



OFFICIAL REPORT
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Justice Sub-Committee on Policing

Thursday 7 December 2017

Session 5



The Scottish Parliament
Pàrlamaid na h-Alba

Thursday 7 December 2017

CONTENTS

	Col.
POLICE SCOTLAND (CUSTODY)	1

JUSTICE SUB-COMMITTEE ON POLICING
19th Meeting 2017, Session 5

CONVENER

Mary Fee (West Scotland) (Lab)

DEPUTY CONVENER

*Margaret Mitchell (Central Scotland) (Con)

COMMITTEE MEMBERS

*John Finnie (Highlands and Islands) (Green)

*Rona Mackay (Strathkelvin and Bearsden) (SNP)

*Ben Macpherson (Edinburgh Northern and Leith) (SNP)

*Liam McArthur (Orkney Islands) (LD)

*Stewart Stevenson (Banffshire and Buchan Coast) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Chief Superintendent Garry McEwan (Police Scotland)

Michelle McHardy (Unison Scotland)

Calum Steele (Scottish Police Federation)

Pete White (Positive Prison? Positive Futures)

CLERK TO THE COMMITTEE

Diane Barr

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament

Justice Sub-Committee on Policing

Thursday 7 December 2017

[The Deputy Convener opened the meeting at 13:00]

Police Scotland (Custody)

The Deputy Convener (Margaret Mitchell):

Good afternoon, and welcome to the 19th meeting in 2017 of the Justice Sub-Committee on Policing. We have received apologies from Mary Fee, which is why I am convening the meeting.

Agenda item 1 is an evidence session on Police Scotland's custody provision. The sub-committee agreed to have this evidence session in order to be better informed about this important issue and to enable key stakeholders to express their views on the record about current custody provision. I refer members to paper 1, which is a note by the clerk, and paper 2, which is a private paper.

I welcome Chief Superintendent Garry McEwan; Pete White, national co-ordinator with Positive Prison? Positive Futures; Calum Steele, general secretary of the Scottish Police Federation; and Michelle McHardy, police staff Scotland custody lead with Unison. I thank the witnesses for their written submissions. It is always tremendously helpful to us to receive submissions before a formal evidence session.

We will move to questions. Mr McEwan, will you outline in very general terms when and why a person might be taken into police custody?

Chief Superintendent Garry McEwan (Police Scotland): I may have to jump between the current legislation and the new legislation—the Criminal Justice (Scotland) Act 2016—which comes in on 25 January next year.

Under the current legislation, there are two or perhaps three aspects to people being brought into police custody. One aspect is detention, which happens when there is no evidence to substantiate an arrest but there are reasonable grounds to infer that the person may have committed a crime that is punishable by imprisonment. That person can be brought into police custody for a period of detention, to enable police investigation and interview.

Another aspect is when there is a sufficiency of evidence to go straight to arrest. For example, there might be corroborative evidence or forensic evidence that enables a straight arrest of an

individual. He or she will be brought into police custody and a determination will be made of whether that individual should be kept for court, cautioned and charged and/or released for summons or bail undertaking.

The third main aspect is voluntary attendance. Some individuals may take it on themselves to voluntarily attend a police station to give their account and version of events. They will be booked in as a voluntary attendance and we will then embark on an interview with them.

Off the top of my head, those are the three key elements in the way in which we bring people into custody.

The Deputy Convener: Why are people detained?

Chief Superintendent McEwan: The detention is to enable police interview, or to allow other evidence to be gathered. For example, if there is a domestic incident in a dwelling house, we may detain one or more suspects for a period of time and take them to the police station, which would allow the officer perhaps to do some door-to-door inquiries or get witness statements. After gathering any evidence or information that they can glean through further inquiries, the officer would embark on a tape-recorded or notebook-recorded interview with the suspect in the police station.

The Deputy Convener: Are a high level of health issues involved in the reasons why people are detained? Perhaps it is because of a certain type of behaviour.

Chief Superintendent McEwan: On average, we bring roughly 150,000 people a year into police stations; three years ago, the figure was 202,000. I would say that 68 per cent of those 150,000 people have declared or intimated that they have mental health vulnerabilities, suicidal tendencies or the need for acute alcohol or addiction services.

The Deputy Convener: That is helpful. We understand that police are often the first responders to people with those types of health problems and other behaviours.

Is there a difference between weekend opening facilities, as described in the standard operating procedure, and contingency centres, as described in your written evidence?

Chief Superintendent McEwan: There is. There are three or four key types of centre. One of those is what would be described as a primary centre, which is a custody centre that is open 24/7; examples of that type are the centres in Inverness, Kittybrewster, Kirkcaldy and Dunfermline. We have 35 of those across the country.

We have 46 ancillary centres, which tend to be in the more remote areas for when a person is

detained or arrested or attends voluntarily. They are open for a period of time to enable the investigations that I have described; they are open not full time but only when they are required.

The contingency centres are shut almost all the time and open only when there is a major event, a significant disturbance or march, or a very proactive inquiry that requires us to open them. That happens in very extreme circumstances.

The Deputy Convener: When the centres were looked at in April 2013, there were 42 primary, 55 ancillary and six contingency centres, making a total of 103. In the change of name of the weekend centres, the number seems to have dropped by about 18. Is there an explanation for that?

Chief Superintendent McEwan: Yes. There are a number of reasons why we have reduced the estate. One reason is the change in demand that I mentioned. In 2013 we had 202,000 custodies coming through the custody centres and now we have roughly 140,000, so that is almost 60,000 fewer people. When there is less demand, demonstrating best value means to me that we have to review our estate to ensure that we are not keeping certain centres open when they are not required.

There are other reasons. Stirling is a good example of our having to shut a centre for health and safety reasons; it also did not comply with fire regulations. We took the decision to shut that centre and use the one at Falkirk, which is the co-joining centre that is used 24/7, rather than the other way about.

You mentioned weekend centres. We keep the primary centres open 24/7, but our period of biggest demand—not surprisingly—is at weekends. We have a number of weekend centres that we open just for that purpose. A good example is Levenmouth. We have two primary centres in Fife, in Kirkcaldy and Dunfermline, and that matches the demand that we have from Monday to Friday, but on Saturday and Sunday it gets busier, so we open Levenmouth.

