



House of Commons  
Justice Committee

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# Prison safety

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Sixth Report of Session 2015–16





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*Report, together with formal minutes  
relating to the report*

*Ordered by the House of Commons to be printed  
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## Justice Committee

The Justice Committee is appointed by the House of Commons to examine the expenditure, administration and policy of the Ministry of Justice and its associated public bodies (including the work of staff provided for the administrative work of courts and tribunals, but excluding consideration of individual cases and appointments, and excluding the work of the Scotland and Wales Offices and of the Advocate General for Scotland); and administration and expenditure of the Attorney General's Office, the Treasury Solicitor's Department, the Crown Prosecution Service and the Serious Fraud Office (but excluding individual cases and appointments and advice given within government by Law Officers).

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The following Members were also members of the Committee during the Parliament:

Richard Burgon MP (*Labour, Leeds East*), Sue Hayman MP (*Labour, Workington*), Christina Rees MP (*Labour, Neath*), and Nick Thomas-Symonds MP (*Labour, Torfaen*).

### Powers

The committee is one of the departmental select committees, the powers of which are set out in House of Commons Standing Orders, principally in SO No 152. These are available on the internet via [www.parliament.uk](http://www.parliament.uk).

### Publication

Committee reports are published on the Committee's website at [www.parliament.uk/justicecttee](http://www.parliament.uk/justicecttee) and in print by Order of the House.

Evidence relating to this report is published on the [inquiry publications page](#) of the Committee's website.

### Committee staff

The current staff of the Committee are Nick Walker (Clerk), Jonathan Whiffing (Second Clerk), Gemma Buckland (Senior Committee Specialist), Nony Ardill (Legal Specialist), Christine Randall (Senior Committee Assistant), Anna Browning (Committee Assistant), Yohanna Sallberg (Sandwich Student), and Liz Parratt (Committee Media Officer)

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## Summary

In this report we examine the Government's response to the ongoing and rapid deterioration in prison safety in England and Wales which began in 2012. We took evidence from the Prisons Minister and the Chief Executive of the National Offender Management Service on prison safety in December 2015, and statistics published in January and April 2016 showed higher rates of self-harm and assaults than in the previous 12 months, and significant growth in the number of incidents compared to the previous quarter. We wished to reflect on the progress made by the Ministry of Justice and NOMS in their efforts to stabilise the rise in assaults against prisoners and staff, incidents of self-harm and self-inflicted deaths, and obtained the views of several key stakeholders in writing.

The MoJ and NOMS have sought to improve prison safety through a wide range of legislative, operational and staff recruitment measures, including the creation of new offences of possession of new psychoactive substances and knife possession in prison and action to address violence through the use of body-worn cameras and to improve safeguarding procedures. Notwithstanding these considerable efforts, together with those of staff in prisons striving to keep prisoners and themselves secure and unharmed, overall levels of safety in prisons have not stabilised as the Ministry hoped, let alone improved and continue to deteriorate significantly. We say that this is a matter of great concern, and improvement is urgently needed. Our central recommendation is that the Ministry and NOMS together produce an action plan for improving prison safety, addressing the factors underlying the rises in violence, self-harm and suicide. Of particular concern is a major issue with staff retention which resulted in a net gain of only 440 prison officers last year following the recruitment of 2,250. This is against the fact that there are 7,000 fewer officers than in 2010, when the prison population was about 2,500 lower than it is now. We also say that we wish to receive quarterly reports over the remainder of this Parliament containing data which will enable progress against the plan to be evaluated. We will also continue discussions with HM Inspectorate of Prisons on scrutiny of NOMS' performance in managing prison safety.



# 1 Introduction

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## Background

1. On 1 December 2015 we held an evidence session on prison safety with Andrew Selous MP, Parliamentary Under Secretary of State and Minister for Prisons and Probation, and Michael Spurr CB, Chief Executive of the National Offender Management Service (NOMS).<sup>1</sup> This followed the publication on 29 October 2015 of quarterly Safety in Custody statistics charting an ongoing decline in indicators of safety in prisons in England and Wales—including assaults against prisoners and staff, self-harm, and self-inflicted deaths—which had begun in 2012.<sup>2</sup> On 12 November 2015, the Prison Officers' Association (POA) issued a press notice renewing their concerns about prison safety as they believed there was a “dangerous and deteriorating situation in prisons” and felt officers were not being afforded adequate protection.<sup>3</sup>

2. As a mark of the seriousness with which Parliament more broadly has taken the situation two debates took place in January 2016 in the House of Commons:

- a Westminster Hall debate on Safety in Youth Custody on 20 January, following a Panorama documentary revealing staff brutality against children held at Medway Secure Training Centre (STC). The Secretary of State subsequently made a statement announcing the creation of an Independent Improvement Board for Medway STC<sup>4</sup>, and
- an Opposition Day debate in which the primary consideration was whether prisons were in crisis.<sup>5</sup>

Prison safety matters were also referred to during a wider debate on the Government's policies for prison reform in the House of Lords.<sup>6</sup>

3. Following the 1 December evidence session we wrote to several key stakeholders—the then HM Chief Inspector of Prisons, the Prison Officers' Association, the Prisons and Probation Ombudsman (PPO) and the Independent Advisory Panel on Deaths in Custody—asking for their observations on the evidence given by the Minister and CEO of NOMS. Their letters have been published on our webpages as has a letter from the Minister with supplementary information on some of the matters we had raised with him.<sup>7</sup> Two subsequent sets of Safety in Custody statistics, the last of which was published

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1 [HC \(2015–15\) 625](#), 1 December 2015

2 Ministry of Justice Statistical Bulletin, [Safety in Custody Statistics England and Wales Deaths in prison custody to September 2015 Assaults and Self-harm to June 2015](#), 29 October 2015

3 [“POA condemn NOMS and the Government for the continued failure to provide safe, decent and secure prisons”](#), Prison Officers Association press release PR114, 12 November 2015

4 HC Deb, 26 January 2016, [Col 7WS](#),

5 HC Deb, 27 January 2016, [Col 333ff](#)

6 HL Deb, 21 Jan 2016, [Col 907ff](#)

7 Letters to Rt Hon Bob Neill MP from [Andrew Selous MP](#), Parliamentary Under-Secretary of State for Justice, dated 5 January 2016, [Nick Hardwick](#), then HM Chief Inspector of Prisons, dated 13 January 2016, [Nigel Newcomen](#), Prisons and Probation Ombudsman, dated 15 January 2016, and [Kate Lampard](#), Chair of Independent Advisory Panel on Deaths in Custody, dated 2 February 2016; [PJ McParlin](#), Chair of Prison Officers Association, written response to 1 December 2015 evidence session

on 28 April 2016, indicate ongoing and significant deterioration in levels of safety.<sup>8</sup> Given the urgency of this matter, and the need for it to be addressed swiftly, we have not issued a general public call for evidence.

### ***The previous Committee's report Prisons: planning and policies***

4. Our predecessor Committee's report on Prisons: planning and policies, published in March 2015, noted that all available indicators were pointing to a rapid deterioration in standards of safety and levels of performance over the preceding two years. Referring to patterns in the Ministry of Justice's Safety in Custody statistics that Committee stated:

Most concerning to us is that since 2012 there has been a 38% rise in self-inflicted deaths, a 9% rise in self-harm, a 7% rise in assaults, and 100% rise in incidents of concerted indiscipline. Complaints to the Prisons and Probation Ombudsman and other sources have risen. There are fewer opportunities for rehabilitation, including diminished access to education, training, libraries, religious leaders, and offending behaviour courses.<sup>9</sup>

At that time NOMS believed that these problems would begin to recede as staffing levels rose, and that the situation would stabilise thereafter.

5. The previous Committee's conclusion about the factors contributing to the fall in safety was that it was

... improbable that there is no link between estate reconfiguration, benchmarking, and changes in operational policy, including the Incentives and Earned Privileges scheme, and the shift in safety across the prison estate. In particular, we conclude that the fall in staffing levels stemming from redundancies and increased turnover, which at their most acute have resulted in severely restricted regimes, are bound to have reduced the consistency of relationships between officers and prisoners, and in turn affected safety.<sup>10</sup>

The Committee said that increases in assaults on both staff and prisoners, together with the increase in suicides in prisons, were matters of grave concern and that the Government had been reluctant to acknowledge the serious nature of the operational and safety challenges facing prisons, and the role of its own policy decisions in creating them.

