

The Prisons Handbook 2016



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The Prisons Handbook 2016

Eighteenth Edition

Mark Leech



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The Prisons Handbook 2016

EIGHTEENTH EDITION

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Map of Prison Service Establishments

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Mark Leech FRSA

Editor: The Prisons Handbook



From prison strip cells and roof-top protests at one end of the scale, to being Editor of the definitive 1,200+ page annual reference book on the prison system of England and Wales at the other, Mark Leech has travelled an astonishing journey.

Though he claims no accolade for it Mark served almost

20 years in 62 of Britain's jails, from Inverness in the north of Scotland to Parkhurst on the Isle of Wight, his prison career was characterised by riots, roof top protests and more than 40 successful legal battles against the prison authorities fought in every legal arena from the County Court to the House of Lords.

Once a tenacious thorn in the side of the prison authorities Mark, who was released from prison in 1995, has risen to become the

country's foremost ex-offender expert on the policy and practice of the penal system.

For the last 20 years he has been Editor of this, The Prisons Handbook, which has today become the definitive 1,200-page annual guide to the penal system of England and Wales, and Mark is also the Editor of Converse, the highest circulation national newspaper for prisoners in England and Wales - distributing around 60,000 copies per month to prisoners around the country.

Mark is the Director of the Institute of Prison Law, a Law Society accredited legal training organisation, and he is the Founder and former Chief Executive of the national ex-offenders charity UNLOCK.

Mark is a regular prisons commentator on BBC Newsnight, BBC News, Sky News, BBC Radio 2's Jeremy Vine show and he is much sought after as an after dinner speaker. Mark is a Fellow of the Royal Society of Arts. Mark now lives for the majority of the year in Chiang Mai, northern Thailand, where he has a young son and daughter. In the UK he owns with his partner several award-winning Thai restaurants and, outside of work, his interests are in aviation; Mark is a qualified Helicopter Pilot.

What people say about Mark Leech

"A thoroughly offensive, dangerous and disruptive man"

John Thompson, Governor, HMP Dartmoor 1985

"One of the most sensitive, resourceful, humane, energetic, intelligent, dynamic and tenacious prisoners I have ever met" Roger Kendrick, Governor HMP Glenochil 1995.

"I consider myself very lucky as Director General to have had you around, I consider you not only as a colleague but also as a friend"

Martin Narey, HM Prison Service Director General, 1998-2005

"One of the sanest and best informed commentators on prison issues."

Phil Wheatley, HM Prison Service Director General, 2005-2010

"One of the very best speakers on the prison system his knowledge and experiences have given him answers to those questions other so-called 'experts' can only guess at."

Baroness Scotland QC, HM Attorney General 2005-2010



PRISONER LOCATION SERVICE

Use the Prisoner Location Service to find people in prison when you don't know which prison they are in.

The prisoner must give their permission for their information to be shared, unless you belong to certain organisations such as the police or a solicitors' firm.

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prisoner.location.service@noms.gsi.gov.uk
Fax: 0121 626 3474

Prisoner Location Service
PO Box 2152
Birmingham
B15 1SD

You must include:

your name, or the organisation you represent
your date of birth
your address including postcode
name of the person you want to find
the reason you want to find them eg. you're their solicitor, or a family member
any other names they may have used
their date of birth

NOMS

National Offender Management Service
Ministry of Justice
Clive House
70 Petty France
London
SW1H 9EX
Tel: 0300 047 6325

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THE PRISONS HANDBOOK 2016

is dedicated to
FELICITY GERRY QC



Called to the Bar: 1994
Made Queens Counsel 'Silk': 2014

- "A fearless & independent-minded individual"*
- Legal 500, 2015
- "Fearless & effective advocate"*
- Legal 500, 2013
- "Tenacious in Court"*
- Legal 500, 2012
- "An expert in the field of sexual offences"*
- Legal 500, 2010

Felicity Gerry QC is a high profile international barrister. She acts on behalf of organisations and individuals and can be instructed internationally and directly including under the public access scheme.

Felicity was the Leading Counsel in the hugely important UK Supreme Court (UKSC) case of *R v Jogee (Appellant)* [2016] UKSC 8 in February 2016 on the vexed issue of Joint Enterprise which changed English law and revealed that for 30 years many people may have been wrongly convicted - see below for details.

She has spent the last 20 years specialising in serious and complex fatal, sexual and financial offending, appearing in court and advising on appeals and judicial review. She is commonly instructed where the particular case is complicated or there is a need for extra client care and regularly appears as leading counsel.

Internationally she has dealt with complex cases involving cross jurisdictional issues including conspiracy to facilitate illegal immigration & multiple rape across more than one jurisdiction. She is regularly approached to speak on international issues including rape in conflict zones, female genital mutilation and human trafficking.

With an invaluable ability to look at a mass of information and complex evidence and quickly identify the legal and factual issues,

Felicity has a strong track record in finding pragmatic solutions to difficult legal problems from allegations of corporate manslaughter in a care home to medical issues in a 'sleep rape' case. Organisations and individuals have relied on her straight-forward approach and careful preparation.

In February 2016 the UK Supreme Court (UKSC) handed down an important unanimous judgement in the case of *R v Jogee (Appellant)* [2016] UKSC 8. *Jogee* was a case dealing with the complex issue of the law of Joint Enterprise (JE) which has seen many people convicted and jailed for often very long periods of time not on the basis that they actually committed the crime itself but had 'foresight' that others would commit a crime and that foresight alone was sufficient in law to prove intent that the crime should be committed which made them guilty of that crime itself, even if they were not at the scene when the offence took place. Felicity Gerry QC was the leading counsel for Mr *Jogee*.

The court in *Jogee* was therefore concerned with that complex area of criminal law known as 'secondary liability' for a crime. JE in *Jogee* was not concerned with the person who himself forged the document, fired the gun or stabbed the victim (the person who did that is called 'the principal'), but with the 'secondary person' who is said to have encouraged or assisted the principal to do it.

Since 1985 the courts had applied the law of JE on the basis that simple foresight by the secondary person that the offence could be committed by the principal was itself sufficient evidence of intent - the necessary mental element (*mens rea*) of a crime - and that foresight, without anything else was sufficient in law for them to be convicted of it.

The unanimous conclusion of the court in *Jogee*, thanks to Felicity Gerry QC, was that for 30 years the law of JE had been misapplied - it had taken a wrong turn in the case of *Chan Wing-Siu v The Queen* [1985] 1 AC 168 and another wrong turn that was again confirmed in 1999 in the wrongly decided case of *Regina v Powell and English* [1999] 1 AC 1.

The UKSC held that the correct rule is that foresight of a crime being committed is simply evidence (albeit sometimes strong evidence) of intent to assist or encourage - which is the proper mental element for establishing secondary liability - and not evidence of intent itself.

This judgement may now have very far-reaching consequences for those who were imprisoned as secondary culprits, people who may have had foresight of an offence but had no intention of being involved in it and who took no active steps or actions to encourage it to take place, but who were imprisoned for often long periods of time because the law took a wrong turn.

It is a pleasure to dedicate The Prisons Handbook 2016 to her.

ACKNOWLEDGMENTS

Mark Leech. Editor: *The Prisons Handbook*.

To the vast majority of people who read books this, the Acknowledgements page, is often the least important one in the entire book – but to the author it is the most important page of all. For it provides that wonderful opportunity to say ‘thank you’ in print to those special people without whose input this book could not have been written; and paradoxically it is also the hardest one for most authors to pen.

Editing a work of this length incurs a debt of gratitude to well over 200 people and it’s impossible to name them all here. You know who you are and I am very grateful for all your help, advice and assistance.

I must start by thanking Michael Gove MP, Secretary of State for Justice and Lord Chancellor for his wonderful foreword. He is not by any means the first Secretary of State to write the foreword to an edition of *The Prisons Handbook*, but he is uniquely in my experience the first one ever to have written the vast majority of it himself.

On 8th February 2016 the Prime Minister David Cameron, delivered a wide-ranging speech on penal reform that persistent critics like me of the UK’s “*build ‘em and fill ‘em*” approach to prisons had waited a generation for a Prime Minister to make - and which I reprint in full on page 23. Michael Gove in his foreword expands on that speech and, if delivered as promised, will provide us with a prison system to be just as proud of in the future, as we have had good cause to be ashamed of in the past.

The issue of Independent Monitoring Boards (IMBs) is a vexed subject I have long been critical of. These half-century old statutory watchdogs, appointed by the Secretary of State to every prison and YOI in the country, have a shocking reputation among many and my Editorial asks whether the time has come to abolish them. My research prior to writing the editorial revealed a system of monitoring in our prisons that is clearly unfit for purpose. It revealed IMBs who for example have simply cut and pasted text from one annual report to another, have shockingly airbrushed out of existence proven criminal conduct by prison staff, resulting in convictions and prison sentences, in cases where prisoners have actually lost their lives, and shown an organisation torn apart by internal warring factions.

Of course this could have been taken simply as the view of someone like myself, a long-time critic of this independent watchdog - were it not for the courage of Daisy Mallet.

