

The pains of police custody for children: a recipe for injustice and exclusion?

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This article utilizes the sociology of punishment, particularly the work of Gresham Sykes in 1958, to develop an understanding of the particular pains of police custody for children, drawing on the first comprehensive study in England and Wales to review the police custody process as a whole from the perspective of the child suspect. By identifying the correspondences and contrasts between the experience of adult sentenced prisoners and child suspects in detention, the analysis illuminates the damaging ramifications of harsh custody processes for children, both in terms of their effective participation in the justice process and their ongoing attitudes towards the police.

Key Words: police custody, children, punishment, effective participation

Evan: Basically, police just think it's fun and games. So, like, 'cause it's innocent until proven guilty?

Researcher: Yeah.

Evan: No it's not. It's completely not. 'Cause you get accused of somethin', straight away you've done it. You've done it, and you get punished for it.

INTRODUCTION

In the exchange above, 16 year-old Evan reflects on his experiences in police custody. For the majority of children who find themselves in conflict with the law, a period in police custody is their only substantive experience of the criminal justice system. Despite welcome reductions in recent years ([Howard League 2020](#)), in the year to March 2020 there were almost 59,000 child arrests in England and Wales. Fewer than half as many children appeared in court, fewer still received a sentence or out of court disposal ([Youth Justice Board/Ministry of Justice 2021](#)). There is ample evidence both from England and Wales ([All Party Parliamentary Group for Children \(APPGC\) 2014](#)) and internationally ([Weaver and Lerman 2010](#); [Bernuz Beneitez and Dumortier 2018](#)) that negative experiences of police interactions can be formative and lasting, while for those who are prosecuted, the evidence generated in police custody is frequently determinative of the legal outcome ([Cape et al. 2007](#)). Police custody is thus a key moment for children in the criminal justice process. Yet in 2003 Brookman and Pierpoint described young suspects as 'all but invisible' and they have largely remained so.

Far from being atypical, Evan's views were widely echoed amongst fellow young participants in a research study exploring children's experience¹ of being detained as suspects in England and Wales. That many children and young people should consider police custody to be unjustifiably punitive—and that they should express such resentment as a result—should give pause for thought. The police custody block should not be a place of punishment. Pre-charge detention ought in principle to impose the 'minimum burdens' on the unconvicted individual (Ashworth 1994: 31). Evan's reflections, therefore, raise a number of urgent questions: what is the nature and extent of the pain experienced by children in police custody, what factors produce such punitiveness and what are the implications of these experiences?

This article addresses those questions, informed by the first research study in England and Wales to review the custody process as a whole from the perspective of the child. Qualitative research taking the suspect's perspective is unusual (see Choongh 1997; Newburn and Hayman 2002; Skinnis 2011b; Skinnis and Wooff 2020). Focus on the perspective of the child suspect is even rarer (Her Majesty's Inspectorate of Constabulary (HMIC) 2015; Kemp and Hodgson 2016; Children's Commissioner 2017), and previous studies have tended to engage very few young people, or focus on specific areas of the detention experience. Internationally there is also little comparable work (see for notable exceptions in Northern Ireland (Quinn and Jackson 2007), and Israel (Shalhoub-Kevorkian and Kovner 2018)). Nor has the experience for young adult suspects been significantly explored (see for England and Wales (Jones 2007, 2011) and for longer pre-trial detention in Victoria, Australia (Walker *et al.* 2020)).

The analysis draws on the sociology of punishment, especially the work of Gresham Sykes, to develop an understanding of the particular pains of police custody for children. The aim is not purely to provide a rich picture of the punitiveness experienced by those young research participants but, by identifying both the similarities and contrasts between the experience of the adult sentenced prisoner and the child suspect in detention, to illuminate the ramifications of those pains, both in terms of legal outcomes and future relations with the police.

The 'pains of imprisonment' and the pains of custody—correspondence and contrast

Writing in the 1950s, of a maximum-security men's prison in New Jersey, Sykes (1958: 64) identified the 'modern pains of imprisonment' to be: deprivation of liberty, goods and services, heterosexual relationships, autonomy and security. These deprivations were experienced by prisoners as a deliberate moral rejection or condemnation, 'profound threats to the inmate's personality or sense of worth', and were in this sense considered to be 'just as painful as the physical maltreatment which they have replaced' (Sykes 1958: 64). Thus deprivation of liberty was painful not only as a result of the inmate's confinement in the institution, but the more by virtue of his involuntary isolation from loved ones, and the 'loneliness and boredom' this occasioned, which continually emphasized the need for him to be 'kept apart' from 'decent men' (Sykes 1958: 65–67). Similarly, in relation to goods and services, whilst the inmate's basic needs were met, his material deprivation served as a bitter reminder of his 'personal inadequacy' which had triggered this impoverished standard of living (Sykes 1958: 67–70). Equally the 'acute anxiety' aroused by the loss of security was traced by Sykes not simply to the anticipation of attack from a fellow inmate, but as to how the inmate himself might measure up and his response be evaluated by others (Sykes 1958: 76–78). Of particular interest in the context of this paper, is Sykes' characterization of deprivation of autonomy as thrusting the inmate into the 'weak, helpless, dependent status of childhood'—an experience Sykes considered to be 'irksome and disturbing' for a child, but 'even more painful' for an adult inmate (Sykes 1958: 73–76).

1 The term child/children is used here to denote 10–17 year olds detained as 'juveniles' (under the Police and Criminal Evidence Act 1984) in police custody.

