



IMPRISONMENT: AN EXPANDING SCENE

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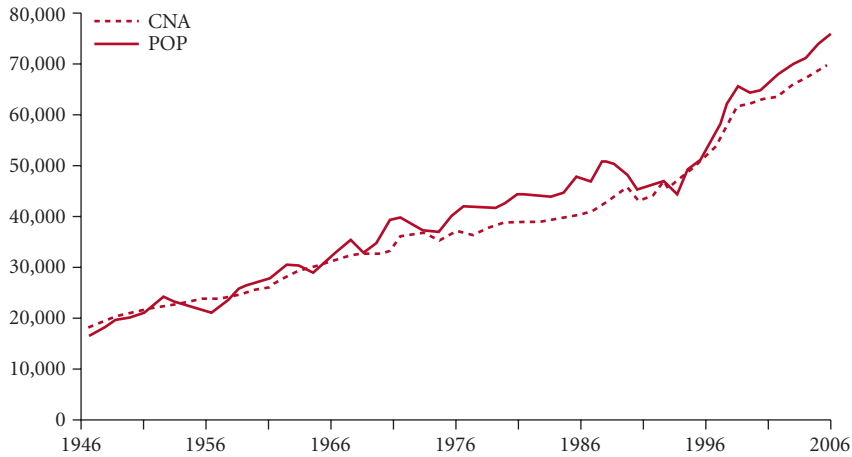
The aim of this chapter is to examine five questions. What are the social forces associated with the emergence and use of imprisonment? What are the purposes of imprisonment and what objectives should prison administrators pursue? How are prisons currently organized and made accountable? What is the character of the growing prison population? How do the changing dynamics of prison life—that is, the sociology of the prison—affect the prison experience and the stated objectives?

SETTING THE SCENE

The incarceration rate in England and Wales is the highest in Western Europe (Home Office 2005a: Figure 8.14). The Criminal Justice Act 2003 introduced several new sentences that make it likely that the heavy reliance on custody will continue (see Ashworth, chapter 29, this volume). There are currently around 78,000 persons in prison in England and Wales, 7,000 in Scotland and 1,300 in Northern Ireland. In the case of England and Wales this is almost double the numbers imprisoned in 1991–2. Having risen modestly during the 1980s the prison population peaked at around 50,000 in 1988–9 then declined to around 45,000 during the period 1990–3. It rose dramatically to 62,000 by the time of the 1997 General Election, following a reactive turnaround by the Conservative party and a declaration by the then Home Secretary that ‘prison works’. Contrary to expectations, the prison population has risen steeply throughout Labour’s tenure. (see Figure 32.1)

IMPRISONMENT 1945 TO 2006

During the period 1945–85 the prison system in England and Wales suffered escalating overcrowding. There was virtually no overcrowding in the 1950s, but it reached



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Fig. 32.1 Certified normal accommodation (CAN) and average prison population (POP), 1946–2005

Source: Annual *Prison statistics* to 2002 and there after RDS/NOMS online.

10–15 per cent by the 1980s. There then began the largest prison building programme since the middle of the nineteenth century. Between 1980 and 2006 25 new prisons were opened providing 14,285 additional places (since the early 1990s all new prisons have been built and operated by the private sector, see further below). Twice this number of places has been created by developing existing prisons and inserting new accommodation or ‘ready to use’ units within their grounds. These additions represented a 50 per cent increase in capacity. The total number of prison places and prisoners came briefly into equilibrium during 1993. By spring 1994, however, the surge in prison numbers brought a return to overcrowding, which, despite the addition of several new prisons and the construction of extra accommodation at existing sites, has continued ever since. The average size of a prison has increased from around 400 to around 800 prisoners (with some holding over 1,300). Further, because some spare capacity must always be reserved, and because there is always a disparity between the geographical location and type of prisoners and available places, many individual prisons are seriously crowded. The London area, for example, has 13,000 prisoners but only 7,500 places. Prisoners from London are therefore exported to the south east, south west, and eastern area (and sometimes further afield). At the close of 2005, 33 of the 142 prisons were crowded above their ‘certified normal accommodation’ by 30 or more per cent. The term ‘operational capacity’ (safe level of overcrowding) has been introduced to cater for this long-term problem. An expenditure of £1.5 billion (at £110,000 per new prison place) would be required to solve the crisis, at today’s population figure.

This massive expansion is costing a great deal of money, as well as making it difficult to locate prisoners close to their home areas. About £14 billion is currently spent on ‘law and order’ services of which 16 per cent, or £2.4 billion, goes on prisons. This translates to a cost to the taxpayer of £26,412 per prisoner per annum, or £508 per week (Prison Service 2005a: 103). About 120,000 individuals are committed annually to prison or to

young offender establishments (YOIs).¹ Just over 48,000 full-time equivalent staff, about 30,000 of them uniformed prison officers, are employed to make sure they stay there, an overall prisoner to staff ratio of 1.4 : 1, and a prisoner to officer ratio of 2.82 : 1 (Prison Service 2005b).

This is a far cry from the situation sixty years ago. In 1946 there were about forty prisons, approximately 15,000 prisoners and around 2,000 staff, a prisoner to staff ratio of 7.5 : 1 (Home Office 1947). The large Victorian prisons which still form the core of the system today would be recognizable to a prisoner from that period. But only just. The external layouts and galleried wings remain much the same. But the grounds have been filled with modern gate-lodges, visiting centres, education blocks, workshops, gymnasias, and new accommodation wings. The cells are equipped today with lavatories and sinks: slopping-out ended in 1994. Pastel colours have replaced the drab painted walls of green, cream, and brown. Fitted cell furniture has displaced the stark iron beds. Moreover the majority of prisoners are now accommodated in modern purpose-built establishments constructed since the 1950s on greenfield sites, many of them replacing the converted houses and wartime camps that were taken over for use as prisons in the immediate post-war period.

Managerially, prison life has been transformed. Whereas sixty years ago prison governors were largely autonomous and well out of reach of headquarters, today performance management systems, area managers, and modern technology have made it possible for the Director General to have a 'management reach' into establishments that was unimaginable during the post-war era. Governors are described as 'looking upwards', and multiple, and specific objectives are set and closely monitored from above.

The social character of prison life has changed dramatically. There are no longer rows of convicts hand-sewing mailbags in silence. The flogging triangles and bread and water dietary punishments have been abolished and the shabby ill-fitting serge uniforms of grey and brown have gone. When they are not alone (or doubled up) locked into their better-appointed cells, or milling about in groups on the landings and in the recreational areas, prisoners are now more likely to be engaged in literacy programmes, occupational training, and a variety of offence-focused courses, including drug treatment, shod in their own trainers. Nevertheless, though prisoners now have more material comforts, may use the telephone, and can see their families more often in more civilized environments, these gains have to be set against new psychological pressures and insecurities that have not diminished the pains of imprisonment. For some prisoners these pains prove unbearable.

First, most contemporary prisoners are in custody for longer than their predecessors. Though imprisonment was used proportionately more often by the courts in the 1940s, the sentences were typically short compared to now, though there has been a dramatic

¹ Custodial provisions for juveniles have since April 2000 been subject to the direction of the Youth Justice Board (YJB) which acts as the purchaser for services provided by the Prison Service (see Morgan and Newburn, chapter 30, this volume).

increase in the number of short prison sentences in the last ten years. In 1945 only 10 per cent of offenders sentenced to immediate imprisonment were given more than 12 months, life sentences were rare, and prisoners serving determinate sentences over 10 years almost unknown. Of the daily average sentenced population fewer than 7 per cent were serving four years or more. Today one, third of all prison sentences are for one year or more, over half the average daily sentenced population are serving four years of whom over five and a half thousand are serving a life sentence (Home Office 2005a: Tables 7.1 and 8.1).

Secondly, prisoners now are subject to security measures unknown or scarcely developed sixty years ago—prison perimeters made virtually impenetrable by multiple high-tech barriers, landings and stairwells draped with wire mesh, CCTV, electronic locking systems, intensive staff surveillance, strip searches, and random compulsory drug testing. Moreover, the amount of time many prisoners now spend out of their cells is modest compared to that which was taken for granted in most training prisons thirty years ago. Communal activities, like eating in dining halls, for example, are today considered too risky an arrangement to be generally viable. Instead, prisoners collect their meals on a tray and eat in their cells.

It is difficult to assess whether prisons have become less orderly and safe. Concerted acts of prisoner indiscipline used to be rare (Fox 1952: 160) and staff industrial action unheard of. In the 1980s, culminating in the Strangeways and associated riots of 1990, prison disturbances became frequent and managing prison officers was for a period a more difficult task for prison administrators than managing prisoners. The serious industrial disputes and prisoner disorders in the 1970s and 1980s led to two major inquiries—the May Committee in 1978–9 and the judicial inquiry conducted by Lord Justice Woolf in 1990–1—the reports of which have become landmarks for analysts of prisons policy. Fear became a significant feature of prison life during the 1980s (King and McDermott 1995: ch. 3). By the early 1990s both hard and soft drugs were freely available in many prisons—a trend which the Prison Service is trying to reverse (Edgar and O'Donnell 1998; Singleton *et al.* 2005; Prison Service 2005a: 110). More than 3,000 prisoners are segregated for their own protection, either under Rule 43 or in vulnerable prisoner units (VPUs) scattered around the country. The number of recorded assaults on both staff and prisoners increased between 1989 and 1994 but has been declining slightly since. In 2004 a new category of 'serious assaults' was introduced, making longitudinal comparisons difficult. In 2005, 78 prisoners committed suicide, a substantial reduction from previous years (95 in 2004, 93 in 2003, and 95 in 2002). This reduction may reflect a renewed emphasis on suicide prevention and substantial investment in new, first night, reception, and induction procedures and facilities in high-risk (local) prisons. Two sets of escapes from maximum security prisons in 1994–5, however, led to increased internal as well as perimeter security, to greater staff vigilance, and to the use of incentives and earned privileges schemes aimed at increasing prisoner compliance.

THE POLITICS OF IMPRISONMENT

It is now several years since the last major prison riot. But robustly independent, critical Chief Inspectors of Prisons have repeatedly identified 'appalling' or 'unhealthy' prisons in which regimes are impoverished and the staff culture is antagonistic. Prisons are: costly; overcrowded, a constant management headache; apparently difficult places in which to maintain a positive regime (Laming Report 2000); a conspicuous failure in terms of the subsequent behaviour of those committed to them (about three-quarters of all young offenders and over half of all adults are reconvicted within two years of release—Home Office 2005a: ch. 11); and of marginal value in terms of public protection, because so small a proportion of those responsible for offences are caught, convicted, and imprisoned (estimated as 0.3 per cent—see Home Office 1999: 29).

