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# INDEPENDENT MONITOR

THE ASSOCIATION OF MEMBERS OF INDEPENDENT MONITORING BOARDS



**Celebrating 30 years of AMBoV and AMIMB**

## EDITORIAL

This should be a perfect opportunity for a stirring editorial – yet it is also a difficult one. On the one hand, we have the perfectly happy, fortuitous conjunction of 30 years of our association and 100 issues of its journal. Plenty to celebrate and dwell on there. On the other hand, as the *Monitor* goes to press at the beginning of October, the government's spending review is still to come.

That is bound to contain some bad news for prisons. They have got used to annual budget cuts, so perhaps there will be no terrible surprises there. But swingeing cuts to the administration – Noms and all – may take prisons and their monitors into difficult, uncharted territory.

The exciting stuff is still to come it seems. We are promised two green papers in November or so, one on sentencing one on rehabilitation. Already Justice Secretary Ken Clarke and his ministers have been alarming some Tory colleagues with reformist talk. Much of it has echoed the previous government's platitudes about initiatives they never had the guts to introduce. But it is difficult not to feel encouraged by talk of community sentences instead of short prison sentences, more use of restorative justice, a focus on the mentally ill and drug users. Realistically, only changes that will also save money are likely to happen – but as penal reformers have been saying for years, there are plenty of those.

How the more novel ideas will fit in is also intriguing. Prisoners doing full-time work on the statutory minimum wage, with some of their income going to victims, some held back for their families? Private investment in reducing reoffending initiatives, with dividends paid on results? There have been hints about lifting restrictions on prison comedy classes and the like; even the possibility that prisoners may at last get the vote.

So, back to our anniversary. Some of AMIMB's executive committee recently went to a lecture commemorating the life of Jane Blom-Cooper, a founder member of AMBoV and first editor of its *Quarterly*. It is good to remember what inspired that initiative (see page 6) and to anticipate what we may need to tackle in the next 30 years. Vivien Stern starts the ball rolling opposite.

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

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# Happy anniversary?

**by Baroness Vivien Stern of the International Centre for Prison Studies and AMIMB President**

On 29 September the *Wandsworth Guardian* covered the publication of the local IMB's annual report. It had, said the newspaper, noted that things had got worse in the past year. Relationships between the staff and the prisoners had deteriorated. Requests to staff from prisoners were not dealt with. There had been disturbances such as assaults on staff, fires in cells and buckets of excrement thrown at officers. Force was being used much more and against one particular group of prisoners, the Eastern Europeans, it had increased dramatically. Incidents of prisoners harming themselves had more than doubled.

We now take such reports for granted. We expect to see them and we regard them as evidence of an IMB doing its job properly, highlighting on behalf of the community what is happening in a place where people have been deprived of their liberty and put out of sight, under the control of the state.

## **Thirty years on**

It was not always so. This year AMIMB is celebrating its 30th anniversary, marking three decades of dedicated work by hundreds of committed volunteers to ensure prisons are humane, lawful and rehabilitative. During those three decades much has changed for the better. Much that was closed and secretive has become accessible and transparent. Institutional arrangements have been made to open prisons to public scrutiny. It is accepted that prisoners must be allowed to complain, and must not be punished without due process. The courts, both the domestic courts and the European Court of Human Rights, have established beyond doubt that the state has a duty of care to those it locks up and if the state fails in that commitment it is failing its commitment to the rule of law itself. The courts have also made it clear through their judgements that prisoners are in many ways still part of society and therefore should not for example automatically lose the right to vote.

The introduction of the Optional Protocol to the Convention against Torture (OPCAT) brought all detained people within a framework of protection. Now the centres where irregular migrants, those

whose asylum claims have failed and prisoners waiting to be deported are held are subject to oversight by IMBs. Even some of the holding rooms at airports where people might be detained for a day or two are overseen by independent monitors who look at the suitability of the facilities, whether they are respectful of human dignity and the way the contractors' staff treat the people they are holding.

These are huge changes and the IMBs are a vital element in their implementation. The model is unique. Only in England and Wales are independent lay people attached to a prison or place of detention near to where they live, with the right to come and go as they please in the institution, to talk to any prisoner at any time and fulfil a particularly important role when there is a disturbance. Access to prisons for outside groups is not the norm. Whether a country allows access to outside groups is one of the criteria used by the US State Department in assessing the human rights compliance of the world's prison systems. In many countries outside groups do not go in at all. In most of the states of the United States itself such a system is inconceivable.

Furthermore, assessments are frequently made by IMBs of how government policies in individual prisons affect the treatment of prisoners and the capacity of the prison to treat them with humanity and respect. Boards comment for example on overcrowding, on the inappropriate holding of mentally ill people in prison, on the arrangements for transporting prisoners that mean young people arrive at their prison very late at night. This too does not happen elsewhere.

## **The next thirty years**

But, as the reading of almost any IMB annual report will show, there is still much to do. As we celebrate 30 years we need to think of what we face in the coming years. There are new challenges. First of all, there are the implications of new technology. The introduction for example of the bodily orifice scanning chair which,

according to the manufacturer 'is commonly used in corrections facilities to scan inmates for weapons and contraband objects hidden in anal, vaginal, oral and nasal cavities' gives considerable scope for invasion of privacy and assault on human dignity. How far will technology like this go?

Then, what developments will we see arising from the preoccupation with risk? Already IMBs are stalwart protestors about the treatment of those who are identified as posing a risk. Boards comment frequently on the injustice that comes from the indeterminate sentence for public protection. IMBs have been in the forefront of drawing attention to the injustice that can flow from this failure. There may be more such challenges in the future and no doubt the *Independent Monitor* will continue for another 100 issues to bring to the attention of AMIMB members and a wider readership a range of views that will stimulate debate and prevent complacency.

**During those three decades much has changed for the better... There are new challenges.**



# Getting the full picture on crime

**Freelance penal film-maker  
Charlotte Rowles talks about  
working in broadcast television  
and how criminal justice is  
represented**



I've been making films for television for the past 12 years. I have worked on everything from news to entertainment, but my strongest interest has always been reserved for crime programming. My former career as a probation officer in Nottingham could have influenced my obsession. I can't remember exactly how this interest took shape: shadowing criminal lawyers at court perhaps; meeting a man whose mental health problems had effectively left him stranded in jail for years beyond his sentence; working in a forensic psychiatric unit?

Making television programmes on crime is something of a poisoned chalice. Hard-pressed broadcasters can be reluctant to commission programmes on crime: there are often time consuming subjects, suspicious lawyers and complex legal delays. *Crime-watch* aside, ratings for crime shows are notoriously low: all in all, crime is turn-off TV. Throw in the hard fact that criminals are suspicious of TV interest, stories can be difficult to get access to and hard to gain trust and participation. Despite the problems, I think these types of films are important.

### Inside out

How films come to be made is not a simple issue, even more so when it comes to programmes which include crime. After serving time in various prisons, Eric Allison went on to become the *Guardian's* prison correspondent. He is clear about the importance of his work: 'People are very interested in what goes on behind closed doors. It is important how we treat prisoners, because it will have an affect on how they treat us when released.'

Eric's unique position and credibility in accessing prison stories led to a BBC Panorama programme, *Life Behind Bars*, that we worked on together in 2007. The bare facts were this: a prisoner died in an

apparent suicide days after making allegations about corrupt prison staff to the private prison's director. There was also a murder and an inspectorate report calling the prison unsafe and demanding ministerial intervention. Was it enough to get the broadcasting commissioners' attention? Eric recalls the problems he had to get someone to consider doing something with the information he was hearing. 'It's bloody hard to get TV people interested.' Eric had an ally in the *Guardian's* veteran reporter and producer, Maggie O'Kane. She pushed hard to get the interest of Panorama; endless meetings later, a 6-month investigation was launched.

An undercover reporter working as a prison officer exposed the fact that prisoners had easy access to drugs and mobile phones and subjected overstretched staff to intimidation if they were too diligent in their work.

*Life Behind Bars* had a considerable impact. Some 3.5 million viewers watched, the government reviewed the private prison's contract and Serco introduced a pay increase for its prison staff. It was a programme that might not have been made; its impact was due in a large part to the dedication and relentless work of a self confessed obsessive like Eric who could shine a light on what are largely untold experiences. What also helped was that he had the backing of the only national newspaper to have a prison correspondent.

### Criminal; the label that trumps all

Broadcasters working in this area are faced with challenges; being a criminal can easily become the dominant and often sole issue, obscuring all other factors. Fighting to get the public to see the full picture and the offender as being worthy of their interest and compassion takes thought and effort. This is something I wrestled with covering the inquest which followed the death in prison

of of a Ukrainian man called Aleksey Baranovsky. By turns degree student, gambler, devoted son, failed asylum seeker – making sense of all that is a struggle, an essential one to giving the full picture. Alexsey had something in common with a lot of prisoners: he didn't really have a voice. In these circumstances, it is even more of imperative to work at presenting a rounded view which includes a perspective from the person who can't speak for himself.

As far as inquests go, this one stood out. The Ombudsman's lengthy investigation concluded that his was one of the most worrying reports he had ever issued; the coroner called the treatment Baranovsky received at Rye Hill 'shameful'.

Given all this criticism, I hoped press coverage would be guaranteed. However, against a backdrop of soldiers being killed in Afghanistan and Iraq, nothing could be taken for granted. This case had the further complication of involving a man with no voice whose family were overseas. Dedicated journalist Simon Israel had covered the story for Channel 4 News, including an interview with his family in the Ukraine. Alexsey's sister told of how she and his family waited out the 6 months with no news about about his death.