Sykes' account is not without its critics (see for example Sparks *et al.* 1996), and lacks consideration of the heterogeneity of any prison 'society' that we would expect today, in terms of ethnicity, sexuality and issues of gender. However, his seminal depiction has fostered a rich body of subsequent accounts of the 'pains of imprisonment', including in different jurisdictions (eg Downes 1993), of different types of institutions (eg Bosworth 1999) and sentences (eg Durnescu 2011). Yet the contours mapped by Sykes continue to be identifiable, albeit that further pains have been noted in particular contexts, such as the 'institutional thoughtlessness' experienced by older prisoners (Crawley 2005), or the pains of 'uncertainty and indeterminacy', of 'psychological assessment' and of 'self-governance' experienced by longer-term prisoners (Crewe 2011). Of course, such accounts are incomplete without considering prisoners' attitudes and behaviours, their 'adaptive styles' (Crewe 2009), in response to these deprivations; both those stressing 'indigenous' factors—the 'argot roles' adopted by Sykes' prisoners (Sykes 1958: 83), and the 'secondary adjustment' of Goffman's inmates (Sykes 1958: 56)—and those exploring the impact of 'imported' or 'latent' characteristics (Irwin and Cressey 1962; Cohen 1972).

A much smaller body of literature has considered the 'pains of imprisonment' for children (Halsey 2007; Cox 2011; Gooch 2016, to a lesser extent Inderbitzin 2006; Freeman and Seymour 2010). These identify correspondences with adult deprivations, particularly the social isolation and separation from family as a result of loss of liberty (Halsey 2007) and the deprivation of security arising from bullying and victimization, a prominent and distressing pain in itself (Gooch 2016). Fresh pains particularly experienced by imprisoned children include the loss of childhood years (Gooch 2016) and the challenges of exercising agency in navigating treatment programmes (Cox 2011). Young adult prisoners, particularly those on remand (Harvey 2007; Freeman and Seymour 2010) and in the early stages of imprisonment (Harvey 2013), experienced the pain of 'entry-shock' and the devastating effect of uncertainty, exacerbated by lack of knowledge.

Sykes' pains of imprisonment framework has been applied to the experience of adult suspects in police custody in three studies (re adults generally: Skinns 2011b; Skinns and Wooff 2020, and re young adults: Jones 2011). Each has noted significant correspondences between the pains of imprisonment and those of police custody. Deprivation of goods and services, particularly the removal of all personal possessions, encapsulated by Skinns and Wooff (2020: 251) as 'having nothing', was felt acutely in all three studies, as was the loss of autonomy, particularly the frustration and indignity of total dependence in the cell. Jones' (2011) interviewees experienced a loss of security arising from fear of violence from other detainees. By contrast, Skinns and Wooff's (2020: 254) participants' sense of insecurity was limited to the intimidating nature of the material conditions in custody, although they experienced feelings of 'uncertainty and anticipation' derived from the 'liminality' of the custody experience. This uncertainty was, for Jones' (2011: 22–23) younger participants, characterized as 'fear of the unknown', particularly arising from being 'kept in the dark' in terms of information and aggravated by long delays. Deprivation of liberty was also felt keenly by Skinns and Wooff's (2020: 250) participants, particularly being 'cut off' from human contact, friends and family. Skinns and Wooff (2020: 257) observed that these deprivations triggered in adult suspects a similar sense of 'moral rejection' and erosion of self-worth to that experienced by Sykes' inmates. In light of these correspondences they argue that police custody can be located as part of the wider 'penal chain' or 'painscape'.

Yet there are, plainly, as Skinns and Wooff (2020: 257) note, significant differences between police custody and sentenced imprisonment, most strikingly the much shorter duration of a custody episode and the unconvicted status of the suspect, as well as the lack of interaction between detainees and the contribution made by the custody process to the 'crime-fighting status and aspirations of the police'. Far from undermining the value of the comparison, I seek to draw

out these contrasts to better understand the implications of the delivery of pain, intentionally or otherwise, to child suspects in police custody.

Scant protections for children in police custody

A review of the legal framework of protections for child suspects underlines the importance of this analysis. Child suspects should enjoy a range of rights and protections which ought to minimize the impact of detention on them. Under the United Nations Convention on the Rights of the Child (UNCRC),² children have a right to be detained only as a last resort, and for the shortest appropriate period (Article 37(b)), and where this occurs they should experience conditions appropriate to their needs, and consistent with the promotion of their 'sense of dignity and worth' (Articles 37(c) and 40(1)).³ Domestically the police are under a statutory duty to 'safeguard and promote the welfare of children'⁴ and aspire to take a 'children first' approach to every encounter, including with young suspects.⁵ The Custody Officer (CO) bears responsibility for the care of suspects, under the Police and Criminal Evidence Act 1984 (PACE), s39. However, specific provisions in the PACE Codes of Practice, particularly Code C,⁶ and in the College of Policing's guidance, 'Authorised Professional Practice (Detention and Custody) (APP), giving effect to the particular duties owed to children are quite limited. Additionally, the small body of available research identifies that these scant protections tend not to be implemented effectively for children.

The most substantial of the child-specific protections is the calling down to the station of an appropriate adult (AA), whose role is to safeguard the child's 'rights, entitlements and welfare' and to be present for certain processes, in particular the interview.⁷ However this function is fulfilled, in the first instance, by parents or carers,⁸ inevitably untrained to perform this demanding role, and long waits for AA attendance have been noted (Children's Commissioner 2017). Despite the child's Article 37 rights, time scales for the detention of children mirror those for adults, although COs should 'prioritize and triage' vulnerable detainees, including children, during booking-in,⁹ and keep detention times to a minimum, avoiding in particular detention overnight, unless 'absolutely necessary'.¹⁰ However quantitative research has identified that very lengthy custody episodes, are commonplace for children (Pleasence and Quirk 2002; Kemp *et al.* 2012; HMIC 2015), as is overnight detention, both pre- and post-charge (Skinns 2011a).

