



Evaluation of the Independent Custody Observation Pilot

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Evaluation of the Independent Custody Observation Pilot

1. Introduction

1.1 About the Independent Custody Observation Pilot

The Independent Custody Observation Pilot (ICOP) was initiated by the Independent Custody Visiting Association (ICVA) and six participating OPCC/police forces during 2019 and early 2020 to test a new method for holding the police to account in custody and safeguarding the human rights of detainees.

ICOP consisted of two core elements:

- A Custody Record Review (CRR) process, where in addition to routine visits to police custody, Independent Custody Visitors (ICVs) examine full custody records of samples of detainees to highlight any areas of concern within a formal reporting process coordinated by ICV scheme managers;
- Enhanced' custody visits, where as part of their routine visits, ICVs observe the booking in and booking out of detainees, to similarly check in real-time that their wellbeing and human rights are being upheld

The models for the CRR and 'enhanced' custody visiting were first developed as a collaboration between Derbyshire Constabulary and Derbyshire OPCC, which commenced pilot work in this area in 2018 and continues today as mainstreamed practice.

Drawing on Derbyshire's learning from implementing this innovation in ICV and police practice, ICVA launched a call for expressions of interest to establish a national Independent Custody Observation Pilot. During the summer of 2019 a core group consisting of ICVA, Derbyshire OPCC and five participating OPCCs in Dyfed-Powys, Gloucestershire, Humberside, Leicestershire and Nottinghamshire formed to deliver ICOP. Delivery of the CRR element of ICOP started from September 2019 across pilot sites and work on 'enhanced' custody visits started at Dyfed-Powys and Gloucestershire (as well as Derbyshire) from January 2020. Data gathering for ICOP closed at the end of April 2020.

1.2 About the evaluation

Confluence, an independent consultancy, was commissioned by ICVA to produce an independent outcome and process evaluation of ICOP. Key fields for investigation include:

- To understand the strengths and problems associated with the changed methodology
- To understand the benefits and disadvantages of implementing the new methodology, including what worked well and what did not, and whether there have been any unintended processes or outcomes.
- The critical perspectives of stakeholders involved in the ICOP, including ICVs, OPCC staff and police colleagues.

It is important to stress that in the presentation of findings, the evaluation is not primarily concerned with comparing pilot sites' outputs and reported outcomes in order to rank participants, or to benchmark performance in relation to a particular model. Rather, we are concerned with identifying key elements of promising practice across all sites, applying learning and making recommendations accordingly.

From February 2020 onwards, the arrival of the COVID-19 pandemic impacted significantly on the activity of ICOP and it became necessary to move from face-to-face meetings and focus groups with stakeholders to solely 'virtual' forums to progress the evaluation. In assessing feedback from pilots, we have sought to identify areas where new learning has been generated from the response to COVID-19.

2. Independent custody visiting: Policy and practice

Independent Custody Visitors (ICVs) are members of the public who volunteer to make unannounced visits to police custody in order to check on the rights, entitlements, wellbeing and dignity of detainees held in police custody. They report to Police and Crime Commissioners who hold Chief Constables to account. The role of the ICV was originally introduced in response Lord Scarman's report on the Brixton disorders in 1981 as a mechanism for promoting public confidence in the police through random checks of detainees in custody.

The activity and accountability of ICVs is stated in the Code of Practice for Independent Custody Visiting (COP) [Home Office, 2013]. This places Police and Crime Commissioners (PCCs) responsible for the organisation of ICV schemes within force areas as well as specifying arrangements relating to the organisation and support of ICVs, including their recruitment and training, working arrangements, access to detainees and reporting and feedback procedures.

ICVs additionally hold a mandated statutory role within both United Kingdom and international law legislation to check on the human rights of detainees in police custody. This is enshrined within the National Preventive Mechanism (NPM) [National Preventive Mechanism, 2020] the UK Government's response to the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) [Office of the UN High Commissioner for Human Rights, 2020], an international human rights treaty designed to strengthen the protection of people who are deprived of their liberty.

The COP also refers to a set of National Standards (ICVA, 2013), described as a "student training manual for independent custody visitors" which provides more detailed good practice guidance on the activity of ICVs. More recently ICVA has produced a Quality Assurance Framework (QAF) (ICVA, 2018). This is a voluntary benchmarking tool awarding participating ICV schemes 'code compliant', 'silver', 'gold' and 'platinum' status according to the extent to which they can demonstrate that they meet or exceed statutory requirements and good practice in relation to custody visiting and the management of volunteers.

3. Method

We adopted an 'action research' approach to conduct a process and output evaluation of ICOP. This involved close working with ICVA, Derbyshire OPCC and the five ICOP pilot sites between June 2019 and June 2020, synthesising data from a wide range of sources, including:

- Participation in fortnightly 'team ICOP' meetings and scheduled away-days
- A PESTLE analysis conducted by scheme managers to identify the political, economic, socio-cultural; technological; legal and environmental facilitators and obstacles to the progress of pilots locally (see Appendix A for the schedule)
- Actual and 'virtual' site visits to pilots, focus groups involving OPCC staff, police and ICVs (see Appendices B and C for the focus group schedules)
- Conducting a presentation and discussion session with ICVA's board, and a focus group with scheme managers to explore interim findings.
- Written submissions from stakeholders

- Questionnaire returns and administrative/output data from Derbyshire OPCC and the five pilot locations (see Appendix D for the questionnaire format)

A note on the data: Through our contact with stakeholders across six sites we have gathered an extensive amount of administrative, process and narrative data relating to the operation of pilots. Because of space and resource constraints we are limited as to the amount of this material that we are able to utilise or cite explicitly in this report. However, using this wide range of sources, we have sought to prioritise examples of good practice and learning from stakeholders to illustrate key points of our findings and analysis.

4. Findings

We draw upon data from site visits, interviews, routine project meetings and a survey of participants to identify key findings from ICOP. This is grouped into four sections containing: short profiles of the participating sites; an evaluation of the outputs and reported outcomes across all sites; an evaluation of process; and, a discussion of the overall success of ICOP, considering the implications for independent custody visiting systems and processes, as well as for policy.