### ***The Prison Officers' Association's concerns***

6. Following the publication of the Committee's report the POA endorsed its findings and gave NOMS 28 days' notice to take remedial action stating that both staff and prisoners' health and safety was in danger and asking for a complete review of health and safety risk assessments and safe systems of work.<sup>11</sup> Agreement on the action to be taken was reached by the union and NOMS on 26 March 2015. Part 3 of that agreement said:

<sup>8</sup> Ministry of Justice Statistical Bulletin, [Safety in Custody Statistics England and Wales Deaths in prison custody to December 2015 Assaults and Self-harm to September 2015](#), 28 January 2016; Ministry of Justice Statistical Bulletin, [Safety in Custody Statistics England and Wales Deaths in prison custody to March 2016 Assaults and Self-harm to December 2015](#), 26 April 2016

<sup>9</sup> Justice Committee, Ninth Report of Session 2014–15, Prisons: Planning and Policies, [HC 309](#), para 75

<sup>10</sup> Ibid. Summary.

<sup>11</sup> ["POA give 28 day notice on health and safety improvements for England and Wales prisons"](#), Prison Officers Association press release PR102, 18 March 2015

NOMS and the POA are jointly committed to ensuring that in all establishments local management and POA representatives are working together to ensure that appropriate risk assessments, safe systems of work and Regime Management Plans are in place. NOMS will provide sufficient facility time for local POA representatives to ensure that this work is properly progressed with immediate effect. It is recognised that the demands on management and POA time will vary from site to site, but in all sites NOMS will work to ensure that we have risk assessments, safe systems of work and Regime Management Plans that are of an acceptable standard and up to date within a reasonable timeframe.

To ensure that there is sufficient momentum in this work, it is agreed that there will be a full review of progress during the course of July 2015. This will be a joint review led by a nominated POA National Official leading on Health and Safety and by a NOMS Health and Safety Advisor and will include selected prison visits as part of the process. The review will be to support the ongoing joint Health and Safety work of local management and POA representatives through looking at compliance; areas for improvement; identifying areas of good practice and to effectively promote strong ongoing joint local Health and Safety work for the future. Outcomes will be shared through the NOMS National Health and Safety Whitley Sub-Committee.<sup>12</sup>

7. On 11 November 2015, in the belief that the situation had deteriorated further, the POA wrote to Michael Spurr setting out concerns that although regime management plans were in place, in their members' experience these were not being followed, and questioning some employment practices.<sup>13</sup> The POA felt that the safety situation had deteriorated since the March agreement and in its letter again gave NOMS 28 days to "put their house in order", stating that "[a] failure to provide safe, secure and decent prisons will result in the National Executive Committee of the POA advising its members on what measures they must take to prevent or reduce risks to their health and safety and to other prison staff and prisoners."<sup>14</sup> The POA also referred to an (unpublished) NOMS health and safety report reviewing progress in six prisons against the agreement made in March 2015 and said "[t]his report, prepared by you, discloses a wholesale failure on your part to seriously address the dangerous and deteriorating situation in the prisons that you are responsible for."

8. NOMS provided us with a copy of the health and safety report, along with an explanatory letter from Michael Spurr, the latter of which we published.<sup>15</sup> The report was the outcome of a review which examined staff awareness of key management information that should be used in their establishment; observations of regime delivery; safety of staff in the establishment; support for staff in the establishment; staff detailing; and health and safety documentation.

12 NOMS POA 2015 Agreement Review of Health and Safety Commitments, September 2015, unpublished.

13 Letter from [Prison Officers Association](#) to Michael Spurr, Chief Executive, National Offender Management Service, dated 11 November 2015

14 "[POA condemn NOMS and the Government for the continued failure to provide safe, decent and secure prisons](#)", Prison Officers Association press release PR114, 12 November 2015

15 Note from [Michael Spurr](#), Chief Executive, National Offender Management Service to the Justice Committee, dated 20 November 2015

### *The purpose of this report*

9. In this report we reflect, on the basis of the information available to us, on the progress made by the Ministry of Justice and National Offender Management Service in seeking to stabilise and improve prison safety in the context of their evidence, the correspondence we received, and the two subsequent sets of quarterly Safety in Custody statistics. We will also consider briefly these matters in the light of the Government's ambitious penal reform agenda on which the Prime Minister spoke on 12 February, and which we discussed with the Secretary of State, Rt Hon Michael Gove MP, on 16 March and with Mr Selous and Mr Spurr on 26 April.<sup>16</sup>

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<sup>16</sup> See [Prison reform: Prime Minister's speech](#) to Policy Exchange, 8 February 2016; Oral evidence taken on 10 March 2016, [HC \(2015–16\) 895](#), Rt Hon Michael Gove MP, Lord Chancellor and Secretary of State for Justice; Oral evidence taken on 26 April 2016, [HC \(2015–16\) 397](#), Qq416–459, Andrew Selous MP, Parliamentary Under-Secretary of State, Minister for Prisons, Probation and Rehabilitation, Ministry of Justice and Michael Spurr, Chief Executive, National Offender Management Service.

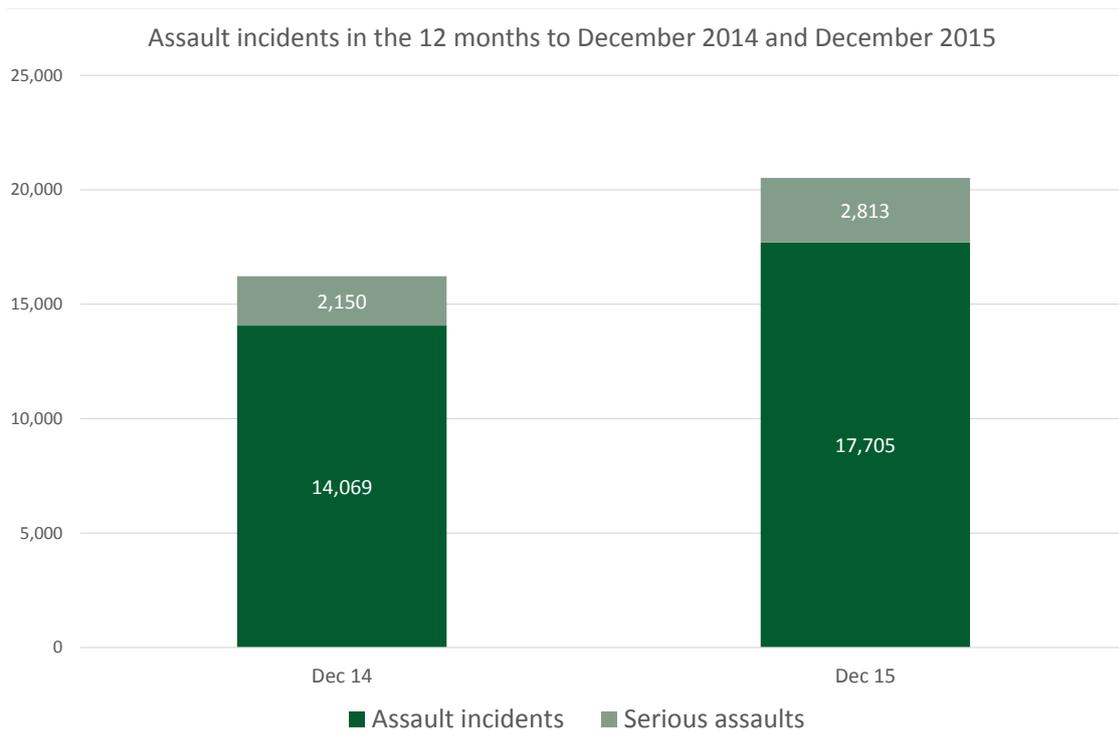
## 2 Indicators of prison safety

10. In this chapter we examine in more detail recent trends in indicators of prison safety. There are various sources of information upon which it is possible to form judgements about elements of prison safety, some of which are published regularly by the Ministry of Justice and NOMS, and some of which are collated routinely but made available on request. Answers to Parliamentary Questions are another important source of information.

### Safety in Custody statistics

11. On 28 April 2016 the most recent Safety in Custody statistics were published.<sup>17</sup> Both these and data for the previous quarter continue to show higher rates of self-inflicted deaths, self-harm and assaults than in the corresponding previous 12 months, and ongoing significant growth in the number of assaults and self-harm incidents.<sup>18</sup> Assaults rose 20% in the six months to December 2015 compared to the preceding six months and self-harm incidents grew by 11% over the same period. The following charts summarise the main statistics covering assaults, deaths and self-harm over the year to December 2015 compared to the year before.