There are, similarly, few stipulations with regard to the treatment of children in detention. The statutory requirement to keep child and adult defendants separate during the criminal process (Children and Young Persons Act 1933, s31) has limited application in police custody, since it applies to charged adults only. Nonetheless, a child should not be held in a cell with an adult, or in a cell at all unless no other 'secure' or 'more comfortable' accommodation is available (Code C 8.8), and the guidance recommends a 'separate area' be provided for young detainees (APP(CYP)) 4). Additionally, children should be visited by officers 'more frequently' than adults whilst detained (Code C Note 9B). In respect of the many child suspects with identified vulnerabilities, both dispositional and those arising from adverse life experiences, the APP simply requires officers to 'carefully consider' these when planning how to 'support, observe and

2 Ratified by the UK, and entered into force September 1990.

3 See also Committee on the Rights of the Child 'General Comment No.24 (2019) on children's rights in the child justice system (CRC/C/GC/24).

4 Children Act 2004, s11

5 National Police Chief's Council, National Strategy for the Policing of Children and Young People, 2015, p8.

6 Code C: Revised Code of Practice for the Detention, Treatment and Questioning of Persons by Police Officers, August 2019

7 Code C 1.7A

8 Code C 1.7B

9 APP (Response, Arrest and Detention) 2.2

10 APP (Children and Young Persons)(CYP) 2. The statutory duty to transfer a child to local authority accommodation only applies to those remanded in custody after charge (PACE, s38(6)).

care for' them (APP(CYP) 3.1), but offers no more specific guidance. Available evidence provides a generalized picture of minimal implementation of adjustments to accommodate vulnerabilities (HMIC 2015), but little detail about children's experiences as a result.

METHODOLOGY

I turn to the methods adopted in the research before addressing the experiences of child suspects themselves. Interviews were conducted with children and young people who had recent and/or repeated experience of detention as a 'juvenile' in police custody in England and Wales ($n = 41$). They are referred to collectively as 'young participants' and individually by pseudonym. The sample group included a range of ages at interview: 10–14 years ($n = 5$), 15–16 years ($n = 19$), 17–18 years ($n = 15$) and over 18 ($n = 2$), including eight girls and 14 young people who identified themselves as Black or of minority ethnic status (BAME). Levels of police custody experience varied—some had only one detention experience ($n = 6$), some several (2–4 episodes, $n = 18$) whilst others had been detained more frequently (5+ episodes, $n = 17$). They were accessed through gatekeepers, with particular care being taken to ensure that fully informed, and ongoing, consent was obtained from all young participants, and from an adult with parental responsibility for those under 16. The interviews were semi-structured, designed to treat young participants as 'experts by experience' (Cohen 2000) with freedom to focus on aspects that they considered important.

In addition, 192 hours of observations were conducted in 6 police custody blocks across 3 force areas—a major regional metropolitan force, and two county forces. The observations involved tracking all young suspects (YS) passing through the block ($n = 47$), observing processes and conditions within the block, and holding face-to-face discussions with officers, predominantly COs, and custody staff (CA)¹¹ ($n = 96$), AAs ($n = 11$), healthcare practitioners ($n = 14$), legal representatives ($n = 9$), and independent custody visitors (ICV) ($n = 3$). Further interviews were carried out away from custody blocks with additional AAs ($n = 11$), legal representatives ($n = 4$) and ICVs ($n = 3$). Numerical signifiers are used for all young suspects, forces, blocks and adult participants. All data were transcribed in full and subjected to thematic analysis—the material being coded using a hybrid approach, combining both deductive and inductive methods (Fram 2013).

THE PARTICULAR PAINS OF POLICE CUSTODY FOR CHILDREN

The physical toll of police custody

In contrast to Sykes' prisoners, young participants stressed the physical dimension of the pain experienced in police custody. Approximately half detailed arrests which might at best be described as heavy-handed, and at worst included allegations of significant violence and assault (according to Lyon *et al.* 2000). However, the degree of coercion required, and its impact, was frequently escalated by the collision of immaturity, both physical and emotional, with police approaches and resources unadjusted to account for arrestees' youth. For example, young participants commonly described an arrest following a chase, triggered generally by fear or youthful thrill-seeking, which ended with more substantial use of force than would otherwise have been necessary. Thereafter, young participants, particularly girls, related how they were often able to squirm out of physical restraint, resulting in heavy adult handcuffs being tightened and left on for long periods, a common feature during fieldwork (see for similar HMIC 2016).

¹¹ Various titled custody assistants or detention officers depending on force area. For ease, and force anonymity, they are referred to throughout as CA.

In the police station, I rarely observed a child being prioritized for processing and, at busy times, they could face a lengthy wait to be ‘booked-in’, in the unpredictable and often volatile atmosphere of police custody. Whilst some officers suggested that they might deal with children first, others were plain that they would not do so, or only if there was a ‘medical issue’ (CO32). The experience was frequently exhausting and painful for young participants:

Then, you’re waiting another half an hour on your feet. Your feet are starting to hurt. Your wrists were hurting for that half an hour, or hour and a half, of handcuffs... Then, at the book in, they take it off. Then, you’re there. Then, another person will come to get booked in. He will probably be drunk or something. So, he’s there screaming down the hallways. Then, it gets too much. You just want to go. You just say, ‘Just put me in my cell.’ (Rezar)

This disregard for youthful needs and capacities recalls the ‘institutional thoughtlessness’ identified by [Crawley \(2005\)](#) in relation to older prisoners.

