

24 hours in police custody – is police detention overused?

By Penelope Gibbs and Fionnuala Ratcliffe
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About Transform Justice

Transform Justice is a national charity campaigning for a fairer, more humane, more open and effective justice system. Penelope Gibbs set up the charity in 2012 to help create a better justice system in the UK. Transform Justice promotes change through generating research and evidence to show how the system could be improved, and by persuading practitioners and politicians to make those changes.

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Contents

01	Foreword
02	Executive summary
05	Who is in police detention?
06	"Booking in" - detention by default?
10	Why are people in mental health crisis still being held at police stations?
12	Immigration detainees – falling between the gaps
13	The case for diverting vulnerable adults
17	RUI and police bail – the alternatives to detention
19	What's taking so long?
23	The decision to remand
29	Scrutinising the use of detention
33	Promotion, pasture or punishment? The role of the custody officer
34	Is detention on warrant always warranted?
36	Conclusion and recommendations
37	Endnotes

Foreword

“Like a prison but without a TV” – people are detained in police custody against their will. If PACE guidance is followed, police detention should only be a last resort. But it isn’t always. It is used to detain vulnerable people including children, the homeless, drug addicts and people with mental ill-health problems. Police custody is described as being a frightening and distressing place, with people “shouting and banging” on cell doors. The cells are said to be “dirty, smelly and cold” and the food “disgusting”. Most people accept this as part of their punishment, even though they have not been convicted of an offence.

This review of police custody raises important questions as to how and why police custody is used. Many of the problems are longstanding: the automatic authorisation of detention, the ineffectiveness of inspectors’ reviews, and increasingly long delays. It is frustrating that my research findings into police custody have not improved policy and practice, even when breaches of PACE are involved. Ten years ago, for example, I was critical that detainees were being held on average for just over nine hours but that’s increased by four hours since then.

Custody officers, who are independent of the police investigation, should uphold PACE safeguards but this is difficult if senior officers seek to influence detention decision-making. With competing police demands of ensuring public safety and investigating offences, it is not surprising if the rights of detainees are not a priority. This raises questions, however, about the extent to which the police alone should be responsible for upholding PACE safeguards. Maybe there should be a judicial (or quasi-judicial) role in overseeing police decision-making in relation to authorising and reviewing detention?

The number of people detained after being charged has reduced significantly over recent years. But it is still too high – and is measured against an overinflated

baseline. There was a sharp increase in the number of people arrested and detained following the introduction of a police target in 2003 to bring more offences to justice. Since a peak of 1.5 million arrests in 2008, changes in policing priorities have led to yearly declines in the figures – to 670,000 in 2019. If targets are reintroduced, as recently suggested by the Home Secretary, we may see custody suites full again.

It’s hard to scrutinise custody use without knowing who is detained and why. Data on the age, sex and ethnicity of detainees (anonymised) would allow the potential for discriminatory decision-making within police custody to be analysed. Electronic custody records should have made this information easily downloadable. Collating it centrally would help policy makers review PACE safeguards. At a local level, this data could assist “public scrutiny panels” when examining bail, RUI and detention decision-making.

The coronavirus pandemic has shone a small spotlight on the use of police custody. With the evident dangers of the virus to all those involved in a police interview (taking place in a small room), a new national protocol required the police to restrict the use of custody. As often with protocols, some areas seem to be adhering closely, while others appear to be ignoring it. But due to the perennial lack of scrutiny of police custody, it’s not clear how much practice has shifted, or what changes might be worth keeping.

Let’s hope that there is a silver lining in Covid-19 – that it has focussed attention on a neglected area of police powers and encouraged police to adapt their behaviour. This report challenges the pre-Covid use of police custody. The recommendations would lead to fewer people detained, for less time, but without an increased risk to public protection.

*Dr Vicky Kemp, Principal research fellow
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Executive summary

Police custody is a hidden world to which few outsiders have access. Lawyers and volunteers go in and out, but little hard data is available about those who are imprisoned in police cells, who they are and why they are there. Transform Justice only knows how many people have been detained in custody as a result of freedom of information requests to all police forces. But we don't know whether more people are being detained in custody than ten years ago, nor whether the reasons for detention have changed.

Most of those arrested by the police are brought into custody to be detained while they investigate the crime. The police aim to keep suspects until they can charge them but, if that's not possible, they must release them on pre-charge bail or under investigation. If they gather the right evidence and the crown prosecution agrees to charge, the police can choose whether to release the suspect or keep them in the cells (on remand).

Some adults do need to be detained in custody before, and sometimes after, charge but our findings suggest that police cells contain many vulnerable individuals who could be released without unduly risking public protection. Investigating officers often want to detain suspects because it facilitates their investigation. They present custody officers – who are ultimately responsible for the decision to detain – with a virtual “fait accompli” and it takes a brave custody officer to turn down a colleague.

The custody officer then spends up to 24 hours trying to ensure that his/her colleagues deal expeditiously with the detainees in the cells. But everything militates against speedy investigations and, the more vulnerable a suspect is, the longer their detention is likely to be. Once detained, every suspect needs to be risk assessed, and possibly checked by health practitioners. There is a shortage of investigating officers so it may take a while before they are ready. And a lawyer or legal

representative may need to be called too. All of this takes time, as does the CPS in deciding whether to charge. No wonder the length of time suspects spend in pre-charge detention is increasing.

We know that the number of people detained post charge in police custody has fallen significantly in recent years and numbers released under investigation increased considerably. It is good news that fewer people have been remanded by the police, but our findings suggest that numbers could be reduced still more. One in ten of those appearing in magistrates' courts were detained post charge by the police. And, of those, only a small minority are remanded in custody by the courts. And sitting miserably in the cells are the forgotten few – the immigration detainees, those on warrant and those detained for breach of the peace. They too spend many hours in police custody and, in most of these cases, custody officers have no flexibility to release them early.

Custody officers and staff try their hardest to keep detainees safe but their opportunities to change whether and how long detainees spend in custody are limited. Other services – mental health and social services – need to step into the breach and support those who have urgent welfare or health needs but do not need to be in custody.

Risk aversion also affects decision-making. The negative impact on individuals and attitudes when someone dies in custody or on release cannot be overestimated. Everyone involved suffers trauma. We need to learn lessons from every death and every serious incident, but improving the experience of sitting in a custody cell is only part of the answer. We should not lose sight of the right of suspects to be released.

Recent media headlines have focussed on police releasing too many suspects under investigation,

with no restrictions. The implication is that all those suspected by the police are inherently dangerous and should be detained. So few are questioning why the police detain suspects in police custody and why they sometimes detain them for so long. In this report we set out the case that policy custody is overused - that too many suspects are detained, that people are detained for too long and that too many are kept in after being charged. We set out pragmatic ways use of custody could be reduced and scrutiny improved.

Sources and acknowledgements

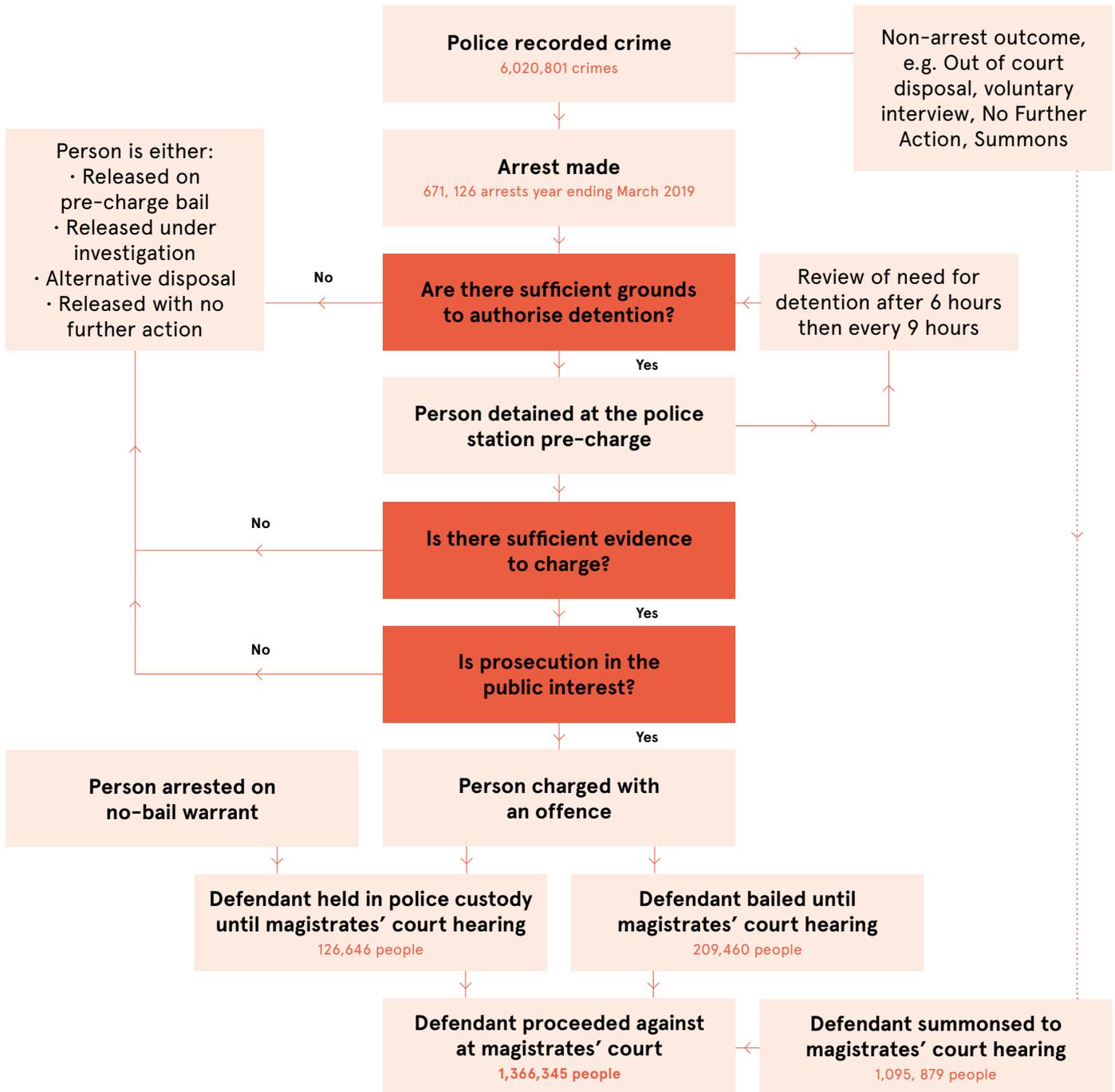
This report draws on the following sources:

- **A Transform Justice survey promoted on social media of police and custody staff, lawyers, appropriate adults and others. The survey was open May - July 2019 and received 518 responses.**
- **Eleven interviews with stakeholders and practitioners.**
- **Data received from freedom of information requests to all local police forces in England and Wales.**
- **Recent academic research and reports on the use of police custody.**
- **Published government data.**
- **A roundtable meeting of 14 stakeholders in January 2020.**

All the quotations used in this report are from our survey, interviews or roundtable unless otherwise stated.

Our thanks to all those who supported the development of this report by sharing the survey, agreeing to be interviewed, providing data, attending the roundtable and commenting on drafts.

**Figure 1:
Pathway through police custody¹**



Who is in police detention?

There is no national published data on the police custody population. Patchy information is available – such as the number of people detained under the Mental Health Act 1983 (see page 10) and the total number held in police custody post-charge (see page 23), but we don't know how many people are detained in police custody in total, why most of them are there, or any details about age, gender or ethnicity.