4.1 Participating sites

4.1.1 Derbyshire

Derbyshire OPCC and Constabulary have pioneered the use of the custody record review, initiating a pilot in April 2018 covering all operational custody suites in the county, including Buxton, Chesterfield and Derby. At the same time as the pilot commenced, a HMICFRS inspection for Derbyshire Constabulary also took place, which made a number of findings directly relating to police practice in custody (waiting times for appropriate adults; the quality of written decisions and justifications within custody records; and, the detention of children overnight). The CRR process was accordingly utilised by OPCC and the Police to help provide performance data in relation to these fields. 'Enhanced' ICV visiting arrangements commenced on 01 October 2019.

Between April 2018 and April 2020, a total of 624 records have been scrutinised as part of the CRR process. This includes 157 CRRs conducted by ICVs, and 47 by OPCC staff on account of COVID during the pilot period. A total of 71 'enhanced' custody visits were also carried out during the pilot period.

In 2020 Derbyshire ICV scheme received the Queen's Award for Voluntary Service for its custody record reviewing activity.

4.1.2 Dyfed Powys

Involvement in ICOP in Dyfed-Powys originated out of agreement between the ICV scheme manager and the chief inspector with operational responsibility for custody in the county, following a request for expressions of interest from ICVA in early 2019.

Between September 2019 and the end of April 2020 a total of 162 CRRs took place across custody suites at Ammanford, Haverfordwest, Brecon, Aberystwyth and Newtown. This includes 35 reviews that were conducted by the ICV scheme manager during March and April 2020 due to COVID-19. 'Enhanced' ICV visits to the custody suite at Haverfordwest had started in February 2020 and two had been conducted before the decision to suspend ICV activity, again on account of COVID-19 conditions affecting custody.

4.1.3 Gloucestershire

Involvement in ICOP in Gloucestershire originated through initial agreement to participate between the OPCC manager with oversight of the ICV scheme and the chief inspector with operational responsibility for police custody. Further, as there had not been a formal inspection since 2015, it was anticipated that one might be imminent and the adoption of ICOP was considered to be one way of demonstrating commitment to standards in custody and increasing scrutiny.

In total 74 CRRs were conducted by ICVs at Gloucestershire's custody suite at Quedgely. Additionally, two 'enhanced' visits occurred as part of the ICOP pilot. Unlike other ICOP sites, Gloucestershire OPCC and Constabulary have continued as normal with ICV activity in custody during the COVID-19 pandemic and accordingly OPCC staff have not been required to conduct CRRs directly as part of ICOP.

4.1.4 Humberside

In 2017 HMICFRS conducted an inspection of Humberside police, leading to an extensive action plan relating to the re-organisation of custody in the county. Participation in ICOP originates in the ICV scheme manager approaching police colleagues and obtaining senior-level authorisation to proceed, with activity linked to the custody suite in Grimsby, a new-build facility which demonstrates key organisational changes set in place post-inspection. A total of 31 custody record reviews were conducted by ICVs as part of ICOP, with none carried out solely by the scheme manager on account of COVID-19. A programme of 'enhanced' custody

visits was also planned, but because of COVID-19 conditions affecting custody, this was not possible to be carried out within the timeframe of the pilot.

4.1.5 Leicestershire

Initial personal support from the PCC for Leicestershire provided impetus for Leicestershire to become an ICOP pilot site. For this involvement a cohort of ICVs were trained in the CRR methodology and reviewed records from Leicestershire Constabulary suites at Beaumont Leys, Euston Street and Keyham Lane.

A total of 96 CRRs were conducted as part of the ICOP pilot, including 31 that were carried out by the ICV scheme manager on account of COVID-19 conditions affecting custody. For its involvement in ICOP, the Leicestershire ICV scheme did not participate in ‘enhanced’ custody visits.

4.1.6 Nottinghamshire

In 2018 HMICFRS conducted an inspection of Nottinghamshire Constabulary, which raised concerns about detainee welfare. Participation in ICOP was therefore promoted by the PCC as a means of strengthening governance in custody at the suites in Nottingham and Mansfield.

A total of 86 CRRs were conducted as part of the ICOP pilot including 32 that were carried out by the ICV scheme manager on account of COVID-19 conditions affecting custody. The Nottinghamshire ICV scheme did not participate in ‘enhanced’ custody visits.

4.2 Outputs and outcomes

4.2.1 Summary of outputs

The following table summarises the outputs of ICOP– the number of CRRs and enhanced visits that took place across Derbyshire and the five pilot sites, derived from survey returns completed by scheme managers (see Appendix D for the survey format) and relating to the period 01 September 2019 – 30 April 2020

	D	DP	G	H	L	N
Total number of CRRs during pilot period	208	136	74	31	96	86
Number of CRRs completed by ICVs	157	127	74	31	65	54
CRRs completed by scheme managers	57	9	0	0	31	32
‘Enhanced’ custody visits conducted	71	9	2	0	N/A	N/A

Here we observe a wide variation between sites in the total number of CRRs conducted. Interrogating the data returns, we understand that only the Gloucestershire pilot continued with routine ICV activity in the CRR post-lockdown. We also note the very limited number of ‘enhanced’ visits conducted across Dyfed-Powys, Gloucestershire and Humberside (cut short on account of COVID-19) with Leicestershire and Nottinghamshire non-participants in this part of ICOP. These figures contrast with a significant number of ‘enhanced’ custody visits conducted in Derbyshire.

4.2.2 Summary of outcomes

To evaluate pilot outcomes, we asked ICV scheme managers to identify the impact that ICOP has had on understanding detained persons’ experience of custody across a range of fields specified within the CRR questionnaire developed by pilot sites and ICVA. We also asked sites to provide details as to how impact can be evidenced across the period of the pilot and how changes in police practice in custody can be evidenced. We further asked scheme managers to score the impact of each area upon detainee experience in terms of significant impact; some impact or negligible or no impact and to explain their choice of score.¹

Responses to this exercise that relate to areas of **respect, dignity and detainee safety** are listed below:

Area of custody practice	Description
Addressing religious requirements	Three sites described the CRR as effecting changes to custody practice through data collection and/or the updating of a leaflet explaining detainees rights and entitlements. One further site has flagged this theme with the police and is now awaiting changes to the Niche data system to better record religious requirements
Addressing dietary requirements	Five sites described the CRR as evidencing improvements in addressing dietary requirements and/or improving data capture in relation to this field.
Instruction in use of cell call bell	Three sites describe significant improvement in evidencing instruction in the use of the call bell, with