Similarly, necessary processes to identify and prevent risk of harm to the child whilst in custody could often result in treatment experienced as physically oppressive and intrusive, though not intended to be so. For example, despite their differing needs and capacities, children underwent the same risk assessment process as adults—a lengthy series of health and welfare questions. COs recognized that this could be ‘very intrusive, very personal’ (CO39), yet rarely were measures taken to tailor the process. Mindful of the risk burden they carried, ‘if anyone dies it’s our fault’ (CO26), COs were often reluctant to adopt the procedure ‘in case something were to happen’ (CO29). A girl, for example, might be asked whether she was pregnant, or face probing questions about recent episodes of self-harm, methods and triggers, in the earshot of other arrestees, officers and professionals unconnected to her case. Strip-search could also be a source of significant distress, ‘like a violation’ (Carter), ‘like they’ve taken all your dignity’ (Avery), particularly for those who experienced it repeatedly (see for similar [HMIC 2015](#): 89–90). Whilst for those who displayed an intention to self-harm, the measures frequently adopted to prevent injury—the removal of clothing or bedding, the use of physical restraint (often by more than one officer), the application of leg straps—could be extremely traumatic, particularly for girls restrained by male officers. COs were often conscious of the distress caused by such incidents, but lacked suitable facilities and expertise to address children’s needs more appropriately.

Deprivation of security—‘it was scary’

Unlike [Skinns](#) and [Wooff’s](#) detainees, some young participants did express significant fears about the threat posed by other detainees. On observation, separation was not consistently achieved in the early stages of custody and young participants described waiting with adult arrestees, even occasionally being detained in the same holding cell, prior to booking-in. This was particularly distressing for younger and less-experienced participants:

So I’m lookin’ at people and they’re lookin’ at me and I’m just starin’ at them, like, scared, but tryin’ to act not scared... so I’m starin’ at them thinkin’, “Who’s this?” and, “Who’s that? Which one of these is gonna be the one to hurt me or kill me?” (Elijah)

Whilst some COs sought to keep children as separate as possible, or complained that the physical constraints of custody made this impossible, others were unconcerned:

They don’t need to be segregated—it doesn’t make a difference. The ones that are new here aren’t here for long and the regulars have seen it all before anyway. (CO36)

Often this group of young participants were also uninformed about what would happen in police custody—a void which could trigger intense anxiety, echoing the ‘fear of the unknown’ recounted by Jones’ (2007; 2011) participants:

The people who was arrested in the other holding cells... They looked scary... I was just breaking down—I thought I was gonna go in the same cell as them (Michael).

The unpredictability of arrested adults was a significant concern—‘like scary ‘cos you don’t know what they’re gonna do’ (Luke)—and indeed two young participants described getting involved in a physical altercation with an adult. Whilst custody blocks can be very quiet and feel well-ordered, they can also be chaotic, noisy and threatening. A parent attending as AA recalled ‘hearing people banging on doors, headbutting the doors... it’s horrible.’ (FamilialAA1). Such an atmosphere could be extremely unsettling.

As the custody episode wore on, the focus of this insecurity shifted from concerns about other detainees to uncertainty about the consequences of arrest and possible prosecution, escalating sometimes to a level seemingly altogether more destabilizing and painful than that noted in respect of older adults (Skinns and Wooff 2020), according more closely with responses in young remand prisoners (Harvey 2007; Freeman and Seymour 2010). Young participants described an almost vertiginous anxiety, lacking life-experience, uninformed about likely outcomes and feeling the potential loss of youthful promise keenly:

I thought I was gonna get sent to jail ‘cos they were right going on, ‘It’ll go to court’ and all this and that, and I’m thinking, ‘Oh my God, what have I done to my future now. What’s going on?’ It was scary. (Kate)

On observation, in line with previous research, AA attendance was frequently delayed, sometimes due to logistical problems, but more commonly orchestrated by the CO to coincide with interview or the needs of the investigation: ‘when we’re ready to deal with them’ (CO24). As a result, child suspects frequently spent many hours, often overnight, without support to understand their position. On observation, more than half of young suspects waited more than 5 hours for an AA to attend, including some very much longer delays.

This anxiety could be exacerbated for more vulnerable children for whom an episode in police custody, and the bail conditions which might follow, could have a profound effect on already strained family relations and precarious living circumstances, leaving them doubtful about where and with whom they might live on release. Young participants also spoke repeatedly about fearing that they would be pressurized to ‘grass’ (inform) on associates, in some cases anticipating very serious repercussions: ‘Literally you’re putting your life at risk, or your loved ones at risk’ (Zayn).

Deprivation of goods and services—‘they don’t offer you nothing in there ...’

Despite restrictions on the seizing of possessions in custody,¹² on observation children routinely had all personal items (with the exception of clothing) removed, recalling, in combination with the other booking processes, the systematic mortifications experienced by Goffman’s (1968) inmates. This included, as a blanket approach in some areas, the taking of cords from shoes and clothing, even where no history of self-harm was given. COs identified this as a flash point for problematic behaviour, but displayed little appetite for tailored or dynamic assessment, to

12 PACE s 54 restricts seizure to items required as evidence or which the officer believes might be used to injure, cause damage, interfere with evidence or assist in escape.

balance risk and welfare considerations. As one Inspector observed: ‘You’d have to be Mother Mary to be allowed to keep your cords in this place.’ This was a significant source of anger and resentment for young participants, who often considered such deprivations unjustified, particularly where cords were cut out or could not be reinserted: ‘I go mad when they cut ‘em, me.’ (Dexter).