The private healthcare company whose staff ignored Baranovsky's dying request to see a doctor are still working in UK private jails. And despite the Ombudsman's recommendation for referral to the medical authorities, following the company's own internal investigation, no further action was taken.

Reporting on the Baranovsky inquest was the latest in a long line of inquests on prisoner deaths for Simon Israel. 'It's vitally important we as television journalists hold those responsible to account. There have been countless cases of deaths in prison. Families deserves answers. The fact that prison suicides have been slowly declining and that the monitoring systems are infinitely better than a decade ago can be put down as much to media exposure as to anything else. It comes down to the right to life and everyone has that regardless'.

### Looking to the future

With the development of digital technology and social media, there is a real opportunity for those interested in crime to influence the public consciousness. As more criminal justice groups develop their website presence, they can take the initiative, getting the message across in novel ways. Recently I have worked with the Prison Reform Trust to develop their film content. Together we worked on a film project that centred on a



*Charlotte Rowles 'on location'*



single issue: does prison work?

We interviewed 30 people – MPs, senior criminal justice professionals, ex-offenders and public figures involved in penal reform. Mary Riddell, Michael Palin and Anne Owers, among others, all emphasised graphically the destructive powers of over-reliance on prisons to sort out society's problems. All in all, across political divides and different organisations, one message rang loud and clear: prison should be reserved for the most serious offenders.

The *Monitor* recently carried a review from an IMB member on the recent ITV series on *Wormwood Scrubs*. The writer called some aspects of the film unbalanced. Maybe so, but that is not the whole story. Programme-makers wrestle with the problems of being authentic to the events they witness in prisons and the need to make it sufficiently engaging to a viewing public. TV is by necessity a version of events, but most broadcasters hold the need to present a fair representation. Showing self harm in

prison is always difficult but leaving it out opens TV up to the criticism of being patronising; is it right to ignore this depressing and damaging impact of prison life?

Influencing and informing the public debate is crucial, never more so than now with £2bn cuts looming over the workers across criminal justice. One in four staff will disappear. Part of the reason I left probation was my very real concern that I could have been one of the officers, newly trained, struggling under weight of expectation in managing huge caseloads of difficult and challenging offenders. Decisions about showing crime on television need to be approached carefully; there is an awful lot at stake.

For clips of some of the films discussed follow the link to:  
[www.essentialviewingfilms.co.uk](http://www.essentialviewingfilms.co.uk)  
 PRT's Talking Justice, Talking Sense film series - [www.prisonreformtrust.org.uk/2134](http://www.prisonreformtrust.org.uk/2134)

## Young people in prison – AMIMB gets involved

AMIMB is collaborating with the Howard League in research on the welfare of young prisoners. UR Boss is a five-year lottery-funded project whose first fruits were *Life Inside 2010*, a report published this summer. It revealed that for boys aged 15-17 – the biggest group of young people in prison – conditions are not improving despite a fall in numbers.

Young prisoners highlighted numerous failings, including: automatic strip-searching on arrival, the most vulnerable time; no daily shower; failure to achieve targets allowing children time out of cell; poor relations with staff, perhaps because there can be as few as one for every 20 prisoners; violence and bullying; a disproportionate use of physical restraint and segregation; poor food and not enough of it – affecting concentration in classes and behaviour generally; a failure to engage them in sentence planning.

Standards of education received particular criticism: 'education is really poor ... all they do is pull out bits of paper and make people copy them ... prison doesn't do anything for you ... they just hold you, feed you and give you somewhere to sleep ... you come out more violent.'

AMIMB will be contacting its members involved with young prisoners, to get their input into this ongoing research.

## Women's prisons

A recent prisons inspectorate report highlighted that, despite the Corston report, there were still over 4,300 women in prison – as many as this time last year.

There were three main themes. Because five women's prisons have been re-rolled for men, women tend to be in larger, less well-organised prisons, further from home. Women do better in open and semi-open prisons; unfortunately two of the latter – Drake Hall and Morton Hall – have become closed prisons.

Although women's prisons have improved overall, there are serious concerns. Self-harm remains high (47% of the total self-harm in prisons, from 5% of the prison population). Three prisons were bad on safety – Holloway, Styal and Send. On resettlement, Askham Grange was the only prison that scored well; Drake Hall, Foston Hall and Peterborough were below par. And there were general criticisms of work with foreign nationals, mental health and alcohol problems.

# It was 30 years ago today

Looking back to the beginning of our association, courtesy of a founder member, Rod Morgan, who also looks forward – opposite page

On 25 March 1980, following exchanges of correspondence between us and a joint letter to *The Times* stating our intentions, the first meeting of the self-appointed Steering Committee for an Independent Association of Members of Boards of Visitors met in the kitchen at 25 Richmond Crescent, Islington, then the Blom-Coopers' home. There were eight of us, including Jane and Margaret Watson (now Hodge).

We agreed a General Statement of Aims and Principles which stressed our independence: we argued that BoVs' dependence on the Home Office militated against their credibility and thus effectiveness. It stated our wish to open up prisons, and what was being done in them, in the name of the people, to the community at large.



We also said that we wanted to foster a forum which might make recommendations to the authorities about penal operational policy and practice. We proposed corresponding, via the BoV Secretariat, to all individual BoV members inviting them to attend an inaugural meeting of AMBoV later in the year. This took place on 29 November 1980 at Bedford College, University of London.

The first *AMBoV Quarterly* appeared in April 1981, with digests of Prison Service circular instructions and prison



'Without AMBoV and AMIMB, the National Council might not have happened.'  
Peter Selby  
IMB Conference  
September 2010

inspectorate reports for more than a decade. We obtained small grants from the Hilden Charitable Fund and the Barrow and Geraldine Cadbury Trust to prepare a looseleaf Handbook for AMBoV members, published in 1983.

Our membership gradually grew – we had a little short of 100 by summer 1981 – though AMBoV only ever attracted a minority of BoV members in England and Wales. We helped open up the debate about Boards of Visitors which culminated in the reforms recommended at the end of the 1980s and which were endorsed by the Woolf Inquiry of 1990.

It is noteworthy that in his address to the BoV Annual Conference in October 1980 Home Secretary Willie Whitelaw unequivocally stated that he had no objection to the establishment of an independent association. It was a matter, he said, for BoV members individually to determine. But Home Office officials and the chair of the BoV Annual Conference acted otherwise and frustrated our birth. The letters of invitation we sent to members to join were in many institutions not distributed and the Home Office wrote to every Board chair emphasising their opposition to the initiative.

We prevailed and I believe our penal system has been the better for it.

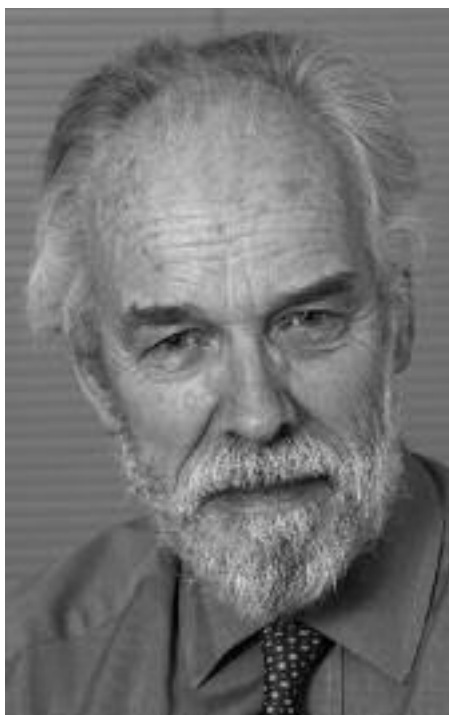
# What are the prospects for youth justice?

**Rod Morgan, Professor Emeritus, University of Bristol**

As I write (September) there is a mood of expectation and uncertainty in the air about the future shape of the criminal justice system generally and youth justice in particular. There is optimism and pessimism. The comprehensive spending review is anxiously awaited. As are at least two green papers. There is fear that the cuts in the pipeline threaten the community-based programmes of which most practitioners and commentators are agreed we need more. But this is balanced by the welcome which will greet radical pruning of practices in which we should never have been engaging all along. No one has been quoted more in the last six months than Rahm Emmanuel, President Obama's chief of staff – 'One should never let a good crisis go to waste'.

I don't have inside-track intelligence about any of the expected announcements. But like everyone else my ear has been close to the ground. And most of the people with

## A big question mark must hang over the continued need for a Youth Justice Board



whom I talk are more optimistic than pessimistic. Not least because in the youth justice sphere there are two major, current trends on which we can capitalise and push further. Both offer substantial savings, which is bound to attract ministers. Further, there is no shortage of evidence about re-offending on which to base a radical, reformist agenda.

### Looking positive

What then are the positive trends? First, fewer children and young people are now being drawn into the youth justice system. Second, over the last two years the number of children and young people in custody at any one time has reduced by about one third. Neither trend represents the dramatic progress which some observers have claimed, because both constitute a reversal of what was a period under New Labour of punitive hyper-inflation. We're roughly back to where we were in about 2000. There's a long way to go before we get back to the position in the early 1990s when volume crime was still rising and Michael Howard and Tony Blair ratcheted up the party political arms race in who could out-tough the other. Nevertheless the current trends represent a real achievement because, all other things being equal, both criminalising and incarcerating children and young people is criminogenic. That is, both make re-offending more rather than less likely.

### Looking forward

What then might we hope for in the next few months? There is a growing consensus. First, there are the three principles of 'prevention, restoration and integration' well set out in the Independent Commission on Youth Crime and Antisocial Behaviour's report, *Time for a fresh start*, in July. Ministers are by all account taking that report seriously.