¹ Note: On reviewing scoring data from the survey, we discovered that ‘impact’ had been assessed both from a detained person’s perspective, and from an OPCC/police perspective so we have decided not to provide numerical ratings but rather summarise the descriptions provided by scheme managers in relation to each area of custody.

	the remaining three stating that this was already being evidenced pre-CRR
Instruction around toilet pixilation	Five sites describe significant improvement in instruction around toilet pixilation, while one describes an ongoing debate within the force around extending the pixilation policy as it applies to female detainees be extended to male detainees.
Assignment of female detention officer to female detainee	Four sites describe the CRR evidencing full compliance in this field in relation to adult females, and two in relation to juveniles. The same two describe females as having access to (rather than being assigned) a female detention officer if needed. The CRR in two sites indicates potential non-compliance following shift change.
Provision of menstrual products	Three sites describe the CRR as evidencing full compliance, while two have identified this field as an issue for follow up between OPCC and the police
The setting of observation levels	Four sites report the CRR as evidencing no particular concerns in relation to the setting of observation levels while two have used it to raise issues with the police.
Removal of clothing & laces/provision of safety suits	Two sites stated that the CRR had surfaced concerns around record keeping in this area, while another stated that the CRR had helped to significantly reduce the practice of removing shoelaces following effective risk assessment

Responses to fields that relate to **waiting times and access to services** are listed below:

Area of custody practice	Description/explanation
Length of time in custody	Five sites identify the CRR as playing an important role in provoking and maintaining ongoing scrutiny in relation to length of time in custody.
Access to a solicitor (including waiting times)	While two sites state that the CRR has not raised any particular concerns in relation to access to a solicitor or legal services, four sites identify this field as being of potentially high impact to detainees (assuming data is accurately collected by the police), while as an outcome frequently out of direct control of the police. One site considers this as an area for

	potential wider OPCC investigation and future developmental work.
Access to mental health/L&D (including waiting times)	Four sites identify the CRR as playing an important role in monitoring access to mental health and L&D services, while one used this field to track a reduction in average waiting times. Concerningly, the police custody data system in one force does not have a 'flag' for mental health, and so is not able to flag concerns or monitor access to services.
Access to Appropriate Adult (including waiting times)	Five sites identify the CRR as playing an important role in monitoring access to AA services, acknowledging that waiting times and access can be problematic.

Survey participants also identified a range of additional areas of custody practice which have positively impacted upon detainee experience which have occurred as a result of the introduction of the CRR. Some of these are listed here:

Area of custody practice	Description/explanation
Sleeping reviews	Two sites noted that the CRR has shown that sleeping reviews are not always happening on time. In both cases, this area is now included in reports and will continue to be monitored.
Custody staff 'copying and pasting' when updating detainee records	In one site, the CRR has identified the 'copying and pasting' of identical information between records, which can obscure key information like gender. This has now become an area for ongoing scrutiny for the particular OPCC and police force.
Challenging a 'request culture'	One site highlighted how the CRR is helping to address a historical cultural issue within custody, of detainees being required to ask for, rather than automatically being offered particular items and provisions. ICVs have been trained to look out for this and the CRR enables them to more accurately identify what is being offered to detainees and when.
Detainees with mental health issues that may require an appropriate adult	One site identified a good example of how the CRR process has increased ICVs' understanding of custody such that they are questioning and interpreting data in a sophisticated way. Where detainees are identified as having mental health issues, ICVs are

	closely checking the data for (lack of) the appointment of Appropriate Adults and solicitors. NOTE: Heavy redaction of records would render this level of detailed scrutiny impossible.
Providing an explanation for why YP have been detained overnight	One site has used the CRR process to identify and challenge a lack of rationale for detaining young persons overnight. With the benefit of having been operating for a longer period than the pilot sites, over time, ICVs have seen a dramatic improvement in the recording of rationale for this situation.

Participants also identified a range of additional areas of detainee experience and custody, identified in CRRs which, while not having yet led to changes, have set in train internal audit trails and discussions with potentially beneficial future outcomes.

Area of custody practice	Description/explanation
Identifying the need for alternative and secure accommodation for children	One site has identified the CRR process as instrumental in furnishing the police and OPCC with evidence of the ongoing need for the provision of alternative and secure accommodation for children. Here the CRR is contributing to a dataset which stakeholders hope to use to lobby for national level change.
Recording the movement of detainees within custody	In one area, the CRR process highlighted a significant deficit in the recording of detainees' movements during detention. This made it impossible to tell if perceived delays were legitimate (e.g. because the detainee had been taken to hospital) or not. The drive to improve recording in this area is described as ongoing.
Recording of gender/ethnicity	One site indicated that the CRR process has highlighted inconsistencies in the recording of key information such as gender and ethnicity which is important in relation to monitoring potentially vulnerable groups. NOTE: this issue was only apparent because records were un-redacted. In sites where data is redacted, such inconsistencies may be going unnoticed.
COVID-19	An unintended consequence of changes to normal practice as a result of COVID-19, has been to

	highlight the value of CRRs in enabling a degree of scrutiny of police custody to continue even where physical visits have been impossible.
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In addition to the questionnaire data, we also asked Derbyshire and ICOP pilot sites to provide documentary evidence of: available monthly reports/returns across the duration of ICOP to end April 2020; documentation/audit trails relating to where ICVs have identified specific areas of concern and how these have been resolved/escalated; and, any relevant recent reports including PCC annual report(s) HMICFRS report(s) and minutes from internal meetings relating to police custody.

Due to their shorter periods of operation it has not been possible to evidence sustained outcomes in pilot sites relating to the implementation of the CRR and 'enhanced' visiting. However, based upon the longer timespan for activity in Derbyshire, and survey returns and other documentation, we can confidently highlight the following diverse outcomes as being directly linked to the additional scrutiny that the CRR process provides, and which could not have been so readily evidenced during routine ICV visits.

