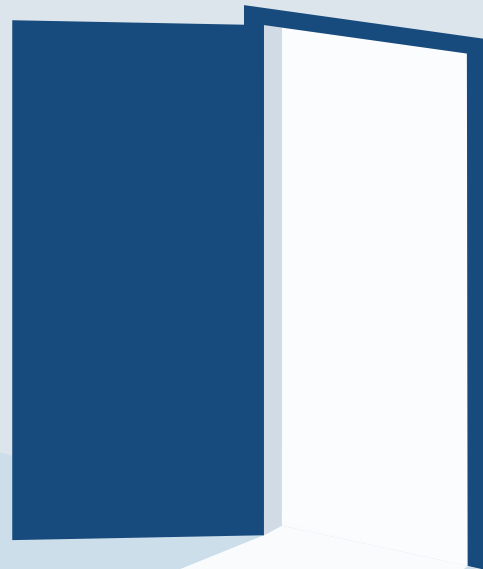


Just visiting?

Exploring the effectiveness of independent custody visitors at monitoring race and gender equality in police custody

Amal Ali and Hannah Pittaway
December 2021



**Criminal
Justice
Alliance**

Foreword



The global protests for racial equality during the summer of 2020 brought into sharp focus the continuing injustice and inequality experienced by minority ethnic communities. This reckoning with the legacy of discrimination and disadvantage has led many sectors, including the criminal justice system, to reassess and ensure that its institutions are not actively perpetrating discrimination. This anti-discriminatory focus extends to gender, which has far too often been omitted from substantial analysis in equality debates. We have a duty to each other and ourselves to be explicit, that we do not tolerate racism, gender inequality or discrimination of any kind. The Criminal Justice Alliance's (CJA) report sends that message out loudly and unequivocally.

Independent custody visitors monitor the treatment of detainees. This monitoring must focus on discriminatory practices, and where found, hold police forces to account effectively to ensure those practices are stopped. This report shows the progress we have made, highlighting examples of good practice. However, it also acts as a challenge to us and independent custody visiting. Thanks to the approval of our board, the Independent Custody Visitors Association (ICVA) has produced an anti-racism action plan, which encapsulates the recommendations in this report. We hope our action plan and this report will act as a catalyst for substantial change not just for ICVA, but across the criminal justice sector and beyond.

Ashley Bertie, CEO, ICVA

The murder of George Floyd in the United States shone the light on policing everywhere and police services across the United Kingdom are rightly being held to account for how they respond to race.

It is important that custody visiting practices are inclusive and can be responsive to the diverse needs of detainees who come from many different racial backgrounds. I welcome the CJA's report on monitoring race and gender equality in custody visiting and would like to thank those independent custody visitors who contributed to this work. The report makes important recommendations, and I will work alongside my Board colleagues to ensure the recommendations for ICVA are implemented.

Natasha Plummer, Vice-Chair, ICVA





The CJA has worked for several years to better understand and set out how the government can increase trust and confidence in the criminal justice system (CJS), particularly among communities who are disproportionality impacted by it. One key way to do this is through enabling members of local communities to scrutinise criminal justice agencies. We have expanded our interest to include whether community scrutiny bodies are effectively monitoring race and gender equality in police custody.

It has been a pleasure to have input from ICVA on this project, aimed at exploring how independent custody visitors monitor equality issues in police custody, and what could be done to ensure that any direct or indirect discrimination is identified and addressed. It has been encouraging to see work already underway to prioritise equality issues and most importantly, the willingness of ICVA staff and board members to take this further, for example through a new anti-racism action plan. This report makes various recommendations for ICVA to improve the analysis and use of data; increase the diversity of volunteer custody visitors; and improve the knowledge and expertise of these custody visitors on key equality issues.

However, ICVA cannot improve monitoring of equalities issues in police custody alone. We also make recommendations to the Home Office, Police and Crime Commissioners and Her Majesty's Inspectorate of Constabulary so they can play their part in improving evidence, policies and processes. We look forward to working with these bodies to help promote and implement the recommendations, which will result in greater consistency and efficacy of equalities monitoring across different police force areas.

The areas for improvement identified in this report are not unique to community scrutiny of police custody. We have found in our work on community monitoring of prisons and policing that data, training, representation and public awareness could be improved across all community scrutiny mechanisms. Addressing these issues will significantly improve trust, confidence and outcomes for people impacted by the CJS, leading to a safer and more equitable society.

Nina Champion, Director, CJA

About

The Criminal Justice Alliance (CJA) is a network of 170 organisations working towards a fair and effective criminal justice system. Our members include charities, social enterprises, think tanks, research institutions and staff associations. They work across the criminal justice system, from policing to prisons, probation to victims' services.

www.criminaljusticealliance.org

@cjalliance

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Katie Kempen, ICVA Chief Executive (Former)

Sherry Ralph, ICVA Chief Executive (Interim)

Ashley Bertie, ICVA Chief Executive

Natasha Plummer, ICVA Vice Chair

Rachael Waldron, ICVA Director

Lord Willy Bach, ICVA Director

Nina Champion, CJA Director

We are very grateful to the funders who support our work on effective scrutiny and equality issues, including the AB Charitable Trust, the Barrow Cadbury Trust, the Allen Lane Foundation and the Esmée Fairbairn Foundation.

Note on language

We do not use 'BAME' or 'BME' acronyms due to the limitations of these terms. Where possible we have disaggregated information and data for different ethnic groups. When we use the term 'minority ethnic', this includes Gypsy, Roma and Traveller people and those from other countries (meaning non-UK citizens) unless we state otherwise.

Disclaimer

This report focuses on race and sex but not the protected characteristic of gender reassignment. It therefore does not directly report on the monitoring of outcomes for transgender people who are detained in police custody. However, the issues raised in this report may also be experienced by transgender detainees. This warrants further attention and research, which should be led by specialist organisations and transgender people who have experience of police custody.

The views expressed in this report are not necessarily those of any individual CJA member or funder.

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Executive Summary

1. **Almost all custody visitors and scheme managers who spoke to us had a clear commitment to equality and diversity. They placed significant importance on tackling discrimination and unfair treatment of detainees in police custody. Even where participants identified challenges, there was generally a strong dedication to overcoming these barriers to improve their effectiveness.**
2. **Over recent years, custody visitors have effectively improved some aspects of welfare and treatment of women and ethnic minority detainees in police custody.**
 - The most noted example was that the Police and Criminal Evidence Act 1984 codes of practice now includes an entitlement for women and girls in police custody to be proactively offered menstrual products. This was a result of repeated concerns from custody visitors about the lack of menstrual products for detainees who have periods, which led to ICVA running a national campaign on detainees' access to menstrual care.
 - Other examples included investigations into the growing number of strip-searches of Black children in police custody; women having access to female staff; and detainees with family overseas being able to make international calls.
3. **While nearly all custody visitors who participated in our project were aware of issues related to race and gender equality in police custody, a very small number of custody visitors showed a limited understanding. These attitudes ranged from a poor understanding of institutional racism and the negative impact of discrimination on detainees to dismissing other custody visitors' and scheme managers' positive efforts to identify and challenge indirect discrimination.**
 - A small number of custody visitors underestimated the impact of discrimination on detainees, dismissing it as harmless and arising out of police custody staff's ignorance, stereotyping or a lack of understanding. The widely recognised definition of institutional racism includes ignorance, thoughtlessness and stereotyping.¹
 - Some custody visitors told us that they did not collect disaggregated data (where it was available) to identify any indirect discrimination against women and minority ethnic detainees. They felt that this would be treating detainees unequally. There was limited understanding that some detainees need to be treated differently to be treated equitably.
 - All custody visitors who responded to our survey reported that they had not witnessed direct discrimination against women or minority ethnic detainees. Some scheme managers told us they were concerned that custody visitors in their scheme were overly confident that this also meant there was no indirect discrimination.

¹ See section 6.34, [The MacPherson report: The Stephen Lawrence inquiry \(1999\)](#).

4. The data that are collected by custody visitors regarding outcomes for women and minority ethnic detainees is inconsistent, as is the data reviewed by scheme managers to identify any potential discrimination.
5. Overall, scheme managers and custody visitors were well trained and were continuing to learn from training sessions provided by the Independent Custody Visiting Association (ICVA) and Police and Crime Commissioners (PCCs). However, there were still gaps in the ability of both scheme managers and custody visitors to identify and challenge direct and indirect discrimination.
 - Scheme managers who answered the survey reported low confidence in understanding the Public Sector Equality Duty (PSED) and its obligations for themselves and their PCC.
 - Several custody visitors were dismissive of the benefits of training which focused on anti-racism or identifying discrimination and instead saw it as 'divisive' and 'harmful'.
6. Custody visiting schemes need to be more diverse to better represent the demographics of their local communities. Most schemes had attempted to increase their diversity in some way or there were plans in place to do this, which was positive. Yet despite these efforts, it remained a challenge. It was concerning that some custody visitors did not identify their lack of diversity as a barrier to effectiveness.
 - Many custody visitors recognised the importance of representativeness amongst their schemes and that schemes needed to be more diverse. However, several custody visitors took the view this could be overcome by being courteous, respectful and pleasant to detainees.
7. ICVA's officers and its Board are committed to becoming an anti-racist organisation. Throughout this project, ICVA has already made positive steps to achieve this objective.

