

## **Prison Reform Trust evidence for the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) – January 2019**

The Prison Reform Trust (PRT) is an independent UK charity working to create a just, humane and effective penal system. We do this by inquiring into the workings of the system; informing prisoners, staff and the wider public; and by influencing Parliament, government and officials towards reform. The Prison Reform Trust provides the secretariat to the All Party Parliamentary Penal Affairs Group and has an advice and information service for people in prison.

The Prison Reform Trust's main objectives are:

- reducing unnecessary imprisonment and promoting community solutions to crime
- improving treatment and conditions for prisoners and their families
- promote equality and human rights in the criminal justice system.

[www.prisonreformtrust.org.uk](http://www.prisonreformtrust.org.uk)

### **Introduction**

The Prison Reform Trust welcomes the opportunity to submit evidence to the CPT. Currently there are just over 82,000 people in prisons in England and Wales. Standards of safety and decency in custody have deteriorated markedly during the reporting period of the Committee's review. There is strong evidence to suggest that the UK authorities are failing in their requirements under the European Convention and other international standards of treatment and conditions in prison. Our submission highlights key concerns regarding prison violence, PAVA spray, overcrowding, imprisonment for public protection (IPPs), segregation, deaths and self-harm, women, and children (segregation and restraint).

### **Prison violence**

PRT is concerned by the extremely high levels of violence in prisons in England and Wales. The latest Ministry of Justice safety in custody statistics<sup>1</sup> reveal that:

- Assault incidents increased to 34,223, a record high level in 2018, but decreased in the latest quarter. Annual assault incidents reached a record high of 34,223 incidents in 2018, a 16% increase from 2017. Assaults in the October to December 2018 quarter decreased to 8,150, a decrease of 11% from the previous quarter, but a 5% increase on the same quarter of the previous year.

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<sup>1</sup> Safety in custody statistics quarterly update to March 2019, Ministry of Justice. Available at [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/797074/safety-custody-bulletin-q4-2018.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/797074/safety-custody-bulletin-q4-2018.pdf)

- Assault incidents increased to 34,223, a record high level in 2018, but decreased in the latest quarter. Annual assault incidents reached a record high of 34,223 incidents in 2018, a 16% increase from 2017. Assaults in the October to December 2018 quarter decreased to 8,150, a decrease of 11% from the previous quarter, but a 5% increase on the same quarter of the previous year.
- Of the 34,223 assault incidents in 2018, 3,918 (11%) were serious. In the 12 months to December 2018, there were 3,918 serious assault incidents, up 2% from the previous year. Serious prisoner-on-prisoner assaults decreased by 1% since the previous year (to 2,987), and serious assaults on staff increased by 15% (to 995) in the same period. Serious assaults (by 4%), serious prisoner-on-prisoner assaults (by 5%), and serious assaults on staff decreased in the last quarter (by 4%).

A key factor behind the decline in standards of safety in prisons in England and Wales has been the steep cuts in prison service staffing and resources since 2010. Between 2010–11 and 2014–15, HM Prisons and Probation Service (HMPPS) reduced its budget by nearly a quarter.<sup>2</sup> A prison service “benchmarking” efficiency programme contributed to a 25% cut in frontline operational staff between 2010–2017<sup>3</sup> over a period where the prison population remained more or less stable. Richard Heaton, Permanent Secretary at the Ministry of Justice, told the Public Accounts Committee in 2017 that the reduction in staff numbers “has been detrimental to security, stability and good order in prisons”.<sup>4</sup>

Since 2016, the Ministry of Justice has attempted to arrest the decline in safety through a range of provisions, including welcome measures to expand front-line staff capacity; the introduction of a case management scheme Offender Management In Custody (OMIC); PRISM—which reveals violence-promoting characteristics of the prison environment; and a conflict resolution strategy. It is hoped that the modest improvement in both self-harm and assault figures in the most recent quarter may be the start of a longer-term trend and a reflection of the positive impact some of these initiatives may be starting to have. However, at this stage, it is still too early to say.

