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States 
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HAD/DPT/29

Deputy M Tadier
Home Affairs Scrutiny Sub-Panel
Scrutiny Office
Royal Square
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4th December 2009

Dear Deputy Tadier,

REPORT SR7/2009 - PRISON BOARD OF VISITORS

Thank you for sending me a copy of the Education & Home Affairs Scrutiny Sub-Panel report on the Prison Board of Visitors which was presented to the States on 18 August 2009. My specific comments on each of the recommendations contained at paragraphs 2.16 to 2.29 of the report are attached at Appendix A. However, I should like to make some general comments on the conduct of the review in this covering letter. This is because the Prison Board of Visitors is a matter of legitimate public interest and it is right, therefore, that I should point out a number of perceived shortcomings in the way this review was carried out and, inevitably, in the conclusions reached.

Firstly, it is clear from Appendix 2 of the report that only two written submissions were received by the Sub-Panel, including one from a person who has been a long-standing critic of the Prison Board of Visitors system. One wonders, therefore, whether there is any genuine desire for change amongst the community at large or whether the report is simply a response to persistent representations made by a particular individual over a sustained period. I am not suggesting that individuals' concerns should not be looked into or taken seriously, simply that the report can hardly claim to reflect the views of society in general.

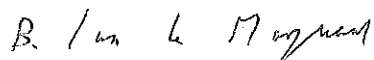
Whilst I can understand the Sub-Panel's conclusion that an Independent Monitoring Board, formed along UK lines, would provide an alternative to the Prison Board of Visitors, the report does not examine the genesis for such arrangements in the United Kingdom. Whilst they no doubt perform a useful function in that jurisdiction, they came about partly as a result of the prison riots and demonstrations evident in the late 1980s and 1990s. Thankfully, Jersey has not experienced similar problems with its prison regime. During your visit to the Prison, I am sure you will have sensed the complete absence of tension in our prison, an atmosphere which is not enjoyed in many UK prisons, and this is in no small part due to the excellent staff/prisoner relationships which have been built up over many years. For my part, I regard the skilful and sensitive approach taken by Jurats over the years, in their role as the Board of Visitors, to be a contributory factor in the relationships that we currently enjoy. My reading of the report is that the important role performed by the Board of Visitors was

not fully understood. The Board of Visitors function is a relatively small part of a Jurats role. Indeed, they have a wide remit both as an integral part of the criminal justice system in Jersey and as an important part of our civic structure. Consequently, when they attend the Prison, they are not there simply to see that processes and procedures are being adhered to. They have the welfare of prisoners very much in mind and they bring all their experience and skill to bear in seeing that issues are resolved sensibly. If this involves liaising with agencies outside of the prison, they are content to do this in the interest of prisoner welfare. I am not sure that an independent monitoring board, along UK lines, provides this depth of service.

Like the low level of public representation, the conclusions reached by the Sub-Panel rely on submissions made by a very small number of prisoners. Of a prison population of near 200, only 6 prisoners were interviewed. In any one year, over 100 applications are made to see the Board of Visitors on a range of issues. Most of these prisoners have their issues resolved satisfactorily and would most likely have given a different view to the Sub-Panel than the 6 who were chosen. Moreover, I understand that the 6 prisoners were seen in pairs, rather than individually, which would have affected the reliability of the information given. Having carried out the interviews, I understand that the Board of Visitors were not invited to comment on the submissions made.

In conclusion, whilst I would concede that the inclusion of lay members within the Board of Visitors bears closer examination, I believe that we should take great care when considering wholesale changes to the current system. It has served the Island very well over many years and the review appears to be based on unconvincing evidence and a UK system of prison monitoring that may not be right for Jersey given its unique criminal justice system and close-knit community. You will note from my specific comments at Appendix A that I would like to seek advice on some of the Sub-Panel's recommendations. I suggest that no further action is taken on the report's recommendations until I have had the opportunity to consider this advice in due course.

Yours sincerely



Ian Le Marquand
Minister for Home Affairs

PRISON BOARD OF VISITORS SCRUTINY REPORT -
COMMENTS OF MINISTER FOR HOME AFFAIRS

Para 2.16-Detailed Handbook

Although the Home Affairs Department and the Prison Board of Visitors is clear about its role, the recommendation to introduce a detailed handbook for members of the Prison Board of Visitors could be accepted.