What might be involved?

- Far fewer children being criminalised.
- Much more out-of-court diversion accompanied by interventions of a supportive, welfare nature, based on the lessons of the Scottish children's hearings system.
- Embedding restorative justice as a first step for most child offenders, as in Northern Ireland.
- Thinking seriously about the age of

criminal responsibility and, at the very least, ensuring that children are always dealt with in dedicated youth courts presided over, where necessary, by judges ticketed to undertake the task. The outrage of two 11-year-old boys being dealt with at the Old Bailey for the alleged rape of an 8-year-old-girl, all the children involved having to appear at that tribunal, must never be repeated.

- Reversing the provisions of the 1994 Criminal Justice Act which extended the powers of the courts to incarcerate young children and for longer.

- Finally, fundamentally re-thinking what a custodial sentence means for young people and, last but not least, who pays for it. We need to be thinking much more creatively about what taking young people 'out of circulation' for a while might mean in practice. It shouldn't be an all-or-nothing issue, and certainly not one involving the large, distant, young offender institutions on which we largely rely at the moment.

We are to have two green papers, probably in late November or early December, one on sentencing and one which I understand is provisionally titled *The Rehabilitation Revolution and Social Responsibility*. Good. We need both. And both should have structural implications for the structure and governance of our youth justice system. If, as has been trailed, the principle of localism is to mean local authorities picking up the tab for any use of custody for children and young people, then the local authorities (and the Welsh Assembly) will naturally wish to have some role in commissioning provision. In which case a big question mark must hang over the continued need for a Youth Justice Board. And if 'prevention, restoration and integration' are going to be the watchwords then the continued existence of youth offending teams as currently constituted has to be questioned. YOTs were designed to ensure inter-disciplinary, inter-agency working, but have arguably become criminal justice silos in their own right.

These are exciting times. I think there is a real prospect of our seriously shifting the centre of gravity away from punishment and custody towards welfare and the local community. These are our children and young people and their care, like charity, begins at home – in the areas where they were brought up.

*Rod Morgan was HM Chief Inspector of Probation (2001-4) and Chairman of the Youth Justice Board (2004-7). He remains a Ministry of Justice-appointed part-time adviser to the five criminal justice inspectorates.*

# HMCIP reports

**Summarised by Helen Banks, AMIMB associate member. In the light of Nick Harwick's comments opposite, snapshots from contemporary IMB reports are included where possible**

### **Altcourse (Local, G4S)**

Still an extremely effective local prison, providing prisoners with the kind of opportunities they need to improve skills and employability. In spite of its expansion, it was also a safe prison, buttressed by good staff-prisoner relationships and sufficient activity to keep prisoners occupied.

*IMB: Overall a pleasing but challenging year ... the menace of mobile phones not being addressed at the highest level*

### **Brinsford (Juvenile unit in YOI)**

This is the last report on the juvenile unit at Brinsford young offender institution. Brinsford has been far from an ideal site for young people. The design and size of the units made it difficult to ensure safety.

### **Bristol (Local)**

The prison has recovered a sense of purpose and direction, despite the limitations of an old site with too little provision for purposeful activity. The gaps that remain will be harder to fill in the restrictive financial climate.

### **Dartmoor (Cat C)**

A poor report, raising issues of serious concern. The clear warning at the last inspection was not heeded. Inappropriate language and behaviour has not been effectively challenged, especially in the area of diversity. A new management team had begun to make progress, but from an even lower base than that recorded at the last inspection.

### **Downview (Joseph Butler Unit, women under 18)**

A generally safe, very respectful and purposeful environment. The unit is also focused on resettlement and is undertaking some innovative work with the YMCA to reintegrate young women back into the community.

### **Feltham (YOI)**

The daily balancing act, to balance care

and control properly, had been achieved, supported by good relations between staff and young people and an impressive range of activities and resettlement arrangements. There are areas for suggested further improvement.

### **Gartree (Cat B, lifers)**

Gartree has improved considerably: it now has a more settled population and concerns over safety have largely been sorted. Relationships between staff and prisoners remained generally good, although minority groups had more negative perceptions. There also continued to be a need to set out a clearer vision of the prison's specialist role, and communicate this to prisoners so that their expectations can be properly structured.

### **Guys Marsh (Cat C)**

Guys Marsh has a number of strengths, including reasonable levels of safety, generally good staff-prisoner relationships and a proper focus on resettlement. However, there is scope for improvement in various areas. It needs to develop further its purposeful activity provision

### **Leeds (Local)**

Overall, an encouraging report on a prison that has had to grapple with some serious underlying problems. It is a credit to managers and staff that progress has continued, in spite of the obvious limitations in a large, old prison with a transient population and insufficient activity places.

### **The Mount (Cat C)**

A somewhat unsettled prison, with violence not far below the surface and doubt whether staff were all confident in dealing with it. The prison's layout, staffing levels and population make it difficult to ensure safety, but commendable work had been done to reduce drug supply. There were good

opportunities for prisoners to gain the skills and experience they needed.

### **Norwich (Local mainly)**

Norwich was an improved and a safer prison than when last inspected, but the gap in education and training urgently needs to be filled.

### **Ranby (Cat C)**

Given the size of its population and its site, Ranby is not an easy prison to run effectively. It was safer than at the last inspection, and had maintained a good level of activity. Resettlement remained a relatively weak area, and, despite being a specialist site, work with foreign nationals was underdeveloped.

*IMB: The Board acknowledges further improvements in resettlement during the reporting period*

### **Shrewsbury (Cat C)**

With minimal planning Shrewsbury has re-roled to a specialist training prison, largely housing vulnerable prisoners. However, it is poorly equipped for this new role. Although it retains much of its previous strengths, it is unclear how it can achieve its new role as a specialist, twenty-first century training prison for longer-term prisoners.

*IMB: The recent HMIP report seemed to be at odds with the evidence in a number of key areas... Does the Minister have any views on the value of the HMIP function when so many checks and quality assurances are now built into the delivery of regimes, the provision of services to prisoners and the ever presence of a totally independent monitoring board? 'Tim Griffiths, chairman of the Independent Monitoring Board for the prison in Shrewsbury, said today the report was unfair as the inspection was carried out just 20 days after the prison's role had changed'. (Shropshire Star)*

### **Stoke Heath (YOI)**

A disappointing report: outcomes were not good enough in any of the four key areas – safety, respect, purposeful activity and resettlement. Young offenders' needs were much less well catered for than those of the under-18s with whom they share the site; in many cases little would be done to reduce the significant risk of their reoffending.

### **Sudbury (Open)**

Still a reasonably safe, respectful and purposeful environment together with an effective focus on resettlement. It has

risen to the challenge of an increased population, including many more indeterminate-sentenced prisoners, while continuing to manage down the number of absconds.

#### **Swansea (Local)**

An effective local prison despite overcrowded Victorian accommodation and limited regime; a safe environment and excellent staff-prisoner relationships. It is hard to see how it could be an effective training prison, given its physical limitations and lack of regime.

#### **Whatton (Cat C, sex offenders)**

Commendable progress in a prison – now much closer to meeting the needs, and mitigating the risks, of its niche population. There remained some weaknesses – in particular the lack of sufficient offending behaviour programmes, and the need for better work – but overall, impressive progress.

#### **The Wolds (Cat C, G4S)**

A decline in performance: it was not designed as a training prison and will always struggle to deliver good purposeful activity. The deterioration in safety and security arrangements, particularly the significant increase in drug use and the weakness in staff supervision of prisoners, are issues that must be addressed.

*IMB: The Wolds is a training prison but is handicapped by lack of training space and facilities. A sustained effort has been made by management to attract work to the prison. Prisoners employed on cleaning duties have a lot of spare time after completing their duties. Security and drugs getting into the prison are still the main cause for concern.*

#### **Woodhill (Local)**

Although largely maintaining progress since the last inspection, health services need urgent attention. The most significant deficit, however, is in activity. It is astonishing that a prison opened less than 20 years ago was built without a single workshop space.

*IMB: The Board continues to be deeply concerned with the longstanding shortfall in all Healthcare staff. The Board is delighted that the Workshops are at last being built and nearing completion. The Establishment has struggled to meet its requirements for purposeful activity and this new facility will at last offer the opportunities for work based training that are so badly needed.*

## The new chief inspector

### **Nick Hardwick introduces himself**

It is a great honour and a fantastic privilege to have been appointed Chief Inspector of Prisons. The Inspectorate has a world-wide reputation for its work and both my predecessors – Lord Ramsbotham and Dame Anne Owers – have left track records of achievement that will be very hard to follow.

Like IMBs, the Prisons Inspectorate has a long history and has been through a number of incarnations. By their very nature, what happens in prisons is hidden and out of sight. Myths and prejudice can distort public understanding of what really happens behind prison walls. So both we and IMBs have a crucial role to play in providing objective and accurate accounts of what really happens and keeping up the pressure to ensure that the treatment of prisoners and the conditions under which they are held are safe, decent and purposeful. We shine a light on the dark places of our society.

Even at the best of times, that is a difficult job but in the current circumstances, with very painful cuts undoubtedly looming and a debate raging about future prison reform, our roles are particularly challenging.

In that context, I think it is very important that the Inspectorate and IMBs work effectively together whilst respecting our different roles and independence. I have already begun to talk to Peter Selby, the President of your National Council, about how best we can progress this.

It seems to me that the information we receive from IMBs ought to be an important element of how we put our inspection programme together and your up-to-date local knowledge should help inform us where to look when we do inspect. We conclude our inspection process with a report and associated recommendations. I hope that in turn will be of benefit to local IMBs as they monitor the progress of the prison.