- Improvement in the recorded rationale for detaining children overnight and improvement in the recording of contact between the force and the local authority when looking for beds
- Highlighting for PCC action the need for engage with relevant agencies around deficits in the provision of appropriate alternative accommodation for children and young people, and in relation to the availability of mental health beds
- A range of welfare and wellbeing outcomes, including:
 - Detainee instruction in the use of cell call-bell: rising from 14% to 90%
 - 'No detail in custody record' for instruction around toilet pixilation: reducing from between 44% and 92% of records examined to between 0% and 33% (dependent upon sample)
 - Assignment of female detention officer to female detained person: rising from 0% to 100% compliance
 - Provision of menstrual products to female detained person: rising from 33% compliance to 100%
 - The removal of shoelaces: reduction by 10%

These outcomes demonstrate the clear potential of the CRR to help deliver a wider range of positive outcomes within both custody practice and partnership working than can be achieved through routine ICV custody visiting (as vital as this is).

4.2.3 Evaluation of outputs and outcomes

Data and documentation provided by schemes shows the greatest immediate impact of CRR upon the experience of detainees to have been in relation to areas of respect, dignity and safety, where recording systems in custody have been improved and maintained. A relatively lower level of impact in relation to waiting times and access to services was recorded by scheme managers, possibly implying that these more complex issues are less remediable via routine administrative procedure – but rather require concerted partnership working, frequently with non-police stakeholders. However, the very initiation of a CRR creates an immediate outcome in that it requires the police to systematically record aspects of practice in custody which may have not been previously done. Further, the establishment of the CRR mechanism plays a part in creating a positive cycle of monitoring and improvement in custody, which has led to both examples of small systemic change as well as individual improvements in single areas of custody practice.

Because the CRR makes use of (and is dependent upon) the data system used by a particular force, it is not able to actively monitor fields which are not incorporated. For example, one participating force does not have a 'tag' denoting mental health concerns, meaning that it is not possible for the CRR process to cross-reference police concerns in this area with the records kept. However, the CRR mechanism does hold the potential to highlight (and escalate) such areas of concern with a view to seeking resolution through discussion between the OPCC and Police.

4.3 Learning from the pilot process

In implementing ICOP, ICVs police and OPCC stakeholders encountered a range of issues and challenges, many of which were shared across pilot sites. Based on detailed feedback from stakeholders from PESTLE evaluations, ICOP team meetings, focus groups and individual discussions and interviews with stakeholders, this section summarises some of the key issues, experiences and learning from the pilot process. This is divided into four parts which summarise the crucial perspectives of ICV scheme managers/OPCC staff, ICVs themselves and the Police in relation to ICOP; key supportive factors in progressing pilot activity; key challenges and obstacles; and the learning gained from pilot closure and the impact of COVID-19.

4.3.1 Stakeholders' perspectives on ICOP

ICV scheme managers and OPCC staff

In team meetings and away-days facilitated by ICVA, and in focus groups, ICV scheme managers described holding a critical role as 'champions' for ICOP in their OPCC/force area and in terms of holding responsibilities towards multiple stakeholders for progressing the pilots and managing the process of scrutiny.

- As the primary contact with ICVs, scheme managers were required to effectively promote and negotiate the idea of participating in ICOP, addressing any concerns around changes in role and activity, and also to provide training to engage with the process
- As the primary contact with custody in relation to the work of ICVs, scheme managers were largely responsible for engaging with custody inspectors and sergeants to promote and implement the new methods, and also for liaising with specialist policy and data protection teams to enable the CRR and 'enhanced' visiting arrangements to proceed, for example by seeking agreement and cooperation around the redaction of records for the CRR.
- Additionally, ICV scheme managers have held responsibility for managing the feedback process within OPCC and the police following on from CRRs. Scheme managers were responsible for negotiating potentially 'difficult' or organisationally exposing discussions where areas of concern have been raised by ICVs.

The fortnightly 'team ICOP' meetings, scheduled away days and the dedicated thread for pilot sites on ICVA's members site represented crucial resources for ICV scheme managers in progressing work locally. As invited observers to this process, in our role as independent evaluator it was clear that ICVs had encountered a range of organisational and systemic challenges (further details in section 3.3.3) which were able to be aired and explored in these forums, and for possible solutions to be discussed. Despite the level and range of issues faced, scheme managers demonstrated throughout a positive (and diplomatic) approach to teamwork and problem solving.

ICVs

The ICVs we engaged with across pilot sites universally welcomed participating in ICOP, seeing the CRR as an opportunity to strengthen their understanding of police systems and processes, and attaining a deeper and broader level of scrutiny that could not be obtained through conventional custody visiting. The contribution of ICV scheme

managers to training and the wider implementation of ICOP was also appreciated, as were opportunities (when available) for the sharing of practice with fellow ICVs and scheme managers at a regional level. ICVs also welcomed the relationship-building with custody sergeants and inspectors during the development of the pilot and at routine CRR review meetings. ICVs also expressed pride in the quality of their relationships with staff in custody, considering this to have required sustained time and effort on their part to achieve, both in relation to routine custody visiting and ICOP.

ICVs saw the CRR process as actively strengthening scrutiny, and also providing a means for demonstrating continuity in relation to custody visits: "One of the most rewarding things that happened for me was a visit to Buxton, and then a fortnight later I did a CRR and I saw that record". They further observed how the kind of scrutiny that can be applied within the CRR can also provide more challenging or "difficult" feedback in relation to systems and processes in custody, rather than within the routine visits which ICVs described as being more likely to furnish positive feedback or "good news" for the police.

However, despite the broadly positive response to ICOP, ICVs did state a number of reservations: One shared area of concern was the formatting and quality of paper CRR records, which having been printed from a database are frequently highly repetitive and take a significant amount of time to learn to read and scrutinise. Further, custody records "are not designed to be printed" and information differs significantly from the electronic data display that custody staff engage with in their daily work – making the exercise of effective scrutiny even more difficult.

Another area of concern was around the practice (except for at one pilot site) for prior redactions being made to custody records, making even more challenging the task of reviewing records. Referring to their mandated statutory role under the National Preventive Mechanism, some ICVs also questioned the legitimacy or necessity of being provided with redacted records in the first place, complaining that they are left unable to gauge if important information has been withheld. Concerns were also expressed about the quality of redacted custody records, and level of redaction applied, with one group of ICVs from a pilot area reporting that even formal custody record numbers were redacted from paper copies of CRRs, on the supposed ground that even this data "contravened GDPR".

