

SCOTTISH POLICE AUTHORITY

INDEPENDENT CUSTODY VISITING SCHEME SCOTLAND

Annual Report 2021-22



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FOREWORD

The Scottish Police Authority's Independent Custody Visiting Scheme (ICVS) plays an important role supporting the Authority to meet its obligations in relation to ensuring people in custody are treated fairly, with integrity and that their human rights are protected. It also offers independent assurance that Police Scotland is treating detainees with dignity and respect, and provides assurance that police custody in Scotland is upholding international standards set by the United Nations to prevent torture, cruel, inhuman or degrading treatment of detainees.



Jane Ryder
Vice Chair
Scottish Police Authority

This 2021-22 Annual Report highlights the activities, insights and independent assurance provided by the ICV scheme, which is delivered by 102 volunteers (Independent Custody Visitors - ICVs) who are supported by a small team of Authority Corporate staff. Importantly, this report highlights that during 2021-22, ICVs did not identify any issues or breaches of those United Nations standards for upholding human rights.

There is no doubt that this has been a challenging period as the impact of COVID-19 has placed unprecedented restrictions on individuals and organisations, including the ICVS, with face-to-face visits only reintroduced in August 2021. Due to the then new emergent Omicron variant of COVID, face-to-face visiting was temporarily suspended again on 17 December 2021, with the scheme returning to telephone monitoring. In-person visits resumed on 28 January 2022.

The Authority also recognise the additional demands that COP26 placed on ICVs - involving extensive planning and additional training to variation of visiting patterns. The commitment and flexibility demonstrated by both volunteers and Authority staff ensured that ICVS continued to provide vital assurance that people in custody at all times throughout the year received care and attention which respected their rights, their dignity and their wellbeing.

As indicated in the 2020-21 Annual report, the Authority has this year undertaken a comprehensive review of the ICVS service. This review engaged with the visitors as well as Authority staff, considering how the Authority manage the service, and exploring how to strengthen and improve the insight and assurance that individual visitors and the scheme overall provides. The review was informed by learning and experience during the pandemic, particularly in relation to the use of technology for visiting and capturing the observations of ICVs.

The report highlights key considerations which include:

- strengthening the ICVS operating model with a focus on improving guidance and data collection processes that evidences the protection of human rights that sits at the heart of the scheme;

Continued...

- Provide additional training to Visitors and staff to carry out their roles;
- Digitising the ICVS service which currently still operates a manual and paper-based system; and
- Development of an ICVS Vision and Improvement Plan to be created in Q1-Q2 this year.

The Authority is particularly grateful to the visitors, and our own ICVS team, for their resilience, determination, flexibility and commitment throughout this exceptional year, ensuring the alternative arrangements have continued to offer the Authority, and the public, assurance in respect of the welfare and rights of detainees in Scotland.

Independent Custody Visitor Experience during COVID-19

“The arrival of COVID 19 in 2020 meant that face-to-face visits had to cease and telephone monitoring was quickly introduced.

The advantages from a visitor’s point of view was that visits could take place at any time of day or night from the convenience and safety of home.

Visits also took much less time with no travelling involved.

Telephone monitoring highlighted how important face-to-face visits are, as so much observation is missed when not being there in person. It is impossible to observe body language over the phone and to observe how well or otherwise a person is by talking to them on the phone.

Telephone monitoring was a good compromise in a time of national crisis that ensured that detainees still had the opportunity to speak to a custody visitor.

Although it could be frustrating when the call suddenly got cut off and not being able to hear if the cue card was being read out properly, it was good to be able to continue to provide the service to ensure that detainees still had the opportunity to be interviewed. There were times when it was difficult to hear the detainee clearly due to a poor signal in the cell especially if a mobile was being used.

It was interesting visiting other custody centres that would normally be too far away to visit in person such as custody centres in Glasgow and Ayrshire and to visit much larger centres than I had previously been used to.

Telephone monitoring was a good opportunity to gain some understanding of how different custody centres operated and was a good opportunity to work with other visitors who I had not met before. I also found it interesting talking to different custody staff rather than the regular staff I have come to know at Dumfries.

I enjoyed using the Lifesize app for video-calling as the ability to be able to see the detainee made a big difference to the visit.

I remember one young detainee was sitting with her head in her hands looking very upset which I would not have been able to observe with a telephone visit.

Telephone monitoring will be useful in the future, if there are severe weather problems such as heavy snow or floods.”

Pamela Crosbie Independent Custody Visitor - West Region

1. BACKGROUND AND INTRODUCTION

The Scottish Police Authority

The Police and Fire Reform (Scotland) Act 2012 sets out principles which underpin the policing of Scotland. These are:

that the purpose of policing is to improve the safety and well-being of persons, localities and communities in Scotland; and

that the Police Service, working in collaboration with others where appropriate, should seek to achieve that main purpose by policing in a way that:

is accessible to, and engaged with, local communities, and promotes measures to prevent crime, harm and disorder.

The work of the Scottish Police Authority (the Authority) is focused on maintaining and improving policing in Scotland. We keep the state of policing under review, monitor performance, and seek assurances from the Chief Constable about how Scotland is being policed, based on information and evidence. The Authority draws on a range of evidence and on independent, expert opinion from a number of bodies, including inspectorates, auditors, Independent Custody Visitors and other experts and organisations.

The Authority consists of a Board of up to 15 members, including a Chair and Vice Chair, who are selected through an impartial public appointments process and appointed by Scottish Ministers.

Through our Board and Committee meetings a series of checks and balances are implemented to ensure that major decisions about the policing of Scotland are made transparently and appropriately. This helps to ensure that Scottish policing is based on public consent, in a way that commands respect and builds public trust and confidence.

The Authority's Policing Performance Committee (PPC) provides oversight of continuous improvement in policing. It does this through reviewing policing performance against agreed strategies, plans and statutory requirements.

What is Police Custody?

If someone is detained in police custody, they are held in a secure location, typically at a Police Station, and are under the supervision of police officers or staff. Police Custody is a place of safety, wellbeing and support, scrutinised and assured by independent bodies.

Police Scotland utilise three types of custody centres:

Primary Custody Centre - a centre which is open to receive detainees on a full-time basis.

Weekend Opening Facility - a centre which is routinely used at peak weekend times.

Ancillary Custody Centre - a centre which may be opened due to demand or to meet the needs of a specific location.