I am sure sometimes we will not agree and we must each be free to come to our own conclusions and set our own priorities. However, we should not disagree 'by accident'. When we do have different views about the performance of a prison there should at least be an opportunity to explore and understand the reasons for those different views.

I have already begun to meet IMB chairs and members on the first inspections I have attended and I have valued their insights. I am looking forward to that continuing over the coming months as we build our relationship.



# Budget or monitor?

**Bob Chapman, chair of the IMB at HMP/YOI Elmley, wrestles with his budget**

Most of us, I hope all of us, signed up to monitor – to make a difference. However, over the next few months, and the coming year, we may be held to task and have difficult decisions to make about how, or indeed whether, we continue to act in the way that we have been.

It is very easy for anyone to impose a budget. It is quite simple for any group of volunteers to adhere to a budget: just stop what you're doing. However, there are arguments to be made on both sides – there is no simple response. What constitutes a minimum level of monitoring? Where does our legal responsibility begin and end? A lot of us will feel that we are not monitoring enough, so to try to cut back from our current levels would be anathema.

As a chair I think that if our monitoring levels fell below a standard at which we felt comfortable, we would have every right to escalate this issue to the highest possible level. I do not want to find myself being criticised for not acting in areas where our board should have highlighted problems. If, as has been intimated in the past, legitimate expense claims are not met 'because we have reached our budget limit', then do we simply stop monitoring? Alternatively, should we challenge the budgets that we have been given? If so, when?

### Planning

What can we do? Certainly we need to be confident in our argument, and therefore need to construct our own figures. Once you've taken a decision as to how often it will be necessary for each member to visit the prison, not only taking into account the necessary monitoring, but also the in-prison time needed for each member to maintain a reasonable level of competence, then simply calculate your version of what your budget should be, based on mileage and subsistence. Remember that probationary members will need more time in the prison. Obviously you will need to take into account rota visits, board meetings, necessary training, IMB visits both home and away, and interviewing. At Elmley, observation at meetings is limited to when we have a presence in the prison on rota visit days, otherwise we

simply rely on the minutes provided afterwards. We have also taken what I believe is a sensible approach to 'non-essential' training and include a half-hour slot at all of our board meetings for a guest speaker from one of the prison's departments/functions.

### A universal approach?

Obviously there will be variations between boards. In arriving at an estimate for the number of visits, boards should also take into account the length of time that it takes to carry out their statutory duties. Monitoring the Segregation Unit, kitchens and healthcare, may not take up a great deal of time depending on their size. However, if members are travelling in from 40 miles away, then there is a major impact on the bottom line. This would be the case both for the mileage claims and for subsistence claims.

The impact of the number of applications to see a member of the IMB would also be significant. At Elmley, where the numbers of applications varies between 50 and 80 a month, they consume a lot of our time. At an average of 30 minutes each to deal with (and it can often be more) it still means that between 20 hours and 40 hours per month at a minimum is allocated to cover this aspect alone.

I have now received our board's budget for the current year, and at first glance the numbers are pretty similar to the ones that I've produced. One issue that immediately stands out, though, is that it claims to be based on full complement – and we are eight short. The reasons put forward for this state that the number of visits should not rise with more members. I fear that this is not, and should not, be the case, as all members need to maintain their competence and this means continued regular visits which, in my opinion, will require them to attend at least twice a month – given the size of the prison.

But what do you do if your budget doesn't cover what you believe is your minimum expenditure level? Are you happy that your calculations are correct? Have you based them on a minimum level of monitoring? Do you believe that you can monitor effectively at a lower level than you have used in

your calculations? If the answer to this last question is no, then there is a dilemma.

To what level of monitoring are boards legally bound? Can the National Council or the Secretariat simply change this level by saying that the budget doesn't cover any more than X therefore you are not going to monitor at any level above X? How does that leave us legally as chairs? How do we cope if we take on a group of new members, who will require more than the average number of visits during their first few months?

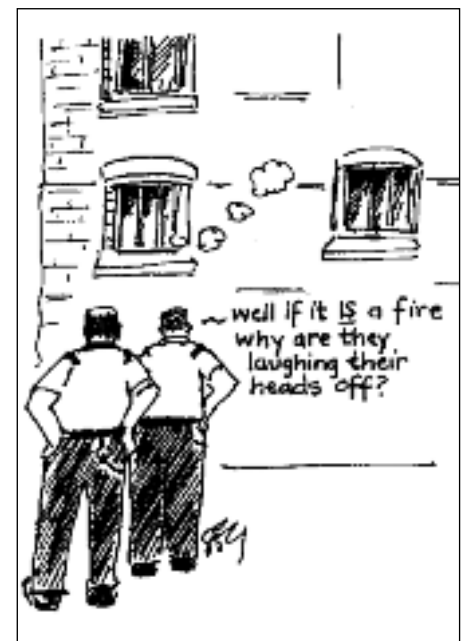
### What next?

I'm afraid that this article hasn't really answered any questions, for which I apologise. I have simply tried to raise issues that I am certain have crossed the minds of many board members over many months.

So, budget or monitor? I do not believe that we have a real choice, unless it is just to give up and resign at a point where our expense claims are turned down. We have a duty to monitor diligently and properly. If we can't do that, for whatever reason, then do we do a half-hearted job, or is it the time to say that we can't do this unless we have the resources?

This firmer stance on budgets comes at a time when, against a background of proposed Prison Service budget cuts, we probably need to monitor more, rather than less.

For me, this matter may come to a head as we increase the size of the board – which should happen within the next month or two, then at some time during the remainder of the financial year we will hit our ceiling on the budget. At that point we may need to make a critical decision.



# Acting up

### **Jane Webb, the first ombudswoman, describes life in Stephen Shaw's shoes**

Google describes Acting up as the province of children and animals, rather than an Ombudsman. IMB members will be very aware of Stephen Shaw's departure from the Prisons and Probation Ombudsman's office. He was a regular contributor to the *Monitor* as well as to your conferences.

The election deferred the recruitment of a permanent successor and I have filled his position on an acting basis since then. This is a great honour especially as I am the first woman to fulfil the role. My background is in local government social care and I bring the values of serving the public, promoting independence and respecting individuals to my work.

My goals as the Acting Ombudsman are to protect, promote, prepare and preserve the office in readiness for a permanent Ombudsman. Some developments should await that appointment, but others can properly be addressed in the meantime. The habits that we retain include consideration of the IMB's views. My apologies that I have not replied to your reports individually, but they are carefully read and often referred to.

#### **Dealing with complaints**

The office's delivery continues to be our main focus, in the face of an increase on the number of new complaints. It is very satisfactory that 94% of them are now assessed within ten working days and the complainant told whether it will be investigated or not. (Delays happen when waiting for records.) More than half are still not eligible. IMB members might explain to prisoners that both the internal complaints stages must be completed before the Ombudsman can become involved. More than 1,000 complaints have been resolved already this year, and few cases are now overdue.

#### **Fatal incidents**

Improving the timeliness of fatal incidents investigations is more problematic, and at the end of last month, I regret that more than 60 reports had not met the PPO target. PPO annual reports have already acknowledged the impact of staff absences and late clinical



reviews. Neither is quickly resolved but efforts continue in the meantime. I know that several IMBs have been concerned about delayed PPO reports after a death in custody. I would remind IMBs that investigators feedback as issues are identified so the Governor or Director, who after all is responsible for safer custody, knows the likely conclusions of the investigation.

We are also developing our own knowledge of the themes that emerge from our investigations. The second fatal incidents thematic will be published this month. The majority of deaths are due to natural causes, and we consider those due to circulatory diseases, commenting on cardiology monitoring as well as first aid training.

#### **Our future**

Recruiting a permanent Ombudsman has not yet begun and so my autumn plans include getting out more. I believe it was John le Carré who said that a 'desk is a dangerous place from which to view the world' and so I have invited myself to each region. The Directors of Offender Management are putting programmes together and I have asked to meet IMB members. Please take the opportunity of a meeting, or

otherwise drop me a line at [jane.webb@ppo.gsi.gov.uk](mailto:jane.webb@ppo.gsi.gov.uk), to comment on the work of my office. Don't wait for your own Annual Report: it is better to deal with concerns as they arise. I look forward to hearing from you and meeting you.

I am frequently asked about the future of the Prisons and Probation Ombudsman's Office. Promoting independent and timely investigations is important to more than the 5,000 or so complainants, 200 bereaved families and all the other stakeholders. It is also fundamental to the job satisfaction and morale of my colleagues. Even more important, the PPO provides a safeguard in the criminal justice (and detention) systems. Lord Woolf recommended founding the office, believing that it benefits systems and structures as well as individuals. Stakeholders such as Noms and UKBA support our investigations and usually accept our recommendations to improve the safety and wellbeing of prisoners, probation supervisees and detainees. As expected, their support has not diminished during my interregnum.

Check out the weekly email bulletin ([www.ppocomms@ppo.gsi.gov.uk](http://www.ppocomms@ppo.gsi.gov.uk)).

# The man they couldn't hang

**Michael Crowley is the writer in residence at YO1 Lancaster Farms and author of a compelling new stage play. But as he explains, the text is also an excellent resource for criminal justice professionals**



*The Man They Couldn't Hang* is a fictional drama set in an Edwardian music hall about a bizarre and ultimately ill-fated act. It is a story about murder, celebrity, redemption and the limits of taste. Although the events portrayed in the play are fictional, two of the characters and the extraordinary events that bring them to the doors of the music hall, are real.