## **PAVA spray**

PRT has particular concerns about the announcement in October 2018 that PAVA spray will be issued to all prison officers in the adult male estate.<sup>5</sup> Relationships based on trust and mutual respect are the indispensable foundation for a better prison system, and the routine arming of all prison officers with this new weapon risks sending a damaging message to both staff and prisoners. There are some very significant concerns which the Committee should seek to raise with the UK authorities regarding the prospective roll out:

1. The decision is based on findings from pilots in four prisons. The pilot evaluation, obtained through a freedom of information request, reveal that the pilot “was unable to conclusively demonstrate that PAVA had any direct

<sup>2</sup> National Offender Management Service (2016) Annual Report and Accounts 2015–16, London: The Stationery Office

<sup>3</sup> Table 3, Ministry of Justice (2018) HM Prison and Probation Service workforce statistics: March 2018, London: Ministry of Justice

<sup>4</sup> House of Commons Public Accounts Committee (2017) Mental health in prisons, Oral evidence session: 23 October, London: HM Stationery Office

<sup>5</sup> <https://www.gov.uk/government/news/prison-officer-safety-equipment-rolled-out>

impact on levels of prison violence. Overall violence levels continued to rise across all of the pilot (and comparator) sites during the period, continuing previous trends.”<sup>6</sup> When violence did occur, “staff felt better able to deal with it and better equipped to arrest escalation and prevent harm with PAVA”. Therefore, the decision to proceed with a national roll out appears to have been based on staff confidence, rather than any impact on reducing levels of violence.

2. PRT’s analysis of the pilot evaluation<sup>7</sup> found that in 34 of the 50 cases it appeared that the guidance had been ignored. In a quarter of cases PAVA was used incorrectly, for example in incidents at height, or directed at the wrong person. In a quarter, it was plainly not the last resort; other methods to deal with the perceived threat were available. And in a third, there was not an appropriate justification for its use—for example it was used to enforce an order, something the guidance explicitly ruled out.
3. Since the conclusion of the pilot PAVA has continued to be authorised for use across the four prison pilot sites. The government’s answer to a Parliamentary Question tabled by Lord Bradley about the use of PAVA in the four sites raise a number of serious concerns.<sup>8</sup> Most obviously, it reveals that the use of PAVA, far from declining, has increased significantly. That suggests that the guidance that its use should be exceptional continues to be routinely ignored, as it was in the pilot period. In two of the four prisons, Preston and Risley, the increase in use is dramatic compared to their two obvious comparators, suggesting a sharp divergence in practice between apparently similar prisons. And finally, the answer gives yet another set of justifications for the use of PAVA—“for personal protection, the protection of others or to facilitate the safe withdrawal of staff”. There is no mention of exceptional circumstances, or the likelihood of serious violence. On the face of it, the grounds for use described are very much broader than anything previously contained in the guidance for staff in the pilot.
4. The evidence of successive inspection reports—not confined to the worst prisons—is that the procedural safeguards on current use of force are being routinely ignored. Paperwork is not completed, medical oversight is inadequate and incidents are not properly reviewed or analysed at a strategic level. Body worn cameras are not worn or not switched on. It is not clear what safeguards will attend the use of PAVA spray. Given the inadequacy of current safeguards, which appear to have been borne out in the evaluation of the PAVA pilots, we can have little confidence that use of PAVA will be subject to appropriate safeguards.
5. There is a wealth of experience from prisons in the private sector which have never wanted or allowed staff to carry batons, never mind PAVA spray. At the very least, this provides a useful comparator. It is not clear whether this evidence has been examined or informed the decision to roll out PAVA. Furthermore, it is not clear whether private providers will be required to issue PAVA spray to their staff.

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<https://docs.google.com/document/d/18ggrGgHTIJTOY1KVF3GBSFG1dAsKOqXlviwrBekcsjQ/edit>

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<http://www.prisonreformtrust.org.uk/Portals/0/Documents/PAVA%20PRT%20position%20paper.pdf>

<sup>8</sup> <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Lords/2019-03-19/HL14643/>

6. For many years, prisoners from minority communities have been disproportionately subject to use of force in prison. But our study with the Zahid Mubarek Trust, “Tackling discrimination: still not a fair response”,<sup>9</sup> found that prisoners had a one in a hundred chance of having a complaint of discrimination upheld. So it would be useful to know whether an equality impact assessment has been completed in relation to the PAVA rollout, and to see it if so. If not, this needs to be a priority if the risk of entrenching current discriminatory practice is to be avoided.
7. The decision to issue PAVA spray does not appear to have taken account of the ECHR jurisprudence concerning chemical incapacitant spray, specifically the Court’s findings in the case of *Ali Gunes vs Turkey (Application no. 9829/07)*.

