



HOUSES OF PARLIAMENT

Joint Committee on Human Rights

Uncorrected oral evidence: Mental Health and Deaths in Prison, [HC 893](#)

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Written evidence from witnesses:

- Juliet Lyon, Chair, [Independent Advisory Panel](#)
- Frances Crook, Chief Executive, [the Howard League for Penal Reform](#)

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Members present: Ms Harriet Harman (Chair); Fiona Bruce; Ms Karen Buck; Baroness Hamwee; Baroness Lawrence of Clarendon; Jeremy Lefroy; Baroness O’Cathain; Baroness Prosser; Amanda Solloway; Lord Trimble; Lord Woolf.

HC 893

Questions 1 - 14

Witnesses

I: Juliet Lyon, Chair, Independent Advisory Panel on Deaths in Custody; Lord Harris of Haringey; Frances Crook, Chief Executive, the Howard League for Penal Reform; Rt Hon the Baroness Corston.

Examination of witnesses

Juliet Lyon, Lord Harris of Haringey, Frances Crook and Rt Hon the Baroness Corston.

- Q1 **Chair:** Thank you very much, all four of you, for joining us today. Obviously we are really grateful, bearing in mind the amount of expertise and experience that you have on the issue that we are looking into, which is mental health and deaths in prison. You represent, between the four of you, an extraordinary body of work and commitment, so we are really grateful to you for taking the time and coming to our Committee. If you could, please introduce yourselves for the sake of the record, as they say in American films.



HOUSES OF PARLIAMENT

Baroness Corston: I am Baroness Corston – Jean Corston, and I founded this Committee 16 years ago. It is a pleasure to be here.

Lord Harris of Haringey: I am Toby Harris, also a Member of the House of Lords, and for a while I chaired the Independent Advisory Panel on Deaths in Custody, which I think was a recommendation of this Committee. I also led the review into the self-inflicted deaths of young people in custody.

Frances Crook: I am Frances Crook. I am chief executive of the Howard League for Penal Reform—I feel like I am on University Challenge. We were founded to abolish capital punishment, and we have worked for 150 years to prevent deaths in custody and to improve the penal system.

Juliet Lyon: I am Juliet Lyon and I chair the Independent Advisory Panel on Deaths in Custody, after Lord Harris. Until recently, I was the director of the Prison Reform Trust. We did a substantial body of work there, particularly on mental health and learning disability.

Chair: Thanks very much indeed. We are all well aware of the seriousness of the problem and the sense that things are getting worse right now, rather than better. Our questions are designed to elicit whether you feel that, having done reports and investigations over the years, you have come up with proposals that do not solve the problem. Have your recommendations been wrong, or right but just not implemented? If they have not been implemented, why not, in view of the seriousness of the situation? Amanda is our special rapporteur on this issue and has been leading for the Committee on this. I am going to start by handing over to her.

Q2 **Amanda Solloway:** Thank you very much. It is great to see you all. I have met one or two of you individually. For me, this is incredibly significant, and the timing is really pertinent, given one of the statistics that we have been looking at: there were five self-inflicted deaths in 2015, and in 2016 that has gone up to 15, which is an astounding amount. First, it would be really helpful if we could have an overview from each of you as to the scale of the problem and the most significant issues relating to deaths in prison, particularly with that mental health slant.

Baroness Corston: Things are getting much worse. It is not just a question of numbers. Staffing in prisons has been cut by 30% since 2010. The women whose interests I share are extraordinarily vulnerable, and when they are vulnerable to suicide and self-harm they need intensive staffing, which they now do not have. Indeed, one of the problems for them is that self-harm is often seen by some people as attention-seeking behaviour rather than a mental health complaint. The one thing that pleased me at the time when I reported was that there was a national service framework for women offenders, and I shall quote from it. It talked about the need to create adequate services in the community to meet these women's needs, including detoxification and mental health



HOUSES OF PARLIAMENT

services. My understanding is that that was abandoned in 2010, and for those women that was deeply, deeply damaging.

Lord Harris of Haringey: The most striking thing about this is that it is not a new issue. You can go back to the inspectorate's report *Suicide is Everyone's Concern* in 1999; the JCHR report, which Jean obviously led the Committee on; the report, *Fatally Flawed*, from INQUEST for the PRT. These are the same issues. Each death is obviously is an individual tragedy and everything else, but what is most disturbing is that the same issues are occurring time and time again. The review that I led looked in detail at the deaths of 83 young people, aged 18 to 24, who suffered self-inflicted deaths in the period from April 2007 until the end of 2013. We also looked at four under-18s who died in the same period. We asked forensic psychiatrists to analyse the clinical reviews into each of those deaths. You saw the same patterns emerging time and time again.

The reality is that the failure of the state in respect of the Article 2 rights of all those individuals is all the greater because those same criticisms occur time and time again. In our view, all young adults in custody are vulnerable. They have often had chaotic lives, complex histories; others have been subjected to child abuse, exposed to violence and repeated bereavement; many have been in foster or residential care, and that had been further compounded in many, many instances by mental health issues or lack of maturity. Those are issues that ought to be being addressed, not only in the prison context but before those young people ever entered prison in the first place.

Frances Crook: I want to make three brief points. I want to draw the Committee's attention to two things you may not be considering, because they fit into the questions you are asking. The first is deaths by natural causes. Some 124 people died in prison last year from so-called natural causes, 32 of whom were aged under 50. We know that because prisons are so unhealthy, your mental health deteriorates along with your physical health, so while there is a real concern and focus, quite rightly, on people who take their own lives, there are, I would argue, people dying in prison from so-called natural causes who might well have lived had they been in the community. We have all had friends with cancer who have survived it, but in prison you die very quickly because your mental health is so un-robust and fragile because it is such an unhealthy environment. I would urge you to look at deaths by natural causes too, because I think the mental health aspect is affecting people's robustness and resilience very badly.

The second issue is staff. I have visited a lot of prisons recently, and I have had conversations in the last two days with two people who have told me about governors having had complete mental breakdowns and having to leave the service and retire. This is such an unhealthy environment that it leads to prisoners taking their own lives, but nobody knows how many staff do. I have tried to ask the question and have not had an answer to that. So I would urge you to look at staff mental health too, because the environment is very unhealthy.