The care and welfare of individuals in police custody is paramount. Within police custody facilities, police officers and staff have the responsibility of care, as well as detention, of detainees. Detainees

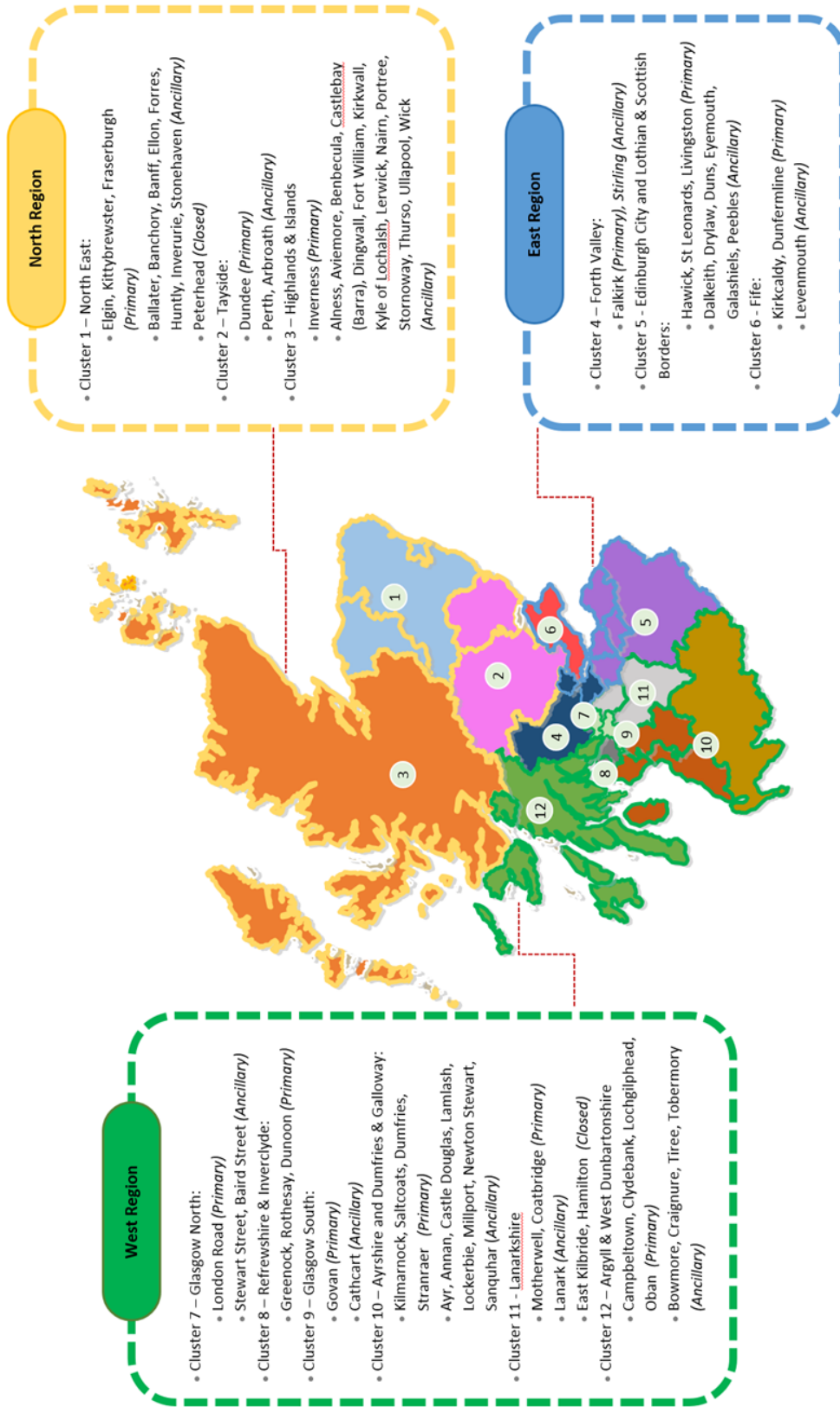


may be vulnerable or have additional needs, which should be considered and accommodated whilst carrying out these responsibilities.

Police custody facilities are a necessary part of law enforcement and serve to protect both society and the individual. The decisions and actions that lead to someone being detained can be influenced by a broader set of factors than the crime itself - such as alcohol or substance misuse or mental ill-health. To take away the liberty of a human being, even for a short period of time, is one of the most serious responsibilities carried out by police officers.

Custody centres across Scotland are organised into 12 geographical clusters, each led by an officer of Police Inspector rank known as the 'Cluster Inspector'. These clusters are also grouped and overseen by Chief Inspectors who report into Superintendents. (See Figure 1 below for more information on the geographical clusters).

Figure 1: Map of Police Custody Clusters and Regions



OFFICIAL

* Denotes 2021-22

How does an individual find themselves in custody?

Police officers have the power to arrest an individual if they have reasonable grounds for suspecting that a crime has been committed or is in the process of being committed. Upon arrest, the individual must provide the police officer with their name, date of birth, address and nationality.

The police officer will explain to the individual why they are being arrested and then escort the individual to a police custody facility. Typically this will be the closest facility to the site of arrest, however, occasionally an alternative custody facility will be used if the closest facility is busy, unavailable or has a queue for detainee processing.

Police Custody is an inherently high risk area for policing. Custody is often a point where individuals with complex needs, compounded by societal issues, are under the care and welfare of Police Scotland.

Once at a custody facility, the custody officer will provide the individual with an explanation of their rights. The custody officer will then go through a list of vulnerability-based questions to establish any risks or concerns and determine whether the individual is fit to be detained.

If the individual being detained is suspected of a crime but has not yet been charged, Police Scotland has the power to hold them for up to 12 hours before they have to formally charge them with a crime or release them. This can be extended to a maximum of 24 hours, but only if authorised by a senior officer. Police Scotland only uses this power in rare cases and when absolutely necessary. Police Scotland can also release the individual whilst investigations continue.

In addition to ensuring the welfare of individuals whilst in police custody, Police Scotland also has a duty of care to ensure that those who are being released from custody are fit, able and prepared to look after themselves, and that any identified threats or vulnerabilities are managed. This is done via a pre-release risk assessment, which is a thorough assessment carried out for every detainee prior to release or transfer to court.

All officers and staff within custody, irrespective of rank, are responsible for the care and welfare of people in custody. There are various roles that allow for the efficient and effective delivery of custody in Scotland:

The role of Cluster Inspector is central to the delivery of efficient and effective custody management, balancing a range of operational priorities. Cluster Inspectors may oversee multiple custody centres in their area.

The Custody Sergeant is responsible for local criminal justice decision-making and the day-to-day running of the custody centre. Custody Sergeants also provide information and guidance to staff. They are there to ensure the safety and welfare of staff, officers and detainees and to ensure that custody supervisors are sufficiently trained and supervised whilst undertaking their responsibilities.

A Force Custody Inspector (FCI) is on duty 24/7 and provides advice, guidance and support to Custody Supervisors nationally.

Criminal Justice Team Leaders lead a multi-disciplinary team within Criminal Justice Services Division to ensure the efficient and effective operation of the function. Similar to a Custody Sergeant, the Team Leader has responsibility for decisions relating to the care and welfare of detainees. This is a critical role and allows Custody Sergeants to focus on criminal justice decision-making whilst ensuring that the welfare of detainees remains a priority.

Criminal Justice Police Custody and Security Officers (CJ PCSO) are police staff who work within custody, managing and maintaining the safe custody, care and welfare of detainees.

What is the Independent Custody Visiting Scheme?

Independent Custody Visiting Scotland (ICVS) has an essential role to ensure that the dignity and human rights of any individual in custody are respected and upheld. Through the ICVs' observations and reports, the scheme provides the Authority with assurance and identifies areas where improvement could be considered, thus supporting the Authority to maintain and improve policing in Scotland. The scheme allows the Authority to draw together thematic areas for continuous improvement and identify trends emerging from visits to help support Police Scotland to address these.

