

HIGH STAKES

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High Stakes

An Inquiry into the Drugs Crisis in
English Prisons

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Executive Summary

Prisons are in crisis with record levels of suicides, violence and self-harm. Traditional drugs have been replaced by a family of drugs called synthetic cannabinoid receptor agonists, generically referred to as ‘black mamba’ or ‘spice.’ The government has failed to recognise the important policy implications of these new drugs, and the lack of intelligent drug policy in the new white paper risks undermining the entirety of the proposed prison reforms.

This report is the first of its kind bringing together experts in drug and prison policy to examine the implications of the radical shift in prison drug markets and propose pragmatic solutions to reduce drug-related harms and improve prison safety and security.

The report reviews the rise to near ubiquity of spice in men’s prisons in England. These diverse and multitudinous substances have risen to prominence globally in response to international prohibition of popular illicit substances, in particular cannabis. These new substances have relatively unknown risk profiles and many induce paranoia, behavioural disturbances, violence, seizures and convulsions. They are particularly popular in prisons due to their low cost, difficulty to detect, and “bird [prison sentence] killing” effects.

Too little is being done to fight drug demand within prisons. Prisoners are often left unoccupied in their cells for 23 hours a day. Many prisoners are developing drug problems during their incarceration. Overall 8% of men in prison in England and Wales report developing a drug problem since they have been in prison. In prisons with the worst regimes this is as high as 14-16%. This is increasing drug use and the frequency of dangerous incidents, which are a substantial drain on prison staff resources. This feeds a vicious cycle, further draining resources, and is leaving prisoners increasingly unoccupied and under supervised. As staff capacity is reduced this further decreases the ability of prisons to perform essential functions in disrupting the supply of drugs into prisons leaving criminal organisations able to push drugs with impunity.

The supply reduction methods proposed in the White Paper are expensive distractions from the real work needed to disrupt criminal supply chains. Proposed extensions to the mandatory drug testing regime will be impracticable with the available resources, only identify a limited range of the drugs in circulation, and fail to assist in identifying those supplying drugs. New sniffer dogs will quickly become obsolete due to the rate of chemical innovation of new substances.

We are currently monitoring drug use in prisons through mandatory drug testing and records of seizures. These methods give very little assistance in terms of understanding who is supplying drugs, who is using drugs, what drugs are in circulation, how drugs are getting into prisons, or the level and nature of harm associated with drug use in a given prison.

Recommendations:

1. **Risk management not zero tolerance** – a chasm exists between the prevailing rhetoric and policy reality. In order to manage prisons effectively efforts need to focus on disrupting supply chains, reducing demand for drugs, and improving intelligence-gathering. Reducing drug-related harms makes prisons safer places in which rehabilitation is more effective. Helping addicted drug-users who are willing to change to turn their lives around is proven to reduce re-offending rates.
2. **Reduce demand through purposeful activity** – There needs to be an acceptance that supply reduction measures are there to disrupt supply, they are not there to eradicate it. A shift of emphasis towards demand reduction is required to make prisons more effective places at tackling problem drug habits and rehabilitating offenders. There is a clear link between a lack of purposeful activity and the uptake of drug use. Busy prison regimes and treatment are more effective than security measures in managing the drug problem in our prisons. The long-held emphasis on supply reduction over demand reduction creates an increased burden on staff, logistical and management difficulties, and associated difficulties in implementing new policies, supporting work, training, education and treatment schemes. These costs too often go uncounted.
3. **Overhaul monitoring of drug use** – An essential part of effective management is using appropriate, reliable metrics for measuring success and failure. The Ministry of Justice’s recommendations to monitor prisons’ drug policy outcomes via drug testing prisoners on arrival and exit from prison will not provide reliable or useful data. Instead, a system should be implemented to monitor the nature and scale of the drug market and drug-related harms. Regular anonymous audits of drug use and the drug market could provide valuable information from treatment staff, prison officers, current and ex-prisoners.
4. **Overhaul monitoring of drug supply and security** – Current supply-reduction and security measures are not grounded in evidence. New proposed measures focus on drones and visitors when there is no evidence that these are the primary sources of supply. There is evidence suggesting corrupt staff may be a major source of supply. Evidence gathering is needed on drug seizures to assist in determining their provenance, as well as a new regional task force within the Prison Service to oversee periodic spot checks and searches of staff.
5. **Improve staff to prisoner ratio** – Overseeing busy prison routines and effective treatment is a labour-intensive endeavour with no quick-fix technological solutions. In order to bring about this reform we need a better staff to prisoner ratio. To do so means that we need to either substantially reduce the prison population or substantially increase prison funding. Reducing the prison population likely has both fiscal and outcome benefits by reducing the use of a costly and ineffective intervention.

Prisons in Crisis

“I was patrolling the cells and a prisoner ran out of his cell, completely naked. He climbed onto the snooker table thinking it was his bed. He soiled himself. When we tried to restrain him he had almost super-human strength, and it took three prison officers and a nurse to restrain him. And shockingly – when he came to the next morning he did not remember a thing. They never do.”¹

In the changing landscape of prison life, traditional drugs have been usurped by poorly-understood synthetic cannabinoid receptor antagonists (known by brand names such as “Spice” and “Black Mamba”). Meanwhile, prisons are suffering from record levels of overcrowding, violence, suicide, and persistently high rates of reoffending.

According to Peter Clarke, HM Chief Inspector of Prisons, prisons *“have become unacceptably violent and dangerous places.”*² Total assaults in prisons have risen 64% since 2012, assaults on staff have risen 99%, and the number of self-inflicted deaths in custody has risen by 75%.³ In the 12 months prior to September 2016, there were 23,775 assaults, 5,954 assaults on staff, and 107 suicides. Prisons now average one suicide every 3 days.⁴

Over the last 20 years, the prison population has doubled. *“Sentences have got longer, there is less flexibility in sentencing, mandatory sentencing has risen. More people are going to prison and they are going to prison for longer.”*⁵

As the prison population grows, so too does overcrowding within an increasingly underfunded prison service. Prisons have lost £900,000,000 in funding over the last parliament,⁶ while the number of operational staff has fallen from 29,660 on 31 March 2012 to 23,080 on 31 March 2016.⁷

A reduction in staff has led to a reduction in purposeful activity for prisoners: With too few staff available to let prisoners out of their cells for education, training or work; prisoners are often locked down in cells for very long periods,⁸ resulting in an increase of, mental health problems and demand for drugs, while the ability to disrupt the supply of drugs has declined.

¹ Centre for Social Justice, *Drugs in Prisons*, 2015

² Peter Clarke, HM Chief Inspector of Prisons, *Annual Report 2015-16*

³ Ministry of Justice, *Prison Safety and Reform*, November 2016, p40

⁴ Ministry of Justice & Office of National Statistics, *Safety in Custody Statistics Bulletin England and Wales, Deaths in Prison Custody September 2016 Assaults and Self-Harm to June 2016*, 27 October 2016

⁵ Andrew Neilson speaking at Volteface event - <http://volteface.me/features/bridging-the-gap-between-and-between/>

⁶ Richard Heaton speaking to the Justice Select Committee - <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/justice-committee/ministry-of-justice-annual-report-and-accounts-201516-and-related-matters/oral/41412.html>

⁷ Ministry of Justice, *Prison Safety and Reform*, November 2016, p41

⁸ Out of 11 men’s local prisons reviewed by HM Inspectorate of Prisons for 2015-16 report, none were deemed ‘good’ for purposeful activity outcomes and 9 were ‘not sufficiently good’ or ‘poor’.

As the Lord Chancellor notes in the foreword to the much-anticipated Ministry of Justice white paper ‘Prison Safety and Reform’, “*prisons are not working.*” Our prisons are not only failing inside but upon release; almost half of all prisoners are reconvicted within a year of release. The cost of re-offending is estimated to be up to £15 billion a year.⁹

If we are to tackle prison security, reoffending rates, costs, and protect wider society from crime, we need to think seriously and practically when discussing drug policy in prisons. As the MoJ white paper points out: “*No one can be expected to change their behaviour and turn their life around while they are dependent on drugs, in fear of being assaulted, or considering harming themselves.*”¹⁰

⁹ Ministry of Justice, Prison Safety and Reform, November 2016, p5

¹⁰ Ministry of Justice, Prison Safety and Reform, November 2016, p40

The Rise of NPS

*"Spice is the perfect prison drug; you take a puff and eight hours later you wake up."*¹¹

Since 2012 we have seen a meteoric rise in the supply and use of a group of novel psychoactive substances (NPS) called synthetic cannabinoid receptor agonists (SCRAs), more commonly referred to as spice. NPS are, in many ways, just new drugs within a long history of drug use in prison, but they also pose unique challenges in the context of our currently understaffed and unsafe prisons. NPS have been labelled a cause of violence by some, and a symptom of cuts and overcrowding by others. HM Inspectorate of Prisons calls NPS *"the most serious threat to the safety and security of the prison system."*¹²

What are NPS?

*"Conventional supply-reduction strategies used by governments around the world to stem the production, use and trade of illicit drugs, have led drug users to seek alternative, legal supplies of psychoactive substances. Governments are facing progressively more complex challenges in responding to these new drug-markets."*¹³

Over the last 10 years organic chemists have greatly accelerated the rate at which psychoactive substances are discovered. Business people have exploited the high-demand for popular illicit psychoactive substances by bringing these novel drugs into new markets, to meet demand with a legal supply of drugs with similar effects. The most popular illicit drug in the world is cannabis. Therefore, a great deal of the innovation has focused on drugs, which react with the same systems in the brain.

We now know of over 200 different SCRAs available on the international market, making them the largest group of NPS.¹⁴ SCRAs are a large and chemically diverse group of molecules with some functional similarity to natural cannabis. They are frequently sprayed onto dried plant material and smoked to imitate herbal cannabis. These drugs have risen to become by far the most popular drugs in English prisons.

SCRAs are often vaguely referred to as NPS or by a trade name such as spice, but what particular brands contain varies widely, and brand names are not reliable indicators of content. Constituents and dosages vary greatly, both between products and between different batches of the same brand. Much of this is driven by reactive prohibition of individual substances, leading producers to new, less well understood

¹¹ Anonymous prisoner at HMP Frankland

¹² HM Inspectorate of Prisons, Changing Patterns of Substance Misuse in Adult Prisons and Service Responses, December 2015

¹³ Beckley Foundation, Amanda Feilding & Nicola Singleton, Road to Regulation: Novel Psychoactive Substances, 2016

¹⁴ Novel Psychoactive Treatment UK Network NEPTUNE, Harms of Synthetic Cannabinoid Receptor Agonists (SCRAs) and Their Management, 2015

substances. Wide ranging differences in strands include metabolism, potency, toxicity and duration of effects.¹⁵

Why the shift to NPS?

*"It is an ideal prison drug because it can't be detected, doesn't smell and passes the time. Downside - it makes you very lazy. I couldn't smoke it outside coz I would get nothing done."*¹⁶

In prison, where efforts to reduce the supply of traditional drugs are most keenly felt, and where demand for drugs is extremely high, NPS were always likely to establish themselves in the market. NPS have in general been most popular with vulnerable groups such as young people, the homeless and prisoners due to cost, availability and intensity of effect. Nicknamed 'the bird killer', SCRAAs are a very good product to meet the particular type of demand in custodial institutions, the demand to make long, boring and often painful prison sentences pass quicker.

