



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

JUSTICE SUB-COMMITTEE ON POLICING

Thursday 9 October 2014

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JUSTICE SUB-COMMITTEE ON POLICING
9th Meeting 2014, Session 4

CONVENER

*Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP)

COMMITTEE MEMBERS

*John Finnie (Highlands and Islands) (Ind)
*Alison McInnes (North East Scotland) (LD)
*Margaret Mitchell (Central Scotland) (Con)
*Graeme Pearson (South Scotland) (Lab)
*Kevin Stewart (Aberdeen Central) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Andy Cowie (HM Inspectorate of Constabulary in Scotland)
Stevie Diamond (Unison Scotland)
Paul Laidlaw (Independent Custody Visitor)
Brian McFadyen (Scottish Police Authority)

CLERK TO THE COMMITTEE

Joanne Clinton

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament

Justice Sub-Committee on Policing

Thursday 9 October 2014

[The Convener opened the meeting at 13:16]

Independent Custody Visiting

The Convener (Christine Grahame): Good afternoon. I apologise to our witnesses for having to rush on with this—you have hardly had time to sit down. However, we have to stop by 2.20 as the Parliament is sitting this afternoon. I welcome everyone to the ninth meeting in 2014 of the Justice Sub-Committee on Policing. I ask everyone to switch off mobile phones and other electronic devices completely, as they interfere with broadcasting even when they are on silent. No apologies have been received.

Agenda item 1 is on independent custody visiting. We will hear how the new arrangements are working in practice. I welcome Andy Cowie, assistant inspector with Her Majesty's inspectorate of constabulary for Scotland; Brian McFadyen, national co-ordination manager for independent custody visiting with the Scottish Police Authority; Stevie Diamond, chair of Unison police staff Scotland; and Paul Laidlaw, an independent custody visitor from Inverness.

Mr Cowie and Mr Diamond have been here before, but I do not think that Mr McFadyen or Mr Laidlaw have given evidence to a committee before. If you want to respond to a question that has not specifically been directed to you, just indicate to me, and I will call you. Your microphone will come on—you do not need to press anything.

Because of the shortage of time, we will go straight to questions.

John Finnie (Highlands and Islands) (Ind): Good afternoon, panel. My question is a general one for all the witnesses. Although it is not bang on subject, it is relevant, as it relates to HMI's report "Thematic Inspection of Police Custody Arrangements in Scotland". There are four references in the report to the wellbeing of foreign nationals. There is mention of access to interpreting facilities and reading materials. It states:

"Police Scotland needs to work with partners to introduce robust and proportionate processes to ensure that foreign national offenders are managed appropriately."

How does that issue touch on each of your jobs? There must be challenges connected with that.

The Convener: It is your report, Mr Cowie, so do you want to address that first?

Andy Cowie (HM Inspectorate of Constabulary in Scotland): Yes. Thank you, convener.

The report, which is the most comprehensive study of custody in Scotland in modern times, certainly picks up on the challenges of dealing with a population that becomes ever more diverse. Where that hits the road is in the issue of rights and ensuring that the necessary information is gathered in booking in the custody. That assists risk assessment, because if the custody has medical problems that they do not declare because of language difficulties, the care plan by custody division will not address the actual risks. We recognise that very real challenge in the report and encourage Police Scotland to ensure that it is fully cognisant of that in its planning. I have been reassured by the chief superintendent who is in charge of custody division that she is fully aware of that and that it is at the forefront of her mind.

John Finnie: The issue will of course not just be during the booking-in period. There will be an on-going issue if someone is detained over the weekend, for instance, perhaps for Mr Diamond's staff.

Stevie Diamond (Unison Scotland): Absolutely. Police Scotland already has a custody, care and welfare of prisoners standard operating procedure to which staff adhere, and it takes into account any custodies of foreign nationals. Unison's concern is that the number of staff that we have at the moment and gaps in staffing mean that there has not been a complete training programme on that standard operating procedure. Staff make themselves as familiar as they can with it, and that is reflected in the HMICS report, but there needs to be more training in that respect.

The Convener: Does anyone else wish to comment?

Paul Laidlaw (Independent Custody Visitor): In my experience as a custody visitor, the staff will usually let us know if we have a foreign national in. There is a procedure, and the staff ask the person in custody a series of questions. If the person wants to see us, the staff will break that procedure to try to make the person understand. If we get to see the person, rather than asking a list of questions, we will go round that to ensure that they are okay.

John Finnie: Thank you. That is reassuring.

Graeme Pearson (South Scotland) (Lab): Mr Laidlaw, you are the man at the coalface, if I can put it in that way. What is your view of the quality of the training that lay visitors receive before the visitations?

On a separate issue, what is your experience of how things have changed over the past year or so and what do you think the issues are going forward?

Paul Laidlaw: I believe that training is going on at present. We are trying to get more volunteers in the scheme, so I cannot comment on the training—

Graeme Pearson: So you have no experience of the training issue.