Chart 1<sup>19</sup>



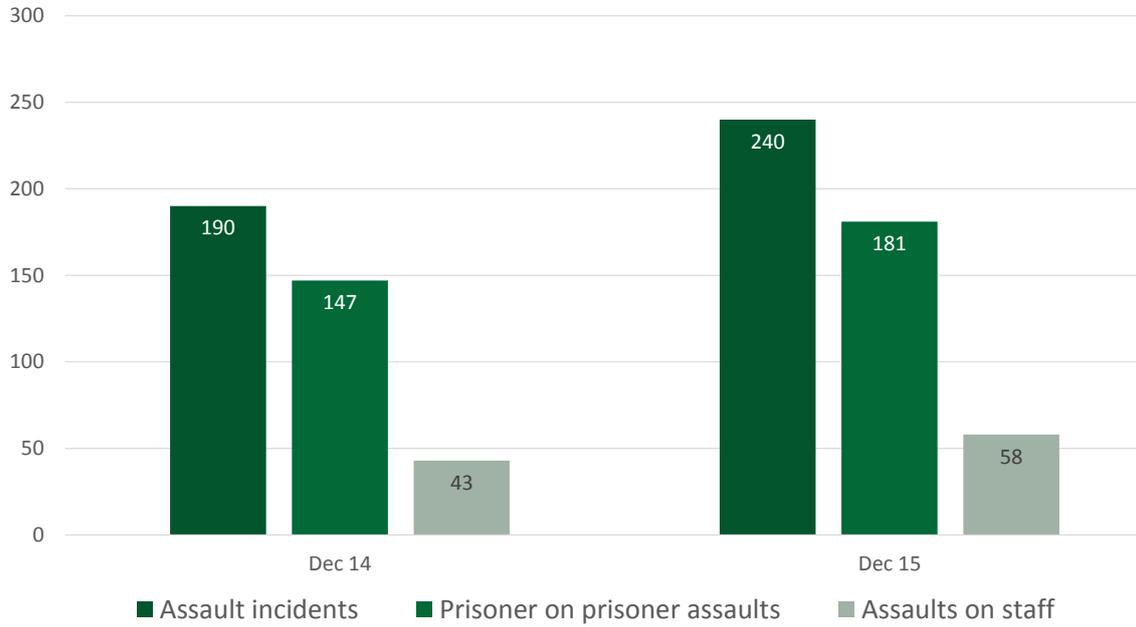
17 Ministry of Justice Statistical Bulletin, [Safety in Custody Statistics England and Wales Deaths in prison custody to March 2016 Assaults and Self-harm to December 2015](#), 26 April 2016

18 Ibid; Ministry of Justice Statistical Bulletin, [Safety in Custody Statistics England and Wales Deaths in prison custody to December 2015 Assaults and Self-harm to September 2015](#), 28 January 2016

19 [Guidance to Safety in Custody Statistics](#): "It is in the nature of assault incidents that at least two people must be involved. As the numbers involved increase so too does the complexity and risk of error. Assigning the correct role (assailant, victim, fighter etc.) to individuals involved in an incident is a potential source of error. All incidents are investigated and the majority of roles should be correctly assigned. On occasions, however, lack of witnesses or refusal of victims to co-operate will limit the accuracy of what can be recorded."

**Chart 2**

Assault incidents including prisoner on prisoner assault and assaults on staff in the 12 months to December 2014 and December 2015



**Chart 3**

Prisoner on prisoner assaults in the 12 months to December 2014 and December 2015

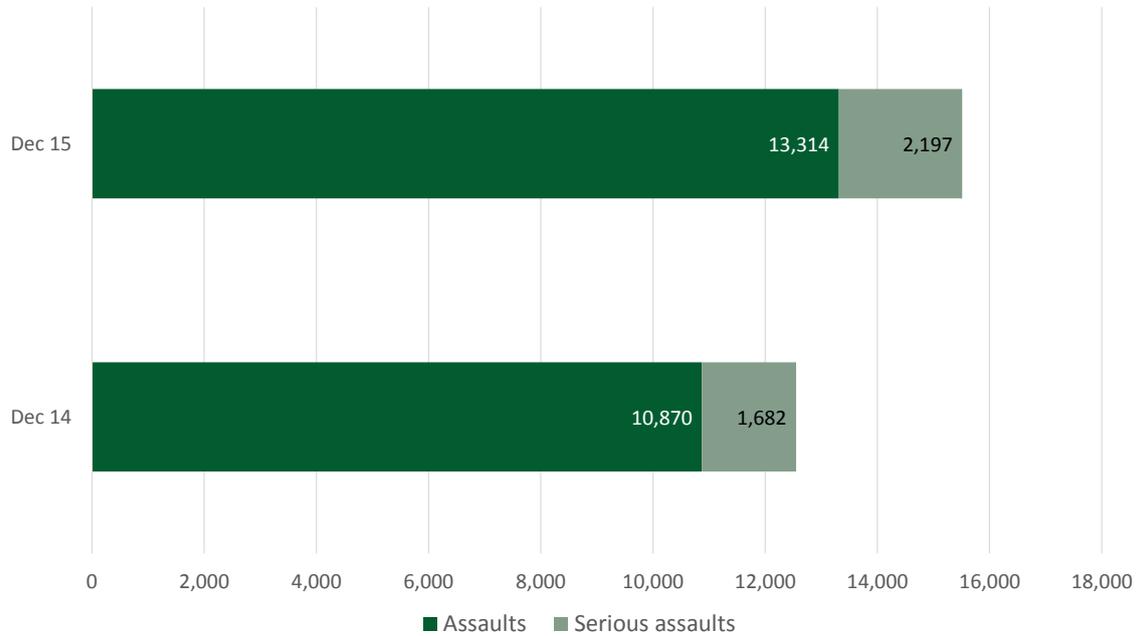


Chart 4<sup>20</sup>

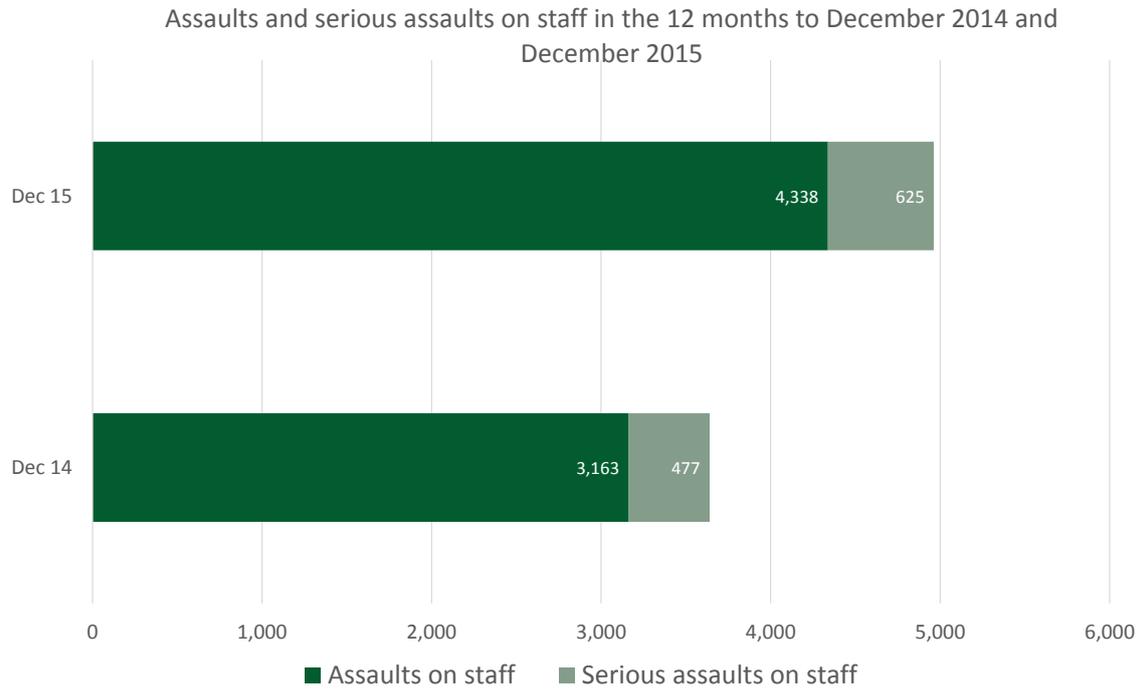
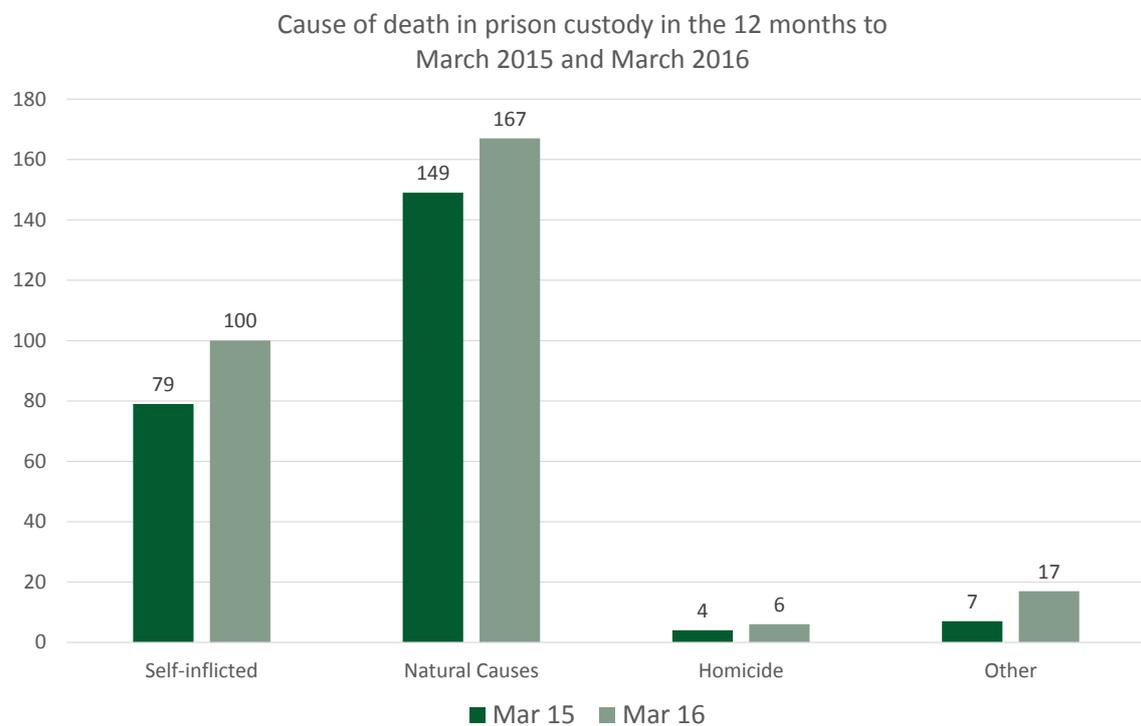


