

Case 1 | Issue 35 – Custody

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LEARNING THE LESSONS

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Placing someone in a cell

Detention of a man in custody, raising issues about:

- *Passing information to the custody sergeant*
- *Understanding autism*
- *Conducting a strip search without an appropriate adult*
- *Transferring a detainee to a cell*

This case is relevant if you work in:

Custody and detention



Overview of incident

Mr A was arrested for alleged fraud by false representation after he was unable to pay for a taxi journey. Attempts by PC B to resolve the situation and negotiate between the parties were unsuccessful.

Fraud by false representation is made when a person is dishonest and in doing so, intends to make a gain for themselves or a loss for another. In this circumstance, an alleged fraud would have happened if Mr A had taken the taxi journey knowing he could not pay and intended not to pay at the end of his journey. Thus causing a loss of the fare to the taxi driver.

In his statement to the IOPC, PC B said that he thought Mr A was intoxicated and smelt very strongly of alcohol. In his opinion he thought Mr A either had mental health issues or had taken a substance which had altered his mental state beyond the effects of just alcohol. He said Mr A's pupils were dilated and his mouth was very dry with white foam in the corner of his lips.

PC B and PC C placed Mr A in a police car and drove him to the police station.

Before entering the custody suite to be processed, detainees are held in a holding room with the officers who arrested them. When staff within the custody suite become available, the detained person is brought into the suite to be processed at the custody desk. Then they are placed into a cell awaiting interview after caution. Evidence relating to the alleged offence is gathered.

PC B, PC C and Mr A arrived in the holding room at around 5am.

CCTV from the holding room showed Mr A acting erratically before being booked into custody. It also recorded a conversation where Mr A told officers that he had a bleeding nose and asked for his handcuffs to be removed. There is no evidence on the CCTV to indicate that Mr A had a nosebleed.

While in the holding room Mr A moved towards and tried to press a panic strip on a wall of the room sixteen times. PC B was positioned between Mr A and the panic strip. After Mr A's eleventh attempt to press the panic strip, PC B placed his hand on Mr B's chest and moved him against the wall of the holding room. Mr A appeared to briefly struggle with PC B as he was being pushed back and shouted at PC B to "get off me" and "don't touch me".

PC B told the IOPC that Mr A was obstructive while in the holding room. He kept trying to touch the panic strip in the room despite being told numerous times not to. PC B also said that Mr A kept coming very close to him and swore at him, in what he saw as an attempt to provoke a reaction from him. PC B thought that he personally appeared to be the source of Mr A's frustrations as Mr A did not act in a similar manner towards PC C.

CCTV from the holding room showed that Mr A repeatedly asked PC B to remove his handcuffs. PC B said that he could not do this until the custody sergeant asked him to.

When PC B suggested that Mr A did not take things in quickly, Mr A said that he had autism.



Autism: a guide for police officers and staff

Developed by the National Autistic Society, this guide is designed to help police officers and staff who come into contact with autistic people. It provides specific advice relevant to people working in a custody setting.

Do's and don'ts in custody

- ✓ Remain alert to the possibility of undisclosed autism.
- ✓ Detain the person in the quietest area possible and try to be reassuring.
- ✓ Respond to any sensitivity that the person may have to particular textures such as police blankets or clothing.
- ✓ Make sure the adequate safety measures are in place to minimise risk of self-harm and other injury.
- ✓ Bear in mind that the signs of autism may fluctuate depending on levels of anxiety and stress.
- ✓ Let the person retain any comfort item they may have if it's not causing harm.
- ✓ Identify and appoint a suitable appropriate adult without delay.
- ✓ Consider seeking the advice of an autism professional if you are unable to appoint an appropriate adult who understands the person's particular needs and difficulties.

- ✓ Make sure the person understands why they are in custody, for how long and what they can expect to happen.
- ✓ Avoid being specific about timings if you don't have to be. "I will be with you in a minute" could be interpreted literally and cause anxiety if you don't then appear a minute later.
- ✓ Identify and meet any dietary requirements.
- ✗ Overcrowd the person. They may respond better to dealing with as few police officers and staff members as possible.
- ✗ Make loud, sudden noises. If an autistic person is kept in a cell, the noise of the door banging could be very distressing or shouting of other prisoners very frightening.

Find out more online:

<https://www.autism.org.uk/Products/Core-NAS-publications/Autism-a-guide-for-criminal-justice-professionals.aspx>

Around 5.30am Mr A was taken to the custody desk.

PC B explained to the custody sergeant, PS D, that Mr A had been arrested under section one of the *Fraud Act* for taking a taxi service with no means to pay. Mr A continued to argue with the reasons why he had been brought into custody.

