

**Investigation into the circumstances surrounding the
death of a man
shortly after his release from
HM Prison Canterbury on 15 September 2004**

**Report by the Prisons and Probation Ombudsman for
England and Wales**

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Introduction

This is the report of an investigation into the care a man received whilst in prison custody before his death in Margate, Kent, on 15 September 2004 after release from HMP Canterbury the previous day.

Although the man died after leaving prison, I decided to exercise the discretionary powers included in my Terms of Reference to investigate his death. Like many others within the criminal justice system, I am concerned about the number of prisoners who die from drug related causes within a short time of leaving lawful custody.

In fact, the investigation has shown that the man was fully and properly warned by both prison and probation as to the dangers he might run through renewed drug use. I am grateful for that fact and only sorry that, if the findings of the Post Mortem are confirmed at inquest, the warnings proved unavailing.

This investigation was conducted by one of my Senior Investigators. The report includes one recommendation.

I wish to extend my thanks to the Governor and her staff at Canterbury for their help and co-operation during the investigation.

Stephen Shaw CBE

Summary

The man was sentenced to a total of 12 months imprisonment in March 2004 for offences of dishonesty. Originally held in custody at HMP Elmley, where he completed a detoxification regime for heroin, he transferred to HMP Canterbury in April 2004.

The man was tested for drugs the following day with a negative result. He obtained a job in the kitchen and the staff thought well of him. He signed up to the voluntary testing unit compact on 16 April and earned enhanced status, which meant that he received greater privileges.

On 7 August, an officer walking past the man's cell noticed a strong smell of cannabis. He recommended a mandatory drug test be carried out which the man failed due to cannabinoids. The man pleaded guilty at his adjudication on 19 August and lost association, gym privileges and in-cell electricity for five days.

A member of the CARAT's (Counselling, Assessment, Referral, Advice and Throughcare) team saw the man on 31 August and he requested support on release to help him stop his drug use. The man was given literature and told about the dangers of returning to drug use after a period of abstinence.

The man told the staff at Canterbury that he was of no fixed abode and received extra money when he was discharged on 14 September. He reported to the Probation office in Margate later that morning. The following day he was found dead at an address in Margate. The Coroner will determine the cause of death but toxicology samples taken during the Post Mortem indicate he had a mixture of controlled drugs in his system.

Investigation methodology

1. The investigation was opened at HMP Canterbury on 8 October 2004. The Governor and her staff produced the man's core record and a number of other documents for examination. Notices were issued to staff and prisoners informing them of the investigation. Whilst being shown around the prison, my investigator was able to speak to several members of staff who knew the man. On a subsequent visit, staff were informally interviewed.
2. A Family Liaison Officer contacted the man's family and offered them the opportunity to meet with her and the investigator to discuss the purpose of the investigation and to raise any concerns or questions that they would like explored and addressed. A meeting took place on 11 October with the man's sister and his niece.
3. My investigator contacted Her Majesty's Coroner to inform him of the nature and scope of my investigation and to request a copy of the Post Mortem report. Upon completion, this report will be sent to the Coroner to assist him in his enquiries into the man's death.

The deceased

4. The man was born in Rotherham, and was just 36 years old when he died. He had three children from a relationship that ended a number of years ago. According to the man's sister, he began using 'hard' drugs, i.e. heroin and cocaine, in his mid 20's when the relationship with the children's mother broke up.
5. His sister said that the man had never really had a proper job, although during some extended 'clean' periods - one lasting for three years - he would get work where he could. Recently had he worked as a garden fencer until the company found out that the man used heroin and sacked him.
6. The man received his first conviction in his early teens and subsequently served six periods of imprisonment for offences of dishonesty, assault and driving matters.
7. The man told the healthcare staff at HMP Elmley that he was abusing heroin, cocaine and benzodiazepines at the time of his latest arrest.
8. The man had lived with his sister on previous occasions and, according to her, was going to do so again upon release from HMP Canterbury.

HMP Canterbury

9. Canterbury is a Nineteenth Century prison that has been used for many purposes over the years. Originally, it was a County gaol built just outside the city limits. During the First World War, it was a Home Office archive facility, later becoming a prison and a naval detention centre. More recently it was a 'local' prison serving the courts in East Kent. It is now used to hold short term category C prisoners, serving less than four years, with priority given to those with a Kent discharge address.
10. It is a small prison equipped with a gymnasium, astro-turf area, kitchen, education facilities and workshops.