Our best estimate based on data obtained under freedom of information requests from local police forces is that around 850,000 adults were detained in police custody in the twelve months to August 2019.² A significant proportion (140,000) of detentions happened in London, whereas some forces in smaller and/or rural areas only detained a few thousand adults in the same time period.

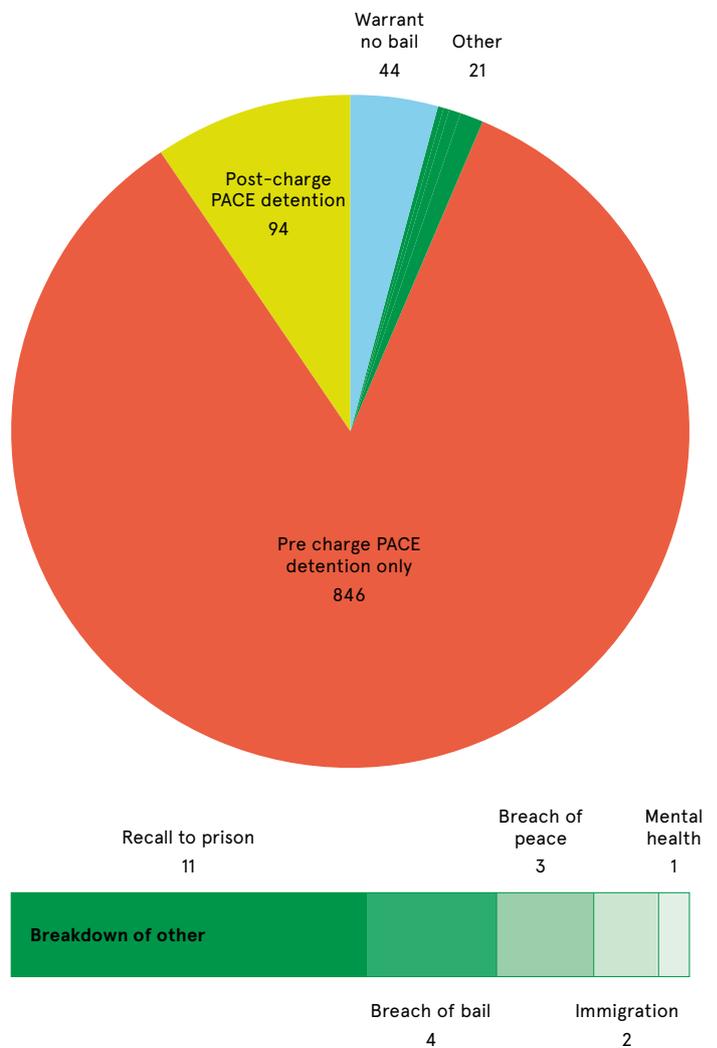
Numbers in custody vary by area and from month to month, but the pie chart (figure 2) shows the police custody population in one medium-size rural police force area, in one month in 2019. Most people (94%) detained in police custody that month were arrested on suspicion of committing a criminal offence (pre charge PACE detention). These suspects were being held while the police investigated and gathered enough evidence to try to secure a charge.

Of these, 10% (94) continued to be held in custody after being charged until their court appearance – the rest would either have been released on bail until their court date, or released under investigation or released with no further action.

About 4% of people in police custody that month were on a no-bail warrant – this usually means they have been arrested for failing to turn up for a court hearing (See page 34 for more on no-bail warrants). The other 2% of the custody population is made up of those who have been recalled to prison or have breached bail, and small numbers detained on

immigration charges (see page 12), those held for breach of the peace⁵, or brought to police custody after being detained under the Mental Health Act (see page 10).

Figure 2: monthly detention population in one medium-size rural police force, October 2019



"Booking in" – detention by default?

Sometimes for quite serious offences...there seems to be very little investigation of the facts by custody sergeants, and there have been some occasions where [the detention] should not have been accepted. (accredited representative)

When I went on my custody course, the impression was that I would provide that real robust scrutiny and that it's a real challenge to get someone through the custody sergeant into custody. But the reality is, I'm not convinced PACE supports that. (police officer)

Detention is always the last resort and custody officers should authorise detention only when it is necessary to detain rather than when it is convenient or expedient. The decision should not be seen as a rubber-stamping of the necessity to arrest but as a separate independent decision. (College of Policing Authorised Professional Practice)⁴

Custody officers are the gatekeepers of the custody suite – responsible for who enters, how detainees are treated, and how long they stay. The role, filled by police officers of sergeant rank or above, was introduced over thirty years ago to bring more independence to the decision to detain people, as a counter to the arresting officer whose main focus may be on investigation, pursuing charge and prosecution.

At first glance the criteria for detention at the police station seem narrow enough. Detention can only be authorised if it is necessary "to secure or preserve evidence" relating to the offence or "to obtain such evidence by questioning the person."^{5,6} National guidance emphasises that detention should only be authorised when it is "necessary to detain rather than when it is convenient or expedient."⁷

PACE and police custody

The legislation regulating the use of police custody is the Police and Criminal Evidence Act 1984, known as PACE. PACE sets out the powers and duties of the police, the rights and entitlements of members of the public (including detainees), and how the police should ensure these are maintained. The custody officer is responsible for making sure detainees are treated in accordance with PACE and its codes of practice.

In the 36 years since its introduction, well-intentioned changes to PACE have made it increasingly complex. One police officer described it as "so labyrinthine that I'd have to do a law degree to just do my job". Custody officers therefore rarely engage with PACE itself, instead turning to colleagues when learning the ropes and when making decisions. PACE also relies heavily on the defence lawyer being there to ensure police compliance. Unfortunately, courts have shown little interest in breaches of PACE in police custody. Anyone who feels that their detention was unlawful can pursue a claim in the civil courts for false imprisonment, but such claims are rare and usually settled out of court.

But research by Transform Justice and others indicates that custody officers may not be providing a robust enough challenge, and instead are sometimes authorising detention almost automatically. Figures from 28 local police forces show that only a tiny fraction of requests for detention were refused – less than 1% on average.⁸ That means approximately 99% of requests for detention are authorised. The police argue this is due to a drop in the number of unnecessary arrests (and subsequent requests for detention) in the first place. But the custody officer is supposed to bring some independence and challenge to the decision to use custody, as indicated by the legal requirement that the custody officer is of sergeant rank or higher. If that intention was honoured in practice, you would expect the refusal rate to be higher than 1%.

Academic evidence backs up this concern. Dr Roxanna Dehaghani, who was embedded in two custody suites, found that custody officers were authorising detention routinely and at times were actively assisting the arresting officer in establishing the grounds for detention.⁹

There are several reasons why custody officers may not be challenging detention:

- custody officers are reluctant to question their colleagues: **“a bunch of big tough detectives have just done a raid in the morning, and these are quite senior people, and [the custody sergeant’s] got to push back to them and say I don’t think we should be putting this person in here? [laughs] The police are so hierarchical, I think that would be a very brave custody sergeant who would do that”** (custody diversion worker). Dr Dehaghani found that smaller suites were more likely to refuse detention, because the arresting officer had to phone up first to ask if there was room for them to bring suspects in. This made it less awkward for

the custody officer to refuse detention, compared to larger suites where the arresting officer would turn up in person, suspect in tow.

- If the custody suite is busy, or short-staffed, custody officers may be pressured to go with the easier option of “rubber stamping” detention: **“Sometimes it’s the easy way out just to go ‘I’ll authorise detention’ because I’ll save all that battle. Because I’ve got this big queue waiting and I’ve still got to do this and I’ve still got to do that and sort the queue. I just haven’t got the time to fight.”** (custody officer, February 2015, Dehaghani)¹⁰
- There is sometimes a misunderstanding of the custody officer role as one which “authorises detention” rather than scrutinises the need for it: **“I’m a trained custody sergeant. I’ve been on a four-week custody course which gave me the qualification to come into police custody and act as a custody sergeant i.e. authorise detention and all the powers that go with it”** (custody officer, June 2015).¹¹ Dr Miranda Bevan observed custody processes in three police force areas. She found: **“there was routinely no explanation that the [custody officer] had to decide whether detention was ‘necessary’. If the [custody officer] provided any explanation at all they tended to say, ‘I’m going to hear now about the circumstances of your arrest’ or similar.”**¹²
- There can be pressure on arresting officers to increase arrest numbers: **“the response officers are under pressure from their sergeants to go out and make arrests...They’re worried if they don’t make the arrest, they got to try to cover their back another way. So they should make the arrest, I’m done. And when they get to us, if we refuse to authorise detention that’s our fault, not their fault, they’ve done their bit.”** (custody officer, February 2015, Dehaghani)¹³

By law, the detainee must be told why they have been arrested and detained, but detention is rarely presented as a decision that might be challenged.

The lawyer is the best person to question the need for detention, but they rarely arrive until much later, at which point their focus is on the interview and offence rather than why the suspect was detained.

Grounds for arrest or grounds for detention?

Just because an arrest is lawful, it does not necessarily follow that detention is necessary. There are several criteria under which a police officer can lawfully arrest someone, including to prevent the person harming themselves or others, or to stop them damaging property.

The grounds for detention are much narrower and focus solely on detention being necessary for evidence-gathering. But we came across a lot of confusion between the grounds for detention and grounds for arrest: **“Pre-charge detention is required in order to secure and preserve evidence and obtain evidence by questioning, so there is no reason to reduce its use. Essentially we are saying that people shouldn't be arrested if we want to reduce pre-charge detention!”** (police officer, survey)

National guidance does nothing to un-muddy the waters. The College of Policing says the decision to authorise or refuse detention **“can only be made after the custody officer has personally listened to the grounds for arrest from the officer who has brought the detainee into custody”**, before going on to say **“only the arresting officer is responsible for determining the need to arrest...The custody officer must, therefore, concern themselves solely with the issue of the necessity to detain in light of all the information they have received.”**¹⁴

Overlap between the arrest and detention criteria may also be contributing to their interchangeable use. The police can arrest someone if they believe it is necessary **“to allow the prompt and effective investigation of the offence or of the conduct of the person in question.”**¹⁵ If someone is arrested using this rationale, the custody officer would have a hard time questioning whether detention was necessary (to secure, preserve and/or gather evidence), without challenging the grounds for arrest in the first place.

Arresting officers should already have considered alternatives to arrest, for example “street bail”¹⁶, or asking the suspect to come to the police station voluntarily at a future date. Once they've ruled those options out and arrested the suspect, the officer may feel there is no alternative to detaining them in custody.

Amidst unclear national guidance, and an absence of detail on what “necessary to detain” means in practice, it's not surprising there is confusion in the ranks. Custody officers revert to scrutinising the grounds for arrest rather than the grounds for detention. In some cases there may not be much scrutiny going on at all. As well as 99% of detentions being authorised, lawyers reported that custody logs sometimes show only one or two minutes between arrival and detention. This does not seem enough time to properly consider the need for detention, although some officers disagree: **“even one or two minute discussion is a long time...it's a very long time for somebody to be able to pass across a little bit of information.”** (police officer)

Light needs shedding on this area of police procedure if we are to reduce unnecessary detention. The College of Policing should set out much more clearly how custody officers determine necessity to detain, and remove confusing wording relating to grounds for arrest.

More practical solutions are in the works. For example, a new pilot in north London will require all frontline officers to phone a “gatekeeper” at the point of arrest. This gives the custody officer an opportunity to check the need for custody and discuss alternatives – to prevent detention becoming a “fait accompli”. Officers are also reminded not to bring someone into custody unless they have enough evidence, such as CCTV showing the offence, or a witness statement.

Dr Vicky Kemp suggests that an algorithm could help give custody officers the support and confidence to refuse detention where appropriate. The custody officer could answer a few short questions about the case, and the necessity of authorising detention, based on information from the arresting officer and the suspect. If the algorithm suggested that detention was not necessary, this would prompt the custody officer to reconsider the need for detention.

