



OPERATION SAFEGUARD

A report on exploratory work by HM Inspectorate of
Prisons and HM Inspectorate of Constabulary

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1: Introduction

In October 2006, as a result of pressure on prison places caused by the large volume of prisoners being sent to prison, the Home Office implemented Operation Safeguard¹ – the use of police cells to hold prisoners who could not be accommodated in prison establishments. Operation Safeguard operates under the Imprisonment (Temporary Provisions) Act 1980 which allows prisoners remanded or sentenced to prison by the courts to be held in police cells for one night, except over weekends or bank holidays when the period could be longer. Operation Safeguard ceased at the end of December 2006, but was reinstated mid-January 2007.

HM Inspectorate of Prisons (HMI Prisons) and HM Inspectorate of Constabulary (HMIC) had already been in discussion about how best to undertake joint inspection of police custody, as part of a wider commitment to increase joint inspection of the criminal justice system. With the arrival of Operation Safeguard, this joint endeavour took on greater momentum, particularly as the impact on prisoners of this emergency measure began to be reflected in data gathered during a number of routine inspections of local prisons and in other criminal justice inspection activity. This report collates the information to provide an early snapshot of what is happening and to guide the design of the methodology for future inspection work with HMIC.

¹ Operation Safeguard is the agreement between the police and Prison Service allowing prisoners to be held in police cells, used only when prison population pressures demand. It differs from the practice of 'lock-outs', which are subject to a separate agreement.

2: HM Inspectorate of Prisons' healthy prison model

HMI Prisons has a statutory duty to independently inspect the conditions for and treatment of those held in prisons and young offender institutions, immigration removal centres, immigration short-term holding facilities and immigration escorts. It also inspects, by invitation, military custody and custodial facilities in other jurisdictions.

HMI Prisons has an acknowledged expertise in inspecting places of custody and has begun to work jointly with other criminal justice inspectorates with custodial arrangements within their responsibilities. Thus HMI Prisons has worked jointly with HM Inspectorate of Courts Administration (HMICA) on the inspection of court cells and court escorts and, at the invitation of the Chief Inspector of Constabulary, has begun to explore with HMIC how it might jointly inspect police cells. A particular driver for this extension of HMI Prisons' activity has been the coming into force in June 2006 of the Optional Protocol to the United Nations' Convention against Torture. This requires state parties, including the United Kingdom, to put in place mechanisms for the independent inspection of all places of detention. HMI Prisons has been recognised as one of the principal mechanisms by which this obligation will be met.

HMI Prisons adopts a rigorous and triangulated approach to inspection. Evidence is sourced from documentary analysis, observation and prisoner surveys, and is tested against published inspection criteria, or *Expectations*, that test the health of an establishment. Triangulation validates the data, provides a narrative for the analysis, and increases the reliability of the findings.

The concept of a 'healthy' custodial setting was first propounded by the World Health Organisation, and was developed by HMI Prisons to provide a blueprint for the inspection of custody. The four tests of a healthy custodial setting that guide HMI Prisons' inspection methodology are that a prisoner or detainee is:

- held *safely*
- treated with *respect* for their human dignity
- able, and expected, to engage in *purposeful activity*
- prepared for *resettlement* or whatever is to happen to them next.

The model has been adapted so that it can be used in immigration detention settings, including the short-term holding facilities which hold detainees only for hours or days.

As a result of the joint work between HMI Prisons and HMIC, this healthy prison model has been extended to inform the emerging methodology for the joint inspection of the treatment and conditions for those held in police custody. It was the intention of both inspectorates that this joint inspection work would be piloted from 1 April 2007 as part of an expanded portfolio of joint criminal justice inspection. With the arrival of Operation Safeguard, development of this emerging methodology has been expedited in order to inform this paper and provide a snapshot of the impact on prisoners of this emergency measure.

3: Background to Operation Safeguard

The last time that police cells were formally used to house prisoners for whom no prison accommodation was available was in July 2002. This operation ran for over five months and cost the taxpayer £10.4 million (Hansard, 2004). This cost was 'significantly higher than the average cost of keeping prisoners in prison cells' (National Audit Office, 2005).