ICVs are volunteers from the community who make unannounced visits in pairs to police custody centres to check the treatment of detainees and assess the conditions in which they are detained. They also have a role in ensuring their dignity, health and wellbeing are being appropriately protected and cared for. They do this by monitoring facilities, speaking to detainees, checking custody records and generally observing custody centres.

Chapter 16 of the Police and Fire Reform (Scotland) Act 2012, sets out the Authority's responsibility for making arrangements in order that ICVs may:

- Visit detainees;
- Access information relevant to the treatment of detainees and conditions in which they are detained;
- Monitor the treatment of detainees and the conditions in which they are detained.

The act also states that the Authority's arrangements must:

- Provide appointment arrangements for suitable persons to become a visitor;
- Authorise ICVs to do anything which the Authority consider necessary to enable them to visit and monitor treatment of detainees and the conditions in which they are held;
- Provide for reporting on each visit;
- Be kept under review and revised as the Authority sees fit;
- Prepare and publish such reports on independent custody visiting as the Scottish Ministers may reasonably require.

United Nations Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Chapter 16 of the Police and Fire Reform (Scotland) Act 2012 states that the ICVS is to provide independent monitoring of Police Scotland custody to ensure that detainees are being treated fairly and in accordance with the United Nations Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). OPCAT recognises that people who have been detained are particularly vulnerable and requires nation states to set up a national body that can support efforts to prevent ill-treatment in custody settings. This national body is called the 'National Preventive Mechanism' (NPM).

Police Scotland has specific obligations in pursuance of OPCAT. Police Scotland's Code of Ethics, to which every officer and staff member must adhere, is an essential mechanism that underpins detainees'

rights and ensures that these are upheld to the highest standard.

The Police Scotland Code of Ethics sets out the standards expected of all those who contribute to policing in Scotland. The code provides a practical set of measures that are reflective of the Police Service of Scotland. The code recognises that all staff and officers are responsible for delivering a professional policing service to all people across the country. This includes individuals in custody. The code sets out four key areas: integrity, fairness, respect and human rights. The code has some key statements which set clear standards for Policing in Scotland in pursuance of OPCAT:

- *I will show respect for all people and their beliefs, values, cultures and individual needs.*
- *I will have respect for all human dignity as I understand that my attitude and the way I behave contribute to the consent communities have for policing.*
- *I shall treat all people, including detained people, in a humane and dignified manner.*
- *I will not encourage, instigate or tolerate any act of torture or inhuman or degrading treatment under any circumstance nor will I stand by and allow others to do the same.*
- *I understand that the humane treatment of prisoners is an essential element of policing and that the dignity of all those I am trusted to care for remains my responsibility. (Article 3)*
- *I understand that people have an equal right to liberty and security. Accordingly, I will not deprive any person of that liberty, except in accordance with the law. (Article 5)*

National Preventative Mechanism

The UK NPM was established in 2009 to deliver the UK's obligations under OPCAT and ensure regular visits to places of detention in order to prevent torture and other ill-treatment. It is made up of 21 independent public bodies that have a role to monitor places of detention across Scotland, England, Wales and Northern Ireland. Places of detention include police custody, prison, court custody, immigration and military detention, secure accommodation for children and places where people are detained under mental health legislation. NPM members have the power to enter places of detention and speak to detainees and staff in private.

Independent Custody Visiting Scheme

Independent Custody Visitors are trained to make observations and ask a series of questions to ensure that the detainee's treatment is fair, dignified and to ensure that their human rights are protected. ICVs are also trained to identify an individual's specific needs and focus their observations and conversations with the detainee on key areas: reason for their detention; the letter of rights being issued to them; general appearance of the detainee; characteristics; specific/diverse needs; health and wellbeing; and overall detainee experience. ICVs are also trained to establish whether a detainee has any specific need. Examples include: unique dietary requirements, access to religious materials, translation requirements or communication via British Sign Language (BSL). Where an individual does not speak English or uses BSL, the use of an interpreter is available and ICVs have access to this service when required.

At the beginning of each visit, ICVs are informed of the number of detainees in custody at the time. The

ICVs are also there to observe and check the custody centre facilities. During each visit, ICVs complete a report form detailing their visit and identifying any areas for improvement.

During the reporting period, there were 102 ICVs operating in three regions - North, East and West. In addition, there are four dedicated ICVS staff members who support the scheme. The staff team includes a National Manager and three Regional Coordinators, all of whom are employees of the Authority.

When carrying out a custody visit, the ICVs will raise any concerns directly with the on-duty custody officers and staff. This ensures the quickest possible resolution to any issues, and that the welfare of detainees is safeguarded as a matter of priority.

ICVs also complete a report following each visit and submit this to the ICVS Regional Coordinators for analysis. ICVS Regional Coordinators then raise observations, concerns and areas of good practice with the Cluster Inspector/Sergeant at formal Cluster meetings on a quarterly basis. This provides an opportunity to discuss the ICVs reports, address any new areas of concern that have been raised, and follow up on previous actions taken to address ICVs observations. During these meetings, the Custody Inspector/Sergeant is tasked with any outstanding actions and asked to provide an update at the next quarterly meeting.

Where an ICV has asked for a specific update, the ICVS Regional Coordinators may, prior to the next meeting, link in with the ICVs to provide a response/update.

Issues which the ICVs consider to be more serious are escalated to the ICVS Regional Coordinators and National Manager immediately following a visit. The National Manager then contacts Police Scotland's Senior Leadership Team, requesting that immediate action is taken to resolve any high priority concerns.

There are three levels of escalation for feedback from ICVs:

1. Raised directly with custody officers and staff at the time of visit, e.g. immediate areas for improvement;
2. Escalation to Regional Coordinators or the ICVS National Manager who then contacts Police Scotland for a response/update; Escalation at this stage can also occur between the ICVS National Manager and the Head of Change and Operational Scrutiny for direct liaison with the Divisional Commander of CJSD;
3. Escalation through the Policing Performance Committee and/or Authority Board, if necessary.

For escalation routes 2 and 3 above, feedback will be provided to ICVs on the action taken by Police Scotland to resolve any of the issues or areas for improvement identified, ensuring that the welfare and conditions for detainees continue to be safeguarded.

Police Scotland

Police custody is an area where arrested individuals are detained, with many often suffering from a range of short to long-term vulnerabilities. Custody staff and officers deal with a diverse range of conditions, needs and vulnerabilities that include mental and physical health conditions, substance misuse, intoxication, learning disabilities and gender-specific needs, all of which can be intensified by being held in police custody. Police Scotland has a responsibility to ensure that detained people are kept safe and that their needs, human and legal rights are adhered to and accommodated.

Between 1st April 2021 - 31st March 2022, 96,170 individuals were detained by Police Scotland, a

decrease of 5,035 from 1st April 2020 - 31st March 2021. The number of individuals detained in custody continues to decline, a trend consistent since the implementation of the Criminal Justice (Scotland) Act 2016. The table below details the Police Scotland official custody throughput figures from 2017-18 to 2021-22:

Table 1: Annual Custody Throughput Figures

	2017-18	2018-19	2019-20	2020-21	2021-22
Custody Throughput	130,755	118,418	115,126	101,203	96,170

Overview of Findings from ICVS Monitoring Visits

During 2021-22, ICVs have not reported any breaches of human rights or highlighted any instances of cruel, inhuman or degrading treatment or punishment of arrested individuals, as described by OPCAT.