Paul Laidlaw: Not under the new regime. The training that we received under the old regime was more than adequate, and any issues that we raise are answered.

What was your second question?

Graeme Pearson: In your experience, what are the issues going forward?

Paul Laidlaw: The number of volunteers is probably one of the biggest issues. A secondary issue is getting into the cell area, because there can be delays.

Graeme Pearson: Why is that?

Paul Laidlaw: Staff are busy, and there can be a lack of staff. That is not an excuse, but it is used all the time. Where we are based, up in the north, I do not come across that often, but it happens. We can wait for 30 minutes to get in, which is totally unacceptable. We do not expect instant access. Usually, we are in within about five minutes. If there are no staff in the police station—they could be out on patrol—we wait until somebody shows up.

Graeme Pearson: If you raise issues during the visitation, whether they are major or minor, do you record them in some kind of document? Does that document eventually find its way to Mr McFadyen?

Paul Laidlaw: We have a sheet with certain questions that we ask. If we note a concern, we will speak to the person in custody and try to work it out there and then. If we have any concerns, they are noted in an official book and they make their way back to Brian McFadyen.

Graeme Pearson: If a concern is resolved at the time, do you not record it?

Paul Laidlaw: If it is a minor issue—sometimes they are minor—we try to resolve it there and then. Some people in custody will not accept that that is the way or that nothing has gone wrong. That will never be resolved. There has never been a major issue.

Graeme Pearson: There has never been a major issue that has come to your attention.

Paul Laidlaw: Yes, or that of the visitors I work with. There has never been an issue that would

make me stop and say, “We’ve got a serious problem here.”

The Convener: What would be an example of a minor issue that you have come across and resolved? I remind you that we are in public session.

Paul Laidlaw: People say, “I haven’t seen a doctor” or, “I haven’t seen a lawyer.” We let them know that they can ask to see a doctor and we will pass that on to staff. The nurse will be there. It will be noted in the notes if they have seen a lawyer or a doctor. They might have forgotten or they might just be playing a little game.

Graeme Pearson: Mr Laidlaw commented on training. I presume that it is your responsibility, Mr McFadyen, to recruit new visitors. Will you give us some insight from your perspective into what is happening in that domain and what the way forward is?

Brian McFadyen (Scottish Police Authority): Certainly. As you will be aware, the eight legacy schemes that operated previously were brought into the national scheme to operate as one. The numbers that existed previously were sufficient for the custody suites that were visited at that time, but only about 60 per cent of the custody estate was visited under the previous regimes. I had to widen the visiting areas for the existing visitors, which has now left gaps throughout the country.

I have now been running national recruitment for about 12 or 14 weeks. I held two information days fairly recently, which led to 15 to 20 people going forward to training for potential new visitors on 8 November. I hope that that will start to fill the gaps. There is also a training day for existing visitors on 25 October.

There has been a slight gap, because the focus was on making sure that the national scheme was operating as it should. There has been some neglect of existing visitors because the focus was on the recruitment and training of new visitors to bring them on. However, we are now starting to address the training of existing visitors. Things are starting to settle down and I hope that we are starting to get to where we should be.

Graeme Pearson: Your business plan, which you will have in your office, indicates that you are putting up to 20 people through a course and you will select people from there if they are fit for purpose. How many would you like to recruit in order to fulfil your need? Do you have enough finance to pay for their training and expenses if they all turn up?

Brian McFadyen: I have 133 visitors who are actively visiting and another five who are off rota for various personal reasons. If I get 15 from the

group that is going forward, I will probably look for another 10.

The difficulty that I have at the moment is a geographical one. It is difficult to recruit locally for the north of the country and the islands, including the Western Isles. I am getting interest from people, but it is fairly localised in the central belt, as you would expect. We are starting to see gaps in the north of the country, and I am going to have to try to make a bigger push in that area. However, my expectation is that it would be reasonable to run with between 150 and 160 in total.

On your second question, I have been provided with adequate resources to finance the scheme.

Graeme Pearson: Mr Diamond, it will largely be members of your organisation who will be in the custody suites.

Stevie Diamond: Yes.

Graeme Pearson: There have been comments about delays in access and staff shortages. I know that custody suites have changed and they have been centralised. What has been the impact on trained staff being available and the management of prisoners in custody?

Stevie Diamond: Previously, in Strathclyde region, we went to a more centralised custody set-up with on-demand cells. Basically, the custody centre would be supplemented by smaller centres whenever demand required that, and Police Scotland seems to be moving towards that model now.

When I knew that I was coming to the Parliament, I canvassed our custody officer members to get their opinion of the custody visiting scheme. In the main, their view is positive. The one thing that they picked up on was that the times for the visits sometimes put them under extra pressure because of staffing levels. If they are unable to assist a custody visitor, that can cause some tensions, although they can generally be smoothed out fairly quickly once they are in the custody centre.

