The welfare of vulnerable people in police custody

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Contents

Glossary

AA	appropriate adult
ACPO	Association of Chief Police Officers
anti-social behaviour	behaviour by a person which causes or is likely to cause harassment, alarm or distress to one or more other persons not of the same household as the person (see section 101 of the Police Reform and Social Responsibility Act 2011)
APP	authorised professional practice
appropriate adult	individual whose role is to safeguard the welfare and rights of children and vulnerable adults detained or interviewed by police; he may be a parent or other relative, or a designated professional such as a social worker; all children and any adult who is identified as mentally ill or mentally vulnerable should have a designated appropriate adult
Association for the Prevention of Torture	international non-governmental organisation focused on the prevention of torture and other acts of cruel, inhuman or degrading treatment
Association of Chief Police Officers	professional association of police officers of assistant chief constable rank and above, and their police staff equivalents, in England, Wales and Northern Ireland; leads and coordinates operational policing nationally; a company limited by guarantee and a statutory consultee; its president is a full-time post under the Police Reform Act 2002
authorised professional practice	official source of professional practice on policing, developed and approved by the College of Policing, to which police officers and staff are expected to have regard in the discharge of their duties
BAME	Black Asian and Minority Ethnic
call-handler	worker (usually a member of police staff and not a police officer) who answers telephone calls from

	the public, determines the circumstances of the call, and decides what the initial response will be
Care Quality Commission	independent regulator of all health and social care services in England
caution	formal warning that is given to a person who has committed a minor crime and admitted the offence; if the person refuses the caution then he will normally be prosecuted through the normal channels for the offence; although it is not technically classed as a conviction (as only the courts can convict someone) it can be taken into consideration by the courts if the person is convicted of a further offence
chief officer	in police forces outside London: assistant chief constable, deputy chief constable and chief constable; in the Metropolitan Police Service: commander, deputy assistant commissioner, assistant commissioner, deputy commissioner and commissioner; in the City of London Police: commander, assistant commissioner and commissioner; also includes a member of police staff who holds equivalent status to a police officer of these ranks
child	person under the age of 18
College of Policing	professional body for policing in England and Wales, established to set standards of professional practice, accredit training providers, promote good practice based on evidence, provide support to police forces and others in connection with the protection of the public and the prevention of crime, and promote ethics, values and standards of integrity in policing; its powers to set standards have been conferred by the Police Act 1996 as amended by the Anti-social Behaviour, Crime and Policing Act 2014
community resolution	way of resolving less serious offences and/or anti-social behaviour incidents through informal agreement between the parties involved, as

	opposed to progression through the criminal justice system
Convention on the Rights of Persons with Disabilities 2006	international human rights treaty of the United Nations, intended to protect the rights and dignity of persons with disabilities
CQC	Care Quality Commission
Data Protection Act 1998	legislation that controls how personal information is used by organisations, businesses or the government
diversion schemes	schemes provided by the police and other agencies aimed at diverting children and vulnerable adults away from custody by providing advice and support
diversity	political and social policy of promoting fair treatment of people of different backgrounds or personal characteristics; the Equality Act 2010 specifies nine protected characteristics in this regard: age, disability, gender reassignment, marriage or civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation
front line	those members of police forces who are in everyday contact with the public and who directly intervene to keep people safe and enforce the law
he/him/his/she/her	the use of the masculine gender includes the feminine, and vice versa, unless the context otherwise requires
Health and Social Care Information Centre	national provider of information, data and IT systems for commissioners, analysts and clinicians in health and social care
HSCIC	Health and Social Care Information Centre
IPCC	organisation established under the Police Reform Act 2002, responsible for overseeing the police complaints system in England and Wales, including monitoring the way complaints are handled by local police forces; it investigates the most serious complaints, incidents and allegations

	of misconduct; can call in the most serious cases from forces; can manage or supervise a police investigation into a complaint; and can deal with appeals from people who are not satisfied with the way their complaint has been dealt with by the police
intimate searches	searches by police under the Police and Criminal Evidence Act 1984 (PACE) of a person's body cavities when suspected of hiding drugs or offensive weapons upon their person; they may only be carried out if there are reasonable grounds for believing that a person who has been arrested and is detained may have concealed anything which could be used to cause physical injury; also, in the case of suspected couriers or dealers only, a Class A drug; searches for harmful articles are conducted by suitably qualified people: in the case of searches for drugs, a registered doctor or nurse can carry out the search; if this is not practicable, a constable will carry out the search
IPCC	Independent Police Complaints Commission
liaison and diversion teams	schemes provided by the police and other agencies, particularly the health service, aimed at diverting people with mental health problems away from custody by providing advice and support
LSCB	Local Safeguarding Children's Board
Local Safeguarding Children's Board	local forum at which organisations (including local authorities, the police, the probation service and heath services) come together to agree on how they will cooperate with one another to safeguard and promote the welfare of children; established by the Children Act 2004, which gives a statutory responsibility to each locality to have one in place
Mental Health Crisis Care Concordat 2014	agreement signed in February 2014 by 22 national bodies involved in health, policy, social care, housing, local government and the third sector; sets out how these organisations will work together better to make sure that people receive

	the help they need when they are having a mental health crisis
National Preventive Mechanism	18 designated organisations that carry out visits to places of detention, to monitor the treatment of and conditions for detainees and to make recommendations regarding the prevention of ill-treatment; requirement of the Optional Protocol to the United Nations Convention against Torture and other Cruel, inhuman or Degrading Treatment or Punishment
neighbourhood police officers	team of police officers and police community support officers who predominantly patrol and are assigned to police a particular local community; teams often comprise specialist officers and staff with expertise in crime prevention, community safety, licensing, restorative justice and schools
non-notifiable offences	less serious offences that do not have to be notified to the Home Office (such as breach of the peace or anti-social behaviour) and may be dealt with, for example, by police issuing a penalty notice for disorder
notifiable offences	includes all offences that could possibly be tried by jury and have to be notified to the Home Office (including some less serious offences, such as minor theft that would not usually be dealt with this way); definition set out in the Home Office's User Guide to Home Office Statistics, 2011
NPM	National Preventive Mechanism
OPCAT	Optional Protocol to the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
Optional Protocol to the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment	reaffirms that torture and other cruel, inhuman or degrading treatment or punishment are prohibited and constitute serious violations of human rights

out-of-court disposal	one of several methods of concluding the action of the criminal justice system in respect of a crime without proceeding to a prosecution; they are administered and effected by the police, and enable them to deal quickly and proportionately with low-level, often first-time offences; examples include cautions, cannabis warnings, penalty notices for disorder, and community resolutions; some have a statutory basis, and some do not
PACE	Police and Criminal Evidence Act 1984
PACE Code G	advises officers on the use of discretion: 'the use of the power [of arrest] must be fully justified and officers exercising the power should consider if the necessary objectives can be met by other, less intrusive means' (para 1.3)
partner agencies	public sector entities, such as those concerned with health, education, social services and the management of offenders, which from time to time work with the police to attain their common or complementary objectives
partnership	co-operative arrangement between two or more organisations, from any sector, who share responsibility and undertake to use their respective powers and resources to achieve a specified common objective
PCC	police and crime commissioner
PCSO	police community support officer
Penalty Notice for Disorder	form of immediate financial punishment used by police to deal with low-level offending, such as being drunk and disorderly, retail theft and minor criminal damage
place of safety	residential accommodation provided by a local social services authority under section 46 of the Children Act 1989; a hospital as defined by the Mental Health Act 1983; a police station; an independent hospital or care home for mentally disordered persons; or any other suitable place the occupier of which is willing temporarily to

	receive the patient (defined in section 135(6) of the Mental Health Act 1983)
PND	Penalty Notice for Disorder
police and crime commissioner	elected entity for a police area, established under section 1, Police Reform and Social Responsibility Act 2011, responsible for securing the maintenance of the police force for that area and securing that the police force is efficient and effective; holds the relevant chief constable to account for the policing of the area; establishes the budget and police and crime plan for the police force; appoints and may, after due process, remove the chief constable from office
Police and Criminal Evidence Act 1984	one of the principal statutes concerning the legislative framework for police powers and safeguards on stop and search, arrest, detention, investigation, identification and interviewing detainees
police area	area of England and Wales in respect of which a police force and a local policing body has been established; the police areas outside London are specified in Schedule 1, Police Act 1996; the London police areas are the metropolitan police district and the City of London police area (section 1, Police Act 1996); the Home Secretary has the power to alter police areas, but not the City of London police area (sections 32-34 Police Act 1996)
police community support officer	uniformed non-warranted officer employed by a territorial police force in England and Wales or the British Transport Police; established by the Police Reform Act 2002
police officer	individual with warranted powers of arrest, search and detention who, under the direction of his chief constable, is deployed to uphold the law, protect life and property, maintain and restore the Queen’s peace, and pursue and bring offenders to justice

police staff	person employed by a chief constable or a police and crime commissioner who is not a police officer
police station	police building which is wholly or mainly for the use of police officers and staff
protected characteristics	characteristics of a person which, if established to be the basis of discrimination, will render the discrimination unlawful under the Equality Act 2010; the characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation
response officer	police officer assigned to deal with emergency and priority calls
restorative justice	approach to justice that focuses on the needs of the victims, the offenders, and communities; victims take an active role in the process and offenders are encouraged to take responsibility for their actions and to repair the harm they have done; it can include apologies, returning stolen items or community service
risk assessment	process to assist officers in decision-making on appropriate levels of intervention based on expected or forecast levels of harm to individuals, the public, offenders, or property
safeguarding	term applied when protecting children and other vulnerable people; the UK government has defined the term ‘safeguarding children’ as: ‘The process of protecting children from abuse or neglect, preventing impairment of their health and development, and ensuring they are growing up in circumstances consistent with the provision of safe and effective care that enables children to have optimum life chances and enter adulthood successfully’
secure accommodation	specialist children's homes which provide care and accommodation in a secure environment for children who have been placed there by local authorities for their welfare and protection, or who have been placed there by the Youth Justice

	Board; they provide care for boys and girls aged between 10 and 17 and include full residential care, educational facilities and healthcare provision.
senior officers	police officers generally defined as those holding a rank above that of chief superintendent; other definitions include police officers of inspector rank or above, and police officers of superintendent rank or above; in this report, we mean holding a rank above that of chief superintendent
street bail	bail granted to an arrested person without taking them to a police station, on the condition that the person attends at a later date
triage	the police and mental health professional working together to identify and respond appropriately to people with mental health problems
United Nations Convention on the Rights of the Child (UNCRC) 1989	international human rights treaty that grants all children and young people (aged 17 and under) a comprehensive set of rights
voluntary attendance	alternative to arrest by inviting suspects to attend a police station or designated local facilities at an appointed time; it is used for low level offences
vulnerability	condition of a person who is in need of special care, support or protection because of age, disability or risk of abuse or neglect; vulnerability can be created by detention; in this inspection, we used the knowledge we have about outcomes of contact with the police for certain groups of people, to define vulnerability

Foreword

Every day, the police in England and Wales are required to respond to the widest possible range of human behaviour and conditions. One moment they might be seeking a place of safety for an abandoned child, or for a person suffering from mental health problems who is confused and vulnerable; the next, they could be arresting an armed criminal.

In some cases, people may be both offenders and in need of care. Vulnerability can be a trigger for crime or it can make people more likely to be victims of crime. The task that we ask of our police officers in making the distinction between the need for care and the requirements of justice is therefore both highly complex, and crucial if we are to ensure that vulnerable adults and children in our society do not become criminalised for want of a more appropriate response. The bricks and mortar of the custody suite and the police cell do not, and cannot make this distinction. As a result, some of the most vulnerable in our society may be subject to the same physical conditions and treatment as some of the most harmful.

Police officers are civilians in uniform, possessing and discharging powers given to them freely by the consent of the communities they serve. There can be no greater power invested in a civilian than the power to take away the liberty of the citizen; nor can there be a stronger illustration of the power and trust invested in the police. The way that officers and staff engage with people in their custody or care therefore, has a most significant effect on the legitimacy with which the police are viewed, both by those detained, and by wider society. Future co-operation as witnesses to crime, or trust in the police as a victim of crime, may also be dependent on these contacts with the service.

This being the case, the attitude and actions of the police – whether on the front line or in custody – are of paramount importance in ensuring that the very different needs of all those they encounter are met by the most appropriate agency. For those members of the public taken into custody, there are risks of harm from the experience of detention itself. They may also pose a risk to themselves and/or to others. All of these risks must be managed effectively by officers and staff with the relevant specialist expertise, who must communicate effectively, implement good standards of care, follow the law and work proactively with other agencies to ensure the right protection is put in place for vulnerable detainees, both in and following police custody.

The primary purpose of the police is the prevention of crime and disorder. Other public agencies also have responsibilities in this regard. It is important to reiterate that the care of those who are vulnerable and at risk of coming to police attention is not the responsibility of the police alone. As this report emphasises, each service with a role to play in helping these individuals – including health, mental health,

social and housing services – must fully and properly discharge its responsibilities, so that the police do not become the default response for vulnerable people in crisis.

Many agencies and individuals have assisted HMIC with this inspection. I am particularly grateful to Her Majesty's Inspectorate of Prisons for their support through our joint programme of custody inspections.

Tom Winsor (sgd.)

Sir Thomas P Winsor

Her Majesty's Chief Inspector of Constabulary

March 2015

Executive summary

Introduction

Police custody is the principal gateway to the criminal justice system. Detention by the police is generally authorised for two main criminal justice purposes:

- to allow the prompt and effective investigation of an offence, or of the conduct of the person in question; and/or
- to prevent any prosecution for an offence being hindered by the disappearance of the person in question.

Custody also serves a safety purpose, in that detention may be authorised to prevent someone from causing physical injury to themselves or another person, or to protect a child or other vulnerable person. A guiding principle in all cases is that a person should be held for the minimum time necessary.

Inspection commission

In January 2014, the Home Secretary commissioned Her Majesty's Inspectorate of Constabulary (HMIC) to conduct a thematic inspection on the welfare of vulnerable people in police custody, "including, but not limited to, those with mental health problems, those from black and minority ethnic backgrounds, and children". In particular, the Home Secretary asked us to consider groups for whom there has been "a pronounced concern" about their treatment by the police – especially people of African-Caribbean descent.[1]

Approach

This inspection considered the end-to-end process of police custody, from the first point of contact, to release or transfer to court or prison. It sought to answer the following question:

How effective are police forces at identifying and responding to vulnerabilities and associated risks to the welfare of those detained in police custody?

To answer this question, the inspection team:

- reviewed the research literature, previous inspection findings, relevant legislation, police guidance and statistical information;

[1] A number of previous reviews and research have highlighted the vulnerability of these groups in police custody. See Chapter 1, *Introduction*, for examples of this literature.

- spoke to a number of experts in the field, and those with an interest in making improvements;
- commissioned the National Centre for Social Research (NatCen) to undertake a series of interviews (the 'detainee voice project') with people who have experienced detention in police custody within the last three years (their report is set out at Annex F);
- investigated and mapped the current data collected and held by public agencies on the extent and use of police custody;
- conducted a focus group with people with relevant experience of police custody, who were nominated by a third-sector organisation (Black Mental Health UK); and
- conducted unannounced inspections of custody arrangements in six police forces between September 2014 and January 2015: Leicestershire Constabulary; North Wales Police; West Mercia Police; Metropolitan Police Service (specifically, the boroughs of Brent, Barnet and Harrow); Cleveland Police; and Surrey Police.

Findings

The nature of vulnerability

Research, data analyses and inspection reports[2] show that many people taken into police custody are vulnerable in some way, and that detention in police custody can be particularly detrimental to their welfare. This vulnerability may take many forms, including:

- mental health problems;
- learning difficulties;
- physical illness or disability;
- alcohol and/or substance misuse;
- age (all children are vulnerable, and older people may be more likely to be vulnerable through illness, for example); and
- race (people from black, Asian and minority ethnic (BAME) communities can be vulnerable because of their minority status).

[2] See Chapter 4, 'The nature of vulnerability', for details of this literature.

In all of the six forces inspected, we saw people from these groups taken into custody.

First point of contact and diversion

Inspectors found clear evidence that custody could have been avoided for a number of vulnerable adults and children had other services been available to support them. Some were in custody because they were a risk to themselves or others, not because they had committed a crime. Many of the case examples described in the report involve children, people with mental health problems, or older people suffering from dementia. Taking such individuals into custody has a detrimental impact on their health and wellbeing, and in many cases is the wrong approach.

In all of the six police forces we inspected, we met police staff and officers who demonstrated an understanding of the needs of vulnerable people and tried to respond appropriately. However, time limitations on call handlers (through pressure from the volume of calls), and the lack of access to useful information from other agencies (such as healthcare services) meant that police officers were often responding to vulnerable individuals, and making decisions on whether to arrest, with little background knowledge of the individual's circumstances.

We found that some police staff and officers spent significant amounts of time trying to avoid taking vulnerable people and children into custody (for instance, by contacting other agencies to see if they could help). Joint working arrangements with mental health services in some forces were successfully diverting people with mental health problems away from custody by offering them advice and support. However, these services were not always available.

In many cases, the responding police officer saw no option other than to detain or make an arrest. People with mental health problems and children were taken into custody by the police because they were unable to secure the help they needed from health or social care services. On occasions, vulnerable people were taken into custody as a mechanism for getting them the support they needed.

Children are vulnerable and potentially at risk by virtue of their age. The law is explicit about the responsibilities of public agencies to safeguard and promote the welfare of children[3]. However, some police officers did not regard all children as vulnerable. They saw the offence first, and the fact that it involved a child as secondary. In addition, arrest policies relating to domestic abuse requiring 'positive action' to be taken were interpreted in some forces as always meaning arrest, even if it involved a child; and the arrest of children looked after and accommodated by the state (i.e. in care) following disruptive behaviour in a children's home, was also leading to children being detained.

[3] Children Act 2004, section 11

In summary, the number of vulnerable people taken into and detained in police custody remains high. As a result, some vulnerable adults and children are being criminalised unnecessarily.

In the custody suite

In the forces inspected we observed that the majority of people detained by the police were treated respectfully and were cared for reasonably well. We observed some excellent examples of custody sergeants taking great care to deal with vulnerable people and children in a sensitive and appropriate way.

The use of force was mostly proportionate and in line with guidance to the police service,[4] and, for the most part, strip-searches were undertaken appropriately. However, in our detainee voice project there was a strong view that strip-searches were undignified and degrading. Participants who had been strip-searched did not always agree that it was justifiable. Some (including children) had agreed to remove their clothing to avoid it being forcibly removed by police officers and staff.

In addition, inspectors found inconsistencies in practices and procedures across the full range of custody operations, both within and between forces. On a number of occasions this led to some very poor treatment of vulnerable people, examples of which are given throughout this report. There were indications that practice was better and more consistent where there was stronger leadership, good management support and staff training. However, it was noticeable that police officers and staff were highly dependent on their own experiences and personal judgments when identifying and responding to vulnerable people, rather than being able to refer to official training or guidance. In our view this explains, in part, some of the inconsistency we saw in practice.

A major factor in the length of time that children and people with mental health problems were detained in custody was the difficulty in finding appropriate alternative accommodation. In all of the forces inspected we found examples of children being detained overnight. The police requested alternative accommodation from children's social care services, but this was rarely provided. People with mental health problems spent long periods of time in police custody waiting for a mental health bed to become available, despite repeated efforts by custody sergeants and custody healthcare staff to secure one. Local authorities and health services have duties to meet these requests from the police, but our inspection showed that more needs to be done to comply fully with legislative requirements.

On the whole, we observed that the police did take appropriate action to protect life where they knew that there was a real and immediate risk to it (as required under Article 2 of the European Convention on Human Rights). However, our inspection

[4] *Use of Force*, Authorised Professional Practice, College of Policing, 2013. Available from www.app.college.police.uk

found the approach to assessing risks to detainees in custody, or the risks that they posed to themselves or to others, was variable. A number of these assessments were also carried out in a way that would deter a detainee from providing the personal information that would indicate the true risk of harm (for instance, some assessments took place where others could easily hear what was being said). We also found that the standards of pre-release risk assessments were not always satisfactory.

Inspectors were also concerned about some of the measures used to reduce the risk of people harming themselves, such as the removal of clothing and the use of handcuffs or body belts to restrict people's movement. Restraint was used in all forces to prevent detainees from harming themselves. However, the measures of control the police have at their disposal are designed more for those who are violent through ill will, rather than those who are agitated because of mental distress, or who are frightened children. The use of inappropriate techniques can increase the risk of further distress and harm. Ultimately it can also be fatal. A significant finding from this inspection is that police officers are trying to respond to children and those suffering from mental health crises in an environment and with policing tools, skills and knowledge that are wholly unsuited to the task.

Release or transfer from police custody

The assessments carried out before detainees are released from custody are intended to ensure that people are released safely. We found that known risks were not always identified or acted upon at this point. There was little evidence to show that custody staff consistently made arrangements for any continuing support for vulnerable people leaving custody, other than giving them leaflets on where to seek further help. Where they did seek help from other agencies, it was not always forthcoming. However, there were some positive examples of detainees receiving support and being referred to other agencies to help with issues such as drug and alcohol misuse, or accommodation needs.

Inspectors observed a number of ways in which forces were working proactively to divert people away from custody in the future. There were examples of police officers working in schools to tell children about the risks of offending, working with partner agencies to identify children at risk of entering the criminal justice system (and taking steps to prevent this happening), and targeted work in care homes where children are particularly at risk of being taken into custody. Some forces had liaison and diversion teams in custody suites to arrange support for people with mental health problems when leaving custody.

Despite this more proactive approach, the number of vulnerable people repeatedly detained is high. Our analysis of custody records in the six forces inspected showed that every person detained in police custody under section 136 of the Mental Health

Act 1983[5] had been in police detention on at least one previous occasion, as had 70 of the 81 children. Improvements in multi-agency care planning would help to prevent these repeat detentions, by addressing some of the underlying problems.

BAME detainees

Research and data analyses[6] show that people from BAME communities are disproportionately represented in the number of stop and searches and arrests. Our data collection from the inspected forces indicated that a disproportionate number of people from African-Caribbean groups (compared to numbers in the general population) were both in custody, and subject to strip-searches.

During our inspections we did not observe any difference in the treatment of BAME and white detainees held in custody. However, the NatCen report and our focus group work indicated that people from African-Caribbean backgrounds felt they were discriminated against by the police. They cited examples of rudeness, disrespect or an over-use of force, which they attributed to racism.

Leadership, governance and accountability

We found evidence that the leadership teams in all the forces inspected emphasised the importance of protecting vulnerable people, with a range of policies and partnership arrangements in place to help ensure this. However, it was not always evident that this was effective in bringing about a shared and consistent understanding of vulnerability among police officers and staff across the force. There was also evidence that this emphasis was more strongly focused on protecting vulnerable victims and witnesses than on supporting vulnerable people who are taken into custody.

Generally, training that would support frontline police officers and custody staff to identify and respond appropriately to the needs of vulnerable people was limited. In addition, custody officers seemed to be overlooked and not always given access to relevant specialist training (such as child protection or safeguarding). The fact that an individual was vulnerable in some way often only became apparent when he or she was in custody (and, for example, made this clear during an interview). Therefore, the police response to vulnerable adults and children in custody may be decided by officers who are neither as well informed nor familiar with protection policies and practices as others in the force.

[5] Under section 136 of the Mental Health Act 1983, police officers have the power to detain anyone in a public place whom they believe is suffering from a mental disorder and is in need of immediate care or control, and to take the person to a place of safety for a mental health assessment if they believe it is necessary in the interests of that person or for the protection of others

[6] See Chapter 3, 'Analysis of nationally published data', for details of this literature.

A major finding from this inspection was the lack of relevant data about those detained by the police. For example, police forces were not able to show whether people from BAME groups, children or those with mental health issues were disproportionately arrested and detained in custody. As a result:

- forces were hindered in their ability to monitor and assess their current performance, or improve services, through a lack of good quality information and data; and
- little information was made available to the public about who is taken in to custody, and what happens as a result.

Inconsistency in the way use of force is recorded, and the lack of monitoring of its use in police custody, remains a significant concern. This is particularly pressing in the light of our findings (see p95) on its use to restrain people who are at risk of harming themselves while mentally unwell. We saw no evidence in this inspection of any analysis of trends that might enable police forces to understand how far the use of force was proportionate and safe for the detainees in their custody. Nor was there evidence that forces were monitoring the use of force against BAME or other vulnerable groups; without this, they could not provide assurances to themselves or to the public that the use of force was always necessary.

Partnership working

The police are almost entirely dependent on other agencies – primarily health and social services – to provide services that divert people with vulnerabilities away from custody, or to provide safeguards when vulnerable people are in custody (such as healthcare, or alternative accommodation for children). Strong partnership work with other organisations, supported by effective joint working arrangements, is essential in helping to:

- prevent vulnerable people being taken into custody;
- ensure their appropriate treatment while in custody; and
- provide the right level of support when leaving custody.

The inspection found that effective work with partner agencies was hindered by the range and number of agencies involved with vulnerable people. While there are clearly some strong partnership arrangements, most notably those resulting from the Mental Health Crisis Care Concordat (which is having a significant impact in reducing the number of people arrested under section 136 of the Mental Health Act 1983 and taken to custody as a place of safety), other partnerships are not so well developed. The detention of children overnight in police cells has been a concern for many years, but has not yet been addressed effectively through partnership working.

Police custody provision is designed to meet the requirements of the criminal justice system, but our inspection shows that it now has a significant role as a function of the health and social care system. Addressing this tension is central to improving the welfare of vulnerable people, and diverting them away from police custody wherever possible.

Conclusion

We found evidence that the protection of vulnerable people had a significant profile in all the forces inspected, with a range of associated policies and partnership arrangements in place. However, it was not always evident that this was effective in bringing about a shared and consistent understanding of appropriate responses to vulnerable people.

During the course of our inspections it was clear that custody could have been avoided for a number of vulnerable adults and children, had other action been taken by police officers, or other services been available to support these individuals.

The evidence from this inspection indicates that the quality of police interactions with members of the public at the initial point of contact, and with detainees in custody ranges from excellent to poor. The forces we visited did not have sufficient data and other information to demonstrate to the communities they serve that all people who come into contact with the police are treated fairly and safely. While three percent of the population was from African-Caribbean groups in the forces we inspected, people from these backgrounds represented nine percent of the custody throughput, and 17 percent of those strip-searched.

A major finding from this inspection was the lack of relevant data about people detained by the police. We found that this was a significant impediment to the police and other agencies' abilities to fulfil their statutory duties. Police forces were not able to say whether people from BAME groups, children and people who were mentally unwell, were disproportionately arrested and detained in custody. Little information was available for the public about who is taken in to custody, and what happens as a result.

The use of force on people in custody is inconsistently recorded by frontline staff and is not systematically monitored by police senior managers, despite repeated recommendations over the years from the rolling programme of HMIC/HM Inspectorate of Prisons inspections of police custody suites[7]. This is a significant concern – particularly in the light of our findings on the use of force to restrain people who are at risk of harming themselves while mentally unwell. Our data on strip-searching, combined with research information and the lack of authoritative police

[7] Details of this programme and copies of the custody suite inspection reports are available from www.justiceinspectorates.gov.uk/hmic

data, leads us to consider that police forces are at risk of discriminatory strip-search practices.

The design, management and staffing of police custody arrangements are primarily directed towards the control of suspected criminals, and not the identification of, and support for people who might be vulnerable. Too many vulnerable people are detained for unnecessarily long periods due to slow and delayed criminal justice processes, the time it takes to secure legal representation and appropriate adults, and difficulties in finding more appropriate accommodation for children or people who are mentally unwell. The longer the time in custody, the greater the care needs of those detained.

The police must develop custody services that are better equipped to meet the needs of vulnerable people; but the more effective approach is to prevent, where possible, vulnerable people entering custody in the first place. The quality of interactions and cooperation between the police service and wider public and protective services, including social services, health and housing, needs to be improved, with each service fully and properly discharging its responsibilities so that the police service does not become the default response for vulnerable people in crisis.

Chapter 1 - Introduction

In January 2014, the Home Secretary commissioned Her Majesty's Inspectorate of Constabulary (HMIC)[8] to conduct a thematic inspection on the welfare of vulnerable people in police custody "including, but not limited to, those with mental health problems, those from black and minority ethnic backgrounds and children". In particular we were asked by the Home Secretary to consider groups for whom there has been "a pronounced concern" about their treatment in police custody (especially people of African-Caribbean descent).

A number of reviews have highlighted the vulnerability of these groups:

- over a ten-year-period (1999–2009) the Independent Police Complaints Commission (IPCC)[9] found that, in an analysis of 333 deaths, BAME groups were significantly more likely than their white counterparts to die following the use of restraint, and that 35 percent of deaths in police custody involved people with mental ill-health;

- the Howard League for Penal Reform found that children's interests while in police custody were not sufficiently protected, and that local authority children's social care services were not providing appropriate alternative accommodation;[10]

- Lord Bradley's review of people with learning disabilities or mental health problems in the criminal justice system found that people with a 'dual diagnosis' (mental health problems combined with drug and/or alcohol problems) were at high risk of being detained, and that there were widespread concerns about poor quality risk assessments of detainees;[11] and

- the Independent Commission on Mental Health and Policing, chaired by Lord Adebowale, reviewed 55 deaths or serious injuries in the Metropolitan Police Service area which occurred either following police contact, or in police custody, and found significant failures in the provision of adequate care to vulnerable people in custody.[12]

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[8] The Home Secretary can commission HMIC under section 54(3) of the Police Act 1996.

[9] *Deaths in or Following Police Custody: An examination of the cases 1998/99–2008/09,* M Hannan, I Hearnden, K Grace and T Burke, Independent Police Complaints Commission, London, 2010.

[10] *The Overnight Detention of Children in Police Cells*, L Skinns, The Howard League for Penal Reform, London, 2013.

[11] *The Bradley Report – Lord Bradley's review of people with mental health or learning difficulties in the criminal justice system*, Lord Bradley, Department of Health, 2009.

[12] *Independent Commission on Mental Health and Policing Report*. May 2013.

The Home Secretary's commission to HMIC was immediately preceded by debates in the House of Commons in November and December 2013. These highlighted concerns about mental health and policing and about the number of deaths in custody of people from African-Caribbean groups.

The first duty of the state is the protection of its people. In civil society, it is primarily to the police that this duty falls[13]. The police do not just deal with crime; they have a material role to play in public reassurance and public safety. The primary purpose of the police is preventive – the prevention of crime and disorder. Prevention is also an obligation of other public service agencies such as healthcare, particularly in the field of mental health where undiagnosed or untreated illness can lead to self-harm (which ultimately may be fatal), or to the commission of offences. Vulnerability can be a trigger for crime, or it can make people more likely to be victims of crime.

Police officers have the power to take away the liberty of the citizen, to use force and to subject him to search and detention. In this sense, the police represent the coercive as well as the preventive arm of the state. A police officer has discretion in relation to the use of his powers, and no police officer can be ordered to make an arrest. In establishing the principles of policing in 1829, Home Secretary, Sir Robert Peel said that the ability of the police to perform their duties is dependent upon the public approval of police actions, and the police must secure the willing co-operation of the public in voluntary observation of the law. He said that the police seek and preserve public favour not by catering to public opinion, but by constantly demonstrating absolute impartial service to the law.[14]

Police custody is the principal gateway to the criminal justice system. Detention in police custody is generally authorised for two main criminal justice purposes:

1. to allow the prompt and effective investigation of an offence or of the conduct of the person in question; and/or

2. to prevent any prosecution for an offence being hindered by the disappearance of the person in question.[15]

It also serves a safety purpose, in that detention may be authorised to prevent someone from causing physical injury to themselves or another person, or to protect

[13] *State of Policing - The Annual Assessment of Policing in England and Wales 2013/2014,* Sir Thomas P Winsor, Her Majesty's Chief Inspector of Constabulary, HMIC, November 2014. Available from www.justiceinspectorates.gov.uk

[14] *Policing in the New Dynamic Environment*, Sir Thomas P Winsor, Her Majesty's Chief Inspector of Constabulary, speech to the Royal United Services Institute for Defence and Security Studies, 29 April 2013. Available from www.justiceinspectorates.gov.uk

[15] Police and Criminal Evidence Act 1984, Code G para 2.9

a child or other vulnerable person from the person in question. A guiding principle in all cases is that a person should be held for the minimum time necessary.[16]

The risks of ill treatment to people deprived of their liberty in all settings are internationally recognised and documented. The Optional Protocol to the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) requires that member states set up a 'National Preventive Mechanism' (NPM) to prevent torture and ill-treatment in detention. At a minimum, an NPM must have power to:

- regularly examine the treatment of detainees;
- make recommendations to authorities to improve the treatment and conditions of detainees and to prevent torture and other ill-treatment; and
- submit proposals and observations concerning existing or draft legislation.[17]

Her Majesty's Inspectorate of Constabulary and Her Majesty's Inspectorate of Prisons (HMIC/HMIP) are two of a number of bodies (including the Care Quality Commission and Healthcare Inspectorate Wales) which make up the NPM in the UK. Since 2008, the inspectorates have undertaken joint regular inspections of police custody[18]. This inspection programme has highlighted a number of recurring issues relating to the treatment of vulnerable people. An analysis by HMIC of the recommendations from 21 inspections during the calendar years 2013 and 2014 identified that the most common areas for improvement are:

- partnership working to ensure that suitable accommodation is provided for children, who are charged but cannot be bailed, to avoid them spending the night in custody (18 recommendations from 21 inspections);
- collecting and monitoring information on the use of force and strip-searches (17 recommendations from 21 inspections); and
- improving the quality of and effectively quality assuring, custody records, risk assessments and the transfer of information between criminal justice agencies about detainees (15 recommendations from 21 inspections).

[16] Police and Criminal Evidence Act 1984, Code C para 1.1

[17] Optional Protocol to the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), Article 19. Ratified by the UK Government in 2002.

[18] For more information on this programme, including assessment criteria and inspection reports, see www.criminaljusticeinspectorates.gov.uk/hmic

In addition, recent criminal justice joint inspections provided a more detailed examination of specific issues affecting vulnerable detainees[19].

Inspection aims

The aims of this inspection were to:

- assess how effectively police forces prevent vulnerable people coming into police custody;
- assess how effectively police forces identify and respond to vulnerable people detained in police custody;
- assess how well police forces fulfil their equality duties under the Equality Act 2010 in respect of arrest, detention and custody (in particular, towards BAME detainees);
- highlight effective practice in protecting vulnerable people in police custody;
- promote improvements in forces' custody strategy and practice; and
- make recommendations for improvements more widely.

Approach

This inspection considered the end-to-end process of police custody, from the first point of contact to release or transfer to another facility (for example, a court cell or hospital). Frontline police officers and staff have an important role in identifying and responding to vulnerable people, and in preventing the detention of people with vulnerabilities, wherever appropriate and possible. The importance of considering custody from the point of arrest is underlined by guidance on inspecting police custody arrangements from the International Association for the Prevention of Torture (an international non-governmental organisation focused on the prevention of torture and other acts of cruel, inhuman or degrading treatment)[20]:

[19] See *A Criminal Use of Police Cells? The use of police custody as a place of safety for people with mental health needs,* HMIC, HMI Prisons, Care Quality Commission and Healthcare Inspectorate Wales, June 2013; and *A Joint Inspection of the Treatment of Offenders with Learning Disabilities within the Criminal Justice System*, HMI Probation, HMIC, HM Crown Prosecution Inspectorate and Care Quality Commission, January 2014. Both available from www.justiceinspectorates.gov.uk/hmic

[20] The Association for the Prevention of Torture (APT) was founded in 1977. Its work comes from its belief that torture and forms of ill-treatment happens behind closed doors, out of public view. It promotes transparency in all places where people are deprived of liberty, particularly through unannounced visits by external agencies, and has been at the origin of the main regional and international treaties on the prevention of torture – including OPCAT.

It is crucial not to consider 'police stations' to comprise mere physical spaces but to keep in mind at all times that from the moment of arrest to that of release or transfer there is a risk of mistreatment.[21]

This wider definition of custody is also reflected in the recently revised version of the College of Policing's authorised professional practice on *Detention and Custody*.[22]

It is important to recognise that some people who are vulnerable need to be in custody because they have committed serious offences. But we also know, not least from HMIC/HMIP's rolling programme of custody inspections and HMIC's child protection inspections, that there are significant numbers of children and vulnerable adults in police custody who have not committed serious offences, or who require a place of safety and none other is available. We know from other reports and research that there is much evidence of concern about the treatment by the police of people from some BAME groups – especially those of African-Caribbean descent. These are the people with whom this inspection is concerned. The approach we adopted to identifying vulnerability is set out in chapter four. A detailed methodology is set out at Annex A.

To inform this inspection, the inspection team:

- reviewed the research literature, previous inspection findings (including those from the rolling programme of joint inspections of police custody), relevant legislation, guidance to the police and statistical information;
- talked to a number of experts in the field, and those with an interest in making improvements;
- commissioned the National Centre for Social Research (NatCen) to undertake a series of interviews ('the detainee voice project') with people who have experienced detention in police custody within the last three years. The people they spoke to came from three groups: children, people with mental health problems and people from BAME groups (NatCen's report forms Annex F);
- investigated and mapped the current data collected and held by public agencies on the extent and use of police custody; and

[21] *Monitoring Police Custody – A practical guide,* Association for the Prevention of Torture, Geneva, January 2013, para 2.1. Available from www.apt.ch

[22] *Detention and Custody,* Authorised Professional Practice, College of Policing, second edition, last updated January 2015. Available from www.app.college.police.uk

- conducted a focus group with people with relevant experience of police custody, who were nominated by a specialist third sector organisation (Black Mental Health UK).

Fieldwork was conducted from September 2014 to January 2015. In the interests of efficiency and effectiveness, the inspection visits for the rolling programme of custody inspections and this thematic inspection were combined, and additional criteria were developed to cover the specific aims of this inspection. The additional criteria focused on the experience and outcomes for detainees in police custody who were vulnerable by reason of age, disability or mental illness or who were from a BAME group.

In addition to this thematic report, a routine custody inspection report will be published by HMIC/HMIP for each force inspected, based on the inspection team's findings for that force against the published Expectations for Police Custody[23]

The fieldwork involved unannounced inspections of custody arrangements in the following six police forces:

- Leicestershire Constabulary
- North Wales Police
- West Mercia Police
- Metropolitan Police Service (specifically, the boroughs of Brent, Barnet and Harrow
- Cleveland Police
- Surrey Police.

We visited 21 custody suites (cell blocks) and observed staff at work, as well as five more suites which were used as overflow or standby facilities when regularly used suites were full or otherwise unavailable. We spoke with detainees, frontline police officers and staff, and interviewed senior police officers (including chief officers). We reviewed custody documentation and carried out an analysis of 322 custody records[24]. We also interviewed senior managers in NHS mental health services,

[23] Expectations for police custody: Criteria for assessing the treatment of and conditions for detainees in police custody' www.justiceinspectorates.gov.uk/hmic/publication/expectations-police-custody-criteria/

[24] For the purpose of the custody record analysis we over-sampled some groups, to ensure that we targeted particularly records of detainees that were identified as being from black and minority ethnic groups, subject to section 136 of the Mental Health Act 1984, under 18 and over 60. This means that more people from these groups were selected than would have been if everyone in the sample had an equal chance of being selected. This was done so that more reliable estimates could be reported for these groups. Further details are in the full methodology in Annex A.

local authority services for children and adults, and ambulance services. We read through local and national policies and other documents and requested data from each force's custody information system.

The inspection teams included inspectors from HMI Prisons, HMIC and the Care Quality Commission. For one inspection in Wales, the Care Quality Commission was replaced by the Healthcare Inspectorate Wales.

An expert reference group advised the inspection team throughout. Members of this group are listed at Annex B.

Inspection questions

The Home Secretary's commission to HMIC was translated into the following inspection question:

How effective are police services at identifying and responding to vulnerabilities and associated risks to the welfare of detainees in police custody?

Our lines of enquiry were informed by an analysis of the evidence on the recurring themes that contribute to risks in custody. We examined the following main areas:

- from the first point of contact with the police service, the effectiveness of police officers and staff at identifying people who may be vulnerable and at risk of harm, and diverting them away from custody, wherever possible;
- the communication of information on vulnerability, risks and detainees' needs by all staff within the custody process and beyond, where relevant to the protection and safeguarding of detainees and staff;
- custody throughput – who goes into police custody (defined by age, gender and ethnicity), and how do forces monitor this in the context of their duties under the Equality Act 2010;
- the competence and capacity of custody staff (including healthcare staff) to assess and manage risks presented by detainees;
- the treatment of detainees in custody, including:
    - the use of force in custody, particularly in respect of children and people in need of mental health care;
    - access to legally-defined safeguards for vulnerable people in custody, including appropriate adults and local authority accommodation for children detained overnight; and

    - access to competent mental and physical healthcare services, including for substance misuse.

- the recognition of, and response to risks to detainees on release from custody, and associated multi-agency care planning;
- leadership, governance and accountability – in particular, how forces monitor any unlawful discrimination in the treatment of detainees, and ensure that effective systems are in place to safeguard against any such treatment; and
- the effectiveness of police partnership working to support the identification and management of risks to the welfare of vulnerable detainees in police custody.

Structure of this report

Part One of this report (Chapters 2, 3 and 4) provides background to this thematic work on the welfare of people who are vulnerable in custody. We have included the legal framework, an overview of the national policy expectations and standards which apply, and an analysis of what is known about police custody from nationally-published data. This part of the report concludes by explaining the approach that was taken to understand what vulnerability means in the context of police custody, including what is known from research material.

Part Two (Chapters 5, 6, 7 and 8) focuses on the inspection findings. These chapters summarise the findings from the fieldwork, the experiences of those who have been detained, current available information about the people detained, and our judgments on the extent to which police leadership and partnership working is effective in addressing risks to vulnerable people in custody.

Part Three (Chapters 9 and 10), summarises our findings and draws conclusions. It identifies what needs to change and how that change might be achieved, and makes recommendations for police forces and other agencies with responsibilities for the protection of vulnerable people.