Recommendations

THE HOME OFFICE SHOULD:

1. Update the Code of Practice on Independent Custody Visiting to:
 - Amend requirement 18 so that custody visiting schemes should aim to be representative of those detained in the police custody suite as well as their local community, by age, gender and ethnicity.
 - Include a requirement for PCCs to produce a standalone annual report summarising the activities of their local custody visiting scheme, with a dedicated section on any equality issues that have been identified, in addition to their annual PCC report.
 - Include a reference to the Optional Protocol to the Convention Against Torture (OPCAT) and the National Preventative Mechanism (NPM).²
2. Consider whether a maximum length of tenure for custody visitors would strengthen their independence and should therefore be included in the Code of Practice.
3. Expand the enhanced methodology, including the trialled Custody Record Review process, to all custody visitor schemes in England and Wales to improve the quality of data that custody visitors and scheme managers can access.
4. Require police forces to standardise the way they record and report on data regarding detainees' gender and ethnicity. Any disparities should be explained and addressed. This data should be routinely published as part of the Home Office's statistical bulletins.

THE INDEPENDENT CUSTODY VISITORS ASSOCIATION (ICVA) SHOULD:

5. Develop and publish an action plan setting out how ICVA will become an anti-racist organisation. This position should be reflected in its vision, mission and values. The plan should be co-produced with people from minority ethnic backgrounds who have been detained in police custody or experienced racism.
6. Publish updates on the progress made against the anti-racist action plan in its annual report.
7. Collate and analyse demographic data of custody visitors and scheme managers. This data should periodically be reviewed to ensure PCCs are meeting their obligations on representativeness within the Code of Practice.

² OPCAT is an international human rights treaty designed to strengthen the protection of people deprived of their liberty. OPCAT was ratified by the United Kingdom in December 2003. States that ratify OPCAT are required to designate an NPM (a body or a group of bodies that regularly examines conditions of detention and the treatment of detainees). The UK NPM has 21 members, including ICVA.

8. Update and promote guidance on how to recruit custody visitors more diversely in order to support schemes to increase the number of Black, Asian and minority ethnic visitors.
9. Consult with local schemes on whether a national network for custody visitors from Black, Asian and minority ethnic backgrounds should be established.
10. Consult with local schemes on whether an anonymous mechanism such as a confidential complaints process would support custody visitors to report any discriminatory incidents.
11. Provide further support for scheme managers to identify racist and sexist attitudes and behaviours in custody visitor applicants during the recruitment process. This should include recommended interview questions that may help unmask any discriminatory views and/or bias.
12. Develop guidance for custody visitors on the importance of their independence from the police.
13. Consult with local schemes on whether a maximum length of tenure for custody visitors should be included in the Code of Practice in order to strengthen and safeguard the independence of custody visitors. These findings should be reported to the Home Office.
14. Produce guidance on the responsibilities of custody visitors, scheme managers and the offices of Police and Crime Commissioner's (OPCCs) in relation to: collecting data; reviewing data to identify any potential discrimination; and escalating any concerns.
15. Develop training for scheme managers and custody visitors on how to effectively identify and challenge direct and indirect race and gender discrimination. This training should include how racism and misogyny can be systemic, structural and/or institutional.
16. Support schemes with the delivery of training on race and gender equality in custody. Training should be practical, clearly apply to the custody visiting role and involve external specialist organisations and/or people with lived experience of being detained in police custody. Content should be varied, interactive and make use of a range of engagement tools.
17. Enhance the accessibility of training resources by publishing materials on its website.
18. Update the Quality Assurance Framework to include criteria for assessment on equalities training and the quality of standalone reports produced by PCCs.
19. Update all 'checklists' to prompt custody visitors to:
 - Monitor the ethnicity and gender of detainees.
 - Consider how a detainee's ethnicity or gender impacted their experience of police custody.
20. Ensure that there is a session about equality issues in police custody at the annual ICVA conference and that there is reference to any findings from custody visitors that relate to equality in ICVA's annual report.

POLICE AND CRIME COMMISSIONERS SHOULD:

21. Publish an escalation process which sets out how discriminatory incidents or disparities that are raised by custody visitors are addressed. This process should include details of how PCCs report back to schemes.
22. Ensure custody visitors are routinely collecting data on detainees' race and gender on their visiting report forms.
23. Ensure scheme staff have enough time and resource to undertake meaningful reviews of custody visiting reports and identify any parity of treatment.
24. Promote training resources on race and gender equality developed by ICVA. These should be contextualised to reflect local issues and the needs of detainees in police custody.
25. Publish their structured plans and objectives for delivering anti-racism training. In line with the Code of Practice, this should be published alongside an evaluation of the effectiveness of the training and the extent to which it is achieving its objectives.
26. Mandate training for scheme managers and custody visitors on the Public Sector Equality Duty (PSED) and how this applies to their roles and legal obligations. Anti-racism training should also be included and promoted to improve the local scheme's training practice.
27. Proactively engage with groups disproportionately impacted by police powers and raise awareness of the custody visitor role, encouraging them to become visitors and/or assist with training.
28. Collect demographic data on custody visitors and scheme managers. PCCs should use a standardised data form to collect this data, enabling ICVA to collate and analyse it.
29. Publish and widely promote an annual report on the findings of their local custody visiting scheme which has a dedicated section on any equality issues that have been identified and how they have been addressed.

HER MAJESTY'S INSPECTORATE FOR CONSTABULARY (HMIC) SHOULD:

30. Conduct a thematic inspection on outcomes for Black, Asian and minority ethnic men and women in police custody. This should build on the recent report 'Disproportionate use of police powers: A spotlight on stop and search and the use of force' (2021).³ Intelligence from ICVA should be included as part of HMIC's triangulation of evidence.

³ HMIC, [Disproportionate use of police powers – A spotlight on stop and search and the use of force](#) (2021).

Introduction

The criminal justice system (CJS) is largely hidden from public view, and few people have regular insight into what happens behind its closed doors. It is essential that criminal justice agencies are effectively scrutinised to ensure they are treating all people fairly and humanely in line with international human rights standards. There are many scrutiny bodies working across different parts of the criminal justice system in England and Wales.

The CJA has been working to improve the effectiveness of scrutiny bodies over recent years.⁴ Our work has focused on community-led scrutiny mechanisms, whereby members of the public volunteer their time to scrutinise criminal justice agencies to help build a fairer and more effective CJS. We have found that community scrutiny bodies can face a range of barriers which prevent them from holding criminal justice agencies to account and improving outcomes for people in the CJS.

COMMUNITY SCRUTINY OF THE POLICE

Several scrutiny mechanisms exist to scrutinise policing and the use of police powers in England and Wales. These include stop and search community scrutiny panels; police monitoring groups; independent advisory groups; and independent custody visiting schemes. This report focuses on the latter.

Independent custody visitors are members of the local community who volunteer to visit police stations unannounced and monitor the treatment and welfare of people held in police custody. As of February 2021, there were approximately 1,400 custody visitors working across 46 local schemes in England, Wales, Scotland, Northern Ireland and Jersey. Elected Police and Crime Commissioners (PCCs) are responsible for administering custody visits to detainees in police custody suites across England and Wales.⁵ The Independent Custody Visiting Association (ICVA) leads, represents and supports individual custody visiting schemes to be more effective, ensure the welfare of detainees and deliver oversight of police custody.

Independent custody visitors are members of the local community who volunteer to visit police stations unannounced and monitor the treatment and welfare of people held in police custody.

⁴ One of the CJA's strategic workstreams for 2019-2022 is [effective scrutiny and accountability](#). Previous work in this area is available on [our website](#).

⁵ The governance of the police falls under the remit of the elected Mayor in three police force areas in England and Wales (Greater London, Greater Manchester, and West Yorkshire), who appoints a Deputy Mayor for Crime and Policing to serve as the equivalent of the PCC.

WHAT EFFECTIVE COMMUNITY SCRUTINY LOOKS LIKE

Through our previous work on scrutiny and accountability in the CJS, we have identified four key principles for effective community scrutiny:

1. **Informed:** The community scrutiny mechanism has effective and transparent access to a wide range of data and information and the necessary expertise to understand and analyse that data.
2. **Independent and empowered:** It is led by the community, provides constructive challenge and influences positive change.
3. **Representative:** It reflects the demographics of those most impacted by the criminal justice system in its work.
4. **Open and visible:** It promotes its work widely in the community, including publishing summaries of its work, and is easily contactable by members of the public.

These four principles were developed with regard to community scrutiny of stop and search.⁶

In this report, we have used these four principles as a framework to assess the effectiveness of custody visitors when monitoring the welfare and treatment of both women and minority ethnic detainees in police custody.

MONITORING THE EQUAL TREATMENT OF PEOPLE IN POLICE CUSTODY

ICVA encourages custody visitors to monitor whether the needs of detainees with one or more protected characteristics are being met in police custody.⁷ For example, ICVA encourages custody visitors to consider whether women have been offered appropriate sanitary items.

Though custody visitors monitor whether effective processes are in place in custody suites to meet the needs of detainees with protected characteristics, they do not monitor whether police custody staff meet the requirements set out in legislation (such as the Equality Act 2010) and/or published guidance (such as the College of Policing's Authorised Professional Practice or APP). Instead, custody visitors are focused on monitoring the rights, entitlements and wellbeing of people detained in police custody.⁸

RACE AND SEX DISCRIMINATION

The Equality Act (2010) legally protects people from discrimination and unfair treatment. It is against the law to discriminate against someone because of a protected characteristic. This discrimination can be direct (when you are treated worse than someone else because you have a protected characteristic) or indirect (when there is a policy that applies to everyone in the same way, but disadvantages people who share a protected characteristic).⁹

Each of us has multiple identities that combine to make us who we are. However, having multiple protected characteristics can mean that people may face multiple forms of discrimination.

