

ARTICLE - PHIL WHEATLEY



**The Prisons Crisis:
How did we get here –
and what should we
do about it?**

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Historical Context

A crisis in prisons is nothing new.

The potential for disaster has been an underlying theme throughout the whole of my Prison Service career; as the prison population bumped up against the absolute maximum capacity of the Prison system, and I can call to mind at least four major crises over the last 60 years.

In the 1960's sophisticated offenders, serving longer sentences, began to escape with increased frequency – 'Great Train Robbers' Charles Wilson from HMP Birmingham in 1964, his co-defendant Ronnie Biggs from HMP Wandsworth in 1965 and the Russian spy, George Blake, from HMP Wormwood Scrubs a year later. These escapes were rightly a public scandal. Lord Mountbatten inquired into the escapes and in 1966 he produced sensible proposals for improvement, which required substantial investment in improved security.

In the 1970's the impact of increased militancy by the Prison Officers Association (POA) was making prisons nearly ungovernable. The Labour Government commissioned an Inquiry led by Mr. Justice May. The Report he produced in 1979 was not particularly helpful but, in 1987, the Fresh Start scheme made changes to the terms and conditions of Prison Officers that set a good basic wage for the first time.

At a stroke this 'Fresh Start' removed the demand for overtime as a motivator for industrial action and enabled industrial relations to become less adversarial.

In 1990 a wave of riots started in Strangeways prison, Manchester, and swept across many other prisons, resulting in huge damage both to the fabric of the estate and to confidence in the penal system. Lord Justice Woolf led the seminal Inquiry that followed these events. His well-crafted recommendations dealing with the corrosive effects of overcrowding provided a blueprint for improvements to conditions for prisoners and for greater procedural justice.

In 1994 and 1995 a series of escapes from High Security Prisons prompted another two external Inquiries. Sir John Woodcock, a retired Chief Inspector of Constabulary, led the

first in 1994, and General Sir John Learmont, also retired, led the second in 1995. They both produced a series of recommendations, including new investment, which were accepted and as a consequence there were no High Security escapes for the next twenty years.

A feature common to all these crises was the failure by politicians to invest sufficient resources in the system, before risks that were very obvious escalated to the point where disaster was unavoidable.

Both the major political parties acknowledged this publicly until the Whitemoor and Parkhurst escapes took place in the 1990's, at which point the Labour Party tried to hold the Tory Home Secretary Michael Howard accountable for the failures. The bi-partisan approach to prison problems had survived from the end of the war until Tony Blair became the Labour Party's shadow Home Secretary.

The Political Background

When the Coalition Government took power in May 2010 it inherited a Prison Service that was performing better than it had ever done.

Escapes and suicide rates were at an all time low, prison riots were rare and assaults on both staff and prisoners were running at a low level, and one that had been broadly stable for years.

The official statistics showed that since 2000, prisons had improved their performance on reducing reoffending by over 10% (Adult reoffending statistics 2009 table 3 page 20). Prisons were however overcrowded and the population was in excess of 85,000. Budget cuts were already being implemented; a programme of 'market testing' public sector prisons (selected poor performing public sector prisons were required to bid against the private sector in a competition with the cheapest compliant bidder winning the contract.) was underway at Birmingham and Wellingborough, and a similar competitive process was used to select the operator of the new prison, Oakwood.

Ken Clarke as the new Secretary of State for Justice was committed to the Austerity programme and accepted a reduction of about 25% in the Ministry of Justice (MOJ) budget, to be achieved over the five year term of the Government. He proposed making cuts in the prison budget by a combination of closing some prisons, reducing the prison population, and using competitive tendering to gradually market test all prisons - with the public sector bidding against private sector providers. He sought to treat prisoners decently and had no truck with the tabloid agenda of toughening conditions in prison.