Throughout the findings sections, we include excerpts from NatCen's interviews with people who have experienced detention in police custody. We refer to this as our 'detainee voice project'. Where we use quotations from people who participated in this project we refer to those people as 'participants', as they were no longer detainees at the time they spoke about their experiences.

Chapter 2 - The legislative policy and framework

The detention of people by the police is governed by a number of international obligations, including the European Convention on Human Rights (incorporated into UK law through the Human Rights Act 1998) and the Optional Protocol to the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). Although not incorporated into UK law in the same way as the declaration on human rights, the United Nations Convention on the Rights of the Child 1989 (UNCRC), the Convention on the Rights of Persons with Disabilities 2006 (CRPD) and the International Convention on the Elimination of all Forms of Racial Discrimination 1965 (UNICEFRD) form the principles on which the custody of vulnerable people is based.

These international conventions share a number of fundamental principles to which signatory states must adhere. In respect of this inspection, these are primarily:

- the right to life, and the state responsibility to protect life;
- freedom from torture and inhumane treatment in detention;
- the right to privacy/respect for private life;
- the right to dignity and worth;
- the rule of law, due process, fair trial and right to representation;
- the elimination of racial discrimination in all its forms;
- the rights of children and people with disabilities to be supported and protected, and detention to be used as a last resort; and, in respect of children,
- that the welfare of the child is a “paramount consideration”.

In England and Wales, the Police and Criminal Evidence Act (PACE) 1984 is the most important piece of legislation covering stop and search, arrest, detention, investigation, identification and interviewing. A number of statutory codes of practice are issued under the auspices of PACE[25] . Other legislation authorising police custody relating to terrorism, drugs or anti-social behaviour all conform to the basic principles outlined in PACE and its associated guidance.

[25] Police and Criminal Evidence Act 1984, section 66, authorises the issue of Codes of Practice in connection with the exercise of police powers under the Act.

The police must also have regard to other legislation and associated guidance in respect of people who are mentally ill (the Mental Health Act 1983), or who are children (the Children Act 1989), or who are otherwise mentally vulnerable (the Mental Capacity Act 2005).

The Equality Act 2010 has incorporated the UNICEFRD commitment to eliminating racial discrimination in all its forms. It places a duty on police forces to eliminate discrimination in their service to the public, to advance equality of opportunity and to foster good relations.

The Children Act 2004 places a duty on all agencies (including police, health and local authorities) to safeguard and promote the welfare of children. The Act established Local Children's Safeguarding Boards to co-ordinate the work of agencies; safeguard and promote the welfare of children in the area; and ensure the effectiveness of the work of the relevant agencies. The Care Act 2014, when implemented in April 2015, will introduce parallel requirements in relation to vulnerable adults. Similar legislation applies in Wales (the Children Act 2004 and the Social Services and Wellbeing Wales Act 2014[26]).

A more detailed summary of the statutory framework is set out in Annex C.

Police powers of detention

A person may be detained by the police under stop and search powers, or if they are under arrest as a suspect of a criminal offence. To stop and search or to arrest a person the police officer must have 'reasonable grounds' for suspecting the person has committed an offence or has something in their possession, such as a weapon, which might be used to commit an offence.

It is not necessary to arrest and detain a suspect in every case, and police officers have considerable discretion over whether to arrest a suspect or deal with the matter in some other way. For example:

- in some cases, offenders can be issued with fixed penalties, such as in cases of motoring offences;
- suspects can be asked to attend a police station voluntarily for questioning (as opposed to under arrest). They may be given street bail to attend, with the risk of arrest if they fail to do so[27], and then be detained (arrested) at a police station following this voluntary attendance; and

[26] The Social Services and Wellbeing Wales Act 2014 became law on 1 May 2014.

[27] Section 24 of the Police and Criminal Evidence Act 1984 includes a necessity requirement. Guidance is set out in PACE Code G. The power of arrest is only exercisable if the constable has reasonable grounds for *believing* that it is necessary to arrest the person. The statutory criteria for

- when suspects have been charged with offences they can be bailed by the police to attend court. If the suspect is denied bail by the police, he must be produced at the next available court sitting.

Under the Mental Health Act 1983, a person in a public place, who a police officer believes is suffering from a mental disorder and is in need of immediate care or control, can be detained and taken to a place of safety for a mental health assessment if the police officer believes it is necessary in the interests of that person or for the protection of others. A 'place of safety' may be a health or social care facility, or the home of a relative or friend. The Code of Practice to the Mental Health Act 1983[28] states that a police station should be used as a place of safety only on an exceptional basis, for example if the person's behaviour would pose an unmanageably high risk to other patients, staff or other users if the person were to be detained in a healthcare setting.

A child may similarly be detained for 'their own protection' under the Children Act 1989 and be taken to a designated place of safety. The UNCRC requires that detention of a child is "used only as a measure of last resort and for the shortest appropriate period of time" and that when any decision is made in respect of a child "the best interests of the child shall be a primary consideration".

In some cases there is no distinction between offending and care as grounds for detention. An offence (or appearance of an offence) may arise from mental illness or an offence may be committed and it is not safe for a person to be released from custody. They may be too drunk, or in the case of a child, a parent is not at home.

Rights in custody

When a person is detained in police custody, the custody officer must advise him, orally and in writing, of the reasons and grounds for the detention and his rights while in detention, and help with access to a solicitor. The custody officer must also check if the detainee is in need of medical attention.

Where relevant, the custody officer must also help provide access to consular advice, and secure an interpreter or other communication assistance (for example, to check documents provided to a blind person).

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what may constitute necessity are set out in paragraph 2.9 of Code G. It is an operational decision at the discretion of the constable to decide a) if any of these criteria apply; and b) if any of the criteria do apply, the action to take.

[28] The Code of Practice is issued under section 118 of the Mental Health Act 1983.

If the detainee is under 18 years of age, the custody officer must ascertain who is responsible for the young person's welfare and inform the carer of the detention. If the detainee is under 18 or mentally ill or 'mentally vulnerable' an appropriate adult must also be called. An appropriate adult may be a parent or other relative or a designated professional such as a social worker. The role of the appropriate adult is to safeguard the welfare and rights of children and vulnerable adults detained or interviewed by police.

The custody officer must initiate a risk assessment which considers the risks to custody staff or the detainee. The assessment should be based on the detainee's situation at the time of detention, draw on information held in police records or elicited in consultation with a medical practitioner, other professional or family member as appropriate. The assessment should be subject to review over the course of the period of detention – the frequency of the review will depend on the level of risks identified.

The place of detention (i.e. the custody suite) should be safe and decent. Section 8 of Code C of PACE outlines the conditions for detention (see boxed text overleaf).

Length of detention

Suspects detained under the Police and Criminal Evidence Act 1984 can only be detained without charge for a maximum of 24 hours, or 36 hours if authorised by a superintendent. Thereafter, they can only be held in police custody for a further 36 hours on the authorisation of a magistrate. If they have been arrested under anti-terrorism legislation they can be held for 48 hours.

After being charged with an offence, a suspect may be released (with or without bail conditions) or, if refused bail, held in police custody until the first sitting of a magistrates' court (Sundays and Bank holidays are not counted as sitting days).

A custody officer must secure the transfer of a child to local authority accommodation unless he certifies it is impracticable to do so or, for those aged 12 or over, local authority accommodation would not be adequate to protect the public from serious harm from the child, and no secure accommodation is available. 'Impracticable' means, for example, that the child would be moved in the middle of the night (PACE Code C Note 16 D)[29] .

Detention in a police station as a place of safety is an emergency measure and a person should only be held there until such time as alternative suitable accommodation can be found for them (Children Act 1989), or until a medical practitioner has assessed a detained person as not being in need of medical care

[29] Police and Criminal Evidence Act 1984, Code C Note 16 D states: *'Impracticability concerns the transport and travel requirements - the lack of secure accommodation which is provided for the purpose of restricting liberty does not make it impracticable to transfer the juvenile.'*

(Mental Health Act 1983). Under the Mental Health Act 1983, the maximum period a person can be detained by the police is 72 hours.

Conditions in detention

Not more than one detainee should be detained in each cell.

Cells must be adequately heated, cleaned and ventilated. They must be adequately lit and allow people detained overnight to sleep.

No additional restraints shall be used within a locked cell unless absolutely necessary (and then of an approved type).

Blankets, mattresses, pillows and other bedding supplied shall be of a reasonable standard and in a clean and sanitary condition.

Access to toilet and washing facilities must be provided.

If it is necessary to remove a detainee‘s clothes for the purposes of investigation, for hygiene, health reasons or cleaning, replacement clothing of a reasonable standard of comfort and cleanliness shall be provided. A detainee may not be interviewed unless adequate clothing has been offered.

At least two light meals and one main meal should be offered in any 24-hour period. Drinks should be provided at meal times and (upon reasonable request) between meals.

Brief outdoor exercise shall be offered daily if practicable.

A juvenile should not be placed in a police cell unless no other secure accommodation is available and the custody officer considers it is not practicable to supervise them if they are not placed in a cell or that a cell provides more comfortable accommodation than other secure accommodation in the station.

A juvenile may not be placed in a cell with a detained adult.

Adapted from Police and Criminal Evidence Act 1984, section 8 Code C.

Additional guidance

The College of Policing[30] produces Authorised Professional Practice (APP) guides[31] which are the official source of professional practice on policing. Police officers and staff are expected to have regard to the these guides in discharging their responsibilities, although the College recognises that there may be circumstances when it is legitimate to deviate from them, provided there is a clear rationale for doing so. The guides cover a range of topics, including stop and search, detention and custody, and use of force, and inform staff of other sources of information including HMIC/HMIP's custody assessment indicators, learning from IPCC cases and available training courses. The guides also set out the expectations required of police senior managers.

Policy context

New reforms initiated by the Home Office[32] aim to ensure no person is stopped and searched unless there are strong, specific and demonstrable grounds to suspect that he is in possession of something prohibited. These are expected to reduce the numbers of those stopped and searched, particularly from BAME groups. This, in turn, should reduce the number of people who are arrested and taken into police custody, particularly people who are arrested following stop and search activity, for example, for resisting arrest or assaulting a police officer.

There have been a number of developments in the mental health field over the past two years which should have an impact on the numbers of people detained under sections 135 or 136 of the Mental Health Act 1983. The *Mandate from Government to NHS England*[33] (a document setting out the government priorities for the NHS) expects the NHS to "put mental health on a par with physical health". The Mandate was followed by the Mental Health Crisis Care Concordat, an agreement between health, criminal justice and social care agencies that sets out expected responses to people in need of emergency mental health care. The Concordat reiterates government policy and sets out how to achieve a crisis service where "no-one in crisis will be turned away", which is "available 24 hours a day, 7 days a week" and is "community-based, closest to home (and) is the least restrictive option available" [34].

[30] The College of Policing is the provider of professional practice for UK policing.

[31] Authorised Professional Practice guides are available at: www.app.college.police.uk

[32] *Best Use of Stop and Search Scheme*, Home Office/ College of Policing, 2014.

[33] *A Mandate from the Government to NHS England: April 2014 to March 2015*, Department of Health, 2013. Available from www.gov.uk

[34] *Mental Health Health Crisis Care Concordat*, Department of Health/Home Office, 2014. Available from www.gov.uk

Implementation of the Concordat is intended to lead to more people in a mental health crisis being taken directly to a healthcare facility rather than a police station. Nine police force areas have been piloting 'street triage,' where a police officer and mental health worker work together to assess people on the street and, where necessary, take them directly to a health care facility. In addition, twelve police forces have been piloting a new national model of liaison and diversion (L & D) within police custody suites and courts. When a person suspected of committing an offence is identified as being vulnerable, the police will refer them for an assessment with the L&D team. The team may then refer the individual for treatment or further support. The first ten L & D schemes are being independently evaluated and the findings will be available from summer 2015[35].

The Home Office and Department of Health have recently undertaken a review of the operation of sections 135 and 136 of the Mental Health Act 1983[36]. The review makes a number of recommendations, some of which will require changes in legislation. The report also seeks non-legislative means of achieving change, such as increasing the number and availability of places of safety to which mentally ill people can be taken, rather than a police station, and expanding street triage.

In Wales, there is a strong focus, supported at ministerial level, on ensuring that people in custody who are vulnerable or displaying problems are dealt with and supported appropriately, which could include being diverted away from custody into suitable services. This approach is underpinned by working in partnership, for example, in the All Wales Criminal Justice Board, supported by the Integrated Offender Management Cymru Board and the work of the regional criminal liaison boards[37]. There is a collective view that appropriate and timely access to services should be available to support vulnerable people, to prevent them entering custody and the criminal justice system.

A new strategy for children has also been introduced in Wales, called 'Children and Young People First'[38], which sets out expectations that alternatives to arrest should be used wherever possible. The strategy expects that young people will be treated

[35] *Helping the Police to Support People with Vulnerabilities*, Home Office, 2014. Available from www.gov.uk

[36] *Review of the Operation of Sections 135 and 136 of the Mental Health Act 1983*, Department of Health/Home Office, December 2014. Available from www.gov.uk

[37] Regional criminal liaison boards are mental health and criminal justice liaison boards that focus on responses to mental health crisis. They are made up of statutory and non-statutory partners and chaired by the health service.

[38] *Children and Young People First - Joint strategy to improve services for young people from Wales at risk of becoming involved in, or in, the youth justice system,* Welsh Government/Youth Justice Board, July 2014. Available from www.gov.uk

within the criminal justice system as ‘children first’, rather than solely as offenders, and that their needs will be given priority.

Wales is developing its own Mental Health Crisis Care Concordat, and there is a *Wales Reducing Re-offending Strategy*[39]. This strategic framework is supporting initiatives for vulnerable people, such as the ‘Keep Safe Cymru’ scheme which is described later in the report. It also encourages and supports frontline officers working proactively to avoid taking children into custody.

Healthcare provision in police custody

Police chief officers have a statutory responsibility under section 3 of the Health and Safety at Work Act 1974 to ensure that detainees have access to appropriate, timely and effective healthcare while in custody. In accordance with PACE Code C, the custody officer must make sure that a detainee receives appropriate medical attention if the person:

- appears to be suffering from physical illness; or
- is injured; or
- appears to be suffering from a mental disorder; or
- appears to need clinical attention.

In addition, custody officers must seek medical treatment (or assessment) of any person whom they suspect may be, or they have been told may be, mentally disordered or otherwise mentally vulnerable, and must consider the need for medical attention for those suffering the effects of alcohol or drugs. They may decide that medical assessment and/or treatment is needed before a decision can be made about a person’s fitness to be detained.

Currently police forces commission their own healthcare services, but from April 2016 the commissioning of healthcare services in custody is expected to transfer to NHS England. Within police custody currently there are likely to be healthcare services which are 'registered' under the Health and Social Care Act 2008 (Regulated Activities) Regulations 2010[40].

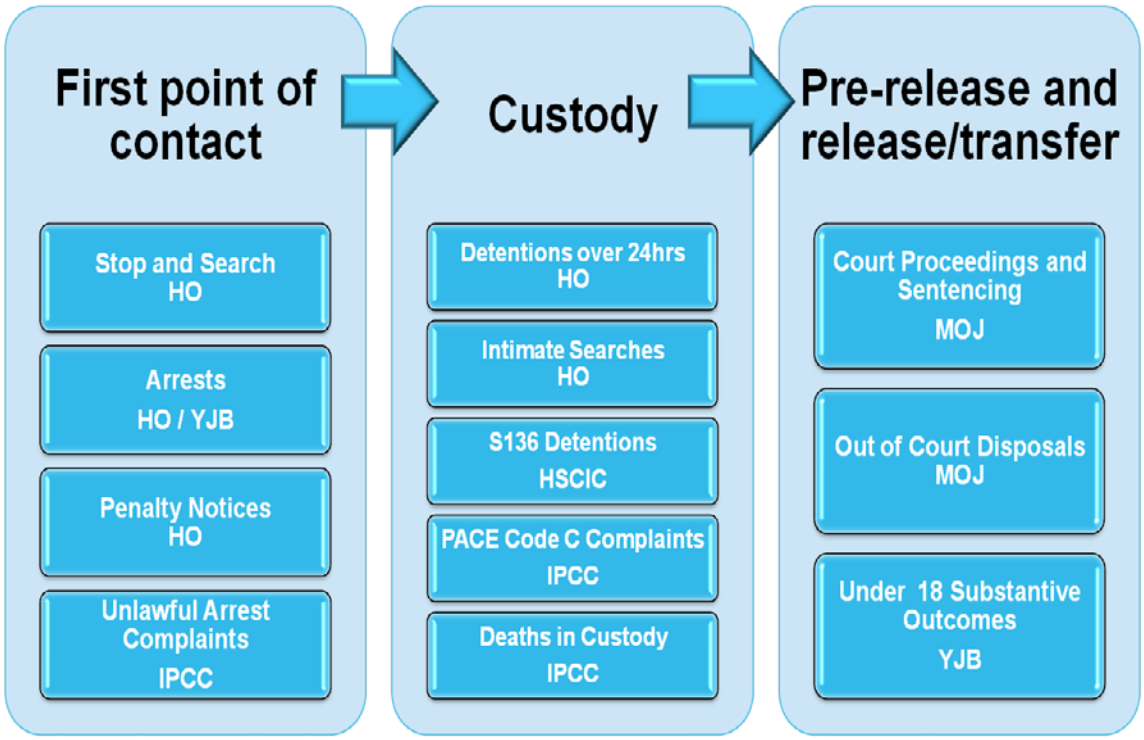
[39] *Wales Reducing ReoffendingStrategy 2014-16*. This aligns criminal justice agencies and the Welsh Government’s vision and ambition to reduce crime in Wales by reducing reoffending. Available on Welsh Government website shortly. Hard copy available from email correspondence@walesoffice.gis.gov.uk

[40] By law, providers of health and social care services must register with the Care Quality Commission if they carry out 'regulated activities'. Regulated activities are listed in Schedule 1 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2010.

Chapter 3 - Analysis of nationally published data

As part of this inspection we undertook an analysis of data on police detention to see how far information on activities in, and outcomes of police custody is available in the public domain. The information that is available was mapped against each of the three main stages in the custody process. The diagram below provides an overview of the datasets identified and mapped, at each of these stages.

Figure 1 – Datasets and owners for the three main stages in the custody process



Key:

HSCIC - Health and Social Care Information Centre

IPCC – Independent Police Complaints Commission

HO- Home Office

YJB – Youth Justice Board

MoJ – Ministry of Justice

Some of these datasets contain information about people's age, gender or ethnicity:

- stop and search – ethnicity;
- arrest data – gender, age and ethnicity;
- court proceedings and sentencing - age (10-17 or over 18), gender, ethnicity; and
- out-of-court disposals (outcomes that divert offenders from the criminal justice system) including penalty notices – age (10-17 or over 18), gender, ethnicity.

Figure 2 below sets out the different stages of custody. The diagram shows the areas of police activity for which data is/is not available (please note that the stages displayed are intended to provide an overview, and are not exhaustive).

Figure 2 – Analysis of public data available for key stages in the custody process

Key:

RED	**No data are available in the public domain to provide information on custody throughput or outcomes**
AMBER	**Some data available in the public domain but they are not comprehensive**
GREEN	**Data are available and provide insight into this area of activity, and outcomes**

Data that are in the public domain for each stage are listed in brackets. We graded each of these stages as Red, Amber or Green (RAG), based on:

- the proportion of the total custody throughput that we estimate is captured by current public datasets at each stage; and
- the extent to which the available information enables police and the public to understand the proportion of, and outcomes for potentially vulnerable individuals in police custody.

What the data tell us

As can be seen in Figure 2, there are significant gaps in publicly available data on people in police custody, particularly around:

- decisions made to detain an individual (as opposed to, for example, de-arrest, street bail, issuing a penalty notice for disorder, diversionary activity[41]);
- the total number detained in custody suites;
- reasons for detention; and
- outcomes of custody.

Custody data

The best available indication of the number of people passing through police custody suites is derived from arrest data. Data required by the Home Office includes only notifiable offences[42]. These data exclude non-notifiable offences, for example, relating to drunk and disorderly or breach of the peace. Non-notifiable offences may be dealt with, for example, by police issuing a penalty notice for disorder (PND) or by a magistrate's court. They represent a significant proportion of offences committed. Between January 2013 and December 2013, for example, there were 34,000 PNDs issued for non-notifiable offences[43].

[41] PACE section 30. PACE Code G advises officers on the use of discretion: 'the use of the power [of arrest] must be fully justified and officers exercising the power should consider if the necessary objectives can be met by other, less intrusive means', Code G, para 1.3.

[42] *User Guide to Home Office Statistics,* Home Office, 2011. Notifiable offences include all offences that could possibly be tried by jury (including some less serious offences, such as minor theft that would not usually be dealt with this way).

[43] *Police Powers and Procedures England and Wales, 2012 to 2013*, Home Office, 2014. Available from www.gov.uk

The Home Office publishes an annual report on Police Powers and Procedures: England and Wales[44] based on returns from 43 police forces. In addition, under section 95 of the Criminal Justice Act 1991, statistics on gender and race are published routinely to help assess whether any discrimination occurs in how women and those from BAME groups are treated within the criminal justice system. These are collated in biennial reports published by the Ministry of Justice. The Youth Justice Board publishes annual statistics on children within the criminal justice system.

Data from these publications[45] provide information about arrests, and show that:

- in 2012/13[46] there were 1.1 million people arrested for notifiable offences which was a 12 percent decrease from 2011/12;
- people from African-Caribbean backgrounds were three times more likely to be arrested per 1,000 population than a white person; those from a mixed heritage were twice as likely. There was no difference in arrest rates between those from an Asian and white background;
- in 2012/13, 10 to 17-year-olds arrested accounted for 11.8 percent of all arrests, whereas all 10 to 17-year-olds make up 10.5 percent of the total population of offending age[47] in England and Wales;
- the number of arrests of children fell by 24 percent between 2011/12 and 2012/13. This continued the downward trend seen since the peak in arrests in 2006/07; and
- when examined by ethnic group, children from BAME groups[48] accounted for 16 percent of all first time entrants to the criminal justice system in 2013/14[49], which is the same percentage as in 2010/11.

[44] *Police powers and procedures England and Wales, 2012 to 2013*, Home Office, 2014. Available from www.gov.uk

[45] Data provided are from the most recent publications at the time of writing (February 2015). Full references for these publications can be found in Annex D.

[46] Dates relating to data collections refer to the financial (rather than calendar) year unless otherwise stated.

[47] In England and Wales people of offending age are classed as those aged 10 years or older.

[48] As recorded by police on the Police National Computer (not self-reported).

[49] *Youth Justice Statistics 2013/14, England and Wales*, Youth Justice Board/Ministry of Justice, 2015. Available from www.gov.uk

The available public data on custody only report on exceptional circumstances, in particular:

- in 2012/13, 3,742 people were detained for over 24 hours in police custody and subsequently released without charge, on bail or with an out-of-court disposal. Information on the age, ethnicity and gender of these people is not published by the Home Office, nor is information about the reasons for the extended length of detention;
- in 2012/13 there were 105 intimate searches[50] in police custody;
- in 2013/14 an estimated 236 (31percent) of 753 under 18s detained under section 136 of the Mental Health Act 1983 were held in police cells[51].

Further information is available from other sources of evidence:

- Department for Education and Skills figures (2013) record that children who are looked after by local authority children's social care services are three times more likely to be cautioned or convicted than their peers[52];
- a study commissioned by the Howard League found 86,034 overnight detentions of children aged 17 and under in police custody in 2010 and 2011; 13,032 were girls (15 percent); 23,779 were children from BAME groups (27 percent); 10 were children under the age of criminal responsibility; 387 were children aged 10 and 11 years of age; and 29,300 were children aged 17 years old; and
- from April 2013 to March 2014 there were 11 deaths in police custody from the point of arrest to release or shortly after (IPCC 2014)[53]

[50] Searches by police under PACE of a person's body cavities when suspected of hiding drugs or offensive weapons upon their person. They may only be carried out if there are reasonable grounds for believing that a person who has been arrested and is detained may have concealed anything which could be used to cause physical injury; also, in the case of suspected couriers or dealers only, a Class A drug. Searches for harmful articles are conducted by suitably qualified people. In the case of searches for drugs, a registered doctor or nurse can carry out the search. If this is not practicable and the detainee is suspected of hiding a weapon that could or might be used to cause physical injury, a constable can be authorised to carry out the search.

[51] *Inpatients formally detained in hospitals under the Mental Health Act 1983, and patients subject to supervised community treatment: Annual report, England 2013/14*, Health and Social Care Information Centre, 2014.

[52] In these published figures, the definition of a 'looked after child' is a *child who has been continuously looked after for at least 12 months* up to and including 31 March 2013.

[53] IPCC (2014) Deaths during or following police contact. Statistics for England and Wales 2013/14.

Use of police custody as a place of safety under the Mental Health Act 1983

The Health and Social Care Information Centre (HSCIC), in collaboration with the Association of Chief Police Officers, has collected information for the last three years on the use of section 136 of the Mental Health Act 1983, including places of safety used for people detained by the police. These figures show that the proportion of section 136 detentions to police custody as a place of safety has declined by nearly 11 percentage points over the last three years (37 percent to 26 percent).

Table 1. Trends in use of places of safety under section 136, Mental Health Act 1983[54]

Section 136 Detentions to a Place of Safety	2011/12	2012/13	2013/14
Police Custody	8,667	7,881	6,028
Hospital	14,902	14,053	17,008
Total	23,569	21,934	23,036

However, between 2012/13 and 2013/14 the data indicate that the total number of times police have used section 136 has increased by five percent (1,102) to 23,036. This data collection currently does not include information about the ethnicity of detainees.

Data limitations

The collection of data has developed in a piecemeal way, with improvements often made in response to concerns about particular police activities or the groups most often affected. For example, the systematic collection of data on detentions under section 136 of the Mental Health Act 1983 is a recent initiative in response to widespread concerns[55] about the extent to which police custody was being used as a place of safety.

There are still a number of data limitations. While individual forces may capture some of this data, in the public domain we do not know, for example:

[54] *Inpatients Formally Detained in Hospitals under the Mental Health Act 1983, and Patients Subject to Supervised Community Treatment: Annual report, England 2013/14*, Health and Social Care Information Centre, 2014.

[55] For example as highlighted in *A Criminal Use of Police Cells? The use of police custody as a place of safety for people with mental health needs,* HMIC, HM Inspectorate of Prisons, the Care Quality Commission and Healthcare Inspectorate Wales, June 2013. Available from www.justiceinspectorates.gov.uk/hmic

- how many people are detained in police custody by each police force;
- how many people who are detained at each stage of the process of detention have a learning disability, are mentally ill, are children or are from a BAME group. Such information could inform police and the public about the demand for specialist skills and services in custody to safeguard vulnerable people (for example, appropriate adult services), and about whether police activity is proportionate for different groups in the population;
- how many people are detained in police custody who are already under the care of the state in a care home or hospital;
- the length of detention of those detained for less than 24 hours;
- where vulnerable people go and how they are supported when released from custody even though many of those detained have been taken into custody because there is no other safe place for them;
- the extent and effectiveness of alternatives to detaining suspects in police custody such as voluntary attendance at a police station, de-arresting the individual, giving street bail, issuing penalty notices for disorder, cautioning, offering community resolution (resolving the problem between victim or community and the offender) or referring to a youth diversion scheme;
- the number of children who are detained overnight due to the lack of alternative accommodation, including those who are looked after; and
- the number of mentally ill people who are detained in police custody due to the lack of beds in hospital.

In summary, the available information in the public domain on police custody is fragmentary – it allows us to make hypotheses but not to draw conclusions. It tells us that children and young people under the age of 18, and people from BAME groups, particularly those of African-Caribbean descent, are over-represented in the criminal justice system compared to other members of the population. Children looked after by the state are particularly vulnerable to criminalisation. High numbers of children are detained in police custody overnight, and over a quarter of these are children from BAME groups. Deaths in custody are strongly associated with mental health problems and/or substance misuse. There is a recent positive trend away from the use of police custody as a place of safety under section 136 of the Mental Health Act 1983.

However, we found very little data available in the public domain regarding people, activities and outcomes in police custody. There is no systematic, standardised data collection that provides an authoritative national view on police custody, vulnerability and discrimination. This means that there is a lack of transparency – and opportunities for public awareness – about the operation of police custody.

Furthermore, it suggests that limited data are available to inform service planning by agencies and individuals with responsibilities for the welfare of people detained in police custody. Such data are also crucial for accountability purposes and to enable policy makers to consider any need for reform.

Chapter 4 - The nature of vulnerability

To inform the scope of our work, a literature review was undertaken to assess previous work that has looked at the welfare of vulnerable people in police custody. The review focused particularly on findings associated with children, people with mental health problems and people from BAME groups in police custody. In this section, we summarise these findings and explain the approach that we took to understanding the nature of vulnerability in police custody.

Summary of research and inspection report findings

The literature review highlighted a number of causes for concern about the extent and nature of the contact between vulnerable people and the criminal justice system. Some of the summary findings set out below have been drawn from local or regional work, and some are drawn from national reviews. These findings cannot be seen as a statement of fact about current practice in the criminal justice system generally, or in police custody particularly. However, as with the national data findings set out in chapter three of this report, there are recurring themes. A fuller report of these research and inspection findings with references is set out in Annex D.

The summary points to emerge from our literature review are:

- a significant number of people who enter the criminal justice system have a mental illness;
- drink and/ or drugs are a problem for many; they are often a reason for arrest and are strongly associated with deaths in custody;
- there are particular problems for detainees with a ‘dual diagnosis’ (people who are mentally ill and have an alcohol or drug problem) who may be denied one service while exhibiting symptoms of the need for the other;
- black people of African-Caribbean descent are more likely to be arrested than their white counterparts. The level of deaths in police custody following the use of restraint among black people is higher than for other groups;
- children who are looked after by local authority children’s social care services are significantly over-represented in the criminal justice system and in custody;
- custody, of itself, can cause considerable distress often leading to increased vulnerability or aggression. Measures such as use of restraint or removal of clothing may increase distress;

- approximately 30 percent of people in police custody have a learning or communication disability. They, and children and young people, often do not understand, or only partially understand, what they are being told by custody staff. This can affect their behaviour when stopped by the police and in custody. It can also have an impact on their ability to keep to bail requirements or to turn up at court when required to do so;

- conditions in police custody are not appropriate for children or for people with a mental illness. They can increase the likelihood of distress or self-harm/ suicide;

- the environment is not conducive to carrying out risk assessments which are often poor and unreliable in identifying mental illness, learning disabilities and alcohol and drug withdrawal;

- access to health care, appropriate adults and solicitors is often poor and there can be long delays in both requests by the police and the response of relevant agencies;

- children and mentally ill people are being held in custody because there is no alternative provision available;

- access to courts is also restricted leaving people in police custody for unnecessarily long periods;

- there are a number of 'frequent visitors' in police custody, many of whom will be at risk of being detained again very quickly after release. There is very little by way of pre-release planning for these people or evidence of agencies working together to prevent a reoccurrence; and

- continuously working with distressed, mentally ill or otherwise vulnerable people with the ever-present potential for violence, combined with poor working conditions can lead to mental exhaustion and high rates of sick leave in custody staff.

The IPCC undertook a study in 2008 of 'near misses' in police custody in the Metropolitan Police Service[56]. This estimated that there were about a thousand cases a year within the Metropolitan Police area where there was a serious risk of severe harm and a strong possibility of death in 40 percent of cases had police action not been taken. The highest risks were attempted suicide/self-harm (46

[56] *Near Misses Police Custody: A collaborative study with Forensic Medical Examiners in London*, IPCC Research and Statistics Series: Paper 10, March 2008. Available at: www.ipcc.gov.uk/page/near-misses-police-custody In this study the IPCC defined a near miss as any incident which 'resulted in, or could have resulted in, the serious illness or self-harm of a detainee'.

percent); drugs consumption or possession (33 percent); medical conditions (14 percent); and alcohol consumption (7 percent).

Vulnerability in police custody

The experience of being arrested and taken into police custody intrinsically disempowers the detainee. The police exercise power over the individual's liberty (and perhaps their property), and may subject the person to legitimate, but nevertheless intrusive police practices such as strip-searches. There are known risks to all detainees in custody (for example through the use of force, searches, and the length of detention) which is why safeguards are built into the law to ensure that they can both understand and exercise their rights while detained. These risks can increase significantly when a detainee is also vulnerable. Some vulnerability-related risks are addressed explicitly in guidance on safeguards in PACE Code C (for example requirements relating to children or people who are mentally vulnerable); others are not (for example the vulnerability created by being a member of a minority group against which there has been a history of discrimination).

Vulnerability cannot be easily categorised. People may come to the attention of the police service with a combination of different vulnerabilities – some apparent and some not. For example, a child may be mentally ill and/or have substance misuse problems. Vulnerability may be linked to age, a health condition, or disability. In many cases people are not inherently vulnerable, but may be made vulnerable by their circumstances. International guidance on the monitoring of police custody recognises that vulnerability can be linked to a minority status that increases the risks of stigmatisation and ill-treatment:

> *Police have a key role to play in protecting and respecting individuals' rights, especially as regards persons considered to be in situations of vulnerability because of the interplay between their status in a particular society and the social context in which they find themselves*[57]*.*

The expression "persons and groups in situations of vulnerability" is often used in human rights commentary to acknowledge the fact that vulnerability is not necessarily inherent to the individuals, but is created by their situation in detention.

Individuals may be vulnerable in a given context and not in another. In the context of police custody, vulnerability will increase to some extent for all detainees, but will particularly increase for people with a minority status as compared to the overall population and to the detaining officers. This is the way in which the issue of vulnerability of people from BAME groups was understood in this thematic

[57] *Monitoring Police Custody – A Practical Guide*, Association for the Prevention of Torture, January 2013, para 1.3.

inspection. It is the knowledge we have about the outcomes of contact with the police service that make BAME groups vulnerable, not their race.

Given this, and the terms of the Home Secretary's commission to HMIC, our lines of enquiry focused on the indications from research, evidence of disproportionate representation of people from BAME groups in police custody and on police responsibilities in law under the Equality Act 2010, with particular reference to people from African-Caribbean backgrounds.

In this inspection, we focused on people with mental health problems, people from BAME groups and children to explore how far police forces respond to vulnerability in a manner appropriate to individual rights and circumstances, and within the requirements of the legislative and policy framework. We focused in depth on known risks to the welfare of these groups in custody, drawing on the evidence of the work summarised above.

Chapter 5 - First point of contact and arrest

The custody process

A person suspected of, or caught committing an offence is likely to be stopped or arrested at, or close to where the incident occurred. He may have been, for example, stopped and detained by a shop security guard if he is suspected of having stolen something, by the police in the street for causing a breach of the peace, or in his own home following a call from a neighbour about domestic violence. He may be searched for stolen goods, drugs or a weapon.

People suspected of committing crimes may also be arrested at their homes or elsewhere in a planned way; they might be asked to attend a police station voluntarily, after which they may then be arrested.

In coming to decisions about whether to search or arrest someone, the officer may have information provided by the call handler (the police staff member who takes the incident call and allocates the response) who will have obtained details from the caller and police records. The records may contain 'warning markers', for example where individuals known to the police had previously been known to carry weapons, use violence, or use drugs. These markers may also highlight known vulnerabilities, such as mental illness, or child protection concerns. The call handler should alert the response officer to any known concerns.

Police officers have considerable discretion about how to respond to incidents. Serious incidents involving violence will lead to arrest in most cases. In other cases police officers have a number of options (for more information on alternatives to arrest, see Annex C in this report on the legal framework). They may, for example, try and resolve matters at the time. They may warn someone about their behaviour and advise them to leave the scene quietly or issue a fixed penalty notice. They may use their discretion to refer a child or first time offender to a 'restorative' scheme whereby the offender 'makes good', usually by doing unpaid work and/or making financial compensation for the loss of property or damage to property. If the offence requires a more formal response, the police officer can bail the person to attend a police station at a later date. When someone is arrested, they will be taken to the police station for interview and investigation.

This chapter describes inspection findings from the six forces we visited on the effectiveness of police officers and staff at identifying vulnerabilities at the first point of contact with the police service, and diverting vulnerable people away from custody wherever possible and appropriate. This first point of contact is when police officers determine whether to take an individual into custody. It is of fundamental importance

in trying to avoid custody for vulnerable people by taking more appropriate action in response to their needs. We expected to see that vulnerability was identified and understood; alternatives to arrest were used where possible; and relevant information was communicated both within the police service and between police and other relevant agencies, to support good decision making.

In each of the forces we visited, inspectors observed call handlers talking and listening to members of the public. The call handlers understood, from their training, supervision and force policies, that some callers may be vulnerable because of, for example, disability or mental health, and/or drug or alcohol problems and dealt with these callers appropriately. Each force we visited had a system for recording vulnerability when it was identified by frontline staff and for referring concerns about individuals on to specialist teams, for example child protection, vulnerable adults or missing persons. Call handlers checked police computer systems for this information to prioritise calls and to help officers attending the incident to respond appropriately.

Many frontline police officers that we spoke to also understood the different needs that people have which may make them vulnerable. Neighbourhood police officers and police community support officers appeared to have good knowledge of vulnerable individuals living in their local areas. By working with other agencies they tried to prevent them from offending and to find solutions to their problems.

Response officers attending incidents sometimes took account of an individual's vulnerability and, where possible and appropriate, used approaches such as community resolution (putting matters right between an offender and the victim) rather than arrest, particularly in the case of children or for minor offences. In the case of people with mental health problems, police sought support from mental health services.

However, police officers and staff did not always have a shared or clear view about who was vulnerable and often drew on their own life experiences in making an assessment. Victims or witnesses were much more likely to be identified as being vulnerable than an alleged suspect or detainee. Most, but not all, frontline staff understood children as being vulnerable by reason of age, but none of the frontline staff we spoke to perceived people from BAME groups as potentially vulnerable to discriminatory treatment.

The Metropolitan Police Service has recognised the benefit of a systematic approach to vulnerability and risk assessment, and has introduced an evidence-based vulnerability assessment framework across the force. Training for officers and staff has started and was being rolled out across the force at the time of our inspection.

Frontline police officers showed some awareness of cultural differences in the diverse communities they served. In one area, for example, officers told inspectors about the regular visits they made to local mosques to discuss matters of local or community concern. Training on equalities and diversity had focused on recognising

and respecting differences in cultural and religious beliefs and there was some awareness of the dangers of cultural or racial stereotyping. Frontline officers made records on force computer systems of the incidents they responded to, including the age, gender and ethnicity of individuals who came to their attention, which they believed was monitored by senior managers in the force.

People who were vulnerable through mental ill health, substance misuse, limitations in mental capacity, or some combination of these were particularly challenging. Sometimes this resulted in officers making arrests when they did not consider this to be the best outcome for the individual. For example:

> A very disturbed boy aged 11 with learning disabilities, whose persistent offending included offences of arson and violence against his mother, was arrested, taken into custody, charged by the police and taken to court. The police recognised the boy's vulnerability and hoped the criminal justice system might be the way he could get treatment.

We heard many accounts of the demands on police from hospitals. Police were often called to prevent a breach of the peace, to restrain someone behaving in a disturbed way, or to find someone who had walked out of the hospital before being seen. We also heard from participants in the Black Mental Health UK focus group that if someone called the NHS mental health crisis care team for help in a crisis, they were often advised that the only route to health intervention would be through calling the police. Significant amounts of police time are spent trying to avoid taking people to custody when they are clearly in need of medical intervention. For example:

> Officers were called to a report of a patient behaving aggressively to staff at a hospital mental health place of safety unit. When officers arrived, hospital staff insisted that the man be taken into custody but by this time the man was calm and very apologetic for his previous outburst. Police refused to take him into custody as he was already in a place of safety, but the doctor refused to assess the patient unless he was in police custody. Eventually the doctor agreed to assess the man in the hospital and he was then released. Police were on the scene for two and a half hours.

In London, recognising the demands on police time and to clarify the arrangements between hospitals and the police, the Metropolitan Police Service has introduced a policy whereby certain incidents must be referred to senior managers before the police will respond. Also, it sets out the circumstances in which police should enter hospitals to restrain or detain a person. The force expects that a hospital will provide appropriate care and treatment to patients with mental health needs in order to prevent or de-escalate potentially violent incidents. Police may refuse to attend an incident if they judge it to be inappropriate.

Police in Surrey keep a record of calls from the mental health and general hospitals in its area requesting police assistance, to develop a better understanding of the associated demands on police time.

During our inspections we saw some positive examples of forces trying to help vulnerable people proactively, at the first point of contact with police. In Leicestershire, the force had introduced a system to investigate and review reports of vulnerability to see what further action might be needed and make any referrals to partner agencies. This included vulnerable people who were persistent callers. In Cleveland a similar approach had also been adopted.

Information sharing – police, local authorities and the NHS

Police and other agencies have the power to share information for the purposes of the prevention and reduction of crime and disorder[58]. For individuals in mental health crisis, all agencies, including police and ambulance staff, have a duty to share essential 'need to know' information for the good of the individual, so the professionals or service dealing with the crisis know what is needed to respond to any associated risks to the distressed person or to others[59]. However, important information about vulnerable people involved in incidents was not always easily accessible, particularly 'out of hours'. For example:

- A teenage boy was causing criminal damage in the family home. He was taken to custody and spent six hours there. Had the police officer known (as did other agencies) that, previously, his sister has accommodated her brother until the situation calmed down, custody could have been avoided.
- A man with mental health problems had doused himself in petrol and threatened to ignite himself in front of his children. Although the police computer systems showed that he had previous mental health problems, this information was not passed to the officers who attended the incident and so they did not try to contact mental health staff for advice or support.
- The police were called by a mental health hospital to find a missing person but staff then refused to provide the patient's address or date of birth (because of data protection concerns).

[58] Section 115 of the Crime and Disorder Act 1998 gives partners the power to share information for the purpose of reducing crime and disorder. Schedule 9(5) of the Police and Justice Act 2006 strengthens this by introducing a new duty on the same agencies.

