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Voices from the front line

Values and Practices in Public and Private Sector Prisons:

A Summary of Key Findings from an Evaluation

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Introduction

As public sector prisons move towards the staffing level model of profit-making institutions, with their high turnover of personnel who are less tied to their occupation, a study conducted by the authors and colleagues, funded by the Economic and Social Research Council (ESRC), warns of a potentially detrimental impact on prison quality. Until now, little has been known about the relative strengths and weaknesses of public and private prisons. Today, when the privatisation of prisons is on the increase and the public sector staffing model is becoming more like the private one, it is vital that we look beyond the stereotypes and assumptions about private sector prisons to understand the two sectors and their differences. The privatisation 'experiment' is controversial but provides an important opportunity to understand better how prisons work, and how different models may lead to different outcomes, and via what mechanisms. The most interesting finding of our study is that when experienced staff in the best private sector prisons use power, there seems to be more care and less 'indifference' in it. One of the weaknesses of private sector prisons is that in pursuing cultural distinctiveness from the sometimes overbearing culture of public sector prisons, their staff do not use this (more legitimate) version of power enough. We expand a little on this interesting finding below.

The Study

Considerable progress has been made in conceptualising and measuring the quality of life or moral performance of prisons over a number of

research projects carried out by members of the research team over the last ten years.² One of the key findings of this cumulative research programme is that the nature and quality of staff-prisoner relationships are among the most important determinants of the quality of prison life. The way prison officers conceive and approach their work, and the way they treat prisoners and use their authority, makes the difference between a prison that is constructive and one that feels destructive, according to prisoners. This is borne out by data on prison suicides.³

Comparing prisons is notoriously difficult — for example, new buildings (more likely in the private sector so far) may be much easier to operate in than old buildings. So design, function, population mix, geographical location, among other things, can confound the results and are difficult to hold constant. As we have found in other studies, however, prisons serving the same function differ significantly in what they deliver, how they are experienced, and what effects they have. Public/private ownership is *not* the most important variable in determining prison quality, even though there are certain characteristic features in each sector.

In this study, we compared two matched pairs of public and private sector prisons. We subsequently collected data from three further private sector prisons. In the four prison comparison, the private prisons showed weaknesses in policing and control, organisation and consistency, and prisoner development (that is, opportunities to grow and change). Managers in the private sector prisons acknowledged that staff did not follow procedures as well as public sector staff. We found the private prisons had relatively inexperienced staff, and were sometimes hampered by their tighter staffing levels. Staff training in these prisons aimed to foster a respectful and positive staff culture, and appeared to be successful in

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1. With Clare McLean, also at the Institute of Criminology, Cambridge.
 2. For example, Liebling, A.; assisted by Arnold, H. (2004) *Prisons and their Moral Performance: A Study of Values, Quality and Prison Life*, Oxford: Clarendon Press; Liebling, A., Hulley, S. and Crewe, B. (in press, 2011), 'Conceptualising and Measuring the Quality of Prison Life', in Gadd, D., Karstedt, S. and Messner, S. (eds.) *The Sage Handbook of Criminological Research Methods*. London: Sage.
 3. Liebling, A., Durie, L., Stiles, A. and Tait, S. (2005) 'Revisiting prison suicide: the role of fairness and distress', in A. Liebling and S. Maruna (eds) *The Effects of Imprisonment*, Cullompton: Willan, pp. 209-31.

doing so. However, the good intentions of staff were hindered somewhat by their lack of experience. The ways that staff used their authority had a significant impact on prison performance and the prisoner experience. In one of the private prisons, staff tended to over-use their authority to achieve order, to the detriment of interpersonal relationships. In the other prisons staff under-used their power and maintained good relationships but at the expense of safety and control.⁴ In the public sector prisons, officers were confident and knowledgeable, delivering routines that were safer and more reliable than in the private sector. However, uniformed staff in the public sector were more jaded and cynical than those in the private sector, and this limited the levels of care and humanity that prisoners experienced.

When we evaluated three further private prisons, however, we found that prisoner quality of life was higher in two of these additional prisons than in either the poorer performing private prisons or either of the public sector prisons in the study. In these prisons, prisoners described feeling able to change and develop personally. Order, organisation and consistency as well as respect and fairness were part of what made a prison work.