Mr A's detention was authorised.

College of Policing Authorised Professional Practice (APP) – Booking into custody

Only the custody officer can authorise or refuse to authorise detention. This decision can only be made after the custody officer has personally listened to the grounds for arrest from the officer who has brought the detainee into custody.

The custody officer must ascertain from the officer if force has been used during the arrest. If so, this must be recorded. The custody officer must also ascertain whether the arresting officer is aware of any other issues which have arisen during arrest and transporting which may require immediate attention and need to be taken into account in any risk assessment.

Find out more online:

<https://www.app.college.police.uk/app-content/detention-and-custody-2/response-arrest-and-detention/#booking-into-custody>

Around 5.35am PC B asked PS D to carry out a strip search as he believed that Mr A may have drugs on him. PC B also told PS D that he thought Mr A may have taken drugs earlier in the evening, and that when Mr A was arrested he had dilated pupils and his behaviour had been erratic.

PS D authorised the strip search.

PS D asked Mr A if he had any items concealed on him and whether he had taken any drugs. Mr A said that he had not taken any drugs and had nothing concealed.

PS D explained to Mr A that PC B would carry out the strip search after which the custody booking-in process would be completed.

Mr A said that he did not want to go into a room to be strip searched by PC B. PS D told Mr A that although he could use force to conduct the search, he thought this was avoidable. PS D offered to come into the room with Mr A while the search was conducted. Mr A agreed.

At no point before the strip search did PC B tell PS D that Mr A had said he had autism.

PC B told the IOPC that Mr A's behaviour had caused the conversation he had in the holding room to "slip his mind" as Mr A's behaviour was distracting. He also said in interview that he was unaware the PACE Codes of Practice required an appropriate adult to be present during a strip search of a "mentally disordered or otherwise mentally vulnerable person".

Police and Criminal Evidence Act (1984): Code C

"'vulnerable' applies to any person who, because of a mental health condition or mental disorder:

- (i) may have difficulty understanding or communicating effectively about the full implications for them of any procedures and processes connected with:
 - their arrest and detention; or (as the case may be)
 - their voluntary attendance at a police station or their presence elsewhere (see paragraph 3.21), for the purpose of voluntary interview; and
 - the exercise of their rights and entitlements.
- (ii) does not appear to understand the significance of what they are told, of questions they are asked or of their replies.
- (iii) appears to be particularly prone to:
 - becoming confused and unclear about their position;
 - providing unreliable, misleading or incriminating information without knowing or wishing to do so;
 - accepting or acting on suggestions from others without consciously knowing or wishing to do so; or
 - readily agreeing to suggestions or proposals without any protest or question."

Find out more online:

<https://www.gov.uk/government/publications/pace-code-c-2018>

Following the strip search Mr A, PS D and PC B returned to the custody desk.

Designated detention officer (DDO) E continued to book Mr A into custody. During the booking-in process, Mr A was asked if he had any injuries. He replied that he did not. He was also asked if he had any medical conditions, to which he replied he did not.

DDO E asked Mr A if he had any mental health problems and whether he had ever self-harmed or attempted suicide. Mr A stated that he did not. PC B was stood next to Mr A at this point and told DDO E that Mr A had autism. Mr A confirmed that he had mild autism.

PC B told DDO E that Mr A would require an appropriate adult. PC B asked Mr A who had acted as an appropriate adult for him when he had been arrested before. Mr A said that it had been his father.

Mr A asked PC B when his father would arrive. PC B confirmed that his father would not arrive until he was going to be interviewed. Mr A said that he felt that he could be interviewed on his own. However, DDO E told him that he was not sober enough to be interviewed.

Mr A declined the offer to have a legal advisor.

Mr A was asked if he wanted anyone to be told of his whereabouts. He confirmed that he did, but did not provide a name for anyone to be informed. PC B provided a phone number for Mr A's mother who he had called earlier.

CCTV showed that following this conversation Mr A repeatedly tried to walk away from the custody desk. However, PC B returned him to stand at the desk and prevented further attempts to walk away by placing his arm out in front of Mr A so that he could not leave.

When PC B asked Mr A to go into a cell, Mr A said that he did not want to and asked if it was necessary. DDO E told him that he would have to go into a cell. Mr A remained leaning on the custody desk and asked if he could avoid being put in a cell. DDO E repeated that he had to go in. PC B tried to encourage Mr A to go with him to the cell but Mr A remained leaning on the custody desk not speaking.