*"NPS have radically changed the prison environment since 2012. I was in prison at the time they started coming in. I saw the very first consignments arriving on the wing. It has now reached epidemic proportions."*¹⁷

According to a recent survey by User Voice, 33% of prisoners self-identified as having used spice within the last month.¹⁸ In many prisons the figure is likely to be much higher than this. Obtaining accurate data on the issue is difficult due to the clandestine nature of prohibited drug use in prisons. It is now so commonplace that many prison staff report having become desensitised to shocking incidents, including violent convulsions and seizures.

Rather than guiding drug users to less harmful drugs, drug policies within prisons are instead driving drug use in the opposite direction. Where once the smell of cannabis was part and parcel of men's local prisons, that smell has now been replaced by a far subtler beast; odourless, synthetic chemicals.

When these drugs arrived on the market, there were no tests to detect whether people had used them, whereas natural cannabis stays in people's systems for up to a month and could lead to extra days in prison or other punishments if caught. NPS are also easier to get past prison security apparatus due to their small size, and difficulties in detecting many of their substances. Legally-produced, high-potency SCRAAs can be produced in bulk (predominantly in China and India) for very low cost and the mark-up is significant. It is these high margins, coupled with a low risk of capture for suppliers that has fuelled the growth of the market.

¹⁵ Novel Psychoactive Treatment UK Network NEPTUNE, Harms of Synthetic Cannabinoid Receptor Agonists (SCRAAs) and Their Management, 2015

¹⁶ Sam Baker, Homerton College, University of Cambridge, An Examination of the Reasons that Prisoners use Spice, 2015

¹⁷ Alex Cavendish at Volteface event - <http://volteface.me/features/bridging-the-gap-between-and-between/>

¹⁸ User Voice, Spice: The Bird Killer, May 2016

States in the USA have experienced a similar rises in the use of SCRA among their prison populations, whereas other countries have largely avoided the trend. In Norway, NPS are used to a certain extent among wider society, but there is no evidence of any widespread use in prisons. There are two main proposed explanations for this: The markedly different nature of drug demand due to busier prison routines, and the lack of a commercial drug market owing to their drug-demand strategy and dynamic security approach.

Harms of NPS

*"The key concerns for NPS are the unknown risk-profiles of these products, the availability of these substances without controls, the lack of guidance on how to use them more safely, and the difficulties faced by medical practitioners in being unable to identify the substance taken and the best options for treatment in emergencies."*¹⁹

SCRAs are often inaccurately described as synthetic cannabis. Whilst some of the effects of these drugs are similar to cannabis, others are not, including the high levels of toxicity of many of these substances. In general, as compared to cannabis, *"SCRAs are characterised by quicker onset of effects, significantly shorter duration of action, worse hangover effects and more intense visual hallucinations, paranoid feelings and behavioural disturbances."*²⁰ Products containing SCRAs can range from those with a similar potency to cannabis, to those with potency up to 100-800 times stronger than typical cannabis.²¹

*"As compared to their natural counterpart, synthetic cannabinoids have at least three major drawbacks: they tend to be more potent than the THC that they mimic; they are more addictive; and, they do not contain any cannabidiol (CBD), which is a naturally-occurring cannabinoid with potentially anti-psychotic and anxiolytic effects."*²²

In the wider community, SCRAs are the most likely drugs to end in hospitalisation, three times more so than traditional drugs,²³ presenting acute problems for emergency services, first aiders, and the prisoners themselves. This high rate of hospitalisation is unlikely due simply to these drugs being innately more dangerous. Other factors increasing the potential for harm may include socioeconomic factors of the users, a lack of understanding about how to take new drugs and a lack of harm reduction techniques.

"Treatment-providers lack the necessary evidence on which to base their treatment. Paramedics work blind, so they have to make a choice between treating or not treating – both of which could result in potentially worsening the patient's condition. Paramedics are forced to resort to 'supportive' care – i.e.

¹⁹ The Beckley Foundation, Road to Regulation: Novel Psychoactive Substances, Amanda Feilding & Nicola Singleton, 2016

²⁰ Novel Psychoactive Treatment UK Network NEPTUNE, Harms of Synthetic Cannabinoid Receptor Agonists (SCRAs) and Their Management, 2015

²¹ Novel Psychoactive Treatment UK Network NEPTUNE, Harms of Synthetic Cannabinoid Receptor Agonists (SCRAs) and Their Management, 2015

²² Beckley Foundation, Road to Regulation: Novel Psychoactive Substances, Amanda Feilding & Nicola Singleton, 2016

²³ Winstock et al, Global Drug Survey, 2016 - <https://www.globaldrugsurvey.com/past-findings/the-global-drug-survey-2016-findings/>

addressing symptoms to improve patient comfort (e.g. administering tranquilisers or antipsychotics), rather than addressing the actual cause of the problem. This approach, although pragmatic, is sub-optimal and often insufficient, and in severe cases can prove fatal."²⁴

Very little evidence is available to help manage the harmful or dependent use of SCRAs, and best practice for treatment is still in its infancy. Many of the substances being used in prison today have had little to no research conducted on them. They are unpredictable in terms of dosage, effects and toxicity. People don't know what they're getting with these substances and that this is a major problem. But for a section of spice users in prison, they do know what they're getting. They're getting an intense psychoactive experience that will "get their head out of the bars." For these people, the challenge is not increasing their awareness of the dangers of spice; it's tackling their mind-set.

There are three main types of harm associated with drug use in prison, all of which need to be addressed in order to minimise drug-related harms and ensure safety and security: Firstly, harms from the drugs themselves including addiction, and physical and mental health problems; secondly, problems associated with the trade including debt, bullying, and violence; and finally, the particular harms associated with prisons, such as staff time and resources involved in policing drug use and responding to problematic drug use. In many ways the problems associated with the drug trade, and the attempts to curtail and control the drug trade are more damaging than the drugs themselves.

Debt and bullying are often ignored when considering the practicalities of drug policy despite much lip service being given to the problem that prisoners themselves describe as the main reason for violence.²⁵ When it comes to SCRAs, the economics are more vicious than with traditional drugs. "*The traditional power structures have mutated and lots more prisoners are using and running up debts.*"²⁶ Lower prices means that more prisoners can afford to run up debts. Those who cannot afford to pay their debts are often used as guinea pigs to test new drug batches, these usually vulnerable people have become known as 'spice pigs'. Many horrific incidents of the abuse of profoundly mentally ill people being subjected to terrifying ordeals have been captured on prisoners' mobile phones.

²⁴ Novel Psychoactive Treatment UK Network NEPTUNE, Harms of Synthetic Cannabinoid Receptor Agonists (SCRAs) and Their Management, 2015

²⁵ Penfold, Turnbull & Webster, Home Office Report 39/05, Tackling Prison Drug Markets: An Exploratory Qualitative Study, 2005

²⁶ Alex Cavendish at Volteface event - <http://volteface.me/features/bridging-the-gap-betwixt-and-between/>

Supply & Demand

*"Drugs is what everyone's thinking about [in prison] not a day goes past when you don't hear the word 'drugs'."*²⁷

The prison environment is one in which demand for drugs flourishes. As the prison population has grown, so too has the market for drugs in our prisons, with over 1 in 3 prisoners reporting to have used drugs in the last month.²⁸ A large number of prisoners have established drug problems. Nearly two thirds of prisoners have used illicit drugs in the month before entering custody,²⁹ and 25% of all new arrivals receive treatment from prison medical services for substance misuse within three weeks of their arrival at prison.³⁰ Of those who do not already have a history of drug use, many choose to use drugs for the first time when they are incarcerated. The prison drug market is well set to prosper.

Demand

*"When you feel trapped, which is basically all the time, when you smoke [drugs] it makes you feel free, makes the bars disappear, makes you relax and not too bothered about being there."*³¹

While it is important to remember that a large proportion of the prison population are regular drug users with a history of dependence, previous research has consistently found that the largest driver for drug demand in prisons is boredom and the need to pass time.³² Escapism, relaxation and stress relief are also commonly mentioned as motivations to use drugs. Other factors include self-medication for both physical and mental health problems, the control of withdrawal symptoms from addiction, and the increasing availability of substances within prison walls.

As well as near-universal access to NPS, there is widespread access to prescription medications within prisons for addiction, mental health and pain. Many of these medications have psychoactive properties, making them popular for recreational use. Medications are frequently diverted away from those who were prescribed the drugs, onto the illicit market. Traditional illicit drugs, particularly heroin and cannabis, are also still commonly used (albeit to a lesser extent than spice) because they meet the type of drug demand most common in prisons - to alleviate pain and boredom.

²⁷ Anonymous prisoner in Penfold, Turnbull & Webster, Home Office Report 39/05, Tackling Prison Drug Markets: An Exploratory Qualitative Study, 2005

²⁸ User Voice, Spice: The Bird Killer, 2016

²⁹ Drugs: Education, Prevention and Policy, Meeting the needs of prisoners with a drug or alcohol problem: No mean feat, Neil McKeganey et al & Light, Grant & Hopkins, 2013

³⁰ HM Inspectorate of Prisons, Changing patterns of substance misuse in adult prisons and service responses, December 2015

³¹ Anonymous prisoner in Penfold, Turnbull & Webster, Home Office Report 39/05, Tackling Prison Drug Markets: An Exploratory Qualitative Study, 2005

³² User Voice, Spice: The Bird Killer, 2016, Sam Baker (supervised by Dr Ben Crewe) at Homerton College, Cambridge - an examination of the reasons that prisoners use spice (synthetic cannabinoids) & Penfold, Turnbull & Webster, Home Office Report 39/05, Tackling Prison Drug Markets: An Exploratory Qualitative Study, 2005

As prisons continue to suffer from understaffing and overcrowding, more wings have to go into lockdown, often leaving prisoners confined to their cells for up to 23 hours a day. Boredom increases, demand for drugs rises, and so does the likelihood of misuse, and serious incidents occurring, such as hospitalisation. Spice is now so associated with hospitalisation that prison slang for an ambulance is a ‘mambulance’; a reference to a popular brand name for SCRAs “Black Mamba.” If an inmate has to go to hospital, so too do two officers, which increases prison lockdown time and feeds into the vicious cycle. In 2015, levels of purposeful activity in prisons were the lowest level ever recorded, and have not improved much over the last year in men’s local prisons.³³

Hospitalisations also put a considerable extra strain on emergency services and the NHS. At HMP Bristol this year, there were 35 ambulance call outs for spice-related incidents in just one week,³⁴ at a prison with a population of around 600. To put this in perspective, HM Inspectorate noted in 2014 that spice was a particular problem because there had been 7 ambulance call outs for spice-related incidents in 6 months.³⁵

Prisons are now so over-crowded and under-staffed that prisoners’ fears of repercussions for misbehaviour are much lower than they once were. Many are more likely to take the risk of buying drugs, as there’s an increasing belief that prisons are just too crowded, and officers too overstretched, for dealers and consumers to be caught.

However, drug use in prisons cannot be understood purely by looking at demand. A sophisticated market has arisen to meet this demand which itself influences demand, in which suppliers push drugs with a high mark-up and low risk of capture. The rise and fall of usage rates for different drugs can’t be seen in isolation. They are deeply intertwined. If users can’t find a supply of their drug of choice then they are likely to shift to other drugs to meet their demand.