Are alternatives to detention properly considered?

Very often the police interview is done without crucial evidence; an eye witness account, CCTV. You just think why bother? Why didn't you do it at a social hour and not have this person in detention?
(defence lawyer)

Once someone is arrested there are alternatives to holding them in a police cell, for example pre-charge bail, or de-arrest followed by a voluntary interview or a community resolution. But these options are not always sufficiently considered, or are considered after the suspect has been in detention for hours.

Dr Miranda Bevan looked at the use of detention in police custody for children (under 18 year olds). She was concerned that children were often being detained where this was not strictly “necessary”.

On several occasions, for example, the detention of the child was said to be needed to seize their phone or to search their home address, despite officers having the power to do both without detaining the child.¹⁷ Detention decisions were sometimes based on what was most convenient for the investigating officer. Bailing a child to attend at a more suitable time, or to come in for a voluntary interview, increases the paperwork involved and was avoided by some officers as “hard work” and “much more hassle”.

It was also suggested by some custody officers that it was better to detain children because it reduced the length of the process: **“it's in his interests – to stay here and to be interviewed, following strip search and home search – it's not good for him to send him home and then say come back another day.”**¹⁸ Indeed, some custody officers took the view that time spent by a child in the cells could even act as a **“bit of a deterrent.”** (custody officer CO43)¹⁹

Currently opportunities may be missed for someone (the custody officer) who is trained in diversion, vulnerability, and mental health, to think about whether arrest and detention is really the best route for the suspect, and to take measures to avoid it. A practical solution is to require custody officers to give more details on the grounds for detention beyond the vague “to secure and preserve evidence” standard explanation. This would prompt deeper consideration as to whether detention is necessary in the first place.

Why are people in mental health crisis still being held at police stations?

Toni was stopped by police officers in York in June 2011 after concerns were raised by a member of the public about her behaviour. She was detained under section 136 and taken to a police station where she was strip searched. She was later found collapsed in her cell, requiring urgent hospital attention, and died. (case study from Dame Elish Angiolini's review into deaths in police custody)²⁰

A small and thankfully shrinking proportion of people in police custody have been detained by the police under the Mental Health Act 1983. The police have the power to detain someone suffering from a mental disorder in a public place who needs immediate care or control. They can take them to a designated "place of safety" (usually a hospital or mental health facility) where they are held until a doctor and mental health professional can assess them.²¹

Concerns have long been raised about the risks of detaining people in mental health crisis in police custody. In her government-commissioned review of deaths in police custody, Dame Elish Angiolini found a significant proportion of such deaths involved people with mental health needs, as highlighted by the sad case of Toni Speck, who died in police custody in 2011.

The review did not suggest that custody staff could have done anything differently once Toni was in their care. But urgent hospital attention may be required for people in mental health crisis, and this is not something a police station will ever be able to provide. Custody staff can and do call an ambulance, but this tends to be for urgent physical rather than mental health issues, largely because mental health beds for detainees are in short supply.

Numbers detained under the Mental Health Act greatly reduced following a law change in 2017. Adults detained under the Act are now only taken to police custody in exceptional circumstances. Of the over

20,000 people in mental health detention in the year ending March 2019, only 136 people were brought to police custody, compared to 2,000 people in the year before the law changed.²²

The steep decline is encouraging, as is the aim of the national police custody strategy "to eliminate the use of police custody for Mental Health Act detentions."²³ But given the vulnerable state of those in mental health crisis, and the inappropriateness of a police custody suite for them (no matter how well trained and committed the custody staff may be), the numbers should be reduced still further.

"Genuinely exceptional circumstances" – why bring them to a police station at all?

It's not always clear why police custody was unavoidable in the case of those detained under the Mental Health Act. Around two thirds of those in mental health detention brought to police custody last year had been arrested on suspicion of having committed an offence.²⁴ This makes it more difficult to take someone straight to hospital – hospital staff are concerned about having potentially dangerous people on their wards without police escort. Hospitals can also be reluctant to accept people who are drunk as they are concerned about their potential violence. But this approach "may be dangerous for those individuals who are at their most vulnerable, particularly as without proper medical assessment it's difficult to tell whether they have a serious medical condition over and above the intoxication" (Dame Angiolini review). In these cases, police staff should accompany and stay with the person at the hospital until they have been assessed.

There are interesting regional variations in response to mental health detentions. While some forces have

brought the number detained in police custody to zero or one in the two years since the law changed²⁵ others use police cells more regularly. Over a third of mental health detentions in custody in 2018/19 took place in just two police force areas: North Yorkshire and Leicestershire. What are the barriers in these areas to taking people to a hospital or treatment centre?

Police officers and others say the barriers to reducing mental health custody detentions any further lie outside their control. For example, lack of mental health beds: **“When people are sectioned, there’s just no beds for them to go to. We do have quite a few problems with people being sectioned and then being left in police custody for over a day because there’s nowhere for them to go.”**
(independent custody visitor)

Mental health professionals outside of custody have targets for how quickly patients should be dealt with, and we heard examples of them delaying assessing people until they know they have a bed to send them to. What the police can do is collect much better data on why police custody is unavoidable in each case and, armed with this, make the case to local partnership boards for changes in mental health provision and policies.

Immigration detainees – falling between the gaps

An overlooked group of police station detainees are those held on immigration charges - no national figures are collected, nor do they feature in national police data. Local police figures indicate that numbers are declining overall since a peak during the European refugee crisis in 2016, and that numbers vary widely by area. The Metropolitan Police detained 1,303 people on immigration charges last year, compared with 292 in South Yorkshire and 138 in Devon and Cornwall.²⁶

When someone is detained on an immigration offence such as knowingly overstaying their leave to remain in the UK, the Home Office is responsible for transferring them from police custody to an immigration removal centre. Perhaps because of the split responsibility, some police forces have little control over the comings and goings of immigration detainees through their custody suites, as several local inspectorate reports reveal: **“the force was unable to supply any data on the number of immigration detainees held, or the average time that they spent in police custody.”** (Durham police custody inspection report, 2019)²⁷

Independent custody visitors have reported that immigration detainees can wait an exceptionally long time in detention – up to 60 hours in some cases. National data should be gathered from police forces and the Home Office, to fill in the blanks in our understanding of how many people are detained in the police station on immigration charges, how long they are held there and how waiting time can be reduced.

The case for diverting vulnerable adults

The definition of vulnerability is contested, but it broadly covers those who need special care or protection because of their mental health condition, age, disability or because they are at risk of abuse or neglect, or those under the influence of drugs or alcohol who are not able to communicate effectively.

There is a strong case for reducing the number of vulnerable people in custody. Vulnerable people are more likely to have a negative experience in custody, because concern about self-harm means custody officers are more likely to put them in stripped back cells with nothing for comfort or distraction. Dame Angiolini's 2017 review of deaths in police custody found that over 80% of deaths in police custody in the decade between 2005 and 2015 had some link to alcohol and/or drugs, and half of the deaths in 2015/16 involved someone with mental health needs.

Mentally ill but not sectionable

Most of those in custody with mental health problems and/or learning difficulties are not ill enough to be sectioned and/or transferred to hospital. It has been estimated that up to 22% of those in custody have mental health issues.²⁸ The services available to assess and support those in custody with mental health problems have improved considerably in recent years, but it is not clear whether such suspects are more or less likely to be detained.

All suspects arriving at the police station are risk-assessed as they are booked in. For those identified as mentally vulnerable, an appropriate adult should be contacted to support the suspect and ensure their rights are upheld.²⁹ This could be a friend or family member, someone from social services, or a volunteer provided by the local appropriate adult scheme.

A good appropriate adult can play an important role in ensuring the suspect's rights and entitlements are met.

Presence of an appropriate adult is associated with better uptake of legal advice for adult detainees.³⁰ But custody staff are still routinely under-identifying mental vulnerability. A report by the National Appropriate Adult Network found only 6% of adults were identified as mentally vulnerable and therefore requiring an appropriate adult – much below the 11-22% estimated need.³¹

If the custody officer thinks the suspect may have mental health problems (or other vulnerabilities) they should be referred for a more detailed assessment by the custody liaison and diversion team, or another health practitioner. Liaison and diversion (L&D) teams are funded by NHS England and staffed by multi-skilled teams that may contain, amongst others, qualified mental health nurses, social workers and learning disability nurses. There were very few until they were championed by Lord Bradley in his 2009 review of people with mental health issues or learning difficulties in the criminal justice system. He identified significant gaps in the assessment of such suspects and recommended the provision of liaison and diversion services in all custody suites and courts. There are now L&D services in nearly all custody suites.

The aim of L&D is that **“information gained from assessments is shared with relevant justice agencies to enable key decision makers to make more informed decisions on diversion, charging, case management, reasonable adjustments and sentencing. Where the individual is referred to services outside the justice system, relevant information should be shared with those service providers.”**³²

Liaison and diversion do excellent work assessing vulnerable individuals and providing information for police, judges and lawyers. But it is not clear that their work in custody suites actually leads to

suspects being diverted from custody and it may inadvertently contribute to mentally ill suspects being kept in custody.

L&D can comment on fitness to detain but in most cases assessments are completed after the initial decision to detain has already been made, while the custody staff are waiting for lawyers and for interviewing officers. Unless the suspect needs immediate mental health or medical treatment, the investigation process is likely to continue.

Vulnerable detainees and risk – keep them out or keep them in?

Custody staff are nervous about having high risk people in custody because of the trauma of having someone die in their care, and the high level of scrutiny they face if something does go wrong either in custody or just after release: **“I’d rather not have to authorise detention for this [high risk] individual because if they do become particularly unwell or, at worst, die because of alcohol withdrawal, then I’m under investigation for a couple of years and my family have to go through all that”** (former custody officer). Some forces are taking steps to try and reduce detention for high-risk individuals (see box).

On the other hand, some interviewees felt that concerns about the safety of suspects with mental health problems meant custody staff were more likely to keep suspects detained, including those who had been charged. Custody staff want to ensure that suspects get to court unharmed, both for the suspects’ sake and their own.

A liaison and diversion worker told of one defendant who had been charged with drunk driving and threatened to commit suicide: **“officers were concerned that if they released him and he ended his life they would be ‘accountable’, but if the court**

released him they wouldn’t. I made the argument that without allowing him time to retain his license, and make some life adjustments before his court appearance, this would actually increase his risk of suicide. This wasn’t listened to.”

Appropriate adults also witnessed risk aversion amongst some custody officers. One was supporting a man with severe mental health problems who had been accused of threats to kill. They were in a London custody suite. The suspect lived in Portsmouth while the alleged victim lived near the custody suite:

“It was quite clear that the police were not going to be in a position to charge him because they didn’t have statements from her [the alleged victim]. It was obvious that he was going to need to leave the police station... I said to the sergeant, are you going to bail him or let him go? The custody officer said I’m not sure because obviously he’s not going to be able to get back to Portsmouth. I said well come on, it’s 9 o’clock at night, I’ll find out when the last train is. We’re only a mile from London Bridge, so we could work that out. You could put conditions on him not to get in contact with the victim.”

In the end the suspect was bailed with conditions at 7am. Despite disagreeing with the officer, the appropriate adult empathised with her: **“I think she worried deeply about when someone threatened to self-harm or started to self-harm, that that would inevitably escalate into, in this case him throwing himself on the train tracks. [But] I didn’t think, based on the information that I had, that there was any suggestion that he was going to fling himself on the train tracks. What was stressing him was being in police custody”.**

Vulnerable detainee management scheme

In Devon and Cornwall, a vulnerable detainee management scheme identifies individuals at high risk of self-harm who regularly end up in custody.

