

PAVA spray

a Prison Reform Trust position paper

Introduction

On 9 October 2018 the prisons minister, Rory Stewart, announced that he had decided to allocate £2m to enable the national rollout of PAVA spray to all prison officers in the closed adult male estate in six month trial in four prisons between January and June 2018.

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

PRT wrote to the minister on 22 October with a number of specific queries about the policy, and he replied on 17 November, enclosing both a report on the evaluation of the pilots (marked sensitive-draft), and an equality assessment prepared for the pilot study (though not for the rollout of PAVA nationwide). All four documents are attached as annexes to this paper.

This paper sets out PRT's analysis of those documents, the issues at stake and the conclusions we draw about the case for proceeding with the PAVA rollout.

PRT recognises that the announcement has been made in the context of an apparently inexorable rise in violence across much of the prison estate. That rise includes an increase in severity as well as volume of violent incidents, with both prisoners and staff as victims. It coincides with many prisons absorbing a very significant loss of experienced staff and an influx of newly trained staff, with an associated loss of confidence overall. We realise that the rollout of PAVA spray was only ever contemplated because of the risk to life that violence in prison represents, and that the policy has been subject to lengthy debate within the prison service.

Unfortunately, that debate has not taken place outside the service or the Ministry of Justice to any significant degree, and the evidence to inform it has been kept secret until after the decision to roll out was announced. That cannot be acceptable in a matter of such long-term significance to the welfare of all those who live and work in prisons. Perhaps the only uncontroversial aspect of the debate is that its outcome will have a profound and enduring impact on the ethos and culture of prisons – it is too important to be concluded behind closed doors.

The announcement

The minister's announcement was brief. It said prison officers would get the spray "to help keep them safe and maintain order", and that the decision followed "a successful pilot". It did not claim that it would reduce violence overall, but that it was "a crucial step to help reduce serious harm". Deployment would only be in "limited circumstances when there is serious violence or an imminent risk of it taking place, and where its deployment will reduce the risk of serious injury". All officers in the closed male estate would be trained before carrying the spray and it would only be rolled out in tandem with "keyworker" training aimed at improving officers' skills in relationship building.

Crucially, the evaluation of the pilot was not published, nor even summarised. The only "evidence" published was a blog by the Governor of HMP Risley, one of the 4 pilot prisons -

<https://prisonjobs.blog.gov.uk/2018/10/09/introducing-the-use-of-pava-spray-in-prisons/>

With hindsight and given the subsequent publication of the evaluation report, this was a regrettable strategy on the ministry's part. The blog offers a simplistic and partial version of evidence that is actually both complex and equivocal.

PRT's exchange of correspondence with the minister

Recognising the sensitivity and finely balanced nature of the arguments, PRT's public response to the announcement was simply to call for the publication of the evidence from the pilot supporting it. But when that was not forthcoming we wrote to the minister on 22 October asking for the evaluation report and asking a series of specific questions. (Letter and response attached at Annexes A and B respectively).

By the time the minister replied on 17 November, the **evaluation report** had been disclosed by the ministry in response to a freedom of information request. Oddly, the minister's letter says it has not been published but nevertheless helpfully attached a version marked "sensitive-draft" (attached at Annex C)

In response to our question about the **safeguards** planned for the nationwide rollout (prompted by the copious evidence from inspection reports that current governance of use of force is very poor), the Minister refers to Use of Force committees having to be ethnically diverse and having at least one person (he suggests an IMB member) explicitly focused on the care of prisoners. He mentions guidance for Governors on effective governance of use of force – but does not attach it – and that specific prisons are receiving targeted support, without saying which they are or how its impact is being measured.

He makes clear that **private prisons** will be able to choose whether to deploy PAVA and will continue to be able to choose whether staff carry batons (the majority do not and never have done). But he does not say whether the evidence of many years from those prisons where staff do not carry weapons has been assessed. It is certainly not part of the evaluation report, so it is probably safe to assume not.

He is clear that **public sector governors will have no discretion** over the deployment of PAVA to all officers. According to the letter,

it will be used in exceptional circumstances where a member of staff or is faced with serious violence, or the perceived threat of serious violence (sic.)

Because "all staff" may face this situation, all staff must have PAVA. It is safe to assume that "all staff" is shorthand for all officer grades, rather than all employed staff or indeed staff from other organisations working in the prison. As will become apparent, the description in the letter of the circumstances in which PAVA may be used is not identical with the grounds described in the guidance staff in the pilot prisons received, but it is also very far from the circumstances in which PAVA was actually deployed in the majority of cases in the four prisons during the pilot. In fact, the use of PAVA very rapidly became a routine part of how routine incidents were dealt with.

In response to our concern that the use of PAVA was likely to result in the same pattern of disproportionate and **discriminatory** use as current disciplinary and use of force measures, with prisoners from minority communities suffering as a consequence, the minister attached an equalities impact assessment for the pilot (attached at Annex D), with an assurance that this would be updated to support the national rollout. We analyse the adequacy of this document below, but at the most basic level, it is unsatisfactory that a decision with such an obvious risk of discriminatory consequences should be taken without an impact assessment relating to it – rather than the pilot that preceded it. In the event, the evaluation of the pilot contains no analysis of that risk, and very little information to inform such an analysis. The short answer to our question asking whether there has been an equality impact assessment in relation to the PAVA rollout is that there has not.

In relation to the **international human rights** implications of the rollout decision, the minister assures us that other countries use PAVA in their prisons, and that he has been advised that his policy is human rights compliant. Non-specific “strengthened governance arrangements” are promised.

Finally, the minister assures us that “HMPPS consulted with a range of stakeholders prior to the pilot of PAVA”. He does not say whom, and it obviously did not include the Prison Reform Trust. A workshop on use of force in March 2018 to which we were invited specifically avoided the PAVA question. The only promise for the future is to work with us and others on ensuring the public sector equalities duty is adhered to – a curiously partial offer given the breadth of concerns we have raised.

So the minister’s response successfully conveys that the importance of the issue is understood, and a policy desire that the use of PAVA should be exceptional and subject to more stringent governance than applies (in theory) to existing use of force. But it leaves important questions unanswered and gives little cause for confidence that the concerns we have raised are likely to be met in practice.

The equality analysis

As mentioned earlier, the equality analysis provided by the minister was prepared for the pilot. It is not an assessment of the potential consequences of the national rollout of PAVA. In PRT’s view, an assessment of those potential consequences is necessary **before** a decision to roll out is taken, not after. One of the purposes of the pilot should have been to inform such an assessment.

The quality of the assessment is poor, and that may go some way to explaining why the evaluation report into the pilots fails to provide the answers to questions which a better assessment would have demanded.

On the first page, the assessment asserts that “the types of conflict resolution tools used on prisoners by prison staff has not changed for decades” (sic). In fact, control and restraint techniques in the adult estate underwent a major revision following the death of a prisoner through positional asphyxiation in 1998, extendable batons replaced sticks towards the end of the following decade and new pain distraction techniques were introduced in the decade following that. The implication that HMPPS has simply “fallen behind the times” is misleading and wrong.

More serious difficulties arise thereafter. A joint University of Greenwich and Runnymede Trust study which established disproportionate treatment of prisoners from ethnic minorities in relation to use of force, which was published in October 2017, is referred to as something that is “expected to be published”. www.runnymedetrust.org/uploads/PressReleases/Prisons%20report%20v3%20final%20typesetter.pdf

It should have been absolutely central to this assessment, and we know that HMPPS was aware of the research and in contact with its authors. It remains a crucial document for the assessment that is needed now for the rollout, providing hard evidence of disproportionality in the use of force on grounds of race, religion and age. It also highlights the inadequacy of complaints systems and a gap between the actual practice of officers using force and the current instructions to which they are expected to adhere.

Despite this independent, quantifiable evidence, the equality assessment suggests that “if bias exists, an effective system for dealing with prisoners’ ...complaints will ensure that the Prison service meets its obligation of dealing fairly, openly and humanely with prisoners”. But 2017 research conducted by the Prison Reform Trust and the Zahid Mubarek Trust (“*Tackling Discrimination: Still not a Fair Response*”) has shown that discrimination complaints from prisoners from ethnic minorities are not handled fairly, with 1 in a 100 chance of complaints being upheld.

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

Bizarrely, the assessment also seems to imply that staff using PAVA in a discriminatory way will report that on a discrimination incident reporting form, which seems improbable.

Each of the nine protected characteristics are explicitly, albeit briefly dealt with in the assessment. On **age**, it notes that use of force is more common against prisoners in the 18-25 age range but makes no mention of the copious evidence around maturity or the multiple policy commitments to consider the treatment of this age group in that light. At the other end of the scale, there is no mention of the potential impact on the large and growing population of elderly and infirm prisoners.

On **disability**, there is brief reference to physical disability and an acknowledgement that use of force is likely to have different psychological and physical effects for someone with a physical disability. Governors are urged to make non-specific reasonable adjustments – though it is very hard to understand what that might involve in the context of PAVA spray. There is no mention of people with mental health problems, learning disabilities or difficulties, all of which are highly relevant to use of force in general and the use of PAVA in particular.

For understandable reasons, gender reassignment, marriage, pregnancy, and sex all get cursory attention. However, crucial sections on race and religion are inadequate. On **race**, whilst existing disproportionality in the use of force is acknowledged, the only remedies suggested are existing safeguards and practice which that evidence clearly shows to be ineffective. It is asserted that “the project team will take responsibility for safeguarding all participants”, without saying how. Unsurprisingly, there is no mention of this role or its outcome in the evaluation report into the pilot.

The section on **religion** follows an identical pattern, relying on existing safeguards that are known to be ineffective

On **sexual orientation**, whilst no data exists to assess whether there is disproportionate treatment, the assessment promises that the project will consider discrimination on these grounds. There is nothing in the evaluation report to suggest that that promise has been met.

Given these multiple omissions, it is not surprising that the evaluation report fails to present either data or findings that address whether the use of PAVA has matched the known pattern of discriminatory use for other forms of use of force. But that does represent a very serious (and wholly avoidable) gap in the evidence that should have been available to **inform** a decision to roll out nationally. Given that the rollout is likely to begin in January 2019, these shortcomings appear to represent a failure on the ministry’s part to meet its statutory obligations.

The evaluation report

The evaluation of the pilot (at Annex C) set itself clear tests – to assess the impact of PAVA on:

- levels of violence
- staff confidence
- staff-prisoner relationships

On **levels of violence**, the evaluation concurs with the international evidence that PAVA does not reduce violence overall. This is measured by the incidence of assaults against prisoners and staff by prisoners. But it seems to miss the increase of violence by staff against prisoners through the use of PAVA – both in terms of frequency and the level of pain and distress caused. This judgement turns on whether PAVA displaces existing control and restraint interventions, or displaces non-violent interventions or responses. The short case by case analysis of the 50 uses of PAVA during the pilot is crucial in this, and the evaluation report’s analysis is cursory and inconclusive.

What is beyond dispute is that violence levels in the pilot prisons continued to rise, as they did in the four “control” prisons selected for comparison.

An increase in staff confidence is more heavily relied on by the ministry to justify the rollout decision. The evaluation report is clear that staff in all the pilot prisons using PAVA felt more confident. It reports mixed opinion amongst prisoners, and unfortunately does not provide either the raw data or any numerical summary to clarify that statement.

What the evaluation shows conclusively is that there was no objective basis for the increase in staff confidence. PAVA did not reduce violence, whatever staff felt, but did undermine the trust prisoners felt in staff. The medium-term impact of both those facts is worrying – staff confidence is likely to ebb away as it becomes apparent that PAVA does not actually deliver what staff think it does; and staff safety is certainly undermined if prisoners see officers as more distant and more ready to use violence against them. The evaluation itself observes that staff

accept that PAVA is not the answer to our violence problem. However they are reassured and feel more confident knowing that some action is being taken.

In other words, it doesn't matter whether it works or not - it just feels that something is being done.

The evaluation also showed that the threat of PAVA did not **deter** violence. Contrary to what the minister said in his announcement of a national rollout, not only did PAVA not reduce violence overall, but in the majority of individual incidents, the act of drawing PAVA did not avert its actual use as the incident developed. As noted above, in a significant number of incidents the use of PAVA appears in fact to have pre-empted a non-violent resolution.

PAVA was also intended to boost staff confidence in situations where they were alone. But the evaluation finds that the majority of uses of PAVA occurred with at least 3 staff present – in other words in a situation where current C and R techniques were available to staff, but a decision was taken to deploy PAVA instead. This is justified by a number of staff on the basis that PAVA was less likely to lead to injury than existing C and R methods – and in relation to other staff that may well be true – but it is not the justification given in either training or guidance for the pilot, nor in the minister's announcement.

Interestingly, the evaluation shows that it was more experienced staff who used PAVA most – in theory those who should already have the confidence borne of their “jailcraft”. This needs to be considered in the light of another key finding, which is that staff very rapidly came to use PAVA in ways that the guidance and their training did not permit. This is the learning from international studies too – that the availability of PAVA and its ease of use leads to practice that is far from the “exceptional circumstances” described in the minister's letter to PRT. In a police study cited in the evaluation, police officers used CS gas more than ten times as often as batons. The rapidity with which bad practice took hold in the prisons trial, with staff hiding the PAVA canister behind their back specifically contrary to instruction and training, and the popular description of PAVA as “C and R in a can”, show how the availability of this technology immediately impacts on culture as well as practice. Even in the closely monitored environment of a short-lived pilot, staff on the ground generated an alternative set of justifications for PAVA use, independent of their training and guidance.

The evaluation provides no analysis of the extent to which the safeguards against this kind of cultural shift – completion of reports, management analysis of both specific use and general trends, disciplinary or other response to bad practice, handling of prisoner complaints, availability and scrutiny of CCTV and body worn camera evidence – applied any kind of brake to the development on the ground of practice quite different from what the guidance and training permitted.

Perhaps most crucially of all, the control prisons from the trial – pursuing other elements of the service's violence reduction strategy, including the use of body worn cameras, personal officer training

and “five minute interventions”, but without PAVA – also reported an increase in staff confidence. The difference is that this was matched by an increase in prisoner confidence.

On **staff – prisoner relationships**, as noted above, the evaluation unfortunately does not quantify the prisoner response, which is a pity given the admirable lengths it went to in obtaining evidence that would have enabled it to do so. What analysis there is gives cause for concern. Both staff and prisoners recognise PAVA as something that undermines relationships, and attribute improvements to other elements of the violence reduction strategy. The prisoner concern is not just that staff are less inclined to resolve conflict by listening and talking, but also that their practice becomes more unfair.

Given the detail provided in the case study descriptions of the 50 uses of PAVA during the pilot, it is troubling to read that none gave rise to a prisoner complaint, and only one led to any kind of investigation, with no formal action taken against anyone involved. The cases include two use of PAVA against prisoners self harming, at least one in which PAVA is used in an incident at height, one in which an entirely innocent prisoner bystander was sprayed, one in which the prisoner is sprayed in the back of the head (so presumably retreating), and many in which the risk of serious violence is not apparent. They include PAVA used against prisoners with known mental health problems, and multiple cases where the justification is to enforce an order rather than the threat of violence.

The case studies are remarkably candid – a prisoner described as having “a history of being difficult”, and another “renowned for being difficult”; another described as becoming “refractory”. These are all instantly recognisable phrases for those familiar with prison life, with its ready preconceptions about individual prisoners and its elliptical language when a written justification for the use of force is required. They give excellent insight into the daily conflicts which can escalate into violence, and the assumptions and practices which can develop in response. But by no stretch of imagination or interpretation can they be said to describe a series of incidents in which PAVA was the reason that serious harm to someone was avoided when it would not have been otherwise.

The project board (composition unknown) reviewed each case study. There was a large discrepancy in the judgements of its members - one, surprisingly, thought that just two of the 50 incidents fell outside the operational policy expectation. Another put that figure at 11. That is a very worrying discrepancy and suggests a conflict of view at the very heart of the service about what PAVA is for.

We have analysed the incidents independently by reference to the guidance issued to staff for the pilots, from the perspective of someone trained in C and R, and experienced in conducting both investigations and disciplinary hearings into the use of force in prison. In our judgement, 32 of the 50 case studies provide prima facie evidence that the guidance was **not** observed. Despite the fact that this was a closely monitored pilot, with close attention played to the training of staff, and a closer post incident review in reality than would be likely following national rollout, two thirds of the case studies suggest that PAVA was deployed outwith the guidance for its use.

Our analysis of every case study appears at Annex E. This was carried out by PRT’s director, Peter Dawson, Governor of a large and busy local prison for over six years, a female prison prior to that, and deputy governor of Brixton prison for two and a half years before that. He trained and worked as an officer, which included becoming certified to carry out control and restraint techniques, refreshed every year until he left the prison service in late 2012. He has carried out multiple investigations and disciplinary hearings involving both prisoners and staff where use of force has been the central issue.

His analysis shows that of the 50 case studies from the ministry’s evaluation report:

- 24% involved an unsafe use of PAVA. This included deployment in confined spaces, at height, at point blank range, and, in a number of instances, at the wrong target;
- 24% involved use where alternative methods were available – in other words, where the “last

resort test” was failed. This included instances where three members of staff were available to deploy existing control and restraint techniques, or where staff had the option to contain the risk of harm (for example by closing a cell door);

- 34% involved use without appropriate justification. These included use to enforce orders rather than to prevent serious harm, and use as a means to prevent self-harm by prisoners.

The case studies also included examples of use against prisoners with obvious and known mental health problems, and at least one instance of alleged misconduct by staff in provoking a confrontation. Several case studies fall outside the guidance on multiple grounds.

Clearly, the analysis relies only on the information given in the ministry’s evaluation report rather than on the use of force documentation and any other evidence which would be available to local management. However, it suggests that practice on the ground diverged more radically than the report’s conclusions suggest from what the service intended, both in the guidance it gave for the pilot and what the minister has set out as the intention for the future use of PAVA.

Conclusions

How the decision has been taken

It is clear that the way the ministry has arrived at its decision to roll out PAVA nationally falls well below what an issue of this importance requires. It has not given any detail of what that consultation process was, but we know that it preferred to keep the evaluation report secret until challenged and that the minister has not answered all of the questions put to him following the announcement. The inadequate treatment of the risk of potential discrimination is particularly surprising given the department’s commitment to implement the recommendations of the Lammy review and its statutory duties.

At the very least, the minister should call a moratorium on the national rollout until an adequate process of consultation has taken place, informed by the material belatedly made public and taking account of other research and statistical evidence. This should include but not be limited to evidence relevant to potential discrimination on the grounds not just of race, but also religion, age and disability.

The decision itself – has a national rollout of PAVA to every officer in the adult male estate been justified?

The justification for issuing PAVA seems to differ depending on who is making it. Perhaps the most credible is the feeling amongst officers that it just helps to feel that something is being done. Given the rise in violence in so many prisons, it is impossible not to feel sympathy for the people who live and work in those places, and sense their desperation at the continuing rise in violence. But that cannot be a reason for a decision that all accept is likely to have practical and cultural impacts for many years to come

The guidance for the pilot is the most explicit and detailed statement that amounts to a justification. It falls clearly into the “last resort” category:

*It is to be used in circumstances where other techniques are not possible **and** (our emphasis) all other methods of trying to control or evade a violent situation... have failed, considered unsafe or are considered unlikely to be sufficient (sic)*

The minister’s justification is similar – if anything raising the bar a little higher, with reference to the need to prevent “serious harm” and deployment only where there is “serious violence” or the imminent risk thereof.

Some have spoken of a desire to avert a situation in which a member of staff or prisoner is killed. They see PAVA as potentially the difference between life and death, and worry that the willingness of prisoners to inflict fatal injury has risen in recent years. There is some evidence to support this. Prisoner on prisoner homicide is more frequent, and the serious assault rate has climbed as well as the overall assault rate.

But if avoiding death is to be the justification for PAVA, different evidence and different analysis is required. For example, every homicide and near miss from the last five years should be examined to assess if the availability of PAVA might have prevented it. If there is a pattern of pre-meditation, that is inherently unlikely. If anything, the risk is that an escalation in the weaponry available to staff will lead to an escalation in prisoners' willingness to arm themselves and to use greater and more pre-emptive violence in the same manner. The pilot and its evaluation does not provide the evidence to justify deployment on the grounds of avoiding fatal injury. It does provide abundant evidence that PAVA has been used overwhelmingly in situations falling very far short of the rare and extreme circumstances in which life is at risk.

The confusion over what PAVA is for leaves a space which staff on the ground have readily occupied, immediately creating a set of practical justifications for deployments far beyond what their guidance intends. As the evaluators comment, their justifications are "cogent" – but they are not legitimate.

Could new or better safeguards solve the problems identified by the pilot?

The question therefore arises as to whether the system can provide sufficient management oversight and procedural safeguards to bring practice into line with policy. The evidence of the pilot is clear that it did not, even within the confines of four, closely monitored, prisons. And the inadequacy of the department's approach to its equality duties undermines any possible optimism that the greater challenge of supervising a national rollout would produce a different outcome.

Effective supervision of use of force and other significant interferences with prisoner's human rights – such as segregation – is always difficult to guarantee in prisons. That is not to be critical of the policy framework, nor the effort put into administering it. But experience, from inspection reports, litigation and disciplinary investigations, shows us that oversight is imperfect and, in any event, tends to come after the event rather than having a preventive effect on poor practice. In a system under the intense – probably unprecedented – pressure faced by staff and managers at present, it would be naïve to assume that safeguards for a national rollout would perform better than in the pilot.

So should PAVA be issued to all officers in the adult male estate?

