

**Prisons &
Probation**

Ombudsman
Independent Investigations

Independent investigation into the death of Mr Gordan Pavlovic a prisoner at HMP Wormwood Scrubs on 25 December 2015

**A report by the Prisons and Probation Ombudsman
Nigel Newcomen CBE**

Our Vision

To carry out independent investigations to make custody and community supervision safer and fairer.

Our Values

We are:

Impartial: *we do not take sides*

Respectful: *we are considerate and courteous*

Inclusive: *we value diversity*

Dedicated: *we are determined and focused*

Fair: *we are honest and act with integrity*



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The Prisons and Probation Ombudsman aims to make a significant contribution to safer, fairer custody and community supervision. One of the most important ways in which we work towards that aim is by carrying out **independent** investigations into deaths, due to any cause, of prisoners, young people in detention, residents of approved premises and detainees in immigration centres.

My office carries out investigations to understand what happened and identify how the organisations whose actions we oversee can improve their work in the future.

Mr Gordan Pavlovic died on 25 December 2015 of liver cancer while a prisoner at HMP Wormwood Scrubs. He was 50 years old. I offer my condolences to Mr Pavlovic's family and friends.

Mr Pavlovic suffered from complex medical conditions including liver cancer, which had been treated in the community before he was sent to prison in June 2015. Overall, I am satisfied that Mr Pavlovic received a generally good standard of care in the prison, although I am concerned that he missed at least one hospital appointment because of a lack of prison staff to take him. Mr Pavlovic was admitted to hospital on 14 December and was restrained until the day before he died, without an appropriate review of his risk that took into account his declining condition and terminal prognosis.

This version of my report, published on my website, has been amended to remove the names of staff and prisoners involved in my investigation.

Nigel Newcomen CBE
Prisons and Probation Ombudsman

July 2016

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Summary

Events

1. On 21 July 2015, Mr Gordan Pavlovic was remanded to HMP Wormwood Scrubs. On 24 July, he was convicted of unlawful wounding and remanded for sentencing. (In September, he was sentenced to 18 months in prison for this offence.) Mr Pavlovic had a history of opiate drug dependence and had complex medical problems including liver cancer. He had received treatment for the cancer before he went to prison, which was understood to have been successful. He also had hepatitis C, HIV infection, and thrombocytopenia (a low platelet count). He had recently had surgery to remove his spleen. Hospital specialists checked and followed up the liver cancer.
2. Mr Pavlovic was often abusive and challenging to healthcare staff at the prison. He also often declined blood tests needed to monitor his medical conditions effectively. He attended a number of hospital appointments but missed one specialist liver appointment on 28 September (which had been re-arranged from August) because there was a lack of prison staff to take him. He attended a hospital appointment on 14 October to review his cancer and had scans in hospital on 27 November. The hospital did not inform prison healthcare staff of the results of these scans.
3. In early December, Mr Pavlovic began to complain of abdominal pain and vomiting. He did not attend a hospital appointment on 9 December. The reason was not recorded. On 14 December, a prison GP sought advice from Mr Pavlovic's hospital consultant and he was admitted to hospital urgently. In hospital, doctors found that his liver cancer had returned and he did not have long to live. Mr Pavlovic remained in hospital for end of life care. He was restrained by an escort chain until 24 December and died at the hospital on 25 December.

Findings

4. Overall, we consider that Mr Pavlovic received an appropriate standard of care at the prison, equivalent to that he could have expected to receive in the community. However, he missed at least one important hospital appointment because there was a lack of prison staff to take him. The clinical reviewer did not consider this affected the outcome, but it might have helped earlier detection that the cancer had recurred. Communication between the hospital and prison was limited but we are satisfied that prison healthcare staff tried to get information from the hospital about Mr Pavlovic's conditions when it was important. When his health deteriorated significantly in December, a prison GP promptly arranged his admission to hospital.
5. Mr Pavlovic was restrained by an escort chain in hospital and this was not removed until the day before he died, despite his declining physical state. We are not satisfied that this was justified by an appropriate risk assessment which took into account his condition at the time.

Recommendations

- The Governor and Head of Healthcare should ensure that prisoners do not miss hospital appointments unless there are properly justified, exceptional and fully recorded reasons.
- The Governor and Head of Healthcare should familiarise themselves with the requirements of the Graham judgment and ensure that all staff undertaking risk assessments for prisoners taken to hospital understand the legal position. Assessments should fully take into account the health of a prisoner, be based on the actual risk the prisoner presents at the time, and should be reviewed as circumstances change.

