

## *From England*

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# **THE STATE OF PRISONS IN ENGLAND AND WALES**

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**By Anne Owers, HM Chief Inspector of Prisons**

There is actually a short version of this speech, and it runs like this. ‘There are too many people in our prisons, particularly mentally ill people who shouldn’t be there. Prisons are overall better and more positive places than they were ten years ago, but they’re not as good as they could be while they operate at these levels of population pressure, and there is a danger that the balance will tip and tip quite swiftly because prisons are fragile and complex institutions. The ‘law of gravity’ for prisons is that they take a long time to improve but only a short time to deteriorate’.

So I could stop there, but there is quite a bit of detail and some complex argument behind those headline points, which is important for those who are running prisons, those who are responsible for the running of prisons overall, and those who are concerned about prisons. The headline of course is population pressure. This year, after 12 months in which the prison population had remained relatively stable, there has been an exceptionally large rise in prisoner numbers. It’s decreasing a little, as it often does at this time of the year, but you are still looking at over 77,200 prisoners, which is 2,000 more than there were at this time last year. And just as troublingly, portions of the prison population which had actually shown a decline, particularly women and children, have actually started to rise also. So all the portions of the prison population are now on a rising curve.

As you know, my inspectorate is charged with reporting on prisons and the treatment of prisoners, and we do that by a series of announced and unannounced inspections. We spend a whole week in a prison and then we follow it up with a shorter follow-up inspection where we check what’s actually happened against what we’ve recommended. Every prison can expect to see us at least twice in a five year period and some of them will see us more often if we are particularly worried about them, either because of the last inspection or because of intelligence that we receive.

It's not enough to go there that often, but what is very important to us is that every governor in the country should know that at any time we can turn up unannounced without any warning, draw keys and find out what's actually going on in the prison, rather than what may be reported to be going on. And so that gives us a current detailed knowledge of what's happening across the prison estate, which as I say isn't necessarily what the prison is reporting or internal audit procedures are discovering or Ministers are being told.

You also probably know that when we inspect we do so not by the standards the Prison Service sets itself or any contractual agreements there may be with private sector providers, but by criteria that we've developed over time that we can evidence in the course of inspections and that are referenced to international human rights standards. We look for what prisons should be doing, not necessarily what they are signed up to do, and we group our detailed findings under four heads of what we call a healthy prison. These are: that all prisoners, even the most vulnerable, are safe; that they're all treated with respect for their human dignity; that they can engage in purposeful activity; and that they're prepared for resettlement back into the community. And I want to use those four tests as the framework for what I'm going to say tonight to try to discern whether, and if so how, the prison system in England and Wales is currently healthy.

I'll start with safety, which is the fundamental duty of every prison and of the State, which has a positive duty of care towards those it takes into custody. That's reflected in Article 2 of the European Convention on Human Rights and also other human rights instruments, and it means that prisons not only have not to harm those people in their care, but they also have to take positive steps to ensure their safety. Prisons of course contain a large proportion of people who are vulnerable and of people who are not socialised. Preventing selfharm and bullying is therefore a constant task and it's made much more difficult when prisons, particularly the local prisons that receive prisoners directly from court, are overfull, and when the pressure of population means that prisoners are constantly being moved in and on.

The statistics on self-inflicted deaths in prisons are interesting. While there is generally a decrease this year compared to last year—which I think owes not a little to the work that the Safer Custody Group has been doing and some of the work that's going on in prisons — we've nevertheless seen that the location and timing of self-inflicted deaths have coincided with overcrowding. At the time when the prison population took a considerable rise between May and

July, so too did self-inflicted deaths in male prisons, which was where the rise was happening, and specifically in local prisons holding men. It's very interesting that although local prisons hold only 36 per cent of the prison population, they have had within them 60 per cent of the selfinflicted deaths, and indeed a third of those deaths have happened in only seven local prisons, so there is obviously a particular vulnerability there.

At the same time, at a point when the women's prison population was actually dropping, we saw a significant drop in the number of selfinflicted deaths among women, which had previously been running much higher than those within the male prison population. So I think while it is always unwise to draw trends from statistics over too short a period, the connection with crowding in prisons is quite a significant one.

