

# Regulating Police Detention

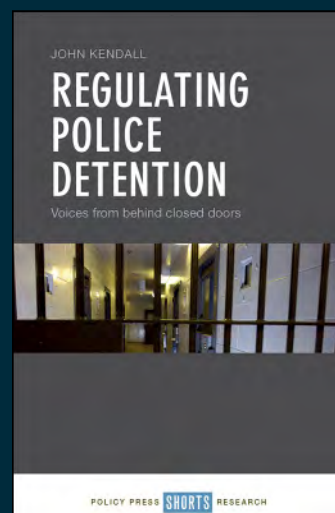
Voices from behind Closed Doors

## OVERVIEW

Some 20 detainees, with a disproportionate number of BAME detainees, die each year in police custody suites, often because of asphyxia following inappropriate and excessive restraint. Custody suites are where the police take those they have arrested to be detained pending charge, caution or release without charge. Suspects spend their time in police custody largely in isolation and out of public view. It is very much the police's world.

The police regulate their own conduct in custody suites. They compile custody records, which they have been known to falsify, and in any case the records are no safeguard for the detainees. The Independent Office of Police Complaints investigates after the event, and inspection teams visit once every five years. There is no on-the-spot regulation except by the police. This policy recommendation is that the community, not the police, should be responsible for regulating police conduct in custody suites.

The Independent Custody Visiting Scheme sends members of the public, on a voluntary basis, to make what are supposed to be random and unannounced visits to every custody suite in the UK to check on the welfare of detainees. The original intention was that custody visiting would deter abusive police conduct. But my research found that this is not even regarded as an objective of the Scheme.



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## KEY FINDINGS

My investigation coupled desk research into the history of the Scheme with an in-depth local case study in one large urban area. The case study involved 123 hours of observation of the work of custody suites and of visits by custody visitors and their training, and 51 hours of semi-structured interviews with visitors, police and civilian custody staff, the scheme administrator, defence solicitors and most significantly, the detainees.

The methods used in the research enabled me to get to the heart of what the participants thought was going on, and what was really going on, to a depth that would not have been possible with an internet survey. An internet survey would not, in any event, have reached the most important participants – the detainees – who had never before been interviewed about custody visiting.

My findings were as follows: Visitors did not turn up at unexpected times, so the police could guess that they were on their way. The police sometimes did not admit visitors to the custody suite straight away, and the police did not always allow them to meet all the detainees. These factors meant that the police could prevent the visitors from seeing matters that might cause them concern.

The failure of the Scheme is particularly apparent when one looks at the very brief meetings between the detainees and the visitors. The meetings were supervised by custody staff, so there was no chance for the detainees to talk to the visitors in confidence, and the meetings were, as some of the detainees interviewed for the research said, a complete waste of time.

Visitors were supposed to carry out other checks, but often failed to do so. For instance, they should have checked on ligature points, and custody staff should have been carrying ligature knives at all times. Quick action to cut down detainees attempting suicide by hanging can save lives.

The visitors' reports were vetted by the custody sergeant before being sent to the Police and Crime Commissioner (PCC), and they were not used to hold the police to account. The visitors were completely controlled by the PCC, and they had no independent voice. They were poorly trained, and few of them understood the issue of deaths in custody.

The visitors did not have the necessary powers to enforce their regulation, and did not feel able to challenge the police. Custody visiting made no impact on the behaviour of the police. The detainees did not trust the visitors, nor did the police respect them.

The Scheme provides what appears to be an independent check on police conduct, but it is neither independent nor effective, so all it achieves is to obscure the need for reform. I was initially tempted to conclude that the best thing would be to scrap the Scheme, but then decided that it could be possible for the Scheme to do a lot of good if it were radically reformed.

