



The Traveller Movement

Resource for London

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Briefing – The use of PAVA spray in prisons

Introduction

English Romany Gypsies and Irish Travellers are legally recognised as ethnic groups, protected from discrimination by the Equality Act 2010. Migrant Roma from Eastern European countries do not currently possess minority ethnic status in the UK, however given the levels of social and economic marginalisation, health and educational inequalities and experiences of discrimination we would strongly advocate for their inclusion as an ethnic minority in the UK

Background

PAVA is a synthetic incapacitant spray which produces similar, but more potent, effects to CS gas. A victim of an attack involving the chemical usually experiences severe pain and burning in the eyes which can last around 35 minutes. Weapons designed to discharge a noxious liquid, such as PAVA spray, are prohibited under the Firearms Act 1968. Police and prison officers, among others acting with “authority”, are exempt from this prohibition.

PAVA trial

Between January and June 2018, a six-month trial of the use of PAVA in four prisons took place. 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 four pilot sites.](#)

PAVA national roll-out

[In October 2018 the then 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.](#)

From this very early stage, this decision raised concerns from various Third Sector organisations, involved in criminal and social justice. [This includes, a position paper by The Prison Reform Trust \(PRT\)](#) that the use of PAVA was likely to result in the same pattern of disproportionate and discriminatory use of force measure, with prisoners from minority communities suffering. The response to the PRT attached (at Annex C) an equalities impact assessment for the pilot with an assurance that this would be updated to support the national rollout.

Impact of Covid-19 on PAVA roll-out

In April 2020, HMPPS stated work on rolling out PAVA would be paused "initially for three months" due to the impact of the coronavirus, which meant prisons had to implement emergency lockdown measures. However, in May, the decision was reversed. In a letter to stakeholders which wasn't made public the reason given for this was "Due to the unprecedented challenges we are facing at this time I have taken the operational decision to

extend the provision of PAVA to all adult male closed prisons," - Andy Rogers, deputy director of safety and rehabilitation directorate, HMPPS.

Minister's announced 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".

PAVA equality assessment

The PAVA 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". However, the 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.

Learning from PAVA pilot

Additionally, results from the PAVA pilot, and subsequent learning, highlighted a number of incidents where PAVA was used on people who were self-harming. Staff have a duty of care to protect prisoners from violence, including self-inflicted violence.

The HMPPS Equality Analysis: Use of Force states: '...10% of use was against individuals with a recorded disability. In terms of types of disability, there was no recorded use against those with a physical disability. There was use against those with a recorded history of mental illness and with Learning Difficulties and Disabilities. Due to under-declaration and the large amount of missing information it is difficult to state with certainty that this represents any disproportionate use.'

In June 2020, a letter to the Justice Select Committee, from Dame Anne Owers, National IMB Chair, said: 'A number of prisons are now starting to report an increase in self-harm and self-inflicted deaths, and there are also some spikes in violence, often associated with 'hooch'. There are particular concerns about the cumulative impact of lockdown, particularly on prisoners who have, or are developing, mental health conditions... A number of boards report that mental health support is less available, with some teams offering only crisis support. There is a concern that risks may be being missed: one London prison noted that normally 40% of ACCTs are opened by non-prison staff: agencies delivering services into the prison, who are not now attending.

After some IMBs reported that it appeared that PAVA was being introduced 'by the back door', it was then confirmed by HMPPS that new guidance had been issued. This permits PAVA to be used in any prison by any staff who have been trained, without the previously agreed preconditions of an effective key worker scheme and the need for at least 50% of staff to be trained in its use. We understand that this was based on a fear that there would be widespread indiscipline. Clearly this has not happened, and violence has in fact decreased, with prisoners largely locked up and let out in small groups. We would urge that the Prison Service review this change, and in the meantime publish every month the statistics about the use of PAVA and the circumstances which led to its use.'

Use and impact of PAVA on Gypsy, Roma or Traveller (GRT) people in prison

The potential use and impact of PAVA on GRT prisoners is complex. However, given the above, there is reasonable enough evidence to suggest GRT prisoners are at higher risk of having PAVA used against them. Official data collection systems for GRT people in prison is inadequate. There are different reasons for this. Although there is a data collection code (W3) for people to identify as Irish Travellers, it is widely thought that self-declaration rates

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by people from this ethnic group are low. With regard to the Roma people currently, there is no specific monitoring code for people from this ethnic group to record their ethnicity and they have to categorise as 'White Other'.

There's very limited research regarding the experiences of GRT people in prisons however a 2014 HMIP findings paper People in prisons: Gypsies, Romany and Travellers highlights the following:

- Gypsy, Romany and Traveller prisoners were more likely to report that they had been subject to certain types of discipline and behaviour management.
- 14% reported that they had been physically restrained in the previous six months (compared with 6% of non-Gypsy, Romany and Traveller prisoners).
- For example, 27% of Gypsy, Romany and Traveller prisoners reported feeling depressed or suicidal on arrival (compared with 15%). However, they were less likely to report receiving information about what support was available for this (35% compared with 44%).
- A quarter (25%) reported having been in segregation in the previous six months, compared with 17% of non-Gypsy, Romany and Traveller prisoners.
- Gypsy, Romany and Traveller prisoners were also more likely to report having a range of other problems on arrival in prison: mental health problems – 27% compared with 13%

Finally, there still appears to be a lack of widespread awareness that people from Irish Traveller and Roma backgrounds, are included in the definition of ethnic groups, protected under the Equality Act 2010 as with other groups from black and Asian backgrounds.

We know that the decision taken to roll out the use of PAVA in prisons will not be reversed. We think this is regrettable as was the manner and timing of that decision.

Recommendations

However, we are calling for the following recommendations to regarding its use:

1. [Improved data collection for GRT people across the CJS](#)
2. [Comprehensive ethnicity recording on the use of PAVA](#)

About the Traveller Movement

The Traveller Movement is a leading national charity committed to the fulfilment of human rights for ethnic minority Gypsy, Roma and Irish Traveller (GRT) people. This is achieved by a proactive community advocacy strategy, capacity building and acting as a bridge between the GRT sector, service providers and policy makers.

Visit: <https://travellermovement.org.uk/>