

## **Mental Health**

### **Driver – Political, Social, Legal**

Related Drivers – Equality, Diversity and Human Rights, Neighbourhood Policing, Victims and Witnesses, Anti-Social Behaviour, Collection and Storage of Personal Information

#### **Background**

A significant number of people with a mental disorder come into contact with the police each year.<sup>1</sup> This can include offenders, victims of crime and those who simply require help or medical care.

The police often serve as first point of contact with these individuals with two potential outcomes: either the individual has / suspected of committed a criminal offence and is funnelled through the criminal justice system or identified as having a mental health problem and is diverted to the best place to receive treatment (taking into account public safety).

This Mental Health driver looks at the ways the police are interacting with these individuals at various stages of contact and the current political agenda to improve the services offered to those suffering from mental illness.

#### ***Political Context***

The consultation paper, '*Improving Health, Supporting Justice – a consultation*', was published by Department of Health, Department of Children, Schools and Families, Ministry of Justice, Youth Justice Board and the Home Office. This consultation aimed to inform a strategy to improve health and social care needs of people who have either committed a criminal offence or are suspected of committing a criminal offence.

Part 2 of the consultation looks at the police and police custody and sets out the Government's aspirations in relation to these areas and what it intends to do in a number of areas to achieve these. They include:

- Explore the opportunities for closer links between health care provision within police custody suites and the wider NHS
- Support the development of guidance on model protocols between police and health and social care services, to ensure effective referrals and improved service delivery
- Review overlapping police and health/social care key performance indicators, to identify shared priorities and performance management
- Support the standardisation of skills and knowledge for all police, police staff and on health, mental health and risk management issues via National Policing Improvement Agency (NPIA) guidance

- Examine the potential for the piloting of differing models of health care provision in police custody suites
- Examining the health care contribution to neighbourhood policing, to support excluded groups pre-offence and post-arrest by improving integration and access to local services
- Promoting wider recognition of the very different health and social care needs of women and children and young people in contact with the police
- Exploring the concept of 'places of care' to provide secure accommodation in cooperation with other agencies.<sup>2</sup>

The Government commissioned Lord Bradley to conduct an independent review to look at the extent to which offenders with mental health problems or learning disabilities could, in appropriate cases, be diverted from prison to other services and the barriers to such diversion.<sup>3</sup>

In review, Lord Bradley makes the point that interventions as early as possible in the criminal justice system would provide the best opportunities for improving how people with mental health or learning disabilities are managed. In general, the police are the first point of contact with the criminal justice system for these individuals. This provides an opportunity for police intervention and liaison to engage services and potentially avoid future problems. Lord Bradley felt this police stage is currently the least developed in the offender pathway in terms of engagement with health and social services.

The review looks at ways police intervention could be improved at the various stages of offender interaction:

- Neighbourhood policing
- Diversion prior to arrest
- Police custody
- Screening and risk assessment
- Diversion from police custody.<sup>4</sup>

### *Neighbourhood Policing*

Lord Bradley makes the point that Neighbourhood policing provides the perfect opportunity for police forces to identify people with mental health problems through their current work with local communities and agencies. Identification is reliant on staff training. One example of good practice is in Westminster where teams have a four-hour training session on mental health which includes input from local statutory services and service users. Lord Bradley felt there are pockets of good work, but this has yet to be consistently introduced across England and Wales. His recommendations include:

- Local Safer Neighbourhood Teams should play a key role in identifying and supporting people in the community with mental health problems or learning disabilities who may be involved in low-level offending or anti-social behaviour by establishing local contacts and partnerships and developing referral pathways.
- Community support officers and police officers should link with local mental health services to develop joint training packages for mental health awareness and learning disability issues.

### *Diversion prior to arrest*

Prior to arrest the police officer has the option to take 'no further action' and should signpost to, or liaise with, appropriate local health and social care services where a mental health or learning disability problem has been identified. This would be limited by an individual officer's ability to recognise a mental health problem. Despite the potential high level of contact between the police and people with mental health problems, the police currently receive very little specific training in mental health awareness.<sup>5</sup>

### *Police Custody*

In addition to training for police officers on mental health awareness being inadequate, identification of those with mental health problems is made particularly hard by the high numbers of detainees that are reported to be 'drunk' on arrival at police stations and the common use of drugs. It is widely accepted that drugs and alcohol can often mask the presence of mental health issues and can make identification even more problematic

### *Screening and risk assessment*

As well as assessing risk, the legal responsibility for identifying mental health need in police custody rests solely with the custody officer. The custody officer is also responsible for determining whether a detainee is fit for detention and interview through assessment.

Some of the reasons are set out below as to why Lord Bradley feels the assessments of mental health needs in the police custody suite are not as accurate as they could be:

- A current reliance on self-reporting. The custody suite environment itself does not encourage people to disclose their mental health problems. In addition, there is still a stigma related to mental health problems and there may be a fear of discriminatory treatment
- There is no standard mental health assessment. Each force develops its own and they vary considerably in terms of how effectively they identify mental health needs
- A lack of training for the police in mental health awareness. There is no national standard for police training in mental health, although there are examples of good practice
- High numbers of detainees come into custody under the influence of alcohol or drugs, which can often mask the presence of mental health problems thereby making identification more difficult.

## *Diversion from police custody*

Where there is any doubt about a person's mental state or capacity, the police custody officer has a duty to request the attendance of a responsible adult, who is known as an Appropriate Adult. Studies into the use of Appropriate Adults have concluded that provision of the Appropriate Adult is very inconsistent. This a combination of not being able to assess the person's needs correctly in the first place and a shortage of individuals who can perform the role effectively. Bradley recommends:

- A review of the role of Appropriate Adults in police stations should be undertaken and should aim to improve the consistency, availability and expertise of this role.
- Appropriate Adults should receive training to ensure the most effective support for individuals with mental health problems or learning disabilities.

Lord Bradley goes on to further discuss the issue of the use of Sections 135 (Mental Health Act 2007) and Section 136 (Mental Health Act 1983) but in general echoes the recommendations of the Independent Police Complaints Commission (IPCC) report '*Police Custody as a "Place of Safety": a National Study Examining the Use of Section 136 of the Mental Health Act of 1983*' (see [Legal Context](#)).

An independent evaluation of '*Improving Health, Supporting Justice*<sup>6</sup>, the Bradley Review, and the consultation will form part of the evidence set for the developing National Offender Health and Social Care Strategy that is likely to be published in spring 2009.

## **Social Context**

The Ministry of Justice published a report summarising international research evidence on the experiences of adults with mental health problems in the Justice system. The review, '*Access to Justice: Evidence of the experiences of adults with mental problems*', found that:

- Adults with mental health problems experience higher rates of offending and are over-represented in the prison population
- Being more 'symptomatic', and failing to take medications are associated with an increased risk of arrest and risk of victimisation
- Adults with severe mental health problems are disproportionately at risk from crime victimisation compared to the general population.

A particularly striking message to emerge from the research is adults with severe mental health problems are disproportionately at risk from crime victimisation compared to the general population. This is the case even after controlling for demographic factors, suggesting it is the **symptoms** of having a severe mental illness, which increases risk.<sup>7</sup>

Some studies suggest it is the reluctance of adults with mental health problems to report victimisation that puts them at increased risk of victimisation. In which case, crime prevention and criminal justice agencies need to work to improve confidence in their services.<sup>8,9</sup>

Negative or inaccurate perceptions about mental health may be preventing adults with mental health problems from accessing justice, as victims of crime. This may be due to false perceptions or prejudices about this group's competence or reliability as witnesses. Victims themselves may, in turn, become reluctant to report crime to authorities for fear of not being taken seriously.

Stigma and discrimination is something that can both be measured by social attitudes as well as something that is perceived by a person who is its target. A recent population survey of attitudes towards mental health in the UK found the population to be broadly sympathetic and tolerant although there is a longer-term trend of attitudes hardening.<sup>10</sup> This contrasts with a population study in Germany which identified prejudicial attitudes towards mental health in the context of the workplace, with 16% of respondents reporting they would feel disturbed working with someone with schizophrenia.<sup>11</sup> However, regardless of actual levels of prejudice, study participants across the studies seemed to perceive high levels of stigma and discrimination.

From the perspective of victims and witnesses, adults with mental health problems are shown to be disadvantaged in terms of their access to justice, possibly as a result of discrimination and prejudice. This has led to calls for training and awareness-raising amongst court and other legal professionals so legal decisions are not based on incorrect stereotypical views. Training the police is called for in two studies to improve their reaction to adults with mental health problems, so as not to discourage reporting.<sup>12,9</sup> Contact between the police and people with mental health problems is frequent, the need for an appropriate response from the police is, therefore, paramount.

Many of the problems associated with criminal justice for victims with mental health problems are connected with under-reporting and under-confidence with the system. Cultures and knowledge need to evolve to improve confidence over time. In particular, staff including the police and the Crown Prosecution Service (CPS) may benefit from awareness-raising training and information to prevent legal decisions being made on the basis of prejudicial and incorrect information about mental health.

## ***Legal Context***

The **Mental Health Act 1983** provides the legislation for the compulsory treatment of certain people who have a mental disorder. The 1983 Act is largely concerned with the circumstance in which a person with a mental disorder can be detained for treatment for that disorder without his or her consent. It also sets out the process that must be followed and the safeguards for patients to ensure they are not inappropriately detained or treated without consent. In particular, the provisions within Section 135 and 136 of the 1983 Act is relevant to policing and allows for the following:

- Section 135(1) of the 1983 Act allows the police, on the authority of a magistrate to enter premises and remove to a place of safety a person who is thought to have a mental disorder and who has been or is being ill-treated or neglected or if living alone is unable to care for himself

- Section 136 of the 1983 Act allows the police to remove from a public place to a place of safety a person who appears to have a mental disorder and need immediate help. A place of safety for this purpose is defined in Section 135(6) of the 1983 Act and includes a hospital, a care home and a police station.<sup>13</sup>

The **Mental Health Act 2007** received Royal Assent on 26 July 2007 and amends parts of the 1983 Act. The following are the main changes to the 1983 Act:

- It changed the way the 1983 Act defines mental disorder, so that a single definition applies
- Section 44 (Places of Safety) of the 2007 Act amends Sections 135 and 136 of the 1983 Act to enable a person detained at a place of safety to be transferred to another one subject to the overall time limit for detention of 72 hours. [This amendment came into effect in April 2008].<sup>14</sup>

The changes made through the Section 44 of the 2007 Act means detainees will have to be moved to an appropriate place within 72 hours where previously detainees were left in cells for an unspecified amount of time while police located two doctors and an approved social worker to undertake a Mental Health Assessment even if an hospital bed was available.

The Home Office Circular (07/2008) *'The Use of Police Stations as Places of Safety Under Section 136 of the Mental Health Act 1983'* states this change should allow for appropriate working arrangements to be in place and minimise the need for detainees to be taken to a police station and instead to be taken to an appropriate healthcare facility in order to have access to and to receive the appropriate level of care.<sup>15</sup>

The circular also makes the point that a police station is not a suitable place of safety for detaining persons under Section 136 save for exceptional circumstances and should not be assumed to be the automatic second choice. Additionally local policy should be in place for the effective and efficient multi-agency handling of persons who need to be detained in a place of safety.

The Independent Police Complaints Commission (IPCC) report *'Police Custody as a "Place of Safety": a National Study Examining the Use of Section 136 of the Mental Health Act of 1983'* examined the nature and extent of the use of police custody as a place of safety across England & Wales. An estimated 11,500 people were detained in police cell as a place of safety under section 136. In the same period 5,900 people were taken to and detained in a hospital.

The report found during 2005/06 the use of section 136 varied significantly between forces; from 1 per 10,000 people in custody (Cheshire, Merseyside) to 174 (Devon & Cornwall) and 277 (Sussex). The strongest factor explaining the differences in the rates of use were more readily available alternative places. Also suicidal behaviour associated with high local populations of transient and deprived populations along with well known 'suicide hot-spots' played a role. These issues tended to be in areas where there was little or no alternative to police custody and so had the effect of pushing the rates of detention up.

The report makes a number of recommendations for the police and health services to improve practice and experiences of people detained by the police under this power. Key recommendations include:

- Ensure that officers on the street have **adequate training to recognise symptoms of mental disorder**, understand their powers under the Mental Health Act 1983 and know what their local arrangements are for places of safety
- Agree with other agencies that officers can contact individuals with mental health expertise, such as approved social workers, to get advice on particular individuals
- Ensure that custody officers and staff receive **refresher training on mental health symptoms** and section 136 processes so that detainees held in police custody receive appropriate care and attention
- The NHS should work with relevant organisations to develop alternative places of safety to police custody such as dedicated hospital emergency departments and psychiatric units.<sup>1</sup>

**Special measures** for vulnerable intimidated witnesses (VIWs) were introduced following the **Youth Justice and Criminal Evidence Act (1999)** to improve the access and experience VIWs have in court.<sup>16</sup> Those eligible for special measures include those who suffer from a mental or physical disorder; have a disability or impairment that is likely to affect their evidence; and those whose evidence is likely to be affected because of their fear or distress at giving evidence in the proceedings. The measures include video-recorded evidence-in-chief; live television links for giving evidence; and removal of wigs and gowns in court.

Evaluation studies of special measures use different notions of effectiveness or 'success' of the schemes including improvements to VIWs' satisfaction and positive impacts on VIWs' experiences at court<sup>17</sup>; the successful identification of potential VIWs<sup>18</sup>; and positive feedback from people acting as intermediaries<sup>19</sup>. Effectiveness of the 'universal' services for victims and witnesses with mental health problems is measured through subjective responses of research respondents. It is important to note that not one of these evaluations differentiate between the types of VIWs, i.e. if they are suffering from a mental disorder.

The impact of special measures on VIWs who accessed them was generally positive from these evaluations. Despite the positive impacts reported by users of special measures, there is evidence that relevant agencies are failing to identify people who would be eligible for the measures.

Comparing numbers of VIWs identified by the police and the CPS and numbers identified in the same files by independent researchers, a discrepancy of around 36 percentage points was found, suggesting the police and the CPS are failing to identify some VIWs. Furthermore, the numbers of potential VIWs identified by researchers far exceeds Home Office estimates which are between 7% and 10%, compared to 45% found by researchers. The authors suggest the police have particular difficulty in identifying VIWs with learning disabilities or mental disorders.

As a result of an intermediary scheme, more cases are reported to reach trial stage as a result of the measure. This is reported to be due to improved interaction between police and court staff and VIWs.

The Coroners and Justice Bill which is has reached the committee stage as of July 2009, has includes measures to extend the use of special measures in criminal proceedings, such as live video links and screens around the witness box, so vulnerable and intimidated witnesses give their best evidence.<sup>20</sup>

## **Potential Skills Needs**

**Analytical skills** – to visualize, articulate, and solve complex problems and concepts, and make logical decisions based on available information

**Collaborative working skills** – working effectively with colleagues, partners and other agencies

**Information sharing skills** – to provide effective information to partner agencies

**Inter-agency working skills** – to work effectively with two or more governmental agencies

**Mental health awareness skills** - police officer and staff's ability to recognise the signs of mental illness

**Multi-agency working skills** – to work with other agencies to provide better services to those suffering from mental health problems