## POLICY RECOMMENDATIONS

- **Primary purpose:** The primary purpose of custody visiting should be openly stated as the deterrence of police misconduct of the kind which could lead to abuse of detainees and deaths in custody.
- **Independence:** Visitors should not be managed locally by the Police and Crime Commissioners, but by local committees of a new independent body replacing the Independent Custody Visiting Association with representation from visitors, specialist academics and charities championing detainees.
- **Inclusivity:** Applicants to join the visiting scheme should not be disqualified automatically because they have a criminal record.
- **Training:** Visitors should be briefed by the range of the professionals who are involved in custody, including defence lawyers, and by former detainees.
- **Deaths in custody:** Visitors should be trained about what happens when a detainee dies in custody, and about the inquest process. The police must notify the relevant Independent Custody Visitors' panel immediately a death in custody (including in hospital following police custody) occurs and two members of the ICV panel must make a visit within the next 12 hours.
- **Tenure:** Visitors should have the right not to be unfairly dismissed.
- **Powers of access:** Visitors should be given statutory powers for immediate access to custody blocks and to all those detained in the blocks.
- **Respect for detainees:** Police and visitors should refer to detainees as detainees or persons in custody, but not as prisoners.
- **Conduct of visits:** Visits should be genuinely random and unexpected to ensure maximum effectiveness. Visits should be made at all hours and days of the week. Visits should not be limited to one per week.
- **Visitors' dealings with detainees:** The custody staff should not be able to overhear or to make close observation of meetings with detainees. Visitors should give sufficient time to the meetings with detainees, act on any concerns or complaints expressed, and provide the detainees with feedback about the actions taken and the results achieved.
- **Checks to be carried out.** Visitors should check: the level of staffing; whether the CCTV is working; ligature points; that all staff are carrying ligature knives; that appropriate toiletries are available for both female and male detainees; that all detainees know that they can take showers; general standard of cleanliness of the custody block.
- **Challenge:** Visitors should be trained and encouraged to challenge the police when it is appropriate to do so.
- **Communicating with defence lawyers:** Visitors should be able to telephone defence solicitors about their clients whom the visitors have seen in detention, with the consent of the detainees.
- **Complaints:** Custody visitors should be free to assist detainees in making complaints.
- **Reporting system:** Visitors should not have to obtain the custody sergeant's approval of their reports. Visitors should be able to access their own reports and the communications about their reports with the police.
- **Visitors' meetings:** Visitors should hold meetings with each other separately from the police and the Police and Crime Commissioner's staff
- **Independent voice:** Visitors should be allowed to make public statements without the permission of the authorities.



## ABOUT THE BOOK

When suspects are arrested, they spend their time in police custody largely in isolation and out of public view. These custody blocks are police territory, and public controversies about what happens there often only arise when a detainee dies.

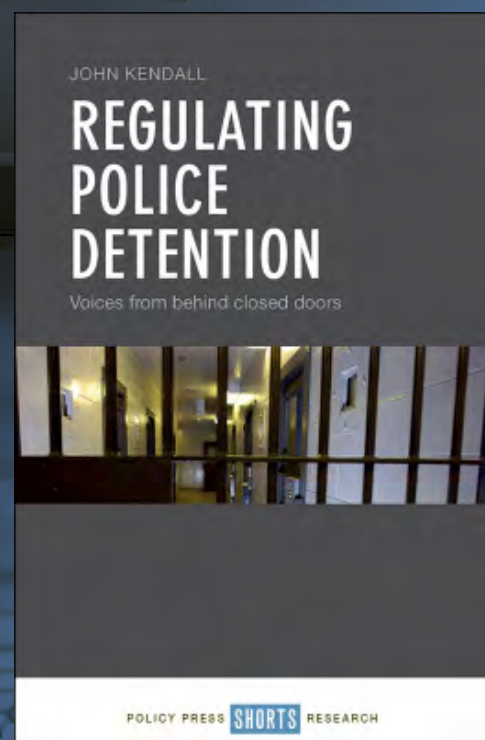
Custody visitors are volunteers who make what are supposed to be random and unannounced visits to police custody blocks to check on the welfare of detainees. However, there is a fundamental power imbalance between the police and these visitors, which calls the independence and effectiveness of custody visiting into question.

Investigating this largely unexplored part of the criminal justice system, this timely book includes the voices of the detainees who have a unique insight into the scheme. It offers detailed proposals for radically reforming custody visiting to make it an effective regulator of police behaviour, with an explanation of the political context that could make that a reality.

## AUTHOR INFORMATION





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