PC B placed his hand and arm across Mr A's back and tried to move him away from the custody desk. Mr A subsequently moved away from PC B and said that he could not go in the cell. After saying this Mr A appeared to come round to the officers' requests and walked away from the desk voluntarily. He went with PC B and PC C towards the cells.

PS D recorded on the custody record "male is highly intoxicated and requires 4R checks to ensure his condition does not deteriorate."

4R checks

4R checks refer to the mnemonic used by police officers as to how to conduct checks on detainees. It refers to:

- Rouse – call name, if no response. Enter cell, call name, shake shoulder till gently roused.
- Response to questions: What is your name? Where do you live? Where do you think you are?
- Response to commands: Open your eyes. Raise your arm.
- Remember: Illness or injury can be masked or mistaken for being under the influence. Is the detainee sobering up appropriately?

Around 6.05am CCTV footage showed PC B and PC C accompanying Mr A towards a conventional cell. Prior to Mr A and the officers leaving the custody desk, DDO E had moved to

the cell and awaited their arrival. On getting to the cell door, Mr A told the officers that he did not want to go in. PC B explained to Mr A that he had to go in and informed Mr A that he could call his parents from inside the cell.

The CCTV shows that after attempts to reason with Mr A to enter the cell had failed, both PC B and PC C tried to push Mr A into the cell. In response, Mr A placed his arms on the door frame to stop himself from being pushed in. The CCTV shows the officers speaking with Mr A in a neutral tone while this was happening to try to get him into the cell.

Mr A continued to tell the officers that he could not go into the cell.

Through a combination of speaking with Mr A and pushing, Mr A went through the doorway of the cell. Mr A was stood around a metre from the doorway inside the cell when PC B asked him to take a seat inside. PC B then followed Mr A into the cell.

Mr A tried to leave the cell by walking towards the doorway where PC C was stood.

PC B moved into Mr A's path so that he could not reach the doorway. PC B again asked Mr A to take a seat and told him that he had to stay in the cell. Mr A tried twice to leave the cell by walking towards the doorway where PC C was stood. On both occasions he was told by PC B that he needed to stay in the cell and that he should sit down.

PC B told Mr A that both he and PC C were going to leave the cell and close the door. PC B told Mr A to stay inside the cell. Mr A again told PC B that he did not want to stay in the cell as he was claustrophobic. PC B placed his hands on Mr A's arm and pointed to the bed telling Mr A to sit down. Mr A stated he wanted the cell door to be open and for someone to sit in the doorway. PC B explained that having someone sit in the doorway was not an option, but that he could be moved into a cell with a glass door.

PS D arrived at the cell and asked Mr A what was wrong. Mr A said that he did not want the door closed. PS D told him that they would take him to the cell with the glass-fronted door.

CCTV showed Mr A and the officers left the cell and walked down the corridor to the glass-fronted cell. During the walk Mr A said that he could not go to the cell and that he wanted to be interviewed now. PS D explained that he could not be interviewed as the officers who would conduct the interview would not be on duty for another hour and half so he had to wait in a cell.

As the officers and Mr A approached the glass-fronted cell PS D explained that the cell was designed for people who suffer from claustrophobia and that Mr A would not have to stay in the cell for very long.

As they approached the cell Mr A began to walk away from the direction of the cell. In response, PC B extended his arm out towards Mr A. PC C walked forward to block Mr A from walking down the corridor and away from the glass fronted cell. PC B took hold of Mr A's arm and led him towards the glass fronted cell.

The CCTV from the corridor showed that upon arrival at the cell Mr A stood in front of the doorway and then sat down on the floor and refused to enter. In response to this, officers asked him to stand up, offered him food, drink, and blankets and said that he could call his father from inside the cell. PS D reasoned with Mr A, stating that the cell was probably bigger than his room at home and reiterated that it was designed with claustrophobic people in mind.

In response to Mr A sitting on the floor, PC B bent down, placed his arm under Mr A's arm and told him that he had to get up. Mr A remained sat on the floor and refused to go into the cell. PS D continued to tell Mr A that he would not have to go into the cell for long.

PC B then told Mr A that if he did not enter the cell voluntarily, the officers would use force to get him in. PC B said "if you don't get up you will be taken in there". Mr A said that he did not want to stand up and he would remain sitting on the floor. Mr A repeated that he wanted to be interviewed, and PS D said that it was not possible. PC B again said to Mr A "you need to stand up and walk into the cell".

PC B then put his hands under Mr A's arm to try to pull him up. PC C did the same on the other arm. Mr A appeared to resist standing up and tried to push himself back down to remain sitting. DDO E moved around to behind Mr A and placed his hands on either side of Mr A's back. PS D moved to stand in front of Mr A and told him to stand up.