The removal of mobile phones from all young suspects was often the most painful of the material deprivations:

it’s horrible, it’s just out of the comfort zone. Like, you’re always texting someone, you’re always got someone to talk to, and then all of a sudden you’re just shoved in like a cage sort of like room and then you’ve got nothing to do, doing nothing, you’ve just gotta wait. (Will)

This pain could be prolonged when mobiles were retained for ‘evidential purposes’, sometimes for many months—an experience which could be seriously punitive for those trying to maintain family ties whilst living in residential care.

Given their relatively brief confinement, in contrast to prisoner experiences, the lack of access to services available in the community was, unsurprisingly, not a concern for young participants (nor was the deprivation of sexual relationships). Rather, they were distressed by the seeming lack of support to help them cope with their immediate confinement. Thus while Sykes’ (1958: 68) prisoners’ ‘basic material needs’ were generally met, this was not always the case for young participants. Many complained of being hungry or held in dirty or cold conditions, often using animal references to convey the degrading sense of their incarceration—describing blankets like “you would put on top of a horse” (Zayn) and food which “I wouldn’t give...to the dog” (Harper). Facilitated by the permissive wording of Code C 8.8, children on observation, and in their accounts, were routinely held in adult cells, or in rooms designated as ‘juvenile detention rooms’ but internally virtually indistinguishable from adult accommodation—a state of affairs well-known to ICVs and apparently condoned by the inspection regime.¹³

On observation, rights and entitlements information was frequently delivered to children, and their AA, formulaically. The CO would rattle through the ‘same spiel’ with a child as with an adult, focusing on ensuring that it had ‘been done’ (CO43)—prioritizing case-construction objectives (McConville *et al.* 1991) over enabling understanding. Consequently, many young participants had only a partial appreciation of the services and protections to which they were entitled, and few were aware of, and fewer yet enjoyed, entitlements such as making a phonecall, spending time in the exercise yard or taking a shower. No young participant, for example, appreciated that they were entitled to speak privately to their AA ‘at any time’.¹⁴ As a result, many felt neglected and that their detention was unnecessarily unpleasant and disrespectful: ‘They don’t offer you nothing in there man. What they tell you lot and what they do to us is two different things.’ (Malik).

Whilst some COs and staff were conscious of the harshness of the detention environment for children, others took a more adversarial approach, considering such deprivations appropriate, given the child’s arrested status, even that young suspects were unduly ‘molly-coddled’ (CA23). This was sometimes explained in social disciplinary terms (Choong 1997)—a night in the cells being imposed for its deterrent and incapacitative effects: ‘It sends a message and keeps the community safe.’ (CO34). There was a strongly pedagogical emphasis in these approaches (see Loader 1996). Regular child suspects were often identified as members of those groups

13 In the three forces observed, HMIC (as then was) inspection reports immediately preceding or post-dating observations contain no recommendations relating to the provision of roomier or more sympathetic ‘juvenile’ accommodation.

14 Code C 3.15

described as ‘police property’ (Lee 1981; Reiner 2010), ‘pulled up’ not ‘brought up’ (CA10) by ‘degenerate’ families (CA16) for whom a night in custody might ‘do the trick’ (CA10) in terms of preventing offending. This attitude also drew on the view of some staff that youth courts were too lenient, undermining the work of the police and the youth justice system more generally: ‘The only real penalty is a period in a cell—it’s like the naughty step.’ (CO12). As CO43 observed: ‘There’s a real contrast with the rest of the youth justice system—I don’t mind remotely being the big bad wolf in it all.’ However, this tended to produce an embedded sense of “less eligibility” (Rusche 1939), that efforts to mitigate the process would undermine its vital effect, even that the process at present is too “warm and fluffy” (CO12).

Deprivation of liberty—‘stuck in a cage’

In purely temporal terms, an episode in police custody bears little comparison to even short-term imprisonment. Nonetheless, young participant accounts suggest that the sudden and total nature of the deprivation of liberty in police custody, could be intensely painful:

It’s just being trapped in a room. I was literally, I felt like I wanted to kill myself. I was just locked in a room. It’s horrible. It is one of the worst experiences you can ever have, I think. (Tom).

Isolation from family was less frequently remarked upon than by adult suspects (Skinns and Wooff 2020) and young prisoners (Halsey 2007), no doubt in part because of the eventual attendance of the AA. Nonetheless, like adult detainees (Skinns and Wooff 2020), many children related struggling to cope with the profound sense of isolation. Most difficult to endure was the almost intolerable boredom generated by near-total lack of stimulation: ‘staring at nothing’ (Jackson), ‘It does your head in. There’s nothing to do.’ (Megan), (see for similar Hazel *et al.* 2003; Jones 2007), recalling the pain of prisoner ‘underload’ (Toch 1982). These privations tended to magnify pre-existing vulnerabilities (see for similar Walker *et al.* 2020), and could be particularly difficult for those who were on medication:

I have ADHD and they wouldn’t give me my medication until I see a doctor... and I was bugging out like, I was actually going crazy. I can’t be in a small room for too long. (Zoe).

There was a sense of destabilizing intensity to some experiences, ‘it makes you go a bit mad. You go crazy in the cell... it’s hard to explain, it’s like... you think fast and sweating’ (Carter). Young participants described in vivid terms the physical oppressiveness of the small cell, like being ‘stuck in a cage’ (Alex), recalling strikingly accounts of children enduring longer periods in solitary or cellular confinement (Bronx Defenders 2014; Gooch 2016).