**Partnership working skills** – to work effectively with other agencies to a common goal and standards

**Risk assessment skills** – accurate risk assessment of detainee with mental health needs

**Risk management skills** – manage and mitigate risk associated with those with mental health problems

**Strategic leadership skills** - to provide a clear vision and sense of purpose

**Victim and witness care skills** – identification of vulnerable and intimated witnesses and making appropriate arrangements; to treat victims and witnesses appropriately and sensitively

<sup>1</sup> [Independent Police Complaints Commission \(2008\) \*Police Custody as a "Place of Safety": a National Study Examining the Use of Section 136\*. London: IPPC.](#)

<sup>2</sup> [Offender Health Research Network \(2007\) \*Improving Health, Supporting Justice – A consultation\*. London: Department of Health.](#)

<sup>3</sup> [Ministry of Justice Press Release, 1 January 2008, 'Deaths in prison custody 2007'.](#)

<sup>4</sup> [Bradley, Lord \(2009\) \*The Bradley Report: Lord Bradley's review of people with mental health problems or learning disabilities in the criminal justice system\*. London: Department of Health.](#)

- <sup>5</sup> National Policing Improvement Agency (2007) *Review of literature on mentally disordered offenders*. London: NPIA.
- <sup>6</sup> [Offender Health Research Network \(2008\) \*An independent evaluation report of 'Improving Health, Supporting Justice': a consultation document\*. London: Department of Health.](#)
- <sup>7</sup> [KM Research and Consultancy Ltd \(2009\) \*Access to Justice: a review of the existing evidence of experiences of adults with mental health problems\*. London: Ministry of Justice.](#)
- <sup>8</sup> Mind (2001) *Silenced Witness*.
- <sup>9</sup> Brekke, J. S., Prindle, C., Bae, S. W., & Long, J. D. (2001) *Risk for individuals with schizophrenia who are living in the community*. *Psychiatric Services* 52: 1358-1366.
- <sup>10</sup> Department of Health (2003) *Attitudes to mental illness 2003*. Sofres TN.
- <sup>11</sup> Gaebel, W. B. A., & Zäske, H. (2005) *Intervening in a multilevel network: progress of the German Open the Doors projects*. *World Psychiatry* 2005, 4 (Suppl 1): pages 16-20.
- <sup>12</sup> Swanson, J. (2001) *Can Involuntary Outpatient Commitment Reduce Arrests among Persons with Severe Mental Illness*. *Criminal Justice and Behavior* 28(2).
- <sup>13</sup> [Mental Health Act 1983 \(England & Wales\)](#).
- <sup>14</sup> [Mental Health Act 2007 \(England & Wales\)](#).
- <sup>15</sup> [Home Office Circular, 07/2008, \*The Use of Police Stations as Places of Safety Under Section 136 of the Mental Health Act 1983\*](#).
- <sup>16</sup> [Youth Justice and Criminal Evidence Act 1999](#).
- <sup>17</sup> Hamlyn, B. P. A., Turtle, J., & Sattar, G. (2004) *Evidence from surveys of vulnerable and intimidated witnesses*. London: Home Office, RDS.
- <sup>18</sup> a) [Burton, M., Evans, R., & Sanders, A. \(2006\) \*An evaluation of the use of special measures for vulnerable and intimidated witnesses\*. Findings 270, London: Home Office Research Development and Statistics Directorate.](#) b) [Burton, M., Evans, R., Sanders, A. \(2006\) \*Are special measures for vulnerable and intimidated witnesses working? Evidence from the criminal justice agencies\*. Home Office Online Report 01/06, London: Home Office.](#)
- <sup>19</sup> Plotnikoff, R. W. J. (2007) *The Go-Between: evaluation of intermediary pathfinder projects*. Ministry of Justice Research Series Summary No 1, London: Ministry of Justice.
- <sup>20</sup> [Coroner and Justice Bill](#).