

INDEPENDENT CUSTODY VISITING PANEL – 29 JANUARY 2018

CHANGING THE CULTURE OF POLICE CUSTODY CONFERENCE

REPORT BY THE OPCC GOVERNANCE & CONTACT MANAGER

PURPOSE OF THE REPORT

To present a summary of the Changing the Culture of Police Custody Conference held on 3 October 2017.

1. INTRODUCTION

1.1 Police custody is under the spotlight more than ever and police forces are under pressure to support detainees suffering from mental health crises and prevent deaths and other serious incidents. The Governance and Contact Manager attended a conference on 3 October 2017 which covered information about the policy changes and developments.

1.2 The speakers on the day were:

- Nick Ephgrave, Chief Constable, Surrey Police & National Lead on Custody, NPCC
- Jonathan Betts, Detective Superintendent, Cheshire Police
- Jessica Skinns, Associate, Bindmans LLP
- Sherry Ralph, Chief Operating Officer, Independent Custody Visiting Association
- Sheena Urwin, Head of Criminal Justice, Durham Constabulary
- Chief Inspector Paul Ford, Metropolitan Police

2. SPEAKERS

Nick Ephgrave, Chief Constable, Surrey Police & National Lead on Custody, NPCC

2.1 Chief Constable Ephgrave outlined his role as the NPCC Lead for Custody and the NPCC strategic vision “To develop a nationally consistent, transparent and trusted custody operation that fundamentally supports the policing mission”. The way people are detained and cared for should be the same nationally irrespective of where they are arrested.

2.2 The vision was supported by a number of strategic principles which were: detention is safe and used only when necessary; custody practitioners are professionals, trained and accountable; custody supports effective investigation of crime; practice is ethical, evolves and learns from failings; non-discriminatory and transparent for all that engage and finally, effective engagement with partners in support of investigation. He explained that the custody sergeant should be seen as the expert in the field and that there is a desire for national training for custody staff to ensure consistent practice across the country.

2.3 To support the strategic principles the NPCC had identified three workstreams of legitimacy, efficiency and effectiveness. Each workstream has between five and six statements which could be summarised as follows:

Legitimacy	Efficiency	Effectiveness
Proactive protection of rights	Use accurate information to manage risk and be accountable	Agreed minimum investigative actions
Last resort for children	Collaborate where it increases economic efficiency	Encourage and innovate alternatives to custody
Eliminate use for Mental Health Act detentions	Invest in practitioners, providing effective training	Reduce incidence and length of pre-charge bail
Encourage independent monitoring	National agreements with service providers	Confident in identity and antecedents of detainee
Consistent in recording practices	Invest in new technology	Engagement with law enforcement partners
Training assured against Approved Professional Practice		Needs of detainees and diversion opportunities

2.4 Chief Constable Ephgrave acknowledged that these were ambitious statements and that there would be challenges along the way, but that progress had been made. Academics had devised a risk assessment which could be made national, although the plan had been to run a pilot initially. The NPCC had identified the areas felt to be a priority and had working groups in place.

2.5 In relation to children in custody, he recognised the significant decrease in child arrest figures since 2010. The Children’s Concordat had put the onus on local authorities to provide suitable accommodation and custody sergeants would need to consider whether the requirement would be that it must be secure. The decrease in child arrest and detention had saved public money in the long term; he advised that Surrey alone had seen two out of three Youth Courts closed due to a lack of business.

Jonathan Betts, Detective Superintendent, Cheshire Police

2.6 D/Supt Betts represented Darren Martland, ACC of Cheshire Police and the NPCC Lead on Pre-charge Bail. D/Supt Betts explained that the Policing and Crime Bill 2016 had been the first major reform of pre-charge bail since it’s introduction in PACE 1984. The changes had been driven by the then Home Secretary who had stated in October 2014: “We must...Look at statutory time limits on the use of pre-charge bail to prevent people spending months or even years on bail only for no charges to be brought.” Following consultation the Policing and Crime Bill was passed in 2016.

2.7 The College of Policing carried out a study using data from eight forces. They found that the average length of pre-charge bail was 53 days and that 60% of cases were bailed in excess of 28 days, with 9% bailed in excess of 90 days.

- 2.8 The introduction of the Policing and Crime Bill saw the responsibilities for authorisation of time limits detailed as:
- 28 days – Inspectors
 - First extension up to 3 months – Superintendent
 - Second extension up to 6 months – Magistrates/Assistant Chief Constable
 - Further extensions of 3 months – Magistrates Court
- 2.9 It also stated that there should be presumption of a release without bail, which should be necessary and proportionate. This was a fundamental change in the police approach to bail with the impact being felt by multiple agencies such as Defence, the Courts and the CPS. It has also had a significant training requirement for each force, especially as the time scales were very short.
- 2.10 A national three month review was conducted post implementation which showed that there had been 92,720 arrests, of that figure 24,076 had been released under investigation, 3,400 saw extension to 28 days authorised by an Inspector, 495 extended up to 3 months by a Superintendent and 3 court applications made. The changes had resulted in an 87% reduction in the total number of people bailed.
- 2.11 The results of the changes would continue to be monitored, and a post implementation review would be undertaken. Given the limited evidence base it would need time to establish the impact and cost of the changes.