We know that prisoners are at their most vulnerable in the early days in custody, and that staff in prison receptions receiving dozens of new prisoners often late into the evening have to make crucial decisions about whether prisoners are a risk to themselves or to others. They're not helped by four things. One is late arrivals from court. Courts are often more vigilant about penalising prisoners for late arrivals to court than taking note of what happens when prisoners leave from court. Although I am very cheered by the attitude of the current senior presiding judge, who is very concerned about the effects of late pick ups and returns, if I give you some examples of what we've found in recent prison inspections, you'll see the scale of the difficulty.

At Stoke Heath we've major concerns about the safety of young people with both juveniles and young adults arriving late at night, around nine or ten, and sometimes after midnight. On one occasion three juveniles who were on self-harm monitoring left the prison at eight o'clock in the morning for extremely short court appearances. The cases were dealt with by 11:30 am but they didn't return to the prison until 9:30 pm, so they were out all that time. At Holloway we noted a 56-year-old woman who had not been in custody before and where the prison was alerted that she was at particular risk because of that. She was sentenced at ten to two but didn't arrive at the prison until ten to ten. Those things are not uncommon and they are happening over and over again.

Secondly, the passage of information about prisoners is woefully inadequate and often late. At that crucial point of first arrival, a prison may have no more than an interim warrant with little other information. Staff rely on prisoners themselves to tell them whether they may be at all racist or homophobic or

violent. In one prison I was in recently, it was very fortunate that the person running the segregation unit happened to see a new prisoner who had just arrived in the main prison and had also recalled that when that prisoner was last there he'd actually been in segregation because he had assaulted the black prisoner he was sharing a cell with, with a sharpened plastic knife. He was a known racist but he had been passed as fit for cellsharing.

Thirdly, not all prisons have effective first night arrangements. Increasingly local prisons have first night centres and we've come across some good ones where there are dedicated staff who ensure that prisoners are settled, but some aren't worth the name. Recently, we came across a local prison where young men were locked up without the chance to have a shower or a phone call, with no individual personal contact, without even a pillow or a working television, and in grubby, graffiti ridden cells with toilets that didn't even have seats to them. That does not make a first night centre, whatever the notice above the door may say. Night staff in some prisons aren't alerted to new arrivals, so it's one of the things that we look at very, very strongly. And every movement of prisoners into and between prisons exacerbates vulnerability, so it's not only the first arrival but subsequent movements, which often of course move a prisoner further away from home, further away from family support, that are of concern.

Finally and very importantly, many of those who die in our prisons are mentally ill. Some are held in segregation, others are in healthcare. In some prisons, like Feltham when we inspected recently, it wasn't possible to get a bed in healthcare if you were merely physically ill. The healthcare centre was entirely full of seriously mentally ill young men, three of them in strip clothing and gated cells being watched 24 hours a day by agency nurses, who still failed to spot two suicide attempts. At other prisons we describe women, often very young women, seriously and serially self-harming — like the 17-year-old who was serving a 24-month sentence. She'd no previous history of mental illness or self-harm and had only started to harm herself since being in prison. Her case file described a spiralling pattern of cutting and using ligatures. There had been over 15 incidents in the previous three weeks.

Those prisoners cannot rightly be compulsorily treated while in prisons, and in spite of recent improvements to mental health in-reach care, they can't therefore be properly cared for in what is not by any stretch of the imagination a therapeutic environment. Clearly transfer to NHS facilities is needed. It is getting better but it can still involve a wait of up to three months

after an assessment is made, and of course in many places we find that the psychiatric services wait quite a considerable time before making an assessment in order to be able to hit the target of removal to appropriate facilities within three months of that assessment. And for adolescents there simply aren't enough psychiatric beds anyway, no matter how hard you assess. In those circumstances I think we find prisons facing difficult choices between two of our tests, the test of dignity and the test of safety. You can of course physically prevent someone from killing themselves. I recently was in a state prison in Canada where they had something called a kayak, which was essentially a straightjacket, in which prisoners were put if they were seriously self-harming. We rarely in our prisons resort to body belts, but we do put people, even children, in stark, unfurnished cells, stripped of their normal clothing, watched, but not engaged with, in every movement they make. I understand why that happens in establishments that know they are likely to be blamed for any failures, but it's not care. It's containment. It doesn't solve the underlying causes of distress. It merely postpones their emergence. It merely means 'don't kill yourself on my watch please'.