HOUSES OF PARLIAMENT

Thirdly, in answer to your question, Chair, about how we came to this situation, it is not inadvertent, it is a decision. Decisions have been made by successive politicians about what happens in prisons and they have not been held accountable. I welcome the move towards holding governors accountable, but politicians should be held accountable too. If you decide to cut staff, there are consequences; people die as a consequence. If you decide to close prisons and not cut the number of prisoners but cram everybody into fetid cells that they are sharing with a toilet and cockroaches, their mental health will deteriorate and people will die as a consequence. Those are decisions that are made by politicians. It is not inadvertent. Over the years, deliberate policies have come into force, in contradiction to all the expert opinion that has been put out there by voluntary organisations, psychiatrists, doctors and Members of your own Houses, and that is why we are in this situation. That is why people are dying.

Chair: Could I just butt in there for a moment and ask whether you mean Ministers, rather than politicians generally? Are you talking about decisions of the House of Commons and the House of Lords collectively?

Frances Crook: No, I am talking about Ministers.

Chair: Do you want to elaborate?

Frances Crook: Shall I name and shame?

Chair: In a way, yes. You are saying that ministerial decisions have cost lives, because they have been taken in full face of the evidence when the evidence has been clearly warning that this will cost lives. We are looking to work out what has gone wrong here, because you have all said that the situation is deteriorating. We have to face up to what has gone wrong in order to work out what the obstacles are to improving the system.

Frances Crook: It goes back many years. It is not a party-political issue. Politicians of all parties have made decisions that they were warned at the time would cause overcrowding, would cause inequalities and would therefore would damage people's mental health and resilience. The introduction of indeterminate sentences is one example that you could point to, as is the explosion in the prison population in the 1990s and early 2000s. I would point in particular to decisions made not by the last Secretary of State but by the one before that to cut staff, cut budgets, close prisons, cram people into fewer prisons and destroy the community sentence structure, which has meant that courts have less confidence in community sentences. A report out today shows that. Successive Justice Secretaries have led us down the path to where we are today.

Juliet Lyon: I will pick up from there and then go back to the general point, if that is all right. It is worth focusing on the last few years in particular. If you look at the graph of deaths in prison, you can see that it is a long-standing problem, but it was getting a little better. There was a peak of deaths in 2003/04, and thereafter there was considerable effort



HOUSES OF PARLIAMENT

by the Prison Service and by Ministers at the time to really focus on prisoner safety, prioritise protecting people and, although it was not articulated as such, be much more aware of state obligations under Article 2. You can see that for a while the number of deaths dropped slightly, steadied. Then, over the last three years, there has been a spike of deaths in custody and an extraordinary rise in self-harm.

Last year, there were almost 38,000 incidents of recorded self-harm in prisons and 119 self-inflicted deaths. There were the deaths of 12 women, which is the highest total since 2004. We can say that, in a period of a few years, the efforts that had been made by the Prison Service to ameliorate the harm being done by imprisonment, the work done by Safer Custody, which was well led and co-ordinated, was apparently either halted or swept away by decisions taken, which, to refer back to what Baroness Corston and Frances Crook have said, is about reducing staff numbers, but it is not that alone, and it is not overcrowding alone.

You tend to think of overcrowding as too many people in a prison, but it is actually a question of not enough for those people: not enough time out of cell, not enough purposeful activity, not enough opportunity to meet with family—all the things we know help to steady people—and not enough food, in some instances. Just the basic things, such as food, sleep, being able to feel that you are a person within an institution, are all harder in an overcrowded institution with very few staff.

As to specific decisions taken by individual Ministers, I will instance one, which was the decision on incentives and earned privileges and making a much more punitive effort to try to punish prisoners into behaving better. That led to a high degree of harm and a lot of pain experienced by prisoners, particularly those who are suicidal or have mental health needs. Depriving them of the few things that help to distract and steady—for example, access to a television or a radio, the opportunity to see family, less isolation—was the result of changing that incentives and earned privileges scheme.

Going back in a big circle, leadership is what really matters. Although these recommendations have been made time and again—I reread the report of the Committee that Jean chaired—I suspect that you might find yourselves making not dissimilar recommendations, because they were very strong and clear about how to reduce deaths in custody, and that was such a long time ago. Why have these not been implemented? It does not help having four Justice Secretaries in four years. It does not help having four Prisons Ministers in four years. I do not know whether the fact that the Prime Minister has identified vulnerable people as a priority for her and her Government should help.

Chair: Why does having this big turnover not help? Is it because people are not accountable? They have hardly worked out what they are doing before they leave and then they are never held to account because somebody else is there?



HOUSES OF PARLIAMENT

Juliet Lyon: It is that. That is important, and legislation could help improve that, but people want to make their mark and the system is literally yawning from one thing to another. Prison staff, governors and senior officials have been dragged from one way of doing things to another. They have been forced to contemplate cuts against their professional advice, and that is very hard for them. It has damaged their morale. It obviously damages morale to have deaths in custody, but it also damages morale if the kind of leadership you have is taking you in different directions and refusing to accept your professional advice.

Amanda Solloway: Following on from that very quickly, do you think that anything has been made of that 2004 report? Have any positive advancements been made since?

Baroness Corston: That one, which I led, arose from a constituent of mine who died in Dartmoor and I was so shocked at the circumstances. I said at the time there should be a Standing Committee of some sort on deaths in custody, and of course the first chair was Toby, so that happened.

Lord Harris of Haringey: It was a few years later.

Baroness Corston: Yes, you are right. It was two years later. It was 14 years ago and to be honest I have not reread it. You have it. I do not have the room in my little space in the House of Lords to keep every Committee report that I have ever had. I am interested in the women's estate. I am interested in prisons generally and I have visited them all over the world, but it is the women's estate in particular that I am interested in. Women are now in prison with acute mental health problems, waiting to go into a mental health institution, but they cannot be sectioned until there is a place.

If you had been with me, you would have seen some terrible, terrible scenes of hugely disturbed women. One tried to disembowel herself with a bra hook because she was so disturbed. Think of the prison staff dealing with that and other prisoners hearing it. She could not go into a mental health institution, because she was waiting for a place and she could not be sectioned. As far as I am aware, that still happens. Many women are not deemed unwell enough to get support, because the criteria to qualify for support are so very high.

Q3 **Lord Woolf:** I should declare my interest as a current president of the Prison Reform Trust and former chairman of it when Juliet Lyon was our very good director. I go back to Frances Crook's intervention. You say that politicians should be held to account. They are there to represent the public. I wondered whether you were going to say anything with regard to the impact of the media on Ministers and politicians generally.

Frances Crook: I am not sure I agree with you about their representing the public, because Secretaries of State have come in and done completely opposite things. I do not think they see themselves as representing the public in the simple sort of relationship that you are



HOUSES OF PARLIAMENT

trying to identify. Quite often, they come in with other values and, as Juliet pointed out, perhaps their own objectives: wanting to make a mark and to do it quickly, particularly if they feel that they are not going to be there for very long in their career and will go on to the next ministerial post in the offing. You are right about public concern, but we have representative democracy, not delegated democracy, and politicians are there to engage with the public and lead the debate.

In the last few years, the public have not been that concerned about crime. It has not been at the top of their list of concerns, which is a good thing, because there is less crime. They are certainly not that interested in prisons. You can be quite radical as a Secretary of State. As the last Secretary of State found, you can talk to the public using different language, talking about redemption and trying to find a better way forward. You do not have to be led by a small media presence in our democracy. You can lead yourself and be more grown-up about it.

Lord Harris of Haringey: This is very important. There is a leadership role, which should be being taken by politicians generally, to frame the terms of the debate and make it quite clear that the nature of the sentence of imprisonment is that you have removed the right to liberty from that person because of the crimes they have committed. It is not to treat them worse or to make their mental health conditions worse. You have removed their liberty; that is the punishment of the court. One of the recommendations that we made is that there should be a clear statement of what prison is for, and there should be leadership at the top level by Ministers and politicians in general about what that means and does not mean.

Another recommendation we made is about how the issue of deaths in custody and mental health in prison remains at the top of an agenda in a busy department. The recommendation was that when somebody kills themselves in prison, the Minister for Prisons should personally phone the family of the person who has died to express the condolences of the state and the Government for the failure that has occurred and to say, "We will investigate and take the necessary measures". The point of that is not only that it is the right thing to do but that it also concentrates the mind. It will be an unpleasant duty, which Ministers will not want to have to carry out very often, and that means that they will put pressure on the machinery and on the Prison Service to try to resolve some of those issues.

Amanda Solloway: It seems that the same problem is occurring, and looking at the figures the indication if anything is that it is getting worse. I wonder whether this is because of our inability to prevent it or whether the problem is changing. Is the problem still the same or is anything changing within that?

Juliet Lyon: When we look at the figures, we know that very vulnerable people, often people with mental health conditions, end up in the prison system, and that is not particularly new. The figures are stark. The



HOUSES OF PARLIAMENT

number of people in the community who have attempted suicide at some point in their lives is about 6% of the general population. In the prison population it is 21% of men and 46% of women.

One has to accept that people who come into prison are particularly vulnerable. We are currently doing a piece of work on the deaths of women in custody and how to prevent those deaths. The inspectorate has done a survey of past and current inspections. It believes that the level of mental health need has increased over the last few years, certainly by self-report. It also believes that problems with addiction to both drugs and alcohol have definitely increased.

New substances such as spice have had a marked effect. There is sometimes a risk that people say it is all because of this terrifically unpredictable and bad drug, which is loose in prisons. It is not just that, but that has had a terrible effect.

We have just asked for prisoners to tell us at the independent advisory panel how best to prevent deaths in custody. We received a letter about spice from one prisoner a couple of days ago. I will quote from that very briefly, because it is so graphic. "In the midst of the epidemic called spice, using it to escape or make a profit, it has taken over prisons and until we—that is all of us: inmates and staff—are given the funding, the expertise and the willingness to face up to the problem, there will be no end to what lies ahead and probably no fix from it. Inmates like me"—and he says he has been in prison for a number of years—"come into prison with one problem, and if on entry your first contact is your wing dealer offering you something to take away your pain and promising that things will be better, unless you are very strong-willed it is easy to get high and to become another casualty in the conflict of judgment you make. With it come debts, bullying and worse mental health problems, with the upper hand given to the dealers".

That is very clear. Other people have written to talk about the impact of that and what it is like seeing your family and having to ask for money because you have run into debt. The problems of debt and of violence and assaults in prison, which we know have increased by 31% in just a year, have definitely contributed to the risk of more self-harm and self-inflicted deaths.

Q4 Amanda Solloway: I have one final question on that point, for any of you. Has anything been done to prevent people with mental health ending up in there in the first place, or that being compounded by what is clearly a situation?

Baroness Corston: There are many occasions of women being sent to prison "for their own good" or "as a place of safety", and it is neither. There is an epidemic of self-harm in women's prisons. Before 2010, two programmes were established in prison. The Prison Service is obsessed with acronyms. One was called WASP, the Women Awareness Staff Programme. It was for all staff working in women's prisons, and in the first year about 640 staff wanted to take part. There was then SWIP, Sex



HOUSES OF PARLIAMENT

Workers in Prison, to try to understand the route into prison from prostitution.

The incidences of self-harm now are extraordinarily high, and the evidence that I have, and have seen with my own eyes on many occasions, is that such people need almost constant supervision. You have to check on them hourly, twice a day or whatever. If you look at some of the reports from INQUEST, the organisation run by Deborah Coles that supports the families of people who have died in prison, you see time and again someone who was self-harming, was not really checked on as often as they could have been, had suicidal thoughts and took their own life. You need quite a decent staffing complement for that, never mind the fact that they should not be there. Just recently, there has been an increase in cases of women getting indeterminate sentences for arson. Sometimes the arson is setting fire to themselves.

Lord Harris of Haringey: From the 87 cases that my review examined, it was clear that many of the young person's problems and vulnerabilities had been apparent from a very young age. The issue was that it had been evident, so why had the state collectively not done something to try to resolve those issues, or why had the family not been able to get the support that they needed to enable that to happen? Why did so many of them end up in custody? If somebody has been aggressively violent and stabbed somebody in the face, there is no doubt that they should end up in prison, but if that is a consequence of a series of mental health problems that have been allowed to develop over many years, why on earth have we not found a way of addressing that?

We came across tragic examples of individuals whom the various systems had failed and people who had fallen by the wayside. They had been under control when the children's and adolescent services had had responsibility for them, but they turned 18, and there is this magic assumption that you immediately become mature and different at the age of 18. They then had to deal with the adult services, which were much patchier, and they lost that continuity as a consequence. There is a question about intervening before these problems reach the stage where somebody has to go to prison.

Q5 **Lord Woolf:** Is it going to be practical to do something really meaningful inside prisons until the situation outside prisons is transformed? Does the exercise not have to start at that stage? As you are saying, it is people who have been failed outside who end up in prison, and that is where they take their lives.

Lord Harris of Haringey: That is certainly the case; there has to be intervention beforehand. Where people end up in prison, and some will, you have to recognise that prisons and young offender institutions are grim environments. They are bleak, they are demoralising to the spirit. If that is coupled with impoverished regimes because there are simply not the staff to take them to activities, or indeed to take them to the doctors they ought to be seeing in prison, the experience of being in prison will



HOUSES OF PARLIAMENT

make those problems worse and make it more likely that they take their lives or erupt into violence against themselves or other prisoners.

Frances Crook: Can I get you to think about it in a different way? You can slip into using language such as “ending up in prison” that makes it sound as though it is these people’s fault. Nobody ends up in prison; they are sent there. There are decisions made all the way along the line, and choices. In this country, we are choosing to send a lot of people to prison for a very long time. Two things have happened. Your question originally was: what has changed? Two things have changed over the past few years, which are interesting. One is that sentences have got so long. We have had sentence inflation, and that is a decision. Nothing has ended up that way; decisions have been made.

The second thing is an explosion in recalls, so that even when you are released you get recalled again. That is particularly true, we found, with women. A decision was made to bring in a new piece of legislation under which people would be supervised for a year after a short prison sentence and then subject to recall. People are being recalled time and time again. If you have very long sentences that are indeterminate, you take away all hope from people, because they are not getting out. As we know, it is not just the IPPs; it is lifers too. They cannot see an end. I was talking to a lifer who was meant to have a parole hearing in August. It was postponed until October, then until December and then until April, and he still does not have a date. This is a lifer, not an IPP. There is the indeterminacy and the length of sentences, and then there are the recalls.

This affects your mental health. It is like cat and mouse. If you miss an appointment, you do not know whether you will be recalled, then go back for a couple of weeks, then be dumped back on the streets again. You can be out, and if, because you are fragile and a bit flaky and it is difficult to know what day it is, you do not turn up to an appointment, you can be in breach and recalled. Those are two decisions that have been made, which have meant that people are sent to prison for longer and repeatedly, which is very damaging to their physical and mental health.

Juliet Lyon: You asked about outside of prison. I will move to a brighter spot. One of the recommendations made by Lord Bradley, in his review of mental health and learning disability in prison, was that liaison and diversion services should be established in courts and police stations across England. They have been, to something like 64% in the large police stations and courts across England. Now, 50,000 people a year are assessed, 70% of whom are thought to require mental health treatment. There are lots of questions to ask about whether the treatment in the community is adequate and why the process of rolling out liaison and diversion services is taking so long. It is a beacon of hope that it is recognised that, where somebody’s offending is comparatively minor but often repetitive, if they get the treatment they need for mental health and for addictions, and social care for learning disabilities—the opportunity to divert them exists. If their offending is very serious, they



HOUSES OF PARLIAMENT

should get extra mental health support as they go through the system because of this initial assessment.

I have been to police stations and courts and seen this in action, and it is impressive. What is also impressive is the fact that because the then Home Secretary, Theresa May—alongside the Police Federation, interestingly—decided that police custody suites were not to be used as places of safety, the number of deaths in police custody has gone down and has remained fairly low. Interestingly, at the time she made that statement, she also made a statement that prison cells should not be used as places of safety, and that is an area that needs to be pursued.

Baroness Corston: Can I say something about recalls? This relates to what Frances said about decisions. In the last Parliament, the law was changed in relation to probation, not just the privatisation of a great chunk of it but the fact that previously if you served a sentence of less than 12 months you were not subject to probation. Now, if you are sent to prison for one day—and I have heard of women being sent to prison for one day—when you are released, you are subject to probation. If one of your children is ill or you miss the bus, that is a breach; you are straight back into prison for two weeks and then you come out again. In the last year, 1,000 women have been in that situation. That does not help your mental health.

Chair: Are those situations of being recalled or of being recalled after a short sentence?

Baroness Corston: They were recalled for something like missing the bus and missing an appointment, so they had to go back to prison for two weeks. A lot of these women in prison are mothers, but no thought seems to have been given to what happens to them. Indeed, given that there are now only about 3,800 women in prison—there were about 4,500 when I reported—they have always been treated as an afterthought, until people like Vera Baird and Patricia Scotland came along.

Q6 **Baroness O'Cathain:** I had decided not to intervene at all today and just listen, because this is my first day, but can I point out that so many of these cases fall back on to the plate of, "Where is the leadership"? I would like to know about the training. Going back to getting it all right, you need the right people running the prisons, the right people in the courts to judge what happens to the people who are supposed to have sinned. Some of these cases have been so pathetic, but we just need strong leadership. Is there a special leadership campaign that the heads of prisons have to go through? Where do you get the people from who run these prisons? It is just like a business, as I see it. You will be appalled at me saying that, because we are talking about humanity, but the reality is that if something is wrong, you go to the head of the organisation and make sure that it starts from there. There must be a concentrated programme of leadership in prisons and outwith, so people can come into prisons as leaders.



HOUSES OF PARLIAMENT

Lord Harris of Haringey: That is a very important point. There are two things that would make a real difference to people once they have arrived in prison. One is the nature of the leadership of the individual prison, because my experience of visiting prisons, and I am sure others have had similar, is that the governor sets the tone. One of the first things that happened when we arrived for a visit was a meeting with the governor before we actually got to looking around. I always used to ask the governor, "What would the most important thing on your desk be at the moment, if we were not cluttering up your diary here today?" Interestingly, one governor would say, "I am really concerned about Prisoner X on Block A, who has had bad news from their family, and we are concerned about what is going to happen". Another governor would be completely preoccupied with administrative matters: "Oh, six people have called in sick today, so I have had to cancel the activities on this block". That tone permeates through the rest of the organisation. That is one issue.

Secondly, somebody has to own and be responsible for the individual prisoner's journey through the prison system. They have to know that prisoner well enough, see them often enough and have the organisational clout and ability to make things happen. If it was identified that this person and their rehabilitation would benefit from giving them a course in car mechanics, or whatever it might be, someone would go off and organise that so that it happened, to give them a sense of purpose during the prison sentence and so that at the end of the prison sentence they had something they could fall back on.

Q7 **Baroness Lawrence of Clarendon:** When a prisoner has been sentenced, is there ever a mental health assessment before they go into prison?

Juliet Lyon: There are now assessments in more than half the courts, at the police station or the court, before a sentence is passed. There is scope to divert people, as I said, straight into treatment. An assessment is also conducted on arrival in a prison. We know that the first few days in custody, both if it is your first time or if you are transferring from one prison to another, are a particularly risky time. Equally, people may arrive still intoxicated or are so scared that they are not able to respond very well. The better prisons have first-night schemes and induction schemes that last for a reasonable period of time.

Very many prisons were adopting the Safer Custody measures that I mentioned earlier, and there was a bit more consistency across the prisons using those measures. Since the cuts, some of those measures have been curtailed or stopped, and things are done in a more cursory way. You end up just checking whether someone is very risky or very dangerous.

With regard to learning lessons, you might not get the information you need, and when you look at coroners' reports or reports by the Prisons and Probation Ombudsman you see that failure to transfer information in



HOUSES OF PARLIAMENT

a timely manner recurs time and again. You have to take beyond past information and proper assessments into doing something about it. A number of prisoners I have talked to about it have said, "I have been assessed so many times", or a mum has said, "My son has been assessed so many times, and they say he has Asperger's" or, "They say he has this or that", but nothing had been offered by way of treatment or help. That awful frustration felt by families is very vivid.

Lord Harris of Haringey: There has been a programme to speed up the process of justice in the courts system, the aim being to make sure there are not all these delays. As a consequence, many assessments of the state of people who are sentenced are made on the day of the sentencing, which means probably half an hour or three-quarters of an hour in the basement of the court block making a judgment as to whether this is somebody who has serious needs. That is probably not adequate. When they arrive in prison, again you see good and bad examples of how that assessment is done.

People's circumstances will change, and you need to make sure that people have a live assessment that continues throughout, and that when risks are identified for them that assessment is updated to include what is happening in their lives and what the risks might be for them. They might feel perfectly comfortable about arriving in prison. That is unlikely, but they might do. However, something could then happen in their life outside—they break up with their partner or their partner tells them they have broken up—that provokes a crisis. That needs to be picked up and appropriate measures taken.

Baroness Corston: Significant anniversaries are also terribly important.

Frances Crook: I was in a big prison yesterday that holds 1,000 adult men. Some 160 were waiting for a primary mental health appointment. Some had been waiting 30 or more weeks for that appointment. I talked to the NHS. They said that they had appointments, but the people did not get to them because there were not the staff to take them through all the locked doors and get them there, so the staff were sitting there, waiting to do the appointments. It can 17 weeks to see a dentist, and you are in pain.

A lot of prisons are now run on what is called a restricted regime, because there are so few staff to get you anywhere or do anything useful. That means that you operate on a three-and-a-half-day week. You spend a couple of hours in the morning in a workshop or cleaning the wing, and a couple of hours in the afternoon cleaning the wing, for three and a half days a week. The rest of the time you are pretty much locked up in your cell. We are building the new prison at Berwyn, which will have 2,100 men in it, almost all of whom will be forced to share cells with two bunks, a toilet and hardly any ventilation. The Victorians did not build prisons like that; we made the Victorian prisons like that by cramming people in. Now we are building prisons like that. Two-thirds of them will have to share cells like that. That is not good for your physical or mental health.



HOUSES OF PARLIAMENT

Baroness Lawrence of Clarendon: Those who are making the assessments have to be qualified. Are there enough of those people? Listening to you, there is so much happening and so many things going around. Are there enough doctors? You need qualified people to do these assessments in order to make the right decisions.

The Committee suspended for a Division in the House of Lords.

Q8 **Fiona Bruce:** The topic of my question is the importance of family contact, which a number of you have mentioned. I have visited prisons over a number of years, and I remember one young man who had been detained since he was in his late teens. I asked him, "What is the toughest thing about being here?", and he said, "I miss my mum". What more do you think can be done to ensure that prisoners can maintain sufficient contact with family and friends? Are there examples of good practice that you could share?

Frances Crook: I would look at what happens in Norway, where family contact is all about visits. In the prison that I saw at Halden, which is a new prison, all visits took place in private. You went into a private room and could spend time there, watch television together, have some snacks. If you want to do other things as well, you can, but the point is that you spend quality time with your family. There are houses there so that certain prisoners at certain times, when it is safe and safe for the family, could spend a weekend together. That means that you invest in good quality time.

I made a social visit to a prisoner recently for the first time, somebody I did not know terribly well. I sat opposite him for two hours. My God, it is tough to sit and talk. When do we ever do that in life: sit opposite somebody with a cup of rather lukewarm tea and talk for two hours with no stimulation and nothing to do? You cannot even move, go for a little walk around or anything. There has to be a recognition that families are incredibly important. They have done nothing wrong. They require quality time with their loved one. I would also like to see Skype so that they can keep in closer contact. I would like families to be able to phone prisoners, because at the moment you give all the power to the prisoner to phone their family. They are talking about putting in in-cell telephones, which is fine but it means that the chap will be able to phone up at midnight to make sure that she is not with someone she should not be with. I would like families to be able to call in. There are all sorts of technical things that you can do, but the principle is that family structures are important and that we should keep families together in a positive way. Quality family time is really important.

Q9 **Fiona Bruce:** I will be interested to hear more about family members in a moment, but can I ask a specific question about the new prison construction? I have been concerned about whether we are constructing spaces where families can meet, as you have described.

Frances Crook: The visiting room at Berwyn—the brand new prison opening this week—is a traditional big room, with lots of fixed chairs and



HOUSES OF PARLIAMENT

tables all crammed in together in serried rows. It is exactly the same, with cameras and staff monitoring it.

Lord Harris of Haringey: One of the problems with very large new prisons is that you are essentially institutionalising the fact that a lot of prisoners will be a long way away from their families. One of the clearest messages, particularly about young people, is that the closeness and the ability of families to visit is important. If they have to spend three or four hours getting there, possibly at a very large cost, only to turn up and find out that because of a staff shortage their two-hour visiting time has been cut to an hour and 10 minutes, that is very difficult.

The point about telephone contact is critical, but there is also a mechanism whereby families can record any concerns they might have about their family member. At the moment, if they all want to say that they came away from a visit feeling that something was wrong and that he was in crisis, they cannot communicate back except by phoning the general switchboard of the prison, which is neither a happy experience nor terribly efficient, and leaving a message. One of the recommendations of my review was that there should be a dedicated line for people to phone in. There should also be a dedicated anti-bullying line, which would bypass the switchboard and make sure that the messages got through to the right people.

Families can play a crucial role. One of the deaths that we reviewed comes to mind. It was so obvious that had the young person concerned been able to phone his mother at the critical point, it might have made a difference. These are young people who are essentially given a telephone card to make a certain number of phone calls. They are of an age when they perhaps do not understand budgeting terribly well, so if they have used it all by the Tuesday there will be nothing left at the end of the week, yet there is not always the mechanism to bypass that and say, "Actually, we need to make sure that that communication continues".

Q10 **Fiona Bruce:** Thank you for that, because one of the questions I wanted to ask relates to the death of Dean Saunders in January 2016, where he took his own life. It is the fourth self-inflicted death at Chelmsford since the beginning of 2015, and the Prisons and Probation Ombudsman's independent report says that, "too little was done to involve Mr Saunders' family in his care or to respond to their concerns". What more do you think we could do?

Juliet Lyon: This takes us back to staff training and the idea of leadership, in this case of the governor. It reminds me of the NHS way back when nurses were not encouraged to interact with patients, patients were not encouraged to complain, and family members were not invited, except at particular times. Prisons are very family-averse in the main, and staff are anxious and lack confidence because they have no training whatever about how they can support or interact with families. There are some very good visitors' centres, run by PACT, which is a charity, and other charities, often alongside prison staff. There is something to build



HOUSES OF PARLIAMENT

on. Lord Farmer is currently conducting a review, which I think will help, but I agree with Lord Harris that this comes up time and again in reports on deaths in custody. In the Prison Reform Trust's *Fatally Flawed* report, we looked at the case of a young man who had wanted to speak to his sister—he had been crying, wanting to speak to her. People were anxious, did not know how to deal with it and felt that they might do the wrong thing, so they did nothing. He killed himself.

- Q11 **Fiona Bruce:** Before I come to Baroness Corston with particular reference to women, I am told that one of the real problems now is the loss of experienced staff from the service. These 2,000 new staff will not easily replace that. What kind of qualities and life experiences should the service look for in recruiting staff so that we can connect with the prisoners in the way that you suggest?

Juliet Lyon: That is significant. The problem is not just the loss of staff but the loss of experienced staff, and the whole process of the staff member knowing their prison and knowing their prisoners well. One of the men who wrote in to our call for solutions from prisoners said, "There is one officer who just knows me. He knows my moods. He knows when I am down. He knows what to say. He knows how to listen". He really felt supported by that man, but if you do not know your prisoner, if you have been drafted in from the north to cover the absences in the south, even if you are an experienced officer you might not know the people in that particular prison.

There is a lot of repair work to do to try to put right this loss of experience in the service. Because it is such an important job, you want mature people who actually want to work with people and see rehabilitation as a purpose of what they are doing, which will be in the Prisons and Courts Bill. Perhaps we will come to it later, but there is scope within new legislation to look at how you can try to reinforce prisoner safety and take it beyond the hope that individual governors or individual staff members will be humane and decent.

Baroness Corston: Most of this depends upon the governor. It is extraordinary how often the governor can set the tone. I remember going to Cornton Vale, which is the only women's prison in Scotland. It was run by a woman called Sue Brookes, who was one of the most inspirational public servants I have come across. She said to me, "I am running this prison on a human rights basis", and she did. It made a huge difference to Cornton Vale, where I went around talking to staff and to prisoners.

In Holloway, for example, a very experienced male governor decided that if any woman was sentenced there he would invite the family to come and look at the woman's cell and sit in it with her, so they could envisage where she was and see her situation. He had a much more enlightened attitude towards the visits of children and allowed the women to be with their children, to change them, to touch them. You do not see that so often.



HOUSES OF PARLIAMENT

A lot of it is a lack of experience, a lack of confidence or a failure to recognise that when most men—this is a generalisation, but it is true—are in prison there is someone to keep the home fires burning, and usually the children are being looked after within the family. When a woman goes to prison, she is most likely to lose her children and never get them back. The prisons where the governor has an understanding of the need for that mother and child contact to continue are the ones where there is less chance of there being a complete family break-up, although it has to be said that 17,000 children a year are affected by their mother's imprisonment. Many of those women, probably the majority of women in our prisons now, are mentally ill.

Frances Crook: Can I very quickly say something good about Berwyn, because I have been very critical of it? A very good governor is opening it up and is appointing his staff in a completely different way from how the Prison Service has traditionally chosen its staff. He is appointing them on their values rather than their competency. He has turned a lot of people away who in the old system would have got a job. It is very interesting. I was in Wandsworth last week, and they are copying that system. They are asking people, "Why do you want to work here? What do you want to do? What do you want to achieve? What are your values?" It would be really interesting to see if that changes things in prisons, because it is not just the governor; it is the whole staff team. It is everybody, and if everybody works together with a common vision about caring for people, changing lives and supporting them, their families, other staff and colleagues through their journey, it will make a difference.

Chair: Since you are here, Juliet, and have mentioned what could be in the Bill that would maximise safety, why do you not set out what you think should be in the Bill that would, in legislative terms, make a difference? The moment is ripe.

Juliet Lyon: I will do my very best, although I have not seen a draft of the Bill, which I would like to have seen. I have obviously seen the White Paper. In the White Paper, there is the aspirational hope and actual objective, which the Justice Secretary has set, that there will be a prison officer for six named prisoners.

Chair: Let us just talk about what you think should be in the legislation here. Are you saying that should be in the legislation?

Juliet Lyon: There could be something in the legislation that tries to locate it somewhere, so that you are actually talking about numbers. We talk about overcrowding, and when overcrowding becomes dangerous there is a measure in the Prison Service under which they cannot overcrowd further because of danger. I wonder whether one of the aspects of trying to preserve prisoner safety is to talk more about staff ratios and the numbers of people, although it is not just about numbers.

Chair: Let me press you on this, Juliet, because in legislation we do not talk about stuff; we have obligations, duties and criminal offences. If you



HOUSES OF PARLIAMENT

could draft the legislation right away, talk about what you would like to see in it on ratios, prison officer per prisoner or any other specifics.

