

Report on an inspection visit to West London Magistrates' Court Custody Suite

13 June 2007

by HM Inspectorate of Prisons and
HM Inspectorate of Court Administration

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Contents

1	Introduction	4
2	Background	6
3	Findings	7
	Staffing	
	Accommodation and facilities	
	Food	
	Arrival	
	Safety	
	Healthcare	
4	Conclusions and issues requiring attention	11
	Appendix: Court custody suite checklist	12

1: Introduction

- 1.1 During May and June 2007, the prison population reached such high levels that some of those sentenced or remanded by the courts had to be held overnight, or in some cases over a weekend, in designated court cells.
- 1.2 Prisoners are at their most vulnerable during the first days and hours in custody: at one time, nearly a third of self-inflicted deaths occurred within the first seven days at an establishment. Prisons have developed mechanisms and procedures for reducing that vulnerability: such as detoxification, health screening, vulnerability and risk assessments, and specialised first night centres. Yet none of these arrangements exist in courts, nor is the accommodation in court cells designed for overnight stays.
- 1.3 The inspectorates of prisons and courts administration decided to carry out an inspection visit to the most regularly-used court, West London Magistrates' Court, to assess the conditions and treatment of prisoners held there. This was to have been the precursor to visits to all designated court cells, but fortunately the decision to authorise early release of some prisoners reduced the prison population and, at least for the present, eliminated the use of court cells. This inspection nevertheless points out very clearly some of the problems inherent in holding prisoners in such places, which will need to be addressed should this emergency accommodation need to be used again.
- 1.4 Inspectors found that staff on-site, both contracted court custody and escort staff and prison governors, were doing their best to support prisoners in very difficult circumstances. They are to be congratulated on that. But they faced considerable problems. For security reasons, prisoners were unable to contact their families directly, or even let them know where they were. Prisoners had been held in bare cells over a weekend, with no activity, no natural light, unable to smoke and with no exercise facilities. Shower facilities were inadequate, and there was no opportunity to change clothes: any prisoners in mid-trial would have had to reappear in court in the clothes they had slept in.
- 1.5 We were extremely concerned that there was none of the proactive reception or healthcare screening that we would expect to find in a prison, with the risk that vulnerabilities, risks and medical problems would not be picked up and dealt with. This was exacerbated by the fact that allocation procedures were not robust enough to screen out all those prisoners who were too vulnerable to be held in court cells.
- 1.6 Moreover, prisoners arrived late in the day having travelled the country late into the night and hours after court finished, in cramped cellular vehicles. They then left early the following morning, sometimes to undertake equally long onward journeys. Two nights previously, one prisoner from Birmingham had not arrived until 1.30am, needing to leave in the early hours of the morning to return there. This is an unacceptable way to treat prisoners at a vulnerable time.
- 1.7 In spite of the considerable efforts of court custody and escort and prison staff, this inspection raised serious concerns. Court cells will never be an appropriate place to hold prisoners for anything but a short period, and the underlying message of this report is that they should not be used for overnight, still less weekend, stays. But if such an emergency recurs, it is essential that all the agencies responsible – the National Offender Management Service, HM Courts Service and the contractors – ensure that systems and procedures are in place to provide the maximum support at this vulnerable time. For our part, we now have the methodology in place

to carry out further inspections, should this be necessary. The Expectations we have developed to support this work are included as an appendix to this report.