Initially called the Custody Risk Reduction Scheme, it aims to reduce the number of very challenging individuals in custody and, in turn, reduce the risk of negative impacts on custody staff themselves. The scheme covers anyone who has been assessed as high risk and has been in custody three or more times in three months. This translates to about 30 individuals across Devon and Cornwall per month.

Individuals who fit the criteria are given a marker which flags up on the police database before an officer arrests them. This gives the officer a window of opportunity to reconsider whether arresting that person and bringing them into custody is the best option. Alongside the marker is information about the person's vulnerabilities, and contact details for key individuals such as a carer.

In reality, most people on the scheme are still arrested and taken into custody as they are considered too risky to leave in the community. But, on some occasions, it provides an opportunity for a little extra scrutiny as to whether arrest is absolutely necessary, or if something else could be done. For example, if the carer's contact details are provided, the officer may decide arrest is necessary but then bail them to attend later for interview and take them to their carer, so they don't have to come through custody.

Nowhere else to go

Custody is not an appropriate place to keep someone just because they are homeless. (appropriate adult)



We have someone our custody suite who is waiting for help from the health services but there's no bed suitable for their specific needs at the moment. We're all working to resolve this as quickly as possible as the individual is now being held without legal grounds.

There are times when the police are aware that the grounds to authorise detention aren't met, but they don't know what else to do with vulnerable people who may have been drunk and disruptive.

An alternative to detention might be possible with some investigation by the custody officer, for example calling round to find an alternative address so they can be released on pre-charge bail. But third party support is thin on the ground and the proximity of empty cells where the custody staff can keep an eye on them can feel like a safer bet. The problem is that this overlooks the trauma of any time spent in detention.

The national strategy for police custody blames poor coordination with other agencies for slowing down the transfer of vulnerable people to more appropriate services, such as mental health services, and the lack of availability of suitable accommodation. This may be so, but evidence is needed if things are going to change. Forces need to collect much better data on when this is happening so they can hold other services to account for falling short.

Gangs and county lines

“If you have a morning drugs raid by the police and they pull in five or six people, some are 23, some are 15, some male, some female, some local, some from out of town, it’s very rare that it’s appropriate for everybody in a situation like that to be criminalised. A lot of them will be vulnerable and exploited. But it’s still happening regularly that all of them will be processed through the criminal justice system.”
(custody diversion worker)

Crimes associated with county lines offer scope for alternatives to police custody. Children and young people are used by drug gangs to sell and traffic drugs around the country and, in the process become trapped in complex webs of coercion, intimidation and violence. Campaigners call for the police to recognise the vulnerability of young people up to 25 involved in county lines, and to take steps to avoid them being funnelled into the criminal justice system. But the police rarely consider diversion for over 18 year olds, despite services being available.

Rescue and Response – diverting young adults from custody

A promising new diversion programme funded by the Mayor of London is the Rescue and Response service, run by St Giles’ Trust, Safer London and Abianda.³³ The service aims to divert under 25 year olds suspected of county lines involvement away from police custody. Any custody suite outside London can call the 24-hour phone line asking for the service to send a caseworker to attend and work with a young person from London in their cells. The Rescue and Response team takes steps to ensure the young person is safe, as well as to connect them with employment, training, counselling and other support services to help them get their life back on track. The scheme had almost 700 referrals in its first year, although the numbers diverted from police custody was still low (21 children and young people in 10 months).³⁴ This impact will undoubtedly increase in year two, when staff are placed inside custody suites.

RUI and police bail – the alternatives to detention

In 2017 legislation on the use of police bail was changed. Previously there was no limit on how long a suspect could be on police bail before charge. Suspects ended up on bail for many months, subject to conditions. They lived in limbo, never knowing whether they would be charged. The new legislation brought in a **“presumption of release without bail in almost all cases, including those where a suspect has been arrested for breach of bail, unless it meets strict criteria around necessity and proportionality.”** This means it is now much more onerous to impose pre charge police bail. The first bail period is only 28 days and needs to be authorised by an inspector, the second period of three months has to be authorised by a superintendent. This means that use of pre-charge police bail has nosedived, and use of release under investigation (RUI) has increased significantly.

No one knows how the changes to pre-charge police bail may have impacted on the use of police custody pre and post charge. If pre-charge bail were easier to secure would there be less pressure to keep detainees in during investigation, and less pressure to charge and remand? **“Her Majesty’s Inspectorate of Constabulary and Fire Services (HMICFRS) reviewed use of bail and found in the six months following the new legislation, use of bail fell by 75 percent and 65 per cent in domestic abuse cases. In December 2018, the number of defendants remanded on bail by the police prior to appearing at court decreased by 24 per cent, while the number remanded in custody decreased by seven per cent. The rate of those remanded in custody for the most serious (indictable offences) has remained broadly stable throughout these changes.”³⁵**

The government are now proposing to change pre-charge bail criteria again to reduce the use of RUI.

3am in police custody

Jane Rogers, a novelist and grandmother, was arrested and detained for obstructing a road opposite Downing Street as part of the Extinction Rebellion Protests in 2019. She described her experience in an article for the New Statesman magazine:³⁶

Three am is never a good time to be awake. Locked in a police cell for the first time in my 67 years, it is spectacularly bad.

Why am I here? Because I, along with hundreds of other members of Extinction Rebellion, was obstructing the highway to protest against parliament's inaction on climate change.

Why am I really here? For a person who is banged up, freezing cold, with a fluorescent light glaring down on her and a thin blue plastic mat to lie on, this is a difficult question. Why, really? Because I don't like it. I'm frightened of many things.

I'm most frightened of the waves of claustrophobia that I've suffered in confined spaces ever since being trapped in a bomb scare on the Central Line, 40 years ago. I know it's there at the edge of my consciousness, that panic, and I'm rigid with the effort of blocking it.

The panic begins as a rushing motion in my peripheral vision and I mustn't let it in.

I stare fixedly at the ceiling where it is written: IF YOU'RE HERE WE HAVE YOUR BIOMETRIC DATA. There are lines of fast moving traffic on both sides of me, almost out of sight.

I'm frightened because I don't think my solicitor knows I'm here, and the officer who booked me in refused to take his mobile number even though I had carefully written it on my arm with a Sharpie on Monday

morning. She told me she'd contact him through the system, but I don't know how "the system" works, and I'm imagining an automated call to a landline in a closed-for-the-night legal office. Must I ask to call him myself in the morning?

I have no means of telling the time in here. Someone glances in through the slot in the door fairly regularly, maybe every half hour? And I did start counting the slot-glances, but now I'm not sure if there have been three or four. I was locked in at 1am, I do know that.

I'm frightened about what will happen in the morning – that I'll miss my advance-ticketed train which is supposed to get me home in time to pick up my grandchildren from school, as I have promised.

I'm frightened they may find a reason to keep me beyond the 24-hour statutory limit. I'm frightened I might forget the name of the police station I'm in, which I shall want to give to my lawyer.

I'm frightened about the biometric data – saliva; finger and palm prints; mug shots. Will I have a criminal record, and might that prevent me from going to Australia to visit my 91-year-old mum, who's lived over there for many years?

The only sound is the buzzing of the fluorescent bulb. There's a shiny black panel halfway up the wall opposite the door. I run my fingers over it, hoping it might be a window. I press my forehead against it searching for a glint of streetlight. But if it's glass, it's frosted on the other side, and possibly facing a wall. The outside world is blocked.

What's taking so long?



Steve George
@LEGALBEAGLEOK

So I have a client arrested for serious matters. She has 2 children at home being looked after by a stand-in carer. She's been in custody for 7 1/2 hours now and still NO officer assigned... Prompt and effective investigation? My arse...



(ex) Worcester Custody Sergeant
@WorcesterCusto1

Did you know? Normally we get lots of detainees who aren't fit to interview as they are drunk. We also get detainees that are so sober they aren't fit to be interviewed (until they are medicated for alcohol withdrawal).

We don't give them alcohol, but medication.

If there is opportunity to obtain outstanding evidence then a suspect should be held for as many of the 24hrs as possible to get a charge and remand (police officer)

Expectation 3.6 - detention is appropriate, authorised and lasts no longer than is necessary (HMICFRS expectations of police custody)³⁷

Once detention is authorised, the "PACE clock" begins, meaning the police have 24 hours to either charge or release. The suspect waits in a cell while the police gather evidence, lawyers are called, appropriate adults are contacted (if the person is vulnerable), and mental health professionals carry out assessments. They are eventually brought out to be interviewed by the police officers, after which more hours can tick by while the Crown Prosecution Service decides whether to charge.

Twenty-four hours is a long period to spend alone in a bare police cell, but even that might not be the end

of it. Senior police can authorise continued detention for up to 36 hours in certain more serious cases, or apply to the magistrates' court to detain someone for 96 hours without charge. Over three thousand people were detained pre-charge for over 24 hours last year and then subsequently released without charge.

No national data is published on the length of time people spend in detention. Data collected by Transform Justice suggests an average of 14 hours.³⁸ This varies significantly from force to force, from an average of 9.5 hours in Lincolnshire to almost 19 hours in Thames Valley. Research by Dr Vicky Kemp suggests length of detention has increased significantly in recent years - by almost 4 hours since 2009.³⁹

Lengthy, often unexplained detention in a police cell can be detrimental - it diminishes trust in the justice process, it deters suspects from calling a lawyer, and it can increase the risk of harm to vulnerable detainees who get more stressed and anxious as the wait continues. So what's taking so long?

Lack of urgency from the police

We can't release too soon. We must complete some work to understand the circumstances, assess risk and put mitigation in place. If we rush this work we might as well not bother. Do it once, do it right. (police officer)

Two occasions in the last month when custody time has exceeded the PACE clock and further custody time granted because of poor use of the time by investigating officers. (appropriate adult)

Response officers who arrest do absolutely nothing to progress the investigation overnight. It is a dump and run culture that is unchecked by custody sergeants. (defence lawyer)

Lawyers told us that once a suspect is detained, there's little urgency beyond the 24 hour deadline: **"Police take far too long taking statements which should have been taken prior to arrest or earlier in the detention period. Seems like 'it's ok we've still got 23 hrs' etc, rather than this needs doing ASAP."** (defence lawyer)

Police officers certainly want to conclude investigations swiftly, but see detention as the quickest way to do that. They dread the bureaucracy of pre-charge bail or the interminable nature of release under investigation. Once someone is in custody, their focus is on making the most of the 24 hour custody clock, rather than getting suspects out of custody as quickly as they can: **"We are making efforts to make the investigative processes within custody as efficient as possible to lower dwell times. This is however counterbalanced by the fact that we know that there is more chance of a successful prosecution if the investigation can be concluded in the 1st period of detention"** (police officer).

Suspects are waiting for hours for police investigators or interview rooms to be allocated and available. Shift handovers slow things down further as new officers get up to speed. Lack of overtime means investigating officers can't continue working on cases, and instead have to hand it over to the night shift.

Some lawyers, suspicious of the black hole of police investigation and employing the old adage that tasks expand to fill the time available, think shorter deadlines are the answer. For example, a two-hour deadline for interview, or a "PACE clock" of 12 rather than 24 hours to give more urgency to the investigation:

The police ought to automatically bail a suspect who has a job and fixed address to a date and time for interview if unable to fully interview within 2 hours of arrest, except for serious cases such as murder, rape and domestic violence (defence lawyer)

Waiting for lawyers and appropriate adults

There was not enough focus on securing AAs promptly, to provide early support to detainees. Some children and vulnerable detainees waited a long time for their AA to arrive, as they often did not attend until it was time for the detainee to be interviewed. (Durham local force inspection report, October 2019)⁴⁰

Only one duty solicitor available at a time really holds things up especially when they are dealing with high numbers of cases. (appropriate adult)

Police are not the only source of hold ups. Delays are sometimes caused waiting for the legal representative to be available, especially at weekends, or if it is the duty solicitor, who may have many other cases to attend. Solicitors are paid a relatively low fixed fee for police station attendance. This can incentivise legal representatives to "stack cases" – that is, wait until they have more than one client lined up to save them making multiple journeys to the police station.