[59] *Information Sharing and Mental Health: Guidance to Support Information Sharing by Mental Health,* Services Ref 11929, Department of Health, 2009.

Call handling/dispatch staff did not always have the time to search for relevant information held on the various police databases (one vulnerable individual had over 300 separate information reports on his record). They tended to focus on information about the safety of officers when attending incidents, that is, was the victim or alleged perpetrator known to carry weapons, use violence, or use drugs, rather than on information about their known vulnerabilities.

South Wales Police, Mencap Cymru and National Health Wales have developed a system to improve and share information about vulnerable adults and children. The 'Keep Safe Cymru' scheme involves vulnerable people carrying a card which gives police staff, whether they are call handlers, police officers or custody staff, quick access to further information about their needs. Participants in the scheme can also telephone a dedicated number which automatically flags the call as an emergency. The scheme is aimed at a wide range of vulnerable individuals and there are plans to extend it across other areas. We were told by police staff in Wales that this approach has high profile support, including at Welsh ministerial level, and there has been positive feedback from the community and those involved in supporting vulnerable people. Although it is early days, we were told that a number of vulnerable people are already participating in and benefiting from the scheme.

In Surrey and North Wales there were pilot schemes locating mental health professionals in the police call centre on a part-time basis. This allowed health information to be provided quickly to response officers dealing with incidents and facilitated access to services for individuals with mental health problems. These schemes had not yet been evaluated, but frontline police officers across all the forces we inspected recognised the importance of having good quality information about vulnerable individuals to help them make the right decision on whether to arrest, and what alternatives might be available.

The decision to arrest and take into police custody

The decision to arrest a vulnerable person was often taken reluctantly by police officers, particularly for people with mental health problems and children. We saw and heard about many examples of police working closely with other agencies to try and get support and help for vulnerable adults and children in order to keep them out of the criminal justice system. We were also given numerous examples where frontline officers had avoided taking someone into custody by using alternatives such as diversion schemes, restorative justice, youth cautions, and voluntary attendance for interview at a police station. For example:

- a man with dementia frequently went missing and police were called. The police community beat manager met with the man's care support worker. This resulted in the man's medication being changed and he was moved to more suitable accommodation with additional support. He had not gone missing since;

- in North Wales, officers could make an arrest on warrant and take the detainee directly to court, subject to court listings. Although arrested, this avoided the detainees being brought into police custody (although they may have been held in court cells pending the hearing); and

- the Metropolitan Police Service had piloted the use of street bail for minor offences, aimed at dealing with the offender on the street by providing immediately a date to attend court.

We also heard about police taking a more proactive approach to try and tackle the root causes of some offending, and divert people away from the criminal justice system. The Metropolitan Police Service identified that 15,000 young women under the age of 25 had entered custody across London in the last year, mainly for shop-lifting and violent crime. Examination of the shoplifting offences showed that the thefts were mainly of baby equipment and nappies, and in a number of cases involved multiple arrests. Many resulted in no further action being taken. The analysis prompted a study to be carried out as part of a university student dissertation to understand the reasons for this, so that prevention work could be developed.

Our inspections showed some forces making good use of voluntary attendance as an alternative to arrest. Only one of the six forces inspected was able to supply data on voluntary attendances for each of the three years prior to the 2014 inspection and only three were able to supply reliable data on voluntary attendance for the 12 months to the inspection. These data demonstrated high levels of use of voluntary attendance, with 10,898 recorded instances compared to a custody throughput of 57,170 across the three forces. This is a positive development because it avoids the need for custody, with all the known associated adverse impacts, particularly for vulnerable people.

Frontline officers gave many examples of where they had tried, unsuccessfully, to help people without recourse to arrest, for example:

> A man was hanging over the side of a bridge who was drunk. Paramedics assessed the man and decided that he needed to be detained in hospital under the Mental Health Act 1983. On arrival at the hospital the man became violent, and this made assessment difficult. He was refused admittance and the attending police officers took the man from the hospital into police custody, returning him later to the mental health unit where he was assessed and released. Officers then took him home. They spent their entire shift dealing with this one case.

However, we were concerned to find that a number of police officers were unaware of the options open to them at the point of arrest, such as street bail and diversion schemes. In some places, response officers were unaware of joint protocols that were in place to assist them in working with health and social services when detaining someone under section 136 of the Mental Health Act 1983.

The Code of Practice to the Mental Health Act 1983 requires that people detained under that Act should always be conveyed to hospital in the manner most likely to protect their dignity and privacy – taking account of any risks. In the majority of cases, this should mean transport by ambulance which should be made available in a timely way. Police and partner agencies reported long waits for ambulances for people in need of emergency mental health care, and police transport was still being used. However, in West Mercia the ambulance service was providing a responsive street triage service, where a paramedic would assess the individual wherever they had been found by police, and provide advice and assistance as necessary.

In many cases where police officers encountered people behaving in a disturbed way, unless a place of safety was clearly the right course of action, detention was often the only option to protect the person or members of the public. In every force inspected, police officers expressed concerns about how best to help people with mental health difficulties. The inspection team found a number of examples of the police being called to manage the distressed behaviour of mentally ill people who were unable to access a doctor or specialist mental health services, both during the day and at night. Officers told us that much of their time was taken up with 'just sitting' with people who were mentally ill awaiting a mental health assessment. Some specific cases we found during the inspections are set out below:

- a man threatening to jump from a bridge onto a busy road was taken by police to hospital. He was assessed by mental health professionals as safe to be released, whereupon he went to another bridge and again threatened to jump onto a busy road. Police were called again within a few hours;

- a violent man with drug-induced psychosis was detained under section 136 for a mental health assessment which concluded that 'he's fine'. The police were then called again a further three times in connection with this man during the same shift;

- a police officer and mental health worker took a mental health patient, detained under section 136, in a taxi from one hospital to another several miles away because there was no ambulance available;

- a woman threatening suicide was taken to hospital and police officers stayed with her to make sure that she waited for assessment under the Mental Health Act 1983 and placement in a mental health unit. Officers' concern was that she would leave the hospital and become a high-risk

missing person and their resources were better deployed preventing this. The officers told us that the constant bed watch lasted 48 hours before the woman was transferred to a mental health unit;

- a woman wandering the streets with a knife was aggressive and violent. The police took her to hospital for a mental health assessment and she was sectioned under the Mental Health Act 1983 by mental health professionals, but there was no bed for her. Consequently a police officer told us he “had to sit with her for four hours – it was awful – she was in a desperate state”; and

- a person with mental health problems deliberately took action to get arrested in order to access help from the mental health unit. This was not seen by police officers as unusual.

Police told inspectors of cases where they had knowingly taken what they regarded as inappropriate action, in the absence of any other means to secure help for vulnerable people. For example:

> A homeless woman (44 years old) was arrested for carrying a knife at 11pm. She was carrying the knife to protect herself. It was her second arrest in two weeks. She spoke little English and an interpreter was not available until 11 am the following day. There was no accommodation available. Police recognised that ‘the key question for us is: how can we stop her being arrested and brought in again? She’s safer in police custody than on the streets and quite happy to stay and be fed and keep warm.’ They judged that the only way for her to get help was to remand her to court and hope the court would ask social services do something about her accommodation situation. The outcome of this case was not known.

Inspectors observed one case in particular that highlighted inadequacies in multi-agency arrangements, information sharing and understanding of how to address the needs of vulnerable detainees in a joined up way:

> Police were called to an incident where a 90-year-old man suffering from dementia had become violent towards staff and other residents in a residential care home, causing damage to property. The man had recently been discharged from hospital to the care home. The care home did not meet his needs and he did not want to be there. A police inspector spoke at length with the man and attempted to help him leave the scene but, because he would not go with the officer voluntarily and continued to be violent, he was arrested and taken into police custody where he was detained.
>
> The police officer had no intention of pursuing the crime of criminal damage but held the view that a health care place of safety would not accept the man for a section 136 assessment because he was violent. A medical assessment

and mental health assessment were carried out in the custody suite but no bed was available at the hospital. The man spent the night in a cell and was eventually taken in a police car to the hospital. Custody staff persistently tried to secure a hospital placement for him. The case was eventually escalated to senior officers in the police and NHS Trust. The custody staff dealt kindly and considerately with the man throughout his time in custody and provided re-assurance to him.

We also saw partnership arrangements between the police and health services that addressed the needs of people with mental health problems in a more coordinated way. Leicestershire was part of the national pilot in which mental health staff and police officers respond to incidents together in a 'triage car' scheme. Mental health professionals provided advice to police officers and to the vulnerable individual and could access healthcare services, including admissions to beds when necessary. Cleveland Police had been operating a similar scheme since 2012 and could show significant reductions in the numbers of people with mental health problems, seen by the triage scheme, taken to both custody and to health-based places of safety. Response officers and custody staff in these forces spoke highly of their schemes and the difference made in ensuring that people with mental health problems are responded to appropriately.

Police officers we spoke to told us that they were called frequently to deal with incidents where parents or children's homes could not cope with a child's disruptive behaviour and sought to use the police as a way to discipline children. Child protection inspection findings have shown that a number of children remanded in police cells overnight were in local authority care. In one area (one of the areas inspected in this report) inspectors found that every young person, in their sample of case audits, who was involved in an incident in a children's home (nine incidents) was remanded in police custody, even though they were in the care of the local authority.

Inspectors were particularly concerned to find that when force policies required officers to take 'positive action' in response to reports of domestic abuse, this was interpreted in some forces as always requiring an arrest, even for children. For example:

- a 17-year-old who was arrested for pushing his step-father and damaging the garden fence;
- one of two sisters was arrested following a fight over a remote control;
- a 13-year-old boy arrested for common assault on his 11-year-old sister. The boy had been in care since he was 6 years old and remained in custody for over 10 hours; and

- a 15-year-old girl arrested and brought into custody for assaulting her mother in school at a pre-arranged meeting.

We heard from some police officers of pressures on them to justify why they had not arrested suspects, regardless of vulnerability or welfare considerations, particularly for certain crimes that were a high priority for their force. Furthermore, some officers saw a tension between avoiding the unnecessary criminalisation of children and the requirements of the Code of Practice for Victims introduced in 2014. This Code of Practice requires police to take the victim's wishes into consideration when making a decision on what action to take.

However, frontline officers in some forces also told inspectors that they explored alternatives to arrest when dealing with incidents of domestic abuse that involved children as perpetrators. This normally involved arranging to separate the parties involved, perhaps by taking children to stay with other family members until the situation had calmed down and could be resolved without the need for any arrests.

We found some positive examples of proactive, partnership work with children to prevent them from entering the criminal justice system:

- In West Mercia there was a multi-agency initiative called 'Family Connect' in Telford where staff from social care, probation, police and health were located together for part of the week to share information to identify local children at risk of entering the criminal justice system and take steps to prevent this.

- In Cleveland there was work with partner agencies who were helping Vulnerable, Exploited, Missing and Trafficked (VEMT) children, with the police leading a Cleveland-wide board, and sub groups in each local authority area. These groups discussed and agreed actions to protect repeat missing children, and those at risk.

- In North Wales there was a proactive approach to building relationships between police and local children at risk, particularly those in care homes. In particular there was joint working through the All Wales Schools Liaison Core Programme (funded by the Welsh Government), aimed at reducing crime and disorder by young people through educational sessions to promote positive citizenship in schools and the wider community.

- In London, Harrow Children's Social Services and Northwick Park Accident & Emergency department (A&E) worked together to find a joint response for children with disturbing behaviour who are taken to A&E by their parents because they can no longer cope. Arrangements have been put in place for these children to be taken to a separate area in the hospital with a social worker to attend within two hours to make an assessment, decide further action and put support in place. The NHS has made funding available for social workers for this service on a 24-hour basis. Although not directly

involving the police, this is a good example of a multi-agency project that should have a positive impact in improving outcomes for children and reducing demands on the police.

People interviewed in our detainee voice project and in our Black Mental Health UK focus group spoke about their experience at the point of arrest. They said that the way people are treated by the police at the point of arrest was significant. It can either alleviate or exacerbate the distress and anxiety an individual is already experiencing, as well as influence how they chose to interact with officers and staff while in custody. Some people expressed the view that the police deliberately provoked those that they stopped and searched or detained and, also, the parents of children arrested.

Child participants viewed it as good practice when the police had chosen not to criminalise them for ‘low level’ crimes such as underage drinking. They viewed positively the use of plain clothes officers and unmarked cars when arresting children, but found the experience very distressing when plain clothes officers did not disclose their identity in good time: One child described this as: “We were thinking we were getting kidnapped or something terrible”.

Other participants felt that the decision to arrest was disproportionate, because the police did not have reasonable grounds to suspect them of committing an offence. Participants who held this view had been released without further action. Participants with mental health problems did not always understand why they were being arrested because they were in a state of crisis. Some participants believed that custody should have been avoided. In one case participant ‘C' damaged a communal door after misplacing his house keys during a period of mental health crisis. ‘C’ would have welcomed being taken immediately to mental health services for treatment and support to aid his recovery. Instead, he was initially detained in custody on suspicion of committing an offence. While in custody ‘C’ received a mental health assessment and was transferred to a secure hospital. C’s comments sum this up:

> *“So if they took me straight to a hospital, I could maybe go straight onto an open ward, and almost be voluntary. But because I've actually gone into the station, been arrested, taken into custody, it always ends up with me being sectioned and on a secure unit rather than me volunteering myself and going to an open unit, and having more sort of responsibility for myself.”* (Participant experiencing a mental health problem.)

A similar view was expressed by another participant who felt the custody environment adversely affected their physical and mental health, which in turn reduced their ability to take part in the police interview and the resulting court process:

> *"I should have been taken to some sort of hospital ward. Even a secure hospital ward, whatever… Just sleeping, eating, and drinking and not having to deal with anything, or use my mind, because my mind was fried. Absolutely fried… I really don't know how I got through it without losing the plot…"* (Participant experiencing substance misuse problems.)

The view that police involvement in a mental health crisis can exacerbate distress and precipitate more disturbed behaviour was shared by people in our Black Mental Health UK focus group. In particular, we were told that being unjustly (or perceived to be unjustly) accused of criminal or disruptive behaviour and being threatened with arrest was sufficient to tip vulnerable people into a mental health crisis. The example of 'R' below also suggests that he was not helped by police to exercise his right to legal advice.

Some participants in the detainee voice project held the view that some police officers/staff made stigmatising assumptions based on characteristics such as race, a detainee's clothing and physical appearance, social status and sexuality. For example:

> '*B' was arrested after being identified by a witness. 'B' felt the quality of identification was poor as the only description the witness could provide of the perpetrator was their ethnicity. 'B' was also concerned that he was being restrained by the police at the time of the identification, as this might have suggested to the witness that he was guilty of the crime. 'B' was released with no further action and felt the police could have used an alternative to arrest. "I'm on the floor handcuffed and a lady comes and she's hiding behind the officer and all I hear the officer saying, 'Is that him?' and I looked up, and I could see this lady is going, 'Yeah, that's him, that's him'. They're going to say yes, because I'm on the floor with handcuffs... She said it was a black man. Okay, I'm black, cool, but did you see my face? Did you see my clothes? Because you didn't"'* (Participant who identified as black, English)

‘R’ was involved in a verbal and physical altercation with their neighbour. He believed that racism within some parts of the police service contributed to the police charging him with a crime while the neighbour, who was alleged to have racially abused ‘R’, was released with no further action. ‘R’ believed the decision to transport him to police custody in a van rather than a police car was influenced by his ethnicity. ‘R’ also said it felt as if the police were trying to get him to admit to things which were untrue. ‘R’ believed he may not have been charged with a crime if there had been a solicitor or an advocate to protect his rights and to ensure he was treated fairly. (Participant who identified as white and black African)

Chapter 6 - In the custody suite

The custody process

Once arrested, the detainee is taken to the police station as quickly as possible, usually in a car or police van. The person may be hand-cuffed if the police officer thinks he presents a risk. Where violence is a concern, detainees will be transported in a police van, called by the arresting officer.

On arrival at the police station detainees are 'booked-in'. They may have to wait in a holding area if other detainees are ahead of them.

In front of the detainee and usually recorded on a video camera, the arresting officer states the grounds (the incident or offence) for arrest and why the arrest was necessary. The custody sergeant must then decide if it is necessary to keep the person in custody. A person might be 'de-arrested' (released from arrest) if for example they were unable to provide a satisfactory address at the time of the arrest but can do so at the police station.

Once detention has been authorised, the custody staff must comply with PACE by:

- opening a custody record;
- ensuring that the detainee is told his/her rights;
- assessing whether the detainee is a juvenile, or is suffering from a mental disorder or has difficulties in communication;
- identifying and contacting an appropriate adult as required;
- determining whether there is sufficient evidence to bring a charge or whether the detainee needs to kept in custody in order to secure, preserve or obtain evidence; and
- making decisions on charging and whether to bail.

The custody officer is responsible for ensuring that the detainee is treated in accordance with PACE and with the PACE Codes of Practice.

If violent and/or uncooperative, a detainee may be taken from the booking-in desk to a cell immediately after the custody sergeant has determined that custody is necessary. Otherwise they will continue at the booking-in desk while further enquiries are made.

The custody officer will ask the detainee for personal details such as name and address, and, if a child, the name and contact details of a parent or carer. The detainee will be asked about any health problems or injuries, and any drug or alcohol problems. The officer will also check police systems for information about the detainee. This will include previous custody records.

Detainees are told that they are entitled to a solicitor, to have someone informed of their arrest and to read the PACE Codes of Practice. If they are a child or appear to be mentally disturbed or mentally vulnerable, they have a right to have an appropriate adult. Police officers will make the necessary telephone calls. In some circumstances, officers may need to repeat telling a detainee the reasons for his detention and his rights if they are not in a fit state to absorb the information.

If the person appears to be in need of medical treatment or asks to see a doctor or nurse, one will be called. A doctor or nurse will tell custody staff if a detainee is fit to be detained and interviewed, or should be moved to a hospital. The doctor may also authorise treatment or provide a prescription. The custody officer will make an assessment about the risks the detainee poses either to himself or to others. If a detainee is thought to be at high risk, for example of self-harm, they will be monitored closely, often by being placed in a cell with closed circuit television (CCTV).

Otherwise, he will be checked at least every hour. He may have some or all of his clothing removed if it is thought that the clothing could be used to cause injury and must then be provided with a suitable alternative. He may also be strip-searched for any items that could be used to cause harm to himself or others. If a person is intoxicated and at risk of becoming unconscious, he will be roused by the custody officer every 15 or 30 minutes to check how he is.

Finger-printing and DNA samples are taken from everyone arrested and held in police custody.

While a detainee is in a cell, investigations may continue into the alleged offence. In many cases the information gathered at the time of arrest will have provided sufficient evidence with which to charge an offender. During this time the detainee may be taken from their cell and interviewed in an interview room. In more complex cases (such as child abuse or homicide) the investigation is undertaken by a specialist team and it may be some hours before there is sufficient evidence to charge or release the detainee.

Who is taken into police custody?

At each force visited, we collected data about the custody ‘population’. In order to help us understand these data we first analysed information on the general population:

Table 2. Population and demographic comparisons between the general population of England and Wales, and the inspected forces' population and custody throughput

		General population (2011 census)	Inspected forces' population (2011 census)	Inspected forces' custody population (data collection, 2014)[60] [61]
Population		56m	5.5m	114,300
Gender	Male	49%	49%	85%
	Female	51%	51%	15%
Ethnicity	White	86%	84%	78%
	Mixed/ Multiple ethnic groups	2%	2%	3%
	Asian/ Asian British	8%	10%	9%
	Black/ African/ Caribbean/Black British	3%	3%	9%
	Other ethnic group	1%	1%	2%
Age	Under 18	21%	22%	9%
	18 to 60	57%	57%	89%
	61+	21%	22%	2%

Figures are rounded and so percentages may not appear to add up to 100 percent

[60] Data were collected from the inspected forces for the 12 months prior to the inspection. The inspections took place between September 2014 and January 2015.

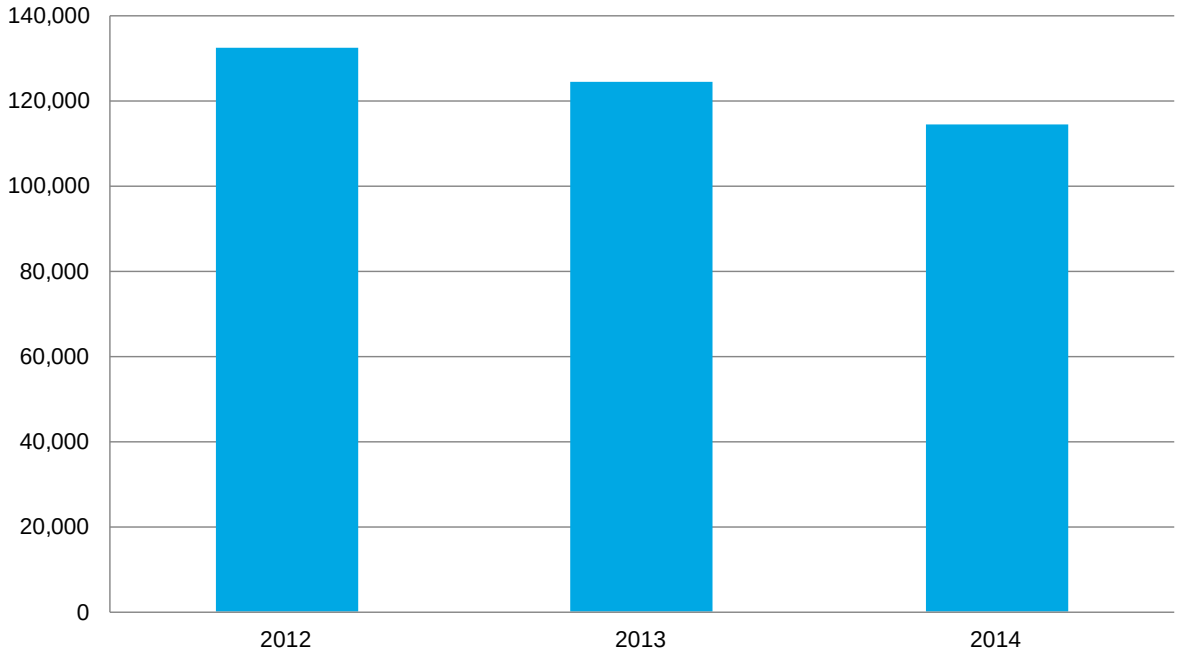
[61] One force was unable to supply data on the ethnicity of those strip-searched. To aid comparability later in this report, this force's data has been excluded from the ethnicity breakdown provided here.

The data on the custody population (custody throughput) collected from the forces inspected are set out below.

Total reported custody throughput for the forces inspected was just over 114,300 in the 12 months prior to the inspection (2014). Throughput by force varied from just fewer than 17,100 to over 21,700. Based on data on arrests and police recorded crime, we estimate that the total throughput from these six forces[62] represents approximately 10 percent of the total custody throughput in England and Wales.

Figure 3 shows how the total custody throughput has declined over the last three years in the forces inspected.

Figure 3. Total custody throughput for the three years prior to the 2014 inspection

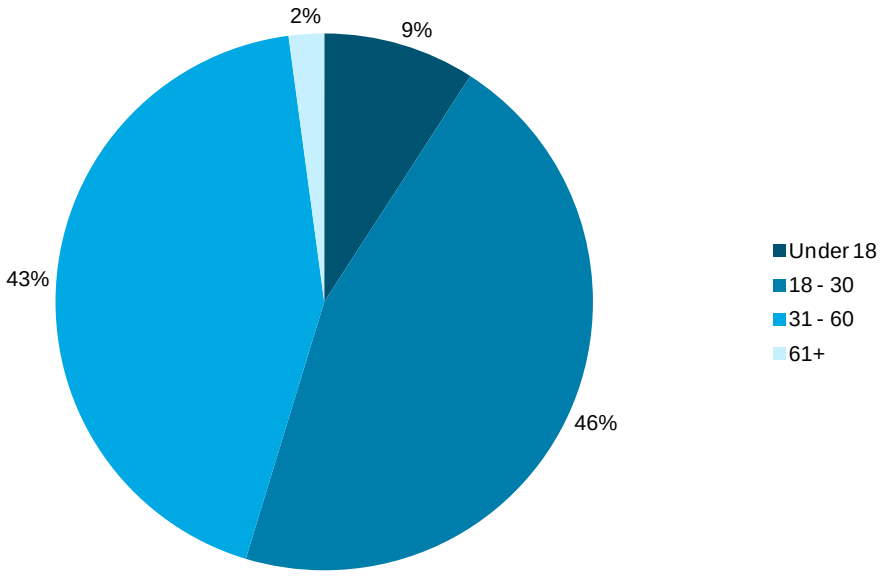


The reported total custody throughput among the forces inspected reduced by 14 percent in the three years prior to our inspections, from 132,377 to 114,316.

Over the six inspected areas, 85 percent of all custody throughput was male and 91 percent was aged 18 and over. The total number of people under 18 for the forces totalled 10,421 (9 percent of the total) although at a force level the proportion varied from 7 to 11 percent. Eleven of those under 18 were ten years of age or under (the age of criminal responsibility in England and Wales is ten years old).

[62] Note that data included from the Metropolitan Police Service is only for the three basic command units inspected, not the whole of the force area. This is true throughout the report where reference is made to data from the six forces.

Figure 4. Total custody throughput by age for the 12 months prior to the 2014 inspection[63]



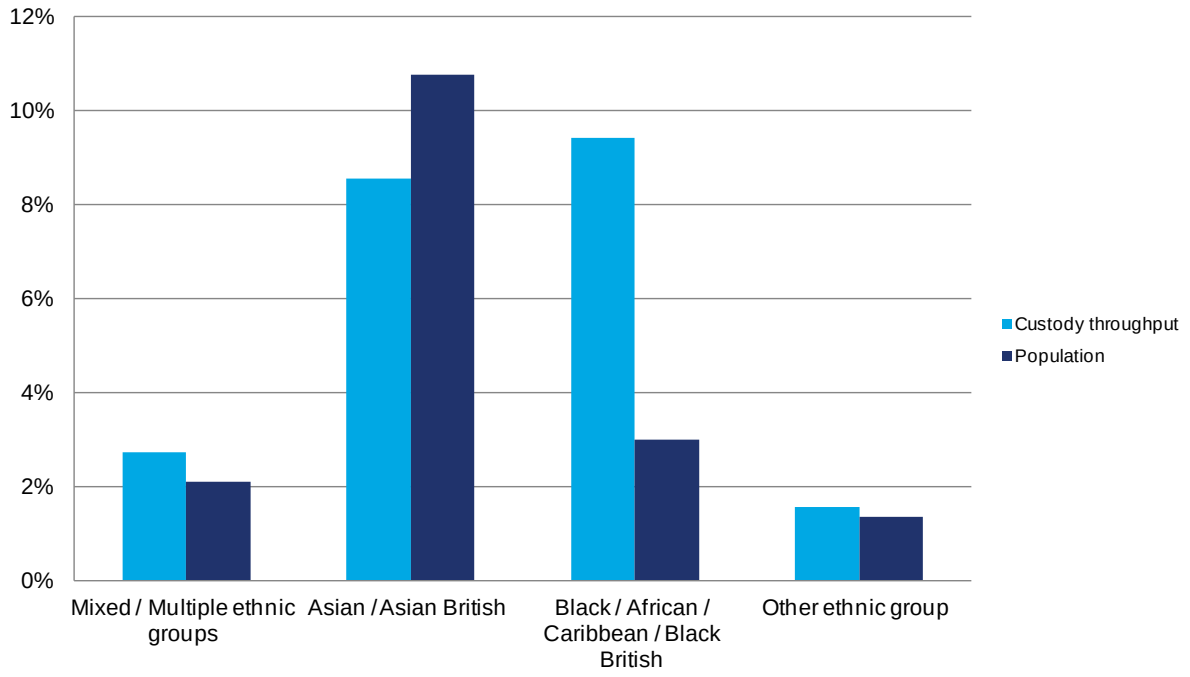
HMIC compared the ethnic breakdown of the population through custody with the overall breakdown of the force population for the five forces[64] that supplied full ethnicity data.

In figure 5 below, we consider only the BAME groups. This analysis suggests that, compared with the overall population in these forces, people from African-Caribbean backgrounds were disproportionally more likely to be in police custody. While three percent of the overall inspected forces' population were of this ethnic group, they represented nine percent of the custody throughput. The overall percentages varied between forces; nevertheless, disproportionality was present in all cases. It is not possible to account for this difference without further information about the reasons for detention.

[63] Those whose age was 'unknown' were excluded from the analysis.

[64] One force was unable to supply data on the ethnicity of those strip-searched. To aid comparability later in this report, this force's data has been excluded here.

Figure 5. Ethnic breakdown of total custody throughput compared with the total forces' population[65] in the 12 months before the inspection.[66]



Reasons for detention

Our analysis of custody records showed that in our sample of 322 cases, 224 of the detainees had been arrested and detained for notifiable offences. Fifty-eight detainees were arrested and detained for non-notifiable offences. A further 12 detainees were detained for breach of bail, one was being recalled to prison and 27 were detained under section 136 of the Mental Health Act 1983[67]. When analysed by ethnicity, the data from the custody record analysis showed a higher proportion from BAME groups had been arrested and detained for non-notifiable offences than white detainees. However this could not be confirmed as a statistically significant finding due to the limitations of the sample size, and would require further data collation and analysis to improve understanding.

[65] The 2011 Census data was used to provide the ethnic breakdown by force.

[66] One force was excluded from this analysis because they were unable to provide an ethnic breakdown of their strip-searches used later in this report.

[67] Note that our sample was deliberately skewed to find cases of people detained under section 136. This means that this figure should not be seen as representative of the proportion of section 136 detainees entering police custody overall.

Repeat detentions

Evidence from our custody record analysis indicated that the vast majority of those in our sample had been in police custody before. As explained in Chapter one, our sample was deliberately skewed to target cases that were of particular interest within the scope of this thematic inspection. In the total sample of 322 records, the analysis showed 286 detainees had been in police custody before. Within our particular groups of interest, the following had been in custody previously:

- 88 of 100 people from BAME groups;
- 75 of 81 people with mental health problems;
- 70 of 81 children; and
- all of those (27) detained in custody under section 136 of the Mental Health Act 1983.

Use of custody as a place of safety under section 136 of the Mental Health Act 1983

The availability of appropriate places of safety to which the police may take people detained under section 136 of the Mental Health Act 1983 has been the subject of in-depth work elsewhere, most recently by the Care Quality Commission[68]. All areas of the country should have designated places of safety. These are currently most commonly situated in NHS mental health units and are known as section 136 suites.

Custody staff assured us that custody suites were now rarely used as a place of safety for people detained under section 136. Data on the use of section 136 from all forces confirmed this, although wide variation is still apparent. As force data are not yet reliable, we reproduce, in the table below, an analysis based on data collated and (where available) published by the Health and Social Care Information Centre (HSCIC) as part of its experimental data collection on section 136 detentions. The data has been provided to the HSCIC by the Association of Chief Police Officers on an annual basis over the last three years.

[68] A *Safer Place To Be*, Care Quality Commission, 2014. Available from www.cqc.org.uk

Table 3. Detentions under section 136 in police and hospital-based places of safety recorded by police (including detainees aged under 18), 2013/14[69]

Force	HSCIC section 136 place of safety data				
	Police custody	Health facility	Total	Police custody % of total	Health facility % total
Cleveland	160	145	305	52%	48%
Metropolitan Police[70]	75	1,570	1645	5%	95%
Surrey	105	445	550	19%	81%
West Mercia & Warwickshire[71]	185	565	750	25%	75%
Leicestershire	35	275	310	11%	89%
North Wales	No Data	No Data	No Data	N/A	N/A

Given the variation in the population each force serves, the HSCIC figures have been recalculated on a per 100,000 basis in Table 4. The analysis confirms considerable variation in the use of section 136, with an even greater variation in the use of custody as a place of safety to detain individuals under section 136 across the forces (ranging from 5 percent to 52 percent).

[69] These data refer to the financial year.

[70] Data shown are for the whole of the Metropolitan Police Service – not just the three boroughs visited in this inspection.

[71] Warwickshire and West Mercia data are combined by the HSCIC because the two forces operate jointly in a 'strategic alliance'.

Table 4: Detentions under section 136 in police and hospital based places of safety recorded by police (including detainees aged under 18), 2013/14 per 100,000 population.

Force	HSCIC section 136 place of safety data per 100,000 population	
	Police custody	Health facility
Cleveland	28.6	25.9
Metropolitan Police	0.9	18.7
Surrey	9.1	38.6
West Mercia and Warwickshire	10.4	31.7
Leicestershire	3.4	26.6
North Wales	N/A	N/A

Cleveland has the highest rate of uses of police custody as a place of safety per 100,000 of population (28.6), which is also higher than the proportion detained at a health facility (25.9). The Metropolitan Police Service, in contrast, has the lowest rates for use of custody as a place of safety at just 0.9 per 100,000.

In all forces inspected, we found evidence of continuing challenges for the police in gaining access to section 136 suites, as the number of places available in each area is very limited. In one force we were told that if these facilities are full, the local Accident & Emergency (A&E) service will not accept people under section 136. In another area, people under the age of 18 were not accepted into the section 136 suites. The expectation here was that children would be taken to the hospital A&E department. In these cases, if the A&E department refused admission, mentally ill and distressed people were detained in police cells, because the police had no other option open to them.

A further demand was made on the police if the hospital-based section 136 suite was not adequately staffed. We saw evidence that in these situations, police were obliged to remain with the detainee until a mental health assessment had been completed. Police officers told us that waits of four to eight hours were not uncommon, taking police officers away from their core duties in the community. We were told by officers that many places of safety would not accept people for assessment under the Mental Health Act 1983 if they were intoxicated as the example given in chapter five illustrates. Our inspection data, albeit from six forces, confirms this.

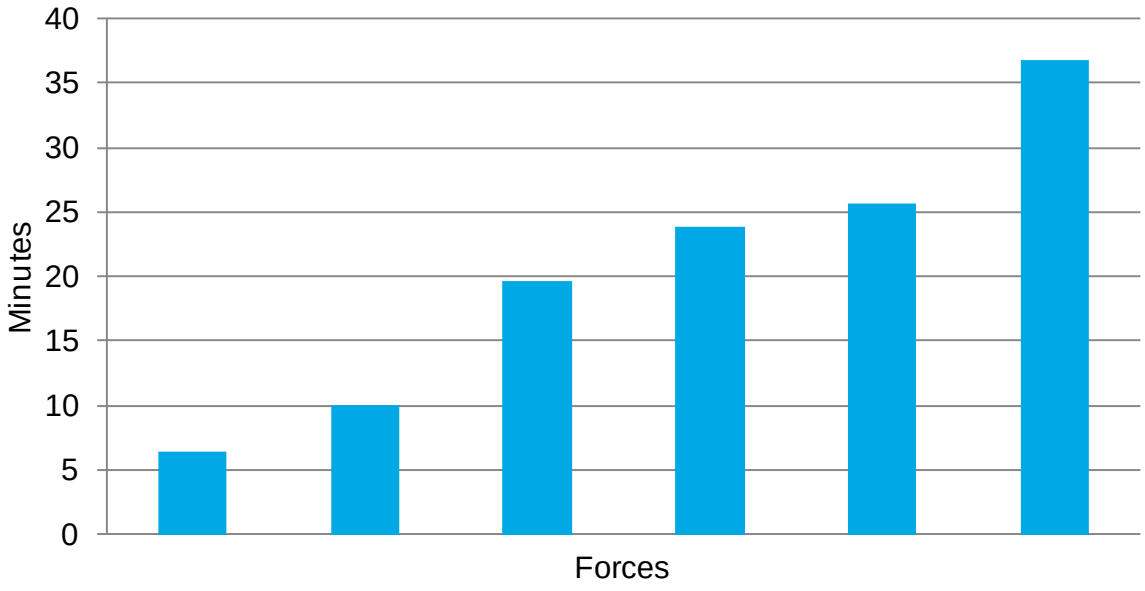
Twenty-seven instances of detention under section 136 were analysed in our custody record analysis. In over half of these (15), detention in police custody had been authorised because of the detainee's intoxication and/or violent behaviour.

In all but one of the forces, there was evidence from custody records that alternative places of safety had been sought in most cases before the detainee was taken into custody.

Arrival in custody

At times during our inspections we observed that vulnerable detainees had long waits in the holding rooms before being presented to the custody sergeant for booking-in. From the data collected from those forces inspected, the average length of time from arrival in custody to detention being authorised ranged from only six minutes in one force to 37 minutes in another. Figure 6 shows the full range across the six forces.

Figure 6. Average length of time from arrival in custody to detention being authorised in the 12 months before the inspection (minutes)



Some staff showed little understanding of the potentially damaging consequences of exposure to other detainees or a long wait in a holding room. We saw and noted from our analysis of custody records that some children waited between one and three hours before being booked in by the custody sergeant.

When children were detained, we saw few instances where they were allowed to wait in interview rooms instead of in a cell, as required in the guidance[72], and few provisions to help them, or other vulnerable people, cope with being in a cell such as age-appropriate reading materials.

The extent and quality of information transferred between arresting officers and custody staff varied between and within the forces we visited. Custody sergeants in most cases asked arresting officers to provide a full explanation of the circumstances of and reasons for the arrest before authorising detention, and would refuse detention when the circumstances did not merit it. Mostly this was when health and mental health concerns were identified. We saw evidence of custody sergeants refusing custody for people detained on section 136, which was appropriate.

In some custody suites, arresting officers were assiduous in providing relevant information about detainees' vulnerabilities to inform the approach taken to detention. For example:

- a detainee with claustrophobia was placed in a glass fronted cell based on information obtained by the response officer at the time of arrest;
- additional reassurance about what would happen to them was given to those detainees who custody staff considered to be more vulnerable than others for reasons such as age, health and mental capacity;
- several detainees were allowed to remain in a holding booth in sight of the booking-in area as opposed to being placed in a cell; and
- women coming into the custody suite were asked if they wished to speak to a female officer.

However, this was not done consistently in all forces visited. The extent to which information relevant to detainee welfare was communicated varied from one custody suite to another, and in some cases between different shifts.

In most forces we saw that custody staff avoided keeping children in custody when possible, for example, by bailing a 14-year-old boy with learning disabilities despite the seriousness of the alleged offence or, in one force, referring low level repeat offenders, (mainly alcohol related), to anti-social behaviour teams to manage the individuals in the community. Custody staff also referred young people to diversion schemes. For example:

> A 15-year-old boy, in school uniform, was brought to the custody suite for stealing some chocolates from a shop. The arresting officer had tried hard to contact the boy's family to resolve the issue without the need for custody but

[72] Police and Criminal Evidence Act 1984, Code C, para 8.8.

> was unable to do so. When his mother was contacted and came to the custody suite, it was decided the best course of action was to divert the boy from the formal criminal justice system.

However, sometimes we observed that detainee care was not respectful and did not meet the standards to which detainees are entitled. Inspectors observed:

> A compliant mixed-race detainee was held for 45 minutes in obvious discomfort with his hands cuffed behind his back, waiting to be booked in. We were told he was restrained because of warning markers on the police national computer (PNC), but on checking the PNC, inspectors found no such markers. The custody sergeant asked the same detainee to define his ethnicity and he replied 'Mixed Asian.' The custody sergeant queried this, asking 'Well, what do you look like?' When he replied 'Asian' the custody sergeant said 'No, you look southern European.'

We saw limited evidence in any of the forces to suggest that children or vulnerable people were prioritised for booking in at busy times. In one force inspectors observed that an arresting officer failed to make the custody sergeant aware that they were holding an eight month pregnant woman in a queue, so no consideration could be given to prioritising her booking in.

Participants in our detainee voice project valued time taken by custody officers to ensure that detainees, including those with communication difficulties, understood why they were being detained, and their rights and entitlements while in police custody.

However, some felt they had not been given adequate oral or written information. Some custody officers did not treat detained people with sufficient respect and were reported to have become 'agitated' when detainees asked for information, and in one instance refused to provide the detainee with the PACE Codes of Practice. Uncertainty around the custody process and their rights and entitlements caused anxiety and stress for detainees who were entering custody for the first time. It also inhibited some child detainees from asking for things, such as a blanket when cold.

Custody procedures and rights of detainees

Detailed findings from our inspections about the outcomes for detainees of routine duties carried out by custody staff are presented in the published custody reports to the individual forces (as described in Chapter 1). In this box we provide a summary of these findings.

In general, inspectors found the basic level of care shown to detainees to be good and that, in the presence of inspectors, custody staff mostly showed respect for detainees, treating people with courtesy and sympathy. For example, in one force, a young black man told us that because the police were courteous to him, despite what he said was his non-compliant behaviour, this encouraged him to comply because he felt 'respected' by the police.

However, there were some indications that the care of detainees was not always good. Our analysis of custody records highlighted an example of a boy held in custody for just under 19 hours without being offered food.

In summary, we found:

- during booking-in, custody sergeants advised detainees of their three main rights and offered a written notice setting out these rights and their entitlements while in custody;
- information about rights was available in a range of different languages but few officers were aware of the availability of an easy-read version (i.e. one that was accessible to people with learning disabilities);
- considerable variation in policy and practice about taking complaints from detainees;
- some detainees were booked in promptly after arrival at the custody suites – though others experienced long waits – particularly at busy times;
- reviews of detention sometimes appeared to be conducted at the convenience of the operational inspectors rather than the detainee. Not all detainees were reminded that reviews had taken place while they were asleep and some inspectors did not always ask detainees if they wished to make any representations about their continued stay in custody; and
- court cut-off times for accepting detainees tended to be very early, meaning that detainees who were charged in late morning or the afternoon remained in custody overnight.

Understanding and taking account of vulnerability

Participants in our detainee voice project stated that being treated fairly and with respect helped improve the experience of detention in police custody. They were appreciative when officers/staff were personable, non-judgmental and showed concern for the wellbeing of people who were experiencing anxiety or distress.

Custody officers and staff told us that some training had been provided on the diverse needs of detainees, including needs relating to cultural and religious belief. However, as noted in Chapter 5, police staff seemed unaware that BAME groups might be vulnerable to discrimination.