At the moment, custody is severely understaffed and it is being backfilled by police officers. Police Scotland is undertaking a review of that—I was at a meeting yesterday about it. We could possibly liaise with Brian McFadyen on custody visitors and say what our members are concerned about. While the restructuring of custody division is going on, perhaps we could have some leeway about when visitors arrive.

Graeme Pearson: May I ask one last question, convener?

The Convener: Of course.

13:30

Graeme Pearson: It is for Mr Cowie. There was previously an attempt to deliver a single occupancy policy, but your report says that there might well be multi-occupancy in future. Did you consider the impact that that might have on visitors coming into cell passageways and seeking to speak to prisoners? Will the interview process need to change if multi-occupancy is involved?

Andy Cowie: The way in which we have portrayed it is slightly different from that. The goal of single occupancy—one custody, one cell—is the ideal if we are to manage risk in the best way. However, some of the estate that Police Scotland has inherited is Victorian and was based on multicell occupancy, with large cells housing six, seven or even 10 or 12 people. Our current drive towards a consistent single cell occupancy policy means that some cells that previously held many people now have only one person in them. How has Police Scotland sought to manage the demand? To do that, it has to move custodies around the country. You will see from our report that, in a 10-month period, 2,300 custodies were moved around during their time in Police Scotland's care.

The point that we are making is that a hard-and-fast rule about single cell occupancy moves a risk from where it was, in the cell, to transportation, and there are other resource demands. We encourage a bit more flexibility of thought so that, where appropriate, consideration can be given to having three custodies rather than one in a large cell, as that would mean that two custodies did not have to be moved around the country. That is where we are coming from in our inspection report.

Your second question was about how multicell occupancy would impact on visitors. The important thing is people's safety, whether it is the custody or detainee, the visitor or police officers and police staff. There would need to be a system of work that enabled ICVs to come in and be kept safe but still to do their job, which is to seek access to the custodies and to find out privately how they feel they are being treated, to ensure that there is no abuse.

Graeme Pearson: That last comment is probably the key to any change that might occur. I presume that, in many areas, the interview takes place in the cell area. The need to conduct such interviews privately means that prisoners would have to be removed from the cell, and that raises the consideration of whether the visitor would see the cell environment to ensure that it is appropriate for detaining prisoners in custody.

Brian McFadyen: We have looked at how custody visiting would evolve should what is

proposed occur. I believe that current practice is that a cell that is termed a toilet cell is held in abeyance for the purposes of privacy and dignity, and that would be made available to visitors. If there was multiple occupancy and somebody chose to accept a visit, the visitor would see the cell environment, but privacy would also be afforded for the visit.

Kevin Stewart (Aberdeen Central) (SNP): My first question is for Mr McFadyen, who pointed out that there are some difficulties in recruitment in the north. Under the previous regimes, there was a great difficulty in establishing a scheme in Grampian in the first place. What is your coverage now in the Grampian area, particularly in rural Aberdeenshire and Moray?

Brian McFadyen: When I assumed responsibility for the national scheme on 1 October 2013, we had four visitors in Grampian. I have run recruitment exercises, as I mentioned, and we now have eight visitors, two of whom are located in the Elgin area and tend to visit locally to that area. Five are local to Aberdeen city; they cover Fraserburgh and have covered Kittybrewster since it opened—Queen Street police station was previously covered.

From looking at the analysis of throughput of custodies and detainees going through the more rural areas and at the balance of how often places are visited, I think that we are coping with the number of visitors that we have in the area. However, I would probably seek to have another two to four visitors in the area, to ensure that there is resilience.

Kevin Stewart: How do you go about advertising for visitors?

Brian McFadyen: I am running an advert on the Volunteer Scotland website and I also have an advert on the Volunteer Aberdeen website. I have a contact in the area who is giving me access to local university student unions, community radio and oil company bulletins, so we have quite a wide scope.

I am looking at whether adverts on local radio can boost the numbers, because we have been running the national advert for 12 to 14 weeks and the response has not been as good as I had expected or hoped for. As I said, the approach needs to become more localised to try to fill the gaps that I know exist.

Kevin Stewart: Is that local radio as in commercial local radio or does that involve community radio stations, which often have a greater outreach? We have a community radio reporter in the Parliament whose show reaches a massive audience, which I was quite surprised by. Often, attention is more likely to be paid to what is

being said on community stations than to an advert that is in between music on other stations.

Brian McFadyen: I am looking to use both approaches. Previously, advertising was done on commercial radio, but I have been made aware that—as you say—the local reach of community radio is sometimes far better. I did not realise how much work was involved in a radio ad, with scripting and the voice-over and everything else. I am working on that and I hope that the ad will go out in the new year because, in the run-up to Christmas, it would be likely to get lost among all the retail adverts that go out.

The Convener: Can you provide a breakdown of independent custody visitor numbers in the legacy constabulary areas? You have discussed Grampian and the north-east. It would be useful for committee members, as we all come from different areas, to see the breakdown across the rest of Scotland. Is that possible?