## Overcrowding

Nearly 21,000 people in England and Wales were held in overcrowded accommodation in 2017–18—almost a quarter of the prison population. This level of overcrowding has remained broadly unchanged for the last 15 years.<sup>10</sup> The European Committee for the Prevention of Torture has repeatedly raised concerns over the impact of overcrowding; and has recurrently found overcrowding to be a source of additional serious shortcomings in the prison system (impacting, for example, on material conditions, regime, outdoor exercise, reception procedures and health-care services). In its latest 2016 report, it called on “the authorities of the United Kingdom to take concrete measures and determined action to significantly reduce the current and future prison population, as a matter of priority, in line with the European Prison Rules.”<sup>11</sup>

Despite this, there is little evidence to suggest that the UK government has either the resources or political will to reduce levels of overcrowding—either through a sustained reduction in the size of the prison population or building additional prison places to match demand. The government has committed to building an additional 10,000 prison places.<sup>12</sup> However, its original intention in its 2016 prison safety and reform white paper<sup>13</sup> to bring about a “less crowded” prison estate has been dropped. Most additional capacity is now expected to be eaten up by the projected increase in the size of the prison population.<sup>14</sup>

In addition, there are significant concerns regarding the long-term sustainability and affordability of the government’s prison building programme. PRT commissioned a former Prison Service Finance Director, Julian Le Vay, to analyse the department’s

<sup>9</sup> <http://www.prisonreformtrust.org.uk/Portals/0/Documents/Tackling%20discrimination.pdf>

<sup>10</sup> Tables 2.2 and 2.3, Ministry of Justice (2018) HM Prison and Probation Service Annual Digest: 2017 to 2018, London: Ministry of Justice

<sup>11</sup> <https://www.coe.int/sl/web/cpt/-/cpt-publishes-report-on-its-uk-visit-criticism-levelled-at-spiralling-violence-and-lack-of-safety-in-prisons-and-inadequate-safeguards-to-protect-pati?desktop=true>

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<http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/justice-committee/prison-population-2022/oral/86114.html>

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[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/565014/cm-9350-prison-safety-and-reform- web .pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/565014/cm-9350-prison-safety-and-reform- web .pdf)

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[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/735428/prison-population-projections-2018-2023.PDF](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/735428/prison-population-projections-2018-2023.PDF)

ambitions for prison building in the light of its current spending review settlement with the Treasury.<sup>15</sup> His analysis, published in December 2017, concludes that the Ministry of Justice's ambitions are inadequately funded to the tune of £162m in 2018/19, rising to £463m in 2022/23. On current population projections, there is no prospect of any impact on overcrowding before 2022—indeed, unless the Government abandons plans to close old prisons and instead keeps them all open as well as building new ones, emergency measures to create space are likely to be necessary as early as next year and throughout the period up to 2022. La Vay's projections assume there are no unforeseen events, such as fire, riot or loss of accommodation to other reasons of health and safety. The analysis suggests there is no prospect of being able, safely or decently, to take any existing accommodation out of use before 2022.

### **Imprisonment for Public Protection (IPP)**

Although sentencing doesn't normally fall under Committee's remit, the fact that the IPP sentence has been abolished, yet thousands remain bound by it (both those held over tariff and on release in the community under an indefinite licence period) strongly suggests that the continued existence of the sentence constitutes a degrading punishment under the terms of the Convention. Nelson Mandela Rule 4.1 states that the purposes of custody are to protect the public and to reduce recidivism. This rule continues: "Those purposes can be achieved only if the period of imprisonment is used to ensure, so far as possible, the reintegration of such persons into society upon release so that they can lead a law-abiding and self-supporting life."