## The truth of the crime

Victorian executioner James Berry and condemned man John Lee first met on 23 February 1885 at Exeter Prison, en route to the gallows. Lee had been convicted of the murder of his employer. However he and the hangman were to meet once more 22 years later, to discuss the recreation of the execution for a music hall act.

The scene of the crime was The Glen, a spacious marine villa near Babbacombe in Devon. The owner and victim was Miss Emma Keyse – unmarried and accompanied only by her servants. Crucial to the story was the necessity for Emma Keyse to sell the house from the moment she inherited it. John Lee a 19-year-old, was her appointed footman. When a buyer eventually appeared for the estate the servants' positions were in jeopardy.

Recently engaged to be married, John it seems flew into a rage, such that Emma Keyse admonished him by reducing his wages to two shillings week. He burst into the kitchen and is alleged to have told the cook, he...would have his revenge...lay the place in ashes. Two weeks later Emma Keyse's body was found by her servants in the dining room, lacerated and on fire. John went to the village to summon assistance and was arrested on his return. Four days after the murder a coroner's inquest resulted in a verdict of wilful murder against him. He was committed to trial for murder and arson; at the trial he was not permitted to speak. The jury took less than 40 minutes to return with a verdict of guilty. John Lee calmly protested his innocence then was sentenced to hang,

## The truth of the execution

Execution by hanging in Britain's Victorian jails was outsourced. One such freelancer was a Bradford-born ex-policeman James Berry, at this time only a year into the job but already with 13 men and two women under his belt. Berry became well known in society and openly sought celebrity status. By the time he was forbidden by the Home Office from tendering for any more executions, he was appearing at theatres with his slides and jokes for a fee.

At the appointed time he went to John's cell and shook his hand. Then he slipped a belt around his waist, buckled it and strapped John's arms to it. His wrists were also strapped near the buckle. Then a procession made their way to the scaffold, with a prison bell tolling. As they walked the chaplain read the burial service. Lee was placed on the trap doors and his legs tied. Berry drew the white cap over John's head and tightened the noose. 'Have you anything to say?' 'No. Drop away.'

They waited for the chaplain to finish the service. Then Berry pulled the lever to release the drop but the doors sagged just two inches. John supported himself on his toes whilst the warders and Berry stamped on the doors. Even a warder is said to have jumped on them but they would not open. Lee was dragged off the trap to one side. Berry then tested the lever without him and the trap doors opened. John was then dragged back onto the trap; the chaplain began reading once more; Berry pulled the lever and the doors failed again. The agony was inflicted



*The hangman, James Berry (left) and the man he couldn't hang*

for a third time before the chaplain fainted and the whole thing was called off for the time being.

## The truth of the reprieve

With the personal intervention of the Queen, John Lee's sentence was commuted to life imprisonment. People petitioned; he became a *cause celebre*. A music hall impresario offered to put him on stage on release. When the day finally came he was greeted by crowds at Torquay station and journalists descended on his home village of Abbottskerwell. A Penny Dreadful was published about him and his story serialised in a Sunday newspaper for a fee rumoured to be four thousand pounds. The serialisation was republished in book form in 1908 and became a best seller.

By the time of John's release, Berry's career as a hangman was over: there had been one too many decapitations. Within days of his dismissal he was booked into the Imperial Theatre London as a 'Phrenologist and Character Reader'. He showed slides depicting dungeons and torture, swords used in executions, personal belongings taken from subjects and told tales from his exploits, including of course John 'Babbacombe' Lee. On Lee's release from prison, he is reputed to have been reintroduced to Berry by a music hall impresario with a view to reunion on stage – an act that was prohibited by the Home Secretary of the time. However, who's to say they didn't rehearse?

## The myth

Cue my fictionalised trio at Fawcett's music hall – a venue on its uppers that hopes to be reprieved through a macabre act about the man who cheated death. Douglas Fawcett is the hapless proprietor, seduced by theatrical agent Henry Cheetham into taking on first Berry then Lee. Douglas's mistress, long serving female vocalist, Evelyn Nesbitt, sets herself against Douglas's act, not only in the name of music hall. Just like the original execution, it doesn't all go to plan.

The play is a dark comedy with a cast of five characters. It is a text from which people might learn about Edwardian Society, music hall and the case of John Lee; it also serves as a basis for discussing guilt, redemption, capital punishment, crime and celebrity. Most of all it is a play to be performed and I hope to be visiting prisons to work alongside other writers and teachers to help put it in front of audiences.

*The Man They Couldn't Hang: A Tale of Murder Mystery and Celebrity*, Waterside Press, £14.95 (six for £75).

# Thoughts on retirement

**Philip Wilson-Sharp reflects on why he's had enough of life on the Stanford Hill IMB**

When I started in January 2004, the photograph for my prison ID was taken by a prisoner. He considered his handiwork and said 'You look just like Harold Shipman.' Hardly an encouraging start! After six and a half years on the board I have decided to call it a day. I have got through an average of a number one governor a year which makes me wonder why staff should engage with a governor who is unlikely to be in post very long. The Stanford Hill logo (the prison was, like so many, built on an old wartime aerodrome) is a propeller superimposed on the old Sheppey bridge: I was prompted to suggest the propeller be replaced by a revolving door.

Stanford Hill is a Cat D, but in recent years has been forced to act as a pressure valve for the London prisons. Some of the

prisoners now are not really suitable for Cat D. They sometimes come without all their property. I was approached by one prisoner who had been sent two or three days before his release date without his house keys or credit cards.

In our 2008 annual report we wrote: 'Although we are told that the prison can do some resettlement work (eg help with accommodation) for those prisoners who arrive only a few days before release, we cannot help but think it is a waste of expensive and increasingly scarce public resources to send prisoners to Stanford Hill.' We had to repeat that in our 2009 report. It shows prisoners a bureaucracy that does not deliver on its promises: why should they respect authority when it behaves like that?

Prisoners frequently come near or on their HDC eligibility dates without the procedures having been started, yet the expectation (PSO6700) is that they are given a decision two weeks before their eligibility date. Before the prison was clustered with Elmley and Swaleside in 2006, HDC was dealt with by a part-time clerk and hardly featured on our radar. In 2007/08 we had 114 HDC applications and in 2008/09 256. I cannot help thinking things worked better before clustering. It has produced budgetary

savings and does well on KPTs, but in terms of the softer issues which board members see, there are many problems

When I wrote to one of our number one governors about shortcomings revealed by an inquest, he responded by complaining I had used the word inmate. This was of some triviality compared with the points from the inquest and came at a time when prisoners were given ID cards headed -you've guessed it - Inmate.

Anyhow I think it is time I let others do things their way: after years of varying degrees of job satisfaction the balance has moved in favour of a change of scene.



**Troubled? Confused?  
Uncertain? Harassed?**

## AMIMB Helpline

Here's a selection of the sort of things we get asked about.

- Dissension on boards.
- How to deal with a tricky prisoner application, perhaps about missing property?
- How to get a reply from the Secretariat?
- What do we think about a governor who has just been transferred?
- Is there a prescribed way rota reports should be done?

**For support or advice from AMIMB contact Angela Clay (01622 844481, [angela.clay@amimb.org.uk](mailto:angela.clay@amimb.org.uk)) or Michael Watson (01995 640437, [michael.watson3@ukonline.co.uk](mailto:michael.watson3@ukonline.co.uk))**

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**Membership fees** The annual subscription is £20.  
Send this form and a cheque, made payable to AMIMB, to the treasurer: Jenny Budgell, Natural Numbers Ltd, Syms Yard, Chippenham, Wiltshire SN14 6LH.

If you would like to pay by standing order in future years tick here

# Challenging the Home Office

## **A personal account by a woman with much experience of helping asylum seekers**

About three years ago I was asked by a local organisation that supports asylum seekers to investigate a way of helping people at low risk of absconding to be returned to the community. This proved to be quite difficult as there is no immigration removal centre here in the North East of England: people standing as sureties would have to travel hundreds of miles at short notice in order to attend court.

But one day I was asked to ring a man from Cameroon who was in Dungavel IRC in Glasgow. He said he did not need help, but his room-mate did. B was also from Cameroon, and he told me he had been in there for many months and needed to get out, but had no one to stand bail. I said I would do my best, and in the end he came to live with our family, where he still is, awaiting the outcome of his asylum case, which has gone from being almost hopeless to a positive result in a higher court.

### **Life inside an IRC**

My real introduction to the detention system was when B found himself in Colnbrook IRC. Visiting was quite an eye opener as I had not realised that a detention centre would be so much like a prison – yet these people were not criminals, although it seemed that in the same place there were

people who had been convicted of more or less serious offences.

Most people I meet in removal centres are casualties of an asylum system which sometimes deals with cases in an inappropriately rushed manner (the fast track system) so that it is hard to find legal representation and to gather evidence. Or it leaves them to languish in the community, sometimes for years, not able to work or get on with a viable life, until suddenly they are told their claim or appeal has not been accepted and they are arrested – often when reporting, leaving them in a state of shock, cut off from friends and partners hundreds of miles away.

I worked hard to stop some removals, but a second young Cameroonian, C, was sent back after three months, in spite of the fact that he had been a member of a liberation movement and had suffered torture, so would probably face a similar prospect on return. During that time of detention I spent many hours on the phone to C – often late at night or in the early hours of the morning, trying to stop the black cloud descending.

Since that first experience I have visited Colnbrook several times and have befriended people both there and in some of the other IRCs. I have heard many stories about their treatment – some bad and a few about unexpected kindness received from staff. D (eventually removed back to Cameroon and forced to escape to another country) was of the opinion that Dover was best as it had more open spaces and it was better to share a room with several people.