Bullying is a further threat to safety and it can of course contribute to suicide and selfharm. We come across few prisons that manage bullying safely, and it's a particular issue in young offender institutions, and there are few prisons that intervene positively rather than simply moving people around the prison or around the prison system. In some prisons we've seen, notably in Rye Hill, Liverpool and The Mount, we came across gang cultures based upon the availability of drugs, which had infiltrated to such an extent that bullying was rife, prisoners were scared to come out of their cells, and in the case of Rye Hill, staff were scared to go on the wings.

That's rare, but it serves to remind us that safety in prisons, given the population, its movement and sometimes rather light staffing levels, is never a done deal. Prisons are safe places because managers and staff work at it and because prisoners themselves have an investment in it, and if either of those breaks down, so does safety. And I think in all aspects of safety we'd do well to remember what the All-Party Parliamentary Human Rights Committee said in its report on deaths in custody, which is it's not essentially about procedures, it's about the whole environment. It's about whether people feel safe in that environment or not.

Moving on to respect, which is our second test. The first thing I'd want to say about that is that the prison service has undoubtedly made inroads into some

of the negative, and at times abusive, cultures that we saw deeply ingrained in some of our local prisons. Our last inspection of Wormwood Scrubs for example, which hasn't yet been published, will describe improving staff/prisoner relationships which have been worked at over the last five years or so. Scrubs is though, a potent example of my law of gravity. What was once regarded as a model local prison sank fairly quickly into abuse for want of proper management attention and it has taken years to turn it around. Respect, like safety, needs to be continually monitored and worked at. Other local prisons such as Wandsworth and Liverpool are still struggling with this. In some cases we come across deliberate disrespect, prisoners being referred to as bodies or toe rags, and if prison staff do that in front of inspectors, I worry very much about what they do when we're not there.

In others it's collusion. Staff want an easy time, prisoners want an easy time, no one gets challenged or encouraged, delivered to work or education on time or at all. Our lads, the local people, are recognised as they continually revolve through the door, and that leads onto another finding from our reports: that black and minority ethnic prisoners, and black prisoners in particular, consistently are much less likely than white prisoners to report that they are respected by most staff. There is a significant difference in their responses. In our surveys of prisoners, we only ask one question specifically about race, but in answer to a whole range of questions about their treatment in other areas of prison life, black and minority ethnic prisoners' responses are significantly worse than those of white prisoners, and that's in spite of the work that's gone on to put in place procedures in prison.

That disrespect, we are told, rarely takes the form of blatant racism, though sometimes it does. More often it's the way things are said, it's no attempt to get names right, it's differential access to the regime, and in spite of all the efforts made, we're still finding those differential responses. Apart from the important issue of culture, prison's physical environment is also an important component of respectful treatment. It's often been said by me, among others, but it bears repeating, that locking two men together in a cell meant for one, sometimes for 23 hours at a time, where they eat all their meals in the presence of an unscreened toilet, is not decent. When Stephen Tumin wanted to finish slopping out in prisons, I don't think he had the notion that he was going to replace it by people living in a lavatory. In other areas of public life all kinds of health and safety regulations would be broken if people were held like that.

Nor do we approve of night sanitation systems that in practice delay or prevent people from access to toilets at night, and result in young men and women throwing ‘poo’ parcels out of the window or using plastic pots or buckets. And in some prisons we inspect, standards of basic hygiene and provision are broken down to the extent that they’ve stopped being noticed, in spite of the fact that those same prisons may have an inordinate amount of people who are referred to as cleaners. Some wings in our overcrowded prison system are simply unfit for habitation. We reported on one at Norwich where soil stacks were leaking into the walls, cell windows were broken, and two single cells held three prisoners, not just two, and one at Nottingham where heating was so inadequate and the windows so poorly fitted that the cell temperatures reached only five degrees during December.

