

Case 5 | Issue 34 – Mental Health

Published February 2019

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LEARNING THE LESSONS

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A failure to safeguard the welfare of a man and wife

Man arrested and wife left at home, both with mental health issues not addressed, raising issues about:

- *Compliance with PACE Code C*
- *Duty to protect those with a history of self-harm*
- *Defining mental vulnerability*

This case is relevant if you work in:

Custody and detention



Mental health



Overview of incident

Around 7.40pm Special Constable (SC) A, PC B and PC C went to the home of Mr D and his wife Mrs E following reports that Mr D had damaged a neighbour's car.

SC A told the IPCC that he asked if he could carry out the arrest as he wanted the experience to apply to become a regular police officer.

PC B said that when they arrived at the address she explained to Mr D that he would have to be arrested, and that Mrs E began to shout and swear at them.

Around 15 minutes later SC A arrested and cautioned Mr D for criminal damage.

SC A, PC B and PC C said that Mrs E kept saying "get the f**k out", "f**k off" and "I'm going to put in a f**king complaint about you all." Several neighbours also said they heard Mrs E shouting from inside the property.

Mr D told the IPCC that he told PC B his wife could not be left at home as she would self-harm and he asked if she could go with him to the custody suite. Mr D said that PC B said "I don't care that's not my problem." Mrs E also said that PC B said something along the lines of "tough not my problem." PC B denied that she said this.

College of Policing Authorised Professional Practice – Mental Vulnerability and Illness

Risk factors

Behaviour which may raise concerns about people's risk of harm to themselves or to others includes:

- putting themselves in danger (eg, walking into the path of moving traffic or on railway lines)
- asking for help with their mental health
- engaging in threatening behaviour towards others for no obvious reason
- threatening or engaging in self-harm
- attempting or threatening suicide (eg, expressing ideas, intentions or plans relating to suicide)
- a high level of volatility
- being unresponsive to others or withdrawn
- a tendency to trip, fall over or bump into things
- hyperventilating (over-breathing)
- showing physical signs of severe malnourishment and self-neglect

Find out more online:

<https://www.app.college.police.uk/app-content/mental-health/mental-vulnerability-and-illness/#risk-indicators>

Mr D said that he told PC B that he had a card with an appropriate contact for the local mental health service to be used in emergencies when he could not stay with his wife. Mr D said that he tried to call the number on the card but there was no answer or that he did not have any signal. Telephone records indicated that no calls were made to the mental health service that evening from Mr D's phone. Ms F, Mrs E's mental health nurse, told the IPCC that she understood the phones at the switchboard may not have been working that evening and this may have been an ongoing issue throughout the night. Mr D said that he asked PC B if he could call the number again from the police station so they could go and he could get back to his wife as quickly as possible. Both PC B and SC A said that neither Mr D nor Mrs E asked to make a phone call or give contact details for the mental health service.

Mr D and Mrs E said that on previous occasions Mrs E had been able to go to the police station with her husband. Mr D said that his wife would usually go with him and PC B would find a room for her to wait in as she was aware of Mrs E's ill mental health. He stated that this had happened on at least three previous occasions. PC B said that Mrs E had only been allowed to go with Mr D on previous occasions because they were voluntary attendees at the station. She acknowledged that this difference was not explained to Mr D and Mrs E.

PC B said that Mr D never mentioned his wife's mental health, or that she might self-harm if left alone. She said that if she had been aware of this she "probably would have called the control room and asked for someone to go back and check on..." Mrs E.

Mr D was taken outside to a police vehicle. The officers said he was not in handcuffs and was compliant throughout. However, they said that Mrs E was shouting and swearing at them. This was backed up by a number of neighbours.

Mrs E said that PC C was rude to her. She said she asked PC C to get out of her house, to which he responded "I'm not in your house, I'm in your garden." Mr D's account also backed this up. Mr D said he felt that PC C was staying where Mrs E could see him to 'wind her up'. PC C

told the IPCC that he could not recall Mrs E asking him to get out of her house nor replying with "I am not in your house, I'm in your garden." However he added "I may have said that, but at this time I can't remember." None of the officer's or the neighbour's accounts supported that PC C was making fun of Mrs E or trying to 'wind her up'.