People who have been in Dungavel talk of the kindness and humanity of some of the staff there. But there was universal dislike and fear of the atmosphere in Harmondsworth and Colnbrook.

People felt at risk not only because of their treatment by the staff and the system. They did not feel sufficiently protected from the other detainees and did not feel they received proper medical treatment – a paracetamol being offered for many ills. They also found it very stressful that they could not rely on getting on the internet or sending/receiving faxes promptly – often so necessary when one has a very tight deadline before removal. This problem was exacerbated once the detainee was removed to short term, as he would then be cut off from internet access and totally dependent on the good will and availability of officers to bring or send faxes to lawyers or the courts – including the European Court of Human Rights.

I can see that people who work in these places are victims of a system and I know that some of the problems come from staff shortages and low morale, but I also felt that they did not know much at all about the asylum and immigration process. They did not understand the kinds of circumstances that have led to people being detained, not able to imagine the effects of imprisonment and torture.

### **The reality of asylum**

Many of the people I subsequently helped had been almost broken by the asylum process. Fleeing from persecution and in many cases torture, they expect to find sanctuary in a place which they thought upheld human rights – only to find that they were imprisoned again. If they did manage to get bail and live in more freedom, it was with the shadow of further detention hanging over them.

Instead of trying to tell many stories of people I have befriended, I shall concentrate on just one which raises many of the issues that have come to concern me. E was in detention in Colnbrook and faced with removal within days when I first spoke to him on the phone. I discovered that he had been unrepresented at his first appeal. The judge had not delayed the hearing to await the result of the appeal he had made for legal aid, which meant that this highly confused and disorientated young man, who was subject to memory lapses (as attested by his psychiatric team) did not get a fair hearing or any chance to counter misconceptions that had arisen during his first interview.

He did not have enough time or resources to gather the evidence he needed to back up what the Home Office said was an incredible





*Leaving the immigration removal centre – but for how long?*

story. Reading his file again I am still sickened by their disbelief and the scorn of the judge. An example: 'In the asylum interview he claimed that he stopped eating for 2 days but then later said it was 3 days... He stated that he was dragged through a compound after pretending to be dead but later on said that he was carried on a stretcher... When asked how he saw 2 soldiers with his eyes shut he said that when they dropped him on the table he opened his eyes and saw them leave – It is not reasonably likely that someone who had been playing dead for a considerable period would risk opening their eyes at the point when the stretcher was put down... It is not credible that he did not know where he was flying to from Cameroon... The appellant said that the passport he used to travel to the UK was brown whereas in closing submissions he said it was dark red.'

At no point in the asylum process was E offered the opportunity of a medico-legal report that would assess whether or not his story of torture was likely to be true. When he was in detention he was seen by a Medical Justice doctor and her report was submitted before the date of his removal. In their reply to my submissions, UKBA made no comments on the report in which his scars were described as highly consistent with some of the torture methods that he described.

### **Removal**

E was put on a plane to Nairobi (without any of his belongings, including his glasses, and

with no money) from where he would be flown to Cameroon. In the early hours of the next morning I woke to an agitated call. He sounded groggy and only half conscious. He described having said to the escorts that it was not safe for him to go back to Cameroon and that he lay down on the ground. There was talk of very rough treatment.

Then followed 14 hours of phone calls – involving doctors and nurses at the medical centre at Nairobi airport. I was firstly concerned that E had received no medical attention, apart from having been resuscitated after losing consciousness, and that he had sustained a head injury. People from the medical centre apparently even went out to try to find him, but never managed to identify him and finally in mid afternoon we lost touch altogether. I spent the next hour or two alerting Kenya airlines that they would be flying with a passenger who risked danger on return and was moreover badly injured.

I was left not knowing what had happened to him: was he in a hospital in Nairobi; had he been flown on to Cameroon, in spite of his injuries; was he already in prison, faced with inhuman conditions and more torture? It was not until a month later that he rang me and explained what had happened. He had spent a month in a state of mental shock and physical pain as a result of his injuries. Apparently a friend in London had arranged for a high ranking police officer to take him to the border with Equatorial Guinea, where he handed him over to a trusted friend who would

look after him for the time being.

I then helped him to start the process of applying to UNHCR in Kinshasa for refugee status and an interview was done over the phone, followed up with the sending of many of the documents in his case. Eventually he was given a piece of paper. But this did not make him safe. There were numerous police searches and on more than one occasion E was found and bribes were paid to keep him safe. We thought the UNHCR document would help to keep him safe, but it was torn up by the police.

Only last week they came again and said that this was his last chance: they would not even accept any money. (On another occasion they had taken half of the money given to E by UNHCR for medical expenses.) There is constant fear that before he is able to be resettled anywhere safe, he will be thrown into prison and never heard of again.

### **Why we must keep protesting**

I am telling his story to illustrate the kind of pressures that are placed on asylum seekers by the present system, the injustices to which they can be subject, and the life and death nature of the decisions that are taken about their cases. At the very least they should not be treated as criminals and if they have to be in detention, should be granted easy access to all the technology needed to pursue their case, as well as to good quality legal advice and support.

In addition there should be more monitoring of the process of removal – right the way through to arrival in the country of origin, because it seems that apart from sometimes using excessive restraint, the escorts are giving misleading information to returnees. They are told that they will be seen safely through immigration or that they can apply to the Red Cross, the British High Commission or UNHCR on return in order to ensure their safety.

In practice some will disappear without trace in countries like the Democratic Republic of Congo or Cameroon; others will manage a hand to mouth existence in hiding, or will escape to another country where again they may have to live an underground existence as stateless people – a life only marginally better than imprisonment. I and many others in the UK are spending money we can ill afford in order to give some support to people who are suffering as the result of wrong asylum decisions. We think it is time the government took more responsibility for the consequences of its actions instead of relying on the false mantra that people are sent back only if they are not at risk of harm on return.

# Mad or bad?

**More reflections on prisons' inability to deal with mental illness, from retired psychologist and Norwich IMB member, Michael Sheldon**

The scenario is familiar. Review meeting in Segregation. The prisoner keeps trashing his cell, shouting abuse all night, or behaving in some other apparently self-defeating way. The inreach team have seen him and the healthcare representative says 'No mental health issues'. So not mad it seems. Obviously something's wrong – but what? General puzzlement and some exasperation until somebody ventures 'Just bad' and there is a collective sense that something firm and clarifying has been said.

Mad and bad, for all their convenience as emphatic monosyllables, are both bundles of meaning that are untidy when unpacked. But in this context they are probably intended as statements about a person's responsibility for his actions: roughly speaking, madness lets us off the hook whereas badness convicts us.

## **Who is responsible?**

The term mad may not figure in formal diagnostic systems, but it does point roughly to a special variety of states of mind. There are people whose experience is seriously different from what most of us regard as reality (perhaps ordinary objects or events convey special meanings to them), who labour under delusory beliefs (perhaps about their own identity), or whose behaviour is directed by persuasive external voices. As long as we believe their descriptions of what is going on, it will not be too hard to agree that they should not be blamed for some of their actions any more than people with severe developmental impairment or acquired brain damage should. These are the kinds of limitations that are recognized by the legal notion of criminal responsibility. According to that (roughly speaking) a person is not responsible for an illegal act unless, at the time he committed it, he understood what he was doing, and that what he was doing was wrong.

The seg review meeting isn't, of course, deciding criminal responsibility, but it may be a sign of what a difficult area this is that the law doesn't venture far from the safe ground of judging what people can be held to 'know' about their actions. Only relatively safe of course, but certainly safer than deciding

what to say about our man in the seg who no doubt understands what he is doing when he trashes his cell and that doing it is against prison rules. He is not mad but where does saying that he's bad take us? Do we need to consider the possibility that, although he is fully aware of what he is doing, there are other features of his mental functioning that affect his responsibility for it?

## **Personality disorder**

If we pressed the representative from healthcare to say something more formal about him we would probably find ourselves negotiating the treacherous territory staked out by psychiatry as the personality disorders. Current psychiatric diagnostic systems list a set of conditions, each with its defining criteria, and each dignified by the term disorder, so on the face of things it seems odd to say that our man suffers from a personality disorder but that there is 'no mental health issue'. That oddness is related to a piece of professional sleight of hand that may be thought remarkable. The personality disorders are a psychiatric concept, and psychiatry earns some of its living by diagnosing them, but is then able to withdraw to a safe distance on the grounds that they are largely untreatable. The disorders currently listed are a mixed bag historically, and individual disorders come and go as diagnostic systems are updated. Despite the specified criteria, diagnostic agreement in individual cases is poor, and many people satisfy the criteria for several disorders at the same time. If anything unites them, it is that they all involve persistent, possibly lifelong ways of behaving, thinking, and feeling that often cause problems and distress both to the individual and to others. Their origins are unclear and treatment is difficult.

More than half of male prisoners meet the requirements for at least one personality disorder so it would not be surprising if our man in the seg does. What account should the review meeting take of that? Suppose he satisfies the criteria for 'narcissistic personality disorder'. Indications include 'need for admiration', 'lack of empathy', 'a sense of entitlement' and being 'interpersonally exploitative'. Or, more likely, does he have



'antisocial personality disorder' ('failure to conform to social norms', 'deceitfulness', 'impulsivity', 'aggressiveness' and 'lack of remorse')? The question arises: does having such a disorder affect how responsible he should be held for some of his actions?