Despite its abolition in 2012, there are still just over 2,400 people in prison currently serving an IPP sentence. More than nine in 10 are still in prison despite having passed their tariff expiry date—the minimum period they must spend in custody and considered necessary to serve as punishment for the offence. 16% of people currently serving an IPP have a tariff of less than two years, and 41% have a tariff of between two and four years.<sup>16</sup> 375 people are still in prison despite being given a tariff of less than two years—over half of these (221 people) have served nine years or more beyond their original tariff.<sup>17</sup> The mental distress caused by long periods of incarceration without certainty of release is reflected in the high rates of self-harm among IPP prisoners. There were 1,102 incidents of self-harm per 1,000 IPP prisoners in 2018—nearly double the rate of self-harm by determinate sentenced prisoners. The rate of self-harm by IPP prisoners has nearly trebled since 2012.<sup>18</sup>

The system faces a growing problem of IPP recalls, with people serving IPP sentences on licence in the community being returned to custody for breach of their licence conditions. There are 1,063 people serving an IPP sentence who are back in prison having previously been released—a 26% rise in only a year.<sup>19</sup> In 2017–18 the Parole Board ordered the release of 936 people on IPPs, including the re-release of 235 people recalled back to custody. However, in the same period, 543 people on

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<sup>15</sup> <http://www.prisonreformtrust.org.uk/PressPolicy/News/vw/1/ItemID/496>

<sup>16</sup> Table 1.9a, Ministry of Justice (2019) Offender management statistics quarterly: October to December 2018, London: Ministry of Justice

<sup>17</sup> Table 1.9b, *ibid.*

<sup>18</sup> Table 2.6, Ministry of Justice (2019) Safety in custody statistics quarterly update to December 2018 and Table 1.1 and A1.15, Ministry of Justice (2018) Offender management statistics prison population 2018, London: Ministry of Justice

<sup>19</sup> Table 1.9a, Ministry of Justice (2019) Offender management statistics quarterly: October to December 2018, London: Ministry of Justice

IPPs were recalled.<sup>20</sup> This high rate of recall suggests that people on IPP sentences are not getting the help and support they need on release to successfully reintegrate back into society. Indeed, the impact of indefinite detention is likely to be making the prospects for their successful reintegration much worse.

The Parole Board predicts that, without legislation, there will still be 1,500 people in prison serving an IPP by 2020.<sup>21</sup> Policy options outlined by the Parole Board<sup>22</sup> which could expedite the release and successful reintegration of the remaining IPP population include:

- Conversion to fixed length sentences, starting with the shortest tariff lengths where the greatest injustice has occurred
- Establish a sunset provision for all or some sentences
- Change Parole Board release test (this could be done under the existing provisions of the LASPO Act 2012)
- Change licence period
- Paper review of recalled IPP prisoners
- Change criteria for recall

## Segregation

The United Kingdom maintains that solitary confinement is not practised in its places of detention. In contrast, the UK's National Preventive Mechanism recorded that:

*“Solitary confinement and isolation go under many names: solitary confinement, isolation, separation, care and separation, unemployed disruptive, single unlock, loss of association, losses, basic for violence, basic, group separation, low stimulus, time out, intensive care suite, therapeutic isolation, single-person wards, enforced segregation, removal from association, temporary confinement, separation and reintegration, close supervision centres, special cells, confined to room, duty of care. There is a risk that some of this terminology can obscure the seriousness of the practice and the need for rigorous monitoring and governance.”<sup>23</sup>*

Treatment and conditions in segregation units are a legitimate concern of the Committee. Evidence gathered in the Committee's reporting period suggest that the longstanding problems of segregation persist, namely:

1. Lengthy confinement.<sup>24</sup> The Prison Reform Trust's 2016 study of segregation units and closed supervision centres, Deep Custody, found that 71% of

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<sup>20</sup> The Parole Board (2018) Annual report and accounts 2017/18, London: HM Stationery Office and Table 5.2, Ministry of Justice (2018) Offender management statistics quarterly: April to June 2018, London: Ministry of Justice

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<http://www.prisonreformtrust.org.uk/Portals/0/Documents/MJ%20IPP%20paper%20July%202016.pdf>

<sup>22</sup> Ibid.

