

POA RESPONSE TO EVIDENCE GIVEN TO THE JUSTICE SELECT COMMITTEE BY MR ANREW SELOUS MP, AND MR MICHAEL SPURR, CHIEF EXECUTIVE OF THE NATIONAL OFFENDER MANAGEMENT SERVICE ON TUESDAY, 1ST DECEMBER, 2015.

PRISON SAFETY

In response to Mr Spurr's assessment of the current situation with regards to prison safety the POA point to reports and statistical data as published by the Chief Inspector of Prisons, the Ministry of Justice and the Justice Committee.

In 2014, assaults on staff were reported at 3,637, an increase of 28 percent since 2010 and 11 percent since 2013. Serious assaults on staff had risen from 302 in 2010 to 359 in 2013 to 477 in 2014. These statistics were an overall rise of 58 percent and 33 percent respectively.

The Inspector reported that since 2010 prisoner on prisoner assaults had risen by 13 percent to 16,196. There had been a 10 percent increase in incidents in 2014 over 2013. The number of assaults had risen by 55 percent over the previous five years and by 35 percent to the year ending 2014.

In his 2014 report the Prison Inspector made the following observation:

'We believe that the explanatory factor for the obvious deterioration in standards over the last year is that a significant number of prisons have been operating at staffing levels below what is necessary to maintain reasonable ,safe and rehabilitative regimes.'

The Inspector in his report in 2014 pointed to a political and policy failure in the management of prisons in England and Wales.

You will be aware that the Justice Committee's Ninth Report on Prisons: Planning and Policies was published on Wednesday 18th March, 2015. The findings of the cross-party committee had followed a year- long enquiry. Many of its findings were consistent with the concerns that the POA have raised with NOMS and Ministers with regard to prison safety. The committee expressed "grave concerns" at the number of assaults on prison staff and prisoners between 2012 and 2014. Further concerns were raised about indiscipline, deaths in custody and the levels of self-harm in prisons. The report is a damning indictment of prison safety. At paragraph 116 (page 48) of the report, the committee stated:

'Some difficulties could arise in any process of change, but it is clear to us that the Ministry had not planned adequately for the risk of staffing shortages and failed to act sufficiently quickly to mitigate them. This unsatisfactory outcome and sluggish response has risked jeopardising the safety of prisoners and prison staff.'

In 2015, the Ministry of Justice published a statistical report on assaults and self-harm incidents to June 2015 and deaths in custody to September 2015. There were 4,156 assaults on staff in the twelve months to June 2015 at a rate of 49 assaults per 1,000 prisoners. This is an increase of 20 percent in the past 12 months to June 2015. Serious assaults had increased by 42 percent on the previous year. The POA remind the Justice Committee that the definition of a serious assault is one that requires attendance at, or admission to outside hospital. This statistical report by definition

does not provide or suggest reasons and/or solutions for these truly appalling and unacceptable statistics.

Within these reports and others, there is clear evidence that prison staff work up to and beyond the normal expectations of their job descriptions. Staff are doing their best but continue to be overwhelmed in overcrowded and under resourced prisons.

NOMS and the Government continued to ignore the advice and warnings given by the Chief Inspector, the Independent Monitoring Boards, the Howard League, penal pressure groups, the POA and indeed the Justice Committee.

In a forty minute radio programme broadcast in January 2015, the "File on Four" programme, the BBC investigated the then state of safety in our prisons in England and Wales. In the programme the BBC talked at length to members of the POA executive and staff working in prisons. In addition to POA members, prison campaign groups and recently released prisoners and their families pointed to the overcrowding of prisons, gang activity and new psychoactive substances which have contributed to the toxic mix of problems.

Again the deployment of tactical intervention teams from the NTRG to attend incidents at height, incidents of hostage taking, and incidents of concerted indiscipline have reached unprecedented levels. By early December, 2015 the NTRG were on course statistically to have attended incidents in prisons each and every day of the year.