Eddie Bloomfield
HM Chief Inspector of Court Administration

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July 2007

2: Background

- 2.1 One acute consequence of prison overcrowding has been that those sentenced or remanded by the courts have been initially held in police stations and court cells. The use of police cells, under Operation Safeguard, began in October 2006, and HM Inspectorate of Constabulary and HM Inspectorate of Prisons have jointly published a short report of findings in relation to two designated police custody suites. During the first half of 2007, the number of prisoners exceeded the capacity of prisons and designated police cells, and it became necessary to use court cells as well.
- 2.2 In order to examine the conditions for and treatment of such prisoners, HM Inspectorate of Prisons and HM Inspectorate of Court Administration undertook a joint visit to West London Magistrates' Court, where 150 prisoners had been held in the previous month, most for one night, but some over a weekend.
- 2.3 Prisoners in police and court cells are held under section 6 of the Imprisonment (Temporary Provisions) Act 1980. A protocol between the Home Secretary and Lord Chancellor states that court cells will only be used when all places in police cells provided under Operation Safeguard have been filled. Staffing is provided by the contracted escort and court custody service, augmented by two Prison Service staff who have the powers of a constable, one of whom should be a governor. (Two such staff are considered necessary in case one has to leave the court premises for a medical or other emergency.)
- 2.4 An Operation HMCS Cells manual has been provided by the prisoner escort and custody service (PECS) for those carrying out such duties. On arrival, they are advised to contact the local police to obtain a force-wide incident number to use if a police response is needed. Incident reporting internally is through the PECS contract monitor. The staff operate the suite in line with their usual operating standards, which apply during the day. In addition, two governors are also responsible for ensuring the safe operation of the facility overnight and are expected to intervene if the custody and care of prisoners appear to be at risk.
- 2.5 Prisoners were screened and certain categories should have been excluded as unsuitable for police or court custody because of their vulnerability. The contractor's staff noted any concerns about the unsuitability of prisoners for overnight stays on the prisoner escort record (PER) during the day and relevant information was faxed to their HQ. Decisions about whom to place in court cells were made by the contractors' senior managers in consultation if necessary with the population management section in the National Offender Management Service (NOMS), on the basis of the information available to both parties on the day.

3: Findings

Staffing

- 3.1 A senior custody officer and six custody officers were present for 20 prisoners. We were told that some contractors' staff worked for a 24-hour period on their first overnight shift, leading to fatigue and potential risks to prisoner care and safety. Two prison governors provided oversight, however, they expressed concern about lines of accountability as they did not line manage staff but had some legal responsibility.

Accommodation and facilities

- 3.2 There was a lack of clarity and transparency as to which court cells were designated for use in housing prisoners. One manager described how he was shortly to visit a neighbouring court to designate its cells despite them already having been used to house prisoners, and at least one other court had already been used without having been designated. The same manager described how he had previously been involved in designating one London court with which he had been familiar 20 years previously, only to have to remove it from designated status once it was found that it lacked an automated fire suppression system – but not before prisoners had been held overnight.
- 3.3 Twenty-six cells were available for overnight use. All were single and three contained integral sanitation. They were clean with mattresses and clean bedding (quilts and pillows with covers) placed on the fixed plinth that operated as a bench during the day, providing a makeshift bed. Cells and bedding were cleaned daily.
- 3.4 The cells were stark, tiled and windowless with high ceilings, and were hot and stuffy. There were no obvious ligature points. Other than the bedding, nothing else was provided. There was no in-cell electricity, TV or radio and no reading materials or any other way of passing the time. We were told that prisoners 'just wanted to get their head down'; though in reality there was no other option. Custody staff reported having gone out to buy newspapers from their own funds for prisoners held over the weekend. Each cell had an emergency bell.
- 3.5 Prisoners had to be unlocked one at a time to use the toilet, with three staff present. They had no opportunity to wash or brush their teeth but we were told they would be provided with toiletries in the morning. There were three showers but only one worked, and this had not been cleaned from its previous use. Prisoners were not offered a shower when they arrived, but we were told that they would be woken at 5.30am and offered a shower in the morning, though it was hard to see how 20 prisoners would be able to use one shower in the time available. As there was no supply of clean clothing prisoners slept in the clothes they were wearing at court and would have to put them on again after showering. Even if they had spare clothing they had no access to their stored property.
- 3.6 There were no facilities for physically disabled prisoners and the expectation was that men with obvious disabilities would be screened out.

Food

- 3.7 Prisoners were offered a choice from a wide range of microwave meals which covered most dietary and religious requirements. Custody officers went round to each cell individually at about 10pm to ask the prisoner what he wanted to eat and to offer drinks. Most men took up

this offer, having only eaten a microwave meal earlier in court. We were told that weekend staff had purchased fruit for prisoners out of their own funds. There was no water supply in the cells and no bottled water provided, though we were told that prisoners could request drinks throughout the night.

