

Submission to The Harris Review. Independent Review into Self-Inflicted Deaths in NOMS Custody of 18-24 year olds

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Summary

Young people in the prison system experience harm as a series of painful, violent, alienating, degrading and inconsistent events which are linked across a continuum of punishment and are underpinned by a prison culture that often generates moral indifference towards them, while marginalising their accounts and their families' accounts of prison life. Thus it is important to recognise that many of the young people in prison are vulnerable. However, rather than endlessly constructing, and concentrating on, categories of risk and vulnerability we would suggest an alternative perspective built on recognising the often harmful events experienced by prisoners *in general*, and the meanings they (and their families) attribute to these experiences. We focus here on three issues which we believe should be considered by the Review panel: resourcing the prison system; the training of prison staff; and the reduction in the use of custody underpinned by a radical change in the philosophy and practices of custody. Radical transformation and change in these areas, we suggest, would lead to responding to prisoners through an ethics of care rather than an ethos of punishment which, in turn, will contribute to the gradual elimination of self-harm and self-inflicted deaths in custody. We consider these areas to be central in the radical transformation of the current situation if self-inflicted deaths, and self-harming behaviour, are to be reduced and ultimately eliminated.

Introduction

Young people are at the sharp end of a criminal justice system which criminalises their behaviour through the disproportionate use of stop and search powers by the police, through moral panics in the mass media that stigmatise them and their cultures, and through a prison system which has a harmful and deleterious impact on many of them. This harm is experienced as a series of painful, violent, alienating, degrading and inconsistent events, which are linked across a continuum of punishment and are underpinned by a prison culture that often generates moral indifference towards them, while marginalising their own, and their families', accounts of prison life. These harms are likely to reinforce, and indeed intensify, the feelings of vulnerability which many young people carry with them into custody. However, while it is important to recognise that many young people in custody are vulnerable, it is also important to move beyond concentrating on vulnerability and risk as determining factors in self-harm and self-inflicted deaths.

In her study of self-inflicted deaths and self-harm, Professor Diana Medlicott has pointed out that in prison there is an institutionalised 'disbelief in the full humanity of prisoners, and a disregard of their status as members of a moral community beset by self-inflicted harm and death. This resistance to accord prisoners the same worth as others permeates discourse at the highest level, and trickles down into practice' (Medlicott, 2001: 33). Additionally, she notes that it is 'positively unhelpful to label selected prisoners as "vulnerable"' because in categorising particular individuals as vulnerable implicitly means 'categorising the rest as invulnerable' (ibid: 58). She argues instead that it is the 'very special place characteristics of the prison [that] render *all* male prisoners socially vulnerable' (Ibid: emphasis added). As far as individual prisoners are concerned, if they experience the prison environment as a punitive attack on their sense of self due to the nature of the prison's culture, then self-harming or death are, from their perspective, often the only options available to them. Therefore, rather than endlessly constructing, and concentrating on, categories of risk and vulnerability we would suggest an alternative perspective built on recognising the often harmful events experienced by prisoners, and the meanings they, and their families, attribute to these experiences.

There are three areas we wish to highlight in this submission: resourcing the prison system; the training of prison staff; and the reduction in the use of custody underpinned by a radical change in the philosophy and practices of custody. Radical transformation and change in these areas, we suggest, would lead to responding to prisoners through building an ethics of care and healing rather than engaging in an ethos of punishment which currently prevails in many institutions. This, in turn, will contribute to the gradual elimination of self-harm and self-inflicted deaths in custody. We consider these areas to be central for the radical transformation of the current situation, so that self-inflicted deaths and self-harming behaviour can be reduced and ultimately eliminated. We discuss each in turn.