The POA have consistently pointed to budget cuts and the intrinsically linked staff shortages for the increase in violence, deaths and suicides in our prisons. The budget cuts that we have seen across the estate have seen reductions in staffing levels in visits, in the number of drug dogs, in routine cell searching. Is it any wonder then that there is a problem with drugs in our prisons? The prison population is at a record high but with circa 7000 less operational prison officers in post compared with 2010. The evidence given to the Justice Committee on the 1st December, 2015 is an attempt to justify flawed decisions by NOMS and politicians. There has not been an increase in staffing levels as compared to numbers in 2010 and despite efforts to recruit since 2013 the numbers of operational prison officers has not kept pace with demand even at benchmark levels. NOMS appear unable to understand that retention is as important as recruitment. Even at benchmark levels of staffing NOMS have been unable in particular in the south and east of England to retain and recruit staff. This has resulted in the overbearing of staff in parts of the country and an over reliance on excessive use of detached duty to the fifteen prisons assessed by NOMS as critical in terms of staffing provision. The continued use of detached duty continues unabated placing additional strain on staff, undermining prison safety further and being at significant cost to the taxpayer. NOMS appear unable to address the appalling mismanagement of the prison service in England and Wales.

A long overdue protocol for the management of prisoners suspected of using and, or being engaged in the supply of new psychoactive substances is now a minimum requirement and a necessity. The Justice Select Committee will be well aware of the report published by the Chief Inspector of Prisons in December, 2015 of the impact of NPS in prisons. The POA have consistently raised this issue with NOMS over many months. NOMS had appeared reluctant, either because of financial cost cutting considerations or had been unable to grasp the significance of this issue, to respond adequately to our concerns.

NOMS had invited the POA to participate in a violence reduction project. The POA accepted this invitation to ensure that the views of its membership were heard and to further insist that NOMS provide realistic and beneficial outcomes and recommendations for staff and prisoners. The POA accept that risk cannot be eliminated completely in the workplace but remain disappointed with the outcomes and recommendations to date. There continue to be significant differences between the POA and NOMS on the provision of personal protection equipment for staff who work in the operational environment. The POA want stab proof vests to be issued to staff whereas NOMS insist that slash resistant vests are sufficient to protect their employees. Given the rise in assaults with a bladed weapon the POA maintain that NOMS are out of touch with reality and seemingly prepared to sacrifice the health and safety of staff as a result of financial pressures.

A step in the right direction came with the announcement in November 2014 of a joint protocol between the Prison Service, Crown Prosecution Service and the Association of Chief Police Officers. The protocol provided guidelines for joint working between prisons, police and the CPS to ensure that prisoners who assault staff or commit other crimes such as hostage taking, arson and absconds are subject to the legal process. For far too long POA members have been told that prosecution in such cases had not been in the public interest. Indeed our members had been reporting their frustration at a perceived lack of support from management over many years. The POA campaigned for this protocol and indeed won a judicial review against the Crown Prosecution Service for its failure to prosecute a prisoner who had assaulted one of our members.

It is to be hoped that the protocol will reinforce the presumption that crimes committed in prison, dependent on the evidence, will be subject to consecutive sentences and not concurrent sentences. A crime committed inside prison should not be subject to a different interpretation to a crime committed outside of prison. The POA were pleased that Andrew Selous, the Prison Minister acknowledged that the protocol had come about following intense lobbying by the POA. The POA insist that a crime committed in prison must be dealt with as it would be outside. There is never a good reason not to hold violent and aggressive prisoners to account for their actions.

NOMS need to ask themselves a number 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?

The POA have considered Mr Spurr's assessment of the current situation with regards to prison safety. The POA hold a contrary view, supported by statistical evidence and experience within the operational workplace that there has been no improvement in safety in prisons in England and Wales. For the avoidance of doubt the POA state to the Justice Committee that the safety of prisons in England and Wales continues to be a matter of the utmost concern for POA members. It is the oft stated view of the POA that Mr Spurr and Ministers should stop, listen and learn from the Chief Inspector of Prisons, the Independent Monitoring Boards within prisons, the Howard League, penal pressure groups, the Justice Committee and as a new and innovative departure from the norm the trade unions in the workplace.

