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Special Edition:
The prison crisis

The Chief Inspector of Prisons, Peter Clarke reflects on recent problems in prisons

Peter Clarke *is HM Chief Inspector of Prisons. He is interviewed by* ***Dr Anastasia Chamberlen****, Assistant Professor at the Department of Sociology, University of Warwick*

This interview showcases how Peter Clarke outlines the Inspectorate's priorities and considers what he sees as some of the persistent problems in the prison system, three years since his appointment as Chief Inspector of Prisons. Conducted in May 2018, this interview followed the Inspector's first of report of HMP Liverpool in January 2018 and an Urgent Notification to the Secretary of State, regarding deteriorating conditions at HMP Nottingham in the same month. Since then, the Inspectorate has issued a number of further Urgent Notifications, including one for HMP Exeter in May 2018, another for HMP Birmingham—which in August 2018 was taken under the control of the State from the private contractor G4S — and an additional Urgent Notification concerning appalling conditions at HMP Bedford, issued in September 2018.

The Urgent Notification Protocol has given the Inspectorate important opportunities to highlight the urgency and seriousness of problems in some of our prisons, requiring the Secretary of State to act on the concerns raised and to give wider public attention to these issues. These problems are complex, but predominantly include deteriorating living and safety conditions, rising levels of violence and harm, drug misuse, and missed resettlement opportunities for prisoners. These notifications not only place the capacity of some of these establishments to fulfil their objectives with regards to rehabilitation and public protection under scrutiny, but taken together, they also suggest and highlight broader systemic challenges.

This interview revisits some of the most significant of these challenges in the past five to six years and considers ways forward. Whilst raising concerns about some establishments, especially local and training prisons, Mr. Clarke remains optimistic that with good leadership, commitment and coordinated strategy, hope and decency can be reinstated in some of the poorly performing prisons he and his team inspected. He also remains confident that with increases in staff numbers, some of the 'crisis' points identified in some prisons in recent years can be remedied.

Since the time of this interview, the Inspectorate has remained committed to addressing several of these problems, particularly by urging both prison leadership and the Government to seriously consider viable solutions that will help improve prisons' day-to-day work and overall function. The Inspectorate's recommendations are framed under international human rights standards and include their four part Healthy Prisons Test, incorporating evaluations around safety, respect, purposeful activity, and rehabilitation and release planning. But since some of the Inspectorate's reports have not always been appropriately responded to, in recent months Mr. Clarke and his team have taken a further step in developing a new type of review which will assess whether previously inspected prisons which were found to be failing are making progress towards improving standards. From 2019, the Inspectorate will publish Independent Reviews of Progress (IPR) for prisons (it is envisaged that there will be 15-20 reports per year) which were previously found to fail on one or more of its Healthy Prisons Tests, hoping to incentivise a more committed approach towards its recommendations.

In the interview, Mr. Clarke explained current problems in prisons in a measured manner. It was clear throughout our conversation that his primary intention was to help effect improvements in a number of areas in which he and the Inspectorate feel prisons have recently deteriorated. In so doing, he expressed serious concerns and criticisms, but also recognised the efforts of a number of actors and acknowledged areas where progress has been made.

Our discussion started by going back to 2016, when he took up the role of Chief Inspector of Prisons, having previously worked for several decades for the police, retiring in 2008 as Assistant Commissioner of Specialist Operations. Until 2015 Mr. Clarke worked in public, private and academic roles. The year 2016 was also a year which marked some undeniable increases in

This interview was conducted in May 2018 and updated in March 2019; nonetheless, it may not fully reflect latest developments. The abbreviations AC and PC refer to Anastasia Chamberlen and Peter Clarke. The editors of this special issue would like to thank Mr. Clarke and the Inspectorate's Chief Communications Officer, Mr. John Steele for their time and assistance with this interview.

harm and violence in many custodial institutions. It was a time when a range of prison disturbances took place and political attention on prisons brought a rare kind of public consideration of the custodial estate.

The context of prisons today: Opportunities, ambitions, challenges and obstacles

Mr Clarke explained: 'It was well known when I took over this role from Nick Hardwick in 2016 that we were facing some very serious challenges. All the indicators were going in the wrong direction in terms of violence, the ready availability of drugs, etc. It was obvious that prisons were under pressure in terms of staffing levels and this impacted their ability to deliver meaningful and positive regimes of activity for prisoners. So, I knew this was a very challenging period and, of course, it coincided with when I came in this role, in the end of January 2016, with the Government announcing its prison reform programme. David Cameron, then prime minister, made a speech at the Policy Exchange setting out the framework for the Government's proposed reforms and along with Michael Gove they were putting their combined political weight behind a programme for prison reform.