In some places, custody staff demonstrated a good knowledge and understanding about the diverse needs of detainees and demonstrable skills in dealing with vulnerable individuals. We observed a number of occasions where vulnerable people received sensitive and appropriate care, tailored to their needs.

Elsewhere, the understanding of vulnerability among custody staff was more superficial, with custody sergeants relying largely on personal experiences rather than systematic learning or training. There was some lack of understanding about how vulnerabilities might become apparent in custody, for example, for children or those at risk of self harm. For example:

- A 16-year-old girl was booked-in with no clear consideration of vulnerability. She was asked questions about risks to her wellbeing in the hearing of an adult male detainee standing nearby. She was not allocated a named female officer to be responsible for her care in custody. She was treated in the same way as any adult detainee.

- Custody staff were not alerted by markers to identify looked after children or those known to police and social services departments as being at risk, and relied on being told by the child, parent or appropriate adult.

The degree to which custody staff regarded all children as vulnerable was variable. Sometimes there was a difference between the stated position of a force as described by senior staff and the reality observed by inspectors from talking to and observing custody staff in practice. For some custody sergeants, a child was not necessarily regarded as vulnerable by way of age unless additional vulnerabilities were also apparent such as an injury or disturbed behaviour. For example:

- Two 17-year-olds, one of whom had never been in custody before, were booked-in at 11pm, and no attempt was made to seek an appropriate adult until after 9am the following morning, even though one appeared fearful and was potentially vulnerable.

- Two girls aged 14 and 15 who were detained overnight received very little support from staff, and when this was queried by our inspector the reply was “Well, they’ve been around the block a few times and a few hours in a police cell won’t mean that much to them.”

Participants in the detainee voice project explained the problems:

> *“You go for an interview and... you've got like really bad anxiety and you're shaking and... you're about to have a panic attack and you can't breathe properly and all this. I mean, I felt like that [the officers] didn't bat an eyelid…”* (Child detained aged approximately 14 with anxiety condition)

Another participant expressed a similar view:

> *“It's your opportunity to give your side of the story. And sometimes you're that bad... you just think, 'I can't be arsed, just go no comment', do you know what I mean?...But if you're feeling well and normal and you've had something to eat, you've had something to drink, because when you're withdrawing you can't eat or drink or nothing.”*
> (Participant on medication to manage mental health and substance misuse problems)

Most custody officers informed children’s social care of the arrest of the young person but their contact with social workers to resolve issues relating to children’s welfare was minimal, as was their awareness of their own statutory safeguarding responsibilities.

There were some good arrangements to meet the language and cultural requirements of detainees. We found that telephone and face-to-face interpretation was available in all custody suites. Custody staff made good use of these arrangements, but some delays were apparent which left detainees in custody longer than would otherwise have been necessary. Inspectors found that some provision was made for the cultural diversity of detainees such as reading material in different languages. Prayer rights were respected.

However, there was not a consistent approach to meeting the communication needs of detainees. On one occasion we saw two detainees being booked -in who indicated that they could not read or write, but no effort was made by staff to read out the contents of the rights and entitlements documentation to them.

Of the 322 detainees in our custody record analysis, not one was identified by custody staff as having a learning disability. A recent inspection by Her Majesty's Inspectorate of Probation estimated that around 30 percent of those entering the criminal justice system have a learning disability, but found that custody staff were not good at identifying or recording this[73].

Although police officers told us that they lacked confidence in meeting the needs of people with learning disabilities and the custody record analysis figures suggested that police were poor at recognising when a person has a learning disability, we saw some examples of very good work in this area. On several occasions, inspectors saw police officers talking to a detainee with a learning disability and explaining things simply and in language that could be more readily understood. The following case illustrates a skilled and effective approach, with good multi-agency working resulting in a positive outcome:

> A 40-year-old black man of African-Caribbean descent with a learning disability and communication difficulties was accused by neighbours of acting inappropriately with their young child. His partner, also vulnerable, had previously experienced hate crime and there were concerns that the partner might be targeted by the neighbours or wider community. A social worker from the safeguarding adult's team acted as the appropriate adult for the man at the police station. A doctor met with him to assess his health before the interview was conducted. A solicitor was also present. The man was bailed to reside outside the area (for his own protection) while the police made further enquiries. There was good communication between the safeguarding adult's team and police in relation to the man's health needs and medication requirements during the custody period and the man was supported to find alternative permanent accommodation outside the area when the investigation was closed.

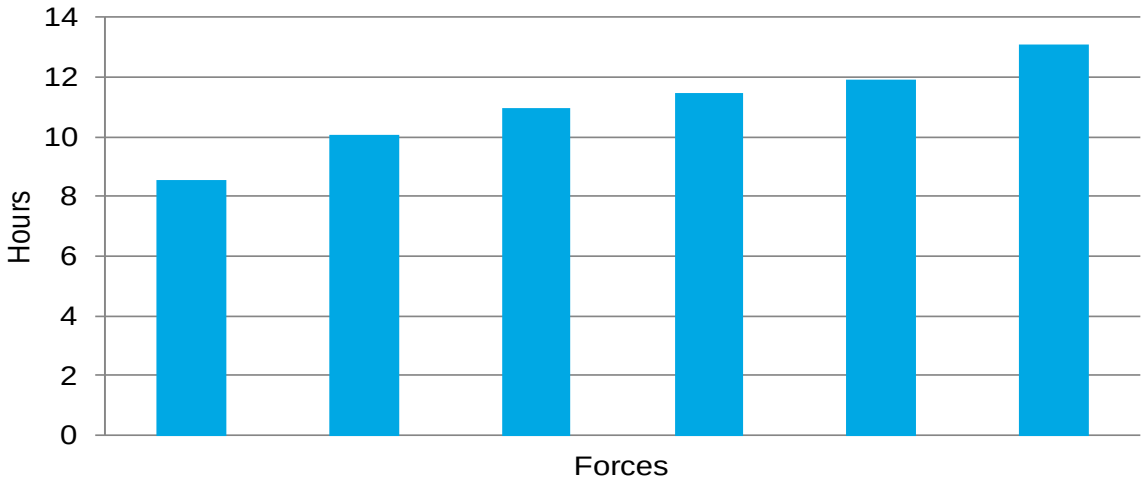
Length of time in custody

The overall average length of stay in custody[74] within the forces inspected ranged from eight and a half hours to just over thirteen hours (see Figure 7). From all forces inspected, the average length of time a detainee stayed in custody for all forces was just under eleven hours.

[73] *A Joint Inspection of the Treatment of Offenders with Learning Disabilities within the Criminal Justice System – Phase 1, from arrest to sentence*, HMI Probation, HMIC, HM Crown Prosecution Service and the Care Quality Commission, 2014. Available from www.justiceinspectorates.gov.uk

[74] From the time of detention being authorised to the time of release.

Figure 7. Average length of stay in custody by force in the 12 months before the inspection (hours)



Our custody record analysis also showed that the average length of detention within our sample was just over 11 hours. Nineteen detainees had been held for more than 24 hours; ten of whom were held for more than 40 hours. Out of 322 in our sample, 125 detainees had been in custody overnight; 114 detainees had been held for less than six hours.

In most cases observed, interviews and any associated investigation were carried out in a timely manner with custody sergeants keen to ensure that detainees were not kept in custody any longer than necessary.

However, there were times when vulnerable detainees spent too long in custody. In one example we noted that a physically frail detainee whose first language was not English and who was on prescribed medication spent 34 hours in custody because of delays in seeing a medical practitioner, and waiting for an appropriate adult.

A recurring problem contributing to lengths of detention and highlighted by the rolling programme of custody inspections, including those reported on here, was the very early closure times of court services. This meant that detainees who were charged any time of day after late morning would commonly remain in custody overnight and over weekends leading to unnecessarily long stays in police custody. Custody staff reported that on occasion, some courts had refused to accept detainees as early as 11.30am, and earlier than this on a Saturday.

Risk assessment

People who participated in our detainee voice project had differing experiences of risk assessments. The assessment process was viewed positively by people who had been able to give information on their physical and mental health needs in private. Where experiences were less positive, the following issues were raised:

- Participants with physical and mental health conditions thought it was poor practice when they were not given the opportunity to inform the custody officer of their needs on arrival in custody. This included a child with a history of self-harm who had attended the police station voluntarily.
- Some participants who were asked for information on their needs felt the assessment was an exercise in compliance rather than a genuine effort to meet their needs.
- Some participants who were experiencing mental distress found it difficult to communicate their needs to officers/staff and healthcare professionals. For example, a participant who was experiencing depression at the time of their detention said they were not in the 'right frame of mind' to discuss their welfare when they arrived in custody.
- Some people were not always given enough time to answer risk assessment questions.
- Participants with substance misuse needs thought questions on drug and alcohol use should be routinely asked of all detainees, and it should be identified whether they would benefit from seeing a substance misuse worker while in custody.
- Participants felt it would be helpful if their handcuffs were removed and they were able to sit down before answering risk assessment questions as this would help them feel more at ease.

Findings from the six force inspections strongly echoed the experiences quoted above. The quality of risk assessments for detainees was variable, ranging from thorough and skilful to mechanistic and overlooking basic questions. Risk assessments did not always identify the actual risk, particularly because of the strong reliance on detainees' self-reporting, for example of mental health problems or risks of self harm. The risk assessment forms that custody staff have to complete are built into the electronic custody record and do not assist staff without specialist experience of vulnerabilities in identifying associated risks with accuracy. Research by the University of Newcastle shows that high proportions of certain risks, particularly those indicating a need for specialist healthcare, are not identified by custody staff.[75] This research has indicated the improvements that can be made in the accuracy of risk assessment through use of an evidence-based template to guide the questions asked by custody staff.

There was wide variation in thresholds for, and approach to referring someone to the custody health care practitioner, with some falling through the net and not receiving

[75] 'Health screening of people in police custody: Evaluation of current police screening procedures in London, UK', I McKinnon and D Grubin, *European Journal of Public Health*, 2012, 23(3): 399-405.

the help they needed. Where detainees were referred, healthcare practitioners helped custody staff to determine if detainees were fit to be detained and interviewed and advised on safe management of their physical and mental health care needs. Most detainees were asked by custody staff if they wanted to see a specialist worker for advice about substance misuse.

Our custody record analysis showed that in 67 out of 322 records analysed, there was no record of risks at all. A high proportion of people in the sample from BAME groups (31 out of 100 records), and of children and young people (24 out of 81 records) had no record of risks.

The design of booking-in desks in custody suites does not protect confidentiality and detainees can be overheard by others when giving sensitive information. Custody sergeants can and sometimes do take care to ensure privacy on booking-in, for example by moving someone identified as vulnerable to a quieter area, away from other people. In some places, inspectors observed custody sergeants talking with detainees in a skilful, sensitive way when they asked them questions, and checking the police national computer for any warning markers. For example:

> A custody sergeant succeeded in gaining the cooperation of a very distressed and non-compliant man with learning difficulties. The detainee refused to get out of the police van. The sergeant talked to him at length in the van, finally leading him gently into the suite. During booking-in, he explained the meaning of complex terms and checked that the detainee understood, immediately arranging assessments for fitness to detain and pre-release planning.

All of the forces inspected used the same forms for risk assessments for children and adults. The wording used in the forms is potentially difficult to understand for a child or for someone who is mentally vulnerable, so the extent to which custody staff obtain relevant information often depends on the language and the manner they adopt when speaking to the detainee.

As noted above, inspectors observed some detainees being thoughtfully and effectively questioned by custody staff about their particular needs, such as recent contact with the health service. However, this was by no means standard practice. Inspectors also saw less helpful questioning, such as asking ‘Do you have a mental illness? ’ This is unlikely to elicit a true and full response, especially in a crowded custody suite with little privacy.

“Oh the sergeant he's not really… bothered, he's just there to ask you a set of questions. The set of questions that he will ask you is the questions he's gone through the last 20 years of his career… Name, address, occupation, then he gets the offence and he says, 'Do you want a solicitor? Do you want anyone *informed?'… Have you... ever been suicidal? Have you ever harmed yourself? Have you ever harmed anybody else?’ Yeah, there's a load of questions they have to go through…”*
(detainee voice project participant in need of mental health care)

Inspectors saw instances of continuing risk assessment with custody staff adjusting observation levels of people with identified vulnerabilities as necessary during the period of custody. But we also saw unacceptable risks taken in some instances; there were inadequate checks for intoxicated detainees and poor communication between staff leading to custody sergeants being unaware that individuals in their care were on constant supervision or in handcuffs. For example:

> One detainee was placed on 30-minute visits and under observation by CCTV. There was no mention of intoxication on his risk assessment. In his pre-release risk assessment, it transpired that he had in fact come in to custody under the influence of alcohol, which should have been reflected in his risk assessment and care plan.

Our custody record analysis showed that for 16 detainees in our sample, a risk assessment was not completed on arrival into custody because the detainee was recorded as drunk and incapable or violent/ aggressive. The likely impact of detention was not taken into account when making an initial assessment.

Participants in the detainee voice project described being held in a police cell as stressful and disorientating. They thought that the custody environment could aggravate existing physical and mental health conditions. Children found the custody environment particularly stressful:

“When you're sitting in that [...] freezing cold cell for, well like just short of 23 hours, you know what I mean? It's a long time to sit in that cell, in them four walls… I just start going crazy 'cause I think about me mum and that all the time and it just makes me go really mad. I just ending up punching all the cell wall and that and breaking all me hands and [stuff] like that... I mean it does [mess] your head up being in there 'cause you just, like you go to sleep for an hour, you wake up, you're in the same place, you're in the same four walls, like you know what I mean? You can't go anywhere, like you're trapped, it's crazy.”
(Child detained aged 15)

Participants gave the following examples of officers/staff being attentive to the needs of people in their care:

- people at risk of self-harm or suicide were kept safe through the removal of possessions which could cause injury, and monitored at regular intervals;
- people experiencing heightened anxiety and distress were informally supported by ‘friendly’ custody officers who talked to detainees in their cells and provided them with reading materials as a distraction technique; and
- people were given access to healthcare professionals or drug and alcohol workers in custody, and provided with written information on drug and alcohol services on leaving.

Examples given by participants of poor practice focused on two areas:

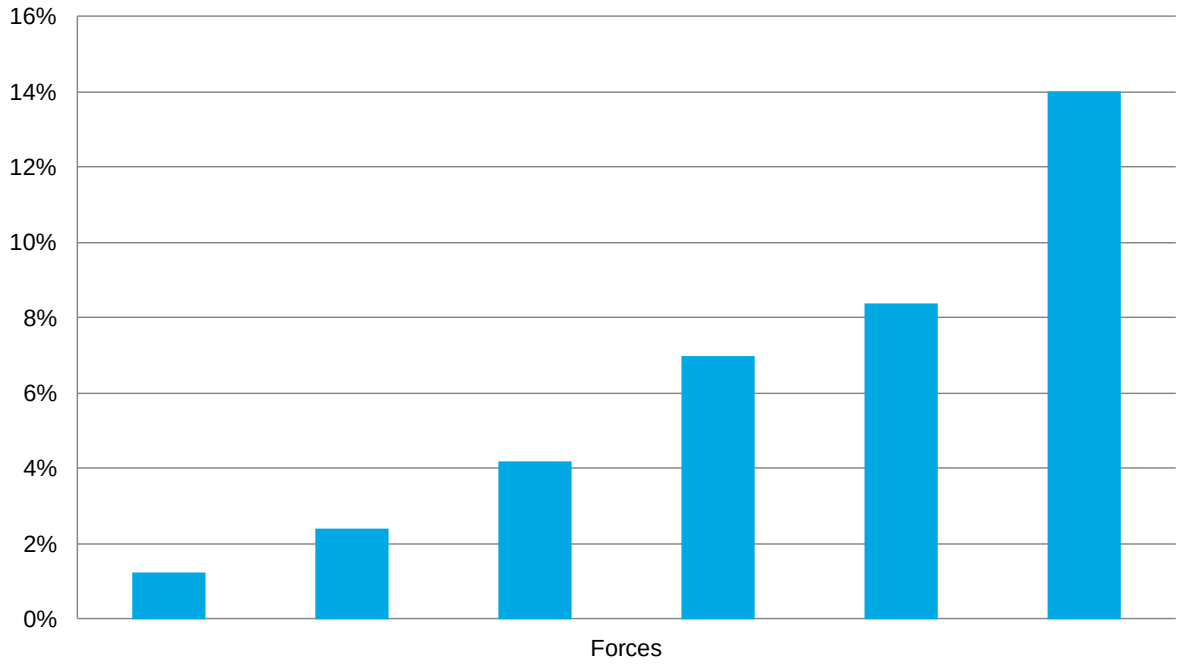
- police responses were sometimes felt to be disproportionate or, in extreme cases, harmful. This included staff preventing a detainee with sleep apnoea from falling asleep in order to avoid injury. In another case, a detainee with a mental health condition who did not have a history of self-harm was reported to have been refused a pen or a blanket on the grounds they could use the items to harm themselves;
- some officers/staff were described by participants as not demonstrating sufficient concern for the welfare of people in their care:
- a member of police staff left a child alone and distressed in a cell after informing them that their parent did not wish to be present for the interview;
- a participant with a history of self-harm and attempted suicide said the police ‘didn’t bat an eyelid’ when they informed them of their mental health condition. The participant took this to mean that the police were not concerned for their welfare;
- a child detainee experiencing mental distress said the police did not recognise their need for emotional/psychological support as they threatened to charge the child for criminal damage for ‘punching the cell wall’.

Searching and strip-searching

A number of factors will influence police decisions to strip-search. In particular, the alleged crime type on arrest is likely to be a significant factor as some crimes, such as drug offences, are more likely to involve a strip-search. The presence of certain warning markers on police systems for an individual may also determine whether they are strip-searched, for example, if there is a previous history of secreting items on their person which they could and might use to cause physical injury to themselves or others in the custody suite.

There is more than one kind of strip-search: searching for drugs or other secreted items, and removal of clothing because of concerns about risks of self harm. On our inspections we saw that police officers regularly draw a distinction between these two practices, whereby the latter is not considered to be a strip-search and therefore not subject to the guidance set out in Code C Annex A of the Police and Criminal Evidence Act 1984. In practice, this distinction may not be apparent to the detainee; and in fact the law on this matter has recently been clarified. The courts have determined that the safeguards of Annex A do apply to the removal of clothes for the purposes of preventing self-harm[76].

Figure 8. Proportion of total custody throughput strip-searched in the 12 months prior to inspection for each force



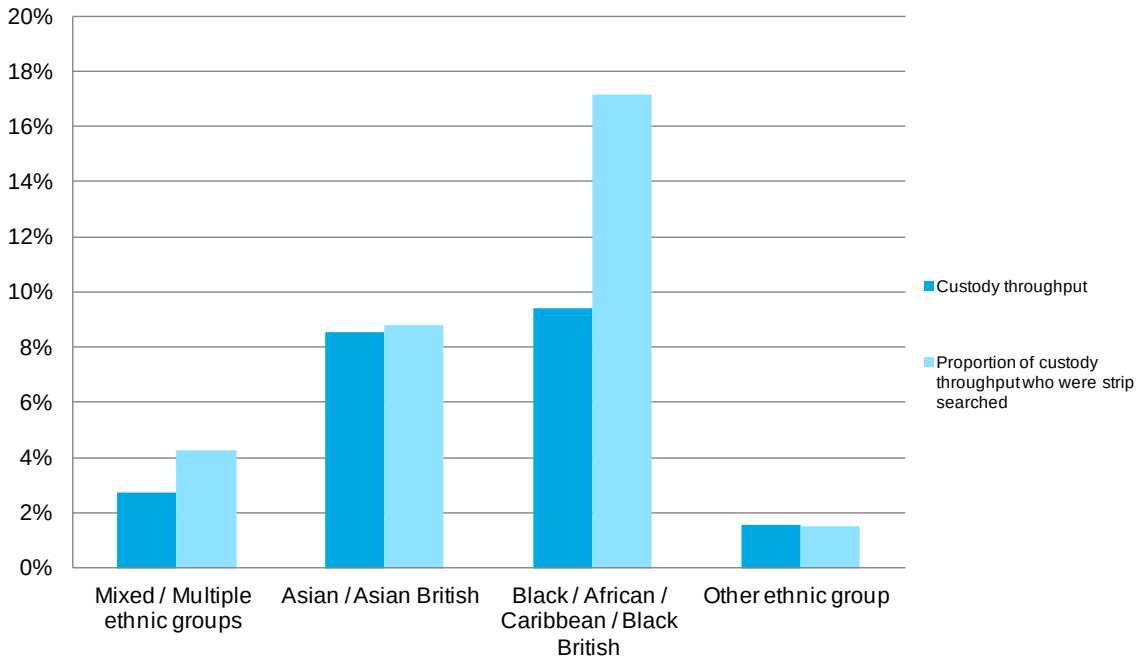
Overall, 6.5 percent of detainees in the forces inspected were reported to have been strip-searched in the 12 months prior to the inspection. However, the data show considerable variation between forces, ranging from just over 1 percent to 14 percent of custody detainees reportedly strip-searched. Although this will be influenced by the types of crimes people have been detained for, which may vary between forces, this range is concerning.

As data on the reasons for strip-searching are not collated we were not able to determine if the searches were legitimately undertaken or as a result of discriminatory practices.

[76] PD *v.* Merseyside Police & Anor [2015] EWCA Civ 114 (19 February 2015).

We are mindful, however, that, as well as being disproportionately represented in the custody population, people from African-Caribbean backgrounds were also more likely to be strip-searched once in custody (see Figure 9 below). While making up nine percent of the total number of people detained in police custody, 17 percent of those strip-searched in the forces inspected belonged to this ethnic group. From those forces able to provide the data,[77] this disparity was true in all but one force.

Figure 9. Ethnic breakdown of total custody throughput compared with those strip-searched while in custody in the 12 months prior to inspection.



In the light of the research information available to us coupled with the lack of authoritative police data, we consider that police forces are at considerable risk of discriminatory strip-searching practices.

In our detainee voice project there was a strong view that strip-searches were undignified and degrading. Participants who had been strip-searched did not always agree that it was justifiable. Some (including children) had agreed to remove their clothing to avoid it being forcibly removed by police officers/staff:

[77] One force was unable to provide data on strip-searches by ethnicity.

"they was like, 'You're getting strip-searched.' I was like, 'What?' - and I kicked off... I was tempted to slap them, punch - everything. 'Cause I don't appreciate - and then… 'We'll have to do it forcefully if you don't do it.' I was like, 'Well, it ain't happening.'… 'I'll take my clothes off but I ain't taking my underwear off.' That lasted for at least 20 minutes… I had to do it. But I don't agree with doing that to a kid…"
(Child detained aged 15-16)

Participants gave examples of poor practice which included detainees not being given adequate privacy i.e. away from the custody desk (for standard searches) and in cells without cameras (for strip-searches). In some instances participants found the experience degrading or humiliating, such as having to "bend over on all fours like a dog" in the words of one participant, or where they were not provided with suitable replacement clothing.

Inspectors saw very little strip-searching during the course of the fieldwork. Where it was observed, inspectors saw that arresting officers and custody staff usually searched detainees in a respectful, sensitive and proportionate manner. Detainees were searched with due consideration for their privacy. In one force, a detainee with learning difficulties was searched gently and with the utmost respect by the arresting officer who was directed by the custody sergeant throughout. However, inspectors also observed a woman being strip-searched in full view on the CCTV screens in the booking in area of a custody suite.

Where we did observe strip-searching, it sometimes seemed unnecessary. In the absence of proper risk assessment it appeared to be undertaken almost by default in certain circumstances, for example if the detainee was intoxicated or uncooperative on arrival. Strip-searching of children was not always done in the presence of an appropriate adult as required by statutory guidance.

In our custody record analysis two young people were strip-searched. In both cases this was authorised because they had previously been found to be concealing drugs. In one case authorisation was given for the strip-searching to be conducted without the presence of an appropriate adult and without informing the appropriate adult of the decision. In the second case, the record did not indicate if an appropriate adult was present. The record showed that staff considered constant watch or an open door approach but thought these arrangements would not prevent drug taking.

Access to appropriate adult services

There is a legal requirement for custody staff to identify and contact an appropriate adult as soon as practicable and without delay, so that all children and mentally disordered or otherwise mentally vulnerable adults have one with them during the custody process and any interviews. Guidance from the Home Office for people acting as appropriate adults[78] states that the key responsibilities are:

- to ensure that the detained person understands their rights and that appropriate adults have a role in protecting their rights;
- to support, advise and assist the detained person, particularly while they are being questioned;
- to observe whether the police are acting properly, fairly and with respect for the rights of the detained person – and to tell them if they think they are not; and
- to assist with communication between the detained person and the police.

The guidance also states that an appropriate adult should be present, subject to strictly limited exceptions, during any search of the detained person involving the removal of more than outer clothing.

We found that almost all children in our custody record analysis sample had an appropriate adult present while being read their rights and if they were interviewed subsequently.

It was less clear that appropriate adults were always called for vulnerable adults, this depended on the custody sergeants' or healthcare practitioners' judgment. Many of those in the Black Mental Health UK focus group said that appropriate adults were often not called in respect of vulnerable black people. Examples were given of appropriate adults being turned away by the police when they offered to act for a detainee.

The detainee voice discussions identified the importance of AAs in helping people to understand better what was happening and in reducing anxiety. Failing to provide an AA was a concern for some detainees who regarded themselves as vulnerable, and they thought that this should be addressed as a priority.

Inspectors found that information and guidance for AAs was not consistently provided. Family members may not be clear about their role in supporting vulnerable detainees. Some custody staff were not contacting AAs in a timely way, sometimes waiting until they were ready to progress the interview with the detainee before

[78] *Guidance for Appropriate Adults*, Home Office, 2003. Available from www.gov.uk

making the AA arrangements. There were also some examples of custody staff taking DNA[79], photographs and fingerprints without an AA present, contrary to the provisions of the Police and Criminal Evidence Act 1984.

Our custody record analysis suggests that for children, the average wait for an AA, from the time the child arrived in custody, was five and a half hours, with examples of some individuals waiting much longer – up to 22 hours in one case. Poor record-keeping by custody staff made it difficult to assess delays accurately. Custody sergeants could not always track down family members or other providers of the service such as social services quickly, and the AA service was rarely available on a 24-hour basis. This often meant that children or vulnerable adults who were taken into custody late in the evening did not have access to an AA until the following day.

Inspectors observed a number of vulnerable detainees spending a long time in custody while the arrangements for an AA were made. In one example:

> A 15-year-old girl was admitted to custody just before midnight. The AA was called within 30 minutes, but because it was late, she agreed to attend the following day. There was no evidence of any alternative arrangements being made and the girl was held for the rest of the night. Her rights were read at 11am the next day, and she left custody in the company of her mother an hour later. It was eventually decided there would be no further action due to lack of evidence.

The service commissioned by Surrey County Council offered a 24 hours a day, 365 days a year service, providing AAs for both children and vulnerable adults. The service was provided by up to 80 volunteers. AAs normally arrived at the custody suite within an hour. The AA volunteers also provide advice to detainees about the programmes to try and keep them out of the criminal justice system. Custody staff valued the service highly.

Local authority accommodation for children in police custody

If a child is charged with an offence and refused bail by the custody sergeant, the local authority is legally responsible for providing appropriate accommodation. It should only be in certain circumstances (such as in the middle of the night) that transfer to alternative accommodation is unlikely to be in the best interests of the child. In rare cases, 'secure' (locked) accommodation might be needed if the child represents a high risk to themselves or others.

[79] Police use a number of methods of identification of people suspected of committing crimes, including taking samples such as blood or hair to generate a DNA profile for comparison with material obtained from the scene of a crime or a victim.

Our inspections found evidence of young people being detained in custody overnight in all forces. The inspection findings from the data request to each of the forces are set out below.

Table 4. Accommodation for young people requests for the 12 months prior to the 2014 inspection[80]

	Forces*					
Number of times children (under 17 years) have been charged and bail refused	37	53	25	43	130	636
Number of requests made for local authority accommodation	32	53	-	27	-	-
Number of children moved to secure local authority accommodation	0	0	0	0	-	-
Number of children moved to non-secure local authority accommodation	1	0	-	0	-	-

***Note that dashes (-) indicate that the force was unable to provide the data**

Three of the six forces were able to provide all of the data requested. The table above shows that the numbers of children who were refused bail and who required alternative accommodation varied considerably across the forces that provided data, as did the number of requests made by police for accommodation. One force requested accommodation for all of the children who had been charged and had been refused bail. Others made requests for accommodation for some of these children.

A number of factors contribute to the difficulties in finding alternative accommodation for children to prevent them spending long periods in police custody. In part, the difficulty stems from the frequency with which police request secure accommodation when other types of accommodation such as residential or foster care might be more appropriate. Secure accommodation should only be used in exceptional circumstances and in cases where there is a serious risk of harm to the public or to the child. Consequently, a request by the police for secure accommodation may be met with the response that none is available. In one force, our inspectors observed an appropriate request for, and provision of secure accommodation for two children

[80] One force informed HMIC that records are not kept of requests made to the local authority and there is no secure accommodation available in the local area. One force was unable to provide all of the data.

brought into custody. Although local authorities in the forces we inspected told inspectors that they understood their statutory duty to provide accommodation, they were not always able to do so.

There was evidence of children being detained in custody overnight at all forces. An example in our custody record analysis included a 15-year-old boy, detained for over 39 hours after being arrested for criminal damage, with his time in custody spanning two nights. The boy was charged and refused bail but despite numerous attempts by custody staff, no alternative accommodation could be found.

Use of force in custody

From the three forces able to provide data,[81] the recorded use of force varied considerably, ranging from just under 2 percent to 11 percent of total throughput in the 12 months prior to inspection.

Officers were clear that the use of force (handcuffing) needed to be justified and necessary. The reasons for using handcuffs or any other force were usually recorded on custody records, and booking-in procedures provided a prompt for custody staff to ask the arresting officer if force had been use during the course of the arrest. Inspectors found some cases where force had been used but this was not recorded, for example, no record was made in the custody record of a man who was placed in a cell in leg straps. Also, we noted cases where force had been used by the arresting officer, but the information had not been passed to the custody officer. Therefore, we think that the rate of use of force may be higher than that recorded by police forces.

In most cases observed by inspectors, handcuffs were not used in the custody area and, when used, inspectors considered their use to be proportionate. However, protocols and practices for the removal of handcuffs varied between custody suites, within and between forces. In one force, handcuffs were removed from some people only once they had been presented to the custody sergeant, in view of the CCTV, which staff said was to ensure evidence against any litigation. At busy times this led to long waits for detainees in handcuffs on arrival at the custody suite.

We observed that on occasions the use of force was unnecessary. We saw a 13-year-old girl arrive at a custody suite in handcuffs after being transported from another custody suite where she had been detained for some time. This child had been escorted by three male officers and we were told she had been transported in the back of a secure van. The risks posed by this child appeared minimal and the use of handcuffs inappropriate in the circumstances.

[81]One other force provided data but was excluded from this analysis because its recorded use of force (20 occasions out of a throughput of over 21,700 i.e. less than 0.1 percent) was not comparable to the other forces' returns.

Our inspectors found limited evidence to indicate that people detained under section 136, requiring restraint for the safety of themselves or others, were treated by police as a medical emergency[82]. Only one force, the Metropolitan Police Service, was evidently addressing this. Here, custody sergeants stated that if restraint was used on someone with obvious mental health problems they would be 'more likely' to be taken directly to hospital rather than be brought to a police station.

Police officers will, of necessity, use the restraint methods available to them and in which they are trained, methods which may not be the most appropriate for the individual and would not be used had they been detained in a health care setting.

Inspectors were concerned by the extent to which restraint equipment was used to prevent people who were mentally unwell from harming themselves. The range of equipment available to use varied between forces, but (in total) included handcuffs, leg restraints, spit hoods, emergency restraint belts, body cuffs and Taser. We were particularly concerned about the use of emergency restraint belts in one police force. Data supplied by the force suggested that staff were using the belt regularly, yet there was a lack of clarity among staff as to when the belt should be used and how. Of three CCTV recordings we reviewed of use of this belt, we asked that two were referred immediately for internal professional standards investigation.

In another force, two types of body cuff were in use, one of which had plastic strap cuffs (rather than metal) which staff told us was for use with people who were trying to harm themselves. In this force, custody staff had received training on the use and application of the body cuff as part of their officer safety training programme.

We asked each force inspected for data on their use of Taser in custody suites in the 12 months prior to the inspection. Two forces were able to confirm that Taser had not been used in custody within this time period. One force reported that on one occasion Taser had been drawn but not discharged. The other forces inspected were not able to confirm from their records whether or not Taser had been used in custody in the previous 12 months.

Forces did not know with any certainty what type of restraint had been used, how often and in what circumstances. There was little evidence of management review or analysis of the use of force in custody in any of the forces we visited. Where information was available, this was primarily used to inform officer safety training rather than to improve practice.

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[82] *Mental Health Crisis Care Concordat*, Department of Health/Home Office, 2014. Available from www.gov.uk Action 3.11:The NHS ambulance services in England will introduce a single national protocol for the transportation of section 136 patients. The protocol was implemented in early 2014 and states that for patients who are being actively restrained, an ambulance MUST be dispatched as an immediate, high priority response. Patients who are restrained do not necessarily require hospital intervention; however, this must be a clinically-led decision.

Our detainee voice project provided some examples of negative experiences. Participants said they had been subject to verbal intimidation and the use of excessive force. They also described being subject to force when they were compliant and perceived that it was used to 'belittle' them.

In discussion with our Black Mental Health UK focus group, people who had been in custody or who were working with people who had been in custody described similar situations. The use of force to strip-search 'having their clothes ripped off them' was perceived as being intentionally violent with the purpose of demeaning the detainee, some of whom were children.

There were some occasions when our inspectors considered police use of restraint in custody to be both disproportionate and unacceptably oppressive. The following example, described by an inspector, illustrates this:

> *"I observed a CCTV recording of a black man [in a cell] who was angry and demanding to be released. Eventually he tied his shoelaces around his neck and could be seen on CCTV to tighten them. Custody staff entered his cell and removed the ligature. At that point he calmed down. However, they proceeded to handcuff him and place him in leg straps. He was strapped above and below the knee and laid on the cell floor. All the time he was compliant. He was left in the cell, under observation by a detention officer, for ten minutes until another custody sergeant determined he should not be restrained and released the handcuffs and leg straps. I asked the first custody sergeant why he had restrained him in this way and he said it was to prevent him banging his head. There was no indication he had tried to bang his head."*

However, in most cases seen by inspectors the force used was proportionate. There were also many examples where it was apparent that custody staff used force only as a last resort. We saw good communication and de-escalation skills used to calm non-compliant detainees and avoid the use of force. Our detainee voice project also provided examples of officers being respectful and talking with detainees both while transporting them to custody and in custody which helped alleviate their anxieties.

All forces provided some training for staff on restraint and de-escalation techniques. However, staff seemed unaware of the need for different approaches to restraint for children and pregnant women, or that resistance might be caused by fear or mental disturbance (and so the person would be more amenable to reassurance than restraint).

Healthcare

In respect of essential healthcare provision in custody, we expected to see that detainees had access to competent health care practitioners, including appropriately trained doctors and nurses, who could meet their physical health, mental health and substance misuse needs in a timely way. We also expected to see that police custody was not used as a place of safety for the assessment of people detained by the police under section 136 of the Mental Health Act 1983. Our findings on section 136 are reported earlier in this chapter.

Participants in our detainee voice project reported variations in access to healthcare professionals for their physical health, mental health or substance misuse needs while in custody. People who were given prompt access to staff who were courteous and friendly, and who could meet their specific needs, described the positive difference it had made to their welfare and consequently to their time in police custody.

However, poor quality care had adverse effects on other participants. The following issues were raised:

- people who had requested access to a medical professional either did not see a doctor or nurse while in custody or raised concerns about the length of time they had to wait. Reasons for delays included circumstances where healthcare professionals were not based in custody suites;
- poor quality interactions with healthcare professionals were reported by some participants. Some healthcare professionals were reported to have treated detainees as ‘numbers’ rather than people with health and welfare needs. Some participants found it difficult to trust healthcare professionals as they did not believe they were sufficiently independent of the police; and
- participants with mental health, physical health and substance misuse needs thought that healthcare professionals in custody were not always competent to meet the specific healthcare needs of detainees. In some cases, participants said that poor quality healthcare left them feeling ‘worse’ than when they arrived in custody.

In our custody record analysis, 228 out of 322 detainees in our sample presented at least one form of health-related vulnerability[83]. Even adjusting for oversampling of specific groups within the sample this represents a significant proportion of the cohort analysed. A similar trend was evident for the number of detainees in the sample identified with a health vulnerability and / or on medication. The number of detainees that had asked to be seen by a healthcare practitioner was 131, of whom

[83] The term ‘health-related vulnerability’ includes: intoxication, drug or alcohol dependency, medical conditions, injury upon arrival, prescribed medication, disability and mental health issues.

125 of our sample were seen. In three forces, all detainees requesting a healthcare practitioner were seen by one. On arrival in custody 102 detainees reported being on medication, 18 of whom required this medication while in custody. Out of the 29 detainees over the age of 61, 22 reported being on medication on arrival in custody.

Healthcare practitioners have a critically important role in police custody, not only in assessing and meeting detainees' healthcare needs where these can be managed safely in custody, but also in determining whether individuals are fit to detain. For example:

- A teenager with severe epilepsy was brought into custody. He was under the influence of alcohol and not in possession of his medication. He was seen by the custody nurse and assessed as not fit to be interviewed by police. Following discussion between the nurse and custody staff, he was bailed to return home with his parent, where he would be suitably supervised and medicated, and returned in the morning for questioning.

- A 75-year-old detainee was booked-in to custody at 17:47. He had numerous health concerns. The healthcare practitioner was not contacted by custody staff until 19:07 and did not see the detainee until 20:28 at which point they advised that the detainee was not fit to remain in custody. The man was still held for approximately two hours following this advice before eventually being released with a caution.

In some forces we saw good evidence of high quality provision of healthcare to detainees, and effective joint working between healthcare teams, employed by different providers. Where this worked best, teams were located in the same place and joint assessments were often carried out to ensure that the needs of detainees were identified and met. Healthcare staff received appropriate induction, training and supervision, and they were available to take referrals from custody staff 24 hours per day.

Where our inspectors considered the provision to be effective and safe, there was a systematic approach to healthcare assessment, and evidence-based guidance materials for healthcare staff were available. Healthcare practitioners recorded an initial screening to identify physical health, mental health, learning disability, substance misuse and self-harm risks. Safe systems were in place to manage medicines and make them available to detainees in a timely way. Consent was routinely sought for health interventions and for confidential personal information to be shared with partner agencies. This was recorded in the health record. Health staff had access to translation/interpretation services when required. Staff understood the importance of determining a detainee's capacity to consent as set out in the Mental Capacity Act 2005. Healthcare staff checked with custody staff if an explanation was required, which enabled continuity of care.

In some forces, inspectors observed an effective approach to information sharing between the custody healthcare service and local hospital Accident and Emergency (A&E) department to promote continuity of care and treatment for those detainees transferred between the two services. In West Mercia the healthcare provider was building relationships with local A&E departments to develop a better understanding of the remit of healthcare in custody. A referral sheet was completed by the healthcare practitioner with information to be sent with the detainee to A&E. A discharge summary section was completed by the treating clinician in A&E to inform continuing care and treatment in police custody. This practice had been subject to audit, which demonstrated its consistent usefulness and effectiveness.

Our inspectors observed considerable variation in practice across most elements of healthcare provision in custody. Some provision was excellent, for example, combined assessments between physical and mental health teams in Leicestershire.

However, we also saw many examples of practice that raised concerns. There was lack of consistency in the quality and content of healthcare assessments across the six forces. Inspectors were concerned that the assessment of needs arising from detainees' learning or communication difficulties was particularly weak. The arrangements for recording assessments sometimes meant that subsequent visiting healthcare practitioners had access to incomplete health information about detainees. There was a risk, therefore, that their clinical decision making was not fully informed. The combined healthcare teams did not have access to each other's records systems to identify the previous health needs/interventions of detainees.

Access to custody nurses or doctors was sometimes not available around the clock. In such circumstances there was a risk of delayed assessment and treatment and of detainees being transferred to hospital inappropriately. Our inspectors observed that some police doctors and healthcare practitioners consulted with detainees leaving the medical room door ajar, with custody staff present in the corridor. This was not based on individual risk assessment and compromised the detainees' confidentiality, privacy and dignity.

This was echoed by participants in our detainee voice project who said that their privacy and dignity had not always been protected by healthcare agencies working in police custody. Accounts were given of detained people not being able to see a healthcare professional in private. In such situations participants had felt unable to discuss their mental health needs. One participant said police personnel ridiculed a detainee receiving an assessment and the healthcare professional did not immediately challenge this.

There was no standardised approach to the assessment of healthcare requirements across the custody provision in the police forces inspected. Three of the six forces were able to provide evidence of a health needs assessment for police custody. In other forces, there was no clear view by individual organisations or partner agencies about the collective health needs of the people brought into custody. This meant that service provision was largely based on historical arrangements.

Substance misuse services

Our custody record analysis showed that 89 out of 322 detainees in our sample entered custody intoxicated. Those reporting as alcohol or drug dependent represented 18 and 25 of the sample group respectively. Over half (14) of the sample of detainees under section 136 were recorded as being intoxicated and 4 reported an alcohol dependency.

Practice and guidance across the forces was variable, as was the timeliness of access to either medical help or assistance from a specialist drug or alcohol worker.

In some cases there were delays in the police requesting medical assistance for detainees and long waits for medical practitioners to attend custody suites. One detainee who had chronic alcohol problems and experienced withdrawal seizures waited from the time of his arrival in custody, sometime in the afternoon, until 1.30am the following morning for medication to stabilise him.

In Cleveland, a specialist team provided screening for all detainees for substance misuse problems and helped people link in to a range of support services when they were released. Further details are provided in the section on pre-release below. Inspectors considered this to be an excellent scheme.