PC B moved to stand in front of Mr A, letting go of his arm and told him that he had to go inside the cell. However, Mr A remained sitting on the floor. PS D told Mr A that once in the cell he could use the intercom to call his father. Mr A remained on the floor and said that he could not go into the cell. PS D reasoned with Mr A by stating there was nowhere else for him to go. He explained the quicker he entered the cell the sooner he could speak to his father and be interviewed.

PC B and PC C let go of Mr A's arms and Mr A asked the officers to leave the door open. PS D explained again to Mr A that the door could not be left open, but it was glass fronted so he could see out. PS D explained again to Mr A that he could use the intercom in the cell to call his parents if he went inside. Mr A said that he would not be able to hear inside the cell to which PS D responded that the intercom was designed so that he could hear.

Mr A was sat on the floor for approximately three and a half minutes from the point of arrival at the glass fronted cell. Then stood up by himself, but still refused to enter the cell.

PS D told Mr A that officers would use force to put him in the cell because he was still refusing to enter. PC B and PC C moved behind Mr A and placed their hands on his back to push him forward into the cell.

Mr A continued to stand outside the cell until PC B and PC C placed their hands on his back and started to push him towards the cell entrance. Mr A placed his hands on the cell doorway to stop himself being pushed inside. PC B told Mr A to take another step, so that he was inside the cell.

Mr A was pushed inside the cell by PC C and PC B.

The momentum of the push carried both officers into the cell, before they immediately moved backwards out of the cell. Mr A turned to face them and tried to leave the cell through the open door. To prevent him from leaving PC C extended his arm out to push Mr A's torso back. PC B also reached forward, placed his hand on Mr A's torso, and pushed him back further into the cell. Mr A resisted being pushed by the officers and ran forward again to the open cell door.

In response to Mr A's efforts to leave the cell, PC C and PC B took hold of his arms and placed them behind his back. They moved him over to the furthest wall from the cell entrance and held him against the cell wall. The officers let go of Mr A and tried to leave the cell. After being released, Mr A rushed towards the door before it could be closed.

PC B placed a hand on top of Mr A's back and his other hand on the lower of Mr A's back to turn him around and push him back into the cell. PC C moved behind Mr A to place his hands on his back. Mr A was pushed and held against the cell wall by PC B and PC C. PS D removed the cell mattress from the bed and placed it in the middle of the floor.

PC B removed his hands from Mr A's back and walked towards the cell door while telling Mr A to stay where he was. After PC B released his grip, Mr A turned to face the cell door. PC C kept hold of Mr A's arms as he walked to the opposite corner of the cell. PC B turned back around to face Mr A and positioned himself behind PC C. PC C had both his hands on Mr A's torso and held him against the cell wall. Mr A continued to try to move towards the cell door.

PS D told PC C and PC B to put Mr A on the floor. In response, PC B and PC C pushed Mr A towards and into the corner of the cell further from the door. Mr A appeared to resist both officers and tried to move towards the cell door. He also moved his arms away from PC C and PC B's grip and told the officers to get off of him. PC C continued to keep Mr A against the cell wall despite Mr A trying to move away.

The CCTV showed Mr A trying to walk back towards the cell door. Both PC B and PC C took hold of Mr A and held him again against the cell wall. The CCTV shows Mr A was held against the cell wall for approximately 88 seconds. During this time, officers told Mr A to stay in the cell. Mr A was shouting for officers to get off of him and that he wanted to call his father.

The officers let go of Mr A and walked backwards to leave the cell. While doing so, they maintained their view of Mr A. Mr A subsequently followed the officers towards the cell door. In response, PC C raised his hand and pushed Mr A back against the cell wall. PC C then turned sideways and moved out of the cell. Mr A turned and ran after PC C. PC C leaned back into the cell and placed his hands on Mr A's chest and pushed him back into the cell. Mr A continued to try and move forward and leave the cell.

The CCTV showed that PS D told the officers for a second time to put Mr A on the floor. PC B placed one hand on Mr A's head and another on his arm and walked in front of Mr A and backwards into the cell, leading Mr A inside and towards the centre of the cell. PC C held Mr A's back and pushed him forward towards where PC B was stood, into the cell. DDO E completed the chain of officers controlling Mr A by holding the back of PC C and pushing forward behind Mr A.

PC B and PC C then put Mr A on to the floor by pushing down on his head and his torso. Mr A shouted while the officers lowered him down to the mattress which had been placed on the cell floor. Mr A continued to push back against the officers. In response to his actions, PS D told Mr A to relax.

