Good police custody: dignity, equality, autonomy, decency and legality

Recommendations for practice

Summary

Across England and Wales, upwards of 900,000 citizens are arrested and detained in police custody each year, making it an important site for everyday interactions between the public and the police. This briefing sets out the main recommendations for improving police custody, drawing on findings from a five-year ESRC-funded research project. These recommendations are aimed at those who manage police custody facilities, whether locally or nationally, as well as external bodies interested in improving police custody, including HMICFRS, the IOPC, ICV Schemes and ICVA, the Home Office, Ministry of Justice and NAAN.

In these good practice recommendations, it is argued that dignity – linked to equality, autonomy and decency – as well as legality should be priorities that police custody practitioners, managers, national leads and policy makers should take account of in relation to the operation and strategic direction of police custody. In pursuit of these goals, it is recommended that changes be made to police attitudes and practices, to policies, training and line management procedures, to detainee expectations and to the material conditions and custody estate.

Police custody in context

Police custody is where a suspect is taken on arrest after an allegation of law-breaking, whilst their case is investigated and a decision is reached about what to do next, for example, whether to charge them, bail them or release them without charge. For those who are charged with a criminal offence, police custody is a gateway to the wider criminal justice process, meaning what happens to them in police custody (e.g. whether they incriminate themselves) has a significant bearing on their subsequent access to justice, as well as on their lives in the outside world, their future relationship with the police and their sense of belonging in society. Given also the vulnerable nature of the suspect population, police custody is a risky and emotionally-charged environment in which there is much at stake. For suspects, their safety, well-being, fair treatment and access to justice are at stake and, for the police, their legitimacy. As a result, staff must continuously balance competing priorities, including safety, security, risk, cost effectiveness, and the law and the demands of the criminal justice process.

These good practice recommendations propose that dignity should also be prioritised. Dignity is understood here to have three overlapping aspects to it:

- **Equality as dignity** refers to the innate and immutable sense of the equal worth of human beings and encapsulated in detainees’ desire to be “treated like a human being”.
- **Autonomy as dignity** refers to the fundamental need to respect people’s capacity to make autonomous choices. Despite the apparent contradiction, those held in police custody still maintain the right to appropriate autonomous choices, with indignity arising where that need is not met.
- **Public decency as dignity** refers to “how members of civilized societies ought to behave and ought to be treated in order to respect the collective dignity of humanity”. It is oriented around the question
of ‘if my friend or family member were arrested by the police, would I be content for them to be treated in the way that detainees are treated in police custody?’

**Benefits of prioritising dignity**

Prioritising dignity will yield benefits for detainees and for staff, through increased detainee cooperation. Cumulative experience of indignities in police-citizen interactions not only erode cooperation with and the legitimacy of the police, but also contribute to problems of social exclusion, in which citizens experience a sense of loss of recognition, belonging, respect and self-worth. The research showed that detainee dignity is an important outcome in itself, but implementing the following recommendations should yield additional benefits for detainees and staff:

- Detainees are more likely to accept their situation and cooperate with necessary police procedures (fingerprinting, photographing and waiting in the cells whilst their case is concluded etc.), for example, where conditions are better, they feel treated with dignity and where they trust in the police and in accountability mechanisms. Emphasising any of these things should not, however, be interpreted as a way of encouraging confessions.
- Better material conditions are also likely to be beneficial to staff, with regards to job satisfaction and the lowering of staff stress.
- The benefits of improved material conditions for staff will also be passed on to detainees through stronger inter-personal relationships between staff and detainees and more dignified treatment, which have been found to arise where the material conditions are seen more favourably.

Dignified treatment and dignified material conditions are therefore at the heart of more socially ordered and progressive police custody facilities.

**‘Good’ police custody - recommendations**

This briefing draws primarily on findings derived from survey data collected from nearly 800 staff and detainees in 27 custody suites in 13 forces in the ESRC-funded ‘Good’ police custody? Theorizing the ‘is’ and the ‘ought’, which was led by Dr Layla Skinns. In order to increase detainees’ sense of dignity the following recommendations are made in relation to four interlinked areas:

1. Police practices and behaviour
2. Police policies, training and line management
3. Detainee expectations
4. Material conditions and the custody estate

These recommendations are aimed at the general suspect population, rather than those who may be considered particularly vulnerable.

**1. Police attitudes and practices**

The costs involved in changing staff attitudes and practices are relatively minimal, yet the research shows they may have a significant impact on detainee experiences of dignity, making these an important set of recommendations. Staff should therefore recognise and focus on the importance of interpersonal relationships with detainees.

- Even though the balance of power inevitably rests with the police whilst suspects are held in police custody, the police should work within a framework of *decency, dignity and legality*:
  - Decent means not derided (laughing at) detainees or presuming them guilty;
  - Dignified means treating detainees with kindness and recognising them as a fellow human being, as well as recognising their capacity for autonomous decision-making, where ever possible.
  - Lawful means abiding by legal requirements, such as in PACE and the Codes of Practice, notwithstanding the capacity for discretion (see below).
• Operational staff in police custody should recognise that each interaction with a detainee matters, so as to move away from a routinised, process-driven approach to police custody. This principle could be emphasised in staff training and on a more regular basis, for example, in shift hand-overs. It is important given the nature of police custody, involving similar processes repeated over and again for different detainees each day, week, month and year.

• Where possible, staff should emphasise and encourage detainee autonomy. Even in police custody, there are small things that detainees can do/have for themselves, such as being able to tell the time, read, write and exercise their other rights and entitlements. Opportunities for autonomy may offset poor material conditions, making this recommendation particularly important where police forces may not have the resources to readily improve material conditions.