<sup>23</sup> National Preventive Mechanism (2015) Sixth Annual Report 2014–2015, online: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/481254/npm-annual-report-web-version.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/481254/npm-annual-report-web-version.pdf)

<sup>24</sup> The National Preventative Mechanism specify a limit of 15 days. See also Rule 44 of the Nelson Mandela Rules.

segregated prisoners spent less than 14 days in segregation, 20% spent between 14 and 42 days, and 9% were segregated for longer than 84 days.<sup>25</sup> In only a quarter of prisons visited by the HM Inspectorate of Prisons in 2017-18 was evidence found of meaningful work to reintegrate segregated prisoners back to normal location.<sup>26</sup>

2. Use of segregation for people suffering mental ill-health.<sup>27</sup> Over half of the prisoners interviewed for the Deep Custody study reported three or more mental health problems including anxiety, depression, anger, difficulty in concentration, insomnia, and an increased risk of self-harm. Almost half of the officers interviewed said that they would benefit from more mental health training and that further training should be offered.<sup>28</sup> During 2017–18, at least six prisoners took their own lives while in segregation units.<sup>29</sup>
3. Inadequate exercise time. Deep Custody found that regimes in most segregation units were impoverished, comprising little more than a short period of exercise, a shower, a phone call, and meals.<sup>30</sup> In most units, periods of exercise lasted 20–30 minutes, well short of the 60 minutes stated in the European Prison Rules and the UN Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules).
4. Segregation of women. HM Inspectorate of Prisons has raised particular concerns regarding the segregation of vulnerable women. In its report on HMP Peterborough, it found that the prison “could not fully support women with very complex and challenging behaviour. Some of these women were managed for long periods in segregation or in the health care department, which could not meet their needs.”

## Deaths and self-harm in custody

The latest Ministry of Justice safety in custody statistics<sup>31</sup> reveal that:

- Number of deaths have increased compared to the previous 12 month period. In the 12 months to March 2019, there were 317 deaths in prison custody, up 18 from the previous year. Of these, 87 deaths were self-inflicted, up 14 from the previous year.
- Self-harm incidents rose to 55,598 in 2018, a new record high, but decreased in the latest quarter. Self-harm incidents reached a record high of 55,598 incidents in 2018, a 25% increase from 2017. The number of incidents between October and December decreased by 7% to 14,313 since the previous quarter.

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<sup>25</sup> [http://www.prisonreformtrust.org.uk/Portals/0/Documents/deep\\_custody\\_111215.pdf](http://www.prisonreformtrust.org.uk/Portals/0/Documents/deep_custody_111215.pdf)

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[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/724526/HMI-Prisons\\_Annual\\_Report\\_2017-18.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/724526/HMI-Prisons_Annual_Report_2017-18.pdf)

<sup>27</sup> See Rule 45.2 of the Nelson Mandela Rules.

<sup>28</sup> [http://www.prisonreformtrust.org.uk/Portals/0/Documents/deep\\_custody\\_111215.pdf](http://www.prisonreformtrust.org.uk/Portals/0/Documents/deep_custody_111215.pdf)

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[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/724526/HMI-Prisons\\_Annual\\_Report\\_2017-18.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/724526/HMI-Prisons_Annual_Report_2017-18.pdf)

<sup>30</sup> [http://www.prisonreformtrust.org.uk/Portals/0/Documents/deep\\_custody\\_111215.pdf](http://www.prisonreformtrust.org.uk/Portals/0/Documents/deep_custody_111215.pdf)

<sup>31</sup> Safety in custody statistics quarterly update to March 2019, Ministry of Justice. Available at [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/797074/safety-custody-bulletin-q4-2018.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/797074/safety-custody-bulletin-q4-2018.pdf)

- Incidents requiring hospital attendance rose to a record high of 3,214 in 2018, although the proportion of incidents requiring hospital attendance has decreased. The number of self-harm incidents requiring hospital attendance increased by 5% on the previous year to 3,214 while the proportion of incidents that required hospital attendance decreased by 1.1 percentage point to 5.8%.

The evidence from investigations by the Prison and Probation Ombudsman in 2017/2018 and highlighted in its annual report published in October 2018<sup>32</sup> underlined the urgent need for national strategies and support for struggling prisons:

