

**KEY POINTS FROM THE INDEPENDENT CUSTODY VISITING ASSOCIATION (ICVA)**

**NATIONAL CONFERENCE**

**THE BRISTOL MARRIOTT ROYAL HOTEL, BRISTOL**

**SATURDAY 20<sup>TH</sup> OCTOBER 2012.**

Surrey Police Authority was represented by:

John S (Reigate)  
John T (Guildford)  
Richard C (Woking).

Approximately 250 ICV delegates attended the conference.

PowerPoint presentations (where given) will shortly become available on the ICVA website

Attention is also drawn to the ICVA and Home Office websites for more detailed information given during the conference:

<http://www.icva.org.uk/>

<http://www.homeoffice.gov.uk/>

**Welcome to Conference - David Wood (Chair, ICVA)**

This was possibly David's last conference as Chair of ICVA in its current format. Once the Police & Crime Commissioners (PCCs) replace police authorities, the ICVA will need to change its status, as it is currently constituted as a membership of police authorities.

The statutory requirement for custody visits in Scotland will come into force next year.

The activities of ICVA are recognised worldwide; for example, training is given to countries as wide ranging as Bulgaria and China.

**Welcome to Bristol - Peter Heffer (Chair, Avon & Somerset Police Authority)**

Peter emphasised that this is a time of great change in policing. The National Policing Improvement Agency (NPIA) will be dissolved in Dec 12; government funding to the Association of Chief Police Officers (ACPO) is to be withdrawn; the National Crime Agency (NCA), under a civil servant head, is to be established. The NCA will have the power to direct forces with respect to major crime, thus giving an element of political steerage.

**Transition to Police & Crime Commissioners & Visiting for Suspected Terrorist Detainees within the UK - Andrew Alexander (Head of Police Powers, Home Office) and Deborah Child (CT Legislation Team, Office for Security & Counter Terrorism, Home Office)**

## ***Developments in custody visiting***

PACE Code changes – Codes C and H came into effect on 10 Jul 12 and Code G will come into effect on 12 Nov 12.

Form S117 of the Coroners and Justice Act now makes statutory the right for the visiting of terrorist detainees in custody (see below).

Review of ICV Code of Practice:

- Will follow as a result of the above and the recent (8 Aug 12) introduction of the Police and Fire Reform Act in Scotland.
- A consultation period of approximately 2 months will be held from the beginning of Dec 12 on the revised code. All ICVs are encouraged to respond either individually or collectively through their scheme manager. The winter edition of 'Visiting Times' is being held back to take account of this important change to the Code of Practice.
- The review will be put before Parliament in Feb 13.
- Training and guidance will be issued thereafter.

PCCs must publish information on their ICV scheme, although this will not include names of individual ICVs.

## ***Visiting terrorist suspects***

Form S117 of the Coroners and Justice Act:

- Requires the Independent Reviewer of Terrorism Legislation (IPTL), Mr David Anderson QC, to be notified of warrants for further detention concerned with terrorism. This came into effect on 7 Aug 12.
- Makes statute for those detained under S41 Terrorism Act (TACT) 2000 to be visited. The IPTL will visit all such detainees.
- Is part of a wider government change to counter terrorism legislation.

There are 5 TACT detainee facilities in the UK, 2 of which are in the Metropolitan Police Service area of responsibility, none are in Surrey.

Visits to TACT detainees will be conducted under similar arrangements as those for PACE detainees, with a particular emphasis on welfare. There are, however, some differences:

- ICVs may view and listen to interview tapes.
- A copy of the ICV's report is to be given to the IPTL in addition to normal distribution.
- ICVs must be Security Check (SC) cleared and have been an ICV for a minimum of a year.
- Additional selection and training is required for the role.

Mr David Anderson QC, who was by chance in the audience, also said a few words:

- ICVs act as his 'eyes and ears' and visits should occur within the first 24 hours of detention. Following an ICV visit, he may seek further clarification from the ICV if issues are raised.

### ***Police and Crime Commissioners***

The change from police authorities to PCCs will occur following elections on 15 Nov 12 with the elected winner taking post on 22 Nov. The initial term will be until 5 May 16 (3.5 years), then 4 yearly (in London the PCC came into effect on 16 Jan 12 to coincide with the mayoral elections).