The conclusion of this analysis has to be that the long term risks to safety– for staff and prisoners - outweigh the potential benefits claimed for a PAVA rollout. The Prison Service should persist with the strategy that appears to be winning the confidence of both staff and prisoners in the four "control" prisons in the pilot evaluation, trusting in the ability of good relationships to restore order and safety in the long term. The rollout of PAVA undermines rather than supports that approach, could lead to its failure, and should not be pursued.

PRT

December 2018

Annex A

Letter from PRT director Peter Dawson to prisons minister Rory Stewart 22/10/2018

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22nd October 2018

Rory Stewart,

PAVA Spray

You will not be surprised that the Prison Reform Trust has concerns about the announcement you earlier this month that PAVA spray will be issued to all prison officers in the adult male estate. 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. It is a tremendously significant decision, with consequences that may reverberate for years to come. But we recognise that there are competing interests at stake and I was grateful to Michael Spurr when he and I met recently for a candid assessment of why his advice had been to agree a roll out. Our public line has acknowledged the difficulty of the issue.

However, there are some very significant questions that your public statement did not deal with and which we think need to be answered before a roll out proceeds. I hope you might be able to do so in response to this letter.

First, and most obviously, the decision is based on findings from pilots in four prisons. We can think of no reason why the evidence from those pilots has not been made public, and we are disappointed that it was not used to inform a wider consultation before the decision was taken. Will you publish that evidence now to inform a public debate which is still needed?

Secondly, 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. So what are the safeguards which will attend the use of a new weapon, and why should we be confident that a system that is falling down so frequently at present will operate better in the future?

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Third, 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. Has that evidence been examined and informed this decision?

Fourth, and on the same tack, will private providers be required to issue PAVA spray to their staff?

Fifth, will public sector Governors be given discretion not to issue PAVA spray to their staff, or to restrict it to a dedicated response team or individual, if they believe the balance of advantage in their prison lies in doing so?

Sixth, 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", found that prisoners had a one in a hundred chance of having a complaint of discrimination upheld.

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

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, we would suggest this needs to be a priority if the risk of entrenching current discriminatory practice is to be avoided.

Finally, what account has been taken 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)?

We understand the arguments you have made in favour of allowing the use of PAVA spray, and the violent context in prisons which has prompted your decision. But issuing PAVA to every officer in the adult male estate risks serious damage to a culture built on building relationships of trust. You will have created a troubling situation in which an officer can be ordered to carry another weapon but can still not be ordered to wear a name badge telling a prisoner who they are and how they would like to be addressed. Prisoners as well as staff draw powerful conclusions from such a mismatch.

A decision of this significance deserves a more transparent approach than we have seen so far, both to the evidence behind it and the detail of its implementation. We hope you will feel able to provide that.

I am very conscious that I am a regular correspondent, across a range of issues. It is some time since we met, and I wonder if you might find time to do so?

W.H. best wishes,



Peter Dawson
Director



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of Justice

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MoJ ref: ADR062707

17 November 2018

Dear Peter,

THE USE OF PAVA IN PRISONS

Thank you for your letter dated 22 October 2018 expressing your concerns on the use of PAVA in prisons. I first want to assure you that the decision has been taken after careful operational consideration and as part of the programme of work underway to improve prison safety. Safety remains an issue of paramount concern in prisons. We know that we need to equip prison officers to deal with those individuals intent on serious harm to both staff and others. PAVA is one of the ways in which we are seeking to provide prison officers with appropriate tools to help reduce the risk of serious harm. In order to provide you with further background information I have attached the PAVA pilot evaluation report for your information, although this has not been published.

HMPPS are continually improving their governance over the use of force in prisons. They are implementing the recommendation from the Lammy Review to ensure Use of Force Committees are not ethnically homogeneous and involve at least one individual, such as a member of the prison's IMB, with an explicit remit to consider the interests of those in our care. HMPPS have developed guidance on how to operate effective governance of Use of Force and this will be shared with Governors to support them to improve their own arrangements. HMPPS are also targeting a number of prisons where concerns about the Use of Force have been identified by HMIP and others with bespoke support to address the concerns raised.

Private sector prisons are given the option for their staff to carry batons and some providers have decided to issue them to their staff. With the roll out of PAVA spray it will be up to individual providers to make their own decision whether to equip their staff with PAVA and will be supported by HMPPS if they decide to implement PAVA in their establishments. All closed male public sector prisons will be equipped with PAVA and adult male open prisons will have it available for their staff on night duties. There is not an option for Governors not to equip their staff with PAVA.

PAVA spray is explicitly intended for the protection of staff, the protection of those in our care or to facilitate the safe withdrawal of staff. It will be used in exceptional circumstances where a member of staff or is faced with serious violence, or the perceived threat of serious violence. As this situation could be faced by any member of staff, all staff need to have access to PAVA, and therefore only having a response team or certain individuals carrying PAVA would not provide the level of protection when required.

An equalities impact assessment was completed for the pilot. This will be updated to support national roll out, in line with our Public-Sector Equalities Duty. I have attached the equalities impact assessment for the pilot.

The use of PAVA is subject to the same stringent application of legal and professional standards as all use of force in prisons. Staff are trained and annually refreshed so that they are aware of their human rights obligations. We have given additional consideration of the potential human rights implications that PAVA might bring and are satisfied that the policy for the use of PAVA is compliant with human rights. PAVA is already used routinely in a custodial setting in Denmark, Hungary, Norway, Germany, Latvia and Monaco that are also subject to the Convention. We recognise the potential for PAVA to cause pain and discomfort, but we have balanced this against the rise in assaults on both those in our care and staff where serious harm potentially could have been prevented. We have evidence of specific incidents where, if PAVA had been available to be deployed, serious harm, including life changing injuries, could have been prevented.

Operational guidance and training products will reinforce the legal and professional responsibilities for prison officers when taking the decision that force is necessary and in choosing how to deal with the specific situation they face. To assist them in making sound decisions we will be clear that PAVA will only be deployed where an individual faces the threat of serious violence or an imminent risk of serious violence to themselves, another member of staff or another prisoner. As with all use of force, any use of PAVA, including the threat of PAVA alone, will have to be the least excessive use of force necessary in the circumstances. The training programme and guidance provides prison officers with the knowledge and skills to assess whether use of PAVA is appropriate to the circumstances. The training is being updated following the pilot in four establishments prior to national rollout to take account of the learning. All use of force in prisons will be overseen through strengthened governance arrangements.

All officers will be trained in the after-care of those who come into contact with PAVA to ensure that they are able to safely manage any reaction experienced in a way that also allows for swift recovery, whilst being alert to any reactions that may be unusual. The guidance and training provided will ensure that any use of PAVA is compliant with our domestic and international obligations.

HMPPS consulted with a range of stakeholders prior to the pilot of PAVA. They will continue to work with you and others and ensuring that the Public-Sector Equalities Duty is adhered to. Tackling the increase in violence in prisons, and keeping staff and those in our care safe is of paramount importance, and PAVA is one of a range of measures we are introducing to achieve this.

I am unable to meet at this time due busy diary commitments but I would like to invite you to a demonstration of PAVA at PSC NTRG Kidlington, near Oxford on 29 November 2018. Please contact Jenny Rees (jenny.rees@noms.gsi.gov.uk) if you wish to attend.

But I would very much like to see you soon to discuss matters in general and would ask the team to be in touch with respect of both matters.
RORY STEWART MP to set a date!

Rory



HM Prison &
Probation Service

PAVA in Prisons Project Evaluation Report

**Operational Resilience and Response Unit
Security, Order and Counter-Terrorism
HMPPS**

2018

Preventing victims by changing lives



Her Majesty's Prison and Probation Service is committed to evidence-based practice informed by high-quality social research and statistical analysis. We aim to contribute to the informed debate on effective practice with the people in our care in prisons, probation and youth custody.

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The views expressed are those of the authors and are not necessarily shared by the Ministry of Justice (nor do they represent Government policy).



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This publication is available for download at <http://www.justice.gov.uk/publications/research-and-analysis/moj>

ISBN 978 X XXXXX XXX X

Acknowledgements

The project team would like to thank everyone in both pilot and comparator sites involved in the project. Your kindness, support and cups of tea were invaluable to the process. You gave us the time and space to collect data and did so without asking for anything in return.

We would also like to thank our partners, various stakeholders and colleagues within HMPPS and the Civil Service for their help in making this happen in such a short period of time. We could not have done it without you.

Operational Resilience and Response Unit

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Keywords

Case Study. A critical examination of an incident involving the presentation or deployment of PAVA.

Deployment. When PAVA has been physically presented and discharged/squirted at a prisoner.

Draw. PAVA is unclipped from the belt and physically presented at a prisoner.

Passive Non-Compliance. Incidents where a prisoner refuses to do what he has been asked or ordered to do, but where no threat of aggression or violence is present.

PAVA. The acronym for Pelargonic Acid Vanillylamide – a synthetic pepper spray, also known as a PAVA spray, that discharges as a liquid stream. It is chemically different to CS spray and OC spray.

Physical presentation. When PAVA has been unclipped from the belt, raised and pointed towards a prisoner.

Volatility. In data, this refers to the capacity to capture and present accurate and valid information. Volatile data is affected by a range of environmental and structural variables that can distort and misrepresent findings, which reduces confidence in what it has to tell us.

1. Summary

A ministerial submission relating to PAVA, dated 17th October 2016, recommended that the minister confirm “you are content for us to run a number of operational pilots to test the benefits of extending the authority to use PAVA in prisons to prison officers” and that the pilot would “assess the impact on levels of violence, staff confidence and staff-prisoner relationships”. The 17th May 2018 submission stated “PAVA is a personal protection aid, for staff to use reactively to defend themselves or others against serious attack”. The Protection for Prison Officers document commissioned by the minister following the 17th May 2018 submission stated, relating to PAVA, that it “Gives staff ability to intervene with little technical skill”; is a “Leveller when size and power differential could be an issue” and “Enables distance control”.

The PAVA in Prisons Project sought to establish:

1 The impact of PAVA on levels of violence

The PAVA in prisons project was unable to conclusively demonstrate that PAVA had any direct 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. The nature of the prison context (the number of variables at play) make it impossible to draw robust conclusions on violence data. When violence occurred staff felt better able to deal with it and better equipped to arrest escalation and prevent harm with PAVA.

The international evidence suggests that the presence of PAVA should not be expected to act as a general deterrent; the project found that where PAVA is drawn it will deter a minority of prisoners already engaged or in the act of violence. Violence can stop or intent will be changed when prisoners face the imminent threat of PAVA.

The international evidence suggests that we should expect some staff to use PAVA in situations that extend beyond policy and training boundaries, and which would not meet with standards of professional behaviour or expectations set by external regulators.

The PAVA in prisons project found staff using PAVA more quickly than they would a baton or C&R, and that some staff were developing an over-reliance on PAVA as a way of resolving conflict. The decision-making process was at times flawed, and it appears that some staff will use PAVA outside of guidelines. Where this was the case staff were often able to provide cogent justification for use and were robust in the defence of their reasoning.

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2. The impact of PAVA on staff confidence

The PAVA in prisons project findings agreed with the international evidence that Officers report improved confidence and a sense of safety from carrying PAVA.

The PAVA in prisons project agreed with the international evidence that in some cases the use of PAVA will prevent serious injury that was otherwise almost certain to have occurred. The project identified staff who expressed the opinion that without the presence and use of PAVA there would have been more harm and injury following incidents. A significant proportion of prisoners and the majority of staff expressed the view that PAVA was necessary.

The PAVA in prisons project findings agreed with the international evidence that PAVA will not be effective against everyone. About 10% of people will be unaffected and some people will become more rather than less aggressive. Even in cases where PAVA is less effective staff felt that the distraction effect had some advantage in buying time to escape or intervene.

3. The impact of PAVA on staff-prisoner relationships

The international evidence suggests that when PAVA is used too soon or too often, this will have a detrimental effect on prisoners' perceptions of legitimate authority. The PAVA in prisons project found that Prisoners and staff expressed mixed views on PAVA's effect on relationships and some prisoners had considerable concerns about overuse and procedural injustice. Prisoners focussed on the increasingly controlling and coercive behaviour of staff over the pilot. Other prisoners saw the introduction of PAVA as necessary to redress the balance of power and, while they would not like to see it used on them, saw its potential benefit to order and calm for their community.

The international evidence suggests that the number of UoF incidents will increase. The PAVA in prisons project is not able to comment due to the impurity of the data. There is a need for greater scrutiny and governance of all use of force. It is clear that PAVA has been used as an additional tool and in instances where a baton would not have been used.

Senior leaders have expressed concern that PAVA is incongruent with our relational management style and rehabilitative aspirations and their impact could be mitigated through the introduction of this tool. Others see its presence and legitimate use as being part of establishing the secure foundation needed for rehabilitation and were supportive of the suggestion that any future roll out should seek to contextualise use of force training within HMPPS' vision. What is very clear is the need for high quality governance and scrutiny of

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use of force and the need for a clear leadership message from governors to set expectations of a professional standard of use of PAVA should it be adopted.

2. Context

Reducing prison violence and creating a safe custodial setting is a top priority for the MoJ and HMPPS. The majority of prisoners present no danger. However, there are occasions when those who are malicious in their intent to harm, or lack the capacity through illness, illicit drugs and/or temporary loss of control to properly understand the consequences of what they are doing cause significant and lasting harm.

Specialist prison staff have for some time had PAVA available to use as a tactic to respond to incidents. The ability to incapacitate a prisoner to prevent serious harm to self, others or property is an effective tool. There are no records of any prisoner suffering long lasting effects from the deployment of PAVA. It is now being considered that all prison officers carry PAVA as another conflict resolution tool to use reactively to prevent lasting harm. PAVA is primarily designed for incapacitating violent people who cannot be otherwise restrained. It is deployed for self-defence. PAVA is the synthetic equivalent of capsaicin, the active ingredient in pepper. Its effect is similar to that of pepper spray, also called OC and CS spray. Pepper spray is used widely in the USA and other jurisdictions as an alternative to physical or lethal force when police or prison staff are confronted with aggressive or acutely disturbed individuals. Its purpose in those circumstances is to control an aggressive individual, making arrest or restraint easier while avoiding the injuries that could be associated with other forms of force.

PAVA affects the eyes and the respiratory system. After direct contact, individuals typically experience a burning sensation, severe twitching, spasmodic contraction, and involuntary closing of the eyes. Other symptoms include respiratory inflammation and uncontrollable coughing. Bystanders may experience second-hand effects, such as a burning sensation of the eyes and coughing, if they are exposed to PAVA residue.

Several studies have investigated the short and long term medical consequences of pepper spray and their findings are generally in agreementⁱ. In the short term, that is, immediately after being sprayed, an individual experiences an intensely painful burning sensation to the skin and eyes. The eyes close involuntarily and vision is affected. There is also usually nose discomfort and difficulty breathing. Many people experience disorientation and feelings of panic. These effects wear off usually within 15-30 minutes but recovery can take up to 60 minutes. Some symptoms, such as sensitivity to light, are more likely to last for about an hour. It is unusual, but not unheard of, for symptoms to last between four hours and several days – in one study this was the case for 17% of those who had been sprayedⁱⁱ. Any effects

that last for more than 6 hours should be referred for specialist assessment. Pulmonary oedema (accumulation of lung fluid) may develop 12-24 hours after excessive exposure, although this is rare. There are no recorded cases of death because of pepper spray and the majority of people seem to sustain no damage and no symptoms beyond the first hour.

During 2017/18, HMPPS have piloted the carrying/use of PAVA by band 3-5 prison officers in four prison sites. Staff in HMPS Hull, Preston, Risley and Wealstun were trained and issued with PAVA. PAVA is intended for use as a last resort as a personal protection tool to prevent harm to self or others. The pilot was evaluated to establish whether the presence of PAVA has any impact on safety levels, specifically looking at the frequency and severity of acts of violence, staff confidence levels, and relationships between Prison Officers and prisoners.

The HMPPS National Tactical Response Group have deployed PAVA tactically in violent and serious situations since 2005 upon Gold Commander approval, as governed by Use of Force legislation (Prison Rule 47; Prison Service Order 1600 Use of Force; Criminal Law Act, section 3, 1967; Common Law; The Human Rights Act 1998), in order to “protect themselves, prisoners and/or others” (HMPS Guidelines for Deployment of PAVA, 2013). There is no international evidence to indicate whether universal provision of PAVA as standard equipment for Prison Officers will affect prison violence positively or negatively. To guide this evaluation we therefore constructed a theoretical framework based on a review of research into PAVA in other settings alongside an understanding of the evidence about prison safety, procedural justice and staff authority.

2.1 International Evidence

The causes of violence in prison are a mixture of the individual (people with a tendency to be violent when upset or prevented from achieving their goals), situational (a response to the pains of imprisonment), relational (a response to perceptions of overly heavy authority or control) and cultural (violence as an accepted method for establishing authority or solving problems in the prison sub culture). Strategies to reduce prison violence should therefore target all four of these causal factors. A holistic strategy might therefore include programmes to help people manage distressing internal states without violence, creating a more positive and optimistic culture within prisons, developing mutually respectful and caring relationships between staff and prisoners.

Even with a comprehensive violence reduction strategy, it is unlikely that prison violence will ever be eliminated and the prison sub-culture and illicit economy in particular are complex

dynamics to influence. For this reason, prison staff work in a high-risk environment where serious violence and injury to themselves or to the people in their care do occur.

The table below sets out the main academic arguments for and against the use of PAVA to control prison violence.

FOR – Reasons why PAVA should improve safety, and make staff and prisoners more confident.	AGAINST – Reasons why Introducing PAVA might not improve safety, or could make prison environments more hostile	EVIDENCE REVIEW
<p>Deterrence.</p> <p>When prisoners see that officers are carrying and using PAVA they will be deterred from acting violently.</p> <p>Prisoners in the act of violence will stop more quickly than they otherwise would when they see staff draw PAVA (Velcro effect).</p>	<p>Planned violence may not be deterred by PAVA – or it may be planned differently if PAVA is present. There may be a displacement effect where less powerful prisoners are incentivised to carry out violence against others despite the presence of PAVA or they may take precautionary actions to mitigate the impact of PAVA such as covering of face and eyes prior to planned violence.</p>	<p>The research evidence for deterrence as a general principle is not striking. Much prison violence is impulsive rather than rational and impulsive crime is not deterred by rules, consequences or fear.</p> <p>There is evidence that the showing or warning of pepper spray can deter people engaged or about to engage in violence without the spray having to be used (termed the “Velcro effect”).</p>

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<p>Authority.</p> <p>PAVA might be expected to improve safety if its use is widely perceived as necessary and legitimate, as legitimacy in prison is associated with less violence and stronger compliance with rules.</p> <p>Staff who use PAVA professionally as a last resort within the boundaries of policy and training could be credible and effective, seen as protective and positive authority figures. The humanizing of prisoners makes staff feel safer and leads to better treatment and relations with prisoners, (Liebling et al 2005).</p>	<p>Research looking at factors that influence power and authority, and into legitimacy in prisons has identified a difference between legitimate authority and overly heavy authority. Staff who have overly heavy authority tend to over-use physical force and are perceived by prisoners to be enjoying power for the wrong reasons. Prison officers are exposed, through their work, to a host of potentially disturbing experiences; In order to protect themselves from unwanted emotional effects many officers will employ “enforced detachment” where they become desensitised to human suffering in order to maintain distance from prisoners. Should officers become too detached from the caring aspect of their work then an abdication of duty is a very real possibility and safety is compromised (Crewe et al 2011; Liebling et al 2011).</p>	<p>Legitimate authority is desired by prisoners who wish to live in safe, fair and controlled environments where staff are in charge. Staff who have legitimate authority enforce the rules consistently, treat people with courtesy, and are able to make adjustments to the rules for legitimate reasons.</p> <p>Researchers are divided on the question of fair and proportionate PAVA use. The debate particularly focuses on whether it is proportionate to use pepper spray when someone is being verbally but not physically resistant. The lack of long-term medical damage has led some researchers to argue that pepper spray is a less harmful and thus preferable alternative to physical forceⁱⁱⁱ iv. These proponents of pepper spray argue that it should sit after voice command and before hands-on force on the continuum of use of force. This is how pepper spray is used in the majority of US jurisdictions.</p> <p>Others have argued that the intense pain caused by pepper spray is a disproportionately forceful approach to use with someone who is verbally but not violently resistant^v. This view is consistent with the more cautious placement of pepper spray on the force continuum that most European, and some US, police forces have chosen. They place pepper spray after hands-on weapon-less tactics but before impact weapons such as Tasers and guns.</p> <p>A Dutch study^{vi} found several examples of police officers using pepper spray in ways that did not conform to the guidelines, despite having received lengthy training in the safe use of the spray. Some</p>
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		<p>officers had used pepper spray against people who were not criminal suspects, or did not think it was necessary to warn someone that they were about to use pepper spray. Comments made in interviews indicated that some officers did not see pepper spray as a use of force at all and needed little reason to use it. This research suggests that pepper spray can be used in ways that are arguably not legitimate</p> <p>We could not find any research that specifically examined whether those subject to pepper spray viewed their experience as legitimate or not.</p> <p>Several researchers have suggested safeguards that should be put into place to ensure that pepper spray is used legitimately. These recommended safeguards are listed in Appendix 1.</p>
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<p>Control and minimisation of harm.</p> <p>Staff can use PAVA to incapacitate attackers and bring serious incidents under control more quickly, thus preventing serious injuries from being inflicted. It is a method of control that all staff can be trained to use, and which doesn't rely on complex skills or strength.</p>	<p>If PAVA fails to bring an incident under control or if its use aggravates an attacker rather than having a PAVA effect, violence could escalate rather than be prevented.</p>	<p>International research tells us that prisoner violence and use of force incidents (by staff) are likely to increase following introduction of PAVA.</p> <p>In the majority of cases, 75%^{vii} to 85%^{viii}, pepper spray effectively leads to incapacitation and, according to police reports, makes arrest easier. However, in about 10% of cases, it appears to have no effect (also true of CS gas)^{ix} and in some cases (5-10%, varies somewhat across studies) people become more aggressive or resistant.</p> <p>The main study of a pepper spray pilot in the Dutch police^x reported that 11% of people became more aggressive after they were sprayed, and 25% remained as aggressive as they had been before, but were unable to direct their aggression because their eyes were closed. In 5% of cases, arrest was felt to have been more difficult because of using pepper spray. Another report from the same study^{xi} indicated that pepper spray often induced aggressiveness in people who were not aggressive at the time of being sprayed.</p> <p>A series of Dutch studies have explored whether certain types of people or situation may make pepper spray less effective. They found that incapacitation was reduced for people who were on drugs, from minority ethnic backgrounds, and who were violent^{xii}. They also found that incapacitation was reduced for people who were warned before they were sprayed. The reasons for these patterns are not known.</p>
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<p>Safer prison environments</p> <p>PAVA could help with the creation of safer prison environments. Prisoners will feel confident that staff have the means to manage serious incidents and thus prevent them from escalating into situations leading to serious injury or harm. Staff feel that carrying PAVA makes them safer and issuing this could demonstrate that it is recognised that they work in a high risk environment.</p>	<p>Creating safer prison environments requires more than equipping staff with new tools to protect themselves. To achieve a real improvement in safety we should pursue changes that will deliver a reduction in violence levels. Other initiatives may be more effective than PAVA, and their impact might be mitigated by the presence of PAVA.</p>	<p>Research has not shown that PAVA reduces violence in other settings. Some research has shown that carrying PAVA improves feelings of safety even though it does not reduce violence. One study^{xiii} found that the vast majority of officers were satisfied with the performance of pepper spray, particularly when the spray incapacitated people. A UK study of police officers carrying CS aerosols^{xiv} also reported very positive officer views, with over 80% of officers believing that CS gas was effective and made them better able to defend themselves, and 97% believing that all police officers should be issued with an effective aerosol PAVA. The officers in this study believed that carrying CS greatly reduced assaults and improved their safety. The assault data showed little difference between trial and control sites.</p>
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<p>Use of force culture</p> <p>The presence of PAVA will reduce spontaneous use of force (C & R and use of batons) and the need for one-on-one combat in lone working situations. Some incidents will be more quickly, safely and legitimately controlled by PAVA.</p>	<p>Staff may become over-reliant on PAVA and start to see it as an easy miracle. Use of PAVA becomes routine and staff resort to it more quickly than they would do with other uses of force.</p>	<p>In a Home Office study of CS gas^{xv}, police officers in the trial and control sites continued to use their batons the same number of times (70), but in the CS trial site they used CS gas an additional 726 times, and drew it but did not use it on 381 occasions. These figures suggest that CS gas was being used in different ways to batons and as an additional tool rather than a replacement tool. The report also states that some officers drew and used CS gas much more than others.</p> <p>Similarly, a US study^{xvi} found that when pepper spray was in use, significantly more use of force incidents were reported. The study concluded that rather than using pepper spray as an alternative to physical force, police were using pepper spray in situations where they would not otherwise have used force.</p>
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3. Pilot Evaluation Aim