Para 2.17-Announced and Unannounced Visits

The Board's experience is that announced visits are of benefit to prisoners because they are able prepared properly for issues that they wish to put to Board members. It is often the case, however, that during the course of announced visits, Jurats take the opportunity to visit other parts of the Prison in an unannounced way. For example, this had helped to resolve past issues with the prison kitchen. It would be possible to introduce a more structured round of unannounced visits but in my view, this does not require the establishment of an Independent Monitoring Board (IMB).

Para 2.18-Board of Visitors Boxes

This recommendation is agreed.

Para 2.19-Key Training

The Board of Visitors is at liberty to visit any part of the prison during visits and access will always be given by prison staff. It should not be necessary for Jurats to become conversant with the use of keys and to undertake security training. Their strength is in being able to deal competently with the sensitivities of relating to prisoner and not in opening gates and being responsible for their own security in moving around an environment which carries greater risks than the norm. I should stress again that La Moye Prison accommodates prisoners who represent no or low risk to those who would be accommodated in a high security prison in the UK. The risks change, therefore, according to the prisoners engaged and the part of the prison being visited. On this basis, security procedures are best managed by prison staff.

Para 2.20-Recording of Prisoners Queries

The recording of prisoners' queries takes place already. All Jurats meetings of any sort are recorded together with the action taken. The Governor is always informed and usually communicates the response back to the prisoner. It is the case that most prisoners have their queries dealt with satisfactorily by the Board of Visitors.

Para 2.21-Attendance at Serious Incidents

The Chairman of the Board of Visitors is already advised, at the earliest opportunity, of a serious incident at the prison. In my view, the procedure adopted in England,

whereby the IMB member is called to the prison at the earliest opportunity, has serious shortcomings. It is questionable whether a layperson could properly judge the effectiveness of professionals dealing with a serious incident. Moreover, they could even become an encumbrance to the ability of staff to deal with such an incident which may have unintended consequences. At present, the Chairman of the Board of Visitors is informed and makes a judgement as to whether his immediate attendance is necessary. This seems to me to be a sensible and responsible method of operating in situations which sometimes require an immediate response from staff, either because lives are at risk, or there are serious security considerations to be dealt with.

Para 2.22-Meetings with the Minister for Home Affairs

Meetings between the Prison Board of Visitors and the Minister for Home Affairs, which are programmed quarterly, are already fully minuted.

Para 2.23-Attendance at IMB Training Courses in the UK

There is already an informal process of induction whenever a change of Jurats takes place. Opportunities for more formalised training in the UK could be taken provided a view was taken over the most appropriate courses to be followed.

Para 2.24-Independent Members as part of the Board of Visitors

It is accepted that a perception exists - quite wrong in my view - that the dual role of Jurats somehow impedes their ability to carry out their duties at the prison fairly and sincerely. Furthermore, I am disappointed that the Panel seems to regard the IMB system as a panacea for conducting visits to prisons. The Panel has chosen not to carry out a critique of the IMB system in order to identify what faults might exist in that system. I do accept, however, that there could be a perception of conflict and that there may be benefits, for example of, younger lay members being part of the Board of Visitors. This is the key recommendation of the Panel's report and it is therefore appropriate, in view of the implied changes to tradition and legislation, that the States should decide on the future composition of the Prison Board of Visitors.

Para 2.25-Access to Prisoners' Lawyers

I am concerned that the report diminishes the importance and usefulness of the function which the Board currently carries out in being able to liaise with prisoners' lawyers in view of their unique role within the Jersey criminal justice system. This should be seen as a strength of the current system rather than, as the report suggests, needing to be set aside in determining whether the present system can be improved with the addition of independent members of the public.

Para 2.26-Role of the Board of Visitors

It is possible that the role of the Board of Visitors will need to be set out as part of any further action on the report's recommendations. This recommendation can therefore be accepted.

Para 2.27-Panel's Legal Advice

The sub-Panel received legal advice on Human Rights compliance from Mr J Cooper of Doughty Street Chambers, London. I note that this legal advice has not received any

verification from the Law Officers Department. However, I would like to point out that if this advice is correct then it is inconsistent with the suggestion that the Jurats be retained, albeit with additional Board members being added. Therefore, before making any further comment on this recommendation, I intend to seek the Attorney General's opinion on the conclusions reached by Mr Cooper.

Para 2.28-The Requirements of OPCAT

This recommendation flows partly from the advice received from Mr Cooper. Consequently, I shall also refer this recommendation to the Attorney General for his opinion.

Para 2.29-Mechanisms for Prison Monitoring

This recommendation flows partly from the advice received from Mr Cooper. Consequently, I shall also refer this recommendation to the Attorney General for his opinion.