Another area of concern expressed by ICVs who had participated in 'enhanced' custody visiting arrangements was the length of time that visits potentially need to take to take in order for booking-in (or out) to take place, as well as checking the wellbeing of detainees and communal areas of custody. One solution proposed by ICVs was for

them to observe booking in and out on a discretionary basis, dependent upon the conditions in custody and time constraints. Further, some ICVs expressed concerns about electronic data inputting around both CRR and custody visits, stating that some had been put off participating in ICOP because of their unfamiliarity with the IT systems, or their usability.

Police

Police custody managers at Inspector and Chief Inspector level who had been active in the decision process that led to their force (and suite) participating in pilots, or who otherwise had expressed a professional interest in raising the level of scrutiny in custody practice were usually broadly supportive of ICOP. Here, the oversight of policing systems and processes and the wellbeing/human rights of detainees that ICVs provide, were strongly valued, as was their perceived professionalism and willingness to challenge practice as “an extra pair of eyes” within custody where “ICVs drive how things are done”. In these circumstances police stakeholders described how they had worked with ICV scheme managers to promote sign off to participate in ICOP within strategic forums and also helped to work with cohorts of ICVs over a period of time to help “raise the game” of scrutiny within practice (see *section 3.3.2 – Key supportive factors* for examples of positive practice involving custody managers and ICV activity within pilots which we have identified).

However, despite mainly positive responses from police colleagues to ICOP and ICVs, some expressed candid reservations about the programme, and indeed about the value of ICV scrutiny in police custody. Here, some concern focussed around the perceived drain upon police time and resources that accompanied admitting “unpaid volunteers” into police custody, as well as the efforts required to respond to their requests for information. Further concerns were also expressed around the resource implications associated with redacting custody records for review and of the perceived risks to security or detainee confidentiality which might ensue from ICOP and ICV activity more generally (see *section 3.3.3 – Key challenges* for further details).

4.3.2 Key supportive factors

From discussions with stakeholders at all pilot sites and also learning from the work in Derbyshire, we have identified a number of supportive factors that in combination have helped to facilitate the establishment and successful progression of pilots – and which in their absence have contributed to the occurrence of a range of organisational and systemic challenges:

- Close collaboration between an ICV scheme manager and a custody inspector
A strong working relationship between the ICV scheme manager and an inspector or chief inspector with oversight of custody represented a crucial supportive factor for pilot activity; actively supporting the progress of the pilot and seeking resolutions where problems occur; acting as ‘champions’ for the project within both the OPCC and police’s systems and strategic forums.
- Close work between ICVs, scheme managers and custody staff
Following on from a close working relationship between an ICV scheme manager and a custody inspector was the modelling of close working relationships between ICVs, OPCC and custody staff. Here, ICVs represented a respected and welcomed part of the custody ‘team’ and the scrutiny they provided through ICOP and custody visits were clearly seen to inform a wider culture of continuous improvement.
- Senior-level support and calculated risk taking
The existence of senior-level buy-in and support for ICOP participation within the OPCC (at PCC or senior manager-level) and the police (at ACC-level or higher) for ICOP participation appeared to be a crucial resource for ICV scheme managers. Those sites which lacked avenues for senior-level mediation had to successfully and assertively engage in ‘upwards management’ to overcome possible objections to ICOP (*see section 3.3.3 – Key challenges* for further details).

One particular consequence of holding senior-level support for ICOP appears to be around the granting permission for the OPCC and the Police to take a calculated risk to facilitate pilot development – as appears to have been the case with Humberside. Here, because of the support of the Assistant Chief Constable with oversight for custody, a decision was made to enable ICVs to access unredacted custody records for the CRR.

- ‘Challenging’ discussions being modelled at all levels
We also observe that the scrutiny of ICVs within ICOP appeared to be most welcomed by OPCC staff and the Police where evidence existed of a wider organisational culture which consciously and expressly modeled holding ‘challenging’ discussions at all levels. Within pilots this capacity to challenge and be challenged appeared to be particularly important in what one police stakeholder described in a focus group as the “respectful but robust” discussion between scheme managers and custody inspectors in relation to CRR findings.

4.3.3 Key challenges

By engaging with ICVs, OPCC staff and the police, we have identified a number of commonly occurring areas of challenge that were encountered within pilots and which hold repercussions for both ICV systems and processes, and for wider policy. Where these have occurred, careful negotiation has frequently been required to progress ICOP.

- Limited organisational 'capital' to progress pilot implementation

We observe how on occasion scheme managers and other pilot 'champions' have lacked the necessary level of organisational 'capital' to progress work locally. In such circumstances, even where senior-level sign up and support for ICOP has been granted, pilot activity has sometimes become blocked by un-supportive middle-ranking police officers (most frequently working in police custody or in specialist policy or data protection functions). This blocking can have knock on effects for custody visiting as a whole, for example by provoking weaker and less mutually supportive working relationships between ICVs and custody staff.

- Objections and obstacles to ICOP and the CRR process

ICV's and scheme managers have described, and we have observed, a range of objections to ICOP that have been raised on occasion by OPCC staff and police officers.

- Security objections to ICVs as 'volunteers' (rather than individuals holding a mandated statutory function in an unpaid role) having access to police data-sets.
- GDPR objections to ICVs as 'members of the public' holding access to personal information around detainees (on two occasions this objection was qualified by police officers expressing concern about ICVs' professionalism and wellbeing should one discover from reviewing an unredacted custody record that they were living next door to a sex offender).
- Strict redaction of 'personal' data for CRR made a requirement by police policy and data protection teams.
- Objections expressed by the police in terms of time and resource implications involved in redacting custody records for the CRR, and that the time spent redacting CRR records is not an operational priority for police data protection teams.

- Objections raised by senior OPCC staff that the Code of Practice for Independent Custody Visiting does not provide a sufficiently valid frame to permit CRRs to take place - particularly in relation to the requirement for prior consent to be given by a detainee in order to view their custody records during ICV visits.
- Objections raised that 'enhanced' custody visits potentially violate the privacy of detainees during 'booking-in' and 'booking out'.
- ICV work being frustrated by limited awareness of its role and function
A common experience of ICV scheme managers and ICVs participating in ICOP has been a routinely low level of awareness among police stakeholders of the statutory function of ICVs enshrined in the National Preventative Mechanism (NPM) and the Operational Protocol to the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). Accordingly, scheme managers describe having to work hard to educate police colleagues about the role and function of ICVs and counter attitudes that see them as an encumbrance to 'core' police activity. Further, one ICV scheme manager described having a difficult working relationship with one former custody inspector, who expressed dismissive and derogatory comments about ICOP, even when technically being obliged in their role to facilitate police engagement with the programme.
- Negotiating scrutiny and exposure
One challenge that engagement in ICOP and especially the delivery of the CRR appears to highlight, is around negotiating and managing a tension between scrutiny and exposure. We note from the audit/feedback trails provided by schemes for the evaluation that CRR data has the potential to highlight difficult or contentious topics relating to the treatment of detainees, and that a challenge does exist in the relationship between OPCC and police as to which data from the CRR process reaches the public domain and which is internally minuted.

4.3.4 Elements of promising practice

In engaging with scheme managers, OPCC staff, ICVs and police colleagues we have been struck with how engagement with ICOP, and the discussions that are generated through new forms of scrutiny being applied to police practice in custody, have helped spur new thinking and creativity.

- Opportunities
A range of possible developmental and investigatory opportunities have been identified by stakeholders, including the coordination of ICV work with themes

identified in HMICFRS inspections; providing a more robust and informed oversight of healthcare and Liaison and Diversion services in police custody; establishing what one ICV scheme manager described as a 'virtuous cycle' – of ICV development, scrutiny, change; and, in the context of a culture of continuous improvement using the CRR to support preventative and proactive approaches.

- The use of data

A range of ideas have been generated around how data from the CRR and 'enhanced' visiting could be adapted and deployed in the future. These include adding flexibility/changing the format for questionnaires according to presenting needs and issues around custody; developing and utilising 'proxy' measures to identify and address qualitative and cultural factors in custody practice; and, triangulating CRR data with other 'dip-sampling' exercises conducted by OPCC and the police.

- Learning from COVID

While we have seen the arrival of COVID-19 triggering an end to ICV activity and participation in ICOP in most areas, we are heartened to hear from the example of Gloucestershire which as well as maintaining ICV visits has also introduced a weekly skype meeting involving ICVs and the Chief Inspector with operational responsibility for custody.

The CRR has provided a mechanism with which to continue providing scrutiny that would otherwise not be possible in most areas, for example in Derbyshire the CRR questionnaire has been amended to streamline the process and target particular themes during this period.

4.4 Discussion

4.4.1 Evaluating the success of ICOP

Despite only being operational for a short period of time during 2019 and 2020, the Independent Custody Observation Pilot has demonstrated the capacity the Custody Record Review to strengthen the level of scrutiny of police custody practice delivered by Independent Custody Visitors. Through conducting CRRs, ICVs effectively complement the 'snap shot' of conditions which can be obtained in conventional visits. The CRR methodology also clearly enables ICVs, PCCs and the police to work thematically and strategically: for example, to investigate custody practice and outcomes in relation to particular demographic cohorts (e.g. women, children, BAME, foreign national detainees), particular areas of need (physical health; mental health; learning disability; substance misuse), and access to services (legal, AA, medical, liaison and diversion).

Due to the impact of COVID-19 leading to only a limited number of interventions, it was not possible to effectively evaluate the impact of 'enhanced' custody visits. However, in our view they remain a promising additional means for providing independent scrutiny in police custody and broadening the palate of interventions that ICVs can provide. ICVs in ICOP pilot sites have strongly welcomed the new opportunities that both the CRR and 'enhanced' custody visiting afforded for better understanding the detainee 'journey' and scrutinising police practice in custody. They also welcomed the insights into police custody procedures and developmental/training opportunities that engaging with ICOP offered.

Analysis of the large volume of process data with which we have been presented, strongly suggests that the CRR and 'enhanced' custody visiting represent elements of a more 'dynamic' form of scrutiny. However, it is fair to observe that engaging in ICOP has necessarily disrupted, and in some cases slightly strained expectations and relationships between ICV, OPCC and the police. However, the large majority of stakeholders involved in the pilot with whom we communicated, and nearly all participating ICVs felt the potential benefits of the approach do outweigh by far the challenges. As such, we believe there to be no obvious reason why the elements of ICOP should not augment and become a routine part of ICV activity.

The impact of ICOP upon strategic-level discussions involving OPCCs and police remains largely untested, due mostly to the relatively short implementation time of the pilot. The lack of longer-term data illustrating the feedback loop and mechanism for escalating concerns or issues which cannot be resolved immediately, makes it impossible to fully measure impact/outcomes and represents an inevitable limitation of the evaluation. In Derbyshire we have an example of this regime having been in place for longer, and therefore an opportunity exists for a more detailed strategic impact evaluation to be conducted, which falls outside the remit of this investigation.

4.4.2 Implications for ICV systems and processes

The CRR element of ICOP, successfully implemented by all five pilot sites, at least for a period of time, represents an important means of broadening and deepening the awareness of ICVs of police systems and processes. This knowledge informs their understanding of a detainee's 'journey' through custody and in turn improves the quality of their questions of custody staff and their ability to hold the police to account on behalf of the OPCC. In all cases, ICVs, OPCC and police staff recognised the value of this element of ICOP such that the presence of effective CRR arrangements could be seen as a sign of systemic health. The changes to normal practice invoked by the recent COVID 19 'lockdown' have also provided pilot sites with an opportunity to

identify creative ways of working in order to maintain some degree of scrutiny. The CRR methodology is sufficiently flexible that it does not have to be undertaken solely by ICVs and in most cases, scheme managers have been able to continue with this element of the ICV role.

The ICVs with whom we engaged demonstrated a strong commitment to their role and skills, tenacity and ingenuity in adapting to the new way of working, but also a keenness to be more respected in their roles. In particular the redaction process is seen as unnecessary by most and at worst can actively undermine their ability to perform their role effectively. The fact that in one pilot site, ICVs work with un-redacted custody records, indicates that established data protection/GDPR process and concerns should be made open to review. Further, the administrative burden the redaction process places on police/data protection staff serves to further call into question its place in this augmented ICV approach.