Participants in our detainee voice project who had seen a drugs or alcohol worker while in custody were positive about their experience. Participants had felt comfortable talking openly and honestly about their needs, and those who had agreed to be referred to community-based services had found this a helpful step in their subsequent recovery.

Mental health

Our analysis of custody records showed that many detainees who were identified as having mental health problems had complex healthcare needs. Detainees with mental health issues were more likely to arrive into custody intoxicated, reported higher levels of drug and alcohol dependency, and were more likely to report having a medical condition than those without mental health problems. Eleven people in our sample who were identified as having mental health problems were released from custody directly to hospitals or mental health units for urgent treatment.

There were some examples of very good mental health provision for detainees in police custody services. In Leicestershire, the custody mental health team provided effective support to detainees with timely assessments and treatment. This included access to local child and adolescent mental health services, which was very unusual across our six inspections. Similar schemes were in place in other areas – though without access to children's mental health services. In those forces without mental health custody teams, NHS crisis and community mental health teams were sometimes available, but the police had no guarantee of a response from them. Otherwise, those detainees showing signs of a mental health problem were seen by generic custody healthcare practitioners who would refer on to local specialist services as necessary. In one area there was no access to specialist mental health provision for detainees in custody.

Time taken to transfer those who were very mentally unwell to hospital was extremely variable, as was the response times from doctors and Approved Mental Health Professionals (AMHP) (an approved social work or nursing practitioner who can authorise detention of a patient). Up to 10 hours were recorded in some cases, though West Mercia AMHP services were meeting a 90-minute response time. Custody staff in all forces reported delays in setting up Mental Health Act assessments out of hours. All forces had an agreed process to report any delays in obtaining a timely assessment or admission to hospital for detainees with urgent mental health needs. However, it was not clear to inspectors that this was always implemented effectively, as the case example later in this section illustrates. As already indicated, inspectors were particularly concerned by the extent to which restraint equipment was used to prevent people who were mentally unwell from harming themselves, while awaiting the arrival of mental health specialists and/or transfer to hospital.

Participants in our detainee voice project provided some examples of swift transfers from custody to hospital for assessment under the Mental Health Act 1983 when they had been in mental health crisis. However, there were also reports of lengthy waits in custody for assessment as well as failures adequately to inform people of the outcome of the health assessment. Detainees who were transferred to hospital for mental health assessment/treatment said that they were not always informed of where they were going, and that in some cases they were taken to hospitals far away from where they lived.

Police staff felt very poorly equipped and supported in dealing with sustained episodes of mental illness, particularly in the absence of any assistance by health professionals. This is illustrated by the following case seen by our inspectors:

A young man was arrested for common assault at his home address – he had pushed his father during a schizophrenic episode. He stated he was 'working for God'. Information was provided by his family about self-harming and failing to take medication. On arrival at the police station he was placed in a cell on 30 minute observations. He continued to behave erratically at the custody suite, evidently hearing voices and injuring his head when running down a corridor.

The police doctor was called and after an initial assessment through the cell door, he arranged for an assessment under the Mental Health Act 1983. This was completed by all professionals concerned in the early hours of the following morning. The outcome was a decision to admit the detainee to hospital under the Mental Health Act 1983 - but no mental health hospital bed was available locally. The detainee remained in the police cell and started to self-harm later that day. He was restrained by custody staff for his own safety and reviewed again by the police doctor and a nurse. Custody staff made frequent efforts to secure an inpatient bed for the detainee, contacting mental health services on seven occasions. Almost 40 hours after his detention, in the continuing absence of further support from specialist mental health services, custody staff called an ambulance to take the detainee to the nearest Accident and Emergency department because they were so concerned for his health and safety if he remained in police custody.

Children

Differences between forces in the way children were treated in custody have already been highlighted in this report. In most forces, there were no nurses with paediatric qualifications within the custody healthcare workforce who could advise colleagues about the care and treatment of children, nor was all the medical emergency equipment in custody suites suitable for use in emergencies involving children.

Our custody record analysis found some cases where children should have seen a health care practitioner but did not. Examples included a young person, whose ear had been injured during his arrest, which the appropriate adult suggested may have implied a head injury. He was not seen by a nurse or doctor but was given a leaflet on how to make a complaint. In another example, a young person had arrived following a fight and while in his cell was banging the door and demanding to see a nurse because of a sore wrist. Custody officers told him that a nurse had been coming to the suite but turned around having heard about his aggressive behaviour. There was no note of a nurse or doctor being called or choosing not to attend in any earlier entry in the custody record.

The age group of patients served and level of service offered varies significantly between areas. This was particularly the case when custody healthcare staff had assessed a need for hospital admission for mental health treatment of a child. In most areas, inspectors heard about difficulties in gaining access to child and

adolescent mental health services (CAMHS). Some custody and ambulance staff told us that they did not know how to access these services. Inspectors were given examples of some really challenging situations. In one force, in a recent incident, a hospital section 136 suite had to be closed because a mentally unwell child was being held there with no alternative available hospital bed available.

This raised concerns not only about the treatment of a child who was acutely unwell, but also about the impact for other people detained under section 136 in that area during that time who had to be taken to police custody as a place of safety – because the section 136 suite was closed.

HMIC's child protection inspections have shown that in some police areas the use of police cells for children detained under section 136 of the Mental Health Act 1983 is unheard of while in other areas it is routine. Where children were detained in police custody under section 136, inspectors expressed concern about their care[84].

[84] *National Child Protection Inspections – Nottinghamshire Police 1-11 September 2014*, HMIC, February 2015. Available from: www.justiceinspectorates.gov.uk/hmic

Chapter 7 - Release or transfer from police custody

The custody process

The custody officer should check that a detainee is fit to be released from custody, and will be safe following release. A child or woman, for example, should not be released into the night without some safety precautions having been put in place. An assessment of needs should be made in respect of every detainee.

If a detainee is fit to release and can get home safely but is vulnerable, in the longer term, an approach should be made to other relevant organisations such as social services, health or drug and alcohol services for continued support. Details of services that may be available to help the detainee also should be provided for them. The police may need to advise someone of the release of the detainee and pass on any concerns they have about their wellbeing.

This chapter describes our findings in the six forces we visited on the recognition and response to risks to detainees on release from custody, and associated multi-agency care planning. We expected to see that pre-release planning for detainees was sufficient to ensure that they were released safely.

Participants in our detainee voice project provided positive examples of police action when detainees were leaving custody such as:

- asking prisoner escort staff to ‘keep an eye’ on the welfare of a detainee who was ‘hearing voices’ when they were transported to prison;
- ensuring children were able to get home safely when they were released from custody. In contrast, we found examples where vulnerable adults were released without access to suitable transport or accommodation; and
- providing information on the prevention of suicide and self-harm and services offering support to people with substance misuse issues.

However, not everyone who felt they would have benefited from information and guidance received it. Participants believed this was because the police service did not have the resources to offer such support to all detainees. It was also felt that some officers did not see it as part of their role. Some participants suggested that mental health and substance misuse professionals should attend police stations to provide information and refer individuals to community-based provision, as detainees are more likely to take up services if they met with workers in person.

In our custody record analysis, 254 of the 322 detainees in the sample were released to their home address. Those who were not released were transferred to court, another police station, prison, secure mental health units, or to an alternative address arranged by social services. It appeared from custody records that pre-release risk assessments (PRRAs) were completed for 294 of the overall sample. Custody record analysis judged that known risks were not identified in 43 of the PRRAs.

There was little evidence to show that custody staff consistently made arrangements for any continuing support for vulnerable people leaving custody, other than giving them leaflets on where to seek further help. When custody staff did seek help from other agencies, it was not always forthcoming. In one example from our custody record analysis, a woman had received a mental health assessment while in custody but was not offered further treatment. Before her release from custody, her partner was contacted who expressed concern about her behaviour and requested help. The police contacted social services twice who declined assistance as the woman was not deemed by them to be vulnerable. As the custody staff saw nothing else they could do, they returned the woman to her home address.

The quality of PRRAs was variable across the forces inspected. The most consistent standard was in North Wales Police where most assessments were thorough and some were very good. The assessments identified vulnerabilities and any referrals or action that needed to be taken. Information was provided on a range of organisations that could offer support, and arrangements were in place for police officers to take released detainees who were vulnerable back to an agreed address. Person escort records were completed to a high standard for all detainees travelling to court.

PRRAs were routinely recorded for all children in custody, though it was not always clear that any risks identified during detention had been addressed in the assessment, for example:

- one child’s PRRA identified no risks but read: 'I have attempted to make contact with his care home on three occasions.’ Nothing further was recorded to say how the child got home; and

- the PRRA of one girl stated that she was being handed into the care of her father who would ensure that she got home safely. However, the girl had earlier told police about a lot of family animosity and had expressed a desire not to return to her family home, and the father had been told he could not act as appropriate adult because of this. No reference to this was made in the PRRA

In one force it was noted in all instances that children were leaving with their appropriate adult or a member of social services but the relationship between the child and the appropriate adult was not always clear, nor was it clear where the child was going.

In one force, in the PRRAs relating to five people brought into police custody under section 136 of the Mental Health Act 1983 there was no reference made to the fact that each detainee had talked about suicide while in custody.

Sometimes no PRRA was completed for detainees leaving custody. In one suite, an intoxicated man who had one month previously slashed his stomach and who had been on constant watch while in custody was released with no PRRA at all, other than the arresting officer being told to drive him home.

There were examples of custody staff being aware that an individual's offending behaviour may have an impact on themselves and/or the community they live in. In one case the PRRA noted that appropriate support and accommodation would be provided for a detainee who might be targeted because of their offence. In another case, the PRRA noted that the detainee's offences may have 'ramifications that will impact' on the detainee. During their next visit to custody this detainee had a welfare interview and their details were passed on to a support agency.

In one force, six cases on vulnerable detainees were analysed. Of these, none had a PRRA despite the fact that all of the detainees had vulnerabilities that would have required continuing support from or referral to other agencies. In another force it appeared that vulnerable detainees were transferred from police custody to court with no risk assessment, in the knowledge that they might be released from court, regardless of how vulnerable they might be.

The potentially adverse impact of police detention and the extent to which people with vulnerabilities, especially children, understood what would happen next when they left custody was best illustrated by comments from our detainee voice project.

Participants who accepted a caution did not always feel they understood the implications of doing so, especially in relation to employment and travel abroad. In one case this led to the participant losing his job when his caution became known to his employer. Children who were charged with a crime did not always fully understand the nature of the alleged offence due to the technical language used by officers:

> *"[The police] was like, 'You're bailed on affray.' And I didn't have a clue what affray is. I was like, 'Eh? What?'... I was like, 'Okay, whatever.' I just wanted to get out."*
> (Child detained aged 15)

Some children had not been made aware that if they did not comply with their bail conditions they may be arrested and taken to prison before attending court.

In another case, a participant with substance misuse problems lost their temporary accommodation after the police prematurely informed the housing agency that they would not be granted bail. This meant they did not have anywhere to live on leaving custody and were at risk of breaching their bail conditions.

Our analysis of custody records showed that the great majority of people in our sample had been in custody before, that is, either they were repeat offenders and/or they were already known to the police as being a risk to themselves or the wider community. As noted above there was some evidence of police custody officers working with other agencies and passing on relevant information but, apart from the work of liaison and diversion services where these existed, we found little evidence of the police working with other agencies, once someone was released, to prevent detention in the future.

However, in Cleveland we found a positive approach to this. An arrest referral team (ART) had recently been set up to provide advice and information to people with vulnerabilities and directed detainees to external services such as food banks, soup kitchens, homelessness services, immigration and mental health support agencies. This had resulted in some good outcomes for detainees. The ART also directs people with drug addiction to a charity that provides accommodation and support. This charity was able to introduce detainees to a programme of alcohol counselling that could lead to the waiving of fixed penalty fines if they participated.

Chapter 8 - Leadership, governance and accountability

The College of Policing Authorised Professional Practice for detention and custody sets a number of expectations on police senior managers which relate to the safe delivery of custody. These include:

- a policy focus on custody issues at a chief officer level;
- effective management structure;
- effective and proactive oversight (by independent custody visitors (ICVs), Police and Crime Commissioners, and other mechanisms);
- quality assurance procedures; and
- procedures for monitoring the use of force by diversity, location and the officer involved.

The policy focus on custody should include:

- developing and maintaining the custody estate;
- trained staff undertaking custody duties;
- managing the risks of custody;
- meeting the mental and physical health and wellbeing needs of detainees;
- meeting the diverse needs of detainees, including vulnerable adults, and safeguarding children;
- working effectively with commissioners and providers of health services, immigration services, youth offending services, criminal justice teams, Crown Prosecution Service (CPS), courts and other law enforcement agencies.

This chapter describes our findings in the six forces we visited on leadership, governance and accountability, including the effectiveness of police working with partner agencies to support the identification and management of risks to the welfare of vulnerable detainees in police custody. We expected to see that senior staff had knowledge of police custody arrangements and had plans in place to improve practice where deficiencies were found. Also, we expected to see that established partnership arrangements, particularly with NHS and local authority partners, supported the identification and management of risks to the welfare of vulnerable detainees in custody and the diversion of those in the community who were at risk of coming into police custody.

Focus on vulnerability and custody

We found evidence that the protection of vulnerable people had a significant profile in all the forces inspected, with a range of associated policies and partnership arrangements in place. However, within each force, it was not always evident that this was effective in bringing about a shared and consistent understanding of vulnerability. Training on vulnerabilities was generally limited.

It was also evident that where police definitions of vulnerability existed, these differed from those of partner agencies, such as social services, who defined vulnerability in terms of eligibility for and access to their services. This difference significantly hindered frontline police officers' and staff members' ability to make effective referrals to those agencies to obtain help and support for children known to the police. Police and partner agencies both felt that the other had a limited understanding of the other's different roles; partner agencies sometimes expressed concerns to inspectors that the police had an inconsistent approach towards vulnerable people.

Although force priorities and the focus on protecting vulnerable people were communicated to staff, in some places there was a gap between the policies described by senior officers and the practice observed by inspectors on the ground. Frontline staff were not always aware of force policies or how they should be interpreted. Senior managers were not always aware that force priorities and policies were being implemented, at the front line, in ways that had unintended consequences for people with vulnerabilities, for example, in the situations described in chapter 5 relating to arrests of children in domestic abuse cases.

All forces inspected had adopted the College of Policing's Authorised Professional Practice (APP)[85] as the basis for their policy on custody. Some forces had taken the guidance one step further and integrated it into local procedures and protocols. However, not all forces were meeting the standards expected in the guidance, and quality assurance processes in relation to custody were variable. Some forces had comprehensive quality assurance systems which were auditable, whereas others had less robust arrangements which left chief officers unaware of the risks arising in custody for detainees and staff, the quality of detention, or how vulnerable people were being treated. Examples of practices that concerned inspectors included:

- a failure to monitor custody complaints;
- local definitions of adverse incidents/near misses that resulted in serious cases not being reviewed;

[85] The College of Policing's website contains an index of all detention and custody Authorised Professional Practice, including 'information from a number of decommissioned documents'. Available from www.app.college.police.uk

- lack of management information on the use of force; and
- no oversight of any of these matters by the head of custody or chief officers.

There were a few examples of joint training across agencies to develop a better understanding of each other's roles and support a common approach, but these joint initiatives were exceptional. In Leicestershire, a programme of training on mental health first aid was being rolled out by the county council to different agencies with which the police force had engaged. We saw very few other examples of joint training.

Understanding risks and demands on the service

The collection and use of management information was under-developed across all forces inspected. All forces had access to a wide range of databases to gather information to assist staff in assessing risks and vulnerability. All forces collected custody-related data from the custody records completed for every individual detained, and were able to supply data requested in support of these inspections (albeit to varying degrees). However, in no force did we find a coherent approach to the systematic monitoring and review of custody-related data to demonstrate how custody operated within the force, in order to provide assurance to chief officers and the police and crime commissioner that custody provision was safe and lawful, or to inform organisational learning.

There were common themes and consequences:

1. The failure to monitor information on custody throughput means that the force has no oversight of the total demands being made on its custody provision to inform resource planning and modelling both internally and with partner agencies. In respect of the public sector equality duty on all public organisations, failure to monitor custody throughput by the age, gender and ethnicity of detainees meant that forces were unable to provide assurance that detention practices were not discriminatory. There was no way of knowing, for example, whether or not some ethnic groups were over-represented in a force's custody throughput, therefore prompting necessary action to explore and address this issue.

2. We found no examples of a robust, systematic approach to monitoring the use of force in custody, regardless of the approach taken by the force in recording this information. Consequently, senior managers could not demonstrate that the use of force had been safe and proportionate.

3. Information on the numbers of children detained in custody and requiring overnight accommodation from a local authority was not monitored or shared with local authority partners. In some forces it was not collected. Discussions on longer term strategy and planning between senior officers and their local

authority counterparts were therefore not informed by data on the level of demand for such services – which undermined partnership working to develop solutions.

4. There was no evidence of routine data collection on police requests for assistance from mental health services whether for those detained under section 136 or others in need of emergency mental health care. (The exception to this was in those areas that are part of the national liaison and diversion pilot where monitoring arrangements are integral to the pilot). There was therefore no way of monitoring outcomes for detainees or of quantifying the demands on police time arising from shortfalls in other service provision to assist detainees and police in a timely way. This also constrained forces' ability to take proactive steps with partner organisations to address these issues. In Surrey, the force was beginning to monitor mental health-related demands on officers' time from agencies and individuals, in recognition of the risks and the pressure these demands place on police resources.

5. In some areas, particularly in respect of appropriate adult provision, there was some evidence of police monitoring the response times of other agencies. However, this was not comprehensive. It was not done for all relevant services, was constrained by the range of providers involved (for example in assessing a detainee under the Mental Health Act 1983), and there was scant evidence that such information was used to inform strategic planning discussions with partner agencies.

6. Flows of data between the police, NHS and local authorities were inconsistent at best, both at the level of individual detainee management and at a senior level. There were differences in views and practice about the extent to which it was possible to share information on individuals within the framework of the Data Protection Act 1998.

Partnership working

Our inspectors nevertheless found examples of good operational, joint working between police and staff from other agencies, sharing information and working together to get the best outcomes for vulnerable individuals in and out of custody. But it was evident that this was neither systematic nor consistent and largely depended on individual officers making these links. There was a very mixed picture across the six forces in terms of the effectiveness of partnership arrangements with other agencies. At chief officer level, there was evidence of strong commitment to and engagement in partnership working. It was apparent that there had been some highly effective focused work around particular issues – for example, improving joint practice under section 136 of the Mental Health Act 1983.

But, as there were many different joint projects or senior planning groups that had some relevance for service provision for detainees in police custody (in one force, a local authority representative estimated that there were approximately 50 such groups just relating to vulnerable adults), this often led to a plethora of demands on senior police officer time with related challenges in terms of effective communication and decision making to ensure consistency in providing services. These demands were even greater where police force boundaries covered a number of different local authorities and NHS providers.

This complex landscape of different partner agencies limits the effectiveness of police partnership working at a senior level – both to support officers and staff on the frontline, and to ensure a collective, cross-force approach to ensuring the right services are both in place and easily accessible.

We were provided with examples where police had not always worked well with partners, sometimes adopting a unilateral approach to changing services that affected other public services, without full consultation at a local level. For example, our inspectors were told about a police decision to move a specialist unit working with vulnerable people across local authority boundaries, without consultation or action to mitigate any negative impacts. In some forces it was evident that there were significant differences of approach to partnership working in adjacent local authority areas within the same force area. This required forces to adapt their approach according to the local environment. As a result it was more difficult to improve outcomes for vulnerable people than might be the case if it were possible to apply a consistent approach, at force level, adopting common protocols, policies and practices and applying these across the whole force area.

In the practice section above, we set out a number of concerns about how people who were vulnerable were treated in police custody. In almost every case that was cited the problems were due to problems in other agencies. In particular there were problems in securing alternative accommodation for children and young people, and we found little evidence that local safeguarding children's boards were aware of the issue and taking steps to address it. This resonates with findings from HMIC's child protection inspection programme[86]. There were also problems with arranging swift health assessments and treatment for those with mental health problems and accessing alternative places of safety for children and adults who needed them. Slow responses from all agencies were also seen to be contributing to lengthy periods in custody for vulnerable people.

[86] More information on this inspection programme is available from www.justiceinspectorates.gov.uk/hmic

Some progress had been made on developing shared policies, concordats and guidance amongst agencies nationally and locally, but progress was frustrated by the absence of a single partnership forum taking ownership of and responsibility for services in police custody, and diversion away from custody, for vulnerable children and adults. Any joint approach to problem solving in relation to custody was essentially reactive rather than preventive of vulnerable people being taken into custody. The absence of a collective preventive approach was compounded by the lack of critical management information to inform challenges and decision-making, planning and provision of services between and within multiple agencies.

Chapter 9 - Summary findings

Practice

Research, data analysis and inspection reports all show that many people taken into custody are vulnerable in some way, and that the impact of being in police custody can be detrimental to welfare, particularly for people in vulnerable circumstances.

We found that many police officers tried hard to avoid bringing vulnerable adults and children into custody, but often ended up doing so because the arresting officer saw no other option. In some cases the only power the police had to remove and make safe a person was the power of arrest (usually for relatively minor offences) and then custody. Inevitably, this leads to a number of vulnerable adults and children being criminalised unnecessarily. We saw two cases on the inspection where the police unwillingly charged and took a person to court in the hope that the criminal justice system might provide a 'gateway' to much needed help.

We found many case examples where health and social care agencies were not meeting their statutory duties. Police and Criminal Evidence Act 1984 (Code G) guidance is clear that alternatives to arrest and detention should be considered in all cases, and in respect of children (where their welfare must be the paramount consideration), detention should only be used as a last resort, that is, when the offence is so serious and there is no other secure option available (section 36 of the Police Criminal Evidence Act). The responsibilities on health and social services for people in urgent need of mental health care are also clear. Yet in many of the cases we saw, police involvement and police custody seemed to be the first resort not the last. In some cases it appeared to be the only option. Health services and local authorities have duties to provide safe care. In the force areas we visited, police custody was still being used as a substitute for health and social care.

Nationally, there is a positive trend away from the use of police custody as a place of safety for people detained under section 136 of the Mental Health Act 1983. The findings of this inspection confirm an improved, albeit variable, picture as compared to the position described in the 2013 joint inspection on section 136[87].

Some police officers did not regard all children as vulnerable. They saw the offence first and the fact that it involved a child as second. In some forces, frontline officers described a pressure, from senior officers or from force policies always to make arrests on certain types of crime. This was particularly the case in relation to domestic abuse incidents where we found evidence that police policies can

[87] A *Criminal Use of Police Cells?* The use of police custody as a place of safety for people with mental health needs, HMIC, HMI Prisons, Care Quality Commission and Healthcare Inspectorate Wales, June 2013

sometimes, albeit unintentionally, criminalise children. In these forces there was evidence, particularly where children or young people were involved in domestic incidents, that priority was given to the fact that an offence had been committed rather than to the welfare (or even the culpability) of the child.

We observed that most of those detained by the police during our inspections were treated respectfully. The use of force was mostly proportionate and, for the most part, strip-searches were used appropriately. Also, we found that detainees were reasonably well cared for while in custody and basic needs such as medical attention, food and washing were attended to by staff. For the most part, detainees were advised of their rights, offered a solicitor and had access to an appropriate adult. We also found that there was ready access to interpreters. There were reading materials in custody areas and detainees had access to religious resources such as a bible or prayer mat.

Communication with detainees was more mixed. Some officers were skilled in translating legal jargon into something meaningful for detainees when explaining their rights or what was going to happen, others were less so. Our inspectors noted that communicating well was an effective tool in securing calm and compliance.

On the whole, we observed that the police did take appropriate action to protect life where they knew that there is a real and immediate risk (as required under Article 2 of the European Convention on Human Rights). They assessed people and put measures in place to reduce risk such as the ‘rousing’ of drunk and incapable detainees to ensure their safety. However, inspectors also saw cases where greater supervision was warranted, and a number of risk assessments carried out in a way, or where others could easily overhear what was being said, that would deter a detainee from providing personal information.

We found a number of grounds for concern about the extent to which custody risk assessment processes accurately identified vulnerabilities, especially those associated with learning disability and/or mental healthcare needs. These findings echo those of previous custody inspections in the HMIC/HMIP rolling programme and of research by the University of Newcastle in collaboration with the Metropolitan Police Service[88].

We found examples of good pre-release risk assessments, good information about support available in the community and links made with other agencies on behalf of detainees prior to release. However, we also identified some poor assessments including failures to address risks of self-harm identified during custody.

[88] 'Health Screening of People in Police Custody - Evaluation of current police screening procedures in London, UK', I McKinnon and D Grubin, *European Journal of Public Health*, 2012, 23(3): 399-405.

Record-keeping across all forces was inconsistent and sometimes inaccurate. It was not always clear from the record why a person had been detained, whether strip-searches were necessary, whether efforts were made to secure an appropriate adult or alternative accommodation, or if detainees' rights had been explained. Inspectors concluded that poor record-keeping reduced forces' ability to describe and account for their actions if something goes wrong.

Some police officers and staff used alternatives to arrest where relevant and appropriate and, through effective communication, minimised the need for force to maintain control or avoid injury to themselves or others. We saw officers spending hours helping to calm someone in distress or to support them through the custody experience. We also saw thoughtful and effective inter-personal skills being used to minimise difficulties for both detainees and staff.

Much of what we saw on the inspection was good, but there were incidents of poor practice, some of which were very concerning, and not always exceptional. We saw officers behave disrespectfully on occasions and we saw people held in handcuffs or being restrained when the necessity to do so was not evident. In some cases, the basic welfare needs of detainees seemed to be overlooked. Our analysis of custody records showed that PACE reviews (oversight checks) by supervisors were being conducted within the agreed timescales in only about half of the cases in our sample. This may explain some of these poor practices.

We did not observe any difference in treatment between BAME and white detainees held in custody, and were not able to draw any conclusions about whether forces discriminated against black people in custody. However, the detainee voice project and our focus group with Black Mental Health UK indicated that black people felt they were discriminated against by the police. They cited examples of rudeness, disrespect or an over-use of force which they attributed to racism.

Our data collection from the inspected forces showed indications of a disproportionate number of people from African-Caribbean groups both in custody and subject to strip-searching, as compared to their numbers in the general population. Our custody record analysis showed no notable differences in other aspects of the care of those from BAME groups compared to the overall sample (such as access to food, exercise or showers). A higher proportion of BAME detainees in the sample were arrested for non-notifiable offences compared to the total sample of detainees. On average, people from BAME groups were detained for longer than the average length of detention across the total custody record analysis sample. It must be stressed however that the small sample size means it is not possible to determine whether these differences are statistically significant, without further data collection and analysis.

A major theme running through all of the inspections was the inconsistency of practices and procedures across the full range of custody operations, both within and

between forces. This led to, on a number of occasions, some very poor treatment of vulnerable people, examples of which have been given throughout this report. There were indications that practice was better and more consistent where there was stronger leadership, good management support and staff training. However, it was noticeable that all police officers and staff were highly dependent on their own personal experience and judgments when identifying and responding to vulnerable people (as opposed to referring to training or guidance), and this may explain some of the inconsistencies we saw in practice. We met many officers and staff who displayed a caring attitude to vulnerable people and who had good social skills. In the absence of appropriate training and supervision a consistently high standard of care is more difficult to achieve. This underlines the importance of recruiting police officers and support staff (such as detention officers) with the right behaviours and values, and equipping them through relevant training and supervision.

Inspectors also saw long delays for some detainees in police custody before more appropriate accommodation was found. There were delays at every stage in the process: in securing a mental health practitioner, a social worker or an appropriate adult in order to make an assessment and then further delays in finding accommodation for the detainee. A number of agencies are addressing these problems, and inspectors saw initiatives such as the liaison and diversion schemes which aim to reduce the number of mentally ill people being taken into custody, and help ensure better and quicker assessments once people have been detained by police. There is much that is promising in these new developments, although it is too early to assess their full impact; but they are not universally available at present.

The police were almost entirely dependent on other agencies for the provision of services, even those required by law and national policy, to divert people with vulnerabilities away from custody or to provide safeguards when they are in custody. Many people who pass through a custody suite have a number of different vulnerabilities. Those that are vulnerable take up a large proportion of custody staff's time. This includes liaison with other agencies. Those who may try and take their own lives, or who self-harm, may need to be under almost constant surveillance. As we noted above, when police officers are very concerned about the well-being of a detainee they will spend hours with them to try and reduce the distress and/or keep them safe.

Inspectors were also concerned about some of the measures used to reduce risk, such as removal of clothing and the use of body belts or handcuffs. It is well-documented that conditions in custody are likely to exacerbate stress and agitation. The measures of control the police have at their disposal are designed more for those who are violent through ill-will rather than those who are agitated because of mental distress, or who are frightened children. Using inappropriate techniques can

increase the risk of further distress and harm. Ultimately it can be fatal[89]. We found that police officers are trying to respond to mental health crises and to children in an environment and with policing tools, skills and knowledge that are wholly unsuited to the task.

Our analysis of custody records showed that many of those detained are detained repeatedly. Every person detained in police custody under section 136 of the Mental Health Act 1983 had been in police detention on at least one occasion previously, as had 70 of the 81 children in our sample. Although police staff will attempt to secure alternative accommodation for those detained, longer term problems need to be addressed on an inter-agency basis, and this is not happening effectively. At an individual level it would be helpful to have an inter-agency care plan, including the police, which sets out contingency measures should the person be at risk of being (or be) detained.

Management

We found that poor data was hindering significantly the police and other agencies' ability to fulfil their statutory duties under the Equality Act 2010, the Police and Criminal Evidence Act 1984, the Mental Health Act 1983 and the Children Act 1989. Forces could not provide assurances to HMIC or to the public that they are meeting their equality duties or adhering to PACE and other legislation: they simply did not have, or did not monitor relevant data. Police forces were not able to say whether individuals from BAME groups, children and people who were mentally unwell were disproportionately arrested and detained in custody. Little information is available for the public about who is taken in to custody, and what happens as a result.

The findings of this inspection highlight some of the vulnerability characteristics of custody detainees within the six forces inspected, providing data, for example, on age, ethnicity and the proportion of section 136 detainees taken to custody as a place of safety. However, it is difficult to quantify a much broader range of vulnerability factors within the police custody population (such as mental health problems, learning disabilities or drug and alcohol misuse). Our findings on the constraints of risk assessment processes, inaccurate recording and custody officers' and staff members' lack of confidence in recognising certain vulnerabilities mean it is impossible to know the scale and nature of welfare needs within police custody. This is a concern both for the public and for senior managers in the police and their partner organisations with responsibilities for ensuring that local services are sufficient and safe.

Custody was not as well integrated into forces' governance and risk management processes as it should be – particularly with regard to the protection of vulnerable

[89] *Deaths in or Following Police Custody: An examination of the cases 1998/99-2008/09*, M Hannan, I Hearnden, K Grace and T Burke, Independent Police Complaints Commission, London, 2010.

people. There were limited links between custody, frontline officers and other units in the police service. So for example, where forces had specialist teams for child protection or vulnerable adults, it was not always evident that custody staff or frontline staff were aware of these teams, nor that they saw it as their role to make referrals.

Custody staff were sometimes overlooked to receive specialist training (such as child protection or safeguarding). Vulnerabilities often only became apparent once someone was in custody, for example through a detainee providing evidence during an interview. Therefore, the actions taken by the custody officers were neither as well-informed nor protective as they would have been had the individual first come to police attention through concerns about their vulnerability.

Inconsistencies in the way use of force is recorded, and the lack of systematic monitoring of the use of force in police custody remain a significant concern – particularly in the light of our findings on its use to restrain people who are at risk of harming themselves while mentally unwell . This lack of monitoring has been highlighted repeatedly in HMIC/HMIP's joint inspection reports on police custody since 2008. We saw no evidence in this inspection of any analysis of trends that might enable police forces to understand how far officers' use of force was proportionate and safe for the detainees in their custody. Nor did we find any evidence that the use of force was monitored by ethnicity or by vulnerability to provide assurances to forces and the public that force was not being applied in a discriminatory way. This is a matter of fundamental importance because it means that neither the police nor the public can be confident that the use of force was always necessary. Healthcare provision in custody is currently planned, managed and funded by the police service on a force-by-force basis. It was apparent in our inspection that there was wide variation in arrangements for, practice and quality of healthcare provision between police forces. Health needs assessments for police custody had not always been completed.

All organisations had their own safeguarding policies and procedures. There were also a number of local forums in which concerns could be raised either on a case by case basis or as part of an inter-agency longer term plan. All local authority areas had 'safeguarding boards' for adults and for children, but the use of police custody was not a priority for the vast majority of these groups in the forces we inspected.

We found no evidence of any individual plans for managing potential disruptive behaviour or police involvement, even for those children who were looked after by local authorities or for adult patients already supervised by health services. Agencies are in the process of developing concordats in an effort to reduce the use of police custody for children and for mentally ill adults, but no timescales had been put on the changes required.

We welcome the recent letter to all forces from the national policing lead for custody[90], in which a checklist was provided against which forces might check their practices on the overnight detention of children. We are encouraged that these issues have been recognised by the service. The contents of this letter resonate strongly with our findings from this inspection.

[90] This letter is reproduced in Annex E.

Chapter 10 - Conclusions and recommendations

Conclusions

The police will always be prominent in the public mind as the first point of contact in a crisis. However, the lack of sufficient provision from health and social care services means that many hours of police time are being taken up with welfare-related activities – even where there is no allegation of a crime. This raises fundamental questions about the legitimate role of the police service, proportionate state intervention into people's lives and the extent to which all relevant agencies are held to account for their obligations to protect life where there is a known and immediate risk[91]. The quality of interaction and cooperation between the police service and wider public and protective services, including social services and health, needs to be improved, with each service fully and effectively discharging its responsibilities so that the police service does not become the default response for vulnerable people in crisis.

The evidence from this inspection indicates that the quality of police interactions with members of the public at the initial point of contact and detainees in custody can be excellent. It also showed how poor those interactions can sometimes be. Respectful interactions are the foundation stone for building and maintaining the confidence of all communities in local policing. Our inspection findings clearly illustrate the power of respect in achieving cooperation and compliance and how, conversely, disrespect can enflame situations to the point where custody or force may be needed to maintain control.

During the course of our inspections it was clear that custody could have been avoided for a number of vulnerable adults and children, had other action been taken by police officers, or other services been available to support these individuals. Some were in custody because they were a risk to themselves or others, not because they had committed a crime. Many of the case examples described in the report are children, people with mental health problems or older people suffering from dementia. Taking such individuals into custody has a detrimental impact on their health and wellbeing, and in many cases is the wrong approach. If someone has a physical health crisis – a broken leg or a heart attack – they can be confident that they will be treated by health services as a medical emergency. Our inspection findings show that neither the public nor the police can be confident that this will be true in all cases of mental health crises.

Arrest policies and targets relating to domestic abuse, and the arrest and detention of looked after children following disruptive behaviour in a children's home are leading to unnecessary detentions of children. The lack of appropriate mental health

[91] As required under Article 2 of the European Convention on Human Rights.

provision to prevent crises or support those in need of emergency care is leading to the unnecessary and sometimes potentially unsafe detention of people with mental health problems. Although there have been new policies and initiatives over the past few years aimed at reducing the number of vulnerable people detained in police custody, the numbers remain high.

The use of force on people in custody remains inconsistently recorded by frontline staff and is not systematically monitored by police senior managers, despite repeated recommendations over the years from HMIC/HMIP inspections. Our data on strip-searching, combined with the research information available to us and the lack of authoritative police data, leads us to consider that police forces are at risk of discriminatory strip-search practices.

The demands placed on frontline police officers and custody staff by people who have a significant need for mental health care and treatment were highly apparent in every force inspected. Police officers and staff are not always equipped and supported to manage behaviour arising from a mental disturbance but nevertheless are facing this on a daily basis. Most heads of custody we spoke to regarded management of the mental health needs of detainees as the single biggest source of pressure on the custody service.

While health, social care and children's services can and do refuse to admit vulnerable people into their care, the police do not have this option. The police seek to avoid taking an individual into custody if there is no security reason to do so; but it is difficult for them to divert vulnerable people away from custody if the right alternative services are not available. Thresholds and/or waiting times for access to healthcare and local authority social services often leave the police isolated when it comes to finding solutions for people with complex needs who do not fit easily into the categories of service offered by those agencies.

The design, management and staffing of custody suites is primarily directed towards the control of suspected criminals, rather than the identification of and support for people who might be vulnerable. Too many vulnerable people are detained for unnecessarily long periods due to slow and delayed criminal justice processes, the time it takes to secure legal representation and appropriate adults, and difficulties in finding more appropriate accommodation for children or people who are mentally unwell. The longer the time in custody, the greater the care needs of those detained.

Greater priority must be given by the police to protecting and promoting the welfare of protected groups under the Equality Act 2010 (particularly BAME groups). The police forces we visited do not have sufficient data and other information to demonstrate to the communities they serve that all people who come into contact with the police will be treated fairly and safely. Stronger and closer work with relevant community groups would assist in recognising and addressing these concerns.

The police must develop custody services that are better equipped to meet the needs of vulnerable people, but the better approach is to prevent vulnerable people entering custody in the first place. This means, at the very least, that police custody data must inform joint strategic needs assessments undertaken by local directors of public health, and police should be involved in the commissioning of health and social care services. The planned transfer of the commissioning of custody healthcare services to NHS England should assist here by providing opportunities for data sharing, and creating a financial incentive for the NHS to improve access to health and care that will reduce demands on police custody.

Recommendations

Although we inspected a small number of police forces, in framing these recommendations we have also taken account of findings from the rolling programme of custody inspections which we conduct jointly with HMIP, and HMIC's National Child Protection Inspection programme. We are also mindful of previous recommendations from related work cited at the beginning of this report, many of which resonate with our own findings in this inspection. Our intention is to build on this previous work. These recommendations will be relevant to all police forces and, in some cases, to their health and social care partner agencies in England and Wales.

Recommendation 1

A national group, with a set timeframe, chaired by the Home Office, should oversee implementation of these recommendations. One of the first tasks of this group should be to ensure implementation timescales are attached to these recommendations.

Recommendation 2

To improve transparency and public accountability, assessment of need and planning of services, and to enable better management of custody practice, we recommend that police forces collect and publish data on police detention. The Home Office should work with forces to pilot a data collection series before including this as part of the mandatory Annual Data Return. This should ensure that it balances the competing demands of transparency and accountability against bureaucracy and burdens, particularly in times of shrinking resources.

At a minimum the data should include (collated by gender, race and ethnicity and age):

- levels of stop and search, arrest and detention;

- use of police custody as a place of safety under section 136 of the Mental Health Act 1983;
- use of police custody as a place of safety under the Children Act 1989;
- levels of strip-searching, use of force and other control measures (with information on the means used – see also recommendation 7);
- numbers of children who are detained in police custody and for how long;
- numbers of requests for children to be transferred to local authority accommodation under PACE; and
- numbers of children actually transferred to local authority accommodation.

Recommendation 3

Regular reports on custody, including the data above, should be provided routinely by forces for consideration by the police and crime commissioner and be published on PCC's websites, to demonstrate to the public that the police are delivering services to communities on a fair and transparent basis.

Recommendation 4

Relevant national policing leads building on recent work of the College of Policing on how demands on police forces are changing should take the lead in designing an audit process for use within each force, to quantify, with associated costs incurred:

- time spent by officers in responding to, or managing incidents involving people in need of specialist mental health care, both inside and outside the custody suite. Where this occurs in custody, this should be quantified as the time the detainee remains in custody following a request by custody staff to specialist mental health services for assistance or transfer of the detainee to hospital; and
- time spent safeguarding children in custody who have been referred to, but refused local authority accommodation.

This information should be used to inform local Joint Strategic Needs Assessments, assess how far resources are allocated effectively to operational demand, and determine the potential benefits of a more integrated approach to delivery of the services, including joint commissioning of services.

Recommendation 5

The College of Policing should develop standards across the police service for the assessment of vulnerability in custody, as a basis for risk assessment, according to the vulnerability identified.

Recommendation 6

The College of Policing should review its guidance to the police service on the use of force in relation to vulnerable people to reflect and align it with:

- evidence across different sectors on best practice on the de-escalation of incidents;
- the provisions of the Mental Capacity Act 2005, and related guidance, on the use of restraint for people who lack capacity to make decisions required in their own best interests; and
- guidance across different sectors produced by the Independent Advisory Panel on Deaths in Custody on common principles for safer restraint[92].

Recommendation 7

The police service, with the support and guidance of the College of Policing and the appropriate national policing leads, must establish a definition and a monitoring framework on the use of force by police officers and staff, linked to forces' risk registers. At a minimum this should ensure that:

- more frontline officers and staff are trained in de-escalation skills;
- there is a common understanding, informed by College of Policing Authorised Professional Practice on definitions of restraint and thresholds for the purposes of record-keeping;
- the use of force in custody is recorded on CCTV and/or body worn cameras, and the recordings are monitored by senior managers, and made available to National Preventative Mechanism-visiting bodies as required; and
- data collected on the use of force is monitored routinely, examined for trends, reported to police and crime commissioners and published on force websites to promote transparency and accountability to community groups and the wider population.

Recommendation 8

The College of Policing, in collaboration with relevant health and social care partners, should promote a joint, multi-agency approach to training for frontline staff, including those working in custody, on practical ways to support diversion from custody, vulnerability assessment and risk management. At a minimum, this should address:

[92] *Common Principles for Safer Restraint,* Independent Advisory Panel on Deaths in Custody, 2013. Available from http://iapdeathsincustody.independent.gov.uk

- a shared understanding of vulnerability, its identification and warning signs;
- statutory roles and responsibilities, particularly as this is relevant to diversion from police custody;
- the health and social care needs of vulnerable people in police detention, and associated requirements to be able to communicate well with them; and
- proposals on the practicable implementation and governance of provision, oversight and evaluation of training at a local level.