Getting an appropriate adult can also slow things down. Independent custody visitors, who monitor police custody conditions and whether detainees' rights and entitlements are being met, regularly reported that waits for appropriate adults led to delays. In some areas, appropriate adults are provided by locally commissioned schemes, funded by local authorities and/or police and crime commissioners. But local authorities are not required to provide an appropriate adult service for vulnerable adults, meaning provision is patchy. If there are not enough appropriate adults available, or no out of hours provision, this can add to delays.

The Crown Prosecution Service

The CPS operate to timetables unknown to professional lawyers (defence lawyer)

Eliminate the need for simple cases to be referred to CPS. They are a massive barrier to reducing custody times. They are inefficient, obstructive and anti police (police officer)

After the interview, if the police believe they have enough evidence to charge, they contact the Crown Prosecution Service (CPS) who decide whether the case should be prosecuted. Lawyers report they have clients waiting up to 12 hours after interview for the CPS to respond with a charging decision.

There's not much love lost between the police and the CPS in these cases. Police feel the CPS are overly burdensome in the evidence they request. They suggest the process could be speeded up if the CPS allowed a lower threshold for initial charge, and agreed that digital evidence such as CCTV could be provided later.

Some police survey respondents suggested removing the CPS from the charging process altogether, or only submitting the most serious cases to them, leaving police officers to make the charging decision for minor cases. One lawyer agreed: **"I'd do away with the delays and nonsense of CPS charging advice and let [custody] sergeants that know their prisoners, officers, legal reps and the demographics involved, make decisions"**. (accredited representative)

Police resentment towards the CPS deepened following rumours that the CPS, in an effort to prioritise during a busy summer period, were refusing to provide in-custody charging advice for all except high harm cases.



Increasingly @cpsuk swim in other folks lane.

Its NOT for CPS to decide bail suitability from #police #custody, that's firmly Custody Sgt! Thus, their erroneous, high-handed attempts of Full Code Test merely sours relations, adds delay & increases workloads 😞 #CriminalJustice

6:00 AM · Oct 23, 2019 · Twitter for iPhone



Aaron Clarke @AaronTheClarke · Oct 23, 2019

Replying to @AaronTheClarke

Let's not forget, it isn't a lawyer in a cozy office who's run thro mill when someone leaves custody & kills their partner, injures themselves or public, or goes on to commit more crime. It's poor cops, caught between rock & hard place, within CJ system not working together.

1 6 19



Aaron Clarke @AaronTheClarke · Oct 23, 2019

There seems to be a (wrongly so) propensity by @CPSUK to decide that, because a court may later choose to bail, that the police shouldn't be remanding to court. No consideration for the risk decisions the police (and individual officers) are taking in each #bail decision.

1 1 7

Police officers felt this took the decision-making about risk and bail/remand decisions out of their hands. The CPS subsequently denied any such processes were in place.⁴¹

Detention reviews – are they working as they should?

Inspectors authorise continued detention at reviews without any regard to the state of the investigation.
(defence lawyer)

The reviews that I observed tended to be perfunctory and somewhat formulaic. I did not get the impression in any case that the Inspector was seriously weighing the question of further detention, nor did I encounter a young suspect being released as a result of a review.
(Dr Miranda Bevan)



Christopher John 🗣️
@mrchrisjohn

This week I reviewed 6 custody records from 6 different police forces - Inconsistency & lack of detail were a feature on each - Are custody officers actually trained in PACE anymore? 🤔

6:50 AM · Aug 25, 2019 · Twitter for iPhone

Even if a custody officer felt that an investigation was not progressing as quickly as it should, they have limited sway over most of the processes that must be completed once someone is detained. They have no clear authority over investigating officers, who may have a higher rank, and have little incentive to explain themselves to custody staff. So a key mechanism for scrutiny is the detention review.

The two purposes of the detention review (conducted by an inspector or more senior rank) are to ensure the case is progressing promptly, and to check on the welfare of the detainee. The first review takes place after six hours in detention, then every nine hours. This should be a critical point at which the reviewing officer can put pressure on whatever or whoever is

holding up the investigation, and question whether detention is still necessary.

But research by Transform Justice and others found reviews are often cursory and routine, sometimes taking place over the phone (there is an intercom in each cell which connects to the custody front desk), and mainly limited to the welfare of the detainee. National inspections of police custody found poor practice with little detail on review records to show what has been done while the detainee has been in custody, and what investigations are still outstanding:

PACE reviews conducted by inspectors did not actively address delays; some suggested that cases were progressing when the evidence in custody records indicated they were not being dealt with as quickly as possible. (Nottinghamshire police custody inspection report)⁴²

Inspectors and custody officers should focus on making sure detention is "no longer than necessary". To gather evidence they could keep better record of delays and the reasons for those delays, to provide an accurate local picture of what's taking so long. Local inspectorate reports found review record keeping was poor in several forces. And lawyers should be given the opportunity to challenge continued detention - something that is not always happening: **"we used to get a call at the point where the detention's being reviewed. Now you just get there it's all been done, ticked through, and the only time you get to make representations is if [at the time of review] you happen to be in with your client"** (defence lawyer). Other times, police ask in vain for lawyers to make representations: **"There are occasions where I've done my inspectors review, I have phoned the solicitor and they say why are you phoning me at three o'clock in the morning?"** (police officer)

The decision to remand

If a suspect is charged, the police have to decide whether or not to remand them – to detain them post charge. The criteria for police refusing bail are similar to those used by the court. Once charged, the custody officer must release the defendant from police detention, either on bail or without bail, unless:

- **The police doubt the defendant's name or address**
- **They have reasonable grounds to believe the defendant may not turn up to court**
- **They believe detention is necessary to prevent further offences (for imprisonable offences) or to prevent injury to others or damage/loss of property (for non-imprisonable offences)**
- **A sample needs to be taken to test the presence of class A drugs**
- **The police believe detention is necessary to prevent the defendant interfering with investigations or the administration of justice**
- **They believe detention is necessary for the defendant's own protection**
- **The defendant is charged with murder⁴³**

The custody officer must make a written record of the grounds for detention and inform the detainee of those grounds.

If the defendant has a lawyer or an accredited representative⁴⁴ in the police station, the legal representative will try to prevent their client getting remanded. But the custody officer is only required to hear not to accede to their arguments. And anyway legal representatives have usually left the custody suite by this point. Good ones ask the police to phone them so they can oppose any request to remand, but

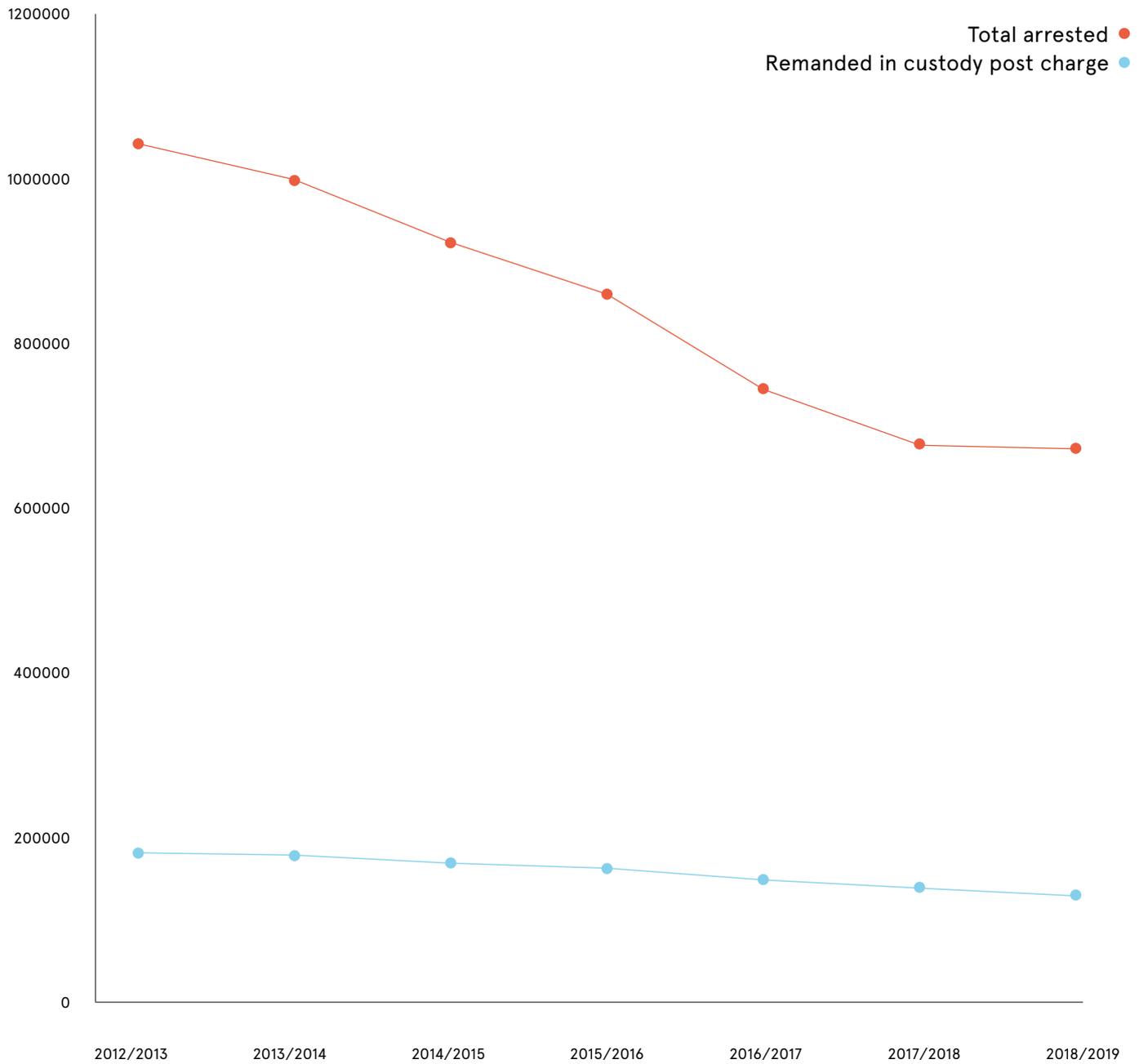
that doesn't always happen: "It's so frustrating. Even last night I spent hours on a case, told the officer I've got these reps. Told the client don't let them make that decision until they've rung me. Can't get through. Get through at eight in the morning...oh charged, remanded. I'm paid to instruct somebody, but didn't get chance to make the reps. And that happens so often." (accredited representative)

The time defendants spend in custody post charge depends on what day and time they are remanded. They need to be transported to and appear at the next available magistrates' court, but magistrates' courts only run during the day Monday – Friday and on Saturday morning. So if someone is arrested on Friday evening, and charged on Saturday at midday, they will spend up to 60 hours in custody.

Over the last few years the numbers remanded by the police have fallen. But the proportion of those arrested who are remanded by police has not reduced so much (see figure 3). Our police interviewees felt that there was less flexibility to reduce detention post-charge than pre-charge, though lawyers disagreed.

Figure 3: Number of people arrested and number remanded in police custody post-charge since 2012

Sources: Ministry of Justice, Criminal justice statistics quarterly⁴⁵
Home Office, Police powers and procedures, England and Wales⁴⁶



What crimes have those remanded in police custody been charged with?