All of the above means that there is perennial debate about the purpose and value of imprisonment. What constitutes a sensible rate of imprisonment? Though international comparisons are fraught with difficulty (Pease 1994), England and Wales rely on the use of imprisonment to an extent greater than practically all other countries in western Europe. In 2005 141 persons were incarcerated per 100,000 population in England and Wales, compared to 97 in Germany and Italy, 88 in France, 81 in Sweden, and 65 in Norway (ICPS January 2006, www.prisonstudies.org). There are other countries with far higher incarceration rates—the USA, China, and most countries in eastern Europe, for example. But these countries have markedly different serious crime rates, histories, or political cultures. They do not make comfortable penal bedfellows.

Should we be unconcerned about the size of our prison population and focus rather on the serious crime against which the courts have a duty to protect the public? If locking up more offenders means that conditions in prisons are less than ideal, should we conclude that this is no more than prisoners deserve? Or does the prison reflect a punitive obsession, and a largely ineffective crime-control device, the use of which we could significantly reduce without risk to anyone? Should we regard poor prison conditions as a bar to our claims to be civilized and a misuse of state power against vulnerable and disadvantaged minorities? What should prisons be like: dark deterrent statements of the consequences of committing crime; training camps in citizenship; human warehouses; or protective therapeutic communities for damaged and sometimes dangerous offenders?

THE EMERGENCE OF THE MODERN PRISON AND THE USE OF IMPRISONMENT

Prisons, as places of confinement, have existed since time immemorial. Yet prisons as we know them today—places to which offenders are sent as a punishment, there to be changed—are a product of the industrial age. The modern prison emerged slowly in Northern Europe from the sixteenth century onwards, but it was not until the late eighteenth century that the idea came to fruition. The gaols that John Howard travelled the country visiting in the 1770s were mostly small and seldom purpose built. They

were rooms in ancient city gateways, stables behind the keeper's house, or cellars within town halls. Only in the major cities were there prisons built for the purpose and here their inhabitants were typically herded together, little subject to regulation save in the exploitative interests of their custodians (Howard 1784). When opened in 1842, Pentonville Prison, dubbed the 'Model Prison,' represented the scale of the transformation: over 500 identical cells in each of which a prisoner was separately to live in silence according to a routine meticulously regulated by a uniformed staff employed by the state. The modern prison, and its institutional counterpart—the workhouse for the indigent poor, the asylum for the insane, the reformatory for wayward youth, and the penitentiary for fallen women—reflected what Foucault (1967: ch. 2) termed 'the great confinement' and emerged alongside the factory (Melossi and Pavarini 1981). They were social and architectural counterparts. In the factories labour was rationalized for the purposes of more efficient production. In the new institutions of confinement those unproductive sections of the labour force were differentiated, segregated, and disciplined. John Howard's proposals for the better regulation of the insanitary and morally corrupting gaols of the eighteenth century were the corollary of the managerial revolution being wrought in Richard Arkwright's mill at Cromford and Josiah Wedgwood's factory at Etruria. Over each of their model buildings, both actually and metaphorically, was placed a clock according to the hands of which everything was now done (McGowan 1995).

Prisons have historically had three uses: *custodial*, *coercive*, and *punitive*. Though imprisonment was used from medieval times as a punishment, it was generally for minor offences (Pugh 1970). Its primary legal function was custodial or coercive. Accused persons were held awaiting 'gaol delivery' (the arrival of travelling courts) or following conviction pending execution of sentence, generally an assault on the body or death, carried out in a public place. To this was later added imprisonment pending transportation to the colonies. The coercive function of imprisonment was almost entirely for civil debt. The modern prison emerged as its function changed from being primarily custodial-coercive to punitive (Radzinowicz and Hood 1990)—a transformation dramatically illustrated in the opening pages of Foucault's seminal study *Discipline and Punish: the Birth of the Prison* (1977), where the grotesquely brutal execution of a regicide in 1757 Paris is juxtaposed with the clockwork precision of a totally regulated daily regime at a Paris reformatory half a century later. For Foucault the modern prison, with its mechanisms of total surveillance, represented a new form of knowledge and power. Between 1750 and 1850, throughout most of Europe, imprisonment became the principal punishment for serious crime—*carceral* rather than *corporal* punishment, addressing the soul (or the mind) rather than the body (or the outward reputation). Judicial torture was formally abolished (Peters 1985), and the death penalty, henceforth carried out within prisons rather than in public, was reserved for only the most heinous crimes (Spierenburg 1984).

During the nineteenth century this transformation was mostly represented as a vital subplot in the Whig version of history as progress: the triumph of reason over superstition, civilization over barbarism. John Howard, Elizabeth Fry, and other penal

reformers were depicted as Enlightenment saviours whose efforts ushered in humanity. Some Victorian observers, for example Charles Dickens, had their doubts, discovering in the reformed prisons new torments imposed in the name of the people (Collins 1962), a phenomenon which in the twentieth century became devastatingly apparent with the rise of the totalitarian state, the re-emergence of torture, and the mass incarcerations of the concentration camps, gulags, and Soviet and Chinese resocialization centres (see Stern 1998; Applebaum 2003).

Attention turned to the origins of those mechanisms which twentieth-century states were using to oppress their citizens. Rusche and Kirchheimer (1968), pioneering Marxist theorists in the realm of penal studies, argued that it was not punishment that needed to be explained but specific and concrete *forms of punishment*. Particular penalties, they argued, could be linked to particular modes of production and labour market conditions. When labour was cheap and plentiful, penalties were careless of human life and health. When labour became more valuable the penal system responded to the economic imperatives of the day: transportation was developed to serve the interests of imperialism; the Houses of Correction were designed to make productive use of the recalcitrant poor; and 'less eligibility', the utilitarian doctrine that convicted prisoners are morally less deserving than the least well-off persons enjoying their freedom in the community, and should therefore not enjoy a lifestyle and facilities superior or equal to those enjoyed outside the prisons and workhouses, was an ancillary discipline for the labour market beyond the walls.

Rusche and Kirchheimer's economic determinism was crude and their analysis did not exactly fit the facts. But their work stimulated a wealth of scholarship such that today there is a rich historical penal policy literature on which students may draw. A more nuanced account has emerged of historical and contemporary 'penalty', that is, our ideas about and practices of imprisonment (Garland and Young 1983) and how it varies between countries and over time (see the collection of essays in Morris and Rothman 1995). The eighteenth-century penal reformers *were* nearly all motivated by religious faith pursuing what they perceived to be a humanitarian mission. There *was* a growing revulsion against public corporal and capital punishment which, the evidence suggests, was also counterproductive in that it often served to inflame rather than subdue the mob. Imprisonment comprised both a vivid and a subtle symbolic message. The reformed prisons, monolithically built in rusticated stone, generally sited in the new working-class districts of the expanding urban centres, represented the growing power of the state. Whereas the transaction between the public executioner and the hapless offender appeared personal and arbitrary, the mysterious prison represented impersonal regularity, orderliness, and certainty. In the age of liberty it was particularly apt that those who breached the social contract should lose their freedom. Prison sentences were meted out, proportionate to the gravity of the offence and were served, at least in theory, in a perfectly regulated environment where all were stripped of their external identities and treated equally (see Ignatieff 1978; McConville 1981).

The multifaceted appeal of the prison, then and now, emphasizes that imprisonment, like punishment generally, needs to be understood from a variety of perspectives,

as: a technical means to an end; a coercive relationship; an instrument of class domination; a form of power; and an expression of collective moral feeling ritually expressed (for a review of the sociological literature, see Garland 1990). To the extent that imprisonment serves different social functions this suggests that attempts to change the degree to which imprisonment is used are unlikely to succeed simply by proclaiming the utilitarian shortcomings of the enterprise.

All developed societies, whatever their ideological pretensions, employ imprisonment as their principal penalty for serious crime. Everyone claims to support the use of imprisonment only as a last resort. Yet the rate at which imprisonment is used varies greatly over time and between jurisdictions (Rutherford 1984; Christie 1994; Cavadino and Dignan 2005). These variations cannot fully be explained by: crime rates; changing fashions in the philosophy of punishment; demographic factors; levels of economic activity; or public policy considerations; though factors subsumed by these headings—unemployment or the supply of prison places, for example—have undoubtedly influenced the rate of imprisonment in some countries in some periods (Zimring and Hawkins 1991). The use of imprisonment is a complex issue (see, for example, Downes 1988 and 1997 for examinations of penal policy in the Netherlands). Yet the rate of imprisonment is not beyond government control. It is ultimately a matter of political choice.

THE PURPOSE OF IMPRISONMENT

THE LEGAL FUNCTIONS OF IMPRISONMENT

The most fundamental way of answering the question, 'What are prisons for', is to distinguish the three legal functions, *custodial*, *coercive*, and *punitive*.

Suspects refused bail and detained before trial, or convicted but not yet sentenced, are held in custody to ensure that the course of justice proceeds to its conclusion and that everyone concerned is protected against the likelihood of harm in the interim. A small number of non-criminal prisoners—held under the Immigration Act, for example—are imprisoned pending completion of enquiries or execution of an administrative decision. There is no justification for holding such prisoners in conditions more oppressive than is warranted by the fact of custody itself, either because they are not eligible for punishment (the unconvicted are subject to the presumption of innocence) or, if convicted, because the court has not yet determined that loss of liberty is the appropriate sentence.

Offenders held coercively—nowadays almost entirely fine defaulters—are kept in prison for as long as they fail to comply with a court order that they pay a financial penalty enforced by the court. As soon as they pay, or once the custodial period in lieu of payment is served, they are released. In this case the prison, the loss of liberty, and

possibly also the conditions in custody, is used to pressurize the offender into conforming.

Finally, there are persons held punitively—nowadays the great majority—as a sanction for offences of which they stand convicted. Since the abolition of the death penalty in 1965 imprisonment has been the most serious penalty the courts can impose in Britain. The punishment of imprisonment for sentenced prisoners might comprise both loss of liberty and harsh living conditions in the name of ‘less eligibility’ (see above) or deterrence. Today prison administrators generally disavow such purposes, reiterating Paterson’s famous dictum that offenders are sent to prison ‘as a punishment, not for punishment’ (Ruck 1951: 23). However, it is difficult to square conditions and practices in many prisons with this disavowal and ‘less eligibility’ remains a potent political if not administrative imperative (Garland 1990; Sparks 1996). Remand prisoners, in spite of the presumption of innocence, tend to be viewed by prison staff as sentenced prisoners in waiting (Fox 1952: 286). Their living conditions are often among the worst to be found in the system (King and Morgan 1976; Morgan 1993; Scottish Executive 2000; HMCIP 2000a; for recent inspection reports critical of remand conditions in local prisons see HMCIP 2003b and 2005a).

A distinction needs to be drawn between sentencers’ purposes and prison managers’ objectives. The two should ideally be consistent and spring from the same principles. But they are not the same and, prior to the Human Rights Act 1998, sentencers were not required to spell out the rationale for their decisions. Whatever justifications sentencers have for using imprisonment (see Ashworth, chapter 29, this volume), prison administrators have to manage prisons with regard to the welfare of staff as well as prisoners. What then inspires the daily management practice of the Prison Service?