The Prison Service has no wish to hold prisoners in such conditions, but plans to refurbish wings, install proper sanitation, and return prisoners to the normal as opposed to safely overcrowded capacity. However, it is hamstrung not just by resources but by the need to use every single cell, including sometimes healthcare and segregation accommodation, for the expanded population.

Turning to purposeful activity, again our inspections chart progress, and again I’m afraid it’s progress ... but. There is undoubtedly more education and training available in prisons as a whole than there was ten years ago, and it’s more professionally delivered, more securely funded and more closely inspected by our education inspection colleagues who attend with us. The difference is probably most marked in relation to juveniles where the Youth Justice Board has injected significant funding, which means that on average, whereas in 2002 young people used to get about seven hours of education a week, now it has gone up to an average — and I stress average — of 24. And in other prisons, prison service statistics will report the number of basic skill certificates achieved by prisoners. However, published statistics need to be read with some caution. I am very tired of going into prisons and finding that the figures for prisoner’s hours out of cell or participation in activities are works of fiction that disguise rather than reveal the real problems the prisons have in trying to provide enough activities for the prisoners that they hold.

It doesn’t help when area managers, directors general and Ministers are reassured that things are not as they actually are. The most extreme example was probably Dorchester, which was holding twice as many prisoners as it

was certified to hold. It decided to divide the total number of prisoners' hours out of cell by the prisoners it ought to have been holding rather than the prisoners it actually did. The result was that it was reporting quite cheerfully that every prisoner at Dorchester was spending 13 hours of out of their cell every day, which beggared belief and was of course not true. But no one had questioned it, nor did anyone question the figures at Pentonville, Winchester, Channings Wood, Bristol, Exeter ... I could go on, but at the risk of rather sounding like the Flanders and Swan slow train song.

It happens over and over again I'm afraid, and it's so common and so easily shown to be over-optimistic that it's clear that no one has any interest in questioning what's put up. Underneath the headline figures is the question of what kind of activity there is and whether it's actually truly purposeful. Even in training prisons we find that not all prisoners are employed and of those that are, not enough qualifications or education are being offered. In one recently inspected lifer prison where men will spend lengthy periods, given the current length of life tariffs, we found lifers counting rubber plugs. Nearly all training prisons have increased, sometimes almost doubled their numbers, but training places, instructors and facilities often lag behind those numbers. Some prisons, like Wayland and Highpoint, have risen to the challenge with virtually full employment that actually meets prisoner's needs and is projected towards local employment opportunities.

But others haven't and we have been particularly critical of where local prisons have been converted into trainers without any of the infrastructure or resources to make that anything but a working title. We describe the prison ship the Weare, which was supposed to be a training prison, as merely a container serving no useful purpose. It was closed, but there is actually a threat of it being reopened due to population pressure. If it doesn't reopen it will only be because of the huge cost of making it seaworthy rather than because of the fact it is actually a wholly inadequate place to keep prisoners, such is the pressure on population at the moment.

Our other concern about activity though relates to its limited focus. Literacy and employability are fine aims, but much of the population we're dealing with have been avoiding or been avoided by education and work for most of their lives. For young prisoners particularly, being dragooned into a classroom, the scene of previous failures, is unlikely to be either popular or productive. Many prisoners will need to be enthused by new opportunities in other ways, through art, through drama, PE, through repairing cars. Some at the other

extreme will have already achieved GCSEs or even A levels and will need stretching further. Variety in what's provided, the ability to respond to prisoners' needs rather than fit prisoners into targets and stereotypes, is what's needed and what's often lacking in prisons. And again returning to my theme, the ability to be flexible, to plan ahead to provide prisoners with what they need, to move them to appropriate courses, to keep them on the courses they're in, is hugely undermined by the sheer pressure of numbers.

