



POLICE CUSTODY

THE DETENTION OF PERSONS
IN POLICE CUSTODY IN
NORTHERN IRELAND

SUMMARY

SEPTEMBER 2020



The Regulation and
Quality Improvement
Authority

POLICE CUSTODY

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Laid before the Northern Ireland Assembly under Section 49(2) of the Justice (Northern Ireland) Act 2002 (as amended by paragraph 7(2) of Schedule 13 to The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010) by the Department of Justice.



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LIST OF ABBREVIATIONS

AED	Automated External Defibrillator
APP	Authorised Professional Practice
BHSCT	Belfast Health and Social Care Trust
CCTV	Closed-Circuit Television
CDO	Custody Detention Officer
CJI	Criminal Justice Inspection Northern Ireland
CS	2-chlorobenzalmalononitrile a cyanocarbon
CSE	Child Sexual Exploitation
DNA	Deoxyribonucleic acid
DoH	Department of Health
DoJ	Department of Justice
FMO	Forensic Medical Officer
GP	General Practitioner
HMICS	Her Majesty's Inspectorate of Constabulary in Scotland
HMICFRS/HMIC	Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services (formerly Her Majesty's Inspectorate of Constabulary) (in England and Wales)
HMIP	Her Majesty's Inspectorate of Prisons (in England and Wales)
HSCB	Health and Social Care Board
HSCT	Health and Social Care Trust
ICV(s)	Independent Custody Visitor(s)
IT	Information Technology
MHO	Mental Health Order
NIAAS	Northern Ireland Appropriate Adult Scheme
NicheRMS	Records Management System developed by Niche Technology Inc. used by PSNI
NIECR	Northern Ireland Electronic Care Record
NIPB	Northern Ireland Policing Board
NPM	National Preventive Mechanism
OPCAT	Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
OPONI	Office of the Police Ombudsman for Northern Ireland
PACE	Police and Criminal Evidence (Northern Ireland) Order 1989

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PHA	Public Health Agency
PPE	Personal Protective Equipment
PPS	Public Prosecution Service for Northern Ireland
PSNI	Police Service of Northern Ireland
RO	Responsible Officer
RQIA	Regulation and Quality Improvement Authority
UK	United Kingdom
UN	United Nations
UNCRC	United Nations Convention on the Rights of the Child
Woodlands JJC	Woodlands Juvenile Justice Centre

CHIEF INSPECTOR'S FOREWORD

Every day the Police Service of Northern Ireland deal with detainees, all have individual needs and many have a complex range of mental health, alcohol and substance misuse and aggression issues. Some are children and young people, who may have a history of life in care, behavioural difficulties and educational needs or are vulnerable adults which means that a police custody suite is not the most appropriate place for them.

Effectively engaging with detainees to make sure they have any immediate physical and mental health needs met, they are kept safe and legal requirements complied with while in custody presents a constantly challenging working environment for Police Officers, Custody Detention Officers and health professionals. Regardless of whether detainees have been in police custody many times before or this is their first time, they each have individual needs that need to be assessed and risks managed.

This report follows the periodic inspection of police custody facilities and arrangements in Northern Ireland. These inspections are carried out by the Regulation and Quality Improvement Authority and Criminal Justice Inspection Northern Ireland partners and demonstrate our obligations as members of the National Preventive Mechanism to protect people in custody from ill treatment and abuse.

Effective partnerships involving the range of service providers are vital and can impact on outcomes for detainees. The pathfinder partnership of on-site support from nurse professionals in Musgrave custody suite are effective initiatives and models of health care provision that merit sustaining and further development across the entire police custody suite estate.

The Covid-19 pandemic has accelerated the use of video technology in police custody suites for first appearances in court and has provided evidence of what can be achieved to inform more permanent legislative reform. The benefits of this should not be lost in the restoration of more court hearings, particularly for those most vulnerable detainees.

This report makes a number of strategic and operational recommendations and areas for improvement that will build on existing effective partnerships and deliver better police custody services when implemented.

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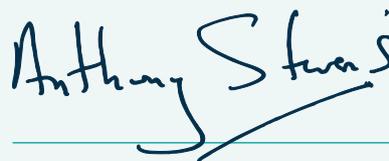
This inspection was led by Rachel Lindsay and David MacAnulty of Criminal Justice Inspection Northern Ireland in partnership with a team of Inspectors from the Regulation and Quality Improvement Authority, led by Emer Hopkins. I am grateful to all those involved in the inspection, particularly those detainees who spoke to Inspectors about their experience in police custody.