The deceased's family

11. The man's father still lives in Yorkshire, but his mother and sister now live in Margate. The man's mother was still too upset to meet with my investigator but she was content for her daughter to do so. The man's sister had a number of concerns about his time at HMP Canterbury.
12. Her main concern centred on the lack of security, as she saw it, at the prison. She was in possession of a number of letters that had been written to the man whilst he was in custody. They were from his drug using friends and at least one makes it clear that the man should send a visiting order for a particular person. The idea was that another person would pretend to be the named person and bring drugs in for him. The man's sister was angry that the prison had not read the letters. She also expressed her view that prisoners should have their visits from behind glass to prevent the passing of drugs.
13. The man's sister expressed concern that she had noticed that not having a photo ID did not prevent entry for visits at the prison as it did at other establishments.
14. The man's sister was also concerned that, when he was found, he did not have many of the items of clothing that she had given him whilst he was in prison. During the meeting with my investigator, it was established - by checking the prison property cards - that the man left Canterbury with the correct clothing and his sister was content that the Prison Service was not responsible for any loss.
15. The man's sister had some difficulty making contact with the prison after the man's death. When she telephoned, she was apparently told to write a letter, which she took to the prison on 17 September. She did not get a reply after a week and so telephoned several times. She did then receive a reply from the Head of Resettlement. She said that since that time he had been very helpful.
16. As far as his sister was concerned, the man was going to stay with her upon his release, which she expected to be on 15 September, not 14 September. She was unaware that he had told the prison that he was of no fixed abode.

Events prior to the man's death

17. The man was arrested in mid March 2004 and held at Margate police station until he appeared at Thanet Magistrates Court two days later. The court remanded him in custody to HMP Elmley until 25 March.
18. The man saw the substance misuse team on 19 March and told them that he abused heroin, cocaine and benzodiazepines. He began a heroin detoxification regime using Subutex on 21 March. He completed the regime at the end of the month.
19. The man returned to Thanet Magistrates Court on 25 March and received a 12 months sentence for offences of dishonesty. He was located on House Block 1 at Elmley.
20. On 7 April, the man told staff that he had received threats from other prisoners over a recent fight in a Margate public house. He was moved for his safety into House Block 2. On 12 April, the man was relocated into the segregation unit due to overcrowding at the prison, and the following day he was transferred to HMP Canterbury.
21. My investigator has looked into the concerns raised by the man's sister. So far as the reading of prisoner's mail is concerned, prisons have to balance the security requirements of the establishment with the human rights of the prisoners in their care. Routine reading of all mail would not be justified in a category C prison and is not required under Prison Service Orders. However, at Canterbury as elsewhere, all mail is checked for inclusions. In addition, a small proportion of the mail is read at random.
22. The issue of identification for visitors to the prison is another security/rights balance. Not everybody is able to provide photographic identification and in those circumstances other documentary forms of proof are accepted. All visits to prisoners are monitored to some extent and a passive drugs dog is used randomly at visiting times in an effort to reduce the amount of drugs entering the prison. The man did not meet the criteria for closed visits.
23. My investigator checked the list of persons who visited the man whilst he was at Canterbury and established that none of the people about whom his sister was concerned were mentioned.
24. All prisoners are subject to mandatory drug testing at prescribed intervals and many sign up to the voluntary drug testing programme. Canterbury's MDT (mandatory drug test) programme currently reveals a positive test result rate of 9.7% against a target of 9.5%, mainly indicating the use of cannabis.
25. The man provided a negative MDT on 14 April and again on 14 May. He signed the VDT (voluntary drug test) compact on 16 April. By doing that,

he agreed to abstain from drug use and to participate fully in the prison regime.