- **Drug-related deaths.** The report says: “We have continued to see a significant number of deaths where illicit drug use played a role. This includes accidental or deliberate overdoses, suicides precipitated by drug-related mood changes or in response to drug-related debts and bullying, and heart attacks and respiratory failure in apparently fit individuals. All kinds of drugs are involved in these deaths—from heroin and cocaine, through illicitly traded prescription medications, to psychoactive substances (PS). The ease with which prisoners are apparently able to obtain these drugs in prison is truly alarming... Prisons are struggling with the consequences of bad batches of PS which can result in simultaneous multiple collapses of prisoners, unsustainable demand on prison resources, ambulances queuing up at the prison gate and, all too often, death. This destructive epidemic of PS use has become the ‘new normal’ in prisons.”
- **Suicide and self-harm.** There was an overall fall in self-inflicted deaths in prisons last year but the report said that while some jails “appear to have learned the lessons from previous self-inflicted deaths, others are still repeating the same failings—with tragic consequences. We are still seeing the same failings all too often in these establishments: failures of management, weak procedures, poor information-sharing, a lack of joined up working, gaps in training, and poor emergency procedures.” The report warned against complacency over the fall from the record high of 2016–17, as the rate of self-inflicted deaths has been rising again in the first six months of the 2018–19 year.
- **Mental Health.** As in previous years, many of the prisoners whose deaths the PPO investigated suffered from significant mental health issues. “The availability of suitably skilled healthcare professionals in prisons remains an issue, as does the ability to transfer acutely mentally unwell prisoners to more appropriate clinical settings.”
- **Deaths from natural causes.** The report renewed the call, made over many years by the PPO, for a “properly resourced older prisoners’ strategy” to address healthcare needs among the relentlessly growing population of older prisoners. Prisons and health care partners are currently left to deal with these problems on “a piecemeal basis.” PPO fatal incident investigations have also raised concerns about the treatment of dying prisoners. The report said: “Prisoners should be able to die with dignity. Unfortunately, we continue to see cases in which very elderly, frail and/or very unwell prisoners with limited mobility were routinely escorted to hospital in handcuffs and some remained restrained until shortly before they died...It is simply unacceptable that such inhumane practices are allowed to continue.”

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<sup>32</sup> <https://www.ppo.gov.uk/news/prisoners-are-dying-preventable-deaths-as-a-result-of-alarming-levels-of-drug-abuse-in-jails-says-ombudsman-in-annual-report/>



## Women

### *Over-use of custody*

The UN Committee Against Torture raised concerns in 2013 about the rate of imprisonment of women and recommended that the UK government should:

*“ensure effective diversion from the criminal justice system for petty non-violent [women] offenders, increase the use of community sentences, and implement changes to the prison regime to further reduce deaths and incidents of self-harm.”*

The continuing over-use of short custodial sentences for women is widely acknowledged. In 2018, 7,745 women were received into prison in England and Wales either on remand or under sentence.<sup>33</sup> Of those women entering prison to serve a sentence, 82% had been convicted of a non-violent offence (compared to 67% of men).<sup>34</sup> Nearly three-quarters (72%) of women who entered prison to serve a custodial sentence in 2018 were sentenced to less than 12 months.<sup>35</sup> Many are sentenced to less than three months, and there are overwhelmingly sent there for minor offences.<sup>36</sup> To address this, the Prison Reform Trust is advocating for a presumption against short term prison sentences. There are concerns that prison is being used by magistrates as a place of safety for women.<sup>37</sup>

The United Nations Committee for the Elimination of Discrimination Against Women has also raised concerns about the levels of incarceration of women in the UK for minor offences and recommended the adoption of ‘alternative...custodial strategies, including community interventions and services’ for women accused of minor offences.<sup>38</sup> The UK is also a signatory to The United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules<sup>39</sup>), which advocates the use of community solutions to women’s offending. The recently published Female Offender Strategy<sup>40</sup> marks a serious attempt by the UK government to take proper account of the vulnerability of many women offenders by endorsing the case for a gender specific approach to women who offend and promoting early intervention, diversion and community solutions rather than custody wherever possible. However, the limited resources allocated to support women’s community services and the lack of a timetable to drive progress remain a serious concern. Without sufficient resources, the government’s ambitions simply cannot be realised.<sup>41</sup>

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<sup>33</sup> Table A2.1i, Ministry of Justice (2019) Offender management statistics prison receptions 2018, London: Ministry of Justice

<sup>34</sup> Table A2.9i, Ibid.

<sup>35</sup> Table A2.7, Ibid.

<sup>36</sup> Prison Reform Trust (2018) response to Strengthening probation, building confidence, London: PRT

<sup>37</sup> Oral evidence to the House of Commons Justice Committee, Prison Population 2022: planning for the future, HC483; Tuesday 30 October 2018, Juliet Lyon CBE, Chair of the Independent Advisory Panel on Deaths in Custody, in response to question 368.