The March 2015 NOMS/ POA Agreement

Following on from the report of the Justice Committee the POA advised the employer that it had 28 days to address issues concerning safe systems of work and risk assessments within prisons in England and Wales. A failure to do so would result in the executive of the POA advising its members what measures they should personally take to prevent or reduce risks to the health and safety of themselves, colleagues and the prisoners in our care. There can be no doubt that the 28 day notice encouraged the employer to enter into what had appeared to be constructive negotiations with the POA within collective bargaining arrangements.

Following a meeting with the then Justice Secretary, Mr Christopher Grayling, the negotiations were expanded to cover issues as identified in the March NOMS / POA Agreement. In an edition of the in-house POA magazine, the Gatelodge , for July 2015 it was pointed out to POA members that the executive would not use their genuine concerns with health and safety to address longstanding issues with regard to pay and pensions. 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. The retention and recruitment bonus set within the agreement is a pittance and scant reward for the contribution of the closed grade prison officers and operational support grades, the staff who constitute 80 percent of the workforce within the remit group. Nevertheless, NOMS offered the retention and recruitment bonus within the agreement and the POA is not in the habit of rejecting monies on behalf of its membership.

The agreement made reference to the commitment to a joint business case for consideration by politicians in relation to the pensionable age of operational prison officers. There can of course be no guarantees on the outcome of discussions with Ministers but an agreed position with the employer would be seen by the POA as a significant step in the right direction. In the summer of 2015 the business case was at an advanced stage of preparation. Since then progress had stalled somewhat but the POA continue to push for a joint submission to Ministers. In December, 2015 the POA received written confirmation from NOMS that they remain committed to the joint business case on pensions. A pension age of 68 for operational prison officers given the unpredictable and violent workplace is unrealistic and will not provide a safe, secure and decent environment for staff and the prisoners in our care..

Within the agreement NOMS and the POA were committed to working together to ensure that appropriate risk assessments and safe systems of work were in place. There had been a review of progress in July 2015, which remains inconclusive. It has been agreed that further visits will be facilitated to a number of prisons to assess and monitor health and safety arrangements. The POA welcome this commitment but we do insist that there must be evidence of progress on prison safety.

National Whitley July, 2015.

At the National Whitley in July, 2015 the POA raised the report by the Justice Select Committee, the Chief Inspector's Report and the Harris Report into self-inflicted deaths in custody of young adults. The POA raised these reports as further evidence that our members are stressed and brutalised by their working environment.

With regard to the Harris Report the POA made reference to the recommendations within the Woolf, Mubarek and Carter Reports. History tells us that if recommendations cost too much or sit outside the prevailing direction of travel then they will not be considered.

At the insistence of the POA we then discussed the first significant speech on criminal justice by the Justice Secretary, Michael Gove. In the view of the POA there were few if any surprises contained within the speech. The first priority for the Justice Secretary as stated in his speech is that prisons should be safe, secure and decent and free from violence, disorder and drug use. At the National Whitley the POA reminded NOMS that we should not confuse a stated commitment with the provision of the commitment itself.

On the agenda were further POA topics including smoking in prisons and budget cuts. The death of escort custody officer Lorraine Barwell following a violent assault was understandably raised by the POA. Mr Spurr, as with his earlier references to pay, is being disingenuous when he refers to discussions that took place at the National Whitley in July 2015.

Postscript

As a further example of the desperation of NOMS to excuse their mismanagement of the prison service we refer the Justice Committee to the POA Members Work-Related Stress and Wellbeing Survey, the independent report commissioned by the POA in 2014. As recently as January 8th, 2016 NOMS dismiss this research as out of date. The POA have enclosed our response to the press release issued by NOMS.

Conclusion

The POA are able to provide the Justice Select Committee with further evidence if required. The POA recognise that we have been invited to provide the committee with our observations and that it is not your intention to hold an enquiry into prison safety or to issue a general call for evidence. Thank you for providing the POA with the opportunity to submit our response.

PJ McParlin

National Chairman

POA