Brian McFadyen: I do not have the numbers to hand—

The Convener: I know that you do not, but could you send the numbers to me as convener, so that the information can go on the Parliament website and committee members can see the numbers in the areas that they represent?

Brian McFadyen: Yes.

Kevin Stewart: That could also help us to help you to recruit, if we find folks who might be interested.

Mr Laidlaw said that there is sometimes a delay in getting into the custody area for various reasons. On a recent trip to Elgin, Mr Finnie and I went into a custody area for a short time, but it was suggested that we might not want to be there because of a wee dirty protest that was going on. We decided to take the advice and not go further at that time. Are there specific reasons why you cannot get in—is there a pattern to the reasons—or is it just because of the staffing reason that you mentioned?

Paul Laidlaw: The reason usually comes down to a 50:50 split between “We were busy” and “We were concerned for your safety.” A delay usually occurs when somebody is being booked in, which means that staff are busy, or when a person decides to cause trouble, which means that staff do not want to bring us in because they are worried about our safety. Those are the two reasons for delays.

Kevin Stewart: Can I ask you, sir, whether you visit various areas or normally visit the same place?

Paul Laidlaw: Inverness, Nairn, Aviemore, Dingwall and Alness were the legacy stations that

were covered, and now we have Wick, Thurso, Stornoway, Fort William, the Western Isles and the Orkneys.

Kevin Stewart: I do not know the establishments in those places particularly well. Are some of the custody holding areas modern and some old or are they all older?

Paul Laidlaw: In Inverness, Aviemore and Nairn, the custody areas are literally brand new—they could not be faulted. Dingwall is a little older, as is Alness, but the police tend not to keep custodies there. I have been to the stations at Wick and Thurso, which have been there for years but are not run down—they are not Victorian by any stretch of the imagination.

Kevin Stewart: Have you found that there are no delays in the more modern facilities and that delays tend to happen in the older ones, or is that not the case?

Paul Laidlaw: The vast majority of custodies who are held in the five stations that I mentioned are taken through to Inverness, so that is where the delays happen. Sometimes the stations at Aviemore and Dingwall are closed but, when an officer is there, a visitor can usually get in within a couple of minutes. This is not a criticism, but nine times out of 10 the delays are in Inverness. That is where all the custodies are taken.

Kevin Stewart: I have questions for Mr Cowie and Mr Diamond—

The Convener: Before you move on, I ask Mr Laidlaw how long he has been doing this.

Paul Laidlaw: Since June 2000.

The Convener: Why did you decide to do it?

Paul Laidlaw: Why?

The Convener: Yes. Mr McFadyen is looking for new recruits. Why did you decide to become an independent custody visitor?

Paul Laidlaw: I used to be a police officer, and I saw the ad.

The Convener: You might tell Mr McFadyen where you saw it.

Paul Laidlaw: It was in *The Press and Journal*, I think.

The Convener: Ah. Mr McFadyen did not mention the P and J.

Paul Laidlaw: The role interested me, given that I had police experience and had worked in a cell area. I thought, "This sounds interesting," and it has been interesting.

The Convener: There you are—custody visiting is interesting. If you want more recruits, you need to get the committee to plug it more.

I am sorry about that, Kevin—I was just curious.

Kevin Stewart: That is all right.

I want to ask Mr Diamond about modern custody areas compared with older ones. Is it easier for staff to deal with custodies and visiting in more modern facilities such as the centre at Kittybrewster, which is in my constituency, than it was to deal with all that at Aberdeen Queen Street?

Stevie Diamond: It absolutely is. Kittybrewster is a purpose-built facility, and some redundancy has been built into it to take account of the changes in criminal justice legislation that we know are coming. Some older facilities—even the ones that have been modernised—cannot deal with that.

The Scottish Police Authority finance committee recently put aside a fairly large amount of money—more than £2 million, I think—to accommodate some of the changes that are required to bring custody centres up to legislative scratch, if I can put it that way. There are difficulties, but they are possibly things for the future; currently, delays are caused purely by staffing levels and considerations about visitors' safety.

Kevin Stewart: Is visiting safer in modern facilities, if the required number of staff are not on the go?

Stevie Diamond: You are absolutely right. Safety has been built into the new facilities, whereas other centres have been adapted from whatever was there before. Coatbridge police station, which is in one of my areas, had 10 cells, but it is now a custody holding centre with 20 cells, including modular cells. The old cells, which were cold, wet and damp—you name it—have been upgraded in line with the new modular cells that have been brought in, which were built specifically for the purpose and are much safer.

It all comes down to whether cells are multiple occupancy or single occupancy. With the modern facilities, it is a completely different ball game and it can be much easier to deal with prisoners. The situation is similar with charge bars, where prisoners are initially taken: the older charge bars are much less amenable, let us say, than the ones of more modern design.