ICVA encourages custody visitors to monitor whether the needs of detainees with one or more protected characteristics are being met in police custody.

⁶ The CJA published the [Stop and Scrutinise report](#) in 2019, which examined how community scrutiny can be effectively used to hold the police to account and create transparency around stop and search for those affected by it. The College of Policing have since expanded these principles to develop their [Authorised Professional Practice](#) content on community scrutiny of stop and search powers.

⁷ The nine protected characteristics are: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; and sexual orientation.

⁸ See section 2 in [The Code of Practice](#).

⁹ As defined by the [Equality and Human Rights Commission \(EHRC\)](#).

For example, Black and ethnic minority women are likely to have a different experience to Black and ethnic minority men and White women because they are more likely to experience both gender and race discrimination.¹⁰ This is commonly known as ‘intersectionality’.¹¹

EQUALITY DUTY AND GUIDANCE FOR POLICE

The Equality Act also provides for the Public Sector Equality Duty (PSED). The PSED requires public authorities (including PCCs) to give ‘due regard’ to nine protected characteristics including race and sex and consider whether the development of any policy or process will lead to direct or indirect discrimination against people with protected characteristics. It also requires public bodies to publish equality outcomes and report on progress.

In addition to the PSED, the College of Policing has published guidance on equality for detainees and their individual needs. This guidance recognises that reasonable steps should be taken to ensure that detainees’ needs are identified in order to help mitigate against any discrimination.¹²

AIM OF THIS REPORT

The aim of this report is for custody visitors to become more effective in improving the welfare of both women and minority ethnic detainees in police custody. It examines how custody visitors identify and challenge any discrimination (both direct and indirect) against women and minority ethnic detainees and the challenges custody visitors face in doing this. We have made 30 recommendations to rectify the barriers we have identified and to promote good practice.



¹⁰ Agenda and Women in Prison, [Double Disadvantage. The experiences of Black, Asian and Minority Ethnic women in the criminal justice system](#) (2017). Prison Reform Trust, [Counted Out: Black, Asian and minority ethnic women in the criminal justice system](#) (2017).

¹¹ The concept of ‘intersectionality’ was developed by Kimberlé Crenshaw. [Demarginalizing the Intersection of Race and Sex, University of Chicago Legal Forum](#) (1989).

¹² College of Policing Authorised Professional Practice (APP), [Detention and custody. Equality and individual needs](#).

Key disparities in policing regarding race and gender

RACE AND GENDER INEQUALITY IN THE CRIMINAL JUSTICE SYSTEM

In 2017, the Lammy Review confirmed that Black, Asian and ethnic minority people experience the criminal justice system very differently to their White British counterparts and are overrepresented at almost all stages of the criminal justice system, including arrests. The findings of the review have been widely accepted.¹³ The Lammy Review acknowledged that it primarily focuses on the male experience and that a further review should be conducted focusing on Black, Asian and minority ethnic women.¹⁴ The Metropolitan Police Service (MPS) was found to be institutionally racist over two decades ago in Sir William Macpherson's public inquiry. Twenty-two years on from the report's publication, the Home Affairs Select Committee found persistent, deep-rooted and unjustified racial disparities in key areas.¹⁵

At the same time as the Lammy Review was published, the Female Offender Strategy identified key areas of the criminal justice system which routinely failed to recognise and adapt to women's distinct experiences.¹⁶ The Female Offender Strategy promised to accommodate gender-based difference into policing and custody to reduce disproportionate harms to women encountering the system. The Female Offender Strategy was introduced over three years ago, but many of the commitments remain unachieved or only partially completed. The Prison Reform Trust indicated that the government has only fully implemented 31 of its 65 commitments.¹⁷

Stop and search: In the year ending March 2021, Black, Asian and minority ethnic people were stopped and searched at a disproportionate rate compared with White people across England and Wales; for Black people specifically, the rate was almost seven times more likely.¹⁸ The Home Office has recently published data on stop and search rates by age, gender and ethnicity. At all ages, data shows that women from a minority ethnic background are not disproportionately stopped and searched.¹⁹

Use of force: Of the 492,000 uses of force incidents recorded between April 2019 and March 2020, 16 percent (78,284 incidents) involved women.²⁰ Due to limitations of the available data and the way they are presented, we are unable to conduct further analysis on how many of these women were from an ethnic minority background. In the year prior to March 2020, Black people were almost six times more likely to have force used against them than White

13 Ministry of Justice, [Tackling Racial Disparity in the Criminal Justice System: 2020 Update](#) (2020).

14 See Q26, [Justice Committee Oral evidence: Progress in the implementation of the Lammy review's recommendations](#), Tuesday 26 March 2019.

15 Home Affairs Committee, [The Macpherson Report: twenty-one years on](#) (2021).

16 Ministry of Justice, [Female Offender Strategy](#) (2018).

17 Prison Reform Trust, [Female Offender Strategy Matrix](#) (2021).

18 Home Office, [Police powers and procedures: Stop and search and arrests, England and Wales, year ending 31 March 2021](#) (2021).

19 Home Office, [Police powers and procedures: Stop and search and arrests, England and Wales, year ending 31 March 2021](#) (2021).

20 Home Office, [Police use of force statistics, England and Wales: April 2019 to March 2020](#) (2020). BBC News, [Met PC sacked for hitting vulnerable teenage girl with baton 34 times](#) (2021).

In 2017, the Lammy Review confirmed that Black, Asian and ethnic minority people experience the criminal justice system very differently to their White British counterparts and are overrepresented at almost all stages of the criminal justice system, including arrests.

people across England and Wales.²¹ The data shows that officers were more than nine times more likely to have drawn Tasers (but not discharged them) on Black people than on White people.²²

Arrests: In the year ending March 2020, Black women were twice as likely to be arrested as White women. Black women are also twice as likely to be arrested for drug-related offences and public order offences compared to White women. Similarly, Black men were over three times as likely to be arrested than White men across England and Wales.²³ Home Office data tables do not specifically capture the number of Gypsy, Roma and Traveller (GRT) people arrested.

RACE AND SEX EQUALITY ISSUES IN POLICE CUSTODY

Recent inspection reports of police custody suites published by Her Majesty's Inspectorate of Constabulary and Fire Rescue Services (HMICFRS) and Her Majesty's Inspectorate of Prisons (HMI Prisons) have raised issues regarding the recording of detainees' ethnicity data and the incidence of women requesting menstrual products.²⁴

A report published by the joint inspectorates in 2020 on the inspection of police custody suites in Sussex found that there was still room for improvement in meeting the needs of female detainees. Inspectors found that there was a sufficient range of sanitary items for women in each suite, but they were not normally offered until a request was made.²⁵ Unannounced inspection visits to police custody suites have also found detainees were not requested to self-define their ethnicity when being booked into custody. An inspection of Leicestershire police custody suites found officers did not routinely ask detainees to self-define their ethnicity, and in many instances, this was presumed by the custody officer. This meant that the information held was potentially inaccurate, which would have had an impact on how well it could be used to assess fair treatment for all detainees.²⁶ Some police force areas were found to be requesting that detainees self-define their ethnicity. Inspectors found these records to be 'confusing'.²⁷

21 Home Office, [Police use of force statistics, England and Wales: April 2019 to March 2020](#) (2020).

22 Home Office, [Police use of force statistics, England and Wales: April 2019 to March 2020](#) (2020).

23 Home Office, [Police powers and procedures: Stop and search and arrests, England and Wales, year ending 31 March 2021](#) (2021).

24 HMICFRS and HMI Prisons jointly inspect police custody suites in England and Wales at a minimum of every six years. Custody suites are assessed against independent criteria set out in the [Expectations for Police Custody: Criteria for assessing the treatment of and conditions for detainees in police custody](#).

25 HMIC, [Report on an inspection visit to police custody suites in Sussex](#) (2019).

26 HMIC, [Report on an unannounced inspection visit to police custody suites in Leicestershire](#) (2020).

27 See section 3.14, HMIC, [Report on an unannounced inspection visit to police custody suites of the British Transport Police by HM Inspectorate of Prisons and HM Inspectorate of Constabulary and Fire & Rescue Services](#) (2020).

The role of independent custody visitors

WHAT IS CUSTODY VISITING AND WHY WAS IT ESTABLISHED?

Custody visiting was originally introduced in response to Lord Scarman's recommendations following the Brixton riots in 1981.²⁸ The purpose of custody visiting was to provide public reassurance, community oversight and transparency of the welfare and treatment of detainees in police custody.

Independent custody visitors are members of the local community who volunteer to make unannounced visits to police stations and observe, comment and report on the treatment and welfare of people held in police custody. Custody visitors are provided with immediate access to detainees at their local custody suite.

The government is responsible for guaranteeing the functional independence of custody visitors (which includes a legislative mandate, and operational and financial independence). Police and Crime Commissioners (PCCs) have the duty to establish and manage custody visiting schemes in their police force area.²⁹ To do this, each PCC has a named member of staff (often called a scheme manager) who is responsible for administering the local scheme and recruiting volunteer custody visitors across that police force area. Scheme managers are responsible for investigating, resolving and reporting back any issues arising from independent custody visits to the Office of the Police and Crime Commissioner (OPCC) and the local police force.