Despite this, there are key, thematic areas for continuous improvement highlighted in this report. In the majority of cases, the responsibility to act on ICVs findings falls to Police Scotland and these findings are addressed at the time by the custody staff/officer. However, a small number of findings will require input from other public sector partners or investment in order to address the actions identified.



2. ANNUAL ACTIVITY DATA OF THE ICVS 2021-22

Custody Throughput Figures

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Table 2: Annual Custody Throughput Figures					
	2017-18	2018-19	2019-20	2020-21	2021-22
Custody Throughput	130,755	118,418	115,126	101,203	96,170

The following tables show a breakdown of people in custody by age and gender and show how many specific areas of vulnerability or specific characteristics are highlighted to custody staff and officers as recorded by Police Scotland.

Table 3: Age Range of Detainees in Custody			
2021-22	Female	Male	Unassigned
Under 16	180	912	3
16-25	3,744	18,979	17
26-35	5,669	25,224	7
36-45	4,775	18,739	0
46-60	2,729	12,372	10
Over 60	398	2,412	0

Table 4: Self-Declared Vulnerability / Specific Characteristics						
2021-22	Under 16	16-25	26-35	36-45	46-60	Over 60
Alcohol Dependent	13	1,357	3,381	3,164	2,428	259
Drug Dependent	27	2,658	5,413	4,684	1,860	47
Mental Health	175	8,067	13,429	10,848	6,227	661
Foreign Nationals	31	1,811	3,079	2,386	1,110	124

*Please note, each detainee may have disclosed more than one/multiple vulnerabilities

ICVS Key Figures

During the reporting period, there were 102 ICVs committed to supporting the work of the ICVS. In addition, seven of these ICVs are fully qualified and trained for specific visits to those arrested under the Terrorism Act. Over the year, the scheme has seen some of its long standing ICVs move

on or retire or sadly passed away. The table below shows the breakdown of ICVs per geographic areas and by gender during this reporting period:

Table 5: Custody Visitors (ICVs)				
Number of Current ICVs	Male	Female	Leavers	ICVs Joined
North	10	15	10	0
East	17	17	4	1 (from North)
West	19	24	8	0
Total	46	56	22	0

During the year ahead, as part of the service’s continuous improvement work, the Authority will look to recruit more ICVs.

In 2021-22, the total financial cost to the Authority of supporting the ICVS was £176,465. This includes salaries, recruitment campaigns, visitor expenses, training events and materials, cluster meetings and visitor induction days. The total spend is significantly less compared to previous years due to restrictions on travel and physical visiting through the arrangements put in place to adhere to COVID-19 measures. It is anticipated that spend for 2022-23 will return to normal levels with a return to face-to-face visits.



*An unavailable visit is when the person in custody is currently not in the cell or is otherwise occupied. Examples are:

- getting fingerprints taken;
- forensics tests;
- out of cell for questioning or with a solicitor; or
- receiving a medical assessment.

There are also instances where Police Scotland will refuse access under ministerial determined grounds for refusal. There are specific reasons under which access to a detainee can be refused:

- denying a visit is necessary for an independent custody visitor's safety;
- such access could seriously interfere with the process of justice;
- there are urgent and compelling grounds of public safety;
- there is serious disorder in the place to be visited that temporarily prevents the carrying out of such a visit;
- there is a period of emergency, either national or more local, for example a health pandemic;
- there is a natural disaster.

Throughout the reporting period, ICVs continued to undertake unannounced visits to custody facilities on weekdays and at weekends. The following table shows on which days of the week visits were conducted during 2021-22:

Day	Number of Visits
Sunday	73
Monday	137
Tuesday	192
Wednesday	217
Thursday	194
Friday	152
Saturday	72

Legalised Police Cells (LPC)

Legalised Police Cells (LPC), which are unique to certain parts of Scotland, derive historically from the inaccessibility of the Scottish courts in outlying districts and islands. These police cells have been 'legalised' and as such are used to hold prisoners awaiting trial locally or who have been returned from prison for sentencing or following conviction or pending transfer to prison. There are four designated police stations which may be used as legalised cells. These are Lerwick, Kirkwall, Stornoway and Hawick.

Police Scotland is responsible for the care and welfare of individuals held in LPCs.

The cells are no different to those used for routine detainees, but the conditions of detention differ.

Prisoners held in the LPC are detained under the provisions of the Prison and Young Offenders Institutions (Scotland) Rules 2011.

ICVS were informed of 7 activations over the last year. Of these 7, ICVs undertook 6 telephone visits, 4 detainees accepted a visit. During these visits, findings did not differ from the trends observed during routine custody visits. The team continues to work with Police Scotland to ensure ICVS is given advanced notice and early communication where possible to allow for advanced planning. All visits were done via the telephone monitoring, involving two ICVs and the three-way call.

Terrorism Act (TACT)

Specially-trained ICVs visit detainees who have been arrested on suspicion of being persons who are, or have been, concerned in the commission, preparation or instigation of acts of terrorism, or who have been arrested for statutory offences as detailed in the Terrorism Act (for example fundraising or directing terrorism). Throughout the United Kingdom, ICVs have visited suspected terrorist detainees for several years and Scotland has one detention centre for this purpose. During the reporting period, there was one TACT activation. Telephone monitoring was carried out, 1 call per day to the detainee.

Border Force

The Border Force is a law enforcement command within the Home Office where officers deal with threats from international and domestic terrorism and the exploitation of borders and ports from serious organised crime. Independent custody visiting is not a statutory requirement for Border Force, however, the Authority decided that for reasons of public confidence and transparency, arrangements should be made for Border Force custody facilities to be visited by ICVs in line with the rest of the UK. During the reporting period, there were no activations of Border Force facilities.

26th UN Climate Change Conference of the Parties (COP26)

ICVS' role in monitoring how people are treated in police custody was identified as a particular focus during the COP26 event in Glasgow in November 2021.

Police Scotland's custody and criminal justice preparations for COP26 were extensive, including learning from previous events and intelligence. The planning assumption was based upon expected arrest numbers of 300 per day and Criminal Justice Services Division (CJSD) prepared for that, taking into account the specific nuances that the event presented. The CJSD planning team liaised with ICVS during their preparations to ensure that plans were realistic, focused and workable whilst maintaining the rights of the arrested person. This interaction continued throughout the operation in tandem with a range of other criminal justice stakeholders (e.g. Crown Office and Procurator Fiscal Services, Scottish Court Service, Scottish Prison Service, GeoAmey, Healthcare, etc.).

Rigorous planning was undertaken to ensure that visits to custody centres could be increased at a time of potential peak demand for policing in Scotland and ICVS prepared to provide enhanced levels of monitoring to each of the COP26 designated custody centres via a combination of face-to-face (physical), telephone and virtual visits.

In preparation for the event there were three virtual training sessions led by CJSD and ICVS Regional Coordinators. 52 ICVs attended these sessions in September and October 2021. Three ICVs and three Regional Coordinators attended COP26 Live exercise at Cathcart; also attending was Authority's ICVS Board Champion Jane Ryder. This experience helped the Regional Coordinators to fully prepare ICVs for the planned arrest numbers.