13:45

Andy Cowie: There is no doubt that Police Scotland inherited a disparate landscape of facilities, some of which are, as I said, Victorian and have evolved rather than being designed to the new enlightened standards that have come in over the past 20 or so years. There is no doubt that a purpose-built custody block today bears little

resemblance to something that was built 100 years ago. The issue for Police Scotland and others is that the custody estate needs significant investment to maintain or improve the health and safety standard, for the custodies and for the people who work in the buildings.

Recommendation 14 in our report states:

“As a matter of urgency, Police Scotland should finalise the Custody Estate Strategy”—

and consider where it is going—

“and work in partnership with the Scottish Police Authority and Scottish Government to prioritise investment in the custody estate.”

That is because of the disparate standards across Scotland.

Kevin Stewart: Is there an argument that spending capital sums on such things, which is often not very popular with some members of the public, would lead to savings in future revenue budgets?

Andy Cowie: There is absolutely no doubt that a business case would have to be made on that. However, one of the non-negotiables is the standard of health and safety in keeping people in custody. Very few, if any, of the 200,000 people who are kept in custody want to be there. The facilities are required, so they need to be modern and enable staff to be safe and the custodies to be kept safely. That investment needs to be prioritised against many other competing demands, not only within the police service but across the public sector.

We encourage Police Scotland to come up with an estates strategy that says where the investment is needed and how much is required. Obviously, that will have to be negotiated with Government, taking account of many other demands.

Kevin Stewart: That was useful, gentlemen.

The Convener: Are there any European convention on human rights implications if facilities are not suitable for people in custody?

Andy Cowie: We are saying that significant investment is needed to maintain or improve the facilities. During our inspection, we visited 22 custody stations unannounced, we spoke to 94 custodies and we examined more than 100 custody records. From that, we found that improvements are needed throughout. The issues are things such as stairs in custody areas, which are not ideal. We know that 68 per cent of custodies have mental health, alcohol or drug issues. We do not want somebody who is inebriated, intoxicated or under the influence to be moving up and down stairs—that is in nobody's interest.

There clearly needs to be prioritised investment. We are not saying that the issue is easy to solve, but there will be implications if that investment is not made. As with anybody's house, the estate goes downhill if money is not spent on it year after year. I believe that there would be revenue savings.

Paul Laidlaw: At the end of the day, everybody who is taken into police custody has only been arrested—they have not been found guilty. Any of us could be arrested. The convener talked about human rights. None of us would want to be put into the Victorian cells that we have heard about. It is difficult to justify the investment to the taxpayer but, from what I have seen of custodies, the message has to be put across that the investment has to be put in to bring standards up to a decent level.

The Convener: We need to bear in mind, as we all do, the pressures on budgets, while balancing that against what the public may perceive or think and against people's rights. As you rightly say, people in custody have been arrested and have not been through the court process in any way.

Margaret Mitchell (Central Scotland) (Con): My first question is for Mr Cowie, who mentioned that many detainees have mental health problems. The report highlights that

“Access to mental health referral schemes is limited.”

What is being done to address that?

Andy Cowie: Our report suggests that awareness raising and training for staff on mental health is one area for improvement. Another issue is access to the services that are out there. There is a prize to be gained in relation to the fact that many of the 200,000 people who come through custody live chaotic lifestyles and might not necessarily engage with their general practitioner or other people. We have them as a captive audience—if I can use that term—so there is an opportunity to do joined-up work on access to services for individuals who might be amenable to that when they are in custody, because they will not be so amenable when they are out and about in the community living a chaotic lifestyle.

There is an opportunity that we are encouraging Police Scotland to take. It involves working in partnership and is not in the gift of Police Scotland itself. I know from a briefing from Police Scotland—we will also receive an update by the end of this year on progress against the recommendations—that it is engaging with partners to see how matters can be moved forward. There will not be an overnight solution.

Margaret Mitchell: Is the situation better in some areas of the country? You are talking about

a lack of consistency in what a detainee can expect from one area of the country to another.

Andy Cowie: That is a general comment that could be made about custody arrangements. We welcome the fact that there has been greater consolidation of access to services, but we still cannot get round the geography of Scotland and the difficulties involved in offering services across what is a massive part of western Europe. Challenges exist.

Margaret Mitchell: Mr McFadyen talked about one day's training for new volunteers and existing volunteers. The SPA website says that that will consist of practical training and a theoretical exercise. Will you elaborate on what kind of training there will be? Will it allow volunteers to feel confident about interacting with detainees who might have mental illnesses and alcohol or drug abuse issues?

Brian McFadyen: The initial information day for new volunteers provides background and information on the scheme to allow people to judge whether they wish to participate in it. The training day moves on to more in-depth training on the legislation that governs the scheme and any other legislation that might be relevant to volunteers in their role. There is a large input from Police Scotland officers, who come in and explain the training that they receive and the procedures that they use. We then move on to scenario-based exercises in a custom-built custody environment in the Jackton training centre outside East Kilbride. The scenarios are beamed back to the classroom to allow everybody to see them. Thereafter, there is a group discussion about how the issues were dealt with.