The Investigation Process

6. The original investigator issued notices to staff and prisoners at HMP Wormwood Scrubs informing them of the investigation and asking anyone with relevant information to contact him. No one responded.
7. The investigator obtained copies of relevant extracts from Mr Pavlovic's prison and medical records.
8. NHS England commissioned a clinical reviewer to review Mr Pavlovic's clinical care at the prison.
9. Another investigator subsequently took over the investigation and she and the clinical reviewer interviewed two members of staff at Wormwood Scrubs on 24 February.
10. We informed HM Coroner for West London of the investigation who gave us the cause of death. We have sent the coroner a copy of this report.
11. One of the Ombudsman's family liaison officers contacted Mr Pavlovic's brother to explain the investigation and to ask if he had any matters he wanted the investigation to consider. He wanted information about Mr Pavlovic's medical treatment.
12. The initial report was shared with the Prison Service. The Prison Service did not find any factual inaccuracies.
13. Mr Pavlovic's brother received a copy of the initial report. He pointed out a factual inaccuracy and/or omission. This report has been amended accordingly.

Background Information

HMP Wormwood Scrubs

14. HMP Wormwood Scrubs is a large local prison in West London, holding over 1,200 men, either convicted or remanded by courts in the local area. It is also a designated resettlement prison for London prisoners. Central London Community Healthcare provides healthcare services. There is 24-hour healthcare cover and an inpatient unit with 17 beds.

HM Inspectorate of Prisons

15. The most recent inspection of Wormwood Scrubs was in December 2015. Inspectors had a number of concerns about the prison, but found that the quality of health services was reasonable with an adequate range of primary care services. The management of long-term conditions was mostly reasonable but few prisoners with long-term or complex conditions had care plans. The inpatient unit was a good environment. Most inpatients had severe mental health problems or other complex needs but there were often too few beds available to meet demand. Too many external hospital appointments were cancelled and rescheduled because of a shortage of prison staff to take prisoners to hospital and this was having a detrimental effect on prisoners' health.

Independent Monitoring Board

16. Each prison has an Independent Monitoring Board (IMB) of unpaid volunteers from the local community who help to ensure that prisoners are treated fairly and decently. In its latest annual report, for the year to May 2015, the IMB noted that healthcare services had received a commendable inspection report from the Care Quality Commission. The IMB was concerned that too many prisoners had hospital appointments cancelled, often due to a shortage of prison staff to take them.

Previous deaths at HMP Wormwood Scrubs

17. Mr Pavlovic was the second prisoner to die of natural causes at Wormwood Scrubs since December 2013. There have been two further deaths from natural causes since Mr Pavlovic died. We have previously made recommendations to the prison about the unjustified use of restraints for prisoners in hospital.

Key Events

18. On 21 July 2015, Mr Gordan Pavlovic was remanded to HMP Wormwood Scrubs. Mr Pavlovic had a history of opiate drug dependence for which he was prescribed methadone. At an initial health screen, he said he had received treatment for liver cancer and had recently had surgery at hospital to remove his spleen. He had hepatitis C, HIV infection, and thrombocytopenia (a low platelet count). He also had a history of depression. Mr Pavlovic said he had a follow-up appointment at the hospital in four to six weeks. The nurse who assessed Mr Pavlovic described him as frail and weak.
19. The next day, a prison GP saw Mr Pavlovic and confirmed his medical history and medication. She recommended he should be admitted to the prison's healthcare unit as an inpatient. On 24 July, Mr Pavlovic was convicted of unlawful wounding and remanded for sentencing. On 29 July, he was admitted to the prison's inpatient unit.
20. Records show that Mr Pavlovic was often described as abusive and challenging to healthcare staff. He believed he had a terminal diagnosis and frequently refused blood tests to monitor his medical conditions.
21. On 6 August, Mr Pavlovic told a prison GP that he was nauseous and had vomited three times. The GP advised Mr Pavlovic to have blood tests but he declined. The GP explained that he had no other method of telling if Mr Pavlovic's liver condition was deteriorating but Mr Pavlovic continued to refuse to have blood tests. On 7 August, Mr Pavlovic was sentenced to 7 days in prison after losing an appeal against a conviction in February 2014, for damaging property.
22. On 18 August, the prison GP confirmed with an oncologist at hospital that Mr Pavlovic did not have a terminal diagnosis for liver cancer. The GP noted Mr Pavlovic's clinical observations were normal. He again encouraged Mr Pavlovic to have blood tests but he continued to refuse. The GP spoke to him about why he thought he had a terminal diagnosis. Mr Pavlovic said he did not trust the hospital and the GP should not believe their conclusions about his illness.
23. On 20 August, after appearing at court for an unsuccessful appeal against a conviction to comply with a local authority abatement notice, Mr Pavlovic was taken to HMP Belmarsh. The hospital cancelled an appointment Mr Pavlovic had with a liver specialist on 24 August. This was re-booked for 7 September.
24. On 7 September, Mr Pavlovic returned to Wormwood Scrubs after appearing at court. A prison GP assessed Mr Pavlovic the same day and found he had missed the appointment with the liver specialist as he had been at court. (The hospital rebooked this appointment for 28 September.) On 8 September, Mr Pavlovic was sentenced to 18 months in prison for the offence of unlawful wounding and the court imposed a restraining order preventing him from entering the W14 postal code area for 5 years.
25. A prison GP recorded that Mr Pavlovic exhibited challenging behaviour, was very demanding and was known to overstate his medical condition by saying it was terminal. The GP chased up appointments with oncology, surgery, and infectious