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Of course, things have changed since then and I'm now working with my fourth Justice Secretary and the political landscape is now dominated by Brexit. Prison reform has to an extent suffered because of that, because the Prisons and Courts Bill which was making its way through the last parliament and enjoyed pretty broad cross-party support lost its prisons element after the last election.

Thus, much of what I had hoped would be achieved, in terms of putting, for instance, this Inspectorate onto a statutory footing for the first time, didn't happen. After the election, David Liddington who was then the Justice Secretary said that he wanted to achieve some of the objectives of the Prisons and Courts Bill that were administrative rather than of legislative means. From that conversation came the Urgent Notification Protocol. We worked for many months with the Ministry of Justice to figure out how this would work and it was eventually signed off in the end of November 2017 and the first time we used it was January 2018 at HMP Nottingham. Given this context, the Urgent Notification Protocol is real progress.'

AC: *Would you say the Urgent Notification process has been the main bit of progress you've seen in this area in the past couple of years?*

PC: 'I would say that's the main piece of progress. When I came to this job I set out as my ambition to increase the impact of inspection as there's no point in inspectors of any kind or type, independent or otherwise, if their findings and recommendations are not taken notice of. I have been very concerned, and still I am at the way in which far too many of our recommendations are not achieved and in my mind are not taken seriously.

This is happening due to a combination of factors. I don't think it's an act of political ill will or obstruction. I think that prisons have been under immense pressure over the past few years and there's an extent, in some prisons, to which just keeping the places safe, keeping the staff safe, keeping the prisoners safe on a day-to-day basis absorbs all of their energy. And achieving Inspectorate recommendations has perhaps not been at the top of their priorities list.'

Arguably, this is something that the recent decision of the Inspectorate to follow up inspections with the Independent Reviews of Progress (IPR) evaluation will help address. IPRs are due to be published in 2019, enabling more accountability for those prisons rated as poorly performing and providing ministers with an independent review, separate from HMPPS. Mr. Clarke went on to explain that performance levels are linked to the willingness of different prisons to take seriously the Inspectorate's recommendations: 'some prisons do manage to respond very well and others don't. You can actually draw correlations between achievement rates of recommendations and performance. It's quite clear that those prisons which do respond positively to our recommendations either maintain or improve their grading in subsequent inspections.'

The role of leadership: Enabling and disabling positive performance in prisons

AC: *What differentiates performance outcomes between prisons, is it a matter of different management?*

PC: 'I think if you look at all the variables that there are in prisons, and prisons are very complex organisations, the one key variable which stands out for me above all others is leadership. That is, quality of leadership. Where you have good leadership, prisons tend to perform better. Many prisons at the moment, particularly the local prisons, and let us get one thing right: it's not right to say there's a crisis in every prison in the country, because there's not. Many prisons are actually doing a really good job, and there are a lot of very good, dedicated staff that are working in them. For instance, open prisons are performing well, women's prisons are performing quite well, and the high security prisons are pretty good. The problem is in all the local prisons and the training prisons. In those prisons what would make for better performance are four or five things which are getting in the way of improving the performance.

We as an Inspectorate measure the performance against objective standards which are underpinned by international human rights standards, we're not a regulator, and we're not looking for compliance with policy. It's all about outcomes for prisoners. The things that are getting in the way of prisons achieving what we're looking for are to be found in our so-called Four Healthy Prisons Tests. These concern issues of safety, respect, purposeful activity and rehabilitation: First of all, safety. Prisons are simply at the moment not safe enough, far too many of them are violent. There's far too much violence of all kinds and all the indicators have been going in the wrong direction for some years now. With prisoner on prisoner assault, prisoner on staff, self-inflicted harm, self-inflicted deaths.'

Our discussion on prison staff and their role in enabling a balanced environment in prisons took us back to the theme of safety. Staff cuts have clearly impacted the way in which some prisons are managed from a security perspective.

Unpacking the crisis of safety: The role of drugs, staff numbers, and boredom in custody

AC: *This crisis of safety then; is it a relatively recent trend?*

PC: 'It has been building up for a number of years. In recent years it has escalated. The increase is year on year and levels of violence have been appalling. Double digit increases. What sits behind that is clearly the impact of drugs and in particular new psycho-active substances. My personal view is that there hasn't been enough done to have a coherent strategy to reduce the supply of such drugs. I know as an Inspectorate we often say, there should be a whole prison approach where we should look to reduce demand as well as supply. That is, of course, true, but the fact is that the drugs are getting in there and are causing problems, and they're causing debt, and violence, and bullying and, in some cases, a lot of injury and illness; they're destabilising prisons. I think there's a very clear need to sharpen up the strategy in keeping drugs out.