<sup>38</sup> CEDAW C/GBR/CO/7: Committee on the Elimination of Discrimination Against Women— Concluding observation on the seventh periodic report of the United Kingdom of Great Britain and Northern Ireland, 30 July 2013. See also the

<sup>39</sup> Bangkok Rules on Women Offenders and Prisoners (2010) Available at: <https://www.penalreform.org/wpcontent/uploads/2013/07/PRI-Short-Guide-Bangkok-Rules-2013-Web-Final.pdf>

<sup>40</sup> Ministry of Justice (2018) Female Offender Strategy, London: MoJ

<sup>41</sup> Prison Reform Trust (2018) response to United Nation call for submissions: Women deprived of liberty, London: PRT

The prevalence of past trauma amongst women in prison is well known. 53% of women report to have experienced emotional, physical or sexual abuse as a child, compared to just 27% of men. 57% of women report being victims of domestic violence as adults.<sup>42</sup> Although, as many women fear disclosing abuse this is likely to be an underestimate.<sup>43</sup>

There are strong links between women's offending behaviour and their experience of domestic (physical and emotional) abuse, coercive control and sexual abuse. Women who are subjected to domestic abuse may be coerced into offending by their abuser.<sup>44</sup> The forthcoming Domestic Abuse Bill is an opportunity for the UK government to address this by introducing a statutory defence in relation to offences committed by women subject to coercive relationships.<sup>45</sup>

There is a widely recognised, continuing failure to avoid prosecuting and imprisoning women who are victims of trafficking, as highlighted in a recent report published by the Prison Reform Trust in partnership with Hibiscus Initiatives.<sup>46</sup>

### ***Community solutions to women's offending***

Out of court disposals can provide the police with a simple, swift and proportionate response to women's low-risk offending. However the proportion of women dealt with by out of court disposals is small and continues to decrease. 94,241 women were given cautions in 2007 and only 19,197 in 2017 an 80% decrease 10 years.<sup>47</sup>

Community sentences allow women to maintain community ties, employment, accommodation whilst reducing the disruption to their families and children. However, the use of community sentences decreased by 42% from 2010 to 2017.<sup>48</sup> Research shows that 55.8% of women released from prison reoffend within a year compared to 26% of those sentenced to a community order.<sup>49</sup>

Women's centres offer a holistic approach to female resettlement, providing a wraparound service and can support women who have had contact with the criminal justice system move away from offending. They can provide effective support programmes for those at risk of offending and play a vital role in reducing women's reoffending, offering safe, non-stigmatising settings for women to address issues that can drive their offending such as substance abuse or accessing support with violent relationships.<sup>50</sup> However central allocation of resources remains inadequate to

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<sup>42</sup> Ministry of Justice (2012) Prisoners' childhood and family backgrounds, London: MoJ

<sup>43</sup> Gelsthorpe, L., Sharpe, G., and Roberts, J. (2007) Provision for Women offenders in the community, London: Fawcett Society

<sup>44</sup> Prison Reform Trust (2017) "There's a reason we're in trouble": Domestic abuse as a driver to women's offending, London: PRT

<sup>45</sup> Prison Reform Trust (2017) There's a reason we're in trouble: Domestic abuse as a driver to women's offending, London: PRT

<sup>46</sup> Prison Reform Trust (2018) Still No Way Out, London: PRT

<sup>47</sup> Ministry of Justice (2018) Out of Court Disposals data tool, Criminal Justice System statistics quarterly: December 2017, London: Ministry of Justice

<sup>48</sup> Ibid

<sup>49</sup> Hedderman, C. and Jolliffe, D. (2015) 'The impact of prison for women on the edge: paying the price for wrong decisions', Victims and Offenders: An international journal of evidence-based research, policy and practice. 10 (2), pp.152-178.

<sup>50</sup> Radcliffe, P. and Hunter, G. (2013) The Development and Impact of Community Services for Women Offenders: An Evaluation, London: ICPR. Available at [www.icpr.org.uk/media/34025/ReportNuffieldfinal.pdf](http://www.icpr.org.uk/media/34025/ReportNuffieldfinal.pdf) [accessed 21 March 2018].

support the existing service provision and to fill the many gaps across the country where women specific support is not available.