A currently serving IMB Chair, Daisy Mallet, in her excellent expose *Whistle-Blower Without a Whistle* (page 20) has from the inside opened to the bone a system of prison monitoring where instead of being able to speak

out as an Independent statutory watchdog, she has instead been ‘gagged by grooming’. Where she has been ‘coerced’ into not visiting the prison at night, despite having clear legal powers to do so, because those she is in place to monitor ‘frown’ on such things. As a result she is left frustrated, isolated and without support from those civil servants who in the IMB Secretariat are ostensibly in place in the Ministry of Justice to help her.

‘Thank you’ Daisy Mallet, for your courage, honesty and sheer determination to say what has needed to be said for so long.

I must also say ‘Thank You’ to Martin Narey, former Director General of HM Prison Service, and a personal friend, who is so often for me a voice full of wisdom, calm and experience who has done more to help me than he will ever know and which, rarely for me, I cannot find the words to express.

Thanks must also go to Nick Hardwick the former Chief Inspector of Prisons, not only for his permission to use his reports but also for the five years dedicated independent service he has given and I wish him well in his new position as Chairman of the Parole Board; a post in which I have no doubt he will be just as much a success as he was at the Prisons Inspectorate; and thanks too to both Barbara Buchanan (in the Chief Inspector’s office), and Jane Parsons in HMI and the Prisons & Probation Ombudsman’s Office, who have met all requests for information and have been models of openness.

Thanks are due to the National Offender Management Service, NOMS, and to HMSO for their permission to reproduce relevant legislation.

I would also like to say thank you to the 100% of prison Governors from England and Wales who replied to requests for information about their establishments, and also to the various Governor’s Secretary’s – the unsung heroes at establishment level – who deftly ensured requests were dealt with, and passed to the right person. I am very grateful to the plethora of other contributors who have also helped hugely to bring this project to fruition.

And as ever I am also very much indebted to Andy Simpson for his help in creating the new edition and it is remarkable the wonderful progress he has made in the last three years since suffering a stroke just as the 2013 edition got off the ground.

And finally I want to say my biggest ‘thank you’s to my partner Oui for his typical Thai patience, and of course to our son Alex and new daughter Maisie who have proved to be such wonderful additions to our family; they have all made my life so utterly complete.

MARK LEECH
Chiang Mai, Thailand, 8th April 2016

FOREWORD

Rt.Hon Michael Gove MP *Secretary of State for Justice & Lord Chancellor*



Perhaps this is your first ever evening in prison, and you are trying to work out – with the help of *The Prisons Handbook 2016* - how to get through tonight, tomorrow, the following week and beyond. Maybe it is your husband, partner or daughter who is in prison, and you are worried about what lies ahead for them. Or you could be an old hand at prison, just flicking through *The Prisons Handbook 2016* to find the all-important sections on food, smoking or phone calls.

Since you are reading this, however, I want to tell you something important. Prison is now your community. What kind of a community it is, depends to a large extent on you.

If you are an offender, I hope to convince you to use the time in prison to work, study, learn new skills, beat bad habits, gain qualifications and confidence - and look to a better, safer, more fulfilling future. For the vast majority of offenders – 99 per cent - this will not be your community forever. You will serve your sentence and then be released with, I hope, a new determination never to return to a life inside.

There are people in the prison system who want to help you achieve that goal - teachers, chaplains, career advisers, psychologists, trained chefs, volunteers from arts organisations and charity workers to name just a few. They are the unsung heroes of the prison service, alongside the Governors, who dedicate themselves to looking after those in their care, and prison officers – most of whom show an impressive mixture of watchful professionalism and humanity in carrying out their duties.

I realise that the path to a life free from crime is not easy – especially for offenders who lack a strong support network, or money or housing, who are addicted to drugs or alcohol, and for whom previous bad influences still offer many temptations.

It is because of this that the government has launched the most ambitious

prisons shake-up for a hundred years. We are finally closing crumbling jails built by the Victorians. We are giving more power to Governors to run their jails in a more imaginative way. We are putting money into education, to ensure that every offender can get better qualifications when they leave, and into technology to keep them safe while they are inside.

Throughout history, people have been sent to prison because they have made bad choices. But no-one should be defined by their worst moments and bad choices shouldn't blight your future forever. I passionately believe that everyone in prison has something to offer. Winston Churchill, when he was in charge of this country's prisons, said: 'There is a treasure, if only you can find it, in the heart of every man.' I agree.

Since being given this job, I have visited many prisons and I have seen the potential for good in the hearts of many prisoners.

One former prisoner at HMP Downview, who studied with the Open University during her sentence, found a full-time, paid office job with a charity on release after initially working there as a volunteer. A few years on, this ex-offender is working for an MP at the House of Commons.

If you are in HMP Brixton, Styal, Cardiff or High Down, you might aim for a job in The Clink – the popular 'in-house' restaurants, open to the public, serving award-winning food. I recently met a prisoner who, after 15 years inside, had been trained as a head waiter and was being helped to find a hotel job on his release. Within these restaurants, up to 155 prisoners at a time work towards City & Guilds NVQs in Hospitality & Catering and Customer Service.

Are you in HMP Grendon? One offender I met there had just finished a course in criminology, studying with top students from Cambridge University. Inspired by his achievement, he plans to study psychology at university later. You can, too.

In HMP Send, I met several women working towards qualifications as personal trainers. One had just been to a job interview at a local gym where she could put her new skills into practice, first on Release on Temporary Licence (ROTL), and later on full release.

I hope that every offender who is eligible to be considered for ROTL, goes ahead and applies for it. ROTL allows offenders to be released into the community, generally towards the end of their sentences, to find work or rebuild links with their families.

Prisoners who have been granted ROTL offer some of the most inspirational stories of a life after offending.

I recently came across CJ, for example, who is also a serving offender in HMP Send. She gets up at 4am to study for a law degree and then leaves the prison through ROTL, heading for

London. CJ has become a mentor to young people who might be tempted to join gangs and enter a life of crime. By day, she contributes to society; by night, she returns to prison. All the time, she is learning vital lessons about life after prison, as well as helping others avoid the same fate.

Here is what CJ has to say about life before, and after, ROTL.

'I've spent over five years incarcerated, and RoTL has been one of the most rewarding, fulfilling, enlightening and freeing experiences of not only those five years, but of all the years of deception and darkness that preceded prison.

'RoTL gave me the chance to be the person I have always wanted to be: a productive, hardworking, respected member of a team; a responsible parent who can financially look after their child and family; a contributing member of society who takes pride in paying their taxes.

'After a year of volunteering on RoTL, I gained paid employment and secured my first contract, whilst still having almost a year left to serve. Within my new role I am able to support hundreds of young people make better choices that will potentially steer them away from the criminal justice system.

'I am now able to pay off my debts, take the financial burden of childcare off my family, and save for a deposit for a place to live upon release. I can finally take charge of my life and make realistic plans for a free future. RoTL, and the opportunities it affords, is empowering: after just the first couple of days, I felt this overwhelming sense of happiness and freedom.

'Gandhi said "Trust begets trust", and RoTL is the realisation of this inspiring declaration - being let out the gate to work and see my family is the reason I smile every day, and push myself to be the best that I can be in every sense.

'It's the one thing I wish all prisoners had the chance to do, because it allows you and others the opportunity to gain confidence in yourself, whilst allowing you the ability to prepare for your future: a future without the emotional, psychological and physical shackles of offending.'

Elroy, a former offender, is also living proof of how ROTL can help not only those still in prison but those who have recently left - or are at risk of committing crimes for the first time.

Elroy is now a Team Leader at the brilliant and inspiring St Giles Trust, an organisation which brings mentors together with offenders and other disadvantaged people to help them break the cycle of offending.

I hope you will take a moment to read his story, written in his own heartfelt words.

'My team consists almost entirely of ex-offenders who offer support and a route out of the cycle of offending to young offenders affected by gang activities.

'At St Giles Trust, those on ROTL

provide a unique resource as living bastions of hope. They offer a credible source of inspiration to those caught up in a life of crime.

'The power of someone who has been in the same or similar situations cannot be underestimated. They can spot the signs if someone is waning, and can prop them up, and re-motivate them to make positive changes.

'Seeing is believing, hearing their journey brings understanding, and having a real example of what is possible brings focus.

'As an ex-offender, who has faced these difficulties myself, I benefited from having people around to help, guide, and keep me on track.

Elroy remembers just how good he felt when, thanks to his behaviour in prison, he was judged suitable for ROTL.

'The value to someone who is still serving, but is trusted to be allowed to work outside the prison environment, is immeasurable.

'ROTL instils a sense of self-worth and confidence to overcome social barriers whilst enabling a prisoner to reintegrate into society and lead a full and productive life.

'ROTL is the source of all of these positive changes. I would encourage everyone to work hard in order to have this amazing opportunity.'

Many of you will still believe you will never get a decent, long-term job because of your past, and it is pointless trying. Yet we are working closely with more and more firms - well-known names, such as Timpsons, Halfords, Boots, Greggs, Railtrack - who are giving ex-offenders jobs; indeed, who believe that many ex-offenders make particularly good employees because of, not in spite of, their past. They are more likely to be good time-keepers, to work hard and to be keen to progress.

The government recently announced that when civil service job vacancies come up - and there are many thousands of these, up and down the country, covering all walks of life - offenders will no longer have to admit early on in the process that they have been to prison.