Arrival

- 3.8 We were told that decision making in London about the placement of prisoners was delayed by the fact that 60% of custody cases were seen by the court after 2pm.
- 3.9 The original allocation was 14 prisoners who had arrived by 9pm. At 10.30pm another van arrived (from Bexhill) with two more prisoners, one of whom was destined for Greenwich police station where there was an Operation Safeguard cell available which had to be filled before court cells could be used. Six more prisoners arrived later at 10.45pm without notice from Brighton, diverted from Bristol, their original destination. We were told that two nights before prisoners had come from as far away as Birmingham, with the last prisoner processed at 1.30am and having to return to Birmingham the next day.
- 3.10 Reception arrangements were extremely basic. Prisoners were taken off the vans one at a time as there were no holding facilities. They were handcuffed from the vans into the cell and throughout the reception process. There were affray alarms along the route and throughout the custody suite. In the reception area prisoners were given a rub down search, which included the use of a hand-held metal detector. There was no strip search, although we were told that one would be carried out if there was any particular intelligence or concern.
- 3.11 Reception procedures were perfunctory compared to those that operate in prisons, particularly in relation to assessing risk and vulnerability. The senior custody officer (SCO) simply explained to the new arrival why he was there, told him he was subject to Prison Rules, that he could not smoke and could see the doctor if he requested. Prisoners were not asked if they had immediate personal problems.
- 3.12 It was not made clear what being subject to Prison Rules meant. Prisoners were offered an information leaflet that was dense and written in English and in official language. One prisoner refused the leaflet, but there was no check on whether he could read. We were told that although foreign nationals were theoretically excluded from court cells, in practice they were only screened out if they had no English at all. One of the prisoners was Polish. His English was reasonable, but not good, and it is unlikely he would have been able to understand the written information provided. No telephone translation service was available.
- 3.13 Prisoners were told that a phone call would be made on their behalf to let their families know that they were in custody but not their location, for security reasons. However, some did not know the numbers that were stored on their mobile phones in their sealed property bags. All of the prisoners spoken to were anxious about their inability to make a phone call. At least three of them had been found guilty that day of serious charges and were beginning lengthy sentences. They wanted to reassure their families that they were all right.
- 3.14 The written information informed prisoners that they could raise complaints in the first instance with custody officers, but if not resolved they could raise a formal complaint with the PECS contract monitor. The contract monitor told us that he would take up any complaints that related to the court custody accommodation.
- 3.15 Smoking was not allowed anywhere in the court premises and this included the custody suite. This caused a problem for prisoners who smoked, and there was no provision of nicotine

patches or gum. We were told that when prisoners were held over a weekend custody staff had made a pragmatic decision to allow them to exercise and smoke in the vehicle lock.

Safety

- 3.16 Prisoners identified as a current risk of suicide or self-harm were supposed to be screened out as unsuitable for court cells. However, we were told that a prisoner who had been identified by the Prison Service as at risk of suicide or self-harm, and was being actively monitored for this reason, had arrived the night before. The duty governor had arranged for him to be transferred to one of a small number of emergency beds that were available in London prisons on a rota basis for such contingencies. However, we were also told that the late arrival of prisoners and use of court cells as the last resort reduced the number of realistic options left when unsuitable prisoners arrived.
- 3.17 We were told that custody officers patrolled the landing throughout the night and checked prisoners every 10 minutes. We observed that records of checks were entered on the electronic PER forms which would flag up a warning if a check was not entered at least hourly. Cell door hatches were left open and the cells had no ligature points.
- 3.18 All prisoners were addressed by their title and surname and staff were relaxed and friendly towards them. There was no bullying between prisoners as they had no direct contact with each other, and were only able to communicate with one another through the hatches, within earshot of staff.
- 3.19 There were sufficient staff to deal with any emergency and no need for anyone to open a cell alone. All were first aid trained. There were clear evacuation procedures and sufficient vans on site throughout the night to move all the prisoners in the event of an emergency.

