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HMIP DETENTION MONITORING METHODOLOGY

A BRIEFING PAPER



OVERVIEW

This briefing paper is one of a series written as part of an ESRC-IAA funded project on immigration detention and human rights-based monitoring of detention in Greece and Turkey. The project initially looked at these issues in four countries - Greece, Turkey, Hungary and Italy (Bhui, Bosworth and Fili, 2018). This paper outlines the methodology used by HM Inspectorate of Prisons (HMIP), which inspects places of confinement in the UK, including prisons, police and court custody, and military detention. HMIP has been routinely monitoring immigration detention since 2004 (see Bhui 2017). As well as sites of immigration detention HMIP inspects the process of removal by accompanying flights to destination countries.

HMIP, which was established in its modern form in 1982, is part of the UK National Preventive Mechanism (NPM). As such, under the terms of the Optional Protocol to the Convention against Torture (OPCAT), it has functional independence and a separate budget. It appoints its own staff and designs its own methodology. HMIP may request information necessary to perform its role, such as numbers of people detained and should be kept informed of locations of all sites of detention. During inspection visits, team members have unhindered, private access to detainees and to staff. Reports of the inspections are usually published within 3-4 months and an annual report is laid before Parliament.

IMMIGRATION DETENTION IN THE UK

1905

At the end of June 2018, 1905 people were held in detention. This was the lowest number recorded since at any point during the data series which began in 2008, and a fall of 36% from the previous year.

321

Additional people were held in prison under Immigration Act Powers

8

There are eight Immigration Removal Centres in the UK, with capacities ranging from about 160 to 600. There is also a family detention unit, where families may be placed for up to one week.

30

There are about 30 non-residential short term holding facilities (STHFs), located at ports of entry or at immigration reporting centres. These facilities usually hold men, women and children for no more than 24 hours,

WHEN DO INSPECTIONS OCCUR?

HMIP decides when and where to inspect. Before 2010 most of its inspections were announced in advance, giving establishments the opportunity to prepare documentation and other evidence. Only a small number of inspections were unannounced, usually when HMIP had received specific evidence of concerns about the treatment of detainees.

This approach changed fundamentally following the discovery, in 2009, that some segregated prisoners had been moved between prisons before inspections, apparently to prevent them from speaking to inspectors (see HMIP 2009: 5). HMIP subsequently moved to a predominantly unannounced inspection programme.

A provisional programme of inspections is planned more than a year in advance, but this timetable is kept confidential. Any correspondence or other evidence received about the treatment of detainees is reviewed to help decide if an inspection should take place sooner than originally scheduled. Immigration removal centres, family detention and residential short-term holding facilities are normally inspected every 2-4 years. Non-residential short-term holding facilities are usually inspected every 3-4 years but may not be inspected for up to 6 years. Removal flights are usually inspected 2-3 times a year. All could be inspected much more frequently if judged necessary.

INSPECTION PRINCIPLES & METHODS

Inspections are carried out against HMI Prisons' published 'Expectations' criteria for immigration detention which are organised under three or four healthy establishment tests, depending on the type of inspection. The IRC tests are safety, respect, activities and preparation for removal or release. The key principles of HMIP's detention monitoring have remained constant since the start of routine inspections in 2004. They include:

- **Robust independence and impartiality:** while there has been no suggestion of government interference with its findings and reporting, HMIP's reliance on the Ministry of Justice for much of its funding has been a concern. However, successive chief inspectors have used their public profile to assert independence, occasionally coming into open conflict with senior government officials and ministers. The critical scrutiny of HMIP is explicitly supported by the government, which has provided sufficient resources to carry out its duties and recently increased that funding significantly to allow expansion of its work.
- **Unfettered access to detention, with the ability to arrive unannounced, go anywhere, talk to anyone and obtain relevant information:** all HMIP inspectors carry the keys to the places of custody they visit, possibly a legacy of HMIP's former status as part of the prison service's internal inspection processes (see Bhui 2017). This practice allows inspectors to go anywhere without interference from facility staff and spend time talking to detainees (and staff) privately. Much time is spent simply walking around the centre, observing what is happening and speaking to people to obtain a 'feel' of the centre. All inspectors receive training on the use of prison keys.
- **Listening to detainees:** before the inspection starts, inspectors read HMIP's intelligence file, which includes correspondence from detainees and their families, media reports and any other information relevant to an assessment of how detainees are being treated. A confidential detainee survey is conducted by HMIP's team of professional researchers, and is a particularly critical source of evidence. It is translated into 14 languages and asks about 80 questions regarding the detainee's experiences while in custody. The survey typically achieves a 65-70 percent response rate. Meetings are then held with randomly selected groups of detainees to discuss survey results in more detail.

INSPECTION PRINCIPLES & METHODS

• **Unfettered right to publish findings and access to the media:** HMIP is able to publish whenever it wants without interference from government departments. Reports are released to the media and often result in newspaper articles, and television or radio interviews with the Chief Inspector of Prisons. The Chief Inspector has direct access to the media and external stakeholders, a critical power given that HMIP has no means of enforcing compliance with its recommendations and has no power to intervene in individual cases. HMIP's influence relies to a large extent on its reputation with the public and media.