Juliet Lyon: I would like to see human rights obligations spelled out. I would like to see Article 2 cross-referred to. I would like to see a safety impact statement, such as the equality impact statement that was introduced, which you can do under legislation.

Chair: Is that the impact for the prison as a whole or for each prison officer?

Juliet Lyon: With the equality impact statement, if there is a major change of policy or things are commissioned, you have to ask, "How will this have an impact on people with protected characteristics?" Why could you not have something that looked at people's safety and preserving that safety, so that if you were planning to open a new set of prisons or introduce more legislation, you would have an impact assessment that would ask, "How will this affect prisoner safety? How will this lead you, as a state, to comply with your Article 2 obligations?"

Chair: Any new policy direction, operational change or anything like that would have to be accompanied by a specific impact assessment of how it would improve or undermine safety in prisons.

Juliet Lyon: Absolutely, yes, and that is just one mechanism that might be introduced into the Bill. We will see Article 2 and we will see cross-reference, and I am hoping, because the Justice Secretary says that prisoner safety is her top priority, that we will see elements of that already in the legislation, but I am not sure that we will. We should make sure that the whole Bill takes a human rights approach and finds legislative hooks to ensure prisoner safety. It reminds me of the clause that you, Lord Woolf, and colleagues managed to get in after three or four different Bills, where any new services commissioned had to take account of the particular needs of women. Something needs to be put in legislation to take account of the particular needs of vulnerable people or of particular mental health needs. I have lost a lot of trust in policy. I have seen some very good policy. The policy on women is not bad; it has been pretty good since New Labour policy back in 2000, but that does not mean to say that it is being implemented. Something that enshrines in legislation a need to preserve prisoner safety and protect people under the state's Article 2 obligations would be really valuable.

Lord Harris of Haringey: It would be good to write into legislation the commitments in the European Convention for the Prevention of Torture, to which we are a signatory and which includes provisions that people in custody must be able to spend a reasonable part of their day, eight hours or more, outside of their cells engaged in purposeful activity of a varied nature, and that that should be sustained whatever the circumstances of the prison or whether somebody has been part of a disciplinary arrangement. The need to be out of the cell should be an important element of that, and part of that should be about exercise.



HOUSES OF PARLIAMENT

I also suggest that it would be good to strengthen the accountability to Parliament of the prison system. The review I led recommended, for example, that the Justice Committee should take over responsibility for Her Majesty's Inspectorate of Prisons and the Prisons and Probation Ombudsman in order to avoid the potential conflicts of their being owned, if you like, by the Ministry of Justice. It made a number of recommendations about regular reporting, such as a report every two years to this Committee, produced by the Prison Service, on the human rights aspect and the international obligations to prisoners, so that there is a report that comes to you as this Committee that says "This is how we think it is going. This is what we are doing", to allow parliamentarians to question and perhaps hold to account.

Chair: Do you think this is the moment for all the proposals that could be turned into legislative form to be put into the Prisons and Courts Bill? If there have been proposals for policies and they have not, for one reason or another, found their way into implementation or they have been implemented and then have fallen by the wayside, sometimes the statutory framework is the moment at which it can all be brought together. It can sometimes be helpful to a Justice Minister in saying to their colleagues, "Sorry, I have to do this. After all, it is in legislation". Do you think, after so many years of taking one step forward and two steps back, the proposals for safety should take a legislative shape and go into this Bill?

Lord Harris of Haringey: It would be very helpful. When I started the review that I did, I asked to see all the relevant Prison Service instructions, and a pile about this high arrived. You go through it and you think, "Actually, this is all very good. If all this happens, what is there to report on?" We found an enormous gulf between formal policy, and indeed what is expected of individual prisons, and what actually goes on in the prison, simply because of resource problems, because it has got lost or because there are too many expectations. Something that sets a clear legal framework that is rights-driven and recognises that the sentence of the court has been to remove the liberty but not the rights of the individual would be very helpful.

Baroness Corston: I agree with all that, but I want to mention one thing that will probably be in the Prisons and Courts Bill. One of the things that most struck me when I did my review of women in the criminal justice system was that the worst thing you could do was to have women and men on the same site, because the staffing culture would be the same and it would be male. Men and women are different, and treating them the same does not guarantee equality. I saw, time and again, instances of women being treated the same as men.

I will give one example. In Broadmoor, I went to the women's section. I was told of a woman who was reluctant to have a shower. I was told, "Occasionally, we compel her to do so", and I asked the right question. I said, "What is the nature of that compulsion?" I was told, "We go into her cell wearing riot gear and carrying shields". That is what they do with



HOUSES OF PARLIAMENT

violent men, but it is not what you should do with a small woman. I would want to insist that we have a prison regime for women that is tailored to women's needs. There has been some progress on that. I would also want to say that the current proposal in the White Paper, as I understand it, is to build five new women's prisons on the same site as the men's. I tell you now: if that happens, more women will die.

- Q12 **Baroness Prosser:** Following on from the point Lord Harris was making about legislation that would determine the nature of policy and how it is to be delivered, I talked to some people yesterday evening about the difference between different pieces of legislation in which there is a great wish for this to happen and no mechanism to make sure that it happens. The one piece of legislation that is slightly different from that is the Health and Safety at Work etc. Act, because that includes the requirement for the people who need to deliver health and safety at the workplace to be trained in doing so, and to have the right to learn and to be trained up.

You have talked about having certain responsibilities and those being written into legislation with a framework of human rights. We would need to ensure that the people who have to deliver that have had the right training and will have the right to that training. Otherwise, it will not happen at the coalface.

Lord Harris of Haringey: That is very true. That is important. There is a need to increase the professionalisation of prison staff. The nature of the role, as envisaged in the White Paper or the recommendations of my review, requires prison officers who have a much more pastoral care, social work or youth work culture, if that is not a derogatory phrase sometimes, and an understanding of what makes people operate. That means professionalising the role. I recognise that that, of course, may have salary consequences.

The other thing that it is important to build into any legislation is the requirement to report on what you are doing, not through mind-numbing performance indicators but by regular reporting on what is working, how it is working and the thematic process of addressing these fundamental issues about deaths in custody and how you protect the safety of prisoners.