diseases departments at two hospitals. Mr Pavlovic's next oncology appointment was arranged for 14 October.

26. Mr Pavlovic did not attend his appointment with the liver specialist at hospital on 28 September, as there were insufficient prison staff to take him.
27. On 14 October, Mr Pavlovic attended an oncology appointment at hospital. He had blood tests, but the prison did not receive any results or update on his condition. On 3 November, a prison GP asked the prison's appointments manager to obtain information about Mr Pavlovic's pending hospital appointments and recent clinic attendance.
28. On 27 November, Mr Pavlovic went to hospital for a CT scan of his thorax, abdomen and pelvis but the outcome was not recorded in his prison medical records. The clinical reviewer considered that it is likely that this scan would have revealed a recurrence of cancer. The hospital specialist was responsible for ensuring that the findings were followed up. (We do not know whether there was a delay at the hospital reviewing the scans, as hospital care is outside the remit of this investigation.)
29. On 3 December, Mr Pavlovic complained of vomiting and pain in his central abdomen. A nurse referred him to the GP but there is no record that he was seen at the time. On 9 December, he told another nurse that he had abdominal pain and had vomited. The nurse noted he appeared pale and walked with a stick. She took a blood sample and arranged for him to see a GP. Mr Pavlovic did not attend an oncology appointment that day, but the reason was not recorded.
30. On 14 December, a prison GP examined Mr Pavlovic who complained of abdominal pains. The GP noted he looked jaundiced and had some mild tenderness to his right upper abdomen. His clinical observations were normal but the blood test results concerned the doctor. He contacted Mr Pavlovic's liver specialist for advice who said they should send him to hospital urgently. Two officers accompanied him to hospital and restrained him with handcuffs. He was admitted to hospital that evening and the officer replaced the handcuffs with an escort chain. (An escort chain is a long chain with a handcuff at each end, one of which is attached to the prisoner and the other to an officer.)
31. After investigations, hospital doctors confirmed that Mr Pavlovic's liver cancer had returned. On 15 December, Mr Pavlovic's consultant had told him he had a life expectancy of less than six months.
32. On 17 December, hospital staff told a healthcare manager that Mr Pavlovic's diagnosis had been revised and he now had a maximum of two months to live. He considered Mr Pavlovic might be eligible for compassionate release and, when he got back to the prison, he emailed the deputy governor about this. On 23 December, the healthcare manager noted that he had also asked hospital doctors to email a member of prison healthcare staff with details of Mr Pavlovic's condition which the National Offender Management Service would need in support of the application. (Mr Pavlovic died before an application could be progressed.)

33. On 24 December, a nurse telephoned the hospital for an update on Mr Pavlovic's condition. Hospital staff told her he was now receiving end of life care and receiving pain relief through a syringe driver (a small, battery-operated pump used to give medication continuously under the skin). The nurse said hospital staff were concerned that Mr Pavlovic was still restrained, and doctors considered he now had less than a week to live. The nurse spoke to a prison manager, who agreed that officers should remove the escort chain. Mr Pavlovic died in hospital the next day, Christmas Day.

Contact with Mr Pavlovic's family

34. There were no details of Mr Pavlovic's next of kin or any family in his prison records, as he had refused to give any during his time in prison. On 23 December, the healthcare manager visited Mr Pavlovic and took his mobile phone from his stored property in case there were phone numbers of people he wanted to contact. Mr Pavlovic said he did not want to contact anyone and did not want anyone to know he was serving a prison sentence.
35. After Mr Pavlovic died, the prison appointed a member of the chaplaincy team as their family liaison officer. She made extensive enquiries with the police in London and Belgrade to establish Mr Pavlovic's next of kin. She eventually traced Mr Pavlovic's brother in Serbia. On 22 March, she contacted him, informed him of his brother's death, and offered condolences and support. The prison agreed to contribute to funeral costs, in line with national Prison Service policy.