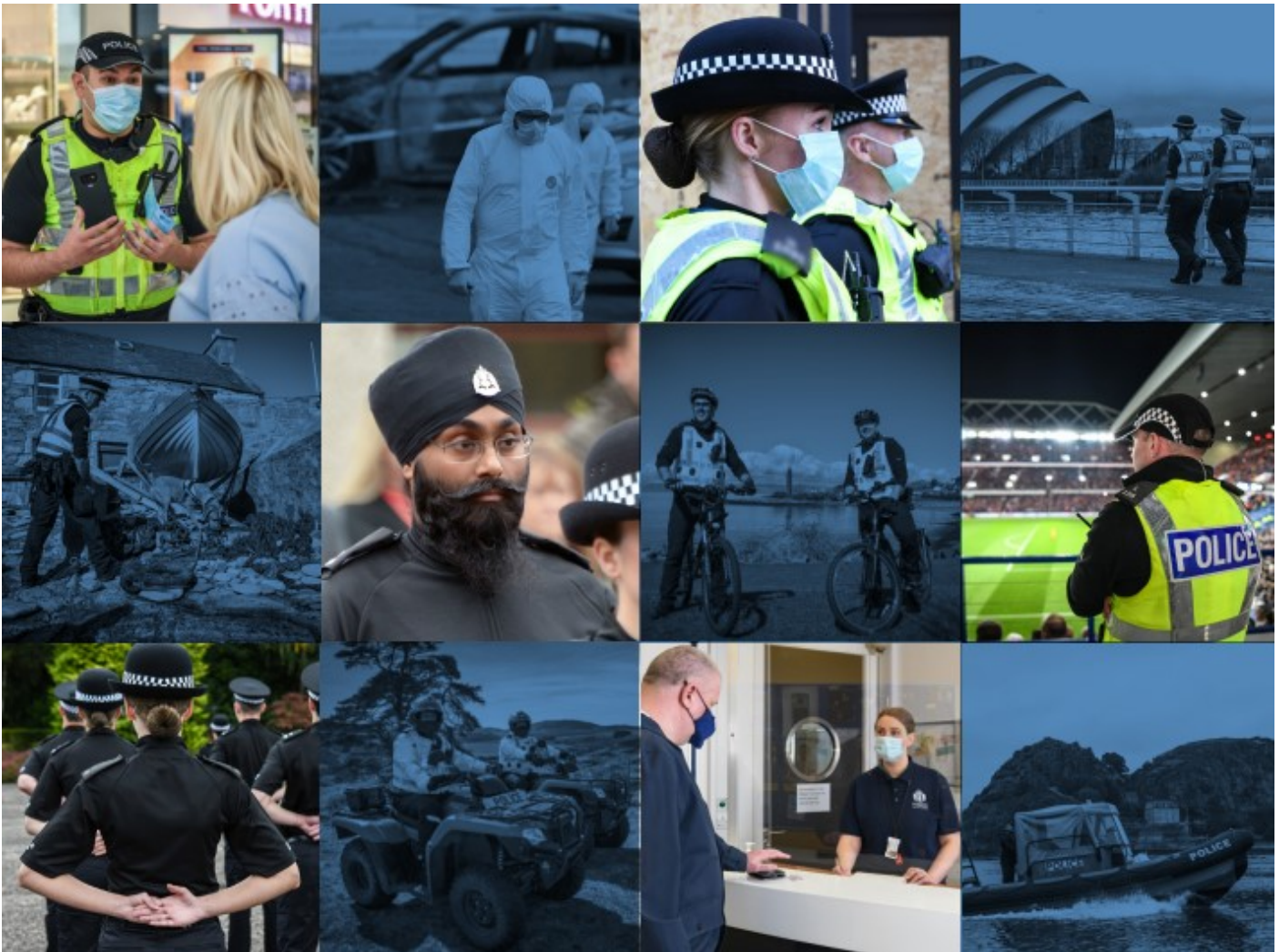
Currently visits to custody centres are scheduled based on throughput figures. Some are weekly, some are fortnightly and there are some that are visited less frequently. ICVS planned to visit each designated COP26 custody centre at a minimum of once every two days. In fact ICVS exceeded this expectation and visited the COP26 designated custody centres on a daily basis.

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The ICVs carried out 67 in-person visits to all designated custody centres during the conference, this equated to a visit to each of the designated custody centres for each day of the conference.

Over the course of the event the total number of arrests was 97. These, in the main, were for low-level offences primarily dealt with by fixed penalty notice, report or undertaking. As a consequence, arrested persons spent very little time in police custody.

During a retrospective review, Police Scotland confirmed confidence in their planning measures, which were tailored by their partners (including ICVS). They were deemed to be robust and 'arrested person centred', positive lessons learned should the Police Service require to stand up similar protocols in the future. Independent reviews and comments have confirmed the rigour and success of planning for the exceptional policing response required for this event.



3. KEY THEMATIC FINDINGS

This Annual Review highlights to the Authority, the Scottish Justice System and the public, and the United Nations that during 2021-22, the ICVs have not raised any OPCAT level breaches of human rights or highlighted any instances of cruel, inhuman or degrading treatment or punishment of arrested individuals as described by OPCAT.

However, key thematic areas for continuous improvement for Police Scotland have been raised:

- Children in custody;
- Letter of Rights being issued and understood by individuals in custody;
- Informing individuals in custody that third party and/or a solicitor has been notified of their detention;
- Medical related areas for improvement with a focus on mental health;
- Access to washing and showering facilities.

It should be noted that for all data presented in this section of the report, that data labelled as 'issues' can be raised by a detainee and be found to have already been addressed by Police Scotland. During 2021-22 the data captured by the ICVS team did not allow a comprehensive total view of whether or not issues raised by detainees had been resolved after the custody visit. The issues raised with greatest concern to the welfare, dignity and human rights were followed up with Police Scotland. Work is ongoing to ensure that the ICVS database is able to capture all instances resolved as a result of the ICVs observations. Therefore, the figures in this section should only be used to assess immediate resolution by Police Scotland.

Finding 1: Children in Custody

ICVs continue to prioritise the most vulnerable people in custody at the time of their visit. As such, there is an ongoing focus on children and young people in custody.

The Criminal Justice (Scotland) Act 2016 contains provisions which provide differing rights to children (aged under 16 years or those aged 16 or 17 subject to supervision) and those aged 16 or 17 and not under supervision whilst they are in police custody.

The definition of a child, as per the relevant legislation is:

- Those aged under 16 years;
- Those aged 16 and 17 years who are subject to compulsory measures of Supervision under Section 199 of the Children's Hearing (Scotland) Act 2011, and;
- Older children are those aged 16 or 17 years of age who are not subject to Compulsory Measures of Supervision.

At the beginning of 2021 a child under 8 could not be arrested by the police. In December 2021, due to the introduction of new legislation this changed to a child under 12 could not be arrested by the police.

There was a total of **4,012** children held in custody from 1st April 2021 - 31st March 2022. This is a year

-on-year reduction in comparison with: **4,147** children in custody in 2020-21 and **5,359** in 2019-20. The Authority understand that Police Scotland continue to commit to ensuring that, where possible, children are not brought into, or held in custody unless there are exceptional circumstances. The main underpinning reason for this is due to a lack of suitable alternative places of safety.