Still not convinced you can turn your life around? If you don't believe me, a politician, or CJ and Elroy, why not read what Mark Leech - another former offender who spent nearly twenty years in prison, and is behind the book you have in your hand - has to say about turning his life around.

Many of you will know from bitter personal experience what Mark went through in his early life. Too many prisoners come from backgrounds where parents were absent or uncaring, homes were violent and schooling was disrupted. Many of you will have been in care and drawn into taking drugs.

Mark was put into care when he was just eight after his mother died suddenly. He was a victim of sexual abuse in a children's home and became a very angry young man with a deep distrust of authority. He committed serious

robberies and ended up in HMP Parkhurst, on the Isle of Wight, as well as HMP Inverness (Porterfield) in northern Scotland. He was frequently in trouble during his prison career until finally, at HMP Grendon in Buckinghamshire, he began to change in response to a less confrontational regime.

He says now: 'Without a shadow of a doubt, HM Prison Grendon changed my life. It showed me that in life we have choices; that choices have consequences, and we either reap the rewards of our foresight or pay the price for our foolishness.'

Mark was released in 1995 and began campaigning for prison reform. In partnership with the actor Stephen Fry, he founded the offenders' charity Unlock. He ran this until 2004, when he left to focus on putting together *The Prisons Handbook*, now in its 18th edition, an invaluable annual handbook, packed with clear advice and information for offenders, their families, and for prison officers too.

Today, Mark has two children and lives in a civil partnership. Among other business interests, he owns restaurants in north-west England and publishes *Converse*, the monthly prisoners' newspaper.

The experiences of Mark, of Elroy and CJ, and of the many other prisoners I have seen turning their lives around in prison prove that you can do the same.

The Prime Minister, David Cameron, shares my views on the importance of rehabilitation. He is determined that we shall not adopt an 'out of sight/out of mind' attitude to prisons and their inhabitants, easily ignored behind high walls and barbed wire.

Instead, we are working hard to turn prisons into calm and orderly places where people are held in decent, safe surroundings and given fresh purpose.

Our plans still have a long way to go, and we are aware that in many jails facilities are inadequate, insanitary and crowded. There is still too much violence and bullying. There is idleness. Too many offenders take potentially lethal 'legal highs' out of sheer boredom, and get into dangerous debt when they are sold them by fellow prisoners.

That is why we have changed the law to make it a crime to possess these 'legal highs' in prison. We are developing a strategy to deal with the small number of corrupt staff who let in banned items such as mobile phones and drugs. We are also working with mobile network operators to develop new ways to block mobile phone signals in prisons.

We are determined to tackle the many offenders who are committed to a culture of violence and revenge, whether on the streets or in custody. Unfortunately, for them prison is simply a pause in a life of crime – in fact, many treat prison as just another criminal business

opportunity - and that must change.

We all know the reoffending numbers, and they make bleak reading. Nearly half of adult prisoners re-offend within a year of their release. For those prisoners serving shorter sentences – under twelve months – the figure rises to 58 per cent.

Saddest of all are the figures for young offenders, of whom more than two thirds under the age of 18 will commit another crime within 12 months of release.

Some 70 per cent of offenders have at least seven previous offences to their name; the average prisoner has no fewer than sixteen previous convictions.

This dispiriting cycle of reoffending costs the tax payer up to £13billion a year. Beyond the financial loss, though, is a terrible, repeated, personal cost – paid by the offender, their victims and all the families involved.

Governors are in the best place to come up with fresh ideas or a new approach that will transform lives, working closely with businesses and charities. We will set our most innovative governors free from the tangle of red tape, regulations and rules – unbelievably, these run to 46,000 pages – that are currently used to regulate our prisons.

Yet the regime inside prison is only one part of preparing offenders for a life outside away from crime. Also crucial is the role played by the people waiting outside the walls – prisoners' families. They can offer stability and support - and we know that strong links to a family network can help prevent re-offending.

Receiving visits during imprisonment, or having a close partner, husband or wife, makes prisoners more likely to find a job and a place to live on release, and leads to lower reconviction rates in the year after release.

Even so, 48 per cent of prisoners in the UK lose this valuable contact with their family when they come into custody.

So we are doing more to strengthen family ties. We know that as an offender approaches his or her release date, spending time in the community with close family members who they are likely to live with on release, and who are seen as a positive influence, tends to make the transition to freedom easier.

Alongside visits and family days, telephone calls and letters, offenders who are judged suitable for ROTL can leave prison to spend time with families – overnight, in some cases.

The importance of family is also at the heart of two schemes running at HMP Parc in South Wales and HMP Erlestoke in Wiltshire.

If you're in Parc, you may know about the 'Invisible Walls' scheme, funded by Lottery money. It aims to help current and released offenders, and their families, by giving practical advice about parenting, relationships, debt, education, housing and jobs – many of which

become problematic when a close family member is sent to prison.

Help for the next generation of an offender's family is seen as particularly important. Over 200,000 children in this country are believed to have a parent in custody, and the effect on them is often disastrous. The head of Invisible Walls says that about half of children who are excluded from school have a parent, brother or sister in prison. Even worse, six out of 10 boys with a parent in prison end up in custody themselves – not what most fathers want for their sons.

The Invisible Walls team starts to work with a family for up to a year before an offender's release from prison and for six months afterwards, to provide continuous support. The prison even hosts parent/ teacher evenings where a child's homework is discussed, and fathers are given tips about how best to support their education.

At HMP Erlestoke, meanwhile, a special family unit works with the children of prisoners in an effort to stop them following their parents into a life of crime. The prison works with the children's charity Barnardos to run parents' evenings and homework clubs. Prisoners are offered classes in how to be a better parent – and can share what they learn with their children by video link in between visits.

Andrew Rogers, the governor of Erlestoke, is clear about what offenders can achieve, 'They will be shown how to be a role model for their children,' he says. 'In the right way'.

His words prove that it is never too late to be a role model – not only to your children, but also to fellow prisoners, vulnerable young people who might be tempted to offend, and fellow ex-offenders who are struggling with their rehabilitation.

Prison, your community, can be a turning-point, not a dead end.

Will you use it to change your life for the better?

I hope so.

And we are here to help.

Rt.Hon Michael Gove MP

Secretary of State for Justice & Lord Chancellor

**EDITORIAL - HAS THE TIME
COME TO ABOLISH INDEPENDENT
MONITORING BOARDS?**

Mark Leech

In March 1964 the then Home Secretary, Henry Brooke, using the powers of The Prison Act 1952, brought into force The Prison Rules 1964.¹

Rule 92 of these Rules established what were then called 'Boards of Visitors' but which today (and since 2003) are known as Independent Monitoring Boards, or "IMBs".

Members of IMBs are creatures of statute; they are public officials appointed by the Secretary of State and who occupy a statutory office that, according to a Parliamentary Written Answer in 2014², currently costs the taxpayer over £2m a year. They are not paid a salary, they are all volunteers, but they are paid their expenses in connection with their work.

Indeed the lack of remuneration is really what lays at the heart of so much that is wrong with IMBs, we expect them to carry out what can be a time-consuming, stressful, statutory function, and pay them nothing at all in return for their important work.

Broadly speaking IMBs exist to inspect and monitor prisons, deal with prisoner complaints and report annually to the Secretary of State.³

But the evidence today, as I shall set out in this editorial, is that they are a closed, internally-warring, secretive body, of unnamed public officials.

Some IMBs have concealed shocking, proven, criminal conduct by staff, in cases where prisoners have lost their lives, where prison officers have been handed jail sentences and indeed they have often gone further by misreporting these critical inconvenient truths by simply airbrushing them out of existence in their Annual Reports – a side-by-side comparison of the content of which shows text has simply been cut and pasted from one year to the next, as I shall later demonstrate.

In the powerful expose of IMBs, "Whistle-Blower Without a Whistle" that follows this editorial, written by a serving IMB Chair, we learn of a shocking system of IMB governance in which IMB Members are 'gagged by grooming', where they are 'coerced' into not carrying out their legal functions, and where Members are left demoralized, frustrated and unsupported.

It simply cannot be allowed to go on like this.

The truth today is that many of the IMB functions are now largely in the hands of other, more independent, public officials who did not exist when IMBs were born; namely the Prisons Inspectorate, which inspects and monitors prisons, and the Prisons and Probation Ombudsman, who exists now to deal with prisoner complaints.

In Scotland the system of IMBs has been replaced with a much tighter, more disciplined system, and one that is linked directly to the Scottish Prisons Inspectorate in a solution clearly worthy of consideration south of the Border too.

The principle of IMBs, (or 'Boards of Visitors' as they then were) who came into being 20 years before the Prisons Inspectorate was created, and 30 years before the Prisons and Probation Ombudsman first saw the light of day, was to inject into the prison system a form of independent scrutiny as to how each prison operated and how the prison treated its inmates.

IMB Members had (and still have) the right to visit the prison 'at any time'⁴, they can view the majority of its records⁵, interview prisoners out of sight and hearing of prison staff if appropriate⁶, and they are required to submit an annual report to Parliament by reporting to the Secretary of State⁷.

However, for the first thirty years of their existence IMBs also had powerful and damaging powers of punishment over prisoners. They were able to adjudicate on serious disciplinary offences by inmates, and they had power to impose (and were never shy about exercising) unlimited losses of remission effectively extending the time a prisoner had to serve.