Supply

“The demand for drugs in prison is so great and the profits so astronomical that a situation exists where economic pressures ensure a supply route will always be found.”³⁶

Drug markets differ widely from prison to prison. Each individual environment shapes the trade through complex interactions between demand, supply, security, enforcement strategies and treatment strategies. Previous reports have assessed the supply of drugs into different prisons and identified five main routes of

³³ HM Inspectorate of Prisons, Changing patterns of substance misuse in adult prisons and service responses, 2014 & 2015

³⁴ Independent Monitoring Board Annual Report Bristol 2016 - <http://www.imb.org.uk/wp-content/uploads/2016/11/Bristol-2015-16.pdf>

³⁵ Report on an announced inspection of HMP Bristol by HM Chief Inspector of Prisons 29 September – 3 October 2014 - <https://www.justiceinspectors.gov.uk/hmiprison/wp-content/uploads/sites/4/2015/02/Bristol-web-2014.pdf>

³⁶ Steve Rolles - <http://www.tdpf.org.uk/blog/why-crackdowns-drugs-prisons-completely-miss-point>

entry for illicit drugs; visitors, staff, over the wall, post, and prisoners, as well as diversion of medication onto the illicit market from within the prison.³⁷

An important part of a prisoners' rehabilitation is their maintenance of ties with family and friends. However, visits from these people come with risks of smuggling contraband. Visitors may smuggle drugs into prisons to protect their loved ones from debt, bullying and violence whilst others work under duress from organised crime groups or for their own financial gain.

Smuggling requires the evasion of a range of security measures. Both the visitor and the inmate must avoid detection from sniffer dogs, CCTV, officer supervision and searches, usually by concealing the drugs internally either in the vagina, rectum ("plugging"), or the back of the throat.

*"Many find this process an extremely frightening and exhausting ordeal. For instance, they may have got involved as a result of intense emotional pressure or even physical intimidation. Others, sometimes drug-using friends of the prisoner, may have developed a tried and tested approach which gives them little cause for concern."*³⁸

Large numbers of visitors are turned away when 'knocked' (where a sniffer dog has a suspicion). Anecdotally, it seems that many people are denied visits despite not being in possession of any controlled substances. Data is not collected in such a way to show the levels of this phenomenon.

Despite extensive security measures, visitors who are in possession of drugs are particularly difficult to detect, for three principle reasons. Firstly, internal concealment of drugs is very hard to tackle, given the legal and moral constraints on intimate searches; secondly, contact visits make the passing of contraband relatively easy to achieve; and thirdly, many of the security measures are inconsistently enforced.³⁹ In any event, the substances causing the most harm in our prisons are currently undetectable by sniffer dogs, even specially trained 'spice dogs' are only able to detect a few of the most common two hundred-plus different SCRAAs.

Thousands of prisoners arrive at prisons every day; either for the first time, on a transfer from another prison, or from a court or hospital visit. Those who have come straight from a court hearing will have known they may end up in prison; it is therefore common among these prisoners to hide drugs about their person either to ensure their own supply, as mules for another supplier, or a potential source of income inside the prison. Prisoners have also been known to smuggle contraband when returning from activities performed on release on temporary licence.

³⁷ David Blakey CBE QPM DL – Disrupting the supply of illicit drugs into prisons: A report for the Director General of National Offender Management Service, 2008

³⁸ Penfold, Turnbull & Webster, Home Office Report 39/05, Tackling Prison Drug Markets: An Exploratory Qualitative Study, 2005

³⁹ Penfold, Turnbull & Webster, Home Office Report 39/05, Tackling Prison Drug Markets: An Exploratory Qualitative Study, 2005

The Ministry of Justice in 2009 - *“The unpalatable but inevitable conclusion is that corrupt staff constitutes a significant supply route for drugs into prisons.”*⁴⁰

While the incidents of supply of drugs into prisons by staff may be lower, staff are able to bring in far higher quantities because they have the unique ability to bypass some of the security procedures that visitors and prisoners have to undergo and so, it seems, are able to go un-noticed. Recent seizures in prisons of up to 5kg of illegal substances⁴¹ have been accredited by some to staff corruption because packages of this size are highly unlikely to have arrived via any other method. Staff corruption may be motivated by personal gain or connected to wider organised crime groups.

*“Once an officer has been persuaded to bring in any contraband once, he or she is vulnerable to blackmail and may find it very difficult to stop doing so.”*⁴²

A report released on 5th December 2016 by BuzzFeed News reveals alleged wide scale corruption in prisons.⁴³ The number of prison staff expelled or otherwise punished for corruption has almost doubled in the last five years, according to figures obtained by BuzzFeed News under freedom of information laws.⁴⁴ The Ministry of Justice refused to reveal the number of security information reports alleging corruption many of which are alleged to have been ignored. *‘One officer, who left the prison last year, said: “Security staff are definitely not able to deal with SIRs that come in; they are way too understaffed and overworked.” He warned that officers “wouldn’t report things because it takes too much of your time and nothing would ever come of it anyway.”’*⁴⁵

*“Adrian Lovell, who worked as a drugs prevention officer at HMP Wandsworth until last year, said corrupt officers were responsible for bringing in as much as 80% of the contraband found in prisons.”*⁴⁶

A market with this scale of demand and potential profit cannot be eliminated through supply reduction methods alone. Applying too much pressure on supply routes increases the incentive to corrupt prison staff, which has a negative impact on the entire prison estate.

*“It would be astonishing if there was not a corruption problem in prisons. Have we not perfectly constructed an environment where corruption could only flourish? Corruption is crime and crime will proliferate where four things come together: opportunity, motive, gain and low risk of capture... This is not to say we cannot deal with it, minimise its effects, catch and convict the perpetrators and generally improve the safety and security which corruption destroys.”*⁴⁷

⁴⁰ Interventions and Substance Misuse Group, Ministry of Justice & HM Prison Service, Prison Drugs Supply Reduction, A Good Practice Guide, May 2009

⁴¹ <http://www.mirror.co.uk/news/uk-news/prison-officers-uncover-350000-stash-9074088>

⁴² Penfold, Turnbull & Webster, Home Office Report 39/05, Tackling Prison Drug Markets: An Exploratory Qualitative Study, 2005

⁴³ https://www.buzzfeed.com/richholmes/the-prison-corruption-cover-up?utm_term=.fv1BEgnAO#.plkyR2kpV

⁴⁴ <https://www.documentcloud.org/documents/3232623-FOI-104637-1-1-2.html>

⁴⁵ https://www.buzzfeed.com/richholmes/the-prison-corruption-cover-up?utm_term=.fv1BEgnAO#.plkyR2kpV

⁴⁶ https://www.buzzfeed.com/richholmes/the-prison-corruption-cover-up?utm_term=.fv1BEgnAO#.plkyR2kpV

⁴⁷ John Podmore, Out of Sight Out of Mind

Issues of the corrupting effect of the drug trade on the Prison Service have been raised previously. In 2005 a report by the Metropolitan Police and Prison Service anti-corruption unit led by Lord Blair found that at least 1000 prison staff were corrupt.⁴⁸ However, there has never been sufficient political will to effectively tackle the issue. Suspicions of corruption are now on the increase with an over-burdened system with little capacity for oversight of officers. It is hard not to see the likelihood of prison officers accepting bribes with minimal training, low pay, and an unstoppable drug market. There are instances of officers on only £17,187 per annum accepting £500 bribes to smuggling a mobile phone into a prison.⁴⁹ The MoJ are yet to set out any clear plans for improving the situation with corruption, although the new white paper says they are “*developing a new strategy*.”⁵⁰

Prisons can be busy places, with hundreds of different professionals coming and going during the day, including health professionals, cleaners, contractors and solicitors. As well as uniformed staff, these other visitors are vulnerable to duress or corruption, making the net of potential crime wider and harder to detect.

As towns and cities become ever-increasingly built up, so prisons are now in closer proximity to other buildings, within busy urban locations. This makes it easy for prisoners with contacts on the outside to throw packages over the wall to be retrieved by those inside. The under-staffing problem has made this method easier still, as guards are unable to perform enough routine perimeter searches to secure the building.

Traditional over the wall methods have had a modern revamp in recent years, with the advent of cheap drones, capable of flying material over prison walls. This has gained much media attention but there is, as yet, no evidence to suggest it is a major source of supply.⁵¹

Post remains a main route of entry for illicit substances. Various NPS have been particularly insidious because they can be hidden in otherwise innocuous looking items, or sprayed onto paper such as a letter or a child’s drawing. Some prisons have gone to the lengths of re-writing letters for inmates, to ensure that the letter itself isn’t the contraband - a very time and resource intensive process for an already over-stretched staff.

Some drugs are already inside the prison. Many prisoners are either pressured or motivated into handing over their medications for use on the illicit market.

*"Drugs prescribed in tablet form and required to be taken under supervision can be stuck under the tongue, by the gum or on the roof of the mouth, to be scraped off later in the cell, or spat down prisoners' jumpers or tracksuit bottoms for later retrieval."*⁵²

⁴⁸ John Podmore, Out of Sight, Out of Mind Why Britain’s Prisons are Failing, <http://news.bbc.co.uk/1/hi/uk/5230126.stm>

⁴⁹ <http://www.channel4.com/news/prison-service-admit-considerable-staff-corruption-threat>

⁵⁰ Ministry of Justice, Prison Safety and Reform, November 2016, p40

⁵¹ Ministry of Justice, Prison Safety and Reform, November 2016

⁵² Penfold, Turnbull & Webster, Home Office Report 39/05, Tackling Prison Drug Markets: An Exploratory Qualitative Study, 2005

The supply of drugs into prisons lies in the hands of criminals and organised crime groups. The only form of regulation which operates in illicit markets is violence and coercion. The supply of drugs into prisons is a violent, pernicious business, and the majority of prisoners and ex-prisoners agree that it is the major cause of violence between prisoners.⁵³

Anecdotal evidence suggests that some prison drug markets have been so dominated by organised crime groups that they are the sole suppliers, while others have just a low level sharing and bartering economy. There are some prison markets, which seem to lie somewhere in between, with moderate involvement of organised crime groups, low level opportunistic vendors, as well as those using or sharing their own supplies.

Payment for drugs can take the form of bartering for canteen items such as tobacco and food; outside payments, with other people using intermediaries in the community; exchanging personal property; swapping drugs for other drugs; providing services (usually as a runner in the drug trade); and rarely - cash.

The prison drug trade is now increasingly fuelled by the use of debt. Debts for drug transactions can lead to bullying and controlling vulnerable inmates. The most vulnerable people, often those with severe mental health problems and no money, will suffer the highest rates of interest. Organised crime groups can tap into friends and family outside the prison as a guarantee for a prisoner's loan. These pressures can lead to self-harm and suicide among the vulnerable. In extreme cases prisoners' families have been known to turn to prostitution to clear their debts. Other families have been blackmailed with footage of violence to their incarcerated family member taken on an illegal mobile phone.⁵⁴

Sources who wish to remain anonymous state that burglars with heroin problems are able to rack up enormous debts at low rates of interest because dealers are confident in their ability to repay the debts. These same burglars are then under intense pressure to reoffend within days of release to pay off the debts they accrued during their incarceration.

⁵³ Penfold, Turnbull & Webster, Home Office Report 39/05, Tackling Prison Drug Markets: An Exploratory Qualitative Study, 2005

⁵⁴ Cutting Edge, Secret Life of Prisons - www.channel4.com/programmes/the-secret-life-of-prisons-cutting-edge

The Response to Drug Use

“We are not dealing with the problem, it is getting worse and our strategy has failed.”⁵⁵

The current strategy is about curtailing supply and reducing demand. Supply is dealt with principally through a combination of the criminal justice system and security measures. The demand is addressed by trying to get people not to take drugs through education, awareness, and treatment. The success or failure of these methods is primarily monitored by drug testing and records of drug-seizures. The theory seems rational, and is commonly supported, but the outcome in practice is very bad.