This pilot and evaluation has been carried out to test the implications of extending the authority to use PAVA in prisons to prison officers. We hope that this evaluation will help senior leaders make informed decisions about whether PAVA should be rolled-out and if so, how it should be used and governed. This report seeks to articulate the likely impacts of issuing PAVA to band 3-5 prison officers and to make recommendations about necessary safeguarding principles should PAVA be rolled out.

The evaluation sought to answer the following questions:

1. How does presence/use of PAVA impact on prison violence and use of force?
2. How does presence/use of PAVA effect perceptions of safety?
3. How does presence/use of PAVA impact on relationships between staff and prisoners?
4. How do staff and prisoners perceive the presence/use of PAVA?
5. What are the risks or issues presented by the presence and use of PAVA in prison?

4. Methodology

4.1 Limitations

Every effort was made to limit the variables that would distort evaluation findings and to present a fair and honest account of the implications of using PAVA in a custodial setting. However, as with all research projects, the evaluation is limited in its general findings and applicability to the wider HMPPS estate. Such limitations centre around the methodology and research design but are not exhaustive.

The methodology was proposed to promote the voice of both prisoners and staff. Of the 7651 prisoners and 2972 staff present across the four pilot and four comparator sites during the project, we conducted 125 informed-consent voluntary interviews with prisoners and 123 with staff using semi-structured interviews. Interviews were conducted at the start and end of the study, alongside 50 case studies during the pilot, following the deployment of PAVA with staff and prisoners involved. The findings from these interviews and case studies, as with the quantitative data explained below, should be seen as indicative, rather than definitive, due to the sample size and proportionality.

The qualitative focus of this study was employed because prisons have local issues and histories that shape their cultures and cannot be controlled for statistically. The national recruitment drive has increased the population of staff in sites but the lack of experience can have a destabilising effect on both safety and morale. Equally, changes in leadership, re-categorisation process, a decreasing prison population across all pilot sites, and a changing prisoner profile cannot be controlled for. Prisoner and staff turnover equally affect measures of relationships and safety; therefore thematic analysis provided a highly flexible yet rich and detailed approach that best promotes the voice of the participants as a collective. The limitations of which include, but are not limited to, inconsistency, replicability, and reliability.

The project team accessed Hub Data on assault rates, use of batons, and injuries occurring during use of force. These data were graphed for the six-month periods of December-June 2016, December-June 2017, and for the pilot period December-June 2018. There is, however, an acknowledged problem with Hub data which involves both under-reporting and data accuracy, so these figures should be read as indicative rather than definitive. Equally, with various interventions being introduced before, during and immediately prior to the pilot, such as BWVCs, Five-Minute interventions and SASH training, drawing direct causality between PAVA and the findings is a major limitation of the project.

Further to hub data, the reporting process of PAVA must be seen as a limitation of the applicability and reliability of this project. Staff using PAVA were found to be covertly drawing canisters behind their backs with the intention of using it during volatile situations but not reporting the deployment. This required a change to training and operational guidance but it remained unknown how common this practice was and whether the use of PAVA or verbal threat of it was greater than presented in the findings.

Uncontrollable but foreseen limitations of this project include participant behaviour, lack of prior research into the effect of PAVA in custodial settings, and the inability to understand the implications of PAVA on an individual's health. Prisoners and staff, as humans, are subject to exaggeration, selective memory and attribution, thus the ability to draw correlations with previous research on PAVA in custodial settings would have been particularly beneficial to understanding the impact of introducing PAVA into the four prisons. Public Health England and the NHS raised concerns about not utilising a longitudinal method to explore and measure the long-term effects of PAVA on a prisoner's health and were invited to contribute to the project prior to the study commencing. Due to restrictions in resourcing, the project was unable to follow through with the concerns raised and continue to openly invite health partners to examine the health effects going forward.

Lastly, due to the close proximity to the research participants, stakeholders and their own subjectivity, the team's lack of independence and objectivity can be considered a constraint on the reliability of the findings. The effect was mitigated through peer supervision and internal scrutiny.

4.2 Site selection

The PAVA pilot site selection was based on representative violence indicators from across the estate, staffing levels, turnover, situational judgement, operational capacity, support and regime predictability. Exclusion criteria based on health concerns, constabulary powers, and training commitments removed YOIs, the Women's estate, private prisons, and pathfinder sites from involvement in this pilot phase.

Pilot sites were matched with comparator sites in order to better understand the implications of introducing PAVA into a custodial setting. These pairings were based on a range of metrics between July-August 2017, as set out in Table 1 below.

Table 1: Site selection data

June-August 2017			Assaults per 1000 prisoners								
Prison	Opened	Population	Function	FTE (Full-time Equivalent staff)			HMIP			Use of Force	Batons
				Pris-on-Pris	Pris-on-staff	Staff Sickness	Inspection	Audit			
<i>1a</i>			Cat B local	405	67	7	7.71	3,3,3,3	10, 3, 0	98	1
<i>1b</i>			Cat B local	423	73	49	10.77	1,2,3,3	7, 4, 2	153	8
<i>2a</i>			Cat B local	311	81	9	6.73	2,2,3,3	9, 3, 1	67	3
<i>2b</i>			Cat B/C Multi	315	79	16	17.03	3,3,3,3	12, 1, 0	92	7
<i>3a</i>			Cat C training	355	46	24	12.63	2,3,2,2	4, 9, 0	80	6
<i>3b</i>			Cat C training	441	30	10	9.7	3,3,3,3	10, 3, 0	81	1
			Cat C training/ resettlement	350	86	23	10.14	3,4,3,3	10, 2, 1	63	4
<i>4b</i>			Cat C training	372	48	21	6.34	3,2,3,3	8, 5, 0	127	5

4.3 Pilot Implementation

The operational guidance was developed by the project team of operational managers, subject matter experts and policy professionals. The operational guidance supports use of PAVA by trained prison officers as a tool for personal protection and to prevent harm to others. It was agreed that PAVA should be given to staff for use in exceptional circumstances, where other methods of control or restraint were unlikely to be effective, or where individuals were alone. Existing Use of Force principles apply to the use of PAVA, including legal and professional expectations upon individuals to justify and record their use of PAVA. All staff in the pilot sites were trained to use PAVA by two National Use of Force Trainers. The training package was a half day and included explanation of law and individuals responsibilities within the law, professional expectations for appropriate use, hands on practice using inert canisters and secondary exposure to real PAVA. Trained staff were issued with PAVA at the point when half of the whole band 3-5 staff group had completed the training. The full operational guidance can be found at Annex 3. The principal messages of both the operational guidance and training were that it should only be used reactively (spontaneously) and never during pre-planned C & R. Use is authorised when the user is able to demonstrate that:

- It was necessary to defend themselves or a third party from an attack, or an impending attack, where they perceived a threat of serious harm; and
 - There was no other reasonable option open to the member of staff to protect themselves or another person and reduce the risk of immediate serious harm but to employ this defensive technique; and
 - Use of PAVA spray was be proportionate to the threat.
- (HMPPS PAVA Operational Guidance, 2017)

4.4 Evaluation Procedure

We conducted interviews, focus groups, and case studies over the pilot period. We spoke with prisoners, operational and non-operational staff, and managers, and we observed staff-prisoner interactions, relationships between officers, and the SMT. We collected hard data, and we examined each use of PAVA across all four sites during the pilot period by visiting each prison as soon as possible after each deployment and interviewing all those concerned.

1. We accessed Hub Data on assault rates, use of batons, and injuries occurring during use of force. These data were graphed for the six-month periods of December-June 2016, December-June 2017, and for the pilot period December-June 2018. There is, however, an acknowledged problem with Hub data which involves both under-reporting and data accuracy, so these figures should be read as indicative rather than definitive.
2. The qualitative focus of this study was employed because prisons have local issues and histories that shape their cultures and cannot be controlled for statistically. The national recruitment drive has increased the population of staff in sites but the lack of experience can have a destabilising effect on both safety and morale. Equally, changes in leadership, re-categorisation process, a decreasing prison population across all pilot sites, and a changing prisoner profile cannot be controlled for. Thematic analysis provided a highly flexible yet rich and detailed approach that best promotes the voice of the participants.
3. We conducted 125 informed-consent voluntary interviews with prisoners and 123 with staff using semi-structured interviews designed to cover all the research questions. Viable interviews and case studies were fully transcribed and coded, based on a schema developed through a reading of the relevant research literature and according to themes that emerged during the fieldwork period. This is a form of adaptive theory (Layder 1998).
4. After every use (drawn or deployed) of PAVA, a comprehensive case study was completed examining the experiences of the staff using PAVA, the prisoners experiencing it and witnesses to the incident. Prisoners and staff participated in the majority of case studies. Extenuating circumstances (shift patterns etc.) meant that not all case studies involved all the officers and prisoners involved in incidents. The PAVA project board members separately rated the case studies according to whether an incident was passive non-compliance – where there is no

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aggression or violence presented by the prisoner(s) involved; aggressive non-compliance – where the prisoner(s) is verbally or physically threatening violence towards a member or staff or other prisoners; self-harm; and incidents requiring further investigation by prison management. Summaries of the PAVA case studies can be found in Annex 4.

5. Findings

Please see Annex 2 for a detailed account of the qualitative findings.

5.1 Descriptive observations

PAVA was drawn or deployed in 50 incidents, involving 56 prisoners in the four pilot sites.

Table 2: PAVA uses by type

	Prisoner on prisoner violence	Prisoner on staff assault	Active self-harm	Aggressive non compliance	Passive non compliance	other
Total	14	18	2	7	8	1
Drawn	4	5	1	2	5	
Deployed	10	13	1	5	3	1
Example	A fight between Prisoners in cell. Officer arrived at the scene and shouted at the prisoners to stop. Unable to enter the cell and break up the fight.	Prisoner became aggressive as Nurses attended to him to assess health following an incident requiring C&R. Staff try to exit cell for fear of safety and officer is struck on back.	A prisoner on an ACCT placed on the basic regime, the prisoner proceeded to cut Officer entered the cell and requested that Prisoner drops the blade. He did not and so Prison Officer A drew her PAVA. As soon as Prison Officer A drew her PAVA, Prisoner A dropped the blade.	Prisoner has concealed weapon, refuses initially to hand over, PAVA warned and weapon recovered	Prisoner refuses to return to cell. Grips landing railings and refuses to move. Officer fears it will escalate to fight with other prisoners.	Incident at height

Deployments:

- PAVA was deployed in 33 of these 50 incidents, against a total of 46 prisoners
- Of those 46 prisoners 15 of 46 suffered with mental health issues
- 15 prisoners of the 46 prisoners experienced no immediate symptoms from PAVA
- In 5 of 33 incidents where PAVA was deployed the levels of violence from prisoners increased
- 12 PAVA deployments occurred in cells
- 3 deployments occurred outside
- 13 deployments occurred on landings
- 1 deployment occurred in segregation

Drawn but not deployed:

- PAVA was drawn but not deployed in 17 incidents

- 5 of these were in cells
- 1 of these was outside
- 8 of these were on landings
- 2 of these were in segregation units
- PAVA was deployed against 43 White-British men and 9 BAME men and 4 others.

Incident characteristics:

- 4 of the 9 BAME males (nearly 45%) PAVA was deployed upon did not immediately experience PAVA symptoms, compared to 28 of 43 (23%) of White British males.
- In 1 of 17 incidents where PAVA was warned the levels of violence from prisoners increased
- PAVA was used in 2 self-harm incidents
- Those with ten or more years' service used PAVA more than newer staff.
- Most of the cases occurred when there was three or more members of staff present at the incident (20 incidents).
- PAVA was used most often in incidents involving a single prisoner (36 incidents).
- In 20 incidents, staff reported some secondary exposure symptoms

Figure U shows frequency of use per month in each site. The line tracks total number of uses per month across all sites.

Figure U: Monthly PAVA use by establishment and in total.

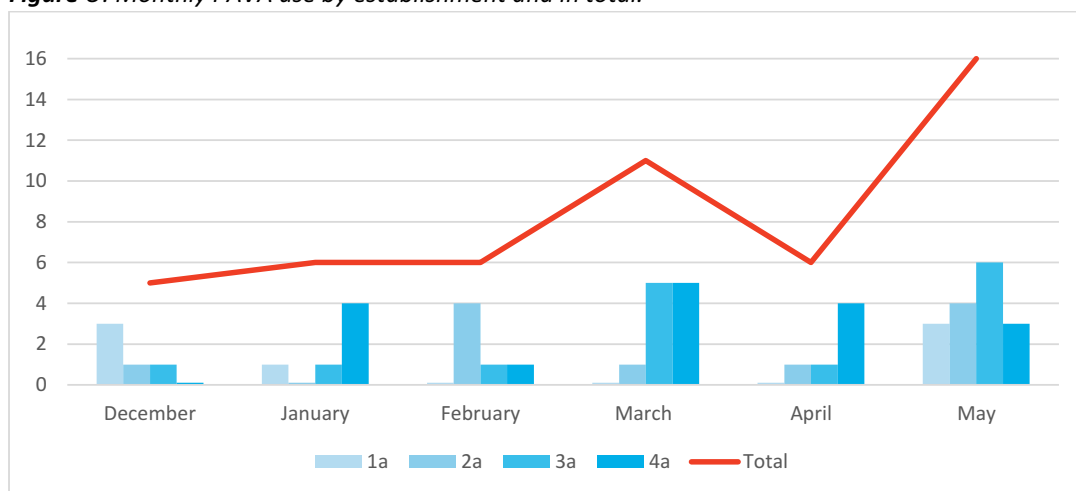


Figure V shows use of PAVA by site taking into account each prisons size. Rates of use per 100 prisoners are shown, and the graph demonstrates that rates of use were highest in prison 4.

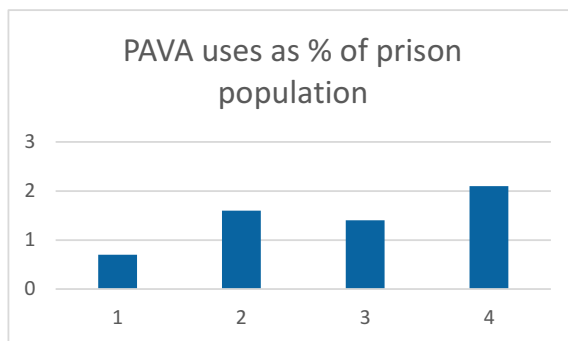


Figure V: PAVA use by site

5.2 How does presence/use of PAVA impact on prison violence?

The pilot is unable to establish that PAVA had any direct impact on levels of prison violence. Overall violence levels continued to rise across all of the pilot sites during the period, continuing previous trends. The chaotic nature of the prison context (the number of variables at play) make it impossible to draw robust conclusions on violence data. When violence occurred staff felt better able to deal with it and better equipped to arrest escalation and prevent harm with PAVA.

Figure W Prisoner-on-prisoner assault rates per 1000

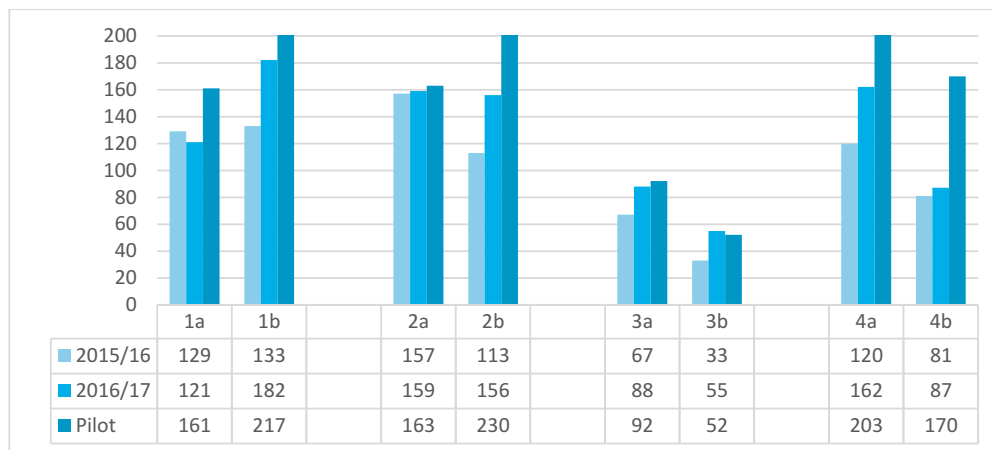
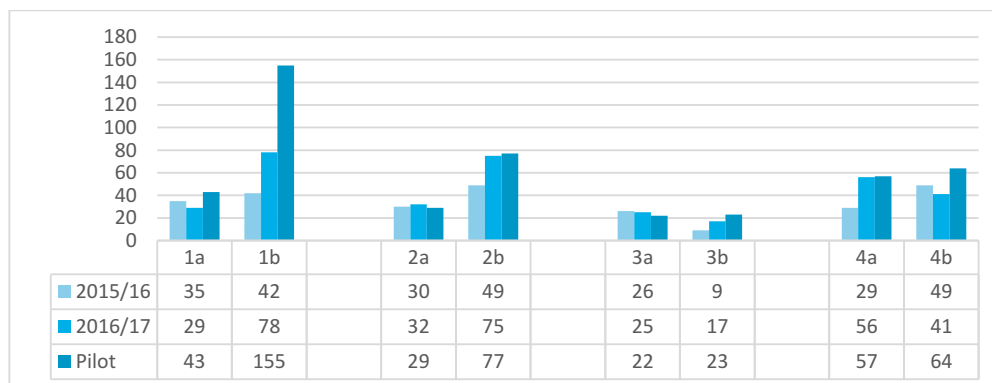


Figure X Prisoner on staff assault rates per 1000



5.3 How does presence/use of PAVA effect perceptions of safety?

Paired pilot and comparator sites both perceived improvements in safety over the course of the pilot. Staff in pilot sites attribute these changes to PAVA whereas staff in comparator

sites attribute the changes in perception to other initiatives (BWVCs, FMI and key-working in comparator sites). Site 3b (non PAVA comparator site) was exceptional with the staff group reporting no improvement to safety, although prisoners in this site felt safer. Despite the fact that 3b was the least violent prison in the study according to recorded assaults data, the staff said that due to increasing violence they needed more tools and greater protection.