It was a power completely at odds with their pastoral role, exercised in secret, without legal representation, with limited training, and which they so often so seriously abused that the role was removed from them completely in 1993.

Indeed it was following the Hull Riot in 1979, when the Hull Prison IMB toured the country and ordered almost 90 years worth of remission to be forfeited in a series of adjudications, each conducted in such a legally shambolic and wholly unfair manner, that the Court of Appeal decided for the first time that prison disciplinary proceedings were subject to direct judicial review by the courts.⁸

Following the opening of the courtroom door by the Court of Appeal in *St. Germain* the High Court subsequently quashed a whole series of prison disciplinary cases where IMBs were wrongly found to have refused prisoners permission to call defence witnesses; ask questions of witnesses called against them; had misapplied the law; wrongly refused legal representation or advice; admitted prejudicial inadmissible evidence; found guilt in cases where no offence had actually been committed, and even ordering that prisoners be charged with offences when they had no power to do so.

Small wonder then that, in the half-century since their creation, IMBs have earned a reputation among both prisoners and staff of dislike and complete mistrust.

Their failures to assert their independence has meant that confidence in them

has simply failed to develop. They are viewed today as a secretive organisation, cloaked in darkness even from the public who foots the two million pounds a year bill for their existence.

In March 2016 I applied to the Ministry of Justice for the names of IMB members who are appointed to each prison and YOI in England and Wales. It seemed to me a reasonable request and I did not anticipate problems. They are public officials who like prison governors⁹ (a list of whose names you will find in section 1.1.4 of *The Prisons Handbook* 2016)¹⁰ hold an office created by statute.

They are paid expenses from the public purse, appointed by the Secretary of State and as the National Framework Agreement published in March 2016 between IMBs and the Ministry of Justice (MOJ), makes clear:

*"IMBs cannot operate in secrecy. Prisoners need to know that they exist and how to make contact... IMBs must build a reputation for honesty and fairness... Board members should regularly engage with prisoners ... and do so with a courtesy and interest which earns their trust and draws out their hopes and concerns."*¹¹

In retrospect, I really should have known better.

My request for the names of IMB Members was refused by the IMB Secretariat who said: *"In this case, we believe that releasing the information could compromise the physical safety of IMB members..."*

"Board members live in the local area of the prison and Young Offenders Institute they monitor. They are therefore in much closer proximity to such establishments than many other public officials. This could make it easier for prisoners on release and their friends and families, to be able to contact IMB members."

*"Names are not required to be disclosed for the IMB Board to operate effectively. Members join and leave the boards continually and not at regular times. Names could therefore be out of date as soon as the list is published. Any matters for the relevant IMB board can be addressed to the IMB Chair, care of the relevant prison."*¹²

What was being completely ignored here was the public's right to know who these public officials are, but more than that, their objections are completely illogical.

For a start, every IMB Member is expected to wear a name badge when in the prison, some choose to have only their first name on it that is true, but many others have their full name printed, a fact that makes a nonsense of the refusal of my request for disclosure.

Each year *The Prisons Handbook* publishes the names of the current Chairman of the IMB for every prison and YOI in England and Wales, and has done for over 20 years; are we endangering the physical safety of that IMB Member by doing so? I have never heard of any case where that has happened and we have never been asked not to publish them.

The Prisons Inspectorate publishes the name of the IMB Chairman of each prison and Young Offender Institution that it inspects; around 50 a year. Am I seriously to believe that by doing so they are endangering the physical safety of that IMB Member?

What about Parliamentary publications on prisons by Select Committees? Their reports name IMB Members who give evidence to them – are they endangering their physical safety by doing so too?

Of course not.

And who are the 'IMB Secretariat' anyway?

Ostensibly they are a small team of civil servants, based inside the Ministry of Justice, who perform the administration function of the IMB nationally. The Secretariat deals with appointments to and removals from individual Boards. They carry out security background checks, and control the www.imb.org.uk website on which IMB annual reports are published. But, to borrow a phrase from Anne Widdecombe, they also seem to have 'something of the night' about them.

Like a form of Cold War secret police the IMB Secretariat are viewed with fear by many IMB Members – in the 'Whistle-Blower without a Whistle' article that follows this editorial it is clear 'the threat of removal is ever-present'.

Whether that fear is real or imagined or has any basis in fact I do not know. But the legal fact is that IMBs are not answerable to the Secretariat; they are appointed by and report to the Secretary of State. Boards are independent, and 'independent' means exactly what it says – or it should do. Independence is not just a form of words, it's a frame of mind that you either possess or you do not.

The vast majority of IMBs seemingly do not.

Did the Secretariat refuse to disclose IMB Members names without even consulting IMB Members about it? I suspect they did. I have spoken to 12 people, on different Boards, who I know are currently serving as IMB Members and not one of their Boards had been asked whether they objected or agreed to publication of their names; and 11 of the 12 Members I spoke to said if they had been consulted they would have had no objection to their names being published.

One told me: *"My work on the IMB is widely well-known, I sit as a Magistrate, my name is a matter of public record, I often see people before the courts when sitting on the Bench, and then the same people later as an IMB Member in prison, and often because I have been responsible for sending them there."*¹³

While it is true that IMB Members come from the local community, the truth is that so too do all prison officers – officers whose names are well-known to prisoners and who wear name badges at work. Indeed the prison officer's role as Offender Supervisor, and the principle of dynamic security on which so much

real security information depends, rests on the close working relationship between prisoners and staff.

Of course the safety of IMB Members is important, I get that, but I know of no case where a prison officer has been sought out by former prisoners, or their family or friends, in order to cause them harm; and the reality is surely that if they did so then that is a matter for the police and the courts, and it cannot be used to support an arbitrary decision by civil servants to refuse to name them.

While I accept that Members of an IMB come and go, it is equally the case that prison governors also come and go too, all the time, they also all wear name badges, they again come from the local community, yet their names are published annually and without problem.

But it is not just prisoners, staff or even myself who seemingly has little faith in IMBs. From evidence given last year to the Justice Select Committee in the House of Commons, neither the Ministry of Justice nor the National Offender Management Service are seen as having much time for them either.

In their 9th Report – Prisons: Planning and Policies¹⁴, the Justice Committee revealed that the distrust and lack of confidence in the way prisoners view IMB Members is shared to a large extent by those who appoint and work with them.

The Justice Committee (at para 154 et seq) said this: *IMBs have a role in monitoring internal complaints. However, Paula Harriott suggested that prisoners have little faith in the wider scrutiny process of the prison system, including through IMBs. The Chair of the IMB at HMP Thameside said that while the fairness of responses was consistently monitored, it was equally important that they are provided in a consistent manner: "an apparently just response to a complaint is not really just if it cannot be understood". Several Chairs of IMBs themselves believed that the MoJ did not have sufficient regard for concerns about prison conditions which IMBs had conveyed.*

For example, Dr Penzer, Chair of the IMB at Thameside, said: Everyone I have met in NOMS and the MoJ, from the Minister downwards, says they value IMBs. I think our existence increases their sense of security because if things were dramatically wrong we would say so [...] Although I believe that most IMBs play a useful role within the establishments where they are based, helping to ensure that staff do not slip into unfair or inhumane practices, I know of little evidence that IMB reports have a significant impact on NOMS or MoJ, or that changes are made in response to IMB judgements. Generally the responses to IMB reports go along the lines 'ABC is an important point and the reason things are as they are is XYZ'. Rarely is the response 'ABC is an important point that we did not know about and we are going to do PQR to put it right'.

In a further submission, he questioned whether the role of IMBs was sufficiently clear. He

observed: IMBs' proper focus on independent monitoring has expanded...to include elements of advising and recommending. As soon as we advise or recommend our independence is compromised (you cannot independently monitor the implementation of your own advice). We take an interest in processes (where our expertise is at best questionable) and inputs rather than concentrating on monitoring outcomes. We write annual reports to which NOMS and MoJ often respond inadequately. My impression is that although the reports may sometimes be found to be 'interesting', they are seldom felt to be 'useful'.

Angela Levin, former Chair at HMP Wormwood Scrubs, resigned because she felt there was such a chasm between the official perspective and the truth. She said: When I wrote the IMB report that ended in June 2013 on behalf of the board, the key point we all wanted to make very strongly then – which was before the cuts – was that the prison was on a knife-edge. I used that phrase and wrote about the violence, the self-harming and all the things we have already discussed. It was four months before I had any sort of reply. I then heard from the Prisons Minister, who in his letter explained to me how the prison worked, totally ignoring the point. I then sent another letter and was asked to go and see Michael Spurr, who is the head of the National Offender Management Service. I was treated like a naughty schoolgirl going to see the headmaster and was told, "You are completely wrong. You didn't see that. No, no that is not happening." I was not talking with my own voice – I was representing a board of people who were there a lot."

I personally have no doubt that IMBs are capable in theory of fulfilling a vital supervisory role inside our prisons, the practice of having independent officials scrutinising how the State treats those in its custody and care is vitally important and not to be discarded lightly – but to be effective any truly independent watchdog must have the courage and ability to bark, publicly, loudly and truthfully when that is appropriate.