“There are two major failings with policymakers – ‘lack of imagination and failure of empathy’”⁵⁶

The MoJ response to NPS was initially paralysis, partly because MDT, the metric designed to monitor drug problems in prison, couldn’t identify these new drugs. It was also clear that traditional supply reduction and punitive approaches were increasingly ineffective. Despite this, early announcements included redirecting testing regimes to NPS, revision of adjudication awards (more punishments), technological innovation in security paraphernalia, new search routines and new sniffer dogs.⁵⁷

Then, in November, the MoJ released a white paper on prison reform in which they call for a need to *“fundamentally reassess our approach to drug demand and supply.”⁵⁸* It is stated that *“while good progress has been made against the availability and harm done by ‘traditional drugs (including cannabis and opiates), as evidenced by steadily falling positive test results under mandatory drug testing since the mid-1990s, we have seen growth in the misuse of new, stronger and more harmful psychoactive substances over the past few years.”⁵⁹*

In other words, the ‘progress’ cited was not progress at all. As no serious, concerted, or systemic effort was made to reduce drug demand in prisons, all the efforts at supply disruption merely helped shift the market towards novel substances and the unpredictable and increased harms entailed in that transition.

The call to fundamentally reassess our approach to drug demand and supply is very welcome but there is as yet no sign that this is what is happening. The MoJ white paper contains no new approach, just the extension of the failed policy of MDT, the introduction of more expensive technology, and training sniffer dogs to detect a few of these novel substances.

The MoJ white paper fails to provide a comprehensive drug strategy despite noting that: *“In his July 2016 annual report, Peter Clarke [HM Chief Inspector of Prisons] notes that ‘... the simple fact remains that there is, as yet, no overall national strategy for dealing with the problem’. We share his concern and*

⁵⁵ Eoin McLennan-Murray at Volteface event - <http://volteface.me/features/bridging-the-gap-between-and-between/>

⁵⁶ Former Chief Inspector of Prisons Nick Hardwick speaking to the Guardian - <https://www.theguardian.com/society/2016/jan/29/prisons-inspector-nick-hardwick-interview>

⁵⁷ MoJ’s response to the NPS crisis issued as press release on 25 January 2015

⁵⁸ Ministry of Justice, Prison Safety and Reform, November 2016, p40

⁵⁹ Ministry of Justice, Prison Safety and Reform, November 2016, p40

recognise the need for a more strategic approach.”⁶⁰ But instead of offering this strategic approach it states that:

“To improve our response in the short term we will strengthen key existing measures to:

- Enhance our drug testing regime, supporting governors to enable drug testing on entry to and exit from prison as part of a more extensive testing programme, increasing the frequency and range of drugs tested for. This will better inform substance misuse treatment needs, making drug treatment more effective. It will reduce the health harms to prisoners and ensure better continuity of treatment on release into the community. It will also inform assessments of prisons’ performance;
- introduce legislation to simplify which psychoactive substances are covered by the existing testing process, allowing new tests to be introduced more swiftly as soon as we become aware of new psychoactive substances on the market. Legislative change will also add psychoactive substances to the list of items that are a criminal offence to smuggle into prison, which could mean a prison sentence of up to 10 years for those found guilty;
- ensure that the perimeters of prisons are secure and maintained in a state that can help deter items from being thrown into the prison;
- improve our searching capability with dedicated search teams that can be deployed to target specific problem areas including staff searching at unpredictable times;
- reduce the opportunity and attractiveness for visitors to smuggle drugs to prisoners; and
- continue to pursue and evaluate technology that can detect drugs including body scanners and drug trace detectors.”

These short term measures are not strategically coherent but we are assured that the government will “set out our full approach to addressing the problem of drugs in prisons over the coming months.”⁶¹ This will sit within the overarching approach in the new cross-Government Drug Strategy, due to be published by the Home Office in the coming months.

Supply Reduction

The general public assumption is that we can stop the supply of drugs into prisons with a sufficiently concerted effort. In response to this public perception, the default policy from governments from both ends of the political spectrum has been to present a “tougher response.”⁶² This prevailing narrative assumes that we are not only capable of eliminating the supply of drugs but also that this would be preferable.

In reality, we can’t eliminate the flow of drugs, only disrupt it, and even if all contraband were stopped there would still be a harmful illicit market for diverted medication. There is some benefit to reducing supply to reduce availability, but in order to ensure the costs associated with those policies are not greater

⁶⁰ Ministry of Justice, Prison Safety and Reform, November 2016, p46

⁶¹ Ministry of Justice, Prison Safety and Reform, November 2016, p31

⁶² Ministry of Justice, Prison Safety and Reform, November 2016, p40

than the benefits these costs need to be better understood and an emphasis on disruption over elimination of supply is crucial to that.

The long-standing emphasis on enhancing security measures to combat the drug trade in prisons has demonstrably failed. Drug use and drug-related harms are, by the most-reliable measures, at all-time highs. The supply of drugs into prisons is as unstoppable as the global supply of drugs. Both have grown despite concerted supply reduction efforts.

Mike Trace, CEO, RAPt - *“You'll catch more with better scanners but the impact will be temporary and negligible, it won't affect the fundamentals of supply and demand.”*⁶³

Heightened conventional security measures are the primary response to the supply of drugs into prison. The way in which local enforcement is conducted makes a significant impact on decisions as to how, rather than whether, drugs get into prisons.⁶⁴ As a result, the main effect of increased security is merely to change the routes used, as one route is disrupted or closed this increases pressure on other routes, known as the ‘balloon effect’.⁶⁵

*“We have long witnessed 'the balloon effect' that, for example, saw the 'crackdown' on cocaine production in Bolivia more than compensated for by a rise in Colombian production, or similarly how the 'crackdown' on Iranian smuggling routes for Afghan opium has pushed trafficking to new routes through the former Soviet republics to the North.”*⁶⁶

The knock-on effect of these security measures include markets switching to supplying more harmful drugs, increases in outbreaks of disorder, increasing prices, escalating debt, violence and intimidation, and upsets in the status quo, leading to violence between inmates and staff.⁶⁷ Back in 2010, many of the possible consequences of increased security were well known, but very few foresaw how these consequences would interact with a rapid increase in chemical innovation. The result of this has been hundreds of novel psychoactive substances being brought to market.

In the context of limited resources, it is important to ensure security measures are both effective and cost-effective. All security measures are limited by two main factors; limited resources and unintended costs, for example that certain increases in security impose limits on prisoner activity and interactions with family, treatment, education and training. We have no good data suggesting increased security spending reduces drug-related harms, but good evidence on the harms caused by attempts at supply reduction.

⁶³ Mike Trace, CEO RAPt

⁶⁴ Penfold, Turnbull & Webster, Home Office Report 39/05, Tackling Prison Drug Markets: An Exploratory Qualitative Study, 2005

⁶⁵ David Blakey CBE QPM DL – Disrupting the supply of illicit drugs into prisons: A report for the Director General of National Offender Management Service, 2008 & Penfold, Turnbull & Webster, Home Office Report 39/05, Tackling Prison Drug Markets: An Exploratory Qualitative Study, 2005

⁶⁶ Steve Rolles - <http://www.tdpf.org.uk/blog/why-crackdowns-drugs-prisons-completely-miss-point>

⁶⁷ Penfold, Turnbull & Webster, Home Office Report 39/05, Tackling Prison Drug Markets: An Exploratory Qualitative Study, 2005, p5

More efforts need to be made to count the costs of these security measures and ensure they are cost-effective.

Supply reduction methods can be very corrosive, affecting every aspect of prison life for visitors, staff and inmates. They affect how and when people can move around prison, limiting opportunities for education and training, and place a huge time and resource burden on staff. Changes to the physical environment such as grating over windows to counter drones can cost hundreds of thousands of pounds, only for people to damage grills in order to circumvent the security, the repairs of which puts pressure on maintenance teams and drains resources needed for essential facilities, and to run the prison as a functioning rehabilitative environment.

It is clear that some drugs do get into prisons through visits. That said there are human rights, logistical and resource barriers to eradicating this flow, and simple steps already taken are sufficient for keeping the passage of drugs at a trickle and not a flow. Arranging employment and accommodation for released prisoners has repeatedly been shown to be key in reducing inmates reoffending and there is an inherent conflict between the need for control and the rehabilitative philosophy of maintaining family links.⁶⁸ *“The prison officer has perhaps one of the most complex and demanding jobs in society. He or she has to balance the control and help function towards the inmates.”*⁶⁹ Research has shown that prisoners who received visits from their family were twice as likely to gain employment on release and three times as likely to have accommodation arranged as those who did not receive any visits.⁷⁰ Overly intrusive security measures can be inhibitive to family visits. This inherent conflict can often be ignored in the heat of public clamour for increases in security and supply reduction methods.

The rhetoric in the MoJ white paper is about increasing security measures. Meanwhile there is a retained commitment to making efficiencies due to reduced funding. Security measures are often expensive procedures that require skilled staff expending a lot of time and money. But as experienced staff leave, and prisons are operated at increasingly low staffing levels, it becomes much more difficult to conduct cell searches, perimeter searches, and other security measures, leaving many prisons in no position to administer the proposed expansion of drug testing.

In the absence of extra funding, improvements to security are intended to be made through technological advancements in security tools. This is exemplified by the MoJ white paper which proposes solutions to drug problems which are almost universally technical in nature, including; the piloting of new body scanners, ratcheting up of MDT, testing for *“specified psychoactive substances”*⁷¹ with MDT, drug trace detectors, etc. There is no information provided on the costs of these measures, let alone the perceived cost-benefit. As well as taking up precious resources, the continued reliance on new detection technologies and sniffer dogs is likely to exacerbate the market shift towards the supply of drugs that can't be detected by sniffer dogs. This will incentivise the supply to prisons of new chemicals with unknown dosage, risk-profiles and treatment options.

⁶⁸ Keene (1997)

⁶⁹ Marianne Vollen, Director General of Norwegian Correctional Service - <http://www.intelligencesquared.com/events/tough-prison-sentences-mean-a-safer-society/>

⁷⁰ report to the Inter-Ministerial Group on Reducing Re-Offending 2007

⁷¹ Ministry of Justice, Prison Safety and Reform, November 2016, p45, para 199

Many of the proposed improvements in security seem to be an attempt to appease public perception rather than pragmatic pieces of policy. There is a public perception that the use of drones is a major cause of the increase in supply of contraband into prisons, although there is no data to back this up and the public perception does not align with the anecdotal evidence from those closely involved with the Prison Service. Even the MoJ itself, who are keen to appear to be taking strong measures to tackle drones, say that: *“The use of drones as a means of smuggling items into prisons is relatively infrequent compared to throw overs or attempts by those entering prisons to hide items about their person. But the potential for drones to cause harm both to prisoners and staff is very real, and we are making sure we are working proactively to meet this threat.”*⁷²

Behind the rhetoric of increased security is “tough” legislation. Sentences of up to 10 years can be handed down to those who are caught bringing prohibited drugs into prisons. These high sentences are intended to deter the supply of drugs into prison, and to incapacitate and punish those who aren’t deterred. Unfortunately, these lengthy sentences have done little, if anything, to stifle the market for drugs.