At the end of each visit, custody visitors complete a report of their findings. Immediate feedback and concerns are reported to custody staff during or at the end of the visit. Copies of the report remain at the station for the attention of the officer in charge. They also go to the PCC and other parties as determined locally. It is the responsibility of the PCC to raise concerns and issues with a designated senior officer who has force-wide responsibilities. The findings of custody visitors can be used by the PCC to hold the chief constable to account. These reports are not published. However, PCCs are required to include an entry about their local custody visiting findings in their annual report.³⁰

THE ROLE OF THE ICVA

Custody visitors are supported by the ICVA, a membership organisation funded by the Home Office, Policing Authority and PCCs. ICVA leads, supports and represents PCCs and Policing Authority-led custody visiting schemes. As part of their membership offer, ICVA provides training and guidance to inform and develop custody visitors' skills, as well as collecting national data on custody visiting. ICVA also acts as a national voice for custody visitors.³¹

Independent custody visitors are members of the local community who volunteer to make unannounced visits to police stations and observe, comment and report on the treatment and welfare of people held in police custody.

²⁸ Hansard, [The Scarman Report](#) HL Deb 25 November 1981.

²⁹ Section 51(1) of the [Police Reform Act 2002](#) requires PCCs in England and Wales to make arrangements for detainees to be visited by custody visitors.

³⁰ See section 82, [Code of Practice on Independent Custody Visiting](#) (2013).

³¹ ICVA website, [Our Purpose](#).

Methodology

Information gathering for this report was conducted between August 2020 and August 2021.

The CJA developed and disseminated a pre-screening questionnaire to custody visitors and scheme managers to determine who was suitable to attend the focus group sessions. Three virtual focus groups took place with a total of 18 participants (seven scheme managers and 11 custody visitors). Due to the geographical spread of participants and COVID-19 restrictions, the focus groups were held online. The focus group discussions focused on four main topics: training; good practice and challenges to custody visitors' work; access to information; and diverse representation in custody visiting schemes.

An online survey was then developed, based on emerging themes from the focus group discussions. This was sent to scheme managers and custody visitors in the 43 scheme areas across England and Wales. A total of 130 survey responses were received from across 27 schemes, including twenty-one responses to the scheme manager survey and 109 responses to the custody visitor survey. All survey responses were thematically coded and analysed according to the CJA's four principles to assess the effectiveness of custody visitors and scheme managers in monitoring outcomes for women and minority ethnic detainees.

Findings

This section sets out the findings according to the CJA's four key principles for effective community scrutiny: informed; independent and empowered; representative; and open and visible. Each section also refers to relevant clauses in the Code of Practice on Independent Custody Visiting.³²

Section one: informed

To effectively perform their scrutiny role, custody visitors require appropriate training and access to a wide range of information related to a detainee's care in police custody. Training should equip custody visitors with the knowledge and skills to spot any potential discrimination and challenge this effectively during their visit. Training for scheme managers should aid them in interpreting and analysing both custody visitors' reports and any data collected by custody visitors that may show discrimination.

The Code of Practice states:

- 'Responsibility for initial and ongoing training lies with the PCCs and a structured plan with clear objectives must be developed in consultation with the police service and the local independent custody visiting community. The PCCs must evaluate the effectiveness of training and the extent to which it is achieving its objectives.'
- '[Custody visitors] must have access to all parts of the custody area and to associated facilities such as cell accommodation, washing and toilet facilities, facilities for the provision of food and medical rooms.'

TRAINING OPPORTUNITIES FOR CUSTODY VISITORS

There are various training opportunities for custody visitors, such as ICVA 'bitesize' training resources; training sessions developed and delivered by scheme managers; and additional training delivered by police staff who have expertise in equalities issues.

ICVA is responsible for providing up-to-date induction training materials and has previously developed two 'bitesize' training packages covering race and gender issues: 'Equality and Bias' and 'Race in Police Custody'. Both resources aim to support custody visitors in understanding the importance of equalities and bias in the context of visiting police custody.³³ Many of the custody visitors who responded to our survey had received this ICVA training as part of their visiting role, which was positive. Generally, custody visitors reported that this training has led to them having a better understanding and recognition of detainees' individual needs, which questions to ask detainees and what checks to complete.

³² [Code of Practice on Independent Custody Visiting \(2013\)](#).

³³ [ICVA website, ICV Resources](#).

92 percent of scheme managers who responded had been involved in equalities and bias training and 43 percent had been involved in training on race in police custody.

Scheme managers were surveyed on whether they had developed or delivered any training on race or gender for their scheme within the last two years. Of these scheme managers, 92 percent had been involved in equalities and bias training and 43 percent had been involved in training on race in police custody. Some scheme managers highlighted how they were developing their training using landmark reviews such as the Angiolini Review or had co-produced further training on protected characteristics with custody visitors.³⁴ Custody visitors in one scheme were also receiving additional training on equality, diversity and bias from police staff with expertise in equalities.

Despite these opportunities to access training, some scheme managers and custody visitors reported that they had not received any recent training on equalities issues. A few custody visitors who had received training noted that it was insufficient.

ANTI-RACISM TRAINING

In February 2021, ICVA hosted a series of anti-racism training sessions which were delivered online by external experts. Half of the scheme managers and a quarter of the custody visitors who responded to the survey had attended the training.

There were mixed responses about the usefulness of this training. All scheme managers who responded to the survey gave positive feedback, as the training had made clear to them the importance of taking an 'anti-racist' stance and understanding the various forms of discrimination that minority ethnic people can face. However, while most custody visitors who attended and responded to the survey found the training useful, over a quarter of custody visitors felt that it was unhelpful and dismissed it as 'common sense'. Some survey responses showed a limited understanding of racism, such as claims of 'reverse racism' (e.g. that it was acceptable for minority ethnic people to be racist against White people) and there was evidence of microaggressions.

'I found the presenters unprofessional and aggressive.' [Custody visitor.](#)

'I was unimpressed by the training as it was all based on Black Lives Matter.' [Custody visitor.](#)

'It's ok if the Black, Asian and minority ethnic community make comments that are considered racist but that does not mean that you can do the same.' [Custody visitor.](#)

DELIVERY OF TRAINING

Scheme managers have taken different approaches to delivering equalities training to their scheme – some training was delivered in person while other schemes had online resources and materials. This mixed approach to training continued during the COVID-19 pandemic as some schemes delivered socially distanced sessions.

Face-to-face equality and diversity training is generally thought to be most

³⁴ [The Angiolini Review: Report of the independent review of deaths and serious incidents in police custody \(2017\).](#)

effective, as it encourages more active participation and interaction.

Some scheme managers had delivered all-scheme training sessions at panel meetings where more custody visitors were present. In one case, this was done because custody visitors had reported to the scheme manager that they felt less comfortable discussing race in smaller groups. However, the limitations of this approach were raised by other scheme managers, who said it consumed a significant proportion of panel meetings.

Other scheme managers reported using online tools and resources. It was felt that making resources available online can make training materials more accessible for custody visitors and enables them to take control of their own learning. Some scheme managers were integrating equalities information into their newsletters, and some had a dedicated webpage for their custody visitors and had promoted ICVA resources within their scheme.

FUTURE TRAINING

Participants were asked what additional support and training should be offered to custody visitors for them to better identify and support the needs of both women and Black, Asian and ethnic minority detainees. They were also asked what more the ICVA and local schemes can do to support custody visitors in recognising and reporting discriminatory incidents. Over a third of scheme managers (39%) and custody visitors (36%) who responded to the survey indicated that they would benefit from further training. Many custody visitors noted the need for further training in different areas, including faith and religion, and exploring intersectionality (where a detainee may have multiple protected characteristics and therefore could experience multiple forms of discrimination).

However, not all custody visitors welcomed further training and specifically noted that they would not benefit from it, as they were confident with identifying racial discrimination. This was due to both their previous training and their life experiences (such as travelling and interacting socially with people from minority ethnic backgrounds):

‘Please no more of this type of training. I think it did more harm than good! I would like training that moves us forward TOGETHER.’ **Custody visitor.**

Custody visitors who responded and who did want additional training on race and gender were clear that it should be practical and relevant, and delivered in person by experts with lived experience of either racism, sexism or being detained in police custody. It should explicitly link to the role of custody visitors and explain clearly how race and gender can shape detainees’ experiences of being in police custody and how custody visitors should monitor their treatment because of this. Practical examples of what custody visitors should do to support women and minority ethnic detainees would also be useful. Some custody visitors who responded to the survey felt that the list of questions they ask detainees (sometimes referred to as a ‘checklist’) needed to be updated by ICVA to include a consideration on how an individual’s race or gender impacted their experience.

Scheme managers who answered the survey reported low confidence in understanding the Public Sector Equality Duty (PSED) and its obligations for themselves and their PCC. Out of the 17 scheme managers who responded, only two felt that they were very confident.

In addition, custody visitors and scheme managers also suggested that open forums to discuss discrimination and to learn from other schemes on the identification and reporting of discriminatory incidents would be beneficial.

Many custody visitors noted the need for further training in different areas, including faith and religion.

COLLECTING AND REVIEWING INFORMATION


ICVA expects custody visitors to record and review data on detainees' race and gender. However, their 'core role' only includes collecting data, which is then reported to scheme managers who analyse any disparities.

