prisons have been operating in Queensland since 1990. Borallon Correctional Centre was Australia's first private prison and along with the Arthur Gorrie Correctional Centre forms the mainstay for private correctional policy by the Queensland Corrective Services Commission (QCSC). The two centres are owned by the Government but managed by contracted firms for a fixed term. (See QCSC 1993) Borallon Correctional Centre, a medium

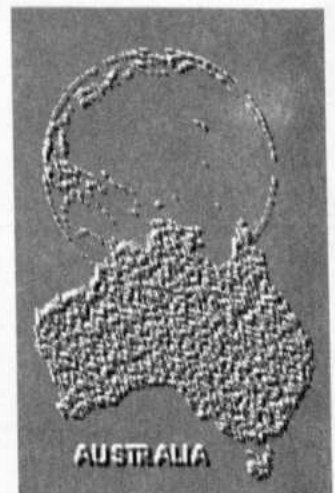
security facility with a capacity for 240 prisoners, is managed by Corrections Corporation of Australia (CCA). Arthur Gorrie Correctional Centre began operating in 1992. It performs the remand and reception function for the south-east corner of Queensland and holds 380 prisoners from all security classifications. It has been contracted to Australasian Correctional Management (ACM) Pty Ltd.

Contracting the management of prisons to private companies has become an intensely sensitive issue. Both the Queensland and New South Wales Governments where private prisons now operate are conscious of the example they provide which may in the short term, have a direct impact upon whether other states choose to embark on this policy initiative. In some cases there is a substantial interest for companies already operating in Australia to promote a view that they play a positive and constructive role in corrective service delivery. Recently, in the *Weekend Australian*, 18-19 December, 1993, the State Government of Victoria called for Expressions of Interest for the finance, design, construction and management of three prisons indicating that the short-listed tenders would need to demonstrate:

Paul Moyle  
Honorary Research Fellow,  
Crime Research Centre,  
University of Western  
Australia, 14 Parkway,  
Nedlands, Western Australia,  
Australia, 6009.

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University of Leicester,  
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- an existing capability and prior experience in prison management;
- proven record in the design and construction of major projects; and
- sound financial resource arrangements.

This is a standard formula which was used for tenders for Junee Correctional Centre, a 600 bed facility designed and constructed by ACM in New South Wales and for two private facilities in Auckland, New Zealand. With the recent election of the Liberal Party in South Australia and Western Australia, both of these states will also look to Queensland as a model. The credibility and standing of private companies seeking to expand their role in corrections will, to some extent, rest upon the perception of the performance of companies operating in Queensland.

Further, practical experiences in the Queensland jurisdiction provide an interesting insight into correctional reform and change, the objectives and performance of privatisation, issues of accountability, monitoring, liability, costs, and the adequacy of the legislative basis for private prisons. This early experience raises specific policy issues, requiring recommendations to redress deficiencies.

### **Correctional Reform and Change**

At a public meeting at the State Film Centre in Melbourne, 18 August, 1993, (Moyle 1994a, chapter 1), the author expressed concern about the traditional confrontationist approach adopted by the QCSC which lead to private companies potential involvement in corrections being used as an industrial threat to public custodial officers. My criticism of this approach was that it tended to escalate conflict and moved various players into a role of opposition rather than allowing agencies to focus on what improvements should be introduced into the corrections system. I noted:

We need to look at empowering and involving groups that are going to be subjected to change within the corrections system. Public correctional officers are a group which will be asked to bear a significant part of this change. Therefore it is important to involve them in the discussion and

incorporate their views in identifying what types of change in work practices are appropriate. This empowerment is very important and should be dealt with early in the process.

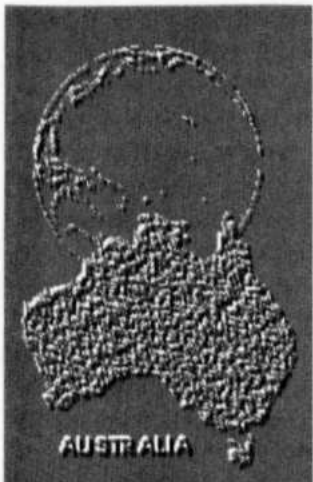
The issue of various correctional organisations preparedness to consult and involve groups in a process of change is a fundamental one. The main difficulty with the Commission's implementation of private sector involvement in corrections has been that it applies outdated and secretive management practices. Involvement of other agencies, such as the private sector and community non-profit groups, should compel greater openness and accountability. This secrecy has many unacceptable consequences. The Public Sector Management Commission (PSMC 1993, p4) recently noted that the QCSC management has been 'extremely sensitive to criticism' stressing that:

There is a danger that if management becomes too defensive in its approach, and if criticisms are too readily branded as anti-reform, that the organisation will lose its capacity to respond to criticism and that, within the organisation, constructive debate about the change process will be stifled.

Sensitivity to criticism has been experienced by many commentators and researchers who have attempted to indicate deficiencies in policy development, administrative procedures and suggest remedies. It is quite ironic that in December 1993, the PSMC noted that qualitative comparisons have not yet been attempted between public and private prisons and that qualitative indicators 'have not been subject to close consideration' (p118). As a result the PSMC recommended the urgent need for:

Consideration be given to the legislative approach to contract management as occurs in other states, including; mandatory conditions; minimum performance standards, monitoring; and reporting, when Queensland's corrective services legislation is amended, and;

By 30 September 1994, the Queensland Corrective Services Commission, in consultation with the office of the Cabinet and treasury, ... [shall] ... develop a methodology for evaluating contract management of custodial and community corrections centres which includes:





- the basis on which costs should be compared;
- the basis on which quality of service can be assessed; and
- the overall financial and other impacts on the State and the State correctional system of contract-managed centres. (pp 118,119)

The PSMC's findings give official support to what some commentators have been arguing for some years. (See Moyle 1990, 1992a, 1992b, 1992c and 1993a). The lesson to be learnt from this is not that we should have a Government report before any action is taken but that organisations, including private companies, must be prepared to accept research findings and respond to the deficiencies in practice and principle that they raise. There is a myriad of detailed and complex information contained within correctional authorities organisational structures. A central question arising from private sector participation is whether such involvement will improve and enhance accountability within the corrections system or will it add a new barrier to availability of information for citizen's interested in correctional issues?

The brief history of private sector involvement in Queensland indicates that without a strong monitoring agency committed to openness, accountability and genuine discussion, private sector involvement can have some negative and unacceptable consequences.

### **Transparency of Contracts**

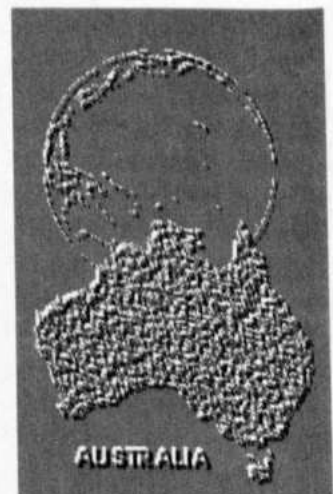
After three years of private prisons operating in Queensland, citizens have little understanding of the conditions private companies are bound to comply with when managing correctional centres. In a recent riot at the Arthur Gorrie Correctional Centre allegations were raised by inmates that a primary cause of the riot was understaffing and a lack of response by management to complaints about the poor quality of food. *The Townsville Bulletin*, 20 December, 1993 (p2) reported that an investigation conducted by the QCSC 'uncovered claims that warders ... laughed and did nothing as a weeping man tried to kill himself on 5 November last year'. The same investigation found that prisoners

'had been denied clothing and bedding and had wrapped themselves in toilet paper to keep warm'.

These types of claims are hard to verify or dispute and are quite sensational. The QCSC could clarify the nature and role of private sector involvement in corrections by placing copies of the relevant contracts on the public record. To date there has been three riots at Arthur Gorrie Correctional Centre. A central difficulty with the public's understanding of the causes, responsibility and modifications to practice from these incidences has been the lack of information available about performance, standards and liability.

In a major riot at the Arthur Gorrie Correctional Centre a unit was set alight causing hundreds of thousands of dollars worth of damage. Police tactical response and emergency services, including fire brigade, were required to attend the facility. State police were also needed to patrol the prison perimeter. It is unclear who pays for the cost of these additional services. A number of important unanswered questions arise from incidences such as these.

- At what point was the Director-General of the QCSC notified of the riot and required to intervene in the management of the riot?
- What is the role of the Minister for Corrections in monitoring riots? For example, are private contract centres treated differently in terms of intervention for reasons such as breach of contract, possible private law damages claims?
- Who had responsibility for providing information to the press and public about the causes and progress of a riot?
- Will a company's image based on legitimate commercial concerns influence the release of information?
- Who will pay the cost of damage to correctional centres which to date have been built by the Queensland Government? What levels of building and personal insurance are required and who will pay the premiums?
- Who will be liable for damages if an



incident such as self-mutilation or suicide occurs through a company's negligence? Will the government be vicariously liable, listed as a joint tortfeasor, or will it be protected? There have been four suicides at Arthur Gorrie over the past 18 months and a Prisoner Legal Service spokeswoman recently noted, 'The average number of deaths in all Queensland jails is seven a year ... It's getting past the point where you can say it is just teething problems with a new jail' (*Courier Mail*, 19 August, 1993).

It is important to know the specific contractual conditions with respect to performance standards and criteria for private prisons. This is because private companies have a deed of agreement which provides the basis for its obligations to government clients. In practice, the contract has a significant role to play in setting standards and performance criteria to manage prisons. The transparency of these agreements has made it difficult to conduct cost comparisons, identify performance indicators and evaluate private companies' performance at an institutional and systemic level. Indeed, since the policy of contract management has been introduced (in 1990) the capacity for independent evaluation of these issues has been seriously undermined by a lack of availability of contractual and performance information. (See Moyle 1993b pp243-245, Moyle 1992b pp 7-9, Moyle 1992a pp 25-26 and Harding 1992 pp 15-19)

One of the primary justifications for the introduction of private sector management in corrections has been that such involvement will open up the system and enhance accountability both in fiscal and operational terms. Continuing inaccessibility of contracts has reduced political, organisational and legal accountability by shielding operational requirements from public view. It is interesting to note that this approach breaches the QCSC's mission and values expressed in its strategic plan. The QCSC's Philosophy and Direction indicates that it is committed to:

*the maximisation of community involvement and responsibility for correctional services ... (making decisions that are) ... in the public interest, fair, reasonable and just ... and that decisions stand up to*

*public scrutiny is also a value the Commission wishes to promote.*

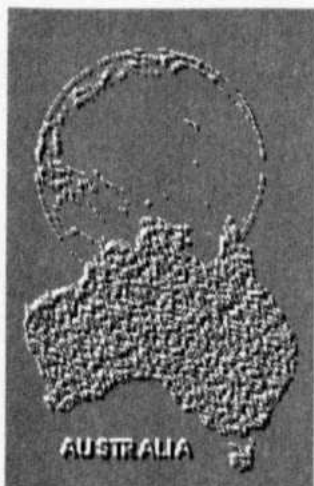
Given the Commission's reluctance to provide copies of its contracts with private companies, a question about the usefulness of Freedom of Information legislation to gain access to these documents becomes of high practical importance. It is to these matters we now turn.

### **Freedom of Information and Private Prisons - A Critical View Point**

The Freedom of Information Act 1992 (Qld) was introduced to give people a right of access to documents held by amongst other entities, statutory authorities, including the QCSC. The object of the Act is to extend as far as possible the right of the community to have access to information held by the Queensland government. In the context of private prisons, this legislation provides a mechanism to allow access to audit reports, tender documents and contracts. In a letter to the FOI Co-Ordinator dated 20 December, 1993 requesting an internal review of the Commission's refusal to allow access to a range of documents relating to the privatisation of correctional centres, Moyle argued that the release of requested documents is, on balance, in the public interest because it would:

- enhance the public's understanding of the reasons for and outcomes for private contract management,
- improve the objectiveness and effectiveness of audits by allowing greater involvement in the process.
- allow for checks and balances to any tendency of the small elite group which ultimately manages and controls the processes of high level government policy formulation and decision-making,
- enable interested members of the public to discover what the government has done and why something was done, so that the public can make more informed judgements of the performance of the government, and if need be, bring the government to account through the democratic process.

(Last two points made by the Information Commissioner in an unreported



decision, Eccleston and Department of Family Services and Aboriginal and Islander Affairs, 15 of 1993, No. 93002 at 20, 21)

In an application to the FOI Co-Ordinator for access to audit reports, tender documents and contracts for the operation and management of Borallon and Arthur Gorrie Correctional Centres at the first instance, the Commission invoked all possible exemptions to deny access to this information. This response indicated that the Commission was not prepared to properly implement the FOI legislation with respect to private sector involvement in corrections. Internal review of the decision of the FOI Co-Ordinator (February, 1994) affirmed the initial decision to deny access to audit reports, tender documents and contracts made by the FOI Co-Ordinator. It is now possible to appeal directly to the Information Commissioner. The author is now pursuing this path.

Evidence existed prior to the introduction of FOI legislation that the QCSC Senior Executive did not favour full application of this legislation to private prison operations. In response to a request early in 1992 for this information, the Deputy-Director General of the QCSC indicated:

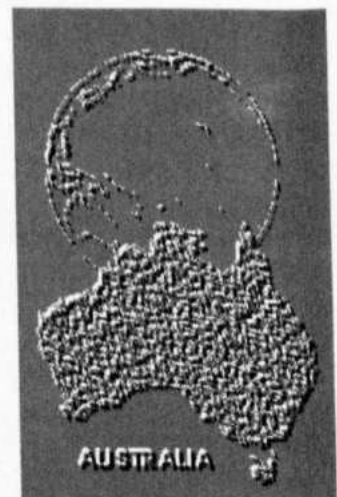
You will appreciate that the information you are seeking, which includes copies of evaluations undertaken by the QCSC on CCA's performance plus detailed costings of Borallon's expenditure statements, financial statements, procedures for accounting, policy documents and the methodology of CCA's accounting practice, may reasonably be held to be confidential and/or commercially sensitive. The Commission is also of the view that a copy of the contractual agreement between the Queensland Corrective Services Commission and Corrections Corporation Australia (Borallon) will properly, in terms of the proposed legislation, be considered as matter relating to the business affairs of CCA which have been communicated to the QCSC in confidence. In view of the confidential nature of the material you are seeking I am unable to assist you with your request.

It is interesting to note that the FOI Co-Ordinator for the Commission mirrored these concerns and reasons as a basis to deny access to the above material in the present application.

One basis for the Commission denying access to the above information was the argument that a significant public interest factor against disclosure existed, that is, consulted parties (private companies) would be 'substantially concerned' if such information was released and that release would lead to breach of confidentiality provisions in contracts. This early evidence suggests that the Commission is prepared to give high priority to private interests and concerns therefore devaluing the very important public interest in openness and accountability in the process of incarcerating people. It also considers that there is no public interest in favour of disclosing tender documents and that the 'commercial in confidence' basis of its relationship with private companies means that all of this material must be treated with strict confidence. The response also indicates that the Commission is prepared to give non-disclosure conditions within the contract more weight than any public interest for disclosure in the FOI legislation. Whilst these responses are mistakes of fact and law, the refusal of the QCSC to comply with its obligation will mean that it will take many months (perhaps years) to gain this material. This early experience suggests that FOI legislation will prove cumbersome and time consuming as a method to gain information about private companies' correctional operations.

Moyle (1992a, p 26) indicated prior to the introduction of this legislation that there would be an inherent problem with the scope of the FOI especially in relation to the operation of private prisons. The problem, it was argued, existed when private interests are created which raised added barriers to access to information because of commercial factors. (See also Bayne 1993, p3) Moyle (1992a) indicated:

The methodology of the ... (Electoral and Administrative Review Commission) ... Report failed to appreciate that many agencies, private prisons being one of them, are not strictly a part of the decision-making process. Traditionally government and private corporations have been viewed as separate entities both in a legal sense and an accountability sense. The difficulty with FOI legislation is that it refers to accountability of government. The creation and function of private prisons introduces an added barrier to access of information to which FOI legislation





is not equipped to deal with. Fundamental changes in government's arrangements with private organisations, especially divesting functions to statutory corporations who then further divest functions to private agencies, means that FOI legislation needs to be updated to keep pace with these new legal arrangements.

### **Defamation and Accountability**

Perhaps the most controversial and least understood issue which may affect accountability is the private law remedy of defamation. Private companies may attempt to reduce the publication of research results and discussion in the popular media about issues surrounding their involvement in corrections. Large multinational corporations which have a specific 'commercial interest' to protect through their business concerns may attempt to influence public discussion and criticism of their operations with the view of protecting their public image. Attempts to limit the availability of information could operate at a range of levels including a company objecting to contracts, tender documents and evaluations being made public and/or a threat that they may take legal action for breach of confidence in equity and under their contract if regulatory authorities reveal certain information.

The issue of defamation presents special difficulties when researchers are dealing with corporate bodies whose activities may be controversial or politically sensitive. In the case of incarceration there is a public interest in ensuring that policy and performance criteria and outcomes, both at an institutional and systemic level, are publicly available and subjected to legitimate public criticism and scrutiny. The involvement of multinational companies may lead to a direct conflict of interest between these two outcomes.

Companies may use defamation and libel laws pre-emptively, whatever the merits of a particular case, to attempt to reduce discussion of critical information about their operations at a public level. It may be that threats of defamation would cause considerable delay in the publication of research findings and reluctance by members of the public to engage in public debate and discussion. One major private jail operator already has been accused of jeopardising debate over the privatisation of prisons by

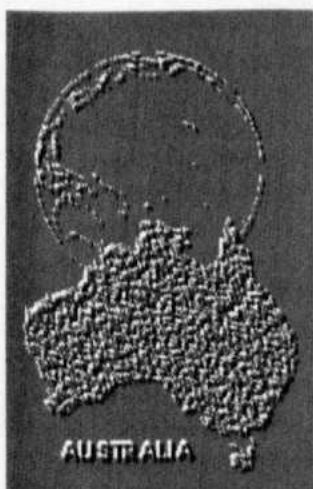
silencing its critics with threats of legal action. (See F. Kennedy, 'Private Jail Critics Face Legal Threats', *The Australian*, 17 February, 1994.)

A difficulty is that private companies may see this as a legitimate strategy based on their financial interest in protecting their business concerns, which whilst understandable in the business world, is not acceptable in the context of the public function of incarcerating citizens and the public interest in discussing the private sector's role in this process.

### **Contracting for Private Prisons**

There are three important sources for the standards and performance criteria for private prisons in Queensland. The first is the QCSC's Mandatory Standards for Secure Facilities for Audit Purposes which sets minimum standards of performance in areas such as centre management and operations, centre security and control, the prisoner management process and ancillary services. The second source is the legal requirement under the Commission's Rules made pursuant to s20(1) of the Corrective Services (Administration) Act 1988 (Qld). In practice, private prisons do not issue General Manager's Rules (as with public sector prisons) but instead, the company issues routine instructions developed from its policy and procedures. In a legal sense, if these routine instructions are inconsistent with the corrective services legislation then they are void to the extent of any inconsistency.

What is special about private prisons is that they have a contractual agreement with a regulatory agency, in Queensland's case, the QCSC. The contract is unique in the sense that it has the potential to provide very extensive and detailed requirements that could go to operational or policy matters. To date a failure by the Commission or private companies to place contracts, tender documents and audits on the public record has contributed to considerable uncertainty about the effectiveness of the contracts and/or their adequacy as a comprehensive requirement for companies to manage correctional centres (see Moyle 1994b, pp12-14, 28-33). Interestingly, in both the United States and the United Kingdom, this information is more readily available. In the UK there is no Freedom of Information legislation as with certain US states, yet this



has not inhibited the preparedness of private companies or correctional authorities to make tender information and limited contract documents available.

To a significant extent the criteria that are included in such contracts depend upon one's philosophy for the introduction of the private sector in corrections. To date there has been an important distinction between a 'replacement model' and a 'supplementation model' which both have practical effects relevant to Australia. The replacement model argues that:

One cannot evaluate the performance of the private sector with regard to some ideal of public prison operation, but rather against the reality of existing prison drug infestation, low pay and morale of many public employees, high turnover and poor training of many corrections officers. (Cikins 1993, p17).

Alternatively, the supplementation model focuses on the private sector establishing specific improvements before it is given the opportunity to manage entire correctional centres. Its proponents argue that:

few of the areas where private sector involvement may be particularly advantageous to government have been explored. Instead, private corrections companies have simply sought to replace government as managers of correctional institutions. **Rather than exploring the opportunity for specialisation or experimentation as a means of supplementing and supporting public sector management, private companies have contributed to polarisation and mistrust.** (Cox and Osterhoff 1993, p127) [Emphasis supplied]

Evidence in Australia suggests that the replacement model has been adopted without proper evaluation and discussion of its appropriateness in various jurisdictions. (See Moyle 1993c, pp 10-13) In other words, it has been in the interest of regulatory agencies dominated by senior bureaucrats with an economic rationalist perspective to enter into arrangements with private companies on the basis of cost cutting measures. This approach has limited the potential for private sector involvement to lead to lasting reforms

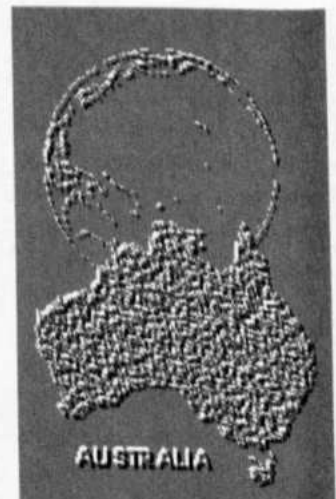
because the replacement model operates on the basis of comparisons with existing public sector prisons rather than a new set of criteria. It is interesting to note that this approach in North America (Logan 1993, p 23-26) has contributed to a rejection of reducing re-offending as a legitimate objective of incarceration and a reaffirmation of the 'confinement model'. The correlation between private sector involvement and re-affirming of the confinement model in the US is readily apparent to academics interested in international trends in corrections reform. It is a path that Australian agencies should carefully consider before following.

If we ask private companies to focus upon reducing costs and therefore operating more cost-effectively, then these companies will focus on this aspect of prison management. A broader and more fundamental requirement than the containment approach is necessary to justify private sector involvement in prisons. The challenge is to engage in such a program early in the privatisation process, thus creating the space for innovative and progressive correctional reform.

### **Towards More Plural and Universal Contractual Principles**

Some Australian State governments are at a critical point with the introduction of private sector in corrections. Policy makers can proceed with the replacement model which will only in the final analysis lead to more sophisticated ways of reducing the cost of incarceration, therefore having minimal effect on reducing re-offending. Alternatively, they could embrace the supplementation model, which will put the onus on private companies to establish in specific and measurable ways how the provision of their services can reduce re-offending.

Adoption of the supplementation model will have immediate effects in areas of accountability monitoring and performance. This is because because the objectives of incarceration will require external validation, therefore increasing the likelihood that this new policy initiative will have a positive impact on corrective service delivery. This will also assist in changing the culture in regulatory agencies and private companies in as much as they will be more dependent upon community input and external assistance to realise these goals.



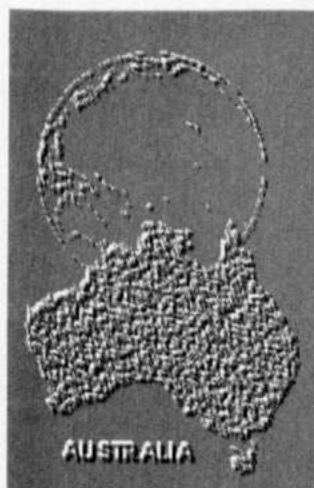
Such an emphasis will also require enhancement of the research function of regulatory agencies which would be obliged to develop a range of objectives more clearly linked to reduce re-offending. These objectives will have to be translated into measurable criteria for the private sector to achieve. Part of the payment to private companies under their contracts should be linked to the achievement of these objectives.

The Queensland experience to date indicates a series of reforms that could well be noted by other states. Some reforms should include:

- A thorough re-evaluation of the consequences of including private sector commercial interest for the availability of policy and contractual information, including audits and financial information. This should include suggestions for reform to Freedom of Information legislation, (or other pro-democratic statutes) and administrative reform to require provision of information concerning negotiations and agreements to be placed on the public record. The underlying principle should be the provision of information to the public where possible about the process rather than unjustified secrecy.
- There needs to be more effort channelled into developing criteria to evaluate private sector's performance focusing on specific interventions to reduce re-offending. This could include the need to incorporate principles of effective intervention into contractual conditions. McLaren (1992, p78-80) provides some principles which are very useful and could be applied, and further developed, to the operation of private prisons. For example:
- In the tendering and implementation phase private companies should be encouraged to submit tenders that provide a combination of tools to be used to change criminal behaviour rather than relying on a single method of intervention. This should include where possible, proper post-release training and supervision so that the inmate can be successfully integrated into the community. Private companies

should be encouraged to use a multiple modality approach with 'combinations of intervention types, such as vocational or academic training and group counselling, being used at the same time, or successively'. (McLaren, p 80)

- Contracts should require companies to specify how they will build incentive systems into their daily regimes that reward pro-social alternatives to criminal styles of thinking, feeling and behaviour. Companies should detail education programs in practical, personal and social problem solving areas and where possible use ex-addicts in the intervention and planning of programs to serve as credible models. This should allow for neutralising or mobilising the offenders peer group so that less opportunity to re-inforce anti-social criminal attitudes occurs.
- Contracts should provide for a range of interventions some of which should include community resources and input which establishes positive links between the institutions and the community.
- Private companies could be required to identify cross-organisational measures and provide detailed statements that ensure clear rules and sanctions are applied in a vivid, understandable and certain way. Discretion where possible should be reduced to avoid the possibility of a conflict of interest between private commercial interest and inmate's rights. In no case should private companies be given the power to hear and determine breaches of discipline, perform a remand and reception function or have a determining influence on parole and remissions.
- Private companies could be required to use programs that stress social learning models treating criminal attitudes and behaviours as learned habits which could be changed by teaching and re-inforcing new non-criminal attitudes and behaviours.
- Private companies should be required to provide promotional opportunities for staff who display a capacity to





develop empathetic relationships with offenders based on open communication and trust and offenders being treated in a flexible and enthusiastic way.

- Costing and payments under the contract should allow for interventions to be run by staff who are given proper training and adequate supervision so that the effectiveness of the intervention and the number of hours of the intervention is not diluted because of financial stringency or other management considerations.

It is interesting to note that none of the above suggestions compel private contract management of a whole centre. These suggestions could be phased into specific operations and the performance of private companies tested before consideration is given about whether to proceed or discontinue the policy initiative.

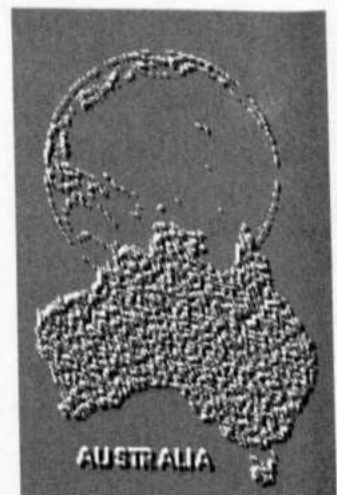
Enabling legislation which allows for the implementation of contract management should outline clear objectives for introducing private sector involvement. These objectives should be specific and measurable. Continued private sector involvement should be dependent upon it providing superior performance of these objectives which should always be confirmed by an independent monitoring agency staffed with qualified people.

In the final analysis more work is needed to draft contracts so that utilitarian objectives and normative criteria are clearly linked to operational requirements. The private sector has tremendous financial resources which can be aligned with the public interest in reducing re-offending. There is a potential to improve accountability of prison services whilst also increasing the potential for socially useful research to assist in reducing re-offending. The challenge is for Australian correctional authorities to carefully study and learn from the Queensland experience, drawing on the positive aspects, yet also avoiding the hazards ■

#### REFERENCES

- Bayne P. (1993), 'Freedom of Information in Australia', Administrative Law Workshop, 10-13 February, Cape Town, South Africa, pp 1-29.
- Cikins W. (1993), 'Partial Privatisation of Prison Operations: Let's Give It A Chance' in G. Bowman, S. Hakim and P. Seidenstat, Privatizing

- Correctional Institutions, Transaction Publishers, New Brunswick, pp 13-18.
- Cox N. and Osterhoff W. (1993), 'The Public-Private Partnership: A Challenge and an Opportunity for Corrections' in G. Bowman, S. Hakim and P. Seidenstat, Privatizing Correctional Institutions, Transaction Publishers, New Brunswick, pp 113-130.
- Harding R. (1992), 'Prison Privatisation in Australia: A Glimpse of the Future', Current Issues in Criminal Justice, Vol. 4, No. 1, pp 2-27.
- Logan C. (1993), 'Criminal Justice Performance Measures for Prisons', Performance Measures for the Criminal Justice System, US Department of Justice, pp 19-57.
- McLaren K. (1992), **Reducing Reoffending: What Works Now**, Penal Division Department of Justice, New Zealand.
- Moyle P. (1990), **Theoretical and Practical Issues Association With the Privatisation of Prisons in Australia**, Research Thesis, Faculty of Law, University of New South Wales, (Unpublished).
- (1992a), 'Practical and Legislative Restrictions to Access of Information for Private Prison Research in Queensland', Socio-Legal Bulletin, No. 6, Winter, pp 24-30.
- (1992b), 'Private Adult Custodial Corrections in Queensland and the First Wave: A Critical Reflection on the First Three Years " Reform or Regression? "', A Paper presented to the Australian Institute of Criminology Conference on Private Sector and Community Involvement in the Criminal Justice System, 30 November - 23 December, AIC Canberra.
- (1992c), 'Privatising Prisons The Underlying Issues', Alternative Law Journal, Vol. 17, No. 3, pp 114-119.
- (1993a), 'Privatisation of Prisons in Australia Lessons from Queensland', Culture and Policy, Vol. 5, pp 205-222.
- (1993b), 'Privatisation of Prisons in New South Wales and Queensland: A Review of Some Key Developments in Australia', Howard Journal of Criminal Justice, Vol. 32, No.3, pp 231-250.
- (1993c), 'Review Article: Privatizing Correctional Institutions', Paper presented to the American Society of Criminology, Phoenix, Arizona, 27-30 October, pp 1-15.
- (1994a), Editor, **Private Prisons and Police: Recent Australian and New Zealand Trends**, Pluto Press, (forthcoming).
- (1994b), 'Research Note Private Prison Research in Queensland, Australia: Pilot Study at Borallon Correctional Centre, 1991', Paper presented to the British Criminology Conference, 28-31 July, Cardiff, Wales, British Journal of Criminology, (forthcoming).
- Public Sector Management Commission (1993), **Review of the Queensland Corrective Services Commission**, Queensland Government Printer, Brisbane.
- Queensland Corrective Services Commission (1993), **Annual Report**, Queensland Government Printer, Brisbane.



## Verbals

# THE TROUBLE WITH PRISONS

The picture of NSW prisons painted by the Opposition in its 'corrections policy' is one of rising violence, rampant drug abuse, and a system in a state of collapse. And the Opposition gives one simple reason why this bleak picture should be accepted as accurate. It is that since 1988 the NSW prison population has increased by 60 per cent while prison staffing levels have fallen by more than 25 per cent.

In its immediate response to the Opposition's prisons policy, the Government has focused on aspects of it which, it says, will 'send the courts and prisons into chaos'. For example, Labor's proposal to make judges responsible for releasing as well as sentencing prisoners, would require, according to the Attorney-General, Mr Hannafor, a 50 per cent increase in the number of criminal judges and magistrates. And Labor's proposal to eliminate jail for fine defaulters would, he says, send a clear message to offenders that they need not pay their fines. Both these points which the Government has concentrated on are debatable.

More significant, however, is the Government's apparent lack of concern to answer the basic criticism implicit in Labor's policy statement - that is, that prisons have, since the Coalition Government's truth-in-sentencing policies were introduced, become impossibly overcrowded and understaffed. Yet if this change has occurred it is surely of fundamental importance, strongly supporting other evidence Labor has cited to suggest that prisons have indeed become more violent, hopeless places under Coalition administration.

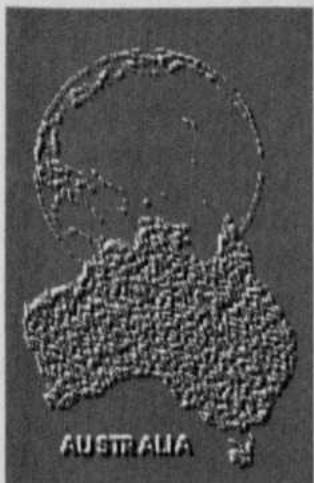
Prison administration is, from whatever perspective, a difficult task. The community expects prisons to be places of order, not disorder; of rehabilitation, not degeneration. Yet the Labor policy statement says: 'Under the Coalition, NSW has experienced the worst prison violence on

record. In 1989 the property riots saw prisons burning and nearly destroyed. In 1991, Prisons Minister Yabsley declared "rape in prison" was inevitable. The most recent prison discipline reports read like a battle report. In 1993, 1,600 prisoners were charged with abuse, 900 with fighting or assault. Another 150 were hospitalised. And 25 prisoner officers were injured as a result of prison violence. Under the Fahey Government rape in prison has increased 64 per cent. In 1993-4, three prisoners were murdered.'

Electioneering hyperbole aside, this is a grim picture. It is grim enough to make many people think Labor is on the right track in trying to reduce prison numbers, beginning with fine defaulters. It is also grim enough to revive interest in the old search for alternatives to jail, such as community service orders and home detention in appropriate cases. As the Labor policy statement says, the problem with community service orders is that it has always been a struggle to find appropriate work to which the orders might be applied. Yet most people would think there are plenty of tasks offenders could be set. This is almost certainly an area where failure has resulted from lack of will on the part of the authorities rather than any intrinsic flaw in the policy.

One suggestion for putting some backbone into all prison-related policies is the creation of the office of Inspector-General of Prisons, to report to the minister and Parliament. That, and some other parts of this Labor policy, could be the starting point for a change of direction which, if the awful picture of the present state of prisons is accurate, is surely called for.

*The Sydney Morning Herald*





# Return to South Africa

I have to declare a personal interest in South Africa and therefore need to burden readers with a little of my family history as introductory background to this article.

My parents were missionaries in the former Belgian Congo, now Zaire, during the 1930's and 1940's. Early in the second world war, my mother experienced a difficult delivery at the birth of my sister, in the heart of the Congo. My sister later died. Consequently, in 1942, when I was due to arrive on the scene, my parents travelled southwards to be closer to civilisation and thereby enable my mother to receive more skilled medical supervision. They sought medical advice in Cape Town. However, they were impoverished missionaries and the medical consultant agreed that if my mother entered the Peninsula Maternity Home in the coloured quarter of Cape Town, known as District 6, he would deliver me free of charge but with appropriate medical supervision. I therefore came to be born in District 6 of Cape Town, which achieved notoriety in the apartheid years when its vibrant cosmopolitan but largely Cape coloured community was forcibly removed by the Government and re-housed in a township outside Cape Town. After my arrival, my parents returned to the Congo and towards the end of the war managed to hitch a lift back to the UK on a troop-ship. I clearly remember none of this, but my parents returned to the mission field in 1948, when I was seven years old, and I have vivid memories of what proved to be their last stay in Africa. We travelled out to South Africa on a Union Castle liner which docked in Cape Town, where we took a train for the Belgian Congo. The train travelled through the South African veldt, across the Victoria Falls and River Zambezi at Livingstone and through the former

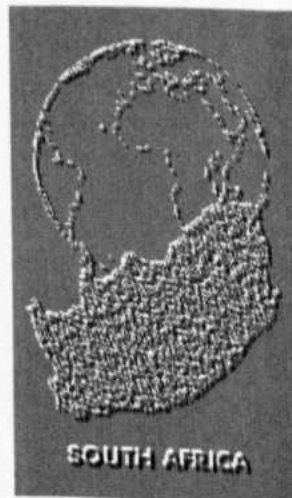
Rhodesia to reach Luluabourg, a small town in the Congo. This railway journey lasted a week. From there we travelled for two days in a truck to the mission station which was on a tributary of the Congo river, called the Sankuru. We returned finally to the UK after two years, retracing the journey I have just described.

I have therefore always taken a close interest in South African affairs and particularly the development of apartheid and the country's growing isolation in the world community as the full horrors of apartheid were revealed. I was powerfully influenced by Alan Paton's book 'Cry the Beloved Country' and Father Trevor Huddleston's book 'Nought for your Comfort'. In recent years I have been fortunate to get to know Trevor Huddleston, now Archbishop Trevor Huddleston, and he has encouraged me to do what I can to assist in the reconstruction of a post-apartheid South Africa.

To this end, I became involved with an organisation called the Southern Africa Advanced Education Project (SAAEP), based in Oxford. This organisation was set up in the late 1980's by an enterprising South African lady in order to link up African National Congress exiles and prepare them for their eventual return to South Africa once apartheid had been dismantled. The Project was set up at a time when apartheid was under considerable internal and external pressure, but without knowing how quickly it would be demolished from 1990 onwards with the unbanning of the ANC and release of Nelson Mandela.

All this is by way of introduction to my first return visit to South Africa since 1948, which took place in March of last year during the run-up to South Africa's first

*Al Papps is Area Manager for the North East and formerly governed HMP Frankland and HMP Durham.*



## TWELVE RECOMMENDATIONS FOR A NEW SOUTH AFRICAN PRISON SERVICE

### In Relation to Prisoners

1. People should be sent to Prison as punishment and not for punishment.
2. Imprisonment should be the last resort. Alternative measures to imprisonment should be encouraged. Where possible no child below 16 years should be imprisoned.
3. As far as possible the fundamental human rights of prisoners should be respected in accordance with the Bill of Rights, UN Standard Minimum Rules for the Treatment of Prisoners and other international instruments.
4. Rehabilitation programmes should be in place in every prison from day one of imprisonment.

### In Relation to Staff

5. Military ranks should be replaced by professional civilian ranks.
6. Re-training and training of staff should include sensitivity to prisoners' needs as well as custodial duties.
7. Affirmative action measures should be implemented in order to re-dress the present imbalances created by apartheid, taking into account lateral entry and accelerated promotion programmes.
8. Equal opportunity for all irrespective of colour, gender or creed.

### In Relation to Policy

9. There should be transparency/openness in all activities. A local community based watchdog group should be established to oversee each prison.
10. An independent Inspectorate should be appointed.
11. Communal cells should be abolished and prisoners segregated according to offence and age.
12. A reconstruction forum of all interested groups should be established to ensure speedy implementation of the above recommendations.

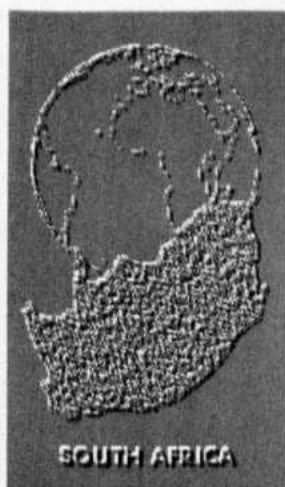
multi-racial elections. SAAEP had asked Brian Fellowes, of the Home Office Probation Training Unit, and myself to visit South Africa to assess training needs and make recommendations with a view to SAAEP extending its current involvement in training for staff within the criminal justice system and developing an appropriate strategy to carry this forward.

We were in South Africa for 16 full days from 13 March to 29 March, largely spending our time in the Johannesburg, Durban and Cape Town areas. I concentrated on making contact with senior staff of the Department of Correctional Services and visiting a range of Correctional Services establishments, while Brian Fellowes focused on non-custodial activities within the wider criminal justice system. On many occasions we visited Correctional Service establishments and non-custodial centres of activity together including, notably, Robben Island. We also had meetings and discussions with a range of key players in the South African criminal justice scene not only within agencies but also within the Universities of

Cape Town and the Witwatersrand, and with politicians within the ANC as well as the Minister of Correctional Services himself.

The main focus of our visit was a seminar for South African regional prison representatives of a Trade Union for police and prison officers. The Police and Prison Officers Civil Rights Union (POPCRU) was founded in 1989 by a group of coloured policemen and prison officers in the Cape area and is committed to the improvement of working conditions for black and coloured prison staff and to the promotion of respect for the civil rights of all prisoners and detainees. Individual members of POPCRU, and the organisation itself, have been subject to official harassment.

The 1990 amendments to the prisons legislation, while repealing racially discriminatory provisions in the law, also made it an offence for members of the Prison Service (now the Department of Correctional Services) to join or form a trade union without the permission of the Commissioner of Prisons (now Correctional Services). Although this measure was clearly aimed at



POPCRU, the union continued to grow in strength, especially amongst black police officers patrolling the townships. In September 1993, legislation was finally passed to legalise unions in the Department of Correctional Services which now 'fully subscribes to the principles of freedom of association, of collective bargaining, as well as the universally acknowledged dispute resolution mechanisms'.

The seminar was held in Durban on 22 and 23 March where we were joined by Tsidiso Thipanyane, a researcher in the Criminal Justice Centre at the University of Natal in Pietermaritzburg. All three of us were invited by the ANC to act as facilitators for the seminar, assisting 24 prison POPCRU members 'to identify positive and practical recommendations for a new South African Prison Service'. Twelve recommendations were eventually agreed - four relating to prisoners, four relating to staff and four relating to general policy issues. (See box)

We also attended a short seminar in Cape Town on 26 March with key representatives of the criminal justice scene in the Cape Town area organised for us by former SAAEP Fellows, Fatima Allie and Dimza Pityana to consider 'training needs in the context of structural change in criminal justice in South Africa'.

All of these activities took place against a turbulent political backcloth in the run-up to South Africa's first multi-racial elections. Clashes between Inkatha and the ANC in the Durban/Natal area had reached a high level of intensity and concomitant violence culminating on 28 March with considerable loss of life and injuries around the ANC HQ in Johannesburg following a march through the city by Inkatha supporters. Our visit also coincided with unprecedented unrest and tension within several prisons following a decision that prisoners convicted of less serious offences should be given the vote in the coming election, while prisoners convicted of more serious offences should not. Rioting within prisons led to the deaths of 21 prisoners at Queenstown Prison, extensive damage at Pietermaritzburg Prison, and a hostage situation at Boksburg Prison.

We gained a fascinating insight into life in the townships when given guided tours by car of Alexandra and Soweto in Johannesburg and Umlazi in Durban. Our guides were senior ANC members who lived in the townships we visited and were able to

supply an absorbing commentary upon their way of life.

My personal observations of the South African Prison system during this visit were further informed by two relatively recent key publications:

*'South African Prison Law and Practice'* by Dirk Van Zyl Smit. Butterworths, Durban, 1992.

*'Prison Conditions in South Africa'* published by Human Rights Watch, February, 1994.

Both are extensive, detailed and authoritative, and provided me with useful background reading against which to test my personal observations and the outcome of my discussions. I also met and talked with Professor Dirk Van Zyl Smit at the University of Cape Town on 25 March. Professor Van Zyl Smit is recognised as the leading academic authority on prisons in South Africa.

Up to 1990, when the ANC was unbanned and Nelson Mandela was released, the prison system in South Africa was organised on apartheid lines with separate prisons for whites and blacks and separate training for white and black staff. Considerable changes have been made to Prisons legislation since 1990, repealing racially discriminatory provisions in the law. Staff training and all Prisons are now fully integrated.

The South African Prison Service which hitherto came under the law and order Ministers of the South African Government, is now a separate Government department with its own Minister and has been re-titled the Department of Correctional Services. In response to a rising prison population and very few alternatives to custody, the Department took the initiative of setting up the concept of 'correctional supervision', which is now a community based sentence option, organised and run entirely by staff of the Department of Correctional Services.

Until 1990, South Africa consistently executed more people than most other countries in the world. Capital punishment has now been suspended and there have been no executions since 1990. It has yet to be finally abolished.

Until the general election in April, South Africa had about 200 prisons sited within about 150 separate prison complexes holding approximately 110,000 prisoners in all, 20,000 of whom were unsentenced. In addition, there were about 30 prisons





holding approximately 15,000 prisoners, in the hitherto self-governing 'homelands'. These prisons have now been incorporated into the national Department of Correctional Services with the abolition of the separate homelands.

The overall prison population is therefore now about 125,000. With an overall general population of about 40 million, South Africa has therefore one of the highest prisoner-to-population ratios in the world.

At the time of our visit in March, the Department of Correctional Services was headed by a Commissioner of Lt. General rank. He was supported by three Chief Deputy Commissioners, also of Lt. General rank. Beneath this tier of management were six Deputy Commissioners of Major General rank, based with HQ at Pretoria and nine Deputy Commissioners of Major General rank, who were in charge of nine Correctional Services regions with offices based in their regions. There were approximately 700 staff within HQ in Pretoria, about 210 staff within all nine Regional Offices and roughly 24,000 staff employed by the Department as a whole. With the incorporation of the prisons in the homelands these figures have increased since the general election.

As already indicated, during our stay in South Africa, I was given the opportunity of visiting a range of Correctional Services establishments, but my visit on 21 March to Durban Westville Prison gives a flavour of the scale of imprisonment in South Africa. Durban Westville is the largest complex of prisons in South Africa. The site contains five separate prisons, holding on the day of my visit, 7,192 prisoners in all, looked after by 878 staff. The two largest prisons in the complex held respectively 2,600 and 3,040 prisoners, with staff complements of 247 and 361 each. I asked to visit one of the two largest prisons, Medium A, holding 2,600 largely unsentenced adults with a proportion of juveniles over 16 years of age but under 21 - 800 juveniles in all. I also asked to visit one of the smaller prisons on the site, the women's prison with a staff of 88, holding 625 prisoners, including 26 mothers and babies, together with a small male juvenile unit holding 160 of the younger juveniles - under 16 years of age. One of the juveniles I saw in this unit was not more than six or seven years of age. I was allowed to visit anywhere I asked to go in both prisons on the Durban Westville complex as there was

no pre-arranged programme.

On 25 March, accompanied by Brian Fellowes, I visited Robben Island, which was taken over by the Department of Correctional Services in 1960. It was a naval base immediately before it became a modern prison island, but has a long history before that as a leper colony and a place of banishment for political prisoners from the Dutch colonies and South African mainland. The Department of Correctional Services built a new prison on the island which was used mainly for political prisoners, most of whom were members of the ANC. The last group of political prisoners was transferred from the island in 1991 and it now holds about 600 criminal prisoners. We visited the area of the prison which held Nelson Mandela and his fellow political prisoners and which now houses criminal prisoners who are under segregation from the rest of the prison. We also visited parts of the rest of the prison.

Our visit to Robben Island coincided with a farewell visit by the departing Minister of Correctional Services, Adrian Vlok, who retired before the general election in April. He invited us to join him on the bridge of the Correctional Services ferry which took us out to the island from Cape Town, a voyage lasting about 45 minutes. We had discussions with the Minister on both the outward and return journeys.

After the election Adrian Vlok was replaced as Minister of Correctional Services by the Reverend Siphso Mzimela. He is one of the few Inkatha Freedom Party members of the present South African Cabinet and spent most of the apartheid years in exile in the USA where he worked for part of the time as a Prison chaplain. He is also one of the few black members of Nelson Mandela's Cabinet who has not himself been detained or imprisoned under apartheid.

I came away from South Africa at the end of March with the following impressions of the South African Prison system which I recorded at the time:-

"- A highly militarised staff structure which is pre-occupied almost exclusively with strict control of prisoners on a collective basis. There is an enormous amount of saluting and stamping of boots.

- The control of prisoners on a collective basis is characterised by the widespread use of large communal cells into which prisoners are herded and within which



there is considerable overcrowding, with bunk beds stacked very closely together, and in some cases, with no beds at all, but merely with mats on the floor. Communal cells vary in size and hold between ten and sometimes 60 prisoners.

- Exceptionally clean prisons with many prisoners engaged in polishing corridors and floors until they shine like mirrors.

- Superficially highly controlled prisoners who form up in rows holding their identity cards in front of them when senior staff enter a communal cell, but beneath the surface, (particularly, I suspect, in communal cells when locked away for the night by 4.00 pm in the afternoon) with the scope to intimidate each other under the officially approved informal rule of a cell prisoner monitor.

- A largely white senior staff and largely black and coloured junior staff, supervising a predominantly black and coloured population.

- A hitherto isolated staff not accustomed to being publicly accountable for their action or inaction, and also unaccustomed to explaining the reasons for use of their authority to those in their charge or the wider community.

- The enormous problems of managing a prisoner population within whose culture is embedded the dominance of distinct gangs with characteristic tattoos and elaborate hierarchical structures based on gang systems which existed in the early mining labour camps of wider South African society.

- A divided HQ senior staff many of whom see the inevitability of the general momentum that has built up towards building a 'new South Africa'. Some of them welcome the potential for change it brings but many of them are uncertain about the future and anxious about the loosening of the reins of control it will bring. Some of the very senior members of the hierarchy are clearly anxious about their personal futures under an ANC dominated government, and are playing for time at present to see what develops. I was struck with the 'Laager' mentality of a predominantly Afrikaans speaking senior hierarchy who, nevertheless, if only for pragmatic reasons, recognise the

need for change and are beginning to look outwards at other systems in different parts of the world and to engage in greater dialogue with the wider community within South Africa."

I am happy to say that since those impressions were recorded, as we now all know, South Africa has made the transition to full multi-racial democracy remarkably peacefully and many of the anxieties I detected in the Correctional Services hierarchy in March of last year have been allayed by the spirit of reconciliation in which Nelson Mandela's government has begun to tackle the enormous problems of reconstruction.

The Commissioner of Correctional Services, Lt. General Henk Bruyn, had only been in post for three months when I met him for discussions in March. Since the general election in April, he and his senior staff have been faced with considerable unrest and rioting within prisons caused by prisoners who saw the election of the ANC dominated government as heralding their immediate release. The Commissioner has also been pre-occupied with the organisational problems concerned with incorporating the 'homelands' prisons into the national system. He has also been inducting a new Minister. He has nevertheless, encouraged senior members of his staff to continue looking outwards at other systems in different parts of the world following the years of apartheid and isolation. There have been two separate visits by members of his senior staff to look at the English prison system, culminating with a third visit at the end of November by the Minister, himself, accompanied by the Commissioner. During the course of this visit the Home Office Minister of Prisons, the Rt. Hon. Michael Forsyth, gave a lunch for the Minister and Commissioner at Lancaster House.

The Director General and the Executive Committee of HM Prison Service will continue to assist the Minister and Commissioner of the South African Department of Correctional Services in tackling the considerable problems they now face ■



# A POLISH AUTUMN

*Mitch Egan is governor of  
HMRC Low Newton.*

I was awarded a Churchill Fellowship in 1993 to study Polish prisons. My interest in eastern Europe had been engaged by Dr Danuta Gajdus, who visited England in 1992 during her time as Deputy Director General of the Polish prison service, as a guest of NACRO. Dr Gajdus spoke with eloquence of the rapid reforms taking place in Poland and the Service's attempts to meet the different needs of prisoners.

It sounded almost too good to be true, and I wanted to see for myself. I visited Poland in the autumn of 1993 and spent nine weeks in prisons talking to correctional staff and prisoners, and in the administrative headquarters at the Ministry of Justice.

The Polish prison service has made astonishing progress over the last four years, particularly in eradicating institutionalised brutality, but still faces many problems - a rapidly-rising prison population, lack of funds, old buildings in poor repair, and the absence of after-care services for prisoners among them. But there is evidence of a profound commitment to change, astonishing energy, and a talent for devising imaginative solutions to some of these problems. The Director General and his staff are justifiably proud of what they have achieved and keenly aware of what remains to be done.

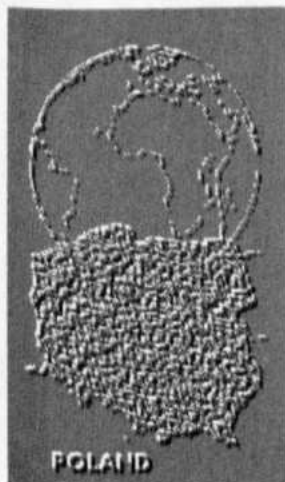
## **Population pressures**

The similarities between our two systems are quite striking, and it would have been easy to overlook the differences. Problems of overcrowding, self-injury among women prisoners, the challenge of changing attitudes to imprisonment, providing reasonable employment for prisoners, and the need to

make the most efficient use of scarce resources are familiar themes. However, there are major differences of scale and trend between our two countries. Overcrowding, for instance, has to be seen in the context of a prison population of more than 64,000 in a country of around 38 million, with a growing problem of crime associated with the changing circumstances in eastern Europe.

Post-war population figures show an inexorable upward trend interrupted only briefly by artificial measures (generally amnesties) to reduce numbers. Since the last amnesty in 1989 the population has risen steadily, at an average of 5,000 prisoners per year. There is no sign of stabilisation, still less a reduction in numbers and reforms are complicated by this added burden of a rising population. Prison sentences are long, and crime is increasing with the free traffic across borders and the growing problem of organised, international and street crimes. There is little likelihood of a further amnesty; crimes are no longer political acts, and the plight of prisoners is unlikely to arouse public sympathy. The prison system does not have the resources to cope with an increase to pre-1989 levels of imprisonment.

The change in the public perception of prisoners is in part a reflection of the changing political climate. Under the communist regime, a crime was an anti-social act and an act of social protest was a crime<sup>1</sup>. This blurring of the distinction between legitimate social protest and criminal acts must have ensured that the public attitude to prisoners was ambivalent at worst but, when combined with the fact that by the early 1980s one in every eight adult Poles had served a prison sentence, probably verged on



1 Prison: From Communist System to Democracy: Transformation of the Polish Penitentiary System Dr Pawel Moczydowski (paper presented at the Second International Symposium on the Future of Corrections October 1993)



the sympathetic. The old regime has gone, and crime is clearly seen as a personal threat. However, prisoners no longer live in appalling conditions and treatment is no longer harsh or brutal - although the economic problems of the new democracy have meant that life for some free citizens is all those things. There is a resistance to further reform, and a reluctance to allocate sufficient funds to the prison system. The suggestion of an amnesty to reduce prison crowding would undoubtedly meet with significant resistance.

### **The seeds of change**

Change started in 1981, when almost half of the prison population took part in passive protests about conditions. The protests prompted some minor reforms, although they were short-lived and eventually abandoned in December of the same year under martial law. Two noted critics of Poland's penal policy - Andrzej Rzeplinski and Pawel Moczydlowski, respected academics in the field of penology and criminology respectively at Warsaw University - wrote at the time of the need for far-reaching reforms of the prison system and recommended a course of action to avoid a deepening prison crisis. Their recommendations<sup>2</sup> were that:

- (i) the prison system and the whole atmosphere and human relationships there should come under precisely defined legal regulations, particularly procedural ones;
- (ii) a maximum capacity should be laid down for each prison, on a level that would prevent psycho-social degradation of prisoners and staff;
- (iii) the prisons should come under control by the public;
- (iv) channels should be set up for bringing to light conflicts between the prisoners and the staff, at the earliest possible phase and at the lowest possible level - that is, the prison wing.

Respected academics perhaps, but Andrzej Rzeplinski and Pawel Moczydlowski were at the time simply thorns in the side of the Ministry of Justice and the prison system because of their interest in the prison system and their outspoken criticism. In 1982 both were banned from visiting prisons, a ban that

remained in force for the next eight years. Their warnings went unheeded and their recommendations were not taken up until 1986 when the first tentative signs of a more liberal atmosphere appeared, probably as a result of Solidarity pressure in the preceding years.

In 1989, Poland witnessed more serious prison disturbances and saw prisons,



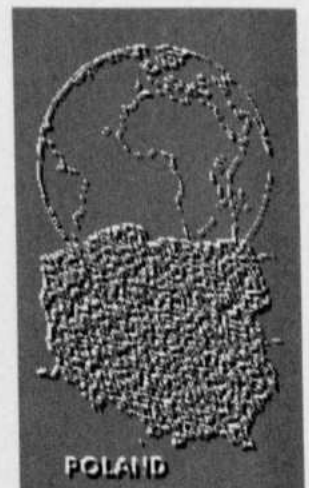
prisoners and guards damaged by the events. The riots were precipitated in part by prisoner reaction to the terms of that year's amnesty, much less broad in scope than had been anticipated, and disappointment at the pace of change. In the 1990 aftermath of the Solidarity revolution, and with prisons in a state of turmoil, Dr Pawel Moczydlowski was invited to take on the job of Director General of the Polish prison service and implement the reforms that he had advocated for so long. It was courageous of Tadeusz Mazowiecki, Prime Minister of the time, to offer the appointment to a sociologist with a reputation for vociferous criticism of the prison system: it was probably even more courageous of Dr Moczydlowski to accept.

### **The poacher turns gamekeeper**

Dr Moczydlowski's first priorities were to announce a new philosophy of openness and humanity and retrain his staff, leaving them in no doubt that the old regime and the reliance on physical security and repressive control had gone for good. Some 2,500 personnel found his approach a good reason

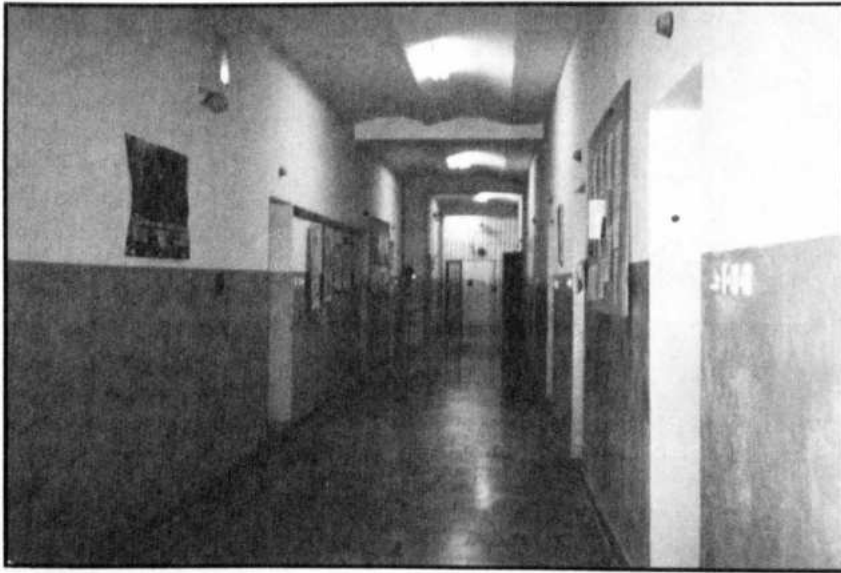
### **A typical cell**

All cells are multi-occupancy and a variety of sizes, although few hold less than six.



2. Group Protest in Penal Institutions: The Polish Case, Pawel Moczydlowski, Andrzej Rzeplinski [The Howard Journal Vol 24 No.1 1985]





### Grochow interior

Galleried wings are rare in Poland, but wide corridors create the same feeling of space.

to leave the prison service immediately, followed by more at the end of the training programme. In all, almost 7,000 staff left the service as a result of these initial changes. Those that remained were committed to reform, many because they welcomed a more humane prison system and some inevitably because they wanted to retain their jobs.

The second major step was to open up prisons, both to allow society in and to allow prisoners out. Thus the media, observers and representatives of the public can now see for themselves what is happening in prisons, and the vast majority of prisoners can participate in an extensive temporary release programme.

Decentralisation of the system started at an early stage and continues. An entire layer of bureaucracy was excised between prisons and central administration; the central administration itself was reduced in size and is now one of the smallest in Europe, streamlined into five departments from an original 17. Central management of over 150 prisons was never a satisfactory solution, and prisons are now grouped into 16 regions, under the management of the governor of the major remand and allocation prison in the region.

The regions are virtually self-sufficient, and generally have a range of establishments to accommodate all classes and categories of prisoners.

Changes in the system have taken place in the context of a deteriorating economic climate, which has eased the passage of some changes while making others impossible. Prisoners are now allowed to wear their own clothes rather than a prison

uniform, a development that stems from a desire to increase personal choice and treat prisoners as individuals. However, the savings on prison budgets made possible by such a move ensured immediate enactment. Improving physical standards or dividing an enormous establishment into manageable and tolerable smaller units costs money, and such projects are currently only possible with EC or foreign assistance. There are good relationships between Poland and Scandinavia, and there have been some joint projects with these countries. Additionally, Poland has worked in partnership with the United States to introduce an alcohol rehabilitation programme.

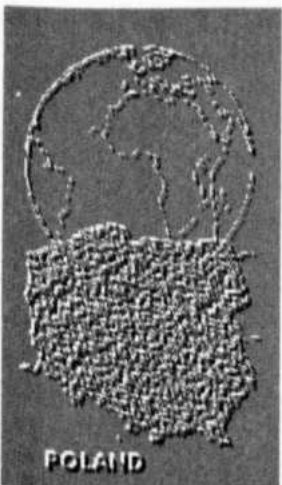
Dr Moczydlowski is also active in encouraging mutual aid projects with neighbouring countries and the former Soviet states. While these will rarely produce finance, there are other resources to be tapped, principally imaginative solutions to common problems, mutual support and encouragement.

The social, political and economic climate of the country is still unsettled, but the initial wave of enthusiasm for reform has passed: crime is a personal threat and there are other priorities. However progress continues in the Polish prison system. Much has been accomplished but there is no sign that Dr Moczydlowski or his staff are flagging.

### The hidden life

*"PEC Article 60:1 If the inmate commits a self-mutilation, the period of his hospitalisation may be excluded from the period of serving the penalty by him, and he may be encumbered with the costs of medical treatment, totally or partially..."*  
(Extract from Polish Prison Rules)

Prisoners have also had to adjust to the recent rapid changes in prison life. In the 1970s and 1980s, the prison subculture or 'hidden life' (Jedlewski, 1966) was more inflexible and brutal than the system in which it existed. The concentration on order may leave a vacuum in which prisoners - excluded from the formal culture - establish their own order, usually with a rigid hierarchy, visible group identification and an argot. Pawel Moczydlowski described the dynamics of the hidden life of Polish prisons in graphic detail in the late 1980s<sup>3</sup>; a closed, secret and paranoid world in which prisoners formed groups and social classes according to bizarre



3. Hidden Life of Polish Prisons, Pawel Moczydlowski (Indiana University Press 1992)

and arbitrary rules. Knowledge of those rules, and the careful use of ritual behaviour could enhance social status.

The extract from Prison Rules quoted above stems from a time when self-mutilation was a means of restoring or enhancing status. Practices were sometimes extreme, such as swallowing sharp objects, inflicting cuts on one's body, rubbing metal shavings or glass fragments into the eyes, and driving nails into parts of the body. Self-mutilations were sometimes a prescribed method of group entry or re-entry, a punishment for an infringement of group norms, or a voluntary act in an effort to improve status or deflect more brutal punishment.

Staff/prisoners relationships where they existed were generally either brutal, confrontational or exploitative. Discipline was a fairly arbitrary affair for both staff and prisoners. Events in the outside world and the norms of the free society were of much less interest and importance to both groups than events in the closed world of the prison. It was significantly more useful to understand the dynamics of the prison than to waste time on life outside the walls.

Despite the awesome rigidity of the subculture, some prisoners were able to move freely, accepted by all prisoner groups and staff. These prisoners generally had access to materials or goods for sale, or had a marketable skill.

### **Wojtek's story**

Wojtek was a prison barber, serving his eighth sentence when I met him. He was first imprisoned in the early 1950s, and has spent more than 20 of the intervening years in prison. His family was well-placed in the communist regime of the time and he attributes his first offence to acquiring power at too early an age and, lacking the maturity to deal with it, abusing his authority. It is a fair assessment.

His offences have varied over the years, but his current sentence was for a currency offence that would not be a criminal act in the new democracy. Wojtek felt deeply aggrieved that the most recent amnesty did not include people like him. We spoke at length about his life, over the course of several weeks. It was a familiar story in many respects: a man who had lost his status, his family, his marriage, his children and his friends during his long years of imprisonment and who faced old age and deteriorating physical health alone. During this sentence,



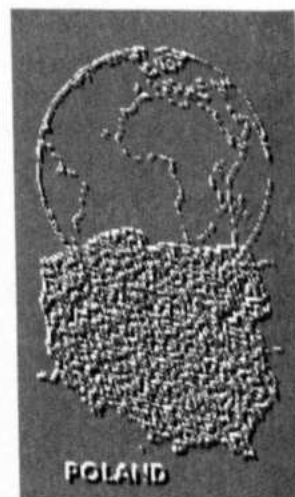
### **Lublin exterior**

The perimeter wall is surmounted with a watchtower. In the foreground is a well-used volleyball court.

and for the first time, he was addressing his offending behaviour and asking for help to sort out his life. Age was certainly a factor in this new approach, but Wojtek described himself as a man adrift in a world he no longer understood because of changes in it, rather than changes in him. The hidden life had disappeared: the horizon for prisoners had expanded to the extent that the prison subculture lost much of its meaning. Access to television, radio and video, cultural activities and contact with staff had changed the nature of imprisonment in a profound way.

His role as a barber had gone. He could still cut hair, but hairdressing had been less the utilisation of a skill than a method of moving freely among prisoners acquiring information to trade with staff. He found it difficult to change his ways, and was often surprised into a realisation of this by staff, who no longer wanted an informant. He found it hard to accept that the case manager wanted to talk to him about his problems simply because he was Wojtek and had difficulties in his life. Talking about himself was a difficult new experience in itself: talking to prison staff who expressed interest and concern was an emotional and traumatic experience.

Many people remained in prison beyond the last amnesty, and are still serving their sentences. Many, like Wojtek, have a long history in prison - a world they may have thought they understood. Inevitably, with the liberalisation of prisons and the expanding horizon for prisoners, the subculture has diminished in importance. Prisoners now have the prospect of enjoying a generous programme of temporary release and have much more invested in the life of the



community. Case managers who work directly with prisoners have broken down many of the barriers to relationships between prisoners and staff. Legal and well-publicised methods of settling grievances have diminished the need for primitive and brutal ways of resolving conflict. Prisoners have begun to adapt to this changing world, although there are still those who profited from the hidden life and who would be content to see it return.

I am grateful to the Winston Churchill Memorial Trust for this unique opportunity

to study another prison system. I am also grateful for the generosity, co-operation and openness I found in the Polish Prison Service, and the help I received from many other sources including the Know-How Fund and the Consulate office. I learned a lot about the Polish prison system during the Fellowship: I also learned a lot about my own work by looking at it through Polish eyes ■

# THE AMERICAN PRISON SYSTEM

## A DIFFERENT PERSPECTIVE

*Derek Brisco is Governor of Portland, a young offenders institution. His visit to the U.S. was part of the Prison Service College Senior Management Programme.*

### Introduction

Our trip to the USA, spanning 11 days in early May 1994, promised to be intensive and so it proved to be. Discounting the travelling to and from the USA, we had nine days to visit eight establishments. They comprised five Federal Prisons, one New York City Maritime Facility, one New York State Facility and one prison in the private sector managed by the Correction Corporation of America, situated at Leavenworth.

In the middle of this hectic tour, we had a flight from New York to Kansas City where we were to spend one day of well-earned rest. I believed we would need such a break, and so it turned out.

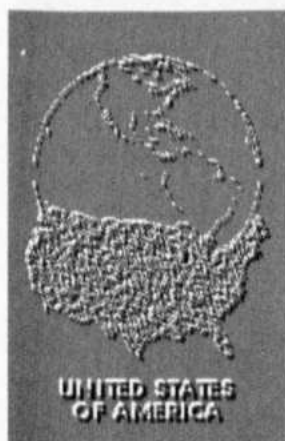
Prior to going, we had each been asked to say what particular interests we had. On the list provided to our hosts, I was shown as declaring an interest in staff attendance systems, pay rates, incentive schemes and flexible working practices. It is the case that I had also mentioned an interest in security as I was keen to see the effects of firearms in regard to perimeter security and the consequent effects on regimes. Another area I was interested in was policy for maintaining good order and control my own impression, after many years in the English prison system, led me firmly to believe that the issues of staff

attendance systems, pay, incentive schemes could not be divorced from the reality of the working environment, staff safety, confidence and feelings of well-being.

Like most of my colleagues, I was unable to get all the information I wanted but sufficient to make comparisons.

### Pay Comparisons

In the Federal system, pay rates (effective January 94) for the equivalent of our unified grades are shown at Appendix 1. A correctional officer who, on a simple level equates with a discipline officer, comes into the salary scale at GS-5 (General Service) and, like all GS grades, has a 10-step incremental point running laterally across the page. His pay is therefore from \$23,316 to \$28,985. The incremental points are achieved by time served and good performance. They are achieved as follows, each of the first three after one year, five, six, seven each after two years, eight, nine, ten each after three years. It would then take 18 years to move from the start point up to the maximum. A simple conversion into pounds sterling would indicate a pay rate of £15,500 to £18,000 – not so different from our own pay rates except at the upper end. It is possible for correctional officers to leap these incremental





stages by quality step-increases in recognition of high-quality performance. This represents a significant incentive for staff to be noted as high performers. In practice, the standard time-served period is reduced by 50 per cent at each scale point. A consistent high performer could, therefore, achieve maximum scale point in nine years as opposed to 18 years.

Of course, there are other aspects to pay. Overtime is still practiced but my questioning indicated that it was used very sparingly. However, where it is worked, it attracts pay at one and a half time rate. In addition, where staff work Sundays, and that is common, then all hours worked on Sundays are paid at one and a quarter time rate. Also, hours worked between 1800 and 0600 attract a 10 per cent premium. It follows that actual take-home pay earned can be somewhat higher than that indicated at Appendix 1.

A correctional officer can also move on to scale point GS-6 by gaining qualifications to further enhance his salary. Scale point GS-7 is a counsellor, that is someone who has trained as a correctional officer but has gained qualification as a counsellor. Scale-point GS-8 is a Senior Correctional Officer, GS-9 is a Lieutenant and so on.

At the top of the GS rating, the salary scale peaks at \$89,265 but this can further be enhanced by bonus payments when targets set to be achieved within year are achieved, attaining an equivalent salary in pounds sterling of approximately £60,000.

There are many other aspects to pay, including specially arranged insurance for staff and families and the ability to enhance superannuation by regular payments which, in turn, attracts contributions from the Federal Bureau of Prisons.

### **The State, City and Private Facilities**

We only managed to see one prison, namely Cossackie of New York State, and no doubt state prison systems pay different rates from each other. In New York State, correctional officers start at \$20,000 to \$27,328. Senior Management Grades, ie, Wardens in charge, rise to \$107,000 somewhat higher than in the Federal system. There is, however, a similar progression with a 10-point incremental scale at each level, but there are more levels.

The New York City system can be likened to a County Prison organisation but it is vast by comparison to most, having an average daily population in excess of 21,000.

It is the world's largest municipal detention system handling more inmates than 40 American States. I do not have specific figures on pay. However, following a number of questions, it is evident that staff who work in the City system would prefer to work in the Federal system. The reasons are complex, involving a variety of working conditions. Basic pay scales are lower but are significantly enhanced by large amounts of overtime working. All staff, up to and including the Wardens, wear uniform, a fact not apparent in the State or Federal systems which appear to have a practice similar to ours where, above a certain rank, uniform is not worn.

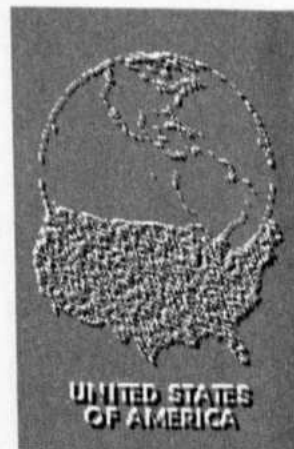
We saw one facility, Leavenworth Detention Centre, managed by Correctional Corporation of America. Again, I have no specific details of pay although I remember asking. During a question and answer session, it became apparent that staff working there were paid similar rates to those in the Federal system but without additional benefits. A number of them had left within the year to join the Federal system where they thought they had a better deal and a better status within the community. This was despite the claim that 93 per cent of employees had some kind of share ownership within the company.

With 23 facilities nationwide, CCA could offer opportunities for promotion and advancement. Despite that, the staff generally viewed the Federal system in a more positive light. It is interesting that after visiting Leavenworth Detention Centre, we went on to visit Leavenworth United States Penitentiary, for many years the leviathan of the Federal system. Any comment from the staff there regarding the CCA Detention Centre were, at the least, disparaging and derogatory. As part of the American prison system, my impression was that CCA were seen as filling the soft end of the market and not doing that very professionally.

The Warden of the CCA Detention Centre was formerly a warden in a state system and, from his comments, I clearly understood he had moved to the private sector due to the enhanced remuneration he received. I think I have heard similar comments much closer to home!

### **Comment**

Of course, pay for a specific kind of work does say something in regard to status within the community. In this country, we are judged, to some extent, by pay rates. In England, pay within the prison system



compares favourably with market rates and across all bands is probably at a level slightly above national average. It is not possible to make a similar assessment in regard to the USA, but instinctively I feel that pay rates in the various American systems would rate about the same against national average pay. However, that is only an assumption on my part.

The final point I would wish to make on pay relates to the value of take-home pay. At home, we are all aware that remuneration is significantly reduced by taxes and National Insurance. Clearly, there are taxes in the USA but I have no figures to make realistic comparisons with take-home pay. However, I am aware following this first trip to America of the price differentials that exist between our two countries. The most startling difference is in the price of buying a house, my own impression is that similar-type price housing in the USA is about 30-40 per cent cheaper. Cars are significantly cheaper. Petrol we were managing to buy for between 90-95 cents, the US gallon is somewhat smaller but a real comparison would put these costs at approximately \$1.10 – that's about 70p in our money. Restaurant prices and eating out is significantly cheaper as is hotel or motel accommodation. I suspect that, overall, our American counterparts have significantly greater disposable income than ourselves but, again, that can only be an assumption.

### **Attendance Systems**

The first point to make here is that all the prisons we visited seemed to have an unlock situation for prisoners, either at work or in association for a period of between 12-14 hours. In the English system, we currently have some 36 per cent of establishments which have achieved the 12 hour out-of cell target. In that regard, staff cover provided is different in the USA and is made to match the activity level in any establishment.

It was only in the Federal system and at the CCA establishment that I was able to elicit specific information concerning systems of attendance. They, as distinct from the New York State and New York City prison systems, do not use overtime as a regular means to provide necessary staff cover. One explanation for this might well be that in the New York State and the New York City systems they have significant staff sickness, with paid sick leave, where absences can be easily covered by overtime.

The Federal system has a sick leave

policy which is significantly different, annual leave is also programmed into the attendance system. Annual leave is earned as follows:

Full-time employees with less than three years' service can earn one day each four weeks – 13 days per year. Those with 3-15 years' service earn 20 days per year, and those with over 15 years' service earn 26 days per year.

Sick leave is also earned, four hours each pay period of two weeks, totalling 13 days per year. Any sick leave in excess of that is unpaid, although sick leave not used can be carried over to the following year.

It is easy to see from the above that sickness and annual leave absences are significantly less of a burden to carry than they are in the English system. The incentive not to go sick must be powerful indeed when the consequence is no pay.

I managed to acquire a blank copy of what is referred to as the 'Quarterly Assignment Roster' from the Federal Institution of Ottisville. The roster covers all correctional officers and lieutenants. There are 12 different shift lengths, all of 8 or 8.5 hours duration. Staff work a 40 hour week. A typical shift might be from 1200-2000 or 0800-1600 or 1400-2200. The way it works is simple. Each area of the prison has specified posts which must be filled. The number of staff and the posts required are programmed into a computer which then throws up the system of attendance. The programme can be used to take account of any member of staff's previous attendance system and also cover predicted absences such as annual leave. In all cases, the attendance system, once published, holds good for a period of three months when the process is again completed.

For example, an officer might find he is on the shift 1400-2200 hours in a specific residential unit for three months. The days he works are designated. Absence for predetermined leave is covered by a group of staff on holiday shifts. The shift system is approved by the Warden, the other senior staff and, significantly, by a Union Representative. In addition to the quarterly roster, a daily roster is provided. One interesting point is that outside hospitalisation for a prisoner is one of the very few instances where overtime is paid. Every prisoner taken to outside hospital has two escorting officers plus at least one armed guard. When such instances occur, the Federal Bureau of Prisons provides the necessary funds to pay for the overtime used. That enables the establishment to continue to deliver the necessary staff cover within the





establishment. Compare that with practices at home where we simply manage. Certainly I have experiences where providing hospital bed-watches has a disastrous consequence within the establishment, resulting in use of additional hours which need to be repaid and the consequences can, and often do, adversely affect regime provision.

At the Leavenworth Detention Centre, run by the Correction Corporation of America, I managed to get a blank copy of systems of attendance comprising three shifts 0800-1600, 1600-2400, 2400-0800. The shift cycles span a six week period. A copy of this is produced at Appendix 2, 'x' = shift, but I don't know which one, and 'O' represents a day off duty. Anyone experienced in systems of attendance might find it interesting.

### **Incentive schemes**

This is an area I personally find fascinating. I view an incentive in its widest sense as something which, from a management point of view, is likely to motivate staff to behave or act in a way which management sees as desirable. That particular personal perception allows one to identify issues that staff may see as negative which, from a management view, can be seen as positive.

An example might be the policy for sick leave. If staff in the first five years of service earn only 13 days sick leave benefit, then they have a powerful inducement not to go casually sick. The fact they can carry over unused sick leave to the following year allows them to plan for a time when they might need to take advantage of sick benefits.

The way pay is used as an incentive to performance is also a significant factor. Remuneration, the ability to earn more is probably the greatest incentive of all. Certainly in the Federal system, noted high performance can result in speedier movement along the pay scale points. It is also possible to move on to a higher pay grade by achieving recognised qualifications which is an incentive for staff to get involved in training and programmes of self-improvement.

The staff training facilities are, therefore, seen as an incentive not only to demonstrate the commitment of staff, not only to train staff to a desirable level but also to provide staff with the opportunity for self-improvement which can lead to enhanced pay. My own impressions were that in the Federal system the training departments were better resourced, staffed and funded than we have learned to expect at home.

Another powerful incentive in the American system is access to medical insurance for the staff member and his family. At home, we have the NHS. In the USA, medical insurance is expensive – I was told between \$3000-\$5000 annually depending on family size. Being a staff member in the Federal, State or City systems brings with it free medical insurance which can be topped up by personal contributions. I am not able to confirm that the same applies to those employed in the privately managed prison system.

Staff in the Federal system can take out insurance death benefit for themselves and their families. They can also extend their superannuation provision and the Federal Bureau of Prisons partly funds such improvements.

Another, and very significant area, is the emphasis on rating and marking good performance. In most American systems they have an almost compulsive habit of nominating a staff member of the month or year. On entering any establishment, one can expect to see the photograph of the awarded staff member openly displayed. We had the opportunity at one Federal prison of attending such an award ceremony. At about 0800, all staff going on duty congregated in the staff centre. The Warden, and what I can only assume as being the equivalent of an Area Manager, made the award standing alongside the ubiquitous American flag. It was nonetheless quite impressive. Not only are awards made for performance in several areas but pins are presented for time served and it is a fact that staff wear them with much pride. The ceremony is formal but a happy event with much hand clapping, cheering and ya-hooing. It can only be good for staff morale and, in my view, such open acknowledgement of performance and achievement is both morale boosting and a team-building exercise.

### **Flexible Working Practices**

This particular issue was difficult to judge in the whirlwind of visits. However, there are a couple of points I feel are relevant. It is quite clear that not all staff were engaged in the caring role. In our prison system, the prison officer is expected to be both custodian/guard and also the primary instrument of care. The latter is formally embraced with the Personal Officer system, Sentence Planning and such like.

My prevailing impression of the



various American systems is that they do it differently. The correctional officer is primarily the custodian/guard and the caring role is invested in counsellors. Counsellors are paid at a higher rate than correctional officers and are promoted to that grade having, in the first instance, been correctional officers themselves. They do not wear uniform.

More often than not, in a residential unit you will find a unit team comprising unit leader, counsellor, typist and correctional officer/s. Although they work as a team and are involved in every aspect of prisoners' activities, it is clear to me there are divisions. I raised this issue a number of times with members of staff. They were reluctant to acknowledge that there was a difference in purpose or perspective. Pressed on the matter, they did open up. Correctional officers see the primary purpose of imprisonment as security and control, the rehabilitation aspects of imprisonment do not come easily to them but are seen more of an appendage to the real business in hand. The counsellors, having been correctional officers themselves, understand that point of view but place greater emphasis on the rehabilitative role of the institution and are actually involved in personal assessment of prisoners, their welfare needs and the throughcare process.

In one sense, it is a mirror image of our own system. We all know some prison officers who feel strongly that the role of custodian/guard does not marry easily with the caring aspects of work they are required to be involved in. Their compliance and playing a part in the caring role is locked into the concept of dynamic security. Dynamic security for this purpose can be simply described as staff/inmate inter-action, leading to a two-way input, seeing each person as an individual. The pay-off being that the prisoner in this scenario is less likely to demonstrate violence, has an investment in the relationship and provides intelligence which, in turn, is helpful in monitoring good order and control.

The American correctional officer's view of that is that it constitutes cheating. To them, it is not playing the game. That kind of involvement with prisoners is not desirable, may put the staff member at risk and, in any case, they don't need to do it. Prisoners, in their view, need controlling and getting too close to them undermines the relationship of guard/prisoner. It is viewed as unhealthy, sly and phoney.

One can then argue that the American system is not flexible in the same way that the

English system is. It does not pretend that all staff have a similar set of attributes or intentions and chooses to use the strengths of belief and commitment by allocating specific roles.

However, contrary to the above, I was struck by the fact that all staff within the Federal system, all grades and specialisms, are required to undertake firearms training. It was explained to us that if there was an incident, then all staff, men and women, could and would be used to deal with it – on the coal face, as it were. I don't know if that is the case or exaggeration of the fact. It is, however, a fact that all staff undergo firearms training.

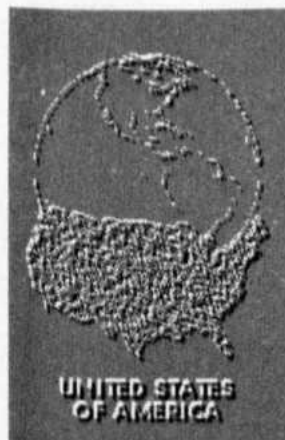
If the use of firearms is the last resort, then it is akin to C&R training in the English system, training which is not available to all staff. I have read through the Bureau's mission statement, core values and goals. As a whole, they give emphasis to the custody/control role, a greater emphasis on commitment to staff and a commitment to the fair treatment and other self-improvement opportunities to assist offenders in becoming law-abiding citizens. My impression whilst in America and since is that the systems they have developed are primarily concerned with custody and control and that significantly greater emphasis is placed on that aspect of imprisonment than on the caring or rehabilitation programmes. It is a fact that programmes for prisoners do exist but there is no trade-off with the primary purpose of their mission 'To protect society by confining offenders in the controlled environment of prison and community-based facilities that are safe, humane and appropriately secure'.

### **The Prison Environment Images and Thoughts**

My first impression is that the American prison system is enormously diverse, much more than at home. That is not surprising when we consider the different systems they have as opposed to the one and only system in England and Wales.

It is huge by comparison, so big, in fact, that it is difficult to hold an image that makes any sense. Any Federal prison appears to have within it a similar set of functions as any prison at home. One can follow the process through from reception to discharge, Resident Chaplains, Education Departments, Segregation Units, canteen, association, work, recreation, offending behaviour programmes – they are all there.

Buildings tend to be more modern,



there is a massive building programme in place, generally they are clean, tidy and litter-free – something they appear better at achieving than we are. The staff tend to be ebullient about what they do and how good they are at doing it. They are competitive in the sense that they know what happens in other prisons and want to be seen as amongst the best. They have an eye to the political agenda. During our time in America, the possible introduction of gun laws and additional capital offences were prime-time news. Staff were aware of that and generally in agreement with stricter, more punitive law enforcement. Their prisons appear well-managed, spacious, very well controlled and staff clearly in charge. They have a strong belief that they have the systems to manage a difficult and certainly a potentially dangerous population. Where do they get that confidence, that self-belief?

I saw only three firearms throughout my visit. One was being handed in before entering the New York City Maritime facility by the correctional officer who had escorted us to the prison before our visit commenced. The second was being worn by a correctional officer patrolling in the street outside the Federal Metropolitan facility located in New York City – a high-rise office block. The third was in vehicles patrolling the perimeter of the Federal prison at McKeen.

It was, however, quite clear that each prison had an armoury, that some prisons had armed towers and that firearms were available and could, and would, be used if necessary. Touring one prison with the Warden, I pointed to a group of about 100 prisoners in an exercise area. It was apparently being supervised by one correctional officer looking through a barred gate but not in direct contact with the prisoners. I asked what would happen if a disturbance broke out in the exercise area. Pointing, he said there is a tower which overlooks the yard. The guard would shoot over their heads and they would lie face-down on the floor, arms outstretched. I then asked what would happen if someone didn't comply. His answer was unambiguous and, looking me in the eyes, he replied, 'They would get shot'. The point I feel is worth making, firearms are not in evidence but they are known to be available and, from numerous discussions, I believe that there would be no compunction about using them if the need arose.

Another aspect I feel I must refer to is how they deal with prisoners who commit prison disciplinary offences or who require

segregation for the purpose of good order and discipline or their own protection. My abiding impression is that there is little difference in the regime they are subjected to once they are segregated.

Every prison we visited had a segregation area. In one prison, whole residential units were given over to that purpose. Prisoners are held in conditions which, to us in England, would be seen at the lowest level as extreme. Generally, in a cell with integral sanitation where they stay, apart from a brief period of exercise in a caged-area. Any time they leave the cell, they are first shackled at the ankles and handcuffed behind their backs. Each door has two opening flaps, one at ankle height and one at hand height. Before leaving the cell, the prisoner turns his back to the door and is restrained as described. The prisoner is therefore severely limited in his movements and certainly unable to effect an assault. Similar doors are provided in the enclosed exercise areas where restraints are removed and then re-applied before returning to cell. I observed such an action – even when a prisoner is going for a shower, the shower itself is fitted with a similar-type door and, once locked inside, restraints are removed through the flaps.

Without going into detail, there is a code of discipline for prisoners referred to as 'Prohibited Acts and Disciplinary Security Code'. Punishments that can be awarded are much more severe than in our penal system and, once in segregation, the regime is absolutely controlled. Some prisoners spend months in such restricted conditions and my understanding is that appeals against such punishments or confinement are of little concern.

My own impression is that control/good order is underpinned by:

1. the knowledge that firearms are available and will be used and,
2. a set of punishments and segregation routine that is far more compelling in its support for staff enforcing discipline than anything available in our prison system.

There are formal hearings of adjudications. My understanding is that they are normally heard by a panel comprising an Associate Warden who is legally trained. I believe, but have no first hand knowledge, that the prisoner has the opportunity to state





his case and that natural justice is implicit within the process.

Final Comment

My visit to the American prison system was both informative and, to some extent, mind blowing. I am still grappling with some of the images and thoughts. My advice to anyone

else planning a visit would be to go to just one or two establishments and spend much more time there. The number of visits and the consequent time restrictions prevented us from getting significantly underneath the skin. There is much to be learned, perhaps much that does not lend itself easily to how we go about our business, but it is an enthralling and worthwhile experience ■

APPENDIX 1

SALARY TABLE No 94-STL (LEO)

RATES OF PAY FOR LAW ENFORCEMENT OFFICERS (LEO'S) INCLUDING SPECIAL SALARY RATES AT GS-3 THROUGH GS-10 AND INCORPORATING THE 3.09% LOCALITY PAY ADJUSTMENT FOR THE LOCALITY PAY AREA OF ST LOUIS MO-IL

EFFECTIVE JANUARY 1994  
ANNUAL RATES BY GRADE AND STEP

	1	2	3	4	5	6	7	8	9	10
GS-1	\$12,271	\$12,680	\$13,087	\$13,494	\$13,904	\$14,144	\$14,545	\$14,951	\$14,970	\$15,351
2	\$13,796	\$14,124	\$14,582	\$14,970	\$15,137	\$15,582	\$16,027	\$16,473	\$16,918	\$17,363
3	\$18,067	\$18,569	\$19,071	\$19,573	\$20,075	\$20,577	\$21,079	\$21,581	\$22,083	\$22,585
4	\$20,277	\$20,840	\$21,403	\$21,965	\$22,528	\$23,091	\$23,654	\$24,217	\$24,780	\$25,343
5	\$23,316	\$23,946	\$24,576	\$25,206	\$25,835	\$26,465	\$27,095	\$27,725	\$28,355	\$28,985
6	\$24,585	\$25,287	\$25,989	\$26,691	\$27,393	\$28,095	\$28,797	\$29,499	\$30,201	\$30,903
7	\$26,541	\$27,321	\$28,101	\$28,882	\$29,662	\$30,442	\$31,223	\$32,003	\$32,784	\$33,564
8	\$27,666	\$28,531	\$29,396	\$30,261	\$31,126	\$31,991	\$32,856	\$33,721	\$34,586	\$35,451
9	\$29,602	\$30,557	\$31,512	\$32,466	\$33,421	\$34,375	\$35,330	\$36,285	\$37,239	\$38,194
10	\$32,600	\$33,652	\$34,703	\$35,755	\$36,806	\$37,858	\$38,909	\$39,961	\$41,012	\$42,064
11	\$34,662	\$35,818	\$36,973	\$38,129	\$39,285	\$40,440	\$41,596	\$42,751	\$43,907	\$45,063
12	\$41,543	\$42,928	\$44,312	\$45,697	\$47,081	\$48,466	\$49,850	\$51,235	\$52,619	\$54,004
13	\$49,401	\$51,047	\$52,693	\$54,340	\$55,986	\$57,632	\$59,279	\$60,925	\$62,572	\$64,218
14	\$58,377	\$60,323	\$62,269	\$64,216	\$66,162	\$68,108	\$70,055	\$72,001	\$73,947	\$75,894
15	\$68,667	\$70,956	\$73,244	\$75,533	\$77,822	\$80,110	\$82,399	\$84,687	\$86,976	\$89,265

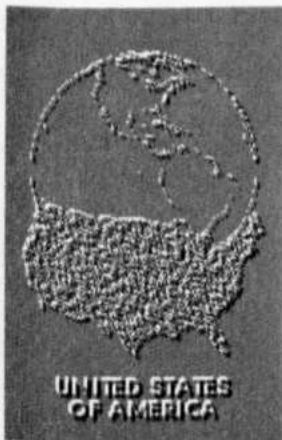
APPENDIX 2

SIX WEEK(42 DAY) CYCLE  
MASTER SHIFT SCHEDULE FOR A, B, C, D, E AND F SCHEDULE CARDS

SHIFT CODE    1ST SHIFT: 8:00 A.M. - 4:00 P.M.    2ND SHIFT: 4:00 P.M. - 12:00 MIDNIGHT    3RD SHIFT: 12:00 MIDNIGHT - 8:00 A.M.

NAME	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S	S
A	X	X	X	X	O	O	O	X	X	X	X	O	O	O	X	X	X	X	O	O	O	X	X	X	X	O	O	O
B	X	X	X	X	O	O	O	X	X	X	X	O	O	O	X	X	X	X	O	O	O	X	X	X	X	O	O	O
C	O	X	X	X	X	O	O	X	X	X	X	O	O	O	X	X	X	X	O	O	O	X	X	X	X	O	O	O
D	O	O	X	X	X	X	O	O	X	X	X	X	O	O	X	X	X	X	O	O	O	X	X	X	X	O	O	O
E	X	O	O	X	X	X	X	O	O	X	X	X	X	O	O	X	X	X	X	O	O	X	X	X	X	O	O	O
F	X	X	O	O	X	X	X	X	O	O	O	X	X	X	O	O	X	X	X	X	O	O	X	X	X	X	O	O

NAME	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S	S
A	X	X	X	X	O	O	O	X	X	X	X	O	O	O	X	X	X	X	O	O	O	X	X	X	X	O	O	O
B	X	X	X	X	O	O	O	X	X	X	X	O	O	O	X	X	X	X	O	O	O	X	X	X	X	O	O	O
C	O	X	X	X	X	O	O	X	X	X	X	O	O	O	X	X	X	X	O	O	O	X	X	X	X	O	O	O
D	O	O	X	X	X	X	O	O	X	X	X	X	O	O	X	X	X	X	O	O	O	X	X	X	X	O	O	O
E	X	O	O	X	X	X	X	O	O	X	X	X	X	O	O	X	X	X	X	O	O	X	X	X	X	O	O	O
F	X	X	O	O	X	X	X	X	O	O	O	X	X	X	O	O	X	X	X	X	O	O	X	X	X	X	O	O





# CONFLICT RESOLUTION IN PRISONS

I am highly honoured to have been invited to this the sixth annual conference of the African Society of International and Comparative Law. Your theme for the Conference is conflict resolution and I thought I would take that theme for my talk in the context of prisons drawing upon my experience as a prison governor in the Prison Service in England and Wales.

In talking to such a distinguished gathering I want to preface what I say by quoting someone who in my country is regarded as one of our most knowledgeable commentators on Africa, Basil Davidson. At a conference in Senegal two years ago he said, 'your lecturer today does not have the answer; moreover if the answer can be found, it will not in any case be found except by Africans. Development comes from within or it does not come at all.'<sup>1</sup> It was that same writer who in the London Review of Books paid special tribute to the country hosting this conference when he remarked of Uganda. 'After many years of ferocious misgovernment and militarist banditry duly helped along by external advice, Uganda is at last achieving a real prospect of stability and social progress

by means of internally - devised and applied processes of recovery which, essentially, reverse the administrative policies of colonial rule.'<sup>2</sup>

That is not to say that so unique is the culture and history of our respective countries that good practice cannot be translated from one country to another but that we must be extremely cautious before doing so and recognise that solutions cannot be taken 'off the peg'.

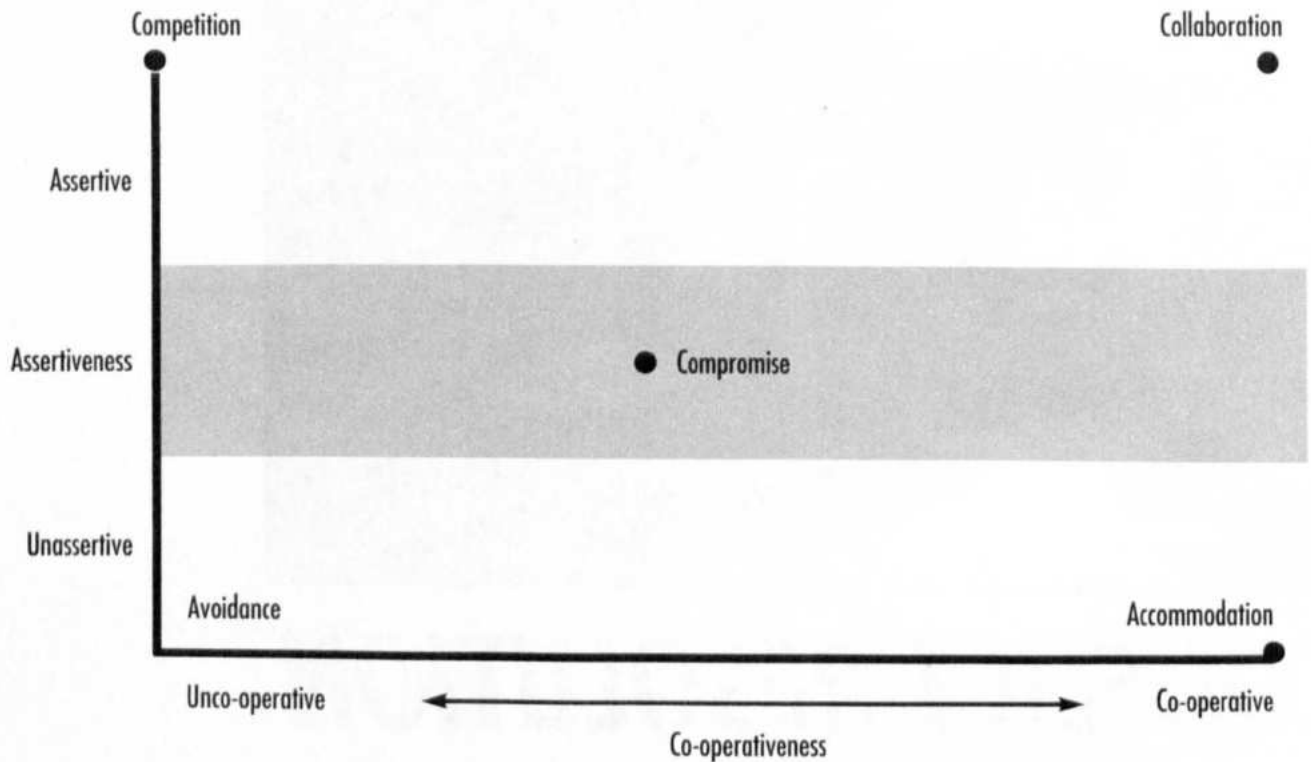
Much of the value of a conference like this is in the act of explaining one's own practice to an unfamiliar audience forcing one to challenge one's own accepted ideas and in the ensuing discussion and debate hearing how others order their worlds so that we question ourselves about our own way of doing things. It's a chance to see the world through others' eyes but not to forego responsibility. At the reception the other evening, Joseph Etime the Commissioner of Prisons in Uganda and I joked that we could talk together about prisons with more mutual understanding than was possible with people from our own countries but who lacked our common professional background.

*John Staples,  
HM Prison Full Sutton. This  
is the text of a talk given to a  
conference of African lawyers  
and prison administrators in  
Uganda in September 1994.*





Figure 1



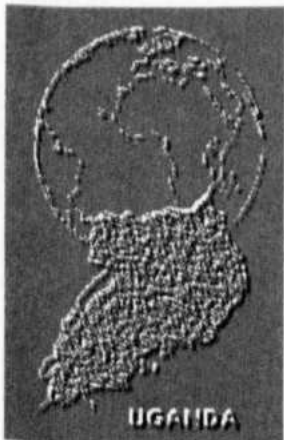
The first thing to say about prisons and conflict is that they are inextricably joined. Prisoners on the whole don't want to be there and staff have to insist that they stay and that immediately sets up an ethos of them and us. The turning of the key in the lock each morning symbolises the imbalance of power between guard and prisoner. The different uniforms they wear publicly proclaims that difference. For the prisoner, the guard personifies the authority which punishes him and for the guard the prisoner personifies the negative forces in society. Imprisonment fosters such stereotyping which can be modified only through a sense of professionalism on the part of staff and through both prisoner and guard becoming more than symbols to each other by metaphorically stepping out of their uniforms and becoming people not stereotypes. In doing that the task of the officer is made more complex. He or she has to get to know the prisoner, behave responsibly by giving reasons for decisions and demonstrating that care as well as custody is integral to the role.

Prisoners bring with them a whole baggage of negative feelings on entering the prison. The circumstances in which the offence was committed and what led up to it may still contain unresolved tensions

including conflicts with family or friends. Those tensions are likely to be exacerbated by imprisonment which of its nature weakens bonds with the community outside. Some prisoners will bring resentments about the way they were dealt with by the police or courts. Even those who admitted the offence and pleaded guilty in court may believe that their side of the story was not fully told nor understood and are left with a sense of unfinished business.

So too, staff come to their work with their own preconceptions about imprisonment and its purpose which may be at odds with the stated aims of the organisation. On the whole prison staff are recruited from those sections of society which tend to emphasise the punitive purposes of imprisonment in contrast to the more liberal backgrounds of administrators and senior staff. The job of prison officer is not one which is held in high esteem in the community and that is a source of frustration for the officer for whom the work is about protecting a public which is unappreciative of both the risks and complexities of that task.

So both staff and prisoners bring with them the potential for conflict and are placed in a setting which is itself full of contradictions. A distinguished former prison



administrator, Sir Alexander Patterson said that you cannot train people for freedom in conditions of captivity. And yet the official statement of purpose of the Prison Service reads, 'Her Majesty's Prison Service serves the public by keeping in custody those committed by the courts. Our duty is to look after them with humanity and to help them live law abiding and useful lives in custody and after release.'

That contradiction of purpose between reform and custody is played out in the daily life of the prison. Cells are allowed to be used for personal possessions to engender a sense of self worth and then in a way that threatens that self worth the personal possessions are searched thoroughly by staff often unknown to the prisoner. Contact with families and friends is encouraged but letters are read and telephone calls monitored, intrusions by the state which would not be acceptable outside.

There is no way round that inherent contradiction. A special burden is placed upon penal institutions operating in a free society. For prisons have often to deny those very values of individuality and liberty which a free society holds most dear. To maintain the legitimacy of the prison in such a setting it is crucial to deal with conflicts in a just and fair manner: the System of Justice in any country must not stop at the prison gates.

The use of the word 'conflict' at this Conference has been in the pejorative sense but I should like to take a cue from Dr Chris Bakwesegha of the Organisation of African Unity when he said on the first day of the Conference that there is a need to find ways of giving dissent a legitimate voice. Conflict is the expression of difference and in a free society difference is to be celebrated and not seen as necessarily threatening.

In looking for a theoretical model to use in conflict resolution I found K. Thomas' graph, above, helpful. (Figure 1)

The diagram plots levels of assertiveness and co-operation in the resolution of conflict. Excessively assertive behaviour where parties to a conflict are unco-operative can lead to undesirable competitiveness or where they work together to positive collaboration. An unassertive approach met by unco-operativeness leads to avoidance and problems are not addressed but fester. On the other hand if unassertive behaviour is met by co-operation then an accommodation of the differences can be made. Where as so often the situation is such that each side may be prepared to lessen some of their demands in exchange for others being

granted then a compromise can be reached.

In the prison setting the officer in the daily routine is likely to observe breaches of prison rules. That officer may decide to take an unassertive approach towards that prisoners lack of co-operation and turn a blind eye. That may be because the officer feels unsafe in challenging the prisoner and avoids confrontation. That path, the one of avoidance in the diagram, leads to the festering of problems and consequences can be a high level of sick absence by staff and, in the avoidance of meeting prisoners' needs, acts of self-harm or violence between prisoners. On the other hand it may be that the officer has been assertive and spoken to the prisoner and has been given an explanation for the lack of co-operation which is acceptable and can be accommodated: the prisoner has not gone to work because he is upset by some bad news from home and cannot apply himself until he has had a chance to discuss his feelings which he does with the officer.

There are times when prisoners are excessively assertive and this can lead to force being used if the issue is one in which there is no room for negotiation. A threat to the security of the prison or violence towards other prisoners or staff may have to be met by force. That is what Thomas describes as competition on the diagram where assertiveness and unco-operativeness meet. The situation we all wish to prevent.

For their own sense of safety and well being staff and prisoners need to know what is tolerable and when if necessary force will be used. They need to know, too, that such force as is used is applied only when necessary and only for as long as it is necessary. All need to know that if it comes to force then staff will prevail. The professional use of force as a last resort is a necessary condition to give staff and prisoners the confidence to engage in more sophisticated social relationships. Otherwise fear rules and that is the enemy of any civilised community.

Some needs of prisoners are shared by staff and it is almost commonplace in prisons for staff and prisoners to collaborate in raising funds through joint activities for causes such as disadvantaged children. When this happens many of the normal rules and regulations are put to one side for the sake of this joint operation. Both groups see value in such activity not only for its inherent worth but also because it wins public esteem for the prison and a consequent sense of worth for the people living and working there.





On many occasions assertion is met by compromise as shown in the centre of the diagram. Neither party to the dispute gets exactly what it wanted but an agreement is reached which means some give and take on both sides. Prison itself is a compromise between on the one hand allowing a measure of freedom within the walls thus giving prisoners some responsibility for their lives and on the other ensuring good order and security. The compromise is never satisfactory. The prisoner wants to go home now, the security staff want the prisoner in a cell with neither windows nor doors. Total freedom and total security can never be achieved and the line where they meet is continually being re-drawn.

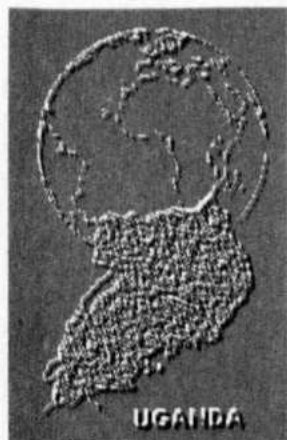
In that continual re-drawing of the line a structure for resolving conflicts needs to be established which has the confidence of staff and prisoners. Only then can violence be avoided. Most conflicts will occur on the landings of the prison between prison officer and prisoner and it is important that staff have some discretion so that negotiations between prisoner and staff have meaning and the prisoner sees the officer as someone who matters. For discretion to be too limited and the rules too strictly applied means the officer becoming the butt of the prisoners' anger or being by-passed until the prisoner through application reaches the decision maker. Some guidance does need to be given to the officer to ensure a measure of consistency but it is important that the officer is seen by prisoners and staff as the first person to whom problems

should be brought.

That principle is encouraged by means of what are called personal officer schemes whereby each member of staff is allotted a few of the prisoners as their mentor. It is that officer who will prepare reports on those prisoners and play a key role in decision making about those prisoners such as work allocation, change of security category or temporary release. Staff need support in that work and that is given by both line management in sanctioning the use of power by staff and thereby ensuring consistency and through probation officers seconded to the prison from an outside welfare agency in guidance on the quality of staff/prisoner relationships and counselling skills.

Some sources of conflict lie not just in individual grievances but are shared by groups and in recognition of that managers meet routinely with groups of prisoners to discuss and resolve potential areas of conflict. I was struck by the relevance of this aspect of prison life to the more general concerns of the Conference when the United Nations Assistant Secretary-General for Human Rights, His Excellency Ibrahim Fall made the point that in Africa, the authorities need an early warning system to alert them to potential conflicts. The committee structure I am describing does that for the prison authorities.

The terms of reference of these consultative committees may be specific to a living area of the prison or to a particular function such as catering. The prisoners tend to be selected for their willingness to take part





and their influence with other prisoners. Some staff may see this system of committees as threatening in that it legitimises the power of some prisoners and gives them access to senior staff. Managers need to be sensitive to those anxieties but what such committees do is to bring to the surface underlying power structures and thus makes influencing that power more possible.

For many years prisoners have had the right to put their case to the governor of the prison. A right which can be exercised in writing or in person. It happens infrequently but it is a useful measure for the governor to assess how well other mechanisms for conflict resolution are working and acts as a spur for staff to commit themselves to making those other measures work. Sometimes, prisoners use that power to see the top person as a threat, nonetheless, I favour that right being retained so that each prisoner feels that as a final resort the senior person in the prison can be petitioned.

The grievance procedures extend beyond the prison and prisoners can raise matters with the Prison Service Headquarters in writing. This can be a time consuming process and as the person hearing the complaint does not have resources for enquiring into the complaint independently of the governor then the outcome is unlikely to be different from the governors' decision.

There is one area of work where Headquarters do overturn governors' decisions with some regularity and that is in formal hearings by governors of breaches of prison discipline. A prisoner may be charged by a prison officer with a specific breach of rules and if found guilty by the governor can be punished by one of a number of laid down awards ranging from monetary fines to loss of facilities and additional time in prison. These quasi-judicial proceedings are challenged sometimes by prisoners and may be overturned if the principles of natural justice have not been followed or the awards are unduly severe for the offence committed. Prisoners are not legally represented at these hearings but may within the constraints of the expeditious handling of these cases seek legal advice. More serious criminal offences committed in prison are dealt with by the legal system in the same way as if the offence had been committed in the community outside. The use of the courts for offences committed in prison is a recent development and is a source of some concern to prison staff who see such courts dealing with assaults on staff to leniently (for example) in

the Courts, reason that there is little to be done in the way of punishment to a prisoner who is serving already a prison sentence and the punishments available to them are less extensive than those available to a prison governor.

Within the prison there is a system of mediation of disputes between prisoners and staff. A group of independent volunteers, known as the Board of Visitors, appointed to each prison by the Minister responsible to Parliament for prisons hear prisoners' complaints and will intercede with the governor on the prisoners' behalf. This body has no executive power but does have access to the Prison's Minister and, therefore, carries some authority. On the whole those recruited to this task are from backgrounds different in social class and origins from those of prisoners and do not always carry the confidence of prisoners in what they do. Prisoners who lack faith in the board may prefer to go direct to a lawyer with whom correspondence can be sent uncensored or to a Member of Parliament. Prisoners do not have the vote while serving their sentences, a strange omission when we are trying to encourage them to be responsible citizens but most MPs will take up their cases usually by writing to the governor, to the Prison Service headquarters or the Minister in charge of prisons. A year or so ago, the Prison Service became what is termed an Agency within the Civil Service. The purpose was to allow the Service to run its own show in respect of operational matters within a framework of principle and policy set down by Ministers. Some see this as a potential loss of civil liberties in that no longer is the Minister answerable in Parliament for day to day prison matters.

The Minister has another window on to the prison system through the Inspectorate. Prisoners cannot complain to the Inspectorate formally but when an inspection takes place which occurs on average every five years prisoners are routinely canvassed for their views and mention will be made of these views in the reports which are available to the public.

The grievance procedures are to be strengthened later this year by the appointment of an Ombudsman to hear grievances from prisoners and to respond direct to them. It will be expected that before taking up the grievance with the Ombudsman, prisoners will have exhausted internal avenues of complaint.

The same principle of complaints





needing to be ventilated locally in the first instance holds true of access to the European Court of Human Rights in its hearings of cases from prisoners. Rulings from that court have affected the censoring of correspondence, prisoners rights to marry while serving a sentence and in the way internal disciplinary hearings are conducted.

Similar assertions of prisoners' rights have come through judicial review by the courts in the UK. Until recent years the courts tended to take a 'hands off' attitude to prisons but of late they are more ready to rule on administrative practices where these fall short of natural justice.

In his recent and significant report on the prison system following the riot at HMP Strangeways in 1990, Lord Justice Woolf wrote, 'A recurring theme in the evidence from prisoners (was that) ... their actions were a response to the manner in which they were treated by the prison system a lack of justice the failure of the Prison Service to fulfil its responsibilities to act with justice created ... serious difficulties in maintaining security and control'<sup>4</sup>. The thrust of the Woolf report was that prisoners should be given a stake in the running of the prison. That can be done by the kind of negotiation and consultation I have described within a framework of justice and adequate grievance procedures reaching out to the world beyond the prison. That world includes not only the legal system but also the business world.

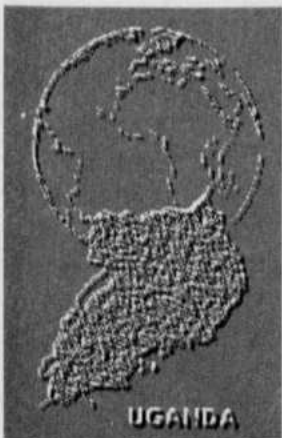
The Prison Service has learned from the legal system to apply the principles of natural justice and lessons have been learned too, from the commercial world. You will know that the UK government is committed to contract out to companies in the private sector some twelve prisons. That will give the Prison Service Agency alternative models against which to compare the state prisons. Doubts have been expressed about the ethics of the private sector running prisons. Is this the state denying responsibility for what is fundamentally a public function? Will the profit motive clash with public sector values of fairness and justice? As the number of prisons run by private sector companies increases from the three now in their hands to the twelve the government has stipulated more evidence will be available to inform that debate. I note that in the USA one State has taken back into public administration a prison which had been run badly by a private company and that, of course, is the ultimate sanction for the government in the UK. The notion of the commercial contract shorn of its

profit element has been taken from commerce and used by the public sector prisons. The governor of each prison in England and Wales annually agrees in writing with Prison Service Headquarters how the prison meets nationally set standards and where it falls short what action may be necessary to achieve those standards and by when that should be done. Many governors have found this exercise useful in that it makes explicit what is required of them and allows governors to say what they need in resources to meet those requirements.

In summary, conflict is inherent in imprisonment and it is essential in a free society for the penal system to respond to conflict in a way that is compatible with democracy and human rights. To do so Her Majesty's Prison Service has drawn upon ideas such as natural justice from the legal system and the contract from the commercial world, to inform its administration, but it has given primary importance to the traditional role of the prison officer as not merely custodian but one who has a duty of care. That care is exercised through establishing positive relationships between staff and prisoners and is complemented by allowing external authorities to oversee the prison to challenge decisions made by the authorities there and offer alternative avenues through which to air grievances and seek redress ■

#### References

- 1 Davidson, Basil **The search for Africa: a history in the making** Currey 1994 London
- 2 **On Rwanda** A London Review of Books Vol 16 No 16 August 1994
- 3 Thomas, K. in Dunnette, M D **Conflict and conflict management** Handbook of Industrial and Organisational Psychology. Rand McNally Chicago 1976.
- 4 **Report of an inquiry into prison disturbances April 1990** (1991) Command 1456 HMSO London



# INCENTIVES IN PRISON REGIMES

## A REVIEW OF THE LITERATURE

### Background

The context in which the recent interest in incentives has emerged is laid out in the Prison Service Corporate and Business Plans for 1994-97 and 1994-5, where it is argued that particular 'environmental problems' face the Prison Service as they pursue their principal goals of custody, care and justice. These problems include:

- a rapidly rising prison population;
- the changing composition of this population towards a longer-term, more volatile and violent population;
- an increase in the proportion of remand prisoners;
- an increase in the recorded number and rate of assaults against prisoners and staff;
- an increase in the use of drugs.

Against this picture of a potentially more 'difficult to manage' population, the Prison Service is aiming to achieve higher levels of performance and efficiency, including more purposeful and active regime delivery, more hours out of cell, a reduction in the rate of assaults and the development of more skills-based programmes aimed at tackling offending behaviour. The significant relocation of control incidents from the dispersal system to a much wider range of local and training establishments since about 1986 has added some urgency to the need to cater for the behaviour and needs of prisoners throughout the prison system, including prisoners on remand. The Prison Service intends:

to do everything it can, consistent with keeping prisoners in custody, to help make imprisonment a positive and

constructive experience which will help to reduce re-offending (HM Prison Service, 1994: 18).

It is hoped that a properly structured system of incentives based on prisoners' behaviour and willingness to cooperate will encourage active and responsible engagement in constructive regimes and will facilitate progress through the prison system. It is expected that prisoner compacts will form one element of this incentives structure. The introduction of incentives schemes is linked to several of the current goals of the Prison Service. The clarification of the precise aims of incentives, and the establishment of their compatibility and relative significance will be an important part of this programme of work.

In July/August 1994 a literature review was commissioned by the Special Project on Incentives team in Prison Service Headquarters in order to provide a brief overview of the available research findings on incentives-based approaches to regimes. The review was carried out by Dr Alison Liebling and Ms Mary Bosworth, Senior Research Associate and doctoral student respectively, at the Cambridge Institute of Criminology. The full report (130pp) was submitted to the Special Project team in August (see Bosworth and Liebling, 1994). It concludes that incentives approaches have failed in the past for many reasons. One important reason has been the lack of a clear aim. Any incentives approach should have as its underlying and explicit guiding principles the values, goals and the 'vision' expressed in the Prison Service statement. Its operation should be just. It should be predicated on an adequate understanding of prisoner behaviour and motivation and it should aim to structure choices rather than determine them.

*Alison Liebling and Mary Bosworth wrote this article from a summary they provided for the Prison Service Incentives team. Alison and Mary work at the Institute of Criminology, University of Cambridge.*

### **A History of Incentives-based Regimes**

Incentives-based regimes have appeared at several stages of history in different guises. A detailed privilege system was developed in the nineteenth century by the Superintendent of the Norfolk Island Penal Colony, Alexander Maconochie and was taken over practically intact for use in penal servitude in England and Wales. Known as the 'Marks System', Maconochie's three-stage system allowed prisoners to progress from a base-line of extreme deprivation and solitary confinement to improved conditions with day time association and finally to supervised release, through good behaviour and hard work. Each stage originally lasted for nine months. This 'Marks System' was greatly admired at the time by Edmund du Cane, Chairman of the Prison Commission, and was highly influential in prison reform in Europe and United States until mid-way through this century. It was, however, later criticised for becoming 'mechanical' as prisoners were routinely awarded marks to progress to superior stages unless they engaged in forms of extreme misconduct.

In 1949, a 'revised stage system' was introduced into the adult estate that rejected much of Maconochie's original framework. The marks system was abandoned 'having long become a piece of labour-wasting routine which served no perceptible purpose: in practice every prisoner was automatically credited with the necessary marks for both remission and stage unless he had forfeited them by idleness or misconduct' (Fox, 1952).

Despite changes to Maconochie's system, a system of stages was retained in local prisons in which inmates were designated as 'Star' prisoners or 'Ordinaries'. In this revised system, 'Stars' or first offenders were put in stage after a month's 'quarantine', during which time it was determined whether or not the prisoner could be trusted in the 'fairly full association' which 'Stars' were allowed. 'Ordinaries' were usually prisoners facing longer sentences, and they were kept out of stage for the first four months in order to distinguish between those 'ordinaries' who were chronic recidivists and those who were not. 'Ordinaries' were allowed less association than 'Stars' and were only allowed to come out of their cells in the evenings after 12 months in stage. Chronic recidivists were excluded from all incentives (Fox, 1952: 150-151). No mark or stage system existed in training prisons. In long-term prisons,

prisoners were automatically given all the privileges associated with the second stage of the system. They then could simply earn a gradual extension of the periods of association (Fox, 1952: 151). Education and 'what may broadly be termed social welfare' were not included within the stage system. Prisoners were allowed as much access to these as possible, because of a belief in their beneficial effects (Fox, 1952: 151).

The Borstal system is perhaps the best known incentives-based approach to prison regimes and lasted from 1906 to 1982, beginning from militaristic notions of discipline and hard labour and gradually developing into the 'pinnacle of penal reform' based on ideals of treatment and training remembered by many in the Prison Service to date. Experimental Borstal regimes were evaluated by psychologists (eg, Hollesley Bay, Hewell Grange, Pollington) and a research team (eg, Dover) in the 1960's and 1970's and marginal improvements in prisoners' progress and behaviour were usually reported (see Williams, 1967; HM Prison Wormwood Scrubs, Psychology Department, 1971; Bottoms and McClintock, 1973). Incentives were intended to influence behaviour on release rather than behaviour in prison.

Since 1982, two significant Home Office Reports have considered incentives in some detail, with particular reference to the management of the long-term prison system. They are the May Committee Report (1979) and the CRC Report (1984). Sentence planning with agreed targets for individual prisoners were recommended as ways of overcoming the frustration of the long term prisoner population. In this context, incentives were linked to prisoner behaviour in custody.

### **The Aims and Objectives of an Incentives Approach**

The three main aims of an incentives approach are improved regime and prisoner performance, the development of more constructive regimes and the achievement of order. The clearest and most important aim around which all others can be hinged may be the achievement of order. Lord Justice Woolf argued that a sensitive system of incentives 'built into the prison system not tacked onto it' could be a successful mechanism of prison control because, 'those who have a high investment in the system are not likely to seek

to destroy it' (para. 14.23). However, he also warned that:

'A system of personal and minor incentives would be hard to administer fairly without fear of prejudice. It would put an additional burden on prison officers in trying to form nice judgements about who could have what privilege.' (Home Office, 1991: para. 14.42).

Woolf concluded that 'there should be a clear and established sense of progress through the prisoner's time in prison' but he also argued that any such system should be (and should be seen as) consistent and legitimate (that is, fair, humane and open) and should be based on clearly understood compacts, in which both prisoners and establishments acknowledge their respective obligations in return for additional facilities or good behaviour. Woolf argued that a justly treated prisoner will behave better. This is compatible with research on control in prison and also with psychological research on what makes people comply with the law (Tyler, 1990). Fair procedures are often more significant than specific outcomes in clients/prisoners' assessments of legal/prison staff/police actions (Ibid). Woolf also argued that a justly treated prisoner may be more likely to lead a 'law abiding and useful life after release'. The literature on control in prison reminds us that legitimate power has to be continually reproduced (and perhaps re-established) in the face of an often sceptical inmate population; and that willing co-operation is more likely to be forthcoming where the minutiae of prison life are perceived as just. The recent historical links between incentives and order are important and provide some exploration for the apparent (but significant) anomaly whereby long-term and 'difficult to manage' prisoners have access to 'the best' facilities.

The literature review *Control in Prison* (Ditchfield, 1990) pointed out that quantifiable/formal incentives are difficult to disentangle from other regime features such as the informal incentives of good staff-prisoner relationships, staff attitudes, trust, flexibility, etc. This point is confirmed by research reviewed in this report.

Small units in England and Scotland appear to be relatively successful at securing the willing co-operation of prisoners with histories of assaults and persistent 'trouble-making' and (sometimes) in reducing their levels of aggressive behaviour (cf. Bottomley, Liebling and Sparks, 1994). Some of the factors contributing to their 'remarkable

success' are: good facilities, positive staff-prisoner relationships, flexible regimes, small numbers, clear objectives, realistic targets, regular reviews and thorough sentence planning. Experience in Scotland validates the existence of a conflict between security classification/status and prisoner behaviour. There is some confusion over the question of access to facilities for well behaved but high risk prisoners. The publication *Opportunity and Responsibility* sets out the central tenets of the Scottish approach which include provision of a threshold quality of life and the provision of appropriate opportunities and privileges. It is important to differentiate between the provision of incentives on the one hand and the preservation of legal rights and the protection of facilities across the board.

Prisoners generally dislike transfers. The problem of unwelcome transfers – even where real incentives do exist – may be difficult to resolve but could be made less unattractive by effective throughcare systems between establishments. The difficulties of 'sending the right signals' to prisoners should not be underestimated. The creation of 'limited regime units' as a response to prisoner misbehaviour is more likely to be a short-term than a long-term solution to the problem of disorder. The creation of smaller living units with positive and legitimate regimes and with acceptable minimum standards is more likely to secure willing co-operation in the long term. Where prisoners can engage in the values of the regime, in addition to any utilitarian judgements they might make based on carrots and sticks, participation is more likely to be forthcoming. As Sparks and Bottoms (1995) conclude in a forthcoming paper on *Legitimacy and Order in Prison*, 'only legitimate social arrangements generate normative commitments towards compliance'.

The important question of the relationship between incentives and the use of sanction for misbehaviour requires careful consideration. Prisoners perceive the removal of facilities as a punishment. Safeguard and appeals procedures will be necessary.

### **Prisoners' Behaviour and Willingness to Cooperate**

There has been a growing convergence between sociological and psychological approaches to prisoner behaviour. An



incentives approach implies an explicit recognition of the significance of the environment in determining prisoner behaviour. Recent criminal career research suggests that prisoners (especially recidivist prisoners) are likely to demonstrate a broad range of difficult behaviour including aggression, impulsivity, failure to maintain close personal relationships, poor concentration, low empathy and poor abstract thinking. Such behaviour is rooted in a complex constellation of personal, family and social disadvantage. Prisoners may also have sound psychological reasons for not complying with the requirement of prison life. Prisoner sub-culture is likely to reinforce some of this resistance. Recent developments in work with adolescents in custody and with anti-bullying strategies demonstrate possibilities for creating a positive culture amongst prisoners in which it is 'OK' to comply. A study carried out in the US suggests that positive peer culture can be created using incentives approaches and that improvements in self-awareness and decision-making can be demonstrated (Vorrath and Brendtro, 1974). Prisoner motivation may be highly complex. Behaviour in prison may not be 'rational' and can be maladaptive. Prisoners will differ in their ability to successfully negotiate their environment. There may be increased problems of hopelessness, isolation and potential suicide risk if certain limited sorts of regimes are attempted. The need for autonomy, enhanced self-esteem, peer respect and discharge of unpleasant feelings will be intangible 'rewards' sought by many prisoners in addition to formal rewards and access to facilities. In this context, relationships with key (for example works) staff may be more significant to an individual than the particular job the prisoner is doing. Certain prisoners may be particularly susceptible to defining situations as hostile or rejecting. We know less about why prisoners conform. What we do know is that prisoners prefer certainty to uncertainty, consistency to inconsistency and clarity to the arbitrary operation of discretion (cp. Mathiesen, 1965). Too much discretion can lead to feelings of vulnerability and unfairness. This suggests that a balance needs to be struck between equality and consistency of treatment, rewards for good behaviour and individual need. Offering positive incentives may encourage constructive and cooperative behaviour, but some limitations are likely, particularly at the disincentives end and particularly if the incentives approach is isolated from other aspects of human behaviour.

### **The Application of Behaviour Modification Theory to Regimes**

The use of positive incentives, tokens, marks and points schemes occurs in many different ways in prison and is originally rooted in its purest form in behaviourist thinking. There is little evidence that such 'learning' persists beyond the institution in which it is applied. However, offering positive reinforcements can encourage prisoners to participate in programmes, some of which have beneficial effects (although this is difficult to measure). The success of such programmes depends on the availability and training of committed staff. Prisoners may benefit most from encouragement to participate in activities they are already good at (such as car-related courses) and which have direct relevance to their crimes and to the communities to which they will return. However, there is a relationship between voluntaristic participation and 'success'. Prisoners may perceive such schemes as manipulative.

### **The Impact of Difference for the Incentives Approach**

Any regime development should take account of the needs of specific groups of prisoners. The complexity and diversity of the prison population needs to be balanced against the need for a generalised and systematic scheme of incentives. Special groups include prisoners under 21, women, remand prisoners, ethnic minorities, vulnerable prisoners, long term prisoners, the mentally ill and poor copers/suicide risks. The significance of peer influence and the increased incidence of bullying amongst young offenders suggests that specific schemes may be required for this age-group. Distinctive 'belief rules' relating to hierarchies, the development of identity, resistance to staff, the prominence of short-term goals and the importance of 'working the system', etc, may affect young prisoners' behaviour in particular. Extending the knowledge base of staff (for example using the training package *Working with Adolescents in Custody*) will be an important step in clarifying the principles upon which any regime is based (Lyon 1994; Waplington 1994). Prisoners on remand constitute the fastest growing prisoner group and have special requirements and restrictions relating to their status and the relative disadvantage vis-à-vis work availability, etc. Despite being a complex and transitory population, they

constitute a key group to engage constructively in regimes; their needs and priorities may be distinct from those of sentenced prisoners. They have a special legal status. There is some evidence that prisoners from ethnic minority groups have different relationships with staff (higher levels of mistrust) and that cultural differences should be taken into account in assumptions made about what prisoners may value most in terms of facilities. It is important to guard against any perception of the discriminatory use of direction in incentives by minority groups. Women prisoners differ in significant ways from male prisoners. A higher proportion will be short sentence and first time offenders, more women will be the sole caretaker of their children and the geographical locations and regimes of women's prisons are different. The personal, educational and employment needs of women are likely to be distinct, and the problems facing them both in the past and during custody are different.

Prisoners who are at risk of suicide or who do not cope well with imprisonment are less likely to have resources or motivation to engage in activities and may require special support or encouragement. Other special groups can be identified and these differences suggest incentive-based schemes may need to have different purposes and approaches and that a single regime will rarely be adequate for all.

### **Activities and Regimes**

There is a need (which has been identified in several different reports) both to provide meaningful regimes and to encourage take-up of activities on offer. At present, there is a lack of consistency and a lack of any coherent framework supporting good practice. It is significant that offenders, when in the community, are unlikely to be involved in work, education or sport and that their lifestyle in the community may be reflected in their prison lives. Some prisoners prefer solitude to the demands of socialising with their peers. Clustering of establishments may be one way of enhancing provision and opportunities within areas. There is very little research available on the impact of different regimes on prisoner behaviour. The 'Tougher Regime in Detention Centres' experiment (Thornton et al, 1984) and the analogous 'Shock Incarceration' and 'Boot Camp' studies in the US focus on reconviction rates

(Benekos, 1991). The opportunity to participate in constructive work whilst in prison is of value to prisoners, but its use as an incentive may depend upon the provision of a greater range and better type of work with appropriate pay schemes. Education is clearly an essential activity which is valued by prisoners and which can be of great benefit to them, particularly where it is individual-centred and where it can be responsive to the wide range of needs prisoners have. Woolf argued that education should be of equal standing to work within the activities of prison. Other important components of active regimes include physical education, the work of the Chaplaincy, structured association and group-work. It is important for establishments to carry out their own surveys of the 'unemployed' population with their own establishments as research suggests that prisoners can be encouraged to become more involved in activities and the reasons for their under-involvement, which are often practical, can usually be overcome.

### **Incentives and Privileges**

A systematic account of prisoners' preferences and the extension of the current range of privileges to well-behaved prisoners may contribute to the enhancement of regimes and the improvement of the prison experience. On the other hand there is potential conflict between the provision of facilities according to need, the requirements of justice, and reward for good behaviour. This is particularly true of family contact (geographical location, home leave, visits, telephones, etc.). Other aspects of prison regimes highly valued by prisoners include pay and private cash, kit, clothes, canteen, hours out of the cell and staff-prisoner relationships. There is some evidence (for example in the National Prison Survey and in local evaluations) that reactions to potential rewards and punishments are shaped by race, age and gender (Walmsley et al, 1992). Research suggests that prisoners' subjective perceptions of various privileges may vary over time and according to their status and that quality as well as the quantity of visits are important. Views tend to be shaped by the nature of the whole regime rather than being dependent on single variables. Most prisoners would like to see more and better quality work, training and education provided. Transfers are not popular. The 'own clothes'

trials showed overall positive results in relation to staff-prisoner relationships. A recent study of community service orders (McIvor, 1992) shows that motivation to participate in activities is complex and is not only self-interested. The significance of meaningful contact with others both in the community and during work is reported. The acquisition of skills, the quality of the work and the existence of a beneficial outcome to others were also important. The central significance of maintaining family contact throughout custody is demonstrated in a second major study (Sampson and Laub, 1993), which shows an important link between reoffending and the breakdown of family and community relationships during custody.

### **The Role of Staff in Incentives-based Regimes**

At the end of the day, nothing else that we can say will be as important as the general proposition that relations between staff and prisoners are at the heart of the whole prison system and that control and security and security flow from getting that relationship right. Prison cannot be run by coercion: they depend on staff having a firm, confident and humane approach that enables them to maintain close contact with prisoners without abrasive confrontation (Home Office, 1984: para. 16).

Prisons may be run by coercion, but for important reasons, this has been demonstrated to be ineffective (cp. Sykes, 1958). Once a decision has been made to promote activity and socialisation, significant demands are made on staff and social life in prison becomes highly complex (Sparks, Hay and Bottoms, forthcoming). Staff have to manage this complex social world. The commitment, training and support of staff is crucial to the sustained success of any incentives-based approach. Clear guidelines and objectives with specific targets are essential. Examples of 'outstanding' establishments where staff are highly motivated are given. In such establishments, staff have a high level of involvement and discretion, clear management support and high levels of consultation. Staff may require assistance with the development of an appropriate response to prisoners who do not co-operate with apparently generous regimes. Such a response can cause sudden drop in staff morale, particularly where efforts are being made to engage prisoners and to offer rewards (which quickly become seen as

'rights'). High morale, positive attitudes towards prisoners, staff who were using their full potential and career planning for officers were found at the best establishments. There are dangers in the development of 'limited regimes' of the 'wrong' staff being attracted to working in these areas. Staff continuity (including continuity of governor grades) and personal officer schemes are two key components in securing 'right relationships'. Staff may need further guidance on 'boundaries' where experimental regimes are being introduced. Staff eagerness to be 'the best' makes it difficult to 'hold back' where they are not working in the wing where the best facilities are awarded. A historical legacy of low esteem for prison officers and low expectations from them sometimes leaves them lacking confidence and lacking avenues through which their contributions can be recognised. Relationships between staff and prisoners are crucial. The five key concepts identified by Pilling (respect, fairness, individuality, care and openness) are important. Pilling argued: 'a well ordered and safe environment is still characterised by open, relaxed relationships of mutual respect between staff and prisoners'.

Factors which are significant in motivating staff to encourage prisoners to engage constructively in regimes are: having a committed and integrated senior management team, encouraging staff to work in areas they would like to work in, staff empowerment and rewards for staff. Destructive staff attitudes in particular areas may need to be addressed. Hardened and intransigent attitudes may develop where staff are under stress or undervalued, where they perceive a conflict between their various security and other responsibilities, and where they feel under-trained. Necessary ingredients to positive attitudes found in evaluations of regimes were clear aims, a proper induction process for staff into establishments, high expectations and the presumption of an active role to be played by staff in the life of the prison.

### **Problems with an Incentives Approach**

There are legal, practical and theoretical problems to be addressed in the development of incentives-based regimes. Legal issues including the use of discretion, appeals procedures, etc, are being addressed separately by the Special Project team. Practical problems include the achievement of

consistency, monitoring, achieving uniformity of aims and practice between management and staff, and then between staff groups, and the problems of how to manage the use of 'limited regimes' at the disincentives end of such a scheme. There is a problem of staff discretion where 'good behaviour' is not clearly defined and understood. A significant theoretical problem is the underlying rational choice model of prisoner behaviour upon which an incentives approach is based. Much of the evidence reviewed in the report suggests that this is of limited application, particularly amongst some groups of prisoners. Research on crime suggests that the rational choice model may oversimplify the cognitive process behind criminality (Decker and Wright, 1994), although the reward component of such a model may have some effect. Behaviour may be influenced by expensive and reactive as well as instrumental goals and by needs as well as wishes. It is important to build in to incentives approaches particularly to evaluations, some account of prisoners' subjective perceptions of the various facilities provided. Research suggests that prisoners' choices may be structured by opportunities, incentives, the values underpinning a regime, relationships with staff and by an 'energetic policy of assisting them with the solution of pressing personal problems' (Clark, 1986).

### **Conclusion**

In conclusion, the report shows that incentives have been tried before. On the whole, they have failed. They have been oversimplistic and their aims have been unclear. Certain aspects of an incentives approach may well contribute to the achievement of order in prison, if carefully introduced. Other Prison Service goals are then more likely to be met. Research shows that prisoners may react in ways more complex and less predictable than assumed by rational choice perspectives of human behaviour. For this and other reasons, incentives may have paradoxical and unexpected effects. An over-simple approach may backfire. Any incentives approach should have as its underlying and explicit guiding principles the values, goals and the 'vision' expressed in the Prison Service statement. It should be acceptable and reasonable to prisoners and staff. Its aims should be clear and its operation just. It should be predicated on an adequate understanding of prisoners behaviour and

motivation and it should aim to structure choices rather than determine them. A single blanket scheme cannot operate because prisoners are all different. A dialogue is needed where opinion and experience can be shared. This article is a first attempt to open up this field for debate ■

### **References**

- Benekos, Peter. (1991) **'Shock Incarceration: The Military Model in Corrections'** in Peter J. Benekos and Alida V. Merlow, (eds.), *Corrections: Dilemmas and Directions*, Cincinnati: Anderson Publishing Co. and Academy of Criminal Justice Sciences, Highland Heights KY.
- Bosworth, Mary and Liebling, Alison. (1994) **Incentives in Prison: A Review of the Literature**, Cambridge: Institute of Criminology.
- Bottomley, Keith, Liebling, Alison and Sparks, Richard. (1994) **An Evaluation of Barlinnie and Shotts Units**, Scottish Prison Service Occasional Paper No. 7, Edinburgh: Scottish Prison Service.
- Bottoms, Anthony E. and McClintock F. H. (1973) **Criminals Coming of Age: A Study of Institutional Adaptation in the Treatment of Adolescent Offenders**, Cambridge Studies in Criminology XXXII, (ed.), Sir Leon Radzinowicz, London: Heinemann.
- Clark, R. (1986) **'Rational Choice Theory and Prison Psychology'**, in McGurk, Barry, Thornton, David and Williams, Mark, (eds.), *Applying Psychology to Imprisonment*, HMSO: London.
- Ditchfield, John. (1991) **Control in Prisons: A Review of the Literature**, Home Office Research Study No. 118, London: HMSO.
- Fox, Sir Edward. (1952) **The English Prison and Borstal Systems**, London: Routledge and Kegan Paul Ltd.
- HM Prison Service, (1994), **HM Prison Service Corporate Plan 1994-1997**, London: HMSO.
- HM Prison Wormwood Scrubs, Psychology Department. (1971) **A Borstal Typology Study**, HMP Wormwood Scrubs.
- Home Office. (1979) **Committee of Inquiry into UK Prison Services**, (May Committee), London: HMSO, Cmnd 7673.
- Home Office. (1984) **Managing the Long-Term Prison System: The Report of the Control Review Committee**, London: HMSO.
- Home Office. (1991) **Prison Disturbances April 1990: Report of an Inquiry by the Rt. Hon Lord Justice Woolf and His Honour Judge Stephen Tumim**, (Woolf Report), London: HMSO, Cm 1456.
- Lyon, J. (1994) **Adolescents Who Offend: An Applied Research Project**, Paper presented at Conference of European Association for Research on Adolescents: Stockholm, Sweden.
- McIvor, Gill. (1992) **Sentence to Serve: The Operation and Impact of Community Service by Offenders**, Aldershot: Avebury.
- Mathiesen, Thomas. (1965) **The Defence of the Weak: A Sociological Study of a Norwegian Correctional Institution**, London: Tavistock Publications.
- Pilling, Joe. (1992) **Back to Basics: Relationships in the Prison Service**, Director General, Lecture to the ISTD, 11 June 1992.
- Sampson, Robert J. and Laub, John H. (1993) **Crime in the Making: Pathways and Turning Points Through Life**, Cambridge, Mass: Harvard University Press.



- Sparks, Richard and Bottoms, Anthony. (1994) **Legitimacy and Order in Prisons**, forthcoming in British Journal of Sociology.
- Sparks, Richard, Hay, Will and Bottoms, Anthony. **Prisons and the Problem of Order**, forthcoming.
- Sykes, Gresham. (1958) **Society of Captives: A Study of Maximum Security Prisons**, Princeton University Press.
- Thornton, David, Curran, Len, Grayson, David and Holloway, Vernon. (1984) **Tougher Regimes in Detention Centres: Report of an Evaluation by the Young Offender Psychology Unit**, London: HMSO.
- Tyler, Tom. (1990) **People Obey the Law**, New Haven: Yale University Press.
- Walmsley, Roy, Howard, Liz and White, Sheila. (1992) **The National Prison Survey 1991: Main Findings**, London: HMSO.
- Waplington, David. (1994) **'Understanding Adolescents as a Key Concept in Constructing a Regime for Young Offenders'**, Inside Psychology.
- Williams, Mark. (1967) **Some Results of the Controlled Introduction of a New Grading System in Holesley Bay Colony**, CP. Report 17.
- Wright, R. T. and Decker, S. H. (1994) **Burglars on the Job: Streetlife and Residential Break-in** Northeaston University Press: Boston.
- Vorrath, Harry, H., and Brendtro, Larry, K. (1974) **Positive Peer Culture**, New York: Aldine Pub. Co.
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We would like to thank Tony Bottoms, Nigel Hancock, Richard Sparks and Jonathan Steinberg for their helpful comments on an earlier draft of this summary article.
- Incentives Literature Review: 10 Main Findings**
- Incentives have been tried before. Historically, They have been linked to recidivism and not to prisoner behaviour in custody. Only in recent decades were incentives tied to (long term) prisoner behaviour.
  - Previous incentives schemes have failed because they were over-simplistic yet difficult to operate. Clear aims are essential.
  - The clearest and most important aim may be the achievement of order.
  - Incentives schemes should aim to structure choices and not to determine them. Research suggests that prisoners' choices may be structured by opportunities, incentives, the values underpinning a regime, relationships with staff and by an 'energetic policy of assisting them with the solution of pressing personal problems' (Clark, 1986).
  - Research shows that prisoners may react in ways more complex and less predictable than assumed by rational choice perspectives of human behaviour.
  - An over-simplistic incentives approach may have paradoxical and unexpected effects.
  - A single blanket scheme cannot operate because prisoners are all different. Key identifiable groups are under 21's, remands, women, ethnic minorities vulnerable prisoners, suicide risks, long termers and the mentally ill.
  - Under-involvement in regime activities can be tackled by staff. Unemployed prisoner populations should be targeted.
  - The 'whole regime' may be more significant to prisoners than single variables such as home leave.
  - Staff are crucial to the success of schemes and can be supported in their work with prisoners.

# GROUPWORK

a joint initiative between contracted-in mental health professionals and prison officers

Barbara Gilbert, Analytic Psychotherapist and Suzanne Branegan, Psychiatric Nurse, both work at the Kolvin Unit, the Department of Adolescent Psychiatry, Newcastle City Health NHS Trust.

This paper describes a groupwork pilot project carried out in HMRC Low Newton during summer 1994. The aim was twofold: to test the viability of joint working by contracted-in mental health professionals and prison staff, and to impart cognitive problem solving skills to self harming prisoners. Evaluation would suggest that there is scope for both these approaches in the future.

HMRC Low Newton accommodates young males as well as young and adult female prisoners on remand. The Health Care Team (H.C.T.) in the male wing is made up largely by hospital officers while the female wing H.C.T. is made up exclusively by

qualified general and psychiatric nurses. There are small in-patient facilities for each sex but there is no full-time nursing cover. In May 1993 a contract was agreed between the Prison Service and two local NHS Mental Health Trusts to provide mental health care for prisoners in HMP Durham, HMP Frankland and HMRC Low Newton. The aims of this contract were threefold:

1. To provide for prisoners in the Durham cluster the equivalent range and quality of mental health care services as is available to the general community.
2. To introduce a multi-disciplinary

approach to the delivery of mental health care services.

3. To secure within the constraints governing access to hospital beds the earliest transfer to hospital of mentally ill patients located inappropriately in prison.

A central feature of the thinking behind this contract was the risk of suicide and self harm amongst, in particular, the remand prison population. The mental health team for those prisoners under the age of 21 comes from the Kolvin Unit, the Department of Adolescent Forensic Psychiatry, Newcastle City Health NHS Trust. Those prisoners over the age of 21 are provided for by the Adult Forensic Psychiatry Departments of both NHS Trusts involved.

There was concern amongst both the prison staff and the staff of the Kolvin Unit at the amount of self-harming behaviour, in particular cutting, that was being committed by prisoners. Rather than continue to respond to crises we decided to be proactive and confront the problematic behaviour. We chose groupwork in preference to individual work because of what we knew about peer reinforcement of self harming behaviour. Self harm is used by some individuals to manipulate the behaviour of others so that a desired emotional reaction is obtained. The person wants to feel cared for and close to others but is unable to achieve this for a number of possible reasons. It might be that they lack the skills necessary to elicit an appropriate caring response, or that others are reluctant to provide affection, or that they feel unlovable. Their response is to self harm and the flurry of activity that this creates relieves feelings of loneliness and boredom and draws people closer. The peer group, and sometimes those in authority, identify with the self harmer as a victim and respond with warmth and affection. The fact that he is also the perpetrator and responsible for the harm is ignored. In the end we had to adapt the content of the groupwork so that a broader range of behaviours could be addressed. The principal selection criterion was that the person should not be expecting to be released during the lifetime of the group or otherwise be unavailable for any of the six sessions. In a remand prison this immediately reduced the number of possible members and if we had further restricted the group to those individuals actively self harming the numbers would have been too low to make groupwork viable. The female wing had at the time about 40 occupants and to ensure viability we ran

the women's groups over four rather than six weeks.

It was hoped that the groupwork would improve communications skills and reduce feelings of isolation. Specifically we aimed to challenge two beliefs: that action is needed to reduce tension and other unpleasant feelings, and that action is necessary in order to communicate feelings. We believe that action in the form of individually and outwardly directed aggression has several functions including:

- the communication of intense feelings, especially rage
- drawing people closer and avoiding feelings of abandonment
- the displacement of intolerable feelings such as sadness, frustration, guilt
- a means of getting out of a position of powerlessness into one of control
- the replacement of feelings of falling apart with feelings of togetherness.

The programme was designed to demonstrate that destructive acting out could be replaced by active thinking. To do this a space has to be created between the impulse to be destructive and the actual act. In the space created by alternative activities such as diary writing, artwork, exercise and so on, thinking can occur. Essentially it was an educational group focusing on problem solving skills and impulse control.

Motivating prisoners to join the group was left entirely in the hands of the hospital officers and nurses who were asked to select six prisoners for each group who fulfilled the selection criteria and whom they thought would benefit from a problem solving group. We specified that group members should be literate, able to work with others, willing to talk about their difficulties, available to attend all the sessions and that they should not be displaying extremes of behaviour. In the event we had to be flexible in the application of the criteria otherwise we could well have ended up without a group. The intention was that the group would be led jointly by two members of the mental health team and a member of the H.C.T. In practice only the male wing were able to release the same hospital officer for each session in the young men's group. A nurse was co-leader in three of the first six sessions in the women's group.

The co-leader in the second women's group was either a nurse or a wing officer. Sometimes both, sometimes neither. We hope that in the future, prison staff will be able to take over the running of the groups under ongoing support from the Kolvin Unit.

There was a high attendance rate in the young men's group with only one person missing one session. The programme was worked through as planned and all homework tasks were completed. Most of the young men did not know each other outside the group as they came from different wings in the prison including the Vulnerable Prisoner Unit (V.P.U.). They soon began to work together through identifying problems common to prisoners. No personal problems were discussed although all of them wanted the group to continue with a change of focus onto individual difficulties. This desire for greater intimacy was acted out when after the group had finished several of the young men self referred to the co-leaders for individual counselling. It was apparent that the young men were often ignorant of prison procedures and some problems were easily solved once they had the information. The women in both groups responded very differently from the young men. They came already knowing each other and with alliances and hostilities already in place. Their intense feelings of hopelessness and despair were projected into the co-leaders so that in the first group they were completely disabled from keeping the group to the task. The women talked constantly about their own life circumstances and were reluctant to think about common problems or acknowledge their part in any situations of conflict within the prison. The first group had only four members, and with so few, it is likely that the feelings generated were too intense for comfort and explains why only one person came to the last session.

This pilot project was a proactive intervention into a very sensitive area and was in keeping with the aims of 'equivalence' and 'multi-disciplinary working' established for the contracted-in mental health service. Joint working was achieved in that three group programmes were run with co-leaders from both services although the contribution to the women's group from prison staff was inconsistent due to detailing difficulties. If the groups continue to run as a joint venture, eventually prison staff will acquire new skills and be able to provide a wider range of activities for prisoners. Both services benefited from running the groups in that their profile was raised and prisoners saw them as sources

of help and support. We came to realise there is a need to educate the wider staff group on what the mental team can offer. The men's group was held in the prison chapel which was regarded as neutral territory and enabled the successful mixing of vulnerable prisoners (V.P.) and others. We believe there is value in combining these two groups of prisoners, for while they remain separate, non V.P. can deny the seriousness of their own offending behaviour. In prison there are limited opportunities for taking responsibility and making choices which can exacerbate feelings of helplessness. The groups provided opportunity for choice: the prisoners should choose whether to join or not, whether to attend to not, whether to do the homework and so on. Giving people choice in their life helps them to feel more in control and combats feelings of hopelessness and despair. It was evident that there is a lack of mutual understanding of the part feelings play in maintaining conflict. For example the women have difficulty in dealing with conflict between themselves as it threatens their safety in the peer group. Instead they provoke conflict with prison officers and force them to be punitive thus reinforcing their beliefs about authority figures. Some knowledge of these processes could lead to a greater understanding of the complex relationship between prisoner and prison officer and could be the focus of future work.

We still believe that problem solving is a valuable skill for prisoners but it was obvious that the women have other needs too. As individuals they need to have their intolerable feelings contained; we therefore plan to set up a drop-in service in the female wing to which prisoners can self refer. This could be a useful way of identifying and preparing individual women for joint groupwork in the future.

Therapeutic interventions of this type respond in a proactive manner to an identified need with the prison population. Much development and effort is required before it could be claimed that either the organisational issues associated with delivering the programme reliably or developing the optimum therapeutic model have been resolved satisfactorily. It is only then that more formal evaluation of programme effectiveness could be undertaken. We have a long way to go but we wished to share this modest beginning in the hope that others may develop similar intervention strategies ■

# MEDIA COVERAGE

## OF SEX OFFENDERS AFTER TRIAL

### Background

There is an enormous interest in the media reporting of sex crime. While it has been the staple diet of Britain's largest selling newspaper, the *News of the World*, within everyone's living memory, the more widespread interest in sex crime across all newspapers is of comparatively recent origin. In fact the focus on the reporting of rape trials by the daily tabloids was part of the massive circulation battle which commenced in the 1970s and which used trial descriptions as soft porn (Hay, Soothill and Walby 1980). *The Sun* and the *Daily Mirror* continue their fight to claim the highest national daily circulation with the use of sex crime as one of the major bludgeons to encourage readers to buy their newspapers. The so-called quality press also began to become more interested in the reporting of sex crime in the late 1970s as they began to attempt to go down-market to increase their circulation. Indeed, without sight of the actual newspaper, it would be difficult sometimes to guess which headlines come from *The Times* and which come from the other Murdoch newspaper, *The Sun*. In brief, lurid reports of sex crime are now in front of us all.

The reporting of rape trials has provided most of the focus of concern about the coverage of sex crime in the press. Largely the issues stem from the interactions which take place in court when - as members of the women's movement usefully remind (Lees 1993) - it often appears as though the rape victim is on trial. While some of the worst excesses of rape trials have been curtailed by legislation (eg, the Sexual Offences (Amendment) Act 1976 places some limitation upon disclosing the previous sexual experience of the complainant in court and provides some degree of anonymity in media reporting), the press still manages to titillate its readers by selective coverage (Soothill and Walby 1991).

Recently, however, a new study has found that in 1992 the numbers of rape trials

reported upon in national daily and Sunday newspapers has fallen quite dramatically. So, taking six newspapers (*The Sun*, *Daily Mirror*, *The Times*, *News of the World*, *Sunday People* and the (London) *Evening Standard*), these newspapers mentioned a total of 155 defendants in rape trials in 1978, a decline to 101 in 1985 and a further decline to 70 in 1992. This massive decline cannot be explained by a fall in the number of rape offenders coming before the courts, for there has been a steady rise - 396 (in 1978), 450 (in 1985) and 529 (in 1992). Also the decline cannot be explained by a fall of interest in matters sexual. Apart from the increase of interest in the sexual peccadilloes of politicians and royalty, sex crime itself still enjoys massive coverage. In brief, the traditional focus on rape trials has now shifted to other areas in the reporting of sex crime.

### New developments

In the mid-1980s it was evident that there was much more interest in 'the search', that is, prior to the capture and arrest of a sex offender, and 'the aftermath', that is, after the trial has been completed. With regard to the latter, there is concern when persons only tangentially connected with a spectacular case are encouraged to provide 'exclusives' to titillate readers. In the 1985 study this was dramatically demonstrated. For example, in the case of the serial rapist, Malcolm Fairley (known as 'The Fox'), newspapers sought out the previous victims of 'The Fox's' sex attacks. Relations of 'The Fox' who had innocently helped him in providing accommodation whilst attempting to find work were made newsworthy and had to share their suffering with millions.

The other massive shift has been the recent interest in sex crime from abroad (Soothill, in press). This is not unexpected as global communications develop, but sadly

*Keith Soothill is Professor of Social Research and Chris Grover is a postgraduate student in the Department of Applied Social Science, Lancaster University*



this is also a way that British editors can circumvent British legislation. All the publicity surrounding the rape victim in the Mike Tyson trial would not have been possible in a British case of this kind. Other types of cases, such as serial sex killing from all parts of the world, are used by the media to sell newspapers without much thought that they are contributing to a global fear of the phenomenon of serial killing (Soothill 1993).

### The aftermath

One of the developments identified in an earlier study (Soothill and Walby 1991) was the increasing fascination with certain sex offenders after they had been sentenced to terms of imprisonment or locked away in a secure hospital. While the vast majority of sex offenders are quietly forgotten, the exceptions are quite exceptional. Some are people who will be linked with their crimes throughout their lives and will be followed by the media at their every move. There are others of whom some notice is taken of them after sentence, but the interest then fades.

In 1985 sixteen newspapers (six national dailies, five national Sundays and five local evenings or weeklies) were monitored for the whole year to consider the amount of coverage sex offenders received when the immediate aftermath of the trial had ended. The differences were immense. During the sample year (1985) there were 151 items mentioning "The Moors Murderers" (Myra Hindley and Ian Brady) and 34 items

involving the Yorkshire Ripper. Apart from these offenders whose activities could provoke interest throughout the world, there were only three sex criminals serving a prison sentence who were mentioned on more than two occasions during the sample year. All were serving sentences for murder or manslaughter. Two (Colin Evans and Peter Pickering) were child sex killers and the third (Arthur Hutchinson) was a multiple murderer who raped the surviving daughter of the murdered couple. There were only a further seven cases mentioned in these newspapers involving sex criminals serving custodial sentences. Soothill and Walby (1991) describe the type of coverage which such criminals engender. Although the focus is quite circumscribed, it is quite evident that the coverage of a few offenders is quite immense.

In 1992 the study was repeated and it is these results which have now become available. The 1992 study focused for one complete year on nine newspapers (four national dailies - *The Sun*, *Daily Mirror*, *The Times* and *The Guardian*, one local evening - the (London) *Evening Standard* and four national Sundays - *News of the World*, *Sunday People*, *Sunday Mirror* and *The Observer*). While the sample of papers was smaller, it still involved the search of around 1600 newspapers.

Our earlier work perhaps over-emphasised the focus on cases where a custodial sentence was imposed. This is understandable for the scale of publicity relating to certain notorious cases is truly amazing. However, for the more recent study, we distinguish among those convicted between sex offenders who are awarded a custodial sentence, on the one hand, and those who were sentenced to a non-custodial sentence on the other. Separately, we consider those who were acquitted of a sex charge and discharged earlier from the judicial process.

Table I suggests that the coverage of sex criminals after their trial is quite extensive and convincingly demonstrates that all newspapers are interested in

TABLE 1: NO. OF CASES MENTIONED IN THE PRESS IN THE AFTERMATH OF SEX CRIMES

	CONVICTED CASES		ACQUITTED/ WARNING	MISC. CASES	TOTAL
	Custody no.	Non custodial/ now released no.			
<b>National dailies</b>	(n=33)	(n=30)	(n=6)	(n=9)	(n=78)
Sun	11	9	2	2	24
Daily Mirror	6	7	3	0	16
The Times	8	5	3	0	16
Guardian	11	4	3	2	20
<b>Sundays</b>					
Sunday Mirror	6	1	1	1	9
Sunday People	7	3	0	0	10
News of the World	3	8	1	3	15
Observer	4	0	1	0	5
<b>Local Evenings</b>					
(London) Evening Standard	4	1	1	3	9

Note: The 'miscellaneous' category includes cases where the offender is now dead, or where there was insufficient information in the reports to place the item within one of the other three categories.

the activities of sex criminals a After trial. However, of the total of 78 cases, only six cases attract the attention of four or more newspapers during the year. Of these six, five were serving custodial sentences.

### Serving a custodial sentence

In Table 2 we have compared the coverage in 1985 and 1992 in the same set of nine newspapers. The similarities between the two years are quite remarkable. In 1985 there were only six imprisoned sex criminals who were mentioned on more than two occasions throughout the year. In 1992 there were just five such cases (involving six persons) and three of these persons (Sutcliffe, Hindley, and Brady) appeared in both 1985 and 1992. On this occasion the Yorkshire Ripper with 35 mentions had many more during 1992 than the Moors Murderers who had just 15 mentions in these newspapers. Another serial killer, Dennis Nilsen, entered the frame with four mentions, but the exception to the rule that only serial sex killers or child sex killers are the ones which maintain media attention while in custody is Paul Taylor who had 23 mentions during the year - only surpassed by Peter Sutcliffe ('The Yorkshire Ripper'). Taylor who was serving a prison sentence for a sex offence was heavily featured owing to his crucial role in the Strangeways riot. Similarly, Winston Thomas was a most unusual case. Convicted for rape in 1989, he was sent to Rampton Hospital after convincing psychiatrists that he was insane. The press mentions relate to him being charged with perverting the course of justice as he was said to have been faking his mental illness at his initial trial. Thomas provides an example of a curious case which would soon be remembered more by psychiatrists than the populace. Among those imprisoned, it is the news of the serial or child killer who retains the marketing

value to sell newspapers.

Table 2 further demonstrates that all newspapers - the quality press as much as the popular tabloids - are interested in these notorious sex criminals. What becomes particularly evident is the interest shown by the popular Sundays in such cases. The number of cases covered by the Sundays is quite disproportionate when one recognises that these newspapers only appear once a week.

### Continuing to serve

Of the remainder involved in sex crime in some way, there was only one case which attracted the attention of four or more sample newspapers during the year. This was the case of the disgraced Director of Public Prosecutions, Alan Green. At least seven of the nine sample newspapers mentioned this case which - although it never reached the courts - had sad consequences which continued to be recorded by the press throughout the following year. His wife's suicide probably linked with his downfall provides further evidence of a distressing outcome. Green's prominence ensured the continuation of the media spotlight, but perhaps this type of outcome may be more typical of some of these sad cases which are highlighted by the press than we know about. However, by the time the further sadness

TABLE 2: SEX CRIMINALS SERVING CUSTODIAL SENTENCES MENTIONED IN THE PRESS IN 1992

	Yorkshire Ripper	Paul Taylor	Moors Murderer	Winston Thomas	Dennis Nilsen	All others	Total No.	%
<b>National dailies</b>								
Sun	9	5	5	0	1	7	27	22.3
Daily Mirror	4	3	5	1	1	1	15	12.4
The Times	3	6	0	2	0	5	16	13.2
Guardian	4	8	0	2	0	9	23	19.0
<b>Sundays</b>								
Sunday Mirror	4	0	0	0	1	4	9	7.4
Sunday People	4	0	2	0	1	4	11	9.1
News of the World	3	0	3	0	0	2	8	6.6
Observer	0	0	0	0	0	4	4	3.3
<b>Local evenings</b>								
(London) Evening Standard	4	1	0	2	0	1	8	6.6
Total No.	35	23	15	7	4	37	121	100
Total %	28.9	19.0	12.4	3.3	5.8	30.6	100	
<b>1985 Study</b>								
TOTAL No.	18	n/a	81	n/a	n/a	33	132	
TOTAL %	13.6	n/a	61.4	n/a	n/a	25.0	100	

Note: The above table does not include cases going to appeal.

happens, the spotlight has moved on.

At worst Green was suspected of a consensual sexual offence, but the outcome of this case seems personally devastating. The implied outrage was on account of his public position, but the underlying titillation was moral voyeurism. More usually, the *Sundays*, and in particular the *News of the World*, seem to take on the role of moral protector. This means taking on the role of 'protecting the public', especially children, from people who have previously been sentenced as sex offenders. In a number of exclusives the *News of the World* revealed that former sex offenders were working with children. For example, it reported, WIBBLY-WOBBLY SECRET OF WICKED MR JOLLY (3 May 1992) which concerned an ex offender who was working with children as an entertainer. Reporting included comments from parents of children who had seen one of his shows after being told of his previous convictions. A week later (10 May 1992) it was reported that he had been sacked. It appears that the moral crusade of ridding former sex offenders from employment had been accomplished. Similarly, in another case involving a teacher who had a conviction for sexually assaulting a 15-year-old boy, the *News of the World* smugly reported that 'he has now been sacked by the agency, [name of agency stated.] after the *News of the World* alerted them'. It is a fine line between reporting abuse and disabling persons who are trying to re-establish themselves in employment.

### **Media coverage of sex offenders after trial**

While there is a fairly even split between some mention of sex offenders serving custodial sentences and other types of disposal, there are in reality only about half a dozen cases a year which get extensive coverage in any one year. However, just one insensitive disclosure can, of course, still do enormous damage. However, the coverage of the notorious cases, almost invariably serving life sentences for serial or child sex killing, just makes the quiet containment of these individuals that much more difficult. Newspapers have a titillating role and help to feed the political agenda of the law and order lobby. The press coverage of incarcerated sex criminals helps to create the impression that sex crime is a narrow band of activity committed by a narrow band of offenders. Long sentences are seen as the most

appropriate way of dealing with the problem, since this apparently removes the few dangerous men from the streets and acts as a deterrent to others. The massive focus on certain imprisoned offenders encourages a sense of security that the evil is being effectively dealt with.

In contrast, the coverage of former sex offenders who are not in prison is rarely extensive but is always potentially damaging for an ex-offender who is genuinely trying to rehabilitate. There are clear dangers of complacency, however, and the issue of disclosure of previous sex offences involved in caring positions is a very real one. Nevertheless, sex offenders and those trying to assist them must sometimes feel trapped by the type of media exposure which could come their way. Sadly, there is little to suggest that the popular newspapers are willing to go beyond the simplistic notion that sex offenders are unemployable.

The coverage of sex offenders after trial portrayed by the media is a straightforward one. The message is clear. Sex offenders within prison (exemplified by the most grotesque of cases) should never be allowed out and sex offenders not in prison should never be allowed into work. Curiously, there is never any consideration as to whether this type of approach is likely to have a significant impact on the extent of sex crimes. Certainly the media coverage of sex offenders provides a message which has little to encourage those who genuinely wish to put the past behind them ■

### **REFERENCES**

- Hay, A. Soothill, K. and Walby, S. (1980) 'Seducing the Public by Rape Reports' *New Society*, 53 (924), 214-215.
- Lees, S. (1993) 'Judicial Rape', *Women's Studies Int. Forum*, Jan.
- Soothill, K. (1991) 'The Changing Face of Rape' *British Journal of Criminology*, 31, 4, 383-392.
- Soothill, K. (1993) 'The Serial Killer Industry' *Journal of Forensic Psychiatry*, 4, 2, 343 - 354.
- Soothill, K. (In press) 'Sex Crime News from Abroad,' *British Criminology Conference Papers* (first presented in Cardiff in July 1993).
- Soothill, K. and Walby, S. (1991) 'Sex Crime in the News' London: Routledge.

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# Reviews

# BOOKS

## Punishing Criminals: developing community-based intermediate sanctions

By Malcolm Davies, Greenwood Press; Westport, Connecticut 1993

The publication of the White Paper 'Crime, Justice and Protecting the Public' in 1990 heralded a new sentencing framework for the criminal justice system in England and Wales. Most of these proposals were subsequently incorporated into the Criminal Justice Act 1991. The White Paper set out the prime objective for all sentencing as denunciation and retribution. Public protection, reparation and individual reform were seen as secondary aims, the latter two seen more appropriately to take place in the community. Deterrence was rejected as an unrealistic basis for sentencing. The principle of 'just desserts' (sic) was explicitly endorsed, with the severity of sentences to more sharply match the seriousness of the crime. Community disposals were seen as 'real' punishments in their own right, involving graduated restriction of liberty. Greater flexibility to combine Probation, Attendance and Community Service Orders was introduced as well as a new Curfew Order. It was hoped more non-violent offenders would be punished in the community.

Those familiar with this particular landscape will recognise many of the same landmarks in 'Punishing Criminals'. There are differences, however, Malcolm Davies arguments are somewhat more complex and his emphasis is very firmly focussed on the community's response to crime. He stresses the importance of considering not only the impact on the individual offender but also that on the audience and consumer of criminal justice – the general public. He discusses the role of criminal procedures in defining morality and the importance of public confidence and credibility in sanctions awarded. He explains how a primarily denunciatory-retributive justification of punishment with a rationale that gives priority to the community and its protection is most likely to establish public confidence in the multiple purposes of punishment.

Another difference from the White Paper is the context. Malcolm Davies is a Professor of Psychology who had worked in California since 1982. The book draws on his research there including two empirical studies with local criminal justice officials. The book does assume a certain familiarisation with the California and American justice systems. Some aspects of California detail may be of little direct interest to the UK reader, although the overall parallels are very self evident. American spelling is used throughout,

although unlike Home Office mandarins the author does manage to get 'just deserts' right.

The author describes his aims as 'identifying and describing a credible and feasible form of intermediate punishment'. However, four of the five chapters are in fact an elegant analysis of criminal justice policy more generally. He leads us through a historical tour of policy. Firstly, he charts the rise and fall of Rehabilitation-Determinism up to the 60s. (From 1944 to 1976 California had a wholly indeterminate sentencing system.)

Then we get the 'nothing works' and 'return to justice' ethos of the 70s. This is followed by the 'get tough on crime' and costly prison expansion of the 80s, together with the associated politicisation of 'law'n'order' issues and the ad hoc numbers-driven nature of decisions. Such expansion was the subject of a survey by the author in 1988. He commends a systems approach that links decision-making and resources. Finally, he takes us to the penological limbo of the 90s and the emerging more balanced and less ambitious view of the multiple purposes of the criminal justice system and the priorities within these. In California this period was associated with the publication of the Blue Ribbon Commission Report on Inmate Population Management. Despite its title, this provided a broad vision of a justice system out of balance after a decade of rapid and unplanned expansion. The most significant recommendation was to expand the use of community based 'intermediate' sanctions.

In line with the community focus, it is argued that the public must have confidence in any proposed penal reform. They must be communicated with and consulted, although 'filters' are required between the public's subjective concerns and the determination of policy because of the need for balanced systems knowledge and expertise and the dangers of ad hoc lobbying of public opinion. A sentencing commission is seen as one way of achieving this, although this has been rejected in both California and the UK. Consultation also applies to justice professionals. The minimal implementation of curfews and electronic tagging here probably reflects a failure to appreciate the values of probation staff. Malcolm Davies advocates the use of 'focus' groups as a more qualitative, subtle and natural way of eliciting concerns on a narrowly defined topic. He used this technique in his 1990 study of criminal justice officials' views of the Blue Ribbon Report.

Previous community sanctions have been proposed and introduced as more humane and positive 'alternatives' to custody with a rehabilitative (as well as cost cutting) rationale.

These have widely been perceived as 'soft' compared with the 'hard' option of incarceration, in which the public have considerable confidence despite its many shortcomings. Probation (often effectively unsupervised in California) is seen as 'getting off'. As in the White Paper and the Blue Ribbon Report, the author envisages intermediate sanctions as punishments in their own right but secondary to, not interchangeable with imprisonment. They should be targeted at currently prison-bound property and drug offenders. He accepts some of the 'net widening' logic that predicts additional tariffs for some of those offender categories already receiving community penalties. However, this is seen as an inevitable, even desirable outcome of a more refined proportionality that fills the void between the binary probation/prison options of the past.

The results of the focus groups lead the author to suggest a form of intermediate sanctions that, firstly, satisfies retributive concerns, and, secondly, provides offender surveillance to assuage anxieties about criminal activities. Within this framework such sanctions could also involve a comprehensive range of services for lifestyle interventions with offenders, although this should not be the paramount aim and only a low level of success is envisaged with a consequential need for long term follow-up provisions. He sees a continuum of graded combinations of largely existing community sanctions whose form would be flexible at sentence and during a sentence. He stresses the need for coordination of resources and efforts between the various agencies involved.

This implies a dramatic shift in role for Probation Officers – from welfare-oriented casework to a more surveillance-oriented role. Any casework or programmes are seen as being run more appropriately by specialist counsellors in public or private practice. There are similar issues in this country. The intermediate approach described is also likely to be costly, even related to incarceration. There is a need to explore the notion of value for money in terms of the multiple purposes outlined and the public's confidence in these.

This book is not for the academically squeamish, and at just under £50 for about 150 pages the more frugal academics might consider recommending the book to their local librarian. However, it is a well structured text and although it covers often familiar issues these are convincingly brought together in a way that offers new perspectives.

**JOHN FISHER**  
Director of Psychological Services, HMP  
Full Sutton



## Conference

## Mentally Disordered Offenders

*G. Hughes is governor of HMP Drake Hall and this is a summary of the significant points coming out of a conference he attended with other professionals in the Criminal Justice System*

On 11 October 1994 I attended a Criminal Justice Conference on Mentally Disordered Offenders sponsored by the Staffordshire, Shropshire, Hereford and Worcester Area Criminal Justice Liaison Committee. Nearly 60 delegates met at Telford to hear presentations and to discuss how those agencies involved in dealing with mentally disordered offenders might develop closer links to better address the problem.

We heard from Professor Robert Buglass, Reaside Clinic, Birmingham how the Reed Report had given a new impetus in identifying needs and recommending provisions. Twelve to fifteen hundred medium secure beds were considered to be required with increases in forensic nurses and psychologists. Greater inter-agency co-operation was encouraged by the Report and it was evident that this was developing in the area. In the Midlands the first psychiatric bail hostel had been established in Birmingham, diversion schemes had been set up through the use of community psychiatric nurses in prisons, courts and police stations.

Graeme Sandell, NACRO, described projects in Merseyside, Birmingham and Kirklees to improve interagency co-operation. Early findings revealed that different agencies held different views on important issues - such as definitions of 'mentally disordered offenders'. It is important that aims and objectives of such groups are clarified before they are able to move on to effect change. Details of the projects may be obtained from the report entitled 'NACRO Diversion Initiative for Mentally Disordered Offenders: an Account and Evaluation' published jointly by NACRO, the Mental Health Foundation and the Home Office.

Professor Rod Griffiths, West Midlands Regional Health Authority, highlighted great changes in the structure of the Regional Health Authorities with more to come. In common with other services, performance measures and needs assessments would become increasingly important. More work needs to be done - much of which would have to involve other agencies. This is particularly true in deciding the level of provision, the financing and organisation for the mentally disordered.

Dai Curtis, Prison Service Area Manager gave a clear indication of the size of the problem of mentally disordered offenders in prison. Although the numbers of transfers from prison to hospital had increased from 137 in 1986 to 755 in 1993, a scheme at Winson Green Prison found that amongst a sample of 848 prisoners, 40.8 per cent had a mental health diagnosis. Mr Curtis said that this confirmed the findings of Professor Gunn that 37 per cent of the male prison population had a significant mental disorder. Initiatives are taking place in prison but should not be undertaken in isolation but in co-operation with other schemes working to divert such people to more appropriate forms of treatment.

Sue Henstock, Staffordshire Social Services, outlined how Staffordshire had set up a multi-agency working group in response to the Reed Review, the Ritchie Inquiry Report and Government guidelines as it had been identified that mentally disordered offenders often 'slipped through the net' or moved between agencies with little co-ordination. Staffordshire Social Services also appointed a Research and Development Officer to review the current situation and identify needs.

Diversion schemes have been

introduced as one tactic in the strategy. It had become clear that diversion could take place at a number of different stages in the prison and schemes are being modified accordingly. This can only be done through the involvement of all agencies.

Jane Foulkes, Probation Officer, and Kevin Farrington, Community Psychiatric Nurse, described the Hereford diversion scheme known as DAPA (Diversion of Point of Arrest). DAPA aimed to divert at the earliest possible opportunity by basing a community psychiatric nurse (CPN) at the local police station to screen those detained overnight and prior to change. Further assessments by specialists may also take place. Discussions between the Custody Sergeant and the CPN then take place about the mental state of the individual and the course of action to be taken. Diversion may also take place at a stage in the process.

Syndicate groups met to produce action points to develop co-ordinated policies for mentally disordered offenders. These included defining services needed and establishing consistency of provision, improving communications in a multi-agency approach and the development of the role of CPN in diversion schemes at different points in the criminal justice process.

David Blakey, Chief Constable West Mercia, in closing the conference said that changes in all agencies concerned made co-operation and co-ordination more difficult but that with the encouragement of the Area Criminal Justice Liaison Committee policies could be taken forward in a more cohesive way ■



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