The officer who role plays as the detainee is primed with various responses that depend on how the visitors react to the detainee. As I said, everybody can see what happens when they return to the classroom. The group discussion is about how people felt that things were dealt with and how they could have dealt with things differently. There is then guidance from me and the Police Scotland training department on what we think would have been the best way of dealing with the situations that arose.

After that, the finer detail is about how the volunteers would carry out the visit and how the reporting mechanism operates. That is just to ensure that they are comfortable with the knowledge that they have before they start the visit. We do a familiarisation visit to a local custody centre to let everybody see a real-life environment. The trainees are then partnered with an experienced visitor for six or eight months, until they are comfortable and we see that they are performing as we would expect them to after their training.

I am also looking at a more structured mentoring scheme to ensure that the individuals who are bringing on new visitors are doing what they should be doing correctly. I am not having a go at Paul Laidlaw in any way but, when somebody has been a visitor for 14 years and the training is intermittent, they may pick up habits. I have heard recently that there are a couple of discrepancies around the country from previous training environments, so I seek standardisation to ensure that everything is done properly.

Margaret Mitchell: Mr Laidlaw, do you have any comments on that? You obviously have vast experience of custody visiting. Is there anything that you would incorporate into the training or are there any comments that you would like to make on it?

Paul Laidlaw: It all sounds very good. Custody visiting involves going into a strange environment—mind you, if somebody is a volunteer they are not just walking in off the street. Training is good, but people learn from their training by actually going into cells.

I am heartened by what I am hearing. Yes—after 14 years you follow certain practices that you possibly should not.

The Convener: Are we about to have a confession, Mr Laidlaw? You might get mentored if you do not watch it.

Paul Laidlaw: We get used to dealing with certain officers and become able to read people. We ask people certain questions and they may give the wrong answer, but we know that certain things have happened. For instance, we know that they have been advised of their rights. When we ask people, "Do you know why you are here?" some say no. They are stone-cold sober and of course they know. We know that they know.

The Convener: It is called experience. Even politicians evolve with experience.

It was helpful, Mr McFadyen, when you talked about people being partnered. I was beginning to wonder whether they just went through the training and were then sent forth. It is excellent to hear that they are not.

Margaret Mitchell: I have a further question for Mr Diamond. In its submission to the consultation on the reform of the police and fire and rescue services, Unison was very much in favour of ICV being put on a statutory basis. However, it also recommended a role for local authorities to review and report on custody visiting as appropriate and that there should be a role for covering court cells. Has either of those two recommendations been followed through?

Stevie Diamond: Not that I am aware of. We want to keep the locality, which is why we spoke

about local authorities. The courts are outside our area of experience, so I cannot comment on that issue.

Margaret Mitchell: It was one of your recommendations, I think.

Alison McInnes (North East Scotland) (LD): Mr Cowie, the report makes reference to community initiatives

“to secure the wellbeing of individuals under the influence of drugs and alcohol”—

things such as street pastors and safety buses—and refers specifically to Albyn house in Aberdeen. Will you tell the committee a bit more about the benefit of such services vis-à-vis using custody cells?

Andy Cowie: Absolutely. As I said, dealing with custodies is a high-risk environment for all concerned, and a number of initiatives are aimed at giving the best care for the individual in the state that they are in at the time. Our clear view is that, if somebody is drunk, a police cell is not the best place for them. If they have not committed any tangible offence other than being inebriated, they can get better care elsewhere.

Some of the schemes that seek to address that issue are similar to Albyn house, where trained individuals look after people while they sober up. That would be an ideal world—it would be much better. As is mentioned in our report, that service is paralleled in Inverness where, if it is called to somebody who is found slumped on the street through alcohol, the Scottish Ambulance Service will assess them almost on a triage basis along with police colleagues. The paramedics will say that it would be better to take them to hospital to be treated than to take them to a police cell.

Think about the inefficiencies of taking them to a police cell, not only in the way of dealing with them. An inebriated individual has to go through the checking-in procedure, with all the delays that that involves. Then a nurse or doctor may have to be called out to assess them and they may end up going to hospital anyway. It is more efficient for the whole system to have an alternative.

14:00

Street pastors are an earlier intervention that happens a little further upstream. The point is that, even in Scotland, people should be allowed to enjoy themselves. Street pastors can have a word with people who are out enjoying themselves but have strayed over the line or are close to the point at which their behaviour will impact adversely on others. They can give flip-flops to young ladies whose feet are hurting because of the spike-heels on their shoes, and they can do other things to help people avoid ending up in police custody or

becoming victims. I am not speaking for Police Scotland, but police in general do not want those outcomes for people.

There are some positive initiatives that can add value.

Alison McInnes: Many of the projects have been developed in partnership with health services, local authorities and the police. In particular, Albyn house was funded as a three-partner process. It is now at risk of closure because the police service has threatened to withdraw funding. Does that seem to you to be a short-sighted way to go about things?