### ***Safety in custody—assaults, self-harm and deaths in prison***

As for men, safety is an increasing worry in women's prisons. In 2018 the rate of self-harm incidents was 570 per 1,000 in men's prisons, with incidents up by 25% from the previous year. This compares to a rate of 2,675 incidents per 1,000 in women's prisons, with incidents up 24% on the previous year. The number of self-harm incidents per self-harming man increased from 3.5 in 2017 to 4 in 2018. Whilst for women self-harm prolificacy increased from 7 incidents per person on average amongst those who self-harmed in 2017 to 8.3 in 2018.<sup>51</sup> Prisoner on prisoner assaults in women's prisons increased by 10% from 2017 to 2018, with assaults on staff increasing by 48% in the same period.<sup>52</sup> Strip-searching remains a concern, with a recent inspectorate report highlighting the over-use of strip-searching in HMP & YOI Peterborough for example.<sup>53</sup>

104 women have died in prison since the 2007 publication of Baroness Corston's ground-breaking review of women in the criminal justice system; 2016 was the worst year on record with 22 deaths in women's prisons.<sup>54</sup> INQUEST's recent research identifies serious safety failures inside prisons in relation to self-harm and suicide management and inadequate healthcare provision.<sup>55</sup> It also highlights the lack of action on recommendations arising from post-death investigations and inquests and puts forward a series of recommendations to close women's prisons by redirecting resources from criminal justice to community-based services.

### ***Women in Scotland***

Following the publication of the Commission of Women Offenders in 2012 there was a commitment to build a new national prison for women in Inverclyde. This decision was overturned in 2015 and plans are now underway for a small national prison for 80 women to be built alongside five Community Custody Units that will house 100 women. The new small national prison and the first two Community Custody Units will be open in late 2020.

The Scottish Government hopes to reduce the women prison population to 230 by 2020. The extension of the presumption against short term sentences from 3 months to 12 months is to be introduced in 2019. If this is successful there is potential for the prison population to be reduced significantly. In 2016/17, 91% of prison sentences imposed on women were up to 12 months or less. The Scottish Government has also invested an additional £1.5 million per year to develop alternatives to custody for women including early intervention, diversion from prosecution and supervised bail. We have seen a number of dedicated services developed for women who offend across Scotland.

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<sup>51</sup> Table 3, Ministry of Justice (2019) Safety in custody quarterly update to December 2018, London: Ministry of Justice

<sup>52</sup> Table 3.1, Ibid.

<sup>53</sup> HM Inspectorate of Prisons (2018) Report on an unannounced inspection of HMP & YOI Peterborough (Women), London: HMIP

<sup>54</sup> Table 1.2, Ministry of Justice (2019) Safety in custody quarterly update to September 2018, London: Ministry of Justice

<sup>55</sup> INQUEST (2018) Still dying on the inside: Examining deaths in women's prisons, London; INQUEST

## **Children in custody—segregation and pain-inducing restraint techniques**

According to HM Inspectorate of Prisons Annual Report 2017–18:

*“The number of children separated in designated segregation units fell in all establishments during 2017–18, and remained commendably low at Parc. With the exception of Parc and Werrington, the environment and regime in these units were poor. In Feltham, the segregation unit was shared with the adult site and was unsuitable to hold children. As well as separation in designated units, we found many boys locked up for more than 22 hours a day in other units. At Feltham, around one in four children were on a restricted regime at the time of the inspection. A judicial review in July 2017 challenging the isolation of a boy at Feltham had led to an increase in the application of good order and discipline processes—designed for segregation units—being used on normal location. We have seen no evidence that this has improved outcomes for children.”*

The Chair of the Youth Justice Board Charlie Taylor has been commissioned by the Ministry of Justice to conduct a review of the use of pain distraction within the overall system for restraint, MMPR, used within YOIs and STCs (and also in the majority of escorting contracts). PRT is in principle deeply concerned about any deliberate use of pain distraction on children, and in this regard notes the increasing trend in the number of such events. However, there are also safeguarding issues at stake here. We believe that the full evidence about the current use of such techniques should be published to allow a full understanding of the issues involved. The Parliamentary Joint Committee on Human Rights has recently published an inquiry report on the use of solitary confinement and restraint in the youth estate.<sup>56</sup>

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<sup>56</sup> <https://publications.parliament.uk/pa/jt201719/jtselect/jtrights/994/99402.htm>