Police Scotland is continually and actively trying to progress in this area, through partnership with relevant agencies to minimise the need for children to be held in police custody, other than in the utmost of exceptional situations.

The subject of children in custody was reported in public to the Authority’s Policing Performance Committee in June 2021. The Committee welcomed Police Scotland’s commitment to seek to ensure that children are not brought into, or held in custody, unless there are exceptional circumstances.

The ICVS will monitor progress on the commitment made by Police Scotland to ensure facilities are suitable to minimise trauma and ensure the best possible environment for children in custody through their Criminal Justice Services Division transformation programme. It is anticipated that this will feature as part of the Criminal Justice Divisions 5-Year Vision and Direction Document.

The following tables present this year’s data by the age range of those children in custody and their classification whilst in custody:

Table 7: Age of Children in Custody

Age	Number of Detainees
9*	1
10	2
11	4
12	28
13	126
14	354
15	571
16	1,239
17	1,669
18	18

*The child aged 9 was involved in a suspected assault incident and detained in order to facilitate police interview/enquiries.



Table 8: Custody Classification for Persons Under 18

2021-22	Court Review	Not Officially Accused	Officially Accused	Other*	S23 Detention**	Transit***	Voluntary Attendance	Warrant
9*		1						
10		2	1					
11		2	2					
12		16	18					
13		63	77	1			6	
14		172	255		1	2	4	1
15		246	428	5	1	1	6	2
16	2	521	952	13	10	7	15	25
17	1	709	1,200	21	31	8	12	107
18			9				1	

* Other - Any arrest that is not Criminal Justice Act related.

** Section 23 Detention - Detention for the purposes of a Search for Controlled Drugs. Under Section 23 Misuse of Drugs Act 1971.

*** Transit - For those who are in the cells from Prison, have attended for an identification parade.

Finding 2: Letter of Rights

The Letter of Rights leaflet gives important information on the freedoms and support to which everyone has a right under Scots Law. The Letter of Rights helps people in custody know their rights and, in turn, can help ensure the individual is treated fairly whilst in police custody. The Letter of Rights states:

1. You have the right to know why the police are keeping you at the police station.
2. You have the right to know what the police think you have done.
3. You have the right not to speak. You do not have to answer any questions the police ask you. **But** you do have to give your name, address, date of birth, where you were born and your nationality.
4. You have the right to have someone else told you are at the police station. If you are under 16, this must be a parent or guardian. If you are 16 or over, this might be a family member, a carer or a friend.
5. You have the right to have a lawyer told that you are at the police station. This is free.
6. You have the right to speak to a lawyer in private at any time. This is free.
7. You have the right to have a lawyer present if the police interview you. This is free.
8. If you are under 16, a lawyer must be present when the police interview you unless there are exceptional circumstances. If you are 16 or 17 and subject to a compulsory supervision order, a lawyer must be present when the police interview you unless there are exceptional circumstances.
9. If you are under 16 you have the right to be visited by your parent or guardian at the police station.
10. If you are 16 or 17 and subject to a compulsory supervision order you have the right to be visited by your parent or guardian at the police station.
11. You have the right to medical help if you are ill or injured.

ICVs' observations have highlighted some variation in the consistency of this process and reported that Police Scotland should seek to improve the consistency of sharing the Letter of Rights with individuals in custody, and where appropriate, explaining in detail the Letter of Rights. This will help people in custody, who are often at their most vulnerable, to understand and be fully informed about the freedoms to which they are entitled.

Table 9 (Below) details the number of issues raised by a detainee in each of the 3 regions in relation to the Letter of Rights. The table also shows how many were addressed by Police Scotland and the resolution rate at the time of raising the issue.

Table 9: Letter of Rights			
2021-22	Issues Raised by Detainee	Addressed	Resolution Rate
Total	202	142	70.3%
East	93	49	52.7%
North	23	17	73.9%
West	86	76	88.4%

The Authority recognises that good practice does exist within Police Scotland and from the data above we can assess that Police Scotland may wish to look at the West region to identify best practice when addressing concerns raised by detainees regarding the Letter of Rights.

An example of good practice was noted at a visit to cluster 9, where it is understood that Police Scotland issued the Letter of Rights in Mandarin and organised an interpreter for a Chinese detainee who was unable to read the Letter of Rights in English.

It is important to note that there were 1,313 accepted visits in 2021-22. The total number of issues raised by detainees regarding the letter of rights represents 19% of overall visits. Out of the 19% of visited detainees that raised concerns, 70% of these concerns were, or already had been, addressed immediately by Police Scotland.

Again, it is important to note that a hardcopy Letter of Rights may be risk-assessed as not appropriate to be given to the detainee. This can account for some people not having a copy or people being intoxicated or not engaging with process when first coming into custody. This could potentially account for a proportion of detainees who have stated they were not given the Letter of Rights on arrival at the custody centre.

The ICVs will continue to monitor the issuing and understanding of the Letter of Rights to detainees by Police Scotland.

CASE STUDY

Letter of Rights - Case Study 1

In April 2021 ICVs conducted telephone monitoring at a custody centre in the East of Scotland. A female was offered a visit. The female was aware of the reasons for her detention and the ICVs confirmed that she had appeared at court the day prior and would appear at Virtual Court later in the day of the visit. The female explained she was unaware about the virtual court process and the ICVs confirmed with PCSOs that they would explain the process fully.

The female also informed ICVS that she was unable to read the Letter of Rights due to her dyslexia but that an offer had been made by Police Staff for this to be read to her which she had declined at the time.

The ICVs explained that an easy-read version is available and she subsequently requested a copy of this. The ICVs were assured and confirmed with the PCSO that this would be provided to the detainee.

ICVs recognise the importance of the Letter of Rights. It is a key document to help ensure the individual is treated fairly whilst in police custody.

This case study is a local example of how communication and ensuring that detainees are given all the available methods to understand their Letter of Rights could improve detainees' treatment in police custody and their understanding of their freedoms which are enshrined in law.

Finding 3: Communication and Informing Persons in Custody

Engagement and clear two-way communication with a person in custody is key for Police Scotland staff and officers. Individuals in custody may be at their most vulnerable, which could mean they require to hear information more than once in order to fully comprehend what is being discussed. The detainee may have challenges in hearing or understanding spoken English, or may have difficulty in reading. This must be taken into account.

Police Scotland also has a duty to ensure that the individual is aware why they are in custody and is made aware that a nominated person has been notified that they are in custody. Police Scotland is further required to ensure that a lawyer has been informed that the person is in custody, if requested. These areas are covered in two of the freedoms mentioned in the Letter of Rights, as set out above:

4. You have the right to have someone else told you are at the police station. If you are under 16, this must be a parent or guardian. If you are 16 or over, this might be a family member, a carer or a friend.
5. You have the right to have a lawyer told that you are at the police station. This is free.

In the vast majority of cases, ICVs noted that communication with individuals in custody was appropriate and that records were kept in the National Custody System.

Of the 1,314 accepted visits in 2021-22, the total number of issues raised by detainees regarding **not being told or not understanding their reason for detention** was 70 which represents 5% of overall visits. Out of the 5% of visited detainees that raised concerns, 67% of these concerns were, or already had been, addressed immediately by Police Scotland.