PC B was the local beat officer for the area Mr D and Mrs E lived in. PC B said that they had moved into the area a few months previously and that she had dealt with three or four incidents involving them and their neighbours in that time. PC B said that she was aware of Mrs E's mental health problems soon after meeting them. PC B explained that soon after they came to the attention of police, a share point plan was developed. This was a problem solving plan for officers to record incidents and show what they have done to solve the problem. PC B also confirmed that she had worked with Ms F previously and knew that Mrs E experienced paranoia and psychosis, that these were logged on the share point plan, and that she had self-harmed previously, although she did not know under what circumstances. She also confirmed she knew that Mr D had schizophrenia.

Incident reports showed that PC B had dealt with four previous incidents involving Mr D and Mrs E. One of these incidents involved Mrs E having a blade and self-harming. An ambulance was called and it was confirmed that Mrs E was known to the local mental health trust. The incident reports showed that SC A and PC C never had any previous contact with Mr D or Mrs E. Both SC A and PC C said that PC B briefed them before they went to the address, but that PC B did not provide any information about Mrs E's mental health problems and that they were not aware of these when they arrived at the address.

Shortly after the officers left the address with Mr D, Mrs E took a razor blade and cut her left forearm. She told the IPCC that she realised she had cut her arm too deep because she could see the tissue, so she wrapped her arm up in a tea towel and put cold water on it. Mrs E's medical records showed that she visited a doctor the following day, who noted that she "presented with cuts to the ventral aspect of her left forearm."

At around 8.15pm Mr D arrived at the police station and was booked into custody by PS G. PS G did not recall PC B or SC A telling him about Mr D's mental health issues and said that he thought he determined this himself through the risk assessment. This account was supported by CCTV footage at the custody desk. The custody record indicated that Mr D told PS G that he had "depression, anxiety and mild schizophrenia" and that he was taking three types of prescribed medication. It also noted that Mr D had a long history of self-harm.

At around 8.30pm custody CCTV footage showed Mr D tell PS G that he was a carer for his wife and that she should not be left alone overnight. Mr D told PS G that his wife was under the care of the mental health service and if there were "any hassles" they should send someone out. Mr D also told PS G that Mrs E would be seeing Ms F the following day because she is "quite vulnerable" at the minute.

As part of the risk assessment, PS G asked Mr D if there was anything he could do to help, and Mr D answered that they could contact his wife as she self-harms when left alone. PS G acknowledged that they "went through the fact that his wife was at home and that she could self-harm if left alone." PS G said that they moved on quite quickly from this and that he did not feel Mr D made this point particularly forcefully.

PS G said that at that time he did not take any action in regards to the welfare of Mrs E as he did not think Mr D would be there overnight and did not make the point about his wife particularly forcefully. He said "You know he wasn't banging on the desk, saying she needs someone there now." When asked whether he could have delved deeper into Mr D's concerns

for his wife PS G stated “I could have asked further questions on that particular occasion but I didn’t feel it was necessary.”

PS G told the IPCC that Mr D “didn’t present to me as being mentally vulnerable or suffering from a mental disorder at that time.” This assessment informed PS G’s belief that Mr D did not require an appropriate adult or to see a Force Medical Examiner (FME). PS G said that he believed Mr D understood everything that was going on.

PS G also stated his understanding that the *Police and Criminal Evidence Act (1984)* Codes of Practice wording is that the need for a medical assessment was at his discretion, rather than a requirement.

Police and Criminal Evidence Act (1984) Codes of Practice: Code C

Paragraph 3.15 states:

“if the detainee is a juvenile or a vulnerable person, the custody officer must, as soon as practicable, ensure that:

- The detainee is informed of the decision that an appropriate adult is required and the reason for that decision (see paragraph 3.5(c)(ii) and;
- The attendance of the appropriate adult at the police station to see the detainee is secured.

Paragraph 9.5 states:

“The custody officer must make sure a detainee receives appropriate clinical attention as soon as reasonably practicable if the person:

- Appears to be suffering from physical illness; or
- Is injured; or
- Appears to be suffering from a mental disorder; or
- Appears to need clinical attention.

Find out more online:

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

Mr D said that PS G asked him if he needed an appropriate adult. He said he told PS G that he usually had a solicitor who recommended an appropriate adult but told him that he did not have time as he just wanted to get home to Mrs E.

At around 9.30pm Mr D was interviewed by PC B and SC A. At the conclusion of this interview PC B signed the custody record confirming PACE and the Codes of Practice had been complied with during the interview. PC B told the IPCC that it was not her decision to make whether Mr D should have been deemed fit for interview by an FME. However, all officers undertaking relevant duties are responsible for complying with the PACE codes of practice. PC B also stated that Mr D did not present as requiring an appropriate adult. The custody records for previous incidents involving Mr D indicated he had not had an appropriate adult on these occasions either. SC A confirmed that the specials training on mental health includes a “brief talk through” and that he was aware that if someone had mental health issues they would need an appropriate adult.

Following his interview, Mr D asked PS G whether his wife had called, to which PS G responded that she had not. PS G told the IPCC that Mrs E later called the station and that the call lasted approximately one minute. PS G said that he told Mrs E that Mr D had been interviewed and that they were awaiting a decision. PS G told Mrs E that her husband would be another one-two hours and that police officers would take him home. Mrs E did not mention her injuries during this phone call. When asked whether he considered asking Mrs E about her welfare, PS G said that the phone call was 'so short and very abrupt' that he did not consider asking her any questions. He also stated his belief that the fact Mrs E called to ask when her husband would be coming home supported the decision not to go and visit to check on her welfare.

At around 1.10am the following morning Mr D was released from custody and taken home by SC A and PC B. Mr D told the IPCC that in the car on the way home he expressed to SC A and PC B that he hoped his wife was ok because it seemed that PS G had not called anybody. He also stated that neither SC A nor PC B offered to go into his house to check on his wife. Both PC B and SC A denied that Mr D expressed concern for his wife's wellbeing in the car on the way home.

Mr D described how he found Mrs E in the kitchen covered in blood from where she had cut her arm.

The following day, Mr D and Mrs E had a pre-planned visit with social services. Ms F was also present. Mr D and Mrs E told Ms F about the incident and, at their request, Ms F made a complaint on their behalf.

Type of investigation

IPCC independent investigation

Outcomes for officers and staff

PS G

1. The actions of PS G were found to have fallen below the standard expected. He received management action on the basis that he failed to act upon information provided to him which suggested Mrs E would self-harm if left alone, failed to put safeguards in place to ensure Mrs E's welfare and wellbeing, failed to make sure that Mr D received a medical assessment for his mental health when he was booked into custody and failed to make sure that Mr D had an appropriate adult while in custody.

PC B

2. The actions of PC B were found to have fallen below the standard expected. She received management action on the basis that she failed to ensure the safety and wellbeing of Mrs E when they arrested her husband and interviewed Mr D without consideration for his welfare, including his mental health and the requirement for an appropriate adult to be present.

SC A

3. The actions of SC A were found to have fallen below the standard expected. He received management action on the basis that he interviewed Mr D without consideration for his welfare, including his mental health and the requirement for an appropriate adult to be present.

Force commentary

1. Staff were reminded of the need to make careful assessments of individuals in custody in order to provide appropriate medical care for those who have a mental health disorder and an appropriate adult. Previous history of the detainees should also be considered where an appropriate adult has been called before to assist them.
2. Officers and staff have been reminded to consider the need to make sure that the caring responsibilities of persons arrested are considered as part of the risk assessment. Where it is identified that the detainee is a carer and responsible for the welfare of a person left at a premises alone, suffering from mental illness, consideration must be given to the information, action taken where necessary and the rationale documented. Risk assessment questions that ask about dependents at home should be probed fully. Dip sampling of custody risk assessments has taken place.

Questions to consider

Questions for policy makers and managers

1. Does your force give officers guidance on how to respond when someone being arrested has caring responsibilities for someone who is vulnerable?
2. Would you routinely ask officers to document where an individual brought into custody has caring responsibilities for someone who is vulnerable, to help inform future contact?
3. Does your force make clear to officers that the requirement for someone considered to be mentally disordered to have a medical assessment and be provided with an appropriate adult, in line with PACE Code C, is a requirement and not optional?
4. How do you make sure that officers and staff are aware that they are responsible for ensuring compliance with PACE Code C, as well as the custody sergeant?

Questions for police officers and police staff

5. Where you are planning an arrest and you know that the person who is being arrested is responsible for the care of someone who is vulnerable, what action would you take to make sure that measures are put in place to support this individual and protect them from harm?
6. Would you have arrested the man and taken him into custody without first making sure that measures were in place to ensure his wife did not come to harm while he was away?
7. When the man's wife made contact following his arrest, would you have used this as an opportunity to follow up on how she was?

8. How do you decide when someone is presenting as mentally vulnerable?