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Prisons and Probation Ombudsman Nigel Newcomen CBE's speech to the NOMS learning day on New Psychoactive Substances (NPS)

23 September, 2016

Location: Newbold Revel Prison Service College

Thank you for inviting me to speak to you today at this important NOMS training event.

For those of you unfamiliar with the Prisons and Probation Ombudsman, let me say a few words by way of introduction.

Essentially, my office has two roles:

- First, it acts as the independent complaint adjudicator for prisons, YOIs, immigration detention and probation;
- and, second, – and more relevant to today's discussions - it independently investigates all deaths in custody and in probation approved premises.

The purpose of these fatal incident investigations is four-fold:

- first, to establish the facts, including identifying good and bad practice
- second, to help the bereaved family understand what happened
- third, to support the inquest system and
- fourth, to identify learning for the organisations I investigate.

Since my appointment in 2011, I have also emphasised thematic learning – in other words, joining up the dots from our many individual investigations to produce learning lessons publications with general lessons beyond one prison. I hope some of you will have seen these publications around your establishments or on the NOMS' intranet.

One of these thematic studies was a learning lessons bulletin, which I published in July 2015, on the emerging threat to safety in custody from new psychoactive substances (NPS).
I will lean heavily on this bulletin today, but my researchers have updated the data for today's talk.

However, at the outset, I must add a few words of caution – I and my staff are not experts on NPS. Nor is expertise all that easy to find. NPS are made up of a wide array of relatively new and regularly changing substances, for which testing is still in its infancy.

And, of course, many NPS are readily available in the community and most are cheap. This ready availability and low cost in the community, also means that in custody the potential profits to be made from NPS make them attractive to organised and semi-organised crime.

These features compound the difficulty of reducing supply and demand for NPS in prisons. They also often make it difficult to draw definitive conclusions in my investigations about their health impact and links to fatalities.

However, I am clear that NPS have been a game-changer in terms of reducing safety in prison, with troubling links to our rising numbers of suicides, as well as to other types of death, including deaths from drug toxicity, apparent natural causes and even homicides.

So with this background, it was no surprise that I commissioned the PPO learning lessons bulletin to look at the issue of NPS last year.

The bulletin focused on synthetic cannabinoids (also known as Spice or Black Mamba). It was necessarily cautious about drawing conclusions, but it adds to the increasing evidence that NPS pose real dangers to both physical and mental health, including links to suicide or self-harm.

Staff and other prisoners may also be at risk from users reacting violently to the effects of NPS. There also cases of prisoners being given 'spiked' cigarettes by others who want to test new batches of NPS, as a way of gauging the effect before taking it themselves.

In other cases, prisoners have even been used as unwitting NPS guinea pigs, sometimes just for the amusement of onlookers.

The statistics are alarming –and go up every time I give one of these talks. My office has now identified 58 deaths in prison that occurred between June 2013 and January 2016, where the prisoner was known, or strongly suspected, to have been using NPS before their death.
It is important to note that the link between NPS and the deaths were **not** necessarily causal, but nor can they be discounted.

Of these deaths:

- 39 were self-inflicted - some involved psychotic episodes potentially resulting from NPS. For others, NPS drug debts appeared to exacerbate vulnerability, triggering suicide and self-harm.
- 2 were homicides - both of these involved prisoners who were killed by a punch from another prisoner. In one instance, it was the victim who had links to NPS. In the other, it was the perpetrator who was linked to NPS.
- 9 were classified as natural cause deaths - in all 9 cases, the deceased was thought to have been an NPS user at the time of death. In some cases, it does not appear that NPS use directly contributed to the death.

But in others, there was evidence that NPS played a part. In one case, for example, the prisoner died of a heart attack after taking NPS and our clinical reviewer considered that NPS had been the trigger for the attack.

- In 3 cases, the cause of death was not ascertained - but in none of these cases did we feel that NPS could be ruled out as a possible factor in the death.
- 5 deaths were the result of drug toxicity - in only two of these cases was the post-mortem conclusive that NPS was the cause of death. In a further case, the pathologist found that NPS was the most likely cause of death. In the two remaining cases, the pathologist attributed the death to mixed drug toxicity – in other words, death from a combination of a number of drugs, including NPS.

So what do these deaths tell us about the dangers posed by NPS?

The findings from my fatal incident investigations suggest a number of particular risks from NPS, which I will illustrate with case studies from recent fatal incident investigations:

First, they pose a risk to **physical health**.

NPS use may hasten the effects of underlying health concerns. For example, leading to seizures, collapse or heart problems.

Take the case of Mr A.
The post-mortem for 25 year old Mr A, found that he died from an exacerbation of poorly controlled asthma, and NPS was listed as a contributory factor in the death.

Anecdotal evidence from his cellmate suggested Mr A had used NPS the day before he died and his erratic behaviour that day appeared to reflect this. Toxicology tests found that he had taken NPS, and forensic evidence from his

cell showed that an asthma inhaler had been adapted into a pipe for smoking NPS.

I mentioned earlier a death where NPS may have been the trigger for a heart attack. That was the case of Mr B.