## **We're all in it together**

There are at least two ways of approaching that question. One is to say that as long as he knows what he is doing, and that it is 'wrong' he is fully responsible. Perhaps the so-called personality disorders are essentially just descriptions of how some people behave (so that having antisocial personality disorder just means behaving antisocially) and calling them disorders gives them a status and character they do not deserve and misleadingly raises the issue of responsibility. Although that approach has the merit of robustness, it ignores the fact that, while the disorders most obviously declare themselves through behaviour, that behaviour is held to be the expression of what one diagnostic manual calls 'an enduring pattern of inner experience'. That suggests a second approach, inviting us to consider the possibility that our man keeps trashing his cell perhaps because he has a 'dangerously elevated sense of entitlement' (he really believes that the number one governor should have been serving him tea twice a day on the wing) or that 'remorse' hardly figures



in his emotional repertoire. On this view, his abnormal inner experience may be relevant to the issue of responsibility.

However, that route leads us dangerously towards eliminating the idea of personal responsibility entirely. Despite our preference for discrete categories, it can safely be assumed that the characteristics held to underly the personality disorders are present to some degree in everybody. We all have some capacity to feel remorse, experience empathy, or act impulsively but those capacities vary over a wide range. We may think that our man's inability to control his impulses limits his responsibility, but I can be a bit impulsive too. So can I claim that I was not fully responsible for my ill-judged hooting at another motorist this morning? Surely that won't do. The problem is that there is no satisfactory way of chopping up these continua and locating boundaries between what counts and what doesn't count, but that without it we can all disclaim responsibility for most of our actions.

So, whichever direction we approach this question from, it yields no easy answer. Even as we consider it, Mr X can be heard trashing another cell, but perhaps one thing at least is clear: just deciding that he is bad is lazy.

## Keeping the mentally ill out of prison

**Sean Duggan, joint chief executive of the Centre for Mental Health, looks for action on the Bradley Report**



It is now almost 18 months since Lord Bradley's report set out some 82 recommendations to improve the management of people with mental health problems and learning difficulties in the criminal justice system. Since then we have seen a change of government and the beginnings of big changes in both health and justice policies. With public finances now under close scrutiny, the need to heed Lord Bradley's call to improve diversion services has never been more pressing nor more relevant.

In June, the Justice Secretary stated that he wished to see fewer people being given short prison sentences and to make prisons much more focused on rehabilitation. The following month the prisons minister, Crispin Blunt, acknowledged the prevalence of mental ill health among offenders and that 'too many offenders need a great deal of support because of the hand played to them by circumstance'.

The government's recognition that we need significant changes to the way the justice system works should help to create an environment in which diversion can be achieved for many more people than it is today. Currently, one prisoner in ten has a severe mental illness like schizophrenia. And a sizeable majority of prisoners have a mixture of mental health difficulties and other problems that, if they

are not properly addressed, will put them at risk of further ill health, exclusion and offending.

### **Cost-effective interventions**

Refocusing public spending on diversion for offenders with mental health problems will more than pay for itself. Diverting a single offender from a short prison sentence to a community order with mental health treatment can cut the costs of crime and justice by £20,000. Extending existing provision of diversion to all police stations and courts would cost about £50 million nationally but achieve very much greater savings to the public purse, improve health and reduce offending. Effective diversion for children and young people can be particularly cost-effective because of the reduced lifetime costs of crime that come from intervening earlier in life.

Centre for Mental Health, the new name for Sainsbury Centre, continues its work to find the most effective ways of achieving diversion in practice. This autumn we will be reporting on how to 'unblock' secure mental health services, both to speed up transfer from prison and to achieve better outcomes for those who use them. We are examining how to improve alcohol treatment services for offenders, how to support prisoners into paid work, and the specific needs of women with personality disorders in the prison system, which are currently poorly met and in need of urgent attention.

Without effective diversion and resettlement support for offenders with mental health needs, the new government's goal of reducing the prison population and enhancing rehabilitation will, simply put, be unachievable. But with some wise reinvestment in doing what works, we can make a massive difference to people's life chances. It is an opportunity not to be missed.

# No exit

**'The sentence of Imprisonment for Public Protection must count as one of the least carefully planned and implemented pieces of legislation in the history of British sentencing.'**

That well catches the thrust of *Unjust Deserts*, the Prison Reform Trust's valuable report on IPP sentences which, after setting out the law, summarises what has happened so far.

- The first IPP sentence was passed in May 2005 and by December 2009 there had been 6,034.
- While the 2003 Act was in force the monthly average of IPP sentences passed was 140; under the terms of the 2008 Act it has been 75.
- In July 2010 there were 6,130 IPP prisoners in custody, roughly 7% of the prison population, and of those 2,850 had already served beyond their tariff.
- The total number of prisoners released from IPP is only 94.
- Because the major change introduced by the 2008 Act was not retroactive, 1,637 prisoners sentenced under the 2003 Act (under which there was no minimum tariff) would not have received an IPP sentence if they had committed the same offence after 2008; it has to be assumed that most of them are still in prison.

It is clear that, as matters stand, the IPP population, and the proportion of it that is beyond tariff, will continue to grow.

## Why IPP is unique

It needs to be recognized how far the IPP sentence departs from proportionality, the principle that had previously guided sentencing policy: that sentences should be proportional to the seriousness of the crime committed. IPP sentences, designed to be preventative, entail judgments, independent of the seriousness of the offence, about what someone may do in the future. The PRT report acknowledges that there may be a case for IPP sentences (no doubt there are people who constitute such a serious future risk that the public should be protected from them for as long as necessary) although the sentence was introduced with no evidence about the reoffending rate of the people likely to attract it. The question is, though: can such people reliably be identified, and do the circumstances of their detention, and the opportunities they have for release, meet

reasonable standards of fairness? The report considers these questions.

## Judges and the Parole Board

The justification for an IPP sentence stands or falls by how well dangerousness can be judged at two points in time: sentencing and review by the Parole Board. At sentencing the court is usually guided but not bound by a pre-sentence report, and the Parole Board has before it a range of documentation. But the respective Acts do not specify what weight these sources of evidence should carry, and the report includes extracts from interviews with judges and Parole Board members about their approach to assessing dangerousness. Formal assessment tools use the actuarial model, so that a person's score on features thought to be relevant is compared to a known distribution of scores for the appropriate population, and high risk is defined in relation to some threshold. It is clear from the content of interviews that this approach does not have universal appeal and that some judges and Parole Board members prefer to fly by the seats of their intuitive pants with comments including 'You kind of know instinctively if someone is dangerous or not ... Follow your instincts' (Judge) and 'You get a feel for it. It's as simple as that' (Parole Board member). On this uncertain (but uncontested) basis people can be sent to prison for what may turn out to be the rest of their life.

However, the sentence does give prisoners the chance to persuade the Parole Board that it is safe to release them, and the report considers how much that offer is worth. To begin with, at the most basic level, the Board is not delivering: in December 2009 1,156 prisoners beyond tariff were waiting for a review or decision to which they were entitled. If prisoners get as far as a review they may be able to convince the Board that they have benefited from an offending behaviour programme. Problems with access to these programmes have had wide publicity and the House of Lords has held that the MoJ was behaving illegally by failing to make them readily available. It is sometimes assumed that completing a suite

of programmes is necessary for satisfying the Board but, although that is not strictly true, the prisoner is caught two ways. If he has not done them that counts against him, but if he has that may be disregarded. It is not clear what else the IPP prisoner can do to improve his chances of parole but we should not be surprised if completing them does not count for much.

Their effectiveness has been measured, if at all, against behaviour in prison, whereas the Board has to make judgments about behaviour outside prison over the rest of a person's life. Further, the programmes deal mainly with 'thinking skills' and a particularly persuasive part of the PRT report is its suggestion that this focus is unrealistically limited. Noms's own policy on resettlement highlights seven 'reducing reoffending pathways' (accommodation, education, training and employment, health, drugs and alcohol, finance, families and thinking). Programmes concentrating on only the last of these, although often held out to the prisoner as his best chance, may be of little value, particularly since the very nature of the IPP sentence could be said to undermine some of the other pathways.

## Assessing risk

The judgment and acceptance of risk are central. Implicit in any system for judging risk, whether it is a formal tool or a judge's intuition, is some cut-off or criterion for decision, and where that cut-off is set depends on the risk we are prepared to accept. Set it low, for caution, and most



dangerous people will be caught but at the cost of catching many who aren't. Set it high and although most of the people caught will be dangerous many who aren't will be missed.

Where to set it, having regard to the needs both of prisoners and wider society, is critical, but, in the view of this report 'The history of the IPP sentence is one of bad trade-offs between protection of the public and basic fairness'. Put yourself in the position of the sentencing judge or the Parole Board member. What, in the end, is the question you are going to ask yourself? It might be How dangerous really is this person? but that is genuinely difficult to answer with any confidence, so it may be that in practice you settle for Can I be sure that this person is safe? because that is easier. The answer, though, is always No. The result, of course, is a strong bias towards caution at every stage: if in doubt, pass the sentence; refuse parole. So the IPP prisoner is like a fly who gets in easily through the neck of a bottle and then spends the rest of its life looking for the way out.

### Scandal

The consequence, unintended but predictable, is that week by week the courts pass IPP sentences on people who would previously have served moderate determinate sentences. The numbers held beyond tariff rise, and there accumulate in the prison system people held on terms that offend any reasonable sense of what is fair. The need for change is urgent and the PRT report considers the options.