Andy Cowie: As I say, I cannot speak for Police Scotland but we would encourage a position whereby the business model for dealing with custodies and those issues is sustainable. One of the positive benefits that has resulted from there being one custody division across Scotland is that engagement with partnerships is an awful lot easier. That is the feedback that we have received from agencies, which welcome the fact that they now have one point of contact to establish process and procedure and can see the knock-on effect of an agency doing something differently, and so on.

On the challenges of partnership working and who pays for what, unfortunately, our report does not wave a magic wand. However, I know that Police Scotland is actively engaged in discussing the best way in which to deal with people who come into custody.

Alison McInnes: In paragraph 82 of your report, you talk about children and young people. Children should be held in custody only under exceptional circumstances, but you have said that there has been a 25 per cent reduction in the number of young people who are held. Can you quantify that? I do not know what the numbers are.

Andy Cowie: I am afraid that I cannot do that off the top of my head, but I will endeavour to get those figures from Police Scotland for you.

Alison McInnes: That would be useful. Can you outline the procedures that are in place to ensure that vulnerabilities in young people are identified from the outset?

Andy Cowie: The issue is not peculiar to young people but applies to everyone who comes through the door of a custody facility. The first part of what is colloquially known as booking in or checking in involves an assessment of the person who is detained and the evidence, to establish whether it is justifiable that they be detained or arrested. If it is judged to be so, there is an assessment of the person's needs. A large part of that involves asking them to disclose medical conditions or whether they have taken anything. There is a long and detailed checklist in that

regard. Police Scotland would also expect the staff to pick up from that assessment any cues that indicate that someone might need an appropriate adult to aid the communication process and whether their behaviour is indicative of any particular syndromes. Within standard operating procedures, there is an amount of guidance, which is married to training and experience, on assessing what people's needs are.

Establishing vulnerability might require an assessment to be carried out by a nurse who is present or a doctor who is called out. Often, however, the staff will use their own initiative and say, "The vibe I'm getting off this custody is that they need either an appropriate adult or to get medical attention or assessment." With regard to vulnerability that is related to on-going abuse in their lives—I do not know whether that is what you are referring to—the process is similar. In our inspections, we have found that the police community support officers and police officers are good at developing a rapport with the custody. They often come in kicking and screaming—I am talking about the custody. *[Laughter.]*

The Convener: I am glad that you clarified that.

Andy Cowie: Even though the custody might come in that way, they might end up thanking the officers and staff for the way that they have been looked after. Through building that rapport, sometimes with repeat customers, the officers can pick up on things. Sometimes, custodies will confide in members of staff—particularly ones who are not police officers—that something else is going on in their lives and that they want to make an allegation of abuse or whatever.

We rely on our highly skilled and dedicated staff. We have found that staff are professional and want to give a caring service, although that might be contrary to the public perception of custody and grumpy jailers. We found that there is a much more enlightened approach than that and real dedication.

Alison McInnes: Could I just ask—

The Convener: Before you do so, Alison, I note that it is useful that Andy Cowie has mentioned that because, otherwise, recommendation 6 in the report would seem rather alarmist. That recommendation states:

"Police Scotland should review its approach to use of force in custody".

Can you put the recommendation into perspective? You have told us that staff develop a rapport, especially with people whom you rather sweetly call "repeat customers", and that custody officers get used to dealing with situations and know how to deflect and lower rather than increase any tension.

Andy Cowie: In the recommendation, we are referring to the recording of the use of force. The use of force is on a continuum from holding the custody's arm and guiding them from the charge bar to the cell to applying handcuffs or having three officers restrain someone who is biting, fighting and spitting. We want to see more consistency in how that is recorded.

The Convener: You are not concerned about the incidents.

Andy Cowie: No. Recording the use of force is important because, in 2003, the United Kingdom signed up to the optional protocol to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment—OPCAT. There must be an audit trail to show that people are not being abused and tortured in custody. The 720 independent custody visits every six months and the HMI visits every couple of years are an important part of convincing and showing people that any members of our community who are locked up are being well looked after.

The Convener: Thank you for expanding on that issue.

John Finnie: Can I ask a supplementary on that point?

The Convener: Alison, is your question on a different point?

Alison McInnes: My point is different; I want to follow up on the custody of young people.

The Convener: You can take over, Alison. Do you want to allow in John Finnie?

Alison McInnes: Yes, that is okay.

The Convener: It is all right with Alison and it is all right with me.

John Finnie: Mr Stewart and I met officers to talk about the different arrangements that applied in the previous forces. We were given an example in which officers had engaged with someone who was to be taken into custody. All had been amicably transacted—there were no hands on, and the individual was totally compliant. However, because of revised guidelines, the officers had to restrain the individual at the charge bar. That fundamentally changed what had been a consensual and compliant engagement. Is that what you are alluding to, Mr Cowie?