Black, Asian and minority ethnic groups

Recommendation 9

Police forces should establish a race equality governance framework linked to the force's risk register. This framework should include:

- collection of core data sets by ethnicity as set out in recommendation 1;
- development of a common understanding of the current situation through analysis of the data and engagement with Independent Advisory Groups[93] and local communities;
- plans to make improvements to practice where this is identified as being necessary; and
- establishing appropriate leadership and governance structures to oversee and make sure the work is carried out.

Recommendation 10

Police forces must comply with their duties to promote equality, as required in the Equality Act 2010, and:

- recruit and promote people who have an interest in doing so;
- monitor recruitment against the protected characteristics, seeking to have a workforce that reflects the communities in which the force operates; and
- carry out and publish robust equality impact assessments across custody operations, which include an element of external challenge, and use these

[93] Independent Advisory Groups (IAGs) have developed nationally to assist the police service in understanding the role and impact it has within diverse communities. This need was identified within the recommendations set out in the Stephen Lawrence Inquiry Report, which concluded more should be done to engender trust and confidence in such communities.

to develop improvement action plans and address any issues of discriminatory treatment.

Mental health and vulnerable adults

Recommendation 11

Police forces should be included as members of all Health and Wellbeing Boards in England and equivalent local partnership boards in Wales. These local bodies should have a local focus on reducing unnecessary use of police custody through inter-agency needs assessment and service planning. This will be supported in practice by:

- establishing a sub group focused on custody for each local body; and
- clarifying accountabilities between these local oversight bodies and those with responsibility for commissioning services, both in the NHS and in local authorities.

Recommendation 12

The Home Office and the Department of Health should clarify the relationship between Health and Wellbeing Boards (and equivalent local partnership boards in Wales) and local commissioning bodies to ensure that police forces, local health and social care services are held to account for the provision of services to divert vulnerable adults away from custody and/or, as required in law, to vulnerable adults in custody.

Recommendation 13

National work on mental health liaison and diversion and on street triage services should be used as the foundation for development of an evidence-based, integrated model of mental health crisis care, jointly commissioned and provided by the NHS, local authority social services, housing services and the police service. There should be an explicit duty between these agencies, in the interests of efficiency, to achieve collectively the aim of diverting people with mental health needs away from police custody and the criminal justice system. The model of care must include access to services for children in all cases.

Children

Recommendation 14

Local Safeguarding Children's Boards (LSCBs) should hold police forces and local authority children's services to account for the provision of services to divert children away from custody and provide support as required in law to children in custody. Police forces urgently should work with local authorities and LSCBs to:

- develop joint strategies that equip frontline staff to manage the behaviour of children looked after by the local authority so that detention is a last resort;
- ensure that no child who is looked after by the local authority is denied accommodation by them;
- share data, as collected under recommendation 1, to inform local joint strategic needs assessments on safe accommodation requirements for children;
- record and report to the LSCB the number of children held in custody (and their legal status), the efforts made to secure alternative accommodation and the reasons for failing to do so (with plans to address them); and
- promote joint engagement with local Magistrates' Associations to support a common, cross-agency understanding of relevant terminology, in particular the distinction between 'safe' and 'secure' accommodation.

Recommendation 15

The College of Policing must work with the Association of Independent LSCB chairs to develop national guidance and protocols with the objective of reducing the criminalisation of children, particularly those looked after by local authority children's social care services. At a minimum this should include:

- guidance to police and local authorities on evidence-based preventive action;
- guidance to police and local authorities on appropriate action in cases where children come to police attention;
- guidance to chairs of local children's safeguarding boards on good practice under section 38(6) PACE to promote consistency in holding the police service and local authorities to account; and
- an expectation that police forces have a clear focus on children as a vulnerable group.

Recommendation 16

HMIC/HMIP should give consideration to including in the Expectations for Police Custody an expectation that no child is subjected to a strip-search unless the search is intelligence-led and authorised by an officer of inspector rank or above..

Recommendation 17

The business of the National Preventive Mechanism Children and Young People's Sub Group should include a focus on children in police custody, particularly on how effective local diversion arrangements and related public service safeguarding responsibilities are in respect of children.

Oversight

Recommendation 18

HMIC/HMIP must undertake a review of the methodology and expectations for inspections of police custody in the light of the findings of this thematic work. In particular we recommend that:

- the Expectations for Police Custody are extended to include a view of custody from the first point of contact and other risks to the welfare of vulnerable detainees' as identified in this inspection; and
- the data collection undertaken in this inspection is developed to establish a 'key statistics for police custody' dataset, reflecting Equality Act 2010 protected characteristics, published at force level in inspection reports, and aggregated nationally for publication on HMIC's website.

Annex A

Inspection methodology - welfare of vulnerable people in police custody

Aims

The Home Secretary's brief to HMIC was translated into the following inspection question:

How effective are police services at identifying and responding to vulnerabilities and associated risks to the welfare of detainees in police custody?

The aims of this thematic inspection were to:

- assess how effectively police forces prevent vulnerable people coming into police custody;
- assess how effectively police forces identify and respond to vulnerable people detained in police custody;
- assess how well police forces fulfil their equality duties under the Equality Act in respect of arrest, detention and custody, in particular towards black and minority ethnic detainees; make recommendations to police forces for improvements;
- highlight effective practice in protecting vulnerable people in police custody; and
- bring about improvements in forces' custody strategy and practice.

Approach

This inspection considered the complete end-to-end process of police custody, from the first point of contact to release or transfer. In phase one, a rapid assessment of evidence was undertaken to inform subsequent development of the inspection criteria and methodology. This identified recurring themes contributing to risks in custody including:

- the disproportionate representation of specific ethnic groups in arrest data;
- police understanding and identification of vulnerability;
- risk assessment and related follow-up action;
- use of force by police;
- the overnight detention of children; and

- timely access to healthcare, and other appropriate multi-agency support or diversion services.

A set of assessment criteria was then developed, based on the existing HMIP/HMIC Expectations for Police Custody, with additional indicators derived from analysis of the evidence base on the recurring themes contributing to risks to detainees. The additional criteria focused on the experience and outcomes for detainees in police custody who are vulnerable by reason of age, disability or mental illness or who are black or from an ethnic minority group.

The assessment criteria were consulted on with the expert reference group and other interested parties. The final version was sent to all police forces in England and Wales before the start of the fieldwork.

The fieldwork consisted of unannounced inspections of six forces set in the rolling programme of joint police custody inspections, conducted jointly with HMI Prisons and the Care Quality Commission (CQC). CQC was replaced by the Healthcare Inspectorate Wales for one inspection in Wales. The inspections combined the routine custody inspection with the additional bespoke elements specific to the thematic work. Each of the six force inspections was conducted against the current Expectations, to inform the routine custody inspection report, and against both the Expectations for Police Custody and the additional criteria to inform the thematic.

The inspections took place between September 2014 and January 2015. Forces were selected for inspection on the basis, as far as possible, of our existing schedule for unannounced inspections of custody. Adjustments to the schedule were made to ensure suitable representation of force complexity, geography and known participation in relevant national pilot schemes within the thematic.

Inspections focused on experiences of and outcomes for people with vulnerabilities who were either diverted from or detained in custody by the police. The inspections considered how arrangements for protecting the welfare of vulnerable people, and the leadership and management of the police service, supported effective practice on the ground.

Methods

- Observation of practice in police control centres, including listening to responses to incoming calls from the public.
- Focus groups with frontline police officers and supervisors.
- Observation in police custody cell blocks.
- Discussions with detainees where appropriate.

- Discussions with staff working in custody, including healthcare staff, senior managers in police and other agencies – particularly NHS mental health services and local authority social services.
- Case studies
- Collection and analysis of data on custody throughput and aspects of practice in custody.
- Examination of custody records (see below for further information)
- Examination of relevant policies, reports and other relevant written material.

Additional sources of findings

In addition to the fieldwork, we did four other things to inform the inspection:

1. Commissioned the National Centre for Social Research (NatCen) to undertake a series of interviews with people who have experienced detention in police custody within the last three years. The people they spoke to came from three groups: young people, people with mental health problems and people of black and ethnic minority origin (NatCen's report is attached at Annex F).
2. Investigated and mapped the current data collected and held by public agencies on the extent and use of police custody. This project surveyed existing sources of data that help to understand use of police custody nationally. The objective was to develop an authoritative statement about the status quo and to make recommendations for improvements that would promote transparency and public accountability.
3. Talked to a number of experts in the field and those with an interest in making improvements.
4. Reviewed findings from HMIC's National Child Protection Inspection programme, which includes a focus on the detention of children in police custody.

About the data

The data presented in this report come from two main sources: a sample of 322 custody records and bespoke data collected from all forces inspected. This annex briefly explains the origins and background of each of these.

Custody record analysis

As part of each force inspection, a sample of custody records (between 9 August 2014 and 9 January 2015) were analysed; either 30 records for smaller forces or 60 records for larger forces. They were proportionally sampled both:

- across a Saturday, Sunday and Thursday approximately four weeks prior to the inspection and divided evenly across these three dates; and
- to reflect the number of cells in each custody suite.

To ensure that sufficient vulnerable people were sampled, a minimum of five to ten young people were included, as well as a minimum of ten to twenty black or minority ethnic detainees depending on the size of the initial sample size (30 to 60). Further, additional top up samples of 'vulnerable' groups were identified and analysed. These included:

- five to ten additional young people (sample of 30/60);
- five detainees aged 61 or over; and
- the five most recent detainees held under section 136.

Across all forces, the total breakdown of sample numbers by categories of vulnerability is shown below:[94]

Total	**322**
Aged 17 years and under	81
Aged 61 years and over	29
From black or minority ethnic background	100
Foreign nationals	56
Detained under Section 136 of the Mental Health Act 1983	27

Throughout the report, we have taken into account the over-sampling of certain populations into our analysis and conclusions.

We oversampled some groups, including detainees that were identified as from a black or minority ethnic group, subject to section 136, under 18 and over 60. This was done to ensure that there were enough members of a certain subgroup in the population to report more reliable estimates for those groups. To do this, more people from these groups were selected than would typically be done if everyone in the sample had an equal chance of being selected.

[94] Note that only certain categories are shown and that particular custody records could cover multiple categories. For example, one covering a black, 16-year-old detained under section 136 would feature under three of the categories.

Analysis of force data

During inspection, each force was asked to complete a data collection template covering the following areas:

- custody population (total throughput, voluntary attendees and immigration detainees) for the three years prior to the inspection;
- strip-search data for the 12 months prior to the inspection;
- demographic data (gender, age and ethnicity) of total throughput, voluntary attendees, those strip-searched, those using police custody as a place of safety under section 136 and those total detained under section 136 for the12 months prior to the inspection ;
- average length of stay for the12 months prior to the inspection;
- children and young people (numbers entering custody, requests and transfers to local authority accommodation) for the12 months prior to the inspection; and
- use of force in the 12 months prior to the inspection.

Not all forces were able to supply all of the data due to limitations in their computer systems. Where data are quoted in the report, the number of forces which were able to supply the data is made explicit.

HMIC has taken reasonable steps to validate the data returned. Queries were raised with forces where figures appeared to be significantly different from others or where possible inaccuracies were identified. All forces were given the opportunity to resubmit.

Timescales

Please note that when referring to 2014, the timescales used are based on the 12 months to the inspection: either for the 12 months to August 2014 (Leicestershire and North Wales), 12 months to September 2014 (West Mercia, Barnet, Brent and Harrow), 12 months to November 2014 (Cleveland) or 12 months to December 2014 (Surrey). The years prior to 2014 use the same month to month timescale.

Comparisons with general population figures

Comparisons are made between the demographics of the custody throughput in forces with the general population of those forces. For this, ethnicity, age and gender data from the 2011 census[95] were used.

[95] *2011 Census for England and Wales*. Available at: www.ons.gov.uk/ons/guide-method/census/2011/

Annex B

Expert reference group and acknowledgements

An expert reference group for the project was established to provide HMIC with specialist advice and constructive challenge from a range of perspectives in relation to vulnerability in police custody. In particular:

- to identify and advise on areas within the scope of the inspection that group members consider are either not being examined, or not being examined in sufficient depth;
- to ensure the inspection approach is appropriately balanced so as to reflect the views of, and impact upon, those affected by police forces' identification and management of vulnerability in police custody;
- to provide support in accessing other experts and constituency groups to enhance the quality of the inspection activity; and
- to provide feedback on the quality and content of inspection products.

The group was chaired by HMI Drusilla Sharpling and had the following membership:

Lord Victor Adebowale	Chief Executive, Turning Point
Maneer Afsar	Team Leader, police custody joint inspection team, HMI Prisons
Dr Maggie Atkinson	Children's Commissioner for England
Sue Berelowitz	Deputy Children's Commissioner and Chair – National Preventative Mechanism children and young people's sub group
Lord Keith Bradley	UK Parliament
Deborah Coles	Co-Director INQUEST
Dawn Copley	Assistant Chief Constable, Greater Manchester Police - National Policing Lead for Custody (to November 2014)
Frances Crook	Chief Executive, Howard League for Penal Reform

John DeSousa	Police Transparency Unit Home Office, Crime and Policing Group
Nick Ephgrave	Deputy Chief Constable Surrey Police - National Policing Lead for Custody (from January 2015)
Claire Gipson	Head of Unit: Public Protection Home Office
Alan Greene	Superintendent Greater Manchester Police
Nick Hardwick	Chief Inspector of Prisons HMIP
Vicki Helyar-Cardwell	Director of Research and Development Revolving Doors Agency
Andy Hunt	National Programme Manager - police healthcare transfer, NHS England
Ian John	Criminal Justice & National Management Lead, College of Policing
Matilda MacAttram	Director Black Mental Health UK
Sue McMillan	Deputy Chief Inspector Primary Medical Services Children, Health and Justice, Care Quality Commission
Dr Layla Skinns	Centre for Criminological Research, Sheffield University
Ian Smith	Chief Executive, Independent Custody Visiting Association
Martyn Underhill	Police and Crime Commissioner, Dorset
Rebecca Ward	Ministry of Justice

This thematic inspection could not have been completed without the support of HM Inspectorate of Prisons, in particular the joint inspection team for police custody. The Care Quality Commission and Healthcare Inspectorate Wales also provided resources to support the inspections. Many other people were generous with their time and expertise in providing assistance at critical stages of the project.

Annex C

Protection of vulnerable people – police custody inspection – legal framework

Introduction

Police powers to detain members of the public are to be found in a number of Acts of Parliament including separate pieces of legislation relating to criminal offences, firearms, drugs, customs and excise, aviation, sporting events, poaching and wildlife, terrorism, absconding from prison, immigration and public order.

The most relevant and commonly used Criminal Justice Acts (and their abbreviations) are:

Police and Criminal Evidence Act 1984 (PACE);

Bail Act 1976 (BA)

Criminal Justice and the Public Order Act 1994 (POA);

Magistrates Court Act 1980 (MCA)

Misuse of Drugs Act 1971 (MDA);

Terrorism Act 2000 (TACT);

Terrorism Prevention and Investigation Measures Act 2011 (TPIM).

The Mental Health Act 1983 (MHA), and the Children Act 1989 (CA) govern the use of detention as a place of safety for the protection of detainee or members of the public.

The Police and Criminal Evidence Act 1984 is the most important piece of legislation covering detention in England and Wales, including the conditions in which those detained for their own safety will be held. All other legislation authorising police custody such as those relating to terrorism, drugs or anti-social behaviour all conform to the basic principles outlined in PACE; although the time allowed for detention under terrorism legislation before a suspect must be brought before a court is longer than that for other offences. In this Annex where there are exceptions to PACE these are noted.

PACE (section 66) provides for the Secretary of State to issue Statutory Codes of Practice to police forces in the exercise of their duties. These Codes are an integral part of the law.

In the inspection report and in this Annex, police custody is understood as the authorised detention of people by the police, from the moment of first encounter to final release.

The Annex firstly outlines the legislation under which someone might be detained. It then summarises expectations regarding rights in and conditions of detention and concludes by outlining the accountability and governance mechanisms.

Police powers of detention

Stop and search

Grounds for stop and search include:

- for stolen or prohibited articles (PACE s1[96]);
- to discover whether a suspected terrorist "has in his possession anything which may constitute evidence that he is a terrorist" (TA s48);
- "searching for articles of a kind which could be used in connection with terrorism" (TA s44) or (in the case of a person who is subject to a TPIM order) "anything (that might) threaten or harm any person" (TPIM Sch5);
- for drugs (MDA s23);
- to prevent "incidents involving serious violence" where people may be "carrying dangerous instruments or offensive weapons" (POA s60).

The police officer must have "reasonable grounds" for suspecting that he will find stolen or prohibited articles or that the person being searched is a terrorist or planning a terrorist act.

The conduct of stop and search is governed by statutory Code A of PACE. The Code states that all stop and searches "must be carried out with courtesy, consideration and respect" and "reasonable effort must be made to minimise the embarrassment". The suspect's cooperation must be sought and a forcible search made only "if it has been established that the person is unwilling to co-operate or resists". "Reasonable force may be used as a last resort" and the "length of time for which a person or vehicle may be detained must be reasonable and kept to a minimum". The "thoroughness and extent of a search must depend on what is suspected of being carried, and by whom".

While police officers may not request that any but outer clothing to be removed, they can search pockets and collars (shoes may be removed in the case of suspected terrorists). The officer may ask a suspect to remove other clothing voluntarily. Where

[96] Reference to the Acts are abbreviated (see para. 2 above). "s" refers to the section of the Act and "Sch" to the schedule.

a more thorough search or the removal of other clothing is required this must be out of public view and must be undertaken by a person of the same sex. Removal of a face or head covering should only be undertaken if the officer believes it is being used to “disguise identity”. Searches which require the removal of head coverings or the “exposure of intimate parts of the body may be carried out only at a nearby police station or other nearby location which is out of public view (but not a police vehicle)”.

The police officer must tell the suspect they are being detained for the purpose of the search, why they are being searched and their powers to do so. They must make a record and the suspect is entitled to a copy of it. The record must include the suspect’s stated ethnicity; but not the name and address of the person who is being searched.

Where the suspect may have difficulty understanding what is being said, the officer must “take reasonable steps to bring information regarding the person’s rights and any relevant provisions of this Code to his or her attention”.

Arrest

A suspect may be arrested if:

- the police officer “reasonably suspects” a person is about to commit an offence or that they are in the act of committing an offence or is a person whom the officer believes is guilty of an offence (PACE s24);
- the police officer “reasonably suspects” a person to be a terrorist (TA s41);
- the person has failed to attend a police station or otherwise broken the conditions of their bail (PACE s46);
- a warrant for a person’s arrest has been issued by the magistrate court for an indictable offence, or if a warrant cannot be served (MCA s1) or if the defendant has previously failed to appear at court (MCA s13, BA s7);
- a police officer believes a person is unlikely to surrender to custody or break their bail conditions BA s7);
- a young person absconds from local authority accommodation, having been remanded there (Children and Young Person’s Act 1969 s23) or an adult is unlawfully at large (various armed forces, prisons, and magistrates’ courts legislation).

The purpose of an arrest under PACE is to ascertain a person’s name and address; to prevent injury, damage to property, an offence against public decency or obstruction of the highway; to protect a child or other vulnerable person; to facilitate a prompt and effective investigation or to prevent the possible disappearance of the person (PACE s24).

The person must be told they are being arrested (PACE s29) and taken to a "designated" police station of transferred there within six hours (PACE s30).

Alternatives to arrest include voluntary attendance at a police station (PACE s29), the provision of 'street bail', summonsing or postal charging, fixed penalties or a warning (PACE Code G). After an arrest a suspect may be released, sometimes called "de-arrested" if new information should indicate a suspect is not responsible or the grounds of arrest no longer apply (PACE s34).

Detention under the Immigration Act 1971 is generally conducted by immigration authorities but a person arrested on suspicion of a crime may be further detained after the criminal matter has been dealt with, pending immigration enquiries.

A person cannot be kept in custody for more than 24 hours without charge (PACE s41) unless authorised by a superintendent and then for a maximum of 36 hours (PACE s42) or the person has been arrested under terrorism legislation in which case they can be held (TACT s41). Magistrates can authorise further detention without charge, up to 36 hours in respect of most detainees (PACT s43). In respect of those detained under terrorism legislation, the law is complex and different periods of detention apply according to the court in which an application is made. In the High Court the judge can agree a number of applications for extension. A crown court judge may also authorise further police detention and questioning after the person has been charged, a facility not available in respect of other offences, (Counter-Terrorism Act 2008 s22).

Continued detention

If the custody officer believes there is insufficient evidence to charge a suspect they must release him, with or without bail but may "detain him at the police station for such a period as is necessary to enable" the custody officer to determine if there is sufficient evidence (PACE s37).

If and once the defendant is charged they should be released with or without bail. Section 38 requires that the defendant is released unless:

- the offence is murder;
- the defendant's name and address cannot be ascertained;
- it is necessary to prevent the defendant from causing physical injury to himself or another, or causing loss of or damage to property, or committing a further offence;
- it is necessary to prevent him from interfering with the administration of justice or with the investigation or it remains necessary to take a sample; or
- the defendant will fail to appear in court or answer to bail (PACE s38).

A juvenile can also continue to be detained if the custody officer “has reasonable grounds for believing that he ought to be detained in his own interests” (PACE s38).

If a child is refused bail and detained, the custody sergeant must provide a “certificate” for the court explaining why the child could not be bailed or provided with alternative accommodation.

After charge, the custody officer must make arrangements to transfer the juvenile into the care of the local authority unless it is “impractical” to do so; or if the child is at least 12 years of age and secure accommodation is required “to protect the public from serious harm” and no secure accommodation is available (PACE s36). As the law currently stands, 16 years of age is the maximum age for which this provision applies. The obligation to transfer a juvenile applies equally to those charged during the day as those charged overnight (PACE s46).

Every local authority has an obligation to provide accommodation for all children when requested to do so (PACE s38; Children Act 1989 (CA) s21; and [for Wales] Social Services and Wellbeing Act (SSWA) 2014 s77) and ensure there is a sufficiency of accommodation in their area CA s22).

The custody officer must take account of alternatives to prosecution (Crime and Disorder Act 1998 s44) and the police and the courts must have regard to the welfare of the child in making decisions (CYPA 1933 s41).

Detention as a place of safety

If a constable believes that a child is at risk of significant harm, he may remove the child to suitable accommodation and keep him there (CA s46).

If a person appears to be suffering from mental disorder and “to be in immediate need of care or control” in a public place a police officer may “in the interests of that person or for the protection of other persons, remove that person to a place of safety” (MHA s136).

A person who appears to be suffering from a mental disorder may be removed by the police from their own home if the police have received authorisation from a magistrate, because the person either appears to have been “ill-treated, neglected or kept otherwise than under proper control” or is “unable to care for himself” (MHA s135).

Under s135 and s136, the person can be detained for a maximum period of 72 hours for the purpose of being examined by a doctor and interviewed by an approved mental health professional (AMHP), in order that suitable arrangements can be made for his or her care. If the medical practitioner “concludes they are not mentally disordered within the meaning of the Act” (PACE Code G) they must be immediately discharged.

A place of safety is defined as local authority residential accommodation (or independent care home) a hospital or a police station, or in cases of mental ill health "any other suitable place the occupier of which is willing temporarily to receive the patient" (MHA s135 (6))

The Mental Capacity Act 2005 does not provide an authority to detain individuals who appear to be mentally disordered. However, the police may restrain someone who appears to lack mental capacity provided that:

- they take reasonable steps to determine whether the person has capacity to make the decision in question (MCA s3) and
- they reasonably believe their action is in the best interests of that person (MCA s4) and
- they reasonably believe the restraint is both necessary to prevent harm to that person and a proportionate response to the likelihood and seriousness of that harm (MCA s6)

The MCA defines restraint as "the use of force, or the threat of force to make someone do something they do not wish to do" or "restriction on someone's freedom of movement" (MCA s6).

Rights in and conditions of detention

Rights in detention

A person held in police detention is entitled to:

- medical attention (PACE Code C);
- to consult a solicitor privately at any time (PACE s58);
- an appropriate adult if the person is under 18 or is assessed as being mentally vulnerable (PACE Code C);
- an interpreter if the person does not speak or understand English or who has a hearing or speech impediment (PACE Code C);
- official visitors such as a consular representative if they are a foreign national (PACE Code C), and/or a faith representative, Member of Parliament, or other public official (TACT s5).

If the young person (under 18) is detained, the person responsible for their welfare must be informed (PACE s57).

If a person appears to be mentally disordered or vulnerable or appears to be under 18 then they should be treated as such.

The principles of the Mental Capacity Act require that decisions made for or on behalf of individuals who lack capacity must be made in the best interests of the individual, and with regard to achieving the desired outcome in a way that is least restrictive of the person's rights and freedom of action (MCA s1).

An appropriate adult for a child can be a parent or guardian, a social worker; or any responsible person aged 18 or over who is not a police officer or a person employed by the police. For those who are mentally vulnerable, the appropriate adult might be a relative, guardian or other person responsible for their care or custody; someone experienced in dealing with mentally disordered or mentally vulnerable people but who is not a police officer or employed by the police; or some other responsible adult aged 18 or over who is not a police officer or employed by the police (PACE Code C).

Code C outlines the points in a person's detention when a detainee is entitled to have an appropriate adult present, namely when:

- they are informed of their rights and entitlements and the grounds for their detention;
- they are cautioned or given a special warning;
- they are being interviewed;
- their detention is being reviewed or an extension is being considered;
- they are charged and related action is taken.

And, if of an age (14 or over) where this can be legally required:

- samples to test for Class A drugs are requested;
- an intimate search is carried out;
- a strip search is carried out;
- an x-ray or ultrasound scan is carried out;
- witness identification, taking fingerprints, samples, footwear impressions and photographs; and
- when evidential searches and examinations are carried out.

An appropriate adult can see and take a copy of the custody record, request legal advice on their behalf and advise the child or young person in private.

Conditions in detention

Code C PACE sets out the conditions in which detainees should be held. In summary this requires:

- not more than one detainee should be detained in each cell;
- cells must be adequately heated, cleaned and ventilated and adequately lit,
- no additional restraints should be used within a locked cell unless absolutely necessary and then only restraint equipment, approved for use in that force by the chief officer;
- blankets, mattresses, pillows and other bedding should be of a reasonable
- standard and in a clean and sanitary condition;
- access to toilet and washing facilities must be provided and, where replacement clothing is necessary, it should be a reasonable standard of comfort and cleanliness shall be provided;
- at least two light meals and one main meal should be offered in any 24-hour period and drinks should be provided at meal times and upon reasonable request; and
- brief outdoor exercise shall be offered daily if practicable.

A juvenile should not be placed in a police cell (where practicable) (Pace Code C), or placed in a cell (or while being conveyed to a criminal court) with a detained adult (Children and Young Person's Act (CYPA) 1933 s31). Girls should be under the care of a woman (CYPA s31).

Oversight in custody

The custody officer, in consultation with a health care professional where appropriate, must determine if a detainee if fit to be questioned. The custody officer is also responsible for initiating a risk assessment of harm to self or custody staff and this should inform the level of oversight. Detainees should be visited at least every hour and there is no need to wake a sleeping detainee if there is no apparent sign of risk. Those under the influence of drink or drugs or whose level of consciousness causes concern must be roused at least every half hour. (With some exceptions) in any 24-hour period a detainee must be allowed a continuous eight hours for rest (PACE Code C).

Cases must be reviewed by an inspector pre-charge and the custody officer post charge at (no later) than six hours, nine hours and thereafter every nine hours. (PACE s40). The reasons for stop and search, arrest and detention must be recorded as must the reading of the prisoner's rights, the request for a solicitor, appropriate adult or other visitor and requests for alternative accommodation (PACE Codes A, C and G).

Accountability and governance

Under the Police and Magistrates' Courts Act 1994 and the Police Reform Act 2002, the chief constable is responsible for operational matters, including custody, in the force area. Relevant chief constable duties and responsibilities with regard to custody can be found in (non-statutory) College of Policing guidance rather than in the law. However, police forces are required to record the numbers of stop and searches, monitor them and consider "whether there is any evidence that they are being exercised on the basis of stereotyped images or inappropriate generalisations... and whether the records reveal any trends or patterns which give cause for concern" (PACE Code G).

Interagency oversight

The Children Act 2004 established Children's Trust Boards for the purpose of agreeing local Children's Plans and Local Safeguarding Children's Boards (LSCB).

The purpose of LSCBs is to co-ordinate the work of agencies; safeguard and promote the welfare of children in the area; and ensure the effectiveness of the work of the agencies (CA s14). Police forces are statutory partners on the local LSCBs.

The Act places a duty on agencies to cooperate with each other (s5) and to discharge their functions with regard to the need to safeguard and promote the welfare of children (s11).

LSCBs are required to undertake serious case reviews to identify "lessons learned" when a child has died or been seriously injured including when a child has died in custody (Regulation 5 of the Local Safeguarding Children Boards Regulations 2006).

The Care Act (CA) 2014 places Adult Safeguarding Boards on a statutory footing from April 2015. Boards will include representatives from health, social care and the police. The Boards are required to undertake serious case reviews if an adult has died and the Board knows or "suspects that the death resulted from abuse or neglect" or an adult, who is still alive, has suffered serious abuse or neglect (CA s44).

In Wales, the Social Services and Wellbeing Wales Act 2014 outlines the purpose of the Adult Well-being Boards as "to protect adults within its area who have needs for care and support…(or who) are experiencing, or are at risk of, abuse or neglect" and to prevent adults from becoming at risk of abuse and neglect. It has similar duties of inter-agency cooperation as England.

The Health and Social Care Act 2012 (s194) established Health and Wellbeing Boards in each local authority area in England. The Boards comprise health and local authority roles and "such other persons, or representatives of such other persons, as the local authority thinks appropriate". The Board has a duty to

encourage integrated working between health and social care services (s195) and lead on health inequalities.

The Board also has responsibility for 'Joint Strategic Needs Assessments' (JSNA) (previously authorised under section 16 of the Local Government and Public Involvement in Health Act 2007) and the Joint Health and Wellbeing Strategy (JHWS). The aim of the JHWS is to improve commissioning of services and to reduce health inequalities. The Boards are a committee of the local authority and sit below local authorities and Clinical Commissioning Groups (the Clinical Commissioning Groups should however be informed by the work of the Boards).

Police forces are not statutory partners in these arrangements.

National oversight

The Optional Protocol to the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment 2002 (OPCAT) requires that all places of detention are visited regularly by a National Preventive Mechanism (NPM) body, an independent body or group of bodies which monitor the treatment of and conditions for detainees. HMIC, HMIP, the Care Quality Commission and the Healthcare Inspectorate Wales are four of several bodies making up the NPM in the UK and they undertake regular inspections of places of detention, including police stations.

International standards, protocols and other relevant legislation

In respect of this inspection, the UK government is a signatory to the United Nations Universal Declaration of Human Rights 1948; the European Convention for the Protection of Human Rights and Fundamental Freedoms 1950 (ECHR); the United Nations Convention of the Rights of the Child 1989 (UNCRC), the United Nations Convention on the Rights of Persons with Disabilities 2006 (UNCRPD) and the International Convention on the Elimination of all Forms of Racial Discrimination 1965 (UNICEFRD).

The incorporation of the ECHR into UK law in 1998 in the Human Rights Act means redress for breaches of human rights can be pursued in the UK rather than in Strasbourg, and human rights are considered in court judgments. Other expectations articulated in the various laws and conventions such as: freedom of movement; fair arrest, detention or exile; fair and public trials; a presumption of innocence until proven guilty; and the humane treatment of detainees, are reflected in UK law and codes of practice such as PACE. The UNICEFRD, which commits signatory states to "pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms," has been incorporated into the Equality Act 2010.

Additionally the UNCRC also states that signatory states should ensure that any actions by public bodies are taken with "the best interests of the child (as a) primary consideration" (Article 3) and the UNCRPD states that "disability shall in no case

justify a deprivation of liberty" (Article 14) and that "State Parties shall prohibit all discrimination on the basis of disability".

The Equality Act 2010 offers additional protection to people on the basis of the following characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation. It is an offence to discriminate against someone with the protected characteristics and discrimination is defined as treating someone "less favourably". The Act requires organisations to make "reasonable adjustments" for a person with a disability and 'harassment' and 'victimisation' are prohibited acts (s4).

Section 149 requires public bodies to: eliminate discrimination (in the exercise of their functions); advance equality of opportunity; remove or minimise disadvantages, tackle prejudice; and promote understanding.

Legislation

Bail Act 1976.	www.legislation.gov.uk/ukpga/1976/63/contents
Care Act 2014.	www.legislation.gov.uk/ukpga/2014/23/contents/enacted
Children and Young Persons Act 1933.	www.legislation.gov.uk/ukpga/Geo5/23-24/12
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Annex D

Background information – relevant research

Police detention research and inspection findings

This Annex provides a brief overview of the research and inspection literature on police detention of people from BAME groups, people who are mentally ill and children. It considers first the extent of the problem for these particular groups and then looks in more detail at the evidence for each group individually before considering the impact of police custody on vulnerable people and the police' response to vulnerability.

Stop and search

Although only 9 percent of those stopped and searched go on to be arrested (HMIC 2013), stopping and searching is often the first point of contact between a detainee and the police. Stop and search is most commonly used in cases where possession of drugs is suspected. Over one million searches were carried out in 2009/10. At least half of the searches were for drugs, and people from African Caribbean backgrounds were six times more likely and Asians twice as likely to be stopped as white people (Eastwood, Shiner and Bear 2013).

The All Party Parliamentary Group for Children (APPGC) found that from 2009 to 2013, across 26 of the 44 police forces in England and Wales, there were over one million stop and searches on children and young people under the age of 18. Child stop and searches accounted for between 13 and 28 per cent of all stop and searches (APPGC 2014). The report also found that young people from BAME groups were disproportionately stop searched.

Arrest and detention

In England and Wales, arrest and police custody statistics are published in a range of statistical bulletins including: Police Powers and Procedures: England and Wales; 'Section 95' reports (statistics on gender and race); and the Youth Justice Board annual statistics on children within the Criminal Justice System. In summary:

- In 2012/13 there were 1.1 million arrests for notifiable offences (a 12 percent decrease from 2011/12). 15 percent of arrests were women. In 2012/13 those aged 10-17 were 11.8 percent of all arrests.
- 11.2 percent of those making their first court appearance are brought from police custody.

- In 2012/13, those arrested described themselves as white (79 percent), black (8 percent), Asian (6 percent), mixed ethnicity (3 percent) and Chinese or other (1 percent). This varied by police force with only half (49 percent) of those arrested by the Metropolitan Police Service describing themselves as white.

A study commissioned by the Howard League found 86,034 overnight detentions of children aged 17 and under in police custody in 2010 and 2011; 13,032 were girls (15 percent); 23,779 were children from BAME groups (27 percent); 10 were children under the age of criminal responsibility; 387 were children aged 10 and 11 years of age; and 29,300 were children aged 17-years-old (Skinns 2013).

Department for Education figures (2013) record that children who are looked after are three times more likely to be cautioned or convicted than their peers. HMIC child protection reports[97] have also found that a high number of young people who are remanded in police custody overnight are looked after children in residential care who have been arrested following an incident in a children's home. Child protection inspections have found that very few children are taken to police stations as a place of safety but it varies widely from area to area. However, in one case a nine-year-old boy spent a whole night in a police station (supported by a police officer) for lack of a local authority bed.

The only detention data published by the Home Office relate to the number people held in custody under PACE for over 24 hours. For the year 2012/13 there were 3,742 people held in police detention for longer than 24 hours under PACE. Five forces were unable to provide data on length of time spent in police custody and two forces were only able to provide partial information (HO 2014). Further information on the reasons for the extended detention is not available.

Since June 2012, the Association of Chief Police Officers (ACPO), in collaboration with the Health and Social Care Information Centre, has collected data on the number of people detained under section 136 of the Mental Health Act 1983 between April 2011 and March 2012. In 2011/12, 8,667 people were taken directly to a police station as a place of safety rather than to a hospital or other care facility. By 2013/14 this figure had reduced to 6,028[98].

A number of arrested foreign nationals may be victims of trafficking or are vulnerable because of their immigration status (Hamilton-Smith and Patel 2010). Some are children and if there is a dispute about their age (a fairly frequent occurrence given

[97] The National Child Protection Inspections are part of a rolling programme of inspections. Individual inspection reports for each force area can be found at www.justiceinspectorates.gov.uk/hmic/our-work/child-abuse-and-child-protection-issues/national-child-protection-inspection/

[98] HSCIC (2014), Inpatients formally detained in hospitals under the Mental Health Act 1983, and patients subject to supervised community treatment: Annual report, England, 2013/14

the added protections provided for children, including accommodation), they may be detained while awaiting an age assessment or a safe place to which they might be transferred (Immigration and Borders Inspectorate 2013, Dorling 2013).

Nature of vulnerability

Mental health

Joint Inspectorates found a number of people with mental health problems being detained by police officers and taken to police stations because mental health crisis services were unable to respond (HMIC et al 2013). The Care Quality Commission's (CQC) report into places of safety concluded that places of safety were turning away patients because they were full, had insufficient staff or, where they were not refusing to accept the patient, the patient remained in the detention of the police (often in a police van on the forecourt) until they had sufficient resources to admit them. The report also found that many facilities excluded young people, people who are intoxicated or people, whose behaviour was disturbed, leaving the police with little option but to detain the person in a cell (CQC 2014).

The CQC also found data collection poor especially in respect of age, ethnicity and gender and identified poor commissioning and poor monitoring of demand and services as a contributory factor to the problems identified.

The IPCC found that mental ill health was a significant risk factor in 58 of the 338 deaths in custody from 1999 to 2009 (Hannan et al. 2010).

Recent estimates by HMI Probation indicate that about 30 percent of those entering the criminal justice system have a learning disability (HMI Probation et al. 2014). The APPGC heard evidence that as much as 60 percent of young people in the youth justice system had speech, language and communication difficulties and 25 percent had special educational needs. They also heard evidence from the Centre for Mental Health which estimates 90 percent of prisoners and 95 percent of prisoners aged 16-20 had a least one mental health problem (APPGC 2014).

Many people coming into police custody will have both a mental health and drug/ alcohol problem (Hannan et al 2010, Bradley 2009). Police detention may be the first step in accessing mental health or drug or alcohol services. 'Dual diagnosis' (mental health coupled with alcohol and/or drugs problems) is a widely recognised and long-standing feature for many people with mental health problems, yet services are not integrated and many patients will be denied a service while exhibiting the symptoms of need for another (Bradley 2009). In particular Bradley noted the lack of services for those with alcohol problems.

Drink and drugs are also strongly associated with deaths in custody (or soon after, following transfer to a hospital). Of 333 deaths in custody cases examined by the IPCC, alcohol was present as a factor in 120 cases and drugs in 56 cases (Hannan et al. 2010).

Children and young people

Various reviews of police behaviour indicate that there is a disconnect between those parts of the police force who aim to engage with young people in a positive way and response teams. Neighbourhood teams, school-based officers, youth officers and those with responsibility for cadets are well regarded by young people and build trusting relationships with them. In direct contrast, those attending incidents or stopping young people as suspects are seen as disrespectful and antagonistic (APPGC 2014, Independent Commission on Youth Crime and Anti-Social Behaviour 2010).

The APPGC heard that many children and young people who had been stop searched felt that they had been unfairly treated by the police with examples given of being stopped and searched aged five and a twelve-year-old being held down on the ground by police officers for setting off a firework. Many expressed the view that antagonistic police behaviour led to minor incidents escalating to the point of restraint and arrest while others complained of having been assaulted during an arrest or in a police van.

Looked after children are particularly vulnerable to being arrested and detained. In 2013, 6.2 percent of children in care aged 10 to 17 were convicted of a criminal offence or given a final warning. This compares with the national average of 1.5 per cent for all children (DfE 2013). Thirty percent of young people in custody have been in local authority care (Murray 2012).

Joint Inspection reports show that not all police areas have dedicated detention rooms for children and children could be held for long periods in cells. Police custody suites are often noisy and volatile and can be very scary places for children to be (APPGC 2014).

The joint thematic inspection, Who's Looking Out for the Children found that, of 49 children denied bail, only three were transferred to local authority accommodation and accommodation was not sought in 33 cases. Of the remainder who were detained in police cells, 64 percent were granted conditional or unconditional bail at their first court hearing.

The report also found that:

- Appropriate Adults were not proactive in promoting the needs of children and young people;
- police custody records were inadequate;
- assessments of need were limited;
- the physical environment lacked privacy and was noisy and did not encourage disclosure of special needs; and

- information was legalistic and difficult to understand (HMIC et al 2011).

The report noted custody officers lack of understanding of the need for secure accommodation and that they were requesting it from the local authority when it was not necessary (and not available).

Medford et al (2003) noted that the use of appropriate adults increases the take up of legal advice by children but that those acting as an appropriate adult for younger children are more likely to be parents who may not be aware of the importance of legal representation.

Race and ethnicity

People from black African Caribbean backgrounds are six times more likely than white people to be stopped and searched; while those from an Asian or mixed ethnic background are twice as likely (MoJ, 2013b). People from black African Caribbean backgrounds are three times more likely to be arrested per 1,000 population than a white person and those from a mixed heritage twice as likely (MoJ, 2013b). Race for Justice (2008) also notes that people from BAME groups are more likely to be stopped and searched and arrested, and less likely to be cautioned and bailed than their white counter-parts.

The level of deaths of people from African Caribbean groups in police custody is similar to that of others from different ethnic groups. However, as they are overrepresented among the arrest population, their overall level of deaths in police custody is higher than would be expected when compared to that of the general population (Hannan et al. 2010) and is higher than for other groups, following the use of restraint (Hannan et al. 2010).