Jacqui Durkin

Chief Inspector of Criminal Justice
in Northern Ireland

September 2020

**Criminal Justice Inspection
Northern Ireland**
a better justice system for all



Dr A B Stevens OBE

Interim Chief Executive
Regulation and Quality Improvement
Authority

September 2020

 The **Regulation and
Quality Improvement
Authority**

EXECUTIVE SUMMARY

Introduction

When any person is arrested the police have a duty to ensure that subsequent detention complies with international standards as “*Detention by the police is the moment when detainees are most at risk of ill-treatment or of suffering other types of abuse*”¹. The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment is an international human rights treaty designed to strengthen protection for people who are detained. Inspections on the efficiency, effectiveness and treatment of detained persons in the custody of the Police Service of Northern Ireland are conducted by Criminal Justice Inspection Northern Ireland (CJI) and the Regulation Quality and Improvement Authority. This report is the result of the third such inspection, with fieldwork conducted in 2019 to assess the Police Service of Northern Ireland’s delivery in this area against the *Expectations for police custody*².

Data provided by the Police Service of Northern Ireland indicated that there had been 26,160 detainees held in custody during 2018-19. Data from the Police Service of Northern Ireland and the custody record analysis conducted by CJI highlighted the complex risks and needs

of detainees in police custody in terms of vulnerabilities, intoxication and mental health.

Leadership, accountability and partnerships

An Assistant Chief Constable had responsibility for custody and there was a dedicated team in District Policing Command, led by a Chief Superintendent, which provided strategic and operational governance. The custody policy reflected College of Policing and other United Kingdom guidance and was supported by a range of documents on the Police Service of Northern Ireland intranet site, available to custody staff.

Training was provided by the Police Service of Northern Ireland for Custody Sergeants, Custody Detention Officers and Constables working in custody and training had a focus on vulnerability. Police Service of Northern Ireland policies on child protection and adult safeguarding reflected the Department of Health and Department of Justice policies, although both focused more on their needs as victims rather than when they were suspected of an offence. Diversionary approaches, particularly for children, were a focus for the Police Service of Northern Ireland. However there were difficulties

1 Association for the Prevention of Torture, *Police custody: Risks and safeguards*, APT website, online at: www.apt.ch/en/police-custody-risks-and-safeguards/.

2 The *Expectations for police custody* were developed by Her Majesty’s Inspectorate of Constabulary and Fire & Rescue Services (formerly Her Majesty’s Inspectorate of Constabulary) and Her Majesty’s Inspectorate of Prisons for use in England and Wales as the standards against which delivery of police custody by police forces was assessed. These have been adapted for use in Northern Ireland. See Chapter 1 and Appendix 1 for more details.

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in applying diversionary approaches to 'Looked After' children³, who resided in children's homes. The development of a Bail Act, to clarify the position in relation to children brought into custody, was still outstanding and support to secure legislative reform to address the issue of bail for children and young people is still required. Strategic discussions to address the difficult issue of 'Looked After' children between the Police Service of Northern Ireland and the Health and Social Care Board had stalled but Inspectors recommend these be re-established. Police custody was not often used as a 'place of safety' for those detained under mental health powers but this provision remained in the new Mental Capacity Act (Northern Ireland) 2016⁴.

Performance management data was routinely collected and analysed and the Police Service of Northern Ireland had developed a quality assurance programme to ensure consistency of decision making and recording across the custody suites. Inspectors acknowledge the benefits of this work. Information in relation to adverse incidents in custody was shared and escalated as appropriate.

The custody record required the collection of data for equality monitoring purposes, although community background and sexual orientation were important categories which were not included.

CJI recommend the Police Service of Northern Ireland collect data on all the Section 75⁵ categories in this monitoring. The Northern Ireland Policing Board's Independent Custody Visiting Scheme were regularly present in the suites and had a constructive working relationship with custody staff. Partnerships with other agencies who were users of the custody suites or provided services tended to be issue specific, but partners also reported positive engagement with custody staff.

Pre-custody: first point of contact

A variety of diversionary options for both children and adults were available to operational officers but their use was sometimes frustrated by the detainee being intoxicated or violent, with other agencies declining to accept them into their care, resulting in them having to be detained by the police. Police systems enabled people with vulnerabilities or who presented risks to themselves or others to be identified. The Multi-Agency Triage Team was a commendable joint initiative by health and justice professionals to keep people in mental health crisis out of custody. The processes on arrival at custody enabled Custody Sergeants to identify and make decisions about how to deal with risks and needs as soon as the detainee arrived in custody, even sometimes before they arrived at the booking in desk.