Despite the requirement to keep children’s detention time to a minimum, three-quarters of young participants described detention periods of over 10 hours, and many much longer, according with the average detention length on observation (11 hours 45 minutes, where recordable) and in previous research (HMIC 2015). Overnight¹⁵ detention pre-charge was common in young participant accounts, and occurred in 12 of the 33 detention episodes on observation for which full timings are available. Sleeping was a key mechanism for making time ‘go quicker’ (Jackson), along with repetitive behaviours such as counting wall tiles or playing target practice with pieces of food packaging. But, such limited coping strategies could swiftly deteriorate into maladaptive responses reminiscent of the ‘situational withdrawal’ identified by Goffman (1968: 61–62). Healthcare practitioners noted ‘a lot of panic attacks’ (FNPS)¹⁶ and attempts to self-harm were common (see for similar Jones 2007).

15 More than four hours in custody between midnight and 8 am (Skinns 2011a, 27).

16 Forensic Nurse Practitioner.

As identified in the adult police custody and imprisonment literature (Gooch 2016; Skinnis and Wooff 2020), supportive staff contact could have a significant impact. But increased arms-length surveillance, which was often put in place, tended not to be experienced as supportive nor did it mitigate the sense of isolation. More frequent cell checks did occur, but often amounted simply to a pair of eyes peering through the hatch, tending only to disturb sleep or get up hopes of release. Officers and staff in all areas acknowledged the challenge for children of managing this isolation: ‘It they’re in 5 to 6 hours they can cope—after that they start doing stupid things’ (CO27).

Despite the right to child-friendly conditions, and the emphasis on accommodating vulnerability in the guidance, cell conditions were not, on observation, adjusted to support emotional welfare. Nor were distraction or support items commonly provided, beyond the offer of reading material, itself rarely age-appropriate. Safeguarding concerns, and risk of damage to the cell, were generally raised as justification, as well as time pressures and a lack of suitable resources in custody. But adversarial attitudes in some teams, focusing on a child’s status as suspect rather than their needs as a child, could stifle more humane approaches by individual staff. CA41 related: ‘If they’re awake I’ll speak to them and ask them if they want a drink. People (colleagues) will say, ‘What are you doing talking to them?’. There was also a sense of case-hardening which could perpetuate less than sympathetic treatment. Seeing detainees in extreme distress is common in a custody block. This inevitably has an impact on levels of tolerance, as CO23 observed: ‘If I talk to someone in a pub I know that I have an entirely different outlook ... Sometimes I wonder why I have no empathy.’ Young participants’ own oppositional attitudes to the police, and professionals considered to be working with them, could also lead them to refuse support offered. While sometimes young participants simply felt too overwrought to engage: ‘if somebody comes like and speaks to me now, like, I’m just gonna go mad at them.’ (Harper).

Deprivation of autonomy—‘you feel like you can’t say nothing to do anything’

Contrary to Sykes’ (1958) assumption, young participants’ familiarity with adult control tended not to diminish significantly the painful experience of their total loss of autonomy in police custody. They frequently complained about their dependence on custody staff for almost everything, including checking the time and, in some blocks, obtaining toilet paper. Indeed for young participants, because of the extreme imbalance between the power and control of the adult officer and the child detainee, this ‘loss of autonomy’ is perhaps better described as a profound sense of helplessness, triggered on arrest and intensified through the process. For some who had developed significant resilience addressing adversity in their own lives, this helplessness was a particular source of resentment and anger. As Rezar describes:

like it’s all of them against you. It’s just you there, you’re basically in their house ... You feel like you can’t say nothing to do anything. You feel annoyed and angry, but at the same time, you feel like you’ve got nothing to say.

Whilst for those fortunate enough to have positive experiences of dependence in their home lives to reflect on, the unpredictable and sometimes seemingly malign power wielded by the police could be distressing:

... when I went in there was one really nice police officer that helped me and was like, ‘Do you want a blanket? Do you want something to eat?’ There was just one that gave me attitude all the time, ‘You’re not having a blanket. You don’t deserve it. You’re a criminal,’ this and that, and I’m like, ‘Alright.’ But it was **really** scary to think how long I’m going to be in here.’ (Kate) (emphasis in the original speech)

These fears could be further entrenched where the exercise of rights and entitlements was inconsistently enabled. Some officers and staff approached rights, not as universally exercisable by a detainee, but as a system of privileges: ‘Like a parent I work with a reward system. You’ve done as you’re told, as I asked you to, then you can have X.’ (CO41) (see for similar [Choongh 1997](#); [Walker et al. 2020](#)). This generated in young participants the same ‘extreme scepticism about the utility of rights’ that [Choongh \(1997: 177\)](#) identified in adult detainees—as Hussain observed: ‘there’s no point in ringing the bell, they’re just gonna waste your time.’ Combined with the lack of information about what was happening, and anxiety about likely outcomes, some young participants experienced a sort of emotional freefall—with no sense of a structure to navigate, rules to rely on or rights that could be actioned.

Many young participants, like Hussain, responded to this loss of control with resignation, re-focusing energies on getting through the process and managing their desperation to ‘get out’ as swiftly as possible. The total control wielded by officers and staff, and the near panoptical supervision of detainees in modern custody blocks, meant that there was little opportunity for ‘back-stage forms of resistance’ ([Crewe 2009: 200](#)), and, unlike amongst young prisoners ([Wilson 2003](#); [Phillips 2008](#)), there was very limited scope for peer support or solidarity. A number of young participants described defiant, problematic behaviour—flooding the cell, throwing food around, shouting or pressing the in-cell buzzer repeatedly (echoing [Wilson 2003](#)). Some COs were sympathetic, responding very patiently. But problematic behaviour could garner harsh responses, including turning the child’s call buzzer down or off, a riposte experienced as particularly punitive, or threatening to charge the child with criminal damage or to delay their release. This last threat was liable to entrench resentment further as young participants inevitably concluded that staff would deliberately ‘long it out’ (Jamal) to punish them. Ultimately resistance was always subdued and served only to exhaust the child, and thus disadvantage them in any upcoming interview, or identify them as a troublemaker for future episodes.