While the 'enhanced' visits were only adopted in two sites (and for a short time in one of these before COVID 19 halted proceedings) most ICVs, police and OPCC staff with whom we engaged could see the potential benefit of observing the full detainee 'journey' through custody. Some concern was expressed on both sides about how much additional time ICVs might have to dedicate to their role if undertaking both CRRs and 'enhanced' visits, the value of doing so was understood and broadly agreed to in principle.

4.4.3 Implications for policy

From engaging with stakeholders and reviewing the texts, it is clear that the current Code of Practice for Independent Custody Visiting, published by the Home Office in 2013 does not represent an ideal mechanisms for ICVs, OPCCs and the police to work together to develop or 'flex' approaches to independent scrutiny in custody as:

- it was not written in a way that can readily facilitate the custody record review, 'enhanced' custody visiting, or other evidence and data-based interventions;
- its wording on access to detainees (S53), capacity to allow ICVs access to custody records (S65), feedback systems involving the PCC and police (S80-82), and the assessment of ICV arrangements (S85)
- the statutory role of ICV's in relation to the National Preventive Mechanism and the Optional Protocol to the Convention Against Torture is not cited

The National Standards for Independent Custody Visiting, also published in 2013 by ICVA similarly does not serve to facilitate changes in the organisation of ICV provision represented by ICOP, or reflect the work carried out by ICVA more recently to create a coherent Quality Assurance Framework for ICV schemes.

Our recommendations section will address these issues.

5. Recommendations

Based upon the findings from the evaluation, we make the following recommendations to the Independent Custody Visiting Association:

- Recommendation One
ICVA should work with the Home Office, Police and Crime Commissioners, the Police and other organisations to ‘mainstream’ the custody record review and ‘enhanced’ custody visits within routine ICV practice.
- Recommendation Two
ICVA should lobby for the current Code of Practice for Independent Custody Visiting (COP) to be re-written to enable ICVs to deploy a palate of interventions for holding the police to account in custody. This should include:
 - Explicit reference to the Custody Record review
 - Flexibility to deploy other evidence-based methods, in negotiation involving PCCs, the police, and ICVs including ‘enhanced’ visits
 - Explicit reference to the mandated and statutory role of ICVs in relation to human rights legislation, the NPM and OPCAT
 - A review of sections 53-57 (access to detainees); 58-65 (discussions with detainees); 80-82 (feedback) and 80 (reviewing performance) to incorporate the CRR and ‘enhanced’ visiting activities
- Recommendation Three
ICVA should seek definitive legal clarification around whether, in pursuit of their mandated statutory function to hold the police to account in custody under British and international law:

- prior redaction of CRR records is an actual requirement under the General Data Protection Regulation, and if so under what circumstances should this take place and to what level;
- detainee consent is required for ICVs to view police custody records, or to engage in ‘enhanced’ custody visits.
- Recommendation Four
 ICVA should also lobby for the COP to be rewritten to raise the level of PCC and Police investment in and utilisation of ICV schemes. This should include:
 - The replacement of the existing National Standards with a fully mandated Quality Assurance Framework (QAF)
 - More granular direction around the roles and responsibilities of scheme managers and PCCs in relation to the operation of ICV schemes, including the need to actively build and develop cohorts of ICVs that are representative of local populations
 - More granular direction around the recruitment, training and supervision of ICVs.

6. References

Home Office (2013) *Code of Practice on Independent Custody Visiting* London: Home Office [online]
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/237395/Independent_custody_visitors_code_of_practice.pdf [accessed 25/06/20]

Independent Custody Visiting Association (2013) *Independent Custody Visiting National Standards*

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National Preventive Mechanism (2020) *Background: The UK's National Preventive Mechanism* [online]
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Office of the United Nations High Commissioner for Human Rights [2020] *Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment* [online]

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Appendices

Appendix A: PESTLE questionnaire

A PESTLE analysis is a tool that can be used to identify and analyse a project's key drivers for change by thinking about the context within which it is operating as a whole. It includes standard headings to help you think about issues from different perspectives. These are:

Political – in this context, 'political' means internal dynamics and relationships that have to be managed by the project's stakeholders as well as external factors that are usually out of your control, e.g. a change in relevant government policy.

Economic – in this context, 'economic' means the resources attached to the project, both financial and human.

Socio-cultural – this means anything that might affect the project socially or culturally, e.g. cultural norms, population dynamics, expectations about how things are done etc.

Technical/technological – this means anything to do with technology that might impact on the project, e.g. ICT systems, access to data etc.

Legal – this means thinking about any legal aspects that can impact on the project, e.g. requirements under PACE, agreed timeframes for things like AA's, mental health assessments etc.

Environmental – this means taking into account the project's environment as a whole and thinking about its challenges/strengths, e.g. where the project is located, where project activities take place etc.

How to complete your PESTLE analysis

There is no right or wrong to this, it's just a tool to help you think about the strengths and challenges of your scheme from lots of different angles.

We have included some cues to help you think about each of the areas in turn. You don't have to answer every point and there may be points relevant to your scheme that are not included. For each area, try to think about issues from a police and an OPCC perspective.

When to complete your PESTLE analysis

You need to have started the CRR process before undertaking your PESTLE analysis. We recommend completing the analysis between 1st September and 31st October 2019.

Here are some dos and don'ts:

- Don't try to complete the whole thing in one go

- Keep adding to it on a regular basis as you learn more – maybe put aside half an hour per week to update it
- You may find it easier to think about it one section at a time

When you have finished it at the end of October, you will need to answer these two final questions and submit them by 15th November.

Follow up questions

1. Based on this analysis, what are the key strengths of and challenges for your scheme? (Think about what you are really good at and what you are struggling with).
2. What is your strategy for addressing those challenges and using the strengths to progress your pilot? (Think about where you will need additional help and support).

The PESTLE analysis

Political

- Personal politics – who holds influence or social capital? What are the key relationships required to progress or implement CRR?
- Relational barriers/challenges to successful implementation – key figures acting as blockers/not fully ‘signed up’ to/ the CRR pilot.
- What are the drivers for your Force’s involvement in the pilot?
- Impact of previous or forthcoming HMICFRS/HMIP inspections

Economic

- Resourcing of ICV scheme
- Resourcing of police custody
- Resourcing of police ‘champion’ for ICV scheme and CRR pilot
- Commissioning of custody suites (e.g. in-house or PFI?)