Juliet Lyon: There was another element to changing statute that might be of value, which would be to put the Prisons and Probation Ombudsman's office on to a statutory basis. It still is not, although that recommendation has been made on a number of occasions. I do not doubt the independence of the current ombudsman, but in order to have sufficient independence to meet obligations under Article 2, that statutory footing would be really valuable. I am about to make an offer that I shall probably regret—as my IAP panel members ask me, “Why do you say that?”—but I would like to go back to the panel after this evidence session and ask them, once we have a copy of the Bill, to look through it and see whether they want to make recommendations, which we would be very happy to send to you as Chair of this Committee, on a human



HOUSES OF PARLIAMENT

rights basis, to see where the legislation could incorporate those protective features.

Chair: That is a real opportune moment, and we would be really grateful if they would do that, look at the Bill when it comes out and then use the experience we have on the Committee team to work with your people and to draft the right clauses, so they can whistle into the Bill like a knife through butter.

Juliet Lyon: We would like to do that.

- Q13 **Jeremy Lefroy:** I absolutely agree with the point that was made about the rotation of Prisons Ministers. I served on an independent monitoring board for a number of years at a YOI and we saw some excellent Prisons Ministers, but we saw a different one every year. It was a real shame, because when we went to the annual conference they were just getting to the job, were really committed and then were moved on to something else. That is an important recommendation to government. This is one of those posts where three or four years is really the minimum for which they should do it, provided they are competent. That is by the way.

I want to continue on the issue of the human rights basis. From what Lord Harris was saying, it is clear that you believe that an incorporation of Article 2 or something like that into legislation, which really recognises a human rights environment, is extremely important. I was very interested to hear about the prison in Scotland where the Government did that. Can I talk specifically about IPP prisoners? I came across one, whom I went to visit in a local prison, who had had an initial sentence of something like three years and was still there after 12 years. He in fact had some mental health concerns. How have we got to this position?

Frances Crook: I am very pleased that I have been working with Lord Blunkett, who has agreed to table an amendment to the Bill, which I have warned the Justice Secretary is coming, which will abolish the life licence for IPPs. While there has been a huge concentration, quite rightly, on getting people who are there and stuck in the system out, the problem is now mounting up.

Chair: Can you remind everybody, Frances, what IPPs are, just for the record? We of course all know it.

Frances Crook: It is an indeterminate sentence for public protection, so it is effectively a life sentence. When you are received into prison, it says 99 years and it provides for an open-ended time in prison, but just as importantly it provides for a life licence on release, subject to recall for the rest of your life. So far, over 1,000 people have been recalled. Once you are recalled, you have to go back into a closed prison and you have to start again. You have to go back through the parole process. After you have been released for 10 years, it is possible in the legislation to apply for that life licence to be lifted. So far, nobody has, because nobody has been released for 10 years.



HOUSES OF PARLIAMENT

I am very pleased that Lord Blunkett has agreed to table an amendment that would abolish the life licence and put in place a fixed period of supervision on release for somebody sentenced to an IPP, because many of them have led very troubled lives and are troubling, and they need some supervision. Particularly if they have spent an excessively long period in custody, they require support and help to ease them back into the community.

I would also like to see that for that period they cannot be subject to recall unless there are extremely serious concerns, and the only person who can do that is the Secretary of State, with very particular reasons for doing it. It would get rid of the merry-go-round that people are on of going in and coming out again. Recalls are a really serious issue for IPPs. I have met a few now who have been in prison, have done excessively long periods of time and are coming out again.

Q14 Jeremy Lefroy: What is your sense of the correlation between prisoners with IPP and mental health problems?

Frances Crook: Many of them have taken their own lives.

Juliet Lyon: In the Prison Reform Trust we have done a piece of work that looked at the level of self-harm, which was much higher among IPP prisoners than any other group of prisoners. One of the letters we received is from someone serving an IPP sentence, and he said, "The best way to prevent self-harm and suffering in prison is fair treatment and justice. After all, our Government are always preaching about torture around the world, but they are torturing their own, for example through IPP sentences. I have seen many IPP prisoners harming themselves repeatedly, and unreported, and taking any drug they can get hold of just to end the suffering quickly. This is nothing but torture of the highest order, and no law on earth can or will justify it. I'm an IPP prisoner with a tariff of two and a half years. I have now served 11 years in total, and still, no end".

There are 3,500 people still serving a sentence that was abolished by a Justice Secretary four Justice Secretaries ago. It is a terrible human rights breach, but it is entirely relevant to this Committee and to your inquiry because of the damage to mental health and to family members. I met a number of family members who worry terribly about their family members.

Jeremy Lefroy: Finally, given that it was introduced for what would seem to be a reasonable public policy motive, which is public protection, what is your assessment of the way in which the danger to the public is assessed when somebody comes up for review? Is there an annual review?

Frances Crook: There is nothing like that.

Jeremy Lefroy: It is not even annual. Is there a proper assessment of that public protection, because the only reason why they are there for



HOUSES OF PARLIAMENT

longer than their tariff is because they are considered to be a danger to the public?

Frances Crook: People who commit exactly the same offence now would not get that sentence and would not spend all that extra time in prison. It is a very slippery slope to keep people in prison because you are frightened that they might do something. It is up to the state to prove that you really are dangerous. We talked about this when their Lordships were voting. The burden should be on the state to prove that you are dangerous, which is what our justice system does. It does not do that when you are facing parole and release. It is up to you to prove that you are safe, which is an extremely difficult thing to do when you are in prison and distressed, when you are facing all sorts of challenges and problems, when your mental health has deteriorated after many years of not knowing when you are going to be released. We need to get this sorted out legislatively.

Lord Trimble: Particularly on this IPP issue, you have mentioned the reasons why it was introduced, but after a while people came to the conclusion that it was a mistake. While they have stopped creating any new offences, they continue, with the old offences, applying what came from the concept of it, which we now know to be a bad one. They should have completely abolished the procedures when they abolished the sentence.

Juliet Lyon: Absolutely. There is scope for executive clemency.

Chair: I am afraid that we have a Division, but we can let you go now. We have had an immensely powerful and informative evidence session from the four of you. All the Committee members are really grateful to you. We are going to be seeing prisoners themselves who have mental health problems. We are going to see family members. We are going to see further people, but we could not have had a better start with the expertise and the commitment that you have shown over the years.

Baroness Corston: I wanted to say something about IPPs in response to Jeremy's question.

Chair: We are no longer quorate, so the best thing is for you to write to us. We will engage in communication in writing, because as soon as the bell has gone, as you know, we are out of session. I thank you so much for your time, and let us hope we can make some purposeful progress.