In line with these principles, the methods of inspection can be summarised as incorporating:

- **Group and individual meetings with detainees**
- **A detainee survey**
- **Observation of life in detention**
- **Discussions with staff**
- **A staff survey**
- **Examination of official documents & records**

HMIP inspectors may access the UK Home Office's detainee database, allowing them to examine the impact of case management on the experience of people in detention. Inspectors look in particular at the experiences of vulnerable groups (for example, those with mental health problems, victims of torture or children) and reasons for lengthy detentions. Where HMIP inspectors identify concerns about ongoing detention, individual cases are raised with the Home Office for a response and anonymised details may be published in reports.

Inspectors follow the principle of 'triangulation' to base every key judgement on at least three sources of evidence. At every inspection, recommendations from previous visits are also followed up to establish how successful the institution has been in implementing earlier recommendations. In the published report, a short Chief Inspector's introduction highlights key positive and negative findings, and any other issues of context or concern. For example, a lack of effort to implement recommendations may be criticised in strong terms. As what is said in this introduction is often used in media reporting, it can be a powerful means of drawing attention to failures or successes.

THE INSPECTION PROCESS

Inspection methodology varies depending on the type of inspection. For example, during an overseas removal inspection, inspectors meet detainees just before they are collected by escort staff, and then follow them throughout the whole process of transport to airports, onto the aircraft and arrival in destination countries. This whole process takes about two days. STHFs are similarly inspected over 1-2 days.

A full inspection of an IRC takes 2 to 3 weeks. It begins with a tour of the centre by an inspector designated to coordinate the inspection for HMIP. High-risk areas are prioritised during this tour, including separation units, where detainees are held in conditions of isolation. Research staff will also conduct confidential detainee surveys during the first week. Detainee and staff interviews take place in the first or second week. The coordinating inspector ensures that the establishment prepares required documentation for the arrival of the full team of inspectors in the final week when the detainee survey and detainee and staff interview results will also be available.

Inspection team members come from a range of professions, and may include ex-prison managers, academics, lawyers, community sector professionals, healthcare and education specialists, ex-police officers, and ex-social workers and probation officers. The specialist immigration detention team at HMIP, which also inspects prisons, includes staff who have worked in prisons, probation, immigration law, academia and the voluntary sector.

During the final week of inspection, findings are discussed each day by the team and then taken to the centre's senior managers, who have the opportunity to ask questions and provide further evidence. At the end of this week, HMIP provides final judgements on outcomes for detainees at a formal verbal debrief meeting, which is usually attended by a range of staff, including detention managers, Home Office officials and healthcare managers. The feedback is organised under four tests: safety, respect, activities and preparation for release and removal. Managers are also given a written copy of the key findings to leave no doubt about HMIP's conclusions. A full report is normally published within four months and is accompanied by a press release and media interviews.

A FLEXIBLE & EVOLVING METHODOLOGY

At times, HMIP has used an 'enhanced' methodology at immigration removal centre inspections to examine safeguarding concerns in greater depth. Such methods were used at two consecutive inspections of Yarl's Wood IRC in 2015 and 2017, following evidence of sexually abusive behaviour towards detainees before the 2015 inspection (see HMIP 2015 and 2017). In 2017, an undercover television programme exposed violent and threatening behaviour by some staff towards detainees at Brook House IRC, raising questions about whether this could be occurring at other centres. HMIP subsequently decided to routinely use an enhanced methodology whenever resources permit. The main additional elements of this approach are private interviews with a proportion of staff and a confidential survey sent to all staff; and private interviews offered to every detainee, using interpretation where necessary. NGOs that are involved in supporting detainees are also contacted on the first day of inspection and released detainees are invited to speak to HMIP

All subsequent inspections have used similar methods and this approach will continue to be used wherever possible.

HMIP employed this enhanced approach at Harmondsworth IRC in 2017, the next planned inspection after the revelations from the undercover television programme. Harmondsworth was already of concern because of relatively poor previous inspection findings. Inspectors conducted 118 interviews requested by detainees, and spoke to a similar number of staff. About 30 staff also completed a confidential online survey. This resulted in a rich evidence base on issues such as relationships between staff and detainees, the reasons for detainees' fears about safety, and staff concerns about inadequate training, lack of support and low staffing levels that might increase risks for detainees. It provided many opportunities for staff and detainees to tell inspectors about potential abuses. A number of individual cases were followed up to find out if detainees had been mistreated (see HMIP 2018b).

CONCLUSION

While detention monitoring may be carried out by a variety of state and non-state institutions, under the terms of OPCAT, national NPMs bear the principal responsibility. HMIP is part of the UK NPM and a long-established professional detention monitoring body. It has accumulated technical knowledge and considerable political support. It also has sufficient funding to allow it to carry out its duties. Despite this, it still faces considerable challenges; for example, in ensuring that its methodology is responsive and relevant to current detention practices, and in encouraging establishments to implement its recommendations (see HMIP 2018a). NPMs operate in very different social, political and economic contexts and must find the best way to navigate their individual challenges. This briefing paper is therefore not offered as a blue-print, but as an example of the current approach of one detention monitoring body.

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Cover Image: IRC Colnbrook, housing unit. Photo: MF Bosworth

CONTACT US

EMAIL

bordercrim@law.ox.ac.uk

WEBSITE

[HTTP://BORDERCRIMINOLOGIES.LAW.OX.AC.UK](http://bordercriminologies.law.ox.ac.uk)