We do the same in Dundee. The centres in Perth and Dundee are open seven days, and Arbroath is open on Saturday and Sunday, because that is when there is peak demand. It is about looking at demand, keeping our estate and opening new estate when demand requires it.

The Deputy Convener: Does anyone else have a view about the weekend contingency centres and the fall in their numbers?

Calum Steele (Scottish Police Federation): I have a slightly different view, although it does not entirely contradict the evidence of Mr McEwan. We cannot ignore the reality that many of those

decisions were taken as a consequence of a lack of staff. The reason why we have a lack of staff was the requirement to save money, and because we had to save money an awful lot of staff were paid off and their posts were made redundant.

We faced the Hobson's choice of keeping facilities that we had no people for or paying for people whom we did not necessarily have the custodies for. One of the inherent complexities of custody and custody facilities is that you do not always know when you are going to have people in them. However, another requirement is that members of staff must be available on the off-chance that you get people in the facilities. Through what I consider to be fairly crude economics, it was decided that if you could not evidence that a member of staff was required for the duration of their period of work, that member of staff would not be required.

It is not a simple case of looking at the headcount and what I will call, for lack of a general term, throughput of bodies. When the service came into being, it was under phenomenal pressure to save money; that resulted in the loss of a huge number of staff, as I suspect my colleague Michelle McHardy will confirm, which, in turn, had a knock-on impact on where facilities were going to open.

The Deputy Convener: When we saw the budget stuff, we saw some evidence that such a move was counterproductive if it was resulting in police having to travel a very long distance, with all the time that that would entail.

John Finnie has a supplementary.

John Finnie (Highlands and Islands) (Green):

I thank the witnesses for their evidence. My question, which is for Chief Superintendent McEwan—and perhaps for the other panel members—is about the challenge facing the police. Finance is an important factor. It is wrong to say that the issue is not having an impact across the public sector but, as we keep hearing, policing is different; it is not a simple case of supply and demand.

Perhaps I can be parochial, convener, and look at cluster 3, which is the Highlands and Islands. It has one primary centre; however, the area that is covered by Highland Council—never mind the three island councils—is the size of Belgium. I wonder whether you can help me understand the implications of that. Obviously, I do not want to ask any question or say anything that would make any of our officers out there vulnerable in any way, but what happens if, on some Tuesday night, someone requires to be locked up in Wick or Fort William?

Chief Superintendent McEwan: As far as policing is concerned, the north of Scotland is

geographically unique compared with the urban and rural areas of the central belt and the west. Cluster 3 has one primary centre, which is in Inverness, and as the briefing note that we have submitted shows, there are a number of other ancillary stations. What happens in, say, Aviemore, which, as you will see, is the third in the cluster 3 list? If a police officer in Aviemore needs to lock up an individual, the individual is taken to Aviemore custody centre. There are no custody staff there—and neither should there be, because it is relatively infrequent for someone to be locked up in Aviemore. The local policing staff are responsible for opening the custody centre and doing what needs to be done around safe search and assessment, and they will then link directly to the sergeant in Inverness via the telephone to give an update on the 21 risk questions, which the committee will have seen.

A decision has to be made—and I think that we make the right one, although you might disagree. If the individual has to be kept for court, we can do two things: we can keep the two local police officers off the front line in Aviemore to ensure the individual's care and welfare in custody, but that can be for up to 24 hours or, indeed, over the weekend and it might mean taking two local police officers off the street for three days; or given that we know that he or she will appear in court on the Monday, we can transfer the custody to Inverness, which will take perhaps an hour and a half, and that will free up the two officers, who can return to Aviemore and continue to serve the local community. That is our practice at the moment, and it means significant savings for local police officers, who do not have to look after the custody for 24 hours.

The second—and, for me, more important—issue is the custody. After all, they might have acute health needs, and the only footprint for healthcare provision in the north is in Inverness. That is where the nurses are, and we need to take custodies to Inverness to ensure that they get the required healthcare provision.

John Finnie: I want to press you on this. With the exception of Nairn, perhaps, Aviemore is the nearest centre to Inverness, so in your example the turnaround is quick. I purposely chose Wick, because it is two-plus hours away.

I am trying to understand the impact on some of the decisions that are made. Everyone wants the best possible custody facilities. In a previous career, I did health and safety inspections of premises, as Mr Steele did, and we wanted the very best. There is no doubt that everyone wants that; they also want healthcare to be provided. However, it is not necessary to travel to get healthcare—healthcare can be provided locally. The issue is the implications that a policy that is

entirely well meaning might have for operational policing. If we are talking about Portree or Wick, officers will be away for several hours.

13:15

Chief Superintendent McEwan: I agree, but the premise is the same. If someone is locked up in Wick and there is an early indication that that individual is unlikely to be kept for court and will be detained and interviewed for a couple of hours, the custody sergeant in Inverness will make the decision to retain them there and to allow the local policing staff in Wick to carry out the investigation. However, if that individual is to be kept for court for up to 24 hours or three days, in my view, the right decision would be to convey them to Inverness, which might take four or five hours there and back, but, after that, the local police officers will be free to get back to doing what they should be doing, which is looking after and providing a policing service to the local community.

John Finnie: Indeed. Are the positions of the two officers concerned backfilled, if I can use that term, when they are conveying someone to Inverness?

Chief Superintendent McEwan: No, but the reality is that, if the custody is retained in Wick, the police officers must remain in the police station, so they would not be able to respond to calls anyway. For me, the best solution is to allow that abstraction to take place, which will take four hours, after which the officers will be back providing a service in the local community.

I do not want to labour the point but, as I said, 68 per cent of all custodies declare that they have healthcare needs or vulnerabilities that mean that they need acute services, and they need to be as close as possible to healthcare provision, which, in the north, is in Inverness and Kittybrewster. Therefore, in my view, that is where we should put the majority of the custodies.

John Finnie: That is where the police healthcare is, but there is healthcare everywhere across the north of Scotland. I think that colleagues will pick up on that.

Police officers are very pragmatic. Their most important power is the discretion that they exercise in making the important decision about whether to deprive someone of their liberty. Has any assessment been done of the impact of such operational decisions? An officer might think that transporting someone for five hours so that they can be locked up elsewhere is a lot of hassle. Has there been a downturn in the number of people who are being detained? Although we want the minimum number of people to be detained in police custody, we certainly want everyone who should be detained in police custody to be

detained there. Has an assessment been made of whether the correct balance is being struck?