5.4 How does presence/use of PAVA impact on staff-prisoner relationships?

Prisoners and staff had different views about how PAVA impacted on relationships, and each site presented a different picture. Views were mixed in pilot sites 1a and 2a, staff in 3a thought that communication had improved but prisoners did not. 3a staff said PAVA enabled them to increase their engagement with prisoners because of greater confidence. Staff and prisoners in 4a agreed that relationships had been damaged by the introduction of PAVA. In pilot site 4a, staff saw peers as more coercive and distant, gaining 'misplaced confidence' and an 'over-reliance' on PAVA as a tool for control. However that was not the case for all staff, "If you were to get academic about it, I think you could think that PAVA could act like a barrier in those interpersonal relationships between staff and prisoners, but that's not something I've seen" (4a Staff B, CS22).

In comparator prisons there were mixed feelings towards staff-prisoner relationships, with a general trend pointing towards slow improvement in relationships that was attributed to BWVC and FMI. Staff referred to the positive effect of BWVCs as "a godsend... because you can deescalate just by switching your camera on in some instances... and it gives them that extra protection" (Pre-staff 7). 4b staff said the quantity, perception and use of BWVCs is improving and, subsequently, raising standards of practice and feelings of safety.

Staff in pilot sites said the ability to use PAVA in conjunction with other safety techniques and methods enabled staff to obtain greater control and power over the prisoners during the pilot period. Staff that pointed to improved relationships with prisoners at the end of the pilot attributed it to BWVCs, keyworker scheme, and FMI as they improved relations and safety – "it's not fairies and star dust like people think" (post-staff 5).

Prisoners had considerable concerns about overuse of PAVA and procedural injustice across sites. Prisoners focussed on the increasingly controlling and coercive behaviour of staff in the pilot sites. Other prisoners saw the introduction of PAVA as necessary to redress the balance of power and, while they would not like to see it used on them, saw its potential benefit to order and calm for their community. Prisoners increasingly saw staff as more unfair and

distant. As the prisoner in Case study 33 explained, staff are “less inclined to use their people skills in difficult situations. But it also depends on the member of staff. Some staff can rise above that”.

5.5 How do staff and prisoners perceive the presence/use of PAVA?

Across all pilot sites, a significant proportion of prisoners and the majority of staff felt that PAVA was 'necessary' for the safety and protection of those working and living in prison. As prisoner A in Case study 9 explained, “jail’s jail. It’s got to be done... they (staff) need it”. Prisoners and staff agreed that there were some situations in which PAVA could legitimately be used to control and protect prisoners and staff from violence.

“Your mouth (is the most powerful safety tool) – always try and talk to them... It prevents the use of force. But there are scenarios where talking will never work, they’ll never listen and there’s nothing you can do... it’s not about giving them pain, it’s about protecting yourself.” (Officer C, CS 22)

Prisoners and staff reported concerns that PAVA was being used in non-violent incidents for purposes of manipulation rather than protection. In these instances, use was seen as lacking in legitimacy. When PAVA was perceived to be overused prisoners also raised concerns about legitimacy;

“all I’m seeing is PAVA getting pulled on people instead of officers talking people down. Not all officers but some – it seems to be the first instant of what they do” (prisoner B, CS 19)

Staff had lesser concerns about lack of legitimacy, and some describe PAVA as a more legitimate option than hands on uses of force due to the lesser risk of long-term harm to staff and prisoners as a result of the distance capability and speed of resolution:

“PAVA seems a more, I don’t know if humane is the right word, but something more reasonable. With PAVA it’s less physical.” (Staff B, CS9)

No prisoner complaints were made with reference to use of PAVA during the pilot period. One incident was investigated locally as concerns were raised by the management team about the legitimacy. No formal action was taken against the staff members involved.

Staff see PAVA as a *strong deterrent* and another viable use of force option. There was no measurable deterrent effect on the quantity of incidents at the pilot prisons. In some

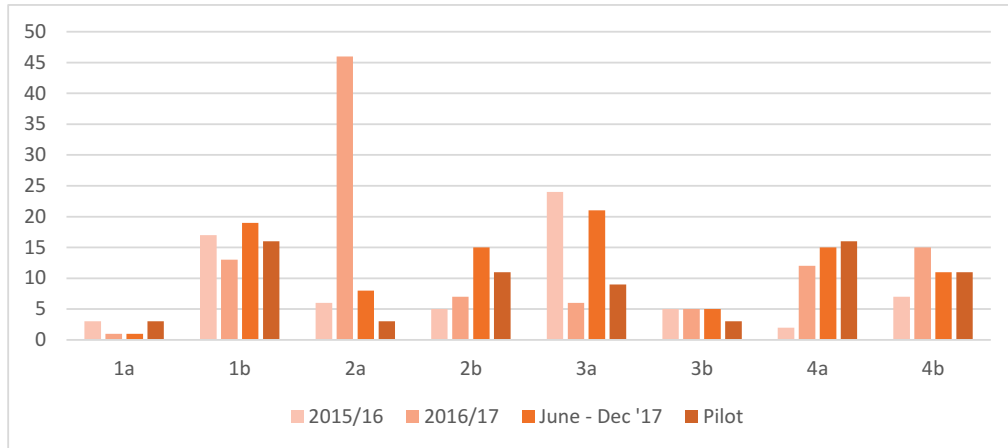
incidents, drawing PAVA led to immediate compliance and a change in behaviour. In the majority of cases, 33 out of 50 incidents, drawing PAVA was followed by the deployment of PAVA. This confirms that once set on a course which will end in violence, in the majority of cases violence will occur. In that sense PAVA was not an effective deterrent. What is impossible to know is what level of harm the use of PAVA deterred in these cases. Staff expressed the opinion that without the presence and use of PAVA there would have been more harm and injury following these incidents.

Staff favoured use of PAVA over C&R and see it as a quicker and more effective option when considering which use of force tool to use. The ease and range of use, the belief that PAVA is less harmful than other tools, and the speed of effect led staff to form a view of PAVA as something 'lesser' than physical force, and as such, 'necessary' for the safer and quicker resolution of conflict. As one CM explained, "*PAVA seems a more, I don't know if humane is the right word, but something more reasonable... with PAVA, it's less physical*" (Staff B, CS9). This argument was made frequently by staff in pilot sites, with Officer B in Case study 33 saying, "*you could probably do more damage with a can of Sure than that (PAVA) 'cause of all the chemicals in that.*"

Staff frequently cited the need to resolve incidents quickly as part of their justification for use. PAVA was reported to have a useful 'shock-factor', and its potential to incapacitate and/or distract prisoners temporarily gave staff time to make another dynamic risk assessment, to call additional staff, withdraw to a place of safety or further intervene with C&R.

"At first he was a bit more startled by it (PAVA), it wasn't a direct hit in the eyes. So with the initial spray it shocked him enough, gave us enough time to grab hold of both of his arms and move him back to his cell" (Staff, CS20)

Figure Y: Batons drawn/used



Injuries from C & R reduced during the pilot period compared to the year before, in all prisons except 3a where there was a considerable rise. Improvements in the comparator prisons as well as the pilot sites suggest that PAVA was not the cause of the reduction in injuries.

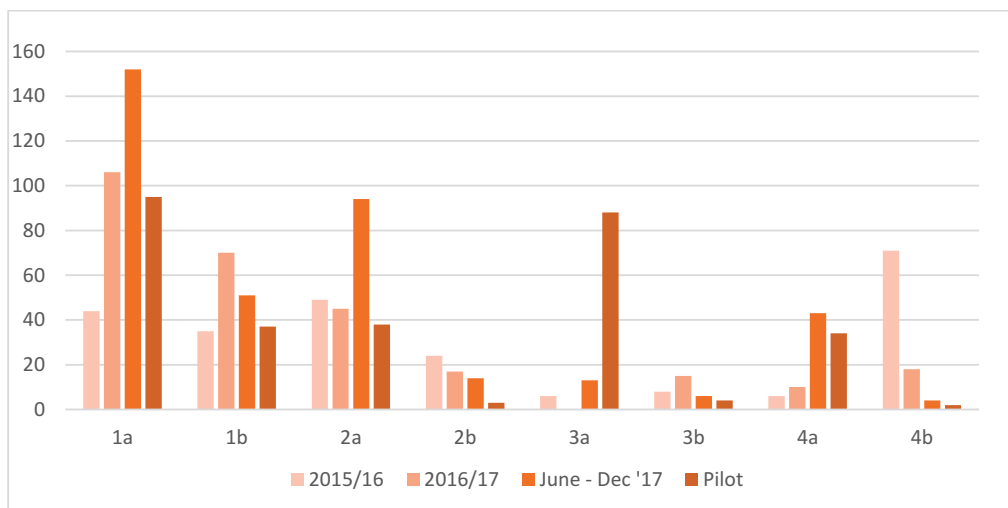


Figure Z: Injuries following control and restraint

5.6 What are the risks and issues presented by the presence and use of PAVA in prison?

Poor decision making

Staff across the pilot sites have made inconsistent decisions about when PAVA is justified. Despite clear training guidance saying that PAVA should be only used reactively, the pilot has recorded instances when PAVA was used to address passive non-compliance or to deal

with situations that most people would agree do not fall within policy. Prisoners in particular think it is vital to have strong governance and rules about when PAVA should be used to prevent it being “*sprayed around like air freshener*”. Prisoners are worried about over-use and over-reliance on PAVA and this concern was also expressed by staff in one of the pilot sites in particular (4a).

PAVA was presented, if not deployed, in incidents of self-harm, incidents at height, and on individuals with significant mental health issues. In fact, whilst a majority of officers claimed to feel more confident in resolving conflict quickly and safely, as well as feeling more confident interacting with prisoners on the wings, officers witnessing incidents termed this as ‘*misplaced confidence*’. As Officer B in Case study 31 stated, PAVA “*gives the people who aren’t confident that inner confidence to deal with situations maybe not in the right way*”.

The project remained open to the possibility that PAVA training and policy may ultimately change to reflect the advantages of PAVA’s distant control. Some board members were of the firm and well informed view that hands on control and restraint was a far greater risk to the health and well-being of staff and prisoners and that PAVA, while intensely unpleasant in the short term, offered advantages in the prevention of lasting harm. The intuitive understanding of this risk was the foundation of some of the staff behaviours with PAVA which were beyond the training.

Potential for inappropriate or unauthorised use

PAVA project board members rated each of the 50 incidents against criteria for appropriate use as articulated in pilot policy, operational guidance and reinforced in training. Between 2 and 11 (between 4 and to 22%) of the 50 incidents were thought to have fallen outside of operational policy and expectations of professional conduct, and would therefore warrant further investigation. Notably, PAVA was used to gain compliance with an order to stop someone self-harming, and to control the behaviour of a prisoner being moved from one cell to another. In all cases, staff could provide cogent justification for their decision to use PAVA even when they were aware they were stepping outside the criteria explained to them in training.

Secondary Exposure

Staff are concerned about secondary exposure and “friendly fire” which was an issue in 13 of the cases where PAVA was deployed. They are worried about experiencing secondary symptoms and the impact of inadvertently spraying their colleagues. Both staff and prisoners discussed feelings they had towards people suffering from symptoms of PAVA. Staff who experienced secondary exposure said it took them longer to recover than was expected from

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previous reports of the impact of PAVA – 90 minutes to two hours, and in some cases overnight. PAVA was described as *nasty, unbearable, like your skin peeling off, as if you have been acid attacked*. Some staff were concerned about their ability to continue with C & R after the incident as they had to be removed from the scene by their colleagues due to incapacitation. Staff were trained to work through secondary exposure. Deployment in cells was not envisioned where the secondary exposure is intensified and 'friendly fire' – a direct hit from a colleague will of course incapacitate the officer in most cases.

6. Conclusion

The findings of this evaluation reveal a number of interesting points and some contradictions, most of which match observations from research in other settings and countries. There are some areas on which researchers are generally agreed and our pilot findings are in consensus with those themes. Crucially, PAVA should not be expected to be effective as a general deterrent to violence. The Velcro effect (where PAVA is drawn) will undoubtedly deter some prisoners already engaged or in the act of violence but this cannot be relied upon and officers should not draw PAVA with the expectation that the deterrent effect will be effective. It is likely that violence will stop or intent will be changed when prisoners are actually sprayed with PAVA, however it will not be effective against everyone. As with other studies we found that about 10% of people will be unaffected and some people will become more rather than less aggressive. In these 10% of cases it is not possible to know whether it was an ineffective shot or some personal immunity to the effects.

There are some clear perceived benefits to PAVA in the views of staff, and most staff involved in the pilot have positive views about their experiences with PAVA. Most staff readily accept that PAVA is not the answer to our violence problem. However they are reassured and feel more confident knowing that some action is being taken. We can conclude from this that the implementation of policies which seeks to support officers in addressing violence have a beneficial psychological effect on staff, making them feel more confident.

Broadly speaking PAVA is effective as an incapacitant and disabled most prisoners who were sprayed with it. Where it was less effective it provided sufficient distraction and time for staff to take control or escape from a dangerous situation. The evaluation indicates that staff prefer PAVA to hands on control and restraint techniques and that some will find it easier to utilise and more effective. However, we should also expect some issues with staff resorting to using PAVA more quickly than they would to a baton or C&R. We should be aware that some staff have already described it as “C&R in a can”, and a “quick fix”, and that there is potential for over use. Staff said during interviews that their peers were developing an over-reliance on PAVA as a way of resolving conflict rather than using other safety techniques and methods, and this feeling was echoed by prisoners.

The decision-making process of prison officers was at times flawed, and it appears that some staff will use PAVA outside of guidelines for use. Where this is the case they are able to provide cogent justification or use and were unapologetic about their reasons for using it. The distinction between reactive use and tactical use was not understood by all staff and managers and there have been a number of uses of PAVA which clearly don't meet with

training and or operational procedures. Most worryingly, staff used PAVA to enforce rules and gain compliance when it was not clearly the last resort or when more time could have been spent talking.

No uses of PAVA are thought to have breached law. Prison Officers have authority in law and via prison rules to use force as a last resort, where it is considered necessary and proportionate to the threat they face. Staff are individually responsible and accountable for use of force and must justify their decisions to use specialist training and tools. There is a grey area between use of force that is legally justified, and that which is professional and legitimate and we will need to consider how practice is governed and monitored to ensure that use of PAVA does not routinely fall into this area. Assessments of potentially anomalous use of force are subjective, and rely on hindsight tests. We might expect to see an increase in the number of conflicts on issues of legitimacy and professional use of force. Within the pilot there were examples that may have been judged as unprofessional and requiring further investigation/scrutiny. We estimate a requirement for a significant number of investigations into inappropriate or excessive use of PAVA each year.

Staff in both pilot and comparator sites had access to BWVC and FMI, the pilot sites additionally had access to PAVA. Comparator site staff and prisoners say that BWVCs, FMI and key-working are improving relationships and perceptions of safety in their prisons. These measures take time to embed but staff and prisoners describe a more trustful, transparent and fair prison environment as staff become more confident in using their newfound training and skills. The fact that staff in all sites reported increased satisfaction when asked if safety had improved in their prison over the period might support a view that PAVA had no additional impact on perceptions of safety.

Secondary exposure continues to prove a significant issue for staff and they are very concerned about the impact on themselves and on colleagues who had been accidentally exposed to PAVA. Although there have been no absences or days off sick from PAVA in pilot sites, staff voiced significant symptoms that impeded their practice on 13 occasions. Symptoms sometimes persisted overnight and were described using powerful and negative language. Interestingly, staff played down their descriptions of the impact of PAVA on prisoners, describing it as a minor use of force.

Considering previous research as well as the findings from this pilot, should PAVA be rolled out, the evaluation findings suggest that some staff will use it in situations that extend beyond policy and training boundaries, and which would not meet with standards of professional

behaviour or expectations set by external regulators. When PAVA is used as a last resort and to prevent serious injury, it will be seen by prisoners as legitimate use of authority. When PAVA is used too soon or too often, this will have a detrimental effect on prisoners' perceptions of legitimate authority and could damage relationships at individual and collective level. Prisoners and staff expressed mixed views on PAVA's effect on relationships and prisoners had considerable concerns about overuse and procedural injustice. Prisoners focussed on the increasingly controlling and coercive behaviour of staff over the pilot. Officers report improved confidence and a sense of safety from carrying PAVA. In some cases the use of PAVA will have prevented serious injury that was otherwise almost certain to have occurred.

The number of UoF incidents is likely to increase as PAVA is likely to be used as an addition to, rather than a replacement for, baton use and is likely to precede C&R. During the project PAVA use was followed by close scrutiny and a gathering of the facts to inform this evaluation. That level of scrutiny is unrealistic for business as usual but, going forward, the need for careful, considered governance of use of force cannot be overstated.

Annex 1

Recommended Safeguards from Previous Evidence

Issuing a warning before spraying someone. The advantages of warning someone seem to outweigh the disadvantages. Although issuing a warning seemed to reduce the incapacitating ability of pepper spray, it is a more legitimate way to use the spray and in a significant number of cases a warning may be sufficient to produce compliant behaviour. One report^{xvii} suggests that a warning should be accompanied with an instruction for an alternative behaviour (e.g. “Stand back”) which would enable the person to avoid being sprayed. If the officer attacks straight away there is not opportunity for the person to back down.

Do not put people into restraint positions that might restrict their respiratory system after being sprayed.

Medical aftercare. All those exposed to pepper spray, including the staff who used the spray and bystanders, should be reviewed by a healthcare professional as soon as possible after the incident. The review should check eyes, oral and nasal cavity, respiratory system and skin. There should be a second health check the following day for possible longer term or lingering effects. In addition, people who have been sprayed with pepper spray should be exposed to fresh air as soon as possible to reduce the intensity of the pain, and provided with water to bathe their eyes after 15 minutes (bathing sooner than this can irritate the eyes further). They should also be reassured and treated with calmness as they are likely to be disoriented or panicked. If the person has to be restrained, breathing must be constantly monitored.

Explicitly clear rules about when pepper spray should and should not be used. It is necessary to decide where pepper spray sits on the use-of-force continuum and to ensure that all those issued with the spray are clear about this. For instance, is it or is it not permitted to use pepper spray on someone who is not being physically resistive? In prison settings, the decisions need to be clear about possible ambiguous situations such as protests on the netting, as people may hold different views about whether this constitutes physical resistance or not.

Staff training. The Dutch pilots of pepper spray involved a full day training session for police officers. Even with this training, one of the police forces in the pilot used pepper spray far more often than the others and developed a number of novel ways of using the spray that stepped outside the guidelines.

Monitoring and evaluation. The uses of pepper spray should be monitored using additional information collection techniques to standard use-of-force paperwork, to ensure that issues that may be specific to pepper spray are fully understood.

Conduct research into the experience of being sprayed, and into the wider impact on prison culture and staff prisoner relationships. These questions have not been addressed in the existing literature in relation to policing relationships. Given that prison is a different environment where staff are expected to have positive and rehabilitative relationships with prisoners, it is important to know whether the presence of pepper spray capability would damage the rehabilitative ambition.

Set limits. Most jurisdictions do not authorise pepper spray to be used on children, people who are obviously vulnerable, people over the age of 65, people with known or visible respiratory problems and pregnant women.

Annex 2

Detailed Findings

Legitimate Authority

Pairing 1

In prison 1a, staff and prisoners said relationships were unaffected by the introduction and use of PAVA. Staff do not believe PAVA affected their communication and verbal de-escalation skills.

Staff at 1b said that Five Minute Intervention (FMI) and Body-Worn Video Cameras (BWVCs) are improving relationships and contributing to feelings of safety and respect. A Band 3 Officer explained, “There is no excuse for not wearing a Body-Worn Camera... talking is our best tool” (post-staff 8). Staff felt they were more professional and better at communicating now than six months ago.

1a Prisoners said that staff communicate less with prisoners now and verbal de-escalation is not often being utilised as at the start of the pilot. This “lack of communication” (prisoner, CS46) was negatively affecting perceptions of fairness and therefore, “Now there’s more hatred towards them...” (Prisoner, CS7) Another man did not believe it was affecting relationships because he “had not really got along with them to start with” (prisoner, CS46).

1b Prisoners said “staff are good talkers” (post-prisoner 1), “fair and honest” (post-prisoner 2). BWVCs and CCTV were identified as driving better communication, staff-prisoner relationships, and general practice. Prisoners said Staff are “more understanding” (post-prisoner 1), seen as role models, and controlling the prison with more legitimate authority than six months ago.

Pairing 2

In prison 2a, Staff had mixed views on whether PAVA had affected relationships. However, “The introduction of Body Worn Cameras has had an additional impact... we’ve seen behaviours change for the better when they’re on.” (2a Staff, CS12). Staff said the ability to use PAVA in conjunction with other safety techniques and methods enabled staff to obtain greater control and power over the prisoners during the pilot period.

Respect and communication with prisoners improved substantially according to staff at 2b over the pilot period. Staff said that BWVCs, keyworker scheme, and FMI improved relations and safety – “it’s not fairies and star dust like people think” (post-staff 5). Staff said, “Body cameras are brilliant, a great bit of kit” (post-staff 2) due to the transparency, assurance and deterrence. Staff said they were more “rehab driven” (post-staff 10) as a group with fairer and better communication, which has subsequently improved staff-prisoner relationships and

quality of interactions. Staff said they were more present, visible and supportive on the wings and working more as a team.

At prison 2a, Prisoners had mixed views on relationships with staff at the end of the pilot. Prisoners said communication was largely unaffected by PAVA, but they increasingly saw staff as more unfair and distant. As the prisoner in Case study 33 explained, staff are “less inclined to use their people skills in difficult situations. But it also depends on the member of staff. Some staff can rise above that”.

At prison 2b, Prisoners said staff interacted less with them by the end of the pilot period and BWVCs were being used less. Prisoners described staff as distrustful, lacking visibility and “patience” (P6), and ruling with heavy authority. Staff were seen as increasingly punitive, although prisoners said relationships “weren’t bad” (P7). A prisoner of four months at 2b said, “I can count on one hand officers I can speak with” (P4) but staff are continuing to “try to talk” (P9) in the face of perceived low morale and confidence.