Chart 5



20 Ibid. "The assaults data presented in this report are drawn from administrative IT systems. Although care is taken when processing and analysing the returns, the detail collected is subject to the inaccuracies inherent in any large scale recording system. The data presented in this report are considered satisfactory for analysing levels and determining trends but there will be non-response and processing errors in the underlying data. Assaults non-response errors arise because the victim of an assault may not inform staff and therefore the incident will go unreported. In addition, there can be a range of factors that influence the threshold at which an event is reported as an assault incident. Processing errors may arise when incident reports are first written up or when they are subsequently recorded on the incident reporting system."

Chart 6

Self-harming incidents and individuals in the 12 months to December 2014 and December 2015

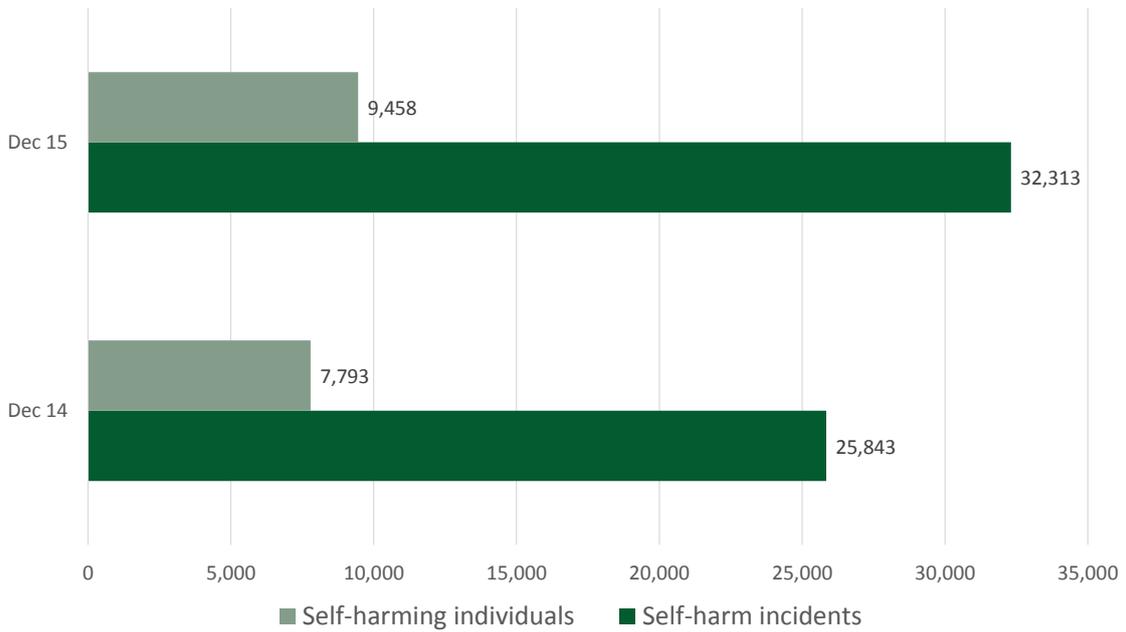


Chart 7

Self-harm incidents and self-harming individuals per 1000 prisoners in the 12 months leading up to December 2014 and December 2015

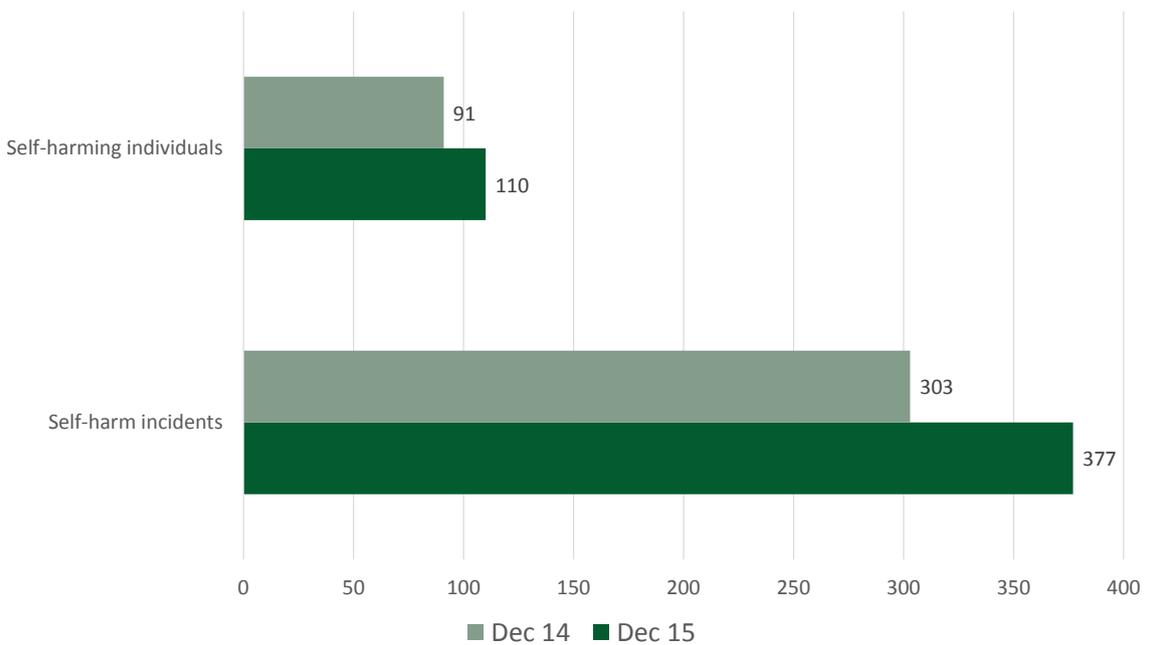
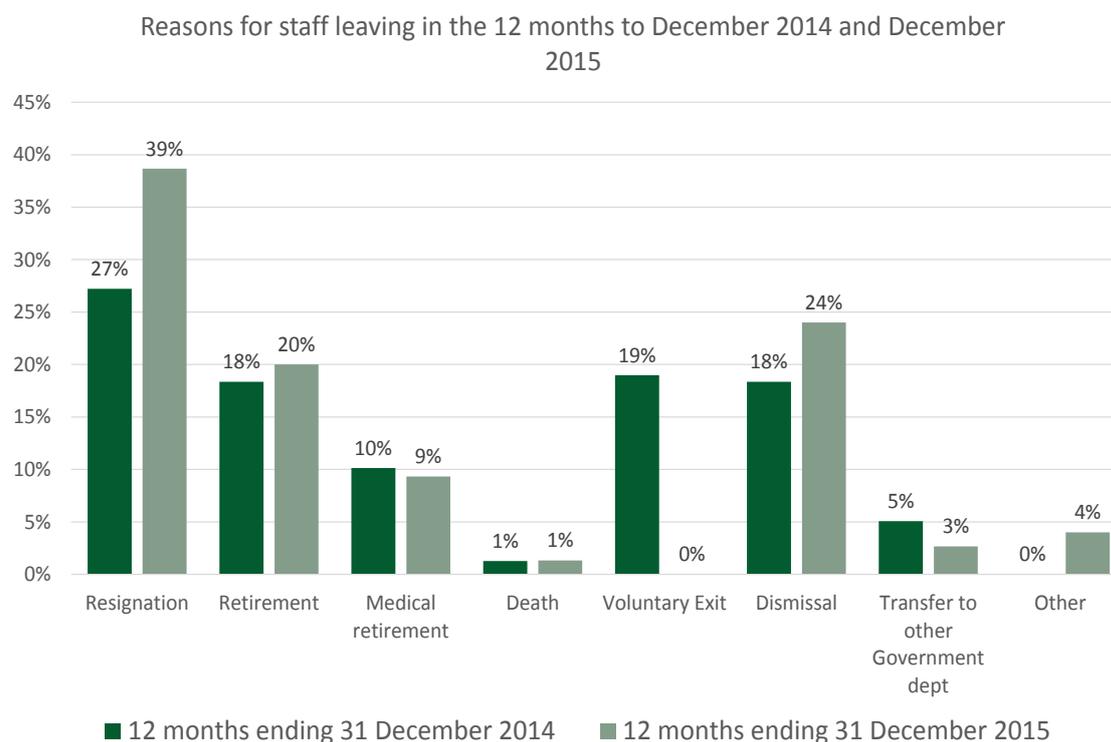