Custody visitors were asked what information they request to see during visits to uncover whether there are any disparities in the welfare, rights and entitlements of women and minority ethnic detainees. Responses were mixed – only some custody visitors were effectively collecting data and only some scheme managers were reviewing that data.

The custody visitors who did collect data noted that they gained valuable information about the experiences of women or minority ethnic detainees from various sources. For example, some custody visitors collected information on the use of police powers (such as tasers, spit guards and strip-searches) in the custody suites to monitor whether cases were proportionate and determine whether there were any disparities. Some scheme managers and custody visitors also gained valuable data by conducting reviews of custody records. This is usually done by custody visitors only, although scheme managers also reviewed custody records during the COVID-19 pandemic.

Some custody visitors were unsure what to do with the data they had collected, and questioned or were unsure whether it was being examined more thoroughly by scheme managers and PCCs.

The reasons why custody visitors did not collect data also varied. Some data sources that custody visitors used did not record detainees' ethnicity and/or gender, which made it impossible for scheme managers to identify any indirect discrimination. Some custody visitors did not collect data on gender and ethnicity of detainees at all, as they did not have the option to record this information on their visit monitoring form. In addition, a small number of custody visitors noted that they did not request specific data or disaggregated data in relation to women and minority ethnic detainees because they felt that would be unequal – instead, all detainees should be treated as needing these rights and data related to all detainees should be reviewed in the same way. There was limited understanding that to ensure equal treatment, some detainees (such as women and minority ethnic detainees) may need to be treated differently in order to achieve equitable outcomes.



Some custody visitors were unsure of what to do with the data they had collected and questioned or were unsure whether it was being examined more thoroughly by scheme managers and PCCs.

Scheme managers widely understood the importance of monitoring to uncover any parity of treatment and some scheme managers were taking an intersectional approach to analysing data. However, there was often limited time for scheme managers to meaningfully review this data, with 76 percent of scheme managers who responded to our survey spending under an hour a week collating data on gender and/or race. Scheme managers have reported to ICVA that they have limited time available to analyse data and support their scheme due to competing demands.

Conclusion and recommendations

- Despite some positive and helpful training, there is a need for further training which is clearly applicable to the custody visiting role, involves external specialist organisations and is interactive. There is limited consistency in data collection and analysis between schemes. Schemes are not consistently reviewing data to identify any potential discrimination.
- It was widely acknowledged by custody visitors and scheme managers that custody record reviews gave schemes the highest quality data available and enabled them to disaggregate data and analyse trends. Custody record reviews are currently only running as a pilot in some schemes. This should be extended to all schemes.
- Scheme managers need more support to understand their PCC's obligations under the PSED and more time to review custody visitors' reports and data.
- Update the Quality Assurance Framework to include criteria for assessment on equalities training and the quality of standalone reports produced by PCCs.
- Update all 'checklists' to prompt custody visitors to:
 - Monitor the ethnicity and gender of detainees.
 - Consider how a detainee's ethnicity or gender impacted their experience of police custody.
- Support schemes with the delivery of training on race and gender equality in custody. Training should be practical, clearly apply to the custody visiting role and involve external specialist organisations and/or people with lived experience of being detained in police custody. Content should be varied, interactive and make use of a range of engagement tools.

The Home Office should:

- Require police forces to standardise the way they record and report on data regarding detainees' gender and ethnicity. Any disparities should be explained and addressed. This data should be routinely published as part of the Home Office's statistical bulletins.
- Expand the enhanced methodology, including the trialled Custody Record Review process, to all custody visitor schemes in England and Wales to improve the quality of data that custody visitors and scheme managers can access.

ICVA should:

- Develop and publish an action plan setting out how ICVA will become an anti-racist organisation. This position should be reflected in its vision, mission and values. The plan should be co-produced with people from minority ethnic backgrounds who have been detained in police custody or experienced racism.
- Produce guidance on the responsibilities of custody visitors, scheme managers and the offices of Police and Crime Commissioner's (OPCCs) in relation to: collecting data; reviewing data to identify any potential discrimination; and escalating any concerns.

- Enhance the accessibility of training resources by publishing materials on its website.

Police and Crime Commissioners should:

- Ensure scheme staff have enough time and resource to undertake meaningful reviews of custody visiting reports to identify any parity of treatment.
- Ensure custody visitors are routinely collecting data on detainees' race and gender on their visiting report forms.
- Promote training resources on race and gender equality developed by the ICVA. These should be contextualised to reflect local issues and the needs of detainees in police custody.
- Publish their structured plans and objectives for delivering anti-racism training. In line with the Code of Practice, this should be published alongside an evaluation of the effectiveness of the training and the extent to which it is achieving its objectives.
- Mandate training for scheme managers and custody visitors on the Public Sector Equality Duty (PSED) and how this applies to their roles and legal obligations. Anti-racism training should also be included and promoted to improve the local scheme's training practice.

Section two: independent and empowered

The extent to which custody visitors are independent of the police is crucial to their ability to improve outcomes for detainees, hold the police to account and provide public reassurance about the welfare of those in police custody. Custody visitors should feel empowered to raise any concerns, both with police custody staff during their visit and any serious concerns with their scheme managers, police managers and PCCs after their visit.

The Code of Practice states:

- 'In appointing independent custody visitors, care must be taken to avoid any potential conflict of interest. For example, serving police officers and other serving members of police or PCC staff will be unsuitable for that reason.'
- 'Visitors must be independent persons who are able to make informed and justified judgements and unbiased observations in which the community can have confidence and which the police will accept as fair criticism when it is justified.'
- 'The PCC is responsible for drawing together issues and identifying trends emerging from visits in their area and addressing these with relevant police supervisors.'

Custody visitors often have lengthy tenures which can raise concerns regarding their independence.

INDEPENDENCE

There is a perception that custody visitors might not be functionally independent of the police and that this could undermine their legitimacy.

The 2017 Angiolini Review examined serious incidents and deaths in custody, and argued that the governance structure between the PCC and custody visitors is 'too close' and does not appear to provide custody visitors with the necessary independence from the police.³⁵ The Review recommended that the scope and duties of custody visiting schemes should not change, but they should instead sit under the HM Inspectorate umbrella, as HMIC and HM Inspectorate of Prisons (HMI Prisons) 'operate fully independently'. The government committed to considering how the work of custody visitors could potentially be better aligned with the work of the Criminal Justice Joint Inspectorate (CJJI).³⁶ Two further government updates on the review were published in 2018 and 2021, but no update has been given about implementing this recommendation.³⁷

Scheme managers who responded to our survey also raised the fact that custody visitors often have lengthy tenures which can raise concerns regarding their independence. The Code of Practice states that custody visitor appointments must initially be for three years but no maximum period is stated, although full reviews must take place at least every three years to assess custody visitors' continuing ability to monitor effectively.³⁸ During long tenures, some scheme managers felt that custody visitors have built relationships with police custody staff which could bring their independence into question. For example, one scheme manager commented that some custody visitors need to be regularly reminded that they 'serve the detainees'.

35 [The Angiolini Review: Report of the independent review of deaths and serious incidents in police custody](#) (2017).

36 The [CJJI](#) refers to the joint work of the four criminal justice inspectorates (of Constabulary; the Crown Prosecution Service; Prisons; and Probation). The inspectorates examine issues together that cut across the criminal justice system and involve more than one criminal justice agency. The CJJI was formalised by the Police and Justice Act 2006. [Government response to the Independent Review of Deaths and Serious Incidents in Police Custody](#).

37 Home Office, [Deaths in police custody: government update 2021](#) (2021). Home Office, [Deaths in Police Custody: Progress Update](#) (2018).

38 See section 21, [National Standards for Independent Custody Visiting](#).

CHALLENGING DIRECT AND INDIRECT DISCRIMINATION

Identifying discrimination

Custody visitors were asked if they had ever witnessed an incident of direct race or gender discrimination and scheme managers were asked if a custody visitor had ever reported having witnessed this. All 106 survey respondents who answered this question (17 scheme managers and 89 custody visitors) responded that they hadn't. However, when scheme managers and custody visitors were asked if they had ever found evidence of indirect race or gender discrimination in police custody, 18 percent of scheme managers and 6 percent of custody visitors had identified and raised concerns. These concerns included high volumes of Black children being strip searched; ethnic minority children being kept overnight due to a lack of non-secure accommodation; and foreign national detainees being unable to place international calls to family members.

Some scheme managers raised concerns that too many custody visitors were overly confident that because they had not witnessed direct discrimination against women or ethnic minority detainees, this meant there was no indirect discrimination either. It was identified as a barrier to custody visitors' effectiveness that their focus was on overt, obvious discrimination, and that they had less awareness that discrimination can be more subtle and indirect, particularly in a custody suite where detainees are deprived of their liberty.

'I always have to give the dictionary definition for institutional racism, that there could be indirect or direct practices that are discriminating against a particular group. Then [custody visitors] are like, "Ah, yes, I have seen that."' **Scheme manager.**

Although custody visitors have acknowledged witnessing incidents of indirect discrimination, some custody visitors underestimated the impact of this on detainees, dismissing it as harmless and arising out of police custody staff's ignorance, stereotyping or a lack of understanding, rather than discrimination. The widely recognised definition of institutional racism includes ignorance, thoughtlessness and stereotyping.³⁹

'I have found 'potential bias' is usually unrecognised by perpetrator or harmless in intent or arising out of ignorance rather than malice.' **Custody visitor.**

'Not discrimination but sometimes a lack of police understanding of women detainees.' **Custody visitor.**

However, some custody visitors did note that some police' stereotypes of minority ethnic detainees were down to prejudice and were based on their own preconceptions, rather than the facts; for example, that they are likely to be guilty or are faking medical conditions.