Pairing 3

3a staff said PAVA enabled them to increase their engagement with prisoners because of greater confidence, staff said PAVA was improving relationships with prisoners. Staff A in Case Study 2 expressed surprise, “I spoke to one of them after. It hasn’t affected the relationship at all. I was expecting something when I was on the wing after with the prisoner on association and there nothing at all, I had a bit of a joke and a laugh about it too.” Staff even believed that PAVA increased levels of respect between both parties as a result of the greater capacity to resolve conflict.

3b staff explained that improved communication skills and relationships are slowly increasing safety after recent substantial losses of experience. Safety is believed to be maintained by communication and BWVCs are complementing this. Staff referred to the positive effect of BWVCs as “a godsend... because you can deescalate just by switching your camera on in some instances... and it gives them that extra protection” (Pre-staff 7).

PAVA has not affected staff-prisoner relationships according to prisoners in 3a because, “they’re only here doing their job” (Prisoner A, CS39). Prisoners explained that PAVA is encouraging a fairer and calmer prison environment due to the increased control staff possess through fear of PAVA. 3a prisoners raised concerns that PAVA can escalate situations and staff are communicating with prisoners less as they are quick to use PAVA for coercion and control: “all I’m seeing is PAVA getting pulled on people instead of officers talking people down... not all officers, but some, it seems to be the first instant of what they do.” (Prisoner B, CS 19) Some prisoners reported that PAVA was being used in non-violent incidents and for manipulation, rather than protection.

3b Prisoners explained that staff have “low morale” (post-prisoner 4) but were slowly regaining their confidence to interact with prisoners. However, there was an absence of

BWVCs or trust and prisoners described staff as “neglectful” (post-prisoner 2), disconnected, and “turnkeys” (post-prisoner 1) with passive/overly light authority, allowing prisoners to hold the power and control.

Pairing 4

A significant proportion of 4a staff raised concerns about the negative effect of PAVA on staff-prisoner relationships. Staff saw peers as more coercive and distant, gaining ‘misplaced confidence’ and an ‘over-reliance’ on PAVA as a tool for control. However that was not the case for all staff, “If you were to get academic about it, I think you could think that PAVA could act like a barrier in those interpersonal relationships between staff and prisoners, but that’s not something I’ve seen” (4a Staff B, CS22).

4b staff said the quantity, perception and use of BWVCs is improving and, subsequently, raising standards of practice and feelings of safety. However, overall, staff said that peers lack visibility on the wings and they feel isolated. Staff describe their behaviour as more professional, respectful and compassionate. Staff also feel more part of a team than six months ago, as one officer put it, “We’re learning together and supporting each other” (Post-staff 8), however “rehabilitation is still a million miles away” (post-staff 4).

4a prisoners raised concerns about staff over-reliance on PAVA as a tool for coercion and control. Views on staff-prisoner relationships were mixed but Prisoner A in case study 8 said that PAVA was damaging, “I don’t want to speak to her neither. I don’t even know who she is. Don’t want to know who she is. I just don’t want to know her... because in my eyes, ye, I’ve been assaulted by that certain person”. Prisoners said staff were developing misplaced confidence, as they have been quick to use their “new toy” unfairly and excessively across a range of incidents and at the expense of verbal communication and de-escalation; as a prisoner in Case study 21 described it, PAVA was being “used like air freshener” and staff are interacting less and less with prisoners.

Prisoners in comparator site 4b say staff are communicating more than six months ago and BWVCs are improving staff-prisoner relationships and practice. Prisoners describe staff as role models and are more compassionate and caring, but still lack visibility on the wings.

Safer Prisons

Staff and prisoners in pilot sites referred to PAVA as a necessity and are able to provide a range of justifications and reasons. They agreed that there were incidents where only PAVA could control the situation.

“Your mouth (is the most powerful safety tool) – always try and talk to them... It prevents the use of force. But there are scenarios where talking will never work, they’ll never listen and there’s nothing you can do... it’s not about giving them pain, it’s about protecting yourself.” (Officer C, CS 22)

One of the most significant themes from the research saw staff and prisoners promote the ability of all staff to use PAVA, regardless of size, shape, competence or confidence.

“I’ve been in positions over the years, face-to-face with a big angry fella, twice the size of me, and no matter what I say he is intent that we’re having a fight. Well I think, ‘I’m going to lose this one’ and I have been there, and I have lost them, and I have been put in hospital – that’s fine. But that changes you. Next time I’m in a small space like this with someone who’s 25 and spends half of every day in the gym, I’m more confident than I was six months ago because I’ve got something. Just in case.” (Case study 28)

“Anyone can use PAVA” (4a staff B, CS 25)

“it’s got no discrimination, it doesn’t matter if you’re two foot tall or six foot tall, as soon as you squeeze that button it’s going to hurt.” (Officer C, CS22)

In the majority of comparator sites (1b, 2b, 3b, 4b), staff saw themselves as more interactive, present and visible at the end of the pilot period than the start. Staff explained that the use of BWVCs, FMI, and key working were improving their communication skills and, subsequently, their safety, interactions and relationships with prisoners. The quality of Use of Force was improving with better teamwork and staff saw themselves as more professional, proportionate and fair at the end of the pilot period. Staff had mixed views on whether they needed more tools and protection.

Prisoners in comparator sites generally felt safer and had better perceptions of force at the end of the pilot period due to staff showing more compassion and care towards prisoners. BWVCs were listed as a contributing factor and staff were more visible. However, force was still largely seen as excessive and unfair whilst perceptions of authority varied considerably according to the prison. Across all comparator sites, prisoners said that staff need more tools and protection to do their jobs.

Pairing 1

In pilot site 1a staff spoke of a newfound capacity to resolve conflict quicker and with less risk of harm or injury to themselves and prisoners because of PAVA. Overall, staff said PAVA made them feel safer over the course of the pilot as explained below:

“You know these incidents can happen - will happen - at some point, just part-and-parcel of the job. It’s (PAVA) another tool available to help aid our safety whilst carrying out our jobs... because they (prisoners) know we have another aid like that, maybe not so much calm down, but they know that they don’t need to get close to us for us just to be able to deal with a situation anymore.” (Officer C, CS4)

Another Officer explained, “We’re here dealing with weapons on the wing daily, and all we’ve got is a shirt.”

Staff found that the distance-control element of PAVA and its ability to 'buy' time and shock the recipient provided a 'safety-net' to staff they say did not previously exist with batons or other available tools.

However, secondary exposure during an incident was a concern throughout the pilot as staff said they had to temporarily remove themselves from duty in order to alleviate the pain and blindness – the pain and feeling of burning often lasted overnight following exposure and goes against medical evidence that symptoms normally last up to one hour.

Staff at comparator site 1b (the most violent prison in the study) described feeling increasingly safe during the pilot period because they are talking and interacting more with prisoners. As explained in the procedural justice section below, improving relationships with prisoners is contributing to feelings of safety and control because "safety is reliant on a rapport with prisoners" (post-staff 6) and "FMI is our best tool for violence and safety" (post-staff 7).

Prisoners in 1a did not generally feel safer and spoke of increased fear and vulnerability because of the presence of PAVA:

"For her to draw pepper spray whilst I'm self-harming is a bit of a, it's not exactly nice... I'm obviously vulnerable" (Prisoner, CS7).

Staff were said to be quick to use PAVA and prisoners described a deterioration in mental health following the experience of PAVA, including feeling withdrawn, isolated, and reclusive. By the end of the pilot period, staff appeared more punitive and controlling. Prisoners did reason PAVA was a deterrent but this was the only pilot site to say PAVA was not 'necessary' for safety.

Prisoners at 1b (the most violent prison in the study) said staff are more prioritising of safety, less punitive, and have increased their visibility on the wings over the course of the pilot period, which has raised their feelings of safety. Officers were described as "friendly" (post-prisoner 2), "caring" (post-prisoner 9), able to "have a laugh" (post-prisoner 6) and "in control" (post-prisoner 10). New staff were singled out as more positive and sociable than more experienced staff.

Pairing 2

2a staff explained that PAVA made them feel safer over the pilot period, especially when lone-working, because they face a lesser risk of harm and injury during conflict, specifically C&R. Staff said that PAVA increased their control of the wings and saw it as a safer option to batons, both in terms of symptoms and distance to prisoners. Again, staff raised secondary exposure concerns in a confined space as, "Staff were still affected by the spray for the rest of the day. I was still affected at night time when I got home and had a shower." (Officer C, CS9) This did affect perceptions of safety and staff subsequently became more careful and wary about where and when they used PAVA.

2b staff also felt considerably safer over the course of the pilot period and put this down to key-working and the increased use of BWVCs and FMI training. A Prison Officer said that BWVCs quickly resolved incidents “99% of the time” (post-staff 6). Staff also felt that with better communication skills they were better equipped to deal with conflict and disorder. As one staff member with 16 years’ experience explained, the prison “has a family feel... we focus on stability and consistency... key-worker training is making the prison more positive and settled” (post-staff 10).

Prisoners at 2a described PAVA as ‘necessary’ for safety in the prison with a quick recovery time and strong deterrent factor. There were mixed views on whether PAVA had improved or deteriorated safety but Prisoner A in Case study 18 said, “it doesn’t really affect safety in the prison; it’s to protect prison officers”. In Case study 33, prisoner A said, “I feel less safe from the staff ‘cause all it takes is for a member of staff to have a bad day then he can easily pull out the PAVA and it’s worse than a cosh”. This concern was a common theme at prison 2a, and prisoners frequently described a fear of how staff would be using PAVA if there is insufficient scrutiny and accountability.

Prisoners at 2b showed a deterioration in perceptions of safety over the six months but the majority still felt safe. As Prisoner 8 explained, “they (staff) don’t feel safe walking around the wings anymore, you know. The inmates have got more access now to homemade weapons and homemade tools and all this sort of stuff and it shouldn’t be like that... All they got – they got a little baton... they need a little bit more confidence and a little bit more ability”.

2b prisoners said that staff need more tools for safety as batons have grown obsolete as both a deterrent and conflict resolution tool. Prisoners believe that increased safety measures will increase the presence, visibility and confidence of staff on the wings.

Pairing 3

3a staff felt safer and more confident lone-working at the end of the pilot due to the decreased risk of harm and injury. Staff identified the distance-control element of PAVA and the ability to ‘buy’ time by surprising recipients. Staff raised significant secondary exposure concerns during incidents, including the subsequent inability of staff to perform C&R following PAVA deployment because of the symptoms felt by Officers at the scene. So, although staff felt safer and more confident with PAVA, staff were wary and careful of the consequences of PAVA deployment.

Staff perceptions of safety improved minimally over the six months at 3b. Despite the fact that 3b was the least violent prison in the study, staff said that due to increasing violence they needed more tools and protection to improve safety. One officer said they would “rather have a machete than my baton any day of the week” (Pre-Staff 2). Staff spoke of confusion and a “lack of direction” (post-staff 2), feeding a feeling of unpredictability and “instability”

(post-staff 9) that made staff feel “powerless” (post-staff 10) to impose any control over their environment.

3a prisoners viewed PAVA most positively across the sites. PAVA was described as a deterrent for prisoners, “PAVA proper put me off like, it put a stop to the beating... I’d have carried on hitting him if he’d got a baton ‘cause they don’t hurt. It’s a stick” (prisoner A, CS26). Prisoners deemed PAVA necessary for safe and quick resolution of violent incidents in order to protect both staff and prisoners. PAVA was nevertheless seen to be having negative mental health implications amongst prisoners who experienced PAVA, with a prisoner in Case study 13 explaining they have stopped interacting with staff for fear of further punishment and intimidation as a result of PAVA being presented at them.

3b Prisoners described feeling safer at the end of the pilot period and put this down to positive staff-prisoner relationships and “staff that go the extra mile” (post-prisoner 9). Yet, staff were increasingly distant, “neglectful” (post-prisoner 2) and “hiding behind gates” (post-prisoner 3). Prisoners said staff need more protection to feel safe because their “fear and panic” is evident on the wings (post-prisoner 10).

Pairing 4

4a Staff said PAVA had a significant shock and deterrent effect on prisoners, “He were coming at me so I sprayed it... it did stop him there and then but he didn’t have any sort of reaction like it hurt. He just kind of stopped like he was startled... it stopped him coming towards us” (4a Staff, CS14). Even if symptoms were not experienced by prisoners, staff said they felt more confident and safer working in the prison at the end of the pilot period, especially when lone-working, due to the distance and shock capability. 4a staff raised significant exposure concerns following the deployment of PAVA and found spaces difficult to work in because of the secondary symptoms experienced.

Staff at 4b felt less safe six months on from the start of the pilot period due to increased weapons and lone-working. Communication skills were described as deteriorating and staff lack visibility. However, staff said this is improving again due to better training, teamwork, and tools at their disposal.

Albeit describing PAVA as ‘necessary’ in prison, 4a prisoners did not feel safer at the end of the pilot because staff were becoming more controlling and over-reliant on PAVA to resolve conflict before other methods.

Prisoners in 4b described an increase in feelings of safety with what they describe as the improvement of procedural justice elements such as respect, trust and understanding.

Prisoners specifically referred to the benefits of BWVCs and transparency.

Use of Force Culture

The ease and distance of use, the indiscriminate capacity of PAVA, the belief that PAVA is less harmful than other tools, and the speed of conflict resolution all contributed to a view of PAVA as something 'lesser' than physical force. As one CM explained, "PAVA seems a more, I don't know if humane is the right word, but something more reasonable... with PAVA, it's less physical" (Staff B, CS9). This argument was made frequently by staff in pilot sites, with Officer B in Case study 33 saying, "you could probably do more damage with a can of Sure than that (PAVA) 'cause of all the chemicals in that."

Whether an action was reasonable, proportionate or justified was widely judged by staff in pilot sites on the principles of time. PAVA was popular due to its speed of resolution in conflict, whether deployed or just physically presented at a prisoner. Equally, the 'shock-factor' of PAVA, whereby, even if the symptoms of PAVA are not immediately experienced – as was the case in 12 incidents - staff are given 'time' to make another dynamic risk assessment of the situation and either wait for additional staff, withdraw to a place of safety or further intervene with C&R.

"At first he was a bit more startled by it (PAVA), it wasn't a direct hit in the eyes. So with the initial spray it shocked him enough, gave us enough time to grab hold of both of his arms and move him back to his cell" (Staff, CS20)

As a product, PAVA was as effective as expected, however PAVA was presented, if not deployed, in incidents of self-harm, clothing issues, incidents at height, and on individuals with significant mental health issues. In fact, whilst a majority of officers claimed to feel more confident in resolving conflict quickly and safely, as well as feeling more confident interacting with prisoners on the wings, officers witnessing incidents termed this as 'misplaced confidence'. As Officer B in Case study 31 stated, PAVA "gives the people who aren't confident that inner confidence to deal with situations maybe not in the right way".

In Case study 33 at prison 2a, Officer C explains the effect of misplaced confidence on decision-making in an incident,

"I said 'you need to get it (the observation hatch) up or I'll deploy PAVA again' more as an intimidation tactic than actually planning on using it but that didn't work so Officer B is like, 'are you going to use it?' – 'well I don't think I have any left' – I probably did if I'm honest, I think afterwards I probably did but I didn't want to... so that's when officer B deployed his PAVA".

The above is from an interview following a non-violent incident involving two Custodial Managers and a difficult prisoner refusing to obey orders to move away from his closed cell door hatch. PAVA was deployed twice at the prisoner and both members of staff accept that if PAVA had not been available then batons "would not have been appropriate" (Officer B) as the open observation flap only presented "a bit of a risk" (Officer B). This example was typical

of numerous incidents in the pilot where staff tested the deterrent capability of PAVA in incidents of passive non-compliance.

In two self-harm incidents, staff physically presented and deployed PAVA when prisoners continued to present a threat to themselves. SASH training has been ongoing in all pilot and comparator sites since the middle of 2017 if not before. The officers involved reasoned, "I wouldn't have intervened (without PAVA) for risk of getting harmed myself. So it would have literally have been just trying de-escalation through talk... there was no way I'd have been talking him down any time soon" (Officer B, CS7).

Pairing 1

Staff in 1a spoke of increased confidence and competence in conflict resolution and use of force. They exalted the effects of PAVA as a deterrent in incidents. Officer B in Case study 3 explains, "With the threat of that (PAVA), you can de-escalate a situation to a degree where it's really quite easy to control". At the start of the pilot, concerns were raised regarding PAVA as the "first port of call" (pre-staff 2), with many staff saying they already possess the tools and skills to deal with conflict. Staff were unsure whether "it will make a difference or not" (pre-staff 5). In the end, staff said that PAVA has enhanced their ability to resolve conflict with minimal, short-term harm to prisoners, and reduced risks to staff. Graph 6 shows that injuries from C&R have decreased over the pilot.

Use of Force at 1b is seen by staff as fair, proportionate but inconsistent, "Some staff will take 30 minutes to talk with a prisoner and de-escalate a situation; others will take five minutes to use force" (post-staff 11). Due to the significant amount of time lone-working, growing unpredictability of prisoners, and substance misuse, staff generally say they need more tools and protection to reduce the risk of harm.

At the start of the pilot, 1a prisoners said staff were quick to use force or "twist them up" (Pre-prisoner 2), often with minimal provocation. By the end of the pilot, prisoners said that perceptions of force deteriorated further, "They'll use it just because it's there" (Prisoner, CS7). 1a prisoners feel PAVA has been used unreasonably and disproportionately during the pilot. Other, better tools are available for staff and prisoners believe batons are better for conflict resolution as they are perceived as less harmful and less serious. Prisoners said PAVA was more "intense" and "Makes you feel like your skin's burning off your face" (prisoner, CS4). The symptoms were described as "horrible" by both staff and prisoners who experienced it.

1b Prisoners perceived Use of Force as more fair and proportionate because BWVCs were ensuring transparency and "staff give us time" (post-prisoner 10). Although force is "never unreasonable" (post-prisoner 6), staff remain quick to use force and new staff are seen to need more confidence to use force. Prisoners acknowledged the high-risk nature of lone-working and said that staff need more protection. However, as a prisoner who had spent the

last year at 1b explained, “prison is a community for staff and prisoners... staff need to try to de-escalate before anything else” (post-prisoner 8).

Pairing 2

2a staff said PAVA was the safest conflict resolution tool at their disposal. It was easier and safer than batons, less harmful with short-term symptoms, and provided a quick resolution to incidents. PAVA was a strong deterrent and another use of force option that meant they did not have to use C&R as often as prior to the pilot. At the start of the pilot period, staff had mixed views on whether PAVA was appropriate and necessary in the prison but as explained by Officer C in Case study 33, PAVA is now perceived positively across the prison, “I’m really happy with it (PAVA) now... the secondary exposure is minimal, the effects on prisoners are short-term... it was the secondary exposure stuff that I was kind of like, ‘do we really want to be spraying this stuff around the prison and impacting on our day?’... but ye it was fine.”

2b staff said confidence in use of force was low but improving at the end of the pilot period. It continues to be fair, proportionate and necessary, and staff say they have enough tools and protection to deal with conflict as batons are rarely, if ever, used. Staff say that they only need more colleagues on the wings to provide greater consistency and stability. Overall, staff describe themselves as “strong and resilient” (post-staff 1).

2a Prisoners believe that PAVA is unfair and excessive in the circumstances in which it has been used by staff. Prisoners said other, better tools are available to staff but were not used because staff were quick to use their ‘new toy’. The views on the experience of PAVA vary widely as half of prisoners find the symptoms “a scary thing... They started screaming, eyes burning” (CS18) and “unbearable” (CS15a), others “civilised” (CS15b) and short-term pain. A significant proportion of prisoners said PAVA was making batons obsolete – as reflected in the decrease of baton use in Graph 5 - and C&R was their preferred conflict resolution method because “staff are too trigger happy” (CS33) with PAVA.

Prisoners at 2b had divided views on Use of Force, which were largely unchanged over the six months. Force was described as fair and proportionate or excessive and quick to use, even neglectful, with “staff turning a blind eye” (post-prisoner 3) when force is deemed appropriate by watching prisoners. Prisoners said staff were not supporting each other and need more tools and protection for safety as “they don’t know what they’re going into” when responding to incidents (post-prisoner 5).

Pairing 3

At prison 3a, staff found the virtues of PAVA in the lesser need of Control & Restraint. PAVA was an equaliser for less competent, confident or physically strong staff, and enabled them to gain control of an incident without having to physically intervene;

"I feel a lot more safe, just because, if you're on your own and words aren't working with them, it's a big lad who could overpower you, it makes you a lot more confident going into a confrontation" (Staff B, CS37).

Staff described PAVA as a strong deterrent and another viable use of force option staff could resort to when lone-working or without appropriate support due to its distance capability, ability to 'buy' time, and quick resolution.

3b staff maintained low confidence in their peers over the duration of the pilot but Use of Force is becoming more professional, fair and proportionate with better teamwork and support. Staff feel they need more tools and protection because "prisoners don't have boundaries" (post-staff 1) and the prison is increasingly "unpredictable" (post-staff 2) because of illicit substances and weapons. Confidence is described as the most important tool for a prison officer to deal with conflict and violence, but staff say this takes time to develop, time which new officers do not always have.

3a Prisoners saw PAVA as a 'necessary' use of force and, like staff, an equaliser for those less confident or competent in other conflict resolution methods. Batons were seen as high risk and more harmful than PAVA, although staff were still quick to use force and there was a growing overreliance on PAVA by staff during altercations. Prisoners said that PAVA was largely a fair and justified use of force, although it is not a deterrent and can escalate a situation, albeit also resolve it quickly.