Chart 8



12. Assaults against staff have followed this rising trend. There were 2,690 assaults in the six months to December 2015, an increase of 18% compared to the previous six months. Since January 2015 each quarter there have been over 150 serious assaults—defined as those requiring hospital treatment—on staff, and over 500 serious assaults between prisoners. A prison officer working for Serco, Lorraine Barwell, tragically died on 2 July 2015 after being attacked by a prisoner she was escorting from court.

13. In the 12 months to March 2016 there were 100 self-inflicted deaths (79 in the previous year) and 6 homicides (4 in the previous year). These figures are likely to rise because the cause of 9 deaths is still yet to be determined. Nevertheless, the number of self-inflicted deaths has varied over the year. The number declined from 29 in the three months to September 2015 to 17 the following quarter but rose again to 27 in the three months to March 2016.

14. Kate Lampard, interim Chair of the Independent Advisory Panel on Deaths in Custody, believed that comparisons made with suicide numbers and rates in the general population in England and Wales—to which Mr Spurr had drawn our attention<sup>21</sup>—were of very limited utility and suggested a better comparison would be deaths in prisons in other jurisdictions, which we had also discussed with Mr Spurr and the Prisons Minister. Comparative data on prison suicides is included in the Council of Europe Annual Penal Statistics.<sup>22</sup> Mr Selous, noting variations in the classification between jurisdictions, cited the most recent data for 2012—before the recent rise here—which showed England and Wales had a rate of 0.7 per 1000 prisoners, which was lower than that in Germany (0.82 per 1000) and France (1.44 per 1000) but higher than that in Spain (0.44 per 1000). Following

21 Q12

22 See for example Aebi, M.F. & Delgrande, N. (2015). [SPACE I – Council of Europe Annual Penal Statistics: Prison populations survey 2013](#). Strasbourg: Council of Europe

the recent increase in the number of self-inflicted deaths in England and Wales the rate has risen to 1.1 per 1000. Statistics for suicides in prisons in 2013, published by the Council of Europe since Mr Selous gave evidence, show rates of 0.89 per 1,000 prisoners in England and Wales, 0.74 for Germany, 1.24 for France and 0.57 for Spain.<sup>23</sup>

## Prison disorder statistics

15. PJ McParlin, Chair of the Prison Officers' Association, referred in his letter to the deployment of tactical intervention teams from the National Tactical Response Group (NTRG)—which attend incidents at height, incidents of hostage taking, and incidents of concerted indiscipline<sup>24</sup>—as having reached “unprecedented levels”.<sup>25</sup> Deployment of the NTRG, a specialist resource to assist both public and private sector establishments in managing safely and resolving serious incidents in prisons, more than doubled to between approximately 30 and 40 times each month between March and November 2015 compared to January and February 2015.<sup>26</sup>

16. NTRG also supports “Tornado” response teams which provide mutual aid arrangements between neighbouring establishments to assist with the most serious incidents.<sup>27</sup> Such teams were used 16 times in 2014 and 15 times in 2015.<sup>28</sup> Gold Command Incidents, which are opened by NOMS to deal with potentially serious incidents as quickly and safely as possible, have also risen: from 46 in 2012 to 71 in 2013 and 82 in 2015.<sup>29</sup> There were 1,935 fires in adult prisons and young offender establishments 2015, a 57% increase on 2014 and 68% increase on 2013. In explaining the figures Mr Selous told the House that the reporting of fire incidents has significantly improved, which has led to a greater number being reported in 2015.<sup>30</sup>

## NOMS prison performance indicators

17. NOMS produces assessments of performance for prison providers using an assessment framework that has been agreed by the NOMS Agency Board, including Non-Executive Directors. For both public and private prisons the Prison Rating System (PRS) which assesses performance on 31 indicators across four domains: Public Protection, Reducing Reoffending, Decency and Resource Management and Operational Effectiveness. NOMS publishes annual performance ratings with prisons rated on a 4-point scale, where: 4 = Exceptional performance; 3 = Meeting the Majority of Targets; 2 = Overall performance is of concern; and, 1 = Overall performance is of serious concern. Performance is monitored using the same framework on an ongoing basis. According to the scores for the last two

23 Aebi, M.F., Tiago, M. M. & Burkhardt, C. (2015). [SPACE I – Council of Europe Annual Penal Statistics: Prison populations survey 2014](#). Strasbourg: Council of Europe, Table 13.1, p.121

24 Incidents at height are defined as any incident taking place over 3 feet from ground level, including cases where a prisoner has gained access to safety netting; incidents of concerted indiscipline are defined as incidents where 2 or more prisoners act together in defiance of a lawful instruction or against the requirements of the regime of the establishment: they can be either active concerted indiscipline, where prisoners attempt to prevent staff regaining control of a situation, including potentially through use of violence, or passive concerted indiscipline, such as a sit-down protest with no violence involved.

25 [PJ McParlin](#), Chair of Prison Officers Association, written response to 1 December 2015 evidence session

26 [PQ 19422](#) [On National Tactical Response Group], 21 December 2015

27 [PQ 216465](#) [On Prison: Civil Disorder], 3 December 2014

28 [PQ 22415](#) [On Prisons: Civil Disorders], 1 March 2016

29 [PQ 20750](#) [On Prisons: Disciplinary Proceedings], 7 January 2016

30 HC Deb, 11 February 2016, [cW 26250](#)

years to March 2015, the performance of almost a quarter of prisons was of concern, or of serious concern (23% in 2013–14 and 23.5% in 2014–15). This compared to 14 per cent and 2 per cent respectively in the previous two years.

### Staffing and recruitment statistics

18. On the basis that prison safety is reliant on dynamic security, i.e. staff-prisoner relationships, our predecessor Committee believed that the key explanatory factor for the obvious deterioration in standards was that a significant number of prisons had been operating at staffing levels below what was necessary to maintain reasonable, safe and rehabilitative regimes. That Committee pointed out that a quarter of the staff who had left the Prison Service in the year to September 2014 had resigned, and therefore raised questions about NOMS' recruitment and retention policies. In February 2015, Michael Spurr told that Committee that staffing pressures were beginning to recede. NOMS planned to recruit 1,700 staff by March 2015 and exceeded its target.<sup>31</sup> We heard in December that NOMS intended to recruit a further 1,700 to 2,000 prison officers up to the end of March 2016.<sup>32</sup> Nevertheless, NOMS' workforce statistics indicate that recruitment has not kept pace with people leaving the service.<sup>33</sup> Over the 12 months to 31 December 2015, Prison Service operational staff only increased by 600 (FTE) and the number of staff directly employed in the Prison Service fell by 0.8% (250 FTE) over the last three months of last year.<sup>34</sup> 39% (580) of those who left the service in the last year resigned, indicating ongoing problems with retention. In the North East, leavers were more numerous than joiners. Mr Selous confirmed to us on 26 April 2016 that the 2,250 extra prison officers recruited when the Ministry went “full throttle with a major recruitment programme” in 2015 had resulted in a net gain of only 440 officers but was unable to tell us how far short of a full complement of staff public sector prisons were operating.<sup>35</sup>

19. Each of the statistics and performance indicators referred to in this Chapter are important barometers which enable us and other observers to hold the Ministry and National Offender Management Service to account for its safe and decent management of prisoners. In its new Single Departmental Plan (SDP) the Ministry sets out the improvement of public safety and reduction of reoffending by reforming prisons, probation and youth justice as one of its key objectives and makes commitments to publish data to enable performance to be monitored. It states:

We will publish new prison league tables to measure performance in areas such as hours spent by prisoners out of their cell, levels of purposeful activity, educational value added, suitable qualifications acquired, effective care and support of staff and other metrics. We will consult with prison staff and governors on how these league tables might best be designed.