Chief Superintendent McEwan: No. That is difficult to assess. It has never been suggested to me that the cops on the front line are not taking the appropriate action. From my operational experience and from speaking to officers, I would be extremely surprised, to say the least, if it turned out that officers were not locking up the right people because they feared that it would mean a lengthy journey to a custody centre. Such a suggestion has never been made to me.

John Finnie: Would you like to comment on that, Mr Steele?

Calum Steele: Human nature is what human nature is. Since the service has come into being, we have had such discussions about other elements of policing. The question was asked whether the target culture was creating an approach that was encouraging stop and search. The service said that that was not the case—we said that people were making stuff up—and there was a merry-go-round of denial.

The issue is not necessarily the huge distances that are involved in travelling from Wick to Inverness and Portree to Inverness, which are a problem for reasons that Mr McEwan only began to touch on. The more difficult issue is the fact that if officers have care responsibilities, those care responsibilities must continue to prevail even though they are in a vehicle. I do not think that a vehicle is the most appropriate setting for delivering healthcare to an individual.

Some of the biggest problems come from the delays at custody centres. It can take a very long time to get people in the door in the first place. Let us say that the normal turnaround time for locking someone up and lodging them in a cell was half an hour and it is now taking an hour and a half. That represents a reduction of a third in the number of possible custodies on an ordinary night.

That kind of thing has an impact and a bearing. We need to start to look at the abstraction of police officers as a loss and a cost, and at the fact that communities are losing much more than just the officers not being in their communities when these things take place. Police officers should not be out there looking after custodies. We should not have police officers coming off the seat or transporting custodies at all; we should have what we used to have, which was PCSOs—police custody and security officers—to undertake that kind of activity. However, because we adopted this quite idiotic approach of identifying jobs and saying, “That is your job and therefore that is what you do,” without recognition that many people in many roles undertook a variety of other ancillary duties, we lost members of staff who were doing

an awful lot more than what their primary job title suggested they were doing. That is a big problem in its own right.

On the issue about human nature and there being a disinclination to lock people up, I think that that is an inevitability. Police officers do not like being idle. I do not use the term “idle” glibly, but sitting for a long time with a custody getting impatient when they know that an awful lot is going on and that they could perhaps be doing something else will of course discourage officers from locking people up. I am not saying that they are neglecting their duty, but those things play out in public perceptions. If people are on the streets creating disorder and are not being seen to be taken away, or the consequence of taking away someone who is creating disorder is that there is a diminished police presence for a longer time than would once have been the case, that has to be understood from a public confidence perspective as well as the perspective of the care of the custody.

The Deputy Convener: The point is well made. Rona Mackay and I attended an old firm game at which there was certainly behaviour where a police officer would have to decide whether the person had to be locked up there and then because they were going to go on and cause major problems or whether a warning would suffice, as the person would settle down and so the officer would not be taken away from where they were needed to police the rest of the game. We understand that those decisions have to be taken. If there is the prospect of a long journey and hours away, that is another factor.

Rona Mackay (Strathkelvin and Bearsden) (SNP): I will start with a question for Michelle McHardy from Unison. Are you satisfied that there are enough custody centres across Scotland to deal with the current demand? Is there a case to be made for an overall reassessment of provision?

Michelle McHardy (Unison Scotland): That is an interesting question. I think that there is enough provision to deal with demand at the weekend when we open the centres, but during the week we sometimes struggle. A lot of our PCSOs are being moved around, particularly in the west area, so they do not have a base station any more. The crux of the matter is staffing levels: we do not have the number of PCSOs that we require to run the centres that we have. The budget has been cut to such an extent that the PCSOs who have, for whatever reason, left the organisation have never been replaced.

Rona Mackay: Can I just stop you there? Just for clarity, does a police officer apply to become a PCSO? How does that work?

Michelle McHardy: No. They are usually appointed to work in custody division to backfill a gap.

Rona Mackay: Okay—that is fine.

Michelle McHardy: Police officers are being taken off the front line to do a PCSO function. Until recently, that has been done on an ad hoc basis. We have had an agreement that police officers will be seconded to custody division while the structure is considered, but we need to get the balance right so that we can run the centres without moving staff about.

Rona Mackay: Calum, you have covered the issue a wee bit, but do you want to add anything?

Calum Steele: The reduction of PCSOs is a particularly difficult issue. It has been encouraged—"tolerated" is probably the correct word—where the abstraction of police officers is not seen as a cost. However, because support staff and PCSO salaries were an identifiable line in a budget, their loss through either voluntary redundancy or early retirement was considered a financial saving, without the recognition that there was a financial cost in the time taken to backfill the vacancies created by the absence of PCSOs. As I said in my submission to the sub-committee on financial planning just a few weeks ago, there has been a large reduction in the number of PCSOs.

Even though there are proposals, which I genuinely welcome, to recruit up to about 50 PCSOs in the very near future, that still leaves a huge deficiency in capacity for the people who need to work in these areas. I talk about this subject regularly; only when the service understands the true cost of policing from a holistic perspective rather than from a single-line budget perspective will we be better placed to deal with the issues that are presented to us.

On the question whether we have enough custody centres, the short answer is no. We are a contingency service and, as has been said by many people, you cannot seek to define the kind of circumstances that police officers will deal with. Of course, the consequence of having a benefit is that there is a cost, but there is always a benefit in having a custody facility in as many locations as possible for the occasions when police officers need to take someone into custody.

In my part of the world, there used to be police stations in Lochboisdale, Benbecula, Lochmaddy and Barra. You did not keep people overnight in those facilities unless you absolutely had to, but it was still better to have facilities at your local station where you could go and do what you had to do and then get out as quickly as you possibly could. With the denuding of the custody estate, much more time is taken to deal with things that

used to be done more quickly. That is inefficient; it is not effective; and it does not save money.

Rona Mackay: Mr White, do you have any comment to make on the number of custody stations?

Pete White (Positive Prison? Positive Futures): No, I am afraid not.

Rona Mackay: That is fine. Do you wish to respond, Mr McEwan?

Chief Superintendent McEwan: First, picking up on Calum Steele's point about PCSOs, I should for the avoidance of doubt make it clear that no PCSOs have ever been afforded voluntary redundancy or early retirement—PCSOs have not been allowed those options. The PCSOs who have left have done so through resignation or retiral, not through voluntary redundancy.

As for custody centres, I genuinely believe that we have enough of them. It might be worth while putting this in perspective. Since 2013, three centres in the north of Scotland have been shut: Bucksburn, Lochmaddy and Mallaig. Bucksburn is 2.6 miles from Kittybrewster, Lochmaddy is 18 miles from Benbecula and Mallaig is 40 miles from Fort William. That is three centres that we have—

John Finnie: Both Lochmaddy and Mallaig are a great distance and a ferry journey from Inverness.

Chief Superintendent McEwan: Yes, but we have 16 custody centres left in the cluster 3 area. Since 2013, we have, per the Police Scotland submission, shut a total of 18 centres. However, I would not shut a custody centre if I did not think that we had a sufficiency of centres and cells across the country to manage demand. Although you can never predict the future, I predict that when the Criminal Justice (Scotland) Act 2016 comes into force in January 2018, with Lord Carloway's presumption of liberation, there will be a significant reduction in the number of custodies that we hold in our centres.

For me, this is about delivering the best value for the public purse, having in place the safety mechanisms—the care, welfare and vulnerability plans—for these vulnerable people and holding them in the bigger centres where there is healthcare provision. Mr Finnie made a point about police healthcare provision. However, it is not my healthcare provision—it is the national health service healthcare provision, and the NHS provides it in our custody centres.

In answer to Rona Mackay, I think that we have enough custody centres. If I did not think so, I would be making real, positive and strong arguments otherwise to the executive. However, I see no need to do that at this time.

Rona Mackay: I have a question for the whole panel. Are you confident that the custody centres that we have are fit for purpose? I ask simply because I was quite struck by concerns expressed in the Unison and SPF submissions about the human rights impact. Do you want to comment on that and on general issues such as the translation facilities that are available in the centres? We have already talked about access to healthcare professionals. Finally, are custody centres subject to any form of inspection or is it just a case of saying, "There's a room—that's where you go"? Do the centres have to meet certain criteria?

13:30

Chief Superintendent McEwan: There is a number of different criteria. The size of the cell has to be in line with Home Office guidance, so the cells in any new custody centres that we might build are now subject to a minimum size requirement that was never in place before. We also have the independent custody visiting service, which is run through the Scottish Police Authority and is very active in visiting centres day and night across the country. I recently read somewhere that the service visits, on average, nine custodies per day, so it is visiting many hundreds of people.

Moreover, Her Majesty's inspectorate of constabulary in Scotland carried out a full thematic inspection of custody provision in 2014 and now every time it inspects any of the 13 local policing divisions, it bolts on an inspection relating to custody. An inspection has just finished in Dundee, and inspections have been carried out at St Leonard's in Edinburgh and elsewhere across the country.

We get recommendations and improvement actions from those inspections, but I can say with absolute confidence that every recommendation from the thematic inspection is now complete. We are still working on the odd improvement action, but we listen to what comes out of the scrutiny that is placed on us and strive to enhance the service that we provide in the custody centres.

Rona Mackay: Thank you. Mr White, do you have any comments on the question whether custody facilities are fit for purpose?

Pete White: The views of the people I represent would not necessarily be constructive, because people who find themselves in those conditions are under some strain and feel very vulnerable. It would be hard to define the ideal custody suite, but it is good to hear about the progress that is being made to try and improve the ones that are out there.

Rona Mackay: Why did the SPF and Unison have human rights concerns?

Calum Steele: The concerns are not with the facilities themselves. I have made it clear that the care that we provide to custodies in our primary facilities now is incomparable to the care that was provided in the past, and the staff who work in those centres are doing a tremendous job. As an additional level of assurance, I point out that, with regard to the inspection regimes, the SPF is among the organisations that have appointed safety representatives and, in conjunction with the service and the unions, undertakes safety inspections of facilities where our members might be expected to work. That extends to police cells, so there are continual checks on the quality of the facilities. There are other facilities that are not as good, but they have been closed, for reasons that have been articulated.

Our concerns about human rights relate to moving people for long distances in handcuffs, in cages or insecurely in the back of police vehicles, and what that might be doing to them. Regardless of why people come into custody, the second that they are in it, they are vulnerable. Some might want to fight, some might have mental health issues and some might have psychological issues, but whatever their issues might be, the practice of moving people from one holding centre to another, which we do almost every weekend, is—in my unprofessional view, as an observer—a fairly inhumane way of treating human beings. They get clapped them in irons and dragged across the country, only to be driven back a day or two later by G4S in the back of another van. That does not sit right with me. I do not know whether a human rights lawyer would take the view that the practice is compatible with human rights, but I feel that there is a vulnerability for my members and a risk to their health, safety and wellbeing, as well as to the health, safety and wellbeing of the individuals who are being transported. That is where I believe the vulnerability exists.

Rona Mackay: Do you have a preferred alternative for transporting those people?

Calum Steele: Absolutely, and it means having the capacity and the staff to ensure that those transfers are not needed in the first place.

Rona Mackay: Is it about staff numbers?

Calum Steele: This is not difficult. We need only look at some recent examples. Prior to 2013, Edinburgh had a number of police cells across the city and the police dealt with their custodies in each of those areas; we are now left with St Leonard's, which is now dealing with the capacity and throughput of custodies for Edinburgh in a way that it was never originally designed to do. That creates problems in its own right. As squatters in Edinburgh, at least during the week, you will know that getting across Edinburgh is not easy. Indeed, getting across many of our cities is

not easy, so that kind of thing can cause problems.

There has been talk of closing Arbroath, which processes 2,500 prisoners a year. In that case, you are looking at distances of 80 miles to Kittybrewster and comparable distances to Dundee. Those are long journeys, and such issues make it seem to me that we are looking at this issue from the cash side rather than from the human rights side. Police Scotland has an absolute duty to look after the human rights of individuals—and I think it right that we do—so you, as parliamentarians, have to ensure that we are not hamstrung in our ability to fulfil that duty. If that means providing additional funding for our estate through capital funding or for staff through revenue funding, that is an obligation that you have to discharge. To my mind, the practice of moving people from east to west—from Saint Leonard's to Clydebank, Cathcart or wherever—only to then move them back again does not sit with the way in which we should be treating human beings.

Michelle McHardy: As has been alluded to, we are dealing with people with complex health needs. On occasion, they are being transported around the country to centres that are running short of staff, and the staff who are there are under incredible pressure. I understand that custody is one of the highest-risk pressures within the force, yet we are not staffing that area as we should be. The staff are under incredible pressure to look after people with extremely complex health needs, and most PCSOs are working through their breaks to ensure that the service is delivered and that these people are looked after. Because the staff are under such pressure to look after the increased numbers of prisoners coming through the door, we are concerned about the potential for things to go wrong. The numbers in general are decreasing, but the staff are not getting respite; because we have fewer centres, they are getting more prisoners coming through the centres than they used to.

Stewart Stevenson (Banffshire and Buchan Coast) (SNP): I want to ask about the process of reception into custody.

Police Scotland has given us a list of 21 questions that form part of the risk assessment by the custody supervisor. In 20 out of the 21 questions, the second word is “you”. In other words, they are all questions that are directed by the custody supervisor to the person who has been brought into custody. To what extent are the people who are in charge of the custody making an independent assessment of the needs of the person who has been brought in? Are they simply relying on what that person chooses to say? I recognise that the submission says that, if the person does not answer, the custody supervisor

should flag everything as high priority, but I think that there is probably some middle ground in situations in which people are responding but you, objectively, should not believe the response that is being given.

Chief Superintendent McEwan: It is absolutely not the case that reception staff simply rely on what the person chooses to say. For a number of reasons, someone might decide not to tell us that they have had a drink in the previous 24 hours. It might well be that, for example, they have been brought into custody for drink-driving, so it would clearly not be in their best interest to say that they have had a drink. The custody sergeant and the PCSOs will make an assessment based on how the person looks in general, what their pupils look like and how they smell. Those assessments are made as part of a dynamic risk assessment.

In addition to that, one of the benefits of being a national police force is that we have a national custody system. If you, Mr Stevenson, happened to be locked up in Aberdeen one weekend and then locked up in Edinburgh the following weekend, the custody sergeant in Edinburgh will have access to your notes and files and will be able to read the observations that were made by the custody staff in Aberdeen. That information has never previously been available, so that is an absolute enhancement. In addition, we have adverse incident forms, which means that, if you had attempted to strangle yourself with your trousers while you were in the cell in Aberdeen, that would be documented not only on the system that I have just described, but as an adverse incident report that would be highlighted to the reception staff the next time that you came into custody.

In addition to that, the healthcare professionals—I mention them a lot because I think that they are vital—have a national information technology system called Adastra. If you are taken to Inverness and the healthcare professionals there record information about you on the Adastra system, all the primary centres where we have healthcare professionals will be able to access that information. That is useful because there will be occasions on which someone in custody will not want to tell the police something but might tell the healthcare professionals. If the information is on the Adastra system, the healthcare professionals can access it and give us a gentle prompt in the right direction.

The set of questions was subject to significant consultation, externally and internally, with the prison service, healthcare professionals, lay advisers and independent custody visitors, and it was seen as the best, most professional and robust question set for eliciting the most honest answers from the custodies. We absolutely take

on board that not everybody tells us the truth and that we need to use other means, such as I have described, to try to enhance our knowledge and the care plan that we provide for those people.

Stewart Stevenson: For the record, chief superintendent, thus far I have denied myself the privilege of your hospitality on the basis described. I have visited the custody suite in my constituency at Fraserburgh on a number of occasions, but purely as an observer.

Chief Superintendent McEwan: I am sure of that.

Stewart Stevenson: Before I move on to the second part of what I want to ask, I will address what seems to me to be an omission from the list of questions, which might be, "Do you have responsibilities to other people?" In other words, is the person who has been arrested and brought into custody one who has young children at home for whom that person might be responsible, or are they looking after someone such as an infirm parent who is dependent on them? I do not see that particular issue covered in the questions.

I will ask the other part of my question so that you can deal with it in a oner. It is the more general point about how you ensure that other members of the family, partners or other relevant people in a person's life are made aware of the detention and kept up to date with what may happen after detention, such as being held for three days, for example, ready for court on Monday.

Chief Superintendent McEwan: I will take the first question first. There is absolute validity in what you say. Question 21 on the list is a sort of catch-all, if you like, that would hopefully elicit whether it was a parent who had been brought in and there were kids needing to be picked up from school or something like that. I hope that that would be covered under that question, or that any parent or guardian would tell the police officers that right away, but—

Stewart Stevenson: Forgive me if I press this a little. If the person concerned had two young children at home, for example, they might not want to tell you about that because of a potential offence associated with leaving the children at home. While I accept that question 21 is a kind of catch-all, it seems to be more a question for the custody officers to ask themselves. When people are under stress they are not always going to think of those things. Is that a fair comment?

Chief Superintendent McEwan: Yes, I do not disagree with that. The second part of what I was going to say, just before you came back at me, was that I will take that point away with me. We are forever looking to improve the question set—this is just a moment in time. We seek best

practice from across the country, one such place being Newcastle, where they have a further risk assessment model that we are looking to build in that will further enhance our practice. I have taken a note of that point and I will take it back to consider.

Could you remind me what your second point was?

Stewart Stevenson: It was about how you communicate with important people in the detained person's life about what has happened and what will now happen.

Chief Superintendent McEwan: We have to respect the wishes of the individual. If they are a child or a juvenile—up to the age of 18, as it will be when the 2016 act comes in—then we will tell a parent or guardian, but if they are an adult and they do not want any next of kin to be informed then we will not tell them. That is the reality, unless there are unique circumstances, such as significant mental health issues or their having an appropriate adult—something that we may identify from other research. In that case we might take the decision to inform relevant people, but normally we would not. However, if the person asks us to tell relevant people, we will make a phone call or a personal visit.

If I may just say, this issue is very important when we get to transfers, which have been a big discussion point in the submissions. If we are looking to transfer an individual from St Leonard's to Falkirk, Falkirk to Greenock or wherever it may be, we adhere to really strict criteria.

First, the custody is asked whether they want to be transferred. and if they say no, we will ask other custodies. Most of the time, the custody does want to be transferred because it gets them out of the cell and they are in a vehicle for a period of time. For them, it is a bonus to get a transfer.

Secondly, they have to be a compliant prisoner.

13:45

Thirdly, the whole investigative process has to be complete: there are not to be any further interviews and the decision has to have been made that the individual is going into custody.

Finally, the important part that is relevant to your point is that we phone to tell the lawyer that we intend to move the custody and ask whether they have any objections and whether they intend to come in; if they do, we do not move the custody. We also tell the family, who might want to hand in clothes or personal belongings. We phone the family to tell them that it is our intention to move the individual tomorrow at 2 o'clock in the afternoon and ask them if they have any reservations or concerns.

Those are the strict criteria that we work to. I and my staff work on the basis of being absolutely transparent in engaging with the accused person, their family members and their lawyers before we make any decision to move them anywhere.

I have one final point about custody and transfer numbers—

The Deputy Convener: It is more about the information than the custody numbers—

Stewart Stevenson: I wanted to get the client's view from Mr White. I am also conscious of the clock, convener.

Pete White: I draw your attention to the Community Justice Scotland process, which requires consultation between statutory partners in every area, including the police, and to the fact that people in each area who have convictions are to be consulted about the design and efficiency of the services in each area. There is scope for some kind of additional consultation to do with the 21 questions, because I did not hear people who have convictions being mentioned among the consultees, and I think that we have a lot to offer in that regard. That is something I offer. We do it in other parts of the justice system in Scotland and we would be happy to support doing it because it is important that people get the chance to contribute to things getting better. Many people who have been through the system want things to get better so that fewer people have to be punished. That might be one way we can help.

Stewart Stevenson: Has Ms McHardy heard anything that she wants to disagree with?

Michelle McHardy: No. The question set has been developed over time. PCSOs have become good at dealing with the people that they are booking in and at eliciting the answers that they are looking for, sometimes by reading between the lines, shall we say.

The Deputy Convener: Thank you. We must move on quickly because chamber business starts at 2.30.

John Finnie: Much of the substance of the questions that I was going to ask has been dealt with, but I want to pick up on one aspect in Mr White's submission and ask Ms McHardy about the community triage pilot with NHS Greater Glasgow and Clyde and G, K and L divisions. Mr White, do you want to outline what you thought of the process? Do you see benefits in its expansion?

Pete White: It would be tremendous if it was widespread across the country. It addresses the mental health and addiction issues that lie behind offending behaviour. The results of that original pilot have led to it being introduced in a number of other areas and it is being taken as standard good

practice. If we can encourage that across every police force and every area in Scotland, it would lead to a huge reduction in the number of people being taken into custody in the first place, and to a lot of people getting help quickly, rather than waiting in a police cell for something else to happen as things get worse.

John Finnie: Are you supportive of that approach, Ms McHardy?

Michelle McHardy: I am not familiar with the community triage pilot.

John Finnie: Mr McEwan, are there plans to expand it?

Chief Superintendent McEwan: Yes. We are very supportive of that. A number of positive initiatives are on-going across the country. Safe space, for example, is exactly as has been described. People get access to a mobile telephone and are allowed to have a private consultation. We work with veterans, so if someone who has been in the armed services is brought into custody, there is a support network, a referral network and a counselling network in place for them. Future pathways support is on-going across our custody centres for victims of child abuse.

A referral process and a signposting initiative are in place, where victims get support and counselling, to try to prevent any reoffending. There is a lot of good practice across the country. We are now trying to corral all that good practice into three strategic hubs that we are piloting in Falkirk, Aberdeen and Inverness. We will invest in the additional staff that Calum Steele mentioned to test those intervention processes.

Pete White: We have to take on board the concept of Community Justice Scotland as a non-hierarchical leadership team. Its primary role is to share good practice across the country. It is very important that we take what is being learned in Police Scotland and spread it through all the other people involved in community justice. We need to ensure that everyone gets a chance to contribute to and participate in the process and that we support the police to do more of the work that they have to do on the streets and in our communities.

John Finnie: Can I ask one specific question about healthcare, Mr McEwan? Let us say that someone were to be locked up in Castlebay in Barra for whatever reason. To get to the primary centre in that area—I assume that they would go to the one in the division—would take at least two ferries and a considerable length of time. I presume that if there were healthcare issues, the local doctor would be summoned. You are not saying that there would be medical support only in a primary location.

Chief Superintendent McEwan: No. Immediate support would come from the local doctor and/or hospital. The long-term issue that we find with that in places such as Fraserburgh and Elgin is that doctors are sometimes not available. If the person in custody is taken to the local hospital, the police officers and the custody can be there for a number of hours before they are seen. The priority healthcare—the fastest and most efficient healthcare—is in the primary centres.

John Finnie: I keep giving examples of more remote locations and you keep answering with what I would consider urban areas. Someone in Barra is needing to get the jail, they are locked up, they have had a bump on their head and a storm is coming. What happens?

Chief Superintendent McEwan: The local doctor is summoned and he or she will arrive as soon as possible. If it is something really serious, and the nearest hospital is not on the island, we would look to transport the individual by air ambulance.

John Finnie: We have moved to a single service, a new plan has been conceived for how custodies are treated and it has disregarded what was good and accepted practice prior to that.

Chief Superintendent McEwan: I realise that that is your point. I suppose that the point that I would come back to is that since the new service was created, only three custody centres in the north have been shut. The previous operating procedures in Wick and elsewhere are still place.

John Finnie: The procedures are not the same if folk are being tied up for several hours taking custodies somewhere else.

Chief Superintendent McEwan: But they only get taken somewhere else if they are going to be detained in custody for a period of days.

John Finnie: If they are locked up on a Tuesday night, they appear the next lawful day at Wick sheriff court—

Chief Superintendent McEwan: They would stay in Wick.

John Finnie: They would stay in Wick.

Chief Superintendent McEwan: Yes.

John Finnie: Okay. I am more confused than ever, to be honest.

The Deputy Convener: Mr Steele, do you have anything to add to that?

Calum Steele: In case you think that I am giving you the eye, I apologise. I am being blinded by the sun.

To some extent, I agree with Mr Finnie's point. Healthcare needs to be provided in a number of ways. We have now moved to an approach where there is health provision within custody, which has resulted in a transfer of cash. We also have dedicated health professionals working in some custody centres. In high-volume areas, that is definitely beneficial because we no longer have the spectacle of queues of police vehicles waiting outside accident and emergency departments. To some extent, we can hybridise and look at what we used to do to see whether there are better solutions for some of sparser areas.

The Deputy Convener: Thank you. We need to move on, because we aim to finish at about 10 past 2. We have covered the concerns about the lack of PCSOs and the 118 vacancies. I would like to hear the witnesses' comments on that.

When I was looking at the submissions, it occurred to me that the single force had come up with a structure that has a force custody inspector, custody cluster inspectors, custody supervisors and, somewhere down the bottom of the list, PCSOs. Is that structure a little top heavy, and to the detriment of putting more resources into the PCSOs, who are obviously needed? Views on that would be helpful, too.

Chief Superintendent McEwan: Although that structure sounds like a lot, it is not. We have five force custody inspectors who work 24/7. One inspector covers the entire country when on duty. They are not responsible for hour-by-hour oversight of the care and welfare of the custodies, but responsible for the key decisions that require to be made. The 13 cluster inspectors are responsible for the supervision and support of their staff.

Without a doubt, we have hundreds of PCSOs and police officers and only a very small number of middle and senior managers working in our custody centres.

The Deputy Convener: Did you say 13 custody cluster inspectors?

Chief Superintendent McEwan: Yes.

The Deputy Convener: What about custody supervisors? How many are there?

Chief Superintendent McEwan: There are five FCIs.

The Deputy Convener: There are five force custody inspectors. What about custody supervisors?

Chief Superintendent McEwan: Those are the sergeants, who are at the primary centres. I cannot give you a number off the top of my head. I estimate that there are 90 at that rank, but I am not sure, so I will have to get back to you.

The Deputy Convener: It would be good to get those figures.

Chief Superintendent McEwan: I will certainly provide them for you.

The Deputy Convener: I also want information on the 118 PCSO vacancies, because we have heard evidence that they are causing problems.

Chief Superintendent McEwan: We are striving to fill a number of the vacancies. Calum Steele mentioned 50 new posts, but the figure is actually 45. Those new posts were approved last week.

I checked the position this morning. We have 27 PCSO vacancies in my division. All the vacancies are in transit—for example, through advert—to getting filled. That will take a bit of time, because there will need to be vetting, interviews and so on.

There is on-going work—it may have been discussed here before—to reform the corporate services division, which is the back-office, college-jacked-in policy and guidance officers who do a lot of really valuable work. The force executive made a decision that we would release those officers and put them on the front line, and 40 of them will come into my division and work in custody services. We are moving police officers who are doing back-office support roles into the front line.

In the past three to four months, there have been significant, positive traction and momentum around custody, and—

The Deputy Convener: How many vacancies will there be? You said that 45 are being filled. Are there still 73 vacancies?

Chief Superintendent McEwan: No. This is where it gets a bit messy, to be honest, which is all to do with the information technology. On 1 April 2017, because of the available budget that was in place for police staff and officers at that time, the vacancy rate was zeroed. We started capturing any vacancies from that moment on. The 27 vacancies that I mentioned are in PCSO posts. We are recruiting an additional 45 PCSOs and we are getting 40 police officers from the corporate services division. Local policing staff have invested a significant amount of police officers, too.

Before 1 April 2017, there was not the available budget to replace the PCSOs as they left the organisation. No budget was aligned to those posts, and PCSOs were not recruited back into the organisation.

The Deputy Convener: That is where we have some concern, because PCSOs are pivotal in making the custody centres work properly. Perhaps those decisions need to be reviewed.

Calum Steele, is there anything that you want to add?

Calum Steele: Yes, although I am mindful of the time. Although the terminology used was “zeroed”, the posts that existed were simply deleted. The term “zeroed” might be a politer way of describing that, but they no longer exist as vacancies.

I fully concede that a lot has been done—there is no doubt about it—from where we were 18 months ago to where we are now. It is exponentially better, but there is still a lot more to be done, not least because of the issue that we have with officers crossing the country with prisoners on transfer.

Based on years of experience—which I think is the best way of describing it—we have doubts as to whether those 40 officers in corporate services will be released. Such doubts have been expressed by our members who work in the division in which Mr McEwan works.

14:00

We also cannot ignore the fact that taking 40 police officers from one part and putting them somewhere else is still backfilling. Whether or not they are supported from local policing, that is still backfilling. Those police officers are not being measured as a cost, because they are looked at in a different part of the budget, which is why a holistic approach and an understanding of the cost of provision of service are so important. It is not Mr McEwan’s fault; that is the parcel that he was given, and the one that he was holding when the music stopped. However, there needs to be a much more comprehensive appreciation that police officers do not have zero cost.

The Deputy Convener: Will you give us an update on exactly where we are with that? There are 118 PCSOs who have gone—they have been deleted or removed from the books or whatever—and a form of replacement is being suggested. Could we have an undertaking from you, please, Mr McEwan, that, towards the end of the year, when the final plan is looked at, you will write to the committee to say exactly what has replaced those officers, so that we can scrutinise that? It is an issue to which we will return.

I am conscious of the time, but I will ask a question very briefly. Ms McHardy, I was struck by the concerns that Unison raised about the future of the custody division. Will you elaborate on them? In your submission, you said that there was

“inconsistency and a lack of continuity in custody suites”

regarding

“the numbers of officers coming in”,

and that there was a lack of training and

“uncertainty surrounding the future of police stations and custody centres”.

Michelle McHardy: That was in relation to the fact there has been a reduction of PCSOs, whose positions have been backfilled by police officers. Different officers might be there on Mondays and Tuesdays, so there is no consistency. Custody is a dynamic environment. Staff need to work there consistently in order to be familiar with it. Processes change as we continually improve and learn in the division.

The Deputy Convener: You did say that there was

“inconsistency and a lack of continuity in custody suites across Scotland”.