The variation between prisons in quality was highest *within* the private sector, so private sector prisons run by the same company were at the highest *and* lowest end of a wide quality spectrum. This tendency for private prisons to do either 'very well' or very badly' has been found before.⁵ Different contract conditions, and the quality of management have a significant impact on quality. The quality of senior managers in both sectors varies enormously. Most prison managers in the private sector are recruited from the public sector, and sometimes the sector makes good choices, picking 'high fliers' who flourish outside the constraints of the public sector, or who feel undervalued within it. This includes many women, who seem to hit a ceiling in the public sector. But they have also got some choices of senior managers wrong. There are fewer management layers in the private sector, and much lower levels of experience (and competence) among line managers.

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Staff on the ground in the private sector receive less guidance, mentoring, and support from experienced seniors. It is an extraordinarily demanding management task, leading a new and privately operated prison into operation. On the other hand, staff are more 'willing' and malleable, once they know what it is they are supposed to do.

Poor performance in the private sector tends to be related to high staff turnover, low cost, inexperience, unstable management, location and speed of opening. It is difficult for management teams to get a new prison up and running, so that it functions smoothly and staff understand and perform all aspects of their work professionally. High performance seems to be related to

the build up of experience among staff (in turn related to lower turnover), strong, effective and competent management, in one case, an expensive contract, good design, and sometimes individual flair in long-stay governor/directors.

The public sector, on the other hand, has (underestimated) strengths in the use of authority, security, safety, stability and 'professionalism'. The sector benefits from having a large corporate structure behind it, which comes into its own in times of crisis (including, occasionally, on behalf of the private sector) and sometimes serves as a 'corporate memory' or resource. Its weaknesses are in aspects of its traditional and resistant culture, and in the amount of management time

and attention taken up by dealing with the prison officers' union (the POA). Although there is considerable variation in quality within the public sector, the worst prisons still function (like a slightly cranky machine). The best tend to be 'good', like a well oiled machine, but a bit 'heavy', creating some resistance and frustration for prisoners, enthusiastic staff, and managers. The private sector has strengths in being more flexible, outward looking, developing pockets of innovation in areas like working in creative partnership with other organisations, building a polite and respectful culture, and at its best, facilitating personal development among prisoners, which can help them turn their lives around on release.

4. See further, Crewe, B., Liebling, A. and Hulley, S. (2011) 'Staff culture, the use of authority, and prisoner outcomes in public and private prisons' *Australia and New Zealand Journal of Criminology* 44(1) 94–115.

5. For example, National Audit Office (2003) *The Operational Performance of PFI Prisons: Report by the Controller and Auditor General*: HC700 Session 2002-3: 18 June 2003, London: HMSO.

One of the main lessons of this research confirms our earlier finding in related studies that the way that prison staff use their authority makes a huge difference to the quality of a prison. In private sector prisons, staff commitment and attitudes are often positive, but this does not necessarily mean that officers use their authority well. In the less good private sector prisons, staff under-police the wings, and prisoners have too much power and too few boundaries. In public sector prisons, some staff over-use their power and are a bit blasé about the authority they wield. This can make prisoners feel disrespected and resentful, which makes it less likely that they will engage positively with staff or with prison programmes.

Our research demonstrates that where staff-prisoner relationships have the right balance of control and respect almost all aspects of the prisoner experience are enhanced. Better quality prisons tend to be good in most areas, whereas poorer performing prisons tend to be poor in most areas. Staff need to be able to use their authority professionally — with both confidence and care — in order to create decent environments. Both over-staffing and understaffing lead to (different) difficulties: over-staffing can encourage resistance and staff complacency, whereas under-staffing can lead to fear and distancing from prisoners. The problem is to find an optimum level of resourcing, staffing levels, quality, training and experience (and turnover) level. The concept of the 'professional prison officer' is helpful, suggesting a model of prison officer work that is confident, authoritative, legitimate and pro-active. But there also needs to be clarity of purpose, an appropriate (effective, and evidence-led) model of work with offenders, and competent and consistent leadership. This is a complex and demanding business, requiring highly skilled staff and outstanding leadership.

Despite political assumptions that the private sector is inherently superior at service delivery, private sector prisons are not necessarily better or worse than public sector prisons. When they get it right, they can provide decent and positive environments. But when they get it wrong, which seems to be more likely (but not inevitable) if they are run cheaply, they can be chaotic and dangerous places, which are no good for either the staff who work in them or the prisoners who live in and will be released from them. When things go wrong in prisons, they go wrong in very

significant ways: riots, escapes, murders, suicides, and so on.