David Cameron, as Prime Minister, however refused to support a policy of reducing the prison population; he sacked Ken Clarke and replaced him with Chris Grayling. Grayling set out to reduce spending on prisons while, at the same time, allowing the total prison population to drift upwards. Grayling also pursued



centralised policies to toughen up the approach to privileges and rewards for prisoners, making changes that one can only assume were intended to be tabloid-friendly.

At this time the only way of making the required expenditure cuts, now that reducing the prison population was off the political agenda, was by reducing both the numbers of prison staff, at all levels - and also their cost.

The POA did not, as might have been expected, oppose this; lured by a promise that market-testing prisons would be abandoned and that generous early retirement terms would be offered to existing staff.

Further savings were to be made through a national programme to outsource prison maintenance and facility management.

Having abandoned the market-testing of prisons Chris Grayling managed the political flack from Tory party free-marketeters by initiating a complex outsourcing of Probation. Opposition from the more liberal side of the Coalition was defused by promising a 'rehabilitation revolution', which was in essence based on the competition for Probation work and the introduction of compulsory supervision for short-term prisoners.

To ensure prisons could live within the planned budget, the reduction in numbers of front line staff and managers was accompanied by a reduction in pay for new recruits. The total package had to be implemented immediately, at speed and without any pilot.

The same was true of the complex outsourcing of prison maintenance and the restructuring and competition of Probation, both of which had to be in place before the planned election in 2015.

All of this vital work was handed over to small team, with limited availability of specialist procurement staff. This lack of resources was a direct result of the Government's decision to reduce the MOJ's Headquarter costs. The required speed of delivery meant there was no opportunity to pilot proposed solutions, a very high-risk strategy given what was at stake.

As the performance of prisons began to deteriorate Chris Grayling managed the potential political damage by a combination of public relations intended to reassure, and denying requests from the media for access to prisons. He was largely successful in doing this, not least because the worst effects of the rapid reduction in resourcing were mitigated for longer than seemed reasonably possible, due to the work undertaken by experienced and skilled senior managers in the Prison Service.

By the 2015 General Election Grayling had delivered on his political agenda but left a legacy of operational problems that the incoming Lord Chancellor would inherit.

Michael Gove replaced Chris Grayling after the 2015 election. He started by being up

front about the operational problems prisons were facing, but his proposed solution of giving individual governors almost complete autonomy was, quite frankly, whacky.

Gove seemed content to completely ignore the political problems, that would inevitably be created by inconsistent treatment of prisoners being held in different prisons. He also paid no attention to the substantial additional costs of abandoning the efficiencies of central purchasing and the shared admin services, which were by now built into the Central IT systems.

Having set the hare of autonomy for Governors running Gove did absolutely nothing to tackle the pressing problems he had acknowledged, and promptly burnt up politically after the EU referendum.

Liz Truss replaced Gove. She also recognised the operational problems and helpfully won an additional £100 million from the Treasury for more Prison Officers. Much less helpful, however, was her decision to remove operational policy for prisons from those running them; shifting responsibility for this work to a Senior Civil Servant in the MOJ and thus recreating the position prior to 1990.

This arrangement of divorcing responsibility for policy from operations had done nothing to prevent problems in the 1980's, including a major wave of prison riots, or to reduce the high level of escapes. It produced policy instructions that were often ignored by Prison Governors because they were impractical - a situation that was laden with risks, and totally unsatisfactory.

David Liddington replaced Liz Truss after the unexpected election in 2017. In Liddington's brief time in post he sensibly avoided new initiatives and therefore did no further harm. He left unexpectedly after Damian Green resigned. David Gauke, the current Secretary of State for Justice appointed in January 2018, is too new to have had much impact to date. He and his Prison Minister Rory Stewart however appear intent on blaming the crisis they have inherited on New Psychoactive Substances (NPS) - rather than budget cuts, poor political decisions and frequent changes of political direction.