Socio-cultural

- Evaluate ‘warmth’ of reception of ICV scheme (and change of method) within police custody and the OPCC
- Evaluate ‘warmth’ of reception of change of method among ICVs
- Evaluate ‘ownership’ of ICV scheme by PCC

- Balance between 'care' and 'control' within organisational culture
- Impact of historic factors – e.g. serious incidents, deaths in custody

Technical

- ICT systems used
- Access of ICV scheme to custody ICT
- CRR process, i.e. paper-based or electronic and what is the impact/does it work well?

Legal

- Redaction policies – local interpretation of GDPR
- Use of any legalese to 'frustrate' CRR process

Environmental

- Where are the CRRs undertaken? Does this help, hinder or otherwise impact on the process?
- Location and size of custody suites
- Logistics of ICVs accessing custody
- Services available within custody – healthcare, L&D, AA, interpretation, CYP?

Appendix B: 'Virtual' focus group briefing for ICVs

The Independent Custody Visiting Association (ICVA) has commissioned Confluence, an independent consultancy, to produce an outcome and process evaluation of the Independent Custody Observation Pilot (ICOP) which having first been trialled in Derbyshire is now being piloted in Dyfed Powys, Gloucestershire, Leicestershire, Humberside and Nottinghamshire. Due to the impact of COVID-19 upon police operations and the activity of ICVs, it has been decided to now proceed with 'virtual' site visits at locations, which will involve a review of outcome and documentary data as well as telephone interviews/focus groups with key stakeholders. We are particularly keen to speak with independent custody visitors about their experience of engaging with ICOP, and more generally of their experience of visiting custody. To provide further information, we have produced a short list to indicate some of the themes and questions we would like to cover in our discussions with ICVs.

Introductions

1) How long have you been an ICV and how did you come to the role?

Custody arrangements

2) Please describe your custody environment, for example:

- number of suites and location(s)
- history and status - new/old; built for purpose/re-purposed; any planned redesign or construction?
- capacity
- layout
- facilities for detainees
- services for detainees (e.g. healthcare, liaison and diversion, appropriate adult, legal)
- quality of environment for detainees, staff and ICVs

ICV arrangements

3) Describe your typical activity as an ICV and the accompanying systems and processes that exist in relation to the custody record review and in visits to custody

4) Where particular issues are highlighted by ICVs, what systems and processes exist to follow-up and escalate concerns?

The impact of ICOP

5) How has your work as an ICV changed through the introduction of the CRR and new-style visiting arrangements?

6) What do you see to be the benefits of the CRR process? What are the challenges?

7) What difference does 'new style' visiting make for ICVs, custody staff and detainees?

- 8) Is the hard work put into changing systems and processes worth the benefit? If so, how?
- 9) In one sentence, what single piece of advice would you give to an ICV in another area – if their police force/OPCC was embarking on implementing a CRR and 'new style' visiting process
- 10) More generally, what hopes/aspirations do you have for independent custody visiting?

Appendix C: 'Virtual' focus group briefing for OPCC staff and police

The Independent Custody Visiting Association (ICVA) has commissioned Confluence, an independent consultancy, to produce an outcome and process evaluation of the Independent Custody Observation Pilot (ICOP) which having first been trialled in Derbyshire has been operated in Dyfed Powys, Gloucestershire, Leicestershire, Humberside and Nottinghamshire. We have already engaged with independent custody visitors and scheme managers around the implementation of ICOP in their areas, and now wish to listen to key police and OPCC stakeholders through dedicated 'virtual' meetings or telephone interviews to seek their perspectives. We have produced the following short list to indicate some of the questions and themes we would like to cover:

- 1) Describe your role in relation to the work of ICVs and ICOP, including, where relevant: the custody record review process; 'enhanced' custody visits; and the systems and processes which exist for responding where concerns are raised by ICVs
- 2) What do you see to be the benefits of the custody record review process? Have you encountered any particular drawbacks or challenges? What difference does the CRR process make for police work in custody, and for detainees?
- 3) What do you see to be the benefits of the 'enhanced' custody visiting process? Have you encountered any particular drawbacks or challenges? What difference do 'enhanced' visits make for the police work in custody, and for detainees?
- 4) Changing established systems and processes in policing can be difficult. Do you think the hard work involved in changing systems and processes associated with the activity of ICVs is worth the benefit? If so, in what way/s?
- 5) More generally, what hopes/aspirations do you have for how independent custody visiting is or could be carried out in your force?

Appendix D: Questionnaire for ICV scheme managers

1. To what extent have recent HMICFRS reports influenced the decision to become an ICOP pilot? Where this is a factor, please describe how - for example what specific inspection findings led to the decision to proceed with ICOP?
2. How many custody record reviews have been conducted from the implementation of ICOP to the end of April 2020?
 - By ICVs. On what dates did these occur?
 - By scheme managers/OPCC staff in the absence of ICVs. On what dates did these occur?
3. How many 'enhanced' custody visits have been conducted from the implementation of ICOP to the end of April 2020? On what dates did these occur?
4. Please can you evaluate the impact that ICOP has had on identifying detained persons' experience of custody across the following areas:

(1 = no impact; 2 = some impact; 3 = significant impact)

Area	Level of impact	Explanation: how can this impact be evidenced?	Have changes in custody practice occurred in relation to this area? If 'yes' how can this change be evidenced?
Addressing detainees religious requirements			
Addressing detainees dietary requirements			
Instruction in the use of cell call-bell			
Instruction around toilet pixellation			
Assignment of female detention officer to female detained person			
Provision of menstrual products to female detained person			
The setting of observation levels			
The removal of clothing/removal of shoelaces/provision of a safety suit			

Access to a solicitor (including waiting times)			
Access to liaison and diversion/mental health services (including waiting times)			
Access to an appropriate adult (including waiting times)			
Length of time in custody			

5. Please can you identify up to 5 additional areas/issues, where ICOP has influenced detained persons' experience of custody or systems and processes utilised within custody

(1 = no impact; 2 = some impact; 3 = significant impact)

Additional area of detained persons' experience (up to 5)	Level of impact	Explanation: how can this impact be evidenced?	Have changes in custody practice occurred in relation to this area? If 'yes' how can this change be evidenced?