THE LEGAL AND MANAGERIAL FRAMEWORK

The primary legislation under which the Prison Service conducts its work is the Prison Act 1952 which lays down the general duties of the prison authorities; defines what a prison is; and empowers the Minister to make rules for the management of prisons (section 47(1)). The rules are exercisable by statutory instrument and were substantially revised in 1999 (S.I. 1999/728). Further amendments were consolidated in 2004. A parallel statutory instrument relates to the management of Young Offender Institutions (YOIs). The core rules regarding purpose remain the same as those dating from 1964 (see Loucks and Plotnikoff 1993). ‘The purpose of the training and treatment of convicted prisoners shall be to encourage and assist them to lead a good and useful life’ (rule 3). ‘Order and discipline shall be maintained with firmness, but with no more restriction than is required for safe custody and well ordered community life’ (rule 6). The treatment of prisoners shall also promote ‘self-respect’ and the development of ‘personal responsibility’. However, the rules have always been unspecific about what prisoners should be provided with in terms of conditions and access to facilities. This tendency has now been entrenched by rule 8: there shall ‘be established at every prison systems of privileges . . . appropriate to the classes of prisoners there’. The

privileges may include time out of cell and in association with other prisoners greater than that normally permitted (rule 8(2)). Further, the system may include arrangements whereby privileges are granted 'to prisoners only in so far as they have met, and for so long as they continue to meet, specified standards in their behaviour and their performance in work or other activities' (rule 8(3)). To emphasize the meaning of the terminology, though the arrangements for granting privileges shall include 'a requirement that the prisoner be given reasons for any decision adverse to him', nothing in rule 8 'shall be taken to confer on a prisoner any *entitlement* to any *privilege*' (emphasis added). Which is to say, the rules do not confer *rights*.

The current rules endorse the operational reality and legal position status quo ante. They remain ungenerous in their provisions, are seldom specific, and, even when specific, generally grant prison managers extensive discretion as to whether facilities will be provided (Richardson 1993). The rules are underpinned by an enormous array of administrative directions (manuals; Instructions to Governors (IGs); Advice to Governors (AGs), etc.) that do not have the force of law but may be described as 'plac[ing] a gloss upon the substantive law' (Cheney 1999). They make clear what the courts had previously held, namely, that breaches of the rules do not provide the basis for an action for breach of statutory duty and do not vest prisoners with any special rights (*Hague v. Deputy Governor of Parkhurst Prison* [1991] 3 All E.R. 733, confirming *Arbon v. Anderson* [1943] K.B. 252). To establish their common law rights prisoners have resorted to the courts, on a case by case basis, to determine their residual position after Lord Wilberforce's dictum in *Raymond v. Honey* (1983 1 A.C.1, 10): 'A prisoner retains all those rights that are not taken away either express or by necessary implication'.² The question at issue, therefore, is whether the arguments which raged in the 1980s about the relative merits of competing formulations to summarize the proper aims of prisons management—'treatment and training', 'humane containment', or 'positive custody'—have been made irrelevant as a result of subsequent managerialist initiatives (for a review of the debate, see Bottoms 1990). The official answer to that question is possibly to be found in the fact that no reference was made to the new 1999 Prison Rules in the annual reports of the Prison Service for 1998–9 and 1999–2000: the emphasis is entirely on Home Office and Prison Service management objectives and performance indicators.

The essence of imprisonment is loss of liberty. Winston Churchill maintained, in a much-quoted passage, that 'the mood and temper of the public in regard to the treatment of crime and criminals is one of the most unfailing tests of the civilisation of any country' (*HC Debates*, col. 1354, 20 July 1910). To ensure that prisoners are not ill-treated, we have to know what is done to them in our collective name.

Since 1878, when prisons were brought wholly under central government control, prisons in England and Wales have been the financial and administrative responsibility of the Home Secretary. Until 1962 the Prison Service was managed by a Prison

² For detailed reviews of the degree to which the domestic and European courts have intervened in prison life, see Creighton and King 2000; Feldman 2002; Livingstone *et al.* 2003.

Commission, and subsequently a Prison Department, within the Home Office. In 1993 the Prison Service briefly became a government executive agency, but this independence was never achievable in practice and it was formally returned to the Home Office in 2004. Her Majesty's Prison Service is now part of the National Offender Management Service (NOMS) within the Home Office, and is responsible for the management of public-sector prisons. Privately managed prisons constitute a separate strand of NOMS and are currently coordinated through the Office of Contracted Prisons (OCP). Transfer of responsibility to Regional Offender Managers is under way, however. NOMS was established with a Chief Executive in 2004 in order to 'transform the management of offenders and provide clear accountability for reducing reoffending' (Home Office 2005b). One of the key mechanisms is the use of *contestability* or competition between and within the public, private, and voluntary sectors, to ensure the effective implementation of sentences.

The public-sector Prison Service receives its budget from the Chief Executive of NOMS. It is responsible for 131 prisons and is headed by a Director General who is accountable to the Chief Executive of NOMS. Its formal role is to contribute to Home Office Objective 2: to ensure that 'More offenders are caught, punished and stop offending and victims are better supported'. It also contributes to Objectives 1 ('People are and feel more secure in their homes and daily lives') and 3 ('Fewer people's lives are ruined by drugs and alcohol'). It contributes to these objectives by 'holding prisoners securely' and 'reducing the risk of prisoners reoffending' (Prison Service 2005a: 13). Private-sector prisons are also accountable to the Chief Executive of NOMS. There are currently 11 private prisons, operated by four companies. Prisons are organized into geographical areas, and are overseen by Area Managers. Regional Offender Managers (ROMS) are likely to replace Area Managers, however, as they have the criminal justice budget for their regions, and are expected to buy prison places, and other sentence places, from the best providers in their area. These new arrangements are intended to bring about better inter-agency planning and partnership working for such issues as the resettlement of prisoners (but see Hough *et al.* 2006 on the uncertainty generated).

There has always been considerable tension between ministers and senior prison executives, and between individual prisons and headquarters. Both tensions have been the subject of frequent organizational changes intended to clarify responsibilities between 'operations' and 'policy'. In 1995, in the wake of high-profile escapes, the Director General, Derek Lewis, was sacked. The report of the inquiry into the escapes (Learmont 1995) and Lewis's autobiographical account of the period (Lewis 1997) show the extent of day-to-day interference by the Minister. Despite the importance given by Woolf (1991: Section 12) to these matters, they have never been satisfactorily resolved. The current management arrangement acknowledges that ministers wish to be involved in setting strategic policy and should also ensure that the aims and objectives of the Service are integrated with those of the criminal justice system generally. But the emergence of NOMS has introduced ambiguity regarding the division of responsibility between NOMS and Prison Service senior managers.

The Prison Service is required to produce an annual report for the Minister to lay before Parliament, and this is supplemented by an annual statistical account produced by the Home Office. The Service publishes an *Annual Report and Accounts* and a *Corporate and Business Plan*. These and other documents are available on the Prison Service website (details at the end of the chapter). There has been progress in the accountability of the Service as a result of these developments. Until recently, for example, no Service publication provided details about facilities and arrangements (about such matters as visits, for example), a gap which an ex-prisoner remedied by independently producing *The Prisons Handbook* (Leech 2006).

Today there is an informative entry for each prison on the Service website. However, the greater information provided about some aspects of policy and performance in the increasingly glossy *Annual Report*—better financial accounts, performance data by establishment, etc.—is offset by the provision of less or inadequate information about other matters.

Posted at the entrance of all Prison Service establishments is a *Statement of Purpose*:

Her Majesty's Prison Service serves the public by keeping in custody those convicted by the courts. Our duty is to look after them with humanity and to help them lead law abiding and useful lives in custody and after release.

This *Statement*, with its references to security, basic standards, and rehabilitation, is backed up by an increasingly complex set of interrelated Home Office, Criminal Justice Service, and Prison Service 'aims', 'objectives', 'targets', and 'key performance indicators' (KPIs).

The problems associated with management frameworks of this kind include: paying attention to those aspects of performance that are not easily measured; paying too much attention to that which is easily measured; focusing on *outputs* rather than *outcomes*; stifling professionalism and local initiative by exerting excessively centralized control; and sapping staff morale with too great a burden of bureaucratic compliance and formal inspection processes. Considerable energy has been spent on finding meaningful ways of measuring prison quality and comparing performance, particularly in the light of increased emphasis on competition (see Liebling 2004).

In his report on the 1990 disturbances Lord Woolf found merit in the Prison Service's *Statement of Purpose*, but he added two caveats. He was critical of the absence of any reference to justice and he did not consider the *Statement* adequately covered the unconvicted and unsentenced (Woolf 1991: paras 10.16–64).

Woolf maintained that when the Prison Service says it 'serves the public' it does so by preventing crime. That means, inter alia: looking after prisoners with humanity; safeguarding prisoners' 'civil rights which are not taken away expressly or by necessary implication' (*Raymond v. Honey* [1982] 1 All E.R. 756 quoted in Woolf: para. 10.22); minimizing 'the negative effects of imprisonment which make re-offending more likely'; ensuring 'that life in prisons . . . [is] as close to life outside as the demands of imprisonment permit'; as well as providing opportunities for training and rehabilitation

(para. 10.29). This did not mean ‘a return to . . . the treatment model’ (para. 10.34) because imprisonment is not justified for reformatory purposes, nor is ‘being a criminal . . . a creative condition.’ But if prisoners are released ‘in an embittered and disaffected state’ then the criminal justice objective of preventing reoffending is undone (paras. 14.8–9).

If the Prison Service contains [the] prisoner in conditions which are inhumane or degrading . . . then a punishment of imprisonment which was justly imposed will result in injustice . . . it is the Prison Service’s duty to look after prisoners with humanity. If it fulfils this duty, the Prison Service is partly achieving what the Court must be taken to have intended when it passed a sentence of imprisonment [para. 10.19].

Woolf assumed that Paterson’s dictum (see above) had come into its own as a statement of what sentencers use prisons for. He was also endorsing the Prison Department view that: ‘Imprisonment itself . . . is the punishment inflicted by law and no further available hardship should be imposed on a prisoner except by way of formal disciplinary action’ (Home Office 1984: para. 108).

In order that basic living conditions be addressed Woolf favoured an interlocking hierarchy of ‘contracts’ or ‘compacts’—between the Chief Executive of the Service and the Minister, between area managers and governors, between governors and officers, and between governors and prisoners—setting out resources and facilities to be provided for a stated prison population. This would permit, in the case of prisoners, ‘legitimate expectations’ to be generated (Woolf Report 1991: para. 12.129), which ‘could provide a platform for an application for judicial review’ were those expectations unreasonably not met (*ibid.*: para. 12.123). The contracts should not be drawn up in such a way that they would give prisoners private rights leading to awards of damages if breached. But the contracts might lead, Woolf hoped, to the promulgation of aspirational standards, to a system of accrediting prisons for having achieved those standards (as happens in the USA), and, eventually, to the incorporation of those standards in a new set of Prison Rules. Furthermore, Woolf recommended that prisoners be given reasons, in writing if they reasonably request it, ‘for any decision which materially and adversely affects them’ (*ibid.*: paras. 14.300, 14.307).