Finally, resettlement. Resettlement, which is of course the fashionable new term for what's been called release planning, rehabilitation and a variety of other names in its time, is now, I am glad to say, part of the active vocabulary of prisons in a way that wasn't the case even four years ago when I began this job. That has in part been stimulated by the report of the Social Exclusion Unit and I hope our own joint thematic report with the Probation Inspectorate, and with the growing impatience with the revolving door syndrome for short-term prisoners. Prisons now have to have resettlement strategies, and of course this will now be subsumed into the new structure of NOMS, which will be focussed on end-to-end case management of offenders with a promised significant reduction in reoffending. I very much welcome the fact that prisons are having to focus on the outside and just as importantly that agencies on the outside are having to focus on those in prison, rather than shutting them out of mind while they're out of sight, which all too often has happened. This has led to the involvement of job centres, housing agencies, often non-governmental organisations, work on debt and benefits, drug intervention partnerships. In some prisons it's gone further and it's led to individual mentoring schemes, links with local authorities or local employers. Some prisons have even taken more seriously than they did the involvement of families in resettlement, something that's often seriously omitted and which is, if anything, an add-on to what prisons do.

But in some ways all this activity simply emphasises the scale of the task. In relation to many short-term prisoners, we're not dealing with people who have ever been settled or habilitated. They will emerge from prison perhaps with increased hopes and expectations, but also often with increased problems. For example, the excellent housing support work being done at Holloway doesn't compensate for the lack of housing provision in London for women with a history of, and convictions for, substance abuse. Emerging from prison clutching a set of certificates and turning up for a job centre interview, which is all that's needed for a prison to hit its employment target, will not necessarily result in any employment, let alone sustainable employment.

Indeed, the perversity of such inflexible targets was emphasised on one of our recent inspections where there's one prison that tries to find real and sustainable jobs by contacting employers and arranging job interviews at sensible and suitable times. Because those interviews don't happen within the short window demanded by the Prison Service Order, they are failing to meet the targets that they would achieve if they simply sent them to the Job Centre unsupported.

What happens at the end of sentence though is crucially dependent on what happens during it, and that work needs to start at reception, not a few weeks before release, which may of course be the same thing for some short sentence prisoners. Sentence planning under Oasys is progressing, though it's hampered by poor information technology exchange between prisons and probation and crucially not at all between public and private sector prisons. But along with probation support after release, that only affects those who are sentenced to over a year in prison, and the great bulk of the prison population remanded and with short sentences is outside those arrangements. An increasing number of local prisons now attempt some form of custody planning for those prisoners, although some don't, but in practice under pressure it's often little more than recording details and trying to deal with immediate problems on arrival and then picking it up again just before prisoners are released.

The prisoner who is assertive or knowledgeable can often approach the agencies that are in prisons responsible for resettlement, and sometimes if they are very assertive and very knowledgeable they can get help from a number of them for the same problem. But those prisoners who are likely to be most in need of help are neither assertive nor knowledgeable and they may be barely touched by all this activity, some of which is not well coordinated. This work will now of course all be done under the umbrella of NOMS. The blueprint for NOMS, end-to-end individual case management, is a good one, but there are many barriers to its achievement in the current system. The resettlement planning for short-term prisoners is at present patchy, post-release supervision of course is non-existent and will need considerable resources. Remand prisoners won't initially be covered at all in the NOMS planning. They will come in later but they are not of course offenders so they come later down in the stream.

It's far from clear too how the regional NOMS structure will interact with existing prisons area structure, and on top of that is overlaid the injunction that everything should be contestable. It does seem to me it would have

been better to work out and trial the process for managing offenders first and then see what structures fell out of that than to create a structure without a clear idea of what it is and how it relates to what exists. Some issues are already arising and others are raising some queries. Regional offender managers will commission prison probation services where, and in the way that, they think necessary, and these will be formalised in-service level agreements. Localisation and evolution have many benefits, not least the ability to try to energise essential local partners. But they also carry the real risk of inconsistency and lack of coordination in a system where many prisoners will be held in more than one region.