If NPS were the real cause of the crisis then the Scottish Prison Service, who have also experienced a rise in the availability of these drugs, would have seen the same deterioration in prison safety - but they have not. Rather they have safely managed the risks that NPS undoubtedly create because they have higher staffing levels than English and Welsh prisons and a higher proportion of experienced staff.

The Evidence

That English and Welsh prisons are in crisis is undeniable. The highly reliable national statistics on staffing (HMPPS Workforce Statistics Bulletin) and safety in prisons (Safety in Custody Statistics



England and Wales) released quarterly, provide solid evidence of the scale of the problems that have been unleashed as a result of the sequence of events and actions I have outlined above.

These regular statistical releases show that, in round terms, the incidence of assaults between prisoners has doubled since 2010 - while violence to staff has tripled. Because staff numbers have also reduced over the same period, the risk of becoming victim of an assault for a member of staff has nearly quadrupled over the same period.

It is not only the risk of being assaulted which has increased at an unprecedented rate, it is also the risk of self-harm and suicide. Suicide peaked at 122 deaths in 2016, mercifully reducing to 70 in 2017, but self-harm incidents continue to increase with over 11,904 incidents recorded in the latest quarterly data. This is up 10% on the previous quarter, about double the rate in 2010 and an all time high.

For at least the first two years of the Coalition Government the good performance they had inherited was maintained. The increases from the low baseline of assaults, self-harm and suicide the Government inherited in 2010, did not begin in earnest until 2013. This needs to be considered alongside the staffing data, because there are clear links between the two; as staff numbers and experience declined, so the incidence of violence, self-harm and suicide started to rise.

The number of Prison Officers at the start of the Coalition Government was 19,908. This number remained steady for two years then fell slowly at first to 18,679 in March 2012 and 17,764 in March 2013 before falling sharply to 14,904 by March 2014.

Staff numbers plateaued at around 15,000 until 2017, when the Government began to recruit an additional 2,500 Prison Officers. By December 2017 numbers had reached 16,592.

Though the staffing data is not available on private sector prisons the Government has implemented the same cost cutting agenda, letting only very cheap contracts based on similar staffing levels to the leanest staffed public sector prisons. HMP's Oakwood, Birmingham, Northumberland and Doncaster have all been contracted since 2010 on this lean and cheap basis.

The Government has also sought to reduce the cost of existing contracts and negotiated reductions with some of the private sector providers that they knew could only be achieved by employing less staff.

It is not only the reduction in the numbers of Prison Officers that is important though.

Just as relevant are the loss of experienced Prison Officers (currently 33.8% have less than three years experience, more than double the level in 2010), the rise in the percentage of staff leaving (now 9.7%, about

three times the 2010 rate) and the regional differences in recruitment and rates of retention.

The last data published on the extent of local shortfalls in staffing was in December 2016. This records a shortfall of 983 (5.3%) Officers against the staffing levels that had been set as necessary to provide sufficient staff to deliver safe decent and secure prisons. The shortfall was not evenly spread; nearly a quarter of prisons experienced more than a 10% shortfall but 15% had no shortfall. The recruitment and retention problems are almost certainly linked to changes to pay and conditions for newly recruited Officers as starting pay was reduced and the incremental scales shortened with a much lower maximum pay level.

It is plain to see that the increase in violence and self-harm almost perfectly matches the decrease in Prison Officers.

That there is a causative link between staff reductions and a frightening increase in violence is lent weight by the fact that neither the Scottish Prison Service nor the Northern Irish Service, where staffing ratios of Officers to prisoners remain much more generous, have experienced the same rise in violence and self harm.

This statistical background helps to explain the factors behind the decline in performance on safety and decency described in countless Prison Inspection Reports. Annual Reports by the last three Chief Inspectors of Prison provide further evidence.

Dame Anne Owers final Annual Report published in 2010 recorded her concern that the improvement in prison performance that she had been able to report on had come to an end as the impact of budget reductions began to reduce many elements of prison regimes.