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31 Q35

32 Ibid

33 Ministry of Justice, [National Offender Management Service workforce statistics bulletin December 2015](#), 4 February 2016

34 Ibid

35 [HC \(2015–16\) 397](#), Q423;Qq441–446

We will publish open and transparent figures for deaths in custody, assaults on prisoners, assaults on staff, staff turnover overall and by institution, reducing overcrowding, reducing re-offending, qualifications gained and jobs secured to ensure others can hold us to account.

Following the publication of the plan we sought to clarify with the Department whether it planned to change the reporting of the various specific and wider indicators of prison safety and decency referred to above and were told that NOMS had no intention of ceasing the quarterly safety, workforce and reoffending statistics.<sup>36</sup>

### 3 Action to improve prison safety

20. Our predecessor Committee felt that the Government and NOMS had underplayed the seriousness of the deterioration in safety.<sup>37</sup> The Secretary of State for Justice, Rt Hon Michael Gove MP, has taken a different approach. Acknowledging the gravity of the situation in evidence to us on 15 July 2015 he said

We have significant problems in our prisons at the moment. You cannot look at the number of suicides and self-inflicted injuries or at the level of violence overall in the prison estate and feel anything other than concern about the conditions in which prison officers have to work and the conditions in which offenders are kept.<sup>38</sup>

21. When we put the risk of appearing complacent to Michael Spurr he conveyed his disappointment at any such characterisation:

The idea that we are complacent or have no sense of urgency about it is completely unfair. You cannot just take a solution off the shelf and sort out a change dynamic to the prison population that is real.<sup>39</sup>

Describing the challenges NOMS faced overcoming some of the issues he said:

... the issue of N[ew] P[sychoactive] S[ubstances] escalated in an unprecedented fashion over the period from early 2014 through this year. I think we are getting on top of it now, but we are not yet at that position. That has changed the dynamic, both in the way individuals behave in response to those drugs and in the illicit economy that operates in prisons to supply them. They were almost tailor-made for prisons. You can buy them on the streets legally and relatively cheaply and get them into prisons in a whole range of ways, including throwing stuff over the wall, which is why Ministers took a decision to make that a criminal offence. You would not believe that that was such a problem, but it was; a huge amount of stuff was coming over the wall. That led to a significant change in the way the illicit economy worked. It sounds too simple to say bullying; it is more like extortion and violence.<sup>40</sup>

22. We do not plan to repeat here in detail the various explanations for the ongoing decline in prison safety which were described in our predecessors' report and the Government response. Nevertheless, in addition to the influx of new psychoactive substances described above, Mr Selous, attributed the decline to a higher than anticipated prison population at a time when staffing numbers had been reduced; and a more challenging mix of prisoners.<sup>41</sup> These factors were already present at the time of our predecessors' inquiry so may not fully explain the further deterioration in safety.

37 Ninth Report of Session 2014–15, [HC 309](#), para 102

38 Oral evidence taken on 15 July 2015, [HC \(2015–16\) 335](#), Q29

39 Q3

40 Ibid.

41 Q1

## Ministry of Justice and National Offender Management Service action

23. The Ministry of Justice and NOMS have sought to improve prison safety through a range of legislative, operational, and staff recruitment measures:

- A recruitment campaign to address the decline in staff;
- A series of legislative measures to deal with violence and drugs, including:
  - making the possession of psychoactive substances in prison a criminal offence under the Psychoactive Substances Act 2016 and enabling psychoactive substances and prescription drugs to be tested for as part of mandatory drug testing in prisons under the Criminal Courts and Justice Act;
  - measures in the Serious Crime Act 2015 including making it an offence to have a knife or an offensive weapon in prison;
  - measures in the Prisons (Interference with Wireless Telegraphy) Act 2012 and Serious Crime Act 2015 to inhibit and disconnect the use of mobile phones, which are associated with drug supply, violence and bullying;
- Operational action to address violence, including the introduction of body-worn cameras; a violence diagnostic tool; a psychologically based assessment tool; five minute interventions<sup>42</sup>; multidisciplinary case management for violent prisoners; and the development of a national protocol between the police, the CPS and NOMS to ensure a consistent approach to the referral and prosecution of offences perpetrated in custody;
- Operational action to prevent suicide and self-harm by learning from previous cases and improving procedures, including acting on the Prisons and Probation Ombudsman's recommendations and reviewing policies, known as Prison Service Instructions, in relation to early days and residential care thereafter and the assessment, care in custody and teamwork (ACCT) process which together should provide safeguards for prisoners experiencing distress and at risk of self-harm or suicide. The prison custody escort form has also been improved and is being digitalised to ensure that information from the courts gets to the prison receiving the offender and can be acted on during reception and in the first days of custody which can be particularly risky. NOMS is also reviewing urgently the prison service instruction on transgender prisoners following two recent self-inflicted deaths;
- Extending prison officer training by 2 weeks, to 10 weeks of training;
- Wider prison reforms encompassing governor autonomy, education, skills and family support.<sup>43</sup>

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42 Five minute interventions (FMIs) are a technique for trained prison officers to use certain skills in everyday conversations with prisoners to address criminogenic needs and encourage a new outlook.

43 Qq 12–13, 18, 20, 27, 35, 36, 44, 51, 54–55, 76, 89

## The efficacy of action to improve prison safety

24. The former HM Chief Inspector of Prisons, Nick Hardwick, said that (notwithstanding difficulties in comparing HMI Prisons' evidence from one year to the next due to variance in the establishments inspected) recent inspections demonstrated a "marginally improved" picture which had "levelled out". While there was improvement in respect and purposeful activity, there had been little change in resettlement and "erratic change" in safety outcomes. For him the latter remained of great concern:

NOMS data demonstrates that prisons have become a lot more dangerous, with higher levels of homicides, self-inflicted deaths, self-harm incidents and ... assaults and serious assaults (on staff and other prisoners) than they have been since these records began.<sup>44</sup>

Noting that his inspection results were more up to date than NOMS' Safety in Custody statistics he hoped and expected to see improvements in the next set of statistics, referring to those due to be published in January 2016. That was the case in regard to self-inflicted deaths (which have since risen again) but not for all other indicators.

### *Self-inflicted deaths*

25. The Prisons and Probation Ombudsman, Nigel Newcomen, noted that reasons for self-inflicted deaths were varied and were typically the culmination of personal crises in individual lives, and he therefore cautioned against simple explanations. Nevertheless, he drew our attention to the pervasiveness of mental health needs, the impact of the use of new psychoactive substances, and weaknesses in the response of prison staff to risks presented by prisoners as well as missed opportunities to prevent deaths. In relation to the latter he observed

... it remains the case that I am frequently obliged to repeat recommendations and lessons and it can be depressing how little traction we appear to have on occasions, notwithstanding the strong commitment to implement identified improvements, at individual prisons and more broadly, signalled by Ministers and senior officials.<sup>45</sup>

These recurrent missed opportunities to prevent deaths echoed the findings of Lord Harris in his review of self-inflicted deaths of young adults.<sup>46</sup> Mr Selous emphasised the importance of continually learning from what has gone wrong and improving procedures, including acting on the Prisons and Probation Ombudsman's recommendations.<sup>47</sup>

26. Self-inflicted deaths tend to occur a relatively short time after coming into custody and both Mr Selous and Mr Spurr highlighted work that NOMS was doing to improve induction and early days experiences.<sup>48</sup> Kate Lampard, identified that the key change in the pattern of self-inflicted deaths was that the proportion of those taking their own lives early in their time in an individual prison has dropped markedly. She suggested that this

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<sup>44</sup> Letter from [Nick Hardwick](#)

<sup>45</sup> Letter from [Nigel Newcomen](#)

<sup>46</sup> Lord Harris of Haringey, The Harris Review: Changing Prisons, Saving Lives Report of the Independent Review into Self-inflicted Deaths in Custody of 18–24 year olds, July 2015, [Cm 9087](#)

<sup>47</sup> Q7

<sup>48</sup> Qq12–13

meant that “the right policies are largely in place to address this vulnerable period of imprisonment and staff are clearly ensuring their appropriate enactment.”<sup>49</sup> We are not convinced that this necessarily follows as the total number of self-inflicted deaths has risen significantly. A higher number of deaths taking place at a later stage might therefore explain the lower proportion of earlier deaths. Both the Chief Inspector of Prisons and the Prisons and Probation Ombudsman have recently examined aspects of treatment at induction and in the early days of custody.<sup>50</sup> Each acknowledged challenges for staff but the former found that assessments were variable in quality and accuracy and the latter that a common factor in deaths was staff failing to identify, or act on, information about factors known to increase prisoners’ risk of suicide or self-harm.