Reporting discrimination

It is vital that any direct or indirect discrimination is also challenged and reported. The majority of custody visitors who responded to the survey said they would escalate any concerns about incidents of discrimination in various ways, such as to a custody sergeant or their scheme manager. Scheme managers also reported various methods of good practice in how PCCs and senior police were reviewing any reported incidents. For example, one PCC had developed a panel including custody visitors, the police and the PCC, where custody visitors can directly raise any issues identified during their visits. Other mechanisms included the PCC establishing regular scrutiny panels and advisory groups with senior police, specifically looking at discrimination and outcomes for detainees with protected characteristics.

It was identified as a barrier to custody visitors' effectiveness that their focus was on overt, obvious discrimination, and that they had less awareness that discrimination can be more subtle and indirect.

³⁹ See section 6.34, [The MacPherson report: The Stephen Lawrence inquiry \(1999\)](#).

All survey respondents (scheme managers and custody visitors) were asked how confident custody visitors were in reporting incidents of indirect discrimination. Scheme managers consistently had lower levels of confidence in custody visitors' ability to report indirect discrimination than custody visitors had in themselves: 64 percent of custody visitors were very confident they would report an incidence of indirect discrimination but only 29 percent of scheme managers were very confident custody visitors would. Similarly, only 3 percent of custody visitors were not confident in reporting indirect discrimination, whereas 18 percent of scheme managers who responded were not confident in custody visitors reporting indirect discrimination.

EFFECTIVE MONITORING OF RACE AND GENDER EQUALITY

Custody visitors and scheme managers were asked for examples of where their monitoring had improved the welfare and treatment of women and minority ethnic detainees, or where they had improved their processes to make their monitoring more effective. Some examples are given below:

Custody record review processes

Some custody visitors and scheme managers have recently started scrutinising entries on detainees' custody records as part of a local pilot. This data has enabled scheme managers to identify and monitor outcomes for women and minority ethnic detainees in police custody and follow up on individual records where there are any concerns.

'We have started scrutinising the entries on custody records for strip searches, checking that they are up to standard and the rationale for that search is thorough.' [Scheme manager.](#)

Support for women

A number of custody visiting schemes reported having improved outcomes for women, such as ensuring pregnant women were adequately cared for during the COVID-19 pandemic; that new mothers could access breast pumps; and that women were aware that toilets were pixelated on CCTV. One custody visitors scheme raised concerns that there were limited numbers of female staff in their local custody suite and female detainees were not being interviewed by women. Their suggestions were adopted and there are now more female staff present.

'The ratio of detention staff is much more equal between male and female, and it is noticeable when you go and visit.' [Custody visitor.](#)

Menstrual care

Custody visitors had repeatedly raised concerns about the lack of hygiene packs and menstrual products for women with periods in custody. Some custody visitors ran pilot schemes for ICVA, which led a national campaign to improve menstrual care for women in police custody in England and Wales.⁴⁰ This led to a review of the Police and Criminal Evidence Act (PACE) Code C and H by the Home Office. As a result, PACE codes were revised in 2019 to include an entitlement for women and girls in custody to be proactively offered menstrual products.⁴¹

A number of custody visiting schemes reported having improved outcomes for women.

⁴⁰ [The Independent Custody Visiting Association \(ICVA\) Annual Report 2017/18 \(2018\).](#)

⁴¹ [ICVA, Menstrual Care and Dignity PACE Code C and H changes ICV Checklist \(2019\). Home Office, Guide to the 2019 revisions to the Police and Criminal Evidence Act 1984 \(PACE\) Codes of Practice C \(Detention\) and H \(Detention- Terrorism\) \(2019\).](#)

Religious requirements

Several custody visitors have raised their concerns regarding outcomes for people of faith. For example, custody visitors have noted how they check Muslim detainees have access to prayer mats and Halal meals, as well as ensuring custody staff effectively monitor their welfare during Ramadan. One scheme manager had also engaged Muslim community leaders on their monitoring processes.

Translation cards

Custody visitors introduced translation cards so they could ask basic questions of detainees who did not have English as their first language. Although custody visitors reported that these were helpful, a scheme manager noted that they do not often get used.

International calls

Custody visitors from one scheme repeatedly raised concerns that detainees were not able to speak to their families if they lived overseas, as the phones in the police custody suite were not set up to place or receive international calls. Custody visitors also raised that this was more likely to affect minority ethnic detainees. In response to these concerns, police staff arranged for international calls to be made.

Use of force

A scrutiny panel was established after custody visitors at one scheme raised concerns around the use of rip-proof clothing. Custody visitors have also scrutinised and raised concerns about the high number of Black detainees who have force used against them, including handcuffs, leg restraints and Taser.

BARRIERS TO MONITORING RACE AND GENDER EQUALITY IN POLICE CUSTODY

Custody visitors and scheme managers were asked on the survey and in focus groups what barriers hinder them from effectively monitoring the treatment of both women and Black, Asian and minority ethnic detainees (see Figure One). Custody visitors identified language and culture as their biggest barrier, but the most common response among scheme managers was the lack of diversity within custody visiting schemes (see Section Three).

Language needs

Some 70 percent of custody visitors and 59 percent of scheme managers thought that language barriers and detainees' interpretation needs were a main barrier to their effectiveness. Some custody visitors specifically commented on the need to have better training on how to identify the needs of a detainee who did not speak English and better ways of communicating with them (such as pictorial guides and online translation services). Scheme managers also raised that inadequate access to interpreters was a national issue.

Dismissing efforts to uncover discrimination

Custody visitors’ primary function is to check on the rights, entitlements and wellbeing of detainees and if there is evidence of disproportionality to raise such concerns. A custody visitor suggested to other visitors on their scheme that data should be collected on the ethnicity of detainees to uncover any disparities in treatment. They told us that this suggestion was dismissed.

‘Somebody said to me, “Well, it doesn’t matter. We don’t need to know. It doesn’t matter what the detainee is. All that matters is [whether they have] committed a crime. It doesn’t matter what ethnicity they are or what colour they are.’ **Custody visitor.**

‘Colour blind’

Some custody visitors have declared that they ‘do not see’ race, commonly known as being ‘colour blind’, which has made it challenging for scheme managers to deliver training on equalities. Custody visitors saw being ‘colour blind’ as promoting equality, as they are treating everyone alike.

‘All custody visitors say I do not see race, I do not see race, we should all be treated the same.’ **Scheme manager.**

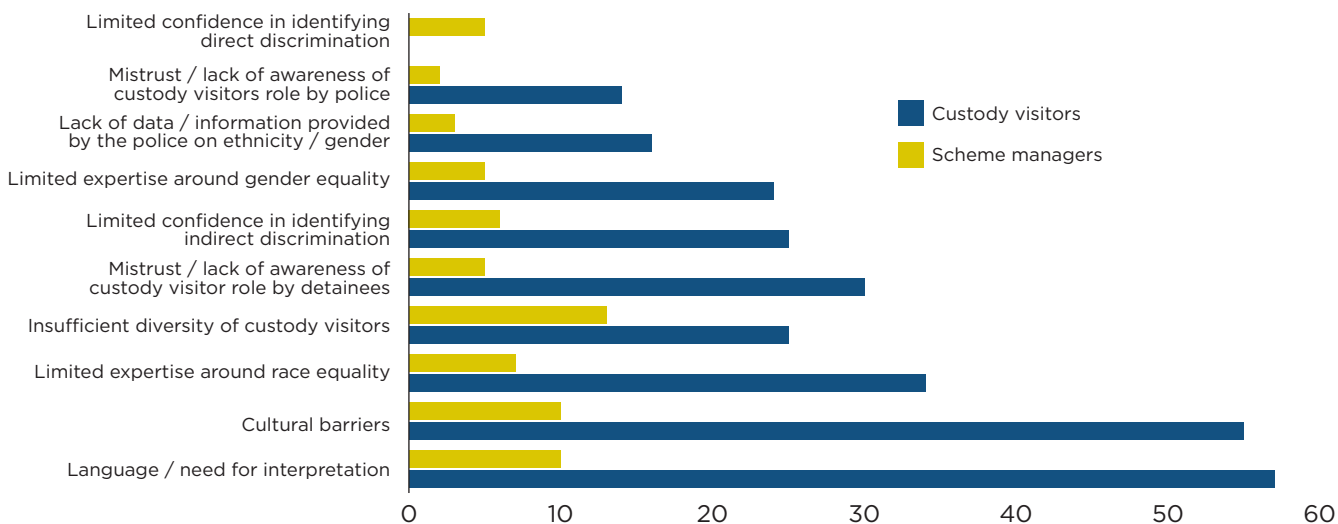
Lack of safe spaces to have ‘uncomfortable conversations’

It was reported to us that many custody visitors have not had experience talking about race so do not have the language to articulate their thoughts or feelings and are scared of ‘getting it wrong’. Often discussions and training were avoided or dismissed as unhelpful. Some custody visitors from a minority ethnic background felt they were not able to discuss or raise issues of race with other visitors in their scheme.

Data

Several participants emphasised that the biggest barrier to monitoring race and gender equality was that custody visitors did not collect related data on their report form.