Nick Hardwick relinquished his role as Chief Inspector after five years. His final Annual Report published in 2016 made clear how concerned he was at the failure to run safe and decent prisons. Peter Clarke the current Chief Inspector also made clear in his last Annual Report that the continued decline in safety and decency has not yet been arrested.

If this is still not sufficient to convince the doubters the roll call of riots in prisons since 2013 adds further evidence, Bedford, the Mount, Lewes, and Birmingham have all experienced major incidents compared to only two (Lincoln and Ashwell) in the previous ten years.

What has gone wrong?

It is important to recognise that not all prisons are in crisis.

The two types of prisons that were always better funded, Women's Prisons and Dispersal Prisons, have experienced some reductions in budget but are still comparatively well funded and operating reasonably well.

Open prisons, which have never had to cope with the most difficult prisoners, did comparatively well out of the benchmarking



process and are therefore not in crisis.

For those prisons where Governors pushed back hard against the initial benchmarking proposals and won concessions they are by and large still safe, secure and decent too, providing they are not in areas where recruitment and retention of staff is especially difficult.

Specialist prisons with mainly compliant populations, for example older prisoners or sex offenders, are also coping reasonably well.

The most serious problems are concentrated in Local Prisons serving the courts, and category C and B "training" prisons with a standard population. Difficulties are greatest where a high proportion of experienced staff took early retirement or have since opted to leave, and also in areas where the local labour market is buoyant, making it difficult to both to recruit and retain new staff because of the availability of other safer job opportunities, with better hours, for the same or greater pay.

Local Prisons are especially vulnerable because they have to carry out lots of processes which when benchmarked each came out with a slightly reduced staffing that, cumulatively, resulted in a big overall reduction in staffing levels. Staff relationships with prisoners are at their most tenuous in Local Prisons because of the high turnover, making it extremely difficult for them to leverage good relationships as an alternative to the demonstrable power of having a lot of staff.

Local prisons have also suffered from a higher number of difficult prisoners being transferred back to them from training prisons as they in turn have become less ordered.

In addition to all of this nearly every prison has been made more difficult to control due to a combination of Chris Grayling's restrictions to prisoners privileges, the reduction of regimes everywhere to the basic benchmark level (prior to benchmarking nearly every prison had some areas of exceptional provision), and the arrival of new forms of drugs that are difficult to detect.

These problems of control are exacerbated by the failure of the centralised maintenance/ facilities contracts to provide clean well-equipped facilities, in a good state of repair, and is a problem at its most acute in the many Victorian era Local Prisons; problems that have been further compounded by changes to the prison population.

The population is now serving longer sentences (including many IPP prisoners unable to reduce their risk enough to secure release) and with a higher proportion of recalls than at anytime in the past. It has remained at a high level of over 85,000 for most of the last eight years driven not by rising crime or more offenders brought to justice, but simply by a relentless rise in sentence length, fuelled by politically endorsed demands for tougher sentencing.

Prison Managers at all levels have been reluctant to tell Ministers firmly that population levels were greater than could be managed safely with the available resources and staffing levels.

It should not surprise any reasonably informed person that managing this perfect storm of pressures with substantially less staff, many of them lacking experience and the skill required to defuse difficult situations, has proved impossible in the worst effected prisons.

The risk of a riot rises when the prison loses staff and cannot replace them quickly. The new benchmark staffing levels provide just enough staff to maintain safety, security and decency and have little contingency built in.

As managers try to keep the essential basics of the regime running, they have to borrow staff from important tasks such as security, offender management and sentence planning etc. The areas from which staff are redeployed cannot then work effectively, and prisoners become angry because this impacts on them. Key elements of the regime like access to association and telephones often have to be cancelled at short notice causing resentment. Providing staff for discretionary duties such as non-urgent hospital appointments can prove impossible creating further grievances.