Prospective pains: the risk of wrongful conviction

Given the particular protections which children should enjoy in police custody, any correspondences between the immediate pains experienced by the child suspect and those identified for adult prisoners should give pause for thought. But it is in reviewing the different contexts of these forms of detention that the ramifications of the child suspect’s experience are perhaps best illuminated. In contrast to Sykes’ captives, young suspects are, whilst coping with these pains, expected to engage with new information, make key legal decisions, and ultimately undergo questioning. Yet many young participants reported that the exhaustion and distress generated by their experiences in detention had a profound effect on their ability to participate effectively in the proceedings, an important aspect of their fair trial rights in custody (*Panovits v Cyprus*).¹⁷ The physical toll of the process, and their desperation to be released, meant that children were often simply not in a state of mind to take in rights information or willing to delay matters by revealing a lack of comprehension. By far the most frequent reason given by young participants for waiving legal advice was the perceived delay that a solicitor might cause, even where that might be a relatively modest 45 minutes: ‘I didn’t want one... I just wanted to get out.’ (Alex). Familial AAs also declined their right to ask for a solicitor to get it ‘over and done with’ (FAA4) for their child, while for those taking legal advice, the exhaustion of waiting in the cell could overwhelm a child’s capacity to engage with the solicitor and their advice.

Lengthy detention was also capable of having a critical impact on a child’s ability to give a good account of themselves in police interview. Sandor, for example, described himself in interview as ‘just too out of it ... just really, really emotional and afraid and tired.’ However, after

17 (2008) 27 BHRC 464, [67].

long hours in a cell, few young participants, or their AAs, were keen to raise issues concerning fitness for interview and thus further delay questioning and release. The potential impact on the fairness and reliability of the interview is clear. Children are ordinarily more vulnerable to interrogative pressure and more likely to confess, and to confess falsely, than adults (Redlich and Goodman 2003; Kassin *et al.* 2010). Isolation in particular has been linked to acquiescence in interview (Kassin *et al.* 2010), whilst sleep deprivation can increase suggestibility in the face of leading questions (Blagrove 1996; Harrison and Horne 2000). This is especially concerning given repeated complaints by young participants of interviewers using oppressive and confession-seeking questioning tactics (Gudjonsson 2003; Gudjonsson *et al.* 2006)—an unsurprising finding given that rarely will officers interviewing young suspects have received training to elicit their best evidence (Gooch and Von Berg 2019). As Logan described,

Some questions that they ask, they'll pressure you and you'll be that pressured that you might 'ave to lie and say, 'Yeah, fair enough, I did do it'... Just to get it over with, 'cause they'll just keep pressuring you and asking you.

High-profile miscarriages of justice such as the Confait Case (Fisher 1977) and the Central Park Jogger Case (Feld 2006) reveal the dangers inherent in questioning in such circumstances. More recently Shalhoub-Kevorkian and Kovner (2018) have noted the frequency of false confessions among Palestinian children in pre-charge detention.

Alternatively, a child might simply decide to maintain silence through hunger, exhaustion, or to hasten their departure: 'if you stick to 'no comment' you just get it over with don't ya?' (Aidan). In response to their loss of autonomy, some, particularly BAME, young participants, used 'no comment' as a form of resistance (see for similar Carter 2011; Quirk 2017), having identified that 'the only power you've got is when you go into the interview room' (Hussain) and that 'they (the police) hate it when you go no comment' (Jayden). This resistance is unsurprising since reduced capacity for future orientation and heightened reward sensitivity are natural features of adolescent psychosocial development (Cauuffman and Steinberg 2012; Lamb *et al.* 2013). However, it is highly problematic that the punitive impact of police custody is felt at a time when a child is required to make far-reaching legal decisions and participate in a key phase of the criminal justice process. Such a burden runs the risk of adding the prospective pain of wrongful conviction to the immediate pains of police custody.

Prospective pains: exclusionary effects

Critically, the deprivations experienced by young participants did not, in contrast to Sykes' (1958: 79) captives, tend to evoke feelings of 'personal inadequacy'. Rather they signalled to young participants that they were not morally acceptable, or persons of value, in the eyes of the police instead. The harsh conditions, and the failure to enable young participants' rights, were indicative of the officers' disrespect and lack of concern for them: 'It's just like they don't care, they're not bothered' (Logan). Overwhelmingly the reaction was one of resentment, and young participants were vocal in their dislike of officers who they felt treated them 'like an animal' (Rezar) or 'as if you're not a real human' (Zayn). This was particularly marked amongst more custody-experienced young participants, who tended also to be those disclosing significant childhood adversity and dispositional vulnerabilities.