Figure 1: Barriers to monitoring race/gender equality in police custody



Conclusion and recommendations

- It was concerning that several custody visitors reported being 'colour blind'. If custody visitors do not recognise the race of minority ethnic detainees, they also may not recognise any indirect discrimination that they experience because of it. Custody visitors should actively recognise the ethnicity of detainees in police custody and how this can shape their experience.
- Additional scrutiny of how detainees with protected characteristics experience police custody would support custody visitors to have a more in-depth understanding of issues women and minority ethnic detainees face and what issues they should consider during their monitoring visits. HM Inspectorate of Constabulary would be best placed to carry out this work.
- Custody visitors should operate independently from police. There were particular concerns about the independence of custody visitors who have been visiting custody suites for longer periods of time.
- The Code of Practice is out-dated as it has not been amended since 2013. It should be updated to strengthen the independence and representativeness of custody visitors.
- Consult with local schemes on whether a maximum length of tenure for custody visitors should be included in the Code of Practice in order to strengthen and safeguard the independence of custody visitors. These findings should be reported to the Home Office.
- Develop training for scheme managers and custody visitors on how to effectively identify and challenge direct and indirect race and gender discrimination. This training should include how racism and misogyny can be systemic, structural and/or institutional.
- Consult with local schemes on whether a national network for custody visitors from Black, Asian and minority ethnic backgrounds should be established.
- Consult with local schemes on whether an anonymous mechanism such as a confidential complaints process would support custody visitors to report any discriminatory incidents.

PCCs should:

- Publish an escalation process which sets out how discriminatory incidents or disparities that are raised by custody visitors are addressed. This process should include details of how PCCs report back to schemes.

Her Majesty's Inspectorate for Constabulary should:

- Conduct a thematic inspection on outcomes for Black, Asian and minority ethnic men and women in police custody. This should build on the recent report 'Disproportionate use of police powers: A spotlight on stop and search and the use of force' (2021). Intelligence from ICVA should be included as part of HMIC's triangulation of evidence.

The Home Office should:

- Include a reference to the Optional Protocol to the Convention Against Torture (OPCAT) and the National Preventative Mechanism (NPM) in the Code of Practice on Independent Custody Visiting.
- Consider whether a maximum length of tenure for custody visitors would strengthen their independence and should therefore be included in the Code of Practice.

ICVA should:

- Develop guidance for custody visitors on the importance of their independence from the police.

Section three: representative

Custody visiting schemes need to reflect the demographics of their local communities. Detainees need to see custody visitors who they feel represent them. It is also important to have different voices and perspectives within schemes, to help others understand, learn and gain knowledge about groups who are overrepresented in the CJS.

The Code of Practice states:

- 'PCCs must seek to ensure that the overall panel of independent custody visitors is representative of the local community and provides a suitable balance in terms of age, gender and ethnicity.'
- 'All reasonable adjustments must be made to accommodate those with a disability' and those who do not have English as their first language.

Some schemes have targeted specific groups such as local faith groups and worked with local specialist radio stations to recruit more diversely.

DIVERSITY OF CUSTODY VISITORS

The Code of Practice states that custody visitors should be recruited from and be representative of the local community.⁴² Participants were asked how well they felt the representation of Black, Asian and minority ethnic custody visitors reflected that of the individuals coming into police custody. Over half of survey respondents said that this was not reflected very well and a further 17 percent indicated that it was not reflected well at all. However, custody visitors did not see their lack of representativeness and diversity as one of the main barriers to them effectively monitoring outcomes for minority ethnic detainees.

DIVERSITY IN POLICE CUSTODY STAFF

Code C of the Police and Criminal Evidence Act (PACE) states that each detainee must be given the opportunity to speak privately with a member of custody staff who is the same sex as the detainee.⁴³ This requirement is reinforced in the College of Policing guidance for female detainees.⁴⁴ However, survey respondents highlighted that often the reality is that due to staff shortages there is not a female member of custody staff available who has the training and skills to offer welfare and psychological support to detainees. The lack of Black female officer representation in police custody was also raised as a concern.

TARGETED RECRUITMENT

Respondents were asked whether they were aware of any initiatives in their scheme to increase the number of custody visitors from Black, Asian or minority ethnic backgrounds. Some schemes have targeted specific groups such as local faith groups and worked with local specialist radio stations to recruit more diversely. Other respondents discussed adapting hiring processes to practice more inclusive recruitment. This included a statement encouraging applicants from diverse backgrounds; using 'positive action'; and including a scenario-based interview question on discrimination which tests cultural competency.⁴⁵ Despite these efforts, recruiting more diversely remained a challenge for some schemes.

⁴² National Standards for Custody Visiting.

⁴³ Home Office, [Code C Revised Code of Practice for the detention, treatment and questioning of persons by Police Officers](#) (2019).

⁴⁴ College of Policing Authorised Professional Practice (APP), [Detention and custody. Equality and individual needs](#).

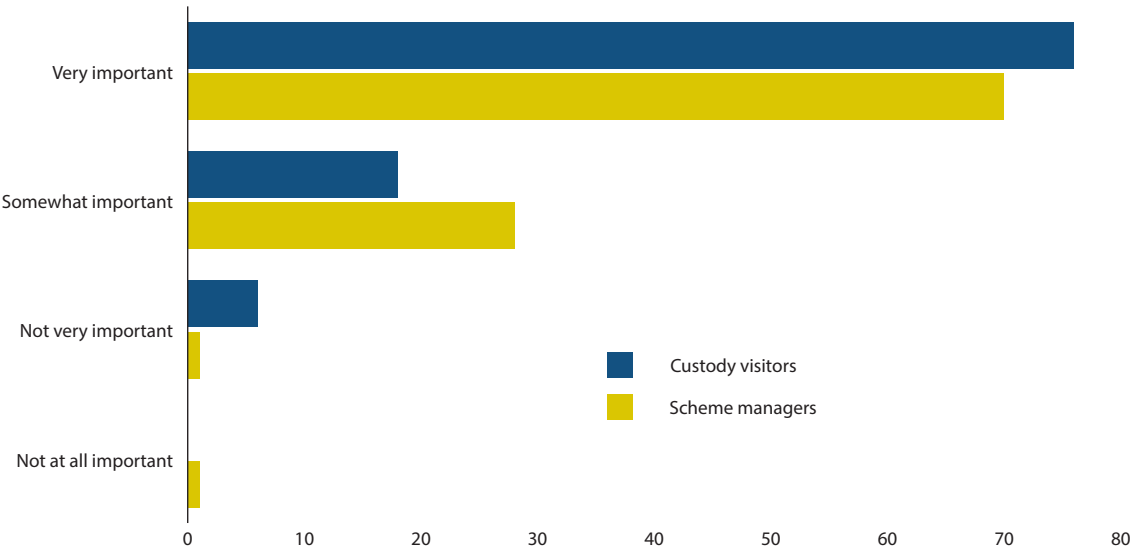
⁴⁵ Positive action is where an organisation can take specific steps to improve equality in a workplace. For example, organisations might place job adverts to target groups with protected characteristics to increase the number of applicants. However, any positive action taken must be proportionate to achieve a stated outcome without resulting in people without the relevant characteristic being treated less favourably (which is positive discrimination).

THE IMPORTANCE OF DIVERSITY IN CUSTODY VISITING

Respondents were asked how important it was to have diverse custody visiting schemes (see Figure Two). Nearly all scheme managers and custody visitors who responded to the survey indicated that it was very or somewhat important to have race and gender diversity within schemes, particularly as custody visiting originated out of oppressive policing of young Black people.

‘The purpose of the scheme is community confidence...The way that the custody visiting scheme originated was out of oppressive policing, particularly of young Black people...Having a full panel of White custody visitors acting as that community reassurance mechanism probably is not the most effective.’ **Scheme manager.**

Figure 2: Importance of race and gender diversity



However, some scheme managers and custody visitors felt that ‘true representation’ was unachievable, but that race and gender discrimination in police custody suites could be mitigated by recruiting custody visitors who were not prejudiced.

‘The panacea is that we shouldn’t have to worry about either race or gender. Whilst we’ll never reach that, we can mitigate by having open, honest and fair minded custody visitors (irrespective of background).’ **Scheme manager.**

‘It doesn’t matter what race the visitors are. What matters is that they are not prejudiced.’ **Custody visitor.**

Custody visitors had mixed views regarding their own identities and how this may impact on detainees during their visits. For example, one custody visitor reflected on how his own identity as a White British middle-class man put him in a privileged position and how this may impact his role as a custody visitor and potentially alienate detainees. However, other custody visitors held the view that being courteous and treating all detainees with respect was more important in custody visiting than race or socio-economic background.

‘I am incredibly conscious...that I am a very white-looking guy. I look like Mr British, middle-class, white guy, and most of the people I speak to don’t look like me. And I am aware of that. And I am aware of the effect that will have on them.’ **Custody visitor.**

‘I am not in the least embarrassed about being a certain age and basically a white, middle-class professional when I walk into the cells. As far as I am concerned, I am there to do a job on behalf of the detainees...What they think of me, presenting as I do, is not something I worry about, because I think I get over that by being courteous to them and doing the job. And I think most of them recognise that.’ **Custody visitor.**

Conclusion and recommendations

- Some custody visitors have suggested that fair and respectful visitors would effectively mitigate against discrimination for women and minority ethnic detainees. The belief that courteousness and respectfulness is the answer to racial discrimination supports the fallacy that racism is isolated, individual acts of intentional meanness.⁴⁶ This focus distracts from the deeply entrenched racism that minority ethnic detainees can face. It ignores that sexism and racism can be entrenched in and perpetuated by the culture and structure of an organisation.
- The diversity of custody visiting schemes is crucial to their effectiveness. As well as representing their community, local schemes should also aim to represent those who are detained in their local police custody suite.