In niche prison populations such as women and lifers, it's already proving highly problematical to move prisoners from one prison in one area to another prison in another area. Now that these moves aren't organised and indeed insisted on nationally, governors can and do cherry pick the prisoners they will take. In a number of prisons, lifers are stacking up without the ability to make the transfers they need to progress. The new indeterminate sentence, shortened determinate sentence, (there are already over 200 prisoners sentenced to that) will add to the problems of managing prisoners with indeterminate sentences. Governors of women's prisons report that it's now becoming impossible to move women who have been difficult or disruptive and who need to start afresh somewhere else. What other governor will take them? So that's one of the issues that's already arising.

There are also other problems that are predictable. With no headroom in the population, prisoners of course can't always be kept within region, especially of course the smaller populations of women and young adults. The interventions they receive and that are mandated in the region where they serve part of their sentence may be different from those they need to key into resettlement strategies when they are released or when they return to their region. And that's not an issue only for resettlement. Prison Service standards are no more than a quantitative baseline, but they and prison service orders and guidelines do provide a safety net. They do provide some form of consistent measure against which governors should run prisons and against which area managers should judge them. Regionalisation and individual service level agreements with the National Offender Management Service setting only high level standards will change that. And some prisoners, like foreign nationals, or some issues, like decency, that don't directly feed into the extremely challenging reducing offending targets may start to slip.

I was in a private prison recently where it was very difficult to find a prisoner with a pillow, and where prisoners couldn't get their relatives' telephone numbers recorded on the PIN system unless they paid. These basic elements were not of course in the contract and there were no penalties for not providing them. I believe that the importance of independent inspection of prisons, based upon fundamental, consistent and best practice standards, something about which you may have heard me speak elsewhere and in other places, will be even more important in such a changing and uncertain landscape, without any very clear pilot lights for those commissioning or delivering services, and I believe that our inspections will be very important and the fact that we do them to our standards and to high and human rights-based standards will be even more important in this new landscape that we are facing.

So, in conclusion, how healthy is our prison system?

I think in all the areas I've covered you can see things that have improved, but frustratingly you can see how things still need to improve and indeed could improve still further. I think in some areas and in some prisons it's clear the patient is in recovery, but without active relapse prevention the recovery may be short lived. In individual prisons much depends on the enthusiasm and management skills of a governor who is likely to be moved swiftly either if he or she is good, or not good enough, and who is managing a staff that has grown inured to and is often battered by crisis management. In the prison system as a whole much has been drawn in from outside to assist with healthcare, education and resettlement, and the focus on security, security, security, has changed somewhat and is a little more varied than it was.

But what's also been drawn into the prison system is far too many prisoners, many of them with needs that cannot and shouldn't be met in custody, whether that's mental illness, substance abuse or a lack of attachment to society through families, education and work. The paradox of a healthy prison model, and of prisons that now provide more than containment, or aim to, is that prisons can come to be seen as a force for good, for social welfare, for education, for therapy — or more cynically, as places that can receive more cheaply those who need and aren't getting support outside. Essentially I have always thought, and I've said before, that the state of our prisons says something about the state of our nation, about the parallel world that exists among those who are excluded from society and that touch society only when they disturb it. Only by tackling those problems at root and in the community will we have healthy prisons that do more than recycle them.

Some of the initiatives I have described do promise to engage the outside world bringing the outside in and the inside out. Of course we need to continue to improve our prisons, but we also need to develop some viable alternatives, things like halfway houses, community support services, community courts. I'm interested to note for example that of the 77,200 prisoners in our system only 30 are in the intermittent custody pilot. But there are other even more interesting and important pilots that have been promised, and many of them exist but at present there's little urgency about them compared with the energy and resources that go into keeping the revolving door turning. The fact that our prisons are as healthy as they are says a great deal about many of those who work in them and manage them. But the fact that they still fall short of what's needed, and more importantly, what's right, also says a great deal about what's not going on outside prisons.

*This is an edited transcript of Anne Owers's speech delivered at the Annual General Meeting of the Centre for the Study of Human Rights in December 2005.*

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*She was appointed HM Chief Inspector of Prisons in August 2001 and, in June 2006, her appointment was extended until March 2008.*