Of those remanded in police custody, the biggest group is of defendants accused of either way offences (which can be heard either in the magistrates' or crown court), 9% are defendants accused of the most serious – indictable only – offences and 30% are accused of summary only offences. Summary only offences (the least serious category) very seldom result in imprisonment – only 1.3% of those convicted are sentenced to custody (see figure 4).

In our survey the most cited reason why police remanded defendants was due to the seriousness of the offence. Other key reasons were because the defendant had breached previous bail conditions and due to concerns that the defendant would not turn up at court. The seriousness of the offence is not a legal reason for the refusal of bail by the police, but presumably it underlies concerns about re-offending while on bail and not attending court. Police rationalise that the more serious the case, the tougher the likely sanction, so the greater the incentive to skip court.

Many legal representatives still think police can be too risk averse when it comes to bail:

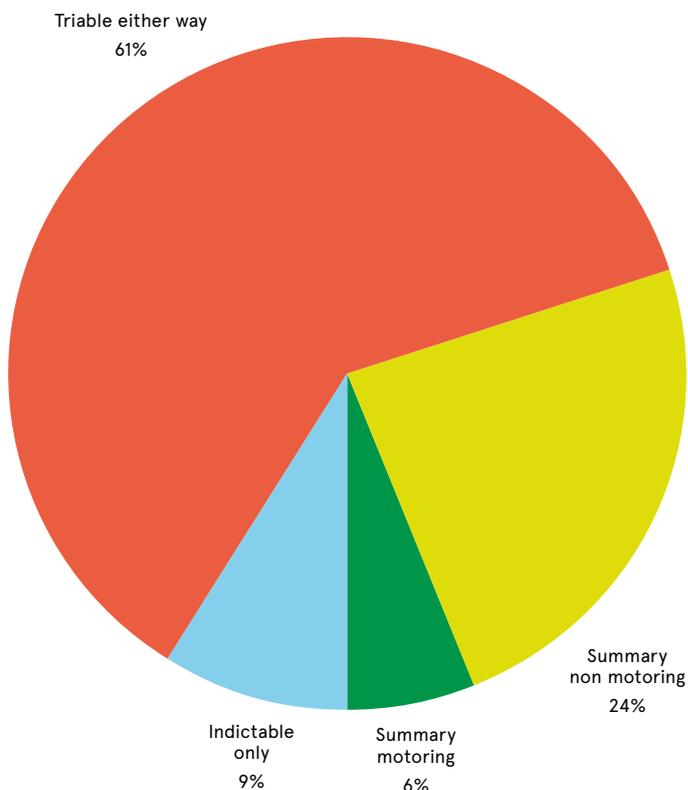
Sergeants fear that they will get blame if something happens on release (defence lawyer)

Spend a single day at court and see how many of the remanded prisoners are bailed. Essentially it is down to custody staff not wanting responsibility (accredited representative)

Defence lawyers feel some custody officers do not strictly adhere to the legal criteria for police remand, and that decisions about the use of police custody should be aligned with that applied by the court, particularly the presumption in favour of bail:

"I've had some custody sergeants say to me 'tell me why I should let your client out'. And I always say that's lovely but that's not really the starting point. There's a presumption [in favour of bail] that you're going to let them out and your officer can sit and tell me why you're not going to and we'll have a debate about it. But it's almost like the onus is put on my shoulders to persuade the police to let them go which is of course the complete opposite to what we do in court because the judges most of the time are applying the correct criteria, which is presumption first" (defence lawyer)

Figure 4: Post-charge remand population by offence type year ending June 2019



Accommodation

Lack of a place to stay, or the right place to stay, can lead to a refusal of bail by police, as it does in the court. Officers feel those with no fixed abode would be unlikely to turn up to court if released – so homelessness can lead to denial of bail.

People accused of domestic abuse are doubly likely to be remanded – because of the nature of the offence and because suspects are often barred from returning to their family home. Defence lawyers often feel such remands are unfair: **“There are numerous cases where defendants should have been released with conditions but haven't been, mainly in domestic cases where it appears the interpretation of the bail act is irrelevant.”**

Lack of emergency accommodation is a problem for adults as well as children. Children detained post charge have a legal right to be accommodated by their local authority away from the custody suite. That system does not work well, and for adults there is no legal duty for authorities to find suitable accommodation (apart from those with severe mental health problems). Occasionally a place can be found in a hostel, but many hostels will not take people in the middle of the night and are often full anyway, so the police usually don't bother asking.

In some cases, custody staff would like to release defendants they have charged but feel the risk of the defendant not turning up, or of another domestic abuse incident is just too great. We need more emergency beds in hostels for such defendants. And for those given emergency accommodation to be given a court date the next working day – so that they do not lose track of their court date.

What happens to defendants who are remanded by the police once they get to court?

The majority of those remanded in police custody are given bail or released by the court. Figure 5 shows the proportion of defendants that are given police remand and court remand. Not surprisingly, those accused of more serious offences are much less likely to be released than those accused of summary only offences. Of those charged with summary motoring offences 1.3% are remanded by the police, and 0.1% by the court. Fifty per cent of those accused of indictable only offences are remanded by police, 43% by the court. Across all offence types a higher proportion of defendants are remanded by the police than by the court.

When asked about the difference in remand rates between police and court, most police officers surveyed felt that judges erred in their decision-making. They wanted courts to remand suspects far more often:

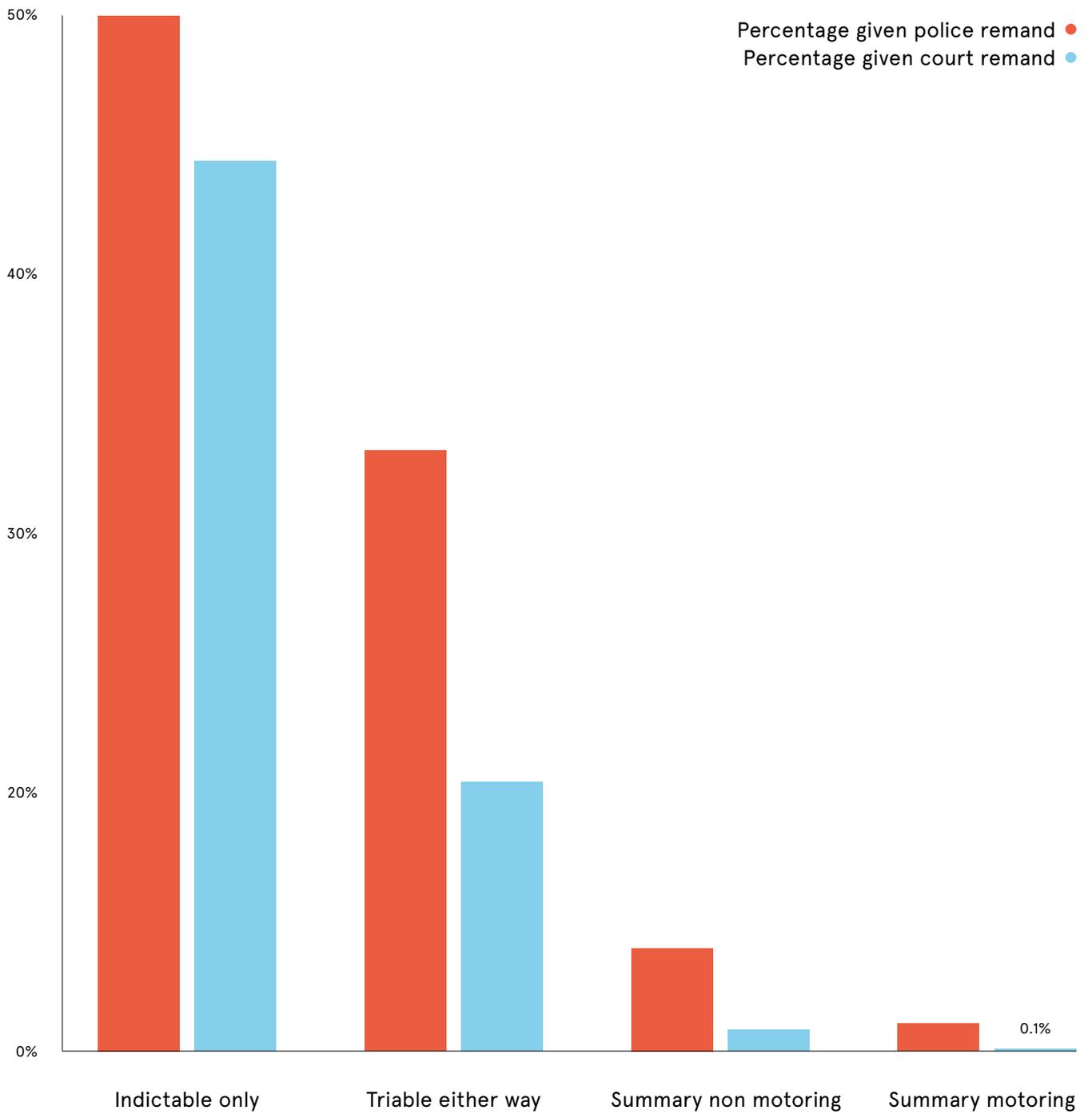
Police remand only where necessary and I don't understand why the Courts are so lenient.
(police officer)

Rather than limiting police powers further the government should be looking at the courts and setting legislation/guidelines for them to be more robust. (police officer)

Given that most of those remanded by courts are subsequently released (either on acquittal or sentence) it doesn't make sense to make it easier for the courts to remand. Instead we should align the criteria used by courts and by police to refuse bail, and try to reduce the number of people remanded in police custody for all offences, particularly summary only offences.

Figure 5: Proportion (%) of defendants that are given police remand and court remand, by offence type

Source: Ministry of Justice, criminal justice statistics quarterly



Are video courts the answer?

Many police who responded to our survey felt that the solution to reducing numbers in detention, particularly those on warrant or post charge, was to have courts sitting 24 hours so defendants could be processed more quickly. And to have more video courts – where the police station is linked by video to the magistrates' court.

There are already a few "video remand" courts where defendants have their first court hearings from custody. They appear via video link from a room in the custody suite, which has a video camera connected to the magistrates' court. But these video links do not really save the police time or money. The police have to staff the video room in the custody suite all the working day and organise for each defendant to speak to their lawyer on video before their court hearing. All defendants who are remanded by the court have to wait in the custody suite until the van is ready to take them to a prison. This means the police are frequently looking after the defendant in custody for 10 more hours than they would otherwise need to. And they have to complete the paperwork for defendants going to prison which would usually be done by court staff. It's also possible that the court won't get through the whole video court list, leading to another night in the cells for the detainee.

There is also a legal "black hole" – PACE does not apply to these detainees, but there is no other legal framework for the police who supervise them. This poses a legal risk to both custody staff and defendants.

In 2009-10 a pilot was held of video remand courts in Kent and South London. This found that such court hearings were more expensive than traditional hearings and defendants were less likely to be represented by a lawyer if they appeared from

the police station. Maybe because of this, or because of the barriers to communication created by video links, more defendants on video pleaded guilty and more got sentenced to immediate custody.⁴⁷ A more recent evaluation of the "police court" linking Medway Magistrates' Court to Kent police stations, backs up these findings.⁴⁸

Police who support video remand courts want them to be available from early morning till evening every day. And for transport to be available to pick up defendants at very regular intervals. Secure transport currently only picks up defendants once each weekday from police stations (though a system of more frequent transfers is due to be introduced). The courts service (HMCTS) has tried launching a pilot of extended hours in magistrates' courts, but has faced huge resistance from defence lawyers who object that they and their clients cannot get to court outside working hours, and that they already start work an hour before court hearings start.