Support for prisoners and staff

36. After Mr Pavlovic's death, the deputy governor debriefed the escorting officers and offered them her support and that of the staff care team.
37. The prison posted notices informing staff and prisoners that Mr Pavlovic had died and offered support. Staff reviewed all prisoners assessed as at risk of suicide and self-harm in case they had been adversely affected by Mr Pavlovic's death.

Cause of death

38. The coroner confirmed that Mr Pavlovic had died from hepatocellular carcinoma (liver cancer).

Findings

Clinical care

39. Overall, we consider that Mr Pavlovic received an appropriate standard of care at the prison, which the clinical reviewer concluded was equivalent to that he could have expected to receive in the community. Healthcare staff recognised that Mr Pavlovic had complex medical conditions and there was a multidisciplinary approach to managing his health needs. Communication between the hospital and prison was sometimes limited, but we are satisfied that prison healthcare staff tried to get information from the hospital about Mr Pavlovic's conditions when it was important. When his health deteriorated significantly in December, a prison GP promptly arranged his admission to hospital and it is unlikely that the recurrence of cancer could have been identified much earlier.
40. However, we are concerned that Mr Pavlovic missed some hospital appointments. Sometimes this was due to the hospital rearranging them, or for unavoidable reasons such as court appearances, but he missed at least one, on 28 September, because there were insufficient prison staff available to take him to the appointment. This was important as Mr Pavlovic had already missed two earlier appointments on 24 August and 7 September. He eventually had the appointment on 28 October. The clinical reviewer did not consider that it would have affected the outcome, but it is important that prisoners with serious health conditions should be able to attend hospital appointments, particularly important ones such as follow-up appointments for cancer, in case there is any recurrence. We note that the prison's Independent Monitoring Board and HM Inspectorate of Prisons have also identified missed hospital appointments as a concern. We make the following recommendation:

The Governor and Head of Healthcare should ensure that prisoners do not miss hospital appointments unless there are properly justified, exceptional and fully recorded reasons.

Restraints, security and escorts

41. The Prison Service has a duty to protect the public when escorting prisoners outside prison, such as to hospital. It also has a responsibility to balance this by treating prisoners with humanity. The level of restraints used should be necessary in all the circumstances and based on a risk assessment, which considers the risk of escape, the risk to the public and takes into account the prisoner's health and mobility. A judgment in the High Court in 2007 (the Graham judgment) made it clear that prison staff need to distinguish between a prisoner's risk of escape when fit (and the risk to the public in the event of an escape) and the prisoner's risk when suffering from a serious medical condition. The judgment indicated that medical opinion about the prisoner's ability to escape must be considered as part of the assessment process and kept under review as circumstances change.
42. Mr Pavlovic went to hospital on 14 December. A senior prison manager completed the risk assessment and noted that Mr Pavlovic had previously threatened staff and been abusive to nurses. He decided that two officers should escort Mr Pavlovic using handcuffs. The only healthcare input to the risk

assessment was an indication that there was no objection to restraints. Later that evening, a prison manager changed the restraints to an escort chain when Mr Pavlovic was admitted to hospital.

43. On 24 February 2016, the Head of Healthcare told us that healthcare staff understood their input into risk assessments was confined just to assessing whether there was any physical reason why restraints could not be used. However, in response to a previous PPO recommendation about this issue, the prison said that all staff involved in the risk assessment process had been reminded, in an email circulated on 29 January 2016, of the legal position. Despite this, it does not appear that all managers understand that decisions about restraints for seriously ill prisoners need to take into account the health of a prisoner and how it affects their ability to escape.
44. Custodial managers reviewed the escort arrangements regularly but there is no evidence that they reviewed Mr Pavlovic's risk, taking into account any clinical opinion from healthcare staff at the prison or from hospital staff. Mr Pavlovic remained restrained in prison until 6.20pm on 24 December, when hospital staff raised concerns with prison staff. Mr Pavlovic died the next day.
45. The Prison Service has a responsibility to protect the public, but security must be balanced with humanity. We are concerned that Mr Pavlovic was restrained so long in hospital without a proper assessment of his risk, when he was very ill and dying. We are also concerned at the lack of understanding about the requirements of the 2007 High Court judgment and subsequent guidance issued by the Prison Service. We make the following recommendation:

The Governor and Head of Healthcare should familiarise themselves with the requirements of the Graham judgment and ensure that all staff undertaking risk assessments for prisoners taken to hospital understand the legal position. Assessments should fully take into account the health of a prisoner, be based on the actual risk the prisoner presents at the time, and should be reviewed as circumstances change.

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