Table 10: Reason for Detention			
2021-22	Issues Raised by Detainee	Addressed Immediately	Resolution Rate
Total	70	47	67.1%
East	36	22	61.1%
North	10	7	70.0%
West	24	18	75.0%

Of the 1,314 accepted visits in 2021-22, the total number of issues raised by detainees regarding **not being told or not understanding that their named person and/or legal support had been notified** was 193 which represents 15% of overall visits. Out of the 15% of visited detainees that raised concerns, 83% of these concerns were, or already had been, addressed immediately by Police Scotland.

Table 11: Named Person / Solicitor Notified			
2021-22	Issues Raised by Detainee	Addressed Immediately	Resolution Rate
Total	193	160	82.9%
East	79	57	72.2%
North	24	21	87.5%
West	90	82	91.1%

Physical and telephone visits of custody records indicated that further improvement could be made to ensure that custody officers and staff provide detainees with an update on any requests in a controlled and documented fashion. For example, any request made by the detainee for a doctor/nurse/named person, or any request for clothing or medication, should include an official note of the request, what time it was made and what time an update was given to the person in custody. This should also include updates that provide reassurance that their request has been carried out.

CASE STUDY

Communication and Informing People in Custody - Case Study 2

In the East region a male detainee was visited. The man indicated to the ICVs that he was unaware of the reason for his detention. Upon enquiry with custody staff, the ICVs were informed that the man was informed and was aware of the reasons for his detention and that he was awaiting a representative from the Scottish Legal Aid Board to get in touch for consultation. The individual required halal food and custody staff confirmed that they were already aware of this dietary requirements and that suitable meals would be provided. A prayer mat was required by the man and the ICVs confirmed with custody staff that this would be provided. The detainee mentioned that the hand washer did not appear to be working. The ICVs recognised that this was important for the detainee's prayers and discussed the matter with the PCSO who assured the ICVs that this would be attended to immediately.

Finding 4: Mental Health and Wellbeing

Between the 1st April 2021 and 31st March 2022, **96,170** people were detained by Police Scotland. Over 40% of these individuals self-declared as having some vulnerability with regards to mental health at some point in their life. The events that lead to an individual being arrested, being processed and finding themselves in a place of detention, can be distressing and can sometimes exacerbate underlying mental health issues.

There have been occasions when ICVs have spoken to detainees in highly distressed states, refusing food and seeking medication. On these occasions, ICVs have reported that Police Scotland has dealt with the circumstances appropriately and in a timely fashion. ICVS is aware that Police Scotland is focused on improving partnership working across custody to improve health and wellbeing outcomes for detainees.

Police Scotland has invested significant effort to improve the provision of healthcare and early interventions in custody, however, inconsistencies across Scotland remain. Police Scotland continues to engage with Health Boards and local authorities to address this. Activity is also being undertaken to improve signposting for people in custody, in a standardised fashion, to health interventions that could help prevent or reduce further presentation at custody from some individuals.

The Authority is aware of a draft 5-Year Vision and Direction document in Police Scotland which sets out a strategic direction for Police Custody Centres. It sets out an ambition to embrace a public health approach to policing and to work with the NHS and the Community and Voluntary Sectors to identify and support opportunities for ongoing care for physical and mental health, whilst increasing the accessibility of ongoing support and harm reduction interventions.

The Vision and Direction document states that Police Scotland wishes to create a culture within their staff that understands that a detainee's behaviour, or cause of offending, may be due to underlying

issues, such as mental health, substance use, social inequalities, homelessness and poverty. By offering help and working closely with partners Police Scotland can help make it more likely for detainees to break the offending cycle. The Authority and ICVS will continue to monitor Police Scotland's progress in this area of work.

Of the 1,314 accepted visits in 2021-22, the total number of issues raised by detainees in relation to **requiring medical help or assistance** was 232 which represents 18% of overall visits. Out of the 18% of visited detainees who raised concerns, 91.4% of these concerns were, or already had been, addressed immediately by Police Scotland.

Table 12: Medical			
2021-22	Issues Raised by Detainee	Addressed Immediately	Resolution Rate
Total	232	212	91.4%
East	79	73	92.4%
North	44	40	90.9%
West	109	99	90.8%

CASE STUDY

Physical, Mental Health and Wellbeing - Case Study 3

A male was detained and was aware of the reasons for his detention. The ICVs confirmed that a lawyer had been requested and were also told that the lawyer would inform the detainee's mother because he had bail conditions. Upon enquiry, ICVs understood that the detainee had not been issued with a Letter of Rights (LOR) or a blanket, however Police staff assured ICVs that these would be provided. During the call, the ICVs asked the PCSO to check that the call bell and toilet were operating correctly.

The ICVs then enquired if the detainee needed to see a doctor. The detainee initially suggested that he did not, but upon further discussion it became apparent that the man took regular medication that was currently at his home. The detainee then informed the ICVs that he had mental health issues and that he had been taken to hospital by Police Officers prior to his detention. The ICVs discussed these health concerns with the PCSO. The PCSO notified the ICVs that the individual was on the list to see the duty medic and that it was understood that the individual would be released later in the day. Custody staff were fully aware of the pre-existing mental health issues and his need for medication.

Finding 5: Access to Washing and Shower Facilities

ICVS recognise that the Custody Care and Welfare of Persons in Police Custody Standard Operating Procedure (SOP) contains a process that when an arrested person is to be detained in custody for more than a full day, they should be offered facilities to wash and/or shave at least once per day. The SOP extends to cover that any reasonable requests to wash and/or shave more often than this should be met, where possible, and there are specific provisions made for menstruating detainees that washing and showering facilities are available as and when required.

ICVS also recognises that during the unprecedented circumstances during the pandemic and the restrictions which were advised due to the unknown risk of COVID-19, Police Scotland was unable to facilitate washing and showering of those having or suspected of having COVID-19. This was in line with NHS Scotland advice at the time. This advice stated that Police Scotland should not provide showering facilities for any person in custody who has, or is suspected of having, COVID-19 due to the risk of contamination and spreading the virus. ICVS also recognises that for these reasons 2021/22 was not a typical year to assess access to showering and washing facilities.

However, it is recommended that Police Scotland should continue to closely monitor access to washing and showering facilities as restrictions and health advice change. This continues to be a key focus of ICVs monitoring. Access to washing, showering and hand washing facilities is fundamental to the care, welfare and dignity of people in custody. This is a continued area of concern for the ICVs as washing/showering should be seen as a basic right of an individual. Police Scotland should seek to ensure that any reasonable request to wash and/or shave more often than once per day should be met, where possible. Access to hand washing facilities should also be facilitated where possible.

Of the 1,314 accepted visits in 2021/22, the total number of issues raised by detainees in relation to **washing or showering facilities** was 146 which represents 11% of overall visits. Out of the 11% of visited detainees that raised concerns 67% of these concerns were, or already had been, addressed immediately by Police Scotland.

Table 13: Washing / Showering			
2021-22	Issues Raised by Detainee	Addressed Immediately	Resolution Rate
Total	146	98	67.1%
East	68	34	50.0%
North	23	19	83.6%
West	55	45	81.8%

Finding 6: Police Scotland Estate

In 2021-22, the Police Scotland custody operation was organised into 12 clusters with **78** custody centres. This consisted of 25 primary centres; 49 ancillary; 4 that were closed (one of which was closed for refurbishment).

