



Home Affairs Committee

Oral evidence: Psychoactive substances, HC 361

Tuesday 8 September 2015

Ordered by the House of Commons to be published on 8 September 2015

[Watch the meeting](#)

Members present: Mr Keith Vaz (Chair); Victoria Atkins, James Berry, Mr David Burrowes, Nusrat Ghani, Mr Ranil Jayawardena, Tim Loughton, Stuart C. McDonald, Keir Starmer, Anna Turley, Mr David Winnick

Questions 1 – 13

Examination of Witness

Witness: **Commander Simon Bray**, National Police Chiefs' Council lead on psychoactive substances, gave evidence.

Q1 Chair: Our witness is Commander Simon Bray from the Metropolitan Police. We are looking at the Government's proposals on psychoactive substances. Commander Bray, we are going to be very brief with our questions, and I will be grateful if you could be extremely brief with your answers.

Commander Simon Bray: As succinct as I can.

Q2 Chair: Succinct will be fine. Let me start by saying that when the Government's Bill was published, you said that a blanket ban would make it simpler for law enforcement on these types of drugs. Why do you think a blanket ban would be better?

Commander Simon Bray: Partly because, of course, it will end the confusion that legal or not controlled means something is safe. That is the general perception among a lot of the public out there. It will make life easier for our officers, because there is some confusion among our officers there. It makes the question of identification of substances easier. The powers in relation to stop and search, and various others that go along with the Bill, provide us with that opportunity. What is more, the introduction of a blanket ban would enable us to deal with the difficulties that we currently have with certain head shops and internet sites all in one fell swoop. An initial introduction of the legislation would enable us to take some concerted action. It would deter some of the users, certainly those who go for these substances because they are legal and supposedly safe, from taking them in the first instance.

Q3 Mr Ranil Jayawardena: In order to get a current position, a starting point, what steps have enforcement agencies been able to take to limit the production, supply and consumption of these substances already?

Commander Simon Bray: A lot of forces are now tackling individual head shops using, for example, the Anti-social Behaviour, Crime and Policing Act, which came out last year, and getting closure orders and various other orders. For example, Somerset have taken enforcement action against 15 head shops, closed two, got two to voluntarily close, and we can say that is replicated across a whole range of forces.

Q4 Mr Ranil Jayawardena: What about on production?

Commander Simon Bray: West Yorkshire have done some work against a particular firm that has been supplying drugs to other shops but, by and large, forces do not deal with that. We do not have the capacity. However, the regional organised crime units, for example in the north-west, did action around Operation Maple, which brought about Operation Bird, the week of action from a couple of years ago, and likewise the National Crime Agency do work in relation to internet sites and fast parcels. There is some work going on. It is not as joined up as it would be if the legislation changed that has to be said.

Q5 Mr Ranil Jayawardena: It has been very clear that it is very difficult because there are so many different psychoactive substances around. What estimate have you made of the number of these substances that are available?

Commander Simon Bray: The EMCDDA has said in the last year that there are 101 new substances that have been highlighted. They have 450 under watch currently. There are about 521 controlled and uncontrolled substances centrally monitored that way. We know only a proportion of those will come to the UK and some are of more concern than others. Synthetic cannabinoids is a particular issue, and then other ones pop up like ethylphenidate, which caused problems in Scotland, in Avon and in Somerset. Thanks to police involvement in bringing that to the attention of the ACMD, we have had a very quick turnaround in terms of a temporary class drugs order on that.

Q6 Mr David Burrowes: The blanket ban may make it simpler for policing but doesn't the broad definition cause complexity once it gets into the courtroom in proving psychoactivity and the requirement to identify substances?

Commander Simon Bray: I am aware of the debate around the term "psychoactivity". I know that the Home Office is working very closely with ACMD and with its own Centre for Applied Sciences and Technology to work through that. We are confident that the definition has worked elsewhere in other jurisdictions, so we will work very closely with them. What we are after, of course, is something that is as clear as possible for police officers and law enforcement to operate and for the public to understand.

Q7 Keir Starmer: Can I declare an interest. I worked with Commander Bray when I was DPP.

Just following up on that, it is a very wide definition, but that is not the only problem. Most drugs are prohibited by their type. These are to be dealt with by their effect on the brain, which makes it a very difficult practical proposition in terms of policing. Then there are excluded items, so you have a very wide group defined by their effect rather than their type. Type is easy for police officers in a sense, and for the legal system. Effect is much more difficult. Then you have to take away the ones that are excluded, and then presumably, if any case goes to court, you have to get somebody who is prepared to give evidence about what the effect of the particular substance is. In practical terms that is quite a difficulty, isn't it?

Commander Simon Bray: In a sense it could be, but in practical terms, again, we will be targeting or looking at people with substances that are being used for the purposes of drugs, whether they are controlled or otherwise, whether they are powders, tablets, pills, whether they are controlled or otherwise. This Act will give us the opportunity to deal with them in the round rather than saying, "Is this a so-called 'legal', or is it one of the ones that are currently controlled?" It makes it easier for us in many respects. The issue of psychoactivity will come to fruition in court rather than at the policing end. There will be forensic analysis in the meantime.