Woolf’s recommendation is hazily reflected in prison rule 8(4) which requires that reasons be given to prisoners having privileges withdrawn. However, this is some distance from the proposition that prisoners have ‘legitimate expectations’ capable of judicial review, a prospect which some critics (Richardson 1993) considered a ‘notoriously flexible’ doctrine. It is certainly a far cry from the aspirations of earlier critics seeking legally enforceable minimum standards (Casale 1984; Gostin and Staunton 1985; Casale and Plotnikoff 1989, 1990).

The Prison Service has taken several steps in the direction of securing performance standards, and increasing prisoners’ perceptions of justice, albeit with certain deviations along the way. Woolf’s ‘contracts’ have been turned, through the ‘national framework for incentives and earned privileges’ (IEPs) (Prison Service 1996: 26–7), and as some commentators warned was likely (Casale 1993), into mechanisms for exerting

greater control *over* prisoners rather than establishing minimum standards and rights for *their* protection (for an evaluation of the IEP scheme see Liebling *et al.* 1997, 1999). These are the arrangements legitimated by rule 8. Secondly, the Prison Service has developed a set of 61 Performance Standards which: 'conform to current legislation'; are 'achievable and affordable across the Service'; are 'measurable and auditable'; and which 'communicate clearly and succinctly what the Prison Service *aims* to deliver and why' (emphasis added); they keep 'prescriptive elements to the minimum required to achieve consistent delivery of Service' and they 'do not change the legal rights of individuals nor do they imply additional rights or entitlements' (Prison Service 2000). The current Standards do not incorporate any minimum standards for untried and unsentenced prisoners beyond those meagre provisions in the Prison Rules (HMCIP 2000a: 22).

Thus prisoners can still be transferred in large numbers, without explanation, to prisons relatively distant from their homes in order better to distribute prisoner numbers within the prison estate, or as an administrative control measure. Prisoners still have no entitlement to be given reasons for either their initial or subsequent security classification, a decision which critically affects the quality of their lives. And Woolf's key proposal to prevent overcrowding and thereby safeguard basic living conditions—that there be introduced a prison rule that no prison hold more prisoners than 3 per cent above its certified normal accommodation (CNA), except temporarily, or following the laying by the Minister of an authorizing certificate before both Houses of Parliament (Woolf Report: paras. 11.141–11.142)—was initially rejected (Home Office 1991: para 6.13) and has not subsequently been resurrected. On the other hand, adjudications likely to involve the awarding of additional days must now be heard by a district judge, and all adjudication decisions are reviewed at Area Manager level.

The case for having legally enforceable, detailed standards remains as strong as ever. The process of contracting out the management of prisons, and the performance-testing of existing public-sector prisons, is keeping the question of what custodial standards should apply to the fore.

PRIVATIZATION AND PERFORMANCE TESTING

Privatization was arguably the most controversial prisons development of the 1990s (for reviews of competing arguments see Logan 1990; Shichor 1995). The privatized management of prisons has been vigorously opposed in principle on the grounds that the administration of state punishment is fundamentally a state responsibility and because it is wrong to derive financial profit from it. A pragmatic long-term objection is that the growth of privatized prisons represents an investment stake by the shrinking military-industrial complex in the burgeoning crime-control industry, an investment which will create a vested commercial interest in the expanded use of imprisonment. The huge growth of the prison and gaol population in the United States, which is now well in excess of two million or 724 per 1,000,000 population (almost six times the rate in the UK—see KCPS 2006), is taken by some to be the spectre to which privatization

might contribute (Christie 1994; Donziger 1995). However, most of the argument about privatization has concerned day-to-day accountability and standards.

The Criminal Justice Act 1991 provided that for every contracted-out prison a 'controller', a Crown servant, should be appointed to oversee the running of the prison and ensure compliance with the Prison Rules and the specific terms of the contract. The 'prison custody officers' and the 'director' appointed by the contractor must be approved and though they have the power to search prisoners and their visitors they do not yet have formal disciplinary powers. These are vested in the controller, who in practice is a governor-grade employee of the Prison Service with an office within the contracted-out prison. Thus, it has been argued by some, contracted-out prisons are *more accountable* than state-run prisons (Harding 1997), although discussions are under way (and provisions drafted in the delayed Management of Offenders and Sentencing Bill) to allow private prison directors to take over the disciplinary function. In addition to the general legal framework, the contract is regarded as a means of delivering the higher standards which are only slowly being enforced in state-run establishments via competition and performance, testing. Moreover, the contracting out of particular services within prisons—employment, education, and training, the provision of food, laundry, medical services, and so on—arguably represents the 'normalization' of prison regimes for which many critics have long pressed. It is doubtful whether privatization in the UK reflects the demise of the rehabilitative ideal and acceptance that prisoners can as easily be warehoused by the private sector as the state (Beyens and Snacken 1996: 241). The early English evidence, which may not be replicated in other jurisdictions, is that contracts have been used to attempt to breathe life back into the rehabilitative ideal and stimulate cross-fertilization of practice between state and privately managed institutions.

The deeply felt antagonisms over privatization—not least among the prison staff associations who have vigorously opposed it, but from whose senior ranks the security industry has easily recruited its directors—has stimulated a process of selective reporting which has made objective appraisal difficult. The Government pursued privatization primarily to tackle restrictive staff practices, and thus high costs, in a state-run system not reputed for its innovative or effective management. By this test the success of the initiative does not rest on the relative unit costs of contracted-out compared to state-run institutions—costs that for various reasons are difficult to compare—but rather in the degree to which practices in state-run prisons are transformed by the threat of privatization and the need to tender against contractor-competitors. What is clear is that the small contracted-out sector is setting some high standards—as the House of Commons Home Affairs Committee (1997) and successive inspection reports from the Chief Inspector testify (see, for example, HMCIP 1999b, 2001b)—though not always (see James *et al.* 1997; Park 2000; National Audit Office 2003; HMCIP 2002, 2003a). Poorly performing public-sector prisons (and more recently, even highly performing prisons) are increasingly being required to bid against the private sector to retain management of their establishments. So far the public sector has been successful in these competitions. Those prisons that have been through such performance-testing

processes also operate on a contract or 'Service Level Agreement' (SLA), to which they are held.

INSPECTION AND COMPLAINTS

Every prison in England and Wales is served by an Independent Monitoring Board (IMB, formerly boards of visitors(BoV)), a body of lay volunteers appointed by the Secretary of State. IMB members are independent and unpaid, appointed by Home Office Ministers to monitor the day-to-day life in their local prison and ensure that proper standards of care and decency are maintained. The boards have four functions: to monitor the fair treatment and welfare of prisoners and deal with any complaints or requests they make; to monitor the regimes, state, and administration of the prison; to listen to the concerns of staff; and to report matters of concern to the Governor or Director and, if necessary, the Secretary of State. Until April 1992 they undertook disciplinary hearings of more serious charges. The latter duty was long held by critics to be incompatible with the others and the principal reason why the boards' 'watchdog' role was so poorly developed (Prior Report 1985; Woolf Report 1991: paras. 14.363–435). A review of boards found that they had no real existence in the general management structure of the Prison Service ('no duty is laid on governors to deal with them; no obligation on Area Managers to respond to matters they raise'); members feel that nobody listens to them; and many prison staff feel that board members need to 'get real' in interpreting their role (Lloyd 2001: 13–14). The review led to several changes, including a change of title, relocation to the same building as the Prisons Ombudsman, and publication of their reports. It is not clear that their credibility has greatly improved in the light of these changes.

There has been a prisons inspectorate, outwith the Prison Service, though part of the Home Office, since 1981. The establishment of HMCIP was recommended by the May Committee (1979: 92–6) and represents that Committee's only lasting achievement (see Morgan 1985). The Inspectorate's reports are published and, under the leadership of successive Chief Inspectors (Judge Stephen Tumin 1987–1995, Sir David (now Lord) 'Rambo' Ramsbotham 1995–2001, and Anne Owers 2001–), HMCIP has established a reputation for conspicuous independence. HMCIP is charged with reporting to the Minister 'on the treatment of prisoners and conditions in prison' (Prison Act 1952, section 5A(3)), and does so by undertaking: regular inspections of prisons (each is fully inspected every five years, though the Youth Justice Board requires that YOIs housing juveniles be inspected annually); thematic reviews of aspects of policy (these have recently included reports on resettlement (HMCIP/Probation 2001)) and race (HMCIP 2005b); and by occasionally investigating major incidents. The Chief Inspector's critiques invariably attract publicity, but they have sometimes lacked policy impact because it was not always clear by what standards they concluded that provisions were 'impoverished', 'degrading', 'unacceptable', and so on. Further, by falling out with Home Office Ministers or senior Prison Service administrators, Chief Inspectors have sometimes lost the cooperation of policy-makers (see Ramsbotham 2003).

In July 2001, as his last act, Sir David Ramsbotham published in an annexe to his *Annual Report* more than 100 pages of 'Expectations: criteria for assessing the treatment and conditions for prisoners'. These standards are designed to guide inspectors when assessing the quality of what the Prison Service provides and ensure they make 'accurate and consistent judgements'. The majority of the criteria—and the terminology is significant, for seldom are the criteria expressed as specific standards—are said to be in 'harmony with existing Prison Service policies' (HMCIP 2001c: Annex 7, 1). The current Chief Inspector, Anne Owers, deploys less purple prose than her predecessors and her reports are now structured according to the inspectorate's revised 'expectations' (HMCIP 2004). However, as we write, a Bill (the Police and Justice Bill 2006) has been introduced to incorporate the prisons inspectorate within a general criminal justice inspectorate, a move which, if implemented, critics fear will lead to loss of independence and focus.

It was partly lack of precision, and thus accountability, which robbed the prisoner complaints system of credibility with prisoners and which, inter alia, led Woolf to conclude that there was an absence of justice in prisons. Prisoners have always been able to complain about any aspect of their custody to their IMB/BoV, to their Governor, or to the Secretary of State, by way of petition. But the system lacked the straightforwardness, expedition, effectiveness, and independence which Woolf argued any satisfactory grievance ventilation system should have (para. 14.309). A new integrated grievance system was already being introduced when Woolf conducted his inquiry but he, like previous commentators, considered there should be an independent 'complaints adjudicator' at the apex of the internal system (paras 14.326–362). This independent element was introduced in the form of a Prisons Ombudsman, the first of whom was appointed and began receiving complaints in 1994, though the position still lacks a statutory basis. The Prisons Ombudsman reports to the Home Secretary.