When the officers had placed Mr A on the floor, PC C held Mr A's legs down. DDO E was bent over Mr A's torso and PC B was bent over Mr A's head. PS D moved to stand to the side of Mr A and continued to tell him to relax. Mr A shouted "What are you doing?"

The officers then moved slightly in their positions as Mr A continued to resist by moving underneath them. PC B, PC C and DDO E continued to hold Mr A down. Mr A continued shouting and PS D continued to talk to Mr A throughout and told him to remain calm.

PC B reached back, retrieved a small blue mat, and placed it under Mr A's head. Mr A remained held down on the floor. PS D explained to Mr D that force was being used upon him as he would not listen to the officers who told him to get in the cell.

In his statement PC C said PC B had hold of Mr A's left arm and secured his head while DDO E secured Mr A's right arm. When both of Mr A's arms were behind his back PC B, PS D and DDO E left the cell. PC C stated that he then secured Mr A's arms with his hands. A colleague then grabbed him by his belt and pulled him out of the cell. The CCTV footage showed the officers leaving their respective positions on and around Mr A one by one. PC C was the last to leave.

After the officers removed the restraint, Mr A immediately stood up and ran towards the cell door. The cell door was shut before Mr A could reach it.

From outside the cell PS D told Mr A to relax. Mr A became verbally abusive towards PC B. The officers left the corridor and headed towards the custody desk area.

The CCTV showed the process of getting Mr A into a cell took 13 minutes and 22 seconds from completing the custody arrival process to officers leaving the glass fronted cell. The time taken to get Mr A into the glass fronted cell from the point of arrival to when the officers left the cell was nine minutes.

The custody record shows that Mr A was placed on observations every 30 minutes by custody staff.

DDO F visited Mr A in his cell between 7.05am and 7.15am. The custody log notes DDO F's observation that he had seen blood on the floor of Mr A's cell. The log detailed that Mr A said that he had suffered a nosebleed.

Mr A's father came to the station around 6.50pm to act as an appropriate adult for Mr A's criminal interview. There is no entry on the custody log to record what time he was called and asked to go to the police station.

Around 7pm Mr A left his cell for a consultation with his father before being interviewed. Mr A's father was present during the interview and acted as Mr A's appropriate adult. The interview ended around 8.40pm.

Mr A was brought to the custody desk around 10pm and was told that he was being released from arrest on bail pending further enquiries. His father was also there.



**National Police
Autism Association**

The National Police Autism Association (NPAA) supports members of the UK police and criminal justice community with an interest in autism and related conditions.

Membership of the NPAA is free and open to all UK police officers and staff, including special constables, PCSOs and police volunteers. We welcome personnel from all territorial and national police forces including the Civil Nuclear Constabulary, Ministry of Defence Police and the Police Service of Northern Ireland.

We provide personal support to police officers, staff and volunteers through our network of champions (NPAA Coordinators) in UK police forces. The role involves being a point of

contact for any colleague needing confidential support, and helping to moderate our web forum. Forces may have a single coordinator, or a lead coordinator and a team of deputies.

We also host the Police Neurodiversity Forum, moderated by our team of coordinators. Members can discuss workplace, personal, family and public service delivery issues; share experiences and offer mutual support, in a supportive and confidential environment.

We welcome discussions and questions around neurodiverse conditions (autism, dyslexia, dyspaxia etc.) and anything else! The forum is searchable and also serves as a knowledge base, with information on the conditions we support and links to external resources.

Find out more online:

<http://www.npaa.org.uk/>

Type of investigation

IOPC independent investigation

Outcomes for officers and staff

PC B

1. PC B, one of the two officers who initially dealt with Mr A, was dealt with through unsatisfactory performance procedures. This was for failing to tell the custody sergeant before the strip search that Mr A had said that he had autism.
2. PC B received a written improvement notice as a result of the proceedings.

Questions to consider

Questions for policy makers and managers

1. What guidance or training does your force give to officers to help them understand more about autism?
2. What steps has your force taken to make officers aware of the National Police Autism Association and the support that might be available to officers working locally?
3. Does your force provide officers with clear guidance on how to respond to people who are reluctant to enter cells? Does this include responding to people who say they are claustrophobic?
4. How does your force make sure that where people require appropriate adults, they are there before a strip search is carried out?

Questions for police officers and police staff

5. If you found yourself in the same situation, would you have taken any other action to try to get the man into a cell?
6. Do you know who your force National Police Autism Association coordinators are, and how to get in touch?