People from black or black British groups are also more likely to be subject to coercion by the state through the mental health system. The Care Quality Commission has drawn attention to the continuing over-representation of these groups in the population of people detained in hospitals under the Mental Health Act 1983. Black British groups account for 10 percent of longer term detentions under the Mental Health Act 1983.[99]

Impact of police custody

Custody, of itself, may impact on a detainee's mental health and lack of support might contribute to high levels of self-harm (Jones 2007). Jones found that young first time detainee males were very afraid. Their distress was compounded by the absence of everyday sensory stimulation, particularly so if withdrawing from alcohol or drugs. Jones contrasted police detention with prison detention where considerable efforts are made to ensure new detainees feel safe and are well-informed about what

[99] *Monitoring the Mental Health Act in 2013/14*, Care Quality Commission, February 2015, page 36

is happening and concluded that lack of support might contribute to the high levels of self-harm in police custody.

Those detained under mental health legislation in police custody say they feel like criminals. They are processed in the same way as those arriving in police cells as offenders and are held in cells. They too may be strip-searched and clothing taken from them (HMIC et al 2013).

The APPGC noted that children and young people with special educational or health needs may find it difficult to behave as expected in police custody, such as waiting in line and may not be able to communicate with police officers sufficiently well to explain their needs and to appear non-confrontational. They often have difficulty understanding what they are being told, especially when legal language is used.

The Independent Police Complaints Commission collates information about suicides that occur within two days of release from police custody and where it is thought the death had some connection with the detention. In 2012/13 there were 64 apparent suicides following police custody, an increase from 39 in 2011/12 (IPCC, 2013). Suicide may be triggered by the investigation and subsequent public exposure such as in the cases of sexual offending (18 cases) or for other reasons unconnected with the detainee's experience of custody. However, of the 64 cases:

- 39 had mental health concerns;
- seven people had been detained under section 136 of the Mental Health Act 1983;
- 22 were under the influence of alcohol and 20 under the influence of drugs;
- seven were female;
- six were from a minority ethnic background; and
- the youngest was 17 years old.

Cummins notes that there is a higher incidence of self-harm on a Monday when the cells are at their most crowded and cases have been delayed over the weekend (Cummins 2008). Contributory factors to delay include slow progress of investigations and handovers between arresting officers and investigators, awaiting the arrival of a solicitor or appropriate adult and court sitting hours (HMIC/HMIP custody inspection reports, Kemp et al 2011).

Appropriate adult

Under PACE, children under 18 or those aged 18 or over and identified as being "mentally ill" or "mentally vulnerable" are entitled to an 'Appropriate Adult' who will safeguard their interests at key points in the custody process. Appropriate adults are usually a parent of carer or social worker but could be "any responsible person aged

18 or over". Most will be untrained in the role. Research suggests that the need for an appropriate adult is significantly under-recognised by police forces in cases of mental ill health (McKinnon et al. 2013) or a learning disability (HMI Probation et al. 2014) but is recognised for children (Medford et al. 2003). There are often delays in seeking an appropriate adult and in some areas appropriate adults provided by the local authority do not attend at night. Appropriate adults were likely to be "in interviews and unlikely to challenge the police" (HMIC et al 2011). However, Medford found that the presence of appropriate adults leads to a fairer and more considered approach to questioning by police officers and greater likelihood of legal representation being sought in the case of adults (Medford et al. 2003).

Assessing risk

The police custody officer is responsible for initiating a risk assessment that "follow(s) a structured process" and is "subject to review if circumstances change" (PACE Code C 2014 3.8 – 3.10).

A number of problems have been identified with risk assessments of those detained in police custody:

- Failure to undertake risk assessments. An IPCC study found that of the 247 detainees who were booked into custody and subsequently died, just under half (121; 49 percent) were risk assessed. (Hannan et al 2010).
- Failure to identify mental health problems (ICMHP 2013, Hannan et al 2010, McKinnon et al 2013, McKinnon and Grubin 2012) and lack of awareness of healthcare professionals involved in assessments of police safeguarding responsibilities (HMIC et al. 2011).
- Failure to identify learning disabilities (HMI Probation et al. 2014).
- Failure to identify alcohol or drug withdrawal (McKinnon et al 2013, and McKinnon and Grubin 2012).
- Poor quality of assessments (Bradley 2009).

There are a number of reasons why assessments are not undertaken or are poor:

- Risk assessments are carried out at the very busy and public custody desks that inhibit the disclosure of sensitive information such as mental health problems or thoughts of suicide (Cummins 2006, Bradley 2009).
- Access to health care in custody can be poor, especially when being sought 'out of hours' (HMIC/HMIP custody inspection reports).
- Incapacity through intoxication was cited most often as the reason for not undertaking an assessment (Hannan et al. 2010).

- Officers lack training in risk assessment (HMIC/HMIP custody inspection reports), mental health (Cummins 2006, Bradley 2009), and mental disability (HMI Probation 2014).
- Lack of standardisation of assessments (Bradley 2009).
- Poor information exchange between police and health care professionals (Hannan 2012).
- The focus of forensic practitioners on establishing if the detainee is fit to detain is often inadequate for guiding police practice in the cells (ICMHP 2013, Green et al 2012).

Checks on detainees should be made according to the assessed level of risk and checks on those presenting as minimum risk should be hourly. Those at high risk of losing consciousness or self-harm or who are mentally ill should be placed on "constant supervision" which may involve regular physical checks coupled with use of CCTV. Inspection reports indicate that in most cases the level of oversight is appropriate for the level of risk but the IPPC found that in cases of deaths in custody, the checks were not undertaken as frequently as they should have been (Hannan et al 2010). Inspection reports and the IPPC have found a range of understandings about the meaning of 'rousing' a detainee to ensure they are still conscious.

The level and quality of information provided to a new shift of police staff also varied (Hannan et al 2010). Poor handovers have resulted in failing to provide medication, poor checking and in one case the return of an item which was then used by the detainee for strangulation (Hannan et al. 2010)

Deaths in custody

From April 2013 to March 2014 there were 11 deaths in police custody, from the point of arrest to release or shortly after (IPCC 2014). The number of deaths in police custody has steadily declined from 2004/05 when there were 36.

Of the 11 who died all were men aged between 31 and 70. Ten people were reported to be white and one person as white and black Caribbean. Four people were identified as having mental health concerns. The types of mental health concern identified included post traumatic stress disorder, dementia, or erratic behaviour, which led to officers detaining two of them under section 136 of the Mental Health Act 1983. Eight people were known to have a link to alcohol or drugs in that they had recently consumed, were intoxicated from, or were in possession of drugs or alcohol at the time of their arrest. In three of these cases, a pathologist stated that alcohol or drugs toxicity was a factor in the cause of death.

Of the 11 deaths in or following custody, it is known that three involved some form of restraint[100]. This does not necessarily mean that the restraint contributed to the death. In one incident, handcuffs and leg restraints were applied to the detained person. In another, a spit hood, handcuffs and leg restraints were used, which were later replaced by a body cuff.. In another incident, a man was taken to the ground by officers in order for them to apply handcuffs. All incidents are subject to an independent investigation.

In the same period there were 68 apparent suicides[101] following police custody. Of these, 63 were male and five were female. Half of those who died were aged between 31 and 50 years; the youngest was 17 years of age and a further three people were under 21. Sixty-five people were reported to be white, two were from a black ethnic group and one was of Asian origin.

The IPCC undertook a study in 2008 of 'near misses' in police custody in the Metropolitan Police Service (IPCC 2008). The IPCC estimated that there were about 121 cases a year within the Metropolitan Police area where there was a serious risk of severe harm with a strong possibility of death (41percent of cases) had police action not been taken. The highest risks were attempted suicide/self-harm (46 percent); drugs consumption or possession (33 percent); medical conditions (14 percent); and alcohol consumption (7 percent). Based on these figures the IPCC estimated that there may be approximately a thousand near miss incidents in police custody each year, with approximately 400 of these being cases where death was very likely or fairly likely.

Cummins (2008) found that women accounted for 27 percent of the incidents of self-harm in police custody (women account for 15 percent of the number arrested).

Impact on staff

Detainees are often intoxicated (Bradley 2009)) or are affected by drugs (under the influence or withdrawing) thereby increasing the likelihood of use of restraint (Hannan et al. 2010).

The impact on staff of the context of their work can also be severe. Houdmont (2013) found physical working environments to be poor with high workloads, understaffing and periods of extreme busyness. There were symptoms of psychological exhaustion among staff.

[100] The term *restraint* refers to a range of actions including the use of physical restraint, such as arm locks and pressure compliance. It does **not** include the routine use of handcuffs, unless another form of equipment was also used.

[101] The term 'suicide' does not necessarily relate to a coroner's verdict as, in most cases, verdicts are still pending. In these instances, the case is only included if, after considering the nature of death, the circumstances suggest that death was an intentional self-inflicted act – for example, a hanging, or where there was some evidence of 'suicidal ideation', such as a suicide note.

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Annex E

Letter to all forces in England and Wales, sent October 29 2014.

Security classification:

Not Protectively Marked

TO: All Heads of Criminal Justice and Custody

Dear Colleagues

CHILDREN IN CUSTODY

I write to you all in my capacity as National Policing Lead for Custody.

You may be aware of the report published today by the All Party Parliamentary Group (APPG) for Children into the relationship between children and the police.

One particular recommendation concerns improving the governance of the overnight detention of children. Indeed this has been a concern for some time.

It is therefore opportune that I write to you all with a checklist against which you may wish to test the practices in your Force.

1. **Arrests of Children**. Arrests should only be made when necessary. Given the legally defined vulnerability of children the imperative to consider this is great. When it is deemed necessary to arrest a child or young person, consideration should be given to avoid harming a child's schooling. In particular arrests should be timed to avoid keeping the child in custody overnight both pre and post charge.

2. **Inspectors' reviews**. Inspectors reviewing the detention of children should pay special attention to ensuring all reasonable steps are taken to keep children out of police cells overnight pre charge.

3. **Presumption of Bail**. Bail should always be granted unless there are good reasons not to do so. Forces may wish to consider whether they have systems that check the appropriateness of their bail decisions in respect of children.

4. **Impracticability test**. Forces are reminded that the law requires that all children who are charged should be transferred out of police custody (PACE s38 (6) Code C 16.7).

   The only exception is if it is impracticable to do so. However, this test is high and relates to those cases where it is, in effect, impossible to transfer the child.

   PACE (Code C Note 16 D) states

   "Impracticability concerns the transport and travel requirements and the lack of secure accommodation which is provided for the purpose of restricting liberty does not make it impracticable to transfer the juvenile. The availability of secure accommodation is only a factor in relation to a juvenile aged 12 or over when other local authority accommodation would not be adequate to protect the public from serious harm from them. The obligation to transfer a juvenile to local authority accommodation applies as much to a juvenile charged during the daytime as to a juvenile to be held overnight, subject to a requirement to bring the juvenile before a court under (PACE, section 46).

5. **Duty of a local authority**. Local authorities have an absolute duty to provide accommodation for children to be transferred out of custody under the Children's Act 1989 (s.21 (2) (b)). This accommodation may be secure or non-secure. The determination for such accommodation occurs in a two stage process.

6. **Determination of secure accommodation (Police)**. The only determination a custody officer has to make in respect of secure accommodation is if it is required to protect the public from "serious harm". Again this is an extremely high threshold.

   PACE(s.38 (6A)) defines serious harm as 'death or serious personal injury, whether physical or psychological' in relation to children charged with murder or under Criminal Justice Act 2003 Schedule 15 Part 1 (violent offending) or Part 2 (sexual offending).

7. **Determination of secure accommodation (local authority)**. When the police threshold test has not been met it is the decision of the Local Authority to determine the appropriate placement of children.

   Local Authorities have their own test to determine how to place the child which centres on the welfare of the child i.e. a child aged 12+ must be either likely to abscond OR injure themselves or others (Secure Accommodation Regulations 1991 s.6(1)(a) modifying Children Act 1989 s.25(1)). Children aged 10 or 11 must, in addition to the above, have a history of absconding.

   Custody officers have a crucial role in providing information that will help them to make this decision. The precise reasons for the refusal of bail should be given and the rationale that informs this. They should also provide all information relating to risk of absconding, offending history, mental health, familial circumstances and any other information which would help the Local Authority determine the appropriate placement for the child.

   It is though ultimately for the local authority, not the police, to clearly determine which type of accommodation the child requires.

8. **Certification before court.** If:

   - the police have decided it is impractical to transfer the child; or
   - either agency have decided under their separate criteria that secure accommodation is required but not available, and hence the child has stayed in police cells

   then the Custody officer must produce a certificate to the court (PACE s.38 (7)).

   The law does not recognise or allow a situation in which secure accommodation is not required and yet a child remains in police cells. The Local Authority has an absolute duty to provide accommodation and, if such a situation arises, a senior officer must be contacted.

9. **Charging**. If a child has been kept in police custody overnight post charge for any reason other than impracticability of transfer then the Local Authority should be billed to enable the police to recover reasonable expenses (Children's' Act s.21(3)).

10. **Exceptions**. Children, of any age, arrested for breach of bail (Bail Act 1976 s.7) or on a warrant not backed for bail (Magistrates' Court Act 1980 s.13) cannot be transferred as described above and must be kept in police cells. It is also to be noted that the law has not yet been amended to define 17 year olds as children for the purposes of s.38 (6) and there remains no power or duty to transfer 17 year olds.

I have offered a clear view to the Home Office that the law should be amended so that all those under the age of 18yrs should be treated as children and all legal provisions should apply equitably. The differing age provisions for different powers and procedures are unhelpful.

However, at the moment, we need to clearly and consistently comply with the law as it stands. I do understand that the level of compliance does vary in parts of the country. However it is, quite simply the law, to which all agencies must comply.

All Custody officers have to understand this process and assiduously apply it. I attach a schema drawn up by the National Appropriate Adult Network which, although complex, is an excellent outline of the law which I recommend to all custody officers. It may well be that in applying the law custody officers will encounter difficulties in communication, understanding and engagement from other agencies. However progress can only be made when the decision making process is completely clear and transparent.

Clearly it is also incumbent on forces to try to work with local authorities to provide all concerned with specific guidance so this process can work smoothly. I attach a copy of a protocol recently drafted in Merseyside which you may help you in deliberations with partners as to the organisational issues that need to be considered.

Finally, I am aware that the APPG report has made a recommendation regarding the separation of children and adults in custody. I will be consulting further on this and will publish some guidance on the matter in due course

If you have any questions about this please contact Superintendent Alan Greene alan.greene@gmp.pnn.police.uk

Yours faithfully

Dawn Copley

Assistant Chief Constable, Greater Manchester Police

ACPO Lead PACE Strategy

Annex F

NatCen
Social Research that works for society

Qualitative research on the welfare of vulnerable people in police custody: the views of detained people

Ashley Brown and Caroline Turley
NatCen Social Research

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We would like to thank everyone who took part in this research for their valuable contributions. Without your involvement, this study would not have been possible.

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Lastly, we would like to thank Heather Hurford at Her Majesty's Inspectorate of Constabulary for her guidance throughout the research.

Introduction

1.1 Background

The police service has a responsibility to protect all individuals who come into custody. Evidence shows that while the police are broadly compliant with the standards set by the Police and Criminal Evidence Act 1984 (PACE)[102], there are recurring issues relating to how it protects those who are particularly vulnerable while in custody. For example, an examination of deaths in or following police custody over a period of ten years found that detainees from black and minority ethnic groups were significantly more likely than white people to be represented in deaths following the use of restraint (Hannan, Hearnden, Grace and Burke, 2010). Furthermore Lord Bradley's review of people with learning disabilities or mental health problems in the criminal justice system found variation in the quality of risk assessments of detainees (Bradley, 2009).

[102] PACE regulates the powers of the police and protects the rights of the public.

It is in this context that the Home Secretary asked Her Majesty's Inspectorate of Constabulary (HMIC) to conduct a thematic inspection on the welfare of vulnerable people in police custody. The Home Secretary asked that the inspection focused on, but not be limited to, people experiencing mental health problems, people who are from black, Asian and minority ethnic (BAME) communities and children aged 17 and under. She asked that the inspection particularly 'consider groups for whom there has been a pronounced concern about their treatment by the police, especially people of African Caribbean descent'. The thematic work included a rapid evidence assessment, national data mapping on police custody and six unannounced inspections of police custody facilities across England and Wales.

NatCen Social Research, an independent research organisation, was commissioned by HMIC to carry out research with people who have experience of detention in police custody, in parallel with the thematic inspection. The findings of the research, presented here, have informed the findings and recommendations of the HMIC thematic inspection.

1.2 Research aims and objectives

This qualitative research was conducted to gather the views and experiences of children, young people and adults in vulnerable circumstances who have been detained in police custody either in relation to suspected crimes or mental health issues.

The study explored views and experiences of the following issues:

- each stage of the custody process;
- how the police protect the welfare and safety of vulnerable people in their care;
- exercising legal rights; and
- what worked well, what could be improved and how this could be achieved.

1.3 Research approach

The findings presented in this report are drawn from 28 in-depth interviews with people who have vulnerabilities in the context of police custody. In line with the remit of the thematic inspection, 26 of the 28 interviews were either with children and young people aged 17 and under (9), people experiencing mental health problems (13) and people from BAME communities (12). The remaining two participants identified as having either a history of substance misuse or an autistic spectrum disorder. Of the 28 people who have taken part, 25 had been detained in police custody in around the last three years (2011--2014).

The sensitive nature of the research raised a number of ethical considerations including the identification and recruitment of participants; obtaining informed consent; limiting and managing any adverse consequences of participation; and confidentiality and disclosure. The study was approved by NatCen's Research Ethics Committee, whose procedure is in line with the requirements of the Economic and Social Research Council (ESRC, 2010) and Government Social Research Unit Research Ethics Frameworks (GSRU, 2005).

Participants were recruited through reputable gatekeeper organisations working with ex-offenders, people experiencing a mental health problem, BAME communities, and children and young people. As this is a qualitative study, the intention was to purposively select individuals based on relevant sample criteria. However, recruitment challenges resulted in the use of opportunistic sampling. Nonetheless, the sample displays good range and diversity in relation to the demographic characteristics and offending history of participants and the reason for detention in police custody. The achieved sample is shown in Appendix A.

Interviews lasted between 30 and 90 minutes and were conducted face-to-face at a suitable venue chosen by the participant and the researcher. A topic guide was developed for use in the interviews in collaboration with HMIC (see Appendix A). Enabling techniques were used to stimulate discussion of the research topic where appropriate. Interviews were either audio recorded with the participant's permission and transcribed verbatim or detailed field notes were taken by the researcher.

Data from the interviews were managed using a case and theme-based approach which involved summarising each transcript or set of field notes using a thematic framework. The analysis involved working through the summaries, drawing out the range of experiences and views, identifying similarities and differences and interrogating the data to explain emergent patterns and findings (Spencer, Ritchie, O'Connor, Morrell and Ormston, 2014). Interview quotations and case illustrations are used where appropriate. Quotations are attributed to participants using descriptive categories relevant to this research: participant from a BAME community; participant experiencing a mental health problem; and child detained aged X. Where several categories apply, the one most relevant to the point being made has been chosen. Additional descriptive information has been included where this might help illuminate a finding and will not breach anonymity (Corden and Sainsbury, 2006). Where examples are given about a specific participant, references to 's/he' and 'him/her' are made so as not to reveal the participant's gender and inadvertently breach their anonymity.

This report shows the range and diversity of views and experiences among those interviewed. As this is qualitative research, we have not reported the number of people who hold a particular view as it bears no indication of the extent to which these views are held in the wider population. Any numerical inference is likely to be misleading or inaccurate as qualitative samples are not designed for this purpose.

1.4 Challenges and limitations

All research has limitations and it is important these are acknowledged so readers can appraise the extent to which findings can be generalised and replicated (Lewis, Ritchie, Ormston and Morrell, 2014).

1.4.1 Sample coverage

The recruitment of individuals who met the criteria for inclusion in the study was challenging and had an impact on sample coverage. Recruitment challenges centred on three factors:

- There were restrictions on the types of organisations who could act as gatekeepers. The research team were unable to approach potential participants through Community Rehabilitation Companies or NHS services without approval from the National Offender Management Service and the NHS ethics committees.
- Resourcing pressures made it challenging for some gatekeepers to assist with the research.
- The relationship between gatekeepers and service users (particularly young people) could be very fluid, according to the needs of the individual and their capacity to engage with the service. This made it challenging for gatekeepers to approach some of their service users who in theory may have wanted to take part in an interview.

A second issue having an impact on sample coverage was the high number (15) of missed or cancelled appointments. Reasons for this included changes to the circumstances of potential participants and individuals being unable to give informed consent on the day of the interview.

Therefore while every effort was made to achieve a rich and diverse sample, certain perspectives will be missing from this research. This includes people in need of mental health care who were diverted from police custody by the Liaison and Diversion pilots[103]. Thirteen interviews were carried out with people experiencing mental health problems who had been arrested and held in police custody. Two of the 13 participants were transferred from police custody to hospital for assessment and/or treatment under the Mental Health Act (2007). The remaining eleven participants were either transferred to other custody accommodation (e.g. courts) or released following criminal investigation.

[103] Individuals who may have been benefited from the Liaison and Diversion pilots were not included in this research due to restrictions on the types of organisations who could act as gatekeepers.

1.5 Report structure

The findings of the research are presented across five chapters:

- **Chapter 2** sets out views and experiences of the first point of contact with the police;
- **Chapter 3** covers experiences in the custody suite;
- **Chapter 4** focuses on release or transfer from police custody;
- **Chapter 5** sets out views of treatment by police officers/staff[104] across the custody process; and
- **Chapter 6** draws out the key findings of this research relating to children; people experiencing mental health problems; and people who are from BAME communities.

2. First point of contact

This research found that the way people are treated by the police at the point of arrest can potentially alleviate or exacerbate any distress and anxiety they might be experiencing, as well as influence how they choose to interact with officers and staff while in custody. Given the importance of the first point of contact, this chapter begins by outlining views and experiences of the first stage of the custody process. It concludes by outlining participants' circumstances prior to their detention in police custody. It also describes the factors contributing to the arrest and views on whether and how it may have been prevented.

2.1 First point of contact

Participants raised three issues relating to the first point of contact with the police: whether they felt it was necessary for the police to arrest them; whether they understood why they were being detained; and whether and how the police take account of a person's needs and any risks to safety when making an arrest. These issues are discussed below.

2.1.1 The arrest decision

Participants who did not think the decision to detain was proportionate in the circumstances or who felt that there were alternatives to custody fell into three groups:

[104] The term 'officers/staff' is used where participants did not differentiate between police officers and police staff in interviews.

Grounds for arrest:

Some participants perceived that the decision to arrest was disproportionate because the police did not have reasonable grounds to suspect them of committing an offence. Participants who held this view had been released without further action. They were not always able to challenge the decision to arrest on arrival at the station.

> ‘A’ was arrested on suspicion of robbery and did not think the police had good grounds to link ‘A’ to the crime for a number of reasons including ‘A’s’ car being a different colour to the one used for the crime. ‘A’ was released without further action and felt his/her detention could have been avoided if ‘A’ had been allowed to provide information to show s/he could not have been responsible for the alleged offence. (Participant from a BAME community)

> ‘B’ was arrested after being identified by a witness. ‘B’ felt the quality of identification was poor as the only description the witness could provide of the perpetrator was their ethnicity. ‘B’ was being restrained by the police at the time of the identification, and was concerned that this might have indicated to the witness that ‘B’ was guilty of the crime. ‘B’ was released with no further action and felt the police could have used an alternative to arrest:
>
> ‘I'm on the floor handcuffed and a lady comes and she's hiding behind the officer and all I hear the officer saying, 'Is that him?' and I looked up, and I could see this lady is going, 'Yeah, that's him, that's him'. They're going to say yes, because I'm on the floor with handcuffs... She said it was a black man. Okay, I'm black, cool, but did you see my face? Did you see my clothes? Because you didn't…’ (Participant who identified as black English)

Victim of crime:

A participant experiencing a mental health problem felt s/he should have been treated as the victim of the crime rather than the perpetrator. The participant who raised this had been involved in a dispute with a neighbour, and regretted not doing more to challenge the prosecution.

Diversion from police custody:

Diversion from police custody was discussed by people experiencing mental health crisis and children.

Mental health problems:

‘C’ damaged a door after misplacing his/her house keys during a period of mental health crisis. ‘C’ would have welcomed being taken immediately to mental health services for treatment and support to aid his/her recovery. Instead, ‘C’ was initially detained in custody on suspicion of committing an offence. While in custody ‘C’ received a mental health assessment and was transferred to a secure hospital:

‘So if they took me straight to a hospital, I could maybe go straight onto an open ward, and almost be voluntary. But because I've actually gone into the station, been arrested, taken into custody, it always ends up with me being sectioned and on a secure unit rather than me volunteering myself and going to an open unit, and having more sort of responsibility for myself.’ (Participant experiencing a mental health problem)

Children:

Alternatives to custody for children were also discussed. Child participants viewed it as good practice where the police had chosen not to criminalise them for ‘low level’ crimes such as underage drinking.

2.1.2 Understanding of the reasons for arrest

Participants who had less understanding of why they had been arrested were either experiencing mental health crisis or it was their first (and only) arrest.

Mental health crisis:

Participants with mental health problems did not always understand why they were being arrested due to being in crisis, and also because they felt it had not been fully explained by the arresting officers:

> *‘I can't remember [the arresting officer] even saying, 'Oh, we're arresting you on suspicion of...' It was just, 'Right, you're coming with us,' sort of thing. A lot of the time, because I could be irrational in those instances, I don't often find out until later why I've been detained or for what reason.’ (Participant experiencing a mental health problem)*

First arrest:

People who have no prior experience of police custody may have a limited knowledge of offence types and so fail to fully understand the details of the crime they are suspected of committing. This is illustrated by a participant who was not sure if s/he was suspected of burglary or robbery:

> *‘I didn't know robbery and burglary was different at the time. I thought they were the same thing and [the woman at the desk] kept getting so angry with*

me because I kept saying burglary and not robbery.' (Participant from a BAME community)

Participants suggested that police officers/staff should always clearly explain the initial and ongoing reason for detention and not rely on individuals to say when they do not understand why they are being detained.

2.1.3 Protecting safety and welfare of suspects

When arresting suspects, the police should take account of a range of factors including the suspect's needs and any risks to safety (College of Policing, 2013a).

Participants discussed three issues relating to how the police take account of need and risk when they arrest a vulnerable person: whether the response was perceived to have been fair and proportionate; how the behaviour of officers had an impact on detainees; and the treatment of people who had substance misuse issues.

Proportionate response:

Fair and proportionate responses were valued by participants. For example, a participant with a mental health condition felt the police recognised the participant did not pose significant risk when they arrested him/her:

'[The arresting officer] wasn't that bad. In the sense of - although they kicked the door off just to get me - when he realised that I wasn't, you know, trying to get away or such, I wasn't shirking it... he was all right.' (Participant experiencing a mental health problem)

Participants also spoke positively about officers who were able to minimise conflict when responding to aggressive behaviour. This included an officer who verbally calmed a suspect who was behaving aggressively and encouraged them to cooperate rather than resist arrest. However, in other cases it was felt the police need to be swifter in identifying and responding to changing risk levels. For example, it was reported that officers restrained a participant against a wall and handcuffed the participant for longer than necessary (see 5.3 for discussion on use of force). The officers were not believed to have good grounds for this because the participant's physical condition would have prevented him/her from escaping. It was also seen as unreasonable because the participant explained to officers s/he 'wouldn't give them any problems' and showed this by cooperating with requests:

'[The police have] kind of got to go in heavy handed. They don't know what they're going to find when they get in there. Once they get in there they need to change their tactics to suit the situation, and every situation is different. I didn't come across as being violent… I think they took too long in realising I wasn't going to be a problem.' (Participant from a BAME community)

Minimising shame and embarrassment:

The behaviour of the arresting officers could either minimise or exacerbate feelings of shame and embarrassment, particularly in participants who were vulnerable due to age or mental health problems. Positive practice included the use of plain clothes officers and unmarked cars when arresting children. However, children found the experience very distressing when plain clothes officers did not disclose their identity in good time:

> *'They had a picture of my mate, dragged him in the car and they was like, 'Are you [name of participant]?' I was like, 'Err, err…' They got me in as well and shut the door. They didn't say it until they started driving with us, about them being the police... We were thinking we were getting kidnapped or something terrible.' (Child detained aged 14-15)*

Participants who were not able to get adequately dressed before travelling to the station said they felt humiliated and degraded:

> *'I tried to get past the officer to get some clean underwear. He grabbed me, at that point they put handcuffs on me. I've never struggled with the police. At that point it was the first time I struggled. I was dragged. I had a towel round me that fell off... I live in a third-floor flat, was dragged away naked and the police claimed I refused to get dressed. That was a complete falsehood by the police.' (Participant experiencing a mental health problem)*

Substance misuse issues:

A participant felt s/he had been questioned by arresting officers when s/he may not have been able to fully understand the significance of his/her answers due to the effects of drugs or alcohol. Broader concerns were raised that some officers/staff appeared to lack awareness of how to interact with people withdrawing from substances:

> *'They were trying to convince me to admit that I was doing what I was doing under duress. They kept saying to me… 'Who are you working for?'… 'cause I was so switched on with [drugs] … I thought maybe they're giving me a way out here by me saying that I'm being forced to do it…' I was thinking, 'I'm in enough trouble as it is. They've given me this idea which they shouldn't have... But do you know something I think I'll play it straight from now on, because I'm in enough trouble'.' (Participant experiencing substance misuse problems)*

2.2 Transfer to hospital

Detainees must be taken directly to hospital if they require assessment and treatment before being held in police custody (College of Policing, 2013a). Participants who were taken to hospital appreciated the care and concern shown by

officers. This included a participant who was taken to hospital for treatment following driving under the influence of substances. The participant was grateful to the police for arranging for his/her partner to also be treated in hospital for drug use. The participant appreciated being able to have contact with his/her partner while in hospital.

Participants who believed they should have been transported to hospital before being held in custody were withdrawing from substances at the time of their detention. They felt the custody environment adversely affected their physical and mental health, which in turn reduced their ability to take part in the police interview and the resulting court process:

> *'I should have been taken to some sort of hospital ward. Even a secure hospital ward, whatever… Just sleeping, eating, and drinking and not having to deal with anything, or use my mind, because my mind was fried. Absolutely fried… I really don't know how I got through it without losing the plot…' (Participant experiencing substance misuse problems)*

2.3 Preventing detention in police custody

This chapter concludes by exploring the contributing factors to the arrest and participants' views on whether and how it could have been prevented.

Mental illness and/or substance misuse was felt by some participants to have been contributing factors to their arrest. In some cases, issues with the quality of support provided by mental health services prior to their arrest were identified. This included services being too slow to intervene when people asked for help or not meeting specific needs. For example, a child participant with a history of self-harm believed that mental health services were slow to identify and respond to the participant's specific needs, which contributed to deterioration in his/her welfare and subsequent arrest. Another participant believed that inadequate mental health care had been a contributing factor in the participant's arrest. In this case, the participant felt s/he had been discharged from inpatient services before s/he had recovered fully from mental health crisis.

In other cases, health services such as GPs were not taken up because participants felt they could manage their condition themselves. Other participants said they were inhibited from accessing services because they were ambivalent about the future:

> *'…I didn't care if I died…' (Participant with substance misuse and mental health problems)*

Early intervention was considered important to stop people from entering into circumstances which may place them at risk of being detained by the police. It was felt this would lead to better outcomes for individuals as well as being more cost effective. Participants felt it would be beneficial for professionals from mental health or drug and alcohol services to meet with vulnerable people in custody to let them

know what support is available and to arrange an appointment if required. It was felt that services could help break the offending cycle by identifying and responding effectively to the underlying causes of behaviour. For example, a participant with multiple convictions for shoplifting believed his/her offending was linked to an undiagnosed mental disorder. The participant felt it would have been helpful if the police or courts had made a referral to mental health services to protect the participant's welfare and prevent further offending.

> 'D' had a history of mental health problems and was detained by the police on two occasions in a short period of time. Before the first incident 'D' stopped taking his/her medication which made 'D' feel very unwell and caused 'D's' behaviour to become 'out of control'. The local mental health team offered to support 'D' but 'D' did not think it met his/her needs. During the period of mental health crisis 'D' was detained in police custody on suspicion of committing an offence. 'D' was involved in a second incident shortly after leaving custody, and felt this might have been avoided if the police had made 'D' aware of services in the community to support their recovery. (Participant experiencing a mental health problem)

3. In the custody suite

Following arrest a person is usually taken to a police station. They will be held in a cell and asked to provide evidence to help the police establish what happened and who was involved. People held in custody have a number of rights such as to free legal advice. Children and people of any age who may be 'mentally disordered or otherwise mentally vulnerable' have the right to an Appropriate Adult who can help protect their rights and welfare. People who are detained in custody must be held in adequate physical conditions, be clean and comfortable and offered adequate food and drink. A person's needs and any risk to their safety should be identified and managed by custody officers or staff. This includes access to appropriate healthcare for people who are experiencing physical and mental health problems (PACE Code C).

This chapter explores participants' views and experiences of the custody suite, and covers the custody process; individuals' rights; detainee welfare and safety; healthcare in custody; and detention due to mental health crisis.

3.1 The custody process

This section outlines participants' views on arriving in custody and meeting the custody officer, being searched and providing evidence.

3.1.1 Arrival in police custody

On arrival in police custody all detainees are seen by the custody officer, who is responsible for ensuring a number of activities are carried out. This includes gathering information about a person's needs and any risks to his/her welfare or safety and ensuring the detainee is informed of their legal rights and entitlements (College of Policing, 2013a).

Participants who had positive interactions with the custody officer described them as courteous and friendly. Examples given included a custody officer giving a child detainee a hot drink on arrival at the station which helped the child to feel more at ease while in custody. A contrasting experience was that some custody officers did not demonstrate sufficient respect for detained people.

> 'E' complained to the custody officer that s/he was not being given sufficient opportunity to provide information on his/her mental health condition, which 'E' felt went against police procedure. The officer was reported to have challenged 'E' for 'telling them how to do their job' and then asked for 'E' to be taken to a cell. (Participant experiencing a mental health problem)

Participants valued custody officers who ensured detainees, including those with communication difficulties, understood why they were being detained and their rights and entitlements while in police custody. However, others felt they had not been given adequate verbal or written information. Some custody officers were reported to have become 'agitated' when asked for information and in one instance refused to provide a participant with the PACE Codes of Practice. Uncertainty around the custody process and their rights and entitlements caused anxiety and stress for participants who were entering custody for the first time. It also inhibited some children from asking for entitlements, such as a blanket, while detained.

Participants provided a number of suggestions for improving the quality and accessibility of information for detainees:

- In order to alleviate anxiety and help to manage expectations, children should be given information on all aspects of the process and an accurate estimate of the length of time they will be detained. This research suggests this would also be helpful for adults who are unfamiliar with police custody.
- Participants felt it was important that written information should be accessible to detainees, particularly children and young people and adults who have communication difficulties.
- The custody sergeant should check for understanding when informing detainees of their rights.
- Detained people who have literacy problems should receive greater support to complete paperwork during 'booking-in' and throughout their time in custody.

3.1.2 Being searched

A search is conducted of people who are held in police custody to gather evidence and to remove items which could cause harm to the detainee or another person. A person may be searched with (standard search) or without clothing (strip-search) depending on factors such as the nature of the suspected crime (College of Policing, 2013b).

Two key issues were identified as impacting on participants' experiences of being searched. These related to: whether the level of search was believed to be proportionate and how the search was conducted by officers/staff.

Level of search:

There was a view that strip-searches were undignified and degrading. Participants who been strip-searched did not always agree it was proportionate to their offence or risk level, and some (including children) had agreed to remove their clothing to avoid it being forcibly removed by police officers/staff:

> *'They was like, 'You're getting strip-searched.' I was like, 'What?' - and I kicked off... I was tempted to slap them, punch - everything. 'Cause I don't appreciate - and then… 'We'll have to do it forcefully if you don't do it.' I was like, 'Well, it ain't happening.'… 'I'll take my clothes off but I ain't taking my underwear off.' That lasted for at least 20 minutes… I had to do it. But I don't agree with doing that to a kid…' (Child detained aged 15-16)*

Conduct of searches:

Some participants who had been held in custody more than once felt that approaches to searches were inconsistent. Examples of poor practice included detainees not being given adequate privacy i.e. away from the custody desk (for standard searches) and in cells without cameras (for strip-searches). In some instances participants found the experience degrading or humiliating, such as having to 'bend over on all fours like a dog' in the words of one participant, or where they were not provided with suitable replacement clothing. There was also a report of excessive force being used by police officers/staff when searching a detainee who refused to be strip searched. See 5.3 for further discussion of use of force.

‘F’ was arrested on suspicion of drug offences and felt that s/he was restrained for longer and with more force than necessary during the arrest. This included an officer handcuffing ‘F’, and placing ‘F’ face down and kneeling on ‘F’ in the police van. ‘F’ was taken to a cell on arrival in custody where several officers were present and asked ‘F’ to remove his/her clothes. Due to the circumstances leading up to this point ‘F’ refused and the officers were reported to have ripped ‘F’s’ clothing off. ‘F’ described feeling violated and abused by the officers and the stress of the experience triggered an epileptic seizure. ‘F’ now believes that all strip-searches should be conducted by healthcare professionals[105].
(Participant from a BAME community)

It was felt that some officers/staff could do more to acknowledge and alleviate the discomfort experienced by detainees being strip searched. Some participants described how they would have liked for the officers/staff members to have been friendlier or to have used appropriate humour as this would have made the process more bearable (although arguably the use of humour would not be welcomed by all detainees).

3.1.3 Evidence gathering

The police can collect different types of evidence from people who are detained in custody. This includes taking fingerprints and a DNA sample (PACE Code D). The police can also question suspects during interview (PACE Codes C, E and F).

Participants discussed two sets of issues related to giving evidence while in police custody: whether they felt they were well enough to answer questions fully and coherently; and their views on police interview techniques.

Fitness for interview:

Some participants who could not access their correct medication (for mental health conditions or to manage the symptoms of withdrawal from drugs) said this made it more difficult to convey their version of events clearly and coherently during the police interview:

> *'It's your opportunity to give your side of the story. And sometimes you're that bad... you just think, 'I can't be arsed, just go no comment', do you know what I mean?... But if you're feeling well and normal and you've had something to eat, you've had something to drink, because when you're withdrawing you can't eat or drink or nothing.’ (Participant on medication to manage mental health and substance misuse problems)*

[105] The participant was held in custody in approximately 2008.

Participants felt it was important that detainees under the influence of alcohol or drugs who are well enough to be taken directly to police custody should be given suitable food and drink and the opportunity to rest before being questioned by the police. Participants felt this would help detainees to be in the 'right frame of mind' to discuss their needs and give an account of events.

Interview techniques:

It was appreciated when officers enabled detainees to give their 'side of the story' and when they used interview techniques appropriate to the age and support needs of children, and adults who had difficulties with communication. This included avoiding technical language and providing clear explanations when requested by detainees. However, there were also reports of 'unfair' questioning techniques such as continually challenging the detainee's account and repetitive questioning. Participants felt that some interviewing officers tried to implicate detainees by putting words in their mouth. These techniques were felt to be particularly unsuitable for children.

Concerns were raised that officers/staff did not always take into consideration how the interview may adversely affect detainees with existing health conditions or take steps to prevent or minimise harm. For example, a child participant with mental health problems believed the officers lacked awareness of the possible adverse effects of the interview on people with anxiety conditions:

> *'You go for an interview and... you've got like really bad anxiety and you're shaking and... you're about to have a panic attack and you can't breathe properly and all this. I mean, I felt like that [the officers] didn't bat an eyelid…' (Child detained aged approximately 14 with anxiety condition)*

3.2 Individual rights

People who are held in police custody have a number of legal rights, including receiving free legal advice, having someone informed of where they are, and being offered an opportunity to read the PACE Codes of Practice. Children and adults who are believed to be 'mentally disordered or otherwise mentally vulnerable', including people who are experiencing mental distress, have a right to an Appropriate Adult (AA). Their role is to protect the rights and welfare of vulnerable detainees (PACE Code C and G).

This section outlines participants' views and experiences of exercising their legal rights in custody. It focuses primarily on whether adults who have a right to an AA were given one, their views of the quality of support received and how provision could be extended.

3.2.1 Appropriate Adults

Responsibility for deciding whether a detainee requires an AA rests with the custody sergeant. Key responsibilities of AAs include ensuring detainees understand and can exercise their rights; monitoring and challenging unfair practice; and helping communication between detainees and the police. The AA role can be filled by a range of people including parents/carers, social workers and healthcare professionals who are not involved in the care and treatment of detainees in custody. (National Appropriate Adult Network, [no date]).

Participants discussed four issues related to AAs: whether an AA was provided for detainees, what the responsibilities of the AA were understood to be; the length of time taken for the AA to arrive at the station; and perceived effectiveness of AA support.

Failure to provide AAs:

Local authorities have a duty to arrange an AA for children who are detained in police custody. While adults who are 'mentally disordered or otherwise mentally vulnerable' have a right to an AA, there is no legal duty on any agency to ensure this is provided. This is thought to be a contributing factor to gaps in AA provision across the country (Bradley, 2009).

All children who took part in this research said they were given an AA – either a parent/carer or someone outside the family. However, 'mentally disordered or otherwise mentally vulnerable' adults were not always provided an AA or declined the service in an attempt to exit custody more quickly.

Some children and adults with mental health problems regretted agreeing to a police interview without a solicitor or an AA present as they felt this would have helped ensure they were treated fairly and may have led to a better outcome (that is, not being charged and convicted of a crime):

> *'I may not have even received a conviction had I have waited for a solicitor or an advocate or somebody to help me speak but because I was so anxious just to get out of there and get back to my children and my mental health really wasn't very good at the time. I gave an interview and I should never have done that but, of course, that's what they want... that's their aim.' (Participant experiencing a mental health problem)*

Participants thought that this should be addressed to protect the rights and welfare of detainees in vulnerable circumstances.

Awareness and understanding:

Participants demonstrated varying levels of awareness of who could act as an AA and their role and responsibilities. One view, held by some children who had their parent/carer as an AA, was that the role was passive, that is, the AA had to be silent during the police interview. As such, detainees might not benefit from the full range of advice, support and protection that can be provided by AAs due to a lack of awareness of what they can offer.