Andy Cowie: Yes. We discussed that very issue—the risk aversion approach to custodies—with Police Scotland. Discretion must be used. Force can be applied on the continuum, but common sense must, to a certain extent, be built into the standard procedures. Therefore, we are encouraging Police Scotland not to necessarily have a one-size-fits-all approach, but to be

discretionary and have the principle that people should be kept safe.

John Finnie: That is very reassuring—thank you.

Alison McInnes: To return to the custody of young people, I am interested to hear the independent custody visitor perspective. Do you always ask specifically whether there are children in custody and, if there are, are there particular processes that you check on?

Paul Laidlaw: We have to fill in an official form—that is the process that we work to. We ask whether there are males, females and any children in custody. Under the previous system, you did not ask, although I always did.

We cannot force a person to see us, but if there was a child in custody—that has happened only on a handful of occasions—I would almost encourage the officer to forget the preamble and ask, or almost demand, that the child see us. You do not go through the same question-and-answer process, because they are children.

When I come across a new officer in a police station, I inevitably ask them, “Would you allow me to see a child who is in custody?” Some of them are not sure what they would say, and I tell them that we are allowed to see children. Children are very high on the agenda.

Alison McInnes: That is reassuring. Thank you.

The Convener: John Finnie has a question, after which we will have to move on quickly.

John Finnie: I will be very brief. I have a question for Mr Laidlaw. Are you allowed access to national health service staff working in the custody areas? Can you speak to them?

Paul Laidlaw: Yes, we can speak to them. They walk by, so they know our face and we know their face.

John Finnie: That is lovely, thanks.

I have a brief question for Mr Cowie. First, thanks for recommendation 9, which is about “the solicitor access recording form”

and, in particular,

“the Letter of Rights”.

It is good that that is highlighted and I hope that it will be picked up on. Are more people detained than used to be? That is certainly my perception.

Andy Cowie: That is a difficult question to answer, because of the challenges, which you know about, of Police Scotland’s information and communication technology systems and the difficulty that they create for benchmarking. We are clear in the report that there are records of

192,000 custodies going through Police Scotland’s hands in the period that we are talking about. That seems to be broadly similar to previous figures, but we cannot say that statistically, because of the challenges of marrying up the figures around ICT systems.

John Finnie: Are you able to say whether more people are now detained to appear in court rather than released for citation?

Andy Cowie: I do not think that Police Scotland could give you those figures. We could fire the question to Police Scotland and it could certainly provide the data for the people that it currently calls. However, it would be much more difficult to give you a historical comparison.

The Convener: Is that connected to the different nature over the decades of the state of some people who are brought into custody? People might be in custody because of substance abuse. They might not have been in custody but for their physical state, their mental wellbeing, or the fact that they are drunk or are on drugs or whatever. Maybe you cannot answer that question, as it is anecdotal. However, might that aspect have an impact on the figures?

Andy Cowie: Anecdotally, that will have had an impact on how many people have been arrested. There has been a decline in some drug use and there are different patterns of alcohol use. People are drinking more at home, because alcohol is too expensive in pubs, so it is more about private-space offences rather than offences in the public space. There have also been changes in policy on who should be kept in custody before appearing in court. There are a huge number of variables, so I could not answer your question off the top of my head.

The Convener: If we got the figures, we might also have to look at all the other stuff that led to the figures to get a clear picture.

Andy Cowie: The causal relationship is very difficult to prove.

John Finnie: Finally, a decision was recently made to reduce the number of legalised cells. Excuse my ignorance—I do not recall whether it is mentioned in the report—but is that touched on? The same cell could be discharging a different function. Would the scheme apply if the cell was being used as a legalised cell as distinct from a police custody cell?

Andy Cowie: I can perhaps respond by outlining what I believe the police position is. A legalised cell would be subject to inspection by HM inspectorate of prisons for Scotland. I know that because I have previously been an area commander and have gone through that—thankfully very well. However, I would have to

defer to Brian McFadyen on the ICV aspect. I suspect that it would be outwith scope.

Brian McFadyen: The report last year recommended a reduction in the number of legalised cells and the transfer of responsibility for legalised cells from prison visiting committees across to custody visiting. My understanding of the timescale is that it is likely to go into next year. I believe that the number has been reduced from 12 to five, as it stands. I think that the remaining ones are in Kirkwall, Lerwick, Hawick and Stornoway. They are still under the remit of the prison visiting committees, but my understanding is that responsibility will come across to custody visiting within the next six to eight months.

The Convener: That is fine. That concludes our questions. I thank the witnesses very much for attending and for the reports and evidence that they have provided.

Forgive me, but I will move straight on while you are leaving, given the time.

Decision on Taking Business in Private

14:15

The Convener: Item 2 is a brief item. It is a decision on whether to consider our work programme in private at the next meeting. As members know, it is standard practice to consider such items in private. However, we will publish any decisions on future work on the website as soon as the work programme is agreed. Are we all agreed that we consider our work programme in private at our next meeting on 13 November?

Members *indicated agreement.*

Meeting closed at 14:15.

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