The Prisons Ombudsman is not restricted, as the title implies, to matters of maladministration, but may consider the merits of decisions, including all disciplinary findings and punishments save those imposed by District Judges, and the remit of the office-holder covers both state-run and contracted-out prisons. As the current Ombudsman, Stephen Shaw, says in his 2004–5 annual report: 'we exist to promote decency, justice and openness in the penal system, to resolve problems and promote good practice' (PPO 2005). He also conducts ad hoc inquiries (such as the investigation into the disturbance and fire at Yarl's Wood immigration detention centre). The role of the post has been expanded twice, to Prisons and Probation Ombudsman (PPO) in 2001, and to include investigations into deaths in custody in 2004. The number of complaints received by the Ombudsman has increased significantly in recent years. Prisoners must first exhaust the internal complaints avenues, and the efficiency of these has recently been improved. The largest category of investigated prisoner complaints is about alleged damage to or loss of property, followed by adjudications, Home Detention Curfew decisions, security categorization decisions, links with families, complaints about living conditions, and transfers, etc. Young prisoners are much less likely to complain to the Ombudsman than adults, women are slightly under-represented

compared to men, and long-term high-security prisoners are much more likely to complain than their short-term, low-security counterparts. This pattern is to some extent unavoidable: adults have more confidence and long-termers will not be deterred by delay. But the Ombudsman has pursued a number of initiatives (surgeries and more user-friendly publicity for use in YOIs) to make his services more accessible to less advantaged or motivated prisoners. The Ombudsman aims to resolve complaints in an informal, restorative manner wherever possible. Around one-third of the cases he takes up result in an outcome in some way favourable to the prisoner. Where the Ombudsman issues a formal report and recommendations, only very rarely are his findings and recommendations *not* accepted by the Director General, in the case of public-sector prisons, or the Office for Contracted Prisons, in the case of private-sector prisons. The Management of Offenders and Sentencing Bill (introduced in January 2005 but which fell because of the 2005 General Election and likely to be reintroduced in 2006) contained provisions to put the PPO on a statutory footing and formally equip him with enhanced powers of investigation.

THE PRISON ESTATE

There are two main types of institutions. First are the local prisons and remand centres. Their primary task is to receive prisoners from and deliver prisoners to the courts and to assess and allocate those serving sentences. Second are the prisons to which sentenced prisoners are allocated, the YOIs and the adult *training* prisons. The latter are further subdivided into closed and open institutions. This subdivision reflects a prisoner security classification and the level of security. Prisoners are security classified A, B, C, or D according to a basic scheme adopted in 1966 on the recommendation of Lord Mountbatten (1966; see also King and Elliott 1977; King and Morgan 1980; ACPS 1968). There are currently four high-security prisons and several local prisons designated as able to hold Category A prisoners on remand. Around 50 prisoners are accommodated in Close Supervision Centres—small units for difficult prisoners (see further Clare and Bottomley 2001; HMCIP 1999a; and historically, Bottomley and Hay 1991). These establishments together comprise the ‘high security estate’ (see further Liebling 2001).

The unintended consequence of capital investment in training prisons up to the 1990s was that those prisoners who should be given the least oppressive conditions typically experience the most impoverished regimes, and vice versa. In successive reports the Chief Inspector of Prisons chronicled: the ‘degrading’ and ‘insanitary’ accommodation; the ‘enforced idleness’; the prolonged daily cellular confinement; the miserable visiting rooms; and the general absence of facilities (for graphic examples see HMCIP 1988, 1990a, 1993). The untried were the ‘forgotten people’ (HMCIP 1989; para. 4.30), held in ‘completely insupportable’ conditions (House of Commons Home Affairs Committee 1981: para. 54). The Council of Europe Committee for the Prevention of Torture concluded in 1990 that conditions in Brixton, Leeds, and Wandsworth Prisons—all three Victorian local prisons—amounted to ‘inhuman and

degrading' treatment (Council of Europe 1991; for commentary see Morgan and Evans 1994; Evans and Morgan 1998: 243–5). The phrase suggested that the conditions might be held to breach Article 3 of the European Convention for the Protection of Fundamental Human Rights, and certainly not to comply with Prison Rule requirements regarding the encouragement of useful lives, self-respect, and a sense of personal responsibility. It was in response to these conditions that the pressure for minimum standards in the 1980s was mounted. Many of the newly built and privately managed prisons since the early 1990s have been local prisons, and they tend to (but do not invariably) have better regimes and facilities than 'traditional locals'. This means there is something of a two-tier local prison system in operation, for recent inspectorate reports (for example HMCIP 2003b, 2005a) suggest that the old local prisons continue to bear the brunt of overcrowding and reduced regimes. However, not all of the differences in regime quality and culture are related to inadequate buildings (see, e.g., Liebling 2004 on prison differences).

WHO ARE THE PRISONERS?

Prisoners are overwhelmingly young, male, socially and economically disadvantaged, repetitive property offenders. Most prisoners are transient, even if a high proportion return again and again: the staff, typically, spend much more of their lives in prison than their charges. A growing minority of prisoners, however, are forced to make the prison their long-term home. Indeed, a few seem destined to remain incarcerated until they die.

THE GROWTH IN THE LONG-TERM PRISON POPULATION

It is important to distinguish prison 'receptions' and the 'average daily population' (ADP). The overwhelming majority of prisoners are in prison for a matter of days, weeks, or months rather than years. Remand prisoners are in custody for on average less than two months. Eighty per cent of sentenced prisoners are released within 12 months.³ The ADP figures tell a different story, however. At any one time 30 per cent of remand prisoners have been in custody for more than three months and long-term adult prisoners dominate prisons both numerically and, more importantly, culturally: 47 per cent of the ADP are serving sentences of four or more years.

The contrast between prison receptions and the ADP has progressively become more marked as 'bifurcation' has been pursued at all decision-making levels. First are the changes in sentencing. In spite of the increase in recorded crime, the proportionate use

³ All figures, unless otherwise stated, are taken from the annual *Prison Statistics* (since 2004 the *Offender Management Caseload Statistics*), the most recent of which were published in 2005 (Home Office 2005a). For a general review of prison statistics see Morgan (1995).

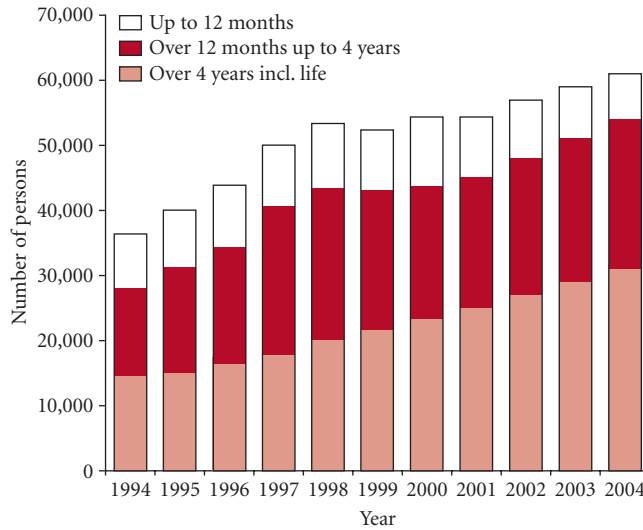


Fig. 32.2 Sentenced population by length of sentence, 1990–2004

Source: Annual Prison Statistics to 2002 and thereafter RDS/NOM online.

of custody gradually declined until the 1980s, then fluctuated and, since the early 1990s, has increased markedly: despite the fact that since the mid 1990s recorded crime has fallen by approximately one-third. The greater part of this recent increase has comprised very short sentences: the number of sentences of six months or less has more than doubled (see Home Office 2005a: Tables 2.1 and 2.2). There has also been a dramatic increase in the number of prisoners sentenced to very long sentences. In 1965, the year that the death penalty was abolished, 88 prisoners were received with sentences of 10 years or more, including life: 979 such prisoners were received in 2004. The increase in the number of long-term prison receptions has been matched by an increase in the proportion of their sentences served in prison. In 1985 the average time served by life-sentence prisoners released on licence was 10.7 years: in 2004 it was 14 years. Both murderers (for whom the life sentence is mandatory) and discretionary life-sentence prisoners are generally now required to remain longer in prison before being conditionally released. Moreover, bifurcation has characterized executive release policy across the whole range of sentences. The shorter the sentence, the smaller the proportion of the sentence the prisoner is required to serve in prison, and vice versa (see Home Office 2005a: Table 10.1).⁴

These trends have transformed the character of the ADP. Long-term prisoners now preoccupy prison administrators because long-term prisoners dominate life in most training prisons (see Figure 32.2).

⁴ After a cautious beginning, when parole was seen very much as a privilege to be earned by prisoners who had reached a 'recognisable peak in their training' (Home Office 1965), executive release has been gradually liberalized for short-sentence prisoners, but made harder to achieve for long-term and especially discretionary life-sentence prisoners (see Hood and Shute 2000; Padfield 2002).

GENDERED PRISONS AND THE GROWTH IN THE NUMBER OF WOMEN PRISONERS

Prisoners are overwhelmingly male—91 per cent of all receptions and 94 per cent of the ADP. Moreover, since it has long been the policy for women to be housed in institutions used exclusively for women (though one local prison accommodates males and females in separate wings), and because, until relatively recently, prison officers were employed exclusively to work with prisoners of the same sex, prisons are heavily gendered institutions. This has influenced the differential regimes thought appropriate for male and female prisoners, the nature of the relationships between prisoners and staff, the character of the activities provided, the relative use of drugs, disciplinary measures and so on (for accounts of the history of women's imprisonment see Dobash *et al.* 1986; Zedner 1994, 1995). The tendency has been to label women prisoners as mad or sad rather than bad and the activities organised for them have traditionally been geared to the roles of mother and homemaker rather than the labour market (Carlen 1983). Thus Holloway, the largest prison for women and the only local prison to have been rebuilt in recent times—was redesigned to operate on medically oriented therapeutic lines (Rock 1996), an approach considered particularly appropriate for women, but marginalized for men, as evidenced by the failure, until 2001, to replicate, despite its evident success, the experimental therapeutic prison at Grendon Underwood (Genders and Player 1994; Marshall 1997). The most recent survey evidence suggests that most work provided for women prisoners continues to comprise menial, unskilled maintenance tasks little integrated with their training (Hamlyn and Lewis 2000). The staffing gender profile of prisons is changing, however. By 2005 25 per cent of prison officers were female and in all prisons a growing proportion of officers were of the opposite sex to their charges.

The female prison population is in several respects different from that of the male population. It is not clear that women, all other things being equal, are more likely to receive a custodial sentence, but the differences between the men and women in custody nevertheless raise important questions of justice. First, 21 per cent of the female ADP comprises remands compared to 16 per cent for men, this in spite of the fact that the average remand period for women is significantly shorter (40 compared to 53 days in 2004). The principal explanation for the disparity is that a far lower proportion of female than male custodial remands—36 compared to 48 per cent—do not subsequently receive a custodial sentence.⁵ This prompts the question as to whether so many women need be remanded in custody.