Participants thought it was beneficial for the AA to be someone already known to the detainee. However, young people expressed contrasting views on the suitability of parents/carers for the role. Where concerns were raised this was because young people felt inhibited from speaking openly and honestly in front of their parent/carer. Some children felt that parents/carers who had a good knowledge and awareness of the custody process and wider criminal justice system would be better placed to fill the AA role than those who do not. However, other children appeared to value having someone they trusted more than a good level of knowledge.

AAs' arrival at the custody suite:

Participants met with the AA shortly before the police interview. The AA was also present (or nearby) for the charging decision. None of those interviewed recalled having seen the AA at an earlier stage of the custody process. Concerns were raised over the length of time taken for AAs to arrive at the station as this delayed the custody process.

Perceived effectiveness:

Participants perceived the presence of the AA to have made either no difference or a positive difference to their custody experience and outcome. Where no positive impacts were reported this was because an adult detainee with a mental health condition was confident s/he could safeguard his/her own welfare and rights. Others identified three ways in which they felt the AA had protected their rights and welfare, which reflected the responsibilities of AAs. These were:

Support during police interview - Participants felt more relaxed and comfortable in the police interview where the AA was felt to be caring and trustworthy. AAs also helped young people and vulnerable adults to understand what was happening during the police interview, aided communication between officers/ staff and young people, and asked for breaks as required.

Protecting rights - The AA helped to ensure vulnerable detainees were able to exercise their rights and entitlements. For example, ensuring a young person had enough to eat and drink and a blanket to keep warm.

Promoting fairness - AAs challenged what was considered to be unprofessional conduct by officers/staff. For example, an AA spoke to an officer/staff member who

had given a young person inaccurate information about why the young person's parent/carer was not present at the station.

Extending AA provision:

There was a view that all detainees (not just those who are particularly vulnerable in the context of police custody) should have access to an AA or equivalent to ensure their welfare and rights are protected while in custody.

3.2.2 Other rights

As discussed in Section 3.1.1, the quality of written and verbal information given to detainees on their rights varied. Similarly, participants' experiences of exercising their legal rights while in custody were mixed. Examples of good practice included access to competent legal professionals who could support vulnerable detainees in the police interview. Participants found it particularly helpful to receive clear and direct instructions on how to answer questions. An adult with autism said s/he would not have known what to say or do without his/her legal representative. Participants felt it was important they were given adequate time to meet with solicitors before the police interview.

However, in other cases there was unhappiness about the length of time taken to exercise their rights. For example, a participant said s/he was not able to inform someone s/he had been arrested until after the police interview. However, this may have been because the police have the power to delay a person's right to have someone informed of their detention if it could harm the police investigation (PACE C). Participants also raised concerns over the length of time they were detained and the failure of officers/staff to inform them of the progress of their case. Additionally, there were participants who said they had not been able to exercise specific rights. As discussed above, one participant was not able to see a copy of the PACE Codes of Practice. Additionally, the family member of a detainee who had given consent for information to be shared with his/her family was unable to obtain information from the police. However, there may have been a legitimate reason for this.

3.3 Detainee care, welfare and safety

People who are detained in police custody can expect to be 'held in a clean and decent environment in which their safety is protected and their multiple and diverse needs are met' and that 'custody staff are competent to assess and manage risks presented by detainees' (HMIP and HMIC, 2012).

This section outlines participants' views on risk assessment - whether and how their care, welfare and safety needs were met by the police, and on the physical environment in which they were held.

3.3.1 Risk assessment

Risk assessment and management in the custody suite is informed by information gathered from the detainee, the officers involved in the arrest and information systems such as the Police National Computer (College of Policing, 2015).

The importance of police carrying out an assessment of a detainee's health and welfare on arrival in custody, including people who are attending voluntarily, was highlighted. Participants said they would like to be asked for health and welfare information as they are well placed to advise on how to manage their own condition. Police and health service records were also identified as valuable sources of information provided that officers/staff are mindful that records may be inaccurate or incomplete. Participants also felt it was essential that police officers/staff are aware of a broad range of physical and mental health conditions and disabilities and are able to recognise when a detainee may have specific needs. It was felt that some officers/staff would benefit from greater training on risk assessment and management.

The quality of risk/need assessment undertaken in custody appeared to vary between participants. The assessment process was viewed positively by people who had been able to give information on their physical and mental health needs in private. Where experiences were less positive, five key issues were raised:

- Participants with physical and mental health conditions thought it was poor practice when they were not given adequate opportunity to inform the custody officer of their needs on arrival in custody. This included a child with a history of self-harm who had attended the police station voluntarily.

- Some participants felt the assessment was an exercise in compliance rather than a genuine attempt to meet their needs, because the custody officer appeared to be more focused on asking questions than on listening to the answers:

  'Oh the sergeant he's not really… bothered, he's just there to ask you a set of questions. The set of questions that he will ask you is the questions he's gone through the last 20 years of his career… Name, address, occupation, then he gets the offence and he says, 'Do you want a solicitor? Do you want anyone informed?'… Have you... ever been suicidal? Have you ever harmed yourself? Have you ever harmed anybody else?' Yeah, there's a load of questions they have to go through…' (Participant with a history of mental health problems)

- Some participants who were experiencing mental distress found it difficult to communicate their needs to officers/staff and healthcare professionals. For example, a participant who was experiencing depression said s/he was not in the 'right frame of mind' to discuss his/her welfare on arrival in custody. Participants also reported feeling inhibited from speaking openly about their

needs because they questioned the sincerity of the police, were worried they would be ‘judged’ or that information given would be used against them. A final issue which affected communication was that detainees were not always given enough time to answer risk assessment questions by the custody officer.

- Participants with substance misuse needs thought questions on drug and alcohol use should be routinely asked of all detainees to help the police identify people who may benefit from seeing a substance misuse worker while they are in custody. It was felt detainees should be given the opportunity to discuss their needs after the symptoms of drugs and/or alcohol misuse have subsided.

- Participants felt it would be helpful if their handcuffs were removed and they were able to sit down before answering risk assessment questions as this would help them feel more at ease.

3.3.2 Detainee care

The police have a responsibility to ensure the custody suite is clean and well maintained and detainees feel their dignity is respected and they have enough to eat and drink (HMIP and HMIC, 2012).

Participants described being held in a police cell as stressful and disorientating. It was thought that the custody environment could aggravate existing physical and mental health conditions. Children found the custody environment particularly stressful:

> *‘When you're sitting in that [...] freezing cold cell for, well like just short of 23 hours, you know what I mean? It's a long time to sit in that cell, in them four walls… I just start going crazy 'cause I think about me mum and that all the time and it just makes me go really mad. I just ending up punching all the cell wall and that and breaking all me hands and [stuff] like that... I mean it does [mess] your head up being in there 'cause you just, like you go to sleep for an hour, you wake up, you're in the same place, you're in the same four walls, like you know what I mean? You can't go anywhere, like you're trapped, it's crazy.’ (Child detained aged 15)*

Features of the custody environment which were seen as particularly challenging included the size of cells and it being difficult for children to communicate with officers/staff through the hatch in the door. Participants who were feeling low, anxious or agitated would have found it helpful to have been allowed outside for fresh air more frequently.

Detention was felt to be more bearable when basic care needs were met. This included being given blankets to keep warm, access to suitable shower facilities and

enough food and drink in line with religious or dietary requirements. Participants also found the situation less challenging when custody officers were courteous and responded to what were felt to be reasonable requests within good time.

However, the quality of care provided to some detainees appeared to fall short of the standards set for the police. Specific issues included:

- Vulnerable detainees were not always aware they could use the cell bell to get the attention of custody officers/staff. This included a participant with a history of attempted suicide.
- Not being given enough suitable food and drink. For example, a young person did not eat while in custody because his/her meals were served lukewarm. The child reported being detained for around 18 hours.
- Feeling degraded due to unsuitable sanitation or not being able to have a shower within good time. This included a participant who was homeless at the time of his/her arrest being mocked by other detainees because s/he was not given prompt access to personal hygiene products.

3.3.3 Detainee welfare and safety

In addition to ensuring that detainees are held in an adequate environment and their basic needs are met, the police have a responsibility to protect the safety and welfare of vulnerable people in their care (HMIP and HMIC, 2012).

Children and adults with mental health or substance misuse problems provided examples of good practice relating to how the police safeguard people who are vulnerable in the context of police custody. These included:

- Detainees identified as being at risk of self-harm or suicide were kept safe through the removal of possessions which could cause injury and monitored at regular intervals. However, participants believed that police cells were unsuitable for such detainees or those with substance misuse issues as the custody environment may aggravate their various conditions.
- Being held in a glass door cell made a participant with an anxiety disorder feel less claustrophobic, which helped prevent the participant from having a panic attack. On another occasion, the participant had stayed in another area of the custody suite until it was safe for him/her to be held in a standard cell with the door open.
- Participants found it comforting when they were provided with reading materials to pass the time. It was also appreciated when custody officers/staff were courteous and talked to detainees in their cells. In some instances this helped calm detainees and encouraged them to reflect on the causes of their behaviour. Some participants with mental health problems thought it would

beneficial if this were to happen more widely, both on the journey to the police station and in the custody suite:

'[The custody officer/staff member] asked if I was alright. I have to say actually, the custody officers are really quite pleasant… They just seemed quite conversational and I think actually on this occasion, more than once, I called and said, 'Look, this is ridiculous, when am I gonna be seen?', and they weren't at all impatient with me. They weren't rude to me.' (Participant experiencing a mental health problem)

- Participants appreciated it when given access to suitable healthcare or substance misuse services in custody and/or were provided with information on services they could access on release. Participants believed access to relevant support services (e.g. mental health, substance misuse, offending) in custody would have a positive impact on detainee wellbeing and help break the offending cycle (see section 3.5 for further discussion).

'G' has a physical health condition, and was arrested on suspicion of theft. 'G' found the custody officers/staff to be courteous; they provided 'G' with his/her reading glasses and a magazine to pass the time, which helped 'G' to keep calm and avoided exacerbating 'G's' digestive disorder. 'G' also appreciated being able to have a shower before attending court. (Participant from a BAME community)

Less positive practice centred on the use of disproportionate or harmful risk management strategies and inappropriate responses by individual officers/staff. An example of an inappropriate action (intended to protect the safety of a detainee) was preventing someone with sleep apnoea from falling asleep:

'[I said] 'Listen I suffer from sleep apnoea, I don't have my CPAP machine with me; the officers wouldn't let me bring it'. 'What's that for?' I said, 'Well I stop breathing... when I'm sleeping'. 'Oh', she says, 'Well we don't want you dying on my watch'. So instead of... getting the machine, or finding out about the machine her way of dealing with it was she put a rookie constable at the door of my cell and every time I fell asleep the constable woke me up, so I wouldn't die.' (Participant from a BAME community)

Some officers/staff were described as not demonstrating sufficient concern for the welfare of people in their care. For example, a custody officer/staff member was described as leaving a child alone and distressed in a cell after informing the child that his/her parent did not wish to be present for the interview:

''Oh, your mum said she's not coming up. Basically she don't want anything to do with you.' So I was sitting there like that, 'What's gonna happen when I go

home? Am I gonna be chucked out?'... I started crying. I'm like, 'What? That's my mum.' Whether I'm in trouble or not, she'd always be there for me. But… they just told me that and shut the door.' (Child detained aged approximately 15)

Additionally, a child with a history of self-harm said the police 'didn't bat an eyelid' when the child informed them of his/her mental health condition. While this may not have been the case, the participant took this to mean that the police were not concerned about the participant's welfare.

3.3.4 Factors influencing responses to vulnerability

This section concludes by describing key factors felt to have an impact on the quality of police responses to vulnerability. These centred on: knowledge and understanding of mental health and substance abuse; completeness of information on need and risk; and levels of staff resource.

Knowledge and understanding:

Levels of knowledge and understanding of mental health conditions and substance abuse were perceived to vary between officers/staff. Accounts were given of officers/staff who had recognised that a detainee was vulnerable due to his/her age or health and who responded appropriately. Participants felt others would benefit from greater training on a range of equalities issues, including mental health awareness.

Quality of information:

It was recognised that the police do not always have complete or accurate information to inform risk assessment and management. For example, because information systems may be out of date, detainees may not feel able to provide information because they are not in the right frame of mind, or detainees are worried about being judged or lack trust in the police to use their information appropriately. Where detainees are able to give information, it was felt this was not always taken into account when managing risks.

Staff resources:

Participants felt the police did not always have adequate levels of staff resource to meet the diverse needs of people who come into custody. The following quote illustrates the range of needs of people who may be detained in custody at any one time:

‘You've got to have an officer sitting with the door open or a lot of the stations now have got the glass, so he's got to sit there and watch him [detainee]. You've got [another detainee] down here who keeps throwing up and doing whatever, excrement at the video and so... from that point of view, it's hard because you've got different things going on.’ (Participant from a BAME community)

It was perceived that the most vocal or disruptive individuals are sometimes prioritised at the detriment of other detainees.

3.5 Healthcare in custody

Detainees who are experiencing physical or mental health problems can see a health professional while in custody and receive prescribed medication if needed (PACE Code C).

This section outlines participants’ views of healthcare in police custody. These were: how long it took for participants to access healthcare professionals; the quality of interactions between healthcare professionals and detainees; whether the provision was appropriate to the participants’ needs and provided in a private and dignified setting; participants’ views of healthcare assessments; and whether participants received the correct medication in good time of arriving in custody.

Access to healthcare professionals:

Participants spoke about not being able to see the doctor or nurse while they were in custody or having to wait what they felt was an unreasonable length of time.

> ‘H’ informed a custody officer/staff member s/he had an epileptic seizure and required medical assistance. However, ‘H’ said s/he did not receive assessment or treatment while s/he was in custody because the healthcare professional was not based at the police station. (Participant from a BAME community)

Quality of interactions:

Participants appreciated when healthcare professionals were courteous and friendly. Those who were seen by a drugs or alcohol worker were particularly positive about their experience. Substance misuse workers were seen as respectful, non-judgmental and independent of the police, with this latter point felt to facilitate trust. Consequently, participants felt comfortable talking openly and honestly about their needs.

‘[The healthcare professional] was very good… we had a normal conversation, which again helped to kind of soothe things a little bit for me... That was the only person that I felt comfortable [talking to]. He wasn't a police officer and my trust in [the police] was really shaken from the treatment

earlier… It's interesting how much that kind of human element of the interaction can encourage someone to be more open about the truth of the nature of what's gone on.' (Participant experiencing a mental health problem)

Poor quality interactions with healthcare professionals were also reported. Some healthcare professionals were said to be unfriendly and to have treated detainees as 'numbers' rather than people. For example, a participant with a mental health condition explained how the healthcare professional did not make eye contact and called for the custody officer to 'bring in the next' detainee while the participant was still in the healthcare suite, which was felt to be dismissive.

Competency:

Participants described the positive difference it had made to their welfare in custody when they received a good standard of care. However, healthcare professionals were not always felt to have adequate awareness of mental health, substance misuse and some physical health conditions. In some cases, participants said that poor quality healthcare had left them feeling 'worse' than when they arrived in custody. Consequently, participants thought that healthcare staff working in custody should have greater awareness of a range of health conditions and disabilities. They also thought it would be beneficial for detainees to have access to professionals with specialisms, such as mental health specialists:

'Most people I know have only been arrested 'cause they've got… enough stuff going on, and they've just lost it and they've gone and done something stupid, do you know what I mean? So [hesitates] - I suppose, whilst you're in custody, someone could be like, 'Look, do you wanna have a chat?' do you know what I mean, 'What - what's going on in your head?' (Child detained aged approximately 15)

'J' had a history of depression and suicidal ideation and felt the healthcare professional s/he met in custody did not have good awareness of mental health issues. 'J' believed the healthcare professional saw his/her role as assessing whether or not s/he was well enough to be interviewed by the police. The healthcare professional did not offer advice or support in relation to self-harm or suicide prevention. (Participant with a history of mental health problems)

'K' had a number of health conditions, including kidney disease and diabetes. 'K' felt the custody nurse had a poor awareness of these conditions and how they are managed because the nurse did not take 'K's' blood pressure and seemed uncertain about how 'K's' prescribed medication should be dispensed. (Participant from a BAME community)

Privacy and dignity:

The privacy and dignity of people in need of healthcare was not always maintained by agencies working in police custody. For example, a participant with a mental health condition was not able to discuss his/her needs with the doctor because a ‘gang’ of officers/staff ended the conversation before the detainee could answer the doctor’s questions. The participant explained how the officers/staff also made a joke at his/her expense:

> *‘[The doctor] signed some document... It was just a document to say that the doctor had seen me and [the police] laughed, they said, 'That's good enough for a judge', and they were laughing, they were laughing, a group of them were laughing.’ (Participant experiencing a mental health problem)*

Outcome of health assessments:

Participants did not always agree with the outcome of assessments carried out by healthcare professionals. For example, a detainee with an autistic spectrum disorder was distressed when a healthcare professional said the detainee did not have a disorder after carrying out an assessment While the participant spoke positively about his/her subsequent treatment by the police, s/he was upset to think his/her integrity had been questioned.

Dispensing of medication and medical equipment:

Participants who required medication appreciated it when it was received in good time. This included a participant with a digestive disorder who was able to manage his/her condition while in custody on being provided with painkillers and a sleeping tablet. In other cases, participants left custody without receiving their prescribed medication or access to medical equipment, while others experienced delays. Participants who said they did not receive their correct medication included those with anxiety, bipolar disorder or a history of self-harm or attempted suicide as well as people on medication for substance withdrawal. Lack of access or delays to medication could have a negative impact on the physical and psychological welfare of detainees. As discussed, it could also mean that detainees felt less able to give a coherent account of events during the police interview:

> *‘I was given medication but… it wasn't my medication that I'd been having usually; it was kind of a one-off tranquiliser type thing… I was still going through in my head like, ‘It's okay, there's a way out of this’, which is to kill myself. But I wasn't like pacing around the room; I was just kind of sedate with that thought.’ (Participant experiencing a mental health problem)*

‘L’ was taking prescribed medication for a mental health condition and to manage the symptoms of withdrawal from drugs. ‘L’ found it frustrating not to be able to take his/her medication while in custody:

‘I say, 'I've got [mental health condition], I need my [medication]. 'We can't do nothing about that.' That's all they say, they can't do nothing. And they always ask this question, it really annoys me, 'Are you on methadone?' 'Yes', they know I'm on methadone. 'When was the last time you had your methadone?' Say I didn't have it until yesterday and I got nicked in the morning, 'Yesterday.' 'Are you withdrawing yet?' 'Yes. Are you going to do anything about it?' 'No.' 'So, why are you asking if I'm withdrawing if you're not going to get my methadone?' So, they ask me that question, and… they blatantly know I'm withdrawing and they don't do nothing about it.’

‘L’ explained how not being able to take medication resulted in mood swings and difficulties eating, drinking and sleeping. (Participant experiencing mental health and substance misuse problems)

Medication was reported to have been administered in the wrong dosage on occasions. In the most serious case participants feared that the error could have been fatal.

Finally, some participants were frustrated when healthcare professionals failed to take account of their views of how their medication should be dispensed, such as the time of day. Although it was recognised that healthcare professionals are required to take safety precautions, it was felt that guidelines for dispensing medication should be applied on a case by case basis. Participants who considered making a complaint about their healthcare in police custody appear to have been inhibited by lack of awareness of the complaints process.

3.6 Detention due to mental health crisis

The police have the power to take people who are in a public place and who they believe have a mental illness and are in immediate need of ‘care and control’ to a place of safety. This would usually be a healthcare setting, but could be a police station in exceptional circumstances. The police can arrange for mental health professionals to carry out an assessment at the station, or they may move a person to a healthcare setting. Following assessment, a person may be sectioned under the Mental Health Act 1983, or informed s/he is able to leave (Rethink Mental Illness, 2014).

Interviews for this research were conducted with people who were detained due to mental health crisis (please see introduction for discussion of limitations here).

Participants reported first being arrested for alleged offences before either being swiftly transferred to hospital for assessment, or receiving the assessment in the custody suite. Those who were held in custody were confused about whether they would face criminal investigation or receive mental health assessment or care as this was not made clear by officers/staff. The participant who was assessed in police custody was not formally told the outcome of the assessment or which hospital the participant would be taken to.

4. Release/transfer from police custody

Once evidence has been collected, a decision is made to either charge or release an individual. Consideration is also given to whether and how to support vulnerable detainees leaving police custody. This can include assessing and responding to risks to safety as well as informing detainees of community-based services offering relevant information, advice and support (College of Policing, 2015).

This chapter describes participants' views and experiences of leaving police custody. It covers participants' understanding and views of the charging decision and whether and how the police managed risks to their safety or welfare when they were released or transferred.

4.1 Charging decision

Those who are charged with a crime are held in custody or released on police bail before attending court. In some circumstances people who admit they are guilty of a crime may be given a formal warning by the police, known as a 'caution'. If a person does not accept a caution they may be charged with a crime (GOV.UK, 2014).

This section describes participants' perspectives on the charging decision. For participants who were charged, it explores whether they understood the details of the crime they were charged with and their views of how the police communicate bail decisions. It also covers whether those who accepted a caution understood the implications of doing so.

4.1.1 Understanding of alleged crime

Children who were charged with a crime did not always fully understand the nature of the alleged offence due to the technical language used by officers:

> *'[The police] was like, 'You're bailed on affray.' And I didn't have a clue what affray is. I was like, 'Eh? What?'... I was like, 'Okay, whatever.' I just wanted to get out.' (Child detained aged 15)*

4.1.2 Communicating bail decisions

Participants felt it was inappropriate and potentially harmful for police officers to comment on whether a detainee would be given bail before this was decided by the custody officer. In one case, a participant with substance misuse problems lost his/her temporary accommodation after the police prematurely informed the housing agency the participant would not be granted bail. This meant the participant did not have anywhere to live on leaving custody and were at risk of breaching his/her bail conditions.

Some children were not fully aware of the implications of not complying with their bail conditions because they had not been given sufficient information by the police. If a person does not comply with his/her bail conditions s/he may be arrested and taken to prison before attending court (GOV.UK, 2014).

It was suggested that individuals who have difficulty keeping appointments due to disability would benefit from more support to meet their bail conditions on leaving custody. This could include a text or call to remind people to attend the police station or court.

4.1.3 Understanding of caution

Accepting a caution can have a number of implications such as future employment prospects or the countries they are able to visit. Participants who accepted a caution did not always feel they understood the implications of doing so. This included a participant with a mental health condition and a history of substance misuse who was dismissed by his/her employer when the employer became aware of the caution. The participant felt the police had led him/her to believe it would be in his/her best interests to accept a caution, but had not fully informed the participant of the consequences of this. The participant said s/he regretted acting on the advice despite being aware s/he may have faced prosecution if s/he did not agree to the caution.

4.2 Support

The police have a role to play in ensuring that people - particularly those who are vulnerable due to their age or mental health - are safe and cared for when they leave custody. Examples of good practice articulated by participants included the police:

- Asking prisoner escort staff to ‘keep an eye’ on the welfare of a detainee who was ‘hearing voices’ when s/he was transported to prison custody.
- Ensuring children were able to get home safely when they were released from custody. In contrast, vulnerable adults could be released without access to suitable transport or accommodation.

- Providing information on prevention of suicide and self-harm and on services offering support to people with substance misuse issues.

However, not everyone who felt they would have benefited from information and guidance received it. Participants believed this was because the police service does not have the resources to offer such support to all detainees. It was also felt that some officers did not see it as part of their role.

Some participants thought it would be beneficial for professionals from a range of support services (e.g. mental health, substance misuse, offenders) to attend police stations to provide information and refer or signpost individuals to community-based provision. Participants felt some detainees would be more likely to engage with services if they met with workers in person. This could prevent exacerbating existing mental health conditions and reduce the likelihood of people returning to police custody by addressing the causes of their behaviour. However, it was acknowledged that people may not fully engage with support services for a number of reasons, such as not wanting to delay leaving custody by meeting with health and social care agencies. On leaving custody, it may be challenging for people to keep appointments because they are not in the 'right frame of mind', have competing demands on their time or are unable to find appropriate childcare.

5. Treatment by police officers/staff

This chapter describes participants' views of their treatment by police officers/staff throughout the custody process. These accounts can be grouped into four categories: fairness and respect; belittling conduct; use of force; and discriminatory treatment.

5.1 Fairness and respect

Positive treatment by police officers/staff helped to minimise feelings of stress and anxiety. Examples were given of arresting officers who were proportionate and fair when detaining individuals. For example, a child who was arrested on suspicion of robbery and who was found not guilty of the offence felt the arresting officer had been open-minded about whether the child had committed the offence. It was also appreciated when officers helped to alleviate distress through engaging detainees in conversation to pass the time or by trying to understand the causes of their offending behaviour. Other participants appreciated when the police respected their right to remain silent.

Additionally, participants spoke of officers/staff in the custody suite who were friendly and attentive to the needs of vulnerable detainees. For example, a child who was feeling anxious appreciated the officer/staff 'making jokes' to help him/her feel at ease. However, humour was not always considered appropriate (see 5.2, below).

5.2 Belittling conduct

There was a perception that the police service lacks accountability which in turn allows some officers/staff to behave like ‘bullies’ by belittling, humiliating or intimidating detainees. For example, there were reports of arresting officers using handcuffs when the detainee posed no risk of harm or escape.

> ‘M’ was suspected of an acquisitive crime and asked not to be handcuffed to avoid shame and embarrassment. The officers did not agree to this request. ‘M’ thought this was unjustified as ‘M’ believed it was clear (verbally and through their behaviour) that s/he would not resist arrest and there was no evidence to suggest ‘M’ posed a risk to the safety of the officers or the public. ‘M’ felt belittled when the officers would not temporarily remove the handcuffs to allow ‘M’ to adjust their clothing to maintain their dignity. (Participant from a BAME community)

As mentioned, the use of humour by police officers/staff was not always felt to be appropriate, particularly where detainees did not understand the joke or felt it was being made at their expense.

> A member of police personnel was reported by ‘N’ to have made ‘stupid jokes’ throughout the time s/he was taking ‘N’s’ fingerprints. This included telling ‘N’ to remove his/her socks to enable the police to collect ‘toe prints’. ‘N’ was prepared to follow the instruction as ‘N’ respected the officer’s authority. The officer then ‘joked’ that the participant would have to share a cell with another detainee who was heavily intoxicated. Again, ‘N’ took them at their word. ‘N’ thought the officer/ staff member’s conduct was insensitive and constituted an abuse of power, particularly because ‘N’ felt vulnerable due to a lack of knowledge and experience of the custody process:
>
> ‘I was just doing what I was told to do. So they could have told me to stand on my head and I probably would have done like 'cause that's what I thought of the police, but they abuse the power they really, really do.’ (Participant from a BAME community)

5.3 Use of force

The use of physical force by police officers must be lawful, proportionate and necessary (College of Policing, 2013c). Participants did not always believe arresting officers were justified in handcuffing detainees due to their age or because there was no risk of escape or perceived threat to the safety of the officers or the public. Some participants believed the degree and length of physical restraint was disproportionate in the circumstances. Examples were given of excessive force during arrests and

searches of detainees. There were reports of verbal aggression against participants by arresting officers, including name calling and other offensive remarks. This was considered unacceptable.

> Sixteen year old ‘P’ felt the police had used an unreasonable level of force when arresting him/her. ‘P’ initially cooperated but started to resist arrest when one officer started ‘chucking me about’. ‘P’ believed the officer handcuffed them as ‘tightly as possible’ and attempted to get them into the police van by ‘trying to trip me over’. During the drive to the station the officer was reported to have insulted ‘P’ on several occasions, including calling him/her a ‘dirty little twat’ (Child detained aged 16).

Participants felt the police should have more training on ‘de-escalation strategies’ and on the safe use of control and restraint techniques. They also felt it was important that senior personnel give examples of best practice and set clear expectations for officers who were new in their career. There was a view that individuals should have to demonstrate exemplary conduct before receiving full police powers, particularly powers of arrest.

5.4 Discriminatory treatment

Some participants believed they had experienced discriminatory treatment based on their ethnicity, clothing and appearance, social status or sexuality.

5.4.1 Race discrimination

> ‘R’ was involved in an altercation with his/her neighbour. ‘R’ believed that racism within some parts of the police service contributed to the police charging ‘R’ with a crime while the neighbour, who was alleged to have racially abused ‘R’, was released with no further action. ‘R’ believed the decision to transport him/her to police custody in a van rather than a police car was influenced by ‘R’s’ ethnicity. ‘R’ also said it felt as if the police were trying to get him/her to admit to things which were untrue. ‘R’ believed s/he may not have been charged with a crime if there had been a solicitor or an advocate to protect ‘R’s’ rights and to ensure s/he was treated fairly. (Participant who identified as white and black African)

5.4.2 Other forms of discrimination

There was also a view that some police officers/staff make stigmatising assumptions based on characteristics such as a detainee’s clothing and physical appearance, social status and sexuality. For example, some participants thought the decision to stop and question them in the street was influenced by the style of clothes they wore

and was unjustified. It was felt that people living in social housing and on benefits can sometimes receive worse treatment than those who do not. A specific example was a participant who believed the level of care s/he received in custody improved when it became known the participant was an acquaintance of a high profile professional. The participant was allowed to have the cell door open and was given enough to eat and drink when previous requests were reported to have been ignored. Finally, it was believed that prejudicial attitudes had influenced the line of questioning taken by the police. A participant said the arresting officers did not have good grounds for thinking the participant was being exploited and forced to commit crime due to his/her sexuality:

> *'They thought just because I was gay I was easily led or vulnerable, or bullied or whatever by somebody.' (Participant from a BAME community)*

Contrasting examples of officers/staff acting fairly and with integrity were also provided. For example, it was appreciated when officers apologised to detainees when an error was made, such as when an officer apologised to a young person who was de-arrested when his/her account of events was verified.

5.5 Selection and performance management

Participants highlighted the importance of selecting officers/staff on the basis of fairness, ethical conduct and the ability to manage challenging situations effectively. Participants believed there should be greater accountability and action taken against individuals who fall short of the standards set for the service. It was also thought that consideration should be given to requiring officers to wear audio recording equipment to aid the investigation of allegations of poor conduct.

6. Summary

The final chapter of this report draws together key findings relating to the groups who are the focus of the HMIC thematic inspection and of this research: children aged 17 and under; people experiencing mental health problems; and people from BAME communities. The chapter concludes by highlighting cross-cutting issues relating to vulnerable detainees' views and experiences of police custody.

It is beyond the remit of this research to make recommendations, but the findings have informed the findings and recommendations of the HMIC thematic inspection.

6.1 Children

Interviews with children raised four sets of issues, described below:

- **Alternatives to custody**: Children placed importance on the police using alternatives to detention in police custody for less serious offences.
- **Communication**: Some children/young adults described having very limited understanding of what happens when a person is detained in custody and

how long they can be held. Children were also sometimes uncertain about their entitlements which prevented them for asking for items needed for their welfare, such as a blanket. Additionally, children who were charged with a crime did not always fully understand the nature of the alleged offence due to officers' use of technical language. Finally, children were not always fully aware of the implications of non-compliance with bail conditions because they were not given adequate information by police.

- **Custody environment**: Children found it particularly challenging to be alone in a confined space with nothing to do for an extended period of time. Some children said the experience made them feel as if they were 'losing their mind'. Children could also feel daunted by the busy and noisy environment of the custody suite.

- **Responding to children's needs**: Children appreciated when officers were courteous, friendly and responded appropriately to their needs. Specific examples including using unmarked cars and plain clothes officers to arrest children, making hot drinks for children who were anxious, speaking to children in an age-appropriate way in the police interview and ensuring they were able to get home safely when they were released. Children also gave accounts of less positive practice including some officers not appearing to recognise when they were distressed.

6.2 Mental health

The following key themes were identified from the accounts of participants who had mental health problems at the time of their detention:

- **Preventing detention and promoting diversion from custody**: Participants with mental health problems felt it was important for there to be early intervention from services to prevent the circumstances which may lead to detention in police custody. It was felt that some people who come into contact with the police should be diverted towards mental health services to aid their recovery.

- **Communication**: People experiencing mental health crises may be uncertain about whether they are being held in relation to suspected crimes or because it is believed they require mental health assessment and care. Those who receive mental health assessment in custody may not be adequately informed of the outcome of the assessment or what will happen next.

- **Responding to mental health**: Participants felt it was essential for officers/staff to have good awareness of mental health in order to recognise and respond appropriately to the individual needs of people in their care. Participants suggested that people experiencing anxiety or distress be offered a hot drink and reading materials to pass the time. They also felt it would be

comforting if custody staff asked how they were feeling and talked to them in the cell. The importance of being proportionate when managing risks to the safety of people identified as being at risk of self-harm or suicide was highlighted. In particular, it was felt to be unhelpful when risk was inflated because of inaccurate or incomplete information.

- **Healthcare**: The importance of access to healthcare professionals who are specialists in mental health was highlighted by participants. This was so that they can receive appropriate assessment and support and to ensure that people who should be diverted from custody are identified.

6.3 BAME groups

Two sets of issues were raised relating to detainees who are from BAME groups:

- **Grounds for arrest**: Some participants perceived that the decision to arrest was not proportionate because the police did not have reasonable grounds to suspect them of committing an offence. This included a participant who was arrested after being identified by a witness. The participant felt the quality of witness identification was poor as the only description the witness could provide of the perpetrator was his/her ethnicity[106].

- **Discriminatory treatment**: There was a perception that some officers/staff treat detainees who are from black/African/Caribbean/black British communities less favourably because of their ethnicity. For example, a participant believed the decision to transport him/her to custody in a police van rather than a car was disproportionate in the circumstances and influenced by discriminatory attitudes. It was also perceived that a person's ethnicity influenced whether s/he was charged with a crime in some cases.

6.4 Vulnerable detainees

This chapter concludes by summarising cross-cutting issues relating to vulnerable detainees' views and experiences of police custody.

- **Communication**: It was appreciated when custody officers ensured vulnerable detainees understood why they were being detained and their rights and entitlements while in police custody. Suggestions for improving the consistency and quality of communication between the police and vulnerable detainees included custody officers providing a clear and comprehensive explanation of the custody process and written information in an appropriate format and style. It was also felt that custody officers should check for understanding when informing detainees of their rights.

[106] The participant identified as black English.

- **Rights**: Vulnerable participants valued the support of a competent solicitor who was able to provide clear instructions on how to answer questions during the police interview. Participants who received an AA were similarly positive about their contribution. Specific benefits identified by participants included AAs ensuring vulnerable detainees could exercise their rights and challenging poor or unfair practice. However, participants who felt they required an AA were not always given one. This should be addressed in order to protect the rights and welfare of vulnerable people.

- **Responding to vulnerability**: Participants felt it was important for vulnerable detainees to have the opportunity to discuss their needs in a comfortable and private space in the custody suite. The following elements were identified as helping to ensure an appropriate response when engaging with vulnerable people:

    - awareness of a broad range of needs and vulnerabilities, including children, people who have mental and physical health conditions, and people who have disabilities;

    - accurate and complete information on a person's needs and any risks to their safety; and

    - adequate levels of staff resource to protect the welfare and safety of detainees.

- **Healthcare**: Participants felt it was important for people who require physical or mental health care to have prompt access to a professional who can meet their individual needs, provide information and refer individuals to community-based provision. Receiving healthcare in a private environment and courteous and personable professionals were also valued. Participants highlighted the importance of detainees being able to access their correct mental health medication within good time of arriving in the custody suite. Participants felt it would helpful if healthcare professionals took into account the views of the detainee when deciding how medication should be dispensed, while acknowledging that healthcare professionals have to make decisions according to guidelines and in line with their clinical judgement.

- **Treatment by officers/staff**: Being treated fairly and with respect helped improve the experience of detention in police custody. Participants appreciated when officers/staff were personable, non-judgmental and showed concern for the wellbeing of people who were experiencing anxiety or distress. However, poor or inappropriate conduct by officers could have the opposite effect. Specific issues included: belittling or humiliating behaviour; unnecessary or excessive use of force; and discriminatory treatment based on

characteristics such as the detainee's clothing and appearance; social status, sexuality and ethnicity.

Participants also made suggestions for improvement across two key areas:

- **Awareness of vulnerabilities**: it was felt essential for police officers/staff to have good awareness of a range of vulnerabilities in order to recognise and respond appropriately to the needs of people in their care. Participants suggested a review of selection and performance management processes to ensure consistency in the quality of interactions between the police and people in vulnerable circumstances.

- **Diversion and access to services**: participants highlighted the importance of early intervention to stop people from entering into circumstances which may place them at risk of being detained by the police. They thought that vulnerable people who are detained in police custody should have timely access to high quality healthcare and professionals who can signpost or refer them to services in the community.

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Appendix A: Qualitative methodology

Recruitment approach

Participants were recruited through reputable gatekeeper organisations. Gatekeepers made initial contact with potential participants in order to provide information about the purpose of the research; what would be involved in taking part; the names and contact details of the NatCen research team, and issues relating to confidentiality, anonymity and disclosure. Interviews were then arranged for a time, date and place suitable with people who expressed an interest in taking part in the research. A member of the research team contacted potential participants prior to the appointment to check if it was appropriate for the interview to take place.

Sample approach and criteria

Participants in qualitative samples are selected to achieve range and diversity with respect to carefully chosen sample criteria. Samples are not intended to be statistically representative of the wider research population as qualitative research does not aim to measure prevalence, but to map the range of perspectives and explain the varying influences of different factors on views and experiences. As such, qualitative studies do not have to include large numbers of people (by quantitative standards) for findings to be robust.

In selecting people to take part in this research NatCen and HMIC agreed the following criteria:

- Children or adults in vulnerable circumstances who had been detained in police custody in England or Wales either in relation to suspected crimes or mental health crisis. The investigation and trial should be closed (where relevant) and detention should have occurred no earlier than 2011.
- Interviews should be carried out with children age 17 and under, people experiencing a mental health problem and people who are from BAME communities.

It was agreed the sample should be diverse with respect to:

- demographic characteristics of participants – age, gender and ethnicity;
- reason for detention, including people detained in relation to a range of alleged crimes and due to mental health crisis;
- offending history, including individuals who had been detained on more than one occasion and those who had not; and
- cases from different regions of England and Wales.

Achieved sample

Twenty eight interviews were carried out for this research. People who took part in the research broadly met the inclusion criteria chosen for this study. Twenty six of the 28 interviews were with either children and young people aged 17 and under, people experiencing a mental health problem and people who are from BAME communities. The remaining two participants identified as having either a history of substance misuse or an autistic spectrum disorder. Of the 28 people who took part, 25 were detained in police custody in around the last three years (2011-2014).

Despite the challenges inherent in recruiting people in vulnerable circumstances, the achieved sample has a good level of diversity. The table below summarises the achieved interview sample.

Table 1 Achieved sample of participants

		Total
Age of participant (years)	17 and under	9
	18-25	3
	26-35	5
	36-50	9
	51-70	2
Gender of participant	Male	18
	Female	10
Ethnicity of participant[107]	Black African	1
	Black Caribbean	2
	Black English/British	1
	White English/Welsh/Scottish/Northern Irish/British	15
	White and black Caribbean	4
	White and black African	2
	White and Asian	1

[107] Information is missing for two participants.

Mental health of participant	In need of mental health care	13
	No/not disclosed	15

Other characteristics of the sample included:

- Participants had different types of offending histories, including people who had been detained once and those who had been detained on multiple occasions.
- The type and severity of crimes varied. Alleged offences included: criminal damage, acquisitive crimes, assault, and drug offences.
- People were detained in different regions of England and Wales.
- The sample included people with a range of physical or mental health conditions such as anxiety and depression, bipolar disorder, personality disorder, epilepsy and diabetes. An interview was also carried with a participant with an autistic spectrum disorder.

Topic guide

A topic guide was used in all in-depth interviews to help ensure a consistent approach across interviews and between interviewers. The guides were used flexibly to allow interviewers to respond to the individual nature and content of each discussion, so the topics covered and their order varied between interviews. Interviewers used open, non-leading questions and answers were fully probed, in order to identify examples of positive practice as well as negative experiences.

The main headings and sub-headings used for the interviews with participants are provided below:

Introduction

- Introduce self and NatCen
- Aims and objectives of the research
- Length and nature of discussion
- Issues around confidentiality, anonymity and disclosure
- Use of digital recorder
- Questions
- Consent to participate
- Thank you (high street voucher).

Participant background

- Their background and any support needs
- Whether they have been held in custody on more than one occasion.

Views and experiences of the custody process

- First point of contact with the police
    - Circumstances prior to contact with police, reason for contact, what happened and how they felt, views on whether alternatives to custody would have been appropriate
- Views on the journey to custody
    - Where they were taken and views of the decision, what happened and how they felt
- Arrival in police custody
    - What happened and how they felt, views and experience of risk assessment and management, adequacy of information on their rights and entitlements
- Experience of being searched, questioned and giving other types of evidence
    - Who was present, what happened and how they felt, extent to which they understood what was happening, views of treatment by officers/staff, extent to which they felt comfortable and reasons for this
- Views of the custody suites
    - Views on suitability
- Views of review of detention
    - Adequacy of information, views on length of detention
- Experience of leaving custody
    - Awareness and understanding of charging decision and its implications, whether they felt they needed support from other services at time and what the police did to help
- Successes, challenges and suggestions for improvement.

Awareness and understanding of rights and entitlements and views of implementation

- Whether and how they were informed of their rights and entitlements, adequacy of information, experiences of exercising rights and entitlements
- Successes, challenges and suggestions for improvement .

Identifying and responding to the needs of detainees

- How the police identified and responded to their needs
- Accessing healthcare in custody
    - Whether they could access healthcare and if so, how this happened, views on time taken to access healthcare, who was present, what happened and how they felt, views of quality of provision, views of treatment by the healthcare professional
- Successes, challenges and suggestions for improvement.

Views and experiences of officers/staff

- Treatment by officers/staff and the difference this made to the participant, adequacy of communication, qualities sought in officers/staff
- Successes, challenges and suggestions for improvement.