Healthcare

- 3.20 Offender Health, part of the Department of Health, has issued guidance for prisoners held overnight in court or police cells. This states that a nurse should be in attendance between 8pm and 6am to provide a routine health screening, with a doctor available for telephone consultation and attendance within an hour of this being considered necessary.
- 3.21 These arrangements were not in place at West London Magistrates' Court. A doctor from Doctors Direct attended at 9pm. He also attended the courthouse during the day as duty medical cover, and was familiar with the health needs of prisoners. He said it was not unusual to have a number withdrawing from drugs and he was able to provide symptomatic relief in the form of diazepam or dihydrocodeine that would last for up to eight hours.
- 3.22 The doctor did not routinely screen all prisoners, but saw them only if they asked to see him. Moreover, he waited until all prisoners had arrived before he saw those wishing to see him. This meant that a prisoner who had asked for medical attention at 9pm had still not been seen by 11pm when the last prisoners were still arriving. The lack of routine and immediate health screening of each prisoner meant that there was no opportunity to assess the condition of all prisoners, or to identify promptly any prisoner whose medical condition made him unsuitable for a court holding cell.
- 3.23 The governors on site said that prisoners coming from prison had their clinical records with them and the doctor could have access to them 'if necessary'. In-possession medication was supposed to travel with the prisoner.

3.24 After the doctor left there was no opportunity for prisoners to get even simple painkillers. We were told emergencies would be dealt with by 999 calls and were likely to go to Charing Cross Hospital. However, the hospital had not been informed of the overnight use of court cells, and there was no formal contingency arrangement or protocol with it.

Inspectors:

Michael Loughlin, HMI Prisons
David Abbott, HMICA

4: Conclusions and issues requiring attention

- 4.1 On the whole all the agencies concerned had done their best under pressure to provide a safe and decent environment. Staff were polite and considerate to prisoners and did their best to mitigate the unsuitable conditions, but there are a number of issues of concern, which should be addressed by the Ministry of Justice, working with the contractors, before any further use of court cells as emergency accommodation.

Allocation procedures

- Risk assessment procedures were inadequate to screen out prisoners who were too vulnerable to be held in court cells.
- Journey times were excessive, and led to extremely late arrivals and sometimes further lengthy journeys to another location. This was compounded by excessively early wake-up times the following morning.
- The process of designation of court cells was not based on transparent criteria.

Staffing

- Lines of accountability/responsibility in the governors' role were insufficiently understood by staff.
- Some contractors' staff worked for a 24-hour period on their first overnight shift, leading to fatigue and potential risks to prisoner care and safety.

Initial reception procedures

- Prisoners were not informed, verbally and in writing, and in a format and language they could understand, about their situation, their rights and the treatment they should expect to receive.
- There were no proper and consistent assessments of prisoners' vulnerability, risks or immediate needs.
- Prisoners were unable to contact families or friends to tell them where they were, and to give and receive reassurance.

Conditions and treatment

- Prisoners were unable to wash on arrival; there were inadequate shower facilities, and prisoners were unable to change their clothes.
- These conditions, in addition to lengthy journeys and shortage of sleep, could prejudice the delivery of justice for any prisoners who had to reappear in court.
- Cells were bare; water was not routinely available; there were no exercise facilities and nothing was provided to help prisoners pass the time, even when they were held over a weekend.

Healthcare

- Prisoners did not automatically get a healthcare check and were not seen immediately on arrival even if they requested medical assistance.
- There was no 10-hour on-site nursing cover, with a doctor available for telephone advice and attendance, as in the Offender Health guidance.
- No nicotine replacement was provided for smokers; and only symptomatic relief was available for those withdrawing from drugs.
- The local hospital had not been officially notified that it might be used in an emergency, and there were no protocols for such use.