John Shaw, Managing Director, Public Services, G4S - *“Although [the Psychoactive Substances Act] is very welcome, I don’t think it’s going to make a jot of difference to us for the foreseeable future.”*⁷³

Punitive legislation remains as central to the government’s prison drug policy as it was before the NPS crisis. More posturing on strength and toughness has ensued without consideration of how it will affect the situation. These changes have been pushed through, despite the fact that spice has always been illicit contraband in prison:

*“We have changed the law to strengthen our approach. We have made the possession of any psychoactive substance in any custodial institution a criminal offence under the Psychoactive Substances Act 2016.”*⁷⁴

This approach is predicated on a flawed belief that we can legislate a trade with a huge demand out of existence. In reality, *“the motivation and ability of prisoners and organised crime groups to use and traffic illegal drugs has outstripped our ability to prevent this trade.”*⁷⁵ Nevertheless, the MoJ goes on to commit to the aim of *“eradicating illicit drug use in prisons.”*⁷⁶

The Psychoactive Substances Act 2016 (PSA), which banned the production and supply of all non-exempted psychoactive substances, was a major breakthrough in the sense that it did not make possession a crime for most people. It is the first piece of UK drug legislation since the Misuse of Drugs Act not to employ the tactic of criminalising users in an attempt to reduce supply.

⁷² Ministry of Justice, Prison Safety and Reform, November 2016

⁷³ John Shaw, Managing Director, Public Services, G4S, Reform, New Psychoactive Substances: A case for integration between health and criminal justice services p8

⁷⁴ Ministry of Justice, Prison Safety and Reform, November 2016, p46

⁷⁵ Ministry of Justice, Prison Safety and Reform, November 2016, p46

⁷⁶ Ministry of Justice, Prison Safety and Reform, November 2016, p46

Long sentences for possession were a deliberate tactic employed at the start of the modern drug war in the 1970s, the hypothesis being that these draconian measures would deter users and reduce drug demand. It was a catastrophic failure. Drug markets continued to grow, and with them grew the incarcerated population and the burden on the state. Despite the clear failure of the policy, criminalisation of users became the norm. This had little if any effect on demand, created myriad health problems, and caused many other major problems in our prisons.

The PSA, after much wrangling, now includes a provision criminalising possession of users in prisons. The inclusion of a crime of possession in a custodial setting punishable by up to 2 years in prison shows either a profound misunderstanding of the nature of the problem or a token gesture to public sentiment to the detriment of the reality in prisons. The rise of NPS has been a response to the punitive approach to drugs, and a rising prison population, both of which, if there are sufficient resources to pursue convictions, will be fuelled by this measure.

It is possible that the PSA could drive up the wholesale price of NPS and materially affect the risk reward calculation for supplying the drug into prisons but there is no evidence this is happening. Due to the international scale of the market, and limited ability to intercept shipments of NPS owing to inadequate testing equipment, it is unlikely prices will be significantly driven up.

And as if that wasn't bad enough, the PSA now threatens new legislation to "*add psychoactive substances to the list of items that are a criminal offence to smuggle into prison, which could mean a prison sentence of up to 10 years for those found guilty*".⁷⁷ We simply don't have the capacity to be sending more and more people to prison for ludicrously long sentences, especially where there is no evidence or reason to believe this will alleviate the problem it purports to address.

*"Better to get cannabis on your canteen. No debt, no violence."*⁷⁸

At a recent Volteface event ex-governor Eoin McLennan-Murray made a call for a pilot prison in which we supply drugs to prisoners who need them in order to remove the violence associated with the trade and monitor the outcomes.⁷⁹ There is an overwhelming feeling amongst many experts that so long as the market remains in the hands of criminals we will never get on top of the problem. Restricting supply would still be part of drug strategy, but it would instead be restricted to ensure that supply is from someone with appropriate training, supplying regulated products with known risk profiles and controlled doses.

Demand Reduction

*"Prosecution, additional days in prison, segregation, 'closed visits' and a range of other potential penalties, are all on the cards for those who flout the rules."*⁸⁰

⁷⁷ Ministry of Justice, Prison Safety and Reform, November 2016, p40

⁷⁸ Anonymous prisoner - HMP Frankland

⁷⁹ Eoin McLennan-Murray at Volteface event - <http://volteface.me/features/bridging-the-gap-between-and-between>

⁸⁰ MoJ press release of 25 Jan 2015

The main response aimed at deterring drug use in prison is punishment and the threat of punishment. Within this are tools such as testing and searching to create a fear of capture, in the hope that it will reduce people's willingness to take drugs. This approach can only work if the risk of detection is real and immediate from the prisoners' perspective – a situation that is far from the reality. It also fundamentally misunderstands the nature of drug dependence. More than half of all prisoners have a history of drug or alcohol dependence, and will therefore be determined to continue using inside unless they engage in effective treatment. These individuals will not be deterred by the distant risk of detection.

Ask prisoners why they take drugs and resoundingly, the answer is boredom,⁸¹ yet our current drug strategy fails to address this. Ask addicts the key to recovery and the resounding response is connection and support, yet far too many of our addicted inmates spend their time in a dangerous environment with little opportunity for connection or support from fellow inmates or staff, or access to meaningful work, education, or other purposeful activities.

“A political strategy reluctant to ‘pamper’ prisoners has misunderstood the value of creative and other constructive opportunities.”⁸²

The available evidence of different legal systems around the globe shows that there is no correlation between the level of punitive measures employed to tackle the drug trade and drug-taking decisions.⁸³ Research of this nature would be very valuable in reassessing the successes and failures of prison drug policy in the UK. In the last six years, over 1,000,000 days, or nearly 3000 years of additional imprisonment has been imposed on prisoners found to have broken prison rules, despite no research proving its efficacy. The number of additional days handed out increased by 80 per cent from 14,741 in 2010/11 to 26,619 in 2016/17.⁸⁴

Andrew Neilson, Campaign Director of the Howard League:

“Not all those days will be to do with drugs but a lot of them will be - either possession, failing mandatory drug tests or in some cases the violence and coercion associated with the market... Does any of this change prisoner behaviour? No. We are of course talking about people, many of whom, are inured to punishment.”⁸⁵

Well intended or not, the penal systems' over-reliance on punishment creates an environment where drug demand is bound to flourish. It feeds prison population growth and drains resources; leading to more and

⁸¹ 75% of those surveyed in “An Examination of the Reasons that prisoners use spice, 2015” agreed that they used spice because it “makes the time pass more quickly”

⁸² Prof Alison Leibling, Alison Liebling, Helen Arnold and Christina Straub, An exploration of staff – prisoner relationships at HMP Whitemoor: 12 years on, 2011

⁸³ Home Office, Drugs: International Comparators, October 2014

⁸⁴ The Howard League for Penal Reform, A Million Days, The World of Prison Discipline, 2016 - <http://howardleague.org/wp-content/uploads/2016/11/A-Million-Days.pdf>

⁸⁵ Andrew Neilson speaking at Volteface event- <http://volteface.me/features/bridging-the-gap-between-and-between/>

more prisoners spending longer periods inside prison, with increasingly lower levels of purposeful activity.

Naturally, punishment makes drug use in prisons clandestine. This, unintentionally, makes open discussion about drug use in prisons more difficult, creates a barrier to drug education within prisons, and stifles the peer-led cultural change that is repeatedly raised⁸⁶ as an important part of prison reform.

As budgets have been cut and traditional enforcement methods have therefore become even less effective, an even more capricious system of punishment and enforcement has been created. Untrained wing staff are putting people on adjudications for the slightest unsubstantiated suspicion. This has a harmful and corrosive effect on prisoner-staff relations, which reduces effectiveness of intelligence-led security, and undermines the prison as a rehabilitative environment.

David Cameron - *“We’ve got to sort out mental health treatment and drug treatment. This is one area where I believe that we, as a country, really need to ask some searching questions. There’s been a failure of approach, and a failure of public policy.”*⁸⁷

It is uncontroversial to say that provision of drug treatment can reduce rates of reoffending. There are, however, problems associated with provision of treatment. The most commonly prescribed drugs in prison (methadone, buprenorphine and benzodiazepines) are regularly diverted and popular on the illicit market. It is therefore important to ensure that the dispensing of the drug is organised in such a way that prisoners cannot keep their dose for diversion. These efforts can never be completely effective, but close supervision of prisoners and sensible dispensing practices, to reduce visibility of those in receipt of buprenorphine, can have a positive influence. The costs of these measures should be considered when deciding whether to adopt expensive security measures, or prioritise spending on treatment.

*“A good clinical detoxification regime is of paramount importance in tackling both supply and demand... It is essential that prisons provide adequate detoxification to reduce prisoners’ withdrawal symptoms and alleviate their need to import or purchase illegal drugs or other prisoners’ medication.”*⁸⁸

The provision of treatment in prisons is inherently difficult: One of the biggest problems is that the community isn’t set up to support honest peer-support and care, which are fundamentals of recovery:

*“[Prison’s] brutal reality is far more likely to be damaging and traumatic than healing and rehabilitative.”*⁸⁹

The provision of drug treatment in prisons is complex and challenging but the research is clear and uncontentious. Rates of re-offending and other adverse outcomes can be reduced by the provision of

⁸⁶ Reform, New psychoactive substances: a case for integration between health and criminal justice services – October 2016

⁸⁷ David Cameron Prison Reform Speech 8th February 2016

⁸⁸ Penfold, Turnbull & Webster, Home Office Report 39/05, Tackling Prison Drug Markets: An Exploratory Qualitative Study, 2005

⁸⁹ Steve Rolles - <http://www.tdpf.org.uk/blog/why-crackdowns-drugs-prisons-completely-miss-point>

quality treatment. Inadequate detoxification and lack of aftercare can leave prisoners vulnerable to the illicit drug trade.

Drug free wings can offer opportunities and positive incentives to addicted-prisoners with a will to change. They provide a sensible risk-management approach, which recognises that drug use will continue in prisons, but those who have a willingness to change their habits should have access to an environment where temptations are reduced and positive mutual support is maximised. However, where drug free wings do not have sufficiently qualified staff or resources, opportunistic drug dealers can use the wing as a cover for dealing activity, ironically making drugs more available on drug-free wings than anywhere else in the prison.⁹⁰

Drug-free wings need more than just good staff and resources, they need prison culture which provides prisoners with addiction support, well beyond the focus of drug treatment itself, to address major long-standing areas of difficulty in prisoners' lives.

These wings offer enhanced privileges for those prisoners who commit to being drug-free. This is a rare example of incentivising prisoners to make positive changes to their lives, in a sea of punishment and retribution. The Incentives & Earned Privileges Scheme is frequently condemned by prisoners, who often believe there are no real incentives to try and achieve enhanced privileges.

Monitoring & Testing

“We don't really know what drugs prisoners take: partly because we have never bothered to find out properly, and partly because prisoners themselves haven't a clue what they are acquiring through an illicit drug market – a handful of pills wrapped in Clingfilm passed covertly around the wing does not come with an explanatory leaflet... Prisons don't routinely test the chemical composition of what they find and hospitals tend not to carry out full toxicology reports on sick and violent prisoners. We simply have no real idea what prisoners are taking.”⁹¹

The explosion in the levels of use of NPS took much of the media, academia and the political class by surprise. If we are to make long term improvements to drug policy we need better information at our disposal to spot trends and to be proactive in responding to them.