Redirecting Resources

In 2007, the Centre for Crime and Justice Studies audited the cost of the criminal justice system between 1997 and 2007. This amounted to £187 *billion* over ten years. According to the Prison Reform Trust, the overall cost of public order and safety in 2009 was 2.8% of GDP; this was higher than the US or any EU country (Prison Reform Trust, 2013: 9). With specific reference to the prison system, between 1998-1999 and 2004-2005, there was a real term increase of 15% in expenditure (Solomon et al, 2007). The latest annual report from the National Offender Management Service indicates that the net operating costs for prisons before tax in 2012-13 was £4,044m compared with £3,935m for 2011-12, a year-on-year increase in net operating costs of £109m (2.8%) (National Offender Management Service, 2013: 39).

Thus the criminal justice system, in general, and the prison system in particular, are in receipt of substantial funds. At the same time, the debate about prison expenditure has been dominated by two major but contradictory trends. First, there has been a focus on the increasing cost of prisons as numbers, at least in the adult system, have risen resulting in more overcrowding and more prisons being built.

Second, there have been the generalised cuts in public expenditure which have led to the National Offender Management Service having to make resource savings of almost 25% between 2010-11 and 2014-15 (Prison Reform Trust, 2013: 9). Each trend individually - overcrowding and cuts in the services available to prisoners - but certainly both in their combination, have been seen as contributing to the increase in self-inflicted deaths.

However, we wish to suggest another way of approaching this issue. This relates to the *pattern* of expenditure. In other words, at its most simple, we need to ask, how are the funds allocated to prisons, and to the criminal justice system more generally, actually spent? The prison system, as noted above, costs in excess of £4 billion *per annum*, a fact not lost on the former Lord Chief Justice, Lord Justice Woolf, who, in evidence to the House of Commons Justice Committee in 2007, told the Committee that 'If I were still chief justice, I would be concerned with the prisons' amazing capacity to absorb money as the population increases more than expected'. (Woolf, 2007, cited in Sim, 2009: 142).

Successive governments have argued that security and control are important and should not be compromised, thereby supporting high rates of expenditure. However, over the last four decades, the dominance and impact of security and control on the everyday lives of prisoners have been detrimental to them and to other areas of prison life, including psychiatric and health care. In 2010, the All Party Parliamentary Group for Children (2010), in conjunction with the National Children's Bureau, identified a number of similar issues concerning the direction of expenditure and its impact on the services provided to young people in prison. Members noted that:

The most vulnerable and most victimised young people are most likely to be persistent offenders. This raises issues for the youth justice system:

- there is a shortage of social workers
- at least a third of young people in custody should not be there
- coordination between the secure estates in wider agencies needs improvement
- alternatives to custody should be considered
- early response to problems in families and at school is essential.

(All Party Parliamentary Group for Children, 2010: 9)

The Group concluded that, 'prison is poor value for money; community sentences with early intervention, family therapy and multi-focused therapy are best value' (Ibid).

It also cited evidence from the Howard League for Penal Reform who provided an account from a young person of his experiences in custody which covered four key points including:

Visitors/visiting: Visitors are often treated with very little respect having travelled a long way to make their visit. The visiting areas are filthy and uncomfortable. Placing young people in institutions far away from families is also unfair (Ibid: 7).

Four years on from the publication of this report, little appears to have changed in this area, given that the lack of family contacts has been cited as one of the contributing factors to the recent spate of self-inflicted deaths. (Laville et al., 2014)

The Justice Committee of the House of Commons has also suggested redirecting the prison budget. In December 2009, the Committee addressed this issue through focussing on the concept of 'justice reinvestment' which:

seeks to reverse what many have argued to be a grave and expensive failure of social policy which leads to prison becoming a stand-in health and welfare system for people with problems—often bundles of problems related to legacies of low literacy, unmet mental health needs and/or drug and alcohol dependencies—that society in general, and their local services in particular, have failed to deal with. It also challenges policymakers to think carefully about the consequences of some criminal justice measures that are considered to be 'tough on crime', for example, by encouraging criminal justice agencies to seek to enhance offenders' compliance with community orders rather than to focus on the enforcement of breaches (House of Commons Justice Committee, 2009: paragraph 10).