The evidence is that IMBs currently do not possess this vital ingredient to their role. The IMBs secrecy, poor image, failures to report critical criminal events, failure to assert its independence, lack of trust by prisoners and prison staff, and the refusal on frankly ridiculous grounds to release their names to the public who pay for them, simply can no longer be ignored.

Like the prisons they monitor, the time has come for IMBs to reform too.

They must come out of the darkness and into the light of public scrutiny themselves and discharge their functions professionally.

Who is to guard these guards, if not public scrutiny itself?

All IMBs are required to produce an Annual Report, and while the structure and content of these has improved greatly in the last three years, not all Boards decide to publish them. It should be a legal requirement that all Boards must publish their Annual Reports – and

they should be required to report everything they find, not just what they feel to be convenient.

All IMB Members have the legal power to visit prisons 'at any time', but it is a power they rarely if ever exercise at night. The damning article which follows this editorial explains how one IMB Chair (and it's a view I have heard expressed many times by many others) feels 'groomed' into not doing so because, as she says, it is 'frowned' upon.

Others IMB Members I know tell me privately the very same thing. Night visits are "frowned upon", another that they "are discouraged by the Board from going native" and a third that "staff have told me they do not like the disruption of a night visit."

But the evidence is that his failure to visit prisons at night is not some minor academic issue; it's an incredibly serious one.

In 2012 Shaun and Lisa Percy, married prison officers working at Preston Prison, were handed suspended jail sentences when they were convicted of misconduct in public office for covering up failings in suicide watch procedures on the night an inmate was found hanging in his cell.¹⁵

Shaun Percy failed to carry out half hourly cell checks on Christopher Oldham, who was on remand in HMP Preston.

His wife Lisa, the Night Orderly Officer in charge of the prison overnight, then made false entries into the care log to cover up for her husband's failings.

In one entry, Mrs Percy reported she had seen Mr Oldham standing at the back of his cell.

In another entry, made by Mr Percy, he said Mr Oldham was sitting on his bed watching television and had said he was OK when spoken to.

Medical evidence showed, and both officers in court accepted, that by the time these false entries were made, the truth was that the inmate was already dead.

What did the Preston Prison IMB have to say about this shocking criminal incident?

Nothing.

Absolutely nothing at all.

The three Annual Reports of the Preston Prison IMB, for the years 2011-2014 make no mention of this appalling criminal failure. Indeed it is clear that Section Four of each of these Annual Reports, which deal with deaths in custody, when compared side by side, have text that has simply been cut and pasted from one year to the next, with only the deaths in custody figures themselves being changed - they are all available on line at www.imb.org.uk/reports/ you can read and compare them for yourself.

Worse still is that each of the Preston Prison Annual Reports, between 2011 and 2014, airbrushes the shocking event out completely and says this: *The Safer Preston team continue to work hard at making Preston Prison a safer place to live and work. The committee meets each month. An IMB member has attended most of the meetings and*

always been made most welcome. The quality of the observations entered in both the ACCT and TAB documentation are reviewed at each committee meeting with any relevant comments being fed back. These are generally of a high standard.^{15a}

But that simply isn't true is it?

How can the documents be of a 'high standard' when they are falsified, and prison staff has been convicted and handed suspended jail sentences for doing so?

The Secretary of State and the public has the right to be told the truth – and the IMB at Preston Prison should hang its head in shame for its failure to report this critical event in its Annual Reports published around this time; what else are these public watchdogs failing to bark at, and to tell us about?

What other inconvenient truths are being airbrushed out of existence?

Small wonder confidence in their independence is virtually non-existent.

And the failures of the Percy's are not the only example of such appalling behaviour either.

In April 2014 a Maghaberry prison officer was also handed a 15 month suspended prison sentence after admitting he had not kept a proper watch on a suicidal prisoner who hanged himself.¹⁶

Daniel Barclay pleaded guilty in court that he had "wilfully neglected to perform his duty without reasonable excuse or justification, in that he failed to carry out and record the appropriate observations in respect of a prisoner at risk, namely Colin Bell" on a date between 30 July and 2 August 2008.

Mr Bell hanged himself in the CCTV-covered "safer cell" at Maghaberry prison when he was on heightened suicide watch after repeated bouts of self harming, meaning prison officers had to check on him every 15 minutes.

Prison CCTV evidence showed that while Daniel Barclay was supposed to be monitoring Colin Bell on CCTV he was seen watching television, chatting with colleagues, and making himself a snack. At one stage – while 34-year-old Bell lay slumped dead against his Maghaberry Prison cell door – Barclay was seen on a rolled out mattress on which he was trying to nap.

The court heard that over the course of almost 90 minutes – while Bell made four suicide attempts – Officer Barclay "glanced" twice at CCTV screens showing what Bell was doing in his cell.

An investigation by then NI Prison Ombudsman Pauline McCabe¹⁷ was highly critical of many of the working practices at Northern Ireland's top security jail, including the astonishing finding that prison officers at the jail routinely made up makeshift beds and would go to sleep during night shifts. McCabe made a total of some 44 recommendations, which have since been implemented.

Among the recommendations were:

- Prison staff to be made aware of the policies relating to observation cells and self-harm and suicide prevention;
- Prison staff, including night custody officers, to be told that the use of makeshift beds is strictly forbidden;
- Televisions to be removed from all secure pod areas where staff should be monitoring prisoners.

Like the Preston Prison IMB, the Maghaberry IMB also make no mention of Daniel Barclay's conviction or sentence in any of their Annual Reports for 2013-2014, or 2014-2015. Like the death of Christopher Oldham at Preston Prison the death of Colin Bell at Maghaberry and the conviction of a prison officer in relation to serious failings at the jail in regard to it, has again been airbrushed out of existence.^{15b}

I am not suggesting that these deaths could have been avoided by night-time IMB visits, I simply do not know. But I do know this: Parliament gave IMBs the power to visit their prisons "at any time" for a reason, and how would any IMB know of these serious failings in practice, unless they exercised the powers Parliament had given to them by visiting at night to check for themselves?

There may well be practical policy problems with visiting prisons at night, and 'Tiger Kidnapping' is certainly a concern, but the solution however is to either change the law that gives IMBs the powers of entry 'at any time' or develop simple systems to challenge and overcome the threat perceived to exist; whatever course is chosen, ignoring the law, and failing to exercise these powers, is not an option.

Prison officers clearly felt confident enough to sleep because they knew the IMB rarely if ever make night visits – and seemingly, despite the shocking death of Colin Bell they still do not do so either.

Indeed the IMB web site for prisons in Northern Ireland, even today, says this: *Members play a critical role in ensuring the welfare and well-being of prisoners. They have unrestricted access to their allocated prison at any time but most duties are undertaken between 08.00 and 17.00 Monday to Friday.*¹⁸

Incidentally, the bold emphasis is theirs, not mine.

Today the IMB is a body in crisis, and internal warring factions are ripping it apart from the inside. IMBs were subject to a significant review in 2001, known as the Lloyd Review.¹⁹ This resulted in their change of name (from Boards of Visitors), the creation of a National Council and the appointment of a National President. It also recommended strengthening the support to the IMBs, through investment in its Secretariat.

The creation of a National Council has created real confusion about who represents the interests of IMB Members. In 1974 a national association of members of what were then called Boards of Visitors was established (known as

'AmBOV') and with the change of name to IMBs in 2002 this then became AMIMB – Association of Members of Independent Monitoring Boards. The relationship between the National Council and AMIMB is one fraught with tension and although there are some things that unite them, like the need for a clear strategy, there are far more things that divide them – like who represents members interests.

At present there are two voices that speak for IMBs, and they're at each other's throats.

The IMB National Council in 2014 commissioned a review of IMBs by Karen Page Associates; its conclusions were stark and its key recommendation was that to improve the efficiency and effectiveness of governance arrangements there should be an 'urgent root and branch review and reform of sponsorship, governance and leadership.' AMIMB published key notes from the Page review in July 2015 in which it set out the conclusions that the outcome of the 'urgent root and branch' review of IMBs:^{19a}

.... should be a system that protects the independence of boards within unambiguous, transparent, effective governance and leadership arrangements, clear lines of responsibility and accountability and efficient, binding decision making processes.

IMBs should collaboratively ensure there are robust systems:

- that ensure the most competent people are selected, that optimum training and development (support, mentoring, appraisal) arrangements are in place, and that people unsuited to the role of IMB members are quickly identified
- to commission, publish and promote timely reports that persuasively set out IMBs' findings and recommendations, and that support timely, outcome-focused and collaborative attention by IMBs and government working together on key issues identified by IMBs
- that enhance support to boards... there should be a single source of information (eg on a website) for boards about internal policies, standards and processes.

Detailed comments included:

- widespread dissatisfaction with current arrangements beyond local level
- frustration about what were seen as dysfunctional systemic relationships between, variously, boards, chairs, President, National Council, Secretariat and AMIMB
- the IMB system was regarded by many as endemically flawed and a drag on IMBs being able to create and sustain the reputation and authority to effectively champion the proper treatment of prisoners and detainees
- internal systemic problems could become a substitute for focusing on the welfare of people in custody or detention
- waste of talent within the IMB system as committed and able members and Secretariat staff laboured to make awkward arrangements work
- the IMB system was struggling to be fit for purpose

and that this created significant obstacles for members, boards and Secretariat

- the Secretariat's culture as a government unit trained to apply rules unquestioningly versus IMBs' ethos as independent and challenging seemed to be factors in this, at times, unsatisfactory relationship.