“MDT is the prison service's primary test of illicit drug use in prison. Eschewed by practitioners in the drugs field as a worthless and easily fiddled figure, the prison service clings to it like glue.”⁹²

Mandatory drug testing (MDT) involves the random testing of inmates' urine for evidence of drug use. MDT serves at least two main functions; one is to reduce demand through the threat of sanctions for those

⁹⁰ Penfold, Turnbull & Webster, Home Office Report 39/05, Tackling Prison Drug Markets: An Exploratory Qualitative Study, 2005

⁹¹ John Podmore - <https://www.theguardian.com/commentisfree/2016/feb/29/legal-highs-prisoners-drugs-prison-work-education-training-real-reform>

⁹² P138 John Podmore, Out of Sight Out of Mind

caught using drugs, the other is to monitor drug use in prisons. It attempts two functions and achieves neither. Instead the system works to drive prisoners to evade punishment by using drugs, which either do not show up or are only traceable for very short periods, or by falsifying their urine samples. The first change was away from cannabis to heroin. Once the drug of choice in prisons, cannabis remains in people's system for about 14-28 days, whereas heroin only stays for a day or two. The subsequent shift was away from any drugs that could be tested for, towards black market medicines and SCRAAs sold as spice.

Previous studies have shown that an overwhelming majority of prisoners believe that the threat of punishment from a positive MDT would not deter them from using drugs.⁹³ In any event, due to the time and cost involved in the process this can't be done frequently. During times of low resource, such as now, MDT is one of the first measures to be dropped,⁹⁴ making it not only an ineffective means of punishing prisoners for their drug but also an unreliable and capricious one.

As far back as 1996, long before the rise to prominence of NPS, MDT was described as “‘*iniquitous*’, ‘*pointless*’, ‘*unethical, inefficient, ill-conceived*’ and ‘*a complete waste of time and money.*’”⁹⁵ Yet it has survived decades of near unanimous opposition from experts in the field, and continues at a time where very few of the most popular substances can be tested for. MDT works on one level and one level only, allowing officials to say that drug use has not increased. Positive MDT tests have stuck around 7% over recent years and the steady decline since MDT's inception in the mid-nineties is repeatedly trotted out by NOMS and the MoJ as evidence of a successful drug policy despite the explosion of drug use and drug related harms we have seen in prisons since 2012.

The MoJ plans to “*enhance our drug testing regime, supporting governors to enable drug testing on entry to and exit from prison as part of a more extensive testing programme, increasing the frequency and range of drugs tested for. This will better inform substance misuse treatment needs, making drug treatment more effective. It will reduce the health harms to prisoners and ensure better continuity of treatment on release into the community. It will also inform assessments of prisons' performance*”⁹⁶

Andrew Neilson, Director of Campaigns, The Howard League for Penal Reform - “*It is disappointing that the Ministry of Justice seems set on expanding a testing regime that has already failed. Given overcrowding means prisoners are often moved around the estate, testing every prisoner on reception and on release could result in hundreds of thousands of additional tests each year. Even then it's hard to see what meaningful information such testing would provide. This idea could be a monumental waste of money and staff resources at a time when both are in short supply. Perhaps for that reason the White Paper is frustratingly unclear on precisely what the Ministry of Justice plans to do.*”⁹⁷

⁹³ Penfold, Turnbull & Webster, Home Office Report 39/05, Tackling Prison Drug Markets: An Exploratory Qualitative Study, 2005

⁹⁴ Centre for Social Justice, Drugs in Prisons, March 2015

⁹⁵ Alex Stevens, The mandatory drug testing programme in prisons, 1996
<http://www.tandfonline.com/doi/abs/10.1080/09627259608552778>

⁹⁶ Ministry of Justice, Prison Safety and Reform, November 2016, p46

⁹⁷ Andrew Neilson speaking to Volteface - <http://volteface.me/tougher-test-ier/>

The usual line is “*NPS are a wide array of relatively new and regularly changing substances for which testing is in its infancy.*”⁹⁸ Whilst true, this doesn’t go nearly far enough. The MoJ plan to address NPS revolves around the roll out of “*new drug testing to track down dangerous psychoactive substances.*”⁹⁹ New tests are portrayed as an important game changer, “*the complex task of combating the widespread violence in the estate will gain extra traction when we have ... rolled out new drug tests... until this year, there have been no effective tests available to establish whether prisoners have taken these drugs.*”¹⁰⁰

There is repeated reference in the MoJ white paper to enhancing drug testing regimes as a means to reduce violence. As a means to reduce violence, more testing will do nothing as tests do not reduce demand for drugs and do little to influence supply, apart from shifting the supply to drugs that are not currently tested for. As a means of performance measurement for prisons they would make sense if they gave an accurate indication of whether people are abstaining from drugs in prison, but they do not.

The MoJ also claim that these new tests will improve drug treatment outcomes. Again, logic is absent from this statement. The proposed extension of mandatory drug testing will have no positive effect on drug treatment. Those who seek treatment already declare drug problems upon arrival at prison to receive detoxification medication. Those undergoing treatment already get voluntary drug testing and the proposals do nothing to protect prisoners or ensure better continuity of treatment.

Beyond the extension of MDT’s lack of relevance to treatment, demand and supply there is an even more fundamental problem with the proposed system- that it simply won’t work. The tests can only check for a finite list of substances. New tests for substances have to be developed and these can take considerably longer than the market takes to discover and supply a new substance in response to tests being created for previous substances.

Focus on testing is apparently to help monitor “*progress in getting off drugs.*”¹⁰¹ Even if the tests worked as a means of monitoring progress in getting people off drugs, which they will not, they could be counterproductive & increase the risk of death by overdose on release. The focus should instead be on reducing drug-related harms.

“*We want to reduce the level of drug use in prisons, so we will develop for future years a measure to track ‘distance travelled’ by an offender in substance misuse via drug testing on entry and exit.*”¹⁰² But rather than give a clear indication of distance travelled in prisoners’ drug use, it will instead give an indication of whether prisoners have used certain drugs at two relevantly arbitrary moments in time. “*In the meantime, we will include as a measure the average rate of positive drug tests.*”¹⁰³ This intermediate measure gives no valuable information on either the rate of drug use or more importantly on the extent

⁹⁸ Nigel Newcomen , Prisons and Probation Ombudsman, Reform, New Psychoactive Substances: A case for integration between health and criminal justice services p5

⁹⁹ Ministry of Justice, Prison Safety and Reform, November 2016, p7

¹⁰⁰ Ministry of Justice, Prison Safety and Reform, November 2016, p11 & 41

¹⁰¹ Ministry of Justice, Prison Safety and Reform, November 2016, p20

¹⁰² Ministry of Justice, Prison Safety and Reform, November 2016, p24

¹⁰³ Ministry of Justice, Prison Safety and Reform, November 2016, p24

and nature of drug-related harms. This bizarre attitude flies in the face of more sensible and pragmatic metrics for health success, such as the number of drug-related medical emergencies.

One of the biggest problems with this policy is the lack of differentiation between prisoners who are on treatment programmes and trying to give up drugs, those who are taking drugs and will continue to do so, and those who have a vested interest in pushing drugs. Many of those who fall into the third category are not drug users, they do not use their product. One mistake is to think that by identifying users you will be able to reduce supply, suppliers and users are different groups. There will be more punitive measures but the people involved in the supply and distribution won't be affected by that.

Drug seizures could provide potentially valuable information on disrupting supply chains but the way in which seizures are recorded only makes mention of the type of drug seized. The weight of the seizure isn't recorded, not even roughly, meaning a seizure could be a trace amount or a kilo, there is no way to tell; nor is how the seizure was obtained recorded. On 23 March 2010 questions were asked in the House of Commons for clarification but no answer was forthcoming:

“Philip Davie: To ask the Secretary of State for Justice how many and what proportion of illicit drug seizures within prisons was attributed to (a) sniffer dogs, (b) closed circuit television (c) strip searches, (d) intimate searches, (e) searches of prison cells and (f) police intelligence in each of the last five years?

Maria Eagle: Information is not recorded in the format requested and would require requests for and detailed analysis of data returns from all prisons in England and Wales. To do so would incur disproportionate costs.

...

Mr Vara: To ask the Secretary of State for Justice how many (a) visitors, (b) staff and (c) prisoners were caught attempting to smuggle illegal drugs into prison in England in each of the last five years; and what steps have been taken in respect of those caught?

Maria Eagle: The data are not available in the form requested.”¹⁰⁴

Without this data, the wealth of reports calling for increased security measures of one type or another are simply not grounded in evidence and there remains no reason to suggest that these methods are effective in reducing the supply of drugs into prisons. It is perhaps unreasonable to expect officers to gather this data in challenging times of low resource, but it is even more unreasonable to continue to expend considerable resources (to the detriment of demand reduction measures and rehabilitation) on increasing the use of these measures, with no evidence that increased activity works to reduce drug supply or demand.

Prison as a Microcosm of Society

"Prisons are a place where, in theory, the state has more control than anywhere else and yet the zero tolerance policy on drugs can be contrasted with the fact that nowhere are drugs more rife than in prisons."¹⁰⁵

¹⁰⁴ John Podmore, *Out of Sight Out of Mind*, p160

¹⁰⁵ Andrew Neilson at Volteface event - <http://volteface.me/features/bridging-the-gap-betwixt-and-between/>

If we were able to stem the supply of drugs anywhere, you would think that maximum security prisons would be the place. High walls, razor wire, security gates, sniffer dogs and extensive CCTV have not worked. Prisons are the place in our society in which drug use is most rife and drugs are most readily available. As in wider society, failed and unimaginative policies with poor or no grounding in evidence have failed to reduce the harms associated with drugs and created myriad new problems.

The same economic analysis applied to the failure of attempts to enforce supply controls on illicit drugs nationally and globally can be applied with even greater force to prisons: *“Where there is demand for drugs, but no licit supply, a potentially huge profit opportunity is created for criminal profiteers... is that sort of profit that encourages the kind of entrepreneurial cunning that can get literally tonnes of drugs into high security prisons, year after year, crackdown after crackdown.”*¹⁰⁶

Our prisons are to a large extent microcosms of broader society. Prisons are busy places often with large numbers of new prisoners entering the gates on a daily basis along with hundreds of visitors, officers, staff, volunteers, health workers and others coming and going on a daily basis. Security in such dynamic environments presents a serious challenge.

*“Despite the billions hosed into supply side drug enforcement each year, the illicit trade thrives, drugs are more available and cheaper than ever and the violent gangsters selling them get richer and richer. Not only is the analysis of supply and demand in an unregulated illicit drug trade the same at prison, national and international level, so evidently are the responses: announce a big crackdown, unveil some new technology, produce a new strategy, create a new agency (or rename an old one), then announce your process successes to show you are 'doing something'... Regardless of scale all such efforts that attempt to defy economic reality are equally futile.”*¹⁰⁷

As with wider society, if prisoners are going to do drugs they are going to do drugs, but an acceptance of this does not mean the market will necessarily be whatever it will be. We can regulate the market to encourage low-risk forms of drug use and minimise harms. Attempts to eradicate the market lead to counter-effective shifts in the market, just as we saw with NPS, but there are alternatives.