There are therefore real risks in privatising prisons 'on the cheap' and in re-conceiving public sector prisons on the cheapest private sector model. There are no guarantees that private sector prisons will be cheaper or better than public sector prisons. The cost differential between the sectors has reduced considerably, especially in those prisons that go through competitive processes. It is not always the case that the cheapest bid wins or, now, that the cheapest bid comes from the private sector. There is a danger that bidders lose sight of the realities of running a complex organisation in their eagerness to win the contract — a sort of 'race to the bottom'. This has been evidenced in both the public and the private sectors. At least two poorly performing private sector prisons in the UK have been returned to the public sector.

We would recommend trying to combine the strengths of both sectors, above the lowest possible cost threshold, rather than assuming that the private sector is simply better or more cost effective, in this key area of public services. This would be achievable if we reduced the number of prisoners, by cutting the extraordinarily long and indeterminate sentences prisoners now receive, and diverted short term prisoners into constructive alternatives. Some of the difficulties prisons face are related to how they are used, so

not all problems of the prison can be resolved by different management techniques or changes in ownership.

There is a need for more learning from each sector, and more independent and meaningful evaluations, linking internal organisation and quality of life to outcomes. What we don't know, internationally, is what proportion of prisons within each sector are very good and very poor respectively, and why this is. These are the sorts of questions that need answers. The main aim of prison privatisation is to improve public sector service performance or delivery and effectiveness via competition and innovation, by injecting new energy and vision, and by experimenting with new management and staffing arrangements: the cross-fertilisation argument. There are problems of inefficiency, ineffectiveness, and poor or traditional culture in the public sector, but there are also some strengths, which are in danger of being lost. Staff and prisoners still speak a moral language of *making a*

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difference but there is a general shift in the Prison Service towards a security-and-efficiency driven management style that risks stifling professional enthusiasm by its process and performance-oriented culture.

Some believe that private sector competition will improve the quality of prisons, prisoners' welfare, and outcomes, others believe it poses greater risks. We have found that both of these possibilities are real, and that the outcomes depend on several factors, such as: the quality of the contract, the quality of management, staffing stability (which is linked to pay and conditions, but also to management) and the effectiveness of monitoring processes. The balance of risks may vary with changing values and interests — so in a cost cutting and/or punitive era, the risks of violations may be higher.

Many people believe that matters of punishment and deprivation of liberty are and should be inherently public, and should be a core responsibility of the State, acting on behalf of the community. The Supreme Court of Israel recently decided to prohibit the private operation and management of prisons on the grounds that it was constitutionally unlawful and permitted a potential violation of human rights.⁶ It contravened the Basic Law on Human Dignity and Liberty. Limits to this principle can only be justified if made in order to further an essential public interest. According to the ruling, violations of a prisoner's constitutional right to personal liberty are more likely when the entity responsible for his imprisonment is a private corporation motivated by economic considerations of profit and loss, than when

the entity responsible for his or her imprisonment is a government authority not motivated by those considerations. In other words, the profit motive may increase the risk of human rights violations. This is an argument based on principle, but is not yet based on empirical fact. Israel is the first country to make this legal decision. Other jurisdictions have reversed their privatisation decisions on the grounds that it does not provide the hoped for benefits or is risky (Canada, Scotland, and Victoria in Australia, for example).

Breaches of basic rights and international standards are not uncommon in public prison systems as currently operated. The current state of public sector provision and management (from basic conditions, overcrowding and the quality of health care to the availability of what sort of rehabilitative, educational and vocational programs) may be relevant to the moral reckoning process.

The key question is what is the best way to realize the public interest in having a proper, decent, effective and efficient prison system? This is a very difficult question to answer. Is the word 'effective' relevant, and is its meaning clear, when we are talking about institutions that punish? Once we know what we mean by 'quality', we need to know more about what mechanisms, including management, staffing and accountability/regulation, best secure such conditions.

The privatisation issue raises profound questions about the role of the State in punishment, the difference between privatisation's effects on quality and *quantity*, and the role, identity and moral status of the prison officer.

More detailed results from this study can be found on the ESRC website at <http://www.esrc.ac.uk/my-esrc/grants/RES-062-23-0212/read/reports>.

6. See Harding, R (forthcoming) 'State monopoly of 'the limits of permitted violation of human rights': The decision of the Supreme Court of Israel prohibiting the private operation and management of prisons, *Punishment and Society*.