Sentenced women prisoners also differ from men. They are typically: older; serving shorter sentences; less recidivist; and less likely to have committed sexual, violent, or robbery offences. They are also less likely to be reconvicted, a consideration reflected in their higher release rate under the Home Detention Curfew scheme (see HMCIP/ Probation 2001: para. 7.12). They are more likely to be addicted to drugs, and to have

⁵ After 2002 the Home Office ceased publishing data on time spent on remand and whether periods on remand were followed by conviction and a custodial sentence. On the latter issue see Prison Reform Trust 2004.

experienced repeated emotional, sexual, and physical abuse. Some writers, notably Carlen (1990; Carlen and Tchaikovsky 1996), argue that these differences in the male and female prison populations mean that the imprisonment of women is *different* from that of men and indicate that, despite their relatively small number, there is a powerful case for there being substantially fewer. In fact the opposite is occurring, and the rate of increase has been dramatic. At the end of 2005 there were over 4,000 women in prison, a 150 per cent increase over ten years compared to a 40 per cent increase for men. Precisely why the female prison population has risen so dramatically is not well understood, though one factor is the growth in the number of female foreign nationals convicted of drug-trafficking (see below).

Nineteen out of the 142 Prison Service establishments currently house women. Most of these accommodate women only. Approximately two-thirds of women prisoners have at least one child below the age of 18, but whereas the children of male prisoners are mostly looked after by wives or partners (Dodd and Hunter 1992), those of women prisoners tend to be cared for by grandmothers or friends (Caddle and Crisp 1997). A high priority for many women prisoners is not surprisingly to be in a prison close to home so as to be able to see their children and other family members regularly (HMCIP 1997: 12–15). Because there are relatively few prisons for women they tend to be a greater average distance from prisoners' homes. The Prisons Inspectorate has concluded that the sharing of sites with men does not benefit women. *Equality* of provision for women should not mean the *same* provision as for men. Their needs are different.

ETHNICITY, NATIONALITY, RELIGION, AND IMPRISONMENT

Approximately one in ten of the population in Britain today is made up of minority ethnic groups. Yet a quarter of all remands in custody, 18 per cent of all sentenced receptions, and a quarter of the ADP is drawn from the ethnic minorities. The difference is starker when sex is taken into account: 31 per cent of the female ADP comprises ethnic minorities compared to 24 per cent of the male. Closer scrutiny reveals that nationality is a major part of the explanation. A growing proportion of the prison population comprises foreign nationals—12 per cent in 2004 (21 per cent of women)—and just over three-quarters of the foreign nationals are non-white, the overwhelming majority of them black. This reflects a rising tide throughout Europe (Tomashevski 1994). Many of these foreign nationals are not normally resident in Britain, a large proportion of them sentenced for drugs offences: these are the drug 'mules' apprehended at ports of entry (Green 1991).

If foreign nationals and children under 16 years are excluded from the analysis, black residents are imprisoned at roughly eight times the rate of white residents—a difference greater than in the USA—whereas persons of South Asian origin are incarcerated at roughly the same rate as whites. Further, within these groups there are significant differences, persons of Caribbean origin being incarcerated at a rate much higher than persons of African origin, and people of Pakistani origin being incarcerated at a rate approaching two or three times as high as persons of Bangladeshi and Indian origin

respectively (Home Office 2001: Figure 6.6). Over-representation of the ethnic minorities compared to the white population is partly a matter of their youth: thus the over-representation is greatest among young adult prisoners. Finally, the ethnic minorities are most over-represented among the remand population—a feature which has attracted much critical attention (see Hood 1992; Fitzgerald and Marshall 1996)—and among sentenced prisoners their offence and sentence profile is different from that of the white population. Within all the ethnic minority groups, male and female, foreign nationals and British, the proportion of drug offenders is significantly higher than that of whites. Drug offences, particularly trafficking, attract longer than average sentences, and this explains part of the general over-representation in the ADP.

Religion is an increasingly important, complex feature of prison life. Whereas a rapidly growing proportion of prisoners, now almost one in three, record having 'no religion', what have previously been considered minority faiths have more and more prisoner adherents. Moreover, faith is often as important an aspect of self-identity as race. Today almost one in ten prisoners, for example, is Muslim (Home Office 2005a: Table 8.6; Ali 2005: 5)

THE YOUNG BUT AGEING PRISON POPULATION

Imprisonment is experienced largely by the young. Twenty per cent of sentenced receptions, are under 21 years of age and prisoners in their twenties dominate life in most prisons. This is not surprising. Crime, or at least the sort of crime that leads to conviction, is largely the activity of adolescents and young adults, and sentences of imprisonment are generally imposed on repeat offenders: more than two-thirds of the offenders sentenced to immediate custody have three or more previous convictions, over a quarter have 11 or more. The modal age of prisoners, male and female, is in the late twenties. Yet the prison population is ageing. The long-term trend, substantially reversed in the 1990s, has been a reduction in the number of very young prisoners and growth in the number of middle-aged and even elderly prisoners. Younger prisoners tend to have shorter sentences. In 1989 some 41 per cent of the sentenced ADP was under 25 years and approximately 15 per cent was aged 40 years or more; in 2004 the proportions were 30 and 22 per cent. There are now over 1,500 prisoners at any one time over 60 years of age, many of them serving long sentences.

The period since 1945 has witnessed the use of several differently titled custodial sentences for prisoners under 21—immediate imprisonment, borstal training, detention in a detention centre, and youth custody—but all were replaced by detention in a YOI by the Criminal Justice Act 1988, for which sentence the minimum age was raised in 1991 from 14 to 15 years. This simplification was thrown into reverse by the Crime and Disorder Act 1998 which introduced the Detention and Training Order (DTO) for juveniles, a sentence which can be served in a Prison Service YOI or one of the four contracted-out Secure Training Centres (STCs) or local authority secure homes. The latter two categories of establishment cater mostly for younger juveniles (see Morgan and Newburn, chapter 30, this volume). The overwhelming majority of juveniles and young

persons in custody, almost all the 15–17-year-old boys and 17-year-old girls, are accommodated in what continue to be called the YOIs, most of which are occupied, in separate wings, by *both* juveniles serving DTOs *and* young adults (18–20-year-olds). It is the YJB's ambition that juveniles eventually be held separately in dedicated establishments (YJB 2005) and on the basis that the transition to full adult male independence extends beyond the age of 20 there are advocates (NACRO 2001) of male prisoners, aged 18–24, being housed and provided for separately from older prisoners.

The number of juveniles and young adults received into custody rose sharply during the 1990s, thereby tracking the upward trend in the use of custody for adults. In the new millennium, however, the number has stabilized, bucking the adult trend. Nevertheless the number of offenders under 21 sentenced to an immediate custodial sentence remains only three-fifths of what it was in the early 1980s and is now at about the same level it was thirty years ago (see Figure 32.3).

The number of juveniles held on remand has also risen in recent years, though remanding in custody of 14-year-old boys ceased in 1992. The Government has said it is committed to ending remands in prison of 15- and 16-year-old boys (girls of this age are already excluded), a commitment prompted by the furore over the suicide of two 15-year-old boys in local prisons in 1990 and 1991. Since then all sense of urgency appears to have evaporated: at the time of writing there are more than 600 juveniles on remand in Prison Service establishments (information provided by the YJB). The Prisons Inspectorate has found that a 'significant minority of these young people are even more isolated, victimised and disturbed' than their adult counterparts (HMCIP 2000a: 25; see also Goldson 2000).

PRISONERS' SOCIO-ECONOMIC CHARACTERISTICS

The prison population is socially and economically disadvantaged relative to the population generally. Prisoners are disproportionately working class (83 per cent of male prisoners are from manual, partly skilled, or unskilled groups, compared to 55 per cent of the population generally—see Walmsley *et al.* 1992) and exhibit telling indicators of social stress, a fact well summarized by the Social Exclusion Unit (2002: Ch. 2). They are much more likely than the population at large to:

- have a family member convicted of a criminal offence (43 compared to 16 per cent); 35 per cent have a family member who has been in prison;
- have been in care as a child (27 compared to 2 per cent);
- be unmarried (81 compared to 39 per cent, 85 per cent since their imprisonment); divorced (9 compared to 4 per cent); young fathers (25 per cent of young offenders compared to 4 per cent); or lone parents (21 per cent of women prisoners compared to 9 per cent); all of which suggests that many children of prisoners are destined to suffer the same disadvantaged start in life (see Shaw 1992);
- be, prior to their imprisonment, unemployed (67 compared to 5 per cent of the general population); have no qualifications (52 per cent of men and 71 per cent of

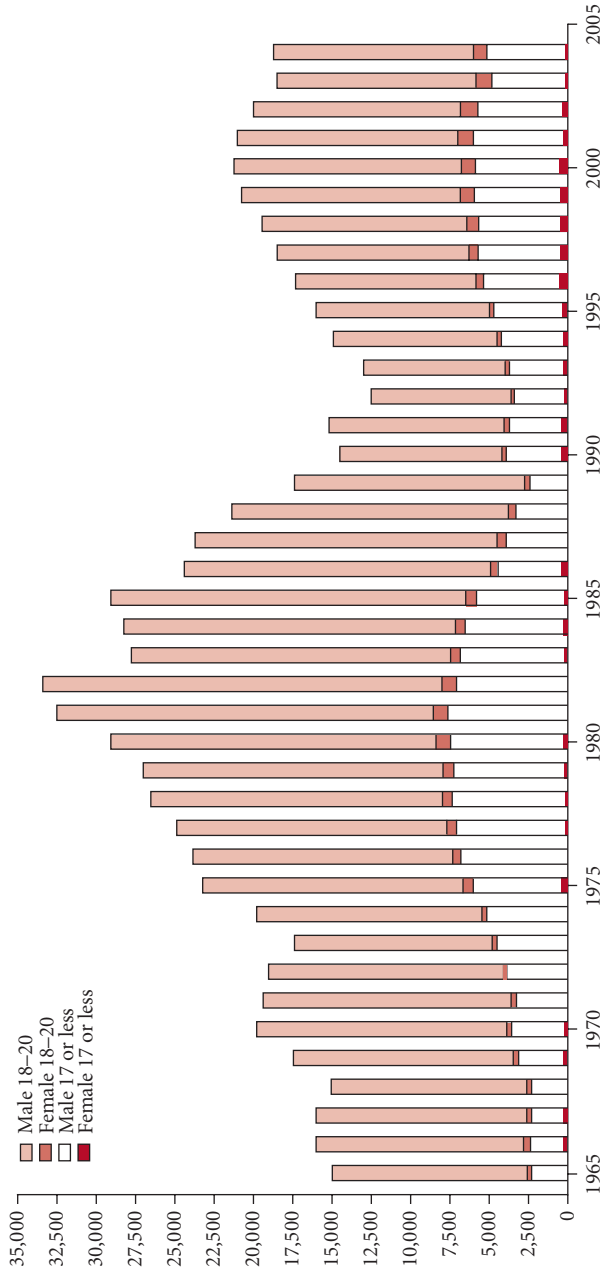


Fig. 32.3 Males and Females under 21 serving immediate custodial sentences in young offender institutions (YOIs) or prisons 1965–2004
 Source: *Annual Prison Statistics to 2002 and thereafter RDS/NOMS onlins.*

women compared to 15 per cent of the population generally); and have literacy and numeracy ages below that of an 11-year-old (48 and 65 per cent compared to 22 and 23 per cent respectively);

- be, prior to their imprisonment, sleeping rough (4.7 compared to 0.001 per cent) or lacking permanent accommodation (32 compared to 0.9 per cent);
- be smokers (77 of men and 82 per cent of women compared to 28 and 27 per cent respectively) or have a long-standing illness of disability (46 compared to 29 per cent);
- be, prior to their imprisonment, in receipt of benefits (72 compared to 14 per cent) or be indebted (48 compared to 10 per cent).

