

Preventing Deaths in Police Care

Speech to Criminal Justice Management Conference 2015

Commissioner Carl Gumsley

Address to Conference on Criminal Justice Management

Introduction

It is of course a challenge to try to say what I want to say about such an important subject in the space of 15 minutes. So I came to conclusion that I should concentrate on what I believe needs saying, based on my 28 years of involvement in the criminal justices system and more particularly what I have seen over the last year of my appointment as an IPCC Commissioner .

A few months ago I made an address to a conference on safer detention. I spoke about how the statistics from 2013/14 showed that the number of deaths in or following police custody, was at its lowest recorded figure in the 10 years in which the IPCC had been in operation. There were 11 recorded in from 2014/15 from the 36 recorded in 2004.

However I urged caution and I was right to do so as the recently released statistics for 2014/15 show an increase in deaths in or following police custody, rising from 11 to 17. The highest level since 2010/11.

Some might say that in numerical terms, considering the many thousands if not millions of interactions between the police and the public and in particular the number of arrests made, the figures are low.

It is easy to talk about statistics. But, let us never forget that each one of those recorded numbers is a life lost, a family loosing their loved one, and officers and detention officers left with the knowledge that it has happened on their watch, at a time when the state was supposed to be caring for that person.

Although the statistics over the last 10 years show a general trend of progress which is to be welcomed and although it is right to acknowledge that good work has been done by many, including of course the police themselves, the fact that we have any deaths shows that problems do still remain.

Consequently we must ask why and, as a society, do what we can to ensure that as many as possible are prevented.

Perhaps the first step to preventing such deaths is to establish exactly what has happened and why. Therefore the death must be investigated. The investigation of deaths in police custody is a fundamental role of the IPCC.

In carrying out these investigations ourselves we play our role (usually alongside coroners who of course have an extremely important role in this process) in seeking to satisfy the Article 2 Right to Life obligation on the state, to provide an independent effective and prompt investigation where a death has occurred and to hold anyone who is found culpable to account.

Investigating is important because it may at least bring some answers that the families who seek and need them, but it is also important that, if there has been criminality or misconduct, someone is held to account and that provides some form of justice, and that perhaps deterrents to such behaviour in the first place are created.

Of course, in the vast majority of cases, relating to deaths in police custody, no one has set out to do harm, let alone to kill or to intentionally allow a death to occur. And just because there has been a death, it does not follow that there has been any form of misconduct or criminality.

And so this brings us to the second but no less important purpose for our investigation. To learn from what has happened and by using any knowledge we gain from investigating, from exposing any act or omission, any deficiency in policy or procedure, any lack of adequate guidance, to better inform those who regulate the police, and the forces themselves, with a view to preventing it happening again.

To be frank it is difficult from only the investigations into deaths in and following custody to identify what trends or commonalities in the deaths that there may be.

We learn little if we look only at the bare statistics. For instance:

- 14 were men, 3 were women
- ages range from 22 to 57
- 15 were white, one Asian, one black
- 10 of the 17 had been subject to restraint (but to very different degrees) by officers, others hadn't
- Those who had died were under suspicion for a wide range of offences, the largest figures for assault (5) or theft/shoplifting (4)

However, it may come as no surprise, but nevertheless of considerable concern, that as we look closer, we find that

- 8 – almost half – were identified as having mental health concerns
- 16 were known to have links with alcohol and/or drugs
- 6 pathologists said that long term use of these substances was a contributing factor in cause of death

Not all then of these deaths, but a considerable number, are of some of the most vulnerable in our society.

Why is this? Is this because their vulnerabilities make them more at risk of an untimely death. Perhaps.

But let us guard against this automatic conclusion.

Is it perhaps because as they are the vulnerable, they actually receive worse care (or unsuitable care);

Is it because they have less of a voice in society to seek change, or less of a voice in custody to seek help.

Not only then is there the obligation on the state to look after anyone who is detained but we must recognise that those who are being looked after may need greater levels of care.

In order to look at the nature of care afforded to those in custody we need to look at the wider findings of our other investigations into custody and detention issues, the near misses and the complaints of improper or inadequate treatment. In extending our consideration to these matters we can perhaps identify better the trends and in so doing advise and focus attention as to where changes are needed.

Keeping someone safe in police care clearly depends upon:

- assessing someone properly as to their vulnerability, identifying risks and concerns and addressing them appropriately, and admitting them to custody only when they should be admitted to custody
- Providing suitable accommodation, good medical treatment, proper conditions
- checking on them appropriately and updating observations
- making sure the vulnerable are identified as such and are supported properly

We have highlighted issues for the years of our existence, through our powers under the PRA, which have been strengthened recently

Indeed, some of the issues we have highlighted have resulted in positive change. They include:

- changes to guidance to make handovers take place on CCTV if possible
- changes to have those who are unfit and incapable treated as being in need of medical attention
- changes to ensure that custody officers do not delegate their tasks to others who were not trained or capable of doing them and that the custody officers retain ultimate responsibility
- proposed changes to the Prisoner Escort Record to allow for more clarity and information
- changes in legislation to ensure parents of 17 year olds must be told of their child's detention

We also publish our reports and the results of research so matters are subject to wider public and press scrutiny and we liaise with the other stakeholders in the area, such as HMIC and HMIP, the NPCC and the College of Policing and other bodies, the force chiefs and the relevant PCCs about issues we have identified.

Is this then not all good and positive then? It is, and, as I have said, we should acknowledge the general reduction in deaths in police custody - but it is clearly not sufficient. Why?

Firstly

We, all of us in this area, are doing all this and have done for years. We have seen assurances of change given, new policies developed. Yet there are still deaths occurring and frequently, sadly, we see the same mistakes made and the same issues arising.

For instance we still see

- a failure to appreciate the importance of assessments with the fullest information, and risk assessments not being regarded as dynamic documents and properly updated
- inadequate handovers
- mental health issues or head injuries being mistaken for aggression or drink or drugs., or those who are drunk and incapable being seen as a medical issue
- cell visits not being carried out or being cursory and of no use
- records not being properly kept or being inaccurate
- a lack of appropriate adults being provided or parents being informed
- lack of timely medical care

We clearly need to understand why the same things are seen time and time again. In order to do so we need to ask difficult questions, and be prepared for the answers however unpalatable they may be to hear. And we need to act on them.

Is it a lack of care? Is it the result of entrenched views or a culture not willing to change? Is it a lack of understanding, knowledge, or training? Are the guidelines too bulky and unmanageable? Is it because of a disjointed system with civilians and officers under different management regimes? Is it a lack of resources or bad management?

Is it perhaps because we are expecting the police to be all things to all people, to be psychiatrists, social workers, mental health practitioners, doctors and nurses, as well as running cell complexes and dealing at times with difficult people in the worst of circumstances. Are other agencies allowing the police to take on their roles as it is known that the police have no alternative but to do so, and this is an easy solution to those agencies' problems.

Whatever the reasons we must work them out, tackle them and find answers and solutions. And in doing so we need to look at the system of care in custody as a whole.

Secondly

We must be aware that although there are changes afoot in the realms of policing as a whole and custody in particular these do not necessarily mean improvement. Changes bring their own challenges and we must consider how we can mitigate the risks before those changes take effect.

We live in a society where technology increasingly plays a part of our lives. But that technology, with all its benefits, is at the end of the day, reliant on the way it is used

The digitalisation of forms may well be of benefit, but only if the forms are easy to use, that there has been training to use them, that they are suitable for the purpose, and that they are actually filled in and read or transferred to others as appropriate:

CCTV is only a benefit if it is used in addition to checks and not to replace the needed human interaction of rousing and speaking to a detainee, only if the equipment is good enough and the pictures clear, and only if there are sufficient staff to watch them and they are actually doing that.

As more and more police cells have permanent medical staff in them and we await NHS commissioning in the custody environment, we must ensure that the medical healthcare professional is properly qualified to make the assessments, that they make the right assessments and diagnosis, and that custody officers do not use them as some form of comfort blanket which leads to greater risk taking

We know of resource issues and the big is beautiful principles is leading to the emergence of super-cells. But it is imperative to ensure that they do not mean too long a journey, especially in rural areas, which lead to greater risks being taken, and that the care they provide is better and not just cheaper.

So let us embrace change. But let us not be afraid to say if change is not positive and brings about unacceptable results.

Thirdly

Let us also not forget that deaths in custody are only part of deaths involving the police. The issues and the challenges of keeping people safe who have contact with the police are far more complicated than simply what happens in the cells, or when a detainee is in handcuffs.

The latest statistics show a very worrying trend of suicides following police contact. Whilst I accept that some of the increase may be due to better recording, figures for those who had apparently taken their own lives following custody in 2014/15 were at recorded as 69. These numbers show a marked rise from 46 a decade ago. And these numbers only relate to those who have taken their own lives within 2 days of release. We know that many others occur outside that timescale.

We need to ask ourselves whether the deaths that may previously have occurred in custody through people taking their own lives there are not simply moving so that they instead take place on release.

So indeed there is no room for complacency.

Ultimately it is for the College of Policing to issue appropriate guidance and for the forces to train their officers and ensure that they and comply with it and good practice. It is for the forces to ensure that there are sufficient staff both custody and from other agencies such as medical staff to ensure that

those whose liberty and freedom has been removed are cared for by those who hold them in detention.

But let us not suggest that the solution lies with the forces alone. We need good healthcare commissioning, which results in accurate diagnoses, we need ambulances actually available if they are needed, we need hospitals willing and capable to take those who are drunk and incapable. We need IT that works and does what it should.

We need to work out what post-detention care is needed and ensure that social services, the medical and voluntary sectors liaise sufficiently to provide it.

We need to make sure that someone is responsible for providing of appropriate adults for those with mental health issues.

We need to ensure that the wholly unacceptable practice of detentions under s.136 of the Mental Health Act in police cells is, as the Home Secretary is committed to, made a thing of the past.

We need to properly evaluate initiatives and lobby hard for those which work.

In summary, we must have a grown up conversation about what is happening. It must be inclusive. We must accept that there are problems and not allow them to be hidden or excused, or shuffle the responsibility from one agency to another, but instead address them. We need to look at a whole system approach. We must beware the bolt on and elastoplast approaches to trying to achieve safer detention.

To this end I personally welcome the Home Secretary's announcement of an independent review into deaths in police custody. I sincerely hope that it will look outside the proverbial box.

Realistically not every death in custody can be prevented; and a target to stop all deaths in custody is perhaps never going to be attainable but that does not mean we should stop trying.