Michelle McHardy: Processes may be consistent, but when different people are coming in to work for days here and there, if the processes are changing regularly, they will not be up to speed with what has changed since the last time that they were there. That puts added pressure on the PCSOs, because they need to make them aware of the changes that have happened. There has been some work to address that. We are also getting backfill, but that is just putting a sticking plaster over the problem.

The Deputy Convener: Are there plans to review the structure and role of the custody division?

Chief Superintendent McEwan: Yes, absolutely. Michelle McHardy was right when she said that the backfill was varied and disparate. However, now that we are two or three months into having a new model, we have seconded officers in place, and we have the same police officers working in centres, so I would say that there is a continuity that was not there previously. Over the past two or three months, we have been in a far better position than we were ever in before.

On where the criminal justice services division or the custody division is going in the future, we have a plan. With respect, it would probably take more than seven minutes for me to tell the committee what that plan is. I would welcome the opportunity to come back another time in order to do so. We have three pilot schemes that are kicking off—

The Deputy Convener: If you would like to send in that information, the committee would be very grateful to receive it.

Chief Superintendent McEwan: I will certainly do that.

Ben Macpherson (Edinburgh Northern and Leith) (SNP): I have a quick question for Mr

McEwan. Could you please clarify whether Police Scotland has received any formal complaints regarding transfers between custody centres?

Chief Superintendent McEwan: Not that I am aware of. I asked that question of my divisional co-ordination unit this morning, just in case I was unaware of them. However, the answer was no.

The Deputy Convener: As Ben Macpherson has nothing else to ask on that point, we will move to a question from Liam McArthur.

Liam McArthur (Orkney Islands) (LD): I apologise for my late arrival. I have been participating in a debate in the chamber.

Before I turn to the question that I was going to ask about the Criminal Justice (Scotland) Act 2016, I was intrigued by the answer to the question that John Finnie asked about the potential transfer of people held in custody long distances across the Highlands and Islands, and I would like to follow on from that. What are the implications of that for the prisoner transfer contract? Presumably it would fall to G4S to bring those people back from custody in Inverness, for example, to Wick or Portree or wherever the following day. One would imagine that transfers of those sorts of distances will have an impact on the contract.

Chief Superintendent McEwan: They do, although not on the cost of the contract, because that task was built into it. However, according to the G4S written submission, transfers have an impact on its resources.

Let me quickly give the numbers on transfers, which perhaps I should have given at the beginning, because they put the matter in perspective and it will literally take me about 30 seconds. I have them for the four weekends of November, as we do not do transfers during the week, and I will compare the figures for the same weekends in 2013 and 2017. In weekend 1 of November 2013, there were 79 transfers; in weekend 1 of November this year, there were 17. In weekend 2 in 2013, there were 46; this year, there were 16. In weekend 3 in 2013, there were 26; this year, there were none. In weekend 4 in 2013, there were 66; this year, there were 25, and that was because it was a long public holiday—St Andrew's day—weekend. The numbers that we are talking about, comparing 2013 with 2017, have reduced by 400 per cent or so. We are striving to minimise transfers as much as we can.

Your next point might be to ask about the Criminal Justice (Scotland) Act 2016. I am convinced that, when the presumption of liberation comes in under that act, transfers might be wiped out across the country.

Calum Steele: The contract that we have now is the contract that we have, but we are kidding ourselves if we think that a profit-making company is not going to look at its outlays and factor those into its future negotiations with us. If the company is travelling much greater distances than I suspect was originally anticipated for the contract—and it is—that will be reflected at a future point in time. Let us be honest about it—the G4S business model is not one that is built on benevolence.

Chief Superintendent McEwan: I am involved in the negotiations for the new contract—the current one is up in 2019—and four companies are involved. Again, it is not public just now, but we are involved in negotiations around cost and we will see where that gets us. Calum Steele is right that part of the discussions will be around transfers. Given the numbers that I spoke of and the fact that the 2016 act is coming into effect, I hope that the number of them will be very small compared with the 150,000 people we bring into custody.

Liam McArthur: Finally, I think that Mr McEwan has touched on this point and given an answer, but it is worth inviting Calum Steele to give his response. Provisions of the Criminal Justice (Scotland) Act 2016 that are coming into force next year give police officers the power of investigative liberation. Is it expected that that will reduce the number of people who go into custody and, as a result, reduce the number of people who are eventually transferred the sort of distances that we have been discussing? If so, is there any way to quantify that reduction?

Calum Steele: I think that that is the desire. As with all these things, the proof of the pudding will be in the eating. What is also expected as a consequence of the new changes coming in early next year is that there will be much greater throughput during the day because of investigative liberation, whereby people will be bailed to return to the police station to be interviewed or for other things, but that in its own right will just result in different pressures in a different part of the system at a different time. Whether we end up with the same people being held in custody remains to be seen. The short answer is that I do not know—we will have to see.

There are many plans, and many concepts are being developed over time that look fantastic on paper but do not work in real life. Although everyone hopes that we get to the stage where we do not bring so many people into custody, in large part their own behaviour affects those decisions in the first place.

Liam McArthur: It seems to link back to your earlier point about human behaviour. Presumably we mix that with the added option that will be available as of next year. Although it might alter

the throughput, there is an additional flexibility that allows officers to take those decisions.

Calum Steele: Indeed. Again, looking at these issues through a single lens is not particularly helpful. Public confidence plays a big role. Let us take a simple fighting *melée* in the middle of the street. It will be entirely possible—and indeed desirable, from a police demand and capacity point of view—to take people into custody, allow them to calm down and release them under bail under investigative liberation. However, look at the public confidence side of it. The public will see those people who were fighting going back out and potentially being under their nose in a relatively short space of time. That can permeate into their sense of confidence in the police to deal with things, because—let us be honest about it—most members of the public will not be aware of or interested in the nuances of investigative liberation. They will not care that those people have been taken to a police station or that there is going to be a process or that some kind of assessment has been done and conditions set. They just see that those people have been taken off the street by the police one minute and they are back out the next.

The Deputy Convener: That concludes our questioning. I thank the witnesses very much for attending. It has been an extremely worthwhile evidence session.

That concludes our 19th meeting of 2017. Our next meeting will be on Thursday 18 January 2018, when we intend to have an evidence session on Her Majesty's inspectorate of constabulary report's on undercover policing.

Meeting closed at 14:10.

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