AC: *Is part of the problem lower staff numbers?*

PC: It is part of it, but those staff that are available also have to be properly led.

AC: *I saw in Nottingham prison that it wasn't that there weren't enough staff; but some were seen as 'inexperienced'.*

PC: 'That's an interesting observation. That's what they said at Nottingham. But what I see is that newer staff coming in can also be seen as an opportunity to change the culture. So, at some places they might say 'we're really worried because these new staff lack confidence, etc'. Whereas in another prison and another governor, can take a more positive approach and say 'with these new staff here's a new opportunity to change'. After all, it's clear that there are long-standing cultural issues in some jails.

If you're going to have role models and mentors within the staff you've got to have positive ones, and not the cynical or careworn or exhausted ones. Being a prison officer is not an easy job, I don't blame anyone for being utterly exhausted by it. But particularly, some of the places we've inspected in the past few years, the staffing levels were far too low. They've been reduced by the benchmarking exercise to a level which was simply not sustainable and they did not allow sufficient staff to be present to do anything, other than the bare minimum. Thus, while I appreciate there will be some challenges with having new staff, having them is better than no staff.'

Our discussion on prison staff and their role in enabling a balanced environment in prisons took us back to the theme of safety. Staff cuts have clearly impacted the way in which some prisons are managed from a security perspective, but arguably also impacted the rise in the use of new psycho-active substances.

Mr Clarke remarked: 'I still find it quite strange that prisons are extremely good at keeping people in, but

they're far less good at keeping stuff out, and I don't see why that should be the case, it needn't be this way. They could do a lot more with technology and just by adjusting their mindset under security measures.' He listed a range of factors affecting the supply of drugs, including the possibility of staff corruption, drones, drugs smuggled through visits, prisoners deliberately getting recalled to bring drugs inside, or even the involvement of organised crime groups. He explained, 'all of these things come together', but what enables such issues to persist is 'when you haven't got sufficient staff in some of these places to have a really effective security regime. The drugs issues are compounded by the lack of staff, meaning that prisoners are not getting enough time out of their cell and so boredom is driving them to drugs when they're locked up for such a long time. There're so many jails where people can't get out of their cells to get to the various courses available and the amount of waste is enormous. When we inspected Feltham in 2017, a YOI, I think we had found that 19,000 days of teaching time had been lost, because people were just locked up unable to get to the courses. Prisoners need to be able to get out of their cells to get to these activities, it's not good having a wonderful set of programmes if only 40 per cent of the education places are filled. Having said this, safety, drugs, living conditions all come together. Living conditions are really deteriorating, far too many of our jails are simply shameful really.'

The crisis of indecent conditions

Mr. Clarke explained that living conditions deteriorated 'because of lack of investment.' In a 2017 report of the Inspectorate, they found that a key feature associated with poor living conditions was the 'doubling up of prisoners in cells designed for one person.' Staff shortages have meant, that in some establishments, prisoners are locked up together, some for up to 23 hours a day. As Mr. Clarke notes, in these overcrowded cells, prisoners 'have the one screen lavatory in the cell and they very often have to take all their meals in that cell as well. There is no way that that is decent, it's just simply not. And it's hardly surprising that the lack of rehabilitative activity is so low in such circumstances. I don't think the Government's ambition around reform and a 'rehabilitation revolution' led by education and training is going to happen until they can get these basics of decent living dealt with, get the places safe, get people out of their cells, and get them into work and education.'

The mental health and ageing population crises

...beyond the clear evidence of problems with regards to safety, drugs and living conditions, prisons today are facing two additional 'crises'…the excessively high number of prisoners experiencing ill mental health…and the increase in the ageing prisoner population.

The Inspector of Prisons went on to clarify that beyond the clear evidence of problems with regards to safety, drugs and living conditions, prisons today are facing two additional 'crises' which he feels need more urgent, strategic consideration. The first concerned the excessively high number of prisoners experiencing ill mental health. As he explained: 'far too many people in jail shouldn't be there, they need to be in a much more therapeutic environment.' Addressing the mental health crisis in prisons may be about considering different pathways in terms of diversion, but, as Mr. Clarke said, this may also need 'a different pathway when those needs are identified in prison about making sure that the prisoners are able to get the right sort of environment to improve. At the moment, if you have a mental health issue, it's not going to be improved in the conditions where far too many prisoners are being held.'