### ***The Government’s response to the Harris Review***

27. The report of an Independent Review into Self-inflicted Deaths in Custody of 18–24 year olds, led by Lord Toby Harris, known as the Harris Review, was published in July 2015. Lord Harris gave evidence to our ongoing inquiry on young adults shortly after the Government published its response.<sup>51</sup> Lord Harris welcomed the overall tone of the response and the clear promise that reducing the rates of violence, self-harm and death was seen as a ministerial priority, but was disappointed at the rejection of some of the central recommendations of his report which aimed to strengthen the support available to young adults to prevent self-inflicted deaths.

28. Lord Harris also told us that although safeguarding policies existed, they did not always operate as intended and neither were they adequately resourced. With regard to ensuring relevant information enters prisons in a timely manner, which we have heard from some bereaved families was not the case when their children died, Mr Selous assured us that “time and resources must be available to resolve issues that cannot be left unresolved on the first night in custody and personal help and support provided to prisoners as needed.”<sup>52</sup> Nevertheless, additional safeguards which Lord Harris proposed be implemented to provide young adults in custody with greater support to prevent self-inflicted deaths were not accepted by the Government.

29. In reference to the Government’s response to his review, Lord Harris wrote to the Ministerial Board on Deaths in Custody on 28 February 2016 lamenting the lack of discussion of its content and findings by the Board and noting that an update that was due to be presented at its meeting that week said “very little about the Review’s recommendations” and “was distinctly disingenuous in saying that the Government has agreed with most of these recommendations”. He emphasised that the Government had rejected 33 of his recommendations and that a number of those recommendations had been described as ‘agreed and already adopted’ despite him having made them because existing policies were found by the Review not to be effective, as he had explained to us.<sup>53</sup>

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49 Letter from [Kate Lampard](#)

50 HM Inspectorate of Prisons, [Life in prison: the first 24 hours in prison](#), November 2015; Prisons and Probation Ombudsman, Learning lessons bulletin: [Early days and weeks in custody](#), Fatal incidents investigations, Issue 10, February 2016

51 Oral evidence taken on 12 January 2016, [HC \(2015–16\) 397](#), Qq57–99

52 Letter from [Andrew Selous MP](#)

53 Letter from Lord Harris of Haringey to the Ministerial Board on Deaths in Custody, 28 February 2016, copied to the Committee by Lord Toby Harris, unpublished

30. According to the Government, the responses to some recommendations of the Harris Review were pending the Ministry's wider penal reform agenda. Mr Selous was of the view that the planned reforms—details of which were given by the Prime Minister in his speech on 12 February 2016—would also help stabilise the situation:

At the start of a sentence, if you can give someone a hope, a future and a plan that, hopefully, they can buy into, I believe that that whole reform programme will speak as powerfully in this area as all the other things that, quite rightly, we need to have in place in the assessment and care in custody process as well.<sup>54</sup>

When the Secretary of State gave evidence to us on 16 March 2016 about the Ministry's planned prison reforms, we asked about the prospect of achieving them given the current challenges in the prison estate. He stated:

I certainly would not deny that having a prison that is at or near or even bumping at capacity inhibits flexibility—of course it does—but I would not over-fixate on numbers, because there is a danger of being paralysed by the thought that we cannot make any change until we reduce the population. That is the argument put by some. I think that we should make changes within the current population. Let us not oversell those changes or be too extravagant in our expectations. Then, as people gain confidence that the changes are bringing results, hopefully the rehabilitative activity will work and we can have more slack in the system in order to accelerate the pace of reform.<sup>55</sup>

### **Violence and drug use**

31. PJ McParlin, the National Chair of the Prison Officers' Association (POA), in a lengthy response raised concerns about the 42% increase in serious assaults over a 12 month period. He did not agree with Michael Spurr that there has been improvement in prison safety. For the Association's members safety "continues to be a matter of the utmost concern". The POA felt that NOMS did not act sufficiently quickly to deal with issues related to new psychoactive substances as they emerged. HM Inspectorate of Prisons in its December 2015 thematic report on changing patterns of substance misuse in adult prisons proposed that NOMS focus both on reducing supply and developing effective treatment and psychosocial support.<sup>56</sup> Mr Selous and Mr Spurr emphasised legislative measures to tackle drugs and violence—some of which had only recently come into force and were yet to take effect—and a new test for psychoactive substances which would be available from early this year.<sup>57</sup> They also noted efforts that were being made to reduce demand through peer workers and information materials.<sup>58</sup> Nevertheless, when we asked how many violent incidents involved the use of a knife, the possession of which in custody was recently made a distinct criminal offence, neither Mr Selous nor Mr Spurr was able to enlighten us.<sup>59</sup>

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54 Q18. See also [Prison reform: Prime Minister's speech](#) to Policy Exchange, 8 February 2016.

55 [HC \(2015–16\) 895](#), Q21

56 HM Inspectorate of Prisons, [Changing patterns of substance misuse in adult prisons and service responses](#), Thematic Review, December 2015

57 Qq37, 43

58 Q43

59 Qq52–53

32. On the March 2015 agreement between the POA and NOMS and Michael Spurr's intimation that the POA's ongoing concerns related to grievances over pay<sup>60</sup> the POA said:

The NOMS / POA 2015 Agreement was not about a consolidated or non-consolidated pay award. It could never have been about pay given that the recommendations for the 2015 / 2016 pay award had been accepted in full by the Government in February 2015. A responsible trade union would not use health and safety legislation as a weapon of choice to address issues of pay. If a trade union adopted such a strategy it would be damaging and self-defeating.<sup>61</sup>

33. Michael Spurr told us that NOMS and the POA were working together to address shared concerns.<sup>62</sup> The POA was participating in NOMS' violence reduction project but cited differences in their views on what was required to protect staff effectively. For example, the POA would like stab-proof vests to be issued to prison staff whereas NOMS insist that slash resistant vests afford sufficient protection.

34. The POA suggested that NOMS ought to ask themselves a series of "searching questions":

Do NOMS have an effective recruitment and retention policy with regard to staffing? Do they have an effective strategy to deal with serious and imminent danger, for example, fires and concerted indiscipline? Do NOMS have an effective strategy to control risk? Are NOMS actively monitoring safety in the workplace? Are NOMS investigating near misses in the workplace? Are NOMS convinced that they have adequate resources to address the current situation with regards to prison safety? Are NOMS reactive rather than proactive in their management of prison safety?<sup>63</sup>

Michael Spurr explained to us the range of steps NOMS had taken to address the POA's concerns with regards to safety and emphasised that ongoing joint work was crucial as an "operational prison environment requires constant vigilance around risks, safety and order for prisoners and for staff".<sup>64</sup>

### **Staffing and recruitment**

35. The POA do not believe that recruitment has kept pace with demand, or benchmarked need, with ongoing reliance on staff on detached duty. Noting that there were 7,000 fewer officers than in 2010, when the prison population was approximately 2,500 lower, the Association believed that budget cuts, and resulting reductions in staffing, were intrinsically linked to the increase in violence, deaths and suicides. For example, they submitted that drug problems relate to reductions in: staffing levels in visits; the number of drug dogs; and routine cell searching.<sup>65</sup> While there has been a falling trend in the number of positive mandatory drug tests, the proportion of administered tests which are positive has remained constant over the last few years.<sup>66</sup>

60 Q2

61 Written response from [PJ McParlin](#)

62 Qq2-3; Q47

63 Written response from [PJ McParlin](#)

64 Qq43-50

65 Written response from [PJ McParlin](#)

66 [PQ 25298](#) [On Prisons: Drugs], 2 February 2016; NOMS Annual Report [2014/15 Management Information Addendum](#), Table 6, p 19; NOMS Annual Report [2013/14 Management Information Addendum](#), Table 8, p 13; NOMS Annual

36. Michael Spurr told our predecessor Committee that recruitment levels were such that the use of measures to address staffing shortages including detached duty and restricted regimes would both be reduced after Christmas 2014.<sup>67</sup> At that time restricted regimes were operating in 22 prisons. In December 2015 they remained in place in 14 prisons.<sup>68</sup> The number of detached duty staff had also fallen but remained at around 200.<sup>69</sup> Nevertheless, Mr Spurr remained optimistic:

In stability terms, there is evidence from the inspectorate that we have turned a corner. That is not yet entirely consistent everywhere, but there is no question—I met the chief inspector recently and he confirmed it—but that there are now more reports demonstrating that establishments are more stable and are operating better. Where we have staffing at benchmark levels—which is the case for the majority, other than the 14 jails I have mentioned—increasingly we are seeing that the regimes can be delivered fully ...<sup>70</sup>

Targeted recruitment schemes were being used to address staffing issues at these prisons.<sup>71</sup> Mr Spurr emphasised that the performance of establishments was getting better, although there was still some variation. We were unable to verify that as NOMS' annual measures of the performance of individual prisons will not be published until the summer.