26. He obtained a job working in the prison kitchen, which he enjoyed. Staff were pleased with his work and he was liked by his fellow workers. He was awarded 'enhanced status' which allowed him more privileges within the prison.
27. On 20 May, the man refused to provide a voluntary drug test sample and requested to come off VDT. His reasons for doing so are not known, but it was explained to him that to do so would mean the loss of some privileges. He agreed to remain on VDT.
28. On 5 August, the man was relocated to B wing, a move commensurate with his 'enhanced' status and the VDT compact. Two days later an officer walking past the man's cell noticed a strong smell of cannabis and reported the matter. The man subsequently failed a MDT for cannabinoids on 11 August, and at his adjudication hearing on 20 August he received five days loss of association, use of in-cell electricity and reduced gym time. He was returned to A wing, but he was allowed to keep his job in the kitchen.
29. The man saw a member of the CARAT's (Counselling, Assessment, Referral, Advice and Throughcare) team on 31 August. He expressed a resolve to become drug free and asked for support to be provided once he was released. He was reminded of the dangers of using drugs again at similar doses as he had before he came into prison. He was also given several leaflets and small booklets to re-iterate the message.
30. The man failed to attend a review session with the CARAT's worker on 9 September, but did speak to the KCA UK worker the following day. KCA is an external support organisation to which prisoners can be referred for continued help and guidance post release. At that initial meeting he expressed a wish to remain drug free at least as far as 'hard' drugs were concerned. Various options for ongoing support post-release were discussed and a follow-up appointment was arranged for 16 September with KCA in Margate.
31. The man's CRD (conditional release date) was 14 September 2004 and he was released on licence. He told the prison that he had no address, which meant that he received £94.40 when he left instead of £46.75. The man had told staff a couple of months before his release that he had no need for assistance regarding accommodation, so that when he later claimed to have no address to go to there was not time to arrange anything for him other than a post release probation appointment.
32. The man attended his appointment with the Probation Service in Margate that morning. He told the probation officer who interviewed him that he was intending to have a 'one day party' before going to stay with his family, as they did not approve of his drug use. He said that they believed his

release date was the next day. He was warned again about the danger of renewed drug use with a reduced tolerance level.

33. The man was found dead at his friend's flat in Margate the following day. It is the Coroner's responsibility to determine the cause of death, but a potentially fatal blood concentration of morphine, together with other drugs, was found in his bloodstream.

Events after the man's death

34. When the police in Margate were notified of the man's death they had some difficulty making contact with his next of kin. They located an old address for his mother and, from there, made contact at her new address, and informed her of her son's death.
35. The prison authorities initially learned of the man's death from prisoners and subsequently from the police. The Governor sent a letter of condolence containing a card and a request from one of the kitchen staff asking to be allowed to attend the man's funeral. That letter was sent to the old address, which had been supplied by the man as his next of kin contact, and was in fact never received. The man's sister has now seen a copy.
36. The man's sister telephoned the prison seeking answers to some questions she had. After waiting for someone to call her back, she telephoned again and was told to write a letter. She did so and took it to the prison herself. Her letter arrived after the letter from the Governor had been sent. His sister's letter then took some time to reach the Head of Resettlement. He initially responded by telephone as the man's sister had only included a mobile telephone number not an address in her correspondence. My investigator established during his meeting that the man's sister was satisfied with the prison's response once contact was made.

Findings and conclusions

37. The man's sister raised concerns regarding the reading of his mail and visitor security checks at Canterbury. My investigator has informally interviewed a member of the Senior Management Team and examined the relevant regulations relating to these matters.
38. **Conclusion** - *I am satisfied that the checks and procedures in place at Canterbury are proportionate and comply with the relevant Prison Service Orders.*
39. Prisons are usually contacted by family members whilst prisoners are still in custody, and there are procedures in place to route the calls or letters to the relevant person to deal with. Unfortunately, when the man's sister made contact after his death her call was not dealt with appropriately.
40. The Prison Service relies on prisoners to keep their next of kin contact details up to date.
41. **Conclusion** - *The Governor responded appropriately upon learning of the death of the man. Unfortunately, the prison records were out of date. If the Governor's letter had been received, the subsequent frustration felt by the man's family when trying to contact the prison would have been prevented. That said, his sister's telephone call to the prison should have been routed appropriately for her questions to be answered.*
42. As a drug abuser who had undergone a detoxification programme and enforced abstinence whilst in prison, the man was potentially at risk upon release due to a reduced tolerance level. This risk is well documented and the CARAT's teams in particular ensure that their clients are made aware. My investigator spoke to the CARAT's worker who saw the man on 31 August and I am satisfied that he was correctly informed of the risks associated with any renewed drug use.
43. **Conclusion** - *Staff at Canterbury gave the necessary information and support to the man whilst in prison regarding any continuing drug use by him post release.*

Recommendations

44. The Governor of Canterbury should review the guidance and training for her staff who answer telephone calls from the public in light of the initial difficulties faced by the man's sister.
45. Governor's response - I fully accept the recommendation contained within the report and will endeavour to ensure that, with improved guidance and training, staff handling telephone calls will be better equipped in future to prevent a recurrence. I will also remind prisoners of the need to keep their next of kin contact details up to date, wherever possible.