3 The Department of Health website states: A child is looked after by an authority if he or she is in their care or if he or she is provided with accommodation for a continuous period of more than 24 hours by the authority in the exercise of its social services function. Children are taken into care for a variety of reasons, the most common being to protect a child from abuse or neglect. In other cases their parents could be absent or may be unable to cope due to disability or illness. See www.health-ni.gov.uk/articles/looked-after-children.

4 See www.legislation.gov.uk/nia/2016/18/section/160.

5 Section 75 of the Northern Ireland Act 1998 places a statutory obligation on public authorities to carry out their functions with due regard to the need to promote equality of opportunity and good relations in respect of religious belief, political opinion, gender, race, disability, age, marital status, dependants and sexual orientation.

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In the custody suite: booking in, individual needs and legal rights

Inspectors were told by most detainees that they were treated well in custody and this was reinforced by observations during several suite visits. Many custody staff were clearly very skilled and experienced in dealing with distressed, intoxicated and challenging people and circumstances.

Detainees were advised of their rights during the booking in process and were able to avail of a written copy of these. The Police Service of Northern Ireland was able to respond to the needs of detainees from different genders, religions, with differing communication needs and skill was exercised in addressing these different needs. The risk assessment process, guided by the custody record, was detailed and Custody Officers were skilled in eliciting the appropriate information. Drugs were cited as particularly challenging to risk assess by custody staff and they would welcome more training in this area. There were inconsistencies in the application of College of Policing guidance on levels of observation in the care plan. CJI recommend that the Police Service of Northern Ireland take steps to address this and improve the recording of decision making.

There were no issues identified around the length of time detainees spent in custody with specialist teams advancing cases to assist with the custody process. Only 10 detainees in the 100 custody records sampled were held in custody for more than 24 hours. Reviews of detention were generally conducted in accordance with the provisions of the Police and Criminal Evidence (Northern Ireland) Order 1989. However most were conducted while the

detainee was sleeping, which requires further examination by the Police Service of Northern Ireland.

The legal rights of detainees were being met appropriately and relationships with legal representatives were professional and positive. The custody record analysis showed a greater use of police bail for children than for adults. Bail management was reported to have been improved with specialist teams having oversight of bail returners. Woodlands Juvenile Justice Centre was used for some children for Police and Criminal Evidence (Northern Ireland) Order 1989 remand, depending on accessibility, but analysis showed that 'Looked After' children spent longer in police custody than those in the care of their parents or guardians. Detainees were aware of how to complain about their treatment by the police to the Office of the Police Ombudsman for Northern Ireland.

In the custody cell, safeguarding and health care

The custody suites visited were in a good state of repair and the Police Service of Northern Ireland had an ongoing maintenance programme in place. Further rationalisation of the custody estate was planned when two new build custody suites were completed.

Use of force in custody was more closely monitored than it had been previously, with patterns and trends able to be identified and analysed. A quality assurance programme was about to commence at the time of the fieldwork. Levels of force used were low in accordance with the Police Service of Northern Ireland guidance.

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Officers received annual personal safety training, including de-escalation techniques. Audio recording in cells should be improved to ensure the quality assurance process is fully effective. Strip-searching was not used excessively and was mainly used to search for drugs or objects for self-harm. Custody suites were well-stocked with supplies of food and drink, alternative clothing and wash kits. Alternative clothing was widely used but there was little recorded evidence of detainees being offered a shower or outside exercise, albeit most detainees did not stay in custody long.

The need for safeguarding was understood by Police Service of Northern Ireland officers although policies for children tended to focus more on them as victims of crime rather than potential perpetrators. The Police Service of Northern Ireland's Public Protection Branch was the key source of advice for custody staff in this area. The Northern Ireland Appropriate Adult Scheme had been delivered by Mindwise for 10 years and was reported to work well. It was more difficult for custody staff to access a social worker to act as an appropriate adult for a child who was 'Looked After'.

Police systems flagged previous valuable information about risks in relation to safeguarding information that was already known to police. However there were inconsistencies in the information available about wider safeguarding issues, such as children who were on the Child Protection Register. The information technology system recently developed by the Police Service of Northern Ireland to address

this (referred to in CJI's inspection of child sexual exploitation⁶) should also be available to custody staff. Evidence from the Police Service of Northern Ireland's data and detainees themselves suggested that children and young people were treated with particular care in police custody.