37. The question of safe staffing levels is also associated with NOMS' benchmarking programme which was implemented across the public sector prison estate to reduce costs. Given that staffing levels during its inquiry fell short of those judged to be required under benchmarking, our predecessor Committee was unable to assess whether NOMS' approach would facilitate more effective regimes, or whether safety levels could be restored to their previous higher levels.<sup>72</sup> In its letter to Michael Spurr, the POA was clear in its view that “the benchmarking exercise has not provided safe, secure and decent prisons”. It suggested that understaffing has contributed to NOMS' failure to implement the March 2015 agreement, and that this is partly due to under-assessment of staffing requirements. It is not possible from the Ministry of Justice's workforce statistics to determine whether prisons are understaffed relative to their benchmarked complement. The Secretary of State indicated to us in July 2015 that he recognised that it might be necessary to review the impact of the resulting efficiencies. He said he wished to “consider, that exercise having taken place, did the shoe pinch too tightly in any particular area? Are there consequences of benchmarking and of the reforms that were made that we need to reflect on?”<sup>73</sup>

### *Staff conduct*

38. Almost one-quarter (360) of those who left the prison service in the three months to December 2015 were dismissed. Michael Spurr acknowledged that officer corruption was an issue, but one NOMS was alert to:

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Report [2012/13 Management Information Addendum](#), Table 8, p 21

67 Ninth Report of Session 2014–15, [HC 309](#), paras 106, 111

68 Q38

69 Q67

70 Q39

71 Q68

72 Ninth Report of Session 2014–15, [HC 309](#), para 117

73 Q33

In any organisation, there will be those who are bad staff ... I have not tried to hide it, as you have just indicated. We have a very strong focus on people acting professionally and properly. How do you prove a negative? The vast majority of our staff are good, decent, hard-working public servants. There is a very small minority who breach that ...our view is that we do not want any and we will take action where we find it. The convictions effectively demonstrate that. We have had a number of those recently.<sup>74</sup>

The Ministry announced in its Single Departmental Plan that it is developing a new Corruption Prevention Strategy to deal with the small number of corrupt staff who allow contraband into prisons.<sup>75</sup>

## Conclusions and recommendations<sup>76</sup>

**39. Notwithstanding the considerable efforts of the Ministry of Justice, National Offender Management Service and staff in prisons striving to keep prisoners and themselves secure and unharmed, overall levels of safety in prisons are not stabilising as the Ministry of Justice and the National Offender Management Service had hoped, let alone improving. This is a matter of great concern, and improvement is urgently needed.**

**40. The Ministry of Justice has begun to set out its plans for an ambitious penal reform agenda, the detail of which we will examine in due course. In the meantime, it is imperative that further attention is paid to bringing prisons back under firmer control, reversing the recent trends of escalating violence, self-harm and self-inflicted deaths, without which we firmly believe the implementation of these wider reforms will be severely undermined.**

**41. It is a matter of particular concern that despite a sustained recruitment exercise, described by the Minister as going at “full throttle”, the net increase in public sector prison officers was only 440 last year. In our view this demonstrates a serious and deep-rooted issue of staff retention by NOMS which renders much of the recruitment exercise valueless. The factors underlying this issue are, we suspect, not fully understood by NOMS and are clearly not being adequately addressed. It is vital that they get a grip of this urgently to prevent further waste of resources dedicated to such significant recruitment exercises.**

***42. We recommend that the Ministry and NOMS together produce an action plan for improving prison safety, addressing the factors underlying the rises in violence, self-harm and suicide. The plan should include both preventative measures and punitive ones, and should provide objectives, accompanied by indices to assess the impact these are having. It should encompass action NOMS is taking with regard to recruitment and retention of prison staff, the implications of the Secretary of State’s review of benchmarking, and should also address the apparent lack of observance of professional standards by some officers through the Corruption Prevention Strategy, the development of which we welcome.***

<sup>74</sup> Q75

<sup>75</sup> Ministry of Justice, [Single Departmental Plan: 2015 to 2020](#), 19 February 2016

<sup>76</sup> N.B. In this report, Committee conclusions are in bold text, recommendations are in bold italics.

43. *To assist us in examining the impact of this action plan we wish to receive quarterly reports over the remainder of this Parliament with timely data from the Ministry and NOMS, shortly after the publication of the quarterly Safety in Custody statistics, reporting on progress against the plan and including other key indicators of prison disorder not currently included in those statistics. In addition, NOMS' annual production of prison performance ratings, the next of which are not due until July 2016, do not enable us to scrutinise the performance of prisons in a timely manner. We wish to be apprised of these quarterly as part of the aforementioned report. Similarly, NOMS' workforce statistics are not presented sufficiently clearly to enable us quickly to grasp the staffing situation. Accordingly, we would like regularly to receive, in addition to the Safety in Custody statistics:*

- *Indicators of disorder: Incidents involving the National Tactical Response Group, deployment of Tornado and the opening of Gold Command Incidents per month, including the reason for the action taken in each case;*
- *Staffing: the net gain in operational staff; the number of staff vacancies against benchmark levels; the average length of service and level of training of serving and leaving prison officers; fuller indicators of turnover and retention, including reasons for dismissal or resignation; the number of prisons operating restricted regimes; and the number of staff on detached duty per month;*
- *NOMS' performance ratings: quarterly ratings of performance of individual prisons;*
- *Activity: data on the average number of hours each day prisoners spend locked in their cells at each prison.*

44. We have been in contact with Her Majesty's Inspectorate of Prisons, which has a crucial role in monitoring performance in prisons, to identify ways in which they could be involved in assisting us further with our scrutiny of NOMS' performance in managing prison safety. We will continue those discussions following the Ministry's response to the recommendations in this Report.

# Formal Minutes

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**Tuesday 10 May 2016**

Members present:

Robert Neill, in the Chair

Alex Chalk

John Howell

Alberto Costa

Dr Rupa Huq

Philip Davies

Victoria Prentis

Mr David Hanson

Marie Rimmer

Draft Report (*Prison safety*), proposed by the Chair, brought up and read the first time.

*Ordered*, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 44 read and agreed to.

Summary agreed to.

*Resolved*, That the Report be the Sixth Report of the Committee to the House.

*Ordered*, That the Chair make the Report to the House.

*Ordered*, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

[Adjourned till Tuesday 24 May at 9.15am

# Witnesses

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The following witnesses gave evidence. Transcripts can be viewed on the [inquiry publications page](#) of the Committee's website.

**Tuesday 1 December 2015**

*Question number*

**Andrew Selous MP**, Parliamentary Under-Secretary of State, Minister for Prisons, Probation and Rehabilitation, Ministry of Justice, and **Michael Spurr**, Chief Executive, National Offender Management Service

[Q1–89](#)

## List of Reports from the Committee during the current Parliament

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All publications from the Committee are available on the [publications page](#) of the Committee's website.

The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

### Session 2015–16

First Report	Draft Allocation Guideline	HC 404
Second Report	Criminal courts charge	HC 586 (HC 667)
Third Report	Appointment of HM Chief Inspector of Prisons and HM Chief Inspector of Probation	HC 624
Fourth Report	Criminal Justice inspectorates	HC 724 (HC 1000)
Fifth Report	Draft sentencing guideline on community and custodial sentences	HC 876
First Special Report	Women offenders: follow-up: Government response to the Committee's Thirteenth Report of Session 2014–15	HC 374