This cross-deployment of staff is a constant requirement to keep the essentials running, but it means that prisoners experience little staff continuity, so requests may not be followed through and staff discretion proves unpredictable. All of this adds to the build up of frustration and tension for prisoners and also for staff.

Any event can quickly escalate, but this is made more likely because there are often too few staff on shift to quickly close down anything more than a very small incident. Once staff are aware of the lack of support available, and the degree of chaos the prison is in, they begin to lose their confidence.

This is important because the only way a large number of prisoners can be controlled by a small number of staff, is if the latter have confidence that they will be obeyed. If this confidence is lost it can take a very long time to rebuild it. Staff who do not have sufficient confidence in the power of their authority will back away from confrontation, under-enforce the rules and seek accommodations with the more powerful prisoners.

Once this process starts the most dominant prisoners fill the power vacuum left by the staff retreat. This path leads to anarchy where neither staff nor ordinary decent prisoners are safe.

How the damage can be repaired?

Essential elements must include:

- Revisiting the benchmark levels of all prisons to adjust upwards those that, with the benefit of hindsight, were set too tight. This has to allow prisons a more realistic level of



contingency based on recent sick levels, maternity/paternity leave, hospital escort levels and current training requirements. They also need to carry a buffer of spare staff to compensate for the fact that recruitment and training takes at least six months.

- Terms and conditions for prison staff need to be made more attractive in hard to recruit areas and to encourage staff retention.
- Steps to improve staff retention must include ensuring that initial selection pays more attention to capacity for resilience under pressure.
- Getting staffing right is essential but managers also need more support. Leading recovery of a prison is a bigger management task than running one in steady state; enhanced levels of management time, capacity and support must be made available to those prisons in greatest difficulty.
- Policy development has to be integrated with operational management, not divorced from it as at present. Support services like finance; HR and procurement must be focused on operations. The current lean standardised approach is not fit for purpose and is undermining operations. For example the shared services that have been contracted out to the private sector have been allowed to become more efficient by passing back admin work to hard-pressed prison managers. This is both illogical and unacceptable and steps should be taken to reverse it. The same applies to maintenance costs, which have been reduced so far that Governors have to spend hours of their precious management time trying to get contractors to deliver a half-decent service.

Above all the senior management of the service, who have loyally done their duty trying to accommodate the frequent changes introduced by a fluctuating cast of 'here today, gone tomorrow' politicians, should be allowed to get on with managing prisons sensibly - rather than having to spend fruitless hours handling the changing whims of their Ministers.

Ministers need to recognise that running prisons is a difficult task, one that fundamentally requires experienced and skilled managers and staff. Minister must learn to resist

the temptation to think that (with the benefit of only a little advice from their political advisers or self-proclaimed experts with little practical experience) they know better than those that have been doing their best to hold together a pressured and fractured service in the face of all the odds for much of their careers.

Ministers should instead concentrate on acquiring the additional staff and resources needed to make prisons safe again. If that is not politically possible they will need to take the political action needed to reduce the prison population to a level that the country can afford.

It is simply not acceptable in a comparatively rich democratic country to run unsafe prisons that do not provide decent conditions. This is not simply a moral issue, but a legal one too; to comply with the Health and Safety at Work Act, which creates legal duties to both staff and prisoners.

In short running prisons unsafely is a crime and one to which the Health and Safety Commission ought to give more attention.

Governors and their more Senior Managers should take accommodation out of use if it cannot be run safely. Ministers need to recognise the legal position and use their statutory and regulatory powers to keep the prison population at an affordable level.

Even if all of these essential elements for recovery are implemented, it will be a long hard and determined campaign to return our prisons to a safe decent and secure state.

Rebuilding staff prisoner relationships involves rebuilding staff confidence and dealing effectively with those prisoners who have learnt that they can confront and intimidate staff.

There is no quick fix, the sad truth is that it is relatively easy to make a good prison bad, but much harder to repair the damage.

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