Use of Force perception deteriorated over the six months at 3b and prisoners said it was more unfair and excessive because staff are quicker to resort to force. Prisoners said, "staff need to be more personal" (post-prisoner 2) as "communication and respect are key to safety" (post-prisoner 3). So although prisoners acknowledged the necessity of force, staff were required to be more fair, consistent, and caring in their resolution of conflict. In turn, prisoners believe that staff need more protection to do their jobs because, "there are no rules for us" (post-prisoner 10), meaning staff do not have the tools or deterrence to prevent or safely resolve conflict any more effectively than prisoners do with weapons.

Pairing 4

Prison 4a staff explained that PAVA provided an equaliser for staff less competent or confident in use of force as they did not have to conduct C&R under high pressure and risk. PAVA was described as a quick-resolution or 'de-escalation' tool by staff and the distance-control element, speed and shock-factor of deployment makes PAVA an easier and safer option than batons.

Prison 4b staff say officers have low confidence in colleagues for Use of Force but this is more professional, proportionate and compassionate than six months ago. Staff say they are "sometimes scared to get involved" (post-staff 6) due to fear of scrutiny and reprimand, but need more tools and protection than is currently provided.

Prisoners at 4a said that force had become more unfair and excessive over the pilot period due to PAVA and batons were growing obsolete, although Graph 5 shows baton use is rising. Staff were seen as overly reliant on PAVA for control and quick to use PAVA over verbal de-escalation. Prisoners said that the synthetic pepper spray was not a deterrent, as the prisoner in Case study 11 put it, "(PAVA) didn't incapacitate me. I had four officers incapacitate me." But prisoners said PAVA was necessary to deal with the increasing risks staff face in prison:

"new staff can't resort to communication skills which are learned - they are going to need to use something in order for lads to back off a bit... in certain situations it would be good the fact that they've got it (PAVA). Even if they don't use it, it's still there so it gives them the confidence to be able to use their other skills along with that and try and speak with lads..." (Prisoner A, CS24).

As a prisoner in case study 8 said, "they've (officers) got family to think of, they've got to go home and see their kids". So as long as staff felt safe, prisoners in 4a reasoned PAVA was appropriate and justified for use in prison.

Prison 4b prisoners described Use of Force as excessive but necessary. Staff were "quick to use force" (post-prisoner 1) over the pilot period and sometimes "lost their voice" (post-prisoner 5), which was widely described as their best conflict resolution tool. Prisoners said, "violence shouldn't be met with violence" (post-prisoner 10) because "staff are role models but forget that cos of low morale" (post-prisoner 6). Generally, 4b prisoners were of the opinion that better communication would reduce the need for force.

Health impact and secondary exposure

The final consideration from the findings pertains to health, specifically secondary exposure and symptoms. A common theme for both staff and prisoners, PAVA was described as "nasty" (Staff B, CS4), "unbearable", (Prisoner A, CS15), "like your skin peeling off" (Prisoner A, CS4) and "acid attacked" (Prisoner A, CS40).

Staff and prisoners discussed the feelings they had towards seeing the symptoms of PAVA. In case study 8, an officer spoke of her experience having inadvertently struck a colleague with PAVA during an incident,

"To see a member of staff in distress like that was absolutely awful. Absolutely awful, I couldn't stand it. And I could see the utter pain in his face when it happened. And for me, I just felt so guilty that I'd done that to him." (Staff C)

The Officer who was hit explained the implications of the friendly fire,

"I grabbed him (the prisoner) as she was deploying PAVA. Second it hit I let go of him. Within seconds I could feel it burn immediately. Wasn't the nicest of things. That were me out of the game. As that happened I couldn't tell what were going on around me after that... I was back

on the wing probably about 20-25 minutes later. Still in pain but not to the extent of when it first happened. About two hours probably (before I felt myself)." (Staff D)

This was not an isolated incident and, although no formal complaints were received from prisoners or staff, and no days of sick leave were recorded because of experiencing PAVA, staff in pilot and comparator sites raised concerns about "spraying some toxic liquid into someone's face and seeing them scream" (Staff C, CS33). The psychological impact of administering or witnessing the use of PAVA is unknown but staff also queried the ability of staff to conduct C&R or any other subsequent duties post-PAVA deployment. A number of staff were removed by colleagues from incidents as they were, to use their own words, 'incapacitated', "I couldn't see, I couldn't do anything. For about an hour and a half, I got advised to go into fresh air, take it in and sit in an office" (Staff C, CS4).

Annex 3

Operational Guidance

Background

1. This guidance relates only to those establishments currently piloting the issue and use of PAVA (Pelargonic Acid Vanillylamide) spray.
2. PAVA spray is an irritant spray dispensed from a hand-held canister in a liquid stream. It contains a 0.3% solution of pelargonic acid vanillylamide, a synthetic capsaicinoid, in a solvent of aqueous ethanol. The propellant is nitrogen. PAVA spray has had a full medical research conducted and is approved for operational use by the Home Office Centre for Applied Scientific Technology (CAST).
3. PAVA spray is to be directed towards the eyes and can disable and/or incapacitate most subjects. A full recovery should take place within 40 minutes. However, it is not universally effective and some individuals may suffer little to no effects, whilst others may have a longer or more severe reaction.
4. PAVA spray is classified as a prohibited weapon by section 5(1)(b) of the Firearms Act 1988. As such should only be used in the circumstances defined in this document.
5. Any use of PAVA spray is considered a use of force. As described in PSO 1600 "Use of Force", the use of force will be justified, and therefore lawful, only
 - If it is reasonable in the circumstances
 - If it is necessary
 - If no more force than is necessary is used
 - If it is proportionate to the seriousness of the circumstances

Staff should make sure they are fully conversant with these principles and their application to use of force incidents. Further guidance and full details of the relevant legislation is provided in PSO 1600.

6. The effective working range for PAVA spray is between 1 and 4 meters. Maximum accuracy will be achieved over a distance of 1.25 – 2 metres. PAVA spray should not be used at less than 1 metre from a prisoner if it can be avoided; the 1-metre distance is measured as the distance of the canister in the hand from the prisoner to be sprayed, not simply between the officer and the prisoner.

Authorisation

7. PAVA spray may only be carried and used by operational staff working in pilot establishments who have completed the annual use of force refresher or POELT training in the last 12 months and been trained in its use.

8. Operational staff who are trained and issued with PAVA spray should carry it at all times when on duty in the establishment. PEIs should carry PAVA spray whilst on duty unless there is a risk on the grounds of health and safety, to the individual or others. This should be decided by a risk assessment and agreed with the Governor and locally.

9. PAVA spray should be routinely carried by staff working in healthcare, visits and on escorts. Staff will not be expected to remove PAVA spray before entering visits when responding to an incident but when responding to an incident there is a need to be aware of the additional risks aligned with public exposure.

10. National C&R staff attending a pilot establishment during the pilot phase may only carry PAVA spray for reactive use if approved by the silver commander. If not approved, National C&R staff may only use PAVA for tactical use if approved by Gold Command, as set out in the Incident Management Framework.

Deployment

11. PAVA spray is considered a prohibited weapon under firearms legislation but operational staff are legitimised in use through constabulary authority. Therefore, deployment (verbally threatening the use of, drawing, and actual use) of PAVA spray will be regarded as an exceptional measure and staff will be required to justify both the drawing of and use of PAVA spray as with other forms of use of force.

12. PAVA spray should only be used in accordance with training and when it is lawful to do so. The same rules and law relating to personal safety techniques govern use of PAVA spray. It is to be used in circumstances where other techniques are not possible and all other methods of trying to control or evade a violent situation (e.g. by verbal de-escalation or baton use) have failed, considered unsafe, or are considered unlikely to be sufficient in resolving the conflict. Full guidance is provided during training and in PSI 30/2015 para 2.6.

13. PAVA spray may only be used after attempts to de-escalate have tried and failed or are assessed as unlikely to be successful. Following use, de-escalation techniques should be continued, particularly whilst aftercare is being administered.

14. When PAVA is drawn this must be done openly and visibly. Evidence suggests that the explicit warning and drawing of PAVA can act as a deterrent and prevent further threatening or violent behaviour. At no point may a “covert draw” (drawing of PAVA in a way that is hidden from the prisoner by perhaps turning the body away) of PAVA be permitted. A “covert draw” of PAVA is neither effective in de-escalation or resolving the situation and instead could escalate an incident.

15. PAVA spray should never be regarded as anything other than a defensive implement. It may be drawn or used only when:

- It is necessary for an officer to defend themselves or a third party from an attack, or an impending attack, where they perceive a threat of serious harm; and
- There is no other reasonable option open to the member of staff to protect themselves or another person and reduce the risk of immediate serious harm but to employ this defensive technique; and
- Any use of PAVA spray should be proportionate to the threat.

16. In assessing lawfulness and proportionality staff should consider the four elements of justification as described in para 5 and make a dynamic risk assessment of the circumstances to ensure the drawing and / or use of PAVA spray is lawful. This assessment will also consider if PAVA spray is the right option or if other less intrusive techniques may be more appropriate to the circumstances, including retreating from the incident. Factors to consider include:

- Location of the incident, specifically if the prisoner is at least 1 metre away or is occurring in an area where this is a risk of harm from falling if sprayed.
- The nature of the threat or harm, specifically considering the level of violence encountered or the potential for violence. PAVA spray will only be appropriate where the serious harm, that is risk of limb or life, is occurring or likely to occur.
- The presence of weapons.
- Prior knowledge of the prisoner, particularly knowledge of any previous violence or previous encounters offering insight into the current behaviour.
- Efficiency of de-escalation techniques, including any warning used or the likelihood of them succeeding.
- Any other relevant factor such as suspected influence of drugs or movement of the prisoner into, or out of, the effective working distance for the PAVA spray.

The justification should be clearly described in the annex A on the use of force form.

17. PAVA spray should not be used:

- As a replacement for other use of force techniques or equipment. The dynamic risk assessment should identify PAVA spray to be the best technique for the circumstances.
- Once an assault has been committed and ended, and if there is no remaining threat of further attack.
- On passive but non-compliant prisoners showing no risk of violence.

SENSITIVE - DRAFT

- During planned interventions (other than NTRG specialist interventions).
- To saturate an area.
- With prisoners in respiratory distress or showing other signs of medical emergency.
- During incidents at height, including prisoners on railings or netting or any incident where there is a risk of injury from falling when incapacitated (other than NTRG specialist interventions).
- At a distance of less than 1 metre (when measured from the hand holding the cannister).
- To obtain compliance with an order.

18. Any use of PAVA spray, including incidents where it is drawn and not used, should be recorded on the use of force form.

Healthcare and medical issues

19. The role of healthcare staff when PAVA spray has been used is the same as other use of force incidents as set out in PSO 1600. Due to the nature of incidents where PAVA spray may be used, it is unlikely that healthcare will be present during the use of spray but when healthcare staff are on duty, they should attend every incident. An F213 should also be completed by healthcare of every prisoner exposed to PAVA spray in accordance with PSO 1600 para 6.9.

20. On arrival at an incident, healthcare staff should be made aware if PAVA spray has been used. The supervising officer should liaise with healthcare and adhere to any clinical advice given.

21. Prisoners exposed to PAVA spray should be supervised until the effects have subsided. As far as possible, healthcare should be present for the duration this period and support recovery as necessary.

22. All staff are trained in the signs and symptoms of medical distress and how they differ from the normal effects of PAVA spray. PAVA spray should not be used on a prisoner showing signs of any medical distress. In the event a prisoner shows signs of medical distress following the use of PAVA spray, healthcare staff in attendance at the incident or first aider will provide support.

23. Every prisoner exposed to PAVA spray, including unintentional exposure, will be given a copy of the aftercare leaflet attached at annex A.

Post incident

24. Immediately following the deployment of PAVA spray:

- Every prisoner exposed to the spray should be seen by healthcare as soon as practicable in accordance with PSO 1600 para 6.9 and an F213 completed.

SENSITIVE - DRAFT

- Prisoner should be supervised following the incident until a full recovery is made (see para 24).
- The discharged canister should be sealed in an evidence bag and stored securely by the establishment Single Point of Contact (SPoC). A new canister should be drawn for the remainder of the shift if appropriate.
- Hot debrief of all staff present.
- A NOMIS case note should be completed
- Duty Governor and SPoC informed and all relevant incident and intelligence reporting completed. Pilot project Researcher and/or National Pilot Project Lead should be informed by SPoC must be informed immediately.

25. PSI 30/2015 mandates use of force documentation to be completed within 72 hours however for the purpose of this pilot, every effort should be made to complete all use of force documentation within 24 hours. Governors may need to provide appropriate time and resource to meet this requirement.

26. Every use of PAVA spray will be subject to a case study (including interviews) by the National Pilot Lead and Researcher as part of the pilot evaluation process. This is not an investigation and will focus on the dynamic risk assessment and decision-making process. In order to facilitate this, the SPoC (in his / her absence Duty Governor) will contact the National Pilot Lead and ensure the following is completed within 24 hours of the incident and collated pending debrief:

- All CCTV footage including BWVC, if applicable, should be secured and retained including any footage preceding or on the periphery of the incident.
- All staff have completed a use of force form.
- Any other pilot documentation has been completed.

27. Staff and prisoners in the area may have been unintentionally exposed to PAVA spray and suffer symptoms. Any prisoner complaining of symptoms should be seen by healthcare, and a F213 completed. There is no requirement to complete a separate use of force form for incidental exposure, however details of any person unintentionally exposed to spray should be captured in the Annex A of the use of force form.

28. Although exposure to PAVA spray to the eyes is required for full irritant effect, contact to other areas, including clothing, may result in lesser symptoms such as minor irritation to the airways and eyes. In the event that clothing is contaminated by PAVA spray, the prisoner or member of staff should be given the opportunity to change. Staff uniform may be taken and laundered at home as usual without any further adverse reaction.

29. Staff should be given time to allow the effects of any unintended exposure to wear off before resuming normal duties, and should seek advice from healthcare staff or first aider if symptoms persist or are severe.

Other issues

30. All pilot establishments with have a nominated SPoC. This will be an operational manager responsible for delivering the PAVA spray pilot and liaising with the National Pilot Lead and Researcher.

31. PAVA spray canisters and holders will be personal issue. Staff should store canisters and holders in their lockers when not working. The SPoC is responsible for ensuring the PAVA spray Issue Log is maintained as a full auditable record of the allocation, weight and return of every canister to staff. In the event a canister is used it should be signed back in on the log, noting the evidence bag number.

32. Pilot project staff may perform PAVA spray spot checks in sites to determine fair and transparent practice. The pilot project staff may not provide a warning but should identify themselves as such when requesting access to the canisters. Pilot project staff will weigh and examine the canisters to determine that the canisters have not been deployed and record their findings along with the auditable record of allocation and return.

33. The SPoC should ensure that PAVA spray waiting for allocation and canisters held in reserve are stored in a secure and auditable manner and in accordance with Health and Safety at Work Act 1974, Management of the Health & Safety at Work Regulations 1992 Control of Substances Hazardous to Health Regulations 1989 (COSHH) taking due regard to manufacture's guidelines. Storage should be clearly marked with restricted access. Inert canisters for training should also be securely stored and clearly marked as training aids to prevent issue.

34. In the event PAVA spray is taken outside the establishment without authorisation, it should be reported:

- on the single incident line
- on IRS as a miscellaneous incident
- to the DDC
- to the National Pilot Lead and SPoC

35. The loss of a PAVA spray canister is a serious incident. Contingency plans should be updated to include action to take. Any loss should also be immediately reported

- on the single incident line
- on IRS as a miscellaneous incident
- to the DDC
- to the National Pilot Lead and SPoC
- to the local police

36. The piloting and issue of PAVA spray to prison staff does not change the requirement for police officers to leave their spray in secure storage at the gate. Pilot prison staff will also have to do leave their spray in secure storage at the gate when attending non-pilot sites.

Training

37. All staff carrying PAVA spray should complete the 3 hour training course and be assessed as competent. Staff should have completed either a Use of Force refresher training course or have completed POELT training in the previous 12 months prior to PAVA spray training. PAVA spray training is in addition to Use of Force refresher training, and all staff carrying spray should continue to attend refresher training as mandated in PSI 30/2015.

38. The PAVA spray training course covers

- Legal framework.
- Dynamic risk assessments.
- Medical considerations, physical effects of PAVA spray and aftercare.
- Report writing.
- Operational scenarios.

39. All other staff working in pilot establishments, particularly healthcare and non-operational staff in prison facing roles who may be present during incidents when spray may be used will be given information regarding the use and effects of PAVA spray.

Recording and monitoring

40. Officers deploying (drawing or using) PAVA spray should complete a use of force form (verbally threatening use does not require the completion of a use of force form). Full guidance on completing the annex A is provided in PSI 30/2015. In particular, it should clearly describe the circumstances leading up to the incident and the justification for use of PAVA spray as described at para 16.

41. A record of the hot debrief should be made, detailing those present and any issues raised. This should be recorded on an annex A by the supervising officer attending the incident.

42. In addition to the requirements of PSO 1600, a copy of all documentation is to be collated by the Establishment SPoC. In addition to providing all relevant resources for the National Pilot Lead and Researcher, the Establishment SPoC should quality assure all use of force documentation.

43. Incidents involving the drawing and use of PAVA spray should be discussed at the local Use of Force committee meeting.

Annex 4

Case Studies

CASE STUDY 1

Prisoner was getting agitated about his lack of medication. Due to this he threatened to jump off of the 3's landing. When officer A tried to intervene and de-escalate the situation the prisoner turned and picked up a wooden chair. At this point officer B, who was stood in close proximity withdrew their PAVA as he saw the prisoner picking up the chair as a potential threat to officer A and saw the chair as a weapon. The prisoner claims that he was using the chair as self-defence, not as a weapon as he felt anxious and that staff were closing in on him. As soon as the PAVA was withdrawn the situation de-escalated and the prisoner placed the chair back on the floor and returned to his room.

CASE STUDY 2

A fight occurred between Prisoner A and Prisoner B in prisoner A's cell as prisoner A had a radio belonging to Prisoner B and Prisoner B had gone to retrieve it. Once the fight had started Officer A arrived at the scene and shouted at the prisoners to stop. The fight continued and Officer A called for further assistance. Once further assistance (Officer B) arrived the prisoners were blocking the entrance to the cell but the door was pushed slightly open by the officers but not wide enough to enter the cell. Therefore the officers were unable to enter the cell and break up the fight. At this point, Officer A withdraws PAVA, fits his arm through the small gap of the door and deploys the PAVA. It comes into contact with Prisoner A's face and Prisoner B's shoulder. Both prisoners stop fighting immediately. Prisoner B then swiftly leaves cell and walks past staff to his own cell down the corridor. He is escorted by Officer A who also aims PAVA spray at back of head as he walks. Staff were not required to use C&R and Officer B closed the door on Prisoner A.

CASE STUDY 3

Prisoner A had been placed in the segregation unit due to an assault on a staff member earlier that morning. Later on that day Prisoner A had to move from one cell in the segregation unit to another cell in the segregation unit. Prison Officer A withdrew his PAVA when it came to the move and held it out during the duration of the moving of cells, due to fears that Prisoner A would become violent whilst moving location as he is known to be a volatile prisoner. No PAVA was actually deployed and the incident lasted approximately 20 seconds.

CASE STUDY 4

Prisoner A was placed on the basic regime due to issues with medication and healthcare (Prisoner A claims it was around his poor mental health, which the officers were apparently unaware of). As a consequence, Officer A went to Prisoner A's cell to remove his television. During the process, it appears Officer A may have accidentally disrupted a drawing in the cell by knocking Prisoner A's kettle over the drawing. Apparently it was a drawing of importance to prisoner A and had taken Prisoner A many hours to draw. This therefore causes Prisoner A to become extremely irate and aggressive. He pushes officer A towards the door and attempts to shut the cell door, in doing so he traps Officer A's arm in the door. Two assisting officers outside the room begin pushing the door to free the Officer as the prisoner pushes back from the other side. The stuck Officer draws, warns and deploys PAVA around the door, along with the accidental deployment of PAVA by an assisting Officer pushing the door. The PAVA hits the prisoner who withdraws from the door, and staff initiate C&R. Two staff members were subsequently incapacitated by PAVA – one from accidental spray to the face, other from vapour in the cell. Both staff returned to work that day.

CASE STUDY 5

There was a serious assault on morning of December 26th that required Ambulance assistance. Therefore the wing was placed under restricted regime for the rest of the day. This subsequently meant that there was no time for normal daily activities and food was served later in the afternoon than usual. During the serving of food Prisoner A collected his food and returned to his cell. Upon return, he requests a phone call to his wife in hospital but the request was refused due to the restricted regime. Prisoner A was unable to understand reasons provided by Officer A due to limited English skills. Prisoner A therefore became annoyed, confused and irate. Officer A then used de-escalation techniques to diffuse the situation and attempted to 'shepherd' prisoner A into his cell. Prisoner A then made a threat to Officer A and Officer A raised the alarm for staff assistance. 3 Officers arrived in support and one Officer (B) raised PAVA at prisoner A and threatened to deploy the PAVA unless prisoner A returned to his cell. Prisoner complied, and his door was closed.

CASE STUDY 6

On evening line route as prisoners were returning to their rooms, two prisoners were involved in a violent altercation. Due to the high number of prisoners on the route, the first Officer at the scene felt outnumbered and was unable to draw his baton. He drew PAVA, demanded a stop to the fighting and warned of PAVA. Another officer attended the scene and tried to break up the fight as the first officer deployed PAVA at the face of the prisoner with the 'upper-hand'. Both prisoners stopped fighting and the prisoner sprayed felt no effects until

returning to his unit (he was wearing a woolly hat during the incident). Upon which, he and the second officer trying to break up the fight had mild symptoms and were seen to by staff and healthcare.