Between October and December 2006 approximately 25 police forces, 44 police stations and 45 prisons were affected by the reactivation of Operation Safeguard. Not all chief constables opted to take part, with many concerned that their accommodation was ill-equipped to fulfil more than a holding function. The Association of Chief Police Officers (ACPO) expressed concern about their liability should vulnerable prisoners be accommodated in police cells (Metropolitan Police Authority, 2006), and the subsequent Prison Service Instruction (PSI 30/2006) on the implementation of Operation Safeguard stated that *ideally* police cells should be avoided for the young, the vulnerable and those who are an escape risk. The categories of inappropriate prisoners actually specified were:

- juvenile prisoners
- female prisoners
- those identified as at risk of self-harm
- those with significant health care issues, including:
 - o prisoners undergoing assessment for, or due for transfer, under the Mental Health Act 1983
 - o any prisoner identified by the prison health team as unsuitable on clinical grounds
 - o any other prisoner with a significant physical or mental health problem whom the healthcare provider to the police station feels is clinically unsuitable for their locally available service. (e.g. clinically unsuitable substance misuse problem or a patient undergoing complicated treatment)
- vulnerable prisoners
- prisoners with a Crown Court trial in progress (including those from the Court of Appeal (Criminal Division) – COACD)
- all category A prisoners including potential category A prisoners
- escape list prisoners or prisoners with a documented history of disruptive behaviour
- prisoners with mobility problems
- prisoners with language difficulties.

The PSI explicitly assumes that prisoners will not spend more than one night in police cells. For this reason, if they have already been in a prison, their property is retained by the prison rather than travelling with the prisoner. There is no contingency for prisoners spending more than one night in police cells, or not returning to the discharging prison at all.

Practice guidance for the police is set out in a manual produced by ACPO, last updated in July 2006. This broadly requires that conditions for prisoners held under Operation Safeguard should not differ greatly from those that apply to people held by the police under the Police and Criminal Evidence Act (PACE).

4: A description of preliminary work

To date, HMI Prisons and/or HMIC have carried out preliminary inspection work on Operation Safeguard at two police custody suites and two prisons.

4.1 Steelhouse Lane Custody Suite

On 9 November 2006, inspectors from both inspectorates made an unannounced visit to Steelhouse Lane Custody Suite in Birmingham, as part of a joint criminal justice inspection of the West Midlands Local Criminal Justice Board area. Key findings were fed back to the West Midlands Criminal Justice Board.

The custody suite consisted of 32 cells over three floors, and 18 cells were made available for the purpose of Operation Safeguard. While police officers deployed on Operation Safeguard duties demonstrated a lot of goodwill, inspectors were critical of a number of accommodation and welfare matters, which were beyond the officers' control.

4.2 HMP/YOI Norwich and HMP/YOI Elmley

Subsequently, two local prisons subject to routine HMI Prisons inspection were found to be housing prisoners affected by Operation Safeguard. They were: HMP/YOI Norwich in the week beginning 20 November 2006, and HMP/YOI Elmley on the Isle of Sheppey in the week beginning 11 December 2006.

A questionnaire was devised for these prisoners by HMI Prisons' research staff and piloted during these two visits (see Appendix). It was completed by eight prisoners at Norwich and nine at Elmley. The findings were fed into the inspection of each establishment.

4.3 Dartford Police Custody Suite

On 15 December 2006, inspectors from both inspectorates made an unannounced visit to the designated Operation Safeguard custody suite for Kent at Dartford Police Station. This accommodation consisted of eight cells with toilet facilities en suite. Seven prisoners completed a questionnaire asking them about their treatment and conditions. A report of our findings was sent to the Chief Constable of Kent via the HMIC Lead Staff Officer, in line with normal HMIC practice.

5: Key findings

Though in its pilot stage, the work has identified some substantial and important issues regarding the treatment of and conditions for prisoners under Operation Safeguard. These findings are set out below using the framework of the healthy prison model.

5.1 Safety

- At both Norwich and Elmley no prisoners said they had been victimised by either prisoners or staff while in police cells.
- Two of the seven at Dartford reported having being victimised by other prisoners.
- At Norwich all prisoners reported having felt safe while in police cells; at Elmley two of nine reported having felt unsafe.
- Only one respondent at Norwich reported having been told how to contact Samaritans or a similar organisation if he had needed to, and at Elmley none of the prisoners reported this to be the case.

5.2 Respect

5.2.1 Conditions

- At Dartford custody suite, all the cells held two prisoners, so one person in each cell had to sleep on a mattress on the floor.
- In total six prisoners (75%) at Norwich were negative about the conditions in their cells, with one person commenting: 'There was a thin mattress on a raised surface...we had no pillows and rough army style blankets'.
- At Elmley one prisoner said: 'I was forced to sleep on a one-inch thick mattress on the floor, with one sheet, one blanket and no pillow. It was so cold I did not undress, so ended up wearing the same clothes for 48 hours'.
- The cells at Steelhouse Lane were found to have no natural light or any means of ventilation. They were also very hot and dimly lit.
- The no smoking policy at Steelhouse Lane was enforced without any flexibility, despite the fact that prisoners could be held there for more than 24 hours.
- All nine respondents at Elmley reported that they were not able to shower each day, while five of the eight respondents at Norwich stated that they did have access to a working shower.

5.2.2 Food

- At both Steelhouse Lane and Dartford, all meals were either microwaved or limited to cereals.
- No prisoner at Elmley thought the food was good, and one prisoner commented: 'I was not fed until 2pm the next day'(although a check of the police custody record showed this prisoner had complained of toothache and was seen at 8pm by the custody nurse who prescribed medication. He was offered hot and cold drinks).
- At Norwich, five of the eight prisoners were positive about the food, all five stating that this was because staff had bought them fish and chips.

5.2.2 Healthcare

- At both Steelhouse Lane and Dartford, there was a nurse or doctor in attendance for specified periods of the day.

- Five of the nine prisoners at Elmley reported having been seen by a doctor while held under Operation Safeguard; and one reported that his buzzer had been disconnected, even though he was in a special cell for medical reasons.
- In total, 88% of those at Norwich stated that they considered themselves to have specific physical or mental healthcare needs when they went into police cells, and one referred to the adverse impact on his mental health of being held there.
- At Dartford, we were concerned that clinical records were not held securely.
- At Dartford, we were concerned that clinical information about a prisoner obtained by prison healthcare staff was not actively used by health professionals at the police station; nor was information obtained while a prisoner was held at the police station passed on to health professionals at the receiving prison when the individual was transferred.

5.2.3 Foreign nationals

- In total 41% (n=7) of the 17 prisoners from Norwich and Elmley were foreign nationals.
- At Dartford, there was one Polish detainee who appeared unable to speak or understand English. Inspectors found that Language Line was available and had been used.
- Custody officers at Dartford expressed concern at their own lack of knowledge of the suitability and risk of putting foreign national prisoners in cells together.

5.2.4 Property

- In line with the PSI, none of the prisoners in police custody at Steelhouse Lane had their property with them.
- Staff at both Norwich and Elmley reported that storing the property of prisoners who had left on Safeguard was an issue when prisoners did not return to the discharging prison, and special measures had to be taken to return their property to them.
- At Dartford, prisoners' property was held in sealed bags, and although the prison told them that they would not accept back any bags that had been opened, an experienced custody sergeant had taken the initiative to retrieve certain items of property that were needed, and to make a note of this in the property bag and in the custody record.

5.2.5 Length of stay

- Despite the PSI guidance, four of the nine prisoners at Elmley reported being held there for between two and three days, and one reported being there for more than three days.
- Inspectors were informed that prisoners could remain at Steelhouse Lane for up to one week.

5.2.6 Complaints

- Of the total 17 prisoners from prison establishments none reported having been told how to make a complaint if they needed to, and one respondent at Norwich commented: 'Even my solicitor says there is no point'.

5.3 Purposeful activity

5.3.1 In-cell activity

- At both Steelhouse Lane and Dartford, it was observed that there were no televisions or radios in the cells.
- At Steelhouse Lane it was also noted that there were no reading materials available for prisoners, though inspectors found that Dartford custody staff were supplying their own reading materials to prisoners.
- Overall, seven of the nine prisoners at Elmley reported having no access to reading materials.

5.3.2 Out of cell activity

- At Norwich, all prisoners reported being in their cells the whole time, other than for short five-minute breaks.

- There were no facilities for outside exercise or association at Steelhouse Lane.
- At Dartford, the exercise yard was used to allow two prisoners at a time to have association.

5.4 Resettlement

5.4.1 *Contacting family and friends*

- At Elmley, only four of the nine prisoners reported having been able to let their friends or family know where they were.
- At Dartford and Steelhouse Lane monitored telephone calls were allowed.
- Two foreign national prisoners at Norwich stated that they could not use the phone, because they were not able to access contact numbers stored on mobile phones which had been taken from them.

5.4.2 *Leaving police custody*

- Overall, 75% of prisoners at Norwich said that they were not aware, at the point of leaving the police station, where they were going.
- Two of the five prisoners at Elmley who had been held in prison before going to police cells were not returning to the discharging prison.
- Staff at both Norwich and Elmley reported problems in having to forward the property of prisoners who did not return there. They also had to chase the property of prisoners who arrived at Elmley having been held under Safeguard and who had been discharged from a different prison establishment, which was still holding their property.

6: Conclusion

From the relatively small number of prisoners spoken to who had been, or were being, held under Operation Safeguard there were few from the designated excluded groups, with the exception of one prisoner with a medical problem and one with limited English. However, at Norwich there were a significant number of foreign nationals who had been held under Safeguard, and who were likely to have specific problems. On the whole they were being held safely, but in some custody suites prisoners were being doubled up, and a minority of prisoners said they had felt unsafe as a consequence.

Inspectors expressed some concern about the quality of the conditions in which prisoners were held, highlighting in particular the inadequacy of the food, bedding, warmth, access to natural light and access to showers – and the rigid enforcement of no smoking policies without symptomatic relief.

While there were arrangements for providing healthcare, they were limited. The lack of communication between different health professionals had the potential to compromise the healthcare of individuals.

There were arrangements for providing legal visits, though lack of access to property, lack of activity and exercise, limited opportunities to communicate and uncertainty about what was going to happen to them next, were all of concern to those we surveyed.

Significant concerns regarding health matters and access to property were not addressed in the limited guidance provided to police custody staff.

Inspectors concluded that the solution to many of the practical issues facing prisoners in police custody relied too heavily on the discretion of individual custody staff. Meanwhile, prison staff complained vociferously that they were over-burdened with trying to marry up stored property with individual prisoners when tracking systems broke down.

7: Future joint work for HMI Prisons and HMIC

This brief report has provided an important snapshot of the emerging impact of Operation Safeguard. It has also helped to cement the emerging joint working relationship between HMI Prisons and HMIC on the inspection of police custody.

HMI Prisons and HMIC have developed draft inspection criteria or *Expectations* to enable assessment of the conditions for and the treatment of those held in police custody under PACE Code C. Informed by the experience of looking at the implications of Operation Safeguard, these criteria will be piloted in the new business year, supported by a questionnaire to elicit appropriate information from detainees. At the same time, HMI Prisons' research department will develop a methodology for combining information about police custody suites from a range of sources within a risk assessment process model that will trigger a formal unannounced inspection by HMI Prisons and HMIC staff of those custody suites giving key stakeholders, for example, lay visitors, cause for concern.

From April 2007, this work will be developed and refined in conjunction and consultation with a range of stakeholders interested in police custody activities, for example ACPO. Subject to a six month pilot and review, it will be put forward for inclusion in a formal programme of joint criminal justice inspections for 2008-9 to be produced under the provisions of the Police and Justice Act 2006.

In the meantime, HMI Prisons and HMIC will at their discretion continue to make unannounced visits to designated custody suites operating under Operation Safeguard as they determine appropriate.

8: References

Association of Chief Police Officers (July 2006). *Operation Safeguard Operations Manual*. Version 5. Mark Avil, Northants Police.

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Appendix – The Questionnaire

Section One: about you

- Q1** What wing or houseblock are you currently living on?

- Q2** What is your age?
Under 21..... ☐
21 – 29 ☐
30 – 39 ☐
40 - 49 ☐
50 - 59 ☐
60 - 69 ☐
70 and over ☐
- Q3** Are you
Male..... ☐
Transgender ☐
Transsexual ☐
- Q4** Are you sentenced?
Yes ☐
No..... ☐
- Q5** What is your ethnic origin?
White - British ☐
White - Irish ☐
White - Other ☐
Black or Black British - Caribbean ☐
Black or Black British - African ☐
Black or Black British - Other..... ☐
Asian or Asian British - Indian ☐
Asian or Asian British - Pakistani..... ☐
Asian or Asian British - Bangladeshi ☐
Asian or Asian British - Other ☐
Mixed Race - White and Black Caribbean ☐
Mixed Race - White and Black African ☐
Mixed Race - White and Asian ☐
Mixed Race - Other ☐
Chinese ☐
Other ethnic group..... ☐
Please specify _____
- Q6** Are you a foreign national? (i.e., do not hold UK citizenship)
Yes..... ☐
No ☐
- Q7** Is English your first language?
Yes..... ☐
No ☐
- Q8** What would you classify, if any, as your religious group?
None ☐
Church of England ☐
Catholic ☐
Protestant..... ☐
Other Christian denomination ☐
Buddhist ☐
Hindu..... ☐
Jewish ☐
Muslim..... ☐
Sikh ☐
Any other religion, please specify _____
- Q9** How would you describe your sexual orientation?
Heterosexual ☐
Gay ☐
Bisexual ☐
Other, please specify _____
- Q10** Do you consider yourself to have a disability?
Yes..... ☐
No ☐
Don't know ☐
- Q11** Are you a Registered Disabled Person?
Yes..... ☐
No ☐
Don't know ☐

Section Two: background

- Q12** What police station were you held at?

- 3 to 7 days ☐
more than 7 days ☐
Don't remember ☐
- Q13** How long were you held in police custody after being charged or sentenced?
Less than one day ☐
1 day..... ☐
2 to 3 days..... ☐
- Q14** Were you held in prison before you were in police cells?
Yes..... ☐
No ☐ If no, go to question 18 (section three)

Q15 If yes, have you returned to the same prison?

Yes ☐ If yes go to question 18 (section three)

No ☐

Q17 If yes, have you recieved your property yet?

Yes..... ☐

No ☐

Q16 Have you been here longer than two days?

Yes ☐

No..... ☐ If no go to Q18 (section three)

Section Three: arrival at the police station

Q18 Were you aware that you were going to be held at a police station, rather than in prison, before you were in the escort van?

Yes ☐

No..... ☐

Over two hours to four hours..... ☐

More than four hours..... ☐

Don't remember ☐

Q19 How long did you spend in the escort van before arriving at the police station?

Less than one hour..... ☐

Over one hour to two hours ☐

Q20 Were you told how long you would be held at the police station in a language you could understand?

Yes..... ☐

No ☐

Section Four: respect

Q21 Were you sharing a cell at the police station?

Yes ☐

No..... ☐

Q23 Did the toilet facilities have the following?

Never used the toilet facilities..... ☐

Toilet paper ☐

Soap..... ☐

Hand drying facilities ☐

Q22 Were you able to access a toilet when you needed to?

Yes ☐

No..... ☐

Q24 Did you have access to a shower each day?

Yes..... ☐

No ☐

Q25 In terms of your cell, how would you rate the following?

Cleanliness

Ventilation

Temperature

Light

Very good Good Neither Bad Very bad

☐ ☐ ☐ ☐ ☐

☐ ☐ ☐ ☐ ☐

☐ ☐ ☐ ☐ ☐

☐ ☐ ☐ ☐ ☐

Q26 Was there any graffiti in your cell?

Yes ☐

No..... ☐

Q30 Do you think the food you received was suitable for your dietary requirements?

Did not receive any food ☐

Yes..... ☐

No ☐

Q27 Were you provided with the following?

Yes No

Sufficient bedding ☐ ☐

Clean underwear everyday ☐ ☐

Q28 Were you provided with clean underwear everyday?

Yes ☐

No..... ☐

Q31 On average how long were you able to spend out of your cell each day

No time spent out of cell ☐

Less than one hour ☐

One hour to less than two hours ☐

Two to less than four hours ☐

Four to less than six hours ☐

Six to less than eight hours ☐

Eight to less than ten hours..... ☐

Ten hours or more..... ☐

Don't know ☐

Q29 For the length of time you were in police cells, do you think you were provided with sufficient food?

Yes ☐

No..... ☐

Q32 Did you have access to any reading materials?

Yes ☐

No ☐

Q34 Did most staff treat you with respect?

Yes ☐

No ☐

Q33 Did you have access to any writing implements?

Yes ☐

No ☐

Section Five: safety

Q35 Did you feel safe whilst held in police cells?

Yes ☐

No ☐

Q36 Were you victimised (insulted or assaulted) by another prisoner or group of prisoners there?

Yes ☐

No ☐ If No, go to question 34

**Q37 If you did feel victimised by a prisoner/group of prisoners, what did the incident(s) involve?
(Please tick all that apply)**

Insulting remarks (about you or your family or friends) ☐

Physical abuse (being hit, kicked or assaulted) ☐

Sexual abuse ☐

Your race or ethnic origin ☐

Drugs ☐

Having your property taken ☐

Because of your sexuality ☐

Because you have a disability ☐

Because of your religion/religious beliefs ☐

Being from a different part of the country than others ☐

Q38 Were you victimised (insulted or assaulted) by a member or group of staff there?

Yes ☐

No ☐ If No, go to question 36

**Q39 If you did feel victimised by a member of staff/group of staff, what did the incident(s) involve?
(Please tick all that apply)**

Insulting remarks (about you or your family or friends) ☐

Physical abuse (being hit, kicked or assaulted) ☐

Sexual abuse ☐

Your race or ethnic origin ☐

Drugs ☐

Because of your sexuality ☐

Because you have a disability ☐

Because of your religion/religious beliefs ☐

Being from a different part of the country than others ☐

Q40 If you were victimised by prisoners or staff, did you report it to anyone?

Not been victimised ☐

Yes ☐

No ☐

Section Six: communication

Q41 Were you told how to make a complaint if you needed to?

Yes ☐

No ☐

Q44 Did staff tell you how to contact Samaritans or a similar organisation?

Yes ☐

No ☐

Q42 Were you given the opportunity to let family and friends know where you were?

Yes ☐

No ☐

Q45 Did anyone explain your entitlements to seeing a legal representative in a language you could understand?

Yes ☐

No ☐

Q43 Did you have access to a telephone whilst you were held in police cells?

Yes ☐

No ☐

Section Seven: healthcare

Q46 Did anyone explain your entitlements to see the following people in a language you could understand? (Please tick all that apply)

Doctor.....

Nurse.....

Q47 Were you seen by the following people during your time there? (Please tick all that apply)

Doctor.....

Nurse.....

Q48 Were you taking medication when you went into police cells?

Yes..... ☐

No. ☐

Q49 Were you able to keep your medication in your possession whilst in police cells?

Not taking any medication..... ☐

Yes ☐

No..... ☐

Q50 Were there any specific physical healthcare needs you felt you had when you went into police cells?

Yes ☐

No..... ☐ If no, go to question 48

Q51 If yes, please specify

[illegible]

Q52 Were there any specific mental healthcare needs you felt you had when you went into police cells?

Yes..... ☐

No ☐ If no, go to question 50 (section eight)

Q53 If yes, please specify

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are approximately 20 lines visible. The paper appears to be a standard notebook page or a sheet of stationery.

Section Eight: leaving police cells

Q54 Were you told what was going to happen to you when you left police cells?

Yes ☐

No. _____

Q55 How long did you spend in the escort van between the police station and this establishment?

Less than one hour..... ☐

Over one hour to two hours..... ☐

Over two hours to four hours..... ☐

More than four hours..... ☐

Don't remember ☐

Q56 Has a member of staff at this prison ever asked you about your experiences in police cells?

Yes ☐

No..... ☐

Section Nine: final comments

Q57

Is there anything else you would like to tell us about your time in police cells?

[illegible]

Thank you for completing this survey