

# PRISON SERVICE JOURNAL

November 2017 No 234



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The Editorial Board wishes to make clear that the views expressed by contributors are their own and do not necessarily reflect the official views or policies of the Prison Service.

Printed at HMP Leyhill on 115 gsm and 200 gsm Galerie Art Satin

Set in 10 on 13 pt Frutiger Light

Circulation approx 6,000

ISSN 0300-3558

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# Editorial Comment

Occasionally, academic research is criticised for expressing the blindingly obvious albeit obscured by convoluted language. These are criticisms that could not be levied against the lead article in this edition, Dr Laura Kelly's exploration of the experiences of d/Deaf prisoners. This sensitive and in depth study uses interviews with prisoners in order to reveal their experiences, bring their lives into view, and illuminate the often hidden barriers and harms they face. The study draws upon Deaf studies which proposes that deafness (without a capital letter) refers to a clinical condition where an individual experiences impairment to their hearing function that meets a medically defined criteria. In contrast, Deafness (with a capital letter) emphasises the cultural aspects, where an individual identifies as being part of a distinct minority group, comprised of people who are proud to be Deaf and share the same language, values and life experiences. This broader conception opens up the way for a richer, more nuanced and complete understanding of the experiences of this group. Dr Kelly reveals that it is unclear how many people in prisons are d/Deaf. Estimates range from 400 to 1600. The interviews and analysis does help to understand the challenges of being d/Deaf in prison and how the lack of good quality adjustments, technology and equipment mean that individuals can become isolated. Some attempts have been made to alleviate these issues but there remain significant economic and cultural barriers to change. This article is a significant and important contribution that deserves to be read by those who are involved in prisons. There is much food for thought and reflection as well as sensible recommendations for how the situation can be improved.

Alan Hammill, Jane Ogden and Emily Glorney, in their article, report on a study about prisoner involvement in the illicit economy, that is trade that is forbidden by law or by prison rules, including canteen items, drugs, psychoactive substances, prescribed medications, alcohol and mobile phones and services such as money lending and gambling. They particularly focus on those who are vulnerable to becoming embroiled in the illicit economy. This uses research on consumer debt and identifies those who prisoners who are eager to please, easily led astray, impulsive or lacking self-control. This study proposes a quantitative scale to evaluate this, which may offer a tool for better understanding individuals and the composition of the

illicit economy in prisons. This is an article that has relevance to violence reduction and safer custody strategies in prisons.

The experience of military veterans has gained much greater attention in recent years, including those who have been involved in the criminal justice system. Katherine Albertson, James Banks and Emma Murray contribute a provocative article that attempts to offer a fresh perspective. They attempt to avoid the polemic that can often accompany debates about veterans, arguing that 'Ultimately, this cohort, not wholly heroes, victims or villains, have a right to a balanced and sensitive approach to the development of services suited to identifying, assessing and managing their needs'. They suggest that transitioning from military service to the community can be a difficult and painful process and that veterans experience multi-faceted disadvantages and exclusion. They also argued that veteran identity is deeply embedded and enduring. Taking these elements of identity and social justice, the authors argue that the experience of veterans should be encompassed within diversity and equalities practices.

The final article brings together a practitioner and a researcher: BBC reporter and producer Siobhann Tighe and Dr Victoria Knight of De Montfort University, Leicester. In this they draw upon a range of international examples of how radio has been used to build connections between prisons and the community and to deepen understanding. This contribution expands the media that have been the focus on criminological attention and identifies an important means of creating public discourse.

This edition also includes an interview with Chief Inspector of Prisons, Peter Clarke. In this, he discusses the current state of prisons in England and Wales and the distinctive contribution of the inspectorate in promoting good practice and reducing harm. The interview also ranges across recent and upcoming changes to the inspection process including strengthening intervention in the worst situations.

As ever, *Prison Service Journal* covers both current issues and more enduring, intractable challenges within the criminal justice system. *PSJ* attempts to examine those issues from both a theoretical perspective but also with proper attention to the reality of the everyday experiences of those who live and work in prisons.

# Suffering in Silence: The unmet needs of d/Deaf prisoners

*Dr Laura Kelly is a Lecturer in Criminology at the University of Central Lancashire.*

## What is d/Deafness?

**For many, deafness is seen as simply being an inability to hear; a misfortunate affliction making 'normal' life difficult.<sup>1</sup> However, in reality defining d/Deafness is much more complex than this, with medical conceptions of deafness differing significantly from those which are cultural. Medical definitions look at deafness as an impairment, measuring the level of such impairment on a spectrum according to the quietest sound that an individual is able to hear.<sup>2</sup> The extent to which a person is medically deaf varies significantly from those whose hearing is only slightly impaired, to individuals who are hard of hearing (HoH), and finally to those who are severely deaf. For the purposes of this article, HoH refers to individuals with mild to moderate hearing loss who may have difficulty following speech without the use of hearing aids, and severely deaf includes those who have little or no functional hearing, who usually need to rely on lip reading even with hearing aids.<sup>3</sup>**

In contrast to this, cultural definitions of d/Deafness focus on identity, and the way in which an individual identifies with their d/Deafness. Cultural understandings of d/Deafness have been discussed at length in the field of Deaf studies, where scholars differentiate between

differing identifications using either a 'd' or a 'D', in line with a convention proposed by James Woodward in 1972,<sup>4</sup> and developed by Carol Padden in 1980.<sup>5</sup> In accordance with this, Deaf refers to individuals who identify as being part of a culturally distinct minority group, who commonly use British Sign Language (BSL) to communicate.<sup>6</sup> These individuals are seen as being part of the Deaf Community, which is comprised of people who are proud to be Deaf and share the same language, values and life experiences.<sup>7</sup> Exposure to Deaf life has been shown to reveal to individuals that it is possible to live full lives without sound, and to introduce them to visual and tactile ways of behaving, including using touch to express warmth and friendliness, and for getting people's attention.<sup>8</sup> In contrast, in terms of those who are HoH/deaf, but not Deaf, these individuals are commonly shown to view their deafness negatively and to feel stigmatised by it.<sup>9</sup> Consequently, common responses are either to attempt to conceal it and to 'pass' as hearing, or to correct it with hearing aids.<sup>10</sup>

Irrespective of identity, d/Deaf individuals often require access to specialised equipment that can help them to live without sound during their day-to-day lives in the hearing world. Such equipment includes vibrating alarm clocks, flashing fire alarms, minicomms,<sup>11</sup> hearing aids and hearing loop systems.<sup>12</sup> Additionally, Deaf individuals usually require access to BSL

1. Lane, H. Hoffmeister, R. Bahan, B. (1996) *A Journey into the Deaf World*, San Diego: Dawn Sign Press.
2. Action on Hearing Loss (N.D) Definitions of Deafness [online] [Accessed on 19th June 2017] Available at: <https://www.actiononhearingloss.org.uk/your-hearing/about-deafness-and-hearing-loss/definitions-of-deafness.aspx>.
3. Action on Hearing Loss (2015) *About deafness and hearing loss—Statistics* [Online] [Accessed on 7th July 2016] Available at: <https://www.actiononhearingloss.org.uk/your-hearing/about-deafness-and-hearing-loss/statistics.aspx>.
4. Woodward, J. (1972) 'Implications for sociolinguistic research among the Deaf', *Sign Language Studies*, 1: pp 1–7.
5. Padden, C. (1980) 'The Deaf Community and the Culture of Deaf People.' In Baker, C. & Battison, R. (eds.), *Sign Language and the Deaf Community: Essays in Honour of William*. Silver Spring MD: National Association of the Deaf. 89–104.
6. It must be acknowledged that an individual does not have to be severely deaf in order to identify as being part of this cultural and linguistic minority group. In contrast it is possible for somebody to be HoH, yet to identify as being Deaf, and for a severely deaf individual to have no conception of cultural Deafness.
7. Higgins, P. (2002) 'Outsiders in a Hearing World', in Gregory, S. and Hartley, G. (eds) *Constructing Deafness*, London: Pinter.
8. Leigh, I. W. (2009). *A Lens on Deaf Identities*. New York: Oxford University Press.
9. Higgins, P. (1980) *Outsiders in a Hearing World: A sociology of deafness*, London: Sage.
10. *ibid*.
11. A minicom is a telephone that uses written text as the mode of communication. It is also known as a text phone and has a keyboard attached, which enables text to be transmitted down the phone line. Minicomms can be used to communicate with other minicom users, and can also be used to communicate with a person who prefers to converse in spoken word. In the latter instance a text relay service must be used which transfers text in to spoken word, and vice versa (The National Deaf Children's Society (2016) Minicom [Online] [Accessed on 29th July 2016] Available at: [http://www.ndcs.org.uk/family\\_support/useful\\_links\\_and\\_organisations/glossary/minicom.html](http://www.ndcs.org.uk/family_support/useful_links_and_organisations/glossary/minicom.html)).
12. Hearing loop systems are a type of sound system used by people with hearing aids for the purpose of assisting them to hear in certain, often noisy environments. They consist of a physical wire that is placed around the perimeter of a particular environment, which produces a magnetic field that is picked up by hearing aids when they are on a particular setting. The signals emitted from the magnetic field are then transferred back into audio, which minimises unwanted background noise, and maximises the quality of the sound for the hearing aid user (Hearing Link (N.D) What is a hearing loop? [Online] [Accessed on 29th July 2016] Available at: <http://www.hearinglink.org/living/loops-equipment/hearing-loops/what-is-a-hearing-loop/>).

interpreters for everyday interactions with hearing people in contexts such as university, the workplace, hospitals and legal appointments.

### The prevalence of d/Deafness in the UK

Statistics show that over 11 million people in the United Kingdom have some form of hearing loss,<sup>13</sup> a figure which includes all those who sit anywhere on the spectrum of d/Deafness. Those classed as HoH make up the majority of this number, with approximately only 900,000 individuals in the United Kingdom being either severely deaf and/or culturally Deaf, and just 24,000 of those declaring that BSL is their preferred language.<sup>14</sup> This shows therefore that those who identify as being part of the Deaf community are indeed very much a minority group.

### The prevalence of d/Deafness in prisons in England and Wales

There is currently no official Ministry of Justice policy in place to make it obligatory for establishments to keep records of their numbers of HoH/d/Deaf prisoners.<sup>15</sup> Without this, it is difficult to know how many of these prisoners are currently serving custodial sentences in England and Wales. An official report published by Her Majesty's Inspectorate of Prisons (HMIP) in 2009<sup>16</sup> estimated that there were around 400 prisoners with some form of hearing loss in England and Wales. However, in correspondence from the National Offender Management Service (NOMS) as part of this research, it was advised that in August 2014, approximately 1600 prisoners had hearing difficulties.<sup>17</sup>

This figure was collated from the National Offender Management Information System (NOMIS) which is described as the 'Operational database used in prisons for the management of offenders'.<sup>18</sup>

During this research, NOMS advised that although the Prison Service has no legal obligation to record numbers of d/Deaf prisoners, many establishments use NOMIS to record figures of prisoners who self-declare as having disabilities (amongst other things). Access was given to figures from NOMIS for the purpose of sample recruitment, as in the context of d/Deafness, there is one relevant category on the system; 'Hearing Difficulties'. The broadness of this category immediately raised doubts about the competency of NOMIS as a recording mechanism for HoH/d/Deaf prisoner numbers, as the lack of differentiation between the different levels of d/Deafness makes it impossible to elucidate how many of this number are Deaf, deaf, or HoH. Furthermore, throughout the duration of the research it became clear that different establishments used NOMIS differently, and some did not use it at all, a point which raises doubts as to the accuracy of the figure provided by NOMS.

An initial aim of this research was to provide a more accurate estimation of d/Deaf prisoner numbers than previously available. In order to do this a letter requesting information was sent to every establishment in England and Wales. However, and despite a 70 per cent response rate from establishments, it soon became apparent that this would not be possible. Without a legal obligation or standardised recording mechanism, prisons were often unable to provide numbers of d/Deaf prisoners, and of those who could, their reliance on NOMIS, coupled with a lack of

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13. Action on Hearing Loss (2015) *About deafness and hearing loss—Statistics* [Online] [Accessed on 7th July 2016] Available at: <https://www.actiononhearingloss.org.uk/your-hearing/about-deafness-and-hearing-loss/statistics.aspx>.

14. *ibid.*

15. McCulloch, D. (2012) *Not Hearing Us: An exploration of the experience of deaf prisoners in English and Welsh prisons. A Report for the Howard League for Penal Reform*, London: The Howard League for Penal Reform.

16. HM Inspectorate of Prisons (2009) *Disabled Prisoners: A short thematic review on the care and support of prisoners with a disability*. London: HM Inspectorate of Prisons.

17. National Offender Management Service (2014a) RE: Deaf prisoners [personal email to lauramargaretkelly@gmail.com from National.Research@noms.gsi.gov.uk on 19th September 2014].

18. Ministry of Justice (N.D) *Prison National Offender Management Information System (p-NOMIS) and Inmate Information System (IIS)* [Online] [Accessed on 13th July, 2016] Available at: <https://data.gov.uk/dataset/prison-national-offender-management-information-system-p-nomis-and-inmate-information-system-ii>.

awareness of the complexity of d/Deafness, meant that there was commonly little/no differentiation between those who were HoH, deaf or indeed Deaf in the figures provided. This means therefore that there is still no clear idea of how many d/Deaf people are incarcerated in prisons in England and Wales.

### Existing literature

Prior to the completion of this study, available empirical research relating to the experiences of d/Deaf people in prison was limited. Of the literature that was available, most was anecdotal and very small scale, and was often based on either American prisons or accounts of ex-prisoners.<sup>19</sup> Numerous existing studies had another key flaw in that they failed to acknowledge the complexity of d/Deafness or to differentiate meaningfully between the experiences of *deaf* and *Deaf* prisoners.

Despite these limitations, findings from existing studies provided a useful indication of the position of d/Deaf prisoners within the prison world. Within such studies, there was absolute consensus that d/Deaf prisoners suffer disproportionately as a direct result of their d/Deafness, with communication barriers, resource issues and a lack of d/Deaf awareness being cited as key causes of this.<sup>20</sup> In consequence, research carried out in England and Wales has suggested that these issues show the Prison Service to be ill-equipped to meet the needs of d/Deaf prisoners.<sup>21</sup> In the most comprehensive empirical study about this cross-section of the prison population carried out as part of his MA, McCulloch takes this further, and argues that the treatment of d/Deaf people in prison equates to a violation of the Equality Act 2010.<sup>22</sup> For the purposes of clarity, the relevant elements of this legislation are discussed below.

The Equality Act 2010 is the primary legal framework in place to protect the rights of d/Deaf prisoners. It defines unlawful discrimination as treating someone worse than others because of a protected characteristic, and outlines nine of such characteristics. These include age, sexuality and disability, with the rights of those who are d/Deaf being protected under the characteristic of disability, which is defined as: 'A physical or mental impairment ... [that] has a substantial and long-term adverse effect on a person's ability to carry out normal day to day activities'.<sup>23</sup>

With regards to the conditions implemented by the Act, it stipulates that, as far as is reasonable, public services must make 'reasonable adjustments' to their service to ensure equality for all groups, and specifies that that such adjustments must be made for disabled people under three main circumstances.<sup>24</sup> The first where a service provider has a provision, policy or criterion that places a disabled person at a 'substantial disadvantage' in comparison to those who are not disabled, the second where a physical feature puts a disabled person at a substantial disadvantage in comparison to a non-disabled person, and finally:

*Where a disabled person would, but for the provision of an auxiliary aid, be put at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled, to take such steps as it is reasonable to have to take to provide the auxiliary aid*<sup>25</sup>

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19. For discussions on this see O'Rourke, S. and Reed, R. (2007) 'Deaf People and the Criminal Justice System' in, Austen, S. and Jeffery, D (eds). *Deafness and Challenging Behaviour: The 360 Perspective*, Chichester: John Wiley & Sons.
20. Ackerman, N (1998) *Deafness and Prisons—A Study of Services for Deaf Prisoners and the Experience of being Deaf within a Prison Environment* [An unpublished dissertation], Oxford: Oxford Brookes University
- Fisken, R. (1994) *The Deaf in Prison* (unpublished dissertation), Cambridge: University of Cambridge
- Gerrard, H. (2001) *Double Sentence*. Birmingham: BID
- Izzyck, A. and Gahir, M. (2007) *The Adverse Effects of Imprisonment on Deaf Prisoners' Mental Health: A Human Rights Perspective*. [Online] [Accessed 3rd April 2013] Available at: [www.britsoc.co.uk/NR/rdonlyres/8EA09898-A67A-4B68-91D6-BFC589345D9D/0/AdverseEffectsofImprisonment.ppt](http://www.britsoc.co.uk/NR/rdonlyres/8EA09898-A67A-4B68-91D6-BFC589345D9D/0/AdverseEffectsofImprisonment.ppt)
- McCulloch, D. (2010) *Not hearing us? A critical exploration of the current experiences of profoundly deaf prisoners in Anglo Welsh prisons*, (unpublished dissertation) Birmingham: Birmingham City University
- Gahir, M. O'Rourke, S. Monteiro, B. Reed, R. (2011) 'The Unmet Needs of Deaf Prisoners: A Survey of Prisons in England and Wales', *International Journal on Mental Health and Deafness*, 1(1)
- McCulloch, D. (2012) *Not Hearing Us: An exploration of the experience of deaf prisoners in English and Welsh prisons. A Report for the Howard League for Penal Reform*, London: The Howard League for Penal Reform
- Royal National Institute for the Deaf (1995) *Disabled Prisoners' Needs: The urgency of a policy response*. London: RNID.
21. Findings from a charity document produced by the British Deaf Association in 2016 after this research was completed provide further evidence of this (British Deaf Association (2016) *Throw away the key? How Britain's prisons don't rehabilitate Deaf people* [online] Accessed on 18/8/17, Available at: <https://bda.org.uk/wp-content/uploads/2017/03/BDA-Deaf-Prisoners-Report-2016.pdf>).
22. McCulloch, D. (2010) *Not hearing us? A critical exploration of the current experiences of profoundly deaf prisoners in Anglo Welsh prisons*, (unpublished dissertation) Birmingham: Birmingham City University.
- McCulloch, D. (2012) *Not Hearing Us: An exploration of the experience of deaf prisoners in English and Welsh prisons. A Report for the Howard League for Penal Reform*, London: The Howard League for Penal Reform.
23. Equality Act 2010. (c 15) [Online] [Accessed on 10th April 2013] Available at: <http://www.legislation.gov.uk/ukpga/2010/15/contents>.
24. *ibid.*
25. *ibid.*

In terms of the application of these principles to the Prison Service specifically, in 2011 a Prison Service Instruction (PSI) titled 'Ensuring Equality' was introduced which provided some further detail.<sup>26</sup> It states that governors must consider what prisoners with a disability might reasonably need and ensure that reasonable adjustments are made for them. The document stipulates that if an establishment is unable to make the necessary adjustments, then they must transfer such prisoners to another establishment in a timely fashion.<sup>27, 28</sup>

However, even with such clarifications the Act has been criticised for failing to provide a specific definition of what would be classed as 'reasonable'. McCulloch argues that this ambiguity is problematic because it gives service providers the power to interpret what is 'reasonable' based upon their own subjective perceptions, thus undermining their accountability.<sup>29</sup> In the context of the Prison Service, the aforementioned PSI attempts to provide some clarity by stating that 'a reasonable adjustment should enable a disabled prisoner to take full part in the normal life of the establishment'.<sup>30</sup> However, this is again problematic as it also goes on to say that 'The law does not specify what factors you should take into account when considering what is 'reasonable'. In the event of any legal action, reasonableness is determined by the courts on an individual basis'.<sup>31</sup>

### This study

The primary aim of this research was to provide a more rigorous and comprehensive account of the lives of d/Deaf prisoners in England and Wales than was already available. As part of this, meaningful consideration was given to the role of 'imported'

identity in prison, with the experiences of *deaf* and *Deaf* prisoners being examined separately. The research also further explored previous claims that d/Deaf prisoners suffer disproportionately in prison, and gave particular focus to McCulloch's (2012) claim that the Prison Service is failing to adhere to the legal duty imposed by the Equality Act 2010 in this particular context.

In order to address the research aims, an exploratory qualitative research design was utilised. As part of this, 27 semi-structured interviews were carried out across seven male prisons throughout England between December 2014 and May 2015. Ten of these were with staff members who had worked with d/Deaf prisoners, seven with culturally Deaf prisoners, five with severely deaf prisoners and five with HoH prisoners. In

addition to this, a further group interview was carried out with four culturally Deaf prisoners at HMP Bowdon,<sup>32</sup> and observations were made and recorded in a fieldwork journal at all of the establishments entered.

All interviews were recorded using a Dictaphone, and in instances where a participant's first language was BSL, a qualified interpreter was present. After the interviews were completed, they were transcribed with the aim of being as close to verbatim as possible. The transcriptions were then analysed using what is known as thematic analysis, which allowed for the organisation of large amounts of

raw data, and for the discovery of patterns that would have otherwise been difficult to detect.<sup>33</sup>

This research proved to be very complicated to undertake for numerous reasons, the first relating to the fact that there is no meaningful mechanism in place for recording d/Deaf prisoner numbers, as this made it difficult to locate appropriate research participants. In addition to this, further methodological complications arose as a result of the

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26. Ministry of Justice (2011) *Prison Service Instruction 32/2011 Ensuring Equality*. [Online] [Accessed 7th July 2016] Available at: <https://www.justice.gov.uk/offenders/psis/prison-service-instructions-2011>.

27. *ibid.*

28. However, the PSI also states that delays are acceptable in instances where the proposed receiving establishment cannot provide appropriate facilities.

29. McCulloch, D. (2010) *Not hearing us? A critical exploration of the current experiences of profoundly deaf prisoners in Anglo Welsh prisons*, (unpublished dissertation) Birmingham: Birmingham City University  
McCulloch, D. (2012) *Not Hearing Us: An exploration of the experience of deaf prisoners in English and Welsh prisons*. A Report for the Howard League for Penal Reform, London: The Howard League for Penal Reform.

30. Ministry of Justice (2011) *Prison Service Instruction 32/2011 Ensuring Equality*. [Online] [Accessed 7th July 2016] Available at: <https://www.justice.gov.uk/offenders/psis/prison-service-instructions-2011>.

31. *ibid.*

32. For the purposes of anonymity all prisons named in the research have been given pseudonyms.

33. Mason, J. (2002) *Qualitative Researching*, London: Sage.



language barriers between the researcher and the culturally and linguistically Deaf prisoners, with their preference for a visual language making the process of ensuring that the research was both ethical and authentic more difficult than it otherwise would have been. Such difficulties were compounded by the fact that establishments did not allow the researcher to use a visual recording device to record the interviews, and did not provide the culturally Deaf participants with access to visual copies of the consent forms and information sheets that had been provided by the researcher.

## Findings

Findings from this research echoed those of previous studies, showing clearly that at the time the research was carried out, the Prison Service was failing to meet the needs of d/Deaf prisoners. While there were certainly some pockets of good practice, and instances where individual staff members were going above and beyond to attempt to meet the needs of these prisoners, examples of this were few and far between. On the contrary, for most of the severely deaf and culturally and linguistically Deaf prisoners included in this study, the pains and deprivations associated with imprisonment went way beyond those of other prisoners. In earlier studies, the term 'double punishment'<sup>34</sup> has been used; however, findings from this research indicate that this term is not even nearly strong enough. While many prison researchers have concluded that minority groups, such as women, foreign national and older prisoners suffer disproportionately whilst in prison,<sup>35</sup> numerous staff members included in this research insisted that few such groups were more deprived than those who were d/Deaf. Key reasons for this are; their lack of access to sound, and, for Deaf prisoners, their cultural and language difference.

One particularly insightful example of resource denial was highlighted by a Deaf participant who had been told that he 'wasn't allowed' over-ear headphones despite not being able to wear the in-ear headphones provided because he was born without ears.

Turning firstly to role of sound; it became clear throughout the duration of the research that prison as an establishment relies on sound in order to run, with tannoys, voices, bells and alarms all being central to the prison regime. As a result of this, prisoners need access to sound in order to become integrated into prison life. Therefore, those who are d/Deaf require access to equipment that converts sound into a d/Deaf friendly format. Many d/Deaf prisoners will need hearing aids and hearing loops,<sup>36</sup> and most will require access to flashing fire alarms,

vibrating alarm clocks and minicomms (for the purpose of telephone conversations). Equipment such as subtitled televisions and high quality headphones are also common requirements.

Despite this, the d/Deaf participants included in this research were not consistently given access to such equipment. One particularly insightful example of resource denial was highlighted by a Deaf participant who had been told that he 'wasn't allowed' over-ear headphones despite not being able to wear the in-ear headphones provided because he was born without ears. A staff member who had been present during this interview spoke of being shocked at hearing this information and feeling as though in this instance denial of such equipment was unacceptable. This notion of 'not being

allowed' certain equipment was reflected in other interviews, with one participant discussing being told that he was not allowed a minicom because it would 'be against the rules', and another being unable to get access to a vibrating alarm clock because it was 'an unauthorised item'. In the latter instance, this information was verified by the present staff member, who agreed that for procedural reasons he would not be allowed access to a vibrating alarm clock.

34. For example Howard League for Penal Reform (2016) *Frances Crook's blog 15 Jul 2016: Double punishment* [Online] [Accessed on 4th September 2016] Available at: <http://howardleague.org/blog/double-punishment/>.

35. HM Inspectorate of Prisons (2006) *Foreign national prisoners: A thematic review*, London: HM Inspectorate of Prisons  
Mann, N. (2016) 'Older age, harder time: Ageing and imprisonment', in, Jewkes, Y. Crewe, B. And Bennett, J. (Eds) *Handbook on Prisons* (2nd Edition), London: Routledge  
Moore, L. and Scraton, P. (2013) *The Incarceration of Women: Punishing Bodies, Breaking Spirits*. London: Palgrave.

36. However, it is important to specify that many culturally and linguistically Deaf people do not wear hearing aids or use hearing loops, as their language and culture is visual rather than oral.

Furthermore, only one of seven participants who needed them had consistent access to good quality hearing aids. Of the other six participants, three did have access to hearing aids, but experienced difficulties in that the hearing aids were either of a low quality, set incorrectly or prone to running out of batteries, as shown via the below quote:

*They are a bit parsimonious with the batteries, they will give you one little card and that is it. And then when you queue up there probably won't be any at the health kiosk. So it is one of intermittent supply, which causes great problems for us, because if you lose your hearing you just can't function at all ... Just trying to function as a prisoner doing the everyday things that are part of the system can be very difficult if you can't hear properly!*

The three remaining participants who needed hearing aids did not have access to them at all in prison, as demonstrated here:

*The only place I feel comfortable is in court, and it is ridiculous for a person to only feel comfortable in court, where they are going to get a sentence ... [In court] I have a thing that goes in my ear with a loop to everybody's microphone. I just want my hearing aid; I would be fine. I think I would be more my old self.*

In such a sound oriented environment, this lack of access to the necessary equipment has significant consequences for d/Deaf prisoners, who consequently become isolated from prison life (to different degrees depending on the severity of their hearing loss). Participants reported being unable to hear tannoys or calls from staff members, and often getting into trouble when they did not respond to them. This issue was discussed by staff members, with one prison officer advising that the Deaf prisoner at the prison had missed multiple meals because he had not heard the tannoy, and another member of staff stating:

*If I've gone on to a landing and I've needed one of the Deaf guys to come out of his cell and down to the office, they will go on the tannoy and say 'Mr such and such to the office', and I just think why are they doing that, he isn't going to hear you?*

Participants also reported being unable to hear the television, which exacerbated boredom and monotony, and created issues with their cellmates if they wanted to turn the volume up higher. Another key issue related to an inability to hear fire alarms, which made participants feel disproportionately unsafe. None of the participants had access to visual fire alarms, which was discussed by a staff member who stated:

*I've asked the governors to provide things to help us with him. For instance, if there is a fire ... But he's got nothing ... and they've known about this for months and months and the fire officer came and assessed it, and said yeah this is what we need, but it's not here.*

The consequences of this lack of provision were highlighted by one prisoner who said:

*In education twice there's been fires and they've all rushed out, and I'm the last one because the alarms gone off and no-one's let me know; I've told them that they need to have something in place, but there is still nothing.*

Other issues included struggling to communicate with doctors or solicitors, or to participate in education/training programmes because they could not hear what was being said.<sup>37</sup> A final main problem that arose in consequence to a lack of access to sound related to the reporting of higher barriers to meaningful contact with family and friends compared with their hearing peers, due to lack of access to necessary equipment, which in turn compounded isolation from them.<sup>38</sup> An example of this came from one prisoner who described his relationship with his wife and children as being 'gone'. This issue is more problematic for Deaf prisoners, who commonly do not communicate with speech, thus making phone calls even more problematic.

Other issues included struggling to communicate with doctors or solicitors, or to participate in education/training programmes because they could not hear what was being said.

37. This also made a number of the interviews for this research very difficult to conduct.

38. This is particularly problematic given the links between continued contact with family and friends and desistance from crime.

After discussing issues relating to sound which affected all of the participants involved in the research, the additional problems experienced by the Deaf prisoners as an outcome of their cultural and linguistic difference will now be considered. The seven Deaf participants interviewed resided in three prisons; five of whom were situated in one, and the remaining two each in different establishments. In terms of communication, all of these prisoners preferred to communicate in BSL, and only two could speak in any coherent way. Additionally, three of the seven were able to read and write.<sup>39</sup> The fact that BSL was their primary (and often only) language, meant that access to qualified BSL interpreters was required in almost every scenario involving hearing people.<sup>40</sup>

Despite this, an inability to obtain access to interpreters emerged as a core theme in all of the interviews, with such provision appearing to be rare. A particularly concerning example of the extent of this lack of provision was provided by a staff member, who, when discussing one of the Deaf participants, advised that he was not provided with an interpreter at his trial, and subsequently 'Didn't even know what he was sentenced to, where he were going, what category he were going to be' until he had been in prison for a number of months. This staff member spoke candidly throughout the interview and admitted that despite being 'desperate' to communicate with the prisoner, she had been unable to do so because they had not had an interpreter at the establishment for over three months. It was evident that she was anxious about this lack of communication and was concerned for the prisoner's welfare, which was reflected in the fact that she then asked if she would be able to use the interpreter who was present for the interview, to communicate with him. The interpreter then accompanied her the prisoner's cell where he interpreted a range of questions for her, all relating to the prisoner's welfare.

The reasons for this lack of provision were multifaceted. Staff members reported that insufficient funding was key, however, the research showed that lack of Deaf awareness was also problematic. Although a number of the staff members interviewed were Deaf aware to a certain extent,<sup>41</sup> it became apparent that prison officials commonly have little conception of Deafness, seeing deafness as a disability/mental impairment,<sup>42</sup> and therefore not knowing how to meet the cultural and linguistic needs of deaf prisoners. This was highlighted by one staff member who, when asked whether she thought reasonable adjustments had been made for a Deaf prisoner, responded by saying 'No, I don't actually know what he should have. What rights should be in place for him, I don't know, I only know that we try and help him to live a safe life in here'. This lack of understanding of how to manage such difference was echoed by another member of staff, who stated that:

*I know they had a Parole hearing last week or the week before, and to be fair he [the offender supervisor] was good in that he sat there and was asked questions about the Deaf man, and went 'I'm out of my depth. I don't have a clue, I don't know how to work with this man, I can't assess him because I don't even know how to communicate with him so it wouldn't be fair for me to comment'<sup>43</sup>*

Staff members were shown to respond to the communication void that existed between themselves and Deaf prisoners in a multitude of concerning ways. The first main response was to leave them to their own devices, as highlighted by two staff members at one establishment who felt that, without them, other prison officers would forget that the Deaf prisoner was there. An example of this was provided by this prisoner's personal officer, who, when speaking of the treatment that he received while she was off sick for six weeks, said:

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39. Because BSL is a visual language, many Deaf people never learn to read or write.

40. While this problem could be alleviated if there were other prisoners or staff members at the establishment who could communicate fluently in BSL, this was not the case.

41. It tended to be these staff members who, out of concern for the Deaf prisoner(s), agreed to be interviewed.

42. The idea that Deafness was somehow linked to mental impairment was further ingrained by the fact that Deaf prisoners commonly achieve low results when doing IQ tests in prison. One member of staff found this extremely frustrating, saying that there 'Aren't any IQ assessments that have been developed that would help Deaf men yet because you would have to translate the instructions. And as soon as you don't use the instructions how they are written it invalidates the assessment'. This therefore means that existing IQ test results for Deaf prisoners are often likely to be invalid as they are based upon questions that are created for written rather than visual responses, and therefore if the individual is unable to read or write the results will not reflect their true intellect.

43. While it could be argued that such issues also apply to foreign national prisoners, who are also culturally and linguistically different, staff members felt that they had more difficulty accommodating the needs of Deaf prisoners than those of other minority groups because they did not have access to the one thing that they need in prison; sound. Foreign national prisoners were viewed as being easier to provide for simply because they were able to hear, as highlighted by one staff member who felt that Deaf prisoners had the 'worst' time in prison because 'Even with foreign nationals, they can hear can't they? They can hear, and the prison runs English as a foreign language courses, so they can learn English. Our Deaf guys can never learn to hear. We have the resources for stuff to be in the other languages, but not for sign language ... [Also] everything that is written down, we have it in a thousand different languages. So at least they [foreign nationals] can access the written stuff. Whereas our Deaf guys don't have that. When trying to get interpreters in it has always been the attitude of, 'We can't'. Even down to legal representation, solicitors are aware of getting foreign language interpreters; I just don't think they are aware of Deaf interpreters'.

*So I came back from the sick and ... in that time, again, he has been neglected. When I came back he were like a vagrant; you can't walk in his cell, you walk in and it is like horrific, the smell ... It does upset me to see him just festering there. So when I came back the other day, I were like, 'Oh my god'. He just gets left; it is like horrific, horrific.*

This notion of Deaf prisoners being 'left' because they are too profoundly different to accommodate was also discussed by a staff member at another prison who stated that, 'Half the time the staff can't communicate with them, so they just leave them, and they just get stuck in the system'.

Another key response of staff members was to treat Deaf prisoners as though they were hearing; to talk to them and write things down and hope that they could understand, as discussed here:

*Offender supervisors would just 'manage' and hope the [Deaf] guy understands, and a lot of them I don't think really understand how Deaf their guys are or their communication needs, so they just think 'Oh yeah, he nods along so he must understand' ... Or, like I went to see Thomas<sup>44</sup> on his wing to tell him that an appointment had been cancelled, and I spoke to the officer first and said 'Can you just let him know this and this?', and he went 'Yeah yeah. Just write it down'. I was like 'Okay, is that to remind you', and he was like 'No, I'll just give it to him'. Then I was like 'But he can't read English'. The officer was then like 'Can't he? Well we always do that'. Then I said, 'Well does he always get it wrong?', and he was like, 'Yeah, come to think of it'. And I was like, 'Because he can't read what you are writing down for him!!'.*

In HMP Bowdon where there were six Deaf prisoners, there were multiple staff members who could communicate in BSL at a basic level, three of whom were interviewed as part of this research. These staff members spoke of being used as interpreters by other staff members, despite only having a limited

understanding of the language. While they viewed such a response as inevitable, they also felt that the extent to which other staff members were relying on their abilities had become problematic, as illustrated below:

*Like when I've been called and they say, 'We've got an adjudication with this guy, can you come and interpret?', and I'm like 'NO, because I'm not an interpreter'. And they are like 'Oh, okay. Well we'll just go ahead anyway', and I'm like 'Well, you can't really do that because it is a legal setting and you shouldn't be doing that without an interpreter'. I'm not going to get listened to but I know that's not the right thing for that person.*

Another strategy employed by staff members at HMP Bowdon was to use one of the Deaf prisoners (who could lip read and talk to a certain level) as an interpreter. The Deaf prisoners were very positive about this as they felt that it helped them to communicate, however staff members were concerned that it was giving him an almost unprecedented level of control, as shown in the conversation below:

*Staff member: There is one Deaf guy on the wing at the moment and they basically use him as an interpreter*

*which is VERY ropey.*

Interviewer: Do they do that a lot?

Staff member: Yeah.

Interviewer: What do you think of that?

Staff member: *It scares me. He has personality traits that do not need to be encouraged, which relate to putting him in a position of power.*

Interviewer: In terms of his offence?

Staff member: *Yeah. So yeah, it encourages all the wrong messages that we don't want to be giving that individual.*

Interviewer: Have you told them [the other staff members] that?

44. This is a pseudonym.

*Staff member: We've had discussions about it, but then there's also the, 'Yeah well we are stuck, so this is the best we can do'. They are very reliant, it is worrying. It just worries me as to the level of manipulation that is going on there. By him helping out staff, staff seem to be really helpful with him, and I think that's opening a dodgy door for him grooming staff.*

Interviewer: Really?

*Staff member: Yeah. Crossing boundaries and stuff ... It is a concern for someone with his personality traits, that we would be concerned about anyway, almost psychopathy traits that we need to manage. A hearing guy isn't easy to manage, but it is easier to raise staff awareness of that, and to be putting in boundaries that are quite strict, and making sure they aren't crossed. But given that they need him, those boundaries are more lax. It's just not good.*

For the participants who were the only Deaf person at their respective establishments, this lack of access to other Deaf people, or individuals who could communicate in BSL, led to almost total cultural and communication isolation. However, because there were multiple prisoners at HMP Bowdon, it had been anticipated that life for these prisoners would be easier, and that such isolation would be less all-encompassing because they had each other to communicate with. While this was indeed the case in certain scenarios, it became apparent that many of their experiences did in fact mirror those of the prisoners who were the only Deaf person at an establishment. It was found that most staff members at the prison had little understanding about why it would be beneficial for Deaf prisoners to be situated on the same wing, and therefore separated them. This was a point of frustration for all of the Deaf prisoners interviewed, who discussed being transferred to the establishment from other prisons with the impression that it was going to be 'Deaf friendly' and then being equally isolated, as shown via the following quote:

*At the other prison I was isolated, no Deaf lads. So they said come over to here, so I came here*

*and I was glad I saw Deaf lads. But when they start separating us in different wings, I think 'why are you doing that?'. We are here for a reason; we are supposed to be here together to get rid of the isolation. I don't want to be isolated again, to sit with the hearing people and not with the Deaf ... We are isolated on our own, we feel overpowered. We should all be on the same landing, so we can see each other, and communicate with each other.*

Staff members validated this viewpoint, confirming that such separation was largely a consequence of a lack of Deaf awareness, as opposed to security or offence restrictions.

A lack of Deaf awareness also created other problems for these prisoners, as many staff members perceived culturally Deaf behaviour such as touching or signing as being problematic. The research showed that because the overwhelming majority of staff members were unable to comprehend sign language they then looked upon it with suspicion, as shown in the following quote from a staff member:

... because the overwhelming majority of staff members were unable to comprehend sign language they then looked upon it with suspicion ...

*But then there are negative attitudes about how the Deaf prisoners interact with each other, which I don't necessary think is about rules, but rather staff not being aware of Deaf culture ... They fear that they don't know what's going on because they can't understand what they are saying [when the Deaf prisoners are communicating in BSL], or what's happening, [and they worry] that they might be able to group together and make plans and plot.*

In addition to there being a generalised suspicion of BSL, it became clear that there were certain types of signs that were viewed disproportionately problematically, with one staff member saying that when she looked on staff logs there were lots of unwarranted entries about 'Deaf aggression' when specific signs were used.<sup>45</sup> The extent of this problem was highlighted by a prisoner who claimed that himself and the other Deaf prisoners at HMP Bowdon had been attempting to sign to each other 'in secret' in order to avoid provoking suspicion from staff members and other prisoners.

45. This was also found to be problematic in the context of Parole Boards where the signing of Deaf prisoners was so demonstrative (which is normal in Deaf culture), that it was seen as evidence of 'risky' or unsafe behaviour; thus making it more difficult for Deaf prisoners to be paroled.

The Deaf prisoners' use of touch was also viewed as problematic there, with it being deemed as inappropriate for them to touch staff members for both security and authority related reasons, as shown here:

*As an officer, prisoners are not allowed to touch me. But for a Deaf prisoner, they will tap you on the shoulder, and if you want to be pedantic about it, a lot of officers are a bit taken aback, and would class it as an assault.*

As a consequence of the issues discussed thus far (namely inappropriate resource allocation and minimal staff Deaf awareness), Deaf prisoners become almost completely isolated from prison life. These individuals are often unable to access medical assistance or legal aid with an interpreter, or to gain a meaningful understanding of the penal regime or the expectations of their prisoner role.<sup>46</sup> While there is insufficient space here to provide examples of each individual issue, the below conversation with a staff member highlights the extent of these problems:

*Staff Member: This one Deaf man ... I know he has a lot of health care problems and it never really came out until we were in group,<sup>47</sup> and he started to talk about it and the interpreters were like, 'We are quite worried about him, we think there's actually quite a lot wrong with him, we need to get him seen by the doctor'. So I contacted healthcare on his behalf who said, 'Yeah yeah, we've seen him before a few times, he's fine'. I was like 'How do you know he was fine?', and they were, like 'He said he is, he was smiling'. And it's like, this man is profoundly Deaf and you haven't got an interpreter; you have got a duty of care, and you are saying yeah yeah you think he's fine, but he can't communicate with you*

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*and you can't communicate with him, so how can you say that?*

Interviewer: Has anything happened as a result of that?

*Staff Member: We've had a lot of rows with healthcare. They basically said that they don't have the funding, and we were like well you can't not treat them.*

Interviewer: Do they apply for funding from a different place?

*Staff Member: Yeah ... So yeah, they just refused. So it got to the point where we just asked our interpreters to stick around for an extra hour after session to go to healthcare with him, and actually get him the treatment that he needed and the tests that he needed ... [It's] really dangerous, really unethical. I don't know how they have argued it for so long, and have got away with it. It is scary.*

Interviewer: The guys complained to me a lot about not having interpreters for the doctor and all that sort of thing. Did it mean that he had illnesses that weren't treated then?

*Staff Member: Yeah, yeah. Quite serious stuff. And the stuff that he was worried about, he was worried about cancer and all sorts, and from what he described it sounded feasible. I don't know the ins and outs of what he actually has but that was, the interpreters are bound by confidentiality, but yes he has some serious stuff to get sorted.*

Interviewer: And it was just being left?

*Staff Member: Yes, just left. It's scary.*

46. All of the Deaf participants were confused about prison rules and procedures, with four of the prisoners reporting being reprimanded when accidentally breaking rules. All but one had little understanding of the complaints or application procedure, and during interviews it became apparent that numerous individuals did not understand the terms 'tariff' or 'offender supervisor'.

47. This staff member worked in the psychology department at HMP Bowdon where there was a treatment programme running which had been tailored to meet the needs of Deaf prisoners. As part of this, interpreters were used. All of the Deaf prisoners were extremely positive about this programme, and advised it was the only context within which they had consistent access to qualified interpreters. For the purposes of anonymity, no further information is provided here about the nature of the programme, however this is what the staff member is referring to when she says 'group'.

Additionally, without access to BSL interpreters, Deaf prisoners (particularly those who cannot read or write) are largely unable to access education, training or rehabilitative programmes. This was problematic for a number of reasons; the first being that it caused Deaf prisoners to experience the monotony of prison at a more intense level than their hearing peers, with one participant becoming upset when asked about this and saying, 'What do I have to do? Just sit in my cell all day, and watch the TV'. The second reason that this lack of access to classes/courses is significant is because by failing to adapt such activities to make them accessible for Deaf prisoners the Prison Service is failing to meet one of its main aims: rehabilitation. As well as being problematic for the prisoners themselves, this could also undermine public safety, as acknowledged by a staff member, who when discussing one of the Deaf prisoners, stated that because he had a determinate sentence 'He will be released regardless ... and it could lead to more victims'. Contrasting problems were created for the prisoners at HMP Bowdon, all of whom were serving Indeterminate Sentences for Public Protection (IPPs), and could not be released until a Parole Board was convinced that they no longer posed a risk to the public. Because the prison could not provide them with access to the necessary 'risk reducing programmes', all five prisoners were already over-tariff and were concerned that a lack of access to courses that were on their sentence plans would mean that they would never be able to leave prison. These perceptions were echoed by the staff members interviewed there, who were in agreement that IPP sentences were inappropriate for Deaf prisoners, as discussed below:

*If they are on a determinate sentence they will just get released anyway, and if they are not on a determinate sentence they might never get released just because they are Deaf ... Everybody kept telling them that they had to do a course, but they can't because they are Deaf. And then they are told that they can't get out until they do a course, but you can't do a course because you are Deaf.*

*If they are on  
a determinate  
sentence they will  
just get released  
anyway, and if  
they are not  
on a determinate  
sentence they might  
never get released  
just because they  
are Deaf ...*

As a result of the issues discussed throughout this section of the article, severely deaf and particularly culturally and linguistically Deaf prisoners experience the pains of imprisonment differently and much more intensely than their hearing peers, to the point that are often forced to live in a continual form of solitary confinement. The Prison Service in its current form is not an appropriate place to hold these prisoners, and consequently appears to have a disproportionately damaging effect on their mental health. All of the Deaf prisoners appeared anxious, lonely, fearful, frustrated, and confused during their interviews, as shown here by one participant whose poignant reflection captures the sadness of his plight:

*I only feel a little bit depressed, not heavily depressed. Sometimes I cry just because I am in prison. I cry a lot ... because there's nobody Deaf, there's nobody Deaf here. I can't communicate. I can't express myself to anybody.*

#### **Recommendations for the Prison Service**

It is clear that the Prison Service is failing to meet the needs of d/Deaf people in prison in any consistent way. Findings from this research map onto those of McCulloch, demonstrating clearly that the prisons included in the research were not complying with the conditions of the Equality Act 2010, and were consequently acting illegally by failing to meet the duty the legislation imposes. While promoting policy change was not a core aim of this research, its findings have obvious implications for Prison Service policy. With this in mind, in order to ensure that establishments are able to comply with the legal stipulations of the Equality Act 2010 and to implement the necessary reasonable adjustments for d/Deaf prisoners, a set of recommendations for change for the Prison Service have been outlined. The purpose of this is to provide suggestions which are seen as being both practical and feasible for the Prison Service to implement. With this in mind, it is recommended that the Prison Service ought to make the following changes to their practices and procedures if they are to be compliant with the conditions of the Equality Act 2010:

1. *To make it a statutory requirement for establishments to record d/Deaf prisoner numbers, and to introduce an accurate system for doing so.*

The implementation of this recommendation is imperative, as this research has shown that without an accurate recording mechanism the Prison Service has little knowledge of numbers or locations of HoH/d/Deaf prisoners, or the extent of their d/Deafness. For these figures to be accurate and useful, distinctions must be made between the different levels of d/Deafness, with HoH, deaf and Deaf being split into separate subsections, and there being simple definitions provided for each term. Establishments must be provided with clear standardised guidelines for how to implement the system, and staff members must undertake training in order to become competent in its use.

*2. To acknowledge the importance of sound in prison, and to make it standard practice for HoH/d/Deaf prisoners to be provided with equipment that converts sound into an accessible format.*

This research has shown that HoH/d/Deaf prisoners have difficulty becoming integrated into the prison regime without access to specialist equipment that converts sound into a d/Deaf friendly format. To overcome this, HoH/d/Deaf prisoners must be given access to items such as visual fire alarms and vibrating alarm clocks. Minicoms must also be provided where necessary to ensure that these prisoners are able to use the telephone, as should hearing aids, replacement batteries and hearing loops.

*3. To ensure that BSL is treated as an official language in prison.*

Written prison resources such as information packs are often not converted into a visual format for Deaf prisoners. To combat this, the Prison Service should ensure that where translated alternatives are in place for foreign

Minicoms must also be provided where necessary to ensure that these prisoners are able to use the telephone, as should hearing aids, replacement batteries and hearing loops.

national prisoners, the equivalent information is also available in BSL. While this may be more complicated initially due to the visual nature of sign language, it is recommended that visual versions of documents such as information packs should be available nationwide, and adjustments should be made to written procedures such as making complaints and using the application system, to make them accessible to Deaf prisoners.

*4. To provide Deaf prisoners with regular access to qualified BSL interpreters*

The provision of BSL interpreters for Deaf prisoners is often inconsistent, and in consequence these individuals commonly become largely isolated from prison life. To overcome this, Deaf people in prison must be given access to a fully qualified BSL interpreter during medical appointments, legal appointments, Parole Boards, and adjudications.<sup>48</sup> While face-to-face interpreting is preferential where possible, failing this, a service such as InterpreterNow could be utilised in meeting/appointment type settings, which can provide access to fully qualified interpreters over the phone.<sup>49</sup>

Deaf prisoners must also be given the opportunity to actively partake in educational, vocational, offending behaviour and rehabilitation classes/courses either in their own language or with the presence of an interpreter. The Prison Service must make it possible for Deaf prisoners to fulfil the requirements of their sentence plan, as without doing so Deaf prisoners may be serving longer and more painful sentences than other prisoners—putting them at a distinct disadvantage compared to their peers. An example of good practice here is the Sex Offender Treatment Programme that runs at HMP Whatton, which has been tailored to allow Deaf prisoners to participate.<sup>50</sup>

48. In order to ensure that an interpreter is sufficiently qualified, the Prison Service ought to use only those who are registered with the National Registers of Communication Professionals working with Deaf and Deaf blind People (NRCPD). It is important to acknowledge that only certain interpreters are qualified to do legal work, and therefore in the context of legal appointments the NRCPD can be consulted to find an interpreter with the appropriate skills.

49. InterpreterNow was formed by the Deaf Health Charity SignHealth in 2012, and uses technology to provide an interpreting service to Deaf people in instances where they cannot get access to a face-to-face interpreter. In order to use the service, a computer, smartphone or tablet is needed, along with a working webcam and an internet connection. Service providers must register with the service, agree to pay for the calls and download the InterpreterNow app. In instances where a BSL interpreter is necessary, the service provider would open the app and request access to an interpreter, who then appears on the screen of the device being used and can interpret for the Deaf person in the room. This service is currently used by service providers such as the NHS and the Leicestershire Police force (InterpreterNow (2016) InterpreterNow [Online] [Accessed on 10th September 2016] Available at: <http://www.interpreternow.co.uk/>).

50. Butler Trust (2016) *Victoria Beck, Rachel Callander, Pete Mills and Helen O'Connor (HMP Whatton)* [online] [Accessed on April 26th 2016] Available at: <http://www.butlertrust.org.uk/victoria-beck-rachel-callander-pete-mills-and-helen-oconnor-hmp-whatton/>.



5. *To provide nationwide d/Deaf awareness training for prison staff.*

Prison staff members commonly have little d/Deaf awareness, and in consequence do not know how to effectively meet the needs of d/Deaf prisoners. With this in mind, it is recommended that staff members at every prison establishment must receive d/Deaf awareness training, where they will be taught about the differences in different levels of d/Deafness, the importance of providing specialist equipment, and the culturally distinct norms and behaviours of many Deaf people. Those chosen to undertake this training can then be used as information points for other staff members if/when a d/Deaf person arrives at their establishment.<sup>51</sup>

6. *To provide a standardised set of guidelines for prison establishments and other responsible agencies.*

The Equality Act 2010 is not currently protecting the rights of d/Deaf people in prison. Without a clear definition of 'reasonable adjustments' staff members often have little idea of how to adhere to the legislation when faced with a deaf, and particularly

Deaf prisoner. To reduce such ambiguity, the Prison Service ought to provide a standardised set of guidelines which detail the expected adjustments for d/Deaf people in prison, as well as information about how to go about making such adjustments.<sup>52</sup> Alongside this, it is recommended that a replacement of the PSI titled 'Ensuring Equality' (2011) is created, which provides further clarity for establishments about the adjustments that they are required to make for prisoners who are protected under the Equality Act 2010.

7. *To consider the needs of Deaf prisoners serving IPPs.*

It is recommended that the Prison Service takes account of the findings from this research which suggest that Deaf prisoners serving IPPs are becoming increasingly over-tariff as a consequence of the fact that establishments do not have the resources to enable them to fulfil the conditions of their sentence plan. If it transpires that these claims are in fact valid, then the Prison Service must see that these prisoners are given the opportunity to complete the necessary courses in a timely fashion.

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51. Since the fieldwork period ended one of the prisons included in the study has in fact begun to provide d/Deaf awareness training for staff members in conjunction with the registered charity Royal Association for Deaf people. For the purposes of anonymity no further information about this training is provided here, however, this is an example of good practice that ought to be rolled out across the prison system.

52. If the procedures at a particular establishment differ from these guidelines, staff members there should be made aware of such deviations.

# The illicit economy in prisons:

## A new measure of biddability (BIDSCALE) to predict involvement in prison illicit economy and its consequences.

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### Introduction

**In the prison context, the Illicit Economy (IE) refers to trade that is forbidden by law or by prison rules which mostly includes either goods ranging from canteen items to classified drugs, New Psychoactive Substances (NPS), prescribed medications, alcohol and mobile phones or services such as money lending and gambling. Although the IE may have some positive impact on prison life by engaging prisoners in an activity that rewards the seller and meets a buyer's need, or by filling idle hours and keeping prisoners calm, reports suggest that the IE can lead to debt, intimidation, violence and disruptive behaviour.<sup>1,2,3,4,5</sup> This study explored prisoners' experiences of the illicit economy (IE) and developed a new measure of biddability to predict involvement in the IE; the BIDSCALE.**

The IE in prisons has been described as a system of supply and demand in line with other legal economies. The supply characteristics of the IE are well understood and routes of supply such as 'over the wall' packages, staff and prison visits have been documented as a security challenge for the prison service for many years.<sup>6,7</sup> Further, the motivations of those engaged in securing supplies and in selling the illicit goods are typically straightforward,

relating to making money or a need to enhance their status or influence.<sup>8</sup> To date, the demand side of equation has been less documented.

One increasing problem is the use of NPS which have been reported as more readily and cheaply available and as incurring lower risk and currently evading detection.<sup>9</sup> Even though NPS were made illegal in May 2016 by the Psychoactive Substances Act, they have increasingly become an integral part of the IE and their supply has increased. Because UK prisons are cashless and prisoner earning capacity through work is limited, the IE, most recently underpinned by NPS, has resulted in one of the key problems in contemporary prisons; namely debt.

Recent reports indicate that over one in three prisoners currently has or has had debt issues due to spending beyond their means, particularly on the IE.<sup>10,11</sup> Debt is a useful window into the workings of the IE and can be understood within the context of research on consumer debt, defined as 'unplanned and unintended' to distinguish it from credit, which is planned and intended.<sup>12</sup> Some studies have also highlighted the role of psychological issues that illustrate how buying behaviour can deviate from rational choice. For example, Ottovani and Vandone<sup>13</sup> described a role for instant gratification in 'buy now, pay later' decisions which bring cost in the future. Further, Martin and

1. NOMS (2015). National Offender Management Service Annual Report and Accounts 2014–15. Retrieved from [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/434548/NOMS\\_AR14\\_15\\_report\\_accounts\\_Final\\_WEB.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/434548/NOMS_AR14_15_report_accounts_Final_WEB.pdf).
2. Ward, V. (2015). Legal highs blamed for increasing levels of violence in prisons. Retrieved from <http://www.telegraph.co.uk/news/uknews/law-and-order/11670937/Legal-highs-blamed-for-increasing-levels-of-violence-in-prisons.html>.
3. Morris, N. (2015). Shocking new figures show huge rise in prison violence, suicide and self-harm. Retrieved from <http://www.independent.co.uk/news/uk/politics/shocking-new-figures-show-huge-rise-in-prison-violence-suicide-and-selfharm-10011833.html>.
4. Shaw, D. (2015). Gangs and drugs fuelling upsurge in prison violence. Retrieved from <http://www.bbc.com/news/uk-30783075>.
5. Gooch, K., & Treadwell, J. (2015). Preventing and reducing prison bullying. *Prison Service Journal*, 221; 25–29.
6. Crewe, B. (2005). Prisoner society in the era of hard drugs. *Punishment & Society*, Vol. 7(4), pps. 457–481.
7. Faure Walker, D. (2015). The informal economy in prisons. *Criminal Justice Matters*, Vol. 99, pps. 18–19.
8. Crewe, B. (2005). see n.6.
9. Faure Walker, D. (2015). See n.7.
10. Hammill, A. & Newby, R. (2015). The illicit economy, debt and prison violence: Is prisoner debt inevitable? *Prison Service Journal*, No. 221, pps. 30–35.
11. Picksley, M. & Midgley, V. (2014). An exploration of prisoners' perceptions of debt acquired between prisoners at HMP & YO1 Moorland. *Report by Yorkshire & Humberside Psychological Services*, pps. 1–30. Ministry of Justice, London.
12. Webley, P. & Nyhus, E. (2001). Lifestyle and dispositional routes into problem debt. *British Journal of Psychology*, Vol. 92(3), pps. 423–446.
13. Ottaviani, C. & Vandone, D. (2011). Impulsivity and household indebtedness: Evidence from real life. *Journal of Economic Psychology*, Vol 32, pps. 754–761.

Potts<sup>14</sup> reported that impulsive individuals are biased towards immediate rewards and pay less attention to the future negative consequences of their choices and Gathergood<sup>15</sup> similarly concluded that a lack of self-control was associated with high debt burdens. In line with this, Lea, Mewse and Wrapson,<sup>16</sup> addressed the problem of 'crisis debt' (where there was no prospect of paying off or even reducing debt) and argued that severe debtors were chronically short of money, had troubled life histories and particular behavioural and psychological features, such as feeling the stigma of debt so keenly that they spent to cover up the issue. These characteristics are very common among people who have committed a crime and indeed are seen as key to explaining criminal behaviour.<sup>17</sup> To date, however, little research exists on the factors that may make prisoners more susceptible to debt through the IE.

Debt is not the only consequence of the IE and recent concerns have focused on the link between the IE and violence.<sup>18, 19</sup> For example, Edgar, O'Donnell and Martin<sup>20</sup> concluded that trading within the IE was a source of victimisation that, in turn, could lead to violence and Ireland<sup>21</sup> and Gooch and Treadwell<sup>22</sup> similarly argued that bullying, particularly within the context of the IE, may progress to violence between prisoners.

In summary, concerns have been expressed about recent increases in the IE in the context of NPS, debt and subsequent violence. The present study focused on the demand side of the equation with a particular emphasis on prisoners' experiences of the IE and its consequences. The study also explored whether particular prisoners are more susceptible to both the IE and its consequences. To this end the notion of 'biddability' was developed to reflect those prisoners who are eager to please, easily led astray,

impulsive or lacking self-control in line with research on consumer debt. This study therefore utilized two stages with a mixed methods approach. The initial qualitative stage involved an exploration of prisoners' experiences of the IE and the impact of the IE on risky behaviours. The subsequent quantitative stage evaluated whether susceptibility to the IE could be assessed using a new measure of biddability (BIDSCALE), whether this new measure had good psychometric properties and whether biddability was associated with risky behaviours such as substance use, debt and violence. Both stages took place in four UK adult male prisons across England.

## Stage 1: Qualitative study to explore how prisoners experience the IE

### Method

#### Aim

To explore prisoners' experiences of and involvement in the IE.

#### Design

A qualitative design with in-depth, semi-structured interviews analysed using content analysis.

#### Sample

Seventy-one male prisoners were interviewed from four prisons across England. Their mean age was 33 years, their mean sentence length was eight years and on

average they had attended four prisons. Based on discussion with Governors and their teams, sampling was done in two ways: i) project posters were displayed on the prison wings and wing officers were asked to suggest those who might participate (n=37); and ii) a list of both perpetrators and victims in recent incidents reported on the prison's Incident Reporting System (IRS) as debt-related was used to approach individuals (n=34). This sampling approach aimed to access prisoners with a range of knowledge of IE and debt.

Debt is not the only consequence of the IE and recent concerns have focused on the link between the IE and violence.

14. Martin, L. & Potts, G. (2009). Impulsivity in decision-making: An event-related potential investigation. *Personality and Individual Differences*, Vol. 46, pps. 303–308.
15. Gathergood, J. (2011). Self-control, financial literacy and consumer over-indebtedness. *Journal of Economic Psychology*, Vol. 33, pps. 590–602.
16. Lea, S., Mewse, A. & Wrapson, W. (2012). The psychology of debt in poor households in Britain. In *A Debtor World: Inter-disciplinary Perspectives on Debt*, (Eds. Brubaker, R., Lawless, R & Tabb, C.), pps. 151–8.
17. Andrews, D. & Bonta, J. (2010). The Major Risk/Need Factors of Criminal Conduct. *The psychology of criminal conduct*, 5th Edition, pps. 157–294. LexisNexis, New Jersey, USA.
18. NOMS (2015). see n.1.
19. Gooch & Treadwell (2015). see n.5.
20. Edgar, K., O'Donnell, I. & Martin, C. (2003). The extent and nature of victimisation. In *Prison Violence: The dynamics of conflict, fear and power*. Willan Publishing, UK.
21. Ireland, J. (2013). Prison bullying and fear: Can fear assist with explanations of victim responses? In *Bullying among prisoners: Innovations in theory and research* (Ireland, J., Ed.), pps. 229–149. Willan Publishing, UK.
22. Gooch & Treadwell (2015) see n.5.

### Procedure

Prisoners were interviewed in settings deemed safe and conducive to frank dialogue for both parties including a room in the education wing or library, a wing office or the prisoner's cell. The first fourteen interviews were not recorded, pending approval from the prisons to do so. The remaining fifty-seven interviews were recorded following consent by the prison and the prisoner. Most interviews took about thirty minutes.

### The interview schedule

Questions covered interviewees' participation in the IE (or that of others), their motivations, their perception of risk and the consequences of their own and others' behaviour.

### Data analysis

Recorded interviews were transcribed by a professional legal service. The transcripts, along with interview notes from the fourteen unrecorded interviews, were analysed using content analysis.<sup>23</sup> First, data was coded for the subsequent quantitative analysis (Stage 2) to describe dichotomous risk behaviours in relation to the IE that were coded as 'present' or 'absent'. Next a series of emergent themes were identified, coded for their frequency and illustrated with exemplar quotes.

## Results

### Risk behaviours

The interviews were analysed to generate dichotomous outcomes ('present' or 'absent') in terms of the impact of the IE. These are summarised in Table 1.

Outcome or risk behaviour	Prison A	Prison B	Prison C	Prison D	Overall n/%
Ever used substances? (1,4)	(n=50) 69%	(n=61) 86%	(n=52) 73%	(n=59) 83%	<b>(n=56) 79%</b>
Participates in IE? (3)	(n=36) 50%	(n=42) 59%	(n=48) 67%	(n=56) 78%	<b>(n=45) 63%</b>
Impacted by IE? (2)	(n=27) 38%	(n=45) 64%	(n=38) 53%	(n=43) 61%	<b>(n=39) 55%</b>
Isolated?	(n=27) 38%	(n=55) 77%	(n=28) 40%	(n=28) 39%	<b>(n=36) 51%</b>
Tried NPS?	(n=27) 38%	(n=36) 50%	(n=33) 47%	(n=40) 56%	<b>(n=34) 48%</b>
Trades? (5)	(n=27) 38%	(n=19) 27%	(n=38) 53%	(n=31) 44%	<b>(n=28) 39%</b>
Has debt (now or past)?	(n=13) 19%	(n=32) 45%	(n=14) 20%	(n=31) 44%	<b>(n=24) 34%</b>

#### Notes:

Most frequently mentioned: cannabis (n=35), heroin (n=19) and cocaine (n=17)

Either stated in response to a direct question or inferred from the interviewee account

Meaning buys, sells or both versus does not participate. Traded items most frequently mentioned: tobacco (n=28), NPS (n=28) and medications (n=12)

Of these, 38% (n=30) indicated they were still using substances

Trades means sells or both sells and buys (versus buys only or does not participate).

The majority of prisoners had used substances ever and a half had tried NPS; two thirds had participated in the IE directly and about a half said that they felt impacted upon by the IE. Over a third had traded on the IE and reported having debt. There were no differences between the four prisons (P values > 0.05).

### Emergent themes

The content analysis highlighted four themes. These are described below. Illustrative quotes from the prisoner interviews are given in Table 2.

Theme	Illustrative quote	Mentions
The IE is inevitable and pervasive	'People do it [trade] in prison. It's just a way of life. It passes the time.' (I-30) 'Like they say, boys will be boys ... the more you tell someone not to do something, sometimes the more they do it.' (I-41) Trading ... I think it's fundamental to prison life, innit? It's absolutely fundamental. (1-21)	<b>50/71</b>
Trading NPS is perceived as low risk	'... the only reason I would take 'mamba' [NPS] is because it doesn't show on your piss test. I don't want cannabis because it's too much risk.' (I-29) 'Because legal highs are legal, people will bring them for ... for ... for almost anyone ... and even staff can be wrapped round fingers because it's legal.' (I-68) 'There's too many psychedelic drugs in the system for anyone to understand what the f--s going on.' (I-45)	<b>33/71</b>
NPS use is problematic	'I lit it up [a spliff containing NPS] and then it just went boof and I thought what the f ... hell's just hit me here? Me heart rate went up... then I got this like paranoid feeling that everyone ... were on me... and all the, like, walls closed in on me.' (I-47) 'It's quite an intense buzz. And it's ... it's like a ... like a mind control buzz. It can send you paranoid within seconds. And it can send you angry in seconds. People are fitting off it ...' (I-46). 'I just got in deeper and deeper and I got to the point where, like, I just wanted it [NPS]. I didn't care about the consequences. I just wanted it.' (I-50). 'Erm ... I've seen people smoke 'spice' and end up doing things you would never, ever put them down as doing. Erm ... hurting themselves, hurting other people, smashing up their cell.' (I-58).	<b>39/71</b>
Debt leads to isolation, violence and transfers	'There's certain people that do it [get into debt] on purpose, certain people that do not mind getting a thumping ...' (I-54) 'Trading's part of the game. Yeah, but most people are just doing that then moving wing, moving jail ... because you've done it everywhere.' (I-62) 'Yeah, 95 per cent of people run ... transfer [wing], another jail, do the same again.' (I-27) 'We had a prisoner, he ... he moved every wing. He just debted himself up continuous. Now, he's just passing the problem around.' (I-5)	<b>24/71</b>

Note: Annotation (I-xx) refers to interviewees in chronological order of interview 1-71.

23. Hsieh, H. & Shannon, S. (2005). Three approaches to Qualitative Content Analysis. *Qualitative Health Research*, Vol. 15(9), pps. 1277-88.

### **Theme 1: The IE is inevitable and pervasive.**

The IE was seen as inevitable and described as 'fundamental', 'a way of life' and 'it passes the time'. It was seen as an issue and used as a way to manage boredom and keep the prisoners occupied.

### **Theme 2: Trading NPS is perceived as low risk.**

Almost half of interviewees claimed that NPS were the most frequently traded items which were seen as readily available, not detectable in mandatory drug tests (MDT) and a relatively low risk activity (compared with in cannabis or heroin). This helps to explain the high profile of NPS in the IE.

### **Theme 3: NPS use is problematic.**

The majority stated that they had used substances in the past or now. The majority felt that NPS were problematic and almost half admitted to using NPS now or having tried it (notably 'spice' or 'black mamba') at least once. Diverse descriptions were offered of personal experience of 'spice' and many described the detrimental impact of 'spice' on the mental and physical health and interactions with others.

### **Theme 4: Debt leads to isolation, violence and transfers.**

A third acknowledged that they had current or past debt issues. The escalation path for non-payment included intimidation and threats of violence whilst at times there was a direct move to violence (fight or assault). Those in debt sometime sought 'help' from staff, usually requesting a wing transfer or a transfer away from the prison (to escape the debt), citing the prison's obligation to keep them safe. Sometimes the prisoner was then moved to a segregation unit or vulnerable prisoners' wing (if there was one). If the prisoner was not moved then they sometimes opted for self-isolation in their cell. Alternatively some described raising the stakes for example by assaulting a member of staff, self-harming or setting a fire in their cell; all of which aimed to enable the prisoner to 'escape' the debt.

## **Stage 2: The development and validation of a new measure of prisoner biddability and its role in predicting risk behaviours**

### **Method**

#### *Aim*

This stage aimed to develop and validate a new measure of prisoner biddability and to evaluate the role of biddability in predicting the risk behaviours identified from stage 1.

### **Method**

The decision to become involved in the IE is influenced by a number of factors which may either be core to the individual such as risk perception, personality, needs and wants or a product of the prison environment including, prison culture, peer pressure, availability or boredom. Prisoners may also be influenced by whether or not they are biddable (previously defined as being amenable, co-operative, susceptible, malleable, persuadable, submissive, wanting to be liked, yielding). Biddability might therefore predict involvement in the IE and the impact of the IE on the individual.

#### *Design*

The initial questionnaire comprised seventeen questions calling for responses on a scale 1–10. Following psychometric analysis, items were rejected and a final scale was created. The role of the subscales of biddability in predicting the dichotomous risk behaviours with the IE using data from Stage 1 was then evaluated.

#### *Sample*

Questionnaires were completed by all participants (n=71) in Stage 1 of the study.

#### *Developing the measure*

The questions were derived following initial conversations with prison staff, from the literature and compiled from a search to capture the synonyms and antonyms most frequently used for the word 'biddable'. The questionnaire was

presented at the conclusion of Stage 1 interviews. Participants could choose self-completion or to have the researchers deliver the questionnaire verbally. All chose the latter approach. Prompts and clarification were offered when required although this occurred very rarely. The questions were posed in a way that high biddability was either scored 1 (questions 1, 3, 5, 6, 8, 10, 12, 14 and 16) or 10 (questions 2, 4, 7, 9, 11, 13, 15 and 17) to balance the order.

#### *Data analysis*

Items were re-coded so that a higher score reflected greater biddability. First, the psychometric properties of the scale were evaluated using principal axis factor analysis with oblique rotation (direct oblimin) and the Kaiser-Meyer-Olkin measure to verify sampling adequacy. Eigen values exceeding 1 were used as the cut-off for inclusion with a minimum of three items per factor and a factor loading greater than 0.4. Cronbach's alphas ( $\alpha$ ) were calculated on the total scale and sub-scales to test for reliability. Second, participants were coded as having either high or low biddability scores and the role of biddability in predicting risk behaviours was assessed using Chi-square ( $\chi^2$ ) tests and Cramer's V effect sizes.

Participants  
could choose  
self-completion  
or to have the  
researchers deliver  
the questionnaire  
verbally.

## Results

### *The psychometric properties of the new scale*

All 71 participants completed the biddability questionnaire. The Keiser-Meyer-Olkin measure verified the sampling adequacy for the analysis (KMO = 0.75). A principal axis factor analysis was conducted on the 17 items with oblique rotation (direct oblimin). Five factors had eigen values > 1 and together explained 63.1 per cent of the variance. The scree plot was ambiguous and showed inflexions that could justify retaining between three and five factors. Two factors had less than three items. The factor analysis was rerun to assess the options for the most parsimonious description of the observed correlations in the data. This iterative process yielded a principal axis factor analysis conducted on 11 items with oblique rotation (direct oblimin) and KMO = 0.74. The resulting solution had three factors with eigen values > 1, together explaining 61.1 per cent of the variance, each with more than 3 items. Table 3 shows the factor loadings after rotation of this 11-item solution.

**Table 3: Factor loadings for 11 item biddability questionnaire (n=71)**

<i>Rotated factor loadings</i>			
Item (question as asked)	1. Assertiveness	2. Compliance	3. Willpower
Do you think you're pretty tough or likely to be intimidated when dealing with an aggressive person?	<b>.63</b>	.04	.11
Would your mates describe you as assertive or submissive?	<b>.63</b>	.10	.15
When you're with a group, do you go your own way or do you try to fit in?	<b>.62</b>	-.06	-.08
Do you like to please people even if they behave badly or do you pull them up?	<b>.54</b>	.05	.10
Do you break rules you don't like or do you obey anyway?	-.14	<b>.72</b>	-.01
Generally, do you follow the rules or make up your own?	-.02	<b>.72</b>	-.01
Does breaking rules make you feel nervous or does it give you a rush?	.16	<b>.65</b>	-.20
Do you lead by example or are you more likely to follow?	.18	.02	<b>.64</b>
If someone's trying to sell you something you really don't want, do you buy it anyway or say no thanks?	-.11	.02	<b>.64</b>
Would you say you're easily led astray or you're not open to being influenced?	.28	-.08	<b>.59</b>
If someone's trying to force something on you, do you go along with things or do you resist?	.15	.07	<b>.56</b>
<b>Eigenvalues</b>	3.49	1.92	1.31
<b>% Variance</b>	31.71	17.45	11.93
<b>Cronbach's <math>\alpha</math></b>	.73	.73	.76

Note: Factor loadings >0.40 are highlighted in bold.

These three factors were labelled as follows: i) 'assertiveness'; ii) 'compliance'; iii) 'willpower'. The reliability of the scale was good: total scale (11 items:  $\alpha=0.76$ ); assertiveness (4 items:  $\alpha=0.73$ ); compliance (3 items:  $\alpha=0.73$ ) and willpower (4 items:  $\alpha=0.76$ ). A higher total score reflected greater compliance and lower levels of assertiveness and willpower. The final questionnaire is shown in Table 4.

**Table 4: The final Biddability Questionnaire (BIDSCALE)**

Would you say you're easily led astray or you're not open to being influenced? (e.g. have a lark when you know it's not allowed — W)	1 2 3 4 5 6 7 8 9 10
Do you think you're pretty tough or likely to be intimidated when dealing with an aggressive person? (e.g. you're told to pay more than you owe, do you refuse or give in — A)	1 2 3 4 5 6 7 8 9 10
Do you like to please people even if they behave badly or do you pull them up? (A)	1 2 3 4 5 6 7 8 9 10
Generally, do you follow the rules or make up your own? (C)	1 2 3 4 5 6 7 8 9 10
Would your mates describe you as assertive or submissive?(A)	1 2 3 4 5 6 7 8 9 10
If someone's trying to force something on you, do you go along with things or do you resist? (W)	1 2 3 4 5 6 7 8 9 10
Does breaking the rules make you feel nervous or give you a rush? (C)	1 2 3 4 5 6 7 8 9 10
Do you like to lead by example or are you more likely to follow? (W)	1 2 3 4 5 6 7 8 9 10
Do you break rules you don't like or do you obey anyway? (C)	1 2 3 4 5 6 7 8 9 10
If someone's trying to sell you something you don't really want, do you buy it anyway or say 'No thanks'? (W)	1 2 3 4 5 6 7 8 9 10
When you're with a group, do you go your own way or try fit in? (A)	1 2 3 4 5 6 7 8 9 10

A-Assertive (4 items); C-Compliance (3 items); W-Willpower (4 items).

### **The role of BIDSCALE in predicting risk behaviours.**

The dichotomous risk behaviours from stage 1 are shown in Table 4. The final BIDSCALE consisted of 11 items rated on a scale 1–10. The total maximum score was 110. Total biddability scores were used to classify participants as either high in biddability (score >50; n=20, mean=62.5; SD=12.4) or low in biddability (score <33; n=20; mean=24.7; SD=5.1). A  $\chi^2$  test was used to evaluate the association between biddability and each risk behaviour.

The results are shown in shown in Table 5.

Table 5: The role of BIDSCALE in predicting risk behaviours (n=40)				
Risk behaviour or outcome 'present'	$\chi^2$ (df = 1)	P value	Cramer's V	Effect size
Isolated?	14.40	<.001	0.63	Large
Trades?	9.23	0.002	0.48	Med-large
Has debt (now or past)?	8.64	0.003	0.47	Med-large
Tried NPS?	6.47	0.011	0.40	Medium
Impacted by IE?	5.01	0.025	0.35	Medium
Participates in IE?	1.76	0.185	0.21	—
Ever used substances?	1.15	0.284	0.13	—

The results showed that high biddability predicted prisoners being isolated (large effect size), being involved in IE trading and getting into debt (medium-large effect sizes) as well as having tried NPS and being impacted by the IE (medium effect sizes). No effect was found for participation in the IE or for substance use ever.

#### Discussion

The present study explored prisoners' experiences of the IE, the role of NPS and their relationship to outcomes such as debt and violence. The results from the qualitative stage showed that active participation in the IE was very common and was seen as an inevitable and fundamental part of prison life which helped to pass the time and ease boredom. Further, NPS were seen as core to the IE as they were low risk and hard to detect but prisoners also described them as problematic due to their impact of physical and mental health and the ways in which prisoners interacted with each other. This reflects recent concerns reported by NOMS<sup>24</sup> and the media<sup>25, 26</sup> and supports the notion that the IE in prisons may be changing due to new influences. Furthermore, prisoners described how debts incurred

from the IE could lead to prison transfers and violence which is in line with reports in the media<sup>27</sup> and provide some evidence for recent NPS amnesties which have been implemented as a means to tackle the surge of violence in prisons.<sup>28</sup> They also support concerns about the IE expressed by NOMS<sup>29</sup> and the work of Gooch and Treadwell<sup>30</sup> who highlighted the links between the IE, bullying and victimisation.

The study also developed a new measure of biddability to reflect vulnerability to the IE and to evaluate whether this new scale was associated with involvement in IE and its consequences. The results showed that the 11-item BIDSCALE was easy to administer in a prison setting, had good psychometric properties and consisted of three reliable subscales: 'assertiveness', 'compliance' and 'willpower'. In addition, the total biddability score was significantly associated with trading in the IE and being in debt. Research exploring consumer debt in the non-prison environment highlights a role for a number of factors including psychological issues such as impulsivity and lack of self-control.<sup>31, 32</sup> The results from the present study indicate that a comparable construct conceptualised as biddability to reflect the lack of assertiveness and willpower and a high sense of compliance may be similarly predictive of debt in prisoners. Furthermore, the new BIDSCALE was also associated with the negative consequences of the IE such as trying NPS and becoming isolated.

The results from the present study therefore indicate that the IE is an integral part of prison life and that prisoners trade, particularly for and with NPS, because it takes up time and they are bored and because NPS are considered low risk and cannot be detected. The results further indicate that the IE can lead to debt, violence and transfers and that trying NPS, trading, isolation and debt can be predicted by BIDSCALE. For the IE to change, these factors therefore need to be addressed. This could involve improved educational and physical activities for prisoners to alleviate boredom, greater education concerning the risks associated with NPS, the wider use of body scanners, mobile signal blocking equipment and drug testing procedures to pick up the supply and use of NPS. Each of these, however, involves financial investment into prisons for increased staffing and equipment, a challenge in times of austerity and a

24. NOMS (2015). see n. 1.

25. Ward (2015). see n. 1.

26. Morris (2015). see n. 3.

27. Shaw (2015). see n. 4.

28. Doward, J. (2015). 'Spice' amnesty to tackle violence epidemic in prisons. Retrieved from <http://www.theguardian.com/society/2015/aug/29/prison-amnesty-spice-drugs>.

29. See n. 1.

30. See n. 5.

31. Martin & Potts (2009). see n.14.

32. Gathergood (2011). see n. 15.

longer term solution. These solutions also involve a whole prison approach together with clear national and institutional strategies as argued by Gooch and Treadwell<sup>33</sup> who highlight how the IE is a complex and multifactorial problem. Perhaps, however, in addition to trying to change the IE itself, in the shorter term, efforts could also be made to limit the consequences of the IE. In line with this, prisoners could be helped to avoid or manage their debt differently by discussing it openly with prison officers rather than just transferring their problems to another wing; they could be educated explicitly about the problems with the IE, the likelihood of debt and the availability of NPS in prisons on entering prison; and they could be screened on entry for the likelihood that they will become involved in the IE and suffer deleterious consequences. And the 11 item BIDSCALE developed in the present study could be used to help identify and support those prisoners most at risk from the IE and most likely to suffer its consequences. Accordingly, such a screening tool could be used with newly arrived prisoners, alongside existing tools as a means to identify those most likely to trade in the IE, most likely to try NPS and most likely to incur the negative consequences of the IE such as debt as a

means to offer support prior to the onset of any problems to those identified as most vulnerable. This is not to stigmatise such prisoners per se, nor to consider problems of the IE as being unrelated to the prison environment but to simply target limited resources of support to those prisoners in most need.

To conclude, the IE in prisons is perceived as inevitable and pervasive and as a means to pass the time. NPS have recently become a central part of the IE but impact on prisoners physical and mental health and ability to engage with others. Further, the IE can lead to debt which may result in transfers and/or violence. Participation in the IE and resulting debt and isolation are common but not universal and can be predicted by the new Biddability Scale (BIDSCALE) that was shown to have good psychometric properties and to consist of three subscales relating to assertiveness, compliance and willpower. It is argued that in the longer term the IE needs to be changed through policy and practice. In the shorter term, however, it is suggested that prisoners could be educated about the risks of both IE and NPS on arrival into prison and that the BIDSCALE could be used to identify, monitor and support those individuals most at risk of the detrimental consequences of the IE.

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33. Gooch & Treadwell (2015). see n. 5.



# Military veteran-offenders:

## Making sense of developments in the debate to inform service delivery

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**In a 2008 report by the National Association for Probation Officers<sup>3</sup> it was estimated that in excess of 20,000 ex-service personnel were serving a sentence in either prison or the community in England and Wales. Since this report, we have witnessed a steady growth in research, literature and knowledge exchange seeking to make sense of veterans' offending and the veteran-offender.<sup>4</sup> Here, we provide a brief overview of the key development of this debate since the recognition of the 'problem' of ex-military personnel in prison nearly ten years ago. This discussion problematizes the narrow focus on veterans' engagement with criminal justice and suggests that the quality of transition from military to civilian life is in fact contingent on a more complex interplay of social, cultural and economic participation-linked factors. We propose that by considering the complexities of transition, veterans' offending is more appropriately positioned amongst wider structural challenges faced on return to civilian society. This approach informs the limited recent empirical work in this area, which has been slow to filter into mainstream criminal justice practice. It is our contention that veterans' contact with the criminal justice system needs to be understood within the broader explanatory frameworks of diversity and social inclusion. We make specific recommendations, based on new developments in the veteran-offender debate, to inform service delivery to this cohort in the criminal justice system.**

Despite the lack of definitive figures for the veteran population in prison, there remains a great deal of political, practitioner and academic interest in this area, alongside growing concerns regarding the unprecedented increase in public health uptake and criminal justice service contact by ex-service personnel. It is estimated that poor transition from military service into civilian life cost the UK tax payer £98 million in 2015 alone.<sup>5</sup> Of the 757,805 people who served as Regulars in the British Armed Forces between 1991 and 2014 it has been estimated that at least 66,090 may need to access support services; this is equivalent to 1 in 11 who may need a helping hand either now or in the future.<sup>6</sup>

A review of the key messages across the last ten years of study of veterans and veteran-offenders is pertinent given the recent introduction of Veteran Wings at the UK's largest new-build prison, HMP Berwin Russ, which opened in Wrexham earlier this year. Addressing critical questions regarding what we know and where we are heading with regard to the delivery of services to the veteran community is therefore timely, particularly with regard to the focus on how this decade of work can most effectively inform criminal justice service delivery.

### **NAPO to now: identification, diagnosis, response**

In response to the National Association of Probations Officers (NAPO) report identifying the large number of veterans mired in the criminal justice system, the social justice charity NACRO published 'A Guide to Working with Veterans in Custody'.<sup>7</sup> Highlighting the apparent lack of awareness amongst criminal justice practitioners of the impact of military experiences on

1. The evaluation of Addaction's veteran specific Right Turn project (2015–2017). The aim of the Forces in Mind Trust is to promote the successful transition of Armed Forces personnel, and their families, into civilian life. For more details, see the web page: <http://www.fim-trust.org/>.
2. The British Academy/ Leverhulme small grant was awarded in 2015, to conduct narrative life history interviews with criminal justice engaged military veterans focussing on identity transitions.
3. National Association of Prison Officers (2008) Ex-Armed Forces Personnel and the Criminal Justice System.
4. Murray, E. (2013) Post-army trouble: veterans in the criminal justice system, *Criminal Justice Matters*, 94(1), pp.20–21.
5. Forces in Mind Trust (2013) The Transition Mapping Study: Understanding the transition process for Service personnel returning to civilian life, p 7.
6. Diehle, J., and Greenberg, N. (2015) Counting the Cost report: Help for Hero's and KCMHR, [on-line]: <https://www.kcl.ac.uk/kcmhr/publications/assetfiles/2015/Diehle2015.pdf> (Accessed 30/01/2017).
7. James, S., and Woods, N. (2010) A Guide to Working with Veterans in Custody, NACRO; London. Available: <http://www.nacro.org.uk/data/files/working-with-veterans-810.pdf> (Accessed 30/01/2017).

veterans, this guidance document sought to assist professionals in their engagement with this cohort. The report emphasises the different language codes and culturally nuanced ways in which ex-military personnel reason due to their service training. The guidance contains advice regarding how practitioners can use this culturally-specific information to engage more effectively with this often hard-to-engage population. Elsewhere, Treadwell's 'Counterblast' article in the Howard journal of Criminal Justice presents an informed practitioner-based view of veterans who have come into contact with probation.<sup>8</sup> As an ex-probation officer, Treadwell relates his encounters with veterans, emphasising how many who leave the ordered life of the forces struggle to transition into the civilian world. Significantly, Treadwell recognises that coming into contact with the criminal justice system represents just one of a myriad of harms that may be experienced by individuals who leave the Armed Forces.

The Howard League's 2011 'Report of the inquiry into former Armed Service personnel in prison' asserted that ex-service personnel represented the largest occupational subset of the male prisoner population in the UK.<sup>9</sup> Bringing the issue of veteran offending into the public sphere, such behaviour was depicted as a continuation of some individuals' pre-enlistment engagement with crime. This perspective has come under sustained criticism for depicting current veterans' problems as the product of individual deficits.<sup>10</sup> In response, McGarry and Walklate propose an alternative framework for making sense of ex-service personnel's post war engagement in crime.<sup>11</sup> By imaging the 'soldier as victim', the authors assert that the state is accountable for exposing military personnel to combat, which can have a detrimental impact on their return to civilian life.

The Government and policy response to this situation manifest in 2014 with Lord Ashcroft's Veterans Transition Review,<sup>12</sup> the Phillips Review<sup>13</sup> and two associated reports<sup>14, 15</sup> which make a range of recommendations relating to the collection of cohort data and the co-ordination of services and diversion schemes. The quantitative data elements of this work identified that veterans in the criminal justice system have little in the way of distinct needs when compared to their non-ex-forces peers.<sup>16</sup> An apparent recognition of the potential harms of military service is however reflected in the UK Government's ratification of the UK Armed Forces Covenant in 2011 in which responsibilities to current and former Armed Forces personnel and their families have been formalised.<sup>17</sup> The Covenant states that no current or former member of the British Armed Forces should face disadvantage in public or commercial services and in some cases they should receive special consideration. Yet the Covenant remains a statement of principle rather than a legally binding duty of care for the Armed Forces community. And whilst Covenant principles are cited as underpinning policy developments in the criminal justice system, practitioners are only directed to use military service as a relevant identification category when 'the offending behaviour in question can be shown to be directly caused by service in the Armed Forces'.<sup>18, 19</sup> This situation highlights a tension between criminal justice practice and the principles of the Armed Forces Covenant.

Disappointingly the Covenant-based ethos is yet to be reflected in strategic support for the many good practice examples of working creatively with ex-forces in custody. The HM Inspectorate of Prisons' report in 2014 identified both a lack of consistency in approach across the prison estate and that successful activities were being implemented through the hard work and determination

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8. Treadwell, J. (2010) COUNTERBLAST: More than Casualties of War?: Ex military Personnel in the Criminal Justice System. *The Howard Journal of Criminal Justice*, 49(1), pp.73–77.
  9. The Howard League (2011) *Report of the inquiry into former Armed Service personnel in prison*. London: The Howard League for Penal Reform.
  10. e.g. Early Service Leavers; Female veterans; those with and without combat experience; Retirees; BAME veterans; The Bereaved; the war injured; older veterans; younger veterans; those employed and unemployed on leaving service; veterans with no contact with support services or public services.
  11. McGarry, R., and Walklate, S. (2011) The soldier as victim: Peering through the looking glass, *British Journal of Criminology*, 51 (6), 900–917.
  12. Ashcroft Review (2013) *The Veterans Transition Review*.
  13. Phillips, S. QC, MP (2014) *Former Members of the Armed Forces and the Criminal Justice System: A Review on behalf of the Secretary of State for Justice*.
  14. Kelly, J. (2014) *The Needs of Ex-service Personnel in the Criminal Justice System: Evidence from two surveys*, Ministry of Justice Analytical Summary: evidence on the needs and experiences of ex-service personnel in the criminal justice system.
  15. Lyne, C., and Packham, D. (2001) *The Needs of Ex-service Personnel in the Criminal Justice System: A Rapid Evidence Assessment*, Ministry of Justice Analysis Series.
  16. *ibid.*
  17. Ministry of Defence (2011) *The UK Armed Forces Covenant*: available at: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/49469/the\\_armed\\_forces\\_covenant.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/49469/the_armed_forces_covenant.pdf).
  18. Phillips, S. QC, MP (2014) *Former Members of the Armed Forces and the Criminal Justice System: A Review on behalf of the Secretary of State for Justice*, p 6.
  19. The full quote is: 'any suggestion that former services personnel who have offended should receive different treatment within the criminal justice system from their civilian counterparts runs the risk of undermining public confidence in the Covenant unless the offending behaviour in question can be shown to have been directly caused by service in the Armed Forces (which is rarely the case)', *ibid.* p 6.

of committed staff, rather than through formalised support or profiled hours.<sup>20</sup> A publication in the *Lancet*, from the King's Centre for Military Health Research team demonstrated that ex-service personnel are in fact less likely than their civilian counterparts to have contact with the criminal justice system.<sup>21</sup> However, those who do offend are significantly more likely to engage in violent and sexual offending. This study received significant national media coverage and we can only speculate on the social stigma implications. The 2016 Probation Institute Report<sup>22</sup> highlights the continued patchy understanding of the needs of veterans on probation, particularly post the Transforming Rehabilitation<sup>23</sup> (TR) reforms. The TR reforms promised tailored provision for veteran-offenders,<sup>24</sup> yet these innovations have thus far, according to the Probation report remained elusive. Collectively, this body of work illustrates the continued lack of recent empirical, theoretical and practice-based work filtering through to mainstream criminal justice practice.

... almost a fifth of ex-service personnel have reported finding themselves disadvantaged when accessing public and commercial services ...

supports our proposition that military veterans in transition face a complex array of disadvantages. For example, over and above coming into contact with the criminal justice sector, working age veterans in the UK are nearly twice as likely to be unemployed as their civilian contemporaries.<sup>25,26</sup> Moreover, almost a fifth of ex-service personnel have reported finding themselves disadvantaged when accessing public and commercial services, for example having trouble obtaining a mobile phone contract, whilst a quarter highlighted that they had been refused a mortgage, loan or credit card in the past five years.<sup>27</sup> Those leaving military service are also identified as being at increased risk of social isolation, as social and civil engagement profiles fall dramatically.<sup>28, 29, 30</sup> This body of work points towards the need to understand veterans' offending within a broader explanatory framework which incorporates diversity and social inclusion agendas.

A more nuanced understanding of the potential origins of veteran offending and their support needs more broadly is, however, evolving. Overriding concerns with the governance of veterans<sup>31</sup> are shifting to the complexity of veterans' engagement in civilian society as a whole, not just within the criminal justice sector. For example, an appreciation of the multitude of factors that can prevent a 'good transition' from military to civilian life is evident in work commissioned through agencies such as the Forces in Mind Trust. Their Transition Mapping study acknowledges how subjective, structural and participatory factors all impact on veterans' entry into civilian life:

### Understanding veterans' transition experiences

It is our contention that veterans' contact with the criminal justice system needs to be understood within the broader context of their transition to civilian life. In this section we move away from explaining veteran offending through the individual deficit model to highlight research producing a more comprehensive picture of ex-forces experiences of re-entry into civilian society. While much less reported in the national media this evidence base

20. Her Majesty's Inspectorate of Prison (2014) *People in prison: Ex-service personnel*, London: Her Majesty's Inspectorate of Prisons.
21. MacManus, D., Dean, K., Jones, M., Rona, R.J., Greenberg, N., Hull, L., Fahy, T., Wessely, S. and Fear, N.T. (2013) Violent offending by UK military personnel deployed to Iraq and Afghanistan: a data linkage cohort study. *The Lancet*, 381(9870), pp.907–917.
22. Ford, M., Mills, H., and Grimshaw, R., with Allison, C. (2016) *Profile of Provision for armed forces veterans under probation supervision*, The Probation Institute, available at: <https://www.crimeandjustice.org.uk/sites/crimeandjustice.org.uk/files/Profile%20of%20provision%20for%20armed%20forces%20vet%20erans%20under%20probation%20supervision.pdf>
23. Ministry of Justice (2013) *Transforming Rehabilitation: A strategy for reform 2010–2015*. Available at: <https://consult.justice.gov.uk/digital-communications/transforming-rehabilitation/results/transforming-rehabilitation-response.pdf>.
24. Lyne, C., & Packham, D. (2014). *The needs of ex-service personnel in the criminal justice system: a rapid evidence assessment*. London: Ministry of Justice.
25. Royal British Legion (2014) *A UK Household Survey of the ex-Service community*, available at: <https://www.britishlegion.org.uk/media/2275/2014householdsurveyreport.pdf>.
26. Royal British Legion (2016) *Deployment to Employment: Exploring the veteran employment gap*: Available [on-line]: <http://www.britishlegion.org.uk/get-involved/campaign/the-veteran-employment-gap/>.
27. Ashcroft Review (2013) *The Veterans Transition Review*.
28. Hatch, S.L., Harvey, S.B., Dandeker, C., Burdett, H., Greenberg, N., Fear, N.T. and Wessely, S. (2013) Life in and after the Armed Forces: social networks and mental health in the UK military. *Sociology of health & illness*, 35(7), pp.1045–1064.
29. Iverson, A., Nikolaou, V., Greenburg, N., Unwin, C., Hull, L., Hotopf, M., Dandeker, C., Ross, J., and Wessely, S. (2005) 'What Happens to British Veterans when they leave the Armed Forces?', *European Journal of Public Health*, 15 (2): 175–184.
30. Hipes, C., Lucas, J.W. and Kleykamp, M. (2014) Status-and Stigma-related Consequences of Military Service and PTSD Evidence from a Laboratory Experiment, *Armed Forces & Society*, vol. 41 no. 3 477–495.
31. Murray, E. (2016) *The 'Veteran-offender': A Governmental project in England and Wales*, Palgrave Handbook of Criminology and War.

*A good transition is one that enables ex-Service personnel to be sufficiently resilient to adapt successfully to civilian life, both now and in the future. This resilience includes financial, psychological, and emotional resilience, and encompasses the ex-Service person and their immediate families.*<sup>32</sup>

The National Health Service (NHS) has responded to this increasingly evidenced reality of veterans as a patient cohort experiencing significant cultural barriers into help seeking services by defining veterans as a Priority Health care group. Further, the NHS Constitution has been amended to ensure that Veterans are 'able to access services with health professionals who have an understanding of Armed Forces culture'.<sup>33</sup> Despite the availability of these nuanced messages and practice responses from other public sectors and nearly ten years work since the NAPO briefing paper, criminal justice agencies maintain they have no access to 'evidence about effective ways of addressing veterans needs in total' and specifically not since 'the changes required by the Transforming Rehabilitation agenda'.<sup>34</sup> Until alternative discourses around the broader experiences of veterans in transition are transferred into the criminal justice policy and commissioning landscape, they will not influence national criminal justice practice standards.

The first empirically-based research of veterans' contact with post-transforming rehabilitation commissioned services has recently been completed from a criminal justice perspective.<sup>35, 36, 37</sup> This two year study of Addaction's<sup>38</sup> Right Turn veteran-specific recovery project<sup>39</sup> highlights the benefits of employing an holistic peer group based service delivery model. This

research identifies veterans' engagement with substance misuse and criminal activity among a range of issues faced post service. These issues include veterans: lack of transferable education and employment options; and social isolation; as well as day-to-day problems such as: managing finances and debt; access to secure accommodation; negotiating the complexities of the benefits system; and accessing appropriately specialist health services. The Right Turn project has been successful both in terms of enhancing veterans' recruitment into and continued engagement with support services. Further positive outcomes of project engagement are identified as veterans' engaging in voluntary and paid work and social engagement in wider and more diverse social networks. The impact this delivery model has had on veterans' lives more broadly has also been evidenced through sustained recovery from addictions, and a dramatic reduction in criminal justice engagement amongst the cohort. This study highlights how a strengths-based, culturally competent and holistic approach to veteran status can facilitate a significant reduction in social isolation and supports the development of a positive community participation-based identity, captured in the concept of 'military veteran citizenship'.<sup>40</sup>

It is clear the initial efforts to identify the numbers of the veterans in the criminal justice system have been furthered by practitioner work highlighting the lack of awareness of the military experience within criminal justice operatives.<sup>41, 42</sup> Veterans' offending has been shown to be only one of a myriad of challenges faced on leaving service. This has run parallel to discourse around military service as acting as a 'deep freeze' on prior offending behaviour.<sup>43</sup> State responsibilities have been

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32. Futures Company and Forces in Mind Trust (2013) The Transition Mapping Study: Understanding the transition process for Service personnel returning to civilian life, p 13. [on line]: <http://www.fim-trust.org/wp-content/uploads/2015/01/20130810-TMS-Report.pdf> Accessed 08/11/16.
  33. National Health Service Constitution (2015) Handbook to the Constitution- Principles that guide the NHS, p 17. Available at: <https://www.gov.uk/government/publications/supplements-to-the-nhs-constitution-for-england>.
  34. Ford, M., Mills, H., and Grimshaw, R., with Allison, C. (2016) Profile of Provision for Armed Forces Veterans under Probation supervision, The Probation Institute Report.
  35. Albertson, K., Best, D., and Irving, J. (2015) 'A Social Capital approach to assisting veterans through recovery and desistance transitions in civilian life', *The Howard Journal of Criminal Justice*, 54 (4): 384–396.
  36. Albertson, K., and Best, D., with Irving, J., Murphy, T., Buckingham, S., Morton, G., Stevenson, J., Crowley, M., Mama-Rudd, A., and Chaggar, A. (2016) Right Turn Veteran-Specific Recovery Service: 5 Site Evaluation Pilot: Interim Report (March 2016), Sheffield Hallam University: Helena Kennedy Centre for International Justice.
  37. Albertson, K., Best, D., Pinkney, A., Murphy, T., Irving, J., and Stevenson, J. (2017) 'It's not just about recovery': The Right Turn Veteran-Specific Recovery Service Evaluation, Final report (June 2017), Sheffield Hallam University: Helena Kennedy Centre for International Justice.
  38. Addaction are one of the UK's largest specialist community drug and alcohol treatment charities, for more details see the web page: <https://www.addaction.org.uk/>.
  39. For more details about the Right Turn project, see the web page: <https://www.addaction.org.uk/help-and-support/adult-drug-and-alcohol-services/right-turn>.
  40. Albertson, K., Best, D., Pinkney, A., Murphy, T., Irving, J., and Stevenson, J. (2017) 'It's not just about recovery': The Right Turn Veteran-Specific Recovery Service Evaluation, Final report (June 2017), Sheffield Hallam University: Helena Kennedy Centre for International Justice, p 68.
  41. James, S., and Woods, N. (2010) A Guide to Working with Veterans in Custody, NACRO; London.
  42. Treadwell, J. (2010) COUNTERBLAST: More than Casualties of War?: Ex military Personnel in the Criminal Justice System. *The Howard Journal of Criminal Justice*, 49(1), pp.73–77.
  43. The Howard League (2011) Report of the inquiry into former Armed Service personnel in prison. London: The Howard League for Penal Reform.

raised within the debate<sup>44</sup> and recognition of the potential harms of military service is reflected in the Armed Forces Covenant.<sup>45</sup> Tensions around the purpose of identifying veteran status in the context of offending behaviour have been identified, along with the publication of more nuanced, veteran offending profile data.<sup>46</sup> Practitioners in the criminal justice sector are willing to embrace the distinctions in veterans experience to ensure their practice is informed<sup>47, 48, 49</sup> indicating the prospective benefits of the veteran-offender debate being moved forward in a new direction.

### **New Directions—a diversity and social inclusion agenda**

Over the last decade it has been identified that those with a military service history experience significant challenges on transition into civilian society. There has been a continuation of a dichotomous debate regarding the causes of veterans' offending behaviour, whilst policy and practice has been hampered by a lack of empirical data. Ultimately, the picture is much more complex than this. Despite some recent positive developments, the issue of veterans in the criminal justice system lacks the application of a broader framework of diversity and social inclusion agendas. The complexity of the lived experiences of veterans requires a more

holistic consideration of veterans' pre-enlistment situation, their experience of military service and consideration of the opportunities for social, community and civic participation upon leaving. In order to account for these participatory issues the research focus requires a more holistic turn, informed by the experiences of the diverse veteran population themselves. Of particular interest is establishing the extent to which members of the Armed Forces Community feature among those facing multiple social disadvantages. The potential of viewing the experiences of UK military veterans as an increasingly marginalised group within the wider social and political context ultimately means shifting into an explanatory framework incorporating issues of diversity, social inclusion and participation.

Empirical research, theory and policy is only beginning to engage with the impacts of pre-enlistment life, military service and post service experiences on veterans. What we do know is that veterans have a distinct offending<sup>50</sup> and wellbeing profile,<sup>51</sup> that they face significant barriers to accessing support services due to a lack of sensitivity about military culture amongst key professionals<sup>52</sup> and also experience significant levels of social exclusion.<sup>53, 54, 55, 56, 57</sup> These obvious injustices result in some veterans being excluded from civilian therapeutic and support contexts because they are misunderstood or judged.<sup>58, 59, 60</sup> Many veterans understandably prefer to see practitioners who have an understanding of and

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44. Walklate, S., and McGarry, R. (2015) Competing for the trace: The legacies of war's violence, in Walklate, S and McGarry, R (Eds) *Criminology and War: Transgressing the Borders*, London: Routledge.
  45. Ministry of Defence (2011) *The UK Armed Forces Covenant*.
  46. MacManus, D., Dean, K., Jones, M., Rona, R.J., Greenberg, N., Hull, L., Fahy, T., Wessely, S. and Fear, N.T. (2013) Violent offending by UK military personnel deployed to Iraq and Afghanistan: a data linkage cohort study. *The Lancet*, 381(9870), pp.907–917.
  47. Her Majesty's Inspectorate of Prison (2014) *People in prison: Ex-service personnel*, London: Her Majesty's Inspectorate of Prisons.
  48. MacManus, D., and Wood, N. (2017) *The Ex-Armed Forces offender and the UK criminal justice system*, in Hacker-Hughes, J (Ed) *Military Veteran Psychological Health and Social Care: Contemporary Issues*, Routledge: London and New York.
  49. Albertson, K., Best, D., Pinkney, A., Murphy, T., Irving, J., and Stevenson, J. (2017) 'It's not just about recovery': The Right Turn Veteran-Specific Recovery Service Evaluation, Final report (June 2017), Sheffield Hallam University: Helena Kennedy Centre for International Justice.
  50. MacManus, D., Dean, K., Jones, M., Rona, R.J., Greenberg, N., Hull, L., Fahy, T., Wessely, S. and Fear, N.T. (2013) Violent offending by UK military personnel deployed to Iraq and Afghanistan: a data linkage cohort study. *The Lancet*, 381(9870), pp.907–917.
  51. Bashford, J., Collins, C., Hasan, S., and Professor Lord Patel (2015) *Call to Mind: A framework for action*, Community Innovations Enterprise on behalf of the Forces in Mind Trust and NHS England.
  52. *ibid.*
  53. Iverson, A., Nikolaou, V., Greenburg, N., Unwin, C., Hull, L., Hotopf, M., Dandeker, C., Ross, J., and Wessely, S. (2005) 'What Happens to British Veterans when they leave the Armed Forces?', *European Journal of Public Health*, 15 (2): 175–184.
  54. Hatch, S.L., Harvey, S.B., Dandeker, C., Burdett, H., Greenberg, N., Fear, N.T. and Wessely, S. (2013) Life in and after the Armed Forces: social networks and mental health in the UK military. *Sociology of health & illness*, 35(7), pp.1045–1064.
  55. Hipes, C., Lucas, J.W. and Kleykamp, M., (2014) Status-and Stigma-related Consequences of Military Service and PTSD Evidence from a Laboratory Experiment, *Armed Forces & Society*, vol. 41 no. 3 477–495.
  56. Keeling, M., Wessely, S., Dandeker, C., Jones, N., and Fear, N. T. (2015) 'Relationship difficulties among UK military personnel: Impact of sociodemographic, military, and deployment-related factors,' *Marriage & Family Review*, 51(3), 275–303.
  57. MacManus, D., and Wood, N. (2017) *The Ex-Armed Forces offender and the UK criminal justice system*, in Hacker-Hughes, J (Ed) *Military Veteran Psychological Health and Social Care: Contemporary Issues*, Routledge: London and New York.
  58. Albertson, K., Best, D., Pinkney, A., Murphy, T., Irving, J., and Stevenson, J. (2017) 'It's not just about recovery': The Right Turn Veteran-Specific Recovery Service Evaluation, Final report (June 2017), Sheffield Hallam University: Helena Kennedy Centre for International Justice.
  59. Stack, C. R. (2013) 'How is psychological therapy experienced by ex-UK armed Forces members? An exploration through personal narrative of cross-cultural encounters.' (Doctoral dissertation, Middlesex University/ Metanoia Institute).
  60. Wainwright, V., McDonnell, S., Lennox, C., Shaw, J., and Senior, J. (2016) 'Treatment Barriers and Support for Male Ex-Armed Forces Personnel in Prison Professional and Service User Perspectives.' *Qualitative Health Research*.

sensitivity towards military life and culture.<sup>61</sup> Ultimately, this cohort, not wholly heroes, victims or villains, have a right to a balanced and sensitive approach to the development of services suited to identifying, assessing and managing their needs.<sup>62</sup> Understanding the social and cultural impact of military experience on journeys post military service is beginning to generate explanatory theoretical frameworks to examine the notion of 'transition' as a cultural legacy of military life.<sup>63</sup> From this position, the significance of the impact of the change in 'rules' from military environments compared to civilian ones is exposed, as service personnel must navigate a complex cultural transition when moving between military and civilian cultures. Understanding these issues from the perspective of a wide variety of differently experienced veterans<sup>64</sup> and their families and communities must form the bedrock of future research agendas and practitioner-based initiatives.

The Government and wider society have both a stake and a role in ensuring veterans are able to acclimatise from military to civilian spheres. This means providing opportunities or safe spaces in which veterans can make the shift from a sense of self from soldier to citizen,<sup>65</sup> or as moving from living in 'civilian life as a serving soldier' to embracing a fuller, positive and more future facing 'military veteran citizenship'.<sup>66</sup> It would therefore appear necessary to explore the possibility that poor transition outcomes may be related to complications in securing any sense of post-service identity. Interestingly, veterans who have no contact with publicly funded support services are not seen as challenging. For example, the

persistence of the military identity has been identified un-problematically in leavers from the US Air force,<sup>67</sup> former Army, Navy and RAF veterans living in the city of Plymouth<sup>68</sup> and those retiring directly from the forces into civilian life.<sup>69</sup> If we do not include those who appear to have made a successful transition (defined as not coming to the attention of public services), we may miss identifying pathways and key pointers which facilitate more effective transition for their peers.

Acknowledging identification with a military service history is an important identity marker amongst this cohort. In order to facilitate the shift to a post-military identity requires us to approach these distinctions not as a deficit, but as a culturally relevant marker of a range of constructive resources.

Practice informed by this type of culturally competent approach has been shown to be more effective in reducing the barriers to veterans asking for and engaging in support services, be they health, social care or criminal justice.<sup>70</sup>

## The Government and wider society have both a stake and a role in ensuring veterans are able to acclimatise from military to civilian spheres.

### Conclusions and implications

The move from military service into civilian society is a significant life transition, which for some veterans can lead to contact with the criminal justice system, alongside a variety of other social ills. However, military transition remains a process about which we know little about. In turn, empirically and theoretically informed policy approaches and practice remain sparse. As a consequence, how we choose to respond to veterans is likely to continue to be based on unsubstantiated

61. Ben-Zeev, D., Corrigan, P.W., Britt, T.W., and Langford, L. (2012). Stigma of mental illness and service use in the military, *Journal of Mental Health*, 21, 264–273.
62. McCartney, H. (2011). Hero, victim or villain? The public image of the British soldier and its implications for defence policy. *Defence & Security Analysis*, 27, 43–54.
63. Cooper, L., Caddick, N., Godier, L., Cooper, A. and Fossey, M. (2016) Transition From the Military Into Civilian Life: An Exploration of Cultural Competence', *Armed Forces & Society*.
64. e.g. Early Service Leavers; Female veterans; those with and without combat experience; Retirees; BAME veterans; The Bereaved; the war injured; older veterans; younger veterans; those employed and unemployed on leaving service; veterans with no contact with support services or public services.
65. Stack, C. R. (2013) 'How is psychological therapy experienced by ex-UK armed Forces members? An exploration through personal narrative of cross-cultural encounters.' (Doctoral dissertation, Middlesex University/ Metanoia Institute).
66. Albertson, K., Best, D., Pinkney, A., Murphy, T., Irving, J., and Stevenson, J. (2017) 'It's not just about recovery': The Right Turn Veteran-Specific Recovery Service Evaluation, Final report (June 2017), Sheffield Hallam University: Helena Kennedy Centre for International Justice, p 68.
67. Yanos, R.C. (2004) Perceptions of Adjustment to Civilian Life among Recently Retired Air Force Officers, University of Maryland.
68. Herman, A., and Yarwood, R. (2014) 'From Services to Civilian: The geographies of veterans' post-military lives', *Geoforum*, 53: 41–50.
69. Wolpert, D. S. (2000) Military Retirement and the Transition to Civilian Life,' in Martin, J. A., Rosen, L. N., and Sparacino, L. R. (Eds) *The Military Family*, London: Praeger.
70. Albertson, K., Best, D., Pinkney, A., Murphy, T., Irving, J., and Stevenson, J. (2017) 'It's not just about recovery': The Right Turn Veteran-Specific Recovery Service Evaluation, Final report (June 2017), Sheffield Hallam University: Helena Kennedy Centre for International Justice.

assumptions<sup>71</sup> which impact on access to social justice for ex-service personnel. Responding to veteran status as a proxy for high risk of offending or as a treatment indicator for a homogenous group (wholly heroes, victims or villains) are unhelpful for practice. If these assumptions are left unchallenged we risk public and commercial services stigmatising veterans who transgress as somehow less deserving. We need policy makers, researchers, theoretical framework developers, Armed Forces charities/third sector agencies and the wider Armed Forces community to interact with each other in partnership in order to facilitate the development of an holistic understanding of the transitional experiences of military veterans.

The inclusion of veterans' experiences of transition in the veteran-offender debate can help us understand how best to 'mobilize this capital into accepted civilian norms' which are proving essential to a 'good' transition enhancing the 'possibility of successful employment and personal outcomes'.<sup>72</sup> Further, we must acknowledge that the cultural and structural experiences in the military may influence the ways in which the military service legacy is expressed for many years beyond leaving service life.<sup>73, 74</sup> Veterans' voices are key to the development of these new directions and discourse, and we need to ensure that the wider Armed Forces community themselves are utilised to facilitate these successful transitions. Ultimately, there are distinctive forms of institutionalized cultural capital that are embodied and valued within the military. These differ from the cultural capital required to integrate in civilian society. In order to formulate the best transitional experience, we need to facilitate opportunities for the veteran community to develop a 'sense of identity and purpose [that] isn't rooted in the past' but rather 'based on their present civilian circumstances and their plans for the future'.<sup>75</sup> In order to achieve this, the veteran community are best served by being both considered and included via a diversity and social inclusion framework. We make four recommendations, reflecting the new developments in the debate on veteran-offenders to inform service delivery within the criminal justice setting.

Since the NAPO  
report, over ten  
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population in the  
UK criminal justice  
system.

First, veterans in the criminal justice sector are recognised as a distinct and culturally diverse population, thereby ensuring responsibility for the ex-forces population becomes a part of the existing custodial Equality and Diversity Officer mandate. Second, mandatory military service awareness training is delivered across the public services sector, including all staff in the criminal justice context. Third, a political and policy level commitment to the introduction of a national veteran pathway is secured. This could take the form of a strengths-based, cross sector approach, meaning that both veterans in custody and custodial staff benefit from accessing more informed support intervention packages. This will incorporate through the gate services to address health and social care needs, addictions issues and social inclusion discrepancies. Accessing Council's Armed Forces

Covenant resources means that veterans in custody will be connected with the wider local Armed Forces community (including families), ensuring a holistic pathway which values relationships, enhances social capital gains and provides opportunities for community participation. This way, the experiences, voices and talents of the currently untapped community resource that the Armed Forces Community represent can be utilised to aid those veterans caught up in the criminal justice system. Finally, a commitment to a theoretically informed evidence-

base that advises commissioners and influences practice for veterans—across health and social care, addictions and the criminal justice context—thus ensuring good practice is shared and sustained throughout this national military veterans' pathway.

Since the NAPO report, over ten years ago, we are still awaiting definitive figures for the veteran population in the UK criminal justice system. The UK Armed Forces Covenant principle that no current or former member of the British Armed Forces should face disadvantage is yet to be reflected in any strategic support for ex-forces provision in the criminal justice sector. The purpose of identifying veteran status in the context of offending behaviour has been highlighted as problematic. Likewise, the

71. Treadwell, J. (2016). The Forces in the Firing Line? Social Policy and the 'Acceptable Face' of Violent Criminality. In *The Palgrave Handbook of Criminology and War* (pp. 331–346). Palgrave Macmillan UK.  
 72. Cooper, L., Caddick, N., Godier, L., Cooper, A. and Fossey, M. (2016) Transition From the Military Into Civilian Life: An Exploration of Cultural Competence', *Armed Forces & Society*, p 15.  
 73. Higate, P. R. (2001). Theorizing continuity: From military to civilian life. *Armed Forces & Society*, 27(3), 443–460.  
 74. *ibid.*  
 75. Futures Company and Forces in Mind Trust (2013) *The Transition Mapping Study: Understanding the transition process for Service personnel returning to civilian life*, pp 53–54.

continued focus of the dichotomous debate on explaining the causes of veterans' offending has proved unhelpful. Policy and practice reform has been hampered by a lack of empirical data. Therefore, should we not move the veteran-offender debate forward, we risk responding to offending veterans based on these unsubstantiated assumptions which impact negatively on ex-service personnel.

This paper asserts that the incorporation of these new developments in the veteran-offender debate could provide a service delivery model responding to the status of veteran as a protected characteristic,

warranting the delivery of culturally competent training. Further, we recommend this be complemented by a cross sector pledge to both a national veteran pathway and evidence-base collection strategy—working across health and social care, addictions and the criminal justice context. We assert that by making sense of new developments in the evidence base around veterans transitioning into civilian society, we can broaden the veteran-offender debate, thus ensuring service delivery to this cohort focusses on facilitating social justice for ex-service personnel.



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# Should the public be listening to prison radio programmes?

## An exploration of prison radio in Sweden and North America

*Siobhann Tighe* is a producer and reporter working for the BBC and *Dr Victoria Knight* is a Senior Research Fellow at De Montfort University, Leicester.

### Background

**This article reviews a recent project completed by one of the authors. Tighe was successfully awarded a fellowship<sup>1</sup> to visit examples of prison radio across Sweden and North America. Tighe visited programmes that could be heard by the general public. This happened after her secondment at the National Offender Management Service (NOMS), as Head of Prison Radio in England and Wales.<sup>2</sup> It was her insight and admiration of National Prison Radio which inspired this exploration. Her objective was to find out how the listening public responds to the prisoner experience when they hear it on their normal radio at home or via a website or through social media platforms like Facebook and SoundCloud.**

The aim of Tighe's project was to improve understanding of how prison radio in different jurisdictions is made. This could be by prisoners or ex-prisoners themselves or in collaboration with professional radio makers. In consolidating Tighe's evidence there are a number of important factors that shed light on the complexity of prison radio and the value it may have for the prisoner themselves, their families, the prison system and the wider society. This article argues that prison radio can make valuable contributions towards rehabilitative agendas as well as igniting routes to active citizenship and participation. It also highlights a range of responsibilities that broadcasters, small or large, might reflect on when dealing with prison-centred programmes for wider public consumption. We explore whether radio programmes made by prisoners have something to offer the wider public. We reflect on the impact of this.

When Tighe was Head of Prison Radio at NOMS, on secondment from the BBC, she was constantly impressed by the quality of the content of National

Prison Radio and how it put the audience at the heart of everything it does. National Prison Radio, which can be heard by the majority of prisoners in England and Wales, can be accessed by the majority of prisoners in England and Wales can only be heard via their in-cell television. It is important to note that it cannot be heard by anyone outside the prison. As a result of Tighe's fellowship and Knight's review of the existing research into prison radio, they have come to the conclusion that listening to radio programmes made by prisoners would have value outside the prison walls. They believe this for three main reasons. First, it would offer more information about prisons and how they operate, filling knowledge gaps amongst the general public. Second, it would give the community a more nuanced understanding of crime because they would hear the men and women taking part as 'humans' not just 'criminals'; something distanced and arbitrary. Third, a more informed general public may contribute towards a more successful re-entry into the community for prisoners, resulting in less re-offending. Moreover research indicates that prisoners, especially those who work side by side with professional radio producers, can develop essential skills which could enhance their employability and at the same time help them grown in confidence.<sup>3</sup> Tighe's fellowship corroborates these findings.

### What Prison Radio Research Tells Us

There is a discreet raft of research on prison radio. Although it is very niche it does give some insight into the ways in which prison radio has emerged, how it is managed and the ways it is produced. Heather Anderson discusses what she calls 'in-prison' radio. She identifies the different forms of prison radio. For example radio programmes created outside in the community, to be played inside prison compared to

1. Winston Churchill Memorial Fund- <http://www.wcmt.org.uk/users/siobhanntighe2015>.
2. National Prison Radio is broadcast in the majority of prisons in England and Wales via in-cell televisions, but it can only be heard inside the prison estate. It is a mix of music and speech, and is made by prisoners who are supported by a charity called The Prison Radio Association. It was initially set up to provide support when there was a number of suicides in Feltham Young Offenders Institute but it has grown into a professional, award-winning radio station which gives information about reducing rehabilitation and breaking the cycle of crime. Prisoners engagement with National Prison Radio could take place either through another radio station called Radio Wannu based in HMP Wandsworth, or through radio production courses supplied by the education provider.
3. Wilkinson, K., & Davidson, J. (2008). An Evaluation of the Prison Radio Association's Activity: The West Midlands Prison Radio Taster Project. *Unpublished internal evaluation report*.

radio programmes made by serving prisoners played on the inside and also on the outside. Our exploration builds on these different formats and considers the critical sensitivities related to producing and transmitting prison radio.

At this point it is useful to draw on the radio scholar, Nick Couldry<sup>4</sup> who developed the idea of 'voice' as 'process and value'.<sup>5</sup> He argues that organisations actively choose to exclude, ignore, undermine and silence certain voices and therefore in essence the organization denies 'a basic dimension of human life'.<sup>6</sup> Couldry asserts the 'process' of effective communication is firstly the production of voice through broadcast media. Secondly this process requires the voice to be *spoken*, and crucially *heard* by a receiver, that is the audience. It is the listening aspect of Couldry's process which adds complexity and makes it challenging for anyone involved in prison radio, especially if it goes out on the public airwaves. If it is to be prepared for public consumption it is essential that producers need to address offence related risks, be sensitive to victims and witnesses of crime as well as abiding by legal broadcasting stipulations.<sup>7</sup> To do this successfully making sure that prison radio requires additional resources, whether that is professional expertise or financial investment.

There is significant debate about the extent to which prisoners are silenced, not just in radio. Goffman described the prisoner experience as a 'civic death', whereby all opportunities to be an active citizen are taken away.<sup>8</sup> An outcome of this civic death means that,

*... prisoners are dehumanized in the popular consciousness. They are rarely presented as individuals and when they are, it's only their crimes and scarred backgrounds which are brought to light.*<sup>9</sup>

*... prisoners are dehumanized in the popular consciousness.*

#### **Enabling citizenship through radio participation**

As described by Goffman we know that citizenship is compromised by imprisonment.

For example prisoners are unable to participate in public, democratic and liberal practices. However, prison radio researchers agree that participation in radio, as programme makers or as listeners, enhances citizenship<sup>11</sup> and democracy.<sup>12</sup> This is because radio, unlike other media, is relatively accessible. As Anderson says it relies entirely on sound, specifically the voice.<sup>13</sup> Compared to television it is inexpensive to make. Radio programmes can be accessed in numerous and various ways and can reach audiences across large geographical areas.

Existing prison radio research suggests it is also very powerful especially when it comes to activism and the promotion of positive social values. One good example of this comes from Australia in a programme called the *Jailbreak Health Project*. This was created

4. Couldry, N. (2015). Alternative Media and Voice. *The Routledge Companion to Alternative and Community Media*. In Atton, C. (Ed.). (2015). *The Routledge companion to alternative and community media*. Routledge. Couldry's (2015).
5. *ibid.* (2015) p44.
6. *ibid.* pg 45.
7. McDonald, K. (2014). *Performance, power and production: a selective, critical and cultural history of the radio interview* (Doctoral dissertation, Bournemouth University).
8. Goffman, E. (1991) *Asylums: Essays on the Social Situation of Mental Patients and Other Inmates* London, Penguin.
9. Lumby, C. (2002). *Televising the invisible: prisoners, prison reform and the media*. Brown, D., & Wilkie, M. (Eds.). (2002). *Prisoners as citizens: Human rights in Australian prisons*. Federation Press.
10. User Voice, Howard League, prison councils.
11. Anderson, H. (2013). Facilitating Active Citizenship: Participating in Prisoners' Radio. *Critical Studies in Media Communication*, 30(4), 292–306. See also Bedford 2015, Wilkinson and Davidson 2008.
12. Anderson, H. (2008). *Raising the civil dead: Prisoners' radio in Australia and Canada* (Doctoral dissertation, Griffith University).
13. (2015:18).

with serving prisoners and was about blood borne diseases.<sup>14</sup> It is this kind of participation in prison radio programmes which according to Bedford allows inmates to manage and cope with imprisonment.<sup>15</sup> Furthermore, Fisher's research in Australia found that prison radio gave a voice to prisoners especially through requests shows and seasonal programmes like the ones at Christmas. Fisher said they focused 'on the voices of the incarcerated'<sup>16</sup> and generated strong ties between prisoners especially within indigenous communities. He goes on to say that prison radio is an important bridge for softening the effects of imprisonment especially when it comes to the separation of the prisoner and their family. Fisher's observation supports other research which has found that other forms of media like television can strengthen the links between prisoners and their family back home.<sup>17</sup> For example, by watching the same programme at the same time even though they are in separate places they have created a bond.

Being able to cope with prison, and yet feel connected with home helps this notion of still being part of the community. In the same way then, listening to prison radio and making prison radio can also contribute to this sense of belonging. According to Bedford prison radio provides 'a service for a community, it operates as a means of expression of the community'.<sup>18</sup> She goes on to say that this sense of belonging can help prisoners 'reshape their understanding of concepts such as community, responsibility and empathy'.<sup>19</sup> Finally she argues that prison radio can widen or open up debates about our prisons to the listening public.<sup>20</sup>

## Protecting the public, the victims and prison organisations

Creating content made by serving prisoners is the core business of National Prison Radio (NPR) which is broadcast to most prisons across England and Wales. Bedford's analysis of NPR highlighted how it contributes to Prison Service targets, specifically 'purposeful activity'.<sup>21</sup> The core staff of NPR are radio professionals

many with an established record at the BBC. This expertise means that NPR generates credible programmes which abide important editorial and security standards. Bedford argues that this marries with Reithian principles and thus extends principles of 'ethical engagement'.<sup>22</sup> This blending of professional standards and serving the public is a distinctive quality of NPR according to Bedford.

One of the positive outcomes of this type of active participation in their own rehabilitation means that prisoners can learn radio production skills and also basic skills (such literacy and numeracy). Moreover, Bedford identified that that prisoners can learn about 'social responsibility'<sup>23</sup> for example creating a set of programmes about restorative justice. Not only were they about encouraging empathy in prisoners they also contributed to reducing recidivism according to Bedford. She claimed that these

She claimed that these programmes where prisoners honestly engaged with the harm they had inflicted helped to manage public opinion about NPR. She concluded that this helped to validate what NPR's serves to do as well as reassuring the public about their function which at its core is rehabilitation.

programmes where prisoners honestly engaged with the harm they had inflicted helped to manage public opinion about NPR. She concluded that this helped to validate what NPR's serves to do as well as reassuring the public about their function which at its core is rehabilitation.

14. Minc, A., Butler, T., & Gahan, G. (2007). The Jailbreak Health Project—incorporating a unique radio programme for prisoners. *International Journal of Drug Policy*, 18(5), 444–446.

15. Bedford, C. (2015). *Making waves behind bars: the story of the Prison Radio Association* (Doctoral dissertation) p13.

16. Fisher, D. (2009). Mediating kinship: country, family, and radio in northern Australia. *Cultural Anthropology*, 24(2), 280–312. p289.

17. Knight, V. (2015). *Remote Control: Television in Prison* London, Palgrave Macmillan.

18. Bedford, C. (2015). *Making waves behind bars: the story of the Prison Radio Association* (Doctoral dissertation) p42.

19. *ibid.* 43 see also (Allan 2006).

20. *ibid.* p43.

21. Bedford, C. (2015). *Making waves behind bars: the story of the Prison Radio Association* (Doctoral dissertation) p150.

22. *ibid.* p156.

23. *ibid.* p197.

A different study conducted into NPR by McDonald explored the editorial process and highlighted a complex set of processes which ensured that its reputation was maintained. She highlighted that NPR and the Prison Service work closely together. For example prisoners taking part in NPR must satisfy security requirements based on established risk assessments. Moreover NPR staff teach prisoners essential editorial rules when it comes to making programmes. When she was researching NPR she observed that prisoners were taught to how to become sensible interviewers, which sometimes meant making sure the interviewee was treated correctly and fairly.<sup>24</sup> As we said in our introduction NPR can only be heard by serving prisoners and one of the reasons it cannot be heard outside is to protect victims of crime and to make sure they are not further harmed. Consideration for widening its reach to the community has been avoided. Driving this decision is to ensure rightful protection of victims of crime. In contrast to the well-honed relationship between NPR and NOMS in England and Wales the Australian researcher Anderson found an example which didn't comply with prison system rules. She identified a radio show called *Locked-In*, which took calls from low risk offenders at the end of their sentence. It contravenes Australian prison policy on protecting victims of crime.<sup>25</sup> This kind of example could weaken trust between important stakeholders and ultimately put a project like this at risk.

To overcome these risks, prison radio across the board puts in place mechanisms to mitigate risk. For instance in England and Wales NPR has strict conditions about which prisoners can participate and they need to be engaged in their rehabilitation. They do this in conjunction with offender managers and security departments within the prison. Within the prison, risks can be managed to some degree through prisoner selection and editorial guidelines. But on the outside this is harder to manage, and therefore publishing prisoner testimonies is avoided. Anderson argues there is a distinct 'absence of prisoners' own views and

It enables inmates to be recognised as individuals with their 'own' voices. We need to be very mindful that these voices have the potential to extend further harm to victims.

perspectives in the public sphere'.<sup>26</sup> But she also believes that prisoners themselves can plug that gap, helping to provide,

*... alternative discourses on law and order issues that speak through the voices of those experiencing ... the prison system ...*<sup>27</sup>

She says that by denying their voice or restricting it, or heavily regulating it, the penal debate becomes limited, partial and selective. Moreover, prisoners are not just experts on the prison experience, they have other things to say about the world. Anderson's findings are supported by McDonald's research, who suggests that radio offers important opportunities for the prisoner 'to be heard and to be listened to'.<sup>28</sup> As we have mentioned earlier society reduces prisoners to one single issue which is incarceration. But the research indicates that prisoners' engagement in prison radio has the potential to normalize of the prison experience. It enables inmates to be recognised as individuals with their 'own' voices. We need to be very mindful that these voices have the potential to extend further harm to victims.

Furthermore the potential risks are also exacerbated by the established argument that prisoners are less eligible. Because of their crimes prisoners are not considered undeserving when it comes to access to full rights, active citizenship and access to goods and services. And it is these kinds of restrictions which can be played with. Bottoms, describes this is a form of 'manipulation of perceived public opinion in order to serve political interests'.<sup>29</sup> We know that if political parties appear to be tough on crime, they believe that is more attractive to the electorate. However the recent Prison Reform agenda set out by the previous Secretary of State, Michael Gove in 2016 gave some indication that restrictions would be loosened in order to reduce re-offending, curb prison violence and save money. His vision for the Prison Service could now be put on hold, especially in the light of Brexit. What we do know is keeping in contact with family is one

24. McDonald, K. (2014). *Performance, power and production: a selective, critical and cultural history of the radio interview* (Doctoral dissertation, Bournemouth University) p 166.

25. Anderson, H. (2013). Facilitating Active Citizenship: Participating in Prisoners' Radio. *Critical Studies in Media Communication*, 30(4), 292–306.

26. Anderson, H. (2015). Prisoners' Radio. *The Routledge Companion to Alternative and Community Media*. Anderson (2015).

27. *ibid.* p432).

28. McDonald, K. (2014). *Performance, power and production: a selective, critical and cultural history of the radio interview* (Doctoral dissertation, Bournemouth University) (Curtis Blanc interview in McDonald 2014).

29. Bottoms (2015:222)????

established route to successful resettlement. As described below this is also one of the major findings in Tighe's project. She visited prison radio projects in Sweden and North America and witnessed prisoners and ex-prisoners using radio to maintain important links with their family, community, their identity. It and also helped them make sense of their prison experience, which for some is disorientating and painful as Sykes<sup>30</sup> famously documented in his sociological study of an American prison.

### Sweden

Radio Fri is a radio programme in Stockholm and broadcast on a community radio station. It features young offenders, many of them vulnerable with complex needs. These young people are assisted by professional programme makers. This is helpful because initially many may struggle to present the programme and speak on air, as Nadia one of the professional programme producers explains,

*The people who like presenting radio programmes, stay ... One person has been doing it for three years. He's totally fluent when he's speaking now, and he really connects with the audio. The people we work with are encouraged to reflect on the material that we've recorded. That's how they're practicing empathy. Our big aim is to help people work better in a group, to practice empathy skills and self-reflection, enhance their language and communication skills, and strengthen their self-esteem. (Nadia—professional programme producer)*

Tighe also met two young men called Gabriel and Jasber. They were hopeful that their work with Radio Fri would help them find employment although not necessarily in the highly competitive media industry. Gabriel said that before Radio Fri he was shy, but he is now able to talk in front of people and even give presentations,

*Everyone needs to challenge their fears. (Gabriel — young person).*

At one of the Young Offenders Institutions outside Stockholm which Radio Fri visits the young prisoners that Tighe spoke to explained that participation in radio allowed them to express themselves in creative ways. One teenage girl said,

*It's important for us living here to speak out, and people need to listen because I'm just as much of a human as anyone else is. People say they understand me, but they've never had an addiction, so they can't really understand me. I think it's important for people to understand that drugs and criminality are big problems for teenagers. (Anon—young person under 18)*

The value of the voice within this context is as McDonald described in her research is a valuable route to carving out autonomy and self-worth<sup>31</sup> This was also reiterated by another young person who Tighe spoke to,

*I get the chance to express myself and tell my story. By listening to me, people might recognise themselves in me, relate to me, and not feel alone. If I tell my story people may say: 'Hey! I've been through that, and I'm also in that place. I know what you feel and I know what you're thinking'. (Anon—young person under 18)*

The young people in Stockholm were using radio to paint a broader, more nuanced and complex picture of themselves than the ones society creates.

Sharing her story was therapeutic for her. Since it was heard by the public, outside the prison on a normal radio and via the internet she felt she was helping others. That empowered her and gave her a purpose.

The young people themselves could see prison had not only removed them physically from society but had also taken away their voice and their ability to participate in civic life. The young people in Stockholm were using radio to paint a broader, more nuanced and complex picture of themselves than the ones society creates. As mentioned earlier radio does have the power to get involved and challenge public perception of criminals. Radio Fri is doing precisely this. It provides a platform to inform the public and possible counter dominant discourses around criminality.

30. Sykes, G. (1957?) *The Society of the Captives*.

31. McDonald, K. (2014). *Performance, power and production: a selective, critical and cultural history of the radio interview* (Doctoral dissertation, Bournemouth University).

In Oregon, North America, a prison tutor Lauren was compelled to create a radio community programme called *Concertina Wire*. She felt that this would provide a valuable space to humanise the female prisoners she was teaching creative writing to.

*The idea was originally to get incarcerated and formerly incarcerated women to write non-fiction memoir pieces, or something about their hopes, or what they wanted to do when they got out, and to broadcast it, so that the community could see them as humans. We used, with permission, written pieces from Coffee Creek Correctional Facility in Wilsonville and we read those out on the air. The response was really positive and people were excited to hear this original content. Then we started to use formerly incarcerated women talking 'live' on air, having a discussion about who they were, their struggles and where they hope to go from here. So it was powerful for the audience, but also powerful and transformative for the women taking part. (Lauren—Concertina Wire)*

One unanticipated outcome of *Concertina Wire* was that it became a support network for people who had just left prison. Lauren explained how ex-prisoners listened and even participated because they wanted to remain connected to both the prison and the ex-prisoner community. This was also echoed by another weekly radio programme called *The Prison Show*, made in Houston, Texas. Presented and produced by two ex-prisoners the show's core objectives were to provide friendship to prisoners inside, including those on Death Row, remaining connected to families on the outside, and providing a community for those who had been released from prison. One way of doing this was via its *Shout-Out* section. This is where families and friends could phone into the show and have a few minutes to say hello to their loved-ones inside prison.

The show's producer, David, described how emotional these shout-outs were,

*No one ever called in to give me a call-out [whilst in prison]. I'd lay up in my little bunk with my headphones on and listen to all the people calling in to The Prison Show and they became my family. It was really neat to hear them say to other inmates: 'We love you. We miss you. We won't be able to come to see you, but just know that you're in our thoughts'. And I'd get all choked up...If your loved-ones care enough about you to call out on the radio, telling you how much they love you, that's just awesome, man, and I don't care how big and bad a convict you are: you're going sit there and cry about it. (David—producer *The Prison Show*)*

*I'd lay up in my little bunk with my headphones on and listen to all the people calling in to The Prison Show and they became my family. It was really neat to hear them say to other inmates: 'We love you. We miss you.'*

The established view is that prison experience is painful because of enforced isolation. The producer David believes his show helps soften the distance between prisoners and separated family members. Moreover, anyone tuning in but detached from the situation, had the rare opportunity to hear prisoners not just as offenders, but as a brother, father, son and boyfriend. This chimes with Rex Bloomstein's catalogue of prison documentary films. His work are an illustration of how prisoners shown on screen can

help increase the public's knowledge of prison life and fill an information gap. Bennett's analysis of Bloomstein films argues,

*Bloomstein's contribution has been to maintain a space in popular culture for more measured reflection and empathy. The polemics and stereotypes, that so often characterize public discourse about crime and punishment, fall away as the viewer is exposed to a fuller expression of human experiences.<sup>32</sup>*

If and when prisoners are allowed to contribute to film or radio, if they choose to see or hear it the public are exposed to a way of life they normally don't experience.

32. Bennett, J. (2015). Rex Bloomstein's films of reflection and empathy. *Criminal Justice Matters*, 100(1), 30–30.

## Broadcasting Standards

All of the radio stations and programmes visited for Tighe's project were independently funded. They all shared the view that prisoners and offenders and of course their families, should be represented and heard on community radio. However McDonald has indicated, broadcasting the prisoners voice is sensitive is often met with trepidation and anxiety from the authorities and the wider society.<sup>33</sup> One radio producer who Tighe met in Portland, Oregon believed that the audience who listened to her programme were much more sophisticated,

*People who listen to KWVA [the station that broadcasts The Concertina Wire] are going to be more savvy to alternative media outlets. These aren't the same people who turn to Fox News, right? ... We are reaching listeners who are already interested in finding unique and varied programmes that you can't hear anywhere else (Lauren—Concertina Wire)*

They felt they were justified in being more relaxed when it came to their type of radio because they knew it would reach the audience they were trying to engage with, their desire to give a voice to this marginalised groups often meant they took editorial risks.

Emphasising this point, the producer described attempts that were made to secure a slot for *Concertina Wire* on a mainstream radio station affiliated with to the powerful and influential National Public Radio network in North America but these were unsuccessful.

Remaining small and independent may well provide radio stations the freedom to give a voice to groups like prisoners who are normally silent. Another community radio station based in Oregon had a prison radio programme called *Prison Pipeline*. They enjoyed surprising audiences with prison radio content that they wouldn't come across elsewhere, or would not have chosen to tune into,

*Our show is on at a pretty prime driving time. So I always feel there are some people tuning in who aren't necessarily expecting the information they're getting from us, and then they're touched by what they hear. (Amy—Prison Pipeline)*

Like other producers Amy felt that this kind of programming did increase people's understanding of prisons and what happens to prisoners. These community radio stations may enjoy more freedom

than established media companies, but this comes at a price. Tighe noticed a lack of professionalism and expertise. They rely heavily on untrained volunteers, who are driven by a strong sense of social justice and may have a general awareness of broadcasting rules and regulations, but do not have a strong grasp of journalistic principles. Best practice is not always evident.

In contrasts, one of most successful working models was the Radio Fri radio programme in Sweden. This is because it had paid professionals who are there to support and guide the young people with their programme making. This meant that programmes were safe, compliant with broadcast regulations as well as young offender institution rules. The charity which producers Radio Fri adheres to their own editorial guidelines which as based on the National Prison Radio model. This helped the programme survive and flourish. To highlight this one young female at the prison in Stockholm explained to Tighe how she wanted to broadcast information about perceived malpractice and corruption inside the prison. Producers at Radio Fri described this as 'trash talk' and said they heard this kind of thing regularly. They were keen to eliminate anything libellous from the programmes. Furthermore the producers had a procedure to deal with complaints which involved alerting services accordingly. In addition, the professional producers actively edited out inappropriate language or content (including crime being spoken about in a glamorous or boastful way). They were keen to maintain expected broadcasting standards making sure content was not offensive, not damaging to the reputation and did not put the survival of their organisation at risk.

## Broadcasting Voices from Prison

Although the programmes Tighe visited in Sweden and North America were making significant in-roads into broadcasting the prison experience to the public, the lack of serving prisoner voices was very apparent. *Concertina Wire* and *Prison Pipeline* were allowed permission to record inside prison but very rarely. Crossroads in Washington DC had plans to record inside a prison but to date this had been unsuccessful. However, unusually serving prisoners could telephone into the show and make comments on what they have heard about the show, raise concerns about prison life and sometimes talk about their conviction/sentence. Similarly *The Prison Show* based in Texas encouraged messages from prisoners' families and friends which were broadcast on their *Shout-Out* section. Serving prisoners could then enjoy

33. McDonald, K. (2014). Performance, power and production: a selective, critical and cultural history of the radio interview (Doctoral dissertation, Bournemouth University).

hearing family and friends but were unable to respond.

As Bedford and McDonald have highlighted there are significant challenges and sensitivities around bringing the prisoner's voice to radio. Due to the difficulty of recording inside prison programme makers rely heavily on ex-prisoners and also find<sup>34</sup> creative ways to amplify the voice of serving prisoners which they can't access. For instance, *Concertina Wire* dramatized essays written by serving female prisoners in attempts to try and breath life into the rich content of their essays. These essays speak frankly and emotionally about their lives and their feelings.

Sweden has overcome the issue of accessing prisons but only because they target a less risky group. They have no success accessing the adult prison estate, but instead they focus on young offenders.. However, Radio Fri's long term ambition is to establish their own National Prison Radio across Swedish prisons. With this goal in mind Tighe was asked to address Swedish prison authorities about how NPR worked in England and Wales and how it is seen to contribute to reducing reoffending.

## Conclusion

Tighe's observations from her project alongside the secondary evidence presented tells us that prison radio has a lot to offer a range of stakeholders. If prison radio is to be prepared for public consumption it is essential that producers need to address offence related risks, be sensitive to victims and witnesses of crime as well as abiding by legal broadcasting stipulations. Giving voice is powerful and can help those incarcerated address and consider their rehabilitation. There is sensitivity about releasing radio programmes for the general public to consume. However the quality and diversity of programming does have much to offer the wider public. Silencing the prison only exacerbates distorted views of prison life and this in turn compounds wider prejudice directed at prisoners and those trying to resettle. At the same time a prisoner's community can become further distanced and harder to reach if their ability to speak, listen and hear is disrupted. Public broadcasters could benefit from this form of community radio and partner with them to transport and broadcast hidden voices to a wider public. Is anybody listening? With editorial care and careful consideration they could be.

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34. Anderson, H. (2012). *Raising the civil dead: prisoners and community radio*. Peter Lang.



# Reviews

Book Review

***Cultural criminology: An invitation (Second edition)***

By Jeff Ferrell, Keith Hayward and Jock Young

Publisher: Sage (2015)

ISBN: 9781446259153 (hardback)  
9781446259160 (paperback)

Price: £75.00 (hardback) £26.99 (paperback)

This is the second edition of a ground-breaking and influential book by three distinguished, internationally renowned professors. It draws upon a wide range of criminological and sociological theories in order to cast new light upon the issues of crime and criminal justice. The introductory chapter explains that cultural criminology is concerned with the ways in which people act together creating meaning and forming identities. This symbolic environment does not exist in a theoretical space, but has real world implications, intertwining with structures of power and inequality. It is a process that is dynamic, evolving and constantly negotiated. A vivid example is given in the opening pages of the book focussing on the Occupy movement, which emerged following the financial collapse of 2008 and the subsequent period of economic austerity and recession, calling for fundamental reforms and contesting capitalism itself. Activists took to wearing 'Guy Fawkes' style masks, which were inspired by images from dystopian graphic novel *V for Vendetta*,<sup>1</sup> which subsequently became a successful film.<sup>2</sup> Closer analysis not only reveals the cultural

appropriation of this image from mainstream, commercial entertainment, but also reveals deeper capitalist structures. The image is owned by the Time Warner corporation, who therefore gain additional profit, and the company licenced to produce the masks uses non-unionised workshops in Mexico and Brazil. This story therefore reveals not only how cultural products are contested, but also how resistance can be commodified and enlisted by powerful financial interests that benefit from it.

The chapters in this book cover the intellectual and theoretical origins of cultural criminology as well as chapters focussing on specific issues including media representation. A particularly enlightening chapter describes everyday experiences of crime and criminal justice. It takes a diary of an ordinary day and illustrates the ways in which we all encounter the representations and reality of crime and criminal justice, whether that be the increasing securitisation of public spaces, media coverage and also criminal chic used in fashion and advertising. The book also addresses research approaches that can draw out the cultural aspects of criminology, particularly qualitative approaches such as ethnography. Each chapter ends with a helpful section that recommends books, articles and websites, but also films and documentaries that reflect the themes, an excellent resource that rightly illustrates how popular culture is a site in which criminology is enacted.

I read this book at the same time as reading legal journalist,

Jeffrey Toobin's account of the OJ Simpson trial.<sup>3</sup> At the time, the trial was an event of seemingly unprecedented intensity, a bewitching confluence of celebrity and crime. The apparently insatiable appetite for the trial generated huge media coverage. The fact that the trial was broadcast and participants spoke openly to the press simply fuelled the obsession. This also played out in the courtroom, with theatrical gestures by lawyers seeming to be aimed at viewers as much as the jury, most notoriously when Simpson was asked to try on the gloves found at the murder scene. Toobin's account also shows how the lawyers and judges responded to media coverage on a personal and professional level, becoming acutely conscious of their own media image. The trial took on an almost unreal quality, as if it was a vast and unfolding entertainment rather than being concerned with a brutal double murder. At the same time, the trial became embroiled with social problems that went beyond the events themselves, raising public issues about gender, including domestic violence and the problematizing of female behaviour, issues of race, in particular regarding the discrimination in the criminal justice system, and issues of wealth and power, including whether those with resources could avoid accountability for their actions. Following Simpson's acquittal many of the lawyers, witnesses and jurors went on to write books, benefiting from lucrative publishing deals, and move on to successful media careers. The trial has now, itself taken on a mythical status, recently being successfully recreated as a fictional

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1. Moore, A. (1988) *V for Vendetta* New York: Vertigo.

2. *V for Vendetta* Dir. James McTeigue (USA, 2006).

3. Toobin, J. (2015) *The run of his life: The People v OJ Simpson* London: Random House.

television show<sup>4</sup> featuring high profile stars, marking the final transition of real deaths into a commercial, entertainment product. This is only the most high profile example of the relevance of cultural criminology and the entangled relationship between representation and reality.

*Critical Criminology* is an outstanding book that is essential reading to anyone concerned with issues of culture, whether that be the behaviour of groups, popular representation, or the construction of social values.

**Dr Jamie Bennett** is Governor of HMP Grendon & Springhill.

#### Book Review

### **The Justice Women: The Female Presence in the Criminal Justice System 1800–1970**

By Stephen Wade

Publisher: Pen & Sword History (2015)

ISBN: 978 1 47384 365 3

(paperback)

Price: £12.99 (paperback)

In *The Justice Women: The Female Presence in the Criminal Justice System 1800–1970*, Stephen Wade explores the challenges faced by women, in gaining professional status in the criminal justice system. He traces the introduction of women to a number of professional roles within the British criminal justice process; from voluntary, unpaid work through to professional status, whilst highlighting the struggle these women faced against gender inequality and discrimination. As professional roles within the criminal justice system, like many other professions had simply not been accessible to women until the First World War, and then the

implementation of the Sex Disqualification (Removal) Act 1919, this book reflects not only the rise of women within this field but arguably the rise of women more broadly within British society.

Stephen Wade is a historian of crime and law, and author of predominantly non-fiction books; he has spent time 'writing as a worker in prisons,' and is a part time lecturer at the University of Hull. He begins this book by exploring how through women working in voluntary and unpaid roles within the criminal justice system, women's interest in this type of work was highlighted (Chapter One), before continuing with an insight into the gender related battles women faced as law students and lawyers (Chapter Two). The book is structured in such a way that each chapter is devoted to a profession; professions which include policewomen, jurors and magistrates and prison officers and the lesser known roles of the probation officers, lady detectives and sheriffs, Lord Lieutenants and coroners.

By drawing on a diverse spectrum of roles, this book encapsulates the social history of the Criminal Justice System, through the biographies of women who contributed in part to its reform; describing both the challenges and the battles women faced as they entered the legal and law related professions within a male dominated institution. In doing so, Wade brings the social history of the criminal justice system to life, when he describes the women who experienced the battles of discrimination and inequality. By drawing on the biography of Sybil Campbell for example the, 'first woman judge in a full time capacity, being appointed and serving as a magistrate at Tower Bridge in 1945;' (p34) Wade describes the objections she faced and in particular the

'questions that were asked regarding whether a woman was a fit person to do such work,' (p35). By interweaving the biographies of women, throughout the book, who experienced the battle to enter the legal profession, with developments within the social history of the legal system, Wade depicts the on-going struggle confronting these women through their own eyes, relating to first-hand accounts and experiences. Crucially whilst Wade acknowledges that a tremendous amount of progress has been made during the period on which this book covers, he also acknowledges that he is, 'astonished that more progress has not been made' (p147).

This book is well researched, as Wade draws on a broad range of biographies from both the Old Bailey and provincial sources. For example, the matron's journal at Lincoln Castle Prison dated October 1868, describes the care given to a particular prisoner with a baby whilst awaiting execution, (p75) however as Wade acknowledges, such sources are fundamental to the insight of fact, but fail to provide a crucial insight into the emotional struggles such women working within the criminal justice system undoubtedly encountered.

During his introduction, Wade describes that a woman's place in the 'legal system up to the turn of the nineteenth century had been limited to prison matrons and wardresses,'(pviii) and in doing so, disappointingly fails to acknowledge the crucial role of the jury of matrons. The jury of matrons were called upon by the court in a number of instances, but primarily in cases to establish whether a woman was, 'quick with child' in women who had pleaded their belly, whilst facing a capital punishment. However, this does not detract from the fact that the book presents a thorough representation of women's experiences within the criminal

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4. *American crime story: The People V OJ Simpson* (US, 2016).

justice system in gaining professional status.

This book provides a refreshing perspective on the developments of the criminal justice process from the viewpoint of women, who experienced the challenges and battles of entering a male dominated profession. Overall this book demonstrates a thorough insight into these issues through the diverse spectrum of professions, and the personal challenges the women faced in gaining professional status within the British criminal justice system. The style of this book allows an inter-connectedness between events in social history and the biographies of women, bringing history to life, making it an ideal read for students.

**Rachel Dixon-Goodall** is a PhD Student of Law, at the University of Hull.

#### Book Review

### **The Monster of Myra Hindley**

By Nina Wilde

Publisher: Waterside Press (2016)

ISBN: 978-1-909976-34-4

(paperback)

Price: £19.95 (paperback)

The subject of this book, Myra Hindley, needs no introduction. Even though she has been dead for 14 years she is still, aside from perhaps Rosemary West, one of the best known female offenders in England and Wales. Charged and convicted with Ian Brady for the murder of five children, she served 36 years in custody. The fact that she did serve such a long period in custody and is still characterised as one of 'the UK's most notorious serial killers' (p.17) is the focus of this book. The author, Nina Wilde, describes herself as 'a very close friend' (p.17). They first met in Cookham Wood Prison when Wilde was conducting research

there in 1993 and their friendship continued until Hindley's death through subsequent visits and letters. Over this time Wilde got to know Hindley well and the book is an attempt, I think, to show the reader perhaps a different side to Hindley than has previously been expressed. This is also done through the publication of letter extracts which over the years Hindley had sent to Wilde.

The crux of the book is to show the unfairness which Hindley suffered at the hands of the state. Hindley was the first female to be convicted of murder following the abolition of the death penalty in England and Wales. Despite this, the mood and temper of the country was still punitive, especially when it came to a child killer, which is why the media throughout her lifetime painted her as the 'most hated woman in Britain' (p.100). At the time that Hindley was sentenced to life, the period of time which she had to serve was imposed by the Home Secretary and it was not until 1982 that a minimum sentence of 25 years was suggested for her. By this stage she had already served 16 years and had been refused parole once. In 1985 the Local Prison Review Committee recommended that Hindley was suitable for release, but her parole was knocked back by the then Home Secretary, Leon Brittan, who imposed a provisional tariff of 30 years. This was further extended to a whole life tariff in 1990 by the then Home Secretary David Waddington. Throughout her time in prison and up until her death she tried to challenge this whole life tariff, taking her case to the Court of Appeal in 1997 and the House of Lords in 2000. Ten days after Hindley died, on 25 November 2002, the House of Lords ruled that the Home Secretary could no longer set the tariff for life sentenced prisoners and that it should be a matter which rests with the judiciary.

The book has two main arguments. Hindley was treated as she was first because she was a woman and consequently what she did was worse because she was a woman. Second the unfairness she experienced was because the press would not leave her alone and continually brought up the story and the evil nature of her character. In most press articles the same photograph of her was used—platinum blond—when in actual fact Hindley spent most of her life as a brunette. The author claims that in the 1990s 'any tabloid editor could have told you that he could guarantee sales by putting one of two women on the front page: the other was Her Royal Highness Diana, Princess of Wales' (p. 101). This is therefore a good example of how much influence the media and the press can have on political decisions.

In terms of these arguments I think Wilde is right on both counts. Interestingly she cites examples of other female killers who were not given the same notoriety as Hindley and who frankly I had not heard of. Again this shows how it was the press which was the largest contributor in this story. Despite agreeing with the main arguments in the book I felt that the author wanted me to feel some level of pity for Hindley. She continually reminds the reader that Hindley did not actually kill any of the children and that she was convicted for being an accomplice of Brady. I didn't feel this pity, but nor did I react to the arguments with dismay (p. 17). Overall the book is written well and makes the above arguments well. It thus serves as a reminder that tariff decisions on life imprisonment should be decided upon by the judiciary and that they should be carried out without political bias or influence.

**Dr Karen Harrison** is a Senior Lecturer in Law at the University of Hull.

## Book Review

### **Josie**

By Catherine Trimby

Publisher: Youcaxton publications  
(2016)

ISBN: 978-19111-753-08  
(paperback)

Price: £10.00 (paperback)

Dissimilar to most books which are reviewed in the *Prison Service Journal*, *Josie* is a fictional novel. I decided to include it in the review pile partly because the subject matter of the book focuses on Josie's time at a women's prison and also because the author, Catherine Trimby, served as a magistrate in Shropshire for 34 years and is now a member of the Independent Monitoring Board for a women's prison.

The book opens with Josie being transported to prison having been sentenced for her criminal offence. At this stage of the book we don't know anything about her or the fact that she is an offender, just the experience of being transported in, what is often referred to as the sweat box. We soon learn the context and then follow Josie through her first evening and morning at Edgehill Prison. The book then sets the scene. Josie is a 'quiet and timid thirty-two-year old' (back cover) who lives alone and is involved in an operatic society. One of the society's members, Mike, pays her unwanted attention and one night on a ruse gets Josie to come back to his flat. Mike makes unwanted advances to her and through panic Josie forgets to put on her lights when driving away. She hits and kills a man and is later charged with death by careless driving. She is sentenced to a custodial sentence.

Chapter 13 onwards then describes Josie's life in custody. We are told about the detailed induction programme, her bedroom, her house (wing), the group of friends she begins to make, her time working in the gardens and her involvement

with a choir. The book also highlights her appointments with her probation/reintegration officer and the conversations which they have in order to get Josie to start taking responsibility for causing the death of a young man. This involves contact with the victim's mother and also Josie replying to this letter. The experiences are not all positive: she is involved in a small incident in the queue for dinner in her first few weeks in prison, she is involved in a hostage incident and she also sees one of her friends self-harm.

Overall I did enjoy the book. It was well written and I did want to find out what happened to Josie but in truth I did find it a little tame. I have never been inside a women's prison so do not know what the reality of a women's prison is like, but having read some of the academic literature and watched documentaries I didn't feel this book painted that realistic a picture. Despite including the incidents of self-harm and being taken a hostage and also touching on other issues such as the women missing their children, drug abuse, low education levels and post-conviction employment; none of these were really dealt with in any meaningful way and thus could have been much stronger. This could have been a way in which to get some important messages out to people about why women shouldn't be held in existing custodial institutions. Nevertheless as a novel, it was an interesting read.

*Dr Karen Harrison is a Senior Lecturer in Law at the University of Hull.*

## Book Review

### **Regulating Judges: Beyond Independence and Accountability**

Ed. Richard Devlin & Adam Dodek

Edward Elgar 2016

ISBN 978 1 78643 078 6

Price: £105

This book considers the regulation of judges in 19 countries, including England and Wales. It proposes a new approach to analysing judicial regulation, which has traditionally been discussed only in terms of the twin necessities for judges to be independent and for them to be accountable. The book also provides a critique of regulation conceived merely as a process of setting, monitoring and enforcing rules or standards. Although this is not part of its design, the book may also help shed light upon the regulation of other aspects of social, economic and governmental activity, which the body of literature which has grown up alongside it often terms the 'regulated State'. This book adds to that literature and helpfully makes many references to it.

The importance of judicial regulation has long been recognised as a fundamental constitutional and philosophical issue (the question Plato asked in the *Republic* about how those who had power were to be controlled is of enduring significance). Judicial regulation is also topical given the scrutiny the senior judiciary in England and Wales have come under about whether the executive or the legislature can trigger Article 50 of the Lisbon Treaty to set in motion the UK's departure from the European Union. In November 2016 three judges in the Court of Appeal ruled unanimously that Ministers exercising the Royal Prerogative could not trigger Article 50 and that Parliament must formally empower them; and in January 2017 the Supreme Court upheld that decision, albeit with four of the 11 judges dissenting. The media coverage of those judgments, particularly the first (with the *ad hominem* attacks three tabloid newspapers made against the Appeal Court judges), has thrown into sharper relief issues relating to the accountability of judges (and indeed the media) as well as highlighting the tensions in the

relationship between the legislative, the executive and the judicial functions of the constitution.

The more sophisticated model this book proposes provides an interesting means of understanding and framing debates about such current issues. In the first of its 20 essays, each of which is written by separate authors all of whom are senior academics, the editors (Canadian professors of law) set out their new approach. Instead of conceiving the regulation of judges as a calibration of independence balanced against accountability, the editors set out a 'regulatory pyramid' of four features: values, processes, resources and outcomes. These are 'four variables that are potentially helpful for a description or analysis ... of all the multiple actors involved in the operationalization of a judicial system' (p. 4).

The six 'values'—impartiality, independence, accountability, representativeness, transparency and efficiency—provide the base of the pyramid. The 'processes' side of the pyramid (which includes recruitment, training, complaints, the appellate mechanism and performance evaluation) recognises how critical the administrative framework of a judicial system can be. It is argued, for example, that the 'recruitment and appointment processes are perhaps the most powerful regulatory instruments' (p. 18). Post-appointment the independence of the judiciary often leaves regulation to the appellate case-focused process and disciplinary arrangements which apply only by exception when judges behave improperly.

The importance of the 'resources' side of the pyramid was illustrated by comments made by Lord Neuberger and Lady Hale (respectively, the President and Deputy President of the UK Supreme Court) when appearing before the House of Lords Constitution Select Committee in

March 2017. The terms and conditions under which judges are appointed; the number of judges for which resources are made available; and the support they receive (including the physical and IT infrastructure) have a bearing on efficiency and effectiveness (efficiency being important for, as the old adage has it, 'justice delayed is justice denied'). In England and Wales there are currently concerns about the difficulty filling judicial vacancies because terms and conditions aren't attractive enough. The fourth aspect of the pyramid, 'outcomes' is a consideration of public confidence in the judiciary. Several of the essays consider the role the media plays in communicating this.

This new approach involves a more sophisticated assessment than balancing independence and accountability does alone. However, the editors recognise that it cannot provide a hard and fast yardstick. Accordingly, they qualify their approach by acknowledging the inherent complexity and diversity (or hybridity as the editors term it) of regulation; and by the need to contextualise its analysis, and appreciate the fluidity of context. These help explain variations of interpretation, particularly when applying the model internationally, which is the substance of the book. In the book's other 19 essays, different authors apply the 'pyramid' approach to considering judicial regulation in different countries including China, Croatia, Russia, the USA, Malaysia, Germany, South Africa and England & Wales.

Diverse though the countries whose judiciaries are considered, it is interesting to see common themes. For example, the introduction of a complaints and disciplinary process has proved a 'fertile domain' (p. 41) for reforms in many countries including Canada, India, Italy, South Africa as

well as England & Wales. By contrast where complaints systems are not formalised, accountability it is argued is less robust, as the essay on judicial regulation in Australia illustrates, which also criticises the lack of transparency in the system for appointing judges. It is also interesting, *apropos* the need to understand the judicial system in context, to note that the significance of impartiality as a value is subordinated to other political and social norms in China, Italy, Japan and Russia.

The essay on the Chinese judiciary highlights the fundamentally different set of values which underpin Chinese society. The very deep and longstanding cultural preferences in China for the harmonious resolution of disputes are reflected in the distrust of litigation to resolve them. This contrasts dramatically to the litigious nature of dispute resolution in Western democracies, notwithstanding efforts to replace some openly adversarial conflict with mediation. Perhaps the largest theme to emerge is that a healthy relationship between the regulated and the regulator involves tension. Should that relationship be 'comfortable' (that is, with everything going swimmingly) there is probably something deeply wrong. This isn't to suggest that regulation necessarily involves an adversarial set of relationships. Indeed, the editors argue that their pyramid approach is in part recognition that regulation needs to be understood and conducted not as a command/control relationship but more collaboratively; and, like all good partnerships, needs constant attention.

Some may regard the consideration of regulatory issues as like counting how many angels can dance on the head of a pin. Like all areas of study there is a risk of self-absorption and the marginalising of relevance. In addition to the insights into the

judicial function the book provides, its novel approach may also offer a way of considering current issues related to prisons. Regulated by the statutory instrument of Prison Rules and the instructions and managerial arrangements that flow from them, the pyramid model may enable interesting reflections on the role and discretion (or 'autonomy' in current parlance) of governors. It may also help interpret the

changes to the prison service as an organisation. From being truly an 'arm's length' body in 1990s (when the Director General of the Prison Service answered Parliamentary Questions), today NOMS (the name has disappeared) is being folded into the Ministry of Justice as another Directorate.

In short, this an interesting book. One of its principal achievements, as Justice Richard Goldstone (who served on the

Constitutional Court of South Africa 1994–2002 and who was Chief Prosecutor for the International Criminal Tribunal for the former Yugoslavia and Rwanda) notes is its contribution to comparative jurisprudence: to understand one's own judicial system one needs to examine others.

**William Payne** was a prison governor and worked elsewhere in NOMS before retiring.

# Inspecting Prisons

## Interview with Peter Clarke

*Peter Clarke is HM Chief Inspector of Prisons. He is interviewed by Dr Jamie Bennett, Governor of HMP Grendon and Springhill.*

**Peter Clarke was appointed HM Chief Inspector of Prisons in January 2016. He joined the Metropolitan Police in 1977 after graduating in Law from Bristol University. He served in a variety of uniformed and detective roles in London, including commanding the Brixton Division, and Staff Officer to the Commissioner of the Metropolitan Police. After serving as Deputy Director of HR for the 45,000 employees of the Metropolitan Police, in May 2002 he was appointed as Head of the Anti-Terrorist Branch at New Scotland Yard and National Co-ordinator of Terrorist Investigations, leading the investigation into all acts of terrorism in the UK and against British interests overseas. He retired from the police service from the position of Assistant Commissioner, Specialist Operations in 2008.**

In 2009 he was appointed by the Prime Minister to be a member of the UK National Security Forum, created to advise Government on the implementation of the UK National Security Strategy. In addition to holding a number of advisory and consultative roles in the private sector, he was a non-executive Director of the UK Serious Organised Crime Agency from 2009–13. In 2014 he was appointed by the Secretary of State for Education to be the Education Commissioner for Birmingham with a specific remit to investigate alleged Islamist infiltration of schools. He became a member of the Board of the Charity Commission in 2013, and is a trustee of the Crimestoppers charity. He has been a Fellow of the Center for Law and Security at New York University and was awarded an Honorary Doctorate in Laws by the University of Bristol in 2008.

Her Majesty's Inspectorate of Prisons for England and Wales is an independent inspectorate which reports on conditions for and treatment of those in prison, young offender institutions, secure training centres, immigration detention facilities, police and court custody suites, customs custody facilities and military detention. The role of HM Inspectorate of Prisons is to provide independent scrutiny of the conditions for and treatment of prisoners and other detainees, promoting the concept of 'healthy establishments' in which staff work effectively to support prisoners and detainees to reduce reoffending and achieve positive outcomes for those detained and for the public. The inspectorate work jointly with other inspecting bodies, in prisons this includes Ofsted focussing on

education, the Care Quality Commission and the General Pharmaceutical Council focussing on healthcare, and HM Inspectorate of Probation focussing on offender management.

Inspections assess four areas: Safety (that prisoners, even the most vulnerable, are held safely); Respect (that prisoners are treated with respect for their human dignity); Purposeful Activity (that prisoners are able, and expected, to engage in activity that is likely to benefit them), and; Resettlement (that prisoners are prepared for release into the community, and helped to reduce the likelihood of reoffending). There are three stages to each inspection. The first is the pre-inspection visit which includes the collection of preliminary information and the conduct of a confidential survey of a representative proportion of the prisoner population. The second stage is the inspection visit, where data is gathered and assessed against the published *Expectations*.<sup>1</sup> Sources of evidence include prisoner focus groups, individual interviews carried out with staff and prisoners, the prisoner survey results, documentation and observation by inspectors. At the end of this the prison is awarded a numeric score for each of the four healthy prison tests, from one ('Outcomes for prisoners are poor') up to four ('Outcomes for prisoners are good'). The third stage is the post-inspection action, including the production of an action plan, based on the recommendations made in the report and subsequent progress reports.

The Inspectorate's work constitutes a part of the United Kingdom's obligations under the Optional Protocol to the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. This Protocol requires signatory states to have in place regular independent inspection of places of detention.

HM Chief Inspector of Prisons is appointed by the Justice Secretary from outside of the Prison Service. The Chief Inspector reports directly to the Justice Secretary and Ministers on the treatment of prisoners, conditions in prisons, young offender institutions, court custody and other matters in England and Wales as directed by the Justice Secretary. The Chief Inspector also has a statutory responsibility to inspect and report to the Home Secretary on conditions for and treatment of detainees in all places of immigration detention in the United Kingdom.

This interview took place in September, 2017.

1. Available at <http://www.justiceinspectorates.gov.uk/hmiprison/our-expectations/> accessed on 14 September 2017.

**JB: How much experience did you have of prisons prior to taking up your current role and how did you develop your knowledge and understanding?**

PC: Prior taking up the role my experience of prisons was mainly interviewing prisoners or dealing with transactional matters such as the transfer of property. I hadn't had a great deal of experience of the main working parts of prisons. I developed knowledge and understanding by doing the job. I have visited a lot of prisons, somewhere around fifty, since taking up this role. I have also talked to colleagues, read around the subject, and observed what is going on. It's a role where it is important to have a degree of technical knowledge, but also maintain an overview, taking a step back from the technicalities.

**JB: What in your view is the purpose of imprisonment?**

PC: Primarily it is to carry out the sentences of the court. Beyond that there are a whole range of purposes that the prison should seek to achieve, many of which are interdependent. Of course custody should be safe and secure, it should be rehabilitative and should prepare prisoners for release so that they can play a positive part in the community after prison. There is interdependency in as much as if prisons are not safe, in particular, it is unlikely that other objectives around reform, rehabilitation, education and training, will be achieved. That is why I have said several times, most recently in the Annual Report, that the Government's ambition to reform is, in my view, unlikely to be achieved unless the basics are right. That requires decent regimes that enable men to take part in activities that are available.

**JB: How would you describe the specific role of Chief Inspector of Prisons?**

PC: It is to lead the inspectorate but also to be the voice of the inspectorate. Given that we are an inspectorate and not a regulator, our only power is our voice, and it is important that our voice is heard when that is required.

Another key role is to fulfil the legal obligation under the Prisons Act 1952 to inspect the treatment and conditions of prisoners. I don't look at prisons to see whether they are keeping within their budgets or complying with Prison Service Instructions, my statutory role is to see how prisoners are being treated and what conditions they are being kept in.

**JB: How do you regard our relatively high national imprisonment rate?**

PC: That is simply not an issue for me and I don't express a view on it. I know many non-governmental organisations have a view on reducing the prison population as one way of securing improvement. My view is that it is not my role to express a view on an issue that is a matter for government policy and sentencing policy. What I have a very clear view on is that however many it is considered appropriate to imprison, they should be kept in conditions that are secure, safe and decent. There is a particular emphasis on decency at the moment as there is an imbalance between prisoner numbers and the ability to provide a decent custodial environment.

**JB: What role do you consider that prisons play in relation to social problems and inequality including poverty, unemployment, and mental health?**

PC: Prisons are a reflection of society in some ways but not in others. For example there is a high proportion of people in prison who are vulnerable or disadvantaged in various ways. This includes mental health, ethnicity, and other issues that increase potential vulnerability. Prison does disproportionately reflect certain groups within society. It is difficult to come to a view of how prisons can reverse this or improve society

other than by trying to ensure that when prisoners are released they are able to be positive role models within their communities. That is a noble aspiration, but far off at the moment.

**JB: What do you see as the role and impact of prisons in relation to race and diversity?**

PC: Prisons have to seek to be exemplars in their understanding of the issues and their response to them. Time and time again we see in our surveys, which are a key part of our inspection methodology, that BAME groups perceive that they are receiving less favourable treatment. Often we see that prisons do not devote enough attention to understanding why that perception exists. One example is at HMP Ford where we have had three consecutive inspection reports recommending that there is more done to understand why BAME prisoners have more negative perceptions of their treatment. It did appear that there might be some basis in reality as there did appear to be disproportions in allocation to the more favoured accommodation and access to release on temporary licence. We expect every prison we inspect

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to be addressing these issues. The Lammy Review<sup>2</sup> will hopefully also give more impetus to this.

**JB: It has often been argued that women's prisons are largely a replication of men's and that therefore the distinctive needs of women are not effectively met. Is that your experience? How does the inspectorate ensure that the distinctive needs of women are met?**

PC: One of our inspection teams has a specialised focus on women's prisons, so we try to develop a depth of knowledge and understanding. We find that women's prisons inspect fairly well. We generally find that the standards in women's prisons are better. So it's not a case of finding a simple replication of men's prisons. We see a lot of very good work focussed on meeting the needs of women. What is really troubling are the levels of self-harm, which is far higher in women's prisons. In that sense also, they are not a replication but there are particular needs that must be understood and met.

**JB: Your annual reports have been very critical. The most recent states that 'Last year I reported that too many of our prisons had become unacceptably violent and dangerous places. The situation has not improved—in fact, it has become worse', that there had been 'a serious deterioration in standards in our prisons' and that you 'have often been appalled by the conditions in which we hold many prisoners'.<sup>3</sup> How has this situation come about?**

PC: It is a combination of factors. There is far too much violence in our prisons. The figures speak for themselves. There are incredibly high levels of violence and this has been rising. What sits behind that violence? Drugs clearly have a major influence, in particular psychoactive substances. They are a game-changer, it's not just another iteration of the long-term problem of drugs in prison. It's very different because of the violence, the unpredictability of the impact they have upon individuals. This also creates a culture of debt, violence and bullying.

In addition there are far too many people in prisons with mental health problems who shouldn't be there. Some should be moving through to secure units but there aren't enough beds and they are spending too long in prisons. Far too often I have seen people with mental health issues who for their own safety or the safety of others find themselves in segregation units. The sheer numbers of people with mental health problems is inexorably rising. In our last inspection of Pentonville, there were 1,300 prisoners and just under a quarter were on anti-psychotic medication, which our health professionals judge as being incredibly high. This gives a sense of the problems.

Another factor that contributes is the lack of staff at the moment. Traditionally the inspectorate has focussed on outcomes rather than what sits behind them, but it would be remiss of us not to comment where there was a clear link between certain factors and positive or negative outcomes. The lack of staff in some prisons means there is no flexibility within regimes, so when unexpected events occur such as staff sick absence or hospital escorts for prisoners, the regime suffers. Prisoners don't like the unpredictability that causes, they get frustrated and that compounds all of the other problems.

There has also been a lack of long-term investment in the physical environment. The

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ending of 'slopping out' was of course excellent, but an unintended consequence is that we have far too many prisoners held in shared cells with an unscreened lavatory in a space that also serves as a bedroom and dining room for two people. This is not decent, it's unsanitary and is not a fit way to detain people in the 21st century.

**JB: The language used by you in this report is emotive. It is impossible to be exposed to the realities of imprisonment without having an emotional response to it. What feelings, discomfort and questions do you experience while undertaking your work? How does this affect you and how do you cope with this?**

2. Available at <https://www.gov.uk/government/organisations/lammy-review> accessed on 14 September 2017.

3. Available at <https://www.gov.uk/government/publications/hm-chief-inspector-of-prisons-annual-report-2016-to-2017> accessed on 14 September 2017.

PC: I would challenge the assertion that the language is 'emotive', I would prefer to think it is 'descriptive'. It might be strong but I try not to be emotive. I try to describe what I see. That is what I see as the function of the inspectorate. In terms of my professional background, this job is a continuation of what I've been doing for the last 40 years, which is finding out facts, assessing them, coming to judgements, writing them down and reporting on them. In terms of emotional response, it was recently put to me during a radio interview that I sounded angry. I responded that I wasn't angry, but I was disappointed in some of what I have seen in prisons, disappointed that some of the regimes and conditions are not such as to give the prisoners a realistic chance of making progress and making steps towards rehabilitation during their sentence. It is more disappointment than discomfort or feeling emotional about it.

**JB: What are the fundamental solutions to the crisis in prisons? Is it financial, strategic, or moral?**

PC: I don't think there is a crisis in all prisons. I've mentioned women's prisons that generally report well. In addition, open prisons by and large do well, as does the high security estate, which generally does what is asked of it and does it pretty well. The problems are really around the category B and category C training prisons and local prisons. The solutions are a corollary of what I have described as the problems. Some of them clearly need resources throwing at them. I don't think you can take 30 per cent out of a people-intensive business like prisons and not expect there to be a seriously adverse effect. It is a fact that in some prisons there are simply not enough staff to enable the leadership to be innovative, flexible or deliver the services they want to. There is a need for investment in the prison estate as so much of it is not fit for purpose. It's about getting the basics right. Dealing with the violence, drugs, contraband, making them decent places. Only then can you move forward with rehabilitation, education and training.

Some issues demand a strategic response such as the response to the ageing population. I have seen some really good things happening in prisons around the country. There are wings set aside for older prisons at, for example, HMP Northumberland. There is good work in the open estate at HMP Leyhill. There are many examples but it feels piecemeal. Given all of the projections around about the future profile of the

prison population, we may need to take a more strategic approach. Do we need to keep men in their sixties, seventies and eighties in category B and category C prisons? Many of them need to remain in custody, there is no question about that, and many are not suitable for open conditions, but do they need the level of security and cost that comes with category B and category C? Could they be held in a form of custody that, put crudely, looks like an old people's home with a wall around it? Within that could they more easily receive the services and support that should be offered to older people, disabled people or those requiring palliative care?

**JB: What do you see as the role of the Inspectorate over the coming years in stimulating and sustaining reform?**

PC: We will continue to report what we see. We are an inspectorate and not a regulator, but as well as ensuring our voice is heard, we need to ensure that someone acts in response to our recommendations. There was planned to be legislation that would have created a statutory duty for HM Prisons and Probation Service, or the Secretary of State, to respond to our recommendations. That did not happen due to the general election and has now been lost. Nevertheless, there is work taking place in order to replicate

that without legislation. The Secretary of State has publically confirmed his commitment to ensuring that inspectorate recommendations are implemented. I am hopeful we can come to a position that ensures transparency and actual implementation of our recommendations. That would enhance the role of the inspectorate in identifying where action is needed, and potentially also in identifying and spreading good practice.

**JB: You have expressed concern about your recommendations not being implemented and indeed noted in your most recent annual report that 'we found—for the first time—that the number of our recommendations that had been fully achieved was lower than the number not achieved'. Why do you believe this situation has come about and how can this be improved?**

PC: There is work to be done to understand this and to see if there are variations between types of establishments in relation to the uptake of recommendations. We also need to know whether recommendations within different categories of our

I don't think you can take 30 per cent out of a people-intensive business like prisons and not expect there to be a seriously adverse effect.

healthy prisons tests are taken up more effectively than others. I also want to know if there are trends over time that we should be understanding. Immediately, there are two things that strike me. The first is that there are variations between broadly comparable prisons. For example some local prisons take our recommendations seriously, and I have to say that shows when we inspect. Others don't and they give off a sense that the report has been put on the shelf and left to gather dust. The second is why there is seemingly less uptake now than in the past? This needs further analysis, but it may be that many prisons are under such pressure that their priority is to keep the show on the road day-to-day, to maintain the regime, keep people safe, and deliver whatever they can of the activities they offer. As a result, inspectorate recommendations are not their top priority. I can't say that is definitely the case, but it is the impression I have gained from some places.

**JB: The Government White Paper 'Prison safety and reform'<sup>4</sup> proposes some significant changes to the inspection process. In particular, it proposes the introduction of 'a formal rectification process where the inspectorate's findings can act as a trigger for the Secretary of State to intervene in the worst cases' and that 'inspections will also include consideration of how the leadership of a prison is contributing to the achievement of the outcomes it inspects'. What is the significance of this shift towards evaluating managers and triggering intervention?**

PC: We are not in the business of evaluating managers. That is for the likes of Deloitte and PwC or for line managers as part of the annual appraisal process. We are not in that business. The business of the inspectorate is outcomes for prisoners. What I am inviting inspectors to do is when they find an outcome, whether good or bad, to ask 'why?'. What is it that has brought this outcome about? That way we can potentially help the prison to understand what it is they need to do in order to rectify the problem. If it is good practice we are looking at, it helps us to understand what has brought that about and help us in the business of promulgating it. In the modern era, it is not sufficient for the inspectorate to say this is an outcome and we don't care what has

brought it about. That is not right. We should be more constructive than that. We are not in the business of evaluating managers or saying there is a particular style of management that is appropriate. That would be interfering in the management of prisons. It is about looking at outcomes and understanding what role leadership and management have had in bringing that about.

The aspiration of the White Paper was to have a mechanism for triggering intervention and this was planned to be incorporated into legislation. That will not now take place and therefore we are discussing administrative measures that would have the same effect. My concern is that some prisons that are not providing a safe or decent environment do not always get the support they need in order to rectify this. It is not

good enough that there are some prisons that have consistently struggled to achieve basic standards of safety and decency. It is a big step forward to have a process where the Chief Inspector can raise a significant concern with the Secretary of State and the Secretary of State is required to respond. The raising of such concerns and the response should be in the public domain and would therefore bring a degree of public accountability. It can be scrutinised by both the general public and the House of Commons Justice Select Committee, who can hold the

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Secretary of State and me to account. More generally in terms of our recommendations there is an ambition to have a process where HM Prisons and Probation Service responds to our recommendations saying what it is they intend to do, that is publically available and brings a similar level of public accountability. What concerns me at the moment is that an action plan is completed and then what happens to it? We don't have the capacity to follow up on a regular basis. I see that as a line management responsibility. Sometimes I go to feedback sessions on the last day of inspections, where the feedback is provided. At some of these, the line manager for the prison has been there, the deputy director of custody or regional director, and they have said yes you are right, all these things need doing. I find myself wondering what that person's role has been in overseeing, supporting, guiding and demanding, if necessary, action in relation to the previous inspection. There is a clear responsibility for HM Prisons and Probation Service here.

4. Available at <https://www.gov.uk/government/publications/prison-safety-and-reform> accessed on 14 September 2017.

**JB: You have described that, your inspection expectations are ‘underpinned by international human rights standards’, not set by HM Prisons and Probation Service or ministers. Some managers and official reviews have expressed concern that this means there is a misalignment between what the organisation is expecting to be achieved and what you expect. Others, including yourself, have argued that this independent foundation is central to the credibility and effectiveness of inspection. What is the significance of this difference and is it sustainable?**

PC: Not only is it sustainable, it is absolutely vital. It is an international obligation under the Optional Protocol to the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment of Punishment to carry out inspections and the standards against which those inspections should be carried out. It is not satisfactory for an organisation to set its own standards and then mark its own homework. The very essence of independence is to have standards that are enduring, are not influenced by political fashion, passing resource constraints or management trends. There should be a more permanent backdrop against which planning and development of custodial policies or practices can take place. Self-defining standards are flawed as a concept. Occasionally I get the response that the inspectorate have criticised something, but what we have criticised is compliant with a Prison Service Instruction. That is not what we are looking at. That would be the role of a regulator. We are not a regulator and so we stand aside from the organisation and that includes the self-defining standards they set for themselves. The organisational standards will, at times, be influenced by expediency and that should not form the basis of our judgements.

**JB: Inspection teams are drawn from a wide variety of professional backgrounds and this has been seen to be a significant strength. Is there a case for extending this so that some ex-prisoners are employed as inspectors?**

PC: I wouldn't rule that out. As with any member of the team, we would need to think about the value they would bring. That wouldn't necessarily be solely by virtue of being a prisoner, although that might have a value. There are capabilities and qualities that are required of any colleague working in the inspectorate. There are also issues around security clearance and vetting that apply to any member of the team. I don't rule it out, but at the moment I am not positively going out looking to recruit ex-prisoners.

**JB: In Scotland, the Inspectorate has been enlarged so as to encompass the work of independent monitors in prisons. How do you judge this development and would you seek closer co-operation or even merger of inspection and independent monitoring boards?**

PC: I wouldn't judge that development as I haven't examined it in detail. Scotland is different from England and Wales, not least in terms of scale. You couldn't just bring the IMB and inspectorate together. You would need a pretty significant infrastructure to support them. We must not run the risk of losing the uniqueness of IMB, which comes from the fact that they are local and they are in prisons every day. There is potential for looking at how we might collaborate, not necessarily in a formal way, but through a flow of information. That can inform, for example, risk based decisions about where we inspect and when. We could also think about how they might in some way become the 'eyes and ears' of the inspectorate. They do have a distinct role that should not be lost, but I know that many share similar frustrations to mine, about follow up to their reports and recommendations. We shouldn't forget them when thinking about the impact we can have on prisons by examining them from an independent perspective.

**JB: Finally, looking back over the last two years and looking forward to the future, how do you feel about the task you have taken on?**

PC: I find it an enormous privilege. That is partly because I have an enormously committed team who do a great job and have a strong sense of working to a clear set of values. They are committed to maintaining and preserving the independence of the inspectorate. It is a privilege to be leading them. I am acutely aware that I have come into this role at a hugely important time in the history of prisons. They have been on a difficult journey but the challenge for the inspectorate is to help secure improvement and make prisons very different places from those that too many have become. I'd like to think the inspectorate could be seen as a positive resource for prisons without compromising our independence. I don't want us to be tolerated as some sort of necessary evil. To be seen as disrupting everything in a prison for a couple of weeks, and that everyone lets out a big sigh of relief when we go. In a truly gratifying number of places we have been welcomed, received co-operation and have been seen as a positive influence to help them make progress. Across the prison system there is huge commitment from leaders and indeed right across the organisation to making prisons better places. I'd like to play a positive role in that.



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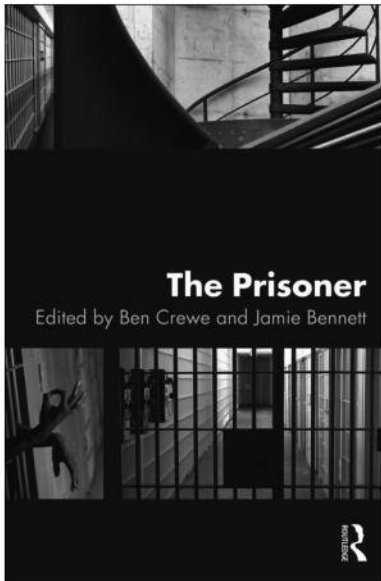
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