The Home Office should:

- Amend requirement 18 in the Code of Practice on Independent Custody Visiting so that custody visiting schemes should aim to be representative of those detained in the police custody suite as well as their local community, by age, gender and ethnicity.

ICVA should:

- Collate and analyse demographic data of custody visitors and scheme managers. This data should periodically be reviewed to ensure PCCs are meeting their obligations on representativeness within the Code of Practice.
- Update and promote guidance on how to recruit custody visitors more diversely in order to support schemes to increase the number of Black, Asian and minority ethnic visitors.
- Provide further support for scheme managers to identify racist and sexist attitudes and behaviours in custody visitor applicants during the recruitment process. This should include recommended interview questions that may help unmask any discriminatory views and/or bias.

PCCs should:

- Proactively engage with groups disproportionately impacted by police powers and raise awareness of the custody visitor role, encouraging them to become visitors and/or assist with training.
- Collect demographic data on custody visitors and scheme managers. PCCs should use a standardised data form to collect this data, enabling ICVA to collate and analyse it.

⁴⁶ The Guardian, [White people assume niceness is the answer to racial inequality. It's not](#), Robin diAngelo (2019).

Section four: open and visible

Custody visitors can strengthen legitimacy in policing by sharing their findings about outcomes for detainees in police custody. The public availability of information is key to the transparency and legitimacy of the police and custody visitors. ICVA, PCCs and custody visiting schemes should publish and promote their work in their communities, along with details about how others can volunteer.

The Code of Practice states:

- 'At the end of each visit...independent custody visitors must complete a report of their findings to include conditions and facilities, rights and entitlements and health and well-being. One copy of the report must remain at the station for the attention of the officer in charge. Copies must go to PCCs and other parties as determined locally.'
- 'Regular reports shall be provided by the [scheme manager] to the PCC. These reports must be discussed at PCC meetings as appropriate and reflected in an entry about independent custody visiting in the PCC's own annual report.'

The Code of Practice stipulates that the PCC's annual report should contain an entry about independent custody visiting schemes and their annual findings.⁴⁷ ICVA has produced a suggested reporting template for schemes to provide information to PCCs which will be included in their annual reports. The template encourages PCCs to report on a range of information on custody visiting, including the governance of their local scheme, the number of custody visits that have taken place, the scheme's findings and the police response. However, the template does not state that PCCs should report annually on equalities issues in police custody. This would demonstrate that the needs of detainees with protected characteristics (including women and minority ethnic detainees) are being met and whether any direct or indirect discrimination had been identified.

The quality, detail and depth of reporting on custody visiting schemes within annual PCC reports varies. Despite the Code mandating PCCs to include an entry about custody visitors and their reported findings, the requirement is being interpreted differently and is resulting in inconsistent reporting. Some PCCs follow the template produced by ICVA to report on their custody visiting schemes. For example, Derbyshire PCC's Annual Report for 2019-2020 included findings from their custody visiting scheme, data from custody record reviews and an update regarding ongoing trials and pilots to improve custody visiting in the local area. However, there was still limited reporting on equality outcomes for detainees.⁴⁸ Other PCCs make little to no mention of custody visiting activities during the reporting period.

Some PCCs produce a separate annual report solely on their local custody visiting scheme.⁴⁹ PCCs who do this report extensively on custody visiting data; detainee data, including the gender and ethnicity of detainees; findings on outcomes related to women and minority ethnic detainees, such as access to menstrual products and arrangements for meals during Ramadan; and where custody visitors have effectively contributed to improvements for detainees in local police custody suites.

All PCCs may benefit from producing a separate annual report focusing on their local custody visiting scheme to make sure they are meeting PCC's obligations under the Code of Practice.

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⁴⁷ See section 82, [Code of Practice for Independent Monitoring Board](#).

⁴⁸ Derbyshire Police and Crime Commissioner, [Annual Report 2019-2020](#) (2020).

⁴⁹ PCCs who produce a separate annual report include Avon and Somerset, Devon and Cornwall, Hampshire, Humberside, Norfolk, Nottinghamshire, South Wales, Surrey and West Mercia.

This could also help assist in providing public reassurance and addressing concerns regarding independence (which was discussed in Section Two). It is also an opportunity to provide the public with information about how detainees are treated in police custody and the important issues custody visitors raise. Given that public availability of information is key to transparency and legitimacy, PCCs should aim to promote reports on custody visiting schemes more widely.

ICVA publishes an annual report which updates members on key achievements, including contributions to national policy developments. The annual report also contains an extensive update on ICVA's progress against its business plan.

Conclusion and recommendations

- PCCs annual reporting on their local custody visiting scheme's findings is too varied, and it is inadequate in some areas. Some PCC areas publish extensive annual reports dedicated to their scheme's findings, which is positive and should be replicated by all PCCs to ensure the work of custody visitors and the police is open and visible. There needs to be a greater focus throughout all PCC's reporting on the experiences of and outcomes for detainees with protected characteristics.
- ICVA publish progress updates against its business plan objectives. Progress against the anti-racist action plan should also be published.

The Home Office should:

- Update the Code of Practice on Independent Custody Visiting to include a requirement for PCCs to produce a standalone annual report summarising the activities of their local custody visiting scheme, with a dedicated section on any equality issues that have been identified, in addition to their annual PCC report.

ICVA should:

- Publish updates on the progress made against the anti-racist action plan in its annual report.
- Ensure that there is a session about equality issues in police custody at the annual ICVA conference and that there is reference to any findings from custody visitors that related to equality in ICVA's annual report.

Police and Crime Commissioners should:

- Publish and widely promote an annual report on the findings of their local custody visiting scheme which has a dedicated section on any equality issues that have been identified and how they have been addressed.

Glossary

Cultural competency – Being equitable and non-discriminatory in your practice and behaviour. It requires a balanced approach to others in which cultural identity and cultural context are taken into account.⁵⁰

Direct discrimination – The act of treating someone less favourably or worse for certain reasons. For example, because they identify as having one or more protected characteristics such as religion, age or race.⁵¹

Disproportionate – When something is too large or too small when compared with something else.

Diversity – In the workplace, diversity focuses on the composition of a staff – demographics such as gender, race/ethnicity, age etc.⁵²

Equality – Each individual or group of people is given the same resources or opportunities.⁵³

Equity – Recognises that each person has different circumstances and allocates the exact resources and opportunities needed to reach an equal outcome.⁵⁴

Inclusion – A measure of culture that enables diversity to thrive.⁵⁵

Indirect discrimination – When a policy that is applicable to everybody, disadvantages a group of people who share a protected characteristic.⁵⁶

Institutional racism – The collective failure of an organisation to provide an appropriate and professional service to people because of their colour, culture, or ethnic origin. It can be seen or detected in processes, attitudes and behaviour which amount to discrimination through unwitting prejudice, ignorance, thoughtlessness and racist stereotyping which disadvantage minority ethnic people.⁵⁷

Intersectionality – A framework for conceptualising a person, group of people, or social problem as affected by several discriminations and disadvantages. It considers people's overlapping identities and experiences in order to understand the complexity of prejudices they face.

Racism – Consists of conduct or words or practices which disadvantage or advantage people because of their colour, culture, or ethnic origin.⁵⁸

Reverse Racism – Prejudice, discrimination, or antagonism directed against a person or people on the basis of their membership of a dominant or privileged racial or ethnic group.

50 CSP, [Cultural competence resource sheet](#).

51 Citizens Advice, [Direct discrimination](#).

52 ADP, [Diversity And Inclusion: What's The Difference, And How Can We Ensure Both?](#)

53 Social Change UK, [Equality and Equity](#) (2019).

54 Social Change UK, [Equality and Equity](#) (2019).

55 ADP, [Diversity And Inclusion: What's The Difference, And How Can We Ensure Both?](#)

56 Citizens Advice, [Indirect discrimination](#).

57 See section 6.34, [The MacPherson report: The Stephen Lawrence inquiry](#) (1999).

58 See section 6.4, [The MacPherson report: The Stephen Lawrence inquiry](#) (1999).

Police and Crime Commissioners – Are elected by the public to hold Chief Constables and the force to account, effectively making the police answerable to the communities they serve.

Positive action – An organisation taking specific steps to improve equality in a workplace. It can be used to meet a group's particular needs, lessen a disadvantage they might experience or increase their participation in a particular activity. For example, organisations might place job adverts to target particular groups, to increase the number of applicants from that group.⁵⁹

Protected Characteristics – It is against the law to discriminate against someone because of their age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. These are referred to as protected characteristics in the Equality Act 2010.⁶⁰

Public Sector Equality Duty – The public sector equality duty was created by the Equality Act 2010 and replaces the race, disability and gender equality duties.⁶¹ Those subject to the general equality duty must have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation
- Advance equality of opportunity between different groups
- Foster good relations between different groups

The specific equality duties require listed public authorities, including Police and Crime Commissioners, to publish equality outcomes and report on progress.

⁵⁹ Equality and Human Rights Commission, [What is positive action in the workplace?](#)

⁶⁰ Citizens Advice, [What's the public sector equality duty?](#)

⁶¹ Citizens Advice, [What's the public sector equality duty?](#)

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