*“I don't think there will be any real progress until drug use in prisons and in the wider community is treated as primarily a medical and social challenge. I think prisoners who are motivated to detox need to be accommodated in drug free units and offered appropriate support but simply relying on prosecutions and external adjudication system, adding extra days is not going to work. The question is; what evidenced-based approach can we take to get to grips with it?”*¹⁰⁸

¹⁰⁶ Steve Rolles - <http://www.tdpf.org.uk/blog/why-crackdowns-drugs-prisons-completely-miss-point>

¹⁰⁷ Steve Rolles - <http://www.tdpf.org.uk/blog/why-crackdowns-drugs-prisons-completely-miss-point>

¹⁰⁸ Alex Cavendish at Volteface event - <http://volteface.me/features/bridging-the-gap-between-and-between/>

Recommendations

*"It is unlikely that the supply of drugs into local prisons will ever be cut off completely, especially given the internal concealment of drugs by both prisoners and visitors on reception and social visits, as well as the importance of maintaining open contact visits for all prisoners. However, this realism should not be confused with pessimism; there is much that can be achieved in terms of security and treatment in order to continue to gain ground in the reduction of drug supply and demand in prison."*¹⁰⁹

Risk Management not Zero Tolerance

*"This is not a marginal problem which if you tidy it up, we can solve, this is intrinsic to prison life."*¹¹⁰

Zero tolerance originates from the idea that if you work to eliminate all crime, however petty, it becomes easier to maintain a crime-free area, however, nowhere could this be a less viable approach than in prisons. Prisons are naturally a hotbed of criminality. Prisons are full of drug users, people with mental health problems, and those with little to do to escape the horror of their situation than turn to drugs. This unrivalled demand creates economic incentives for suppliers too strong to be eradicated by heightened security measures, more or greater sanctions, or any other available supply reduction technique.

A chasm exists between policy as it purports to be and how it is conducted in practice. We need pragmatic problem-solving, not a moralistic approach. The lack of an intelligent approach to drugs in prisons undermines all the other proposed reforms – prisons will not be safe until we recognise drug use in prisons and try to manage it. The crisis in our prisons is not a tragedy because it is insoluble, we have solutions and people who are willing and able to put those solutions into effect, but they are stifled and obfuscated by counter-effective policies. The aim should be to reduce drug-related harm, not drug use *per se*.

*"There is this massive gap between rhetoric and reality. We need to narrow that gap."*¹¹¹

There is public rhetoric around zero tolerance but in practice it is clear to many working in the Prison Service that this is practically unachievable and undesirable in principle. Ex-governors and officers frequently talk of tolerance towards the smoking of cannabis and other forms of drug use. A pragmatic approach to focus resources on reducing the most harmful forms of drug use and the drug market should be commended, rather than being something confined to the shadows.

Zero tolerance has failed and is not merely impractical, expensive or unfeasible, but also fundamentally misguided and counterproductive. Even the best managed and funded prison would still have prisoners with health problems requiring medication, people with drug addictions and other people who may, as in wider society, want to take a variety of different drugs for a wide array of different reasons.

¹⁰⁹ Penfold, Turnbull & Webster, Home Office Report 39/05, Tackling Prison Drug Markets: An Exploratory Qualitative Study, 2005

¹¹⁰ Mike Trace, CEO, RAPt

¹¹¹ Andrew Neilson speaking at Volteface event - <http://volteface.me/features/bridging-the-gap-between-and-between/>

When we focus on eradicating drug supply it necessitates creating a high-security, restrictive environment that dramatically increases the cost of engagement, and creates an environment that is totally alien to the outside world. It also directly negatively affects building and maintaining the relationships that are crucial to rehabilitation, increases costs, and drives up drug-related debt. As potential sanctions go up so must levels of violence (the market's only regulation) to ensure compliance. As the main drug supply routes are narrowed, the value of a corrupted official to organised criminals rises.

Drug use always carries risks and potential harms and these risks need to be managed. Seeking to eradicate these risks creates perverse incentives, counter-effective policies and dangerous and unpredictable evolutions of the drug market.

Prisons are not perfectly managed or funded. They house disproportionately high numbers of people in poor health, people with addictions and those with motivations to use drugs. Prohibition cannot work in prisons, but more than that, it is the most dangerous place in which to pursue absolute prohibition. Whilst wrongheaded drug policy created a small but significant market for NPS in broader society, in prisons where we can exercise more control and supply reduction measures are more keenly felt, it created the environment necessary for NPS to become the most widely used drugs, and a vicious industry built on unsustainable debt that further fuels criminality.

Despite public indignation at drug use in prisons, policy makers must resist overly simplistic so-called solutions. The issue must be tackled with long term evidenced-based policies. Proven, effective, pragmatic and simple harm-reduction measures such as needle exchanges are anathema to the zero tolerance approach. The zero tolerance attitude also stifles people from acquiring meaningful data and openly discussing issues.

There is a huge disparity in the levels of training, education and policy, which is to be expected where the best policy is in fact not to follow official policy but to use some common sense. This policy vacuum leads to a patchy approach. Because everybody says they have a zero tolerance approach to drugs, they can't talk sensibly and openly about potential solutions and develop best practice which can be adopted nation-wide.

Reducing drug-related harms makes prisons safer places in which rehabilitation is more effective. Helping addicted drug-users, who are willing to change, to turn their lives around is proven to reduce re-offending rates. It is integral we move policy towards integrating harm-reduction and treatment into every aspect of prison management:

“This is not just about accepting the need for substance misuse services in prison, but about fully integrating it into the management of the prison at every level. In our experience this process works best where specialist drug recovery staff have a presence at all key functional meetings, some of which include Drug Strategy meetings, Safer Prisons, Equalities, Health and Safety, Security, Reducing Reoffending and management morning meetings. By integrating substance misuse staff in this way, joint working,

*communication and information sharing become a smoothly facilitated process. The result is that change happens.*¹¹²

Focus on Reducing Demand

*“The only way to stop drugs coming into prison is for prisoners not to want them. Bringing that about would be true prison reform.”*¹¹³

There needs to be an acceptance that supply reduction measures are there to disrupt supply, they are not there to eradicate it. A shift of emphasis towards demand reduction is required to make prisons more effective places at tackling problem drug habits and rehabilitating offenders.

*“The reason people are using drugs is because they are banged up all day.”*¹¹⁴

There is a clear link between a lack of purposeful activity and the uptake of drug use. In Bedford prison, the scene of riots in early November, purposeful activity levels have declined steeply over the last five years, and with that we have seen 14% of the population develop drug problem in prison, having not had one prior to their incarceration.¹¹⁵ In HMP Hindley which was deemed to have one of the worst regimes seen by HM Inspectorate, “most prisoners often spent less than half an hour out of their cell in a 24-hour period” and 16% of prisoners developed a drug problem while in prison.¹¹⁶ Overall 8% of men in prison in England and Wales report developing a drug problem since they had been in prison.¹¹⁷

As the rhetoric in the Ministry of Justice white paper notes “*a transformation away from offender warehouses to disciplined and purposeful centres of reform where all prisoners get a second chance*”¹¹⁸ is needed and we need to introduce “*a new way of working in prisons to help prisoners spend more time on purposeful activity and less time in their cells.*”¹¹⁹ However, the closest to anything more than rhetoric in the report is that “*in future years, we intend to measure and publish the time prisoners spend out of their cells, including time spent out of their cells engaging in purposeful activity.*” This is a very loose commitment to a fundamental metric. Abandoning wasteful and ineffective testing could provide the funding to move at pace with these important metrics.

The long-held emphasis on supply reduction over demand reduction creates a number of unintended consequences including an increased burden on staff, logistical and management difficulties and

¹¹² Addaction - <http://www.addaction.org.uk/blog/seizures-are-not-only-way-deal-drugs-prison>

¹¹³ John Podmore - <https://www.theguardian.com/commentisfree/2016/feb/29/legal-highs-prisoners-drugs-prison-work-education-training-real-reform>

¹¹⁴ Anonymous prisoner - HMP Frankland

¹¹⁵ <https://www.justiceinspectorates.gov.uk/hmiprisoners/wp-content/uploads/sites/4/2016/09/Bedford-Web-2016.pdf>

¹¹⁶ Report on an unannounced inspection of HMP Hindley by HM Chief Inspector of Prisons, 4–15 July 2016 - <https://www.justiceinspectorates.gov.uk/hmiprisoners/wp-content/uploads/sites/4/2016/11/Hindley-Web-2016.pdf>

¹¹⁷ HM Inspectorate of Prisons, Changing patterns of Substance misuse in Adult Prisons and Service Responses, December 2015

¹¹⁸ Ministry of Justice, Prison Safety and Reform, November 2016, p3

¹¹⁹ Ministry of Justice, Prison Safety and Reform, November 2016, p7

associated difficulties in implementing new policies, supporting work, training, education and treatment schemes. These costs too often go on uncouted. As all forms of purposeful activity are reduced, as monetary and staff resources are focused on increasingly onerous security practices, the demand for drugs increases and those profiting from the market find innovative new ways to supply the market.

“You can't solve people's problems by punishing them and that applies to people's drug problems.”¹²⁰

As well as focusing on reducing drug demand through the creation of busy prison routines, it is important to improve incentives for those who voluntarily stop using drugs. The removal of custodial sanctions for possession of drugs may be politically impossible at the moment in the context of the criminal justice approach in wider society. However, in the long term, the weight of evidence points to re-evaluating this. In the short term, it is entirely feasible to switch the prioritisation and focus of resources.

“Banged up 23 hours a day in a large toilet with someone you have never met before – who wouldn't want a mind-altering substance? Meaningful work, education and training with a purpose all help. So too do positive interactions with staff, and modern-day access to family and friends outside. All these tactics can aid treatment.”¹²¹

We need also to provide those people who have a genuine desire to abstain from drugs with a positive incentive to do so. Better standards of living on drug free wings can do this. The problem is that drug free wings need to be well staffed so that staff can spot the drug dealers and the chancers who have ulterior motives. Building relationships with those in treatment is also essential for successful treatment. Without enough staff you can't create an environment where people want to keep drugs out, you can only do so with sufficiently well-trained staff and resources.

“I think it might be an interesting experiment to see a correlation between NPS activity, time out of cell and purposeful activity... the way people are using these drugs is also part of a social and cultural norm when in prison, and it is part of an activity which is occupying time which can be, in some cases, displaced by more purposeful activity.”¹²²

As well as reducing demand by getting prisoners out of their cells, it is important to provide activities within cells. The MoJ white paper has missed an opportunity to put forward proposals such as fine cell work and internet-enabled study. Provision of computers in cells could be limited to restrict prisoners only to sites relevant to their study and provide meaningful activities to replace drug use.

¹²⁰ David Skarbek speaking at Volteface event - <http://volteface.me/features/bridging-the-gap-between-and-between/>

¹²¹ John Podmore - <https://www.theguardian.com/commentisfree/2016/feb/29/legal-highs-prisoners-drugs-prison-work-education-training-real-reform>

¹²² Eamonn O'Moore, Director, Health and Justice Team, Public Health England, Reform, New Psychoactive Substances: A case for integration between health and criminal justice services p14

Demand reduction also needs to continue outside of prison. The three most important factors to prisoners' perception of their own ability to not reoffend are housing, employment and drugs.¹²³ In the MoJ white paper the section on preparing for life after prison only mentions work, housing and education. We need more effort to ensure people have access to drug treatment and support in the community to help reduce reoffending rates.

Overhaul Monitoring of Drug Use

“Lessons should be learnt from the emergence of NPS at a national and local level to ensure that a dynamic, responsive and well-coordinated whole-system and whole-prison strategy is in place, both to reduce the harm of current use and respond effectively to future needs.”¹²⁴

An essential part of effective management is appropriate and reliable metrics for measuring success and failure. The Ministry of Justice's recommendations to monitor prison's drug policy outcomes via drug testing prisoners on arrival and exit from prison is unlikely to provide reliable or useful data. This should be replaced with a system, the sole function of which is to monitor the drug market and drug-related harms and not to punish those who use drugs. The new metrics must focus on monitoring drug-related harms in prisons and the nature and scale of the drug market.