The second strategic issue he identified concerns the increase in the ageing prisoner population. 'Due to the changing sentencing patterns of the types of offence of which people are being convicted, sex offences for example, the prison population is going to continue for many many years to get older. Prisons are not configured as residential care homes for elderly people. There is much good work being done around the country with regards to this issue; there are some good initiatives. For instance, in one jail there was a wing that was specifically set aside for older prisoners. And there's a waiting list to get to it. I saw for myself that some of the older men there were actually looking after each other and they were pleased to be off the main wings, full of drugs, violence, and noise.' However, such good initiatives he explained are often

not followed by an overarching strategy, thus lacking coordination across the sector. 'I don't see this sort of approach being coordinated and I don't see an overall strategy yet for dealing with this older prisoner population. We need to ask difficult questions in regards to this: do older prisoners need to be held in traditional prisons? When one is aged 70 or beyond, do they need the security measures that are in place in a category B or category C prison, or should we be thinking about a different type of custody? At the moment the only thinking I've seen is about tinkering around the edges with what's available. It hasn't been strategic in terms of picking up good practice and propagating it and thinking more broadly about a different structure for older prisoners.'

Is this a crisis or a series of long-term, inherent problems?

AC: *Which of these problems that you've listed in prisons, around safety, drugs, conditions, mental health and ageing populations, would you say have been long-term problems? Some of these don't sound so new.*

PC: 'Overcrowding which plays straight into the living conditions is a long-term issue and that has been with us for many many years. Drugs have been with us for years, but not these new psycho-active substances that have been so damaging. I think there's an extent to which the Prison Service was slow to respond to this new form of the drugs problem. Even when I came into this role some people in the Prison Service would say to me, 'look we've had drugs in jails for a long time it's just another iteration', I don't think that's the case. The impact of these substances was so unpredictable, so strong, causing immense harm; some of the self-harm we have seen, it is quite grotesque, it really has changed the situation in prison, at a time when staff were simply not there to deal with it.

So, some of these are longer term problems that have now changed in nature. Now, too, we've got the ageing population that is going to be with us for a long time and the mental health issues. I know that there's much concern about mental health in the community; prisons are just a very focused microcosm of that reality. Many of those people find themselves falling foul of the criminal justice system and end up in jail when actually, potentially some other type of intervention earlier might have avoided that.'

But, Mr. Clarke was careful not to overstate the notion of a 'crisis' in prisons. Over the past five or six years, and certainly since problems inside prisons received considerable media attention, we have heard the phrase 'prison crisis' indicating the unprecedented deterioration of some establishments and significant increases in harm. However, Mr. Clarke wanted to clarify that not all prisons have been subject to such crisis. I then asked him what might constitute a way of understanding the notion of crisis in the prison context. As he said, 'in terms of prisons the term crisis should be used perhaps a little more sparingly than it is. But in recent years it is, I think, an accurate description of the situation where prisons find themselves in. Some of them at least are unable to fulfil their core function. Their core function obviously is to fulfil the sentence of the court. But the next bit of that is when you start seeing such function being to hold people in such a way so that they are likely to be able to reform and less likely to reoffend. If they are fundamentally failing in that resettlement function, and too many prisons are failing when you look at reoffending rates, then you can say there's something there that is in crisis. I would rather call it a very serious problem than a crisis; it sounds a little bit journalistic talking about a crisis. I don't mean to trivialise it, but I think it's an overused expression. But there are, of course, really serious problems and as an Inspectorate I think it's our job to expose those problems and shine the light, because inevitably those who run prisons and those who administer them would not be volunteering the information that there are some serious problems unless there was a degree of independence and transparency.'

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Considering solutions: The role of finances, cultural shifts and public attitudes

AC: *Both of the issues you've raised alongside safety and conditions, those of mental health and of an ageing prisoner population, suggest that if we are to take a different approach, then we need a much more concentrated social and financial rethinking around the purpose of prisons.*

PC: 'Yes we do, we need two things: one is the finance. There isn't any money at the moment. The Ministry of Justice has got a huge hole in its budget and I can't see any prospect in the next few years of there being a lot more money being put there. Clearly resources are an issue, there's got to be more staff, more staff of the right quality are needed.

