

*Independent Advisory Panel on Deaths in Custody*

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Monday 6 July 2020

**Rt. Hon Robert Buckland QC**  
**Lord Chancellor and Secretary of State for Justice**

Dear Lord Chancellor,

I am writing on behalf of the Independent Advisory Panel on Deaths in Custody to express concern about the decision, made without consultation or clear announcement, to roll out PAVA chemical pepper spray during the pandemic to over 80 prisons within the adult male closed estate.

The safety of prisoners and staff is a priority we share. The expected upturn in violence against officers during COVID-19 that the introduction of PAVA spray appeared to anticipate has thankfully not materialised. In fact, the period shines a light on a safer, more sustainable solution: the benefits and need for continued expansion of the prison officer keyworker scheme.

As evidenced by the views of prisoners themselves, recently gathered by the IAP's [rapid review of prisoner experiences during Covid-19](#), prisoner-staff relations have been enhanced in many cases during this period by the increased opportunity for prisoners to have trusted people they can turn to. Good professional relationships and mutual respect between staff and prisoners protects lives.

Instead, the decision to introduce PAVA risks undermining a welcome developing culture of professionalism and respect. It goes against explicit advice by the IAP, [published on its website](#), provided to former Prisons Minister Rory Stewart outlining significant problems with the introduction of PAVA spray. That advice referred to recommendations made by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment of Punishment ("the CPT") that "...[P]epper spray is a potentially dangerous substance and should not be used in confined spaces".

The use of PAVA within the enclosed space of a prison cell poses distinct risks to those with respiratory conditions, which our work with the Royal College of Nursing (RCN) on the reduction of natural deaths in custody shows are highly prevalent among the prison population. Its use is also unstudied and untested in the circumstances of the unprecedented

Covid-19 pandemic. How will its use be recorded, reviewed and publicly reported? The CPT recommended an adequate reporting and inspection mechanism regarding its use.

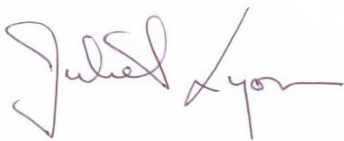
Multiple independent reviews, including the [Harris Review](#) into self-inflicted deaths in custody and the [Lammy review](#) on BAME experiences of the criminal justice system, have found evidence of disproportionate use of force and restraint against black and ethnic minority people. The publication of detailed data on the use of PAVA, including towards all those with protected characteristics, should follow as a minimum.

The use of PAVA when judged appropriate in certain instances of self-harm is of particular concern. The IAP strongly advises against sanctioning its use on vulnerable people. The IAP is keen to understand how safety and human rights concerns are being considered as part of its extended use in prisons across England and Wales.

Alternatives to restraint, including de-escalation, advocated by the IAP as part of its response to the [Angiolini Review](#) and progressed as part of the Ministerial Board on Deaths in Custody programme, should be prioritised at all opportunities. The IAP is keen to see clear guidance on how in practice PAVA will be confined to a measure of last resort rather than a first port of call.

At a meeting of the Justice Select Committee on Tuesday 23 June, you stated, in response to a question by Dr Kieran Mullen MP, that you would review the use of PAVA once the urgency of the current emergency had passed. Independent input should be integral to this process, and the IAP would welcome any invitation from your department to draw on the panel's skills and experience to ensure this review is delivered with the required rigour, urgency and authority it deserves.

As ever,

A handwritten signature in purple ink, appearing to read 'Juliet Lyon', with a stylized flourish at the end.

**Juliet Lyon CBE, Chair, Independent Advisory Panel on Deaths in Custody**