The principle of preventative sentencing could simply be abandoned, although that would not necessarily help people already caught in the trap. The criteria for imposing the sentence might be changed so that it was passed less often, although, given the fundamental difficulty of assessing risk, it is not clear how that would be done. Added resources might make the prospect of release after tariff more realistic, although in the current climate it is hard to see where they would come from. What is clear is that just tinkering with the rules won't do it. The 2008 requirement of a two-year minimum tariff has done no more than slow recruitment and has not helped with parole, and it is not clear that no longer requiring IPP prisoners to wait for places in a 'lifer' establishment has improved their access to programmes that might help their case. You may find it hard to escape the conclusion that the criminal justice system should cut its losses and retreat altogether from this situation with any dignity it can preserve.

# Why Grendon cannot be allowed to fail

**By Tim Newell, ex-governor of the uniquely pioneering prison whose future is clouded by its first murder**

We should approach the subject of criminal justice reform, now it's under a new spotlight, with honesty and evidence. There are numerous examples of less than wholly honest analysis – for example the overblown claims made of offending behaviour programmes or of about the effectiveness of sentencing.

With the tragic death of Robert Coello in Grendon prison in August there is the inevitable review of the regime. I have asked myself why Grendon is important. Clearly Ken Clarke's wish for a revolution in rehabilitation makes this prison unique. It is clear from the impact on the lives of the serious offenders who apply to go to Grendon that the claim that the regime works is not overblown. There is a body of research now that shows the social as well as criminological change that is achieved through the work of prisoners and staff working together communally. There is something about the concept of therapeutic community that seems to work so well in prison.

### Why community works

The idea of community is strong anyway in prison generally and although not always dominated by respect and trust there is usually a set of close working relationships established in order to ensure continuity and sustainability. The unique dynamics of two groups of people in close daily contact – prisoners and prison staff – one group being detained by the other, leads to adjustments and accommodations that bring about a close sense of interdependency.

There is also a deep underlying concern in most people who come into prison that their lives could be better if only they could manage themselves better and if they were in full relationship with others. The therapeutic community challenges this yearning by saying that the only way this change can take place is by you taking responsibility for your behaviour through an awareness of thoughts, feelings and actions that have affected others in the past and continue to do so in the present.

It is the excitement of working with the present experience that makes therapeutic communities wonderful places to be and

work in. The past has gone and I can do little about it apart from learning from experience and mistakes I may have made. The future is very uncertain and has so many variables that I could spend all my life planning for happiness to little effect. What really matters is the present moment that I can take some responsibility for. I can affect the present by my awareness of others, by listening, by taking responsibility for my feelings, my communicating and commitment in relationship with others.

The security of a prison environment enables the sort of therapeutic experience that would not be possible in the community. The sad reality for many who have led disturbed lives is that it may be only through serious offending that they will get the opportunity to turn their lives around. There are many people serving life sentences because they squeezed harder than they realised.

To see yourself in a new way takes commitment to work through with others in a safe setting the possibility that you could be another personality, taking responsibility for the past and yet seeing the future in a new sociable way. Grendon provides this opportunity to change in a safe environment. But it cannot happen through formal time in courses and classes, but in the queue for the meal, waiting for appointments, meeting of people from the community, exercising of choice about how to use your leisure time. It is through exercising choice that we develop our personality. With less opportunity for choice there is less time to change and less time to make the prison a safe place.

### A model?

Grendon's therapeutic community is at stake and serious attention should be given to the future of the regime and its sustainability within the context of current reduction in staffing levels. It is too important a place to be allowed to drift and become a standard Category B training prison. The unique opportunity to challenge prison roles and culture cannot be allowed to fade away. The current crisis should provide the opportunity for following Grendon's successful model, not breaking it.

## LAST WORD from Carp

### What does the public want on criminal justice?

At a recent seminar hosted by the Criminal Justice Alliance (of which AMIMB is a member) over 50 criminal justice professionals exposed the uncertainty about what the public wants from the criminal justice system. For example, the public's concerns and priorities diverge significantly when they are asked about the country as a whole or their local area. BBC journalist Mark Easton suggested that the media contributes to this, creating a national picture that is disproportionately dominated by serious and violent crime. The public overwhelmingly think that sentencing is too lenient, but in fact are not that far from current sentencing practice when actual cases are considered. Someone from the MoJ said that the government is committed to a genuine public consultation about their forthcoming green papers on criminal justice. Even if they mean it, from the evidence of this seminar, that will be difficult.

### Spin?

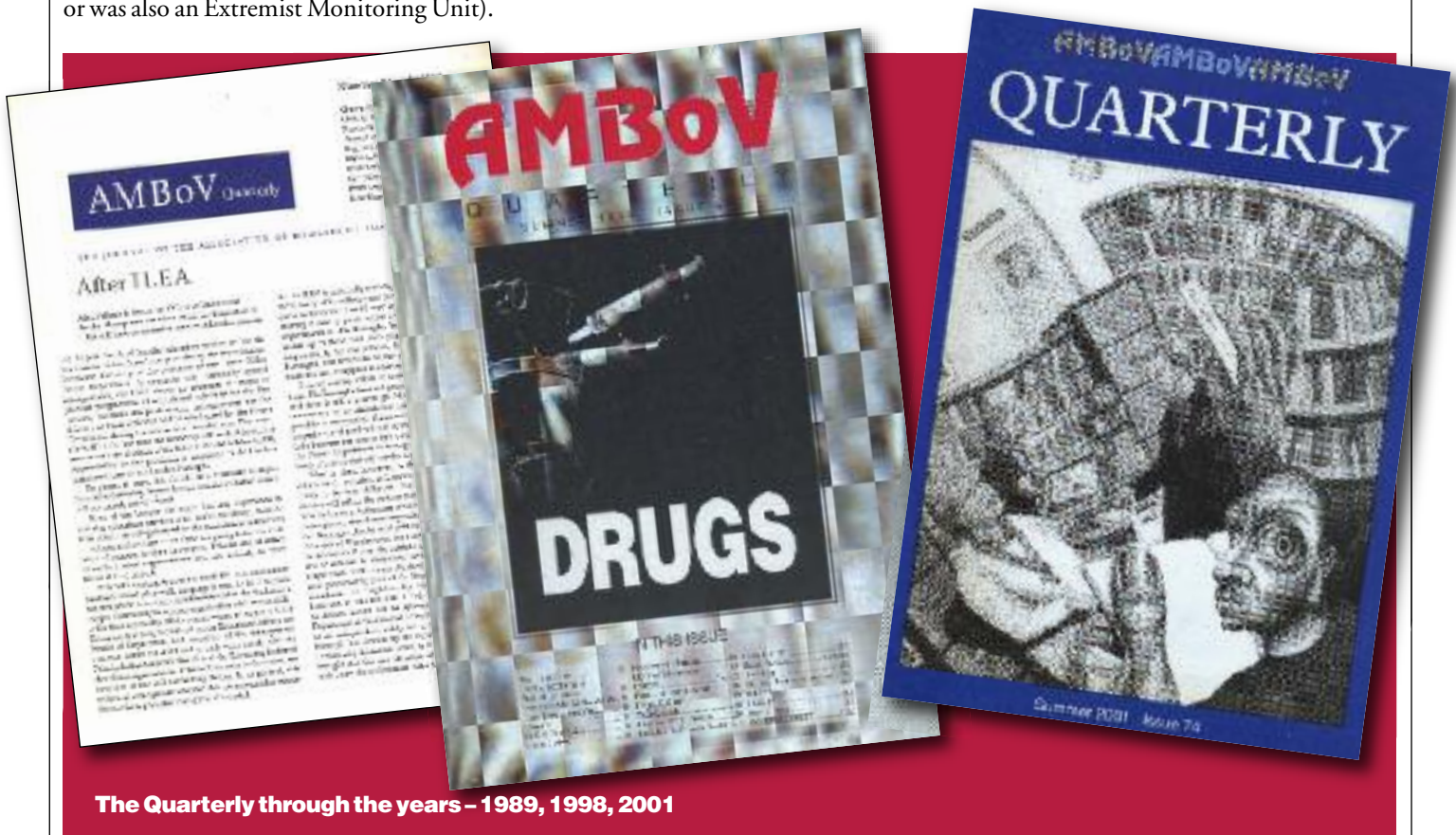
There is a lot of interest in the Muslim prisoners of England and Wales – and so there should be. Almost one prisoner in eight is Muslim and in London prisons the proportion is more than one in five; one in six of the men in high security prisons are Muslim. There are worries about radicalisation. It was time for the *Monitor* to dig a little deeper. Noms helpfully undertook to answer some questions, courtesy of its Extremism Unit (there is or was also an Extremist Monitoring Unit).

We learn that seven out of ten of Muslim prisoners are British and that out of every two hundred just one has a conviction related to terrorism. But what of the practical issues that IMBs encounter day by day? Are there tensions between the different strands of the faith? Is there any substance to the stories of forced conversions? Is it true that in some prisons Muslims are striving to establish spurs or landings exclusive to their faith? Is a Halal menu more expensive than a conventional prison menu? Are there problems to do with the use of Arabic in Friday prayers, or in the searching of female visitors? And what about radicalisation itself?

The response to these enquiries was the straightest of straight bats. Perhaps mistaking the *Monitor's* straight and very ordinary bowling for the most fiendish googlies, it was patted back with careful, non-committal courtesy. We are inclined to try an over from the other end. What do readers think?

### Prison violence increase

Official statistics obtained by the Howard League revealed that recorded assault incidents in prison have risen by 61 per cent between 2000 and 2009 – over twice the rise in prison population. There are over 40 assaults a day. Staff at Hindley YOI, the largest children's prison in Europe, are particularly affected with assaults on staff up by an astonishing 967%; Feltham's equivalent is 288%.



The Quarterly through the years – 1989, 1998, 2001

## AMIMB statement of purpose

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

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

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