In line with procedural justice theory (Tyler 1990; Tyler and Huo 2002), young participants' subjective judgements about the unfairness of police decision-making and the disrespect which characterized their treatment, had a negative impact on their views of the legitimacy of the police. For some, this arose particularly where they felt their arrest, or the length of their detention, was unjustified: 'When I go there for no reason, that's what really makes me look at

them a different way and it just brings on hatred.' (Alex). For others this was more closely connected to what they perceived to be generally disrespectful and unfair treatment: 'they just piss me off because they think they can throw their weight around because they've got a police badge on' (Robert). Contrary to the suggestion that an unpleasant experience in custody might 'set them on the right path' (CO34), punitive treatment could have an iatrogenic effect:

by putting you in a room, making you sit by yourself, it's not going to make you accept, reflect on the thing you've done. It's going to make you think like, 'You lot treat me like shit.' I might as well do worse things in there. I don't know, it makes you entirely a bit different ... Basically, if I get treated like this, what's the point? The police officer don't see criminals as equals to them, they see 'em as people that are just ... I don't know, they're less anyway so... (Carter)

As Lawrence [Sherman's \(1993\)](#) defiance theory predicts, the alienation expressed by Carter, and his defiant rejection of a detention process that he experienced as unfair and stigmatizing, is liable not to deter but to amplify his offending behaviour.

There is also evidence that seeking to exploit the 'contrast with the rest of the youth justice system' (CO43) could be counter-productive. CO40 observed, 'They go to court and are released. They're angry with the police, "You had me in a cell and the court released me." Everyone's bitter.' (See for similar [Rogowski 2000](#); [APPGC 2014](#)). Equally troubling, given the high levels of victimization amongst young people in conflict with the law ([Smith and Ecob 2007](#)), were the observations of several young participants that, as a result of their custody experiences, they would not trust the police or go to them for assistance in future:

it's the sort of thing where if I needed them I wouldn't even bother... I just wouldn't wanna call 'em, just because I don't think they're that nice people. Since I was in there for so long and they were useless when I was in there, I just don't really think they're that trustworthy. (Tom)

CONCLUSIONS

The congruences and contrasts revealed by this first application of Sykes' 'pains of imprisonment' to the experiences of child suspects provide fresh insights into police detention and its implications for children. That, even despite their short duration, the immediate pains experienced by unconvicted child suspects should reflect in such significant respects the contours of punitiveness experienced by sentenced adult prisoners, is deeply concerning. It underlines strikingly how far short, in the case of children, police custody falls of the principle of imposing the 'minimum burdens' on the unconvicted ([Ashworth 1994:31](#)). Equally, the process of identifying these separate deprivations reveals with some clarity the drivers of those punitive experiences. Notably, in respect of each pain, it is possible to pinpoint child-specific rights and protections which, if robustly enacted and consistently implemented, ought to have mitigated substantially the impact of detention. For example, the pain associated with deprivation of security arises substantially from the failure to separate children from sight and sound of adult detainees, and from the failure to enable timely and effective support from the AA. Likewise, the punitive nature of the child's deprivation of liberty would be reduced significantly were children detained only as a last resort and for the shortest appropriate time, in child-friendly accommodation, and provided with adjustment and support suited to their age and particular vulnerabilities. The very adult punitiveness experienced by child suspects could often be traced directly to the effective denial of their status as a child, first and foremost, in police custody.

The contrasts in legal status and in progress through the justice process, between unconvicted suspect and sentenced prisoner, reveal how problematic it can be when police custody becomes,

as [Skins and Wooff \(2020:257\)](#) observe, ‘part of the penal painscape.’ That such a punitive experience occurs for child suspects at a critical point in the justice process threatens to undermine the fairness of the process as a whole. At the same time, detention which is experienced as unjustifiably harsh and disrespectful is, far from having deterrent or pedagogical value, liable to reduce the legitimacy of the police in the eyes of children, and may even amplify offending behaviour. Reviewing the pains of custody from the child’s perspective reveals experiences that are too often counter-productive—liable to undermine custody’s primary legal purpose, the production of reliable evidence (PACE s37(3)), and tainting the relationship between child and police at a formative stage.

What then can be done to address these issues? A range of tensions frustrate the protections which should be afforded. Most cited by officers were resourcing constraints, both facilities and equipment, as well as time, manpower and training. These practical obstacles are themselves generated by a complex web of structural and institutional factors. The inadequacy of the domestic legal framework of protections, and police cultural responses, are particularly implicated, and in their turn reflect broader developments—the ‘responsibilization’ of children ([Muncie 1999](#); [Goldson and Muncie 2006](#)) and the ‘punitive turn’ in youth justice ([Muncie 2008](#)). But young participant reflections reveal that, at the heart of failures to accommodate young suspects’ needs, lie the extreme power differential between child and officer, the multi-layered vulnerability of the child suspect, and the closed and adversarial context of police custody—issues which are unlikely to be resolved by funding initiatives, training or piecemeal legal reform. In short, the study underlines the importance of avoiding the use of detention at all costs for child suspects, save where strictly ‘necessary’ (PACE s37(3)) and as an absolute ‘last resort’ (UNCRC, Art.37). Wherever possible, bailing a child to attend for interview at a suitable time, when they can be fully supported, or inviting them to attend voluntarily, should be the approach. Progress made in recent years, in the reduction of child arrests ([Howard League 2020](#)) and detentions ([Dehaghani 2017](#)), must continue, although better protections for voluntary interviews are also required ([Pierpoint 2020](#)).

For those few children who must be detained after arrest, the need for a fundamental review of the framework of support for children in police custody is plain and urgent. Protections for child suspects lag far behind the imperfect provisions in place to support child defendants at trial,¹⁸ which themselves fall short of the protections for child witnesses ([Burton et al. 2006](#)). Yet reviews of the effective participation of young and vulnerable defendants in criminal justice processes have tended to overlook, or place little emphasis on, the key pre-charge phase of the process (see for example [Arthur 2016](#); [Owusu-Bempah 2020](#)). For too long the invisibility of child suspects has enabled their experiences to be overlooked.

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18 See for example Children and Young Persons Act 1933 (CYPA) Part III and Criminal Practice Directions 2015 (as amended) General Matters 3G.

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