

NPM body briefing 2

Use of force in England and Wales: justice settings

June 2025

INTRODUCTION

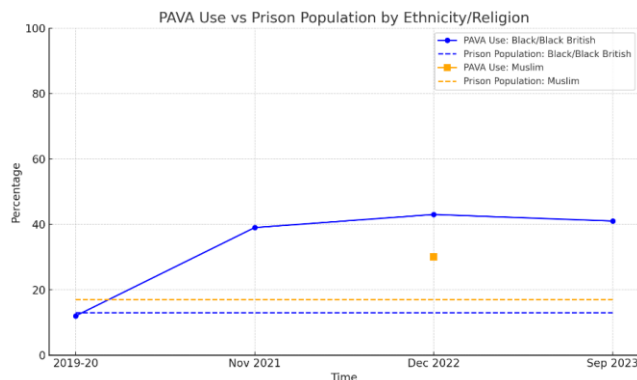
Increased violence in prisons, particularly in England and Wales, with increased risk of weapons entering prisons via drones and recent attacks on prison officers, compromise prisoner and officer safety and have been met with a “sustained increase” in use of force incidents since the end of 2022-23. Assaults against other prisoners and against prison staff have both increased since 2020-21, now almost matching the highest numbers recorded in 2019 before the pandemic following steady increase since 2012-13. At the same time, perceptions of excessive or illegitimate displays of power by authority figures “can lead to increased violence, trigger feelings of anger, hostility, defiance and aggression”. Prisoners and staff deserve to live and work in safe environments. Use of force can be a necessary measure to diffuse an immediate situation threatening life or limb, though may itself contribute to long term tensions.

The MoJ/HMPPS Use of Force Policy Framework details the basis of lawful use of force in the ECHR, the Prison Rules 1999, the Criminal Law Act 1967, and the Criminal Justice and Immigration Act 2008 along with common law and case law. According to this basis, “reasonable” force may be used only where necessary (and for only as long as it is necessary) in the following circumstances:

In self-defence or defence of another b. To prevent imminent self-harm c. To prevent damage to prison property d. To prevent an escape e. In the prevention of a crime f. When it is essential to maintain order.

Force must be proportionate to the threat posed and to the aim in which it was intended.

The Policy Framework outlines that examples of practice prohibited under ECHR article 3 include use of PAVA on a prisoner who has already been brought under control, use of batons on a prisoner refusing to leave their cell, and any excessive or retaliatory use of force. Articles 2 and 3 also place positive obligations on officers to protect prisoners and staff from harm, through reasonable steps to prevent real and immediate risks.



Lethal weapons cannot be carried inside a prison perimeter except in an operational emergency. Prison rules prohibit open carrying of other weapons unless required for safety and security to deal with a specific incident. Only staff trained in the use of a specific weapon shall be provided with it. International guidance identifies some equipment as

“inherently abusive”,¹ and other equipment which must be controlled due to the possibility of misuse for torture or other ill-treatment.

An MoJ commissioned study found that prisoners from different ethnic groups, of different genders, and in different age brackets have different experiences of frequency and type of use of force depending on these characteristics. For example, disproportionate use of PAVA spray on Black, Black British and Muslim prisoners is “so firmly established that it has become normalised”, suggesting discriminatory practice contrary to ECHR article 8 and protections under the Equality Act 2010.

Electric Shock Weapons in the Adult Estate in England and Wales

An operational trial using Conductive Energy Devices (CEDs, often referred to by the brand name Taser) will commence in summer 2025 by HMPPS’ Operational Response and Resilience Unit (ORRU) to deal with high-risk incidents, following College of Policing Guidelines. MoJ refers to police practice figures that in 9/10 cases of drawing a Taser, it is not used, emphasising its deterrent effect.

A Taser temporarily incapacitates a person through an electrical current which interferes with the neuromuscular system and “produces a sensation of intense pain”. Tasers used by the police and therefore likely to be deployed by ORRUs use a “projectile” system, ejecting probes attached to insulated wires to deliver an electrical discharge when they make contact with the body. However, some Taser devices can be used in “direct contact” mode to induce localised pain. Direct contact or body worn electric shock weapons are inherently abusive, while projectile electric shock weapons, which can be used from a distance, can be rights compliant if used appropriately against armed individuals or individuals using violence. Use of projectile Tasers in direct contact format comes under the blanket prohibition outlined by successive Special Rapporteurs on Torture. The Committee Against Torture has recommended Taser use in direct format be prohibited based on UK police practice and disproportionate use on minority groups.