Q8 Keir Starmer: I think there was some evidence that suggested that this was not going to take any further resources, and so on. That cannot be right, can it, in terms of analysing expert evidence and so on? It is going to be resource-intensive.

Commander Simon Bray: There is already analytical assessment taking place of all sorts of substances, some of which are controlled and some of which are not at the moment. That will continue. There will be an initial burst of activity in the first instance once the Act is implemented, but after that I think it will be business as usual, because we will deal with them in the round as drugs of various descriptions.

Q9 Victoria Atkins: Following on from that, is it not right that many of the drugs that are seized are derivations of controlled drugs related to ecstasy and so on, so there will be a body of expertise built up over time that, "If this drug looks like this under a microscope, we say this fits the elements of the offence"?

Commander Simon Bray: I believe that is the case. What is more, because of the blanket ban, there will not be the incentive for producers to construct new and different sorts of substances in the way that they have done up until now to try to defeat the law.

Q10 Tim Loughton: Commander, critics of the Bill have argued that because it is such a wide reaching Bill, people selling candles and diving equipment will be in breach of it. I also have a case in my constituency. A parent came to me where there is a very dodgy shop that sells potpourri—a very nice smelling potpourri, but people smoke it. I was brought a video of a teenager who had smoked this stuff. They know they are selling it for people to smoke it, and you would think he was on some pretty hard drugs. How are we going to make sure we do not throw out the baby with the bathwater here? Clearly where there is an intent of selling

an apparently innocuous substance but for clearly noxious purposes, that they will be able to be prosecuted under such a Bill?

Commander Simon Bray: The first thing to say of course is it does not apply to possession, an offence of mere possession in the first instance. Some of the things that have been mentioned I do not believe will be covered by the Bill but either way there will be a common sense approach from law enforcement and from the prosecutors around what we pursue. We will not be going for trivial cases. We will be giving out guidance. We have some guidance in existence already for police officers and police forces and we will build on that, in the way that has been done for enforcement around cannabis and various others, to make sure that we are taking a logical and sensible approach that does not come up with silly prosecutions.

Q11 Tim Loughton: So if somebody came to say to you that their child or they knew of somebody who was smoking potpourri, then that would be grounds for you to be able to take action, if it is being sold on the basis that they know what people are buying it for, these are not little old ladies who want a nice smelling bathroom, these are kids who want a cheap high?

Commander Simon Bray: We know that synthetic cannabinoids are quite often substances sprayed on vegetable materials, so we will have a look at the stuff in the first instance to make some sort of assessment as to whether it is potpourri or whether it is synthetic cannabinoid, but again it will be a common-sense approach. It may well be that we have to go and check it out through our forensic providers, but it will depend on the circumstances at the time.

Q12 James Berry: Commander, could you tell us what you in the Metropolitan Police are doing about educating the public about the potential dangers of psychoactive substances, and also what you are doing in terms of educating your own officers? I ask this question because I am aware that these drugs can cause excited delirium, which is potentially fatal, and it is very difficult for police officers to recognise that without appropriate training.

Commander Simon Bray: I should emphasise that I am speaking on behalf of the National Police Chiefs' Council rather than the Metropolitan Police. My job in the Metropolitan Police is around security. It is totally unconnected about this.

James Berry: You can speak more broadly, then, and educate us.

Commander Simon Bray: I do know that within the Met as well, guidance has been issued. We have certainly put out some information to officers. We have not had training programmes as such, apart from the fact that there has been some material at our officer safety training programme, for example. West Yorkshire Police, through Operation Nightshot, did quite a lot of activity, publicity and also work with schools. Other forces have worked with schools.

We are not educators as such. That is not our prime role, but we can support educators, inform justices of the peace, for example, in their training sessions, and inform our own officers—as we will do, with the guidance leading up to the implementation of this

particular Act—of the differences and what they can do. If I could just mention, for example, NOx, nitrous oxide. Nottingham had a very large issue this year with balloons of the stuff being sold for £5 a shot and people being a bit spaced out and, therefore, vulnerable as victims and potential criminals too. We have given out quite a bit of information to officers on the briefing system in London around nitrous oxide and what to do with it, what the powers are and what sorts of things you can currently consider with the existing limited powers.

Q13 Chair: *The Times*, in an article, indicated that they thought there would just be five prosecutions a year as a result of this new legislation. What do you think the numbers would be?

Commander Simon Bray: I am hopeful, and we are already getting indications, that quite a lot of the head shops are planning to get rid of NPS, new psychoactive substances, before the date anyway. I believe there will be—we will make sure there is—a scheme of communicating with head shops and with internet providers dissuading them from stocking them and, thereafter, it will be isolated cases that we will be prosecuting, because a lot of the problem will have dissipated apart from those that have become controlled drugs anyway, like mephedrone and ethylphenidate and all the other ones that have caused problems.

Chair: Commander, thank you very much for coming in. We may well write to you again on this matter before our inquiry. It is a very brief inquiry, because we have to get our report before the House before the Bill gets its Second Reading. If there is anything further that you want to put before the Committee please do write to us, and we will write to you before we conclude the report. Thank you very much for coming here today.