But there has to be an investment in the fabric of prisons as well, anyone who goes into a prison like some of the ones for which we issued Urgent Notifications, can see the appalling conditions and knows that it just can't go on like that, it's not sustainable.

It's not only just about money being invested; as we saw with the collapse of Carilion, it is important that contracts have got to be drawn up properly to get value for money. Doing so will get the best effect and flexibility in delivering what's actually needed in terms of improving conditions. In many prisons I visit, I get complaints about the essentially mismanaged contracts which are not delivering better value for money and are not delivering better physical environments, so that needs to change too.'

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In similar vein, and following the events at HMP Birmingham, Mr. Clarke has also called for an honest and impartial appraisal of what went wrong with the contract at Birmingham. Mr. Clarke went on to add that it is also important to work on the representation of prisons in the public domain:

'We also need to work on some of the public commentary in order to enable a different attitude to prison. All too often you see in papers banner headlines about 'lags in luxury', etc., which doesn't actually help in having a sensible, public debate about where the public interest sits. In my mind, it is quite clear that there is a very significant public interest in having people held in conditions which are likely to make it less likely that they will reoffend. That's not about mollycoddling or spoiling prisoners. It's just about saying if you treat people decently and give them the opportunity to learn new skills or turn their lives around, that has to be better than holding them in conditions which will almost inevitably lead to them emerging more embittered, more alienated and more likely to reoffend.'

Can solutions be drawn from positive examples?

PC: 'Within this period of turmoil and crisis, there have also been encouraging, positive shifts that are worth noting. For example, in the children and young people's estate since 2017, the inspections we have carried out in young offenders' institutions have shown some positive improvements which I hope are not built on fragile foundations.'

Admittely, since the time of this interview, the picture in the young people's estate is now a bit more opaque and may perhaps look less optimistic. Mr. Clarke went on to say that positive examples can also be found in the women's custodial estate:

'We have also seen some positive steps in the women's custodial estate. I think more of what is already being done needs to continue. For example, there's some very good work being done around trauma informed practices; that's terrific work that should be applauded.

I would like to think that since 2017, there has perhaps been something of a turning point in the way in which the Inspectorate is regarded and taken seriously. Too many recommendations are still not being implemented, but I'd like to think perhaps Liverpool and the Urgent Notifications marked a turning point. Unfortunately, some of the things we've had to report on have been such that it's not hard to gain public attention.

With a place like Liverpool where all the windows were broken and I came across people in cells that were just in disgusting conditions, and the vermin and the rats and the rubbish and whatever else was going on. In the middle of a major city, in the middle of Liverpool, there was this hell hole. There's no need to be like that. The new governor has got a grip now, but there's no excuse for the dirt we saw.'

The role of the third sector and a last message to those who work in prisons

Before finishing off our conversation, I asked Mr. Clarke for his views on how a sense of hope and progress may be reinstated in prisons. More specifically, we talked about the role of the various third sector organisations working inside prisons. Some of these organisations provide all sorts of support to prisoners, including therapeutic, educational or arts-based programmes, that often enhance and reinforce the work of prison staff. Thus, in light of the current problems we identified around missed opportunities with regards to rehabilitation and resettlement, I asked Mr. Clarke what he thought the role of such charities and organisations may be in paving the way beyond and away from the current 'crisis' points we identified with regards to safety, violence, conditions and purposeful activity.

As he explained, 'the role of charities and the third sector is absolutely crucial; they make a huge contribution in prisons. The worry I have is that not enough use is actually made of them, because it's not well coordinated. When we published our revised expectations we put in a new expectation about wanting to see a senior named member of staff with specific responsibility for coordinating third sector activity within jails. We don't see that happening often enough. I think that is something that more could be done about. I know from my time at the Charity Commission, that the charitable instinct of the nation is vast, but as is often the nature with charities and the third sector, it all needs coordinating so that efforts are not wasted, the resources are put in the best place, and work is done constructively and collaboratively together with everybody else in the prison. We have to make sure the coordination is right and is properly directed. But, nonetheless, the third sector's involvement is invaluable and the prisoners just couldn't function without their support.'

Finally, as a way of concluding, I asked Mr. Clarke for a message he would like to send to those who work in prisons. He recognised the efforts of prison staff under the current, challenging climate and said, 'prison staff are doing a great job, they are doing a really difficult job too. The public generally just don't understand how difficult such job this is.' He also added that he hopes 'in the coming months and years whilst the jobs of prison personnel will never be made easy, because by definition, these are not easy jobs, that they will be made easier than they currently are.'