PAVA in the youth estate in England and Wales

Pelargonic Acid Vanillylamide (PAVA), a synthetic pepper spray classified as a prohibited weapon under section 5(1)(b) of the Firearms Act 1968, was trialled in four male prisons in England from January to June 2018. Despite an Evaluation Report finding PAVA to be ineffective as a general deterrent of violence, and highlighting staff misuse and over-reliance, it was nationally rolled out to all staff in 90 adult male prisons by May 2023.

In April 2025, the Lord Chancellor authorised a 12-month trial of PAVA in three Young Offender Institutions to address “unacceptable” levels of violence. Evidence from the 2018 roll out of PAVA suggests that while prison officers *feel* safer carrying PAVA, its failure to demonstrably deter violence means it cannot be said to improve overall safety. For this

¹ Items are prohibited either because they are designed to inflict pain or suffering, be humiliating or debasing beyond the threshold permitted by the prohibition on torture, or because their purpose can be achieved by less harmful means.

reason, the introduction of PAVA to the youth estate has sparked significant concern among public bodies and civil society,

Evidence shows that PAVA has frequently been used unsafely or without proper justification in the male estate, failing to meet the necessary legal thresholds for use. The use of PAVA in confined or poorly ventilated spaces, such as cells or corridors, poses serious risks (including prolonged side effects) contravening international standards that require safe dispersal areas.

Human rights compliance and mitigations

Trials of *Tasers* in the adult male estate, and of PAVA in the youth estate, demonstrate that officers and policy makers see increased force as necessary and proportionate to deal with increasing violence in prisons and youth custody. The use of PAVA in the youth estate is not inherently a breach of international human rights standards if deployed only when necessary, reasonable, and proportionate. However, any misuse will breach national and international guidelines on use of PAVA, as well as international standards on children's rights (in detention). Under article 3 of the Convention of the Rights of the Child, "in all actions concerning children, whether undertaken by public or private social welfare institutions, a court of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration." Further, the inconclusive evidence that PAVA actually improves safety of staff or prisoners in the adult estate suggests that its further deployment in a more vulnerable population is not necessary and proportionate and therefore is a breach of children's rights.

Projectile *Tasers*, if used exclusively in extreme and limited situations of real and immediate risk to life or of serious injury by trained law enforcement personnel only, can be human rights compliant. If they are only ever used by ORRUs and not carried by custodial staff during normal duties, this may remain appropriate.

Ensuring the safety of staff and detainees is essential. Available evidence suggests this will be better achieved through improved training in de-escalation, improved staffing levels and retention of experienced staff, and supportive leadership. The introduction of these less-lethal weapons in detention settings should only be seen as an interim measure while these longer-term solutions are pursued, aiming for their removal.

Mitigations

- It is essential to implement stricter guidelines and accountability mechanisms for misuse of any use of force equipment, and robust training for staff on international human rights standards and obligations.
- All drawing of PAVA or *Tasers* must be recorded, including purpose and outcomes, and regularly assessed to ensure they meet the thresholds of proportionality and necessity, with disaggregated data published to ensure transparency, including demographic details.
- *Tasers* must not have direct contact capacity.
- As "less-lethal weapons", PAVA and *Tasers* must be subject to strict independent testing and monitoring.

- HMPPS needs to improve understanding of what injuries are sustained by prisoners before or during use of force, how and why prisoners with different protected characteristics are more or less likely to have force used, and circumstances leading up to use of force.
 - The legitimacy of use of force is measured by a deployment's lawfulness, necessity and proportionality. Drawing of PAVA and *Tasers* is now, in specific limited circumstances, lawful. However, necessity and proportionality are currently measured on a short-term basis and should be understood instead in terms of whether longer term mitigations and earlier intervention has been used to prevent violence. These methods must be prioritised to protect the safety and health of staff and detainees.
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