CASE STUDY 7

A prisoner who had previously had a cleaning job had been put on the basic regime the day before the incident and had also been put on an ACCT the day before the incident due to making superficial cuts (because he was clearly unhappy having been placed on basic). The next day, as a result of being placed on the basic regime, he was told that he would have to relocate and move cells. This made him extremely agitated and he began to self-harm again. Healthcare were called for assistance however the prisoner refused treatment. Once healthcare had left the scene the prisoner proceeded to cut deeper and deeper. Eventually Prison Officer A entered the cell and requested that Prisoner A drops the blade. He did not and so Prison Officer A drew her PAVA. As soon as Prison Officer A drew her PAVA, Prisoner A dropped the blade. Prisoner A was then relocated. (Interestingly, Prison Officer A stated that she would not have drawn her baton in this incident but was inclined to draw PAVA). Prisoner A did not feel like drawing PAVA was the correct response when he was clearly in a vulnerable state.

CASE STUDY 8

A prisoner is being assaulted by another near entry to Education. Officer A is first at the scene. She shouts to stop, warns, and deploys PAVA at the wrong prisoner whilst simultaneously hitting another officer attempting the physically intervene. The PAVA'd prison officer is incapacitated and other officers attending the scene stop the assault from continuing. The female officer takes the PAVA'd officer away from the incident and the PAVA'd prisoner is lead to his room, instructed not to rub his eyes and without any further assistance.

CASE STUDY 9

A prisoner was highly irate because he was not getting the correct medication. He had been in hospital the previous week and the medication was in relation to this. He warned staff that If he did not get the correct mediation then he would jump onto the netting. On the day of the incident he did not receive the correct medication so on his way back from the meds hatch he jumped onto the netting. The prison was already on a restricted regime and was described as being in a "volatile state" so the decision was made not to inform the duty governor. Instead Oscar 1 (prison officer A) at first tried to encourage and ask the prisoner to come off the netting but he would not. The prisoner was also trying to encourage other

prisoners to join him on the netting. Eventually Oscar 1 decided to jump on the netting with two other officers to try and get the prisoner down. After approaching the prisoner on the netting and asking him to come down with no success, PAVA was warned and deployed by prison officer B. At first this had no effect as the prisoner covered his face with some material. The officers then had to initiate C&R and PAVA was deployed again by prison officer B at close range in an attempt to make the prisoner compliant. As soon as PAVA was deployed the prisoner became compliant and was taken back to his cell.

CASE STUDY 10

An altercation between 2 or 3 prisoners arose whilst one officer was escorting 10+ prisoners to healthcare. Due to the obviously large number of prisoners in contrast to the one officer, the officer drew PAVA in an attempt to de-escalate the situation and called for staff assistance. Other officers quickly arrived at the incident and the prisoners were quickly separated.

CASE STUDY 11

PAVA was deployed by Prison Officer B following a restraint which occurred after an adjudication. During the adjudication the prisoner was being verbally abusive to both the governor and prison officer A. The prisoner was asked to leave the adjudication and, on his way, back to his cell said a threatening comment to prison officer A. At this point Prison Officer A decided to restrain the prisoner as he said that he feared for his safety. However, the prisoner was trained in martial arts and ended up putting Prison Officer A on the floor and punched him several times in the face. Prison officer B then joined the restraint along with 1 or 2 other officers however there was little success in gaining compliance from the prisoner. As a result, Prison officer B decided to draw and deploy PAVA. The prisoner was sprayed on the side of his face. Further staff assistance was then called, and the prisoner was relocated.

CASE STUDY 12

An altercation between a couple of prisoners occurred during the serving of the evening meal and association. As a result, Officer A decided to get all prisoners out, behind their doors (as is standard procedure when an incident occurs and there are lots of prisoners out). There was reluctance from the prisoners to go back to their cells and so further staff assistance was called. 20-30 prisoners were still reluctant to go back to their cell as they were worried that they would not get their shower and phone call etc. Officer A then gave them all a direct order to go back to their cells, which the prisoners ignored. At this point Officer A decided to draw PAVA, immediately the prisoners dispersed and went to their respective cells.

CASE STUDY 13

A Prisoner requested a visit to healthcare in order to sort out a medication issue. Prison Officer A initially allowed him to do so before stopping him for wearing a vest. Officer A then requested that the prisoner to put a shirt on and subsequently a verbal altercation occurred. As a result, the prisoner was ordered to return to his cell, however failed to comply. The Officer therefore drew his PAVA and the prisoner thus entered his cell - the door was shut and locked.

CASE STUDY 14

A prisoner was restrained and taken to his cell following an assault on staff (segregation was full). Upon de-escalation, locks were relaxed. The prisoner again grew aggressive upon questioning the reasons for restraint and moved from his bed towards the officer by the door of the cell in a threatening manner. PAVA was thus drawn, warned and deployed as the prisoner continued to move towards the officer. The prisoner stopped in his tracks due to surprise, rather than pain, and the officer was able to exit the cell safely before closing the door.

CASE STUDY 15

Two prisoners became involved in a violent altercation with each other during the evening. There was only one officer near the incident. He ordered the prisoners to stop fighting however they did not. He therefore warned, drew and deployed his PAVA. The prisoners carried on fighting for a short while until they felt the full effects of the PAVA and then became pre-occupied by the pain inflicted by the PAVA. Further staff assistance arrived, and officers separated the prisoners. Prisoner A felt the effects of the PAVA for over 3 hours and had related issues for the next week. Prisoner B felt the effects subside after an hour. Healthcare was asked to look at both prisoners.

CASE STUDY 16

A prisoner in the segregation unit was believed to have a bladed article (plastic knife) tucked in the back of his pants due to his plastic knife from meal time not being placed back on his tray. Therefore, three officers entered the cell and drew PAVA. The issue was quickly resolved, and the plastic knife was "found" in the toilet. According to the prisoner it had fallen from the tray into the toilet. The issue was therefore resolved and PAVA was withdrawn.

CASE STUDY 17

A prisoner on the first night centre, who had a history of being difficult (apparently fluctuates between the first night centre and the segregation unit) looked as though he was going to try

and assault an officer with a pencil. Prison officer A walked in on the incident and subsequently decided to draw his PAVA. Immediately the prisoner dropped the pencil and Officer A and the other officer left the cell. They returned to the prisoner 20 minutes later to check in on him.

CASE STUDY 18

Officer first at scene of two prisoners fighting on exercise yard - provoked by a snowball fight. Officer and colleague order prisoners to stop and wait for more staff to attend before again ordering prisoners to stop fighting. Prisoner continue so PAVA is warned, drawn and warned again. Prisoners stop and split up immediately.

CASE STUDY 19

Three prisoners on netting. One jumps off and runs towards Officer who duly threatens PAVA. Prisoner stops and returns to netting. Another Officer becomes centre of attention and prisoners verbally and physically threatening towards him. One prisoner possesses weapon and moves towards officer who deploys PAVA at both aggressive prisoners.

CASE STUDY 20

There was an incident on Charlie wing and a general alarm was raised (a prisoner was assaulting another prisoner). Prison officer A was second to arrive at the scene and could see that the altercation between two prisoners was not getting resolved and so warned and drew his PAVA. Once the PAVA had been drawn the assault ceased. However Prisoner A continued to be verbally aggressive and threatening and there was also a ceramic mug on the floor nearby which Officer A viewed as a potential weapon. Due to the nature of the verbal abuse and the potential weapon, Officer A deployed PAVA as he felt it was necessary as he felt a potential threat to his safety. Prisoner A was then relocated back to his cell.

CASE STUDY 21

A prisoner who has a history of assaulting people had received some bad news from OMU about contacting his daughter. He was consequently in a bad mood and was making threats to other prisoners. Prison officer A therefore decided to ask Prisoner A to go to his cell so that they could have a chat as she was worried that a fight would ensue if Prisoner A carried on making threats. Prisoner A did not want to talk in his cell and refused to go to his cell and said if Prison Officer A wanted to say anything then she should say it on the landing. Prison officer A then tried to usher prisoner A to his cell along with other officers but prisoner A resisted and started grabbing on to the railings of the landing in an attempt to stay put. Prison officer A was concerned that with all the resisting, herself, Prisoner A and other officers

would end up going over the railings and therefore drew and deployed PAVA. She accidentally sprayed herself in the face first, however then sprayed the prisoner along with other colleagues and prisoners on the landing. The prisoner then became compliant and returned to his cell.

CASE STUDY 22

Staff attend cell where prisoner is holding blade to his own arm and threatening to self-harm. Prisoner states that if staff exit the cell he will self-harm, if they move closer, prisoner threatens to harm staff. PAVA is drawn due to catch22 situation and deployed in order to gain control of weapon and protect staff and prisoner.

CASE STUDY 23

A prisoner returned from working after complaining of having an upset stomach. When he returned to the wing he was trying to sort out his food menu. Officer A asked him to go back to his cell, so he did. Apparently when prisoner A was walking to his cell, prison officer A gave him "attitude" and asked him to go to his cell again. Therefore, prisoner A decided to ask prison officer A why he was giving him attitude. According to the prisoner, PAVA was then drawn and deployed with no warning. (All of this information coming from prisoner A as no transcript of the interview with prison officer A was available)

CASE STUDY 24

Prisoner A found out that he had his sentence extended after a meeting with OMU and became irate and aggressive as staff failed to offer support, answer questions and showed a wish to withdraw. PAVA was drawn as a de-escalation tool and prisoner became quickly compliant.

CASE STUDY 25

A general alarm was raised by an office due to prisoner A being problematic. Officer A had a relatively good rapport with prisoner A and so when he responded to the alarm, took prisoner A to one side and asked him to go and have a chat in his cell about the issue. When officer A got to prisoner A's cell, Prisoner A went to the back of his cell and pulled out a razor blade from behind his mirror. As soon as this happened, officer A feared for his safety and drew his PAVA. However, prisoner A then proceeded to swallow the razor blade and drink some water. Officer A therefore saw that the initial threat he was concerned about was no longer there and therefore withdrew his PAVA. He then proceeded to have a chat with the prisoner.

CASE STUDY 26

Prisoner is being escorted back to cell by lone Officer when assaulted by another prisoner. Officer requests a stop but quickly draws and threatens PAVA as prisoner ignores order. Assaulting prisoner sees PAVA and immediately stops and departs from incident.

CASE STUDY 27

During unlock for free flow, prisoner A was on his cell bell saying that he should be unlocked for work. Prison officer A told prisoner A that he was not on the unlock list but went to double check whether or not Prisoner A was due for work at the workshops. Prison officer A was told that Prisoner A was not down for work and was currently unemployed. When prison officer A opened Prisoner A's cell door to relay this information, Prisoner A became extremely aggressive and attempted to push past prison officer A in order to leave the cell. Prison officer A therefore drew and deployed PAVA. Prisoner A was hit on the back of the ear. Prison officer A then locked the cell door and called healthcare.

CASE STUDY 28

Prisoner became aggressive as Nurses attended to him to assess health following an incident requiring C&R. Staff try to exit cell for fear of safety and officer is struck on back by a crutch. Officer at door draws a baton but the Officer who had just been assaulted draws and sprays PAVA as prisoner continues to present threat of further violence. Prisoner retreats to back of cell and staff are able to shut and lock cell door.

CASE STUDY 29

Officer A was locking up prisoners for the evening when he noticed that prisoner A had a very glazed look and seemed to be under the influence of some form of substance. Officer A and another colleague therefore decided to escort prisoner A to his cell, however whilst they were walking prisoner A to his cell (each officer had hold of one arm of the prisoner), prisoner A broke one arm free from Officer A's colleague. Officer A therefore felt under threat as prisoner A had one arm free and officer A felt that Prisoner A might attempt to assault him. Officer A therefore let go of prisoner A's arm and stood back. Prisoner A then stood in an aggressive stance and looked as though he may attempt to assault Officer A. Officer A therefore drew his PAVA. This had the desired effect and prisoner A immediately dropped his hands. Another officer quickly joined the scene and the prisoner was taken back to his cell in a guiding hold.

CASE STUDY 30

Officer finds illicit item (hooch) on prisoner as he leaves unit for exercise yard. Officer immediately downgrades prisoner to Basic (IEP) and begins cell search for further items.

Upon return, prisoner becomes aggressive and threatening about cell search and two officers begin to feel fearful for own safety as they are confined to cell. Officer B therefore draws and sprays PAVA in order to exit cell and move to place of safety. In doing so he also accidentally sprays Officer A. Prisoner is subsequently restrained and locked in cell.

CASE STUDY 31

Prisoner A, upon returning from work was making threats to jump on the netting. Officer A and other colleagues therefore were asked by Oscar 1 to escort Prisoner A back to his cell. Whilst trying to do this Prisoner A became extremely irate and was becoming aggressive whilst holding a porcelain mug. Officer A and others therefore feared for their safety and consequently drew PAVA. As soon as PAVA was drawn prisoner A felt as though he was "fighting a losing battle" and handed the mug over. Officers then attempted to escort prisoner A back to his cell however when attempting to do this, a restraint ensued, however no PAVA was deployed.

CASE STUDY 32

Prisoner A entered the wing office on the 1's because he was extremely irate that a wired kettle had been removed from his cell. As officers attempted to explain why, prisoner A became more and more aggressive and subsequently a restraint ensued. However, during the restraint, prisoner A was resisting and other prisoners who were out on the wing were encouraging him to resist and the atmosphere was extremely hostile. Officers were struggling to get locks on the prisoner and gain control of the situation so therefore officer A decided it was time to draw PAVA. He could not reach his own PAVA easily so therefore drew his colleagues PAVA which was more easily accessible. More staff then responded, and Prisoner A was placed in cuffs and taken off the unit. 7 members of staff had to complete a use of force document for this incident.

CASE STUDY 33

PAVA is deployed 3 times in 2 incidents running concurrently involving 1 prisoner and 2 officers. Prisoner suffers from mental health issues and is awaiting formal assessment. Two CMs respond to alarm (officer A and officer B) and find Prisoner is resisting staff attempts to close his cell door. Prisoner A is warned and sprayed at the cell entrance and again on his bed. Upon healthcare assessment 5-10 minutes later, PAVA is sprayed again as prisoner A is refusing to withdraw his hands from his observation flap.

CASE STUDY 34

Prisoner A was refusing to return to his cell as he was annoyed as he felt that he was being “stitched up” with the wrong nicking’s. 3 officers were also at the scene and one officer attempted to place her hand on prisoner A to escort him back to his cell. Prisoner A pushed the officers arm off of him and at this point Officer A felt it was necessary to draw and deploy PAVA as prisoner A was becoming extremely aggressive. The PAVA hit prisoner A in the face and according to prisoner A, the PAVA made him more irate and aggressive, particularly because he suffered from ADHD. Eventually prisoner A was restrained and taken back to his cell.

CASE STUDY 35

Prisoner A refused to comply with request to relocate to his cell rather than eating on the landing. Officer B asked him to return to his cell and when Prisoner A refused Officer B removed his food with the intention of giving it back once he relocated to his cell. At this point the Prisoner was encouraged by others to ‘not let that happen’, strapped a knife/shank to his hand and approached officer B with the intention of cutting him in the face. Officer B drew his baton. Officer D (yet to be interviewed) saw the weapon and decided to deploy PAVA. The prisoner turned his head, so the effects were not immediately seen; Officer B used his baton to try to hit the weapon out from his hand although this still failed due to the strapping. Hands on were then applied and Officer A suffered some effects from PAVA due to holding the prisoners head and then touching his eyes. The prisoner also felt the effects once the PAVA had run down into his eyes from his hair.

CASE STUDY 36

During line route officer A noticed the exchange of a package between two prisoners. She alerted the CM and went over to prisoner A and demanded that he show her what he had just received. He presented his left hand but refused to show her what was in his right hand. Officer A then attempted to grab prisoner A’s right hand to see what the package was, however at this point prisoner A raised his hand as though to swallow what he had been given. At this point other prisoners who were walking to work had begun to congregate around the scene and with just officer A and the CM present, officer A felt it was necessary to draw and deploy PAVA to stop the prisoner from eating whatever the package was and to also de-escalate the situation as she felt prisoner A was becoming refractory. According to officer A the PAVA had the desired effect as prisoner A became pre-occupied with the effects of the PAVA rather than attempting to start a fight with herself and the CM.

CASE STUDY 37

Prisoner A refused to be locked up in cell after morning association and became aggressive and threatening to staff. PAVA is warned and deployed by officer A as prisoner A is non-compliant with orders. Prisoner A is then restrained and relocated back to his cell. Healthcare was then called to the scene to ensure that Prisoner A does not have any injuries.

CASE STUDY 38

Very limited information but this short summary was provided:

PAVA deployed by officer on his own at the time in a cell where Prisoner refused a direct order and became aggressive. Prisoner moved towards officer and officer drew his PAVA and warned the prisoner who still came for him so officer deployed.

CASE STUDY 39

Some prisoners were fighting, and one was holding a chair in defence. Officer A drew PAVA in an attempt to de-escalate the situation but simultaneously a colleague physically intervened in the altercation and officer A swiftly withdrew his PAVA. The officers then separated the prisoners and took control of situation.

CASE STUDY 40

Some prisoners were fighting by the servery. Officer C raised alarm for staff assistance and waited until another colleague attended before attempting to intervene. The first responding officer (B) drew and deployed PAVA as the prisoners were not compliant with orders to stop and officer C drew her baton. The prisoners quickly started to feel the symptoms of PAVA and were separated by attending staff.

CASE STUDY 41

Prisoner A, who is renowned for being difficult was escorted back to his cell by a CM and some other officers after he was found in an area that he shouldn't have been in. Prisoner A was on the basic regime and upon arrival at his cell, the CM noticed that he had a television. The CM then attempted to remove the television as Prisoner A was on the basic regime. At this point prisoner A became extremely irate and attempted to assault the CM. The CM used her own personal protection techniques however prisoner A continued to attempt to assault her. At this point officer A drew and deployed PAVA after giving a clear warning, however prisoner A used the CM to block the spray so consequently the CM felt the primary effects of the PAVA along with prisoner A. Prisoner A was then restrained and placed in cuffs and a full relocation followed in his cell.

CASE STUDY 42

A call was put out for staff assistance on the exercise yard. Upon arrival officer B noticed two prisoners fighting on the yard. There were also approximately 60+ prisoners out on the exercise yard encouraging the fight. Officer B waited until there was a sufficient number of staff to approach the fighting prisoners and ordered them to stop fighting. The prisoners were non-compliant and so officer B decided to draw and deploy PAVA. Officer C who was also at the incident had not realised that officer B had decided to deploy his PAVA and subsequently drew and deployed his PAVA at the same time. The prisoners felt the effects of the PAVA and stopped fighting.

CASE STUDY 43

This prisoner was seen on CCTV pacing the 2s landing picking up snooker balls and in an unprovoked attack launched 2 snooker balls at Officer, striking him in the head resulting in him collapsing to the floor. Officer managed to get back to his feet and located the prisoner back to his cell where the prisoner attempted to attack Officer for a second time. PAVA deployed and used at this point. Officer was taken to hospital in an ambulance due to seriousness of injury. Officer has been on sick leave since incident (6 weeks).

CASE STUDY 44

Prisoner A accused Officer A of stealing a cigarette from his cell. Officer A described prisoner A as appearing wide eyed and aggressive. Officer A denied the accusations however prisoner A continued to make threats to officer A and at one-point officer A had to push prisoner A off of him as he felt prisoner A was invading his personal space. Officer A then attempted to escort prisoner A back to his cell. On the way back to his cell whilst officer A was walking up the stairs, prisoner A turned to officer A and attempted to "square up to him". Officer A felt threatened and could not see any other staff around and therefore warned and deployed PAVA as a means of self-protection. The prisoner felt the effects of the PAVA and returned to his cell.

CASE STUDY 45

Prisoner A became extremely aggressive following a search in visits. Prisoner A was seen to be concealing some kind of item and when questioned and officers attempted to confiscate the item, prisoner A became refractory and so PAVA was drawn and deployed. Prisoner A was then restrained, cuffed and relocated to the segregation unit.

CASE STUDY 46

Prisoner A was in the segregation unit and on the basic regime pending an adjudication. He had been making threats to staff the previous day and had been refractory in his cell during

the night. He was not due to be unlocked but was stating that he needed to speak to an SO that wasn't a female. When his demands were not met he began to make cuts to himself. The SO on duty (officer A) then entered the cell along with another officer and a member of the healthcare team to check the wounds. During this time prisoner A became extremely irate and began making threats to officer A and her colleague. At this point officer A withdrew her PAVA whilst her colleague attempted to verbally de-escalate the situation. Prisoner A then lunged at officer A so Officer A took the decision to warn and deploy her PAVA. Prisoner A was then restrained.

CASE STUDY 47

Prisoner A was required to be produced at Court and was pending cross boarder transfer. Staff, including Officer A attended the cell of Prisoner A to escort him to reception. In an attempt to usher prisoner A along the situation escalated where prisoner A became refractory and proceeded to assault staff. Officer A who was originally waiting outside, heard a commotion coming from inside the cell. Having entered and attempted to initially assist, Officer A made the decision that PAVA was necessary as prisoner A had assaulted him and had continued to assault another member of staff. PAVA was deployed but not on target however the distraction gave the advantage for staff to restrain prisoner A and place him in handcuffs. Prisoner A was later transferred to HMP Durham as required for his court appearance, following his appearance he was released. Due to this an interview with prisoner A has been unable to take place.

CASE STUDY 48

At lock up time on the evening of 24/05/18 prisoner A and prisoner B entered into a fight on the landing. Officer A was locking up on the landing below and was alerted by other prisoners to what was going on the landing above. Officer A attended the landing where he found Prisoner A and Prisoner B fighting. Alarms were raised & there were 2 other members of staff in attendance. It is said that orders were shouted to stop however both carried on. PAVA was deployed on both prisoner A and prisoner B which stopped the fight immediately. Both Prisoners were guided back to their respective cells with minimal force.

CASE STUDY 49

There was a large altercation on the exercise yard. Officer A and others went to intervene however officer A felt that the situation was extremely volatile and felt under threat due to the large amounts of prisoners. She felt that prisoner A was being particularly threatening and therefore warned and deployed PAVA. Prisoner A was then checked over by healthcare and was escorted to the segregation unit.

CASE STUDY 50

Officer D had a call over the radio to attend an incident as she was acting as the orderly officer for the day. Upon arrival of the incident she saw a mass commotion involving staff (officers A,B and C) and prisoners. Prisoner A was attempting to reach another prisoner who was already being restrained. Prisoner A eventually managed to reach the prisoner that was being restrained by pushing past officer B and began assaulting the restrained prisoner by kicking him in the face. At this point officer D warned and deployed her PAVA. Prisoner A immediately became compliant and was restrained. He was then escorted back to his cell by officers A and B.

Annex 5

Aftercare Information for Prisoners

You have been subjected to the effects of PAVA spray. PAVA primarily affects the eyes causing closure and severe pain. You may also feel a burning sensation on your skin.

PAVA may also produce uncontrollable coughing; this is the body's protective measure.

These effects are a normal response to this type of PAVA spray.

A trained medical practitioner has been briefed on the effects of PAVA and will look after you until you have recovered fully.

The spray was used by an Officer trained in its use.

Effects of PAVA

During, or shortly after the use of PAVA, you may have experienced some symptoms which may include:

- Hands move to face
- Legs become weak - may drop to knees
- Involuntary leg tremors
- Upper body bends forward
- Impaired hearing - auditory exclusion
- Impaired thinking - cognitive dissonance
- Muscles tense

Please do not panic as these sensations are normal effects of PAVA.

Recovery from the significant symptoms of exposure should take place between 20 - 40 minutes after exposure. If discomfort to the eyes and face persists beyond this period ideally, cool, running water should be used to flush the remaining spray from the eyes and face, under no circumstances should warm water be used.

Experience has shown that this does sometimes prolong the recovery time. However, as the eyes will recover of their own accord in around 20 – 40 minutes after initial exposure, it may not be possible or necessary to provide irrigation immediately after exposure.

If you wear contact lenses, you may experience greater discomfort. You should look to remove the lenses at the earliest opportunity.

PAVA may saturate your hair and/or clothes, simply washing or showering with copious amounts of soap and water will remove all residue.

After Effects

There is no evidence of any lasting physiological side effects of PAVA. Full recovery is usually achieved within 40 minutes of spraying. You should remember that people are effected differently and will have different recovery times.

After full recovery from the immediate effects for anything up to a day or so after exposure, you may experience mild burning or stinging sensations to the eyes and face in contact with water, such as bathing or showering. This is normal, passes quickly, and wears off within a short time. A member of healthcare is on hand to answer any questions or concerns you may have relating to PAVA.

ⁱ McGorrigan, J. & Payne-James, J. (201). *Incapacitant sprays: Clinical Effects and Mangement*. Faculty of Forensic and Legal Medicine.

ⁱⁱ Adang, O.M.J. & Mensink, J. (2004). Pepper spray: An unreasonable response to suspect verbal resistance. *Policing: An International Journal of Police Studies and Management*, 27, 2, 206-219.

ⁱⁱⁱ Smith, M.R. & Alpert, G. (2000). Pepper spray: A safe and reasonable response to suspect verbal resistance. *Policing: An International Journal of Police Strategies and Management*, 23, 2, 233-245.

^{iv} MacDonald, J.M., Kaminski, R. J., & Smith, M.R. (2009). The effect of less lethal weapons on injuries in police use-of-force events. *American Journal of Public Health*, 99, 12, 2268-2274.

^v Adang, O.M.J. & Mensink, J. (2004). Pepper spray: An unreasonable response to suspect verbal resistance. *Policing: An International Journal of Police Studies and Management*, 27, 2, 206-219.

^{vi} Adang, O.M.J. & Mensink, J. (2004). Pepper spray: An unreasonable response to suspect verbal resistance. *Policing: An International Journal of Police Studies and Management*, 27, 2, 206-219.

^{vii} Brandl, S. G. & Shoshine, M.J. (2016, in press). Oleoresin Capiscum spray and TASERS: a comparison of factors predicting use and effectiveness. *Criminal Justice Policy Review*.

^{viii} Kaminski, R.J. & Edwards, S.M. (1999). Assessing the incapacitative effects of pepper spray during resistive encounters with the police. *Policing: An International Journal of Police Strategies and Management*, 22, 1, 7-29.

^{ix} Rix, B & Kock, E. (no date). A review of police trials of the CS Aerosol incapacitant. Home Office Police Research Briefing Note – *Police Research Series Paper 21*.

^x Smith, M.R. & Alpert, G. (2000). Pepper spray: A safe and reasonable response to suspect verbal resistance. *Policing: An International Journal of Police Strategies and Management*, 23, 2, 233-245.

^{xi} Adang, O.M.J., Kaminski, R.J., Howell, M.Q. & Mensink, J. (2006). Assessing the performance of pepper spray in use-of-force encounters: the Dutch experience. *Policing: An International Journal of Police Strategies and Management*, 29, 2, 282-305.

^{xii} Adang, O.M.J., Kaminski, R.J., Howell, M.Q. & Mensink, J. (2006). Assessing the performance of pepper spray in use-of-force encounters: the Dutch experience. *Policing: An International Journal of Police Strategies and Management*, 29, 2, 282-305.

^{xiii} Adang, O.M.J., Kaminski, R.J., Howell, M.Q. & Mensink, J. (2006). Assessing the performance of pepper spray in use-of-force encounters: the Dutch experience. *Policing: An International Journal of Police Strategies and Management*, 29, 2, 282-305.

^{xiv} Rix, B & Kock, E. (no date). A review of police trials of the CS Aerosol incapacitant. Home Office Police Research Briefing Note – *Police Research Series Paper 21*.

^{xv} Rix, B & Kock, E. (no date). A review of police trials of the CS Aerosol incapacitant. Home Office Police Research Briefing Note – *Police Research Series Paper 21*.

^{xvi} Lumb, R.C & Friday, P.C. (1997). Impact of pepper spray on police officer use-of-force decisions. *Policing: An International Journal of Police Strategies and Management*, 20, 1, 136-148.

^{xvii} Buttle, J.W., (2006. Unravelling the “Velcro Effect”: Is deterring assaults against the police indicative of a more aggressive style of policing? *International Journal of Police Science and Management*, 8, 2, 133-142.



Equality Analysis

An Equality Analysis starts at the beginning of and is part of project or policy development, consistent with the approach outlined in AI 14/2016 PSI 20/2016 PI 19/2016. The 'checklist' below is a way to capture the audit trail and provides some reminders of what should be considered, throughout the development of the project. Equality Analysis is about taking every opportunity to embed equality into the project or policy. This will improve its quality, partly through identifying and mitigating risks; including the potential for bias, unconscious or otherwise. By populating the fields below, you can show how you have achieved this.

Name of Policy / Project, Practice or Procedure under development (hereafter called 'product')

PAVA in Prisons

Brief description of the planned product

The evaluation of PAVA Spray for routine/reactive deployment across four pilot prison sites. Issued to Band 3-5 Prison staff, the PAVA spray will be evaluated for its effect on relationships, violence and Use of Force, procedural justice perceptions, staff perceptions and any other subsequent risks/concerns.

Equality Analysis Lead: The person leading on the product

James Bourke/ Oscar O'Mara

Start Date

October 2017

What are the high level equality objective/s (positive opportunities) associated with your product? How will you ensure that your project is included to all those affected? What are the risks, including risk of bias?

The types of conflict resolution tools used on prisoners by prison staff has not changed for decades despite developments in technology and changes in the scale and severity of violence. This leaves the prison service and those stakeholders within with a system of conflict resolution that can be ineffective and insufficient in the circumstances. This project has the potential to provide all staff and prisoners with a fast-acting safety mechanism for protection and defence irrespective of age, gender, ethnicity, sexuality or mental and physical capacity. The evaluation of PAVA spray is intended to provide evidence-based recommendations on the effect of PAVA spray in the custodial setting going forward in order to promote a safer environment. Thus, all staff and prisoners within the pilot sites will be provided equal opportunities to participate in the project evaluation, whether that be through surveys, interviews, focus groups or other appropriate methods.

First steps: Identify when in the project you will consider, plan and discuss the equality opportunities associated with your proposed product.

Consider during site selection implications of health on different gender, age, mental and physical capacity, ethnicity, location.

Key Dates

May-June 2017



Consider how and where officers can carry and use PAVA spray during planning process, i.e. Healthcare, visits, escort?	July/August 2017
Consider and plan training to be aware of mental health, those under the influence of substances, age, and physical capacity. Focus will be on dynamic risk assessment and decision-making process.	September 2017
Consider and plan for mitigating discrimination based on ethnicity, sexuality and age in pilot sites by tying in with national policy and anti-discrimination measures such as PSI 32/2011, 'Ensuring Equality'.	September – November 2017
Consider inequality during policy development and implementation.	2018

Ongoing record: Key dates when equality was considered and actions taken as a result

Context: EIA created	Date: July 2017 Action / Owner: Oscar O'Mara
Context: EIA consultation with SOCT Policy team (upon advice from Equalities team).	Date: July 2017 Action / Owner: Oscar O'Mara
Context: EIA consultation with Equalities team.	Date: September 2017 Action / Owner: Oscar O'Mara
Context: EIA raised at Project board and discussed to reduce inequalities and biases in project procedure, delivery and training.	Date: August/October 2017 Action / Owner: Oscar O'Mara

Internal sources of information:ⁱ

Recent studies at a number of prisons known to experience disproportionality in incidents of UoF against black, Muslim, or black Muslim prisoners. These include HMPs Wandsworth, Highpoint, Warren Hill and Isis.
The Lammy Review on the treatment of, and outcomes for, BAME individuals in the Criminal Justice System.



External sources of information:ⁱⁱ

Equalities Team have commissioned a study from the University of Greenwich, which is looking into the disproportionality in the use of force incidents for black and/ or Muslim prisoners in custody through self- development. The study is expected to be published later this year and will inform future considerations for the use of restraints.

Summarise here the general ways you have embedded equality and inclusion into your product in order to make sure it is suitable or as relevant as possible. This will include how you have addressed the potential for bias:

Use of Force and conflict resolution tools have been in use for many years. Whilst this is introducing a new form of use of force, PAVA spray should only be used in the same circumstances as is currently the case for Baton use and in accordance with HMPPS use of force policy. Any use of force is and will be assessed on a case-by-case basis and only used where no other less intrusive option is available (a last resort). As set out in PSI 32/2011, 'Ensuring Equality', this project has considered and planned for embedding equality and inclusion throughout all actions.

If bias exists, an effective system for dealing with prisoners' requests and complaints will ensure that the Prison Service meets its obligation of dealing fairly, openly and humanely with prisoners and helps staff by inspiring in prisoners greater confidence that their needs and welfare are being looked after. Staff must be able to handle everyday requests, defuse problems before they become complaints and resolve minor complaints in a positive way before they become serious. The same can be said for conflict resolution skills. Requests should be dealt with using the wing applications procedure. The formal complaints procedure is separate and should only be used when an informal approach to staff is either inappropriate or has failed to resolve a problem. Staff witnessing an incident of discrimination, harassment or victimisation on the basis of any of the protected characteristics should take appropriate action to address the issue. This may include challenging inappropriate behaviour using interpersonal skills in accordance with 'Challenge It, Change It' training and guidance. Appropriate systems should be used to address such behaviour, such as the Incentives and Earned Privileges scheme and adjudications. If the use of force is necessary then the staff member must perform a dynamic risk assessment and act appropriately.

If the incident involves misconduct by staff this should be reported to a manager and/or via the reporting wrongdoing process (see PSI 09/2010).

Having taken action, staff should report the incident appropriately. As well as completing a Discrimination Incident Reporting Form, other forms of reporting may be appropriate, including a disciplinary report, an entry in the case notes section of NOMIS, a Security Information Report etc.

Highlighted below are additional considerations for each of the protected characteristics.



The nine characteristics protected under the Equality Act 2010 are below. Your product may be relevant to all of them. Use these sections to evidence how you have considered, promoted or otherwise advanced your product with reference to any of them.

1. Age

There is evidence within the Violence Monitoring Tool to suggest that incidents of UoF are higher among those prisoners under the age of 25. The project does not apply to young people under 18, however all training and aftercare for the older population will consider and focus on the decision-making process of conflict resolution and safeguarding concerns. Monitoring and evaluation of incidents and Use of Force will continue throughout the pilot project.

2. Disability

Emerging evidence suggests that those with physical disabilities in prison may have UoF used less against them, however Use of Force has psychological and physical implications that differ from the rest of the prison population. The disability policy is currently being updated and will include more information on people with disabilities in prison. Nevertheless, all project participants must be mindful of *Ensuring Equality* (refer to PSI 32/2011 for more information). Governors must consider whether prison policies and practices, the built environment, or a lack of auxiliary aids and services could put a disabled prisoner or visitor at a substantial disadvantage and if so must make reasonable adjustments to avoid the disadvantage.

3. Gender Reassignment

Prisoners undergoing, have made a transition to another gender, or experiencing gender dysphoria are more likely to be involved in incidents resulting in UoF. More evaluation in this area is necessary to accurately assess if UoF in this group is increasing, and, if so, why. With due consideration, this project will apply Equality and Use of Force policy to promote equality and safeguarding concerns.

4. Marriage and Civil Partnership

Not a concern.



5. Pregnancy and Maternity

The following policies will be considered and applied as appropriate, albeit not in this project:

PSO 1600 – Use of Force sets out that planned Use of Force on a female prisoner who is known or suspected of being pregnant, a full risk assessment must be carried out and staff must be fully briefed before any C&R (Control & Restraint) techniques are employed. If C&R techniques are employed then all staff must comply with the techniques detailed in the Use of Force Training Manual.

In the case of an unplanned use of force on a female prisoner who is known or suspected of being pregnant, all staff involved must comply with the special techniques detailed in the Use of Force Training Manual.

PSO 4800 – Women prisoners says that pregnant women are not handcuffed after arrival at a hospital or clinic as published protocol. Women in active labour are not handcuffed either en route to, or while in, hospital. Restraints are to be carried but not applied unless the woman's behaviour is refractory or there are indications that she may attempt to escape.

As a result, these restraints may be less likely to be used against a pregnant prisoner, however this impact is not expected to be different from the current use of restraints.

6. Race

There exists a disproportionate Use of Force rate upon BME prisoners, especially younger age black males. HMPPS is seeking to combat such disproportionality through interventions and training to ensure disparities are resolved. As such, considering the Equality Act 2010, PSI 16/2015 and other relevant policies, this project will require all stakeholders to follow and apply them in their day-to-day practice as appropriate. Notices to staff and prisoners will reference them and a system of complaints will be in place within the pilot prisons. A safeguarding lead exists in each site and the project team will take responsibility for safeguarding all participants. The relevant resources and literature will be provided in an alternate language if requested.

7. Religion or Belief

Those of the Muslim faith experience a higher rate of Use of Force than individuals of other or no religion/belief. As with PSI 1600 and PSI 32/2011, this will be considered in planning, training and aftercare procedure. Staff must acknowledge and adhere to legislation and policy regarding safeguarding, discrimination, bias and complaints. The relevant resources and literature will be provided in an alternate language if requested.

8. Sex

The project does not apply to women's establishments. The evaluation and PAVA pilot will only be conducted in male establishments.

9. Sexual Orientation

This project will consider discrimination based on sexual orientation and stress the appropriate policies and procedures relevant to ensuring equality, fairness and safeguarding. No evidence exists on disproportionate Use of Force.



How have you considered the Welsh Language Act 2010 in relation to the product and in accordance with the HMPPS Welsh Language Scheme?ⁱⁱⁱ

Yes, the materials and PSI will be translated into Welsh if requested.

Other points to consider:

Will there be secondary impacts?

There is no evidence of secondary exposure significantly affecting those in close proximity to PAVA use. However Public Health England and NHS will be working with the project team to understand this and the clinical implications of PAVA further.

Language: This may be relevant to the protected characteristics of race (if someone uses English as an alternative language), or to disability (someone with a learning difficulty or disability may need a different form of communication). What about the combination of different, intersecting, protected characteristics?

The project team will provide support for those in the pilot sites who are unable to understand the purpose and implications of the project and evaluation. Depending on the circumstances, this could be translation, support for those with Special Educational Needs (SEN), and/or working with existing support services.

This is a positive opportunity for HMPPS to integrate equality into mainstream thinking to create high-quality products that deliver business efficiencies for the organisation.

-
- ⁱ This should list what sources of information you will be using to inform your thinking and planning. Examples are: Statistical data, surveys, offender feedback, consultation, or any other relevant information.
 - ⁱⁱ Outside of HMPPS/MoJ, any information about public service trends; knowledge of inequalities within society; best practice in related fields; and innovations that will help you identify equality opportunities.
 - ⁱⁱⁱ In law, consideration must be given to documents that may be given to Welsh speaking offenders, wherever they may be located.

Annex E

Analysis of case studies from PAVA pilot prisons

Case study number	In line with instructions?	Unsafe use	Alternative available	Inappropriate justification	Comments
1	Yes				Only two officers present. Reasonable fear of imminent attack with weapon
2	No	Used by reaching into cell without sight of intended target. One prisoner sprayed in face at very close range, another in back of head as he walks away from officer			
3	No		In segregation unit for planned move so multiple staff available.	No indication that prisoner offered threat. Use based on prisoner's reputation not actions.	
4	No	Prisoner in cell. Three officers present and use PAVA rather than superior force to free officer's arm from door. PAVA incorrectly deployed by a second officer and two staff incapacitated. Prisoner restrained in cell rather than door being closed and situation contained.			
5	No		Three officers present. No requirement to draw PAVA.		
6	Yes				Officer on his own and intervening in violent situation.
7	No			Prisoner self harming. No indication of threat to officer	
8	No	Wrong prisoner and an officer colleague both sprayed			
9	No	Incident at height			
10	Yes				Single officer - violence between prisoners
11	No		Multiple officers present in segregation unit.	Query over initial justification for use of force - verbal abuse only.	
12	No			No indication of threat of violence - PAVA drawn only to enforce compliance with an order	
13	No			No indication of threat of violence - PAVA drawn only to enforce compliance with an order	
14	No		Planned removal - multiple officers present. Existing techniques for safe exit from cell not deployed		
15	Yes				Single officer - violence between prisoners
16	No	In cell (confined space)	Three officers present.	No indication that prisoner offered threat	
17	No	In cell (confined space)	No indication that officer could not safely withdraw to contain situation		
18	Yes				Single officer - prisoners not responding to order to stop fighting
19	No	Incident at height			
20	No			Threat of serious harm appears remote - potential weapon not in prisoner's possession, and violence had ceased after PAVA drawn. Deployment not justified.	
21	No	Officer sprayed herself, other prisoners and colleagues		No indication of threat of serious harm. Prisoner non compliant (holding on to railings) but not violent.	
22	No			Self-harm	
23	No			No indication of threat of harm - allegation of provocation by staff. No indication that this has been investigated.	
24	No			No indication of threat of serious harm, or attempt to de-escalate verbally	
25	Yes				Officer on his own and reasonable fear of assault with weapon
26	Yes				Single officer - clear risk of harm to prisoner
27				Prisoner refusing to obey order. No evidence of risk of harm to officer. PAVA deployed as prisoner moving away from officer.	
28	No		Prisoner in cell and staff in position to withdraw		
29	Yes				Only two officers present - reasonable fear of violence
30	No	Officer colleague sprayed in cell			Marginal - not clear if three officers present. But clear threat of violence, with weapon
31	Yes				
32	No		C and R already instigated with three or more officers present		
33	No	PAVA sprayed three times in ten minutes, including at point blank range through cell flap			Clear, obvious and known mental health issues.
34	No		Three officers present		Known mental health issues
35	Yes				Clear threat to officer (one of two) with weapon
36	No			No indication of threat of harm. PAVA deployed to enforce order.	
37	No			No indication of threat of harm. PAVA deployed to enforce order.	
38	Yes				Single officer and evidence of threat. Should be investigated further however
39	Yes				Two officers only and some evidence of threat of harm with weapon to a prisoner
40	Yes				Three officers but multiple prisoners fighting
41	No	Spray impacted officer using it, not the prisoner from whom harm was feared			Justified use but opposite of impact sought
42	No		Planned intervention, with sufficient staff made available		

Case study number	In line with instructions?	Unsafe use	Alternative available	Inappropriate justification	Comments
43	Yes				Single officer - significant threat and actual serious harm
44	No			Marginal evidence of risk of serious harm	Requires further investigation - difficult to assess on information available
45	No		Multiple staff present	PAVA used to enforce order	
46	No	In cell (confined space)	Opportunity for staff to withdraw	Self-harm	
47	Yes				Unclear how many staff present, but evidence of threat and actual harm
48	Yes				Three members of staff but two prisoners fighting
49	Yes				Single officer, evidence of specific threat
50	Yes				Evidence of actual threat of serious harm and other staff already involved of restraint of prisoner at risk.