In September 2015 AMIMB wrote an open letter to John Thornhill, the IMB National Council President, who is not incidentally a Member of any IMB, in which they voiced their frustrations at a lack of progress after the Page Review.^{19b}

The AMIMB executive committee respectfully request, on behalf of all IMB members, that the National Council publish to the membership its Development Plan and any other strategically-significant documents that you are working on that respond to the observations made in the Karen Page Associates review... without delay, in whatever form they currently take. The membership need to see these documents in draft in order to be able to comment upon them, and thereby 'own' them. ...AMIMB believes that IMBs are under serious threat, and is not impressed.

It feels that the National Council lacks both urgency and the readiness to make preparations of an appropriate kind. Something substantially more is needed than a development plan and a monitoring framework, neither of which is remotely strategic, but which would both find a niche as appendices to the implementation part of a strategy document. So we set out... a challenge to the NC to dig deep into its reserves and its vision for the organisation's future by writing a strategy.

Furthermore we urge the NC to do this fully collaboratively with the membership, something the council seems to find difficult to do.^{19b}

By November 2015 things between the two factions had not improved and the AMIMB executive committee consulted its membership on three important questions:

- Should AMIMB speak out publicly?;
- About which matters?;
- And subject to what process?

The overwhelming answer was that AMIMB should speak out, and join forces with other voices, on important matters. Respondents did not wish to limit the issues AMIMB might comment on, or where, but it was important, they felt, that any views expressed should be based on evidence. That is of course also the view of the executive committee.^{19c}

After the 2015 annual conference of the AMIMB the leader article in *The Monitor* (November 2015), their tri-annual publication, described how at the Conference there had been positive discussions on the subject of reform of IMBs governance advanced by the AMIMB Executive Committee that laid bare they wanted nothing to do with a National Council nor its President:

Members focused positively on putting flesh on the skeleton the executive committee presented. At its heart was a proposed new structure for IMBs nationally. Instead of the widely criticised current governance system, monitoring would be run

by a proper main board, of IMB members chosen for their capabilities and outsiders chosen for their expertise, with an external chair.

The board would relate directly to the MoJ, with statutory safeguards for its independence and right to speak out. It would be underpinned by a chief executive and staff capable of supporting the monitoring function as well as providing administration tailored to a volunteer organisation and its governance.

*So no National Council, no President and a professionalised Secretariat.*²⁰

The two sides seem as far apart as ever.

The AMIMB web site today records that in 2012, without reason or notice the National Council suddenly decided to 'suspend its current arrangements for liaising with AMIMB'^{20a} and now no longer speaks to them. The National Council claim that this isn't true, John Thornhill told me personally that he had attended meetings with AMIMB, but wherever the truth resides, and its impossible to get to the bottom of it, this unhealthy public, in-fighting ill-serves everyone.

If as AMIMB insist their members overwhelmingly wanted them to 'speak out' why I wondered do I never hear AMIMB or IMB Members speaking in the media, appearing on the radio or TV, perhaps when an inmate had died or serious concerns they raised were being ignored?

One IMB Member told me quite candidly that she "would not be on the Board very long if I did that, they don't like people who rock the boat."

When I asked who 'they' were, I was told "The Secretariat and National Council".²¹

The reality, nationally, is that IMB Members are often the first to trumpet their 'independence', yet they are also the last to truly put that independence into practice.

Every IMB is a separate legal entity, working within the IMB Framework Agreement with the MOJ, but it is responsible for its own actions, or inactions.

This is now 2016, every IMB should have its own web site, but not even the National Council has one of those. Boards should appoint a Press Officer, Members should be encouraged not condemned for speaking out publically, whether in praise or criticism; what on earth do IMB Members think 'independent' actually means?

And could speaking out make a difference, and do IMB Members even recognise abuse or danger when they see it?

In his excellent 2016 book "Competition for Prisons: Public or Private"²² the former Finance Director of HM Prison Service, Julian Le Vay, examines four prisons which got into very serious problems, two public and two private: Brixton, Wormwood Scrubs, Ashfield and Rye Hill.

HMP BRIXTON

At Brixton prison in 2000 the Chief Inspector made a

surprise inspection and found conditions so appalling that he immediately rang the Director General, Martin Narey, and asked him to come. The Chief Inspector (Sir David Ramsbotham) described the healthcare centre as 'without a doubt the worst patient accommodation we had ever seen anywhere', where 'filth and neglect appeared to have been tolerated by management for so long'. The kitchen was fit to be condemned (and seemingly had been). Staff had developed a practice of solitary confinement of prisoners thought to be badly behaved – without any legal authority. Records had been systematically doctored. Constructive activities for prisoners were almost non-existent.²³

WORMWOOD SCRUBS

At Wormwood Scrubs prison in March 1998 a firm of solicitors called Hickman and Rose, produced a dossier of allegations of gross and repeated brutality at the prison, sometimes amounting to torture, and with a racist element, going back many years, and centring on the segregation unit. This pattern of organised, extreme violence against prisoners over many years was, it would appear, extremely rare, if not unique, in modern Britain. Terrible violence had sometimes been done, as with the beating to death of Barry Prosser in the hospital of Birmingham Prison in 1980, but nothing this sustained, one might say institutionalised.

It was an appalling example of all possible dogs not barking in the night – area manager, Inspectorate, police. (It should be said that the Board of Visitors had expressed concern in its 1998 report, but no notice had been taken: such is often the case with these bodies, nowadays titled Independent Monitoring Boards).

A series of police investigations led to 27 officers being charged, prompting a mass 'sickie' in April 1998, as a way of getting round the legal ban on striking. Six officers were convicted (but three were acquitted on appeal). Several million was paid out in compensation to prisoners.²⁴

HMP RYE HILL

When Rye Hill was inspected for the first time in 2003, it was described as 'in many ways an example to most public sector prisons', with most prisoners out of their cells most of the day, and a respectful and positive atmosphere. But, the Chief Inspector went on, 'as we have reported in relation to other contracted sector prisons, this open and relaxed approach can carry risks'. There were too few officers; they were too inexperienced; they were failing to set appropriate boundaries when challenged by prisoners. Prisoners were frustrated because staff did not know enough to deal with their problems or answer their queries.

Further inspection in April 2005 was far more alarming.

The prison had deteriorated and was now 'an unsafe and unstable environment, both for staff and prisoners'. A third of staff had been there less than six months. They were not in control. Two inexperienced officers – or even just one – were faced with a wing of 70 prisoners unlocked most of the time. Staff were being bullied, threatened and intimidated, and reacted by withdrawing when challenged.

Managers were not visible and not supportive.

There had been a hostage incident immediately before inspection, concerted indiscipline and a rise in assaults and drug use – and a murder during inspection. In March 2005 a prisoner died in the segregation unit in circumstances that led to four officers being charged with manslaughter by gross negligence and conspiracy to pervert the course of justice (all were cleared, on the judge's direction).²⁵

ASHFIELD

Ashfield had a complicated contractual relationship with both HMPS, which held the 25 year PFI contract, and the YJB, which were 'commissioners' for the juvenile offenders there and who paid HMPS for the service. In 2001 it began at short notice to take sentenced young offenders, making the place significantly more difficult to run.

Intervention this time came from the Director General of HMPS, Martin Narey, who after an unannounced visit in May 2002 was "greatly concerned" about the environment and considered the place unsafe.

Wheatley, visiting a few months later, reports seeing staff trying to keep two warring groups of prisoners apart, being ignored and then just giving up. He found "staff were uncertain of who to unlock, for what and in what order". Sensing their lack of confidence, young prisoners were extremely challenging and "in your face" (Wheatley, private communication).

Inspecting in July the same year, the Chief Inspector, Anne Owers, came to the same conclusion: 'this report probably the most depressing I have issued in my time as chief inspector'. The report described 'an establishment that was failing, by some margin, to provide a safe and decent environment for children'.

The Chief Inspector again asked how it was possible for a prison to get into such a state, despite all the monitoring that went on.²⁶

How indeed?

Each of these prisons had an IMB and all of them (including Wormwood Scrubs who 'expressed concern' and then did nothing when it was ignored) failed to speak out.

IMBs in these prisons either did not recognise the abuses or dangers when they saw them, or they were complicit in them – there is no other possible alternative and, complicit or incompetent, in either case they are unfit for purpose.

The Board or Secretariat may not like a Member who 'rocks the boat' but the fact is that a tame Monitor is actually a very real danger to the prison and the public – who needs a watchdog that never barks, much less one that conceals critical criminal events that cost lives?

Julian Le Vay says: "Independent Monitoring Boards (IMBs), statutory bodies staffed by volunteers charged with monitoring the welfare of prisoners, have never seemed very credible as a safeguard against abuse. Neither local nor national management tend to pay them much attention (Justice Committee, 2015); and they played little part in relation to the 'Four prisons in trouble'."²⁷

One judge famously referred to IMBs

as “watchdogs of the public interest”²⁸ but closed, secretive, unnamed and unreformed, and concealing critical criminal conduct involving inmate deaths, they are pointless; and at two million pounds a year, a luxury we need not afford. Viewed, as they are from many quarters, with derision and distrust, it is a body unfit for purpose and made unnecessary by other more transparent and respected bodies.

