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Preliminary findings on police custody delivery in the twenty-first century: Is it 'good' enough?

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ABSTRACT

Since the 1980s, police custody in England and Wales has seen the civilianisation and privatisation of key roles formerly performed by police officers and changes to how police custody suites are managed and owned. These changes have been encapsulated in a five-pronged typology of custody suites identified by Skinns *et al.* Drawing on theories about 'good' policing as well as quantitative and qualitative data collected as part of an ongoing study of 'good' police custody, this paper provides some preliminary answers to two key questions: Can police custody ever be 'good' for suspects and, relatedly, are some types of custody suites likely to be better than others, in this regard? What are the implications for 'good' policing? We show that of the five types of custody suites identified in Skinns *et al.*, the 'unhurried hybrid' may be particularly beneficial to 'good' experiences of police custody; for example, the conditions of custody are better and may facilitate a more trusting relationship between suspects and the police. The data also show that theories about 'good' policing are relevant and useful for conceptualising 'good' police custody; though of the five dimensions of 'good' policing some (e.g. policing as just) are more relevant than others (e.g. policing as crime reduction).

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Introduction

Police custody serves a variety of purposes. From a legal perspective, for example, it is the cornerstone of the criminal investigation process, being used to detain someone whilst the police ascertain whether charges can be brought against them. It therefore acts as a fundamental gateway into the criminal justice process. From a welfare perspective, it can be an opportunity to intervene in someone's life when they are in crisis, directing them to helping agencies and perhaps even diverting them from the criminal justice process altogether. If so, then this may be a positive reminder of a suspect's valued place in society which they, in part, learn about through their relationship with the police (Loader and Mulcahy 2006, p. 40, Bradford *et al.* 2014). The flip-side to this, however, is that by being arrested, suspects are likely to be acutely aware of the power being (mostly) legitimately exercised over them by the police, not least because they have surrendered their liberty and their property, but also because they may be subject to other kinds of intrusive but legitimate police practices such as (strip) searching, DNA sampling and finger-printing. In short, police custody can be disempowering for suspects already vulnerable perhaps because of their age or mental health or intellectual impairment. Furthermore, even though suspects are only suspects and police custody is not

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supposed to be intended as such, some may find it to be a punitive experience, even a form of 'social discipline'.¹ Police custody, therefore, has the potential to be 'good', but this is not always so.

This tension between the possibility and the reality of 'good' police custody has been heightened by continuities and changes in the police custody process. In some respects, since the 1980s, police custody in England and Wales has altered for the better. For example, it has been improved by more stringent legal regulation as a result of the Police and Criminal Evidence Act 1984 and the European Convention on Human Rights. These governance structures have also been further strengthened, as a result of the unannounced inspection programme of police custody suites. These inspections are carried out jointly by Her Majesty's Inspectorate of Prisons (HMIP) and Her Majesty's Inspectorate of Constabularies (HMIC) as part of the UK's response to its international obligations to inspect all places of detention after signing up to the Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment in 2003.

Further scrutiny of police custody has also arisen as a result of the opening up of this formerly backstage area of policing to 'outsiders';² this has partly been through the routine introduction of CCTV into custody areas in England and Wales, but also through civilisation and privatisation of roles including in police custody,³ as well as through the outsourcing of police custody suites through private finance initiatives (PFIs). On a day-to-day basis, this has resulted in a range of new social actors being introduced in to the police custody suite environment. It has, however, also brought with it new challenges connected to transparency, given that commercial confidentiality is a crucial matter for the private security sector.⁴ Altogether these changes have resulted in a variety of arrangements in terms of how police custody is delivered across England and Wales which, as discussed below, have been encapsulated by Skinns *et al.* (under review) in a five-pronged typology.

Whilst much has changed in relation to police custody, much has also stayed the same – plus ça change, as Reiner (2011, p. 614) says. These continuities in police custody are connected to the unchanging nature of the police role in society including the enduring necessity of discretion (e.g. Skinns 2012) and the permissiveness of the law (e.g. McBarnet 1981), as well as the enduring features of police occupational cultures (e.g. Loftus 2008), and the unchanging monopoly that the police have over the legitimate use of force (e.g. Bittner 1970, p. 46). The continuities in the police role in society have a number of implications for police custody as a microcosm of policing, as noted in Skinns (2011, pp. 190–212). First, the police custody environment is much improved, in part because of PFIs enabling the building of new purpose-built facilities, nonetheless these custody suites are still concerned with asserting power and control, as well as being concerned with the deprivation of liberty. This means that suspects are still at risk of the 'pains of police detention' and may experience police custody as 'miniature prisons'.⁵ Second, suspects generally have better access to their legal rights and entitlements, but the conditions of police detention and the pressure put on them by the police and others can still lead them to waive these rights. Third, in the main, suspects do form positive relationships particularly with non-warranted staff, but these can be undermined by the largely coercive relationships that they continue to have with police officers, backed up by their capacity to use force.