Background:

- Government perceive a lack of clear accountability.
- Police forces are disconnected from the public and over-reliant on central bureaucracy.
- Chief Constables (CC) will be appointed by the PCC, not the Home Office.
- National policing will be covered by the Strategic Policing Requirement.
- The NCA will expand on the current role of Serious Organised Crime Agency (SOCA).
- The Policing protocol sets out the responsibilities of individual parties (Home Secretary, PCC and CC).
- Police and Crime Panels will assess and check the performance of each commissioner. The panel will consist of one councillor from each local authority, both county and borough.

### **Bradley Report / Commissioning of Police Healthcare - Ivan Trethewey (Police Healthcare Programme Manager)**

Ivan, an ex Devon and Cornwall Chief Inspector, briefly explained 'The Bradley Report.' The Rt. Hon Lord (Keith) Bradley, a former Home office Minister, was commissioned in 2007 to carry out an independent review of how offenders with mental health problems or learning disabilities could be diverted from prison to other services and what were the barriers to such action.

The speaker's primary responsibility is the transfer of healthcare provision to the NHS across the UK. The provision of healthcare is mainly about fitness to detain/interview and the collection of forensic samples.

Of the 39 Police Forces in England, 33 have transferred to the scheme – this is currently a voluntary transfer, it may become statutory if the law changes.

The average length of custody is 11 hours, and there were 21 deaths in custody 2010/2011 (IPCC).

In his view 'Police procure, health commission.'

The speaker also outlined the policy of Diversion; this is basically a 'common sense approach,' enacted at time of arrest. If people need help, i.e. suffer from a mental disorder, it is sensible - at that time – to divert them to treatment and help, the earlier the better. He went on to stress that one of the main benefits of NHS provision will be the availability to those practitioners of healthcare IT records (such as EMIS and Vision) in the custody suites, for instant medical information about a detainee.

It is planned that there will be NHS Healthcare Commissioners across the whole criminal justice system by 2015.

### **Transition to Police & Crime Commissioners - James Tate (Independent Custody Visiting Scheme Manager, Mayor's Office for Police & Crime Commissioner)**

James talked about 'The Transition to PCC's'. He manages a team of five ICV coordinators, each of whom directly manages between 60 – 90 volunteers.

London is the first area to appoint a PCC. There are 32 boroughs, with 1, 2, or 3 suites per borough. This is now a *London* scheme, *not* a borough one.

Change is now seen as being based upon the personal perceptions of a single individual and not a Police Authority.

He suggested that, based upon the Mayor's Office for Police & Crime Commissioner (MOPAC) experience, the questions for Custody Visitors to PCCs around the country are:

- Funding.
- Who will run the scheme?
- Who will deliver administrative support?
- Will the ICV scheme be outsourced to voluntary organisations?
- How will a new scheme be set up?
- To whom will it report?
- How will concerns be addressed?

In his view, the overriding principle of the appointment of PCCs is that:

*"The power to hold police to account is held by a single individual."*

### **Ian Smith – CEO, ICVA**

The original first speaker after lunch was unable to attend and was replaced by Ian Smith at very short notice.

An entertaining speaker as always, Ian's talk mainly comprised three areas of ongoing activity and concern, namely: ICV interaction with the incoming PCCs and related changes to the ICVA constitution and published materials; training modules developed and in development by ICVA and the Home Office for its members; and the revision of the Codes of Practice and National Standards.

### ***Police and Crime Commissioners***

It is essential that the ICV schemes consult with the new PCCs to establish clarity and accountability. Apparently, some nascent PCCs are already considering outsourcing the management of their ICV schemes and it is essential that we establish clear lines of information/reporting to the PCCs to ensure their involvement in our work and, importantly, our concerns.

ICVs must make themselves heard by their PCCs to ensure that the importance of the ICV role is fully recognised and supported as it has been in the past by the Police Authorities. This comes at a time when the focus is moving away from PACE towards health and welfare and when ministerial concern about a perceived under-reporting of the use of restraints in custody may bring about ICV involvement.

In this context, Ian expressed the importance of the Investment in Volunteers scheme and congratulated the five schemes (including Surrey and Sussex) which had completed the process.