PRISONERS' MENTAL HEALTH

The mental health of prisoners has been a perennial cause for concern. Several epidemiological studies (Gunn *et al.* 1991; Dell *et al.* 1991) have been undertaken to assess levels of morbidity. The most recent data (Singleton *et al.* 1998) indicate that 10 per cent of male and 20 per cent of female prisoners have been mental hospital patients at some point prior to their incarceration and that very high proportions of all prisoner groups—78 per cent of male remands, 64 per cent of sentenced males, and 50 per cent of sentenced females—have some form of personality disorder. Whereas an estimated 0.4 per cent of the general population are psychotic, 7 per cent of the male sentenced population are. At 10 and 14 per cent respectively, the figures for male remand and female prisoners are even higher.

Proportionately three times as many male prisoners display high scores for neurotic symptoms as in the population generally. The figures for women are worse. The most severe of the neurotic conditions measured is the *depressive episode*. It is found in 2.1 per cent of the general population. Among prisoners the proportions are: 17 and 21 per cent of male and females remands; and 8 and 15 per cent of male and female sentenced prisoners. Thoughts of suicide among prisoners are relatively commonplace, particularly among remand prisoners. Forty-six per cent of male remands report having thought of suicide at some stage of their lives, 35 per cent in the last year, and 12 per cent in the week prior to interview. Twenty-seven per cent report that they have attempted to kill themselves at some point, 2 per cent in the week prior to interview. Again the figures for women are even higher: a quarter of women remand prisoners report having tried to kill themselves in the year prior to interview.

Very high proportions of prisoners are abusers of all categories of drugs. Fifty-eight per cent of male remands, 63 per cent of sentenced males, and more than one-third of all female prisoners have engaged in hazardous drinking prior to their imprisonment. The overwhelming majority of all prisoners have used cannabis at some stage. However, whereas use of cannabis is also widespread in the general population, use of heroin is not. Between one-third and one-half of prisoners in different categories have used heroin and/or crack cocaine (May 2005). Two-fifths of all women prisoners have

injected drugs at some stage in their lives and between two-fifths and one-half of prisoners in all categories report having been dependent on one drug or another during the year prior to their incarceration. Prisoners convicted of property offences have above-average rates of drug dependence.

The overall picture of the prison population is one of multiple deprivation, social stress, and co-morbidity. Prisoners are seriously disadvantaged before their imprisonment and their social marginality is heightened by their incarceration.

THE SOCIOLOGY OF PRISONS

Prisons represent the power of the state to coerce. Order within prisons may in the last resort depend on the use of force by staff. Yet disorder is not the norm of prison life. As in any other social setting, order in prisons is negotiated (McDermott and King 1988; Liebling and Price 2001). The negotiation is not between equals. But it is for the most part achieved with the more or less grudging consent of prisoners who invariably far outnumber the prison officers who guard them. The 108,000 offences against the prison disciplinary code formally punished in 2004 (35 per cent fewer than ten years previously—Home Office 2005a: para. 9.2) belies the fact that staff and prisoners generally coexist harmoniously: frictions are for the most part resolved through more subtle accommodations. What counts as order within prisons?

The sociological literature on prisons suggests the existence of a prison culture—a set of attitudes and a way of doing things—in which both prisoners and prison officers have roles. To the extent that prisons exhibit a specific culture there has been a long-standing debate as to whether it is of primarily *indigenous* or *imported* origin. The indigenous approach is represented by Sykes's classic account of the *Society of Captives* (1958) and Goffman's seminal discussion of *Asylums* (1968). Both writers stress the distinctiveness of prison life. Prisons are 'total institutions' and prisoners are relatively shut off from the world at large. The prison has been seen as a more or less closed social system in which it is the task of one group of persons, the prison officers, to manage or process another group, the prisoners. Sykes's focus is on the 'pains of imprisonment'—the various deprivations that living in prisons involves—while Goffman stresses the dynamics of mortification—the transformation of the self—that results from entering a 'people-processing' institution. In both accounts the prisoner is described as being under psychological assault, with the usual supports for and expressions of personal identity—possessions, control over personal appearance, autonomy of movement, personal privacy, security, and so on—being greatly diminished (for a contemporary review of these arguments and recent empirical evidence, see Liebling and Maruna 2005). Prisoners may develop individualistic responses to these stresses, responses ranging from escape attempts or playing the role of the barrack-room lawyer to psychological withdrawal or intensive auto-didacticism. However, for Sykes the

distinctive aspect of the prison culture—largely, though not entirely, its emphasis on prisoner solidarity against staff—represents a functional response to these social and psychological assaults: a means by which the rejected can reject their rejectors (McCorkle and Korn 1954) and thus maintain a degree of self-esteem. According to this view, the more that prisoners adopt a cohesive stance, the more the pains of imprisonment can be mitigated for everyone.

This process points to a paradox. Some of the relative deprivations of prison life are the result of staff attempts to maintain external security and internal order. Yet the pains of imprisonment can stimulate a solidaristic counter-culture subversive of official objectives. Thus the apparently total power of staff is compromised by their need to reach an accommodation with their charges in order that routine tasks be accomplished. In this way, whatever purposes prisons officially pursue are in practice undermined by the daily reality of the negotiated settlements which take place between officers and prisoners. This suggests that in reality prisons are unlikely to be about the pursuit of noble missions: they are ultimately more about practical survival in settings which, because inherently coercive, have an ever-present potential for instability and disorder. In the case of the uniformed staff the essence of a good day is one in which the routines are accomplished professionally without trouble, including the need to use unnecessary force (see Liebling and Price 2001: chs 5 and 6).

The problem with indigenous accounts of prison culture is that they fail to provide an explanation of change, other than the sort of minor shifts from crisis to equilibrium which might occur within a closed system. They do not explain the more fundamental changes in operational policy and prisoner response which have taken place in British prisons since 1945 or, more dramatically, which occurred in American prison systems in the wake of the black civil rights movement in the 1960s. Thus, by contrast, importation theorists stress the connection between relationships within prisons and those outside—for example, changes in political expectations, the legitimacy of authority, and legal culture (see Jacobs' (1977) classic study of *Stateville* Prison, Illinois). Importationists also highlight the degree to which the cultural norms to which prisoners subscribe, and the individual roles they adopt in prison, are extensions of subcultures of which they are a part before being incarcerated (Irwin and Cressey 1962; Irwin 1970). According to this approach the prison culture is not peculiar to prison: it is both a microcosm of the wider society and a sort of career continuation of the criminal culture of the streets from which a high proportion of prisoners are drawn. Thus Irwin and Cressey identify a 'thief subculture' outside prison which stresses group loyalty and toughness. To the extent that there is group solidarity between *some* prisoners within prison, then this 'convict' or 'prisoner' subculture is both an extension of that street culture *and* an adaption in response to the contingencies of life inside.

Indigenous and importationist perspectives are nowadays generally seen as complementary (Jacobs 1979). Moreover, whatever is to be learned from the American literature, British (and, indeed, most western European) prisons are unlikely to exhibit the same cultural patterns as in the USA. There has hitherto not, for example, been sophisticated organized crime in Britain as found in the USA; nor, with one or two

notable exceptions, have criminal street gangs regularly employing life-threatening violence been a prominent feature of British crime, and thus their influence has not been greatly felt in prisons. Further, maximum-security prisons of the kind widely employed for the mainstream prison population in some US states (King 1999), have only relatively recently become part of the English system, and even today only a tiny minority of the prison population is housed in such conditions. Finally, though British society is riven by deeply ingrained class differences and racial divides, Britain is nevertheless culturally a relatively homogeneous society. With the exception of Northern Ireland (McEvoy 2001), there are not the deep cleavages which in the USA have historically separated the African American from the white population and in more recent times, the Hispanic from the English-speaking community. These cleavages have fatally dominated parts of the American prison scene (Colvin 1992; Wacquant 2001) to an extent largely unknown in Britain, and indeed, most of western Europe. Mathieson's (1965) classic study of a Norwegian prison failed to reveal much in the way of prisoner solidarity. Prisoners were relatively weak and isolated: they were vulnerable to the discretionary favours which the staff were in a position to distribute. Recent research suggests that power has shifted upwards in British prisons, and that prisoners are preoccupied with individual incentives (for example, to get home leave or early release) rather than collective politics (Liebling 2004; Crewe 2006).

The British 'sociology of prisons' literature has emphasized the complexity and varied quality of prison communities. The regime which different groups of prisoners experience differs considerably within prisons (King and Morgan 1976: ch. 3; Sparks *et al.* 1996). Thus, while prisoners' responses to custody may owe much to their previous institutional, criminal careers, and political affiliations (McEvoy 2001) they are also shaped by the length of their sentences (see, for example, Sapsford 1983, on life-sentence prisoners), the physical restrictions to which they are subject (see Cohen and Taylor 1972, on a high-security unit), whatever opportunities and facilities (or lack of them) are provided (King and Elliott 1977; Sparks *et al.* 1996; Liebling *et al.* 1999), and on the moral or emotional climate generated by staff working within them (Liebling 2004).

It is also evident from the literature on prison staff that the background characteristics of prison officers have changed a good deal in recent years, as have their working conditions. Officers now, as in the past, generally join the Service in their late twenties or thirties, after a spell in other occupations. But whereas the majority used to be recruited from the regular armed forces (Morris and Morris 1963: ch. 4; Jones and Cornes 1977: ch. 7), this is seldom the case today. Forty years ago few prison officers had any educational qualifications. Today the indelibly working-class culture of the majority, shaped now by previous experience of manual and clerical work rather than military discipline, is blended with a sizeable minority of recruits with A levels or degrees (26 per cent in 1985—see Marsh *et al.* 1985: Table 3.6) seeking advancement within an integrated career structure (Liebling and Price 2001: ch. 2). Moreover, the simple world of the 'gentleman' governors and prison 'screws' of the 1940s and 1950s has been complicated by the employment of women in all institutions and at all levels,

and the importation of specialists who, in the 1960s and 1970s at least, took on the majority of the plum 'treatment and training' tasks—education, social work, and the various therapies with which the Service flirted (Thomas 1972: ch. 9). Prison officers typically spend a far higher proportion of their lives in prison than do their charges. They also have a culture, shaped by their previous experience and the increasingly complicated managerial (and emotional) context within which they operate (Liebling and Price 2001: ch. 8; Crawley 2004). The living conditions of prisoners are the working conditions of prison officers.