In the light of the tensions that exist between the possibility and reality of 'good' police custody, two questions are apposite: Can police custody ever be 'good' for suspects and, relatedly, are some types of custody suites likely to be better than others, in this regard? What are the implications for 'good' policing? These two key questions are the focus of this paper. However, to fully interrogate these issues it is necessary to examine what is meant by 'good' policing; Bradford *et al.* (2014) identify four perspectives on this. First, for some, 'good' policing is when it reduces crime; for example, various studies have attempted to establish whether a particular police intervention, such as 'hotspot policing', reduces crime.

Second, 'good' policing can be thought of as when the police build strong links with communities and act to reassure people and provide them with a deep sense of security (Loader and Walker 2007). Under this perspective, it is recognised that, contrary to popular perceptions of the police as 'crime

fighters', the police spend a large proportion of their time on non-crime related matters. This conception of the police goes hand in hand with developing other strategies (economic and social) which tackle the root causes of crime.

Third, policing is also thought of as 'good' when it is just, that is, when the goods and impositions of policing are equitably distributed across individuals and social groups. Accounts in this camp stress the unfinished business of asserting equitable policing and, therefore, the imperative to address the unfair distribution and application of policing. As Bowling (2007) also notes it is axiomatic that in a democracy people should be treated fairly, for example, when it comes to distribution of goods and services like security and justice, particularly when the ills of policing (e.g. coercion, including lethal force) are at stake. However, the attempt to deliver such fairness and justice is likely to be compromised where there is social inequality.

What Bradford *et al.* (2014) go on to argue is that these three perspectives are complementary but that they can also obscure each other, being treated as a zero-sum game, for example, human rights are seen as an impediment to policing and as restraining the 'inner crime fighter'. Therefore, they propose a fourth way of viewing good policing, namely, with reference to legitimacy. According to Bradford *et al.* (2014), legitimacy moves beyond a zero-sum to a positive-sum game: 'policing that is experienced as fair by citizens, that builds trust and legitimacy will in the long run be more effective'. This is because it encourages normative compliance and encourages a sense of embeddedness in wider social structures and a sense of respect from and inclusion in relevant social groups, that is, a thick sense of security.

To this, it is also necessary to add a fifth dimension of 'good' policing, namely, policing as a public good for all to enjoy equally. This is also echoed by Bowling (2007, p. 18) who says that:

[f]ollowing Loader and Walker (2007) ... all members of society have a stake in the existence of a safe society, and therefore security – and by extension policing – can be seen as a 'public good'. What the police provide – crime investigation, public order, community safety – are all goods that make society liveable for all its members and therefore they should be equally available to all.

This perspective is particularly important in the current climate of increasing partnership working between the police and a range of public, private and third sector organisations, as well as the civilianisation, privatisation and the outsourcing of core police tasks, including in police custody. The implication is that policing may, in the future, become something that only those able to pay for it can access, rather than it being something freely available to all. Like Bowling (2007), we are sympathetic to Loader and Walker's (2006, 2007) view that 'good' policing requires the state to play a significant role in both authorising and providing policing and security.

As noted above, the two questions addressed in this paper are: Can police custody ever be 'good' for suspects and, relatedly, are some types of custody suites likely to be better than others, in this regard? What are the implications for 'good' policing? In essence, this paper is a preliminary attempt to explore how ideas about 'good' policing may be mapped onto the specific arena of police custody. This paper makes a contribution to the field of police studies by using new empirical evidence to further theoretical debates about 'good' policing; in particular, this empirical evidence is used to examine the applicability of these theoretical debates to police custody and to pluralised policing contexts.

The research

This paper is based on data collected as part of an ongoing three-year ESRC-funded study entitled "Good" police custody: theorising the "is" and the "ought" (herewith referred to as the GPCS). The aim of the study is to rigorously examine what 'good' police custody is, as well as the implications for 'good' policing.

This paper is based on two sources of data.⁶ As part of the first phase of the GPCS, between 4 February and 27 March 2014 a survey was circulated amongst custody managers in all of the 43 police

forces in England and Wales. It asked questions about who works in, manages and owns police custody suites, as well as about who does what, how many people are detained in police custody on annual basis and about the conditions of police custody. Out of the 43 police services in England and Wales, 40 responded to the survey, resulting in a 93% response rate. There was also an additional response from The Isle of Man, a force that falls beyond the jurisdiction of England and Wales, taking the total of forces responding to the survey up to 41. Not all forces provided information about all of their custody suites, meaning that, in total, data were gathered on 213 custody suites out of a possible 222 from the 41 police forces in the sample.

The second source of data is an analysis of reports on police custody suites in five case study police forces, which were produced as part of the unannounced inspection programme of police custody suites by HMIP and HMIC. These provide a useful basis for beginning to understand what the national benchmarks are for 'good' police custody and to illuminate the dimensions of custody which HMIC/HMIP value. These reports were qualitatively analysed using NVivo10, exploring key themes, their meaning and the context in which they arose in the reports, rather than counting the number of times these themes occurred. These themes were identified through an initial period of open-coding in which a large number of broad themes were identified. However, gradually over time the descriptive and repetitive codes were amalgamated. Though a wide range of themes were identified, this paper focuses on the following three: the conditions of custody, the treatment of detainees and access justice (in particular to legal advice). These were selected because they overlapped with some of the key dimensions of police custody which are the focus of the GPCS. Data were analysed from inspection reports for five police force case study areas, which are of interest to the GPCS, as they contain custody suites which exemplify each of the types of police custody suites discussed below. In total, six inspection reports were coded and analysed, as one of the five forces had been inspected twice. In what follows below, in order to protect the anonymity of the forces being researched in Phase 2 of the GPCS,⁷ it is not possible to quote directly from these reports and paraphrasing is used instead.

Types of custody suites and their characteristics

Based on the survey of custody managers in 41 forces, five 'types' of police custody suites were identified.⁸ These were identified by analysing three key variables: the involvement of the public and private sector; the busyness of the suite; and whether the suite was described as 'fit for purpose'.

With regards to the public-private sector involvement variable, three categories were used. A 'public' suite refers to all custody suites that are owned and managed by the police, with non-warranted civilians also employed by the police. The 'private' is the opposite of this, with the suite being owned and managed by the private sector, who also employ civilian staff. These have been labelled 'private' sites for linguistic ease, but there is still public sector involvement as police officers work in these suites as custody officers and inspectors. 'Hybrid' suites entail a combination of public and private sector actors, for example, the police manage the custody suite, whilst the private sector own it and employ non-warranted staff, or the police manage and employ non-warranted staff but the private sector own the suite.

As for the busyness of each custody suite, this is an estimation of the average number of detainees, per cell, per year, based on data provided by respondents about the number of cells per custody suite and the annual number of detainees per custody suite between 2010 and 2013. Custody suites were then divided into three groups: 'least busy', 'middling busy', and 'busiest'. This categorisation was based on their positioning in the distribution of the data, with the bottom third corresponding to the least busy, the middle third to the middling busy and top third to the busiest.

With regards the 'fit for purpose' variable, custody managers who responded to the survey were asked to say, using a five-point Likert scale, whether they agreed or disagreed with the statement that each of the custody suites in their force were fit for purpose.⁹ This question was kept deliberately

broad with respondents having an opportunity to add an explanation of why or why not the custody suites in their force were unfit for purpose, with responses focusing on the conditions of police custody.¹⁰

Cross-tab analysis of these three variables showed that the most common type of custody suite, overall, was the publicly run, fit for purpose and busy custody suite. This type of custody suite is owned and managed by the police, and staffed by the police or civilians employed by the police; it was described as 'fit for purpose'; and fell in the top third of the data in terms of its busyness. This is type number one, which was labelled the *hard-pressed public suite*.¹¹ Given that the purpose of the research is to explore and to theorise 'good' police custody practices, it was decided that an unfit for purpose, busy, publicly run custody suite would serve as an interesting point of comparison and so this was chosen as type number two, namely, the *hard-pressed persevering public suite*. This type of custody suite is the same as type number one, except that it was not described as 'fit for purpose' by custody managers who responded to the survey.

The data also showed that hybrid custody suites were also common-place and, since virtually all were regarded as fit for purpose, these are represented by types three and four. In terms of busyness in these hybrid sites, there was a skew towards the 'middling' to 'least busy' end of the busyness scale. Therefore type three is the fit for purpose least busy hybrid, which was labelled the *unhurried hybrid*, and type four was the fit for purpose middling busy hybrid, labelled the *hard-working hybrid*.

Though private sites were relatively rare in police forces in England and Wales, they are still a distinct type. As with the hybrid sites, all were regarded by custody managers as fit for purpose and the focus is on these. At the present time, there are too few private custody facilities to observe a clear pattern in terms of busyness. However, it was decided to use the private, busy suite as the fifth type, primarily to aid comparison with the public, busy suite. This is the *private super suite*.

As discussed in Skinnis *et al.* (under review), each of these five types of police custody suites contain a large number of actual suites, meaning that decisions about which could be used as examples of each of these types were made based on existing knowledge of the suites through initial conversations with custody managers between December 2013 and January 2014 and also based on pragmatic reasons, such as distance to the field sites. The names and locations of the police custody suites which exemplify each of the five types are to remain confidential, so they are referred to using pseudonyms. Some of their features, as described thus far, are summarised in Table 1.

Table 1. The police custody suite typology.

Type	Example	Owned, managed and staffed by who?	Busyness	Other features
1. The hard-pressed public suite	Mill city	Owned, managed and staffed by the police	'Middling busy' (1: 311) ^a	
2. The hard-pressed persevering public suite	Stone Street	Owned, managed and staffed by the police	'Busiest' (1: 325)	Described as unfit for purpose by custody managers responding to the survey
3. The unhurried hybrid	Combiville	Owned by the private sector through a PFI, managed by the police and non-warranted civilians employed by the police	'Least busy' (1: 239)	Staff and facilities are shared with a neighbouring force
4. The hard-working hybrid	Combicity	Owned by the private sector through a PFI, managed by the police and non-warranted civilians are employed by the police and the private sector	'Middling busy' (1: 303)	
5. The private super suite	Newtown	Owned, managed and staffed almost entirely by the private sector	'Busiest' (1: 383)	

^aThough the site chosen as an example of the hard-pressed but persevering type is not one of the busiest, it is border line between the 'middling busy' and 'busiest category': 1–260.99 = 'Least busy'; 262–322.99 = 'Medium busy'; 323–605 = 'Busiest'. In addition, it was also closed for part of 2012 for refurbishment, meaning that its average throughput was slightly lower than might ordinarily have been expected.

Having set out the types of custody suites that exist in England and Wales, we now offer preliminary observations about the impact of these variations on three dimensions of police custody: the conditions of custody, the treatment of detainees and access to legal advice.

Conditions in custody

According to HMIP/HMIC guidance, the main expectation in terms of the conditions of detention is that 'detainees are held in a custody suite that is clean, safe and in a good state of repair'. In their reports inspectors focused on the physical conditions of custody, and particularly the fabric of the cells, the amount of graffiti and the cleanliness of the environment. Altogether, this is likely to be important for suspects and perhaps the wider citizenry given that the architectural design of police stations (in which police custody suites are housed) is important for public reassurance (Millie 2012). In terms of the five case study police forces, the conditions reportedly varied between the public sites (Stone Street Police and Mill City Police) and the hybrid/private sites (Combiville, Combicity and Newtown Police forces). Stone Street Police were especially criticised for the physical state of their custody areas. The physical environment of the suites was poor; for example, cells were old, ill-maintained and covered in graffiti (Stone Street Police Inspection Report: 5 and 16). This corresponds with the response from the survey which stated that Stone Street custody suite was not fit for purpose. In Mill City Police Force Area, conditions were found to vary significantly between the custody suites; the newest suite (Mill City) was bright and clean but this was not the case in most of the other suites in the police force area, where dirt was said to be 'ingrained', where most had ligature points and also graffiti which, in one site, dated back to 2008 (Mill City Police Force 2012a, pp. 18–19).

By contrast, the conditions in the private and hybrid custody suites in the police forces responsible for Combiville, Combicity and Newtown tended to be described as good (Combicity Police Force Inspection Report 2012b; Combiville Police Force Inspection Report 2012c; Newtown Police Force Inspection Report 2011). This is probably because some or all of the custody suites in these police force areas had recently been built through PFIs. Combiville custody suite was particularly highlighted as demonstrating good practice. The report stated that the custody suite was well-designed; for example, it was clean, bright and spacious and there was sense of ownership amongst staff (Combiville Police Inspection Report 2012c, p. 5).

In terms of how 'good' conditions are conceived of in the reports, the emphasis on graffiti is telling. Drawing on Innes' (2004) work on signal disorders, graffiti appeared to be considered by the inspectors as a proxy for poor conditions and thus a poor quality of life (at least for the duration of a suspect's time in custody). Whilst some of the explicit graffiti may cause offence and therefore create a 'poor environment', graffiti may also signal boredom, resistance or other systemic failings in the custody suite environment. These issues are not explored in any detail in the inspection reports, but may be one way of conceptualising the relationship between 'good' conditions and suspect experiences.

Treatment of detainees: respect and privacy

In the inspection reports, the treatment of suspects was divided into the respectfulness of staff–suspect interactions and whether the conditions of detention facilitated privacy during particularly important staff–suspect interactions. Though it was unclear precisely what was meant by 'respect' in the inspection reports, in relation to staff–suspect interactions, it seemed to be used as a proxy for 'good' treatment.¹² Staff in all five case study forces were generally observed as treating detainees with respect, though there was some variation in this. In Mill City Police Force, for example, though custody officers were described as 'respectful and friendly', some detention officers were described as 'less engaged' and there was also said to be a lack of awareness of diversity issues, with staff taking a 'one size fits all' approach to detainees (such as children and women). Whilst in Stone Street Police

Force Inspection Report, staff–detainee interactions were described as good; in spite of the poor conditions, staff were respectful of the needs of different social groups (Stone Street Police Inspection Report 2010, p. 8). However, in Combiville, staff were described as having a particularly respectful interactions with suspects. Staff were said to be consistently polite and thoughtful towards detainees, as well as calm and in control; for example, they clearly explained the custody process to detainees (Combiville Police Inspection Report 2012c, p. 8).

Though staff were described as being respectful, it is unclear how this impacted on safety. Yet this relationship is likely to be important: Liebling (2006) found in her research on public/private prisons that prison officers in privately run establishments lacked the authority of their public counterparts (e.g. to carry out searches of their cells), meaning that prisoners felt more fairly and respectfully treated but less safe.¹³ The relationship between respect and safety is, therefore, likely to be important in conceptualising ‘good’ police custody, with the GPCS exploring, for example, whether the balance between the two is a function of the force and its policies, the values and use of authority by police officers and police staff or the public/private/hybrid status of the custody suite in which they work.¹⁴

Privacy is the other area that the inspectors focused on in their reports. Across all six inspection reports, custody suites were criticised for not providing enough privacy for detainees both when communicating with lawyers and when disclosing confidential medical information when being booked in. This was true in forces containing the newer private and hybrid suites of Newtown and Combicity as well as in forces containing the older custody suites of Stone Street and Mill City. Once again, however, Combiville and the other suites in this police force area were described in more positive terms relative to the rest. In these sites, privacy was described as having been taken into account when the building was designed; for example, there were screens between booking-in desks (Combiville Police Force Inspection Report 2012c, pp. 8 and 21).

Privacy is an important part of the staff–suspect relationship in part because, without it, access to other rights and entitlement, such as legal advice, may be compromised, but also because it is important to ensure that staff–detainee relationships remain respectful and the distress of detainees is not heightened by the disclosure of sensitive information in a public setting. This would amount to a breach of trust in the, albeit brief, relationships formed between staff and detainees in custody suite. It would seem, therefore, that the state-of-the-art purpose-built custody facilities in the Combiville police force area put staff in the best position possible to cultivate such trusting relationships, which may have broader ramifications for suspects’ longer-term relationships with legal authorities such as the police.

Access to legal advice

Access to legal advice is arguably an important way of measuring access to justice. First of all it is an important due process right for suspects, which goes some way towards counterbalancing police powers of detention and investigation, as set out in the Codes of Practice for the Police and Criminal Evidence Act 1984 (e.g. section 6 in Home Office 2012). Second, the qualified right to silence in England and Wales also means that legal advice is more of a necessity to help suspects fully understand the implications of silence, particularly as the police cannot be relied on to explain it to them as they do not always understand it themselves (Blackstock *et al.* 2014, p. 378).

Across the five case study police forces access to legal advice was largely described in the inspection reports in positive terms, with the reports stating that detainees were informed of their right to publicly funded (i.e. free at the point of contact) legal advice on arrival and sometimes at detention reviews, that detainees were told that they could change their mind about legal advice at any time, that there was a duty solicitor scheme in place and information about this could be found about custodial legal advice in multiple languages on posters on the walls. For example, in Combicity it was noted that the right to free legal representation was clearly explained to detainees and that reasons for declining advice were recorded on the custody record, as well as detainees being informed that they could change their mind at any time (Combicity Police Force Inspection Report 2012b, pp. 23–24).

Table 2. Access to custody legal advice (based on available data in the HMIP/HMIC inspection reports).

Police force	Custody record dip sample data			Prisoner survey data		
	No. of custody records analysed	Custody records with information missing	Offer of legal advice accepted	No. of respondents	Legal advice offered to detainees	Offer of legal advice accepted
Mill City	45	0	65% (<i>n</i> = 29)	45	92% (<i>n</i> = 41)	71% (<i>n</i> = 32)
Stone Street	30	2 cases – no information was recorded on whether advice was requested or declined	27% (<i>n</i> = 8)	No data		
Combiville	30	1 case – no information on why a detainee was interviewed before their solicitor arrived	33% (<i>n</i> = 10)	77	87% (<i>n</i> = 67)	64% (<i>n</i> = 49)
Combicity	30	7 cases – no information was recorded on why the suspect declined legal advice	63% (<i>n</i> = 19)	44	84% (<i>n</i> = 37)	51% (<i>n</i> = 22)

Some basic figures about access to legal advice were also provided in the reports based on a dip sample of custody records and surveys of prisoners' experience of police custody,¹⁵ though this was only provided in three of the five case study police forces. As shown in Table 2, Mill City, Combicity and Combiville seemed to provide better access to legal advice, with a larger proportion of detainees in these police force areas 'accepting offers of legal advice'.¹⁶ These higher levels of access to legal advice may be explained by the extent to which staff encouraged detainees to seek legal advice.¹⁷ For example, in the Combiville police force area staff were found to go out of their way to encourage detainees to seek legal advice (e.g. Combiville Police Force Inspection Report 2012c, p. 23).

There was little variation across the five police force areas in terms of how the duty solicitor scheme and police–solicitor relationships were described. For example, duty solicitor schemes were described as 'working well' and legal representatives were observed requesting and receiving copies of custody records and defence solicitors described their relationships with the police as positive and the police as facilitative and respectful of detainees' PACE rights, including to legal advice. However, there was some variation between police forces in terms of the conditions of the legal consultation and interview rooms. Given what is described above about the overall conditions of custody, it was no surprise to find that the conditions of these rooms were described as clean and well-equipped in Combiville, Combicity and Newtown, but only adequate in Stone Street Police force. Privacy of telephone legal consultations was also raised as being problematic in some of the custody suites. For example, in Mill City Police Force Area, it was remarked that not all suites had the facilities for private consultations and so detainees were observed talking to their legal advisor on the telephone within earshot of others in the custody area.

Overall, access to legal advice was described in a positive way across all five police forces, but particularly so in Combiville, Combicity and Newtown where some staff were described as going out of their way to inform suspects of their right to legal advice and there were better facilities for legal consultations and police interviews. That said, the highest uptake of legal advice was in one of the forces where custody suites were publicly run, Mill City.

Discussion

The main purposes of this paper were to explore, first, whether police custody ever be 'good' for suspects and, relatedly, whether some types of custody suites are better than others, in this regard. Second, this paper has explored the implications for 'good' policing. Each of these issues is now addressed in turn.

Though the data collected in the inspection reports is to an extent limited by the purposes for which it was collected, it has still generated some preliminary ideas about the relationship

between the types of custody suites and the conditions of custody, the treatment of detainees and detainees' access to justice. What these data showed was that police custody appeared to be more humane and that access to justice was better facilitated in the forces containing hybrid and private sites. The conditions of custody were clearly described as better in forces with hybrid/private police custody suites compared to forces where custody suites were publicly run. For example, they were described as clean, bright and spacious. This may lessen the 'pains of police detention' and possibly discourage suspects from foregoing their due process rights in order to leave the custody suite as quickly as possible.

Respectful staff–detainee interactions were observed in all five police force areas, but this was particularly so in Combiville. This suggests that, as with the conditions of detention, 'unhurried hybrids' may have a better chance of delivering a more humane experience of police custody and, therefore better access to justice. Furthermore, privacy was also enhanced by the conditions of custody particularly in Combiville, where opportunities for private conversations between detainees and custody officers, which enhance their trust in one and other had been built into the custody suite. It would seem, therefore, that the state-of-the-art purpose-built custody facilities in the Combiville police force area put staff in the best position possible to cultivate such trusting relationships, which may have broader ramifications for their longer-term relationships between suspects and legal authorities such as the police. These built-in opportunities for enhancing trust in the police are particularly important in light of macro-level changes to the conditions of policing, particularly the overall decline in trust in the police in the post-war period and the wider de-stabilising effects of social, economic and political change (e.g. Reiner 1995, 2010, p. 241).

Access to legal advice was also described more favourably in the forces containing hybrid/private custody suites. Overall, access to legal advice was described in a positive way across all five police forces, but particularly so in Mill City, Combiville, Combicity and Newtown where there were higher levels of access to legal advice. In the latter three forces, some staff were also described as going out of their way to inform suspects of their right to legal advice and these forces were described as having better facilities for legal consultations and police interviews.

Altogether these findings suggest that police custody can be 'good', as well as providing some provisional ideas about which police custody suites are more likely to typify the 'good'. What is clear from the analysis presented here is that 'good' does not necessarily map on to any one of the types of custody suites identified in the research. The suites that exemplified each of the types of custody suites all had strengths and weaknesses; for example, in Stone Street police custody suite, it was noted that the police were respectful towards detainees in spite of the poor conditions of custody. Nonetheless, a preliminary conclusion is that the 'unhurried hybrid' seemed to best fit the label of the 'good' police custody suite, as this type of suite seemed to offer the most to detainees and staff in terms of the conditions of detention, the treatment of suspects and facilitating access justice. Therefore, in answer to the question of whether police custody can be 'good', it would seem that some types of custody suites may be better at being 'good' than others. However, further, more detailed research is required to better understand what factors distinguish the 'good' custody suites from the less good or poor ones, as well as to understand what this means for staff and for suspects. For example, it may be that the advantages of the hybrid and private suites are a function of their newness not their status as hybrid/private.

Turning now to the second question addressed in this paper, based on the data presented here, theories about 'good' policing are clearly relevant and useful for conceptualising 'good' police custody, though of the five dimensions of 'good' policing some are more relevant than others. Whilst the reduction of crime is relevant to broader conceptions of the police and public perceptions of them, at this stage, it appears less relevant to the conceptualisation of 'good' police custody. As noted at the outset, police custody does play a central role in the criminal investigative process, but this is only one of a large number of factors that are likely to influence the crime reductive potential of the police. Understanding the crime reductive potential of police custody is further complicated by the fact that malpractice not 'good' practice in police custody might elevate the

detection rate. For example, pressuring suspects to confess, such as through night interviews or informal conversations may be used to clear-up cases. The crime reductive element of police custody is also little considered in either the inspection reports analysed for the present paper or in previous research. Altogether this suggests that this dimension of 'good' policing is not only complex to apply but also appears to be of less relevance to the conceptualisation of 'good' police custody than some of the others.

In terms of the second dimension of 'good' policing – namely, when the police build strong links with the community, reassure the public and provide citizens with a sense of security – aspects of this are more relevant than others. Police custody remains largely hidden from public view, meaning it is hard to conceive of it as 'good' because of its capacity for reassuring the public or providing them with a sense of security. However, there is some mileage in conceiving of police custody as 'good' because of its capacity for building strong links with the community. Police custody suites are largely local institutions detaining primarily local populations with opportunities, therefore, for police officers to form longstanding relationships with the local citizenry as suspects (but also as victims or witnesses) (Millie 2012). Furthermore, just as prisons are places of moral performance in which collective values (e.g. civic or moral values) can be nurtured (as well as threatened) (Liebling 2006, p. 461), so too are police custody suites as a kind of 'miniature prisons', in which an understanding of the 'social contract' between suspects, the police and wider society could be developed, even if this is done fleetingly during the short time someone spends in police custody. As the data presented here show, the notion of respect – which was used in the inspection reports as a proxy for good treatment – may be a civic value that could be nurtured or undermined in police custody and it would be of interest to explore if and how this were the case, as well as its relationship with safety in the custody area. For example, it may be that greater respect runs the risk of compromising safety in some police custody suites, if staff are respectful but do not know how to use their authority appropriately, as research on private prisons suggests (Liebling 2006, Shefer and Liebling 2008, Crewe *et al.* 2011, 2015).

All of that said, the capacity for police custody suites to identify and respond to the serious and persistent offenders who communities need to protect themselves from has not gone away. Communities are increasingly separated from these suspects as there is a tendency, for example, for police forces in England and Wales to create a smaller number of larger and often out-of town police custody suites (Skinns *et al.*, under review). Therefore, 'good' police custody is likely to be revealed by examining the balance between the integrative and community building aspects of police custody and those aspects of it that separate the most dangerous suspects from the wider community.

This particular strand of 'good' policing – that is, the idea that policing might be used to build strong links with the community – raises questions about some of the other purposes of police custody. These purposes were alluded to at the beginning of this paper, including the legal, welfare, punitive purposes it serves, to which can be added the building of links with communities and the strengthening of civic values. Notions of 'good' policing therefore encourage the view that police custody needs to be seen as more than mere humane containment, as well as encouraging the measurement of what these different purposes are and the relative importance attached to each, particularly in the context of growing financial constraints on the police and other public institutions, which has led to public calls for the police to no longer be the 'default response for vulnerable people in a crisis' (HMIC 2015, p. 121). It may be that the legal purposes of police custody connected to effective investigations and public safety will always trump some of its other functions. These issues will all be further explored in the GPCS.

Although just policing, the equitable distribution of the good and ills of policing, is not picked up to any great extent in the inspection report data presented here, it is still relevant to understanding 'good' police custody. As with criminal justice populations, vulnerable, as well as black and minority ethnic groups tend to be over-represented in police custody populations. Combined with the fact that the police are not just law enforcers, but also norm enforcers, being called on to maintain

dominant conceptions of the social order, this inevitably raises questions about who police custody is good for? Some of the 'winners' are likely to be the private security companies used as contractors in police custody suites. Whilst the 'losers' are likely to be the most disenfranchised members of society who find themselves locked into a regular relationship with the police, most probably predominantly young white working class and minority ethnic men. The notion of just policing also raises questions about who is the audience for 'good' police custody practices? It may be the police or perhaps suspects and the wider citizenry, but in the light of heightened forms of organisational governance such as HMIP/HMIC inspections and the politicisation of policing (e.g. with the advent of police and crime commissioners), perhaps these auditing bodies and politicians will be the audience that the police seek to please the most.

However, the analysis of the inspection reports does provide a few ideas about how just police custody may be measured. Access to legal advice, as described in this paper, may be one useful measure, but others include the extent of use of strip-searching and the use of force. These measures of just police custody are all intimately connected to fairness; what is important is not just whether suspects are able to access justice (e.g. legal advice), but whether the opportunities to do so are distributed equally between different police custody suites and also across the suspect population (irrespective of their age, ethnicity or mental vulnerabilities, for example). This is particularly important given the intimate connection between the police and society and the role that the police play, therefore, in creating and maintaining dominant conceptions of the social order. This necessarily entails them contributing to patterns of social ordering, including through the policing carried out in custody suites.

The notion of 'good' policing as legitimate policing is also clearly relevant to understandings of 'good' police custody, as indicated by analysis of the inspection reports. The notion of respect – which, as already noted, was used in the inspections as a proxy for good treatment – is a key component of procedural justice which is a key antecedent for legitimacy.¹⁸ Analysis of the inspection reports also highlighted another arena in which procedural justice is paramount, namely, privacy at appropriate moments during the custody process, for instance during booking-in when detainees may reveal sensitive information. It is possible that such privacy in police–detainee interactions may contribute to perceptions of a procedurally just encounter with the police, which could thereby engender a more legitimate relationship and co-operative relationship between suspects and police actors.

The relevance of legitimacy to conceptions of 'good' police custody has also already been documented by Skynns (2011, pp. 196–199). What she found is that to a degree, the use of police authority can be 'sweetened' by treating citizens in a procedurally fair manner, but this may be less likely for particular subgroups, such as those locked into a regular relationship with the police and who are repeatedly detained in police custody. Furthermore, in police custody suites, procedurally just and legitimate police–suspect interactions exist alongside the coercive and more instrumental forms of compliance. Therefore, the relative balance between the two is likely to be a key way of conceptualising the 'good' in police custody, as are the variations that exist in suspect compliance between those regularly detained in police custody and the rest of the suspect population.

The fifth dimension of 'good' policing, that is, policing as a 'public good' is highly pertinent given the way that police custody is delivered in contemporary times, as illustrated by the five types of custody suites identified in the present research. Though overall responsibility for police custody remains predominantly with the police, private sector involvement is still an important part of the police custody landscape, given that just over a third of custody suites are either hybrid or private custody suites in which the police and private security actors have to work collaboratively with each other (Skynns *et al.*, under review).

At this stage, we have tentatively suggested above that the 'unhurried hybrid' seemed to best fit the label of the 'good' police custody suite, as this type of suite seemed to offer the most to detainees and staff in terms of the conditions of detention, the treatment of suspects and facilitating access justice. At the same time, it is not possible to simply assume a straightforward dichotomy of

public equals good and private equals bad or vice versa. For example, as discussed in Skinns *et al.* (under review), the fact that values traditionally associated respectively with the public and private sector have been found amongst both police and private security actors,¹⁹ suggests that public or private sector values are likely to be present across any of the five types of custody suites identified in the present paper and, as a consequence, none are likely to be straightforwardly good or bad in terms of staff or suspect experiences.

Nonetheless, particularly for those critical of the direction that neoliberalism has taken society, for example, because of its emphasis on the importance of the markets not the state, this ambivalence about whether public, private or hybrid custody suites are 'good' is morally uncomfortable: it is hard to get away from the fact that profit is made from the justice meted out to detainees through their contact with the police and the private sector in hybrid and private police custody suites. This may in the longer-term contribute towards a re-orientation of social norms, persuading people to accept the notion that a price can be placed on anything. This fundamental altering of social norms remains a problematic conundrum which, therefore, requires further public debate.

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Notes

1. Choongh (1997, p. 100) argues that police custody is a form of social discipline; for suspects who were locked into a regular relationship with the police and/or were non-compliant this meant that the police found ways of conditioning them into accepting their authority.
2. The backstage nature of the custody suite in the mid-1970s was documented by Holdaway, who noted that it was a place where police officers felt freed from legal and formal organisational rules (1983, p. 34).
3. Civilianisation refers to the employment of non-warranted civilian staff, who do not have the same powers as a police officer, in roles previously performed by the police. In police custody, such civilian staff work, for example, as detention officers and are employed by the police or by private security companies. As the analysis below shows, at the time of the survey, most police custody suites were staffed to some extent by non-warranted civilians, suggesting that most are civilianised.
4. For example, Skinns (2011, p. 155) found that the private sector were unwilling to reveal details of the contract that existed between themselves and the police.
5. Skinns (2011, pp. 202–205) documents the 'pains of police detention'.
6. At this early stage of the research, we have not yet included data collected from suspects. Their perspectives will be measured using qualitative interviews in Phase 2 (which, at the time of writing, was under way) and quantitatively through a survey in Phase 3 (which will commence from January 2016).
7. Anonymisation of police forces was required in order to gain access to complete Phase 2 of the GPCS.
8. The types of custody suites identified in the research are discussed in more detail in Skinns *et al.* (under review).
9. Since the survey was responded to by custody managers this may have skewed responses towards the fit for purpose end of the scale. This will be further explored in subsequent phases of the research when suspects' views on the conditions of custody will also be sought.
10. These ideas about the meaning of 'fit for purpose' will be used in subsequent phases of the research to develop scale and sub-scale items to measure it more precisely. Data will be collected not just from custody managers but also from other staff and suspects to develop a more balanced picture of the conditions of police custody.

11. This and the subsequent labels given to each of the five types of custody suites are precisely that. They offer immediate ways of getting to grips with the key characteristics of each of the five types of custody suite.
12. This imprecision about what is meant by respect is problematic given the likely varied standpoints of multiple inspectors and given the wide-ranging meanings attributed to the notion of respect, some of which are negative. For example, it took on a pejorative connotation following New Labour's Respect Agenda (Millie 2009). A more thoughtful definition, however, is provided by Sennett (2003) who emphasises the necessity for mutual respect between the State and citizens.
13. The finding that staff are more respectful, but the prison environment is less safe in private establishments has subsequently been documented in Shefer and Liebling (2008), Crewe *et al.* (2011), and Crewe *et al.* (2015).
14. See Skinns *et al.* (under review) for a more detailed discussion of this.
15. This 'dip sample' involved the random collection of a specified number of custody records for a specified time period during the HMIC/HMIP inspection. In statistical terms it is akin to 'stratified sampling'.
16. It is not clear from the inspection reports what is meant by accepting offers of legal advice. It could either mean that detainees requested legal advice or that they requested legal advice and this request was met. Furthermore, given the low numbers in their samples, this finding should also be treated with some caution.
17. Though some police officers in the GPCS have been observed to state that they are not able to advise suspects on whether to seek legal advice, there are no rules about this in the PACE Codes of Practice Code C (2012). There are rules, however, that state that: they may not dissuade suspects from seeking legal advice (Code C: 6.4); they may not advise about seeking legal advice from a particular firm (Code C: Note 6B); they cannot imply that not seeking legal advice will reduce the length of police detention (Code C: Note 6ZA).
18. The key determinant of police legitimacy is how the police treat the public, which is known as procedural justice, which Tyler (2003) categorises into the quality of the decision making by the police (i.e. whether it is neutral, unbiased and based on objective indicators) and the quality, of interpersonal treatment (i.e. whether people are treated with dignity and respect).
19. This meshing of values has been documented in both police studies (e.g. White and Gill 2013; White 2014) and prison studies (e.g. Crewe *et al.* 2011, 2015).

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