The pandemic has led to more video remand courts being set up in custody suites. They are a temporary measure to reduce risk of infection. Who knows whether they will become permanent? What is clear is that court hours and secure transport systems can be a barrier to getting people out of police custody post charge or on warrant.

Scrutinising the use of detention

Police station lawyers – out of the picture?



Stephen Davies
@sdavieslaw

Often I wonder whether there's any point in making any sort of representation in the police station. I'm either ignored, or the decision has already been made.

1:47 PM · Jan 5, 2020 · Twitter for iPhone



Hecht Montgomery @hechtmontgomery · Jan 5
Replying to @sdavieslaw

It rarely feels like anyone is giving anything more than lip service to what we say. As a matter of principle the police just think we're trying to show off and pull a fast one.



Adam @adam79t · Jan 6
Replying to @sdavieslaw

If the decisions are made without representation and there is no right of appeal, you know what you should be doing.



There's no point in going into a police station and claiming police breached PACE in front of everybody, because you are on their turf. It's their time. You're not in a courtroom, which is your time. They have complete control of everything. (defence lawyer, Pivaty 2019)⁴⁹

The best person to challenge the need for detention is the legal representative. This is usually a lawyer, or it could be a trained accredited representative attending on behalf of a solicitors' firm. Around half of all suspects do without a lawyer, sometimes because they predict it will delay things further.

When contracted, legally aided lawyers are paid a (relatively low) fixed fee for each police custody case

so have little incentive to arrive before the police are ready for interview. A proactive lawyer will phone up the police every hour to ask what's happening with the case and challenge the custody officer about the need for continued detention, but the fixed fee amount isn't enough to cover such work. In practice they usually turn up just in time to have a short consultation with their client before the police interview. Miranda Bevan observed during her research that **"although the solicitor might be notified very swiftly of the need for their attendance, they are generally only asked to attend the station when required for interview. As [the custody officer] CO26 explained, 'as soon as the officers are ready to go then generally we get the solicitor out – it takes 30 or 40 minutes'."**⁵⁰

Once lawyers arrive for interview, their priority is to see the client, get to interview and get them out; the initial decision to detain is usually not discussed. Even when a lawyer does challenge the original detention, questioning some custody officers can be counter-productive: **"some are excellent, some are really bloody minded and obnoxious. It can cause you serious problems. If you challenge their authority you're likely to go to the back of the queue."** (accredited representative)

Dr Anna Pivaty from Maastricht University conducted interviews and observations with English and Dutch police station lawyers.⁵¹ She found that English lawyers were not challenging custody officers because:

- some "repeat players" don't want to sour relationships with custody officers who they work with regularly: **"I don't mind giving police a little bit of leeway, partly because there is the potential to go back and meet the same officer again, so actually to have a really good relationship with the policemen can benefit more clients down the line."** (defence lawyer)

- lawyers feel they have no power in the police station - **"it's not their turf"** - so they see no point in kicking up a fuss. Instead they settle for **"tweak[ing] things...without interfering with everything or anything."** (defence lawyer)
- more formalised police processes mean lawyers have less opportunity to influence custody officers: **"You're not there so much now when the decisions are being made in the backrooms... Decisions to charge, decisions to bail, decisions even to interview... You feel now that you will make your representations and decisions are made behind closed doors... Now there is less of that communication line I think between solicitors and the police. It is a lot more segregated."** (defence lawyer)⁵²

elephant in the room - around 50% of suspects do not even request a lawyer at the police station. A key step to scrutinising the use of police custody would be to increase the number of suspects who have legal representation in the first place.

Several police and lawyers we spoke to lamented this decline in robust discussions between custody officers and lawyers: **"I used to have regular meetings with defence lawyers... sometimes it was a bit adversarial which was fine because I was up for it, they were up for it, and it was a really good opportunity to interchange."** (former senior custody lead)

Lawyers face a difficult balancing act at the police station. They need to challenge but for that challenge to be respected. Cosy relationships with the police can cross the line to cooperation, which is often not in the client's interest. All legal representatives should be trained in how to strike this balance so they can constructively challenge custody officers about the need for detention.

Low fixed fees for police station work remain a barrier to lawyers doing anything other than interview attendance, but not everything has to happen face-to-face. Procedural changes during the covid-19 crisis suggest that more legal representation can be done by phone. And access to legal representation is the

Scrutinising the use of custody – a role for independent custody visitors?

Independent custody visitors (ICVs) are volunteer members of the public who make unannounced visits to police custody suites to ensure police custody is a safe environment and the rights of detainees are being upheld.

ICVs are well placed to monitor whether everyone in police custody needs to be there, but their current remit is limited. They check detainee safety, wellbeing, and whether their rights are upheld such as being offered legal representation. But visitors are not expected to challenge why somebody has been detained in the first place, or even know the reason for their detention.

Dr John Kendall, a former ICV himself, published research which suggested that ICV schemes may be doing more harm than good. He argued that their limited scope and friendly relationships with the police make it difficult for ICVs to be independent or effective, and that reforms are needed for custody visiting to make a more effective contribution to the scrutiny of police detention.⁵³

ICVs are making their own changes through an initiative led by their national body, the Independent Custody Visitors Association. In 2018, a Derbyshire pilot allowed ICVs to scrutinise the entire custody records of vulnerable detainees, providing insights they couldn't get from the snapshot of a drop-in visit. Any issues and recommendations identified from the records were sent to the police and crime commissioner privately in a monthly report. Following a promising pilot, the new approach

is now being tested in five other areas with a view to national roll out.

Access to full custody records may improve ICVs' ability to understand why detentions last so long, and push for improvements to reduce detention times. If they also scrutinised why people are detained in the first place, ICVs could play an important role in making sure police detention is used appropriately.

Who else is scrutinising detention?

There is no oversight in the criminal courts about the police's decision to detain. When someone arrives in court from police detention, questions are seldom asked as to why the defendant was remanded by the police. In fact, the defendant is treated as if they are dangerous and guilty – kept under guard in court cells, appearing in court in the secure dock with a guard as chaperone. These visual signals may exacerbate the likelihood of that defendant being remanded in custody. Alternatively, if the defendant is pleading guilty to a minor offence, the bench often just commutes time in police custody into a custodial sentence – “time served” – and releases the person immediately because the sentence has been served.

The detention experience is rarely mentioned in court save when questions are raised about the admissibility of the defendant's interview. The lawyer is focussed on advising their client about their plea and the next steps. If they are not the same legal representative who was at the police station, they may not even know the reasons why police refused bail. The inspectorate may criticise the paperwork occasionally, but they seem more focussed on the safety of those who are detained. Very clued up appropriate adults and ICVs may ask some questions, but it is not their role to ask why someone is in custody.

We need greater scrutiny of the use of police custody if we are to optimise its use. Decisions to detain are made by police officers in a closed environment usually without input from other parties or practitioners. Challenges to decision making can be healthy and, at the moment, that challenge is too limited.

One way to improve scrutiny would be to set up public scrutiny panels in each area to focus on bail, RUI and detention decision-making. This scrutiny panel could

look at a cross section of custody records and RUI and bail decisions, checking for legal compliance and consistency. The panel could also look at all allegations of false imprisonment and complaints about police custody. The panel should include representatives of lawyers, ICVs, appropriate adults, detention staff and police. The purpose of the panel would be to monitor performance in general, and generate learning from analysis and discussion of particular cases.

More radical solutions involve acknowledging that the current system asks too much of the police – in making them responsible for public safety, investigating offences and looking after the welfare and rights of detainees. Some question whether the decision to detain and custody itself should be taken out of the control of the police? **“Imagine if custody suites weren't police custody suites. They were suites for all of the users. They served the police in a sense...but it's where health operated, where the police operated where the lawyers operated. Then it would be less this is our [police] territory we'll tell you what you can and can't do.”** (roundtable participant)

But these are radical changes. In the short term, change could be achieved through professionalism of the custody officer role.

Promotion, pasture or punishment?

The role of the custody officer

My question in custody is, does it need then to be a custody sergeant? Why do we pay a sergeant to do this role, if it's purely administrative? It's a sergeant for a reason, surely, and that reason should be to provide that independent scrutiny...to say well actually is it necessary to bring them here? (police officer)

Custody officers were introduced in the 1980s to bring some independence and challenge to the decision to use custody. At the time, much was made of the fact that the role's status – that the officer must be of rank sergeant or higher.

In reality, custody can be seen as a bit of a backwater by police, although this varies between forces. A relatively junior officer may be promoted to a custody officer role with very little experience: **"There was a period where a lot of people had been promoted into custody, so they're a PC one day, the next day after a short course they're now a sergeant effectively telling their peers that they may not be doing the job right"** (former senior custody lead). We heard other custody officers end up there as "punishment", or to see out the final years until retirement.

There are however some career custody officers experienced and confident enough to challenge colleagues about the need for detention, proactively engage with legal representatives and think laterally about alternatives to custody:

"The more experienced the custody officer was, the more likely that they would be robust in challenging. I had some career custody officers...they were the really robust ones because they didn't have the threat of having to be somewhere else in two months' time, they had set their stall that that's the job they wanted." (former senior custody lead)

"I remember being at a north London custody suite, a young male brought in in handcuffs. The sergeant

asked for the grounds for arrest – 'his parents rang us because he was arguing with his brother and one smashed the other one's tennis racket. Criminal damage sarge.' [The custody officer said] 'get those handcuffs off, de-arrest him, take him home, we're not babysitters'. But many other sergeants would have just rolled their eyes and booked this person in." (accredited representative)

But these are by no means the norm. Dr Anna Pivaty, in her research on police custody and defence lawyers, found custody officers rarely felt confident using their discretion:

"I mean there's also an element of the custody sergeants generally tending to be a bit more by the book now. So they tend not to listen to submissions and representations as much as they did 10, 15 years ago. You know, 10, 15 years ago you ... could say to them 'look, he's got a sister in [town X]. He will go there tonight. He will not come back to this area except to see his solicitors. No contact, you know.' And quite often they would say, 'yeah, fair enough.' ... You used to be able to do it and now, not so well... The guidelines are more rigid." (defence lawyer, Pivaty 2019)

Better training would help shift the attitudes of, and towards, custody officers. The National Police Chiefs' Council, concerned about variation across police forces, is developing a national training programme for custody staff. It's not yet confirmed what this training will include, but useful topics would be: identifying vulnerability, establishing necessity of detention, alternatives to detention and engaging with lawyers. There's also talk of accrediting the custody officer role, with increased pay for accredited officers, which could also go some way towards raising the role's status and improving consistency.

Is detention on warrant always warranted?



Julian Young
@TheLWA

Replying to @jonblackbsb

I discovered why the Courts issue no-bail warrants after postal requisition and defendant not appearing. Apparently it is extra admin for the Court to issue a Warrant backed for bail!! A defendant who didn't receive a letter or moved address risks custody overnight 1/2



Julian Young @TheLWA · Dec 19, 2019

Replying to @TheLWA and @jonblackbsb

due to circumstances outside his/her control after RUI and no obligation to keep the police advised about any change of address etc. Sooner or later someone will claim damages for loss of liberty and this mess will have to be sorted out 2/2



1



1



Jonathan Black @jonblackbsb · Dec 19, 2019

And of course many people don't open their post so the requisition just sits in the pile by the door



1



A certain proportion of those in police cells are there on warrant. It's not clear how many, since custody data is patchy, but local data indicates around 7% of people in police custody last year were there on court warrant, and up to 11% in some custody suites. A no-bail warrant (also called a warrant not backed for bail) dictates that an individual must be arrested by the police and detained by them until that individual can be brought to court. Courts issue such warrants when people do not turn up for their court appearance (failure to appear or FTA), or for non-payment of fines. The police have no discretion as to whether to arrest those on warrant.