The National Custody Operating Model comprises three main types of facility:

Primary - open full time to receive detainees. Generally situated in areas of highest custody demand and principally staffed by CJSD officers and staff.

Weekend Opening - situated in areas of higher custody demand but only routinely opened to provide additional capacity at times of peak weekend demand. Principally staffed by CJSD officers and staff.

Ancillary - available for activation as and when required. Generally situated in more remote / rural settings or locations where lower levels of custody demand exist. Principally staffed by suitably trained local police officers, with remote custody supervision and Criminal Justice governance provided by CJSD.

Ancillary activations may include: pre-planned openings by the CJSD where local custody demand is expected to be higher for a specific event; scheduled openings by local police officers where a person attends by arrangement at a specific time for interview; or spontaneous activations by local police officers in order to process short-term local arrests where a custodial disposal is not anticipated.

A key aspect of visits is to observe the general custody estate and note any areas for improvement.

These observations refer to a range of issues within the custody estate, with examples including:

- Custody cell buzzers not working;
- Cell toilets not working;
- Issues with the intercom not working;
- Cells requiring skylights and brickwork;
- Cells reported as being cold;
- Cell damage (paintwork or lighting);
- Stores and supplies not being available;
- Hand washing facilities not working.

Where there are issues identified in the cells, these cells are identified as out of order by Police Scotland and are not used for holding people in custody until work has been undertaken to resolve the issue.

The Police Scotland custody estate is in need of modernisation and has been a long-standing area for improvement. The estate was inherited from the 8 geographical legacy forces, which came together to form Police Scotland. Some legacy forces had invested heavily in the custody estate and others had chosen not to prioritise this investment prior to the transition to Police Scotland. This has left a disparate custody estate in different states of repair. ICVS is encouraged by the work that has been observed at London Road Custody Centre, however, an ongoing and high priority area for improvement will be for Police Scotland to invest continually in its custody estate to ensure and maintain high standards.

The Authority is looking to see a detailed Estate Investment Plan for Custody Division and is aware that there is a commitment in the draft 5-Year Vision and Direction document to develop a CJSD Estates Strategy with the Health, Safety and Wellbeing of all at its heart.

4. AREAS OF FOCUS FOR 2022-23

ICVS Management Review and Vision

Through the second half of 2021-22 and into early 2022-23, the Authority has conducted a proactive review of the ICVS arrangements, with a focus on continually improving the service. Chapter 16 of the Police and Fire Reform (Scotland) Act 2012, sets out the Authority's responsibility for keeping the arrangements [for ICVS] under review and revise them as required. This review involved surveying ICVs, in which 38 completed the survey. The results of this survey were discussed at 3 virtual consensus sessions with visitors and directly influences the outcome of the Management Review.

The review has identified 5 key considerations for the ICVS:

Key Consideration 1: A redesign of the ICVS operating model should be undertaken to ensure processes and procedures (including data collection/utilisation) are robust. The redesign should aim to ensure that the visitors' observations provide assurance of good practice in Police Scotland Custody and have maximum impact in the continuous improvement of the care, welfare and dignity of those held in police custody. This re-design should use, where possible, the good areas of practice identified within the ICVS' current operating model.

Key Consideration 2: Provide training and support for the ICVS staff to enable the embedding of an assurance and improvement culture within the operating model of the ICVS.

Key Consideration 3: The ICVS, in consultation with the ICVs, should redesign the Visitor Report Form to ensure accurate capture of quantitative and qualitative data which will lead to improved reporting and continuous improvement of Custody provision.

Key Consideration 4: As part of the redesign of the ICVS the Authority should seek to digitise their service.

Initial Development Actions:

- a. The Authority will engage with Police Scotland to establish a new project and to ensure that the solution will be designed by ICT using Visitors' requirements.
- b. Ensure a digital method of completing ICVS forms (tablet/laptop etc.) is implemented.
- c. Ensure capability for information that is recorded digitally to be reported in real time.
- d. Implement a solution that allows reporting nationally on thematic issues and 'whole-system' recommendations.
- e. Create a dashboard which is easily accessible and enables users to have a more highly detailed view of recommendations and issues if required.
- f. Create guidance and training for Regional Coordinators and ICVs.

Key Consideration 5: Create and implement a framework that formalises the process of reporting and escalation.

Initial Development Actions:

- a. Create criteria for escalation.
- b. Document recording procedures.
- c. Create risk factors and scoring associated with recommendations.
- d. Create a process for evidence and formal sign off of recommendations.
- e. Create a method of categorising recommendations.
- f. Establish a robust reporting process to the Authority's PPC.

Next steps:

ICVS Vision (Q1 2022): Create an ICVS vision that articulates a future state based on recommendations from the ICVS Management Review, engagement with ICVS Staff and ICVs.

ICVS Implementation Plan (June - July 2022): Creation of a case for funding and a phased Implementation Plan which provides incremental progress toward the new design at an appropriate pace for ICVs and the Service and a roadmap with clear goals that will achieve the ICVS vision and considerations within this review.

Recruitment

During this reporting period there were 102 ICVs.

Recruitment is an ongoing process and there is a need to recruit additional ICVs in the 2022-23 period, particularly in the North region. ICVS will target specific recruitment where possible to improve the diversity of ICVs to better reflect the community in Scotland and ensure a service suited to current and emerging needs.



5. CONCLUSION

2021-22 has been a challenge for Independent Custody Visiting in Scotland. However, the relationship with custody staff and officers has remained extremely professional, mutually respectful and positive, despite the challenges and the additional demands placed on the services through COVID-19.

During 2021-22, the ICVs carried out 1,037 visits to Custody Suites with 1,314 detainees accepting a visit. These visits have not raised any OPCAT level or other significant breaches of human rights or highlighted any instances of cruel, inhuman or degrading treatment or punishment of arrested people, but the visits have identified a number of improvement actions, which Police Scotland has already rectified or is taking forward, and a commitment to significant management action from the Authority.

All those involved - ICVS visitors and staff, custody officers and staff, are to be commended for their dedication and flexibility in ensuring the continuity of this vital engagement and assurance in the face of unprecedented challenges.

BECOME AN INDEPENDENT CUSTODY VISITOR

Custody visiting continues to be essential in providing independent scrutiny of the treatment of people held in police custody and the conditions in which they are held. The scheme helps to build partnerships between police and the communities in Scotland.

From the experience of a custody visitor:

“I am incredibly proud to be part of Independent Custody Visiting Scotland.

Having recently attended a UK wide conference it became apparent that the type of training and level of training can vary. The fact that my training was supported by Police Scotland Force Training Centre, and our training incorporates corroboration with experienced ICVs, other schemes do not have these resources.

I am proud of the rich variety of experiences that can be drawn from Independent Custody Visiting Scotland volunteers.”

Sam Seepaul - Custody Visitor in the West

If you are interested in becoming an Independent Custody Visitor, please contact:

ICVS
Scottish Police Authority
1 Pacific Quay
Glasgow
G51 1DZ
Email: icvs@spa.pnn.police.uk

For more information on the role of ICVS, please visit www.spa.police.uk