• Operational staff in police custody should feel empowered to use their discretion to interpret the PACE codes of practice and to make appropriate decisions about detainees (e.g. about the keeping of personal possessions), which support the goal of dignity, whilst simultaneously acting in accordance with the legal rules. Line managers’ advice should be sought where these decisions are especially complex and where there are concerns about risk.

2. Policies, training and line management
Dignity should be embedded in all relevant national and local police force policies, strategies and guidance, such as the National Strategy, the 2019 MOJ Police Buildings Design Guide, and APP. There is then an opportunity for notions of dignity to influence police practices, as well as the refurbishment or building of new facilities. This would complement the emphasis currently placed on legality, safety, security, risk and cost-effectiveness.

Local and national police policies, training and line management should also aim to influence the following police attitudes and practices about:

• Discretionary decisions made by staff which enable detainees to retain their personal possessions, risk assessments permitting. This will also require considered and reflexive use of police records (e.g. warning markers on the PNC), recognising they may be historic not current.

• Viewing detainees as decent and as innocent until proven guilty and encouraging staff to avoid the term ‘prisoner’, with sanctions also being used to address inappropriate uses of humour in which staff laugh at not with detainees.

• The importance of inter-personal relationships and the need to treat each detainee as an individual with individual needs. This is an opportunity to humanise the police custody experience for detainees and to minimise the sense of routinisation.

• The varied purposes of police custody, particularly the emphasis on welfare not just the police investigation and the importance of conveying these messages to detainees.

3. Detainee expectations
• Because of the negative impact on feelings of dignity, it is necessary to challenge detainees’ views about having limited autonomy and material goods. This can be achieved through allowing them to keep personal possessions where possible and by routinely providing them with things like reading and writing materials, which might have a further benefit in enabling them to pass the time effectively, risk assessments permitting.

• Police accountability bodies (e.g. the IOPC, ICV schemes/ICVA, HMICFRS) need to work hard to inform and engage with detainees inside police custody (as well as the wider public) about the important work they do to ensure that those who are detained in police custody come to trust in ‘the system’. This information is of particular importance to younger and to Black, Asian and Minority Ethnic detainees.

• In the information provided to detainees, such as through leaflets or posters, they should also be encouraged to recognise the varied purposes of police custody, including an emphasis on welfare, the criminal process and risk, as well as the efforts that the staff go to balance these priorities.
• The information provided should also inform detainees about the principles of dignity, decency and legality used to guide police policies and practices in police custody. As far as possible, these principles should also be emphasised in interactions between staff and detainees, for example, acknowledging them as human beings and a suspect, whose innocence/guilt is as yet unproven.

4. Material conditions and the custody estate
The following recommendations address the importance of the physical environment and the material goods available to suspects in police custody. We recognise that resources may limited for making such changes and we therefore recommend a range of possible improvements.

• To enable routine access to reading and writing materials, police forces should regularly review their practices. This should include considering staff availability to respond to detainee requests and the way risk is assessed in relation to these requests, as well as the availability of adequate and appropriate reading and writing materials.

• Resources permitting, access to limited content on radios, music or TVs in certain cells can be beneficial. The research indicates that, like reading and writing materials, these are also likely to encourage feelings of autonomy and of meeting detainees’ basic needs for material goods, which will be beneficial for detainee dignity.

• Police forces should have robust plans in place for ensuring that custody facilities are regularly cleaned, painted, refurbished or replaced altogether so that they continuously look as if pride and care is being taken in the quality of staff and detainee surroundings. This also requires the continual monitoring of conditions and police custody design standards, so that plans are acted on and updated where necessary.

• The importance of material conditions to staff and detainee experiences, means that wherever possible, police forces should design dignity into the fabric of police custody buildings, both prospectively and retrospectively, such as through the maximisation of natural light, private spaces for staff-detainee interactions, clocks, adequate pixelation around in-cell toilets, and art in communal areas.

About the researchers
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Layla Skinns is a Reader in Criminology. A key focus of her research has been on police detention, in England and Wales, but also in other parts of the Anglophone world. Dr Angela Sorsby is a Lecturer in Criminology, who has an interest in quantitative methods and statistical analysis of criminological data, including in relation to the police, probation, restorative approaches and desistance.

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Background to the research
Over the last five years, a team of researchers, led by Layla Skinns, have collected a range of data, as part of the ESRC-funded “‘Good’ police custody? Theorizing the ‘is’ and the ‘ought’”. The primary aim of the research was to robustly examining what is meant by ‘good’ police custody. These data have been used to explore preliminary ideas about good police custody (Skinns et al., 2015), the delivery of police custody (Skinns et al., 2017a), staff-detainee interactions and the use of ‘soft’ power (Skinns et al., 2017b), detainees’ emotional reactions to police custody (Wooff and Skinns, 2017), the pains of police detention (Skinns and Wooff, forthcoming), as well as police-academic partnerships during research on police custody (Greene and Skinns, 2017). Most recently, in 2016-17, the research team surveyed nearly 800 staff and detainees in 27 custody facilities in 13 police forces. These data have been used to formulate the recommendations in these good practice benchmarks. The benchmarks and a summary of the key research findings that support them are available here: https://www.sheffield.ac.uk/law/research/projects/police
Further reading (* denotes those freely available online)


Skinns, L. and Wooff, A. (forthcoming) The 'pains of police detention': towards an understanding of the pains of confinement, under review by *Policing and Society*.