In criminal career terms, indigenous and importationist factors may reinforce each other. Clemmer (1940), a pioneer American analyst of the prison community, wrote of the process of 'prisonization', the gradual destructive socialization of prisoners into the norms of prison life which make it difficult for them successfully to adapt to a law-abiding life outside, thereby possibly deepening criminality. The idea of prisonization, which most researchers have rejected on the grounds that it posits too mechanical and linear a process, bears a close resemblance to the idea of institutionalization, a syndrome which analysts of mental hospitals have employed to describe the adjustment, with pathological consequences, of patients to stultifying regimes. Most prison studies identify a minority of prisoners whose reaction to custody is one of extreme social withdrawal, prisoners who know how to 'do time' passively 'behind their doors', typically 'old lags' imprisoned on many previous occasions and resistant to more open regimes and extended association (see Morris and Morris 1963: 172–3; King and Elliott 1977: 241–4).

To the extent that there is a prisoner culture it is plausible to see it as the product of utilitarian responses which different groups of prisoners, depending on their background, reputation, offence, and length of sentence, make to the pressures and opportunities arising out of captivity. There may be an informal code of not 'grassing' to staff, but there is also as much rivalry and enmity in prisons as there is camaraderie (Morris and Morris 1963: 168; Crewe 2005). Moreover, there are plenty of ways in which prisoners can inform staff about those prisoners whose behaviour they may wish to control, either for reasons of power play or simply to prevent a breakdown in the orderliness which most prisoners and staff have a vested interest in preserving. Many British studies emphasize with Sykes that one of the worst aspects of prison life is having to live with other prisoners. This may be because fellow prisoners are 'dirty in their personal habits or socially unpleasant or guilty of crimes which other prisoners regard as revolting' (Morris and Morris 1963: 168–9); or because of a lack of privacy within a highly restricted physical space (Cohen and Taylor 1972: 80–1); or because of the discomfiting strategies which colleagues adopt to cope with whatever time they have to serve (King and Elliott 1977: ch. 8); or for reasons of racial prejudice (Genders and Player 1989) or political attachment (McEvoy 2001).

There are moral and power hierarchies within prisons. One of the reasons why most prisoners are keen that order, however tenuous, should be maintained is that disturbances provide opportunities to settle scores and confirm moral hierarchies (see Woolf 1991: section 3). It is doubtful that British prisoner communities can be characterized

in class analogy terms in which the gangsters constitute a ruling class and the sex offenders (or 'nonces') a lumpenproletariat (Genders and Player 1994). The categories 'gangster' and 'sex offender' are problematic and subject to subtle qualifications relating to the nature of a prisoner's original offence and the reputation he or she establishes within prison (Cohen and Taylor 1972: ch. 3). Nevertheless, it is clear that certain categories of sex offenders, particularly those who have committed offences against children, are anathematized, and that established professional criminals who have experienced prison before, are older, and are doing longer than average sentences, tend within training prisons to be the 'top men' (King and Elliott 1977: 254–6). But social prominence within prisons is a complex matter (for a contemporary study, see Crewe 2005). Whereas Irwin's (1970) professional Californian thieves were allegedly orientated to the outside world, King and Elliott's 'top men' had as few outside contacts as their 'retreatists'. Nor were they heavily involved in power cliques and the culture of barter in contraband goods. On the contrary, their reputation enabled them to secure good positions (attractive cell locations and valued jobs) and non-interference from prisoners and staff alike. They were able to do their 'bird' in relative peace and security. The prisoners prominent in 'jailing' activities—regarded by the 'top men' as 'hotheads', 'tearaways', and 'borstal boys'—were on the whole younger, shorter-sentence prisoners whose criminal careers were disorganized (Keing and Elliott 1977: 250–2).

Power structures within prisons vary a good deal according to the nature of the prison (there has, for example, been virtually no research attention given to the predatory behaviour which, according to HMCIP, dominates many young-offender and low-security adult institutions—see HMCIP 2000b and 2001a for two recent examples) and depend less on a rigid class structure and rather more on a fluid pattern of competing groups based on ethnic and regional affinities as well as prior friendships and 'business' interests (Sparks *et al.* 1996: ch. 5). There is not one prisoner world, but many (Rock 1996: 39–41) and it is a shifting world. Ditchfield's review (1990) of the literature on disturbances and control in prisons found little evidence that the likelihood of incidents could straightforwardly be related to such factors as overcrowding, architectural design, or prisoner facilities, though changes, both positive and negative, which destabilized power structures and relationships increased the likelihood of disorder (see also Adams 1992: chs 5–7). However, order in prison can be linked to *legitimacy*, or perceptions of fairness and staff-prisoner relationships (Sparks *et al.* 1996; Liebling 2004). Attempts by prison psychologists to identify prisoners likely to be control problems, or to find common features among those prisoners identified by governors as control problems and transferred to special units, have not been conspicuously successful (see Williams and Longley 1987; and a critical review by King and McDermott 1990). Nor, despite references by senior prison administrators to disorder-prone 'toxic mixes' in their reviews of some prison disorders (see HMCIP 1987 on disturbances at Wymott and Northeye in 1986; also Ditchfield 1990: ch. 4), was the Woolf Inquiry able to identify a pattern among the *prisoners* prominent in the 1990 disturbances. His diagnosis of the disturbances was the widespread sense of injustice prevailing in dilapidated and outdated local prisons. The fact 'that a prisoner

who creates control problems in one prison, may behave with complete propriety in another' (para. 9.48) suggested that more attention needed to be paid to the quality of relationships between prisoners and staff, to the nature of regimes, to procedural justice, and to day-to-day fairness (ibid.: section 9; see Sparks *et al.* 1996; Liebling 2004).

There are three lessons to be drawn from this research. First, though there are undoubtedly a few prisoners whose response to most penal situation is so disruptive or aggressive—the extreme case being prisoners who have killed within prison—that they must for a time be placed in special units, attention needs most to be paid to trouble-generating *situations* and *procedures* rather than to the relatively illusive 'disruptive' population. Removal of 'troublesome' prisoners is seldom a solution. Such labelled prisoners often go on to confirm their labels (Boyle's autobiographical accounts (1977, 1984) are object lessons in this process) and the situation within which their troublesome behaviour was first identified typically generates further trouble. Secondly, the regime experienced by the 'mainstream' population has to be got right. It is there that trouble sporadically occurs and the proliferation of special units disrupts the ladder of incentives and disincentives on which the stability and fairness of the whole system ultimately rests. Thirdly, relationships between prisoners and prison officers are critical to the quality of prisoners' lives. This suggests, to take the crime-preventative analogy adopted by Sparks *et al.* (1996), that benefits are likely to flow from adopting a 'social' rather than 'situational' control strategy, in effect what Dunbar (1985) termed 'dynamic security'. This involves devising 'active' regimes for 'healthy' prisons for prisoners in which prison officers are positively involved *with* prisoners in the delivery of programmes, services, and facilities between which prisoners may exercise a degree of responsible choice. The same lessons are implicit in the developing literature on suicide prevention in prison (Liebling *et al.* 2005a; Dear 2006). There are a few prisoners who recognizably feel so suicidal that they can be identified and focused measures can be taken to prevent their taking their own lives (Prison Service 1992; Liebling 1992). A high proportion of prison suicides are not predictable, although research suggests they may occur disproportionately in disorganized prisons with poor cultures, where levels of distress among prisoners are found to be highest. The solution is to enhance the quality of life for *all* prisoners, to focus regimes on future well-being, and to increase mental health in-reach provision and training for staff (HMCIP 1990b; Liebling *et al.* 2005b).

■ SELECTED FURTHER READING

Discussions of imprisonment ideally take place within the broader context of the debate on the philosophy and sociology of punishment: Nigel Walker's *Why Punish?* (Oxford: Oxford University Press, 1991) is an excellent introduction to the former and David Garland's *Punishment and Modern Society* (Oxford: Oxford University Press, 1990) is a masterly overview of the major theorists who have explored the latter.

The current organization of imprisonment is heavily influenced by past practice. Michael Ignatieff's *A Just Measure of Pain* (London: Macmillan, 1978) provides an inspirational account of the emergence of imprisonment as the principal penalty for serious crime at the end of the eighteenth century and *The Oxford History of the Prison* (edited by Norval Morris and David Rothman, New York: Oxford University Press, 1995) comprises a fine collection of essays by leading historians on the international origins and use of imprisonment.

As far as the contemporary use and organization of imprisonment is concerned, there is no substitute for becoming familiar with the annual reports of the Prison Service and NOMS, the Home Office Research Development and Statistics Directorate's Research Findings (for example, Nos 262 and 260 on CARAT drug services and basic skills training), and the annual *Offender Management Caseload Statistics* (formerly the *Prison Statistics*). To access these and many other documents (the reports of the Prisons Inspectorate, the Prisons and Probation Ombudsman, and the Parole Board, for example), the Home Office website (www.homeoffice.gov.uk) is essential. The websites of the Prison Reform Trust (www.prisonreformtrust.org.uk), NACRO (www.nacro.org.uk), and the Kings College Centre of Criminal Justice Studies (www.kcl.ac.uk/depsta/rel/ccjs/events.htm) are also very useful.

As far as introductory texts are concerned Michael Cavadino and James Dignan's *The Penal System: An Introduction* (3rd edn, London: Sage, 2002) is the best available, although *The Prisons Handbook* (edited by Yvonne Jewkes, Willan) should become available in early 2007. A thorough analysis of recent attempts to modernize and improve prison life, and their effects on prisoners and staff can be found in Alison Liebling's *Prisons and their Moral Performance* (Oxford: Oxford University Press, 2004). A scholarly analysis of the important history of imprisonment in Northern Ireland is provided by Kieran McEvoy's *Paramilitary Imprisonment in Northern Ireland: Resistance, Management and Release* (Oxford: Oxford University Press, 2001).

Imprisonment is ultimately an experience which only those who have been incarcerated can adequately relate. Victor Serge's *Men in Prison* (London: Gollancz, 1970), Rod Caird's *A Good and Useful Life* (London: Hart-Davies, 1977), Jimmy Boyle's *A Sense of Freedom* (London: Canongate, 1977), Audrey Peckham's *A Woman in Custody* (London: Fontana, 1985) and Erwin James' *A Life Inside* (London: Atlantic Books, 2003), are among the best accounts.

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