We would suggest that the nature and direction of the funding of the prison system, and the criminal justice system more generally, has not been adequately addressed. Those services which are often described as the Cinderella services of the prison system are *not* regarded with the same level of entitlement as other areas such as administration, security, control and so forth. Therefore, until the nature and direction of funding is addressed, the debate about prison expenditure, and whether it is rising or falling, misses a fundamental point in that it fails to address what areas are prioritised for funding and what areas are neglected and marginalised. If this issue was addressed by Ministers it would then be possible to redirect the prison budget without compromising security and control. This would mean that a substantial amount of funds could be made available not only to support prisoners, young and old, but also victims. This in turn would require rethinking the prison building programme itself. We will return to this issue at the end of this submission. Before doing so, we wish to turn to a second issue, namely staff training, another issue that has been identified recently with respect to recent self-inflicted deaths (Laville et al., 2014).

Staff Training

In July 2011, the newspaper *Inside Time* published an article on prison officer training and raised a number of questions concerning the level of training received by staff, compared with their European counterparts. In particular, the article noted that training for prison officers in Norway took two years, while in England and Wales it was eight weeks, which was 'perhaps the shortest of all staff training in Europe....' (Hanson, 2011: 24). The article also noted that in a statement to the House of Commons in July 2010, Crispin Blunt MP the Parliamentary Under Secretary of

State for the Ministry of Justice, indicated that the cost of training a new entrant into the prison service was approximately £4,423 per person. The author noted that, 'compared to the cost of training someone for the Police or Fire Service or indeed a true professional a nurse whose training will exceed 3 years, begs the questions, what training, what professionalism?' (Ibid). In the debates concerning recent self-inflicted deaths, staff training has been highlighted but has not received the attention it should, given the centrality of prison officers to the everyday lives of prisoners.

There are two further dimensions to this issue that we wish to consider. First, as Dr Elaine Crawley has shown, what happens in the training school before officers go onto the landings can be equally problematic. During her observations:

...a female officer commented that "at training college you're taught never to trust the bastards!"... Numerous new officers were shocked at the degree of verbal and psychological abuse meted out by their trainers...They claimed that corporate promotions of "excellence", "caring", "quality" and "respect" – terms that they had heard a great deal during their initial interviews – were barely evident in the organisational realities that they had experienced during this element of their basic training...Many of my interviewees, male and female, remarked upon the militaristic, paternalistic and abusive nature of their basic training (Crawley, 2004: 69-70).

Training included 'games' such as 'shag-tag' which involved trainee officers bending over and touching their knees so that they could 'only be "released" by three thrusts (indicating sexual intercourse from the rear) from another officer (again male or female)' (Ibid: 73). Thus, it is important to consider the impact of these problematic training procedures on new officers and, by extension prisoners themselves.

Second, the wider occupational culture, with its discretionary emphasis on punitive discipline, and the distancing of prisoners from staff, impacts not only on new recruits and prisoners but also on the psychological well-being of those staff who do treat prisoners with empathy and support. These officers are pejoratively labelled as 'care bears'. Some institutions pursue policies and practices where officers *have* developed an empathic and supportive environment for prisoners. Grendon Underwood, opened in 1962, provides a particular example of this approach. This prison, and the empathic philosophy on which it is based, could provide a model for the treatment of young offenders in custody. In the most recent inspection of Grendon carried out by Her Majesty's Inspectorate of Prisons, the Inspectorate noted that the 'positive, respectful and supportive culture clearly contributed to the reasonably small number of prisoners identified as being at risk of self-harm. There had been 11 incidents from January 2013 to date, [August 2013] most of which were minor. It was estimated that about 40-50% of the prisoner population had some history of self-harming at other prisons' (Her Majesty's Inspectorate of Prisons, 2014: 22).

It is often argued that it would be too costly to extend the principles and practices of institutions like Grendon to the wider prison system and to community disposals.

However, given what we have said above, if the prison budget was redirected towards such interventions then it would be possible to develop a prison system built on humanitarian principles and orientated towards an ethics of healing rather than an ethos of punishment, discipline and control which currently prevails in many institutions.

Dismantling Prisons and Changing Philosophies

The third key issue that underpins the debate around self-inflicted deaths is the over-use of custody in England and Wales, even in the youth justice sector where prison numbers may have fallen but remain high compared with other international jurisdictions (Muncie, 2013). High rates of imprisonment are based on the mistaken assertion that more custody equals less crime. Comparative work indicates that this is not the case. Indeed, those countries with lower rates of imprisonment, and higher rates of welfare expenditure, have lower crime rates. Scandinavian countries provide a good illustration of this point (Cavadino and Dignan, 2005; Muncie, 2013). Radically reducing the use of imprisonment is therefore essential if the changes suggested above are to be effective. This could be done without compromising public protection, as other countries have shown.

We would add one further point following on from the earlier discussion of the prison service budget. Reducing the use of custody would allow resources to be redistributed for the development of support services not only for offenders, including young offenders, but also for victims. This point has been made by the Scandinavian criminologist, Thomas Mathiesen, who has argued that dismantling prisons in their present form would make resources available which 'we could spend generously on the victims and the offenders' (Mathiesen, 2000: 344). This positive outcome for offenders *and* victims is little discussed, but can offer significant social benefits to wider society if pursued both in reducing recidivism *and* developing high quality, empathic support networks for the victims of crime.

Finally, a radical reduction in the use of custody, and the introduction of well-funded, empathic community alternatives, still leaves the question of how to respond to those young people who may need to be detained. Acknowledging how this issue is approached in other countries is an important consideration. In July 2008, for example, the House of Commons Justice Committee expressed concern about the lack of psychiatric provision for children and young people charged with serious crimes when compared with other countries. From evidence given to the Committee, members noted that one organisation, JUSTICE:

....suggested the needs of this group be adequately catered for in custodial provision, for example, by expanding dedicated juvenile psychiatric provision and specialist provision for young people who require a high security environment....The International Centre for Prison Studies cited the example of Finland in this regard: "If Finland, with a tenth of our population, locked up children at the English rate, one might expect a prison population of 300. In fact there are just a handful of boys in prison. Looking at psychiatric provision however, Finland has

about 4,000 beds for adolescents, compared to a total of 1,128 in England”....Young sex offenders were highlighted as a particularly vulnerable group. The NSPCC argued that there was a need for greater focus on coordinated treatment and rehabilitation for these young people than was currently allowed under the current sentencing framework....They suggest that use of criminal justice routes to address such offending ignores the wider safeguarding needs of young sex offenders who are often vulnerable. They often have a history of abuse themselves and they are more likely to self-harm and suffer harm from others...There is an urgent need to examine the needs of vulnerable young people in the youth justice system and the appropriateness of secure accommodation for those who need to be held in custody. Better alternatives to secure accommodation for vulnerable young people who do not represent a danger should be found (House of Commons Justice Committee, 2008: Paragraphs 252 and 253).

Conclusion

We have indicated three ways in this submission via which the system for confining and detaining young people might be radically overhauled. The most fundamental of these practical steps, and central to this submission, is a radical shift in the *philosophy* of detention: this needs to be re-cast, based upon an ethics of care and healing rather than an ethos of punishment, discipline and control. Only this shift can create the conditions within which self-inflicted deaths can be eliminated. Focussing on the reduction of risk, while important, should be secondary to minimising and eliminating the harms experienced by young people in custody which we indicated at the beginning of this submission. Arguing for such fundamental change does *not* mean being pro-crime and anti-victim, contrary to what successive government ministers, of whatever political persuasion, have maintained. Such attitudes are unhelpful and contribute little, if anything, to protecting the public and reducing the trauma and harms experienced by many of the young people who pass through the criminal justice system in general, and custody, in particular. This review provides an excellent opportunity to make a positive and sustained contribution for radically transforming the current baleful situation. In doing so, it can also contribute to ensuring that the searing pain experienced by many young people in custody, and the families of those who are bereaved by the self-inflicted death of a loved one, can be seriously reduced, and finally eliminated, from the criminal justice system.

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