There is however still a point to them, just. But for how long?

IMBs must now as an organisation reform themselves. They should start by making each Board publish the names of its Members, by creating a Press Officer who speaks up and out in the name of independence, by creating a rota of frequent unannounced night visits, and in my view having a membership vote on whether to abolish what appears to be a discredited National Council; an organisation as important as IMBs cannot be represented by two warring factions and its needs to speak with one voice.

They must be opened up to scrutiny themselves, so that the shocking concealment from the Secretary of State and the public in their annual reports of criminal conduct by staff relating to losses of life can never happen again.

The IMBs at Preston and Maghaberry should be immediately and completely replaced from top to bottom.

If they fail to reform themselves then it is perfectly legitimate to ask whether their failure to reform should result in their complete abolition, as I believe firmly that it should in that event – but also desperately hope that it won’t.

One former very senior member of the National Offender Management Service told me in a private communication that IMBs were “...mainly, of course, supine. One reason for that is that they’re not paid and one option would be to retain the concept of local community inspection (which I quite like), have fewer such individuals, encourage ex-offenders to apply but pay them a bit for their time.”²⁹

The lack of IMB remuneration needs to be addressed, they deserve to be paid for the important role they do, but equally in the current economic climate I am realistic enough to accept that this is unlikely.

Successful ex-offenders, a decade after their release, and former members of prison staff should also be recruited to IMBs, their knowledge and experience would play a vital part in improving effectiveness.

There are two elephants in the IMB room; the Prisons Inspectorate and Prisons and Probation Ombudsman. Both were created long after IMBs came into existence, largely as a result of IMB failures to speak up and out, and assert its independence. These bodies now primarily discharge functions that to a large extent make the IMB role superfluous. We have seen a fundamental IMB change in Scotland, we have to face facts and ask whether that is appropriate in

England and Wales too.

Following the Kate Page Review into the Governance of IMBs the Ministry of Justice is currently undertaking an IMB Governance Review, with various models being advanced and into which I am delighted to have been invited to play a part. The future may not therefore be as bleak as the past; I hope so for everyone’s sake.

Is the public getting value for its two million pounds a year from this currently closed, secretive, ineffective watchdog?

Not from where I am standing.

Will they reform?

Time will tell – talking of which as I write this, on 27th March 2016, the clocks have just gone forward an hour. In my view the IMB need to move their clocks forward fifty years, if they are to survive for very much longer.

Mark Leech FRSA,

Editor: *The Prisons Handbook*

27th March 2016, Chiang Mai, Thailand

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WHISTLE-BLOWER WITHOUT A WHISTLE

*Daisy Mallet,
IMB Chair*

I have been a member of the Independent Monitoring Board (IMB) for over three years. I'm not a 'typical' member in the sense that I'm nowhere near retirement age. I became a mature student and graduated four years ago with BSc (Hons) in Criminology. My first contact with offenders, ex or otherwise, was back in the 1980's whilst working in admin for NACRO. I met some real characters, but was concerned that the work programmes we delivered didn't offer real jobs for any of them. That made a lasting impression on me.

Today, now many years later, the problem of work for them after custody I find is still huge issue.

Whilst being a member of the IMB I have written over 40 weekly reports to the Governor, two Annual Reports, endless minutes of meetings, attended conferences, area meetings, visited many other prisons (of every security category) and spoken at various meetings and events about my work. I have completed goodness knows how many hours of training, both in-house and off site.

All this as an unpaid volunteer.

I have no problem being a volunteer, I enjoy my work, but we have to be realistic too. The role of what 50 years ago was then called the 'Board of Visitors' is not what it is today. I discharge a professional role in a professional way, I am assessed as an individual in triennial reviews and my Board is subject to Annual Team Performance Reviews.

The world of prisons today is very different to what it was half a century ago. The Prison Rules have changed, prisons have changed, and the demographic of prisoners has changed massively too. With self-harming, mental health issues, suicides, New Psychoactive Substances, extremism, radicalisation, security issues, my monitoring functions have increased, I am increasingly assessed on my abilities, and each year more and more is expected of me and my Board as a whole.

My role on the IMB is a valuable one, with clear legal powers to monitor what happens to people in prison, it is a responsible role so why, I increasingly ask myself, should I not be paid for what I do?

Others I believe would want to be, and quite rightly too.

It is not about being greedy, it is about recognising the role has changed and adapting the system to fit the functions that today I am expected to discharge.

I have been told that I am keen,

professional, team minded, results focused and enthusiastic...

But I'm also completely frustrated.

I see so much going on around the prison estate, and not just where I work, that doesn't add up. At times it's like having your hands tied behind your back because there is little that you can do about it. To be able to work effectively I have to make sure that the relationships with governors and IMB members remain positive and that we continue to have open dialogue. I am not there to manage the staff - but neither should they manage my Board or me.

But that is what it feels like.

I am there to monitor, not manage, but in real life it is easier said than done.

At times I want to ask staff what the hell they are doing or not doing, I want to be a voice, I want to question, that is the purpose of my existence, but there are too many restrictions in day-to-day practice that do not exist in legal theory.

It's like walking a tightrope, trying to keep the right balance between maintaining a positive working a relationship with the Governor, and keeping the credibility of the prisoners and the public.

When I make the prison aware of issues with prisoners I am made to feel like I'm an irritation to them, but I am not here to irritate the prison process, I exist to monitor outcomes and it is my job to make the prison aware of issues.

Prisons today are starved of resources. The Offender Management Unit (OMU), is an essential department within a Category D 'open' prison, but often there are staff off sick, on holiday, no one covering, or they are new to the job and prisoners are continually frustrated by their lack of communication with them. We then get the brunt end of their dissatisfaction.

I want to speak out, I am here as the public's eyes and ears, that is my role, but my voice is silenced, I am gagged by grooming. Over the last half a century IMBs have been subtly conditioned to behave, the threat of removal is ever-present, and although Parliament has given me quite extensive powers I feel impotent to exercise them.

I write this having read the on line version of the Editorial to this edition of The Prisons Handbook. Having read it I wrote to the Editor that "I feel more inclined to resign as Chair of HMP XYZ after reading your editorial, I work very hard at my role and you have destroyed it in one swoop."

But actually he was right in everything that he said.

He asks why we never do night visits, even though we have the legal powers to do so. I believe that like many Boards we never do unannounced visits at night because we use the excuse that there is only a skeleton staff on duty and if anything happened, if an incident occurred I would be concerned that I would be

held responsible for the disturbance.

In truth however we do not do them because we know it would be frowned upon.

In any case, if something did happen who would help me? I am able to draw keys to the prison but like all IMB Members I have neither a phone, a radio nor a whistle.

I won't compromise my own security, I'm only a volunteer.

Why we never have a radio I cannot understand; how am I supposed to call for help, or be alerted to live incidents in the prison I am legally expected to monitor, if I cannot be contacted?

If I was paid and had support then I would calculate the risk, but I'm not.

The only way to be in the prison during the night would be to accompany the Governor, but how independent would that be?

The Prison Service employs Night Patrol Officers, who as their title implies only work at night. By not doing night visits, as I have the legal power to do but have been gently coerced into avoiding, the result is that there are staff in my prison who I have never as a result met. IMBs should be visible and available to everyone – how can I monitor the prison properly if I am never there for 50% of the time?

We are independent yet the Secretariat is based at the Ministry of Justice in London. The 2016 IMB conference was held there and many of the area meetings I attend are also there. It doesn't feel like we are independent. These events should be held on neutral ground, at a location determined by us, not them.

I have had a really difficult issue to deal with recently but found myself very much isolated without support from the Secretariat, an apology later was not enough. I was so close to resigning.

Last year I decided to join the Association of Members of Independent Monitoring Boards (AMIMB), I had to do this secretly as membership isn't encouraged, it is not openly said, it is another aspect of grooming, of being managed. I was intrigued as to what the fuss was all about. I have since found other members on my Board who are AMIMB members – who also kept it secret.

We have a National IMB Council that openly and officially refuses to enter into discussions with AMIMB. I want to know why, but no-one seems to be able to tell me.

I still don't understand the history of why these two organisations, AMIMB and the National Council, don't work together. AMIMB offer practical workshops that I have found to be valuable, but the costs have to be met by me, there are no expenses for these despite their value.

This then limits who can attend especially if they are held in London.

All prisons have a representative on the National Council. Our previous National Council rep was not keen on an IMB member supporting AMIMB – why I do not know, all I

can say is that in my experience they are a professional organisation, who are focused on independence and monitoring as it should be done. I wonder if the National Council isn't just another level of 'management' or 'middle man' that is unnecessary?

Why can we not go directly to the Ministry of Justice as our legal powers assert we should do?

Each year my Board has to write an Annual Report in which we submit questions to the Secretary of State. The reality of the situation, however, is that our questions are then passed back to the Governor, who answers them, and reports back to the Secretary of State. So the culmination of our work seems to be for the Governor, not the Government.

In 2014 I met Angela Levin, the former IMB Chairman of Wormwood Scrubs, when she gave evidence at the Justice Select Committee and I have read her book. Her account of what was happening within that prison seemed to fall on deaf ears; she could only say what she wanted to say after she had left the IMB.