He also noted that the transfer of responsibility for the ICV schemes from Police Authorities to PCCs had necessitated the transformation of ICVA into a Company Limited by Guarantee, following which it is intended to obtain charity status. This will require a major rewriting of all published material in order to replace PAs with PCCs. However, a significant benefit of the change to charitable status will be the ability to obtain funding from non-governmental sources.

### ***Training Modules***

In June the ICVA rolled out training modules for scheme Chairs and Coordinators and is currently working on a module for vulnerable detainees (mental health, learning disability, Asbergers, autism, etc). Concurrently, the Home Office is developing a module for communicating with juveniles.

### ***Revision of the Codes of Practice and National Standards***

The significant amendments to PACE which have come into force this year have also necessitated a revision of the Code of Practice and National Standards documents.

Thanks to lobbying by ICVA, the Home Office will make the draft Code of Practice available in early December for a period of consultation expected to last about 8 weeks. Ian is very keen that individual ICVs as well as Panels and Coordinators should all take part and make their views known.

Following the issue of the new Code, the Amended National Standards will then be produced.

### **Juliet Lyon – CEO, Prison Reform Trust**

Juliet's theme was "**Care not Custody**" and centred on the problems faced by prisoners, especially under 18s, (and by extension, detainees) with learning disability/difficulty.

In an interview carried out among 173 prisoners with learning disability and difficulty, over 40% described being scared/unkindness/hygiene issues/self harm/suicide/brutality (this being rare).

It is generally recognised that between 5-10 per cent of the adult offending population have learning disabilities, while prevalence rates among children who offend appear to be higher. Studies suggest that 7 per cent of adult prisoners have an IQ below 70, and a further 25 per cent have an IQ between 70-79 (borderline learning disabilities). An assessment of children who offend in England and Wales found that 23 per cent had an IQ below 70, and 36 per cent had an IQ of 70-79.

Much higher numbers of people in the criminal justice system have learning difficulties. Learning difficulties cover a range of impairments of which dyslexia is the most common. Many people with learning difficulties find aspects of reading and writing hard, and their comprehension and communication skills may be impaired. Communication difficulties are especially common amongst children who offend. Studies suggest that as many as 60 per cent have a communication disability and, of this group, around half have poor or very poor communication skills.

A literature review undertaken by 'No One Knows' showed that between 20-30 per cent of offenders have learning disabilities or learning difficulties that interfere with their ability to cope within the criminal justice system. Typically, people with learning disabilities and low IQs will have limited language ability, comprehension and communication skills, which might mean they have difficulty understanding and responding to questions; they are likely to have difficulty recalling information, for example remembering daily prison routines, and take longer to process information. On being questioned, for example at the police station and in court, they may be acquiescent and suggestible and, under pressure, may try to appease other people.

In prison these difficulties may lead, amongst other things, to "electric fence" learning, where the prisoner does not understand or know of a prison rule until punished for breaking it.

More than two-thirds of all men, women and children in prison have two or more mental health problems such as depression and anxiety. Many have a history of attempted suicide and self-harm, while significant numbers have severe and ongoing illnesses such as schizophrenia and personality disorders.

Prison mental health care is too often a catch-all for people who would be better cared for outside the criminal justice system altogether. Those not getting the care they require can end up harming themselves or even committing suicide. They can also find it difficult to adjust to life when they leave prison – putting a huge strain on families and leading many to

reoffend.

Lord Bradley's April 2009 review of mental health and learning disabilities within the criminal justice system said that "there are now more people with mental health problems in prison than ever before. While public protection remains the priority... 'custody can exacerbate mental ill health, heighten vulnerability and increase the risk of self-harm and suicide'.

There is a much greater need for higher levels of cooperation between the NHS and the criminal justice sector. People with mental health disorders should be cared for in the most appropriate location – not the most convenient one.

As a way forward, the National Federation of Women's Institutes, in support of the Prison Reform Trust, has outlined ways in which people with mental health problems can get the right care for their condition via better diversion facilities and effective treatment for those already in the criminal justice system.

For more information, please see:

<http://www.prisonreformtrust.org.uk/ProjectsResearch/Mentalhealth/CarenotCustody>