Unfortunately the number of defendants who do not turn up for their court date is high (72,522 failure to attend warrants in 2018). Half the magistrates' courts in England and Wales have been closed in the last ten years. This means that defendants can be many miles

from their local magistrates' courts and up to two hours journey by public transport. It's very difficult for some defendants to get to court and others just forget. They may be homeless, chaotic and/or addicted to drink or drugs. There is also increasing reliance on postal requisition to inform people of a court date, and many requisitions get lost in the post.

Most police don't have time to proactively track down defendants on warrant not backed for bail. But officers may pick them up while out and about. If the defendant is picked up during the working day, the police will usually try to take them straight to the court, but some courts won't accept people unless they arrive directly from police custody. So the police have to take them to the custody suite, which may be many miles away, book them in, assess them, then book them out to get back to court (transported in the secure van), which may not be possible until the next day. Many courts will not even deal with defendants who turn up in person, because they forgot their court date. If a warrant has already been issued, the court staff tell the defendant to report to the police station to be detained there, for hours if not days. Nearly all those who have been detained on warrant are released by the court, either with a fine, or with a sanction of a prison sentence "deemed served" because of the time already spent in police custody.

Many police we surveyed felt that detention, even for two nights, was "just deserts" for those who did not turn up for court:

I would disagree that fail to appear is a minor offence as it means people are attempting to evade prosecution and this causes great expense to the public as well as pressure on the court system. (police officer)

If a warrant is issued then it means that that person has had the chance to attend court and chosen not to. Therefore indicating that, if let go, they would

again not attend court. Holding them to put before the court is the only way to make sure that justice is maintained, and also victims of crime are given a service that they deserve. (police officer)

But other officers felt that there were better ways of dealing with FTA, particularly if the defendant was willing to engage:

If we had an option to bail the defendant it would allow the police flexibility to avoid using scarce police resources on sitting on a defendant who has been detained for a failing to appear warrant, for example a shoplifting. (police officer)

So many people arrive at the police station after handing themselves in and get their timing wrong. Some have stayed for 3 days on occasion. It would be better for the police to direct those handing themselves in to the local magistrates' court so they can be re bailed to a future date. (police officer)

One officer gave the example of a mother with young children. She rang the court to say she knew she was wanted and would come to court the next day. The court ignored her childcare issues and told her to report to the police station instead to be detained and then brought to court.

The law on failure to appear and warrants for FTA has not been reformed for many years. In 2006 the Home Office consulted on some quite radical proposals to restrict the ability of courts to give defendants a second chance. They were worried that too many people avoided their court hearing, and that the best remedy would be to incentivise the use of warrants not backed for bail. They acknowledged that this would involve extra work for police and extra capacity in police cells: **"assuming each defendant spends one night in custody, this means that approximately**

2,375 extra custody places a year will be required throughout England and Wales. This works out, on average, as 6.5 extra cell places per night."⁵⁴ The new laws were implemented. But data has not been collected on whether these estimates were right.

The use of police custody for those on no-bail warrants could usefully be reduced in the following ways:

- **Remind people of their court hearing by text, email and/or voice message. Get the defendant's permission to communicate with support workers or relatives about the appointment so they can also remind or accompany.**
- **Don't rely on the post to tell people they need to get to court. It's unreliable and letters are too easy to lose.**
- **Find a way to deal immediately with people at court if they turn up admitting they have missed their hearing or if they are brought straight to court by the police.**
- **Consider giving people a second chance. If they have missed their court appointment and can be reached by phone, give them a date to come to court and only issue a warrant without bail if they miss this.**

Conclusion and recommendations

Conclusion

Police custody is a black box the inside of which is seen by very few people. The welfare of suspects is subject to intense scrutiny and every death in or on release from custody casts a long shadow over that custody suite for months if not years. It is right that we should focus on the health and wellbeing of those in custody. But the evidence in this report indicates that the focus needs to broaden to include the rationale for detaining suspects at all, and for so long. Covid 19 has threatened the health of everyone in custody and may have prompted a sea change in the use of custody and in the way lawyers work. We hope this emergency will show there are opportunities to reduce custody without jeopardising police investigations or placing victims at risk.

Recommendations

1. Clarify and strengthen College of Policing guidance to give custody officers more confidence to refuse the request for detention and the request to remand.
2. Enhance training of police officers in the criteria for authorising detention, in the difference between criteria for arrest and detention, in the need to reduce average time in custody pre-charge and in wider police powers to search and seize without using detention
3. Publish national data on the police custody population including numbers detained, reasons for detention, detainee demographics and length of time detained
4. Reduce the time taken for getting appropriate adults to custody by introducing a statutory duty on local authorities to provide appropriate adults for vulnerable adults and requiring contact with the AA within a particular time frame
5. Review legal aid rates for police station work so lawyers are incentivised to challenge the need and length of detention and police remand
6. Increase the take up of legal advice in police custody
7. Stop those in mental health crisis being taken to police custody by increasing the number of mental health practitioners and section 136 mental health beds
8. Introduce and evaluate local schemes to reduce the flow of people into police custody and/or provide alternatives to detention
9. Examine how charging decisions could be speeded up, for example through a maximum permitted time period for review by the CPS
10. Empower and train independent AAs and ICVs to challenge both the decision to detain pre and post charge and the length of time detainees spend in custody.
11. Disincentivise custody officers from remanding those charged with summary only offences, for example by introducing a 'no real prospect of custody' test similar to that used in court, and align police remand decision-making with the approach used by courts for refusal of bail.
12. Mandate that courts must deal with people on warrant who come into court in working hours.
13. Reform law and guidance so police have discretion not to detain people on warrant not backed for bail
14. Institute local scrutiny panels (or expand the remit of an existing scrutiny panel) to examine decision making across detention pre and post charge, police bail and RUI to facilitate greater scrutiny of the process and generate learning as to how improve.

End notes

1. Figures from MOJ criminal justice system statistics quarterly <https://www.gov.uk/government/statistics/criminal-justice-system-statistics-quarterly-march-2019>
2. 850,000 estimate based on data received by Transform Justice in response to FOI requests to all 43 police forces, which showed that 731,183 adults were detained across 36 police forces in the 12 months from September 2018 to August 2019.
3. The police can detain someone for breach of the peace if they believe they are creating alarm or disturbance in the community and are causing, or threatening to cause, harm to a person or property. It is a common law crime and so PACE does not apply. However the person can still be detained, sometimes until the next magistrates' court hearing.
4. <https://www.app.college.police.uk/app-content/detention-and-custody-2/response-arrest-and-detention/>
5. Section 37 Police and Criminal Evidence Act 1984 <https://www.legislation.gov.uk/ukpga/1984/60/section/37>
6. If and when the police have enough evidence to charge, detention can continue while the Crown Prosecution Service makes a charging decision
7. <https://www.app.college.police.uk/app-content/detention-and-custody-2/response-arrest-and-detention/>
8. The average detention refusal rate across the 28 police forces that responded to the FOI request was 0.8%. The lowest refusal rate was 0.1% in Thames Valley, the highest was 2.2% in Dorset.
9. <http://orca.cf.ac.uk/105733/>
10. p12 *ibid*
11. p7 *ibid*
12. p96 http://etheses.lse.ac.uk/3951/1/Bevan__Children-young-people-in-police-custody.pdf
13. p10 *ibid*
14. <https://www.app.college.police.uk/app-content/detention-and-custody-2/response-arrest-and-detention/>
15. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/117583/pace-code-g-2012.pdf
16. Street bail enables a person arrested for an offence to be released on bail on condition that they attend a police station at a later time.
17. s18 and 32 of PACE 1984 <http://www.legislation.gov.uk/ukpga/1984/60/section/18>
18. p99 http://etheses.lse.ac.uk/3951/1/Bevan__Children-young-people-in-police-custody.pdf
19. p99 *ibid*
20. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/655401/Report_of_Angiolini_Review_ISBN_Accessible.pdf
21. Section 136 Mental Health Act 1983 <http://www.legislation.gov.uk/ukpga/1983/20/section/136>
22. <https://www.gov.uk/government/statistics/police-powers-and-procedures-england-and-wales-year-ending-31-march-2019>
23. <https://www.npcc.police.uk/documents/NPCC%20Custody%20Strategy.pdf>
24. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/841408/police-powers-procedures-mar19-hosb2519.pdf
25. For example, the number of mental health detentions taken to police custody in Sussex has plummeted from 217 in year ending March 2017 to zero in year ending March 2019. A similar trajectory is seen in Hampshire.
26. Figures from local joint inspection of police custody reports <https://www.justiceinspectorates.gov.uk/hmicfrs/?cat=custody-suites-cat>
27. <https://www.justiceinspectorates.gov.uk/hmiprisonson/wp-content/uploads/sites/4/2019/10/Durham-police-Web-2019.pdf>
28. https://www.appropriateadult.org.uk/images/pdf/2015_A_literature_review.pdf
29. PACE Code C (3.15) https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/826813/PACE-Code-C_2019.pdf
30. Medford et al 2003 <https://onlinelibrary.wiley.com/doi/abs/10.1348/135532503322363022>
31. There to Help 2 (2019) <https://www.appropriateadult.org.uk/downloads/research#>
32. <https://www.england.nhs.uk/wp-content/uploads/2014/04/ld-op-mod-1314.pdf>
33. <https://www.london.gov.uk/mopac-publications/rescue-and-response-pan-london-county-lines-service>
34. <https://www.londoncouncils.gov.uk/press-release/17-october-2019/london-boroughs-unite-beat-county-lines-gangs>
35. <https://news.npcc.police.uk/releases/police-chiefs-guide-officers-to-impose-bail-conditions-protecting-victims-and-vulnerable-people>
36. <https://www.newstatesman.com/2019/12/personal-story-3am-police-custody>
37. <https://www.justiceinspectorates.gov.uk/hmiprisonson/wp-content/uploads/sites/4/2018/05/Police-Expectations-2018.pdf>
38. Based on FOI data from 25 forces
39. Based on FOI data from 18 forces: Kemp, Vicky (2020) 'Authorising and Reviewing Detention: PACE Safeguards in a Digital Age', *Criminal Law Review* (forthcoming)
40. <https://www.justiceinspectorates.gov.uk/hmiprisonson/wp-content/uploads/sites/4/2019/10/Durham-police-Web-2019.pdf>
41. <https://www.cps.gov.uk/cps/news/charging-decisions-over-summer>
42. <https://www.justiceinspectorates.gov.uk/hmiprisonson/wp-content/uploads/sites/4/2019/03/Nottinghamshire-police-Web-2018.pdf>
43. s38 Police and Criminal Evidence Act 1984 <http://www.legislation.gov.uk/ukpga/1984/60/section/38>
44. Accredited representatives are non-solicitor staff who are approved by the Legal Aid Agency to advise and assist suspects at the police station.

45. <https://www.gov.uk/government/collections/criminal-justice-statistics-quarterly>
46. <https://www.gov.uk/government/collections/police-powers-and-procedures-england-and-wales>
47. Though the evaluation states that “differences may exist in defendant characteristics between the pilot and comparator area for which this evaluation’s analysis has not been able to control”
48. <http://spccweb.thco.co.uk/our-priorities/access-to-justice/video-enabled-justice-vej/video-enabled-justice-programme-university-of-surrey-independent-evaluation/>
49. Criminal Defence at Police Stations, A Comparative and Empirical Study, Anna Pivaty, November 2019
50. p242 ibid
51. ibid
52. All quotes from Pivaty 2019
53. <https://policy.bristoluniversitypress.co.uk/regulating-police-detention>
54. <https://crimeline.co.uk/wp-content/uploads/2019/12/Rebalancing-the-CJS-in-favour-of-the-law-abiding-majority.pdf>

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