That's not what should be happening.

Surely if we as IMB members are appointed by the Secretary of State then we should be able to raise alarms when things happen and not wait until the Annual Report is due.

Why on earth can we not speak to the press or local media?

That is what 'independent' in 'Independent Monitoring Boards' means doesn't it?

Oh in theory of course we can, the Secretariat will say that, and they're right too. But in practice we can't, it is another of those things that are 'frowned upon', another example of how we are subtly groomed to behave ourselves.

If we have a suicide in my prison I want to be able to speak about it, express our condolences to the family, explain that an investigation by the Prisons and Probation Ombudsman will be conducted, in addition to an inquest. I want to be the voice of independence, express that we will learn lessons of why someone decided to take their own life rather than face the anguish of one more day – but I can't do any of that.

Nationally over 250 people died in our prisons last year, almost a hundred of whom took their own lives, and not a single word was said about any of those deaths publicly by any IMB. I am sorry but that has to change – there is nothing more serious in a prison than the loss of life, we must be able to speak out independently about it. Likewise, if we see good practice then it should be shared, but it isn't.

I do my unpaid job professionally. Over the last two weeks I have spent many days in my prison, either attending meetings or doing my rounds as an IMB member. An outsider looking at this prison would be charmed by its rural setting, herbaceous borders and woodland.

Yes it seems an ideal place to spend the last months or years of your sentence. It has an excellent record, rated highly by the Inspectorate for Prisons and Ofsted. I personally check through all the complaints within the prison both internal and external to see if there are any patterns or themes emerging showing potential problems within the system.

I have found none.

On a monthly basis I plough through all the files concerning those prisoners who have for one reason or another been returned to closed conditions. I need to make sure there are legitimate reasons why a prisoner is sent back to a closed prison. All seems above board, I rarely have any issues to bring up about this. The prison ticks all the right boxes.

Yet, what concerns me most is the utter boredom of so many of the prisoners it's debilitating.

The media portrays prisoners as having a low IQ, high percentage with a reading age of an 11 year old; many have been in care and come from seriously complex situations. What they don't report on, and which we given the nod to say so to the media would correct, are that prisoners are also intelligent, have skills that could benefit other prisoners and need something worthwhile or in other words purposeful activity to do whilst in prison.

For many it takes time and effort to achieve Cat D 'open prison' status, it is as though it is sold to them as 'The Promised Land'. Alas, when they arrive it is a different matter. In an open prison they can go to Education classes for functional skills, complete courses in manual work such as plastering and work either inside or outside the prison. They cannot go above level two due to funding and the work often means working in a charity shop in the next town or if they are very lucky taking dogs for walks around set routes.

On one occasion I spent time talking to two prisoners, both were sentenced for fraud and both were so bored. They didn't want to retrain in bricklaying or painting and decorating or learn how to clean different types of flooring.

They wanted to use their brains, but prison and especially resettlement prisons do not cater for that. Lives are wasted here; I see it all the time. No wonder 'legal highs' are so rife within prisons, it is the only way they get some sort of stimulus.

There are not enough links with the outside community, with colleges and University both of which are local. Too few businesses are willing to give prisoners another chance, but without a fresh start it is impossible for them to be reintegrated back into society.

So many organisations are involved in the 'prison industrial complex' big money is made out of those who find themselves on the wrong side of the law. Everyone wants a slice of the action, the profits, but too little is ploughed back into the prison to be concentrated on the

prisoners and reducing reoffending. Prisoners are people, not some strange aliens from another planet.

I'm not naive; there are many hardened prisoners and career criminals that I have talked with.

All this and more I want to say, but I cannot do so. I have written this anonymously, not because I do not want to put my name to it but because I can't. I know that while others will benefit from this openness, for me it would likely be the end of the IMB road.

I'm a whistle-blower who doesn't have a whistle.

I now hold the position of Chairman of the board and I don't take it lightly.

I manage a board of 10 members, all white, middle class, and not a true representation of either the locality or the prison population. I'm sure part of the problem lies in the fact that we are not paid, I'm sorry but it is a sore point for me and, I suspect, also for the vast majority of IMB members up and down the country if they like me were able to speak out about it.

The recruitment process for adding members to my Board has been somewhat a joke.

I have twice taken part in this process, the first time by escorting potential members around the prison. This I found to be advantageous as I was able to see how they responded to prisoners, staff and Governors and it gave me an indication if they really had the skills that we needed.

However, I was not encouraged to then report back to the Secretariat, so they were recruited to my Board on the strength of the interview without the benefit of any feedback from me, the Chair of the Board they were to be appointed to; in short it was a 'tick box' exercise.

The second time I was actually on the interview panel and, somewhat amazingly, I was told beforehand that whatever their score their names would be put forward for appointment to my Board.

What a ridiculous way to add members.

The consequence of this somewhat pathetic process is that I now have to steer certain members into their role when they are really hard work, and simply just not suitable. On paper my Board is short of members, but in reality I just cannot face another recruitment campaign, so I try and build the team as best as I can.

Unfortunately the majority of IMB members are so far removed from the previous lives of prisoners that I wonder how they can actually relate to them. Having successful ex-offenders, say ten years after release, on an IMB would be beneficial to all.

Why isn't that encouraged or supported?

As the editorial to this edition of The Prisons Handbook makes clear, there has been concerns that IMB members names are kept secret; a request for disclosure has been refused.

I am quite open about the fact that I am

the Chairman of a Board, why hide it?

Yes there will be those that are concerned about security but like others I wear a name badge with my full name on it and it's obvious I live in the locality.

There are greater issues in our prison system to be concerned about surely?

I try to instil our independence and the importance of our role. Taking on this role, writing this article, was not an attempt to raise my own profile; instead it was primarily to raise the profile of the IMB.

I want the IMB to be seen and heard.

I have many questions:

Why can't the IMB work more closely with the Inspectorate of Prisons?

Why are we volunteers?

Why are prisoners often sceptical of our ability to look into issues on their behalf?

Where is our voice?

Daisy Mallet (pseudonym)

IMB Chair. HMP Frustrated

PRISON REFORM: PRIME MINISTER'S SPEECH

Prime Minister's speech on Prison Reform, delivered at the Policy Exchange London on 8th February 2016.

Let me begin with a pretty extraordinary fact: it's well over 20 years since a Prime Minister made a speech solely about prisons.

To be frank, it can sometimes be easy for politicians to worry so much that their words will be caricatured, that they might just as well avoid this whole area.

And it can be easy for us all – when these buildings are closed off by high walls and barbed wire – to adopt an “out of sight, out of mind” attitude. I want this government to be different.

When I say we will tackle our deepest social problems and extend life chances, I want there to be no no-go areas.

And that must include the 121 prisons in our country, where our social problems are most acute and people's life chances are most absent.

So today, I want to explain why I believe prison reform should be a great progressive cause in British politics, and to set out my vision for a modern, more effective, truly twenty-first century prison system.

My starting point is this: we need prisons.

Some people – including, of course, rapists, murderers, child abusers, gang leaders – belong in prisons. For me, punishment – that deprivation of liberty – is not a dirty word.

I never want us to forget that it is the victims of crime who should always be our principal priority.

And I am not unrealistic or starry-eyed about what prisons can achieve. Not everyone

shows remorse, and not everyone seeks redemption.

But I also strongly believe that we must offer chances to change, that for those trying hard to turn themselves around, we should offer hope, that in a compassionate country, we should help those who've made mistakes to find their way back onto the right path.

In short: we need a prison system that doesn't see prisoners as simply liabilities to be managed, but instead as potential assets to be harnessed.

But the failure of our system today is scandalous. 46% of all prisoners will re-offend within a year of release. 60% of short-sentenced prisoners will reoffend within the same period.

And current levels of prison violence, drug-taking and self-harm should shame us all. In a typical week, there will be almost 600 incidents of self-harm; at least one suicide; and 350 assaults, including 90 on staff.

This failure really matters.

It matters to the public purse: this cycle of reoffending costs up to £13 billion a year.

It matters to you: because in the end, who are the victims of this re-offending? It's the mother who gets burgled or the young boy who gets mugged.

It matters to the prison staff – some of the most deeply committed public servants in our country – who have to work in dangerous and often intimidating conditions.

And yes, it matters to the prisoners themselves, who mustn't feel that society has totally given up on them.

I'm clear: we need wholesale reform.

And I am convinced that with the right agenda, we can be world leaders in change just like we have been in welfare, just like in education – we can demonstrate that with the right reforms, we can make a lasting difference to people in our society.

Resetting the debate

Now that begins with resetting the terms of the debate, especially when there are unhelpful, but well-worn mantras that I think hold progress back.

For years, education was set back by the soft bigotry of low expectations – the idea that the most disadvantaged children shouldn't be expected to achieve the best results.

Likewise, police reform was partly set back by the false notion that the number of officers you had mattered, more than how smartly they were actually deployed.

And welfare reform was set back by the lazy idea that fairness could be judged by the size of a cheque, rather than the chances you offered.

One by one, in this government we've taken those arguments on – and we created the platform for reform.

Today, we need to do the same with prisons.

I think there are 3 views that have held back our progress.