Mr B had a long history of drug misuse. He participated in a relapse prevention programme, but his erratic behaviour indicated that he had continued to take illicit drugs. He was even diagnosed with drug-induced psychosis.

One day, Mr B suddenly became unwell while working in the prison print shop. His symptoms indicated that he had taken illicit drugs and, when questioned by friends and healthcare staff, he admitted that he had smoked NPS.

Mr B would not allow healthcare staff to examine him. An ambulance was called, but he then refused to go to hospital. He returned to his cell and was locked in for the evening. About an hour later, he was found unresponsive in his cell. He could not be resuscitated. He was only 45 years old.

The post-mortem found that the cause of death was a heart attack. Our clinical reviewer noted that documented reports suggest that ingestion of NPS can trigger heart attacks. Mr B had admitted taking NPS on the day of his death and, although we cannot be definitive as to whether this was a contributory factor to the heart attack, neither can it be discounted.

As well as presenting a danger to physical health, NPS is also poses a serious **mental health** risk.

My investigations have found repeated evidence of extreme and unpredictable behaviour and psychotic episodes following NPS use, sometimes linked to suicide and self-harm.

Take the case of Ms C.

Ms C had served 19 months. She had several long-term medical conditions and had frequent contact with prison healthcare and hospital consultants. However, she had no history of self-harm, and had not shown any sign that she might hurt herself.

Those who saw Ms C on the day of her death said she seemed her normal self, and had been joking with other prisoners. Early in the afternoon, officers said they heard singing coming from her cell, but this changed to a loud and aggressive noise. The officers went to investigate. At first, they thought she was having a bad dream but instead Ms C had made a very deep cut in her arm, severed an artery and lost a lot of blood.

Despite a swift emergency response, Ms C died in hospital later that day. After her death, other prisoners said that Ms C had been using NPS and cocaine. Our clinical reviewer considered that the drugs might have triggered a rapid onset psychotic episode, which had led Ms C to self-harm. Otherwise, her actions were entirely out of character.

A third risk from NPS use is **behavioural problems**.

We have seen many cases where the NPS user has presented violent or aggressive behaviour, which is often uncharacteristic for that prisoner. Such behaviour can put the individual, staff and other prisoners at risk. It can be difficult to interpret whether such behaviour is a result of NPS, whether there is another cause, such as an existing mental health problem, or whether a prisoner is intentionally being badly behaved.
When it is not identified that a prisoner is an NPS user, opportunities for interventions from healthcare and substance misuse teams can easily be missed.

For example, Mr D had a history of anxiety and depression, for which he had been prescribed medication. He behaved erratically and bizarrely in prison,

and said he had paranoid thoughts. Mental health professionals assessed him numerous times and concluded that he did not have a psychotic illness. They considered his symptoms might have been the effects of NPS, which Mr D said he used.

Mr D continued to act bizarrely. He smashed his cell, lit fires, punched an officer and tried to assault another prisoner. Five months after arriving in prison, Mr D was found hanged in his cell.

It is difficult to know what caused Mr D's strange and paranoid behaviour. Mental health specialists concluded that he did not have a psychotic illness, but no one at his prison obtained his community medical records to check for any previous mental health concerns.

We considered that Mr D's reported use of NPS might well have clouded some of the mental health assessments and we were concerned that the prison did not have a dual diagnosis policy to help manage prisoners with both mental health and substance misuse problems.

The post-mortem concluded that Mr D had not used NPS in the three months before his death, but that it was possible that his self-reported NPS use had triggered his apparent psychotic symptoms and behaviour.

A fourth risk posed by NPS are the associated issues of **debt and bullying**.

The use of NPS often results in prisoners getting into debt with prison drug dealers. This in turn creates the potential for increased self-harm or suicide among the vulnerable, as well as adding hugely to security and control problems.

Take, for example, Mr E.

Mr E was a young man who had been in prison before and had been taking anti-depressants for post traumatic stress disorder. Staff had never identified that he was at risk of self harm or bullying. He was only four months into a seven year sentence when he was found hanged in his cell.

Following Mr E's death, his mother admitted that she had been putting money into various other prisoners' bank accounts and that Mr E had tried to take his life a few months earlier. It also became apparent that Mr E had a mobile telephone in prison. Intelligence reports submitted after his death also identified that he had asked his girlfriend to bring in NPS three days prior to his death, but she had cancelled the visit.

It also emerged that Mr E had been assaulted and pressured to get NPS brought in, and the threats had continued until lock up on the day of his death.

The pervasive NPS related bullying Mr E had experienced also extended to his family members, something the police were still investigating after we finished our inquiries.

Then there was the case of the homicide of Mr F.

Mr F had a very poor disciplinary record. He had been involved in a number of assaults, and illicit substances had been found in his cell, including NPS. Staff and prisoners told us that he was in debt for drugs, mainly NPS, and that he was easily influenced and vulnerable.

We were told that he held items for other prisoners, such as drugs or mobile phones, delivered drugs for other prisoners, and cleaned cells to help repay his debts.

When Mr F transferred to another prison, staff found a phone charger in his cell. He said he was holding it because another prisoner had threatened him into doing so. He was moved to another wing, but there is no record of an

investigation into the claims that he was being threatened, as local policy required.

Mr F began to miss work, was charged with a disciplinary offence, and was moved to the segregation unit. He began self-harming and said that prisoners he had been working with were threatening him. He identified the prisoners who he said were bullying him, but there was no record that an investigation took place.

Mr F was moved back to a normal wing.
One morning, there were three incidents in quick succession where a prisoner was assaulted, threatened, or chased by other prisoners. Mr F was involved in at least one of these incidents. Later that morning, another prisoner punched Mr F on the jaw and he fell to the floor. There was a lot of blood and he became disoriented.

He was taken to hospital, where he was diagnosed with bleeding on the brain and a cracked skull. He died a week later.

Our investigation into Mr F's death found that the easy availability of NPS at the prison had led to increased levels of bullying and violence, and a general lack of safety. We were particularly concerned that the prison did not appear to be dealing with these issues effectively.

Mr F had told staff on two occasions that he was being bullied or threatened, but we found no evidence that these allegations were investigated, as should have happened.

The final risk from I will address is **drug toxicity**, from NPS or from the combination of NPS and other drugs.

As I mentioned earlier, we have now investigated cases where toxicity to NPS was found to be the cause of death.

For example, the case of Mr G.

Mr G had a long history of alcohol and substance misuse and, because of this, had frequent contact with healthcare staff during his time in prison. Over the course of a few months, he collapsed three times with no apparent medical cause. On these occasions, staff recorded that he had low oxygen levels, his speech was slurred, he looked drunk and was gurgling. They suspected he was using NPS.

On the day of one of the collapses there was an intelligence report that Mr G was being forced to smoke NPS through a pipe in order to 'test the batch' for other prisoners. Despite his suspected use of NPS, Mr G was not given the opportunity to see the substance misuse service, and there was no record of him being advised about the dangers of NPS.

Mr G collapsed for the fourth time when in a workshop toilet, where he had been smoking with other prisoners. He stopped breathing and, despite a timely emergency response, he died in hospital the next day. The post mortem concluded that he had died from synthetic cannabinoid toxicity, which had caused his lungs to fill with excess fluid preventing him from breathing.

After his death, Mr G's friends said that he hadn't been bullied but had willingly tested the NPS for free, and other prisoners had been interested in what the side effects would be for him.

These are just a few examples of many troubling cases we have investigated where NPS appears to have played a part.
If you are interested, there are more in my recently published annual report.
So what is to be done?

Our work on NPS has added to the widespread concern that these substances pose serious risks to safety in prison, not least the risk of fatalities.

As a result, we have highlighted five areas of learning.

- **First, supply needs to be reduced**. Trafficking in NPS needs to be tackled by effective local drug supply and violence reduction strategies. All the known routes need to be addressed: from smuggling on or in the person, to post, to visits, to drones, to staff corruption and to all the innovative ways we haven't even yet discovered.
- **Second, staff awareness needs to be increased**. Prison staff need better information about NPS, and how to spot that a prisoner is taking them and what to do about it when they do spot it.
- **Third, governors need to address the bullying and debt associated with NPS robustly.** Bullying should be investigated fully, perpetrators challenged, victims supported and the impact of this bullying should be fully taken into account when assessing the risk of suicide and self-harm.
- **Fourth, drug treatment services need to address NPS use and offer appropriate monitoring and treatment**. This includes substance misuse services working in conjunction with mental health teams, to ensure appropriate support is provided for prisoners with multiple needs. It is important that a clear dual diagnosis policy is in place to facilitate such joint working.
- **Fifth, and perhaps most importantly, demand for NPS among prisoners needs to be reduced.** Cracking down on supply has its place, but ultimately it is only users recognising the risks and stopping that will be truly effective. This requires prisons and healthcare providers to ensure that there are engaging education programmes for prisoners that clearly and persuasively outline the risks of using NPS.

Commendably – as you know - prison and health care services have begun to act on this learning.

Efforts to reduce supply are underway. For example, the law has been changed, testing regimes have been redirected towards NPS, adjudication awards have been revised and prison security paraphernalia has been refocused. This includes targeted intelligence gathering, revised searching routines, newly trained dogs and even – sometimes comical -efforts to intercept drones.
However, staying one step ahead of the chemists and traffickers is a huge challenge.

Importantly, educational efforts to reduce demand are also gearing up with posters, leaflets and DVDs about the dangers of NPS now widely available. Experiments are even underway to maximise the use of body worn camera footage as an educational tool.

I, myself, have written articles for prisoner newspapers and spoken on Prison Radio. But some of the best and most impactful materials have been written and produced by prisoners with first hand experience. Something which I think should be encouraged.

We must hope that all these efforts have an effect, not least so that I and my staff have fewer NPS related deaths to investigate.

But there is a long, long way to go.

Meanwhile, picking up on the previous speaker, spice may be a bird-killer, but we need to tell people it's also a prisoner killer.

Thank you for your attention.