A new nurse-led model of health care was being piloted in Musgrave custody suite in Belfast at the time of the inspection, in a partnership between the Police Service of Northern Ireland, Belfast Health and Social Care Trust and the Public Health Agency. The Police Service of Northern Ireland hoped to roll out this model across the custody estate to address significant weakness in clinical governance highlighted in previous inspections, based on a shared funding arrangement. Inspectors were encouraged by positive feedback about the potential benefits of the new model and it is recommended this model be expedited across Northern Ireland. Outside Belfast the Police Service of Northern Ireland continued to engage Forensic Medical Officers as independent contractors and Police Service of Northern Ireland staff were involved in the monitoring and planning of this service. This arrangement was set to continue until funding for the new model can be agreed and it could be rolled out. In the interim arrangements for raising concerns in respect of the individual's practice of Forensic Medical Officers should be formalised.

The collection of data in Musgrave custody suite regarding adverse incidents was undertaken using two systems; one used

6 CJI, Child Sexual Exploitation in Northern Ireland: *An inspection of the criminal justice system's response, June 2020*, available online at: www.cjini.org/TheInspections/Inspection-Reports/2020/April-June/Child-Sexual-Exploitation-in-Northern-Ireland.

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by the Police Service of Northern Ireland and one by the Belfast Health and Social Care Trust. There were no mechanisms, at the time of the inspection, to share data or jointly analyse this data. This should be addressed by the development of joint systems for analysis and learning.

Access to health care professionals was generally good, with some delays in rural areas but with 24/7 cover in Musgrave custody suite. Training for custody staff in relation to health care needs should be reviewed. Facilities for provision of health care were good although arrangements for cleaning and monitoring of standards of cleanliness should be improved in order to ensure proper infection control. There were inconsistencies in the oversight and management of medical equipment, which needs to be addressed. Detainees' medical records were accessible in Musgrave custody suite but not yet outside Belfast and there was variance in the management of medical records across the suites. Arrangements for access to and management of medical records should be improved. The management of medications was also inconsistent and needs improvement.

The service provision for management of drug and alcohol misuse in custody suites was minimal. Mental health provision was delivered by the Police Service of Northern Ireland's custody staff and Forensic Medical Officers across all suites, but mental health nurses were only available as part of the new model in Musgrave custody suite. Local arrangements to provide mental health advice and support between custody suites and health care providers varied between localities and Trusts. This variation was evident in the

extent to which custody suites were used for detention of detainees who required acute mental health hospital admission under Article 130 of the Mental Health Order (Northern Ireland) 1986. It is recommended that work is undertaken to address equity of access to mental health care across the Police Service of Northern Ireland custody estate.

Release and transfer from custody

Pre-release risk assessments were not always completed appropriately before every detainee left custody and the Police Service of Northern Ireland needs to improve the quality of analysis and recording of these. Detainees were signposted to other organisations but a travel scheme should be introduced to ensure those without access to funds can get home safely.

It was challenging for the Police Service of Northern Ireland to ensure detainees were fit for interview, processed, interviewed and transported to court for the appropriate time. There was no use of video-link for first appearances at court, as there was no provision for this in the Police and Criminal Evidence (Northern Ireland) Order 1989. Saturday courts were most difficult to access. CJI welcomes the outcome of ongoing discussions between the Police Service of Northern Ireland and the Judiciary to progress these matters.

RECOMMENDATIONS

STRATEGIC RECOMMENDATIONS

STRATEGIC RECOMMENDATION 1

The Department of Justice should prioritise and secure support for required legislative reform to:

- implement longstanding Northern Ireland Law Commission recommendations on the right to bail for children and young people; and
- make changes to the Police and Criminal Evidence (Northern Ireland) Order 1989 which make provisions for alternative accommodation for children charged with an offence and provide clarity for Custody Officers on the detention of children and young people.

(paragraph 2.18)

STRATEGIC RECOMMENDATION 2

The Police Service of Northern Ireland should re-establish strategic discussions with health and social care partners to address the issue of 'Looked After' children being held in police custody cells. This should commence within three months of the publication of this report

(paragraph 2.20)

STRATEGIC RECOMMENDATION 3

The Police Service of Northern Ireland and Health and Social Care Trusts should collaborate effectively to expedite the implementation of the nurse-led custody model across Northern Ireland with interdepartmental strategic support.

(paragraph 5.57)

STRATEGIC RECOMMENDATION 4

Systems should be developed and implemented at both operational and senior managerial level within the Police Service of Northern Ireland and the Belfast Health and Social Care Trust for the joint analysis of incidents/complaints by health care professionals/Forensic Medical Officers to ensure that learning is identified and shared both between the Police Service of Northern Ireland and health care staff and between health care staff and Forensic Medical Officers across all custody suites.

(paragraph 5.57)

STRATEGIC RECOMMENDATION 5

The Police Service of Northern Ireland should develop and implement systems through locality/district based Administrative Forensic Medical Officers, Responsible Officers at the Health and Social Care Board and through the General Medical Council where required for resolving professional practice concerns or complaints. These systems should focus on continuous improvement in quality and ensuring consistency in respect of the services provided.

(paragraph 5.57)

STRATEGIC RECOMMENDATION 6

The Police Service of Northern Ireland and health care providers should define the current arrangements for the access to acute mental health care for detainees in custody suites and agree on a suitable model to ensure equity of access across Northern Ireland. These arrangements should reinforce the appropriate use of Article 130 of the Mental Health Order (Northern Ireland) 1986 which should be clearly communicated to health care professionals working in these environments.

(paragraph 5.87)

OPERATIONAL RECOMMENDATIONS

OPERATIONAL RECOMMENDATION 1

Within six months of the publication of this report, the Police Service of Northern Ireland should address gaps in Section 75 (of the Northern Ireland Act 1998) monitoring of detainees in custody, particularly in relation to community background and sexual orientation.

(paragraph 2.26)

OPERATIONAL RECOMMENDATION 2

Within three months of the publication of this report, the Police Service of Northern Ireland should review its current guidance on care plans and reinforce, through guidance issued and the quality assurance process, the need for sound decision making and better recording of care plans on the custody record that are in accordance with the College of Policing's Authorised Professional Practice for Detention and Custody.

(paragraph 4.18)

OPERATIONAL RECOMMENDATION 3

The Police Service of Northern Ireland should define the required standards in respect of the cleaning of clinical and non-clinical areas within custody suites. The Police Service of Northern Ireland must ensure robust monitoring and oversight of compliance with these standards.

(paragraph 5.64)

OPERATIONAL RECOMMENDATION 4

The Police Service of Northern Ireland should identify all health care equipment required to be held in custody suites. It must ensure systems and processes are implemented, with clearly identified roles and responsibilities, and regular audits, to ensure health care equipment is available and safe for use.

(paragraph 5.69)

OPERATIONAL RECOMMENDATION 5

The Police Service of Northern Ireland should engage with Forensic Medical Officers and the e-health team in the Health and Social Care Board to consider arrangements for Forensic Medical Officers and health care staff to access the Northern Ireland Electronic Care Record in all custody suites. Policies and procedures should be developed and implemented to ensure clinical records are completed, stored and retained in line with professional standards and legal requirements. These should be subject to audit and compliance assured.

(paragraph 5.77)

OPERATIONAL RECOMMENDATION 6

Policies and procedures for the management of medicines should be developed and implemented to standardise processes across all custody suites and to ensure that the use of medicines in custody is in line with professional and legal requirements. This should include:

- ensuring Forensic Medical Officers access only their own individual supply of medication; and
- ensuring medicines are in date and stored securely at the appropriate temperature.

(paragraph 5.77)

OPERATIONAL RECOMMENDATION 7

The Police Service of Northern Ireland should develop an action plan to improve the quality of analysis and recording of pre-release risk assessments within three months of the publication of this report.

(paragraph 6.2)

AREAS FOR IMPROVEMENT

- 1.** Further examination of the reasons for arrest and detention in custody of Irish Travellers and people of Black ethnicities would be beneficial to see if any improvements in practice can be identified **(paragraph 1.19)**.

- 2.** The Police Service of Northern Ireland should undertake further analysis regarding the use of sleeping reviews by Custody Inspectors and address any issues arising **(paragraph 4.33)**.

- 3.** In order to improve the quality assurance process for use of force the Police Service of Northern Ireland should:
 - establish whether it is possible to improve the coverage of audio recording in existing custody cells; and
 - ensure audio recording which records every interaction between detainees and staff in the cell is included in the specification for new build suites **(paragraph 5.13)**.

- 4.** The Police Service of Northern Ireland should introduce without delay the proposed information technology process to alert within its system children on the Child Protection Register and ensure it applies to custody records **(paragraph 5.37)**.

- 5.** The Police Service of Northern Ireland should review the provision of health care training to ensure that custody staff are equipped with the appropriate skills to effectively meet the needs of detainees **(paragraph 5.59)**.

- 6.** The Police Service of Northern Ireland should consider options for the use of a travel scheme for detainees without access to funds or transport from family or friends **(paragraph 6.6)**.



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