Jessica Skinns, Associate, Bindmans LLP

- 2.12 Ms Skinns presentation related to reducing the use of police cells as a place of safety and avoidance of the use of custody for children.
- 2.13 She explained that the Government had accepted during a Parliamentary debate that police stations had been used too frequently as a place of safety and that the expectation was for increased demand of approximately 10% for Section 136 detentions in the future.
- 2.14 The Policing and Crime Act 2017 amended the Mental Health Act with the insertion of S136A:
- (1) A child may not, in the exercise of a power to which this section applies, be removed to, kept at or taken to a place of safety that is a police station.*
- (2) The Secretary of State may by regulations –*
- (a) provide that an adult may be removed to, kept at or taken to a place of safety that is a police station, in the exercise of a power to which this section applies; **only in circumstances specified in the regulations.***
- 2.15 Other changes included permitting the use of S136 anywhere that is not a private dwelling; permitting a person being kept at their location, provided it is a place of safety; requirements for consultation with medical professionals when making a place of safety assessment, if it is practicable; amendments to the definition of a place of safety and reduction of the period of detention from 72 to 24 hours.
- 2.16 Ms Skinns reiterated that custody must be a last resort for children, this had been supported by a number of studies and reports.

Sherry Ralph, Chief Operating Officer, Independent Custody Visiting Association

- 2.17 Ms Ralph provided an overview of the Independent Custody Visiting Association (ICVA) and detailed how and why it had been established. She advised that Independent Custody Visitors (ICVs) had visited custody over 9,000 times and had spoken to more than 26,000 detainees in 2016/17.
- 2.18 ICVA had provided a training programme for ICVs to visit people being detained under the Terrorism Act 2000, in consultation with the Independent Reviewer of Terrorism Legislation to ensure consistency across the Schemes.
- 2.19 There had been 16 deaths in custody during 2017. ICVs remained part of the prevention of occurrences as they use a 'fresh pair of eyes' to identify possible ligature points in cells. They could also speak to detainees and help identify those for whom there are concerns and they had been trained to pass on information to custody staff if a detainee had indicated they may harm themselves.
- 2.20 When a death in custody had occurred, ICVA would make contact with the Scheme as soon as practicable to offer support and check whether ICVs had been present. They would also check on the Independent Office for Police Conduct ((IOPC) previously IPCC) for the outcomes of investigations and any lessons to be learnt and disseminate this to Schemes.
- 2.21 If ICVs had spoken to, seen or reviewed the custody log of a detainee who subsequently died, there would be a possibility that the IOPC may wish to talk to the ICVs as part of that investigation. If that contact had been significant the ICVs may be treated as witnesses and be asked to provide a statement and/or a copy of the report form. It would also be probable that the ICVs could be asked to give evidence in court if any prosecution takes place, any disciplinary proceedings are conducted or if an inquest is held.
- 2.22 If ICVs had previously made recommendations for change that had not been implemented and had contributed to the death, this could be relevant to the investigation and may be considered alongside other evidence in the case.

Sheena Urwin, Head of Criminal Justice, Durham Constabulary

- 2.23 Ms Urwin gave a brief presentation focused on a Harm Assessment Risk Tool (HART) for police custody officers used in Durham, which supported them to make decisions. It was based around an algorithm to ensure consistent and transparent decision making by custody officers.

Chief Inspector Paul Ford, Criminal Justice, Metropolitan Police

- 2.24 Chief Inspector Ford outlined a number of factors that influence the morale of custody staff, which included resource issues, the complex needs of the public, bureaucracy, pace of change with legislation, shrinking force estates, lack of training and rising demand. The role of custody staff was a tough one for which they felt they had little recognition, the demands around the welfare of those experiencing more complex mental health issues had increased and budgets had reduced. The health and wellbeing of staff had been impacted. He believed mistakes happened when morale was low, a blame culture prevailed and staff became disenchanted with the role.
- 2.25 When considering how to improve morale, he reported that no one size fits all. It would be important to identify the needs of each individual. However, improvements could be made by communicating good work that had been done, and identifying key players and personally

thanking them and celebrating when key milestones had been achieved. In his own area he arranged for staff to have relaxation rooms where they would be able to relax and bond, as increased morale began with building those bonds.

- 2.26 Staff had been encouraged to undertake health checks and take part in coaching and Blue Light training to assist them in identifying their own and others stress levels and improving them.

3. RECOMMENDATION

- 3.1 Visitors are asked to note the summary of the Changing the Culture of Police Custody Conference.

Yvonne Fenwick
Governance and Contact Manager