MDT statistics are not reliable indicators of levels of supply and use of drugs in prisons. Regular anonymous audits of drug use and the drug market could provide valuable information on which to judge the successes and failures of local policies as prison governors gain increased autonomy under the current prison reform plans. Information should be drawn annually from treatment staff, prison officers, current and ex-prisoners. Evidenced-based Home Office research has called for similar surveys since 2005.¹²⁵

There is an understanding that this data is useful for safety yet it isn't suggested for drugs. The MoJ white paper sensibly notes that prison safety and order are important and that there therefore needs to be a monitoring process – *“We want to use the measure of the rate of assaults on prison staff and the rate of assaults on prisoners. This knowledge will also help us improve the stability and culture of our prisons and provide a safe working environment. To monitor the success of a prison's strategy for dealing with vulnerable prisoners we will also include the rate of self-harm by prisoners in performance standards... We will supplement this through additional measures of staff and prisoner perceptions of safety measured through a structured survey to better understand the culture and atmosphere in our prisons.”*

Understanding drug use and drug markets in prisons is an important aspect of understanding prison safety due to the complex interaction between the two. These proposed surveys must also address drug use because this is a key component in understanding prison culture, atmosphere and safety. It is essential for

¹²³ Kim Williams, Vea Papadopoulou and Natalie Booth Ministry of Justice Analytical Services, Prisoners' Childhood and family backgrounds, Results from the Surveying Prisoner Crime Reduction (SPCR) Longitudinal Cohort Study of Prisoners, Ministry of Justice Research Series 4/12 March 2012, p22

¹²⁴ Nick Hardwick, then HM Chief Inspector of Prisons, Changing patterns of substance misuse in adult prisons and service responses, December 2015

¹²⁵ Penfold, Turnbull & Webster, Home Office Report 39/05, Tackling Prison Drug Markets: An Exploratory Qualitative Study, 2005

integrity that these measures are used strictly for evaluation purposes and not as a performance measure. Absolute confidentiality and discretion will be needed to ensure accurate reporting.

In order to move from ideologically and anecdotally driven practice towards evidenced-based policies we need to improve the collation of relevant data. Substantial benefits could be made in shifting the focus from reducing drug use to reducing drug-related harms. A reduction in the level of incidents of violence, drug-related deaths, self-harm, voluntary segregations for protection and hospitalisations are good proxy indicators of the level of success of a prison's drug policy. Viewing prison drug policy from the perspective of rates of positive drug test results ignores the levels of these harms and even if it were an accurate measure of rates of drug use, which it is not, it is not an accurate measure of successful harm reduction or risk management.

Re-offending rates, levels of purposeful activity, levels of education, measures of the quality of life of prisoners and time out of cells may also provide useful information in assessing demand for drug use within prisons. Further research is needed in this field to understand the relationship between drug demand and use, and these other metrics.

Much has been made by the MoJ of both the shift away from traditional drugs to novel psychoactive substances and of new tests and sniffer dogs which, it is claimed, will be able to detect these NPS. In reality, prisoners are themselves unaware of precisely which drugs they are selling and using. Prisons do not routinely test the chemical composition of what they find and hospitals tend not to carry out full toxicology reports on sick and violent prisoners. Toxicology reports are done on prisoners who die in custody but this only gives a very partial view of which drugs are being used in prisons.

New dogs have been trained and new tests devised to identify certain SCRA's, but at the moment we simply don't know which drugs are in circulation. As noted previously, there are over 200 known SCRA's in European markets, and SCRA's only make up one type of an incredibly varied market of novel drugs. Despite legislative changes making the supply and distribution of these substances a criminal activity, these drugs are likely to remain attractive to both suppliers and users, as the vast majority of them are not able to be tested for or detected by sniffer dogs. Attempting to develop tests for all of them is not remotely feasible but monitoring which are in circulation is. Monitoring circulation means that if testing continues it can be targeted, as well as providing valuable information for the treatment of people who have ingested dangerous substances, and better information for staff to understand the nature of the drugs with which they are dealing.

Drug testing has been blamed for incentivising users and suppliers to switch from cannabis to heroin and more recently to diverted medications and novel psychoactive substances. Where testing continues to be employed these unintended potential consequences ought to be recognised and reversed. We know that we can't test for all drugs, so we should test for the most dangerous drugs most likely to cause the most harm in order to ensure that if testing does incentivise people to use and supply certain drugs which aren't tested for, that those are also the lowest risk drugs.

Overhaul Monitoring of Drug Supply

Current supply-reduction and security measures are not grounded in reliable evidence. New proposed measures focus on drones and visitors when there is insufficient evidence that these are the primary sources of supply. Anecdotal and historic evidence indicates that corrupt staff may be a major source of supply. Evidence gathering is needed on drug seizures to assist in determining the drugs' provenance, as well as a new regional peripatetic task force within the Prison Service to oversee periodic spot checks and searches of staff.

In order to best target limited resources to reduce the supply of drugs into prisons, it is imperative to understand which routes of supply are being favoured by suppliers. At the moment we simply don't know what prisoners are using or how they are getting drugs into prisons. The data gathered in relation to drug seizures is very minimal. An understanding of the specific drug seized, its weight, and details about where and how it was found would help improve understanding of the market and provide valuable information in attempts to combat the market. Whilst more information is needed in this regard, it is important to caution that drug seizures are not a reliable metric for assessing drug policy success. Due to the nature of different regimes, the number and scale of drug seizures in a prison provides more of an operational measure than a reliable indicator of the scale of drug use in any given prison. However, the more information gathered about seizures, the better intelligence will be with which to combat the supply of drugs.

The current approach in the White Paper to propose measures tackling drug supply without a coherent strategy to combat corruption fails to recognise the balloon effect on supply routes and could have pernicious unintended consequences. A roaming task force focused on investigating potential corruption could provide an affordable alternative to the searching of all staff on entering prisons. Prisons are often highly dynamic environments so searching everybody is not always possible or preferable. There ought, however, to be a national strategy to provide some oversight of staff owing to their potential role in the supply of drugs into our prisons.

Improve Staff to Prisoner Ratio through reducing the prison population

Ministry of Justice - *“Our analysis shows a statistical correlation between the numbers of staff and the level of violent incidents. We now need more frontline staff, and we need to change the way they work to better support offenders and respond to new threats as they arise.”*¹²⁶

The Ministry of Justice white paper on prison reform acknowledges the importance of improving the relationship between officers and staff but makes no mention of plans to reduce prison numbers. Instead it sets out a plan to invest £1.3 billion in new facilities with an additional 10,000 prison places.¹²⁷ England and Wales already have a per capita prison population of 148 prisoners for every 100,000 people, the highest in Western Europe.

¹²⁶ Ministry of Justice, Prison Safety and Reform, November 2016, p41

¹²⁷ Ministry of Justice, Prison Safety and Reform, November 2016

Prison standards have dropped unacceptably. When prisons are understaffed and overcrowded we cannot ensure the safety of inmates and prison staff, which is a prerequisite to achieving rehabilitation. Prisoners must instead go into lockdown, which means that training, education and work cannot be undertaken. We cannot continue to cut funding whilst more people are sent to prison and for longer sentences. To do so will condemn our prisons to become warehouses, as seen in some parts of the USA.¹²⁸ These warehouses temporarily incapacitate inmates from some forms of crime whilst doing nothing to tackle the root causes of their criminality and feeding the growth of a harmful illicit trade in drugs and organised crime.

It is clear that there needs to be either an increase in funding or a reduction in prison population to effectively handle the current crisis. Significant savings may be made through sensible policies and efficient management, but there is an immediate threat to the safety and security of our prison estate and more immediate measures are needed to alleviate overcrowding and improve the staff to prisoner ratio.

We also know that sending people to prison increases their chance of reoffending¹²⁹ so surely the better approach is to reduce prison numbers, however politically unpalatable that is. The alternatives are either to allow the crisis in prisons to escalate, or to substantially increase spending on prisons; both equally unpalatable and also likely to result in higher crime rates.

There are a number of potential criminal justice reforms which cannot go without mention when discussing potential solutions to the problems faced by our Prison Service. Areas, which need immediate focus and public debate, include problem solving courts, liaison and diversion, sentencing reform, alternatives to local prisons for prisoners on remand, and alternatives to custodial sanctions. The Howard League for Penal Reform are currently calling for reductions in prison numbers by sensibly making more use of release on temporary license, changes to recall, and by making it easier to get parole.¹³⁰

There is also an opportunity to make some gains through sentencing reform of non-violent drug offences. Prisons are often environments which drive the demand for drugs. People receiving residential drug treatment are 43% less likely to reoffend on release than comparable people sent to prison.¹³¹ 14% of men and women in prison are serving sentences for drug offences.¹³² With many problems driven by prison overpopulation, alternatives to custodial sanctions for those guilty of non-violent drug offences would be a sensible and pragmatic part of reducing the burden on the prison system.

Understaffing has been particularly relevant to the increased harms associated with drugs in prisons over recent years. Low staffing levels reduce prisons capacity to undertake an intelligence-led approach to security. The MoJ's commitment to the fact that in order "*to improve prison safety we need a*

¹²⁸ www.motherjones.com/politics/2016/06/cca-private-prisons-corrections-corporation-inmates-investigation-bauer

¹²⁹ Ministry of Justice, 2013 Compendium of re-offending statistics and analysis - https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/278133/compendium-reoffending-stats-2013.pdf, Nagin, Cullen and Jonson 2009: 178

¹³⁰ <http://howardleague.org/what-you-can-do/the-3-rs-of-prison-reform/>

¹³¹ Matrix Knowledge Group (2007) *The economic case for and against prison*, London: Matrix Knowledge Group

¹³² Table A1.4i, Ministry of Justice (2015) *Offender Management statistics, Prison Population 2015*

fundamental shift in the way in which prison staff support and interact with prisoners”¹³³ is something the government simply cannot afford if it continues to avoid the issue of reducing the prison population, instead aiming to increase the prison estate’s capacity by 10,000.¹³⁴

In Norway, there has been success in reducing drug-related harms and controlling and restricting the prison drug market in large part due to both their high staff to prisoner ratio and the extensive training in intelligence-led/dynamic security. This policy of officers engaging with prisoners in order to spot those with drug problems, those involved in criminal activities within prison and those vulnerable to either self-harm or exploitation, could not be much further from the current practices in UK prisons. It is this sort of security, not technological advancements that presents the best opportunity to reduce drug-related harms in prisons. One of the most crucial benefits is that it seems to encourage a sharing economy by limiting the opportunity for drug dealers to establish themselves.¹³⁵ It has the corollary benefit of being likely to assist with both rehabilitation and drug treatment through better relationship forming and support.

The Ministry of Justice has committed to improving the capability of staff. Unfortunately, it doesn’t include any increase in the basic training of officers, or an increase in the base rate of pay. In order to have staff performing a complex, sophisticated, multi-faceted role, pay will need to be increased to attract sufficient talent for the roles. More will also need to be done to retain experienced staff, who for the 12 months ending September 2016, left the profession at a higher rate than new staff were recruited.¹³⁶

¹³³ Ministry of Justice, Prison Safety and Reform, November 2016, p42

¹³⁴ Ministry of Justice, Prison Safety and Reform, November 2016

¹³⁵ Mjøland, K. 2014. ‘A culture of sharing’: Drug exchange in a Norwegian prison. *Punishment & Society* 2014 ; Volume 16 (3). s. 336-352

¹³⁶ NOMS Workforce Statistics Bulletin 2016 -

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/567178/noms-workforce-statistics-30-september-2016.pdf

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