Appendix: Court custody suite checklist

COURT CUSTODY SUITE: _____

DATE: _____ TIME: From: _____ To: _____

INSPECTORS: HMI PRISONS: _____

HMICA/HMIC: _____

INSPECTION CHECKLIST	RECORD
1. Op Cap: What is the operational capacity? Check that it is not exceeded and that prisoners are housed in single cells. Did they receive who they were expecting? Are any more expected?	
2. Arrival: What time did the prisoners arrive? How long were their journeys? What time will they be woken up in the am?	
3. PERs: check that PERs are noted with the court location so that none return for a second night.	
4. Property: check that any property is sealed and secure	
5. Staffing: note levels and whether there are two "constables" present, one a governor grade and the other at least a qualified prison service grade. 6. Have any of the staff have been extended to work for > 12 hours. Are they fit for duty? 7. Do they understand lines of command? Is there an on-call duty manager for contractor staff?	
8. Prisoners: check that the following are not being held:	If any are present describe below and how they are being accommodated:
juveniles	
women	
those at risk of self harm or on an open ACCT	
potential category A prisoners	
those with an escape history or documented disruptive behaviour	

those with health care problems requiring in-patient treatment	
those with acute mental health problems	
those with mobility problems or other significant disabilities	
those with language difficulty	
9. Good order: check that the local police are aware that the court cells are being used to house prisoners	
10. Fire: what are the fire evacuation procedures?	
11. Supervision: check that regular (hourly) checks are made on individual prisoners and noted in the PER.	
12. Information: are prisoners told where they are being held and why, what will happen to them?	
13. Families: are prisoners able to ensure that their families know where they are? (the manual allows PCOs to make a call on the prisoner's behalf letting them know that they are in custody, but not where. We think this is an excessive level of security)	
14. ¹Healthcare: <ul style="list-style-type: none"> • do staff enquire about any medical or drug/alcohol withdrawal needs? • Is there a nurse in attendance from 20.00 to 6.00 the following day? • Is there routine screening? • Is there an on call doctor available for telephone consultation who could attend within an hour of a need being identified? • Are clinical records from prison on site and available to medical staff? • Where is the issuing of medication recorded? • Do medical staff have medication for symptomatic relief on site? • Is enough medication provided for the likely duration of the prisoner's stay in the court cells? 	

¹ These criteria are taken from guidance provided by Offender Health for the medical care of prisoners held overnight in court cells.

<ul style="list-style-type: none"> • What are the arrangements for a medical emergency? • Does the local hospital know that court cells are occupied overnight? • Is there a defibrillator available, and anyone trained to use it? • Is there equipment to measure blood glucose, blood pressure, temperature as well as stationary and sealable envelopes? • Are plans for the care of the prisoner detailed in the PER following a consultation? • Can prisoner medication be stored appropriately (e.g. in a fridge) 	
<p>15. Smoking: courts are no smoking. Are there any nicotine patches/gum available? Are prisoners allowed to smoke in the vehicle lock?</p>	
<p>16. Refreshment: Are prisoners able to have a hot meal and liquid refreshments? What is the quality? When did prisoners last have a proper meal? Is bottled water available? What about breakfast?</p>	
<p>17. Hygiene: what are the sanitary arrangements? Can prisoners wash their hands? Toilet paper, soap and towel provided? Are there shower facilities? Can prisoners use them? Are toiletries provided? Any access to clean clothes?</p>	
<p>18. Cells: cleanliness ventilation temperature light are cell sizes appropriate for extended occupation? ligature points? bedding sufficient? Clean?</p>	
<p>19. Cell call bells: do prisoners know how to summon help?</p>	
<p>20. Activity: any radios, books provided? If held more than one night are exercise facilities available?</p>	
<p>21. Self harm: are prisoners held together? If so, what risk assessment is made? What would staff do if they found someone hanging in a cell?</p>	

22. Use of force: if force is used who authorises it?	
23. Complaints: is there a complaint system? Do prisoners know about it?	
24. Can any cultural or religious needs be met?	
25. Has PECS and the custody contractor been involved in risk assessing the custody accommodation and have all risks been effectively dealt with?	
26. Anything else of note?	

Is this record agreed by both inspectors?

Signed: _____ HMI Prisons
Date:

_____ HMICA/ HMCIC (delete as necessary)
Date: