FACILITATING ACCESS TO JUSTICE: EXPLORING THE EXPERIENCES OF AUTISTIC INDIVIDUALS ARRESTED AND DETAINED IN POLICE CUSTODY

by

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Thesis submitted to the University of Nottingham
for the degree of Doctor of Philosophy

2018

ABSTRACT

This thesis explores the lived experiences of autistic individuals who have been arrested and detained in police custody as suspects of a criminal offence. It examines the difficulties that autistic individuals encounter in this setting and the support they may receive to manage these difficulties. In particular, it considers whether the safeguards outlined by the Police and Criminal Evidence Act 1984 and Code of Practice C effectively support autistic individuals throughout the custody process.

To address this, this thesis outlines the findings of three studies: i) an internet survey ii) semi-structured interviews and iii) a participative walkthrough. These findings highlight the difficulties autistic individuals experience in police custody associated with their perceived lack of criminal intention and the punitive effect of arrest and detention. They also identify a range of additional stresses experienced by autistic individuals during their detention connected to the demands of the custody setting and a lack of appropriate support. Due to the combination of these difficulties, this thesis emphasises that autistic individuals may find it difficult to cope with detention which may also affect their ability to participate in the custody process.

In light of these findings, this thesis argues that the right of autistic individuals to equal access to justice as affirmed by Article 13 of the UN Convention on the Rights of Persons with Disabilities ('CRPD') is being compromised. To facilitate this, this thesis proposes several ways of supporting autistic individuals in police custody. While some of these recommendations can be implemented at a practical level, to ensure that autistic individuals will be supported appropriately this thesis concludes by making a case for legislative reform.

In loving memory of my Nan

GLORIA HOLLOWAY

1946 – 2014

Who on the day I found out I was going to begin this journey,

found out that she was coming to the end of hers.

ACKNOWLEDGEMENTS

I owe my deepest gratitude to my three incredible supervisors. Professor John Jackson, for your words of legal wisdom, Dr Danielle Ropar, for teaching me the true meaning of interdisciplinary research, and last, but certainly not least, Dr Nell Munro. For pushing me beyond my perceived limits and without whom, this journey never would have started, let alone have finished.

I would like to thank the University of Nottingham, particularly the School of Law and DTP, for allowing me to carry out this research. I would also like to acknowledge the ESRC for their considerable financial support (Grant no: 1510566).

Thank you to everyone who played an integral and indispensable role in making this research a reality. Nottinghamshire police for their enthusiasm and interest in improving the experiences of autistic individuals in police custody. In particular, Tracey Lovegrove and all those involved in conducting the walkthrough for their compassion and commitment. Cerys Gibson for facilitating the walkthrough. The fellow researchers I have met along the way for their valuable insight into this research.

To the support groups and colleagues who helped with recruitment and advertising and most importantly, the participants of this research. It is only because of you that this research was made possible. Thank you for choosing to share your stories with me. I hope one day this research will help achieve the change you are hoping for.

Finally, to my fabulous friends, for providing much needed respite and support (and for sticking by me even when I've been MIA). To my extended family and the Georges for their

unwavering belief and encouragement. My three one of kind siblings, for showing me it is good to be different and giving me the courage to change the world. Edward George, my other half (and soon to be fiancé), for keeping me whole when all I wanted to do was fall apart.

Above all, my Mum. For seeing me as more than I am, for being my constant and for believing that I am uber. This is for you.

LIST OF ABBREVIATIONS

AA – Appropriate Adult

ABH – Actual Bodily Harm

ADD – Attention Deficit Disorder

ADHD – Attention Deficit Hyperactivity Disorder

AHP - Authorised Healthcare Professional

AS – Asperger's Syndrome

ASC – Autism Spectrum Condition

ASD – Autism Spectrum Disorder

BPD – Borderline Personality Disorder

CRPD – UN Convention on the Rights of Persons with Disabilities

CJS – Criminal Justice System

CPS – Criminal Prosecution Service

CS – Custody Sergeant

DO – Detention Officer

ICD-11 - International Classification of Diseases and Related Health Problems 11

NAAN – National Appropriate Adult Network

PACE – Police and Criminal Evidence Act 1984

PDA – Pathological Demand Avoidance

PNC – Police National Computer

TABLE OF CONTENTS

CHAPTER 1 – Introduction

1.1 Introduction 1

1.2 Autism and Police Custody 3

1.3 Outline of Thesis 11

CHAPTER 2 - Autism and The Criminal Justice System

2.1 Introduction 15

2.2 Characteristics and Prevalence of Autism 15

2.3 Interaction with the Criminal Justice System 20

2.4 The Experiences of Autistic Individuals in Police Custody 26

2.5 Conclusion 32

CHAPTER 3 - Police and Criminal Evidence Act 1984

3.1 Introduction 34

3.2 Police and Criminal Evidence Act 1984 and Code C 34

3.3 The Implementation of Code C 44

3.3.1 Identification 45

3.3.2 Appropriate Adults 55

3.4 Conclusion 66

CHAPTER 4 - Accommodating Disability

4.1 Introduction 68

4.2 Disability and The Duty of Accommodation 69

4.2.1 The Definition of Disability 69

4.2.2 The Duty of Accommodation 75

4.3 The Rights of Individuals with Disabilities 77

4.3.1 The Equality Act 2010 77

4.3.2 CRPD 84

4.4 Evaluating the Legislative Framework 92

4.5 Conclusion 98

CHAPTER 5 - Research Methods

5.1 Introduction 100
5.2 Research Questions 100
5.3 Nature of the Research 102
5.4 Research Design 103
5.4.1 Internet Survey 104
5.4.2 Interviews 108
5.4.3 Participative Walkthrough 110
5.5 Research Process 113
5.5.1 Sample and Recruitment 113
5.5.2 Ethics 117
5.5.3 Research Procedure 122
5.5.4 Limitations 129
5.5.5 Role of the Researcher 132
5.6 Data Analysis 134
5.7 Conclusion 137

CHAPTER 6 - Criminal Intention

6.1 Introduction 139
6.2 'Accidental' Offending 140
6.2.1 Mental Health and Reacting to Stress 142
6.2.2 The Behaviour of Others 146
6.3 The Interpretation of Behaviour and Intention 149
6.4 Discussion 151
6.5 Conclusion 156

CHAPTER 7 – The Punitive Effect of Arrest and Detention
7.1 Introduction 158
7.2 Treatment by the Police Officers 159
7.2.1 Use of Force and/or Restraint 159
7.2.2 Respect 162
7.3 Being Subject to the Custody Process 166
7.4 Discussion 169
7.5 Conclusion 171

CHAPTER 8 - Coping with Detention
8.1 Introduction 173
8.2 Sources of Stress and Coping Strategies 174
8.2.1 Dealing with Sensory Input 174
8.2.2 Boredom 178
8.2.3 Knowing What was Happening 180
8.3 Ability to Participate in the Custody Process 184
8.3.1 Waiving Legal Rights 184
8.3.2 Understanding and Answering Questions 185
8.3.3 Support of Others 187
8.4 Discussion 191
8.5 Conclusion 195

CHAPTER 9 - Exploring the Custody Process
9.1 Introduction 197
9.2 The Demands of Detention 197
9.2.1 Being Detained 198
9.2.2 Participating in the Custody Process 206
9.3 Understanding and Anxiety 212
9.3.1 What, Why and How 213
9.3.2 Language 220
9.4 Sensory Sensitivities 226
9.5 Discussion 231

9.6 Conclusion 234

CHAPTER 10 – Facilitating Access to Justice: Discussion and Conclusion

10.1 Introduction 236
10.2 The Experience of Arrest and Detention 236
10.3 Facilitating Access to Justice 243
10.3.1 Changing Police Practice 244
10.3.2 Information and Explanation 249
10.3.3 Minimising the Demands of the Custody Setting 251
10.3.4 Being Supported by Others 253
10.4 A Case for Legal Reform? 256
10.5 Limitations and Future Research 264
10.6 Conclusion 266

Bibliography 269
Appendices 288

CHAPTER 1 – INTRODUCTION

1.1 Introduction

This thesis explores the experiences of autistic individuals who have been arrested and detained in police custody. It focuses on the difficulties they may encounter in this setting and considers how they should be supported to address these difficulties. This thesis examines the Police and Criminal Evidence Act 1984 ('PACE') and Code of Practice C ('Code C') and considers whether legislative reform is required to ensure that autistic individuals are supported effectively. As part of this, it also evaluates the rights of autistic individuals under the Equality Act 2010 and UN Convention on the Rights of Persons with Disabilities ('CRPD'). In particular, the right to access to justice on an equal basis with others (Article 13 CRPD).

My interest in this issue started after investigating the ways in which autistic individuals are currently accommodated in police custody under PACE as part of my undergraduate dissertation. I initially selected this topic because of my personal interest in the support of autistic individuals. Having autistic siblings, I have continually been aware of the difficulties autistic individuals face in their day-to-day lives as a result of the attitudes of others and a lack of appropriate support. I have witnessed the way society has treated them and how they have had to overcome barriers in healthcare and education to be treated as equals. I also came to learn the importance of providing support when it is needed; experiencing first-hand the damaging impact a lack of support can have. My specific interest in criminal justice developed after undertaking a legal placement at a firm of solicitors where I became aware of the involvement of autistic individuals in the criminal justice system ('CJS'). It

was also here that I began to question the support they received in police custody in the form of an Appropriate Adult ('AA'). Through my dissertation, I considered whether the approach to the support of vulnerable suspects adopted by Code C is effective and compatible with the 'social model of disability' (see Oliver, 1990). While researching this, I became concerned about the apparent lack of autistic voice in the literature and having identified potential problems with PACE, began to question how autistic individuals should be supported in police custody. It is from this foundation that I decided to explore the experiences of autistic individuals in this setting.

This chapter outlines the scope of the research problem and the structure of this thesis. Before doing so, it is important to note that this thesis will use the terms 'Autism' or 'Autism Spectrum Condition' ('ASC') when referring to Autism. This thesis will also use identity-first language i.e. 'autistic individuals', rather than person-first language i.e. 'individuals with Autism' (Kenny *et al.*, 2015). This is to respect the preferences of autistic individuals, most of whom disagree with the view that Autism is a disordered way of thinking (Kenny *et al*. 2015). Similarly, this thesis will tend to refer to the characteristics of Autism as differences rather than impairments. Alternative terminology will only be used when citing quotes from other literature. To begin, section 1.2 will briefly outline the context and scope of the research. It shall set out the definition of Autism and the importance of considering Autism in the context of police custody. This section will highlight the demands of police custody and the way it is experienced by detainees and emphasise the potential impact detention may have on autistic individuals. However, it shall also refer to the lack of research into the experiences of autistic individuals in this setting and identify the need for further

research. To conclude, section 1.3 will then outline the structure of this thesis and the focus of each chapter.

1.2 Autism and Police Custody

According to the International Classification of Diseases and Related Health Problems 11 ('ICD-11'), Autism is "characterized by persistent deficits in the ability to initiate and to sustain reciprocal social interaction and social communication, and by a range of restricted, repetitive, and inflexible patterns of behaviour and interests." (6A02 ICD-11). The ICD-11 is "a tool for recording, reporting and grouping conditions and factors that influence health" and "contains categories for diseases, health related conditions, and external causes of illness or death" (WHO, 2018a). In the manual, it is stated that "the onset of the disorder occurs during the developmental period, typically in early childhood, but symptoms may not become fully manifest until later, when social demands exceed limited capacities" (6A02 ICD-11). While all autistic individuals will experience difficulties in the domains outlined by the ICD-11, each autistic individual will be affected differently (Mourisden, 2012; Frith & Happe, 2005; Lord *et al.*, 2000). Moreover, "[i]ndividuals along the spectrum exhibit a full range of intellectual functioning and language abilities" (6A02 ICD-11). This understanding is reflected in the range of Autism conditions with which an individual can be diagnosed (see 6A02 ICD-11). For instance, Asperger's Syndrome ('AS') was previously recognised by the ICD as a separate condition (see ICD-10). This has since been removed from the Manual and subsumed into the unified definition of Autism. However, it is important to note that many individuals still identify Asperger's as a separate condition (see Kenny *et al.* 2015).

The ICD-11 definition states that the "[d]eficits of [Autism] are sufficiently severe to cause impairment in personal, family, social, educational, occupational or other important areas of functioning and are usually a pervasive feature of the individual's functioning observable in all settings, although they may vary according to social, educational, or other context" (6A02 ICD-11). Police custody is one particularly intrusive context where autistic individuals may experience difficulties. As the first point of interaction with the CJS, police custody plays a key role in dealing with and responding to offending behaviour (HMIC, 2015; Skinns *et al.*, 2015). Broadly speaking, offending behaviour refers to those actions which are contrary to and defined by law (Kawakami *et al.*, 2012; Långström *et al.* 2009; Woodbury-Smith, 2014). An individual may be arrested in connection with offending behaviour if they have committed an offence, are about to commit an offence or are in the act of committing an offence (see s 24 PACE 1984). They may also be arrested if there are reasonable grounds for suspecting they have committed an offence, are about to commit an offence or are in the act of committing an offence (see s 24 PACE 1984).

However, there must also be reasonable grounds for the arrest if the arrest is to be lawful (see s 24 PACE 1984). For example, an arrest may be necessary to ascertain the name and/or address of the individual, prevent them from causing or suffering physical injury, damaging property or protecting a child or other vulnerable person (see s 24(5) PACE 1984). An arrest may also be necessary to "allow the prompt and effective investigation of the offence or of [their] conduct" and "prevent any prosecution for the offence from being hindered by [their] disappearance" (s 24(5) PACE 1984). Once an individual has been arrested, they "must be taken … to a police station as soon as practicable" (s 30(1A) PACE 1984). There, the "custody officer

… shall determine whether he has before him sufficient evidence to charge that person with the offence … and may detain him at the police station for such period as is necessary to enable him to do so" (s 37(1) PACE 1984). An individual may be detained for a maximum period of 24 hours without charge (s 41(1) PACE 1984). After the expiry of this period, they may be detained for up to 36 hours where "a police officer of the rank of superintendent or above… has reasonable grounds for believing that": i) further detention is "necessary to secure or preserve evidence" ii) the offence in question is an indictable offence and iii) the "investigation is being conducted diligently and expeditiously" (s 42(1) PACE 1984). If these conditions still apply after this period, the individual may be detained for a further 36 hours (s 42(2) PACE 1984). Otherwise, the individual should be released without charge (s 41(7) PACE 1984).

While in police custody, detainees are subject to several procedures: i) booking-in ii) pre-charge process and iii) police interview. During the booking-in, the suspect is asked whether they understand why they have been brought to police custody (Skinns, 2011). They are also asked to provide their personal details and are informed of their legal rights in police custody (Skinns, 2011). A risk assessment is also carried out with a view to ascertaining the physical and mental health status of the detainee (Skinns, 2011). Detainees can also be searched for the purposes of ascertaining everything they have with them upon arrival (s 54(1) PACE 1984). This includes "[c]lothes and personal effects" where the custody officer believes that they may be used to: i) "cause physical injury to himself or any other person"; ii) "damage property"; iii) "interfere with evidence"; iv) "assist him to escape" or v) "has reasonable grounds for believing that they may be evidence relating to an offence" (s 54(4) PACE 1984).

During the pre-charge process detainee's bio-metric data is collected (Skinns, 2011). This includes taking photographs, fingerprints and non-intimate samples and can be done with or without consent (see s 61, 63 & 64 PACE 1984). In addition, "[a] sample of urine or a non-intimate sample may be taken" to ascertain the presence of Class A drugs in their system (s 63B(1) PACE 1984). Where an individual has not been charged, this can be done if: i) they are over the age of 18 and; ii) they have been arrested for a trigger offence or; iii) a police officer of at least the rank of inspector has reasonable grounds for suspecting that the misuse by that person of a specified Class A drug caused or contributed to the offence and has authorised the sample to be taken and iv) the relevant police station has authority to make the appropriate arrangements to do the test (s 63B(1A), (3) & (4A) PACE 1984). Trigger offences refer to offences involving theft, drug use or begging where drugs often play a role (see s 63C(6) PACE 1984 & Schedule 6 Criminal Justice and Courts Services Act 2000). Finally, an individual may also be interviewed "regarding their involvement or suspected involvement in a criminal offence" (para 11.1A Code C).

To some extent, all individuals will experience difficulties in police custody (Crane *et al.*, 2016; Woodbury-Smith & Dien, 2014; Chown, 2010). Most individuals detained in police custody will be vulnerable and detention can have a detrimental effect on their welfare (HMIC, 2015; Skinns *et al.*, 2015). Police custody is "qualitatively different" from other settings in that "large volumes of citizens are exposed to a physical environment, sometimes for prolonged periods of time, which would not be encountered in other police settings" (Skinns *et al.*, 2017: 605). Furthermore, "this physical environment is experienced, in the main, as coercive" and "[t]he effects of this coercive physical environment add to the "pains of police detention" (Skinns *et al.*,

2017: 605). This is associated with a loss of power, liberty and control (Skinns, 2011; Skinns *et al.*, 2015). Not only is this embodied in the custody setting, but also through being subjected to "intrusive but legitimate police practices" such as those discussed above (Skinns *et al.*, 2015: 1). Thus, as emphasised by Skinns:

"Police custody can deeply affect suspects … whether that is to have the effect of frightening them or angering them or worse still contributing to them admitting to something that they did not do or pushing them into self-harming behaviour. The police can also behave in ways that can fundamentally shape these experiences of police custody, as can aspects of the wider custody environment" (Skinns, 2011: 1)

Being in "police custody can be unpleasant for all concerned" (Skinns, 2011: 77). Detention can be "uncertain, uncomfortable and stressful" (Skinns, 2011: 77), as well as "depressing, isolating and boring" (Skinns, 2011: 90). Detainees "are expected to cope not only with the uncertainties about what is going to happen, but also a lengthy period of solitary confinement" (Skinns, 2011: 78). This is signified when they are locked in the cell where they are separated from others and unable to tell the time (Wooff & Skinns, 2017; Skinns *et al.* 2017). Detainees may feel "'frightened' and upset" because they do not know long they will be left there (Wooff & Skinns, 2017: 5) and may worry "about the uncertainties of what [is] going to happen to them" (Skinns, 2011: 90). Being unable to distract themselves and the lack of routine in police custody can contribute to this (Skinns, 2011; Wooff & Skinns, 2017). Moreover, detainees may be unable to "access basic material needs" which may also add "another dimension to the pains of

police detention" (Skinns, 2011: 203). Detainees are "reliant on staff to respond to their requests for things that would be taken for granted in the outside world" (Skinns, 2011: 90). For example, detainees can depend "on the police to inform them of the time (as watches [are] routinely removed), provide warmth, food, drinks, toilet paper, sanitary towels, even to take them to the toilet" (Skinns, 2011: 90). This in itself can "be humiliating as well as an invasion of their privacy" (Skinns, 2011: 90). In addition, detainees may be subject to "coercive policing" whereby if they do not "agree or consent to being policed, they may be coerced through the threat of or use of force" (Skinns, 2011: 4).

The combined effect of these factors is that the experience of police custody can be "distressing" (Skinns, 2011: 199); "it is physically and psychologically painful" (Skinns, 2011: 204). In some cases, this may create "a desire to leave custody" (Skinns, 2011: 84), whereby the priority is to "leave police custody as quickly as possible" even if this compromises detainees' "access to justice" (Skinns, 2011: 202). These effects may be heightened when an individual is vulnerable "because of their age or mental health or intellectual impairment" (Skinns *et al.* 2015: 2). Thus, being detained in police custody may be problematic for autistic individuals (Crane *et al.,* 2016; Woodbury-Smith & Dien, 2014; Chown, 2010). Being arrested is an unfamiliar experience which can amount to a severe disruption to the everyday routine of an autistic individual (Chown, 2010). It can act as a "double source of stress" particularly when additional difficulties associated with Autism are encountered (Chown, 2010: 260). In some instances, this may lead to "heightened repetitive behaviours or a mental 'shutdown'" (Chown, 2010: 260). These difficulties will not be confined to the arrest itself and are likely to continue through to police custody. Once an individual is brought to police custody,

they will go through the lengthy custody process as described above and each of these processes may also create difficulties. Any difficulties autistic individuals encounter during these processes may "undermine the welfare of these individuals and threaten to exacerbate their vulnerabilities", placing them "at risk of providing information to the authorities which is inaccurate, unreliable of misleading – and thus, ultimately, at risk of miscarriages of justice" (NAAN, 2015: 6).

It is because of these "known risks to all detainees in custody" that "safeguards are built into the law to ensure that they can both understand and exercise their rights while detained" (HMIC, 2015: 52). The safeguards that specifically apply to mentally vulnerable individuals are based on the understanding that "these risks can increase significantly when a detainee is also vulnerable" (HMIC, 2015: 52). These safeguards include the right to: i) a solicitor ii) an AA iii) information about their rights and entitlements and iv) information about specific procedures. These are outlined by the Police and Criminal Evidence Act 1984 ('PACE') and the accompanying Codes of Practice. The Act "provides the core framework of powers and safeguards and governs all of the Police's duties in regards to arrest, detention, investigation and identification of suspects" (Home Office, 2007). The Codes of Practice are issued by the Home Secretary and "reiterate police powers and explain how they should be exercised" (Bucke & Brown, 1997). Unlike the Act, the Codes do not create binding duties on police officers. The Codes are not statutory instruments but are designed to "be used as comprehensive guides to the various aspects of their duties" (Zander, 2014: 368). While police officers are advised to adhere to the Codes, any failure to do so will not necessarily render them liable to criminal or civil proceedings; although, this may be used in evidence (see s 67(10) - (11) PACE 1984).

The Codes cover five core areas: i) stop and search ii) search and seizure of property iii) detention, treatment and questioning of suspects iv) identification and v) tape recording of police interviews (Bucke and Brown, 1997). This thesis focuses on Code C which governs the treatment and detention of suspects in police custody. Within this Code, there are a number of provisions intended to safeguard the welfare of individuals who are 'mentally vulnerable' or who have a 'mental disorder', including autistic individuals. The key safeguard is the AA (para 3.15 Code C). According to the Code, the AA should support vulnerable suspects during parts of the custody process; more specifically, they should facilitate communication during the police interview and observe that it is being conducted fairly (see para 11.17 Code C). The role of an AA can be fulfilled by either a family member, social worker or volunteer (para 1.7 Code C). However, there are concerns about the effectiveness of this safeguard (see HMIC, 2015; NAAN, 2015). Evidence suggests that mentally vulnerable individuals may not always be identified meaning AAs are not always provided (see Hodgson, 1997; Palmer, 1996; Bradley, 2009; HMIC, 2015; NAAN, 2015). Moreover, even when individuals are identified, problems remain with regard to provision and the function of AAs in supporting vulnerable suspects (see HMIC, 2015; NAAN, 2015). One consequence of this is that vulnerable suspects may continue to be at risk of negative outcomes in police custody and their ability to access justice may be affected (Skinns, 2011).

With regard to autistic individuals, evidence suggests that they may have negative experiences in police custody (see Crane *et al.*, 2016; Beardon & Edmonds, 2007). Code C and the way in which this is implemented may play a role in a number of these experiences (see Crane *et al.*, 2016; Beardon & Edmonds, 2007). If Code C is not effectively supporting autistic individuals

in police custody, this raises the question of how autistic individuals should be supported in this setting. However, as will be seen, research into the experiences of autistic individuals who have been arrested and detained in police custody is currently limited. As a result, it is unclear exactly what difficulties autistic individuals experience in police custody and if they receive appropriate support to help them participate in the custody process. Furthermore, it is not clear if autistic individuals are able to access justice on an equal basis with others. Unless autistic individuals are supported in an appropriate way, not only will the individual "suffer extreme stress", but police officers will be "unable to do their job effectively, disability discrimination legislation may be breached, and there will be a risk to the safety of the person with autism and to the officer(s)" (Chown, 2010: 257). Therefore, further research into the experiences of autistic individuals in police custody is necessary in order to accurately determine the best ways to support them in this setting. Without such information, any conclusion about the effectiveness of the support under PACE will be precluded. Moreover, any assessment about the support autistic individuals may require in this setting may not reflect the actual needs of this population. To address this, this thesis explores the experiences of autistic individuals who have been arrested and detained in police custody and examines the difficulties they experience throughout the custody process and the support they may require to help with these difficulties.

1.3 Outline of Thesis

This thesis is split into two halves. Firstly, Chapters 2 – 4 contextualise the research by outlining the interaction of autistic individuals with the CJS and the relevant legal framework.

Chapter 2 discusses the characteristics associated with Autism and the potential issues this may create for their involvement in the CJS. It examines the prevalence of Autism in the CJS and identifies potential risk factors for offending behaviour by this population. Having established this, this chapter sets out what is known about the experiences of autistic individuals in police custody and highlights the lack of research into this area. Chapter 3 outlines the legal framework governing the treatment of individuals detained in police custody. It starts by describing the background to PACE and the rationale for the Act and the accompanying Codes of Practice. This chapter then highlights the key provisions of the Act and Code C, specifically those which relate to the treatment of vulnerable suspects in police custody, before reviewing the implementation of these provisions. In particular, this chapter focuses on how vulnerable suspects are identified in police custody and on the provision and function of AAs. In doing so, this chapter highlights the problems associated with the implementation of Code C and the problems this may create for supporting autistic individuals in police custody. Chapter 4 then considers the potential scope for providing additional support in police custody and the underlying rationale behind this. It begins by defining disability in accordance with the social model of disability and the duty of society to provide accommodations to disabled individuals to help them participate equally in society. As part of this, this chapter considers the limitations of these approaches and the need to take into account specific experiences of autistic individuals. Having done this, this chapter then outlines the wider legislative framework which governs the rights of disabled individuals in society. Starting with the Equality Act 2010, it highlights the duty of police officers to provide accommodations and ensure equality. This chapter then sets out the key provisions of the CRPD which

affirm the rights of disabled individuals in society. To conclude, this chapter considers the implications this wider framework has for supporting autistic individuals in police custody.

Secondly, Chapters 5 – 10 focus on the research design and findings from the research. Chapter 5 outlines the methodological framework of the research and overall research design. It begins by defining the main research question of this thesis: 'How should autistic individuals be supported in police custody?'. It also defines the accompanying research questions which focus on the experiences and perspectives of autistic individuals. This chapter then discusses the methodological approach of the research, Constructed Grounded Theory (see Charmaz, 2014), and how this informs the research. This is followed by an evaluation of the three research methods used by the research: i) internet survey ii) interviews and iii) participative walkthrough. This chapter concludes by focusing on the research process and how the research was carried out. In particular, it reviews the sample and recruitment strategies, the ethical considerations, the research procedure and approach to data analysis. This chapter also reflects upon the role of the researcher throughout the research.

Chapter 6 examines the offending behaviour of autistic individuals and the question of criminal intention. It identifies potential factors which may have contributed to the offending behaviour of the participants and highlights the apparent lack of criminal intention in these cases. This chapter also emphasises how the perception of arrest can influence the subsequent experience of detention. Chapter 7 discusses the punitive effect of arrest and detention and how this is affirmed by the attitudes of police officers and the custody process. It also examines how autistic individuals experience of being punishment may be

underpinned by a perception that they should not be treated as a criminal. Chapter 8 then highlights how autistic individuals cope with detention. It identifies sources of stress experienced by autistic individuals and examines how they cope with these demands. This chapter then evaluates the impact of these demands on autistic individuals' ability to participate in the custody process and highlights the potential risk that they may waive legal rights and be unable to participate in the police interview. As part of this, this chapter shall consider how the support of the solicitor and AA can help to minimise this impact. Finally, Chapter 9 focuses on the participative walkthrough and explores the custody process in further detail. Having identified potential difficulties experienced by autistic individuals, this chapter considers the scope of these difficulties and identifies additional difficulties which may be experienced. It also emphasises the ways in which autistic individuals may be supported throughout the custody process. To conclude, Chapter 10 reviews the findings of the research and the potential implications of these findings with regard to supporting autistic individuals in police custody. It reflects on the barriers autistic individuals may face in police custody and how this affects their participation in the police custody process. This chapter then considers how autistic individuals could be supported in this setting to facilitate equal access to justice and whether legislative reform is required. The limitations of the research and future directions for research are also discussed.

CHAPTER 2 - AUTISM AND THE CRIMINAL JUSTICE SYSTEM

2.1 Introduction

This chapter shall outline the characteristics associated with Autism and the potential issues this may create for their involvement in the CJS. Section 2 will begin by defining Autism and examining the prevalence of Autism within the general population. Section 3 will explore the prevalence of Autism within the population who have contact with the CJS. This section will also examine the factors which may precipitate and/or explain the offending behaviour of autistic individuals and their involvement with the police. Finally, section 4 shall discuss previous research into the experiences of autistic individuals in police custody. It will review findings relating to the difficulties experienced by autistic individuals and their concerns about the support in police custody and highlight the lack of research in this area. To conclude, this chapter will review the evidence regarding the involvement of autistic individuals in the CJS and shall outline the need for further information about the experiences of autistic individuals in police custody.

2.2 Characteristics and Prevalence of Autism

As outlined in Chapter 1, Autism is characterised by differences in several key areas (see 6A02 ICD-11). Firstly, Autism is associated with differences in social interaction (6A02 ICD-11). This refers to the difficulties autistic individuals may have in developing social relationships with others and engaging in the social environment (Baron-Cohen *et al.*, 1985). Many individuals can find "even the immediate social environment unpredictable

and incomprehensible" (Baron-Cohen *et al.*, 1985: 38). It is believed they can experience difficulties recognising or understanding other people's emotions or feelings as well as expressing their own (NICE, 2011). Additionally, they may not understand social rules (NICE, 2011). For instance, they may not be aware of personal space or may start inappropriate conversations (NICE, 2011). As a consequence, autistic individuals can experience social isolation as others may think they are strange and their behaviour may be mistaken for rudeness (NICE, 2011). While they may have a desire to make friends, the difficulties they experience with social interactions can make them unsure about how to go about this (NICE, 2011). Some autistic individuals may also prefer to spend time alone and may avoid social contact because of the difficulties they encounter in the social world (NICE, 2011).

Secondly, Autism is characterised by differences in social communication (6A02 ICD-11). This relates to an individual's verbal and non-verbal functioning (Baron-Cohen *et al.*, 1985). Some autistic individuals experience severe delays in speech and language in childhood (WHO, 2010). In some instances, these individuals never acquire the ability to communicate verbally or only develop limited means of verbal communication (NICE, 2011). These individuals tend to rely on non-verbal communication to engage with others (NICE, 2011). While other autistic individuals will be able to communicate verbally, these individuals may display differences in the use of language as compared to those without Autism (WHO, 2010). For instance, they may use words or phrases inappropriately and may speak in an odd manner (NICE, 2011). They also have trouble interpreting what other people say (NICE, 2011). Autistic individuals can have a literal understanding of language and often mistake the meaning of what people say (Frith & Happé,

2005). In addition to this, they may find it difficult to engage in a conversation with another person; they may interrupt people, talk over them or talk at length without turn taking (NICE, 2011). Some individuals may simply repeat what another person has said; this is known as echolalia (NICE, 2011). Autistic individuals may also experience difficulties in interpreting non-verbal cues and signals (Frith & Happé, 2005). They may misjudge facial expressions and tone of voice and may not understand when someone is angry or being sarcastic (Frith & Happé, 2005; NICE, 2011). Because of the difficulties associated with interpreting facial expressions, some autistic individuals find it hard to maintain eye contact (Frith & Happé, 2005; NICE, 2011).

Thirdly, Autism is associated with difficulties in social imagination (6A02 ICD-11). This refers to difficulties understanding and predicting other people's behaviour and intentions and making sense of abstract ideas (NICE, 2011). This has been referred to as 'theory of mind' (Baron-Cohen *et al.*, 1985). According to this view, an impaired theory of mind can make it difficult for autistic individuals to empathise with other people (Frith & Happé, 2005). It also states that autistic individuals find it hard to predict what may or could happen in certain situations and to determine how to respond appropriately (NICE, 2011). As a result, they may also fail to understand the consequences of certain behaviour (NICE, 2011). Some autistic individuals may not appreciate danger or be able to anticipate changes (NICE, 2011). They may also find it difficult to cope when a situation is unfamiliar, a person's behaviour is unpredictable, or something interferes with their routine which can create anxiety or distress (NICE, 2011). In some cases, this might lead to an inappropriate response; some individuals may

react violently or physically run away from the situation in order to escape the stress they are experiencing (NICE, 2011).

Finally, the ICD-11 definition refers to "a range of restricted, repetitive, and inflexible patterns of behaviour and interests" which also characterise Autism (6A02 ICD-11). Although the manual does not specify what this includes, Autism is often associated with rigid routines, strict adherence to rules and restricted and repetitive interests (Frith & Happé, 2005; NICE, 2011). Such characteristics "have been explained as resulting from a deficit in executive functions, which concern the high-level planning and organisation of non-routine behaviour" (Frith & Happé, 2005: 789). Because of difficulties coping with unfamiliar situations and change, some autistic individuals adopt rigid routines and strictly adhere to rules (NICE, 2011). Familiar routines, situations and spaces can make them feel more comfortable as they know or can predict what will happen; they can also help them feel prepared and help them to determine how to behave in a given situation (NICE, 2011). However, some autistic individuals experience problems with organisation particularly outside of their everyday routine (Frith & Happé, 2005). This may limit the adaptation and independence of some autistic individuals (Frith & Happé, 2005). Autistic individuals can also have restricted specialist interests and/or display repetitive behaviours (NICE, 2011). These interests tend to develop during childhood but often change throughout an individual's lifetime (NICE, 2011). The content of these interests varies from person to person and sometimes appear unusual to others. Some autistic individuals can be obsessive about their interests and pursue them to the exclusion of everything else (NICE, 2011). In addition to these characteristics, while not explicitly acknowledged by the ICD-11, autistic individuals can experience difficulties processing and contextualising sensory stimuli (NICE,

2011). This can lead to sensory sensitivities and mean that some aspects of social environments can act as a source of stress for autistic individuals (NICE, 2011). For example, an individual may find it difficult to cope in noisy environments such as shopping centres where there is a mixture of loud sounds (Health and Social Care Overview and Scrutiny Committee, 2012). In some cases, an individual may become overwhelmed by the sensory information (Health and Social Care Overview and Scrutiny Committee, 2012).

There is no exact number of autistic individuals in the general population available (Baxter *et al.*, 2015). Initially, it was believed that Autism among young children was rare affecting only 4 in 10,000 (Baron-Cohen *et al.*, 1985; Frith & Happé, 2005). Brugha *et al.* subsequently estimated that that around 1% of the population are autistic with a 4:1 ratio of males to females (Brugha *et al.*, 2009). More recent estimates have put this figure at around 7.6 per 1,000 or 1 in 132 people (Baxter *et al.*, 2015). However, rates of diagnosis continue to rise, and the prevalence of Autism is thought to be even greater than predicted (see Matson & Kozlowoski, 2011). The prevalence among females is also believed to be significantly higher than estimated by Brugha, et al. (see Loomes *et al.,* 2017). While figures suggest that the prevalence of Autism has increased with time, it is unclear whether this represents a true rise in the number of autistic individuals (Lord *et al.*, 2000; Wing, 1993; Wing & Potter, 2002; Frith & Happé, 2005). The increase may be attributable to the expansion of diagnostic frameworks, alterations in diagnostic criteria and a greater awareness of Autism among professionals and the general public (Lord *et al.*, 2000; Wing & Potter, 2002; Frith & Happé, 2005). These changes may have improved the recognition and identification of Autism and consequently, may have resulted in an increase in

the number of individuals being diagnosed (Lord *et al.*, 2000; Wing & Potter, 2002; Frith & Happé, 2005). Nevertheless, irrespective of the reasons for this potential increase, it is clear the prevalence of Autism is higher than first estimated (Wing & Potter, 2002). Thus, there is a potentially significant group of individuals who may encounter difficulties in everyday life (Wing & Potter, 2002).

2.3 Interaction with the Criminal Justice System

At present, there are no official statistics for the exact number of autistic individuals within the CJS population (Hare *et al.*, 1999; Browning & Caufield, 2011; Higgs & Carter, 2015). This is because of a lack of reliable data on those who are: arrested and detained by police, appear in court as defendants, in contact with the Criminal Prosecution System ('CPS') or in prison because of offending behaviour (Health and Social Care Overview and Scrutiny Committee, 2012). While several studies have attempted to address this by examining the prevalence of autistic individuals among the offending population, these studies have only focused on part of those who have contact with the CJS. For the majority of studies, samples have been drawn from forensic populations. These populations are made up of individuals who are in secure settings such as prisons and special hospitals. These settings are used to detain individuals who have been convicted of an offence or, in the case of special hospitals, whose challenging behaviour presents a risk to others. The remaining studies have used clinical samples comprised of individuals who are in contact with or are otherwise known to services such as hospitals, psychiatrists, support teams etc. As such, these samples represent a population of individuals who display *extreme* problematic behaviours which requires forensic

or clinical intervention (Mourisden, 2012; Beardon, 2008). Linked with this, most studies do not consider those individuals whose behaviour has not led to further involvement with the CJS (Hippler *et al.*, 2010; Woodbury-Smith *et al.*, 2006). The samples are restricted to individuals who have either received a criminal conviction or formal caution, or who have been diverted to clinical services because of perceived offending behaviour (Woodbury-Smith *et al.*, 2010; Hippler *et al.*, 2010). For example, these studies do not include individuals who have been arrested on suspicion of an offence and released without further action (Hayes, 2007). Moreover, they do not consider those individuals who are at *risk* of being detained in custody as suspects. These studies do not account for individuals who have committed offences but are not arrested (Woobury-Smith & Dien, 2014; Woodbury-Smith *et al.*, 2006); nor, do they consider individuals who are arrested and detained in police custody when they have not actually committed an offence.

As a result of these limitations, findings from previous research with regard to the prevalence of autistic individuals in contact with the CJS are unclear. Nevertheless, they still provide some indication that a proportion of autistic individuals will come into contact with the CJS in connection with perceived offending behaviour. Investigating the prevalence of AS amongst men in Broadmoor Hospital, a special hospital in the UK, Scragg & Shah identified 6 patients with a diagnosis of AS and a further 3 individuals with equivocal symptoms of the condition (Scragg & Shah, 1994). This represented a prevalence rate of between 1.5% and 2.3% which they concluded was three times higher than that found for males in the general population. Similarly, Hare and colleagues also examined Broadmoor Hospital in addition to a further two special hospitals, Rampton and Ashworth (Hare *et al*. 1999). Of the 1305 residents screened, 31

individuals were identified as having Autism, 29 of whom were male and 2 were female. This group was divided into those who had an IQ of 50 or above (n=4), those who had an IQ below 50 (n=6) and those with AS (n=21). In addition to this, a further 31 individuals were identified in which a diagnosis was uncertain due to a lack of available information. In this group, 28 were male and 3 were female (Hare *et al.*, 1999). While also demonstrating the higher prevalence of Autism among men, the findings suggested that the rate of Autism in special hospitals could be between 2.4% and 5.3%. Even based on the lowest estimate, Hare concluded that the prevalence of ASDs among the special hospital population was more than three times higher than the general population. A more recent study by McCarthy and colleagues found even higher rates with 46 out of 240 individuals being identified as autistic (McCarthy *et al.*, 2016).

In contrast, other studies have found smaller rates of offending among autistic individuals. Studying a community sample, Woodbury-Smith and colleagues found only 12 out of 25 autistic individuals reported that they had engaged in illegal behaviour; only a further 2 individuals were identified in the Offenders Index (Woodbury-Smith *et al.*, 2006). After investigating the prevalence of AS among offenders in contact with adult services or in forensic settings in South Wales, Allen and colleagues found only 33 out of 126 autistic individuals previously engaged in offending behaviour (Allen *et al.,* 2008). Similarly, after examining the nationwide Danish Criminal Register, Mourisden found that only 22 out of 227 autistic individuals had been convicted of an offence (Moursiden, 2008). Hippler and colleagues found that only 8 out 177 autistic individuals had been convicted for an offence (Hippler *et al.*, 2010); Kawakami also reported that only 36 autistic individuals

were recorded as having committed an offence compared to 139 individuals from the general population (Kawakami *et al.* 2012).

Several studies have also identified risk factors for offending behaviour potentially associated with Autism which may increase the likelihood of autistic individuals being involved in the CJS. These factors include: poor empathy, sensory sensitivity, social differences (i.e. poor communication and difficulties understanding others) and obsessive interests (Freckelton, 2011; Haskins & Silva, 2006; Murphy, 2010; Woodbury-Smith, 2014; Helverschou *et al.*, 2015). In Allen's study, a large proportion of participants implied Autism may have played a crucial role in their offences (Allen *et al.* 2008). They referred to their lack of consideration and awareness of the consequences of their behaviour, obsessive interests and the pursuit of those interests, their vulnerability to exploitation by others, failure to stop and think before acting as well as poor social skills and social naivety. Woodbury-Smith identified a similar relationship (Woodbury-Smith *et al.*, 2006). Several individuals described occasions where they had carried out offences in response to perceived victimisation, including a man who damaged a bus that he believed failed to stop for him the previous day. These individuals highlighted their failure to consider the consequences of their behaviour and lack of understanding with regard to social rules. Sevlever also identified an increased risk of offending associated with core characteristics of Autism (Sevlever *et al.*, 2013). Of these, a lack of social understanding appeared to have significant relevance to the commission of sexual offences. Because the distinction between inappropriate and appropriate behaviour is somewhat blurred, some autistic individuals may be at greater risk of engaging in inappropriate behaviour due to social naivety and inability to understand the intentions of others

(Stokes *et al.*, 2007; Higgs & Carter, 2015). Furthermore, the studies reviewed by Björkly reported high levels of violent behaviour, motivated by misinterpretations of other people's intentions and sensory sensitivity (Björkly, 2009). These characteristics were associated with an increased risk of violence because they acted as a source of increased frustration.

However, studies have discussed the role of other external factors such as family circumstances (i.e. parental divorce or neglect), abuse and bullying (Kawakami *et al.*, 2012; Esan *et al.*, 2015; Allen *et al.*, 2008). Some studies have also identified an increased risk of offending behaviour among autistic individuals with comorbid disorders i.e. ADHD and depression (Långström *et al.,* 2005; Palermo, 2004; Paterson, 2007). While these factors are associated with criminal behaviour in the general population, autistic individuals are more likely to be exposed to these risk factors (Kawakami *et al.*, 2012). For example, evidence suggests autistic individuals have higher rates of comorbid conditions such as ADHD and anxiety disorder (see Simonoff *et al.*, 2008). This is further reflected among autistic individuals in forensic settings where high rates of comorbidity have been found (see Hippler *et al.*, 2010, Helverschou *et al.*, 2015; Allen *et al.*, 2008; Esan *et al.*, 2015; McCarthy *et al.*, 2016). In addition, the core characteristics of Autism may increase the impact of these factors (see Kawakami *et al.* 2012; Allen *et al.*, 2008; Brugha *et al.*, 2009; McCarthy *et al.*, 2016; Browning & Caufield, 2011; Woodbury-Smith, 2014). For example, Murphy identified multiple contextual factors that precipitated the killing of a supervisor by an autistic employee (Murphy, 2010). These included changes to the work environment and working routine, bullying by customers and an inability to cope and appropriately deal with these stressors. Consequently, it has been suggested that the offending behaviour of autistic individuals is the result of a

complex interaction between internal *and* external risk factors, rather than Autism alone (Maras *et al.*, 2015; Browning & Caufield, 2011).

In light of these findings, it is clear a proportion of autistic individuals will come into contact with the CJS. However, these studies do not provide a clear indication about the number of autistic individuals who will be arrested and detained in police custody. As illustrated in section 2, an accurate estimation of the prevalence of Autism in the general population has not yet been established, in part due to the difficulties associated with identification and diagnosis. These difficulties may also prevent an accurate estimation of the prevalence of Autism specifically in the population exposed to the CJS. These issues will be discussed further in Chapter 3. At this point, it is sufficient to note that this may have resulted in smaller numbers of autistic individuals being identified by these studies. Furthermore, the evidence that autistic individuals may be more likely to be exposed to risk factors associated with offending and have co-morbid conditions, also suggests that the likelihood of offending behaviour by autistic individuals could be higher than previously thought. Therefore, it is possible that the prevalence rate of autistic individuals who come into contact with the CJS may be greater than these studies suggest. If the prevalence of autistic individuals in the CJS is higher than previously estimated, this would also be reflected in the actual number of autistic individuals who end up in police custody. In order to clarify this further, more information about the offending behaviour of autistic individuals and their interaction with police officers is required.

2.4 The Experiences of Autistic Individuals in Police Custody

At present, research into the experiences of autistic individuals who are arrested and detained in police custody is limited. There have only been a few studies that have attempted to explore these issues; the overall findings showing that many autistic individuals detained in police custody have had negative experiences (Beardon & Edmonds, 2007; Allen *et al.*, 2008; Crane *et al.*, 2016). In 2007, Luke Beardon and Genevieve Edmonds carried out a survey on the difficulties autistic individuals experience across a range of settings (Beardon & Edmonds, 2007). The findings from this survey were published in the ASPECT consultancy report (Beardon & Edmonds, 2007). Part of the survey focused specifically on the legal system and the report made several findings in this area. The report found that "two thirds of individuals [on the Autism Spectrum] do not feel adequately protected by the legal system" (Beardon & Edmonds, 2007: 13). Comments made by participants about their views and experiences of the CJS were included in the report. Participants also made comments about what improvements they felt could be made. For example, one participant remarked: "It would help if people in the legal system had access to information about ASDs and how they affect sufferers so that adaptations could be made to procedures when necessary" (Beardon & Edmonds, 2007: 269). Many of the concerns raised were shared by a number of participants. There were several comments made regarding the lack of understanding of Autism and the distinct characteristics of the condition as compared to other disabilities (see Beardon & Edmonds, 2007: 265 - 270). One participant emphasised this

stating: "I have felt that I get punished for having a non-obvious disability" (Beardon & Edmonds, 2007: 274). Another said:

"People who work in this field need to be aware of how different a person with Asperger's Syndrome may react in situations such as a ... police interview. For instance, certain social signals such as lack of eye contact may often imply guilt, but this may not be the case with a person with Asperger's Syndrome." (Beardon & Edmonds, 2007: 274)

Participants also emphasised the need for "greater recognition of the problems faced by those with AS" (Beardon & Edmonds, 2007: 266). In light of these findings, the report recommended that "legislation should cover AS more specifically and that adequate protection should be established within the penal system for adults who are vulnerable as a result of their AS as well as providing training as a statutory process to police and those associated with the penal system" (Beardon & Edmonds, 2007: 13 - 14).

Whilst investigating "the prevalence of Asperger syndrome and offending within a large geographical area, to examine patterns of offending and disposal under both the mental health and criminal justice systems", Allen and colleagues also explored "the experiences of those individuals who had been subject to these systems" (Allen *et al.,* 2008: 750). As part of this, the study focused on participants' experiences of arrest (Allen *et al.*, 2008). Allen and colleagues described a range of difficulties experienced by autistic individuals following arrest including: "not being able to take everything in; feeling ''in the spotlight''; not knowing what was going to happen next; the police interviews; and feeling uncomfortable with the other people at the police station" (Allen *et al.*, 2008: 754). Focusing on the

police interviews, "difficulties identified by participants included: "the number and length of interviews; not being able to concentrate; having to answer lots of questions; and feeling pressured and uncomfortable" (Allen *et al.*, 2008: 754). Although, "a number of positive aspects of this part of the process were also highlighted by participants" including having a support of an AA (Allen *et al.*, 2008: 754). Nonetheless, the study went on to conclude that "[f]or the majority of participants interviewed, their experiences within the criminal justice system were primarily negative" (Allen *et al.*, 2008: 756). Participants emphasised that their experiences would have been improved if there had been "a greater understanding of Asperger syndrome amongst all personnel, in order that their behaviour and support needs would be better recognised" (Allen *et al.*, 2008: 755). For example, one participant stated: ''No one's really taken into consideration that I've got Asperger syndrome. I just don't feel like I'm getting any help for it ... a lot of people just don't know what it means'' (Allen *et al.*, 2008: 755). Participants also referred to how they appear different to others and how a better understanding of their condition would enable other people to understand them better (Allen *et al.*, 2008). In light of these concerns, the study emphasised the need "to improve the support available to such individuals" (Allen *et al.*, 2008: 757).

Finally, a recent study by Crane and colleagues reached similar findings (Crane *et al.*, 2016). The aim of the study was to explore the views of police officers and their experiences of working with autistic individuals and their use of accommodations to support such individuals (Crane *et al.*, 2016). To contextualise any findings, the study also surveyed autistic individuals who had been in contact with police and their family members about their experiences and views of these issues (Crane *et al.*, 2016). The results produced by the study

demonstrated a discrepancy between the views and experiences of police officers and those of autistic individuals or their families (Crane *et al.*, 2016). Although the survey found that the police were "fairly satisfied with how they worked with people with ASD", autistic individuals or family members were "generally dissatisfied" (Crane *et al.*, 2016: 2037). In particular, participants emphasised the negative effect of having a lack of appropriate support and being in an inappropriate environment, with many responding that these issues often led to emotional stress and breakdowns in communication (Crane *et al.,* 2016).

When asked about their treatment throughout their interactions with the police, many participants felt: "police officers lacked awareness and knowledge of ASD"; "there was a lack of information, and explanation, given by police officers" and; "the needs of individuals with ASD (physically, emotionally, cognitively and emotionally) were not being met" (Crane *et al.*, 2016: 2036). In some instances, individuals reported feeling "victimised or discriminated against by police officers" (Crane *et al.*, 2016: 2036). Some individuals indicated that the fear of being treated this way was a reason they chose not to disclose their diagnosis (Crane *et al.*, 2016). In fact, 36% of participants reported never disclosing their diagnosis and 25% on some occasions; only 39% always disclosed that they were autistic (Crane *et al.*, 2016). As emphasised by Crane and colleagues, this result is particularly concerning as "police responsibility for adapting procedures and protocols on the basis of vulnerability arises either following disclosure of an individual's diagnosis of ASD, or on suspicion that an individual may be vulnerable" (Crane *et al.*, 2016: 2038). While police officers suggested they were often aware of an individual's diagnosis, it is implied that this may not always be the case.

Other concerns were also raised, although the study did not explore these issues in depth. For instance, participants in the survey reported that the physical environment of the interview room and the custody suite were inappropriate (Crane *et al.*, 2016). However, it was not clear from the findings what aspects of the environment were considered inappropriate or why. Similarly, despite police respondents reporting that they were making adjustments to the police interview, many participants were dissatisfied with the way it had been conducted (Crane *et al.*, 2016). But, it was not clear whether this was attributable to police officers failing to make appropriate adjustments, contrary to their reports. Interestingly, linked with this, most participants were "fairly satisfied with the support provided at interview in the form of AAs and Interview Supporter" (Crane *et al.*, 2016: 2037). Yet, the study did not specify who acted as the AA in these circumstances or why these individuals found this support beneficial.

Although these studies provide valuable information about the experiences of autistic individuals detained in police custody, these findings are limited. Firstly, the samples of these studies are small. For instance, in the study by Crane *et al.*, while 400 police officers responded to the survey only 80 autistic individuals or members of their family participated (Crane *et al.*, 2016). As a consequence, the voices of autistic individuals remain largely absent from the information available. This means little is known about the experiences of autistic individuals in police custody from their perspective. Linked with this, the samples of these studies were not just limited to individuals who had been arrested and detained in police custody as suspects. On the one hand, Crane *et al*. included individuals who had also been involved with the police as witnesses or victims of a crime. On the other hand, the studies by Allen and colleagues and

Beardon & Edmonds, focus on broader samples of individuals. The study by Beardon & Edmonds focused on the views of autistic individuals of the CJS in general, regardless of whether they had direct experience of being involved in the CJS; Allen and colleagues focused on those individuals whose contact with the police led to further involvement with the CJS. As a result of this, these studies were broader in scope focusing on the CJS as a whole. They did not examine the experiences of autistic individuals during specific parts of the custody process, with the exception of the police interview. As such, information about the difficulties experienced by autistic individuals during the custody process itself is lacking.

Secondly, a number of gaps in the findings can be identified. For example, these findings suggest that police officers may not always be aware that an individual is autistic. But, it is not clear whether this is attributable to police officers lack of understanding of Autism and their limited training or the reluctance of individuals to disclose their diagnosis. The consequences of these two things are also uncertain. Furthermore, the findings secondly show that many autistic individuals do not receive appropriate support when detained in police custody. Although there is some indication that they may receive the support of an AA, these studies do not explore the effectiveness of the AA safeguard in relation to the experiences of autistic individuals in police custody. Moreover, although these studies highlighted several other difficulties that autistic individuals may encounter in police custody, such as difficulties during the police interview and the custody setting, they did not explore these issues in further depth. As a result, it is not clear from the findings why these difficulties were experienced or what steps had been taken to address these difficulties. Thus, there is limited information about what difficulties they encounter

throughout the custody process and the support they require in this setting. To address this, research exploring the actual experiences of autistic individuals who have been arrested and detained in police custody is needed.

2.5 Conclusion

This chapter has discussed the involvement of autistic individuals in the CJS. Firstly, to contextualise this, section 2 set out the definition of Autism and highlighted the key characteristics and differences associated with Autism. It evaluated the prevalence of Autism among the general population and emphasised the rise in recent estimations. Secondly, this chapter reviewed studies discussing the prevalence of Autism specifically within the CJS, highlighting the inconsistent findings made by these studies. Having done this, section 3 outlined potential risk factors which may increase the likelihood of autistic individuals engaging in offending behaviour. These factors included internal factors associated with Autism, such as differences in social communication and obsessive interests *and* external factors, such as bullying and co-morbidity. This chapter then discussed the limitations of these studies and highlighted that the prevalence of autistic individuals in the CJS could be higher than predicted. Although the exact number cannot be determined, this chapter subsequently emphasised that a proportion of autistic individuals will be arrested and detained in police custody.

Having established this, the final section of this chapter explored what is currently known about the experiences of this population in police custody. As part of this, it discussed the findings of three key studies examining this issue which highlighted the negative experiences of autistic individuals in this setting. However, this chapter also illustrated the lack of

research into the experiences of autistic individuals in police custody and more specifically, the difficulties they may encounter during the custody process and the support they receive. While previous studies by Crane *et al.*, Allen *et al.* and Beardon & Edmonds illustrate the lack of support in police custody, it is difficult to draw any conclusions about the kinds of support autistic individuals may require in police custody. Until this is addressed, autistic individuals will continue to be unnecessarily exposed to a risk of inappropriate treatment and prevented from fully participating in the police custody process. Therefore, to consider this further it is clear that there is a need to investigate the experiences of autistic individuals in police custody.

CHAPTER 3 - POLICE AND CRIMINAL EVIDENCE ACT 1984

3.1 Introduction

This chapter will outline the key provisions of PACE relating to the detention of individuals in police custody and the accompanying safeguards governing the treatment of vulnerable detainees in Code C. In particular, it shall discuss existing literature which explores the implementation of Code C and evaluate the problems associated with its application to autistic individuals. To begin, section 2 will set out the background of PACE and identify the relevant provisions of the Act and Code C. Section 3 will then discuss the implementation of Code C. Section 3.1 shall examine the problems associated with the identification of autistic individuals in police custody. Section 3.2 will consider the provision of AAs and evaluate whether this safeguard is an effective way of supporting autistic individuals in police custody. To conclude, this chapter will review the provisions of Code C which relate to the detention of vulnerable detainees and the problems associated with their implementation. It shall consider the implications this has for the support of autistic individuals in police custody and question the effectiveness of Code C. This chapter will also emphasise the need to carry out further research into the experiences of autistic individuals in police custody to clarify how they should be supported and determine whether legislative reform is required.

3.2 Police and Criminal Evidence Act 1984 and Code C

PACE was introduced in light of concerns regarding the treatment of vulnerable suspects in the UK. Before the implementation of

the Act, the rights of suspects were governed by the Judges' Rules and Administrative Direction 1964 which "were rules formulated … for the guidance of the police" (Zander, 2014: 363). However, following the Confait Case, it became evident that the existing rules offered inadequate protection for vulnerable suspects. The case related to death of Maxwell Confait in April 1972. Three individuals, Ronald Leighton (aged 15), Colin Lattimore (aged 18) and Ahmet Salih (aged 14), were convicted after confessing to causing his death (Fisher, 1977). In 1975, the convictions were subsequently quashed by the Court of Appeal (see R v Lattimore (Colin George) (1976) 62 Cr. App. R. 53) (Fisher, 1977). Following the Appeal, there was an Inquiry into the investigation of the case led by Sir Henry Fisher (Fisher, 1977). The Inquiry identified a number of deficiencies in the way in which police conducted their questioning of the three boys which were summarised in the Fisher Report (Fisher, 1977). The report highlighted that the police should have informed the boys of their rights in police custody, Leighton and Salih should have been interviewed in the presence of a parent or guardian, and concluded the tactics employed by the officers interviewing Salih were contrary to good police practice (Fisher, 1977). It also found that the questioning of Lattimore was "unfair and oppressive" (Fisher, 1977: 11). Lattimore had a mental age of 14 and while this was recognised by the interviewing officer, he was interviewed without the presence of a third party. The report said that while the officer "was not at fault for failing to realise the full extent of [Lattimore's] handicap", the way in which he was interviewed was "unfair and oppressive given his actual or apparent vulnerability" (Fisher, 1977: 11). Because of these failings, the report highlighted that the protection afforded by the Judges' Rules was insufficient and made a series of recommendations for improvement (Fisher, 1997).

Following the Fisher Report, the Royal Commission on Criminal Procedure ('Philips Commission') was established to conduct a wide-ranging inquiry into the CJS. The Philips Commission considered "the investigation of offences in light of police powers and duties as well as the rights and duties of suspects" (Zander, 2014: xi). It was "asked to examine the issues, 'having regard to both the interests of the community in bringing offenders to justice and to the rights and liberties of persons suspected or accused of crime'" (Zander, 2014: xi). In the following report (see Command Paper 8092), the Philips Commission attempted "to find a fair balance between the need of the police to have sufficient powers to do the job the public expects them to do and … to protect the legitimate interests of the suspect" (Zander, 1981: 735). The report made several recommendations including: i) the power to stop and search ii) the power of temporary detention iii) restricting the power of arrest to cases of necessity and iv) introducing the condition that detention should be justified (Zander, 1981). Most significantly, it recommended that "the entire area of questioning of suspects should be regulated by a new code that would deal with such matters as the right of access to legal advice, special treatment of juveniles and other special categories … the taking of statements … and the giving of cautions", as well as the "comfort and refreshment of suspects being questioned and the length, timing and circumstances of questioning" (Zander, 1981: 733).

Although not all the recommendations were adopted, the report formed the foundation of PACE and the accompanying Codes of Practice. The Act was introduced to "make further provision in relation to the powers and duties of the police" (c.60 PACE 1984). The intention behind PACE was not only to protect police officers from allegations and complaints, but to provide legal protection for suspects (Maguire, 1988; Bucke & Brown,

1997; Kemp, 2014). To achieve this, PACE defines a set of legal obligations police officers hold towards suspects (Maguire, 1988). One of the key changes introduced by the Act was the role of the custody officer (also referred to as a custody sergeant ('CS')). The custody officer is the appointed officer at the police station whose responsibility it is for ensuring detainees are "treated in accordance with this Act and any code of practice issued under it" (s 39(1)(a) PACE 1984). The custody officer is also responsible for creating and maintaining a custody record in relation to each detainee; this should contain a record of "all matters relating to such persons which are required by this Act or by such codes of practice" (s 39(1)(b) PACE 1984). The functions of the custody officer should be performed "as soon as practicable" to ensure detainees are "dealt with expeditiously, and released as soon as the need for detention no longer applies" (para 1.1 Code C). Although, a delay is permitted if "justifiable and reasonable steps are taken to prevent unnecessary delay" (para 1.1A Code C). This provision "is intended to cover delays which may occur in processing detainees e.g. if: i) a large number of suspects are brought into the station simultaneously to be placed in custody; ii) interview rooms are all being used; iii) there are difficulties contacting an appropriate adult, solicitor or interpreter" (Note 1H Code C).

As discussed in Chapter 1, the custody officer is responsible for deciding whether an individual should be detained in police custody (s 37(1) PACE 1984). Where detention is authorised, the custody officer is required to "make a written record of the grounds for the detention" and inform the detainee of those grounds (s 37(4)-(5) PACE 1984). The custody officer should subsequently inform them of their rights in police custody (para 3.1(a) Code C). This includes the right to: i) "consult privately with a solicitor and that free independent legal advice is

available" (s 58 PACE 1984) ii) "have someone informed of their arrest" (s 56 PACE 1984) and iii) "consult the Codes of Practice" (para 3.1(a) Code C). Only the first two of these rights are statutory. Linked with this, individuals should be informed that they can consult with a solicitor at any time in private "whether in person, in writing or by telephone" and "that free independent legal advice is available" (para 6.1 Code C). Furthermore, "[n]o police officer should, at any time, do or say anything with the intention of dissuading any person who is entitled to legal advice … from obtaining legal advice" (para 6.4 Code C).

Additionally, detainees should be provided with a written notice (para 3.2 Code C); this can be in an easy read format (Note 3A Code C). This notice contains information about their rights including the "right to remain silent as set out in the caution" and "right to medical assistance" (para 3.2 Code C). The notice should also detail the arrangements for obtaining legal advice and the maximum period they can be detained without charge (para 3.2 Code C). Other entitlements should also be explained such as "provisions relating to the conduct of interviews and the circumstances in which an appropriate adult should be available" (para 3.2 Code C). In addition, the notice should make clear their entitlements in relation to the conditions of detention and their welfare in custody. For instance, police cells and interview rooms "must be adequately heated, cleaned and ventilated" and "adequately lit" (para 8.2 Code C). Detainees must be: i) provided with "[a]ccess to toilet and washing facilities" (para 8.4 Code C); ii) offered "[b]rief outdoor exercise … daily if practicable" (para 8.7 Code C); iii) offered "[a]t least two light meals and one main meal" in line with any specific dietary needs (para 8.6 Code C); iv) provided with drinks "at meal times and upon reasonable request between meals" (para 8.6 Code C) and; v) must be "allowed a continuous period of at

least 8 hours for rest" without "interruption in connection with the investigation concerned" (para 12.2 Code C).

Having informed the detainee of these rights, the custody officer should then determine if they: i) would like legal advice ii) want someone informed of their detention iii) require medical assistance and iv) require an AA, help with documentation or an interpreter (para 3.5 Code C). Where the detainee requests legal advice, they should be allowed to consult with a solicitor as soon as practical within 36 hours (s 58(4) – (5) PACE 1984). Similarly, they "shall be entitled … to have one friend or relative or other person who is known to him or who is likely to take an interest in his welfare told, as soon as is practicable" within 36 hours (s 56(1) & (3) PACE 1984). A delay is only permitted where there are reasonable grounds for believing that this would: i) lead to "interference with or harm to evidence … or to other persons" ii) alert "other persons suspected of having committed such an offence but not yet arrested for it" iii) "hinder the recovery of any property obtained as a result of such an offence" or; iv) hinder "the recovery of the value of the property" where the detainee has benefited from the offence (s 56 (5) – (5A) & 58 (8) – (8A) PACE 1984).

When determining whether medical assistance and/or an AA is required, the custody officer should also conduct a risk assessment "to consider whether the detainee is likely to present specific risks to custody staff, any individual who may have contact with detainee … or themselves" (para 3.6 Code C). This assessment "must include the taking of reasonable steps to establish the detainee's identity and to obtain information about the detainee that is relevant to their safe custody, security and welfare and risks to others" (para 3.6 Code C). The risk assessment "must follow a structured process which clearly defines the categories of risk to be considered" (para 3.8 Code

C). As part of this, checks must be carried out on the Police National Computer ('PNC') and the custody officer may consult with other individuals or police records to obtain relevant information "relevant to the detainee's safe custody" (para 3.6 Code C). While those responsible for the detainee's custody should be informed of any risks identified during this process, the detainee or those acting on their behalf are not required to be informed of such risks (para 3.8A Code C). If any risks are identified, the custody officer is subsequently responsible for taking steps to reduce those risks by: i) "reducing opportunities for self-harm" ii) "calling an Approved Healthcare Professional" ('AHP') iii) "increasing levels of monitoring or observation" and/or iv) "reducing the risk to those who come into contact with the detainee" (para 3.9 Code C).

In addition to these provisions governing all detainees, there are safeguards designed specifically to "protect the rights of … mentally disordered or otherwise mentally vulnerable" individuals in police custody (Note E1 ANNEX E Code C). According to the Code, 'Mentally vulnerable' refers to "any detainee who, because of their mental state or capacity, may not understand the significance of what is said, of questions or of their replies" (para 1G Code C). 'Mentally disordered' applies to any individual who has "any disorder or disability of the mind", as defined by s 1(2) of the Mental Health Act 1983. However, it is not necessary for the individual to be mentally vulnerable in fact or to have a diagnosed mental disorder. If a police officer has "any suspicion or is told in good faith that a person of any age may be mentally disordered or otherwise mentally vulnerable, in the absence of clear evidence to dispel that suspicion, the person shall be treated as such for the purposes of this Code" (para 1.4 Code C). Thus, if the custody officer has "any doubt about the mental state or capacity of a detainee, that

detainee should be treated as mentally vulnerable" (para 1G Code C). While Code C recognises that "people who are mentally disordered or otherwise mentally vulnerable are often capable of providing reliable evidence", it recognises "they may, without knowing or wanting to do so, be particularly prone in certain circumstances to provide information that may be unreliable, misleading or self-incriminating" (Note E2 ANNEX E Code C).

The intention of the Code is to mitigate this by placing an obligation on police officers to take steps to negate the potential effect of this risk on the interview (Ventress *et al.*, 2008). Firstly, if an individual is mentally vulnerable or has a mental disorder, they are classified as always being considered to be at some degree of risk during interview (para 12.3 Code C). Though the Code acknowledges that many individuals who are mentally vulnerable or who have a mental disorder *are* able to provide reliable evidence, it also highlights the distinct risk they may "provide information that may be unreliable, misleading or self-incriminating" without knowing or wishing to do so (para 11C Code C). In light of this, where police officers are concerned about an individual's mental vulnerability they should request that a formal assessment is carried out by an AHP (para 12.3 Code C). During this assessment the medical professional determines whether an individual is fit to be interviewed and looks at any risks to an individual and the safeguards that should be put in place to enable to interview to take place (para 12.3 Code C). They are also encouraged to consider an individual's functional ability*,* instead of merely relying on any identified mental disorder (para 4 ANNEX G Code C). Whilst an individual may have a mental disorder, it cannot be assumed that just because they have a mental disorder they are unfit to be interviewed (Ventress *et al.*, 2008).

Secondly, the AA is the only safeguard in the Code which offers support to vulnerable suspects during the custody process. The Code states that an AA should be provided whenever an individual is identified or is suspected of being mentally vulnerable or of having a mental disorder (para 3.15 Code C). However, because the Code is not binding on police officers there is no legal requirement to provide an AA. Thus, as will be discussed in section 3, not all vulnerable suspects are afforded this safeguard. As outlined in Chapter 1, the Code specifies that an AA can be: i) "a relative, guardian or other person responsible for their care or custody"; ii) "someone experienced in dealing with mentally disordered or mentally vulnerable people but who is not a police officer or employed by the police" or; iii) "failing these, some other responsible adult aged 18 or over who is not a police officer or employed by the police" (para 1.7 Code C). The decision to provide an AA is determined by the custody officer (para 3.5(c)(i) Code C). The Code considers that it "may be more satisfactory if the appropriate adult is someone experienced or trained in their care rather than a relative lacking such qualifications" (Note 1D Code C). But, if a detainee prefers "a relative to a better qualified stranger or objects to a particular person", their wishes should be respected if practicable to do so (Note 1D Code C).

While the Code specifies circumstances in which an AA should be present, the role of the AA is not clearly defined. On the one hand, the Code states that where an AA is already at the police station they should be present when an individual is: i) informed of the reasons for their arrest and detention (para 3.17 Code C); ii) informed of their rights in custody (para 3.17 Code C); iii) provided with a written notice of their rights and entitlements (para 3.17 Code C); iv) asked whether they would like to accept their legal rights (para 3.17 Code C); v) cautioned

(para 10.11A Code C); vi) asked to provide a written statement (para 11.15 Code C); vii) charged (para 16.1 Code C); viii) asked to consent to an intimate search (para 2B ANNEX A Code C) and; ix) strip searched (para 11(c) ANNEX A Code C). Where an AA is not at the station at the relevant times, these processes can be conducted in their absence but should be repeated again when they arrive (see para 3.17 Code C). Code C also stipulates an AA should be present during police interviews (para 11.15 Code C). An interview should only be carried out without an AA where a delay would: i) lead to interference with or harm to evidence connected with an offence or other people or serious loss of or damage to property; ii) alert other people suspected of committing an offence who have not been arrested for it, or; iii) hinder the recovery of property obtained as consequence of an offence (para 11.1(a)-(c) & 11.18 Code C). In these circumstances, the custody officer must also be satisfied that "the interview would not significantly harm the person's physical or mental state" (para 11.18 Code C). Once the risk is averted the interview must not continue without an AA (para 11.19 Code C). However, as outlined above, Code C is does not create legally binding duties. As such, police officers are not actually legally required to provide an AA in these circumstances.

On the other hand, the Code does not specify what the AA should do to support the detainee during these processes. While the Code advises that the detainee should be informed that "the duties of the AA include giving advice and assistance" (see para 3.18 Code C), the Code only specifies limited duties associated with this. For instance, a specific duty outlined by the Code is that the AA "should consider whether legal advice from a solicitor is required" (para 6.5A Code C). Where an individual "indicates that they do not want legal advice", the AA "has the right to ask for a solicitor to attend if this would be in the best interests of

the person" (para 6.5A Code C). But, the Code also clarifies "the person cannot be forced to see the solicitor if they are adamant that they do not wish to do so" (para 6.5A Code C). Furthermore, the Code specifies that their purpose in the interview is to: i) advise the person being interviewed; ii) observe whether the interview is being conducted properly and fairly, and; iii) facilitate communication between the police and the person being interviewed (para 11.17 Code C). This is intended to build upon the duties of the solicitor whose role is limited to protecting and advancing "the legal rights of their client" (Note 6D Code C). For instance, the solicitor may only: i) "give advice which has the effect of the client avoiding giving evidence which strengthens a prosecution case"; ii) intervene in order to seek clarification; iii) challenge an improper question to their client or the manner in which it is put; iv) advise their client not to reply to particular questions or; v) if they wish to give their client further legal advice (Note 6D Code C). But, in contrast to the solicitor, AAs are not legally bound to fulfil these duties because of the status of the Codes. As a result, it is unclear exactly what function AAs play in police custody.

3.3 The Implementation of Code C

While there are multiple safeguards in Code C relating to vulnerable suspects, this thesis will only focus on the: i) identification of vulnerable suspects and ii) AAs. This is because these safeguards relate specifically to the support of vulnerable suspects during the custody process.

3.3.1 Identification

The first step to implementing Code C is identifying whether an individual may have a 'mental disorder' or may be 'mentally vulnerable' (Hodgson, 1997). Any subsequent decisions regarding additional safeguards will hinge upon this determination. However, evidence suggests that police officers do not always identify vulnerable suspects (Hodgson, 1997; Palmer, 1996; Bradley, 2009). To some extent, the identification of vulnerable suspects relies on individuals disclosing during the booking-in that they have a mental disorder or are mentally vulnerable (Bradley, 2009; HMIC, 2015). But, individuals may not always disclose information (Bradley, 2009; HMIC, 2015). Several factors contribute to this including: i) the design of the custody suite; ii) difficulties with communication; iii) previous negative experiences; iv) stigma; v) fear of discriminatory treatment; vi) feeling that the police officers were less concerned with their welfare than complying with law, and; vii) the language of the risk assessment (Bradley, 2009; HMIC, 2015). For instance, the Bradley report emphasised that "[t]he custody suite environment itself does not encourage people to disclose their mental health problems" (Bradley, 2009: 39) Similar concerns were raised by the HMIC and the National Appropriate Adult Network ('NAAN') (HMIC, 2015; NAAN, 2015). The HMIC emphasised "[t]he design of booking-in desks in custody suites does not protect confidentiality and detainees can be overheard by others when giving sensitive information" (HMIC, 2015: 85).

In contrast, the HMIC found that "[t]he assessment process was viewed positively by people who had been able to give information on their physical and mental health needs in private" (HMIC, 2015: 83). In line with this, the HMIC reported that "[c]ustody sergeants can and sometimes do take care to

ensure privacy on booking-in, for example by moving someone identified as vulnerable to a quieter area, away from other people" (HMIC, 2015: 85). Furthermore, NAAN suggested that "the situation is compounded by the non-confidential, open-plan layout of custody, which may prevent vulnerable adult suspects from disclosing their vulnerabilities in public" (NAAN, 2015b: 4). To help with this, "[i]t was argued that ... the design of the custody environment should be re-thought or private spaces more readily available and offered" (NAAN, 2015b: 4). In addition, the HMIC highlighted that "[t]he wording used in the forms is potentially difficult to understand … for someone who is mentally vulnerable, so the extent to which custody staff obtain relevant information often depends on the language and the manner they adopt when speaking to the detainee" (HMIC, 2015: 85). These difficulties are also potentially exacerbated by the fact that suspects may not be "given enough time to answer risk assessment questions" (HMIC, 2015: 84). For instance, the HMIC "saw less helpful questioning, such as asking 'Do you have a mental illness?" (HMIC, 2015: 84). They reported that this type of questioning was "unlikely to elicit a true and full response, especially in a crowded custody suite with little privacy" (HMIC, 2015: 85). Moreover, these questions assume individuals are diagnosed and aware of their difficulties. This may not always be the case.

Where vulnerable suspects do not self-disclose, the identification of vulnerable suspects depends on the judgement of police officers. NAAN reported a number of approaches to determining this (NAAN, 2015). They reported that two thirds of respondents would "a) accept [a detainee's self-assessment of vulnerability] but ask the opinion of a medical professional ... and b) accept but seek to verify by accessing previous custody records to see if an AA has been requested and supplied" (NAAN,

2015a: 1). Other CSs "stated that they would accept [a detainee's self-assessment of vulnerability] but seek to verify through a series of force-approved questions" or "by contacting a relative or close friend" or "by contacting local AA scheme staff" (NAAN, 2015a: 1). Interestingly, a few CSs reported they "would accept a detainee's self-assessment of vulnerability at face value"; in contrast, some would "rarely accept [a detainee's self-assessment of vulnerability] at face value and always carry out their own independent assessment" (NAAN, 2015a: 1).

However, "the term 'vulnerability' lacks a unifying, single definition and can mean different things to different people" (Dehaghani, 2017: 108). As a consequence, police officers often rely on their own interpretations and experiences of mental vulnerability (Palmer, 1996; Hodgson, 1997; HMIC, 2015). This "involves making inferences about individuals' decision-making based on identifying them as members of a population which is known, or suspected, to have some abnormality or impairment of functioning relative to the general population as a result of which clinical treatment or support is needed" (Clare, 2003: 39). But, this relies on two assumptions (Clare, 2003). Code C relies on the understanding that "all decision-making contexts of a particular kind (for example, police interviews) are equally demanding" (Clare, 2003: 39). It does not reflect the additional demands that being in police detention creates for vulnerable suspects that they may not otherwise experience outside this setting. As such, police officers may not consider that individuals who may not be vulnerable in other contexts may be vulnerable in police custody because of the specific demands created by this context. The other assumption is that "groups sharing the same label or diagnosis are homogeneous" (Clare, 2003: 39). For instance, it is "assumed that any difficulties experienced by people with learning disabilities simply reflect the impairments in

intellectual and social functioning which form part of the diagnostic criteria for the condition" (Clare, 2003: 38). Thus, police officers may not take into account that individuals may experience a range of additional difficulties outside of these categories which may make them vulnerable in police custody.

Findings by Dehaghani raised similar concerns with regard to the interpretation of vulnerability by police officers (Dehaghani, 2017). Exploring the implementation of the AA safeguard, Dehaghani examined how police officers define and identify vulnerability (Dehaghani, 2017). In particular, she found that "some custody officers interpreted [vulnerability] specifically in the context of custody whilst others thought about it more broadly" (Dehaghani, 2017: 108). To some extent, this is also connected to the dual role of police custody officers. On the one hand, the custody officer plays a "welfare role" as they are "responsible for the welfare of suspects detained at a police station (Ventress *et al*., 2008: 371). To fulfil this role, custody officers have to be able to identify mental vulnerability and to ensure that they are treated in accordance with PACE (HMIC, 2015). As such, custody officers "have a gate-keeping function surrounding the availability of additional services and the support provided" (Hellenbach, 2011: 20).

On the other hand, the custody officer has an "investigative role" as they have a key role in the way an investigation into an offence is carried out (Ventress *et al*., 2008: 371). In particular, "[t]he custody officer decides if and when the investigating officers can have access to the detainees in his or her care and with what precautions or safeguards" (Ventress *et al*., 2008: 372). These roles are *prima facie* separate to each other (Ventress *et al*., 2008: 372). But, if custody officers have to balance these two roles they risk overlooking vulnerable suspects depending on which function they prioritise. Where the

custody officer is predominantly concerned with the welfare of the suspect they may interpret vulnerability in a broader way. Conversely, if the custody officer prioritises their investigative role, they may take a narrower approach to vulnerability. As such, the decision of police officers regarding the vulnerability of a suspect depends on the role that the police officer occupies. Dehaghani made similar findings, although she made a slightly different distinction. She highlighted that "vulnerability is also constructed according to [personal and professional] objectives and identified in a manner which best suits, and makes sense, to custody officers" (Dehaghani, 2017: 242). Dehaghani emphasised that these objectives not only related to the objectives of crime control and police 'bureaucracy', but also to the personal interest of police officers to avoid sanctions (Dehaghani, 2017). As such, "[t]he custody officer, when faced with civil or criminal sanction, will be more likely to adhere to the rules" (Dehaghani, 2017: 242). Thus, "the identification of vulnerability can be likened to an investigation – custody officers understand this pursuant to a perspective that best suits their professional background" (Dehaghani, 2017: 242).

Furthermore, the judgement of police custody officers depends on their understanding and awareness of mental vulnerability and mental disorders. In some instances, "it may be relatively easy to identify an individual with a [mental vulnerability], for example, if a suspect has bizarre or unusual speech" as these characteristics should raise obvious concerns even for those without previous experience or expertise (Herrington & Roberts, 2012: 182). Nevertheless, there are some circumstances where "symptoms are more difficult to detect" (Herrington & Roberts, 2012: 182). In these cases, a police officer would have to be familiar with characteristics or signs that are indicative of possible mental vulnerability

(Herrington & Roberts, 2012). This is emphasised by Palmer (Palmer, 1996). Following a study investigating the views of criminal justice professionals of the "implementation and effectiveness of the safeguards for mentally disordered and mentally handicapped suspects", Palmer highlights that where police officers do not have mental health training, "recognition will depend to a certain extent on the degree of mental illness or learning difficulty shown" (Palmer, 1996). Moreover, custody officers will "rely upon their own experience and perception of need" in the absence of this training (Palmer, 1996: 633). But, Palmer points out that whilst the "police will generally recognise florid behaviour ... [i]t is the less obvious cases which give cause for concern" (Palmer, 1996: 633). For instance, there are occasions where "many adults with learning difficulties succeed in hiding [their diagnosis] and others would be reluctant to make their disability known to the police" (Palmer, 1996: 633). There may also be instances where police officers find it difficult to differentiate "symptoms of mental disorder and mental handicap from the wide range of behaviour displayed by detained suspects"; for example, "[s]ome officers attribute uncharacteristic behaviour to prior consumption of drink or drugs" rather than a potential mental vulnerability (Palmer, 1996: 633). Unless police officers are aware of the subtleties that may indicate the presence of a mental disorder or disability, individuals may go unnoticed (Palmer, 1996). In light of these issues, Palmer suggests that when police officers rely on their own "subjective assessments about vulnerability" this "will lead to the safeguards [for mentally vulnerable individuals] being implemented haphazardly" (Palmer, 1996: 634).

Findings by NAAN support these concerns (NAAN, 2015). In 2014, they were asked to "examine current AA arrangements for vulnerable adults, identify shortcomings in provision, and

develop recommendations for ensuring provision for all who need it" (NAAN, 2015: 4). One of the main findings of the research was that there are "inadequate police practices with respect to identification of suspects' vulnerabilities and the need for AAs" (NAAN, 2015: 4). Another key finding of the research was that "the police frequently lack the expertise and training to recognise when a suspect may have a vulnerability" (NAAN, 2015: 11). As NAAN emphasised, "many forms of vulnerability are complex and sometimes hidden" which requires police officers to have an in-depth understanding of the different forms of mentally vulnerability and the ways it can present (NAAN, 2015: 11). While the study reported that the majority of respondents had received training to help them identify vulnerability, a third did not receive any training at all (NAAN, 2015a). A third of CSs also stated there was a "need for more or better quality training" (NAAN, 2015a: 3).

Although the literature discussed above has focused on the general identification of vulnerable suspects, it raises specific concerns with regard to the ability of police officers to specifically identify autistic individuals. As highlighted by Woodbury-Smith, because there are "no physically identifiable signs, and language is on the whole fully developed" some autistic individuals "are not as immediately recognizable phenotypically as their vulnerable counterparts with, say, intellectual disability ... or mental illness" (Woodbury-Smith, 2014: 277). In fact, many autistic individuals "may appear to be capable because they have good use of language and will seem to others to be normal in most situations" (Health and Social Care Overview and Scrutiny Committee, 2012: 11). This often masks the difficulties that these individuals experience (Woodbury-Smith & Dien, 2014). In addition, because of the range of characteristics associated with

Autism, police officers would be required to have an expansive understanding of these conditions. Without specific knowledge and training, the "different subtypes of autism may be unfamiliar" (Mourisden, 2012: 82). They might also be unaware of "the range of symptoms a person with autism can present with so that they … have a good chance of identifying autism in a person with whom they are in contact" (Chown, 2010: 260). Should this be the case, "there is a significant risk of the behaviour of the person being misinterpreted" (Chown, 2010: 260).

Moreover, previous research also suggests police officers may not understand Autism. In part, this is attributable to a lack of appropriate training. This has been illustrated by Browning & Caufield (Browning & Caufield, 2011). In their article, Browning and Caufield point out the existence of "significant evidence to support the view that those working within the criminal justice sector remain unknowledgeable regarding [Autism]" (Browning & Caufield, 2011: 177). Furthermore, they stated "that many people with AS struggle to negotiate their way through the various stages of the criminal justice process due to the inadequate understanding of their disorder is undeniable" (Browning & Caufield, 2011: 177). Browning & Caufield went on to suggest that "all of those who work or volunteer within the criminal justice system ... should be aware of and have access to training and/or appropriately trained colleagues in order that the needs of this particularly vulnerable group might be more effectively met" (Browning & Caufield, 2011: 177). This recommendation included police officers. Findings from other studies support these conclusions. Evaluating police officers' awareness and understanding of Autism, Chown surveyed 120 police officers and staff members of police forces (Chown, 2010). Most of the responses came from "a large metropolitan force and

a medium-sized home-counties force" (Chown, 2010: 266). A number of issues were highlighted including: "the need to develop a basic understanding of autism, the ability to recognise autism, enhance interviewing techniques and communication skills generally, and the particular importance of all these issues in relation to the evidential process" (Chown, 2010: 268). While it was found that "[t]here was a considerable level of understanding of the differences between cognitive disability and mental illness", "a significant number of people (25 per cent) ... saw little or no difference between the two. An even higher percentage of respondents (40 per cent) did not appear to understand the term developmental disability" (Chown, 2010: 266). There also appeared "to be a general lack of understanding of the term 'emotional disability' which led to difficulty in distinguishing between this type of disability and cognitive disability" (Chown, 2010: 266). Considering these findings together, Chown argued that this indicated the need "to improve understanding within the police service of the various underlying categories of 'hidden' disability" as this would "make it easier to improve awareness and understanding of specific disabilities such as autism" (Chown, 2010).

Additionally, the study found that although "over half [of the participants] were able to refer to key features of autism, and many of the remainder had some insight as to its nature ... only half the respondents correctly identified AS as being a type of autism" (Chown, 2010: 267). This illustrated a distinct lack of understanding of the Autism Spectrum and the different characteristics associated with Autism (Chown, 2010). Chown suggested that to address this, "Autism awareness training should illuminate the autism spectrum by reference to the triad and associated features" (Chown, 2010: 267). With regard to training, 62% of participants reported that they "had undertaken

no formal training in Autism awareness" and 30% of participants stated that they had "received limited exposure to autism in police service training on other subjects or had received training on autism from non-police sources" (Chown, 2010: 269). What is more, "[t]he remaining 8[%] of respondents did not answer this question hence no one who responded to the survey had received specific training in autism from their police employer" (Chown, 2010: 269).

In a more recent study, Richards also examined what police officers know about Autism and what training is available (Richards, 2015). Exploring the ways in which police officers plan for an investigative interview where the witness or suspect is autistic, the study found 70 out of 196 police officers (35.71%) received some kind of training (Richards, 2015). Of these, only 32 police officers (16.3%) "reported that they had received training which was exclusively concerned with matters relating to [Autism]" (Richards, 2015: 72). As a whole, 61.4% "indicated that it would be useful or very useful to receive further training about [Autism]" (Richards, 2015: 72). More recently, previous research by Beardon and colleagues found that only 16 out of 34 police forces (47.05%) actually provided Autism training (Beardon *et al.*, 2018). These findings are concerning because unless police officers have adequate knowledge of Autism it is likely autistic individuals will not be identified (Woodbury-Smith & Dien, 2014). Moreover, this suggests that it is likely that police officers may subsequently fail to take steps to implement the required safeguards in Code C. If this is the case, changes may be required to ensure that police officers are able to identify autistic individuals and implement Code C. However, the existing literature has mainly focused on vulnerable suspects more generally and on the perceptions of police officers. Research

exploring the identification of autistic individuals is lacking. Moreover, previous research has not explored whether the experiences of autistic individuals are accurately encompassed by the definition of mental vulnerability. To establish what changes may be needed, further research into the experiences of autistic individuals is required. This will help to clarify whether autistic individuals are identified by police officers in police custody and what factors play a role in this.

3.3.2 Appropriate Adults

Since the introduction of PACE, evidence suggests that vulnerable suspects are not always provided with an AA (HMIC, 2015; NAAN, 2015). For example, Bucke & Browne found that AAs only attended 66% of cases where an individual was identified as mentally vulnerable (Bucke & Brown, 1997: 8). Later studies have made similar findings. After conducting "a survey of Appropriate Adult services in England and Wales", Perks found that "the majority of requests for appropriate adult services were for juveniles" (Perks, 2010: 16). In contrast, the survey found that "[t]he average number of requests for vulnerable adults was significantly less" (Perks, 2010: 16). Moreover, findings suggested that a number of forces were not requesting AAs when they were required (Perks, 2010). In particular, the study found that only 73% of respondents "routinely requested appropriate adults to attend for charging procedures" (Perks, 2010: 16). Similarly, NAAN found that "there are significant shortcomings in current AA provision for mentally vulnerable adult suspects" and "many vulnerable adults do not receive the support of an AA or receive it only for part of the custody process" (NAAN, 2015: 4). The study found that in

2013/14 the average rate of identification of individuals requiring an Appropriate Adult was 3.1% (NAAN, 2015). Actual figures ranged between 0.5% and 9.2%, demonstrating the variation between forces (NAAN, 2015). However, these figures are limited. Both Perks and NAAN only collected data from a proportion of forces. In Perks' study, data was collected from 34 out of 43 police forces (Perks, 2010). In addition, "many forces provided either partial or no information and only a few were able to provide data relating to both familial and professional AA levels" (Perks, 2010: 16). This may have been attributable to the inconsistency between "data capture methods used by the police" and the fact that many "do not record the need for an AA" (Perks, 2010: 12). NAAN collected data from even fewer forces; only 23 out of 43 police forces participated in the study (NAAN, 2015c). Like Perks, NAAN highlighted the existence of "significant challenges with regard to the current data recorded by police on requests for, availability and use of, AAs" (NAAN, 2015). The report emphasised that "[t]here is no standardised system of recording or retrieving data on AAs across police forces ... making it impossible to obtain an accurate national picture with confidence" (NAAN, 2015: 10). This was further illustrated by the fact that "forces experienced considerable difficulty in supplying data on the number of AAs requested and secured; in part due to problems with data recording and in part due to the problems with data retrieval" (NAAN, 2015c: 1). As a consequence, the picture regarding the total provision of AAs is unclear (Perks, 2010; NAAN, 2015).

Existing literature has identified several issues affecting the provision of AAs (Medford *et al.*, 2003; Jones & Talbot, 2010; Palmer, 1996). NAAN highlighted "three fundamental, and inter-related, problematic aspects of AA provision: 1. Inadequate identification of suspects' vulnerabilities and their need for AAs;

2. The availability of AAs is insufficient; 3. The quality of AA provision is variable" (NAAN, 2015: 10). Similar concerns were previously addressed by Palmer (Palmer, 1996). Firstly, "custody officers have different interpretations of when the safeguards are necessary" (Palmer, 1996: 637). Linked with this, Palmer highlights that "[t]he terminology in the Codes leads some custody officers to believe that an appropriate adult is required only for adults who display childlike behaviour or who: "… are not switched on to the adult way of life" (Palmer, 1996: 637). As suggested by Palmer, this is reinforced by "[t]he fact that custody officers most frequently call appropriate adults in connection with detained juveniles" (Palmer, 1996: 637).

Secondly, Palmer identifies that "the lack of any lay definition for the terms "mental handicap", "mental disorder" or "mentally incapable of understanding the significance of questions put to him or his replies" leads custody officers to form their own interpretation of these concepts, and make their own assessments of the suspect's level of understanding" (Palmer, 1996: 5). NAAN highlighted similar concerns (NAAN, 2015). They found that "officers opt not to request AAs for a substantial proportion of those whom they do identify as vulnerable or who identify themselves as such" (NAAN, 2015: 11). In part, this was attributed to "the absence of statutory duties either to secure or to provide AAs for vulnerable adults" (NAAN, 2015: 4). NAAN also stated that the findings "reflected ... a lack of clarity over the threshold for requiring an AA; and/or officers' scepticism about the need for AAs in some cases" (NAAN, 2015: 11). When considering whether an AA is needed, CSs reported that they would take a range of issues into account including: "a suspect's ability to understand the purpose of the custodial process; ability to understand and respond to the questions asked during a PACE interview by investigating officers; ability to understand and

respond to the general questions when being booked in; ability to understand what being charged, bailed or cautioned means; and ability to understand their rights (access to a free solicitor, phone calls, sleep etc.)" (NAAN, 2015a: 1). There were also a number of "[o]ther considerations about whether to provide an AA includ[ing], if the suspect was known (via previous custody records or disclosed by the suspect themselves) as having a mental health issue; the suspect's presentation and behaviour in custody; following a risk assessment; consultation with an FME (forensic medical examiner or forensic physician) and the age of the suspect" (NAAN, 2015a: 1).

Finally, the third obstacle identified by Palmer was "the availability of appropriate adults" (Palmer, 1996: 6). As referred to by NAAN, there is no statutory body responsible for the provision of AAs (NAAN, 2015). As a consequence, AA services across England and Wales are varied (Perks, 2010). In some areas AA services are "poor or non-existent" (Perks, 2010: 12) and responses to requests for AAs are "patchy and ad-hoc" (Durcan *et al.*, 2014: 18). This raises concerns regarding the availability of volunteer AAs (Perks, 2010). Findings by NAAN emphasise this issue (NAAN, 2015). After asking CSs "how, overall, they think the provision of AAs for vulnerable adult suspects could be improved", the majority who responded stated that there was a "need for greater supply of AA services" (NAAN, 2015a: 7). In addition, a large proportion of CSs "explained that the main reasons for *not* securing AAs for adult suspects who have been identified as vulnerable related a) to AAs being requested but not available and b) AAs were difficult to obtain at weekends and at night (6pm-9am)" (NAAN, 2015a: 2015: 3). These findings build upon those made by Pierpoint (Pierpoint, 2008). Examining "the time taken for the volunteer appropriate adult to be contacted and how long it takes the volunteer to get

to the custody suite once they have been contacted" (Pierpoint, 2008: 399), Pierpoint found that "if volunteers were asked to attend as soon as possible, there was some variation, but, on average, they arrived in 37 minutes or 1 hr and 52 minutes if asked to attend at a certain time (Pierpoint, 2008: 407). Longer delays were commonly due to the fact that the individual had been arrested at night (Pierpoint, 2008). In addition to this, there are issues relating to the willingness of family members and social workers to act as AAs. This was illustrated by Bucke and Brown (Bucke & Brown, 1997). Although the majority of AAs in the study were social workers, they recorded a number of cases where "a parent or social worker *refused* to attend the station" (Bucke & Brown, 1997: 8) (my emphasis). Moreover, Bucke and Brown noted that "some parents are reluctant to act in this capacity" and "social workers frequently have prior existing commitments which prevent them from attending readily" (Bucke & Brown, 1997: 8).

There are also concerns over the role of AAs (NAAN, 2015; Palmer, 1996). Firstly, NAAN stated police officers are unsure when AAs are supposed to be present in police custody (NAAN, 2015). Their study reported that only 2 out of 51 CSs "stated that AAs would be present throughout the whole custody process" (NAAN, 2015a: 4). While the majority of CSs recognised AAs should "be present for all interviews in custody", "only 4 said they would be present for interviews in other locations" and the figures for who thought that AAs should be present "[f]or other processes such as charging, cautions, identification and searches ... ranged from between 20 and 34" (NAAN, 2015a: 4). These findings illustrated that "vulnerable people in custody appear unlikely to have support until shortly before interview" and that "AAs are usually only present for the duration of specific

procedures rather than throughout a vulnerable person's time in custody" (NAAN, 2015c: 12). This led to the suggestion that "some AA requirements in the PACE Codes are adhered to more than others" (NAAN, 2015c: 12).

Secondly, in practice, the "role itself is open to interpretation" (Palmer, 1996: 638). Although the AA was "introduced with the clear intention of providing an increased level of protection within the Criminal Justice system for groups that were seen as being particularly vulnerable", the role is actually "full of contradictions" (Cummins, 2007a: 273). On the one hand, AAs are supposed to "be proactive and act as advocates" (Williams, 2000: 45). As such, they "must be capable of giving advice to the suspect" (Hodgson, 1997: 786). But, it is not clear what sort of advice the AA should give a suspect. For example, whether they should give advice such as "[i]nformation concerning the suspect's rights" or "[w]hether [they] should answer questions" (Hodgson, 1997: 786). AAs are also supposed to facilitate communication between the suspect and the police, but it is not clear how they are meant to achieve this. For instance, whether they should take steps to ensure that "the police understand the suspect's answers" or whether they "[c]an ... answer for the suspect" (Hodgson, 1997: 786). On the other hand, AAs are intended to be a procedural safeguard (Cummins, 2007a). Often, they are used by police "wanting to ensure that they are procedurally correct and that such interviews cannot be challenged at a later date" (Cummins, 2007a: 276). As part of the investigative process, AAs also play a role in helping the police secure reliable evidence from suspects who are mentally vulnerable (Hodgson, 1997). In essence, the presence of the AA 'validates' the interview process (Hodgson, 1997). By providing the safeguard, police officers ensure that they are acting in line with Code C (Cummins, 2007a). In turn, this helps to ensure

that any evidence they obtain during the course of the interview is reliable (Hodgson, 1997; Medford, Gudjonsson & Pearse, 2003). As such, AAs are expected to navigate between ensuring police officers are able to secure reliable evidence and protecting the interests of vulnerable suspects (Hodgson, 1997). At times, this means AAs will experience "conflicts of interests" and their instinct may be "to assist the police and tell the suspect to admit to involvement" (Hodgson, 1997: 786).

Moreover, the role an AA fulfils in police custody can vary depending on how this is interpreted. In part, this depends on who fulfils the role. For example, social workers and family members are not trained to act as an AA (Williams, 2000). This was illustrated by Hodgson (Hodgson, 1997). Referring to the use of social workers as AAs, she emphasised that "whilst they may be familiar with some of the basic procedure, there is no guarantee that social workers will have any better understanding of their role as appropriate adults than parents or other persons" (Hodgson, 1997: 786). Hodgson highlighted that because social workers often lack appropriate training they tended favour "assist[ing] the police, to "get to the truth" and tell[ing] the suspect to admit to any involvement" (Hodgson, 1997: 786). In these cases, "[t]he need for an explanation of the role is particularly acute ... since they are likely to feel overwhelmed in the police station environment" (Palmer, 1996: 639). However, police officers are not required to provide guidance to AAs (HMIC, 2015; Bucke & Brown, 1997). As such, it has been suggested that AAs receive minimal information about their role (Bucke & Brown, 1997; Williams, 2000). For instance, Bucke & Brown reported that only "[29%] of family members received some form of explanation of their role from custody officers" and only 4% of social workers received similar advice (Bucke & Brown, 1997: 10). They highlighted that one of the

"implication[s] of this lack of guidance is that a large proportion of those acting as appropriate adults … probably do not know what their role actually is, and could be said to be acting as appropriate adults in name only" (Bucke & Brown, 1997: 69). As such, "[w]here the position of the appropriate adult is not clearly spelled out the danger is that the role recedes to one involving a passive adult presence where little or no assistance is offered to the detainee" (Bucke & Brown, 1997: 11).

Other studies support this finding. For example, Palmer reported that "[c]ustody officers and solicitors in South Yorkshire concur with the view that in fact appropriate adults rarely contribute during interviews and question their effectiveness" (Palmer, 1996: 639). However, they also acknowledged that "they do not always inform appropriate adults of what is expected of them" (Palmer, 1996: 639). Medford and colleagues made similar findings when "examining the efficacy of the AA safeguard for vulnerable suspects during the police interview" (Medford *et al.*, 2003: 264). In particular, the study "highlighted the limitations of the AA, especially in terms of their relative inactivity and inappropriate contributions" (Medford *et al.*, 2003: 264). Furthermore, Cummins suggested "the role of the appropriate adult can become a largely administrative one with little contribution being made" (Cummins, 2007a: 276). Pierpoint also referred to how the background of the AA affected their interpretation of their role (Pierpoint, 2006). However, unlike these studies, Pierpoint highlighted a more active role (Pierpoint, 2006). Examining the type of approaches taken by volunteers, Pierpoint found that "where provisions [in Code C] were clear, such as the right to request legal advice on behalf of the juvenile (Code C para. 3.19), volunteers ... tended to exercise their rights to the letter" (Pierpoint, 2006: 203). In contrast, she also found that "[w]here requirements [of Code C] were ambiguous, such

as observing that interviews were conducted fairly (Code C para. 11.17) and the nature of representations they were expected to make to the reviewing officer (Code C para. 15.3), volunteers were forced to impose their own interpretations" (Pierpoint, 2006: 230). There were also occasions where "[v]olunteers ... engaged in activities beyond those listed in the Codes" (Pierpoint, 2006: 230). Such activities included "attempting to establish a rapport" (Pierpoint, 2006: 231). This approach was influenced by a combination of the suspect's welfare and the interests of the investigation. This depended upon "the voluntary organization's interpretation of what an appropriate adult should be doing" (Pierpoint, 2006: 230). However, it should be noted that Pierpoint's study related to *juveniles.* Thus, it is not clear whether these findings also apply to vulnerable suspects.

The majority of previous research has focused on the general provision and use of AAs. As a result, it is not clear whether these findings extend to autistic individuals more specifically. A recent study by Richards has attempted to clarify this (Richards, 2015). The study "sought to discover if AAs identify and provide strategies to alleviate any issues which may arise due to the key characteristics of [Autism]; i) impaired communication, ii) impaired social interaction and iii) rigid repetitive behaviours" (Richards, 2015: 105). In particular, the study collected information about "i) the role of the AA, ii) their experiences assisting people with [Autism], iii) their perceptions about the needs of a suspect with [Autism], iv) their perceptions regarding the characteristics of the condition and v) any awareness of characteristics which may impact upon an investigative interview" (Richards, 2015: 105). In addition, the study also "sought to collect information from participants concerning their work as an AA and to discover if an understanding of the internal

characteristics of [Autism] would benefit their work" and "explored the perceptions AAs have regarding the needs of suspects with [Autism], and ... what they know about the condition" (Richards, 2015: 105). Having asked participants "if during their work as an AA they had ever supported a suspect with [Autism]", Richards found that 49.1% "reported that they believed they had supported a suspect with [Autism]" (Richards, 2015: 109). With regard to the training participants had received concerning Autism, only 28.6% "reported that they had taken part in training" (Richards, 2015: 109). Furthermore, when they "were asked if further training / training would be useful to them of those who responded (n = 48), 89.6% indicated that this would be beneficial" (Richards, 2015: 109). This finding supports the concerns raised by NAAN. While some "AAs had some success in recognising traits which could be related to one of the core features and generally refuted statements that had no relationship with the condition", the study also found that "very few AAs took into account all three of the core features of [Autism]" (Richards, 2015: 138 - 9). In addition, despite being "aware of some of the characteristics of the condition" Richards highlighted that "this does not influence their understanding regarding why a person with [Autism] may find an interview difficult, nor effect their expectations of the needs of a person with [Autism] while in custody" (Richards, 2015: 139). This supports the findings by NAAN about the concerns that AAs lack the appropriate training to deal with autistic individuals.

Finally, Richards also asked participants about the steps they would take to support autistic individuals. The most common response was "the need to ensure that the interview was fair" (Richards, 2015: 110). When discussing how to achieve this, participants stated "they would check that the detained person was treated with respect, that the interview was not

oppressive, was conducted in accordance with PACE and to ensure that the style of questioning was appropriate"; the second most common response was "a responsibility to safeguard the detained person's welfare" which involved "checking any health needs were being met, that food and drink had been provided, and that the person was fit and well for interview" (Richards, 2015: 110). Participants also reported that they would take steps to explain procedures to autistic individuals (Richards, 2015: 112). For example, "AAs discussed the importance of ensuring the individual knew what was happening, the purpose of the interview, understood bail conditions, any charges, and had a full understanding of any documents they needed to sign" (Richards, 2015: 112). Other tasks included "[a]ssisting communication", "the need to check that the individual understood the questions they were asked", "the need to intervene and simplify any complex language and explain the meaning behind jargon", "offering moral support" and "safeguarding the individual's rights" (Richards, 2015: 112). Yet, few AAs made reference to the fact that "they were required to observe other custody procedures" such as "checking custody records, observing the taking of finger prints … and overseeing the return of belongings" (Richards, 2015: 112). From these findings, Richards concluded that "supporting people with [Autism] is not an unusual or indeed rare occurrence" (Richards, 2015: 140). However, she went on to conclude that "AAs will not be effective in safeguarding against the internal characteristics of a person with [Autism] impinging upon investigative procedures" (Richards, 2015: 140). In light of this, it can be suggested that AAs may not be an effective way of supporting autistic individuals in police custody. But, to understand this further, more research into the experiences of autistic individuals is required. This is necessary to clarify whether autistic individuals

are provided with an AA and how this safeguard operates in practice.

3.4 Conclusion

This chapter has outlined the provisions of PACE and Code C which govern the treatment of vulnerable suspects in police custody. It particular, this chapter has focused on the implementation of the AA safeguard and the problems associated with its application to autistic individuals in police custody. Firstly, this chapter has illustrated the difficulties related to the identification of vulnerable suspects in police custody. On the one hand, the risk assessment relies on vulnerable suspects to self-report their vulnerability to police officers. But, individuals are often reluctant to disclose this information. On the other, the identification of vulnerable suspects depends on the ability of police officers to identify when an individual may have a mental disorder or mental vulnerability. However, police officers often lack appropriate training and understanding to be able to identify vulnerability effectively. As a consequence, this chapter highlighted a risk that police officers may fail to identify autistic individuals in police custody. Linked to this, this chapter emphasised the failure of police officers to provide an AA to vulnerable suspects. While this is partially attributable to the failure to identify vulnerable suspects, this chapter also discussed the inconsistent provision of AAs and their limited availability. In addition to the failure to provide AAs, this chapter discussed the problems associated with the role of the AA. This related to the lack of clarification on what role the AA is supposed to fill as well as the lack of guidance and appropriate training. As a result of this, concerns were raised about whether AAs actively supported vulnerable suspects. Moreover, this

chapter also referred to possible concerns that AAs may not be an effective way of supporting autistic individuals. While this chapter highlights a range of evidence which suggests that Code C, as currently implemented, may not be an effective safeguard for vulnerable suspects, this chapter has also shown that the evidence about the experiences of autistic individuals in police custody is lacking. Although there is a range of evidence in relation to the treatment of vulnerable suspects in general, the existing literature has mainly focused on the perceptions of police officers and AAs and their approaches to the current safeguards. Whilst this provides some indication that the existing support offered by Code C may not be effective, it is not clear how Code C operates when autistic individuals are detained in police custody. Moreover, if Code C does not offer sufficient support for autistic individuals, it is not clear *what* support actually works. To address this, further research into the experiences of autistic individuals is required. In particular, this research should explore whether autistic individuals are identified in police custody, what factors play a role in this, whether autistic individuals are provided with an AA and their experiences of being supported by an AA.

CHAPTER 4 – ACCOMMODATING DISABILITY

4.1 Introduction

There are a number of legislative provisions outside Code C that theoretically offer scope to provide autistic individuals additional support in police custody. This includes a several provisions contained within the Equality Act 2010 and the CRPD. These policies create a wide range of obligations towards individuals with disabilities, including the duty to provide reasonable accommodation and taking steps to ensure equality. These obligations apply to a range of actors and organisations including the police. This chapter will outline the wider legislative framework concerning the rights of individuals with disabilities and mental disorders in the UK and consider the implications this has for supporting autistic individuals in police custody. Section 2 shall explore the way disability is defined in society and how this is reflected in the duty of accommodation. Section 3 will examine the wider disability rights framework and how this applies to autistic individuals in police custody. Section 3.1 shall set out the provisions within the Equality Act governing the obligations police officers. Section 3.2 will discuss the international obligations under the CRPD. It shall consider how these extend to the rights of individuals with disabilities in police custody. This chapter will then conclude by examining the relationship between the safeguards and Code C, before going on to set out the need to conduct further research into the additional support that should be provided to autistic individuals who are detained in police custody.

4.2 Disability and The Duty of Accommodation

In order to understand how autistic individuals *should be* supported in police custody, it is first necessary to consider the theoretical underpinnings of disability. From the perspective of developing legislation and policy, the way disability is defined will have an impact on *who* the legislation is aimed at and *what* support is available (Altman, 2014). There are two main approaches to defining and understanding disability - the medical model and the social model. Each of these approaches requires a different approach to disability. According to the social model, society has a duty to ensure that individuals with disabilities can participate equally. This requires society to provide reasonable accommodations and remove disabling barriers. While this applies to autistic individuals, the social model can also be problematic with regard to understanding Autism. Thus, an extended understanding of Autism is required.

4.2.1 The Definition of Disability

The social model was developed by disability activists as a response to the inappropriateness of medicalising disability (Oliver, 1990). Accordingly, the medical approach to disability is rejected (Oliver, 1990). The medical model locates the problem of disability within the individual, focusing on impairments such as a missing limb, a medical condition or illness and defines disability according to those deficits (Zarb, 1995; Martiny, 2015). In essence, a person is disabled because of what their impairments prevent them from doing (Zarb, 1995). Under this approach, disability is a *direct result* of the medical condition of the individual (Oliver, 1990; Burchardt, 2004). While it does not deny the existence of disability, the social model switches the

focus from the functional impairments of individuals to disabling barriers in society (Oliver, 1990). According to the social model, disability is singularly caused by society rather than the medical condition (UPIAS, 1976). Under this view, disability is situated "in the wider, external environment, and is not explicable as a consequence of an individual's physical and/or cognitive deficiencies" (Lang, 2001: 3). From this perspective, disability is something *imposed* on individuals on top of their existing impairments; it is *extrinsic*, not intrinsic to the individual (UPIAS, 1976; Martiny, 2015; Bury, 1996; Bickenbach *et al.*, 1999; Lang, 2001). Consequently, the social model *separates* impairment from disability (Oliver, 1990). Impairment is defined as "lacking all or part of a limb, or having a defective limb, organism or mechanism of the body" and disability is defined as "the disadvantage or restriction of activity caused by a contemporary social organisation which takes little or no account of people who have physical impairments and thus excludes them from participation in the mainstream of social activities" (UPIAS, 1976: 14). Because society is organised around normality, certain practices and environments exclude individuals who "deviate from the socially constructed norms of the able bodied" (Bury, 1996: 26). These norms are constructed by the dominant classes - those without disability (Lang, 2001). By excluding those who do not fulfil these norms, the personhood and citizenship of these individuals is undermined as they are prevented from fully participating in society (Oliver, 1990a; Wendell, 1996; Bickenbach *et al.*, 1999; Lang, 2001). Ultimately, it is society's failure to respond to these "exclusionary practices" that produces disability (Bury, 1996: 26).

The core distinction between the two models lies in where they locate disability (Zarb, 1995). For the medical model, disability is intrinsic to the individual; for the social model,

disability is rooted within society itself (Zarb, 1995). By separating impairment from disability, the social model enables us to conceptualise disability in the context of wider society rather than within the confines of medical understanding (Oliver, 1990). However, the distinction between impairment and disability is not as clear cut as is suggested by the social model (Wendell, 1996; Lang, 2001; Shakespeare & Watson, 2002). Some theorists have argued that it is the *interaction* between impairments and the barriers in society that produces disability (i.e. Wendell, 1996 & Bickenback *et al.*, 1999). Although the social model acknowledges that impairments play a role in the creation of disability, the emphasis is on the factors in society that disable individuals (Lang, 2001). Unfortunately, it is argued that this narrow focus overlooks the significance of the impairment for the individual (Lang, 2001). For some individuals, their experiences of disability are bound up in how they experience life with an impairment (Lang, 2001). It is accepted that not all individuals are the same, whether they have an impairment or not. This is also true of individuals who have an impairment; impairments vary widely and what is classed as an impairment differs between societies (Lang, 2001). As a result, the experiences of individuals with an impairment will depend upon the *form* of the impairment and what this means for them. Different individuals will encounter different barriers in society depending on what their impairment is. For example, individuals who are mentally ill or who are cognitively impaired will have very different experiences from individuals who are physically impaired (Lang, 2001). Individuals who have mental impairments often appear 'normal' to others because their impairment is not necessarily visible in the same way that a physical impairment may be (Lang, 2001). But, this does not mean that they are not stigmatized or excluded from

participating in society (Lang, 2001). Similarly, whilst they may be able to physically access a building which is not accessible to an individual with a physical impairment, individuals with a mental impairment may encounter other barriers within that setting such as a lack of accessible information (Lang, 2001).

However, the social model only focuses on the *collective* experience of disablement irrespective of their impairment (UPIAS, 1976; Oliver, 1990; Oliver, 2004). Because the social model separates impairment from disability, the *personal* experience of individuals is excluded from its understanding of disability. As a consequence, the social model treats disabled people as a "monolithic, homogenous entity" whose experiences are all the same (Lang, 2001: 19). In light of this, it is argued that individual experience should be taken into account when analysing disability (Lang, 2001; Shakespeare & Watson, 2002). Through the assimilation of impairment and disability, both the medical and social model fail to represent the variation between individuals' experiences of disability (Wheeler, 2011). As a result, they overlook the range of factors that influence those experiences and the significance of the difference between individuals (Wheeler, 2011). One consequence of this is the marginalization of certain groups of disabled individuals whose experiences do not match the collective experiences of disabled people as described by the social model (Terzi, 2004). Autistic individuals are one such group (Wheeler, 2011). Under the social model, Autism is merely perceived as belonging to a wider disabled group who are disabled because of society, not because of their individual impairments. But, Autism spans across a broad spectrum; the difficulties that are experienced vary between individuals and their needs fluctuate accordingly. As emphasised by Chown, there is as much difference *between* autistic

individuals as there is between those who are not autistic (Chown, 2010). Thus, it is important to acknowledge the differences between individuals who are disabled - not just between those who are disabled and those who are not (Mulvany, 2000). For this reason, some theorists support a model that builds upon the original tenets of the social model by bringing together the social aspects of impairment and disability (Lang, 2001). This approach "emphasises the dynamic relationship between the health condition of the individual, together with their own "personal" characteristics as well as the broader social environment" and focuses on how these factors affect an individual's ability to participate in certain activities (Lang, 2001: 27). By emphasising the influence of different factors on the experiences of individuals, this approach provides a better way of conceptualising the different ways in which disability can be experienced (Martiny, 2015). It recognises that having an impairment does not necessarily mean an individual is disabled; whether or not disability will result depends on the environment and the specific circumstances and characteristics of the individual (Altman, 2014). Disability is the culmination of interaction between society *and* impairment, as opposed to simply being caused by impairment *or* society respectively (Cole, 2007). It is the impairment itself and an individual's experience of that impairment that also affects how disability is experienced by that individual (Hughes & Paterson, 1997). Therefore, if the two are separated the identification and understanding of the aspects of society that create disability is precluded (Riddle, 2013).

With Autism, the disabling effects are not simply located in the person but are created through the process of their interaction with society (Molly & Vasil, 2002). Because society is organised around the 'normal' individual, there is an assumption

within society that people will adhere to a certain set of normal behaviours and activities (Molloy & Vasil, 2002; Burchardt, 2004). When an individual fails to meet these societal norms of behaviour they are considered to have an impairment. For instance, Autism is only regarded as an impairment because society attempts to fit the individual within a specific pattern of interaction. By trying to force individuals into set patterns of behaviour, without due recognition of the difference between people, society simultaneously disables those individuals who do not fit into this pre-defined mould. It may be that the problems presented by Autism only arise because society struggles to accept any form of difference (Moloney, 2010; Harpur, 2012). By characterising the features of Autism as impairments, society suggests there is something inherently wrong with autistic individuals. In contrast, if society was more amenable to difference and recognised the various ways that people think, act and perceive the world, autistic individuals may no longer be classified as 'impaired' (Moloney, 2010; Wheeler, 2011; Harpur, 2012).

If this understanding was then reflected in the way that society is organised, autistic individuals may not encounter disabling barriers and would be free to participate in everyday life to the same degree as others. Thus, it is arguably the *interaction* between the barriers in society and the individual's behaviours and capabilities that produces disability (Bury, 1996). Without impairment, an individual may not experience disability; in some instances, the "disability may itself create or exacerbate impairment" (Shakespeare & Watson, 2002: 16). In failing to account for this interaction through the separation of impairment and disability, the social model leaves limited scope to deal with the types of difficulties faced by autistic individuals (Harpur, 2012). Therefore, what is needed is an understanding that

accepts difference as an essential part of being human (Inglis, 2013; Shakespeare & Watson, 2002). But whilst everyone will be impaired in some respect, not all individuals experience disablement; society has "evolved to minimise the problems of the majority of people with impairment, but [has] failed to deal effectively with the problems of a minority of people with impairment" (Shakespeare & Watson, 2002: 27). As such, this understanding should still recognise the need to provide support to individuals where required.

4.2.2 The Duty of Accommodation

Policy makers have adopted different approaches to the identification and management of the sources of disability in their attempts to address the difficulties experienced by individuals with disabilities, (Altman, 2014). Depending on which definition is adopted, the treatment of individuals with impairments and the support offered to them will differ (Zarb, 1995). This will subsequently be reflected in legislative policy. On the one hand, the goal of the medical model is to "restore the disabled person to normality" or to "a state that is as near normality as possible" (Oliver, 1990: 4). Accordingly, policies which adopt this approach to disability will focus on delivering treatment or interventions which target the source of the impairment. In some instances, this can mean invasive medical procedures or intensive therapies. Because the medical model sees disability as being rooted in the individual, these treatments intend to change the individual in some way. Where this is not possible, individuals are encouraged to "adapt and adjust as individuals to their disability" (Barnes, Mercer & Shakespeare, 1999). On the other hand, the social model denies that individuals with impairments are 'abnormal' and refuses to

accept that they should be fixed or altered (Llewellyn & Hogan, 2000; Burchardt, 2004; Oliver, 1990). Instead, the social model demands that society should be re-organised to accommodate impairment and enable full participation (Llewellyn & Hogan, 2000). The model redirects our focus to the "processes of social oppression, discrimination and exclusion" (Mulvany, 2000: 584). Thus, the social model sees that there is a duty in society to accommodate individuals by removing those barriers which prevent equal participation (Bickenbach *et al.*, 1999). The kind of accommodation required ultimately depends upon the type of barrier that exists and the difficulties this creates.

With the rise of the social model of disability, changes in society began to take place to remedy the disadvantages faced by individuals with impairments (Bickenbach *et al.*, 1999). These changes were implemented through changes in policies, laws and attitudes towards individuals with impairments (Bickenbach *et al.*, 1999). Using the social model as a benchmark, it was possible to identify what barriers existed in society and what steps should be taken to address them (Mulvany, 2000). As will be discussed in the following section, several legislative changes took place to reflect this growing understanding of disability. However, because of the social model's failure to take into account the specific experiences of individuals with impairments, these changes have only gone so far (Bickenbach *et al.*, 1999; Oliver, 2004). The overall aim of the social model is to reduce disability for the impaired as a whole; as such, the emphasis placed on individual accommodations is limited (Oliver, 2004). This suggests that society should take steps to reduce the experience of disability for the many, rather than to take steps to diminish it for the few. But by only making changes based on the assumption that all experiences of disability are the same, society overlooks other barriers that certain individuals

encounter. In order to actually eliminate disability, the different experiences of individuals with impairments should be taken into account (Mulvany, 2000). Therefore, legislation should recognise that "the different major groupings of impairment, because of their functional and presentational impacts, have differing individual and social implications" (Shakespeare & Watson, 2002: 12). This will allow for the provision of tailored accommodations - whether this requires medical intervention or the removal of social barriers (Shakespeare & Watson, 2002).

4.3 The Rights of Individuals with Disabilities

The Equality Act 2010 and the CRPD emphasise the right of individuals with disabilities to participate equally in society. Moreover, the CRPD specifically refers to the right of individuals with disabilities to equal access to justice. In the context of police custody, this legislative framework potentially extends the protection offered by Code C. In particular, it creates a duty to ensure that the rights of autistic individuals as disabled individuals are upheld. As such, there may be scope to provide additional support to address the difficulties of autistic individuals which prevent them from participating equally in this setting.

4.3.1 The Equality Act 2010

The Equality Act 2010 is "part of the fifth generation of equality legislation in Britain" (Hepple, 2010: 11). The Act is the product a long-standing debate regarding anti-discrimination legislation in the UK in which legislation was "widely criticised for being outdated, fragmented, inconsistent, inadequate, inaccessible, and at times incomprehensible" (Hepple, 2010: 13). Before the Equality Act was implemented, discrimination law was made up

of "nine major pieces of discrimination legislation, around 100 statutory instruments setting out connected rules and regulations and more than 2,500 pages of guidance and statutory codes of practice" (GEO, 2008: 6). These developments took place over a period of 40 years (GEO, 2006). While they represented some progress with regard to achieving equality, this framework of legislation had become overly complex (GEO, 2008). The "piecemeal development" of the previous law meant that different types of discrimination were regulated by "a separate, similar, but by no means identical, statute" (Hand et al., 2012: 510). For example, disability discrimination was covered by the Disability Discrimination Act 1995. Thus, the purpose behind the Equality Act was to "declutter what [had] become a thicket of legislation and guidance" (GEO, 2008: 6). To achieve this, the Act aimed to "reform and harmonise equality law" by "consolidating many different legal instruments into one legislative Act" and "modernising the legislation in various respects" (Bell, 2011: 209). In doing so, the Act replaced "the three existing public sector equality duties" that "required public authorities to tackle discrimination and promote equality for race, disability and gender" with a single duty (GEO, 2008: 9). This duty requires "public bodies to consider how their policies, programmes and services affect different disadvantaged groups in the community" (GEO, 2008: 13).

The ethos behind the Equality Act is that equality is necessary for the individual, society and the economy (GEO, 2008). The integral principle of the Act is that "everyone has the right to be treated fairly and to have the opportunity to fulfil their potential" (GEO, 2008: 5). This is promoted through a series of provisions in the Act that prohibit discrimination against people with a protected characteristic (Office for Disability

Issues, 2011). Importantly, the Act builds upon the Disability Discrimination Act 1995, setting out a number of duties that specifically apply to disabled individuals. Under the Act, disability is a protected characteristic (s 4 Equality Act 2010). Disability is defined as a physical or mental impairment which has a substantial and long-term adverse effect on an individual's ability to carry out normal day-to-day activities (s 6(1) Equality Act 2010). This definition is clarified by the accompanying guidance (Office for Disability Issues, 2011). Although the guidance is not binding, it states that "the term physical or mental impairment should be given its ordinary meaning" (Office for Disability Issues, 2011: 8). Developmental disorders such as Autism are covered by the Act (Office for Disability Issues, 2011: 9). When deciding whether an individual is disabled, the cause of the impairment does not need to be established as this decision is "generally determined by reference to the effect that an impairment has on that person's ability to carry out normal day-to-day activities" (Office for Disability Issues, 2011: 8).

The second requirement that "an adverse effect on normal day-today activities should be a substantial one" reinforces this notion; reflecting "the general understanding of disability as a limitation going beyond the normal differences in ability which may exist among people" (Office for Disability Issues, 2011: 14). Normal activities are those things "people do on a regular or daily basis" or "are required to maintain personal well-being or to ensure personal safety, or the safety of other people" (Office for Disability Issues, 2011: 34). A substantial effect is defined by the Act as "one that is more than a minor or trivial effect" (s 212(1) Equality Act 2010). This should be determined with reference to things such as: "the time taken by a person with an impairment to carry out a normal day-to-day activity" (Office for Disability

Issues, 2011: 15); "the way in which a person with that impairment carries out a normal day-to-day activity" (Office for Disability Issues, 2011: 15); "the things that a person cannot do, or can only do with difficulty" (Office for Disability Issues, 2011: 18). The guidance also advises that "account should be taken of how far a person can reasonably be expected to modify his or her behaviour, for example by use of a coping or avoidance strategy, to prevent or reduce the effects of an impairment on normal day-to-day activities" (Office for Disability Issues, 2011: 17). While some individuals may have adopted such strategies, there are instances where these "cease to work in certain circumstances" and the possibility that "a person's ability to manage the effects of an impairment will break down so that effects will sometimes still occur" should be considered (Office for Disability Issues, 2011: 19). In addition, environmental conditions should also be factored into the assessment of whether an impairment has a substantial effect (Office for Disability Issues, 2011). This can include "temperature, humidity, lighting, the time of day or night, how tired the person is, or how much stress he or she is under" (Office for Disability Issues, 2011: 20). However, the effect must also be long-term. The effect of an impairment will be long-term if: it has lasted for at least 12 months; it is likely to last for at least 12 months, or; it is likely to last for the rest of the life of the person affected (schedule 1 s 2(1) Equality Act 2010). The guidance states that "'likely' should be interpreted as meaning that it could well happen" (Office for Disability Issues, 2011: 28). In deciding whether the effect is likely to reoccur, all circumstances should be taken into account, including "what the person could reasonably be expected to do to prevent the recurrence" and whether "there is an increased likelihood that the control will break down" (Office for Disability Issues, 2011: 32).

Under the Equality Act, people have a number of duties towards individuals with disabilities. These duties extend to the police (schedule 19 Equality Act 2010) as confirmed by Code C (para 1.0 Code C). The first duty prohibits the police from discriminating against individuals because of their disability (s 13(1) Equality Act 2010). There are two types of discrimination: direct and indirect. The police will directly discriminate against an individual with a disability if they treat them "unfavourably because of something arising in consequence of [their] disability" and it cannot be shown that "the treatment is a proportionate means of achieving a legitimate aim" (s 15(1) Equality Act 2010). However, this will not apply if they "did not know, and could not reasonably have been expected to know" the individual had a disability (s 15(2) Equality Act 2010). On the other hand, the police will indirectly discriminate an individual if they apply a "provision, criterion or practice which is discriminatory in relation to a relevant protected characteristic" (s 19(1) Equality Act 2010). Such a provision, criterion or practice will be discriminatory if they: apply or would apply it to "persons with whom [the individual] does not share the characteristic"; "it puts, or would put, persons with whom [the individual] shares the characteristic at a particular disadvantage when compared with persons with whom [the individual] does not share it" or; "it puts, or would put, [the individual] at that disadvantage" and; it cannot be shown "to be a proportionate means of achieving a legitimate aim" (s 19(2) Equality Act 2010). In addition to this, the police have a duty to ensure equality (s 149 Equality Act 2010). The Act states that "in the exercise of its functions" the police must "have due regard to the need to": "eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act"; "advance equality of

opportunity between persons who share a relevant protected characteristic and persons who do not share it" and; "foster good relations between persons who share a relevant protected characteristic and persons who do not share it" (s 149(1) Equality Act 2010). This involves: "having due regard, in particular, to the need to— remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic"; "take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it" and; "encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low" (s 149(3) Equality Act 2010). In particular, this includes taking "steps to take account of disabled persons' disabilities" (s 149(4) Equality Act 2010). The police should also take steps to tackle prejudice and promote understanding (s 149(5) Equality Act 2010).

In addition to these provisions, the Equality Act imposes a specific duty upon the police to make reasonable adjustments for individuals with disabilities (s 20 Equality Act 2010). This duty is comprised of three requirements (s 20(2) Equality Act 2010). First of all, "where a provision, criterion or practice ... puts a disabled person at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled" the police are required to "take such steps as it is reasonable to have to take to avoid the disadvantage" (s 20(3) Equality Act 2010). Secondly, "where a physical feature puts a disabled person at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled" the police are required to "take such steps as it is reasonable to have to take to avoid the disadvantage" (s 20(4)

Equality Act 2010). With regard to this requirement, any reference in the Act to "avoiding a substantial disadvantage" also refers to: "removing the physical feature in question"; "altering it" or; "providing a reasonable means of avoiding it" (s 20(9) Equality Act 2010). A physical feature is defined by the Equality Act as a: "feature arising from the design or construction of a building"; "feature of an approach to, exit from or access to a building"; "fixture or fitting, or furniture, furnishings, materials, equipment or other chattels, in or on premises" or; "any other physical element or quality" (s 20(10) Equality Act 2010). Finally, "where a disabled person would, but for the provision of an auxiliary aid, be put at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled", the police should "take such steps as it is reasonable to have to take to provide the auxiliary aid" (s 20(5) Equality Act 2010). The police must comply with all requirements (schedule 2 s 2(1) Equality Act 2010); any failure to comply with one of the requirements is "a failure to comply with a duty to make reasonable adjustments" (s 21(1) Equality Act 2010). When the police fail to comply with this duty, they will discriminate against an individual with a disability (s 21(2) Equality Act 2010).

With regard to supporting autistic individuals in police custody, it is clear that the police must fulfil a number of obligations to protect the rights of this population under the Equality Act. As discussed in Chapter 3, this is also emphasised by Code C which states that "[u]nder the Equality Act 2010, section 149, when police officers are carrying out their functions, they also have a duty to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation, to advance equality of opportunity between people who share a relevant protected characteristic and people who do not share it" (para

1.0 Code C). In light of this, the Equality Act suggests that police officers must take steps to provide reasonable accommodations and make adjustments to enable individuals to participate in the investigative process on an equal basis with others. If police officers fail to do this, then they may be discriminating against autistic individuals. Moreover, if the current safeguards are failing to support autistic individuals effectively Code C may be incompatible with the Equality Act. If this is the case, legislative reform may be required so that police officers are able to fulfil their duties under the Equality Act. Whilst there appears to be room to implement a range of additional support to help autistic individuals who have been detained in police custody under the Act, it is not clear *what* kind of adjustments and accommodations should be provided. This is not specified by the Equality Act. In order to clarify this, further research into the kinds of difficulties autistic individuals experience and the *sources* of those difficulties is required. This will help to establish what kinds of additional support could be provided under the Act and what adjustments may be needed to enable autistic individuals to participate in the custody process.

4.3.2 CRPD

The CRPD was adopted in 2006 and subsequently ratified by the UK in 2009 (Butlin, 2011). Although "the Convention is not legally binding in domestic law in the UK [it] is given effect through the comprehensive range of existing and developing legislation, policies and programmes" (Office for Disability Issues, 2011a: 15). One of the most notable features of the development of the CRPD was the direct involvement of representative organisations for individuals with disabilities (Bartlett, 2012). Their involvement in this process meant that

the views and comments of individuals with disabilities were represented throughout the process and consequently, in the final drafting of the Convention. As an international treaty, the CRPD represents a virtual universal acceptance of the rights of persons with disabilities (Clifford, 2011; Butlin, 2011). Whilst the rights of individuals with disabilities were previously governed by various international pieces of legislation, "the lack of a specific treaty dealing with disability rights hampered the proper protection of those rights" (Butlin, 2011: 1). As such, the purpose behind the convention was to fill "the large gaps that existed in national, regional and international human rights and non-discrimination protection" (Clifford, 2011: 22). The overall message of the CRPD is the expectation that state parties "promote and protect the rights of persons with disability in society at large ...making social integration an overarching objective" (Bartlett, 2012: 757). This is reflected in Article 1 of the Convention which states that the purpose is to: "promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity" (Article 1 CRPD). Furthermore, the CRPD expressly recognises that "discrimination against any person on the basis of disability is a violation of the inherent dignity and worth of the human person" (preamble h CRPD) and maintains "the need to promote and protect the human rights of all persons with disabilities" (preamble j CRPD).

As a whole, the Convention "has an extremely wide ambit" covering many areas of the rights of individuals with disabilities (Butlin, 2011: 2). It is based upon a number of principles including: i) "respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons"; ii) "non-discrimination" iii) "full and

effective participation and inclusion in society" and; iv) "respect for difference and acceptance of persons with disabilities as part of human diversity and humanity" (Article 3 CRPD). Crucially, the CRPD's understanding of disability reflects these principles. In the preamble, the Convention states that "disability is an evolving concept and that disability results from the interaction between persons with impairments and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others" (preamble e CRPD). In line with this, the Convention defines persons with disabilities as "those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others" (Article 1 CRPD). Building upon this understanding of disability, the Convention focuses on tackling the barriers to full and equal participation and outlines a concern that "persons with disabilities continue to face barriers in their participation as equal members of society and violations of their human rights in all parts of the world" (preamble k CRPD). Reaffirming this, the CRPD highlights "the importance of accessibility to the physical, social, economic and cultural environment, to health and education and to information and communication, in enabling persons with disabilities to fully enjoy all human rights and fundamental freedoms" (preamble v CRPD).

In Article 4, the Convention outlines the key duties of state parties to "ensure and promote ... all human rights and fundamental freedoms for all persons with disabilities without discrimination of any kind on the basis of disability" (Article 4 CRDP). Firstly, state parties must "adopt all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the present

Convention" (Article 4(1)(a) CRPD). This includes taking "all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices that constitute discrimination against persons with disabilities" (Article (4)(b) CRPD). In doing so, state parties should also "take into account the protection and promotion of the human rights of persons with disabilities in all policies and programmes" (Article 4(1)(c) CRPD) and "refrain from engaging in any act or practice that is inconsistent with the present Convention" (Article 4(1)(d) CRPD). However, state parties also have a duty to ensure that others act in accordance with the CRPD. In particular, they must take steps "to ensure that public authorities and institutions act in conformity with the present Convention" (Article 4(1)(d) CRPD) and "take all appropriate measures to eliminate discrimination on the basis of disability by any person, organization or private enterprise" (Article 4(1)(e) CRPD). State parties should also "promote the training of professionals and staff working with persons with disabilities in the rights recognized in this Convention so as to better provide the assistance and services guaranteed by those rights" (Article 4(1)(i) CRPD). Reflecting the direct involvement of organisations representing individuals with disability in the development of the Convention, Article 4 also places a duty on state parties to ensure the active involvement of individuals with disabilities in decision-making processes (Article 4(3) CRPD). This includes consulting and actively involving individuals with disabilities in the process of developing and implementing legislation and policies to implement the CRPD and those "concerning issues relating issues to persons with disabilities" (Article 4(3) CRPD). This provision re-emphasises "the importance for persons with disabilities of their individual autonomy and independence, including the freedom to make

their own choices" as stated in the preamble of the Convention (preamble n CRPD).

Under the Convention, the right of individuals with disabilities to equality is affirmed. As Anna Lawson states, "[e]quality ... is an essential pre-condition of achieving an inclusive society in which disabled people are able to participate in the mainstream of life alongside their non-disabled peers" (Lawson, 2012: 845). Embodying this, the CRPD outlines the steps state parties should take to ensure that persons with disabilities are treated equally. As set out in Article 5, state parties must "recognize that all persons are equal before and under the law and are entitled without any discrimination to the equal protection and equal benefit of the law" (Article 5(1) CRPD). They should also "prohibit all discrimination on the basis of disability and guarantee to persons with disabilities equal and effective legal protection against discrimination on all grounds" (Article 5(2) CRPD). Discrimination on the basis of disability is defined as "any distinction, exclusion or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental" (Article 2 CRPD). In addition, state parties must actively tackle any inequality by taking "all appropriate steps to ensure that reasonable accommodation is provided" (Article 5(3) CRPD). The CRPD is "the first binding UN human rights treaty to articulate a clear reasonable accommodation duty" (Lawson, 2012: 847). According to the Convention, reasonable accommodation means "necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms" (Article 2 CRPD). Denying

reasonable accommodation is in itself a form of discrimination (Article 2 CRPD). By "unequivocally incorporat[ing]" reasonable accommodation into the duty of non-discrimination, the CRPD acknowledges that reasonable accommodation is "an essential element in the effort to ensure that human rights are enjoyed by disabled people 'on an equal basis' with others" (Lawson, 2012: 847 - 848).

The wide principle of equality outlined by the CRPD is broken down into a series of further duties relevant to specific areas of life. Two Articles are relevant for the purposes of this thesis - Article 13 and Article 14. Both provisions relate to the rights of individuals with disabilities in police custody. Under Article 13, state parties should "ensure effective access to justice for persons with disabilities on an equal basis with others, including through the provision of procedural and age-appropriate accommodations, in order to facilitate their effective role as direct and indirect participants, including as witnesses, in all legal proceedings, including at investigative and other preliminary stages" (Article 13(1) CRPD). As part of this, state parties should "promote appropriate training for those working in the field of administration of justice, including police and prison staff" (Article 13(2) CRPD). The inclusion of this article in the CRPD is an express recognition of the historical denial of the rights of persons with disabilities to access "fair and equal treatment before courts, tribunals, law enforcement officials, prison systems, and other bodies that make up the justice system" (Ortoleva, 2011: 284). The notion of 'access to justice' is "a broad concept, encompassing peoples' effective access to the systems, procedures, information, and locations used in the administration of justice" (Ortoleva, 2011: 284). However, as described by Lawson, "[a]ccessibility differs from reasonable

accommodation in that it is not a duty owed to a specific individual to make an appropriate adjustment ... [i]nstead, it is a duty on States Parties to plan for the removal of barriers affecting disabled people as a group" (Lawson, 2012: 850). But, access to justice is inextricably connected to "the enjoyment of all other human rights" (Ortoleva, 2011: 285). As Ortoleva illustrates, if an individual is "denied physical access to the police station, clear communication with the police, or access to information that is understandable, then that person may not be able to exercise her or his rights if she or he is a victim" (Ortoleva, 2011: 286). Parallel to this, if a disabled individual were denied access to justice as a suspect they may be prevented from exercising any accompanying rights afforded to suspects in the CJS. For example, if they are not given access to information they can understand they may not exercise their right to access a legal representative which may subsequently lead to a miscarriage of justice. As such, reasonable accommodations for individuals are also required to ensure that accessibility is maintained. In the words of Lawson, "the more accessible an environment or organisation is, the less likely it is that aspects of its structure or functioning will place a disabled person at a disadvantage which calls for reasonable accommodation" (Lawson, 2012: 850).

In addition to Article 13, there is a further duty under Article 14 wherein state parties should "ensure that if persons with disabilities are deprived of their liberty through any process, they are, on an equal basis with others, entitled to guarantees in accordance with international human rights law and shall be treated in compliance with the objectives and principles of this Convention, including by provision of reasonable accommodation" (Article 14 CRPD). Unfortunately, "relatively little attention has been paid to disability equality issues in the

monitoring of ... places of detention" such as psychiatric hospitals and the CJS (Lawson, 2012: 850). The inclusion of this Article in the CRPD relates to the "serious implications" discrimination and unequal treatment of persons with disabilities in places of detention can have, particularly the risk of "suffering amounting to cruel, inhuman or degrading treatment and possibly even torture" (Lawson, 2012: 846). In particular, Article 14 prevents state parties from detaining persons with disabilities on the basis of their disability (see Szmukler *et al.*, 2014). Any detention which is authorised by reason of an individual's disability or associated impairment would be discriminatory (Szmukler *et al.*, 2014). However, state parties must also ensure that persons with disabilities are treated on an 'equal basis with others' on the occasions when they are deprived of their liberty. This may require the provision of reasonable accommodation. Both duties apply to the detention of individuals in police custody.

Although the CRPD does not create binding duties on police officers, it does provide considerable scope for considering the revision of Code C and the provision of additional support in police custody. Like the Equality Act, the Convention reaffirms the duty of accommodation which means that autistic individuals should be provided with support and adjustments to enable them to participate in the custody process. Their right to equal participation is further upheld by Articles 13 and 14. If autistic individuals are prevented from participating in the investigative stages on an equal basis, there is an indication that police officers must take steps to provide additional support. However, police officers are only required to adhere to the current legislation in place. Although it is not clear without research how the CRPD impacts the provision of additional support in police

custody, it is possible that Code C may need revising to make it compatible with the CRPD. This may provide further scope for police officers to provide autistic individuals with additional support in police custody. To consider this further, research into the experiences of autistic individuals in police custody is required. Until then, it will not be possible to conclude whether Code C satisfies the requirements of the Convention and if legislative reform is required.

4.4 Evaluating the Legislative Framework

As discussed in the preceding sections, the key pieces of legislation governing the accommodation of individuals with disabilities in police custody are Code C and the Equality Act. However, they both reflect different understandings of disability. As such, the duty of accommodation and the mechanisms they provide for the accommodation of individuals with disabilities vary accordingly. Firstly, whilst Code C contains a number of provisions to help secure the support of individuals in police custody, they are not disability specific. Code C neither adopts a medical or social model approach to disability. Nonetheless, it is evident that the issues raised by Code C extend to individuals with disabilities. The definition of mentally vulnerable and mentally disordered relies on a medical understanding of vulnerability. However, this definition is problematic for individuals with disability. While the Code does not tackle disability specifically, it does implicitly deal with *impairment.* The Code states an individual is vulnerable "because of their mental state or capacity" (para 1G Code C). Such an approach stands in stark contrast with the social model because the emphasis is on an individual's impairment, rather than potential barriers to participation in police custody. But, the Code does emphasise

that it is not necessary for an individual to actually be mentally vulnerable. To some extent, Code C does also point to the role played by external factors recognising that an individual may "be particularly prone *in certain circumstances* to provide information that may be unreliable, misleading or self-incriminating" (Note E2 ANNEX E Code C) (my emphasis). The obligation to provide an AA is founded upon this to a degree. Nonetheless, Code C states this within the context of the individual's impairment - not in the context of the barriers to participation. Thus, it is clear that the dominant idea throughout the Code is that an individual who is 'mentally vulnerable' may not be able to participate because of their impairment.

Unlike Code C, the Equality Act specifically addresses the issue of disability. However, the approach to disability adopted by the Act is underpinned by the medical model (Butlin, 2011). The definition of disability within the Act places the *impairment* of the individual at the centre of disability. The requirements focus on the presence of an impairment and an individual's "(in)ability to carry out day-to-day activities" as opposed to the barriers in society (Butlin, 2011: 6). The language of the Equality Act reinforces this. In particular, the Act refers to individuals with disabilities as disabled people; the use of this language "goes to the very heart of the model" (Butlin, 2011: 7). By taking this approach, the Equality Act suggests that "it is the person with disabilities who is the 'problem' and who needs to be helped, rather than society whose barriers need to be taken down" (Butlin, 2011: 7). In addition, the Act adopts a 'welfare' approach to disability that conflicts with the ideas proposed by the social model (Butlin, 2011). This is evidenced through the use of the phrase "protected characteristic" which is accompanied by "all the connotations of protecting and providing for a person's welfare" (Butlin, 2011: 8). Instead of promoting

the equality of individuals with disabilities and their ability to participate in society, the Act "downgrades [their] personhood ... and emphasises their *inability* to participate in society" (Butlin, 2011: 8) (my emphasis). The very fact that the term 'normal' is contained within the Act goes some way to support this notion. This was pointed out by McTigue in the context of the Disability Discrimination Act. In particular, McTigue argued that "by its very language, the [Disability Discrimination] Act unwittingly discriminates against disabled individuals" (McTigue, 2007: 5). By employing the term 'normal day-to-day activities' and comparing the abilities of individuals with impairments to this standard, the Act "advances the concept of the able-bodied being as "normal"" (McTigue, 2007: 5). When individuals with disabilities "stray from this concept of normality – they are abnormal, unable to undertake "normal" day-to-day activities and in need of our help and support" (McTigue, 2007: 5). This view is cemented by the Equality Act because in the reform of discrimination legislation the definition of disability remained virtually untouched. Whilst the duty to provide reasonable accommodations under the Act does reflect some tenets of the social model, the starting position is what the individual is prevented from doing because of their *impairment*, not from the barriers that exist that prevent them from doing what they would otherwise be able to do. Thus, although the Act encourages people to look towards wider external factors, such as the physical environment or discriminatory practices, the effect of this is limited by the overarching emphasis on impairment. Moreover, these duties are not absolute. As the Act specifies, adjustments must be 'reasonable' and failure to fulfil a duty may be permitted if it is 'proportionate means to a legitimate aim' (s 20, 15 & 19 Equality Act 2010). A failure to comply may also be excused if it was not known or a person could not reasonably

have been expected to know that an individual had a disability (s 15(2) Equality Act 2010). This is particularly relevant to individuals whose disabilities are not visible *per se* - including Autism. Consequently, the Act recognises that there may be occasions where an individual with an impairment may be treated unequally or discriminated.

As discussed in section 3, the UK also has international obligations to fulfil with regard to the rights of persons with disabilities under the CRPD. However, the relationship between the Convention and domestic legislation is problematic. The CRPD "fundamentally challenges our conceptualisation of disability" (Butlin, 2011: 1). In contrast to the Equality Act and PACE, the CRPD "evinces a predominantly social model of disability, only partially circumscribed by a medical perspective" (Butlin, 2011: 5). This is evidenced in Article 1 whereby the Convention's understanding of disability is founded upon the interaction between impairment and barriers in society (Butlin, 2011; Clifford, 2011). What is more, the CRPD focuses on *people* (Butlin, 2011). The Convention recognises that "persons with disabilities cannot be neatly categorised, rather they are as diverse a group of people as any group within society" (preamble i). Thus, the CRPD moves away from the nature and type of impairment towards the individuals themselves; acknowledging that although individuals with disabilities may share similar experiences, "the causes of disadvantage differ and depend on their individual impairment" (Clifford, 2011: 12). By defining disability in this way, the Convention is "more capable of accurately framing discussions which are relevant to disabled people, identifying hidden sources of discrimination and improving our understanding of human rights" (Clifford, 2011: 12). Neither Code C or the Equality Act reflect this approach. Given this division between domestic legislation and the wider

international understanding, both Code C and the Equality Act appear to be "significantly out of step with the requirements of the CRPD" (Butlin, 2011: 7).

The tension between the CRPD and domestic legislation is also furthered by the obligation to provide reasonable accommodations under the Convention (Clifford, 2011). Although the Equality Act requires authorities to make reasonable adjustments to enable equal participation, the CRPD "creates a stronger and broader requirement" that explicitly extends to all rights (Clifford, 2011: 15). As emphasised by Lawson, "the reference to the 'particular case' indicates that the duty is one which requires responsiveness to the circumstances of a *particular* disabled person" (Lawson, 2012: 848) (my emphasis). Although this requirement is confined to "situations in which meaningful comparisons can be made with the position of people who are not disabled or who are not disabled in the same way" (Lawson, 2012: 848), the CRPD challenges the requirement to provide reasonable adjustments contained within the Equality Act (Butlin, 2011). The Convention does not provide any room for the justification of discrimination and is "only circumscribed in relation to adjustments that are disproportionately or unduly burdensome" (Butlin, 2011: 10). In contrast, the Equality Act limits the duty to provide accommodations to instances where there is a substantial disadvantage to individuals with disabilities (Butlin, 2011). According to the Convention, "the substantiality requirement should not stand: if there is any disadvantage or any curtailing of rights, reasonable accommodation should be made, subject to the accommodation imposing a disproportionate or undue burden" (Butlin, 2011: 9). As such, "the CRPD in its rights-based approach fundamentally challenges our provisions relating to discrimination arising from disability" (Butlin, 2011: 9).

Having outlined the legislative framework governing the rights of individuals with disabilities in police custody, several questions arise regarding the accommodation of autistic individuals detained in this setting. Given the specific difficulties and characteristics associated with Autism, it would appear that autistic individuals qualify for the accommodations outlined in both the Equality Act and Code C. However, it is unclear how the relevant provisions operate in practice. The Equality Act does not specify what support should be available to safeguard individuals with disabilities in police custody. The intention of the Act is to protect the rights of individuals with disabilities more broadly, rather than creating specific mechanisms designed to support individuals with disabilities in police custody. Although the duties created by the Equality Act should have a significant bearing on the way in which individuals with disabilities are supported in police custody, it is unclear whether they are considered by police officers. Whilst Code C specifies police officers must act in accordance with the Act, it is not clear what steps police officers take to support autistic individuals. Nor, is it clear whether the approach to the support of individuals in police custody adopted by Code C is consistent with the wider duties contained in the Equality Act.

Moreover, having identified a potential inconsistency between domestic legislation and the CRPD with regard to accommodating persons with disabilities, it is not clear whether the provisions of Code C and the Equality Act are sufficient enough to support individuals with disabilities effectively. When this inconsistency is considered in light of the potential discrepancy between the way legislation embodies our understanding of disability and the tension between the models of disability, further questions relating to the appropriateness of

these accommodations are raised. Linked to this, if the definitions of disability adopted by Code C and the Equality Act do not reflect the understanding emphasised by the CRPD, it is unclear whether the needs of autistic individuals will be addressed effectively. As such, autistic individuals may be prevented effectively from participating in the police custody process, in turn undermining the right to equal access to justice. To understand this further, research into the experiences of autistic individuals is necessary. This will determine what specific difficulties autistic individuals experience, what factors lead to these difficulties and consequently, how these difficulties should be addressed. Moreover, this research will help to establish if PACE, Code C and Equality Act 2010 require reform to help ensure that autistic individuals are support appropriately. In particular, if the approach to disability reflected by these policies and the provisions governing the support of individuals with disabilities i.e. AAs should be changed to make them consistent with the wider rights under the CRPD.

4.5 Conclusion

This chapter considered the theoretical underpinnings of disability and the duty of accommodation and how this is reflected by the Equality Act and CRPD. As part of this, this chapter considered the implications this has for supporting autistic individuals in police custody. Firstly, this chapter discussed the medical and social model definitions of disability and the problems associated with these definitions with regard to specific disabilities. It highlighted the need for a broader interpretation of disability based on the social model which takes into account both the experiences of individuals and barriers in society. This chapter also outlined the duty of accommodation

which requires society to remove barriers which prevent individuals from participating in society. Secondly, in light of this discussion, this chapter set out key provisions of the Equality Act 2010 and the CRPD which govern the rights of individuals with disabilities. In particular, it highlighted the duty to provide reasonable accommodations to enable individuals with disabilities to participate equally and emphasised the right to equal access to justice. Finally, this chapter evaluated the relationship between Code C, the Equality Act and the CRPD in the context of the different theoretical approaches to disability. In doing so, it also raised questions about whether the Equality Act and Code C fail to satisfy the wider obligations towards individuals with disabilities required by the CRPD. Furthermore, this chapter highlighted the need to further explore the experiences of autistic individuals in police custody. Without information about the potential difficulties autistic individuals experience in police custody, and the support they may require to address these difficulties, it is not possible to answer these questions. Otherwise, any conclusions that are drawn about the support that should be provided to this population and how legislation should be reformed would be limited. It is the purpose of this thesis to address this through the exploration of the experiences of autistic individuals in police custody. In light of this, this research will consider how autistic individuals should be supported in police custody and whether Code C should be reformed as a consequence.

CHAPTER 5 - RESEARCH METHODS

5.1 Introduction

This chapter outlines the methodological framework of this research and overall research design. Section 2 will begin by defining the research questions. Section 3 shall focus on the nature of the research. It will outline the purpose and meaning of qualitative research and the approach of constructed grounded theory and how this informs the focus of the research. Section 4 shall discuss the research methods selected for this study and the wider considerations of using these methods in research. Section 5 shall outline the research process. This section will set out the recruitment process, details of the sample population and the procedure followed for each method. It shall also review the ethical considerations raised by the studies, the limitations of this research and the role of the researcher. Finally, section 6 will discuss the data analysis process and define the approach taken to analysis. This chapter will then conclude by reviewing the methodological approach of this thesis.

5.2 Research Questions

The preceding chapters illustrate that information about the experiences of autistic individuals in police custody is limited (Crane *et al.*, 2016). Because it this population who would be adversely affected by the failure to provide appropriate accommodations in police custody, it is necessary to understand more about their experiences in this setting so appropriate steps can be taken. Although it is possible to speculate about the difficulties autistic individuals may encounter in police custody, it would be even more valuable to determine how they should be

supported from first-hand accounts of this population. Without their personal autistic perspective, some elements of their difficulties may be overlooked and any suggested accommodations to support autistic individuals in police custody will potentially be inadequate. In light of this, this thesis aims to explore the experiences and accommodation of autistic individuals in police custody. The central research question which forms the focus of this thesis is:

1) How should autistic individuals be supported in police custody?

Linked to this, a further four questions are considered:

2) What are the experiences of autistic individuals in police custody?

3) What difficulties do autistic individuals encounter in police custody?

4) What support do autistic individuals receive in police custody?

5) Should the current legal arrangements which facilitate the accommodation of autistic individuals in police custody be reformed?

Each of these questions addresses a specific issue relating to the accommodation of autistic individuals in police custody, focusing on the direct perspectives of autistic individuals and their actual experiences in this setting.

5.3 Nature of the Research

This research adopts a qualitative approach which draws upon the principles of constructed grounded theory outlined by Charmaz (see Charmaz, 2014). This approach is appropriate because the main aim of this research is to explore the ways in which autistic individuals interpret their experience of police custody in order to formulate a wider theory regarding support. The main purpose of qualitative research is to explore life as it is experienced by people "to describe and clarify experience as it is lived and constituted in awareness" (Polkinghorne, 2005: 138). Constructed grounded theory is a qualitative methodology which provides a "systemic, yet flexible guidelines for collecting and analysing qualitative data to construct theories from the data themselves" (Charmaz, 2014: 1). It builds upon the classic grounded theory developed by Glaser and focuses on creating a conceptual theory that is grounded in the data (see Charmaz, 2014). Researchers develop theories "in an attempt to conceptualize what is happening in the data" (Charmaz, 2014). These theoretical statements are not tied to specific times and places (Charmaz, 2014). But, unlike classical grounded theory, constructed grounded theory assumes that "social reality is multiple, processual, and constructed" (Charmaz, 2014: 13). These realities are constructed, socially and experientially and dependent for their form and content on the individual persons holding the constructions (Guba & Lincoln, 1994: 110 – 111).

The aim of constructed grounded theory research is to study how participants construct meanings and actions from their personal experiences (Charmaz & Belgrave, 2012). Researchers try to understand what occurs in the research setting, what our research participants' lives are like, and how they explain their statements and actions (Charmaz, 2014).

However, research "provides an interpretive portrayal of the studied world, not an exact picture of it" (Charmaz & Belgrave, 2012: 349). Constructed grounded theory emphasises "interpretive understandings of participants' meanings" (Breckenbridge *et al.*, 2012: 65); in the words of Charmaz, "we do not necessarily adopt or reproduce their views as our own; rather we interpret them." (Charmaz, 2014: 34). For instance, we choose the words that determine our codes and describe what we see as significant in the data (Charmaz, 2014). As such, research must take "the researcher's position, privileges, perspective, and interactions into account as an inherent part of the research reality" (Charmaz, 2014: 13).

5.4 Research Design

Because of the focus on the perspectives of individuals, this research uses qualitative methods. Unlike quantitative methods, which "are inadequate to capture the richness and fullness of an experience", "[q]ualitative methods are specifically constructed to take account of the particular characteristics of human experience and to facilitate the investigation of experience" (Polkinghorne, 2005: 138). Thus, qualitative methods allow us to see the world as experienced by our research participants (Charmaz, 2014). Moreover, according to constructed grounded theory, the flexibility of qualitative research allows researchers to follow themes that emerge during the research and code and categorize data as it is collected (Charmaz, 2014). As a result, "[a]n emerging grounded theory can indicate needing more than one type of data" (Charmaz, 2014: 323). These "[d]ifferent kinds of data give the analyst different views or vantage points from which to understand a category and to develop its properties" (Glaser & Strauss, 1967: 65). In line with this, this research

adopted multiple methods as the research progressed and areas for further exploration were identified. The research uses three methods: i) internet survey ii) interviews and iii) a participative walkthrough. Each has its strengths and limitations and focusing on all three avoided the difficulty of relying unduly on any particular one. By using multiple methods, I was able to triangulate the data to help ensure validity of the data collected and verify the accuracy of the analysis (Patton, 1999).

5.4.1 Internet Survey

A survey can be used at the start of a research project in order to identify specific areas to follow up and explore in further detail with other methods (Adams & Cox, 2008). Generally, survey research methods are used in quantitative studies to test research hypotheses, aiming to answer descriptive questions, questions about relationships between variables and generalize results to the population of study (Creswell & Creswell, 2018). A survey "provides a quantitative description of trends, attitudes and opinions of a population, or tests for associations among variables of a population, by studying a sample of that population" (Creswell & Creswell, 2018: 147). However, in addition to using quantitative research strategies (e.g., questionnaires with numerically rated items) survey research can use qualitative research strategies (e.g. open-ended questions) (Ponto, 2015). Qualitative surveys are not strictly defined (see Ponto, 2015), but Fink's definition of a survey does incorporate this understanding: "A survey is a system for collecting information from or about people to describe, compare, or explain their knowledge, attitudes and behaviour." (Fink, 2003: 1).

In contrast to quantitative surveys, qualitative surveys aim to explore the diversity of a topic of interest within a population rather than its distribution and look for meaningful variation within a population, rather than count the number of people with the same characteristic (Jansen, 2010). A survey can be qualitative even when it collects numerical data, so long as it searches for the empirical diversity within a population (Jansen, 2010). Jansen also identifies two types of qualitative survey design: i) open/inductive surveys and ii) pre-structured surveys (Jansen, 2010). In open surveys, relevant objects, topics, dimensions, and categories are identified through interpretation of the data (Jansen, 2010). Alternatively, in pre-structured surveys main topics, dimensions and categories are defined beforehand and there is a structured protocol for questioning or observation (Jansen, 2010). Moreover, "the diversity to be studied is defined beforehand and the aim of descriptive analysis is only to see which of the predefined characteristics exist empirically in the population under study" (Jansen, 2010: para 9). Accordingly, this research uses a 'pre-structured survey' as the aim was to explore which issues were prevalent to the experiences of autistic individuals in police custody for the purpose of identifying areas for further investigation.

There are several benefits to using qualitative surveys. While researchers can choose to administer a survey in-person, over the phone, in written format or digitally, using internet surveys has additional benefits (Wyatt, 2000). For example, they require fewer resources, saving time and money and provide "the ability to present survey information in formats that were previously difficult to achieve" (Schmidt, 1997: 274). But, factors which can affect the success of the survey include how the sample is selected, which questions are asked, and the

procedures used to collect the answers (Fowler Jr, 2013). The survey design is crucial to managing this. Firstly, it is important a questionnaire is not too long because this may result in less accurate responses (Adams & Cox, 2008). The length of the survey may make it difficult to concentrate and encourage participants to rush their answers; they may also increase the likelihood of participants misinterpreting complex questions as participants may skim read the questions (Adams & Cox, 2008). Secondly, considering what type of questions to use is an important way of ensuring the required data is collected. On the one hand, open questions allow respondents to use their own words which is valuable when specifics of an issue are unknown (Fink, 2003). They also allow for unanticipated answers and let respondents describe the world as they see it (Fink, 2003). In addition, open-ended questions may act as a 'safety net' and help the researcher to identify new issues not covered by the closed questions, (O'Cathain & Thomas, 2004). In contrast, closed questions where answers or responses are preselected often reflect the researchers' agenda which can lead to biased responses (O'Cathain & Thomas, 2004). However, closed questions may be preferred by some respondents if they have difficulties expressing themselves while being surveyed (Fink, 2003).

Thirdly, the wording and organisation of the questions should be reviewed to ensure that participants understand the meaning of the questions. Any ambiguous terms should be defined to ensure that questions have the same meaning for everyone (Adams & Cox, 2008). One way of assisting with this is by giving definitions or examples to help contextualize the questions (Adams & Cox, 2008). In addition, organising questions under a common theme can help respondents

contextualize questions, although taking these steps may further encourage bias (Adams & Cox, 2008). To identify any potential issues, a pilot study of the survey can be carried out to check for clarity of the wording and participant understanding of the questions (Haag Granello & Wheaton, 2004). Finally, while quantitative surveys use specific criteria for selecting the target sample population, qualitative surveys are less rigid. The sample for a qualitative survey should include a diverse target population which aims to cover all existing relevant varieties of the phenomenon (Jansen, 2010). Although this could also be achieved through a large random sample, a small sample can still reach saturation if it is sufficiently representative of the diversity within the target population (Jansen, 2010). Using internet surveys can increase the potential reach of the survey and diversity of the data collected. They provide greater access to a large number of individuals with an interest in a very specific area (Schmidt, 1997). For example, they can help reach participants who have an identified problem or are at risk and have not sought assistance (Haag Granello & Wheaton, 2004). This can include individuals who are not in contact with health and criminal justice services.

However, one common limitation of surveys is poor response rates (Wyatt, 2000). Several factors can affect the number of participants who choose to participate in survey, including survey fatigue (Wyatt, 2000) and motivation to complete the questionnaire (Adams & Cox, 2008). Linked to this, another potential issue with survey research is incomplete submissions (Schmidt, 1997). This can be because a participant actively chooses not to answer questions, overlooks questions due to design, or forgets to go back and respond (Schmidt, 1997; Wyatt, 2000). Participants may also withdraw from the

survey because they change their mind about taking part, resulting in a partially complete survey.

5.4.2 Interviews

A qualitative interview is a conversation with a structure and purpose (Brinkmann & Kvale, 2015). The purpose of an interview is to obtain a comprehensive and detailed account from an individual about a particular experience under investigation (Polkinghorne, 2015). The interview does not provide an identical account of the participants' experience as it actually occurred at the time rather it offers a reflection on the meaning of those previous events (Polkinghorne, 2015). Interviews are either structured, semi-structured or unstructured (Brinkmann, 2014). Semi-structured interviews are the most commonly used format in the social sciences (Brinkmann, 2014). A semi-structured interview aims to explore a specific issue and the researcher generally prepares a few questions in advance and then asks follow-up questions (Rubin & Rubin, 2012). Interviewers have more control over the direction of the interview and can focus the conversation on issues that are seen to be important in relation to the research (Brinkmann, 2014).

While this research adopted a semi-structured interview format, this research also drew upon the principles of in-depth/intensive interviews (Charmaz, 2014). Intensive interviewing is defined "as a gently-guided, one-sided conversation that explores research participants' perspective on their personal experience with the research topic" (Charmaz, 2014: 56). Intensive interviewing involves an open-ended, in-depth exploration of an area in which the interviewee has considerable experience (Charmaz, 2014). Researchers ask

questions that allow the participant to reflect afresh on their experience in order to obtain rich data (Charmaz, 2014). In particular, they ask participants to describe and think about their experiences in novel ways (Charmaz, 2014). These questions are characteristically open-ended and allow the researcher to follow up unanticipated areas of inquiry (Charmaz, 2014). Furthermore, they can provide ideas for future data collection and research (Charmaz, 2014).

One of the benefits of intensive interviews is that they combine "flexibility and control"; they are the product of "interviewers and interview participants' co-construction of the interview conversation" (Charmaz, 2014: 58). For example, there are several ways researchers can direct the focus of the interview such as: i) ask for an in-depth description of the studied experience(s); ii) request more detail or explanation, and; iii) ask about the participant's thoughts, feelings and actions (Charmaz, 2014). Researchers can also guide the participant through re-directing the discussion back to an earlier point or shifting the topic (Charmaz, 2014). Another benefit is that intensive interviews allow researchers to validate the participant's response and check for accuracy by restating his or her point (Charmaz, 2014). Intensive interviews also provide a space for participants "to find, piece together, or reconstruct a discourse to make sense of their situation" (Charmaz, 2014: 85), recognising them as "experts" in their experiences (Charmaz, 2014: 70). Intensive interviews also give participants control, allowing them to choose what to tell and how to tell it (Charmaz, 2014).

However, the quality and usefulness of the content of an intensive interview can be influenced by the participants and the interviewing structure (Charmaz, 2014). Firstly, an interviewer's

questions and interviewing style can shape the context, frame, and content of the research (Charmaz, 2014). For example, how interviewers pose, emphasize, and pace their questions can potentially influence the data (Charmaz, 2014). They may also ask the wrong questions which fail to explore key issues or allow participants to describe experiences in their own words (Charmaz, 2014). Researchers can address these issues by continually reflecting on their questions and considering whether they work for individual participants (Charmaz, 2014). Secondly, participants' ability to reflect on and communicate verbally about their own experiences can impact upon the data quality (Polkinghorne, 2005). In addition, as some experiences might elicit shame or suffering, this can influence what information research participants share (Charmaz, 2014). As a consequence, researchers may select participants who are willing and able to reflect on and describe their experience (Polkinghorne, 2005). This can also have an impact on the quality of the data, as individuals who consent to being involved may be different to those who do not (Robinson, 2014). Although some of these limitations remain in this research, as will be discussed in section 5.4, a semi-structured interview format was adopted because this gave me greater control over the interview and enabled me to address some of these concerns.

5.4.3 Participative Walkthrough

A participative walkthrough is an experimental method developed for the purposes of this research. This method was designed to allow autistic individuals to learn about the police custody process, and for police officers to learn about dealing with autistic detainees, in an *interactive* way. While some

comparisons can be made with 'mock jury' studies (see Crane *et al.*, 2018), this method draws more upon the principles of 'go-along' or 'walk a long' methods (see Kusenbach, 2003). In a mock jury study, research participants take part in a simulated legal trial in order to explore causal influences on jury behaviour which can help to develop theoretical models of the jury deliberation process (MacCoun, 1989). These simulations are carried out because of the legal restrictions and challenges of conducting research on the decision-making processes of jurors during actual cases (Bornstein, 1999). In particular, access to real jury deliberations is restricted which prevents actual observation of how jurors reach their decisions (MacCoun, 1989). Similar issues are associated with carrying out direct observations in police custody, as researchers can experience difficulties with access and ethics (see Demarée *et al.*, 2013). In this research, an added concern was whether this approach would collect relevant data as it would not be guaranteed that researchers would be able to observe autistic detainees in this setting. As a result, it was more appropriate to simulate this process. Moreover, walking through the police custody process provided both parties with the opportunity to actively engage in the study and with each other, rather than simply being passive observers to what takes place in this setting.

The 'go-along' method is generally used by researchers to learn more about a neighbourhood or place (Kusenbach, 2003; Carpiano, 2009). During a go-along, the "researcher is ''walked through'' people's lived experiences of the neighbourhood" (Carpiano, 2009: 264). Although, it has been adapted for other contexts; for example, police 'ride-a-longs' allow researchers to ride-a-long with police officers while they carry out their duties on the street (see Plecas *et al.,* 2010). The go-along method is

based on and complements two other qualitative methods, field observation and interviewing (Carpiano, 2009). During an observation, people usually do not provide a verbally commentary on their activity, making it difficult to access their concurrent experiences and interpretations (Kusenbach, 2003). Similarly, interviews usually keep informants from engaging in their usual activities in the natural environments where they typically occur (Kusenbach, 2003). As a consequence, important aspects of that lived experience may be overlooked or missed (Kusenbach, 2003). In contrast, using a go-along approach researchers are able to observe an individuals' spatial practices *in situ* and simultaneously access their experiences (Kusenbach, 2003). Researchers are therefore able to explore the informant's experiences, interpretations, and practices through both asking questions *and* observation (Carpiano, 2009).

There are several benefits to using the go-along method as compared to traditional ethnographic methods. Firstly, a go-along "allows for some of the contextual insights of traditional ethnographic methods without the long-term, intense pattern of fieldwork" usually associated with these methods (Carpaino, 2009: 265). Secondly, the go-along may increase the participation of the individual being observed as they act as a tour guide for the researcher (Carpiano, 2009). This "helps to reduce typical power dynamics that exist between the interviewer and interviewee (as subject)" (Carpiano, 2009: 267). However, when used in conjunction with other methods go-alongs are perhaps even more valuable. One limitation of the go-along is that adequate levels of location information (i.e environmental details) to situate and ground the interview may be overlooked or described only vaguely by participants (Carpiano, 2009). To address this, the researcher needs to take detailed notes of specific locations or landmarks throughout the

go along study (Carpiano, 2009). An experimental go-along often involves researchers taking informants into new and unfamiliar situations (Kusenbach, 2003), which is the method adopted in this research. The validity of this method has been questioned because while it might produce interesting data it is sometimes criticised for lacking authenticity (Kusenbach, 2003). Despite this criticism, it was considered that adopting the go along method would be valuable for the present research particularly due to the practical, ethical and legal limitations associated with carrying out an actual observation of police custody.

5.5 Research Process

5.5.1 Sample and Recruitment

A total of 17 autistic individuals took part in this research. The characteristics of the sample for each study is summarised in Table One. All participants were required to be resident in the UK and be over the age of 18 at the time of the research. They were also required to have a diagnosis of an ASC or AS in order to take part. While it was initially specified that individuals with a learning disability should be excluded from the research this was later reconsidered. It was felt that individuals should not be prevented from participating because they had a learning disability unless this affected their mental capacity to participate in the research.

(i) Internet Survey – two surveys were carried out as part of the research. A total of 4 individuals completed survey one (of these, 1 participant also requested to do an interview). Participants were selected on the basis that they were autistic and had been arrested and detained in police custody as a suspect in England

and Wales. They did not need to be diagnosed at the time of their arrest and detention in order to participate. Individuals who were awaiting trial or on trial for a criminal offence at the time of the research were excluded. However, there were no complete responses for survey two. This survey was open to autistic individuals who had been arrested and detained in police custody and individuals with an interest in the way autistic individuals are supported in police custody. Recruitment was achieved in two ways. Both surveys were periodically advertised and circulated through Twitter over a period of 12 months. Local Autism groups and colleagues were also contacted via email and invited to distribute the surveys to potential participants.

(ii) Interviews – a total of 12 individuals took part in an interview. Participants were recruited according to the same criteria used for the survey, as described above. Recruitment for the interviews was achieved in several ways. Firstly, 3 participants were recruited through professional connections of colleagues. They were contacted by email and the research was discussed with them. Following this, they were then contacted directly and invited to participate in the research. Secondly, a series of local and national Autism support groups and organisations were contacted with view to advertising the research to interested individuals. Potential participants were contacted directly and invited to take part. Through this, 6 individuals expressed an interest in participating in the research. Finally, the remaining 3 individuals were recruited by direct contact. One individual expressed an interest in participating following a presentation about the research. Another was directly contacted through their personal website. They then discussed the research with a friend who also expressed an interest in taking part and was subsequently invited to participate. All

participants were offered the choice of completing the survey or taking part in an interview, either in person or over the phone. All participants chose to be interviewed in person.

(iii) Participative Walkthrough – a total of 2 autistic individuals took part in the walkthrough. Participants were recruited through professional connections and were known to colleagues. They were selected on the basis they had no experience of being arrested and detained in police custody. Individuals were excluded if they had been arrested and/or detained. As discussed further in the next section, this was due to potential impact the study could have on them as a result of their past experiences. Participants were also selected based on their suitability for the study and previous experience of engaging in similar research. They were chosen on the basis that they would have the ability to engage in the study and communicate their feelings and views effectively, as well as their known ability to cope with demands of this kind of research. Participants were also chosen because they were known to colleagues and it was felt that this relationship would help us to support them more effectively during the study. In addition, a total of 3 police officers from Nottinghamshire police assisted with the walkthrough. Nottinghamshire police were selected to be involved in conducting the study because their locality and their interest in learning more about how to support vulnerable detainees. A colleague working as an Independent Custody Visitor discussed the research with a member of the force who expressed an interest in assisting. A meeting was subsequently arranged to discuss the details of the study and they recruited volunteers to assist with the study via an internal email.

Table One: Participant Characteristics				
	Interview (n=12)	**Survey** (n=4) [a]	**Walkthrough** (n=2)	**Total** (n=17)
Gender				
Male	8	4	1	12
Female	4	-	1	5
Ethnicity				
White (British)	11	3	2	15
White (European)	-	1	-	1
White (Asian)	1	-	-	1
Diagnosis [b]				
ADD	1	3	-	3
ADHD	2	-	-	2
Anxiety	2	1	1	3
AS	9	4	1	13
Autism	5	2	1	7
BPD	1	-	-	1
Conduct Disorder	1	1	-	1
Depression	8	2	1	10
Dyslexia	3	1	-	3
Dyspraxia	1	1	-	1
LD	2	-	-	2
PDA	1	-	-	1
Age at study				
18 - 24	-	-	1	1
25 – 34	4	-	1	5
35 – 44	5	2	-	6
45 – 54	2	2	-	4
55 – 64	1	-	-	1
Age of first arrest				
13 – 15	2	-	N/A	2
16 – 17	1	-		1
18 – 24	5	1		6
25 – 34	2	1		3
35 - 44	2	2		3
Age of diagnosis				
1 – 9	1	1	N/A	2
13 – 15	2	-		2
25 – 34	5	-		5
35 – 44	3	3		5
45 - 54	1	-		1

[a] of these, one participant also took part in an interview

[b] known diagnosis (disclosed at time of study)

5.5.2 Ethics

When carrying out qualitative research, there are three key ethical principles that have to be respected: i) minimisation of harm ii) respect for autonomy and iii) the protection of privacy (Hammersley & Traianou, 2012). Firstly, the "minimisation of harm" requires researchers to identify potential threats (Hammersley & Traianou, 2012: 62). This involves assessing any negative impact of the research on both the participants *and* the experimenter (Dickson-Swift *et al.*, 2007). Harm can include "pain" or "physical injury" and "psychological damage" (Hammersley & Traianou, 2012: 64). For researchers, harm could result from "dealing with developing attachments, hearing untold stories, feelings of guilt, vulnerability and exhaustion" (Dickson-Swift *et al.*, 2007: 331). While all research involves at least some risk, it is the responsibility of the researcher to consider the likelihood and severity of harm on the research participants (Hammersley & Traianou, 2012). Secondly, "respect for autonomy", refers to the data collection process and to the principle of informed consent in relation to the use of personal information in relation to the research (Hammersley & Traianou, 2012). Accordingly, researchers should ensure people have sufficient information to decide whether or not to give their consent, or to continue participating in the research (Hammersley & Traianou, 2012). It must be clear what people are being asked to consent to and that they have been provided with comprehensive and accurate information that allows them to make an informed decision (Hammersley & Traianou, 2012). Finally, "the protection of privacy" relates to how researchers handle their data and how they report and publish their findings (Hammersley & Traianou, 2012). Because of the sensitive and confidential nature of data, it must be stored securely

(Hammersley & Traianou, 2012). In addition, careful attention is required to avoid participants from being identified when reporting data (Hammersley & Traianou, 2012). Anonymizing information is particularly important where people and places are distinctive (Hammersley & Traianou, 2012).

Ethical approval for each stage of the research was granted by the University of Nottingham. Several ethical issues were important to consider. Firstly, autistic individuals may be considered vulnerable. They may be at risk of being abused by research and exposed to harm through participation. This is partially attributable to the differences associated with Autism with regard to communication, imagination and interaction. Some autistic individuals may not appreciate the significance of research participation and the likelihood of harm and may consent to research without fully understanding the implications of their involvement. They may not fully consider the consequences of sharing certain information about themselves or the emotional effect that participation may have on them. However, having a diagnosis of Autism does not mean that individuals should automatically be excluded. As previous studies have illustrated, autistic individuals can offer a useful contribution to research (see Martin, 2015). Autistic individuals also play a central role in developing and carrying out research as researchers. Recognising this risk, steps were taken to ensure that participants were fully informed about the nature and purpose of the research. Procedures were built in through the research process to reflexively check the understanding of the participants and identify any potential risks. At the recruitment stage, individuals were emailed an information sheet and consent form. These contained details of the research study and what participation would involve. They were notified about the

conditions of the research, including how the data would be used and stored and potential risks related to their participation. Both forms were reviewed by colleagues to ensure that they were accessible and understandable by autistic individuals. During the recruitment process, participants were encouraged to ask questions before participating. Because of the personal nature of the recruitment, it was also possible to determine prior to involvement whether participants would be at risk from the study. Following on from this, for both the interviews and participative walkthrough, the information sheet and consent form were read through with the participants. Participants were able to raise any concerns or ask for parts to be explained further. This provided an additional chance to verify that the participants were fully informed and identify any issues with understanding. Participants were then asked to sign a written consent form confirming that they understood the research and agreed to the conditions outlined in the consent form. Consent was also verbally confirmed. During the participative walkthrough, consent was periodically checked at each stage of the custody process by the researchers and police officers.

Secondly, the research had the potential to cause distress to participants. The survey and interviews addressed several sensitive topics including arrest and detention, offending behaviour and disability. These can be uncomfortable topics to talk about and may create feelings of shame or anger. Sharing their experiences of arrest and detention can also cause individuals to relive traumatic events and negative emotions associated with their experiences to resurface. Talking about medical conditions and experiences of disability can raise similar issues. Measures were put in place to manage the potential impact of the research on participants. Questions were framed in

an appropriate and sensitive way and flexibility was built into both studies to manage any potential distress. An example of the interview schedule was given to participants prior to the interview to prepare them for the kind of topics that would be discussed. Participants were not required to answer all questions and were able to move on when they felt uncomfortable. During the interview, any signs of potential distress were monitored. Participants were asked how they felt throughout and were able to take breaks when required. They were also invited to bring someone with them for support. Only 2 individuals chose to be accompanied; one individual was supported by a colleague and another was supported by an Advocate from her local Autism support group. Moreover, participants could withdraw from the research at any time without having to give a reason, up until the specified deadline. They were notified of this right through the information sheet and consent form. All participants were de-briefed after each study. As part of this, participants were encouraged to talk through any concerns they had and reminded they could get in touch following their participation.

The participative walkthrough also involved a risk of harm to the participants. Due to the nature of the study, participants were likely to experience some degree of anxiety and encounter some difficulties throughout the study. The police station was purposefully selected to act as the setting for the study and this can be an intimidating place. Similarly, the custody process can be demanding for all individuals. Furthermore, the potential impact of this could have been exacerbated by the fact some autistic individuals find it difficult to distinguish between the research and real life. To manage this, participants were reminded before participation that it was only a representation of what happens in real life - they had not actually been arrested.

The impact of the study was mitigated by ensuring participants were comfortable participating and the research was explained sufficiently before participation. Harm to participants was minimised by restricting the walkthrough to a few aspects of the custody process and giving participants the option of whether to take part. The study also took place in an appropriate environment, as identified by Nottinghamshire police, where the risk of harm to participants could be controlled and external demands were minimised. In addition, the police officers involved actively took steps to reduce the risk of harm to participants in line with their duties towards vulnerable detainees. The researchers were also present during the study which allowed them to monitor how the participants were feeling and actively intervene if they felt participants were becoming distressed. As with the interviews, all participants were able to withdraw from the study at any time and reminded of this throughout the study. They were also de-briefed after each walkthrough which gave participants the opportunity to talk about any concerns that may have been raised during the research and any emotional effects they were experiencing.

In addition, there were issues regarding privacy and confidentiality. Because the focus of the research was on arrest and detention in police custody, participants were invited to share sensitive information relating to their experiences. For example, they were asked to provide details of their criminal history, the nature of the offending behaviour they were arrested for and their experiences of detention. Participants were also invited to share personal information about their medical history and personal background for the purposes of contextualising their experiences. Some individuals may not have shared this information with anyone else and may not want to be publicly

associated with this information. It was recognised that the unique stories of the participants may enable others to identify them if they are familiar with these details. As part of the research, direct quotes from the studies are used as examples of the issues addressed by this thesis. To maintain the privacy of the participants, their identities are anonymised. Pseudonyms are also used throughout this thesis for the purpose of maintaining anonymity. For the survey, participants were allocated a number and were not asked to provide their name. Any identifying personal information was removed from interview transcripts and raw data and consent forms were stored separately from this information. While Nottingham police force are identified in this thesis, this is for the purpose of acknowledging their involvement and achievements in working to develop their vulnerability strategy. But, because it was not the focus of this thesis to assess the performance of individual police officers their identity was protected. Furthermore, participants consented to the use of sensitive information as part of the research and informed of the possible risk of identification prior to participation.

5.5.3 Research Procedure

(i) Internet Survey - The internet survey aimed to gather information about experiences of autistic individuals in police custody using a pre-structured format. It was hosted online using Lime Service over a secure connection. Lime Service was selected on the recommendation of colleagues for its usability and design features. The survey was designed in three separate stages. The original survey was a total of 104 questions, split over 9 sections: i) information about the survey ii) about you iii)

criminal background iv) your overall experience(s) of arrest and detention v) police interview vi) difficulties you experienced vii) support in police custody viii) improving detention in police custody and ix) final comments. Questions were a mixture of closed questions with multiple choice answers i.e. "What kind of difficulties did you experience during your detention in police custody?" and open-ended questions i.e. "Please describe the difficulties you experienced in more detail". The open-ended questions allowed participants to provide more detailed information and expand on previous answers. Two autistic individuals were then consulted to check the accessibility and content of the survey. They were invited to identify any potential issues that may prevent autistic individuals completing the survey and provide feedback on ways the survey could be improved. Several issues were raised including: i) ambiguity of language used in some questions i.e. environment; ii) need to clarify what some questions were asking; iii) length of the survey and; iv) clarifying how to answer some questions i.e. other option. Adjustments were made to the survey to reflect this feedback including: i) defining key terms to aid understanding; ii) bolding distinct words to help clarify meaning of the question; iii) removing questions about multiple experiences and focusing on one experience in police custody; iv) clarifying functionality of the answer options, and; v) adding supplementary information to contextualise questions. The survey also specified that the participants could choose which experience they wished to discuss, where they had been arrested and detained more than once. This allowed them to choose an experience that was either most recent, they could remember best or most significant to them. The survey was then piloted using the recruitment strategy outlined in section 5.1. The pilot survey only received 7 responses, of which there was 1 complete response and 6

incomplete responses. Further feedback from the completed response and online suggested that there were still barriers to participation. After a period of two weeks the survey was removed and re-designed.

The final survey was split into two parts designed to run concurrently. Both surveys were hosted for a period of 6 months each. For each survey, participants were asked to read an information sheet and confirm they consented to the study. Participants were not required to answer all questions. Some questions were not applicable to all participants and they were also advised they could skip questions they did not want to answer. At the end of each survey, participants were also invited to share their email address for the purposes of entering a prize draw for an Amazon voucher and/or to hear more about the research. The email address was stored separately from survey responses to protect the identity of participants. Survey one focused on the experiences of autistic individuals in police custody. This survey contained 43 questions, split into 5 sections: i) about you ii) criminal background iii) arrest and detention iv) difficulties you experienced and v) final comments. There were 6 responses for survey one; 3 were complete and 3 were incomplete. Survey two focused on the support of autistic individuals in police custody. This survey contained 48 questions, split into 5 sections: i) introduction ii) about you iii) support in police custody iv) improving support and v) final comments. Participants who completed survey one were invited to complete the second half; they were asked to put in a reference number from their first survey for the purposes of analysis. Survey two only received 2 incomplete responses.

(ii) Interviews - alongside the internet survey, semi-structured interviews were conducted over an 8-month period. Interviews

lasted between 39 minutes 52 seconds and 2 hours 15 minutes 37 seconds. The average interview was 63 minutes. Interviews were arranged via phone or e-mail. Digital copies of the information sheet, consent form and interview schedule were forwarded to the participants prior to the interview. The location and time of the interview was mutually agreed. Participants were given the option to choose where the interview was held or we agreed a location where the demands for the participants would be minimised. They were also invited to bring someone with them to the interview to support them if they wished. Participants were also able to take breaks during the interview. Any expenses incurred by the participant were reimbursed. They were also given an Amazon voucher as thanks for their participation. All interviews were digitally recorded with the consent of the participants. Notes were also taken during the interview to aid discussion and identify topics to explore further. At the start of each interview, participants were given written copies of the information sheet, consent form and interview schedule. Participants were given time to read these and ask any questions. In some cases, I read through the information with the participants and explained parts in more detail when it was preferred. They were then asked to sign the consent form and return this to the researcher. The consent forms were stored in hard copy in a secure location, separate from any other data. The interviews were then conducted following a semi-structured approach. While using a semi-structured approach suited most participants, other participants responded by giving a full narrative of their experiences without the need of further questions to prompt them. To expand on certain points raised by the participants, additional questions were asked as and when appropriate. Questions were split into three sections: i) personal background and arrest ii) detention and experience of the

custody process and iii) support and improving detention. They were open-ended to encourage participants to talk about their experiences in their own way and to focus on what they felt was important. Participants were also asked whether they wished to talk about anything relating to their experiences of arrest and detention that had not been address by the questions. At the end of each interview, participants were given a de-brief form about the research and encouraged to discuss any concerns. Participants were also reminded they could contact me following their participation if they had any concerns, questions or wished to withdraw from the study. Each interview was later transcribed by the researcher using a Word Processor and Olympus software. The transcripts were saved separately from audio recordings and a hard copy of each transcript was stored in a secure location.

(iii) Participative Walkthrough - the walkthrough was designed according to the structure of the police custody process. Potential issues for further exploration were identified using data from the interviews and internet survey. The walkthrough focused on three stages of the police custody process: i) booking-in and risk assessment ii) pre-charge process and iii) cell detention. The walkthrough was carried out in a Nottinghamshire police station. Two walkthroughs were carried out one after the other each lasting on average 56 minutes. Two police officers, the participant and at least one observer were present during the study. Each walkthrough was audio recorded with the consent of the participants. Field notes were also taken based on observations of the study. CCTV recording was also in place. Participants were informed of this prior to participation. A physical copy of the CCTV footage was made available but has not been used in the analysis. All data is stored in a secure location. At the start of each walkthrough, participants read

through the information sheet (see Appendix 1) and consent form (see Appendix 2) which they were asked to sign and return to the researcher. Participants were given a brief overview of what would happen during the study and each stage of the custody process. Participation in each part of the process was optional and consent was verbally confirmed at each stage of the process by the police officers and researchers.

Participants were allocated a scenario to contextualise the study, either theft or criminal damage, which was then explained to them. During the booking-in, participants were asked to answer a series of background questions set out by standard police procedures i.e. 'Do you have any learning disabilities that we need to provide any help or support for?'. The police officers answered any queries raised by the participants and explained the purpose of this process to them. Although participants' responses were entered into the police training system computer, these were deleted the following day. Participants were asked to take part in a personal search. As part of this, police officers explained what would happen during the search and the items used in this process. Where the participants consented, the search was then carried out by a police officer of the same gender according to the force procedure.

Participants were then taken to the pre-charge room. Police officers checked that this was not in use prior to this. At this point, the police officers explained the following processes that are usually conducted as part of the pre-charge process: i) UV smart water test ii) fingerprinting iii) DNA test iv) drug test and v) photographs. Participants were given the opportunity to take part in the smart water test, fingerprinting and photographs. The police officers explained what safeguards would be put in place during these processes and any legal

implications. The participants were then briefly shown the medical room and disclosure rooms. They were then taken to look around a police cell where they were asked to step inside and talk about how they felt about this space. The police officers demonstrated how the intercom in the cell operated, what it would be like if the cell door was closed and what a routine observation would be like. Following this, participants were taken to see an interview room and the showers. At this point the walkthrough ended and participants were interviewed about their experiences. The participant interviews were carried out by a colleague and the police interview was carried out by the researcher. The average interview length following the walkthrough was 45 minutes. All interviews were audio recorded and notes were taken throughout. The interviews were carried out according to an interview schedule (see Appendix 3). This was to aid the flow of the interview and allow for consistency between interviews. Questions were broken down into sections: i) overall study ii) booking-in iii) pre-charge process iv) police cell and v) final comments. Questions were open-ended. Each section asked about the participants experiences of each process and asked them to identify any difficulties associated with the process and ways of improving these processes. All participants were de-briefed following the interview. They were given a de-brief form (see Appendix 4) and invited to discuss any concerns. Each walkthrough and all interviews were later transcribed by the researcher using a Word processor and Olympus. All transcripts were stored separately from audio recordings and a hard copy of each transcript was stored in a secure location.

5.5.4 Limitations

As highlighted in section 4, qualitative research methods have limitations. In this research, several limitations were identified. Firstly, all 3 methods depended on upon the participants' ability to communicate their experiences. This had a particular impact on the semi-structured interviews and walkthrough interviews. In the interviews, some participants found it difficult to understand what they were being asked to discuss. At times, the interviewee lost focus and time was spent discussing other issues which were not relevant to their experiences in police custody. Some participants also found it difficult to describe the emotions associated with their experiences which affected the emotional content of the information they shared. Because of the time gap between the interview and their arrest, it was also difficult for some participants to recall information and remember specific details of their experiences. This meant some aspects of their experiences were missing from the data; in some cases, where participants had multiple experiences, they confused details or spoke about several experiences at once, making it difficult to separate their experiences from each other. In addition, the data is a representation of the way the participants interpreted those experiences; it is not necessarily an accurate account of what happened in each case. It is important to note that the views of the police officers involved in each case are not represented and some of the wider details relating to what happened are not known. However, this does not mean that the participants interpretations of what happened are incorrect as it is their view of their own experience. Moreover, how these accounts were subsequently interpreted by me also affects the way that this is framed. This is reflected in the analysis.

Secondly, linked to this, the design and structure of the research may have influenced the data collected by each method. For the survey and interviews, while participants were encouraged to explain their experiences in their own words as far as possible, the way the questions were framed may have influenced how they discussed their experiences. The focus on the difficulties they experienced in police custody may have encouraged participants to focus on negative aspects of their arrest and detention. Similarly, the order of the questions may have further influenced this as these issues were prioritised over the support they received in police custody. This may have potentially biased the data. Furthermore, the participants' interpretation of the questions and understanding of the purpose of the research may have affected their responses. In the interviews the researcher's style of questioning may also have affected the direction of the discussion because they identified which issues to expand upon in more detail. Additionally, the participative walkthrough was designed as a 'best case scenario'. It was not intended to fully replicate the police custody experience and act as an accurate representation of what happens in real life. As well as this, how the study was carried out was subject to external factors that could not be controlled such as the setting, those involved, time and resources. These factors had an impact on the quality of the walkthrough. The combination of these factors will have influenced the experiences of the participants.

Finally, the sample population of the research is not representative of the whole population of autistic individuals who have been arrested and detained in police custody. A small sample of autistic individuals took part in the research and each of the participant's experiences took place in a specific context.

Connected to this, the character of the participants' experiences is distinct; most of the participants in the interviews and survey felt their arrest and detention was unjust. This may have encouraged them to participate in the research. In contrast, there may have been a number of individuals who were discouraged from sharing their experiences with others for fear of being judged or stigmatised. For example, they may have intended to commit a criminal offence and/or feel ashamed about being arrested and detained in police custody. The methods used in this research may have contributed to this. The low response rates of the internet surveys may be indicative of this. It is possible some individuals may have felt uncomfortable about sharing their stories because they were unsure about the motivation of the research and who was responsible for conducting it or they could have been concerned about the security of the information online. Although they would have been anonymous, the greater success of the interviews demonstrated that having a relationship of trust helped participants feel at ease and establish that they would not be judged according to their experiences. The recruitment process may have also played a role in these concerns. The majority of participants were recruited through personal contacts or organisations who worked with autistic individuals. On the one hand, this helped foster a relationship with the participants and made the research appear more personal. On the other, it also meant the participants were known to be vocal about their experiences and/or in contact with services. Similarly, using Twitter to advertise the internet survey would have restricted the sample to those who actively communicate with others. While it was not the intention of the research to accurately represent the experiences of the whole population of autistic individuals, this limits the findings to an extent as there may have been a sample

of autistic individuals with different experiences who are not represented by the research.

5.5.5 Role of the Researcher

In constructed grounded theory, the role of the researcher in constructing data is emphasised (see Charmaz, 2014). As a result, it is important for researchers to "examine rather than erase how their privileges and preconceptions may shape the analysis" and consider how "their values shape the very facts that they can identify" (Charmaz, 2014: 13). Researchers "are obligated to be reflexive about what we bring to the scene, what we see, and how we see it" (Charmaz, 2014: 27). Being reflexive means looking back on one's behaviour and examining it within each step of the research process (Berger, 2015). Researchers "make assumptions about what is real, possess stocks of knowledge, occupy social statuses, and pursue purposes that influence their respective views and actions in the presence of each other" (Charmaz, 2014: 27). These characteristics can influence the research in several ways. For example, this may impact upon the researcher–researched relationship, which may affect the type of information participants choose to share (Berger, 2015). The relationship between participants and researchers may also impact recruitment of participants, data collection, and how the data is interpreted (Berger, 2015). Furthermore, a researchers' "background assumptions and disciplinary perspectives can alert them to certain possibilities and processes in their data", which "may shape research topics and conceptual emphases" (Charmaz, 2014: 30). These can be reflected in the "sensitizing concepts" researchers use to identify tentative ideas and lines of questioning to follow up (Charmaz,

2014: 30). In turn, influencing the direction of the research and the content of the data collected.

As a young female academic, my background and gender played a role in the research. Many of the participants were older than me and the majority were male. While I never felt at risk because of this, being a young female made me seem friendly and approachable. This helped me build a trusting relationship with the participants. As a result, I found they were more open during the research and often shared personal information with me that they may not have done otherwise. In addition, the participants were happier with the motives of the research because they could position me as an academic during the interview. This made my motives clearer because they understood I was carrying out the research for the purposes of writing a thesis. They did not have to second-guess what benefits I obtained from the research. In some cases, this encouraged participants to take part in the research because they wanted to help me achieve this outcome.

My personal experience of Autism also played a role in these interactions. Firstly, I found that by being open about my family and talking about my autistic siblings helped the participants feel at ease because they knew I understood Autism and would not judge them for being autistic. In turn, by sharing this information my position as a researcher changed from a purely academic one to a more personal one. Secondly, my familiarity with interacting with autistic individuals made me more aware of the potential difficulties autistic individuals may face by participating in the research. This encouraged me to identify these difficulties from the outset and ensure that the research was accessible. I took steps to reflect this in the design of the research and made adjustments as the research went on. In particular, during the interviews and walkthrough I was

conscious of the needs of the participants and adjusted my approach as necessary. Whilst having personal experience with autistic individuals had advantages in interacting with the autistic participants, it is necessary to acknowledge this as a potential limitation. My background could have influenced the direction of the research and interpretation of the data. Seeing the way my siblings had been treated by others and seeing them struggle to access support, my motivation to carry out the research was driven by my belief that autistic individuals should be treated equally. Furthermore, being neurotypical may have affected my interpretation and analysis of the data because my priorities and understanding of the issues may differ from those of autistic individuals. One way I have attempted to address these issues is by acknowledging that autistic individuals are experts in their own experience. While recognising my role as a researcher in the interpretation of those experiences, I have used 'thick description' throughout this thesis to ground the analysis in their accounts (Creswell & Miller, 2000).

5.6 Data Analysis

In constructed grounded theory, the process of data analysis "invokes iterative strategies of going back and forth between data and analysis"; keeping researchers continually interacting and involved with the data and analysis (Charmaz, 2014: 1). Researchers process the data into categories which allow for qualitative coding of the information (Charmaz, 2014). According to constructed grounded theory, coding has two main phases: i) "an initial phase involving naming each word, line, or segment of data" and ii) "a focused, selective phase that uses the most significant or frequent initial codes to sort, synthesize, integrate, and organize large amounts of data" (Charmaz, 2014: 113).

Initial coding is the process of defining what data are about where researchers identify labels for parts of the data in order to formulate a picture of what is happening (Charmaz, 2014). Codes are used "to make implicit views, actions, and processes more visible" (Charmaz, 2014: 113). At this stage, researchers should be open to all possible interpretations of the data (Charmaz, 2014: 114). Subsequently, researchers use a focused coding system to pinpoint and develop the most relevant codes used to test with large batches of data (Charmaz, 2014). Researchers compare initial codes with the data and decide which codes have greater analytic power which helps highlight the direction of analysis (Charmaz, 2014).

Through this process, researchers can explore relevant questions about data at the outset of data collection (Charmaz, 2014). Codes provide "an analytic handle for making comparisons with other segments of data" which allow researchers to extract meaningful themes that go beyond the raw data (Charmaz, 2014: 111). As the analysis progresses, researchers continually gather more information to check and refine the categories and themes that appear to be emerging (Charmaz, 2014). Thus, the identification of patterns in the data involves is an iterative process that may even evolve as the collection of data continues, allowing the researcher to focus more on particular themes they see emerging. Researchers can then develop "theoretical codes" which allow them to identify possible relationships between categories (Charmaz, 2014: 150).

This research followed a constructed grounded theory approach to analysis. Analysis took place throughout the course of the research and was framed from the beginning. I used 'sensitising concepts' as initial ideas to pursue in the research (Charmaz, 2014). I drew upon pre-existing ideas about 'Autism',

'disability', 'reasonable accommodation' and 'police custody' to shape the focus of the research and raise questions about the experiences of autistic individuals in police custody. This provided a general framework and starting point which directed the research and determined which methods to use to explore these concepts (Charmaz, 2014). These concepts also helped me to develop subsequent analyses about what was happening in the data (Charmaz, 2014). During data collection, I developed initial codes based on initial impressions of what was said by the participants during the interview. These codes shaped subsequent interviews, whereby I identified areas for further exploration and dismissed categories which were no longer relevant to the emerging analysis and framed questions accordingly. The walkthrough was also designed on the basis of these initial codes and what was determined to be central to the experiences of autistic individuals in police custody.

Following data collection, I transcribed the interviews and walkthrough studies in full to gain a better understanding of what was taking place in the data. I also reviewed the data collected from the internet survey. As part of this process, I reviewed the initial codes and considered any further ideas that emerged during transcription. Having transcribed the data, I began a full analysis of each transcript, reading through hard copies of each transcript and colour coding the data line by line. Through this process, I re-coded the initial codes through NVivo to better describe what was happening in the data. In the second stage of analysis, I re-read the transcripts and re-defined the codes using the initial codes as a foundation. To move beyond describing the data, I compared incidents within and between individual transcripts and identified relationships in the data. This was done in three stages: firstly, coding focused on pre-custody

events such as offending behaviour and arrest; secondly, on the experience of detention and; thirdly, on the walkthrough. These focused codes were then entered into NVivo and were re-named as more data was input into the programme. As the analysis emerged, theoretical codes were developed to better frame the relationships between the data and the overall theory. To verify the accuracy of the final analysis, the data was reviewed and interpreted by two colleagues.

5.7 Conclusion

This chapter has outlined the methodological framework and overall research design of the research. It also identified the assumptions underlying the research and considered how these assumptions have informed the research. Firstly, this chapter set out the key research question which informs the focus of this thesis: How should autistic individuals be supported in police custody? A further four questions were also outlined. Each of these questions addresses an issue relating to the support of autistic individuals in police custody and focuses on the perspectives of this population. Secondly, the principles of constructed grounded theory, as described by Charmaz (see Charmaz, 2014), were discussed. The epistemological and ontological assumptions of this approach were reviewed and the importance of interpretation in qualitative research was emphasised. Following on from this, this chapter outlined the nature of the research and the methods used to carry out the research. It highlighted the benefits of using multiple methods as part of a constructed grounded theory approach to research and the rationale, benefits and limitations of each method were considered. The remaining sections then focused on the research

design and approach taken to the research. In particular, this chapter discussed the sample of the research, the recruitment process and the procedure followed during data collection and analysis. As part of this, the ethical implications, limitations and role of the researcher were also considered.

CHAPTER 6 – CRIMINAL INTENTION

6.1 Introduction

This chapter focuses on the events that took place before the participants detention in police custody. To contextualise their detention, participants were asked about their personal history and the circumstances surrounding their arrest. Using hindsight, the participants were able to evaluate their arrest and reflect upon their own behaviour at that point in time. In particular, 14 out of 15 participants felt their arrest was unjustified or inappropriate. Of these, 13 out of 15 participants were unable to understand why they had been arrested. This was because of their perception that they had not intended to commit a criminal offence. This chapter considers the circumstances surrounding the offending behaviour of the participants. In particular, it shall examine the participant's perception of their behaviour and their interpretation of criminal intention. Section 2 will evaluate the relationship between their behaviour and the wider circumstances, particularly poor mental health and the behaviour of others. This section shall also consider the role played by autistic characteristics in contributing to their behaviour, emphasising the interaction between these factors. Section 3 will consider the ways in which this behaviour was often misinterpreted due to a lack of understanding of Autism and possible explanations for their behaviour. Having outlined these findings, section 4 will discuss the wider relevance of this research and how it relates to previous research. This chapter will then conclude by considering the questions raised by these experiences.

6.2 'Accidental' Offending

Participants discussed being arrested for a range of different offences. These are summarised in Table Two. Eleven out of 15 participants had been arrested more than once. As such, not all the offences participants referred to were discussed in detail. Participants either focused on their first arrest or experiences which were significant to them. In addition, some of the participants did not know or identify what offence they had been arrested for. In some cases, this was inferred from the wider discussions surrounding their behaviour and arrest.

Table Two: Criminal Offences

Offence	**Total**
Criminal damage	5
Assault	4
Driving offence	4
Theft	3
Actual Bodily Harm	2
Drunk & disorderly	2
Public order offence	2
Malicious communication [a]	2
Affray	1
Burglary [b]	1
Breach of restraining order [b]	1
Breach of court bail	1
Harassment	1
Obstructing a sheriff in the execution of a court order	1
Suspected Terrorism	1
Trespass [b]	1
Threats to kill	1

[a] Sending a communication to cause anxiety or distress (s 1 Malicious Communications Act 1988)

[b] Offence unknown at time of interview

The participants interpretation of the behaviour for which they were arrested raised interesting considerations about the role and perception of criminal intention. According to criminal law, for an individual to be held responsible for an offence there should typically be both actus reus and mens rea (Lacey *et al.*,

2003). Actus reus can be defined as "that element of the definition of an offence which consists in the behaviour which the defendant engages in, seen from an external point of view: abstracted from its meaning or significance for the defendant" (Lacey *et al.*, 2003: 44). Mens rea can be defined as "the requirements stipulated in the definition in an offence as to the defendant's mental state with respect to the elements of the 'actus reus'" (Lacey *et al.*, 2003: 50). Accordingly, "[t]he essence of the principle of *mens rea* is that criminal liability should be imposed only on persons who are sufficiently aware of what they are doing, and of the consequences it might have, that they can fairly be said to have chosen the behaviour and its consequences." (Ashworth, 2003: 160). For most offences, the defendant is required to have 'direct or purposive intention' to commit the offence; that is, they made "a decision to bring certain consequences or states of affairs about in so far as it lies within one's powers to do so and with the aim of so doing" (Lacey *et al.*, 2003: 52). Alternatively, a defendant may be held to have 'oblique intention' whereby they are considered to have "done an act in the knowledge that a particular result will or is virtually certain to occur [see Moloney, 1985; R v Woolin 1998]" (Lacey *et al.* 2003: 52). According to these standards, in most cases where the participants committed the actus reus of the offence for which they were arrested, they also appeared to have the relevant mens rea to be responsible for their behaviour.

Yet, the participants did not interpret intention in this way, but often referred to intention in a lay sense. Reflecting this view, 13 out of 15 participants appeared to lack the intention to commit an offence. Of these, 6 specifically reported that they did not intend to commit an offence. One participant did not provide detailed information about their arrest to draw any conclusions

about this (Survey 3). In another case, the intention to commit an offence was ambiguous because, although they reported a lack of intent regarding the arresting offence, they did intend to engage in other offending behaviour (Interview 6). In particular, one participant termed his arrest an example of "*accidental offending*" (Interview 4). The behaviour of 10 out of 15 participants can also be understood in this way. In these cases, the participants' behaviour seemed to be a reaction to external circumstances. While Autism also appeared to have contributed to the arrest of 11 out of 15 participants, their behaviour was attributable to the interaction between certain autistic characteristics and wider factors, rather than Autism alone. If these wider factors were absent it is possible that offending behaviour would not have occurred. More importantly, their main motivation in these circumstances was to deal with the stress they were experiencing, not to commit an offence.

6.2.1 Mental Health and Reacting to Stress

Poor mental health was a significant factor in the behaviour of the participants. Depression was reported by 9 out of 15 participants. Of these, 6 participants reported experiencing depression at the time of their arrest and 5 participants reported incidents of self-harm and suicidal ideation. For 4 out of 15 participants, this was contextualised by life stresses, such as family illness, difficulties living independently, job loss and bullying. As Aidan explained: "*(…) when I had my breakdown period and confrontation with the police and my Dad had like, leukaemia - terminal cancer (…)*" (Interview 1). For 6 out of 15 participants, poor mental health affected the way they responded to stressful situations. For instance, Charles was "*suffering*

anxiety" and "*frequent meltdowns*" at the time of his arrest (Interview 3). This impacted his ability to cope with the additional stress created by the events leading up to his arrest, particularly the communication difficulties he experienced:

"*I used to look after my mum and um, I took her to hospital regularly (…) and this was one morning where, um, we were getting ready to go to hospital (…) immediately before taking my mum who was in a wheelchair (…) I moved the car down onto a yellow line, wasn't obstructing anything, (…) opposite the front door to take her out. (…) but unfortunately, I wasn't able to go out immediately, um, my mum had a bit of an accident. (…) And, um, I needed to attend to that before I could, you know, get her changed (…) and there was a knock on the door (…) and it was a traffic warden (…) I think she asked me outside (…) to ascertain whether it was um, my car or not (…) And she said, "Could I move it because it shouldn't there?" (…) I tried to explain the situation to the traffic warden. (…) and I was getting very stressful, um - this traffic warden didn't appear to be listening to me, or taking any notice, and was gonna put a ticket on the car anyway - and I said, "Well, um, come inside. See for yourself." (…) You know, um... agitated tone. And, um, she said "No". (…) I laid my hands on her shoulders, because she was facing towards me, and I turned her around towards (…) the open door. (…) And, um, I'm not sure whether I pushed or not. But, um, the case hinged on whether I pushed her and she accidently hit - well, I would maintain if she hit her knee at all.*" (Interview 3)

Charles said that after this exchange he "*had a complete an utter meltdown*" whereby he ran off into the middle of a busy road (Interview 3). He explained: "*I, literally, did want a car to run over me. That's what I wanted to happen. (…) I would not have cared at that moment if my life had of been ended (…) I*

just wanted out!" (Interview 3). Two other participants also described experiencing a meltdown after experiencing extreme stress. This led to them committing a criminal offence:

"(…) Now, I've gone into my local job centre, er, unknown to me, the rules had now changed where you could no longer wear a hoodie. (…) I, er, used the phone to enquire for some potential jobs, and this big security guard has approached me from behind, shook me by my shoulder, and told me in quite an aggressive tone, "Remove your hood". Now, this startled me, I wasn't expecting it and I just turned away, and I've thought to myself, you know, "Just leave me alone, I'm trying hard to concentrate on what's being said to me on the phone". Now, not even a minute had passed, this time he has forcefully shook me by my shoulder and told me again, "I've told you, remove that hood". And, it's all kicked off. I've plunged into this neurological storm - you know, I've just had a cataclysmic meltdown (…) there was an assault on him, criminal damage and I ended up being arrested for that." (Interview 4)

However, despite committing the actus reus of the offence, the participants did not perceive their behaviour to be intentional: "*I hadn't gone out purposefully to commit a crime on that day. I'd simply gone out to try and secure potential work*." (Interview 4). In particular, they did not feel responsible for what happened: "*I didn't think it was that, um, bad ... it was just 'cause I was being bullied by them (…) and on medication it wasn't my fault*" (Interview 1).

A lack of appropriate mental health support also contributed to the behaviour of these participants. Late diagnosis of Autism was a common experience among all the individuals interviewed; only 6 out of 15 individuals were diagnosed at the

time of their arrest. Because of this, 3 out of 15 participants described how they were unable to access appropriate support. This led them to rely on poor coping strategies to deal with the difficulties they were experiencing which affected how they behaved. Of these, all 3 participants relied on alcohol:

"*(…) suffered with mental health… issues for about 10 years… and depression, and I couldn't work out what was wrong (…) so I (…) used to go to the hospital quite a bit, when I've been drinking (…) and try and get some help really. And that would always end up with the police being called (…)"* (Interview 9)

Two participants also used drugs:

"*(…) I've had behavioural problems all my life. (…) But I moved out onto my own... (…) And I just came like depressed and I was doing - obviously, these drugs before I ended up in - no I ended up a police station before I ended up in a mental hospital. (…) I was doing all silly things like jumping in rivers, walking on railway lines... to just try and end my life. And then it got more serious where I would lose my temper with a police officer so I was assaulting 'em.*" (Interview 7)

If they had been identified earlier and given appropriate support, it is possible their involvement with police could have been prevented. As Dale emphasised:

"*(…) maybe if I'd had the help that I'd needed - going through mental health issues and the services being cut - maybe I wouldn't have gone down that dark path of gambling, drinking and drugs. And maybe if I'd kept my mental health, er, intact, perhaps these unfortunate situations needn't have occurred.*" (Interview 4)

This led participants to question the appropriateness of their arrest: "*I felt... I needed help rather than being arrested. (…) 'cause I was doing a lot under... um stress and being ill. (…) it should have been mental help really*." (Interview 7).

6.2.2 The Behaviour of Others

The behaviour of others also appeared to play a role in the perceived offending behaviour of 6 out of 15 participants. For instance, 3 participants were arrested because they were in the wrong place at the wrong time. This exposed them to a risk of being arrested:

"I was about 17 years old, I used to skateboard a lot in the (…) pedestrian precinct, er, after the shops had closed in the evenings with my friends (…) and the one evening we was, er, skating (…) [my friend] who was slightly older (…) he had a, um… er, key to [the] coffee shop (…) we basically went in there and filled up our water bottles (…) I didn't go in to start off with, not because I thought it was wrong, but because… they went in and I was just sat there kinda like watching the world go by. I just thought 'Ah no I'll wait out here 'til you come out'… (…) and I remember thinking 'Ah well, maybe I'll go in anyway' 'cause (…) it looked like a bit of a – a joke. (…) So I went in there with them and we filled up the water bottles from the tap. Then… went back outside, carried on skateboarding (…) And… it wasn't 'til later on that we were skating down the bottom end of the high street and we were, basically arrested." (Interview 12)

The risk of being arrested in these cases was also increased by the participant's behaviour. This was demonstrated by Finn:

"*The police line disappeared in front of us... and then all of a sudden... there were horses around us (...) at this point I've actually lost the ability to hear (…) through sensory overload (…) Um, then a police officer on a horse (…) for some, peculiar reason – (…) came up behind [my friend]... ripped off his hat and threw it. Who then came up behind me and ripped off my mask - and I had my glasses over my mask - and threw that (…) And then went for my brother, took off his mask and threw it. And then came back for me, he wrapped his - his hands in my hair and tried to lift me up (…) Now the thing … He hadn't done his saddle up properly. (…) his saddle ended up slipping. He ended up falling off (…) then a load of police officers decided that we'd obviously pulled the copper off his horse. Which is... usually (…) harder done than (…) than that. (…)*" (Interview 6)

This case is unusual because even though Finn did not commit the offence he was arrested for, he intentionally went to the protest. However, while he knew he could be at risk of conflict with the police, it is possible he did not fully appreciate that he may have been more vulnerable to the negative consequences associated with taking part in the protest.

The behaviour of the other 3 participants also seems to be partially attributable to being autistic. For instance, 3 out of 15 participants referred to the role of naivety:

"(…) in that particular situation (…) I kind of coasted through it, and it wasn't until afterwards that I realised (…) that they were kind of after [my friend], that he was the bad egg? And however they had managed to get hold of this key, [my friend] wasn't actually working there maybe, you know?" (Interview 12).

A strong sense of right and wrong was also a factor in one case:

"*I felt like I'd been picked out for some reason (…) I don't know if it was like the race thing? I don't know if it was a - kind of the way I spoke? I don't know if it was - I don't know what it was. I think... probably the way I behaved now, looking back, was probably related [to Autism] in some way. (…) Like, this - me not letting it go (…) 'cause it wasn't right what they were doing, they were in the wrong... and I couldn't let it go. (…) Whereas if I was less stubborn (laughs), maybe I would have gone "Oh, okay, we'll just..."*." (Interview 2)

Bailey was arrested after challenging the way police officers responded to a fight where she felt a child was at risk of being harmed. While she alluded to the role played by Autism in her behaviour, Bailey was unsure if her arrest was due to her race rather than because she was autistic. Previous research has illustrated that ethnic minorities are more likely to be arrested as compared to the white population (see Rinehart Kochel *et al.*, 2011). Although focusing specifically on the US, Rinehart Kochel and colleagues emphasised "[r]ace matters" (Rinehart Kochel *et al.*, 2011: 498). As such, it is possible race was the overriding factor in the decision of the police officers to arrest her. An alternative explanation could be that the combination of race and being autistic *doubly* exposed her to a risk of being arrested.

Finally, difficulties with social relationships also contributed to the arrest of 2 out of 15 participants. For instance, Elliot was arrested after he went to check on a previous girlfriend after he suspected she had relapsed into alcoholism and she accused him of repeatedly ringing the doorbell. Elliot explained that she was actually responsible for ringing the doorbells and had blamed him after his ex-girlfriend manipulated her into believing he had an affair with her. He felt that he ended up in this situation because people could take advantage of him: "*what I see now is*

(…) I can be naïve in relationships (…) and you know, with relationships with ex-partners I realise I was being naïve and over-trusting in certain aspects (…)" (Interview 5).

6.3 The Interpretation of Behaviour and Intention

The misinterpretation of behaviour was referred to by 7 out of 15 participants. Of these, 4 participants described how this misinterpretation led to their arrest. As Bailey explained:

"(…) I think, even with the police officers, if - if I could have explained things differently, where I was coming from, it might not have escalated to that maybe. (…) It probably came across as me being antagonistic (…) Um, and a bit annoyed, "like why is she..." (…) ... "this 18 year old girl (…) doing..." - you know, it wasn't the right time for me to... yeah. I think it was misunderstood rather... I think they took as personal they're not doing their job right? (…) Rather than the situation isn't being handled right." (Interview 2)

Participants felt that their behaviour was misinterpreted because police officers lacked an understanding of Autism. For instance, Charles believed that the police saw him as a "*violent criminal type who pushes people around"* and *"as a bit of a bully"* (Interview 3). He agreed that if the police had known he was autistic, they might have treated him differently because "*I think they would have realised that I wasn't acting out of malice or deliberation."* (Interview 12).

However, this was further complicated by the fact that not all of the participants were diagnosed at the time of their arrest, as discussed in section 2. Because of these two factors, the participants felt that the police officers did not consider that

there were other explanations for their behaviour. For example, when Kate was arrested for serial shoplifting, she reported "*they thought there was something"* but "*they didn't understand… the conditions I had. Bearing in mind I wasn't (…) diagnosed. And they hadn't clicked there must have been a problem here.*" (Interview 11). Explaining her behaviour, she thought that the amount she took was related to her Post-Traumatic Stress Disorder, "*because of the memory loss*", "*when I shop lifted, I just blacked it all out (…) So I couldn't remember what nicked, why I had it, what for (…)*" (Interview 11). She also felt that Autism was a factor in the quantity and what she took as this was often connected to her special interests:

"*lots of things (…) Doesn't matter what it is, how - it could be sweets, it could be colour, it could be videos, it could be tellies, the mass of it, and what you – your interests are this month, might not be next month."* (Interview 11).

Because the police officers did not understand this, Kate perceived that they misinterpreted her behaviour as intentional.

In contrast, 2 out of 15 participants described how the police officers responded to their behaviour when they knew they were autistic. On the one hand, Jenny reported that she was still arrested because the police officer did not believe she was autistic:

"*Um, when – with a paramedic, um… they rung me on my phone to ask me where I was 'cause they wanted to check I was safe and I was just about to get on a bus to A & E 'cause I had like… several deep wounds there? (…) And all of a sudden, this (…) single police officer taser came and arrested me. And was very nasty and (…) on the way to custody I said 'Look I've got [Autism] so don't grab me like that' - and he was like 'Well I've*

got an autistic son and he don't act like you do. You're under arrest for affray.'" (Interview 10)

This happened frequently: "*They've always been aware but they often ignore it and say there's nothing wrong*." (Interview 10).

On the other hand, Isaac was treated differently once police officers knew he was autistic:

"(…) after my diagnosis I don't think I was ever took to the police station. (…) they, um… they used to phone my Mum (…) and bring my mum… I mean they – they went and picked her up a couple of times (…) and bought her to me? (…) But before they just nicked me for drunk and disorderly." (Interview 9)

To address the risk of misinterpretation, participants stressed the importance of Autism training:

"*I think they should go on some courses where they can understand Autism more (…) you know, Asperger's, dyslexia, dyspraxia… (…) and you know (…) other things (..) to understand why autistic people are… (…) It should be mandatory that they do that (…) because they would understand why people do things like they are*" (Interview 8)

This will be considered in further detail in Chapter 10.

6.4 Discussion

To some extent, these findings are consistent with previous research which has explored the offending behaviour of autistic individuals (see Freckelton, 2011; Haskins & Silva, 2006; Murphy, 2010; Woodbury-Smith, 2014; Helverschou *et al.*, 2015). As discussed in Chapter 2, previous research has discussed the role of autistic characteristics in offending

behaviour (see Allen *et al.*, 2008). Allen and colleagues have referred to several characteristics including i) "being obsessional in pursuit of a desired outcome (e.g. to be proved right)"; ii) "lack of consideration/awareness of the implications of actions taken" and; iii) the "tendency to misread the emotions/behaviour of others" (Allen *et al.*, 2008: 753). They also described how some autistic individuals were vulnerable to being exploited by others (Allen *et al*., 2008). In addition, previous research has also emphasised that being exposed to certain risk factors may increase the likelihood of autistic individuals engaging in offending behaviour (Kawakami *et al.* 2012, Allen *et al.*, 2008; Brugha *et al.*, 2009; McCarthy *et al.*, 2015). Self-harm (Esan *et al.*, 2015) and comorbidity were both identified as a risk factor for offending (Långström *et al.* 2009 & Palermo, 2004). In particular, Palermo alluded to the role played by depression (Palermo, 2004). Late diagnosis was also identified as a risk factor for increasing the likelihood of offending behaviour among autistic individuals (Kawakami *et al.*, 2012). For instance, Helverschou and colleagues have emphasised that for many of their participants "[e]arlier identification, together with adequate services and support, might have prevented at least some of the offences" (Helverschou *et al.*, 2017: 7). In addition, Allen and colleagues have also previously suggested that "[t]he impact of the ordinary stressors [appear] to be exacerbated by maladaptive coping strategies … such as: choosing not to seek help; increases in drug taking (alcohol and illicit drugs), and having poor outlets for emotions" (Allen *et al.,* 2008: 753).

However, this research highlights how the *interaction* between these internal and external risk factors can lead to autistic individuals engaging in perceived offending behaviour. Although this has previously been recognised by previous

research (see Maras *et al.*, 2015; Browning & Caufield, 2011), this research expands upon this illustrating the circumstances in which these factors can lead to offending behaviour. For example, this research shows how poor mental health and a lack of appropriate support, combined with poor coping strategies, can cause inappropriate reactions accumulating in arrest. This research also highlights how this resulting behaviour can be subsequently misinterpreted by others as a result of a lack of understanding of Autism, as previously referred to by Chown (see Chown, 2010). It is this combination which further increases the risk of autistic individuals being arrested and detained in police custody in connection with perceived offending behaviour.

Moreover, this research builds upon findings by previous research regarding the association between Autism and criminal intention (see Freckelton & List, 2009; Beardon, 2008). In particular, Beardon acknowledged that while "AS is not an excuse for breaking the law" (Beardon, 2008: 182), "in *some cases* AS may account in part or in whole for the behaviour of an individual" (Beardon, 2008: 208). As such, "some individuals who break the law appear to do so without any criminal intent" (Beardon, 2008: 208). These findings illustrate that although wider factors can lead to offending behaviour, the individual may not perceive themselves as responsible for such behaviour because they may believe they did not intend to commit the offence. Interestingly, the participants interpreted their own behaviour through an autistic lens and specifically alluded to Autism as an explanation for their behaviour. In doing so, they re-affirmed their belief that they lacked criminal intention. Furthermore, the participants felt that the police officers misinterpreted their intentions and perceived their behaviour as offending because they failed to consider alternative

explanations for their behaviour, including Autism. Linked with this, they referred to the need to understand *why* autistic individuals behave in a certain way. This is consistent with the suggestions previously made by Allen and colleagues and Beardon and colleagues (Allen *et al.*, 2008; Beardon *et al.*, 2018). In particular, this research emphasises the importance of improving the understanding of Autism among police officers so the behaviour of autistic individuals is better understood and police officers can determine the most appropriate way to respond (Allen *et al.*, 2008; Beardon *et al.*, 2018). In particular, the participants seem to suggest that in recognising Autism police officers should treat them differently i.e. avoid arrest.

However, two issues are raised by this. On the one hand, there is a discrepancy between the participants understanding of intention and criminal law. Criminal law focuses on the knowledge and intention of the defendant to commit the action, rather than on their subjective motives (see Lacey *et al.*, 2003). But, the participants understanding of intention relates somewhat to their motivation. Despite admitting to the actus reus, the participants did not feel that they intended to commit the offence because their motives were pre-dominantly related to the wider circumstances. In particular, the overriding motive in a number of cases was to escape the stress they were experiencing. While this motivation led them to react inappropriately, it was not their direct intention to commit an offence. Furthermore, they were not always aware or able to anticipate the consequences of their actions. This was partially attributable to their motivation to deal with a specific situation and the difficulties autistic individuals experience predicting or understanding the consequences of their behaviour. Yet, motive does not play a role in determining intention in criminal law. As

argued by Lacey, the approach to criminal liability takes the view that "a person's thoughts and … actions are separate and separable in our decisions and analyses" (Lacey *et al.*, 2003:62). However, "in practice, we do not react to human behaviour in this way, but rather make a global judgement which encompasses act and attitude" (Lacey *et al.*, 2003: 62). Therefore, the definition of criminal intention may disadvantage autistic individuals.

On the other hand, the participants' view that they should be treated differently as autistic individuals may also be inconsistent with the CRPD. As discussed in Chapter 4, disabled individuals should be treated equally before the law (Article 12 CRPD). As emphasised by Minkowitz, the "declaration that a person cannot be held criminally accountable on account of disability or of mental incapacity, is problematic in light of the recognition that persons with disabilities are equal to others before and under the law" (Minkowitz, 2014: 435). Although the CRPD does not prevent "legal recognition that some people have difficulty making decisions or adhering to criminal prohibitions", it means that criminal defences cannot rely on "mental disability as a determining factor" (Slobogin, 2015: 36). Thus, in light of this, it appears that adopting the participants' understanding of intention would be inconsistent with the CRPD as it relies on Autism as an explanation for their behaviour. However, an alternative interpretation is that it is not Autism per se but how it affects the individual in certain circumstances which provides the explanation. To some extent, this is consistent with the arguments of Slobogin and Minkowitz which suggest that criminal intention should understood in a 'disability-neutral' way (Slobogin, 2015; Minkowitz, 2014). In particular, they emphasise that criminal defences should be subjectivised (Slobogin, 2015;

Minkowitz, 2014). Accordingly, "the focus of excuse should be on the actor's desires and beliefs at the time of the crime" and "only those desires and beliefs that indicate an absence of intent to cause harm or a belief in justificatory facts should excuse" (Slobogin, 2015: 39). As such, "[m]ental diversity … would be treated as any other perceptions, beliefs or worldview, and would not imply absence of criminal intent" (Minkowitz, 2014: 457). But, it is not clear whether this distinct separation would be wholly consistent with the participants' understanding of criminal intention and the offending behaviour of autistic individuals.

6.5 Conclusion

This chapter has illustrated the complex circumstances which surrounded the arrest of the participants and examined the factors which contributed to their perceived offending behaviour. Firstly, this chapter highlighted the perceived lack of criminal intent in the offending behaviour of the majority of participants. The perceived offending behaviour of many of the individuals appeared to be attributable a complex interaction between autistic characteristics and wider circumstances such as poor mental health, stress and the behaviour of others. This interaction subsequently had an impact on the behaviour of the participants and often led to them engaging in offending behaviour, clarifying previous findings which identified the potential role of this interaction. Secondly, this chapter illustrated the way in which the behaviour of the participants was misinterpreted by police officers. There was often a distinction between the participants' interpretation of their behaviour and the perceived failure of police officers to take into account Autism when responding to their behaviour. Linked with this,

participants referred to Autism as an explanation for their behaviour, re-affirming their perceived lack of criminal intention.

Finally, section 5 considered how these findings relate to previous research and the wider relevance of this research. This section highlighted how this research builds upon findings regarding the risk factors of offending behaviour, illustrating the circumstances in which offending behaviour can occur. Moreover, it also re-affirmed the need for a better understanding of Autism to prevent the behaviour of autistic individuals from being misinterpreted and ensuring they are responded to appropriately. However, this section concluded by evaluating the tension between the participants' perception of their intention and the definition of intention in criminal law. In particular, it considered whether autistic individuals are disadvantaged by the current view of intention and whether differential treatment of autistic individuals would be consistent with the CRPD.

CHAPTER 7 – THE PUNITIVE EFFECT OF ARREST AND DETENTION

7.1 Introduction

Many participants experienced arrest and detention as a form of punishment and often felt they were being treated like a criminal. This was affirmed through the use of force and restraint and the perceived lack of respect displayed by police officers, as well as being subject to the custody process. The participants questioned the appropriateness of these practices and this was underpinned by their perception that they had not intentionally committed an offence, as highlighted by Chapter 6. This chapter explores the punitive element of arrest and detention and how this was experienced by the participants. Section 2 will discuss the participants perception of the way they were treated by the police officers. Section 2.1 shall examine the use of force and restraint during arrest and in police custody. It will also consider occasions when participants had more positive experiences of arrest and emphasise the need for calm and de-escalation rather than punitive responses. Section 2.2 shall explore the participants' interpretation of respect during their experiences. Section 3 shall discuss the ways in which participants felt they were being treated as a criminal. It shall set out the participants' experiences of engaging in the custody process and the punitive function played by each of these processes. After outlining these findings, section 4 shall reflect upon previous research and how this research relates to previous findings regarding the experience of detention. To conclude, this chapter will review the experiences of autistic individuals of being arrested and detained in police custody and consider the punitive nature of detention.

7.2 Treatment by the Police Officers

Ten out of 15 participants reported negative encounters with the police officers. The way in which the participants perceived they were treated by police officers reinforced the negative feelings they had towards their arrest and detention in police custody. The use of force and restraint as well as respect played a key role in these experiences.

7.2.1 Use of Force and/or Restraint

The use of force during an arrest was reported by 5 out of 15 participants. Because of their perception that they had not committed a criminal offence, they questioned the legitimacy of the use of force and this affected their experiences of arrest. For example, 4 participants described incidents of physical assault:

"(…) I refused to move and the police officer pushed me (…) And then like, I didn't really know what was happening, but they'd kicked the back of my legs ... and like, pushed me on the floor. Erm, one of the neighbours who later came forward (…) saw them like hitting my head off the floor... (…) had to get an x-ray, like my eye was all ... erm - they just brutally arrested me (…)" (Interview 2)

One participant also reported how police officers restrained him using handcuffs: "(…) *the police treated me like a real criminal. They handcuffed me so tightly that I still have scars on my wrists and my finger and thumb are still numb from them being so tight*." (Interview 5).

For 2 participants, their perception of the legitimacy of the use of force was further associated with their understanding of police as an authority. Bailey explained: *"(…) 'cause it's the*

authority, you don't think that can happen." (Interview 2). This impacted her perception of the arrest: "*(…) just felt really... I don't know, like they were a bit bullying … (…) in the way they were going about it*" (Interview 2). In contrast, Elliot felt their position of authority encouraged them to believe that they could use force in an inappropriate way:

"*(…) it's not like they're even trying when they're putting handcuffs on you to try and do it in a nice way, they're trying to injure you. (…) the ones that, you know, that if you struggle, you are gonna get hurt? […] they know that (…) once they've got them cuffs on you, they know you can't do anything? But what type of person would do that to a person and then start throwing them around? Why would you do that anyway? But they do it because they can! But (…) that's just the way it is."* (Interview 5)

In addition to reports of the use of force during arrest, 4 out of 15 participants reported that police officers used force against them in police custody. For instance, 2 participants described incidents of physical assault:

"*(…) we were just walking back to the cell, and this, er, tall copper's seen me... and I don't know why - what came over him, but he's come up to me, he said "Get in the cell. Get in the cell" and I said, "Look, I'm - I'm gonna go in my cell willingly, just let me finish my conversation. I'm not doing any harm..." (…) And this officer, you know, just tried to throw his weight around, he's pushed me into the cell... and I've hit him.*" (Interview 4)

Two participants also described being restrained:

"*(…) the one I really remember is they restrained me in the cell. (…) they handcuffed me… and put straps round my body… (…) and (…) every time I shouted out, they just tightened them up a little bit more*." (Interview 9)

Four out of 15 participants questioned the proportionality of the police's behaviour. For example, Isaac felt they were restraining him because they saw him "*as a problem"* (Interview 9). In particular, they suggested that the police officers could have responded differently. As Grace explained: "*(…) another time, I chucked... water at a... police sergeant... (…) and he came in beating me up. (…) And pulled the stitches off me.*" (Interview 7). Although she recognised that she "*shouldn't have taken the water and threw the water over him - I take full responsibility for that*", she questioned the legitimacy of his actions. Grace emphasised: "*(…) they must deal with stuff like this from other prisoners? (…) So they must be trained. (…) So they must... be able to deal with it differently from how he did it*." (Interview 7). This was also illustrated by Jenny. While she was restrained after she had tried to self-harm in the cell, she felt they could have approached this better by "*only like one or two female officers come near me, to talk to me. (…) Sat a distance away rather than trying to hold tissue on my arm that's bleeding*" (Interview 10).

Although police officers are permitted to use reasonable force in the fulfilment of their powers (see s 117 PACE 1984), this is subject to limitations. In exercising their discretion to use force, there should be a lawful objective (i.e. effecting a lawful arrest), a lack of effective alternatives and the level of force should be the minimum necessary to achieve the objective (HMIC, 2011). However, it is not clear from the research how the discretion to use force was exercised by the police and whether it was lawfully exercised because the police officer's versions of events are not reflected in the participant's accounts. As such, it is not possible to verify whether they believed they had reasonable grounds to use force in these cases. But, this does

not mean the concerns of the participants about the reasonableness and apparent excessiveness of the force used are invalid. Their perceptions of these events are linked to their subsequent interpretation of the legitimacy of the police officer's behaviour during the arrest. This is reflected in how they felt about their overall experience.

7.2.2 Respect

Seven out of 15 participants perceived that they were not shown respect by police officers. Of these, 2 participants were unhappy about not being called by their name: "*Not being called by my name is rude and arrogant behaviour being called mate rather than [Aidan]*" (Interview 1). By not being called by their name, they felt as if they were being disrespected as a person: "*It felt like nothing really*" (Interview 7). Notably, 5 out of 15 participants perceived that the police officers treated them as a criminal rather than as a person. On the one hand, this was embodied through their behaviour towards them. For example, Jenny explained "*they put gloves on (…) them as well, as if you're like contaminated or something" and "those blue [safety suits], which are not very nice? (…) Which I don't think are right*" (Interview 10). She also described how the police officers failed to "*take respect*" of her property (Interview 10). Bullying behaviour was also reported by 4 participants. They described how were called "*names like moron, idiot and bell-end*" (Survey 3), how the police officers were "*taking the mick*" (Interview 1) and how they "*treated me with the contempt of an untouchable bully*" (Survey 4).

Three out of 15 participants also felt that the police officer's attitude towards them changed depending on the circumstances:

"*(…) after the solicitor had gone, the, um... the sergeant on the desk he - you know, he was really nasty and everything to me. (…) Because once the solicitor had gone (…) he said, 'Well if you want we can', (…) '...charge you where you'll have to appear in court and everything' (…) and I said 'No, it's...' you know, wasn't nice at all*." (Interview 8)

In contrast, Jenny emphasised: "*As soon as there's like an advocate… an Appropriate Adult or your lawyer there - (…) they start to talk to you (…) with respect*" (Interview 10). These statements also illustrate the role played by simply having an AA or solicitor present during police interactions. However, the participants stress the importance of respect being continually shown to detainees, not just in the presence of others.

On the other hand, their perception that they were being treated as a criminal was affirmed by their perception that their welfare needs were not being met:

"*(…) I know that - I'm a criminal, we shouldn't be having all these treats like water, and maybe a fan, (…) it feels like it, because if I'm a criminal I've done wrong. You know, I've broke the law. I should be treated as such*." (Interview 4)

In particular, 4 out of 15 participants suggested that police officers failed to take active steps to meet their needs:

"*Not once was I asked if I would like a drink or something to eat and no one asked me if I was feeling ok, even after pressing the buzzer no one came over to see if I was ok*." (Q & A 1).

Having to ask for their needs to be made them feel "*[n]ot like you're respected*" (Interview 10). One participant also described how they were distrusted by police officers to accurately assess their own needs:

"*(…) they won't believe you, you're seen as a liar. Not just about what you've done, but about how much medication you have, er, when you have it – you know, as soon as you're in custody you're… telling lies?*" (Interview 5)

Associated with this, 5 out of 15 participants described how they felt they were being disrespected as a disabled individual. Being treated as a criminal was seen to be separate to being treated as a disabled individual. Because of this, they felt that they should be treated differently as an autistic individual:

"*I thought they would like be more understanding (…) towards my condition and not, erm, treat me like a normal criminal. I thought they would like take it into account, my Autism. (…) Rather than treating me like (…) an individual that hasn't got any conditions.*" (Interview 1)

However, participants felt that the police officers did not recognise their identity as a disabled individual. In part, this may have been attributable to a lack of understanding of Autism. This was illustrated by Dale:

"*I did have a - a situation with a sergeant whereby they didn't believe I was on the spectrum. (…) me Mum actually told me this story when I come out of the cells, and the sergeant says, "I understand your son is (…) has Autism", (…) And the sergeant, hand on my heart now, said this... "Is he on medication?" and my Mum says, "No? It's a lifelong disability". And the sergeant's (…) response was, "I - There can't be much wrong with him then*

can there?". Smacks of ignorance. So, it's a case of, you're damned if you do; you're damned if you don't." (Interview 4)

Dale explained that Autism is "*like living in an invisible wheelchair*"; "*[j]ust because you can't see a disability visually, doesn't mean there aren't any underlying problems there*." (Interview 4).

To address these concerns, 2 participants felt that police officers should treat them "*[h]ow they'd like to be (…) treated themselves*" (Interview 10). Two participants also suggested that police officers should be more pro-active in meeting the welfare needs of detainees:

"*An important one is for the custody staff (assuming they're not understaffed as is too often the case) are more proactive. They tend to do what compulsory but not always what's needed. Typical example is not bringing water to someone who's not asking for it, possibly because they're too anxious to ask or concerned about asking anything, and subsequently get dehydrated*." (Survey 1)

To improve the treatment of autistic individuals in police custody, 2 out of 15 participants also thought that police officers needed to have a better understanding of Autism:

"*They could try and understand Autism or listen – or looked at my Autism alert card – but a lot of 'em say, "We've seen that and we don't need to read it". (…) you know, often I will show – (…) and they say obviously 'We don't need to read it'. And it's like well, actually if you looked into it and actually took some of the – what it says on board and actually read it and tried to approach me in that way, then maybe you might get a bit of a better response*." (Interview 10)

These suggestions will be considered in Chapter 10.

7.3 Being Subject to the Custody Process

The feeling of punishment was most acutely experienced as a result of being in detention: "*I suppose they look at it as a punishment… (…) You're there to be punished for (…) the crime you've committed*." (Interview 9). Eight out of 15 participants referred to the experience of deprivation which made them feel as if they were being punished. In particular, 6 out of 15 participants referred to the punitiveness of being detained in the cell: "*it just felt like a punishment the whole way through. (…) I think they were leaving me in the cell as a punishment*." (Interview 2). The feeling of punishment was amplified because participants questioned the necessity of being detained:

"*(…) You're left there… to ponder. (…) But what you're pondering about if you don't know what's gone on? (…) I couldn't get my head round why I was behind there when I… not an hard faced criminal? (…)*" (Interview 11)

The punitiveness of detention was further embodied by the loss of privacy (n=4) and not being able to meet their welfare needs (n=5). For 2 participants, this was specifically related to the open toilet:

"*(…) I don't know, being so exposed with the toilet (…) Does it have to be like that when (…) you're not being charged with anything? They've not been found guilty so why are you getting punished at that point? So I found the toilet was - felt like a punishment. And just not having any privacy*." (Interview 2)

Most notably, for 6 out of 15 participants the punitive effect of detention was reinforced by the custody procedures. Being subject to these procedures re-affirmed the feeling that they were "*not treated like with respect*" (Interview 10). As Jenny explained:

"*I hate being in custody full stop. It's not very nice but then if you've done something wrong, then you've done something wrong. But I don't like the way they treat you, the way they search you. … I don't like the way they … like check everywhere and get you to squat and – and like they think oh 'cause you carry blades you're going to hide them up… a personal area, and it's like… not stupid enough to do that.*" (Interview 10)

In addition, 4 participants found it difficult to understand why they had to comply with the pre-charge process. This was linked to their perception that they were being treated as criminal. For instance, one participant described how this was affirmed during the fingerprints:

"*(…) they just like kept trying and they cleaned the glass and everything trying to get my fingerprints to work all of them and they couldn't. (…) And that just made me feel really bad. You know, it was as if I had, you know, been a real bad criminal … if I'd broke into somebody's house (…) then I could understand why they did my fingerprints. But as I didn't, I felt it was inappropriate that they had to do that (…)*" (Interview 8)

He had a similar perception of the UV smart-water test:

"*(…) I thought that was really wrong that they actually had to do that! You know as if - I'm disabled you know, they didn't take that into – that I'm going to go climbing up onto the church roof to nick their lead or whatever! And you know… and that didn't help me with (…) how they make me feel.*" (Interview 8)

Another participant was unable to understand why she had to give a DNA sample:

"*(…) I don't know why they took my DNA. (…) I don't know if they were punishing me, or if it was... 'cause my Mum was quite like "What are you doing? What has she done?" and... I don't know if it was like a punishment thing, or if it was procedure*." (Interview 2)

As a consequence, Bailey described how she experienced this as "*really intrusive*" because she felt "*forced into giving that swab"* (Interview 2).

In addition to these procedures, being photographed was a key concern for 4 participants: "*I just don't like the fact that they were taking my photograph. (…) ...'cause I felt like I was a criminal*." (Interview 7). Associated with this, 2 participants emphasised that they felt the photograph portrayed them as a criminal:

"*I know this sounds rather stupid, but I, um - I was wearing a tracksuit at the time, you know, um, casually dressed. Um, I wish I'd have been wearing a collar and tie when I had been photographed! (laughs) (…) But, you know, er... I don't like the idea that there's a mugshot of me and I look, you know, like a, um, kind of, character - sort of characters around the estate that I see every day (laughs).*" (Interview 3)

This representation was contrary to their own perception that they had not intentionally committed an offence.

In part, the participant's perception of these procedures may have been linked to the fact that they did not understand the wider purpose of the custody process. It is not clear that they understood that all detainees are subject to these

procedures regardless of whether they are later charged. As such, it is possible they did not realise that the police officers may only have been carrying out these procedures in line with their role. Instead, they felt that they were being punished. To some extent, this feeling of punishment may be understood in terms of the difficulties some autistic individuals have in understanding the intentions of others. It may also have been exacerbated by their perceptions of why they were there and their belief that they had not done anything wrong. On the other hand, as will be discussed in Chapter 8, it may also be attributable to the lack of explanation about what was happening.

7.4 Discussion

As discussed in Chapter 1, Skinns and colleagues previously highlighted the unique nature of police custody and the loss of power, liberty and control accompanying this (see Skinns *et al.*, 2017; Skinns *et al*., 2015; Skinns, 2011). Previous research has also referred to the role of force and restraint by police officers in the experiences of detainees (Skinns, 2011; HMIC, 2015). For example, Skinns has described how suspects "may be coerced either through threat of or use of force" when they do not "consent to being policed" (Skinns, 2011: 4). The HMIC also highlighted concerns about the disproportionate use of force, alluding to instances where the use of force was excessive in the circumstances such as using handcuffs where there is no risk of escape (HMIC, 2015). The role of respect in the experience of detention and how this is embodied in the behaviour of police officers has also been discussed (Skinns *et al*., 2017; HMIC, 2015). Skinns and colleagues described how respect was defined

as: i) “recognising that detainees were worthy as fellow human beings”; ii) “that staff spoke “nicely” and politely to them”; iii) being listened to and; iv) being treated “as no different from them” (Skinns *et al.,* 2017: 606 - 7). Respect was also associated with being “worthy of their respect and deserving of help” (Skinns *et al.*, 2017: 607). In contrast, the HMIC described concerns that police officers are able “to behave like ‘bullies’ by belittling, humiliating or intimidating detainees” (HMIC, 2015: 200). Moreover, they highlighted “reports of verbal aggression against participants by arresting officers, including name calling and other offensive remarks” (HMIC, 2015: 201).

While this research is consistent with these findings, this chapter specifically illustrates how these factors play a role in the experiences of autistic individuals in police custody. This chapter also highlights a potential relationship between how the legitimacy of these practices is perceived by detainees and their experiences of these processes. In these cases, this was underpinned by their perceived lack of criminal intention which served to further the feeling of punishment. For instance, the experience of being punished was amplified by the attitude and behaviour of the police officers towards them, particularly through the use of force and perceived lack of respect. This was associated with their understanding that they were being treated as a criminal rather than as a person. In particular, for the participants being treated as a person was inextricably linked to being treated as an autistic individual. Being autistic was considered an inherent part of their identity and therefore, recognising this was central to being respected as a person. Moreover, as also discussed in Chapter 6, this was also connected to acknowledging the role Autism plays in the offending behaviour of autistic individuals and in these cases, as

an explanation of their innocence. As a consequence, the failure of police officers to recognise this heightened the feeling that they were being treated like a criminal and were being punished.

In addition, this research demonstrated how being subject to the custody process can also affirm the feeling of punishment. While the processes themselves exacerbated the loss of liberty and control associated with detention, as referred to by Skinns, the participants' experiences of these processes were underpinned by their perception of why they were being subject to these procedures. This was associated with the overwhelming perception that they did not intend to commit a criminal offence and did not deserve to be punished. As a consequence, participants found it difficult to understand why they had to be subject to the custody process because they felt that these procedures were designed for criminals. In particular, they thought it was inappropriate to be subject to these processes. This served to amplify the punitive effect of detention and the feeling that they were being treated like a criminal.

7.5 Conclusion

Throughout this chapter, the experiences of the participants have highlighted the punitive effect of being arrested and detained in police custody. More specifically, this chapter has emphasised how the punitive effect of detention was heightened for the participants by their perception that they had not done anything wrong. Firstly, this chapter described the participants negative experiences with the police. Underlying this, was the perception that they were being treated like a criminal and consequently, seen as deserving of punishment. This was reflected in the use of force and/or restraint during arrest and

detention and the way the police officers displayed respect towards the participants. Participants questioned the apparent reasonableness of the use of force, with several participants perceiving this to be a disproportionate response to what had happened. As a consequence, this chapter illustrated how participants doubted the legitimacy of these practices and how this affected the participants' perception of the authority of the police.

Linked to this, the participants described how they felt the police officers did not respect them. They reported how this was exhibited in their attitudes towards them as well as through their behaviour. This chapter also considered how participants defined respect, emphasising the importance of being treated as a human being and as others would want to be treated. As part of this, the participants also stressed the importance of acknowledging the fact they were autistic which, in the view of some participants, separated them from being a criminal. Secondly, this chapter discussed how being subject to the custody processes furthered the feeling that they were being treated as a criminal. Most participants perceived this as inappropriate or unjustified. This was linked to their understanding of the purpose of the custody processes and the idea that they were designed for criminals. Because of this, some participants could not understand why they had to comply with the procedures because they perceived that they had not done anything wrong. Consequently, heightening the punitive experience of detention.

CHAPTER 8 - COPING WITH DETENTION

8.1 Introduction

While the punitive experience of being arrested and detained in police custody was particularly difficult for the participants, they also reported experiencing a range of difficulties during their detention which made it even harder to cope with being detained. In some cases, the combination of these difficulties created a 'desire to escape' police custody and affected their ability to participate in the custody process. This chapter considers the difficulties that may be experienced by autistic individuals during their detention and the effect this may have on their ability to participate in the custody process. The first part of this chapter will explore the difficulties experienced by the participants relating to: i) sensory demands created by the custody suite and custody process; ii) boredom, and; iii) not knowing what was happening. The second part of this chapter shall then evaluate how the participants were affected by their detention and the stress associated with it. Section 3 will discuss how the participants waived their legal rights and the difficulties they experienced understanding and answering police questions. This section shall also evaluate the role of the AA and solicitor in minimising the difficulties they experienced. Section 4 will then discuss the significance of these findings as compared to the findings of previous research. To conclude, this chapter shall review the difficulties experienced by the participants during their detention and emphasise the implications this has for the right to access justice.

8.2 Sources of Stress and Coping Strategies

The emotional impact of detention was particularly acute for the participants because of the combined effect of the stress associated with being arrested, as discussed in Chapters 6 and 7, and the stress created by the demands of being detained in the custody setting itself.

8.2.1 Dealing with Sensory Input

As discussed in Chapter 2, autistic individuals can often find it difficult to process sensory demands, either being under or over sensitive to sensory input. This can affect their ability to cope with stress and in some cases, may lead to a heightened emotional response. All 15 participants experienced some level of sensory difficulty from one or more source during their detention. As Michael highlighted: "*The sensory nightmare that is a custody suite is particularly bad for most autistics.*" (Survey 1). Several aspects of the custody environment were identified as creating difficulties, including light, noise, space, touch and temperature. Participants referred to different coping strategies to help deal with these demands.

(i) Light - Ten out of 15 participants identified the lighting in the police station as a sensory demand. In part, this was associated with the use of bright artificial lighting and a lack of natural lighting in the station. As Harry described: *"(…) it wasn't bright, and it wasn't dark. But it wasn't like that dark. (…) It was lighter and that? And er, it really – you know, didn't help and er, it like gives me a headache.*" (Interview 8). In addition, the difficulties with the lighting were related to the level of exposure:

"*(…) they have to keep the light on all night as well don't they? That really drives me mad. (…) I like to sleep in the dark. (…) so yeah, the – the light I think to stop on all night… is a big thing as well. (…) I asked them to turn it off on a few times and they said they couldn't*." (Interview 9)

(ii) Noise - Twelve out of 15 participants referred to the noise in the police station. Of these, 3 out of 15 participants referred to experiencing difficulties because of the amount of noise. Notably, 4 out of 15 participants also experienced distress because of the noise specifically created by other detainees. Aidan described the noise created by "*other prisoners banging (…) on doors and shouting*" (Interview 1). This had both a physical impact on him, as he "*just couldn't get any sleep at all*", and an emotional impact, causing him to feel "*anxious and angrier*" (Interview 1). The potentially significant emotional response that this could evoke was illustrated by Leon:

"*(…) I am very sensitive to sound (…) And at the time there was this hubbub there, and I think maybe one of the reasons why it became a very ethereal experience for me is because I was suffering some degree of sensory over stimulation. (…) But for me that didn't lead to a meltdown situation, that just lead to me not really understanding or engaging with the gravity of what – what happened*." (Interview 12)

As will be discussed further in section 2.3, Leon detached himself from the situation in order to deal with what was happening. This was exacerbated by the sensory overload he was experiencing and contributed to his inability to process the significance of being arrested.

(iii) Space - Twelve out of 15 participants also described the physical space and layout of the custody suite as a source of

stress. One issue was the lack of space and the inability to move: "*I don't like being in the police cell, (…) you can't even walk around the police cell or anything like that it's not a big space*." (Interview 10). This was also a problem in the interview room: "*(…) the interview room was like a cupboard.* (…) *it was uncomfortable. I just wanted to get out."* (Interview 3). For 4 out of 15 participants, this exacerbated the feeling of claustrophobia. As Aidan described: "*A police cell is very daunting and claustrophobic that is physically and mentally demanding being locked away in a confined space for several hours*." (Q & A 1).

(iv) Temperature - The temperature of the custody suite was an issue for 5 out of 15 participants. In some cases, this exacerbated the difficulties associated with the lack of space, particularly in the interview room:

"*(…) it wasn't a huge room (…) and then it was like quite hot and everything. (…) that made me feel uncomfortable because I hate being in warm spaces. (…) Due to the heat (…) 'cause they get really hot when there's (...) more people in a room (…)*" (Interview 8)

(v) Touch and personal space - In addition to the difficulties created by the custody setting, 10 out of 15 participants struggled with the invasion of their personal space and 8 out of 15 participants experienced difficulties being touched by others. This was particularly problematic during the personal search and fingerprinting:

"*(…) them touching you to say 'Roll your finger' do this, do that. I really struggled with that because I kept thinking 'Why are you there? Do it over there.' They can't physically not do the fingerprint so close. They have to do it that close. (…) But I*

couldn't connect with my brain and what they were doing. (…) Why they were doing it." (Interview 11)

Kate emphasised the potential consequences this might have: "*If people get in my face. (…) I don't like that. Um, because they will get spat at, bit, kicked. (…) Whatever, you're too close*." (Interview 11). To avoid this, Kate would have preferred to do it herself; although, she questioned if this was possible: "*I don't think they're allowed to do that*." (Interview 11).

(vi) Coping strategies – To cope with the demands of the custody setting, participants outlined two key strategies. Six out of 15 participants suggested making adjustments to the custody setting itself. Aidan emphasised that creating "[a] *less stressful and daunting environment will lower anxiety*" because there would be "*[l]ess sensory issues and overloading to contend with*" (Interview 1). He suggested that police cells should be made "*[m]ore bigger and brighter (…) not so like, um, claustrophobic and so like, dark (…)*" (Interview 1). Linked with this, two participants alluded to the possibility of changing the type of lighting used to "*LEDs*" (Interview 6) or "*softer lighting in general*" (Interview 2). Aidan also suggested creating "*an autism friendly section at the station or separate building away from the Police Station"* such as a "*sensory room*" (Interview 1).

The second strategy referred to by the participants related to the provision of accommodations. To help autistic individuals cope with noise and light in the police station, 6 out of 15 participants suggested providing ear defenders or earplugs and 4 out of 15 participants recommended sunglasses or tinted glasses. Participants also highlighted the need to accommodate detainees through making adjustments to police practice. For example, by allowing more control over the lighting to adjust the

level of exposure: "(…) *couldn't they even have control over the switch so you can dim it if you wanted (…)*" (Interview 2). This was particularly illustrated by Kate. She found it difficult being detained in the "*closed environment*" of the cell, particularly when "*they kept closing the door*" (Interview 11). But, Kate described how the police officers helped to minimise the difficulties she experienced by leaving the door open: "*(…) when they got to know me eventually because I was doing it quite a lot of times, and reoffending, they actually said 'She's no harm, we'll leave the door ajar'. I was fine then*." (Interview 11). These suggestions will be discussed further in Chapter 10.

8.2.2 Boredom

Seven out of 15 participants referred to being bored during their detention. The impact of this was two-fold. Firstly, boredom often heightened the emotional impact of detention. In particular, 3 out of 15 participants described how this led to a deterioration in their mental health: *"It's boring isn't it? (…) there's nothing just… time to think isn't it really? … and if you're already… depressed or anxious, it just makes you (…) more so. (...)"* (Interview 9). Secondly, having nothing to do was further associated with how they *coped* with the emotional impact of detention. For 2 out of 15 participants, the initial shock of arrest was so extreme it led to a traumatic response and altered their behaviour. As Charles explained:

"*(…) when things like that happen to me, it's often like I'm not there in person. (…) It's like I'm in a movie. A character in a movie. The things that are happening to me, they're happening to my body. They're happening outside of me. That they're not happening inside of here. (…) I think there's sort of a*

disconnection because as I say, I had this... instinct to er, um, see that my Mum was alright. And they were interfering with that." (Interview 3)

In Leon's case, he was able to consciously maintain this detachment through distraction:

"*[My friend and I] were playing I-Spy (…) And (…) that's how we coped, in that world just kind of zooming in and… (…) it served as a distraction. (…) So, I could kind of put the blinkers on and not worry about anything else*." (Interview 12)

Similar practices were reported by 3 other participants. Of these, 2 participants described how they were given "*paper and pens*" (Interview 2) and "*books [and] playing cards*" (Interview 7) which they used to distract themselves from the boredom and what was happening. In contrast, for Jenny self-harm functioned as a form of distraction because there was nothing else "*she could do to self-soothe*" (Interview 10). Not only did this pose a significant risk to herself, but it also raises concerns about the additional demand this creates for police officers. In order to minimise this risk, it would be beneficial to provide something to do to reduce boredom and manage the emotional impact of detention. As Bailey emphasised:

"*Accommodating people... in that way, is helpful. (…) if it's not writing, maybe, being able to read something, or even rip up paper, and organise - just something that you can take your mind off. I think that is quite calming*." (Interview 2)

In particular, 5 out of 15 participants suggested providing reading material such as "*a newspaper or magazine"* (Interview 9). This will be discussed further in Chapter 10.

8.2.3 Knowing What was Happening

In addition to not being able to understand *why* they had been arrested and detained, as referred to in Chapter 6, 7 out of 15 participants reported difficulties associated with not knowing *what* was happening. Linked with this, 11 out of 15 participants referred to the importance of explaining what was happening and 8 out of 15 participants referred to the provision of information.

(i) Not knowing what to expect – 5 out of 15 participants described the emotional impact of not knowing what to expect. For instance, Bailey explained the impact this had on her when she was being arrested: "*I think I just felt really frightened (…) 'cause I didn't know what was happening, or what was gonna be done, or what they were gonna do. (…)*" (Interview 2). This was also an issue during detention:

"*I think the main, er, thing (…) that affected me was the not knowing. (…) It's being kept in the dark. It's like, 'Okay, what's gonna happen?'. I mean, that's when your anxieties are - are gonna get high. You can be susceptible to self-harm. I remember that I've (…) punched the cell door in frustration. I have cracked my knuckles on something (…) because the physical pain can actually distract away from emotional pain. The emotional pain can actually be worse than physical pain for an autistic individual. (…) it's just the not knowing (…)*" (Interview 4)

One participant also described how the emotional impact of not knowing what would happen caused them to react violently: "*Police wanted to search me but didn't tell me what would happen, so I lashed out*." (Survey 2).

(ii) Accessibility of information – As discussed in Chapter 7, 4 out of 15 participants experienced difficulties during custody procedures because they did not understand why they were

being subject to them. Although this was partially associated with their perceived lack of criminal intention, in some cases, this was also connected to the information they were given about these procedures. Under PACE, an individual must be informed "that he is under arrest" and "of the ground for the arrest" as soon as is practicable after arrest (s 28(1) & (3) PACE 1984). Charles did not remember being given this information:

"*Well, the fact that I was just arrested like that. Er, 'We have a warrant out for your arrest. You are under arrest'. (…) Woo. (…) I think they could have explained, um... why... and exactly, what it was that they thought (…) I did (…)*" (Interview 3)

In certain circumstances, the Act also requires police officers to inform detainees of the reasons for carrying out specific pre-charge procedures. For example, where a non-intimate sample is taken without consent, detainees must be informed of: i) "the reason for taking the sample"; ii) "the power by virtue of which they are taken" and; iii) "in a case where the authorisation of the court or an officer is required for the exercise of the power, the fact that the authorisation has been given" (s 63(6) PACE 1984). Despite this, Bailey reported that when she was taken to give a DNA sample "*they didn't tell me they were doing it*" and "*they said if I wanted an explanation (…) I had to be locked up for another long period*." (Interview 2). As will be discussed in section 3.1, this also encouraged her to waive her legal rights.

While these comments raise questions about whether the police officers always provide this information, it is possible that the difficulties they experienced were associated with the accessibility of the information. For example, 2 out of 15 participants described how the speed in which the information was given made it difficult to process what was being said:

"*(…) It all happened so quickly. It was like in a blink of an eye. (…) I didn't really have time to think it was... 'Right, you're under arrest.' Da, da, da. And I just heard... words. I didn't know what the words were saying. (…) it was just very, very, fast and (…) obviously, it was incoherent. I just couldn't understand what was being said. (…)*" (Interview 4)

This may also be exacerbated by stress, as Aidan illustrated: "*(…) I find that exhausting if I take in too much in one go (…)*" (Interview 1). In addition, information was not always accessible because it was restricted to either verbal explanation or a copy of the Codes of Practice. As Dale stated: "*There was no visual information, there was no nothing*." (Interview 4). For 2 out of 15 participants, the information they were provided was inaccessible because they could not read it at the time: "*they give you… things to read, but they don't give you much time to (…) take it in. They just throw it in front of you and then it's gone again. (…)*" (Interview 9).

(iii) Adequacy of information – Eleven out of 15 participants raised concerns about the adequacy of the information detainees are given in police custody. This was emphasised by Michael: "*The lack of detailed information (the PACE requirements are not enough) is making one anxious*." (Survey 1). For instance, 8 out of 15 participants referred the lack of information about timing. This was associated with not knowing: i) how long they would be detained ii) how long things would take and iii) the order in which things would happen. Dale explained the importance of this:

"*(…) As long as we say, 'Right, it's gonna be 40 minutes, roughly'. (…) don't say 'Right (…) you're gonna be out of this cell at 11 o'clock'. (…) Never, ever, say that. (…) 'cause otherwise we*

might take that very, very, literally. (…) Five past eleven, 'Right, you said this! You said that!', it'll all kick off. (…) but make sure we know. (…) it's a very basic communication that does help with anxieties and stresses and makes our lives a bit more manageable in quite (…) a difficult environment." (Interview 4)

Furthermore, 3 out of 15 participants reported that they were only given information about what was being done, not why it was necessary to carry it out. As Harry explained:

"*(…) If they'd have spoke to me… more relaxed and understanding why they was doing it, then that would have been different, but they didn't. You know, they just said 'You gotta just put your hand on there like that for it to read it'. (…) they didn't explain properly why, you know, it was being done*." (Interview 8)

(iv) Improving accessibility - Because of the limited accessibility of information and the difficulties associated with this, 6 out of 15 participants felt the police could make accommodations by improving accessibility. More specifically, they highlighted the need to make information accessible to *all* detainees. To achieve this, they recommended: i) providing multiple forms of information ii) giving more detailed information about what happens in detention and iii) allowing more time to process information. For instance, 4 out of 15 participants thought providing visual information make it clearer to detainees what to expect in detention; they also felt it would be easier to take in. Dale suggested *"A 'What Now and Next' book",* which is a booklet of "*visual pictures"* i.e. "*real life pictures*", "*illustrations", "drawings"*, "*that show you, 'Okay, this is what's going to happen, [Dale]. And more importantly, this is what the order is gonna be'.*" (Interview 2). Aidan also recommended having a

"*[t]ime table with words, pictures and symbols (…)*" (Q & A 1). In contrast, 3 out of 15 participants would have preferred more verbal information. In particular, they felt it would have helped if they were "*talked through*" (Interview 9) each process and told "*how long*" things would take (Interview 10). These suggestions will be explored further in Chapter 10.

8.3 The Ability to Participate in the Custody Process

The previous section highlights the difficulties experienced by the participants and how they affected their ability to cope with detention. This impact also extended to their ability to participate in the custody process. In particular, they reported how they waived their legal rights and being unable to participate in the police interview. However, participants also illustrated the benefits of being supported by an AA and/or solicitor and the need to improve these safeguards.

8.3.1 Waiving Legal Rights

As discussed in section 3.3, participants often found it difficult to understand what was happening in police custody due to a lack of accessible information. Because of this, they also experienced difficulties understanding their legal rights. For 6 out of 15 participants, this encouraged them to waive their legal rights. As Dale explained:

"*(…) Er, the police, er, do use a trick whereby they'll say "Right (…) we can get you a duty solicitor, but they're not gonna come for another 8 hours. But, if you do the interview, then you're free to go". (…) me taking that quite literally, I just thought to myself 'Well, that's a no brainer. I'm stressed. I'm tired.', and all I'm*

thinking of, 'I just wanna get out of here'. I didn't realise, erm, the complications by not disclosing I was on the Autism Spectrum, I had lost all my rights and entitlements as a vulnerable adult. And I didn't really understand the consequences - or seriousness - of that." (Interview 4)

The impact of this was further exacerbated by the fact they did not know how long they were going to be detained. As a consequence, it is possible that when they were told by police officers that there would be a delay if they accepted their legal rights they took this literally. This was illustrated by Aidan: "*My anxiety and stress level was at an all-time high, I did not like the prospect of being locked away in a confined cell for several hours until a duty solicitor turned up*." (Interview 1). For 2 participants, their perception that they had not committed a criminal offence, as discussed in Chapter 6, also played a role: "*Not understanding that being innocent and wanting to go home soonest were both wrong reasons to refuse a solicitor*." (Survey 1).

8.3.2 Understanding and Answering Questions

The impact of the stress experienced was apparent during the police interview. As Finn emphasised: "*you're going into something where they're trying to catch you out, so the more autistic you are the more likely they are to convict you*." (Interview 6). For instance, 10 out of 15 participants reported experiencing difficulties understanding the questions during the interview. This was associated with: i) the language of the questions ii) processing and iii) literal interpretation. As Harry highlighted:

"*I did have problems (…) understanding a lot of their questions was really – you know, it felt like they was putting you on the*

spot. You know, they might as well have gone and got a big light and, you know, shined it in your face – you know, like they do in the programmes? You know… they might as well have gone and done that because just, you know, made me feel really uncomfortable." (Interview 8)

In addition, 8 participants reported difficulties answering questions. Of these, 4 participants described how they were affected by their desire to answer honestly and how the tactics and questioning of the police officers encouraged this. This was illustrated by Charles:

"*(…) they said, "To make it quicker, we can write out a statement for you (…) all you will have to do is sign the sheets afterwards". (…) And I said, "Okay", because um, I just wanted to get out of there and sort my mum out. (…) it wasn't a pre-prepared thing, so they were writing it as asking me questions. (…) but they alleged that I had pushed her into a wall... (…) ...and she had hurt her knee... and, um, I said "I have no recollection of that whatsoever". (…) And they asked me, "Is it possible that it could have happened?" and I said, at this point, "Yes". When I said yes, what I meant was 'Yes, there is an outside possibility that it could have happened (…)". To me, it was a remote possibility, not a probability*." (Interview 3)

Moreover, 5 out of 15 participants described how their ability to participate in the interview was affected by their acquiescence. As Kate explained:

"*(…) in my point of view, I just wanted it over and done with. (…) So, I would just say anything. (…) Which I don't think helped. (…) 'cause I hadn't got a clue what I was saying. (…) Again, because of the memory and post-traumatic stress, as I*

know now. But at that time, it was like… 'I can't be bothered to answer that. What do you want to hear?'." (Interview 11)

As will be discussed in Chapter 10, to minimise this impact 2 participants suggested making adjustments to the interview. They suggested allowing "*frequent breaks"* (Interview 4) and "*[h]aving clear questions*" (Survey 1). However, making adjustments to the interview raises specific challenges. This is associated with the fact the purpose of the interview is to obtain best evidence; it is not simply focused on ensuring the wellbeing of the detainee. But, previous research has explored the need to make adjustments to the structure of police interviews and interviewing techniques used by police officers to assist autistic individuals in giving best evidence (see Maras *et al.*, 2018). In particular, it has highlighted the specific challenges associated with helping autistic individuals to accurately recall information about an offence (see Maras *et al.*, 2014; Mattison *et al.*, 2015). Because it was not the intention of this thesis to focus specifically on the police interview, it is sufficient for the purposes of this thesis to note that these findings appear to be consistent with this research.

8.3.3 Support of Others

Finally, participants referred to the role played by others in minimising the impact of stress during detention. The solicitor was a common form of support provided (n=10). Most of the participants also received the support of an AA (n=10). Interestingly, while not all participants were diagnosed as autistic at the time of arrest, the majority who received support were identified as vulnerable (n=12). There were two occasions when just an AA was present, and a solicitor was not; two

participants also did not receive either a solicitor or AA, even though they were identified as vulnerable. When the participants were not identified as vulnerable, they generally received no support (n=2). Although there was one known exception, there may have been other instances; some participants who had been arrested more than once reported having a solicitor (n=2) and/or AA (n=3) on some occasions, but not others.

(i) Solicitor – Six out of 15 participants described how having a solicitor mitigated the impact of the difficulties they experienced during detention on their ability to participate in the interview. They emphasised that the solicitor helped them to understand police questions: "*(…) my solicitor was quite good (…) He was quite open and approachable. (…) If you didn't understand something he'd break it down for you*." (Interview 9). As well as aiding understanding, the solicitor sometimes helped with answering questions. For example, Grace described how she was able to participate in the police interview more effectively because the solicitor "*told me how to do the interview, whether to answer the questions or not, and whether to do a (…) no comment interview"* (Interview 7).

However, there were occasions when participants experienced difficulties understanding the solicitor:

"*Now, the solicitor turned up. And, I remember it vividly, she said "[Dale], I've heard of Autism" (…) "But I - I don't really know anything about it. (…)" (…) and she's like, "(…) When we go into the interview, just say 'no comment' to the police officers' questions". (…) Now, the police officer asked me to provide my name. Now, I'm wondering (…) would you like to hazard a guess as to what my response was? (…) [no comment] (…) (laughing) She just looked at me in total bewilderment... (…)*

What she should have done, in that instance, was made it abundantly clear. For example, said '[Dale], give your name and date of birth. Then, to all subsequent questions, then answer 'no comment''. It's about reducing that, you know, misunderstanding and confusion." (Interview 4)

Although the solicitor was able to support Dale by "*checking for understanding*", "*allowing for sufficient processing time*" and using language that was generally "*clear, concise and unambiguous*", she did not fully appreciate that he may take instructions literally. To address this, 2 out of 15 participants stressed that it was important for solicitors to understand Autism and how it affects the individual. This recommendation will be considered further in Chapter 10.

(ii) AA – Five out of 15 described how having the support of an AA helped to mitigate the stress they experienced during the interview. In these cases, this was associated with the AA taking an active role in assisting communication with the police:

"*(…) if the police officers give me a question, then my Mum knows my face, so if I'm like either confused, or if I'm angry or if I've just completely misunderstood, it's like, "[Dale], what's your understanding of that?". And I'm like, "Well, I don't know". She'd say to the officer, "Can you just rephrase that in a way that he will understand?". (…) Or, she will take the question the officers have given and she'll dilute it in a way that I can then understand. So it will be like a three-way communication - the officers will say it, she'll take that, chop it up, bite-sized chunks, give it to me, and then I can respond. (…)*" (Interview 4)

This was also related to the fact that the AA had a relationship of trust with them and knew what difficulties they might experience: "*[m]y Appropriate Adult was very helpful*", "*because*

she knew me, she knew my thoughts, she knew my patterns, she knew me like a book." (Interview 11).

However, participants also raised concerns about the effectiveness of this safeguard. In certain circumstances, having an AA appeared to increase the stress they experienced, rather than minimise it. This was associated with three key areas: i) usefulness ii) who acted as the AA and iii) provision. Firstly, 4 out of 15 participants did not find the AA useful because they felt they took a passive role during the interview. For instance, Harry explained that when his brother acted as an AA he was "*as much use as a chocolate teapot"* because "*(…) he just sat there like a spare part (…) it just made me feel really uncomfortable (…)*" (Interview 8). Associated with this, 8 out of 15 suggested they would have preferred their AA to be someone who knew them. For instance, Leon questioned the benefits of being supported by someone he did not know:

"*(…) not understanding people's roles or how that system's supposed to work isn't just about being naïve as to – as to what the labels mean? (…) It's about underneath that? The ultimate question is like 'Can I trust 'em? … What's their intent?'. (…) 'Are they in it for me? Well they aren't really in it for me are they, 'cause people are just selfish aren't they? So why are they in it for me?' (…) 'Are they being paid to do it? (…) so… yeah (…) I don't think necessarily that would have helped*." (Interview 12)

In addition, 3 out of 15 participants were concerned about the provision of AAs. For instance, Isaac explained how he did not always receive the support of an AA:

"*(…) they arrested me for breaking a window which I never broke. Um… and they refused an Appropriate Adult, they said I didn't need one. And they arrested me for (…) using*

telecommunications to cause harm, annoyance or distress? (…) To the police. Um, so… they wanted to make that stick so they give me an Appropriate Adult for that one." (Interview 9)

They also described how they felt it was inappropriate that they were only given an AA during the interview. Two participants were unhappy about being booked in without an AA present: "*(…) a lot of the time they book you in without an Appropriate Adult which I don't think is necessary (…)*" (Interview 10). One participant made similar comments about the pre-charge process: "(…) *I didn't like the fact that I didn't have an Appropriate Adult with me"*; "*(…) they said I didn't have to*." (Interview 7).

As will be discussed in Chapter 10, participants made several recommendations to improve the effectiveness of the AA. In particular, they suggested that the AA should be provided throughout the whole custody process: "*it (…) would made me feel more calm. Um… and more at ease – (…) through the whole process, really.*" (Interview 9). They also stressed the importance of being supported by someone of their choosing, such as a family member, "*partner*" (Interview 2), "*social worker*" (Interview 9) or Advocate. Where this was not possible, they felt it was important to be supported by someone who had knowledge of Autism:

"*(…) if they had a sound understanding of Autism... (…) for me personally, I'd be like 90 percent happy for them to be with me. 'cause at least (…) I'd feel comfortable that, 'Okay, this person knows... doesn't know a lot about - about me as a person but knows Autism. So at least she's gonna help facilitate communication'.* (Interview 4)

8.4 Discussion

As discussed in Chapter 1, Skinns has previously referred to the desire to leave custody (see Skinns, 2011). This was particularly associated with the demands of detention experienced by all detainees in police custody (Skinns, 2011). For instance, the loss of liberty and control, the inability to meet welfare needs and the physical environment of the custody setting (see Skinns, 2011; Skinns *et al.*, 2015; Skinns *et al.*, 2017). In addition, previous research has referred to the uncertainty of being detained, the lack of routine in police custody and the contribution of having nothing to do to distract themselves (Skinns, 2011; Skinns *et al.*, 2017; Wooff & Skinns, 2017). Previous research has also described the impact of these factors on detainees and how the 'desire to leave police custody' may influence detainee's behaviour in this context (Skinns, 2011; Skinns *et al.*, 2015; Skinns *et al.*, 2017; Wooff & Skinns, 2017).

In particular, Skinns has emphasised that the desire to leave police custody as quickly as possible may encourage detainees to decline legal advice (Skinns, 2011; Skinns, 2009; Skinns *et al.*, 2015). This is because "accessing legal advice is perceived as delaying their release from custody" (Skinns, 2009: 63). As such, detainees may "not care about the longer-term consequences of declining legal advice" and may be more "prepared to take the risk of not having one because of their more immediate need to be released from police custody" (Skinns, 2011: 116). In part, "[t]his let's get it over with mentality" is partially attributable to a lack of "information about why and for how long they would be waiting" (Skinns, 2011: 116). It is also due to conversations with police officers in which they tell suspects "their detention would be prolonged by seeking legal advice" (Skinns, 2011: 116). Linked with this, Skinns also

highlighted that previous experience of police custody may influence the decision to accept the right to a solicitor (Skinns, 2011). This was associated with their understanding of the custody process and the benefits of having a solicitor, as well as their previous interactions with specific solicitors (Skinns, 2011; Skinns, 2009).

This research is consistent with these findings, illustrating the impact of detention on the experiences of autistic individuals. For the participants, the impact of police custody was particularly acute, making it difficult for them to cope with detention. This was because of the combination of the perceived punitive effect of police custody and the emotional impact of being detained. Although some studies have referred to the difficulties that autistic individuals may encounter in police custody, as discussed in Chapter 2, this research has been limited and has not explored these in depth (see Crane *et al.*, 2016; Beardon & Edmonds, 2007; Allen *et al.*, 2008). Moreover, this research has not considered how these factors may lead to an increased desire to escape police custody in autistic individuals. This research highlights the range of sensory demands created by the custody setting and the difficulties associated with this, expanding upon concerns raised by Crane and colleagues (see Crane *et al.*, 2016). This research also demonstrates how the uncertainty of police detention is connected to the lack of information about what happens in police custody and not knowing what to expect. While this has previously been referred to by both Skinns and Allen *et al.*, this research highlights how this can lead to increased anxiety in autistic individuals which can make it more difficult to cope with this uncertainty. Moreover, this research illustrates the function of distraction in police custody for autistic individuals and its relationship with

processing the experience of detention. While this has previously been described by Skinns, as discussed in Chapter 1, this research specifically demonstrates how having something to do in police custody may help autistic individuals process their detention and cope with the other difficulties they may experience. In contrast, boredom may exacerbate the emotional impact of detention.

The participants' experiences also demonstrate how the impact of detention may compromise the ability of some autistic individuals to participate in the custody process. This research illustrates how the difficulties autistic individuals experience in police detention may encourage them to waive their legal rights, building upon findings by Skinns regarding detainee's access to a solicitor. This was particularly associated with the perception of how long they may be detained in police custody and the lack of accessible information which affected their understanding. The participants also illustrated the impact detention can have on their ability to participate in the police interview. In particular, this research emphasises that the difficulties answering questions during the interview is often exacerbated by the combined effect of additional stressors and the demands of the interview itself. More importantly, the findings of this research illustrate how these factors may encourage autistic individuals to unknowingly incriminate themselves or confess to a crime that they have not committed.

But, this research also emphasised how the support of others can help minimise the impact of detention on the ability of autistic individuals to participate in the custody process. It illustrates the importance of having a solicitor and the ways in which a solicitor can help autistic individuals participate in the police interview. This was linked to having a relationship of trust

with the solicitor and having an understanding of Autism and how it affects the individual. Similarly, this research clarifies findings by Crane and colleagues about when an AA may be an effective way of supporting autistic individuals. More specifically, the participant's experiences highlighted the importance of being supported by someone they knew and/or someone who understood Autism rather than someone they did not know.

8.5 Conclusion

This chapter has highlighted several sources of stress experienced by participants in police custody which were experienced on top of the difficulties associated with the punitive effect of arrest and detention, as discussed in Chapter 7. Firstly, participants identified several sensory demands created by the custody setting including light, noise, space and touch. While not all participants had difficulties with each of these aspects, they all experienced some degree of sensory stress. In some cases, this caused physical pain and had a significant emotional impact. Secondly, this chapter discussed how boredom exacerbated the emotional impact of detention and how the lack of things to do made it difficult to deal with this. It highlighted how participants described being detached from what was happening and how some participants used functional techniques as a form of distraction. Thirdly, this chapter emphasised the impact of not knowing what was happening and the problems associated with a lack of adequate and accessible information.

Finally, throughout this chapter the need to provide accommodations and make adjustments to police custody was also considered. This chapter illustrated how the combination of the sensory demands, lack of information and having nothing to

do had a negative impact on the participants ability to cope with being detained in police custody. This chapter highlighted how participants waived their legal rights, believing it to be the quickest way to get out of police custody. A lack of understanding of these rights and the implications of waiving them contributed to this, as well as the practices of police officers. This chapter also described how participants found it difficult to understand and answer police questions because of the stress they were experiencing which led to some participants admitting to a crime they had not committed. Furthermore, this chapter discussed how the support of a solicitor and/or AA helped reduce these stresses and enabled them to participate more effectively. However, as part of this, this chapter also highlighted concerns about the effectiveness and limitations of these safeguards. In particular, this support was most effective when they knew the participant and/or had knowledge of Autism.

CHAPTER 9 - EXPLORING THE CUSTODY PROCESS

9.1 Introduction

The previous two chapters illustrate the range of difficulties autistic individuals could encounter in police custody. Having identified these difficulties, the participative walkthrough was carried out to learn more about their potential scope. This chapter focuses on the key findings from the walkthrough and discusses the experiences of Ben and Anne throughout the study. Section 2 shall explore the issues associated with being detained in police custody. This section will examine the participants' concerns about being in the police station and participating in the custody process. Section 3 shall discuss the importance of understanding and the impact on anxiety. It shall emphasise the need to understand not only *what* happens during the custody process, but *why* it is being done and *how* it will be carried out. This section will also consider the use of language and how this affects communication. Finally, section 4 will outline the sensory demands identified by the participants. To conclude, this chapter will reflect on the experiences of the participants and consider the issues raised by the study in relation to improving the experiences of autistic individuals throughout the custody process.

9.2 The Demands of Detention

Unlike the other participants, Anne and Ben had not actually been arrested; they were given a scenario to help contextualise the custody process. Because they had not gone through the experience of being arrested, this meant they did not experience

the same stress associated with being arrested. Nor, did they have any accompanying feelings regarding the justness of arrest. While this should have minimised the level of stress they experienced, participating in the study itself created stress as the situation was unfamiliar and the same demands of being in a police station were present. Moreover, they were able to reflect on the wider implications of being arrested and detained in a way that some of the other participants had been unable to do at the time of arrest. As a consequence, Anne and Ben were concerned about what it would be like to be detained in police custody for a longer period of time. They referred to the design of the police station and the emotional impact of being detained. Anne and Ben also discussed the demands created by the custody processes and highlighted difficulties they experienced during their participation.

9.2.1 Being Detained

Anne and Ben's feelings about the idea of being detained in police custody were affected by how they felt about the police station environment. For example, Ann said she "*didn't really like it"* because "*it's all concrete and not very... inviting*." (Walkthrough 1). She particularly disliked that "*everything (…) is the smallest space as possible*" (Walkthrough Interview 1). This also applied to the police cell:

"*I didn't like it 'cause it was... small. You had like your bed and your toilet, like, next to each other. Um, there was no... natural light - well, there wasn't any windows, so you couldn't see anything*." (Walkthrough Interview 1)

Space was a concern for Anne, agreeing it felt "*compact*" (Walkthrough Interview 1). The lack of space and lack of

distinction within that space created issues: "*(…) everything is in one place, like the bed, the toilet, everywhere. (…) there's no definition as a room or anything. It feels very claustrophobic*." (Walkthrough Interview 1). This was made worse when they shut the door, as she explained: "*I didn't like it when they shut it*" (Walkthrough Interview 1). The lack of windows and natural light added to this. Anne emphasised: "*the whole, like, being in it, it - is quite disorientating... being in that police cell. Even though not for very long*." (Walkthrough Interview 1). This was because "*you wouldn't know the time*" (Walkthrough Interview 1).

Ben had similar feelings about being in the police station: "*(…) it was a little bit strange being in an area... where there's... a sense of enclosure...which it is - very enclosed space... (…) there's a bit of a... solemn feel about it. A sterile feel.*" (Walkthrough Interview 2). Like Anne, Ben disliked the small size of the space. He also referred to the difficulties created by "*the general sense of enclosure*" (Walkthrough Interview 2) and 'feel' of the police station. Ben emphasised: "*I think it's mainly the novelty of the environment - the... unfamiliarity of it*" (Walkthrough Interview 2). These concerns also extended to the interview room, which he described as "*a bit... boxy, a bit dingy in places, a bit (…) claustrophobic*" (Walkthrough 2). In contrast, he was more positive about the pre-charge room: "*(…) I think that pre-charge room was quite spacious and I'm thinking that others might be tighter, so that helped in there (…) I think the... space around there was quite good (…)*" (Walkthrough Interview 2). The pre-charge room was considered more spacious compared to the other areas of the custody suite. This helped Ben while he went through the custody procedures. However, I also noted during the study that the pre-charge room was "*located next to medical room and custody suite*" (Field Notes). I

felt that there was potential for "*passing through traffic*", affecting the way the space operated (Field Notes).

Because just being in that context was already demanding, Anne and Ben emphasised that they would have found it difficult to be detained for a long period of time. When asked "*how would you feel if you had to stay here for say... 12 hours?"* during the study, Ben replied "*Ooooh my goodness me."* (Walkthrough 2); he "*sat down*" and looked "*taken back*" (Field Notes). His subsequent explanation clarified why he reacted this way:

"I think after a while of I'd feel a bit fed up and I'd probably, (…) if things weren't going on I might start getting a little bit... you know, bored and then lose the will to (…) when you've been inactive for a long time as well, and unless I was absolutely crashed tired." (Walkthrough 2)

Ben raised concerns about not having anything to do and being inactive, and the emotional impact this might have on him. He explained this further during the interview:

"*I think if I was in there for a whole day... I think I'd be very claustrophobic... I'd probably have wasted a day. I wouldn't have been doing much constructive activity. (…) I'm worried about perhaps the space to move as well and... perhaps, the exercising and that. Because (…) you're not moving you know - how many steps do we typically take a day when we walk around our daily lives and suddenly you're confined to something that's probably about... 4 metres by 4 metres (…)*" (Walkthrough Interview 2)

Ben emphasised: "*I think the... boredom aspect is probably the... bit I find most worrying (…)*" (Walkthrough Interview 2). Not being able to move around contributed to this: "*(…) if I'm there for a longer time, I think real tension is, is, you know, lack of fresh air, lack of exercise, (…) because it's a very enclosed*

space (…)" (Walkthrough Interview 2). However, he said: "*(…) if you were writing something or reading something, might not be as wasteful (…)*" (Walkthrough Interview 2). He suggested that it might help "*having a book or a newspaper or something*" or "*pens and paper*" (Walkthrough Interview 2). Ben also recognised "*this is all discretion, you know, there has to be the room for judgement. It might not be safe for some people.*" (Walkthrough Interview 2).

Anne shared these concerns, stating "*[t]he nothing to do*" would have caused difficulties (Walkthrough Interview 1). This would be made worse by the lack of space: "*(…) it was also quite small (…) I like to pace. (…) Even there's nothing - you can't walk around very far.*" (Walkthrough Interview 1). Anne explained that being able to pace would have helped her because "*it's just something to do, to walk round*." (Walkthrough Interview 1). Like Ben, Anne highlights a connection between having nothing to do, not being able to move around and the lack of space in the cell. They identified that each of these things would cause difficulties in isolation, but also that these things would heighten the difficulties created by the other factors. As Anne illustrates, not being able to move around because the cell was too small meant that she would have been limited in what she could do to occupy herself during her detention.

Being unable to sleep was another difficulty Ben discussed. The unfamiliar surroundings would have contributed to this: "*(…) the real difficulty is, is when it's happening at night... (…) obviously I'd expect my usual environment - you know, it's, er, a very stark contrast with... what I'm used to (…)"* (Walkthrough Interview 2). The lighting was also an issue:

"*CS: I think - I think this is the night light isn't it? (…) It's a little bit different. (…) This doesn't get any darker at night. This is what it'd be like at 2 am.*

Interviewer 1: Would you be able to sleep with the lights on?

Ben: Probably not (…) unless I was absolutely under." (Walkthrough 2)

While this alone would have had an impact on Ben, he also described how not being able to sleep would exacerbate boredom. He said: "*(…) depending on what the energy levels are, that would probably (…) cause a bit of friction I would think. (…) if I'd been in here for... what, let's say, a few hours... I think I'd probably start getting bored (…)*" (Walkthrough 2). This further highlights the link between the surroundings and the impact detention can have on detainee's welfare.

In addition to this, Anne and Ben raised issues about the open toilet and lack of privacy in the cell. This would also have added extra stress if they had been detained. Anne said that she would not have used the toilet because "*you're under cameras?*" and "*[t]here's no privacy*" (Walkthrough Interview 1). She emphasised that "*you don't - know you're being watched as well*" (Walkthrough Interview 1). The CS emphasised this during the study: "*(…) it's not constantly being watched - but it's constantly being filmed in case something happens and the toilet areas greyed out, so you can't see people on the toilet*." (Walkthrough 1). Interestingly, this raises similar issues with regard to the experiences of other individuals as discussed in Chapter 7. Like Anne, they had concerns about being watched on CCTV whilst using the toilet and refused to use the toilet as a result. If they had been told they could not be seen on CCTV, they may have perceived the situation differently.

Ben was also concerned about the toilet: "*(…) the toilets I think, I find most intimidating!*" (Walkthrough 2). However, his views were more mixed. On the one hand, Ben said using the toilet would "[*depend] on how desperate I was*" (Walkthrough Interview 2). He stressed: "*I've always thought it quite daunting, but if you're in a cell there's no choice*." (Walkthrough 2). On the other, he recognised the necessity and convenience of having a toilet in the cell: "(…) *it's there for a purpose at the end of the day"* (Walkthrough 2). He discussed this during the interview, referring to the additional concern of being on CCTV: "*I think that would be - normally be - an intrusion but, it is... necessary.*" (Walkthrough Interview 2). The stress created by the toilet would also have been minimised by having a flush in the cell, as he emphasised: "*(…) for that reason I'm not too bothered about that toilet*." (Walkthrough 2).

Because of their concerns about the toilet, Anne and Ben agreed it might be preferable to have "*[s]eparate bathrooms*" (Walkthrough Interview 1). For Anne, it was important to have a "*separate place*", "*[e]ven if somebody (…) effectively stood outside...*" (Walkthrough Interview 1). She said "*[t]hat's better than sort of being in the same - in your cell (…)*" (Walkthrough Interview 1). However, for Ben this was because of additional sensory demands, as opposed to concerns about being able to *use* the toilet:

"*I think in a more heavily used custody suite, yes. Because, you know, the toilet (…) if it's heavily used - might have strong odours, so I think if there's someone sensitive to smells particularly then, yes, I think it would be more appropriate to put 'um in a cell that doesn't have a toilet in*." (Walkthrough Interview 2)

While this suggests not all autistic individuals may want a separate toilet, this highlights the need to be aware of these potential difficulties and checking their preferences as regard to making accommodations.

On top of this, Anne highlighted potential issues in relation to meeting her welfare needs. During the study, she was asked "*[w]ould you like anything to eat or drink*?" and "*would you like a blanket for the cell?*" to which she replied "*[n]o*" (Walkthrough 1). If Anne was detained, the police officers would be responsible for providing her with food/drink at some point during her detention (see para 8.6 Code C). Although Anne was directly asked this during the booking-in, she thought it was important to specifically ask this at other points during detention:

"*Anne: I think, er, just being asked specifically if you want a drink or food. 'cause it's something I find difficult to ask for (…) in a strange situation.*

Interviewer: So, don't just say 'Are you okay?'. (…) But specifically say 'Would you like a drink? Would you like something to eat?' (…) 'Are you okay?' could be answered in a general...

Anne: I just say yes." (Walkthrough Interview 1)

Here, it is implied that some individuals may waive their entitlements and may not subsequently ask for help because they are anxious. Connected to this, I thought it was possible Anne "*said no to finish?*" when asked about these entitlements (Field Notes). In addition, having to use the intercom would also have discouraged Anne from communicating with the police. She stressed "*I wouldn't feel comfortable using it. 'cause it's like a phone... I don't like phones*."; "'*cause you can't see who you're talking to. And (…) it's like the anxiety of waiting for someone to*

pick up." (Walkthrough Interview 1). Anne suggested this would make communication itself difficult because "*[t]here's no body language, (…) you have to rely on... words*", "*[y]ou can't sign or anything*" (Walkthrough Interview 1).

Anne and Ben highlighted the emotional impact these aspects of detention would have had on them. Anne said, "*I think what realistically happened is... probably start stimming*", "*like, flapping - hand flapping and things*" (Walkthrough Interview 1). She emphasised this would have been "*[a] way of coping*" with detention, "*trying to get - calm the autism down sort of thing*" (Walkthrough Interview 1). Ben further explained:

"*I think that I would feel... that I'd been... trapped, that I'd been... you know - perhaps if I wasn't seeing people, I might have felt abandoned (…) I might have felt somewhat removed... and it might be difficult... to get me back to normal life... you know, it could - you know, perhaps I might end up confining myself to my own house for a day afterwards. (…) I think that perhaps if you've arrested - and it can all depend on the circumstances, really - is that perhaps you might have been so traumatised, you might not want it to happen again. (…) I would feel removed, I'd probably felt self-destroyed, perhaps 'cause, you know, what could be the consequences of an arrest? You know, particularly if I was to lose my job as a result. And... if I was to go from being... doing well to, perhaps years of being unemployed and... you know - and I think I'd be very anxious - would I be worse off afterwards?*" (Walkthrough Interview 2)

He describes the range of emotions he would have experienced both during and following detention. Ben emphasises the possibility of feeling anxious; anxiety was a significant factor in both Anne and Ben's experiences, as will be highlighted in the

next section. He also refers to the potential long-term impact detention may have had on him and how the fear of this would have affected him. This is interesting because although this was mentioned during the interviews, the participants did not discuss this in the context of their detention or how this affected them in police custody. Instead, they talked about what long-term effects they had experienced after being arrested and detained. This may be because their overwhelming concern at the time was to escape police custody rather than what would happen to them once they left. In contrast, this was not something Anne and Ben described. This may partially be attributable to the fact that they had not been arrested and so were not exposed to the additional demands associated with this. As a consequence, they had more space to think about the wider implications of being detained and the potential impact arrest could have.

9.2.2 Participating in the Custody Process

As well as being in the station, Anne and Ben identified several difficulties created by the custody procedures. While they did not experience all these difficulties during the study itself, they highlighted when they could potentially arise and circumstances which could create additional difficulties. This was summarised by Ben:

"*(…) I felt a lot easier about it than I initially thought... and, the officers who we, dealt with today, were... very... understanding, (…) overall, I didn't feel overly intimidated, but (…) specific points (…) could have been a little bit... intimidating*." (Walkthrough Interview 2)

The manner and approach of the police officers helped Ben considerably. Their understanding meant that he was not as

intimidated as he thought he could have been in a real situation. Ben explained: "*(…) it was quite a good experience. It can be a little bit unnerving*." (Walkthrough Interview 2). He felt the police officers "*themselves dealt [with us] very sympathetically*" (Walkthrough Interview 2). Ben described how this helped during the booking-in: "*I think that they were very... careful... (…) I think the actual body language was a lot more relaxed than it would otherwise be. And that was a big help (…)*" (Walkthrough Interview 2). For Ben, the booking-in "*(…) was probably the most daunting part of it (…) because you've just arrived... you've been told that you've been arrested*" (Walkthrough Interview 2). He referred to the difficulties created by the process: "*the standing at the desk, the... generation of the questions... personally.*" (Walkthrough Interview 2). But, Ben emphasised: "*(…) the way this was handled, they had done more or less everything... they had done more or less everything they could to help (…)*" (Walkthrough Interview 2). Because of this, Ben felt "*the body language and the calm*" were important, particularly in a real situation where "*there might have been added tension*" (Walkthrough Interview 2). He also stated that "*if I was less able and on me own, it would have been a very frightening experience*." (Walkthrough Interview 2). Linked to this, Ben suggested providing an AA before the booking-in; although he recognised "*that can only happen really if there was any indication beforehand*" (Walkthrough Interview 2).

Anne reported slightly more negative feelings about the booking-in process:

"*(…) although they... seemed to... uh, try to be understanding they actually... appeared to have not that much knowledge. And so... probably being under more stress... if you were (…) in custody for real. But it (…)- might be even harder to... feel*

comfortable to tell them, like, what was wrong. And especially some of the questions, which were key." (Walkthrough Interview 1)

Like Ben, she recognised the additional stress that might be experienced in a real situation. Anne described how this may prevent individuals from sharing information during the booking-in, but also how she felt supported through the process by having someone with her. While Anne emphasised that the police officers were being understanding towards her, she also perceived that they may not be as understanding outside of the study because it appeared that they did not know much about Autism. The implications of this were discussed by one of the detention officers ('DO'):

"*(…) it's a time thing isn't it as well? (…) It very much is. It's bang, bang, bang, bang, the next person. (…) This is a little bit different, um... to the normal procedures 'cause you definitely have another custody sergeant on and the chances are that there would be somebody else interacting with that sergeant so (…) that in itself, you know, makes things a little bit more difficult (…) for them to understand. And also the fact that the sergeants got to pick up and think 'If he's not said that he's autistic, for any reason', um - technically speaking they're very good (…) they do pick up things, and they do talk to each other and, you know - but (…) that's not always the case, to be fair*." (Walkthrough Interview 3)

The DO describes the time pressure they face when dealing with detainees during the booking-in. He alludes to how this can affect their ability to identify vulnerable detainees and understand the difficulties they may be experience. While he felt

that they were generally good at doing this, he implied there were other factors that affected this. The CS emphasised:

"*I think as well, you pick up... I only ask certain questions because of my life experiences as well. (…) if I'd not had that experience, I wouldn't ask certain questions. (…) Or I wouldn't be prepared to treat them any different (…) to you, or I, or [DO2]. (…) I think some custody sergeants... um, could be quite harsh*." (Walkthrough Interview 3)

He refers to his knowledge of Autism and how this influenced the way he dealt with Anne and Ben, but also how other police officers may not share this understanding. When combined with the pressures of custody, this might make it difficult to understand the difficulties experienced by some detainees. DO2 stressed:

"*It's to make sure that it's flagged up in the first place (…) 'cause once it's flagged up – (…) you're aware of it. (…) I think that's the main thing if - if the fact that you can get to know early (…) that, um, there are certain things that, er, affect people... then you can at least react in a way that's, er, a bit more sympathetic (…) than not (…)*" (Walkthrough Interview 3)

These issues were similarly discussed in relation to other procedures:

"*I... wasn't too... phased by the personal search, but I'm... thinking that maybe other people would feel a bit more invaded by it... (…) because the officers who did this were calm, fairly relaxed about it, it caused no problems, but in a case where I'd expect it to be - where you've probably got a dozen people waiting to come in - I don't think that they are that calm, and that's where a flash point could occur*." (Walkthrough Interview 2)

Here, Ben describes circumstances that might cause other individuals to experience difficulties during with the personal search. As with the booking-in, he identified the possibility of time pressure and how this could affect the manner of the police officers carrying out the process. Ben further emphasised "*we have to keep people calm during that process*" and the importance of relaxed body language. Although Ben did not experience difficulties during the study, he recognised it could have been more difficult. He emphasised: "*(…) obviously in this case I'd let them so... I was okay. However, I think (…) if it wasn't in a such a consensual nature it would have felt a little bit intrusive*." (Walkthrough Interview 2). He reported similar feelings in relation to the pre-charge process. For instance, he did not think that the DNA swab would be too invasive, "*bear in mind they're only going in to... a small area of your mouth on each side*." (Walkthrough Interview 2). He further explained:

"*Well, I suppose that, um, it could be fairly daunting, especially if... you know, if you did have things to hide, but that's supposed to be the case. With the fingerprints, um... I didn't feel that they did it, um... too harshly. But I'd imagine that because we had the luxury of the time and... calm and quiet. (…) But in a busy situation I'd imagine it might have been slightly more forceful, which might have been more irritating. And I think it is important for everybody in this process to... try and stay calm. (…)*" (Walkthrough Interview 2)

Calm played a central role in Ben's experiences during the pre-charge, as well as the body language of the police officers. He stressed: "*the whole body language of the operator can make the difference*" (Walkthrough Interview 2). These factors minimised the difficulties he experienced during the fingerprinting. As Ben emphasised: "*on this instance I actually*

felt like I was in charge of it" (Walkthrough Interview 2). In addition, "*there wasn't any need for a great deal of pressure to be applied*" because the "*equipment itself was sensitive*" (Walkthrough Interview 2). However, he suggested that in different circumstances these processes may have been more invasive. In particular, Ben thought: "*if the equipment was not well maintained... and it was necessary to apply pressure, that could have been... a bit more difficult (…) would have probably cause a bit more (…) aggro*." (Walkthrough Interview 2).

In addition, Anne and Ben referred to the impact of context on their perception of these procedures. While Anne recognised the personal search *"feels quite invasive", "I probably don't think I would be uncomfortable"* (Walkthrough Interview 1). This was because "*it was similar to airports*" which "*makes it (…) a bit more normal*." (Walkthrough Interview 1). Ben also referred to being familiar with similar processes in other contexts, particularly the photograph. He explained: "*(…) it wasn't much different from... the photo booths you'd use at Sainsbury's, where you might get some done for your passports*." (Walkthrough Interview 2). This familiarity helped them to feel more comfortable with the processes, even though the context was different. Conversely, some aspects of these processes would have created difficulties despite being a feature in other contexts. For example, Ben would not have liked to wear someone else's clothes for the photograph. He stressed: "*(…) that would have impressed the prisoner on me, and I would have felt... perhaps humiliated about the clothes...if I was forced to wear them, it would be - it would be like putting on a hospital gown, really*." (Walkthrough Interview 2). Similarly, Anne would have had more difficulties with the strip search. In this instance,

the different context made participating in this process appear inappropriate, as she explained:

"*With clothes on is okay. Well, because (…) like being autistic, I've been taught keep clothes on and (…) so... that's quite conflicting in my head. (…) you're not in - like, apart from being, like, in hospital or doctors (…). It's sort of a different context*." (Walkthrough Interview 1)

These concerns were also evident during the fingerprinting. Anne didn't like her hands being touched, because "*it was quite, um... forced"* (Walkthrough Interview 1). She said it was "*[n]ot quite forceful but…"* agreed there was a lot of pressure "'*cause they had to go round the whole fingers."* (Walkthrough Interview 1). This felt "*invasive*" because it was "*with someone you don't know and... (…) like it's different - like if you're in a hospital someone's trying to help you, whereas they're not... helping you as such."* (Walkthrough Interview 1). The different context was emphasised by the fact that "*they said that they could do it against your will as well, so. (…) Feel sort of forced to do it*." (Walkthrough Interview 1). The DNA swab would have caused similar problems: "*Very uncomfortable. Having stuff in my mouth that I don't want*." (Walkthrough Interview 1). Anne's comments support those made by Ben above, emphasising the role of consent and the impact this could have on the experiences of individuals during these processes.

9.3 Understanding and Anxiety

As part of the study, the police officers talked through each part of the custody process and explained what would happen, how it would be done and why. Because of this, Anne and Ben reported feeling more comfortable with what was happening as they had a

better understanding of the process. However, when things were not fully explained they felt more anxious about what was going to happen. They emphasised had they not known or understood the process they would have experienced anxiety. At times, they also found it difficult to understand the police officers because of the language used. This often prevented them from fully understanding the process or being able to participate effectively which led to further anxiety, particularly for Anne. In addition, Anne and Ben perceived that there was a need to provide accessible forms of information to help improve understanding.

9.3.1 What, Why and How

Anne reported that she felt "*a bit anxious*" during the study because of "*not knowing what's gonna happen*" (Walkthrough Interview 1). The key thing that helped her was when the police officers "*explained what they were gonna do*" and "*why they had to do each thing*" (Walkthrough Interview 1). Anne thought that "*context is probably the biggest... thing that helped*" because it "*[j]ust reduces anxiety*" (Walkthrough Interview 1). For example, during the study they explained why it was important to wear different clothes for the photograph:

"*(…) we've got a pile of clothes here, um, that people bring in. And, er, we just ask you to put a top on over what you're wearing and so then you won't stand out for any reason. (…) So if you're wearing a custody top, er, which are just grey, um, we would ask you to put something else on because if a witness knows that people in custody wear grey clothing, then for that reason you would stand out and they might pick you even though (…) you've got nothing to do with it. (…) it's just for fairness on - on yourself*." (Walkthrough 1)

As will be discussed in section 4, Anne was uncomfortable about wearing someone else's clothes. However, she emphasised: "*I wouldn't have liked it - to put on other people's clothing. But (…) it would have been a bit better after she'd... said why*." (Walkthrough Interview 1). This was because she understood why this procedure was in place. Ben reported similar feelings:

"*(…) we knew what they were doing, I think if I didn't know what they were doing I would have been a lot more tense. (…) And obviously (…) they were showing me how the devices worked as well. (…) if I was a stranger to that... perhaps I would have been a lot more tense*." (Walkthrough Interview 2)

He explained: "*I think it just removed some of the fear about it. You know, when you know what's actually being done... you don't have the anxiety about something that's... impending that isn't*." (Walkthrough Interview 2). Anne also emphasised this: "*I think it's something - I don't like it if I don't know*." (Walkthrough Interview 1). Knowing what they were going to do during each process and why would have helped them to cope with going through the procedures

The potential impact of this was illustrated during the study when the police officers did not explain what they were going to do:

"*So, [Anne], when you come into the, er, room... what I would ask you to do is I'd ask you to put you stuff down here... and if you could just hold your arms out in front of you for me... and then just turn - turn your hands over. [turns off lights] Excellent. Now that's, er, a thing called smart water and in a lot of, erm, shops they have a - er, like a spray called smart water and basically if somebody breaks into that property, they get sprayed*

with this smart water and it shows up under UV light - which is what that was? (…) we don't really - we should do really – (…) explain it thoroughly, erm, unless they ask... (…) about what it is. Um, so I think... if you don't know what it is, it's a bit like... 'Oh!'. (…)" (Walkthrough 1)

Here, the DO carried out the UV smart water test. Anne was asked to hold out her arms and as the lights were switched off, the DO operated the UV light. Observing this, I noted that the "*sudden change startled [Anne]*" (Field Notes). This was because they did not explain what they were doing:

"*Anne: (…) I didn't know what they - was gonna happen. (…) all they said was 'Stick your hands out'.*

Interviewer: And you had no idea what was gonna happen?

Anne: No idea what they were actually... doing or gonna ask.

Interviewer: So, what did you think... might happen?

Anne: (…) I didn't think anything specifically, but I was just like... I didn't know if they were gonna suddenly search me or what." (Walkthrough Interview 1)

Anne was not sure if they were going to touch her and said if they had, "*I would have struggled out*." (Walkthrough Interview 1). Anne felt that she, and potentially other individuals, would be more likely to "*lash out at someone...*", "*if you're asked to do something you're not quite sure...*" (Walkthrough Interview 1). As a consequence, she emphasised this "*could lead in more trouble*" as you would "*then you get in trouble for hitting people*." (Walkthrough Interview 1). Anne agreed that she would have felt less anxious if they had explained the process to her beforehand because she would have been more prepared for

what would happen. She stressed: "*(…) even if they told you a bit. Er, not the full story, but just, 'I'm gonna ask you to do this. And then this'. (…) Some background of what's gonna happen. (…)*" (Walkthrough Interview 1).

However, Anne was also concerned that the police officers would not do this in real life. She explained: "*(…) they said that they wouldn't in a real scenario. (…) So I suspect (…) it would be more... much more impersonal and they wouldn't be as willing to explain...*" (Walkthrough Interview 1). This was highlighted by the CS:

"*(…) I probably wouldn't explain to the extent that I explained to, um, these two today, but I would normally say that 'This is what I'm here for. I'm here to look after you. I'm not involved in the investigation. I've got loads of questions to ask you -' (…) 'if you've got any questions, ask'. (…)*" (Walkthrough Interview 3)

This was also emphasised by DO1 who stated they would not normally explain the smart water process to detainees unless they asked. Because of this, Anne felt they might "*not be as understanding*" and agreed this may cause more anxiety (Walkthrough Interview 1). She thought that police officers should continue to explain what would happen:

"*(…) explain why you were there and what would happen next, yeah. (…) making it more normal. Like having conversations and... (…) ...explaining why and... (…) if I was there for a full 24 hours – (…) like, I don't know if they tell you exactly what was gonna happen... and why, like it would be quite cool if they could... update you and I don't - they might do but I don't know if they tell you what was going on or... that you're now waiting for this or that or... (…) ...that to happen*." (Walkthrough Interview 1)

Anne describes the kind of information that she would have found helpful if she had been detained for a longer period. Explaining what would happen and why, as well as keeping them up to date with what was happening, would have been useful.

Ben similarly stressed: "*I think that, um, knowledge of what's actually going on to - to an extent, definitely helps (…) because I think the worse thing is if someone's languishing in a cell, and not, um... up to date (…)*" (Walkthrough Interview 2). He thought "*that would have been very difficult. Especially if I didn't know how long I was gonna be in there for. (…)*" (Walkthrough Interview 2). Ben further emphasised the need for information:

"*I think the foresight of what would happen next and possibly when it's likely to happen... (…) ...and perhaps some more information on the process, step-by-step what's likely to happen and what happens if... if the, um... if - what happens if the - if you're charged, what happens if you're not charged and um... you know, and what potentially could (…) what rights you have more - like, um, telephone calls, solicitors, etcetera and appropriate adults - perhaps explaining some of the roles - you know have some literature, because reading material's always good*." (Walkthrough Interview 2)

He describes knowing about not only what would happen, but when it would happen and in what order. Ben also highlights the need to know more about what rights and entitlements they have in police custody. Although some of this information can be verbally explained, as illustrated by the study, Ben suggests providing this in a written format. Some of the information Ben refers to is provided in the Codes of Practice. These have to be provided when requested by detainees (see para 3.1 Code C).

However, during the study it was suggested that this information was not readily available. As I noted: "*PACE not always on hand*" (Field Notes). This was illustrated during Ben's walkthrough:

"*CS: And the last question is would you like to read a code - a copy of the codes of practice, which is a rule book how we can treat and deal with you while you're in police custody.*

Ben: Yep.

CS: ... there always has to be a difficult one that wants to read the Codes of Practice.

(laughter)

Ben: (…) - I actually know what they are anyway so!

CS: Is - is that what you would have said then, [Ben]?

Ben: I would - it's what I would have said, yes.

DO2: They would have provided you with one.

CS: Yeah. And this is what happens normally, we frantically look round trying to find a Code - a copy of the Codes of Practice. And if need be, I'd go on the internet and print you out a copy." (Walkthrough 2)

It is possible that Ben's desire to have a copy of the Code was linked to his legal background and his familiarity with their contents. While this was not immediately understood by the officers, this may have been connected to the police officer's previous experiences. As the CS explained, "*[s]ome people say yes just to be awkward, because they know we can't find the book*." (Walkthrough Interview 1).

On the other hand, some of the information Anne and Ben refer to is not contained within the Codes. They thought it might

help to have alternative forms of information. Like Ben, Anne felt it would help if they knew what was going to happen next. She suggested having "*visual prompts of what was gonna happen*" or a "*[d]iagram of like - a visual timetable effectively*." (Walkthrough Interview 1). Anne explained: "*Like when you come in. So... (…) talk to... custody person, then fingerprints (…) even though it's very basic - 'cause it's quite... anxiety provoking (…)*" (Walkthrough Interview 1). Ben also thought it would help to know *how* the procedures are carried out:

"*I think it's making sure that people know what all of these devices do, and perhaps, you know, when they're doing the fingerprints (…) if the purpose is understood, then... there probably won't be a problem*." (Walkthrough Interview 2)

Understanding how the procedures would be carried out during the pre-charge was considered particularly useful. He emphasised: "*(…) not everyone would understand pre-charge. And you know, I might be a little bit more legally savvy than others so... (…)*" (Walkthrough Interview 2). Ben suggested "*having something before going into the charge room that had in it what the machines [do], and, perhaps, a little warning about what could happen if you... er, didn't... comply or consent (…)*" (Walkthrough Interview 2). In particular, he felt it would help to know about what would happen during the drugs test and why. Ben explained: "*(…) you know, might say something like 'We only need to do this. If you don't...' or 'To avoid a charge of...'* (…)" (Walkthrough Interview 2). Here, Ben was referring to the requirements of PACE. According to the Act, before the sample is requested, detainees must i) be warned that "if, when so requested, he fails without good cause to do so he may be liable to prosecution" and; ii) "inform him of the giving of the authorisation and of the grounds in question" (s 63B(5) PACE

1984). Ben thought it was important to make this clear. Like Anne, he also agreed it might help to be given this information in a visual format.

9.3.2 Language

At times, Anne and Ben found it difficult to understand what the police officers were saying. This was often because of the language used. Anne explained that she felt "*a bit confused*" during the booking-in (Walkthrough Interview 1). For example, she did not know what Class A drugs were. Similarly, when she was asked if she would like a solicitor or an Appropriate Adult, she replied "*I don't know what one is*" (Walkthrough 1). The CS explained this to her:

"*A solicitor is somebody that can help, er, you understand the law. So they'd come to the police station and (…) they'd be able to advise you on points of law. They can't tell you what to say in interview, they can't give you an answers to say (…)*" (Walkthrough 1)

But, the part she found most difficult was "*the places where I didn't understan*d" and "*asking him to explain*" (Walkthrough Interview 1). Anne emphasised this "*added some anxiety because... (…) I had to re-ask... what it was*" (Walkthrough Interview 1). She also felt that "*they didn't seem to understand (…) why I didn't understand*." (Walkthrough Interview 1). However, during the study the DO highlighted why it might appear this way:

"*(…) when you're going through it day to day... (…) You don't pick up on it. (…) But when you're going through something like*

this you really do pick up on it and you're thinking - I don't think even I'd understand that." (Walkthrough 1)

She suggested that their familiarity with the process meant they did not always appreciate how difficult it might be for others to understand what was going on. This was also emphasised by the other DO:

"*I think sometimes we take it for granted... er... the experiences of people coming to custody - especially when they're brand new. Um... and we don't quite understand their anxieties. (…) 'cause it's just a job, and we see people coming in all the time*." (Walkthrough Interview 3)

During the study, Anne also found it difficult to answer some of the questions. She stressed: "*the open questions as well were difficult"* (Walkthrough Interview 1). For instance, she was asked to provide details of where she lived:

"*CS: ... and, er, where do you currently live please?*

Anne: [Names city]

CS: Whereabouts?

Anne: [Names local area]

CS: Whereabouts? What - do you know your address and street number?

Anne: Oh yeah! [Gives address]" (Walkthrough 1)

During the study, I observed Anne becoming "*confused*" because she did not understand why the information she had given was not correct. I noted that the officer "*should ask what is your address*" to aid "*clarification*" (Field Notes). As Anne emphasised: "*(…) they asked me (…) where I lived. But didn't say (…) they*

could've easily just said 'What's your address?'." (Walkthrough Interview 1). Instead of explaining this, "*he just repeated the question again"* (Walkthrough Interview 1). Another example was when the CS asked "*[h]ow does you Autism affect you?*" (Walkthrough 1). In this instance, Anne replied "*I don't know*" (Walkthrough Interview 1). This was because "*I've never been in [police custody] before*" so she did not know how being there would affect her (Walkthrough Interview 1). Consequently, she did not understand what she was being asked by the question. I observed that the CS then re-phrased this and "*asked about scenarios*" to help her think about how this might create difficulties (Field Notes). Anne was then able to answer this:

"*CS: You don't know. Are there any scenarios that, erm, you're uncomfortable with or - while you're gonna be with us?*

Anne: Interviews." (Walkthrough 1)

Anne thought it would help if "*they could make the open questions effectively into closed questions*" (Walkthrough Interview 1). She also suggested they "*could have had like, prompt sheets (…) so when they say 'How does Autism affect you?', be able to say (…) things that are quite common*." (Walkthrough Interview 1). For example, "*like lighting, sound. Or saying the interviews are gonna happen*" which they could tick off (Walkthrough Interview 1).

In contrast, Ben found answering the questions less problematic. He explained: "*They were clear to me. (…) they were what I could understand. They were fairly unambiguous... (…) ...and they were quite simple questions*." (Walkthrough Interview 2). In particular, Ben was able to explain how his Autism might affect him in the police station:

"*CS: Right. And how does that affect you? How will I need to look after you to ensure that you're safe and well while you're - with us in the police station? Is there anything that I maybe --*

Ben: I might be prone - I might be sensitive to loud noises. And, um - and very bright lights." (Walkthrough 2)

On this occasion, the CS helped by elaborating what he meant. It is possible that because the study was "*already conducted once*" this may have "*influenced [the] treatment of [Ben]*" because of "*what they'd learned with [Anne]*" (Field Notes). This may have encouraged the CS to reframe the questions to aid Ben's understanding, in turn, making it easier for him to answer the questions. The CS alluded to this:

"*(…) um, it was harder with [Anne] than it was with [Ben]. (…) much harder to get the answers and responses from her. Um... I - I've booked a couple of people in who've, um, said they're on the autistic spectrum (…) and Asperger's and normally get more interaction with them (…) So, it's quite difficult...*" (Walkthrough Interview 3)

He explained: "*(…) they normally tell us that - they don't like people touching them, or... um, they don't like confined spaces, or this can make it better – (…) or that can make it better and if they have to go in a cell what happens.*" (Walkthrough Interview 3). However, it is implied that the detainees he describes have previously experienced what it is like to be in police custody and were more familiar with the kinds of difficulties they may experience. Ben's legal background may also have played a similar role in aiding his understanding.

Finally, Anne and Ben identified issues with regard to disclosure. During the study, they both had a different understanding of when they were being asked to disclose their

Autism. This was due to the lack of a direct question being included in the risk assessment. Instead, they were asked a series of different questions relating to different conditions. Their interpretation of the language in these questions encouraged them to disclose at different points. On the one hand, Ben disclosed when he was asked "*do you have any injury or illness currently?*" (Walkthrough 2). His reply demonstrated his uncertainty: "*Whether you class it as an illness or not, um, I am on the autistic spectrum, I have a diagnosis of Asperger's Syndrome*." (Walkthrough 2). On the other hand, Anne disclosed when asked "*do you have any learning disabilities that we need to provide any help or support for?*" (Walkthrough 1). She emphasised that because she was not asked directly, "*I wouldn't have mentioned Autism... (…) Had they not already known*" (Walkthrough Interview 1). The need for a direct question was recognised by the CS:

"*(…) it's probably better if it was a set question, because it does depend how you ask the question. And if - 'cause Ben presents very well. (…) unless he told you, you wouldn't think that – (…) there was any issue at all? Um, and I - I don't know I think... 'Do you require any help with reading or writing? Or have any learning disabilities the police can provide help or support with?', I don't know whether that's enough and whether it needs to be a separate question. Maybe that's enough. But I tend not to ask the learning disabilities part of it, I just tend to normally ask the 'Do you need any help with reading or writing?*'." (Walkthrough Interview 3)

Disclosure was also made more difficult by the fact that "*(…) when they asked about... just generically about medical conditions (…) like, they don't have a list...*" (Walkthrough Interview 1). This meant when combined with the phrasing and

wording of the questions Anne and Ben did not understand what information they needed to share and when. As Ben illustrated:

"*CS: And are you on any tablets or medication at the minute?*

B: (…) And I'm on [medication] for Diabetes.

CS: Oh, so you're diabetic as well?" (Walkthrough 2)

In this scenario, Ben disclosed that he was on medication for Diabetes. However, before this, when he was asked if he had any illnesses he did not disclose that he was Diabetic. While he was directly asked this at the end of the risk assessment, the order of the questions and the language may have affected his "*interpretation and understanding*" of what information he was being asked to share (Field Notes). As a result, he "*revealed info at other Q points NOT when directly asked*" (Field Notes). Anne also raised concerns about *when* they are asked to disclose information about learning difficulties or mental health conditions. She explained she was only asked "*towards the end of the interview. (…) Whereas probably... (…) - it'd be something they need to do first*." (Walkthrough Interview 1). Anne felt that "*should probably actually be one of the first questions*", agreeing that it would help the police officers to know how to interact with them (Walkthrough Interview 1). She emphasised it would allow them to "*call an Appropriate Adult (...) Much earlier in the process than at the bottom*" so they could be there to help them through that process as well (Walkthrough Interview 1).

Anne and Ben's experiences during the booking-in raise concerns because it suggests that individuals may not disclose medical information. If the police officers are not aware of any conditions, they may not identify that they need additional support or medical assistance which may expose them to a series of risks in police custody. This was further emphasised by

one of the DOs. He explained: "*(…) sometimes a lot of people hide things. Er, and a lot of people (…) do not want to tell you that they've got something wrong with them*." (Walkthrough Interview 3). While he referred to the role played by the lack of privacy in preventing disclosure, he also alluded to the wider factors that contribute to this:

"*(…) it's not very private is it? (…) and that in itself is a problem because if you are downstairs, and um, you've got a problem that's - that's very private to you (…) so you're a - reluctant to speak to the sergeant or the detention officer. (…) and sometimes we - we miss things like that. Or (…) tell you later on in the cell, and you think (…) 'Well, why didn't you tell me that earlier on?'. (…) And obviously there are reasons why they don't*." (Walkthrough Interview 3)

As illustrated by Anne and Ben, understanding when and what information to disclose may play a central role in discouraging individuals to disclose. Asking direct questions and using clear language would help to address this.

9.4 Sensory Sensitivities

As part of the study, Anne and Ben were asked to identify any sources of sensory stress created by the police custody surroundings. On the whole, during the study they did not experience a large amount of sensory stress. However, both Anne and Ben highlighted several aspects which could have caused difficulties. Noise was one example:

"*(…) Bear in mind that this floor that I was on was a quiet floor, so I didn't... there wasn't a lot of noise there, but if there was... if there was lots clattering, lots of loud noises, it could have been*

quite difficult. However, the knowledge... to counter that that's a very robust steel door, as long as it's not someone banging ... another one, you know, one should feel quite safe in there." (Walkthrough Interview 2)

Because the study was carried out on a quiet floor, the noise was minimal. This meant Ben did not experience much difficulty with the noise levels. In contrast, Anne found it more difficult during the study itself. Although she did not find other aspects problematic, she said "*the noise not so. Unexpected noises*." (Walkthrough Interview 1). This was "*just because it's busy*" and "*there's lots of people moving round*" (Walkthrough Interview 1). Anne also reported that the cell "*was quite echoey*" and there was "*buzzing*" coming from the lights (Walkthrough Interview 1). She explained she found this difficult because "*you're already anxious going in. And I would say all of those, sort of, aspects are heightened... and so it's harder to deal with them*." (Walkthrough Interview 1). Anne emphasised: "*(…) you can't block them out as easily*." (Walkthrough Interview 1).

But, Ben felt that if it had been a real scenario or in a different location he could have experienced difficulties. He explained, "*I could imagine that (…) in other cell blocks there would have been a lot more noise*."; "*had I been on a busier floor, in a busier suite, um... it probably would have been a lot more difficult (…)*" (Walkthrough Interview 2). The DO also emphasised this difference:

"*(…) generally speaking when you come in, there are people walking back, to and fro, and it's - it's - it's a busy environment, and for somebody to see that who's not used to it, it can be a little bit overwhelming. And especially also the noise. The noise. (…) sometimes it can be very, very, loud and people screaming*

and shouting because they don't want to be here and so it can be a little bit confusing for people who are for the first time and - and never experienced anything like it..." (Walkthrough Interview 3)

Because of his concerns, Ben felt the quiet floor was "*probably a better environment, for someone (…) more vulnerable, than downstairs would have been*." (Walkthrough Interview 2). He stressed:

"*I think that certainly the quieter area of the police station was definitely a benefit and I think that, um, in that particular cell that I saw would have - you know, there'd probably be far fewer problems in that part of the police station than, perhaps if I - if we were on the main floor (…) for instance where there's a lot of people going in and out (…)*" (Walkthrough Interview 2)

Being in a quieter area would help minimise the noise detainees were exposed to. Alternatively, Ben thought some people might "*benefit with ear muffs*" as well (Walkthrough Interview 2).

In addition to noise, the lighting in the station raised issues. For Anne, "*[t]he lighting was... not a problem*" (Walkthrough Interview 1). Although she stressed: "(…) *they were okay (…) but they weren't... like, nice if you like*." (Walkthrough Interview 1). Conversely, Ben was concerned about the lighting. He explained, "*it's all artificial lighting*", "*I would describe it as very... 1970s style lighting. Very bright fluorescent tubes, kind of what you'd see in a subway or in a public toilet.*" (Walkthrough Interview 2). Because of this, he thought "*it could throw a few (…) sensory issues after prolonged exposure*" (Walkthrough Interview 2). During the study itself Ben did not find the lighting too difficult. In the cell, he emphasised: "*(…) the light contrast in this one is particularly good. I was*

particularly frightened of the brighter lights I saw in the court cells." (Walkthrough 2). This was helped by the fact that the lighting in the cell was on the night setting. As the officers explained, "*[w]e've got more control here, we can dim them*" (Walkthrough 2) and they can be "*[t]urned up and turned down*." (Walkthrough 2). Ben felt the night setting "*wasn't too invasive*" (Walkthrough Interview 2). However, he thought "*it would still - might be a trouble to go to sleep through it*" (Walkthrough Interview 2). To help with this, he recommended providing eye masks but recognised "*there could be a ligature risk there*" (Walkthrough Interview 2). Alternatively, he thought there could be "*softer lights*" or "*different colours of lighting*" to minimise the stress created by the lights (Walkthrough Interview 2). He explained: "*(…) you can get nightlights that are, you know, purple, white, you know, softer colours (…) and (…) various colours with the LEDS that we've got now (…)*" (Walkthrough Interview 2).

Linked to this, Ben stressed "*a lot of people with Autism can be colour sensitive as well - so certain colours."* (Walkthrough Interview 2). The colours used in the police station was a specific issue he identified during the study. While Anne did not like that "*it's all very dull colours*" (Walkthrough Interview 1), Ben was more comfortable with this. In the cell, he preferred the "*fairly neutral contrast*" and thought green was "*a good colour for it*" (Walkthrough 2). On the other hand, Ben was worried about the colours of other cells. For example, he would not have liked to be in a blue cell, stating "*I suppose it'd probably feel quite cold*" (Walkthrough 2). Ben emphasised:

"*(…) and the colour of the cells as well (…) you wouldn't want a cell to be red for instance... because that could, you know, make people... quite angry? (…) and I think, you know, perhaps even*

colouring some of the stainless-steel fixtures? (…)" (Walkthrough Interview 2)

Linked to this, Ben explained: "*(…) metal toilet (…) I find a bit scary*" (Walkthrough 2). Throughout the study, I noted that colour seemed to be "*associated with emotion*", particularly upon hearing Ben talk about the cell in this way (Field Notes). Ben also disliked the fact that "*it was very glossy*" (Walkthrough Interview 2). To address this, he suggested having "*a few softer floor colours*" and "*softer more matt... in some areas*" (Walkthrough Interview 2).

In addition to these aspects, Anne and Ben also identified other potential sources of sensory stress. During the study, I noted that swapping clothes for the photograph was a "*potential sensory trigger*" (Field Notes). Concerned about this, we specifically discussed this issue with Anne and Ben. Anne confirmed this, explaining she was concerned about having to wear other people's clothing because of the "*[s]ensory*" issues related to the different fabrics and the fact "*[i]t's someone else's*" (Walkthrough Interview 1). Another concern raised was the closeness of other people. This was illustrated when the CS discussed the seating arrangements in the interview room with Ben:

"*(…) if I were interviewing you... the problem we get is, your Appropriate Adult would like to sit - normally next to you - your solicitor wants to sit next you - so naturally it means I have to sit over here. But, actually, I'd probably rather sit... here. (…) And let the solicitor and the Appropriate Adult be in those other places. But, actually, they want to get round you and crowd you, and normally (…) the officers would then be the other side of the*

table (…) that in itself can create... friction and thinking us and them, when it's not actually us and them." (Walkthrough 2)

The CS stressed: "*(…) we'd ask you, what would make you feel most comfortable... or they should do*." (Walkthrough 2). When Ben was asked how he felt about that arrangement, he replied "*I personally I'm happy that this particularly one does have the flexibility to do that*" (Walkthrough 2). But, contrary to the sergeant's expectations, he said: "*I think in some places I personally prefer that, you know, maybe the interviewer sits directly opposite me?*" (Walkthrough 2). If the interviewer sat next to him, he emphasised "*I might be okay with that or I might feel it's a little bit too close*" and "*that would make you feel a bit claustrophobic*" (Walkthrough 2).

9.5 Discussion

As discussed in Chapter 8, previous research has explored the difficulties experienced by detainees in police custody (see Skinns, 2011); although, little research has specifically focused on autistic individuals (see Crane *et al.*, 2016; Beardon & Edmonds, 2007; Allen *et al.*, 2008). Of particular relevance here are the findings relating to the lack of information given to detainees in police custody and the demands of the custody setting (see Skinns, 2011; Crane *et al.*, 2016). Connected with this, Skinns emphasised detainees' desire to "be provided with more information about their rights and entitlements", as well as "more detailed information in police custody areas about how long suspects are likely to wait for a legal advisor, why they are waiting and what time their legal advisor is due to arrive" (Skinns, 2011: 216 - 217). Skinns also discussed the way in which detainees are given their rights in police custody,

highlighting the importance of "the manner by which they are given" (Skinns, 2011: 198). Furthermore, Skinns has also highlighted detainees' expressed wish that the police would be "more polite, even-handed, compassionate … and less authoritarian" in their manner towards them (Skinns, 2011: 215). In addition to this, as discussed in Chapter 3, previous research has also outlined the problems associated with identification of vulnerability in police custody (Hodgson, 1997; Palmer, 1996; Bradley, 2009, HMIC, 2015; NAAN, 2015). In particular, the difficulties relating to disclosure of medical information and the ability of police officers to identify mental vulnerability (Bradley, 2009; HMIC, 2015). This has been connected to the design of the risk assessment process and the lack of understanding of mental vulnerability (HMIC, 2015; Dehaghani, 2017).

The findings of the walkthrough are consistent with the concerns raised by previous research. However, this research focuses specifically on the experiences of autistic individuals throughout the whole custody process whereas previous research has been restricted to specific parts such as the interview. Interestingly, this research also illustrates the practical impact of addressing some of these concerns on the experiences of autistic individuals throughout the custody process. For example, the participants stressed the importance of providing information and the benefits of explaining the custody process. In particular, they clarify what kind of information is important which has not been explored in depth by previous research. Significantly, having information about what would happen during each process, why something was being done and how it would be done all aided the participant's understanding of the process and minimised their anxiety.

Moreover, the manner of the police officers throughout the walkthrough helped participants feel more at ease with the custody process, supporting the suggestions made by Skinns. The fact they were more relaxed and maintained calm throughout the custody process played a particular role. In addition, the controlled environment helped minimise the extra demands experienced by the participants, emphasising the importance of an appropriate setting in ensuring the difficulties of autistic individuals are reduced.

Yet, this research also further emphasised the difficulties that can be experienced by autistic individuals throughout the custody process. For example, the participants still experienced sensory stress as a result of the custody setting and highlighted the need to make adjustments to the setting. They also experienced difficulties during the booking-in process which affected their ability to answer the questions. This was linked to the language used during this process which sometimes made it difficult to know which information to provide and when. The order of the questions also contributed to this. As a consequence of this, this research highlighted a risk that autistic individuals may not disclose information to police officers. But, this research also illustrated the risk that police officers may not identify autistic individuals when they do not disclose due to their various understanding of Autism and the way autistic individuals present in police custody. Thus, supporting findings by previous research relating to the difficulties associated with the identification of mental vulnerability in police custody.

9.6 Conclusion

This chapter outlined the experiences of Anne and Ben during a walkthrough study of police custody. Although they were in a controlled environment, and had not gone through the experience of arrest, both participants identified difficulties that could affect the experiences of autistic detainees in detention. They also highlighted possible ways of improving these experiences and supporting them throughout the custody process. Many of issues raised by Anne and Ben support the concerns raised by the participants during the interviews and online survey. Firstly, this chapter highlighted Anne and Ben's concerns about being detained for a long period of time. In particular, it emphasised their dislike of the small space of the police station and the unfamiliarity of the setting, highlighting the possible emotional impact this may have. Furthermore, this chapter also emphasised the lack of movement and risk of boredom, illustrating the relationship between these factors and the wider impact of detention on detainees.

In addition, this chapter set out the difficulties identified by Anne and Ben regarding the custody process. While they did not always experience these difficulties at the time of the study, they described the potential impact that time pressure and different circumstances could have on the experiences of detainees. Secondly, this chapter referred to the importance of understanding. This included understanding the custody process, including what would happen, how it would be done and why. It illustrated how because the police officers explained each process to Anne and Ben, they felt more prepared and would have felt more comfortable participating in these procedures. In contrast, on the occasions when this was not fully explained, they reported feeling more anxious. Linked with this, this chapter

also highlighted the need for more accessible information about these processes and what happens in police custody. Moreover, it also emphasised the difficulties Anne and Ben experienced understanding the language used by the police officers and the possible impact this might have on disclosure. Finally, although the study was conducted in a controlled environment, this chapter identified several sources of sensory stress created by the custody environment. This included noise, light, colour, the closeness of others and wearing other people's clothing. To resolve these issues, this chapter also referred to the possibility of making adjustments to the custody setting or providing accommodations.

CHAPTER 10 - FACILITATING ACCESS TO JUSTICE: DISCUSSION AND CONCLUSION

10.1 Introduction

After outlining key findings from the research, this thesis will conclude by discussing the implications of these findings. This chapter will consider the main research question: How should autistic individuals be supported in police custody? To answer this, this chapter will first begin by briefly summarising the experiences of autistic individuals in police custody and the difficulties they experience. Having done this, the remainder of this chapter shall focus on how to facilitate equal access to justice for autistic individuals. Section 3 shall outline the ways autistic individuals should be supported in police custody. Section 4 will then evaluate whether legislative reform is required to ensure equal access to justice for autistic individuals. To conclude, section 5 shall review the limitations of this research, as discussed in Chapter 5, and directions for future research. The final section of this chapter will then reflect upon the findings of this thesis and emphasise the main implications of this research.

10.2 The Experience of Arrest and Detention

Before considering how autistic individuals should be supported in police custody, it is necessary to review what barriers to participation exist in police custody specifically for autistic individuals. As discussed in Chapter 4, the social model emphasises that individuals are disabled because of barriers in society; it is these barriers which prevent individuals from participating equally in society (see Oliver, 1990; UPIAS, 1976).

However, this chapter also discussed the limitations of this approach with regard to understanding the experiences of autistic individuals. In particular, the focus on the collective experiences of disability to the exclusion of the individual experiences of disability *and* impairment (see Lang, 2001). As such, this research outlined an extended view whereby it was considered that autistic individuals were disabled as a result of the interaction between Autism and barriers in society (see Bury, 1996; Wheeler, 2011; Harpur, 2012). Moreover, it is recognised that the experience of disability may also be affected by how disability affects the experience of the impairment (see Shakespeare & Watson, 2002). Accordingly, society should not just remove disabling barriers, but also consider what tailored support is required to ensure equal participation.

In light of this, this section will answer the first two research questions: i) What difficulties do autistic individuals encounter in police custody and ii) What support do autistic individuals receive in police custody?. Chapters 6 – 9 illustrated the range of difficulties experienced by the participants in this research and highlighted the impact these had on their ability to participate in the police custody process. Although previous research has discussed the difficulties experienced by detainees in police custody (see Skinns, 2011), there has been limited research into the difficulties specifically experienced by autistic individuals in police custody (see Crane *et al.*, 2016). As highlighted in Chapter 2, previous research has not focused specifically on the impact of police custody on the experiences of autistic individuals, nor what specific aspects of this setting create difficulties for this population. This research addresses this gap and has highlighted difficulties in three key areas: i)

understanding arrest and detention ii) coping with detention and iii) participating in the custody process.

Firstly, Chapter 6 highlighted how the participants perceived their arrest as unjustified or inappropriate due to a perceived lack of criminal intention in their behaviour. While previous research has highlighted the potential lack of criminal intention in the offending behaviour of autistic individuals (see Beardon, 2008; Freckelton & List, 2009), this thesis has specifically emphasised how this perception can subsequently influence their understanding of arrest and detention. Although in most cases participants admitted to the actions that led to their arrest, the majority did not perceive they intended to commit an offence. The offending behaviour of the participants was often related to external factors i.e. job loss, family stress, the behaviour of others and a lack of mental health support and internal factors i.e. depression and characteristics associated with Autism such as naivety and being unable to interpret the motives of others. Though the role of these factors in the offending behaviour of autistic individuals has previously been discussed (see Kawakami *et al.* 2012; Allen *et al.*, 2008; Brugha *et al.*, 2009; McCarthy *et al.*, 2016; Browning & Caufield, 2011; Woodbury-Smith, 2014), Chapter 6 illustrated how the behaviour of the participants was due to the *interaction* between these factors. This interaction affected how the participants responded to stressful situations. In some cases, this caused them to engage in offending behaviour; in others, it led to their behaviour being misinterpreted by police officers because of a lack of understanding of Autism and awareness of the wider context of their behaviour.

Because of this, most participants did not feel that they were responsible for their behaviour; they generally perceived

that their main motivation was to deal with the stress they were experiencing, not to commit a criminal offence. Linked with this, they felt they should be treated differently as autistic individuals and that this should be recognised in the interpretation of their behaviour. As highlighted by Chapter 7, these feelings influenced their experiences of police custody. The participants found it difficult to understand why they were arrested and subsequently detained in police custody for their behaviour. This was associated with their perception that they were being treated as a criminal, despite having not done anything wrong. While previous research has referred to the role played by the general demands of detention in the experiences of detainees (see Skinns, 2011; Wooff & Skinns, 2017; Skinns *et al.*, 2017), Chapter 7 illustrated the role these demands play in the experiences of autistic individuals in police custody. Although the loss of liberty, control and privacy is generally associated with detention, these factors served to heighten the feeling of punishment experienced by the participants because they felt that this was inappropriate. In particular, they questioned the use of force and restraint and the perceived lack of respect shown by police officers towards them as disabled individuals. Moreover, they questioned the necessity of being subject to custody procedures.

Secondly, Chapters 7, 8 and 9 demonstrated that autistic individuals find it difficult to cope with being detained and often experience a desire to escape police custody. While previous research has discussed the impact of detention on detainees (Skinns *et al.*, 2017; Skinns *et al*., 2015; Skinns, 2011), these chapters specifically focused on the experiences of autistic individuals during detention and highlighted the range of difficulties they experienced. Chapter 7 highlighted how

participants found it difficult to deal with the punitive effect of being arrested and detained because of their perception that they did not deserve to be treated as a criminal which, in turn, amplified the emotional experience of detention. Chapters 8 and 9 identified several other difficulties associated with being detained which may be experienced by autistic individuals. These included: i) not knowing what was happening ii) having nothing to do and iii) sensory demands. While previous research has referred to the potential difficulties of autistic individuals as a result of these factors (see Crane *et al.*, 2016; Allen *et al.*, 2008), this research has highlighted how these factors can serve to heighten the emotional impact of autistic individuals' experiences in police custody.

As highlighted by Chapter 8, not only did these factors make it more difficult for the participants to cope with detention, but they also exacerbated the emotional impact of the difficulties they experienced as a result being detained in the first instance. Moreover, their ability to cope with detention was further undermined by these additional stressors. For instance, participants in this research described the emotional impact of not knowing what to expect once they had been arrested and detained in police custody. Although previous research has referred to this (see Skinns, 2011; Allen *et al.*, 2008), Chapters 8 and 9 further emphasised the impact this can have on autistic individuals in police custody. More specifically, this research has found that the anxiety related to not knowing what was happening, was not just related to what would happen next, but also what each part of the custody process involved, why it was being done and how it would be carried out. This made it more difficult to cope with the demands associated with the custody procedures themselves.

However, participants also raised concerns about being able to process what was happening and manage any difficulties they might experience because of the lack of things to do. For example, Chapter 8 described the methods used by some participants to distract themselves from the stress they were experiencing. In contrast, Chapters 8 and 9 emphasised how having nothing to do can make their mental health worse, leading to increased suicidal thoughts and self-harm. This was further associated with the sensory demands they were exposed to because of the custody setting and custody process. While previous research by Crane *et al*. has referred to difficulties associated with the custody setting (see Crane *et al.*, 2016), Chapters 8 and 9 emphasised the specific impact of the custody setting on autistic individuals' ability to cope with detention. Most significantly, this research found that all participants in this research experienced some level of sensory difficulty. This was largely due to the lighting in the custody suite and cells, the noise from other detainees, being touched by others during the search and fingerprints and the lack of space.

Finally, Chapters 8 and 9 demonstrated how the desire to escape police custody can influence the behaviour of autistic individuals in police custody and affect their ability to participate in the custody process. While Skinns has previously described the impact of this desire on the experiences of detainees (Skinns, 2011; Skinns *et al.*, 2015; Skinns *et al.*, 2017; Wooff & Skinns, 2017), this research has highlighted the role that the desire to escape police custody has in the experiences of autistic individuals in police custody. In particular, it has illustrated how the desire to escape police custody can be created by the combined impact of the difficulties associated with not understanding why they were being detained and the additional

stresses they experience. It has also illustrated the overwhelming impact of this desire on their ability to participate in the custody process. As discussed in Chapter 8, participants often waived their right to a solicitor because they were encouraged to believe that they would be able to leave police custody sooner if they did not accept this right. This was further exacerbated by the lack of information about their rights which made it difficult to appreciate the significance of this right and the benefits of having a solicitor, as also illustrated by Chapter 9. Furthermore, Chapters 8 and 9 highlighted difficulties understanding and/or answering police questions. Not only was this due to the language of the questions, but also because of the desire to get the interview over and done with so they could escape police custody. As illustrated by Chapter 8, this ultimately affected their ability to participate in the police interview and often led to the participants incriminating themselves or confessing to a crime, despite their perceived lack of criminal intention.

But, Chapter 8 also illustrated how having appropriate support can mitigate the impact of the difficulties experienced by the autistic individuals in police interviews. While Crane *et al*. have previously highlighted the satisfaction of autistic individuals with the support during the interview (see Crane *et al.*, 2016), this research has demonstrated the specific role played by the solicitor and AAs in minimising these difficulties. However, Chapter 8 also emphasised the specific requirements that need to be met in order for this support to be effective. In particular, participants found it helpful when they were supported by a solicitor and/or AA they had a relationship with and who had an understanding of Autism. This was because they knew how to support them and took an active role during the police interview.

In contrast, Chapter 8 highlighted how this support was not as effective when they were supported by somebody they did not know and/or who did not understand Autism. In these cases, they were often more passive during the police interview and created extra stress instead of minimising the impact of the difficulties they were experiencing.

10.3 Facilitating Access to Justice

As highlighted in Chapter 4, Article 13 of the CRPD affirms that disabled individuals have a right to equal access to justice. Moreover, the Equality Act 2010 outlines that police officers have a duty to ensure disabled individuals are treated equally (see schedule 19 Equality Act 2010 & para 1.0 PACE Code C). Yet, this research has shown that autistic individual's ability to access justice may be compromised because of the difficulties they experience in police custody and a lack of appropriate support. Unless this is addressed, autistic individuals will continue to be disproportionately impacted by police custody and will remain at risk of being wrongfully accused and/or convicted of a criminal offence. In light of this, it is important to facilitate access to justice by removing the barriers to participation and providing appropriate support. Having outlined the experiences of autistic individuals in police custody, this section will now answer the main research question: How should autistic individuals be supported in police custody? This research has identified several ways autistic individuals could be supported in police custody. This relates to four key areas: i) changing police practice ii) providing information and explanation iii) minimising sensory demands and iv) being supported by others.

10.3.1 Changing Police Practice

Throughout the research, difficulties during interactions with police officers and the custody process were identified. These difficulties were often associated with the way in which the custody process is carried out, the conditions of detention and the attitudes of police officers. To address these difficulties, several changes are recommended: i) all police officers should be required to have Autism training; ii) autistic individuals should be given more time to process information; iii) adjustments should be made to the language and structure of the booking-in process, and; iv) adjustments should be made to minimise the demands associated with other custody processes. Firstly, participants stressed the importance of police officers having knowledge of Autism and how it may affect individuals. They felt this would ensure their behaviour would be understood and they were treated appropriately by police officers. But, the findings of this research suggest that police officers currently lack this understanding. In line with previous research, it is possible that this is because police officers do not receive adequate training (Beardon *et al.*, 2018; Richards, 2015). This may further be associated with the fact that police officers are not legally required to have Autism training which means training remains inconsistent, patchy and inadequate.

To address this, it is recommended that police officers should be legally required to receive Autism training. To ensure that this training accurately reflects the needs and experiences of this population, autistic individuals who have expertise and/or experience of the CJS should be involved in developing and delivering this training. In particular, it is suggested that training should cover the following aspects:

- Definition and prevalence of Autism
- Key characteristics and differences of Autism
- Prevalence of Autism in the CJS and the risk of offending behaviour
- How it may affect individuals in police custody
- Key legislative safeguards that apply to these individuals in police custody
- How autistic individuals can be supported in police custody

Autism training could be facilitated by amending the Autism Act 2009. The Act is designed to "make provision about meeting the needs of adults with autistic spectrum conditions; and for connected purposes" (Introduction, Autism Act 2009). Under the Act, "[t]he Secretary of State must prepare and publish a document setting out a strategy for meeting the needs of adults in England with autistic spectrum conditions by improving the provision of relevant services to such adults by local authorities, NHS bodies and NHS foundation trusts" (s 1(1) Autism Act 2009). To implement the strategy, "the Secretary of State must issue guidance" in relation to the exercise of the relevant functions of each body (s 2(1) Autism Act 2009). In particular, this guidance states that "basic autism training should be available to all staff working in health and social care" (Department of Health, 2015: 11). Although the guidance recommends that criminal justice providers such as the police follow the guidance, they are not specifically covered by the Act. Therefore, it is recommended that scope of the Act is extended to cover police officers as well as NHS bodies and local authorities. This would create a binding duty on police forces to comply with the requirements of the guidance, specifically the requirement to provide Autism training.

Secondly, as discussed in Chapters 8 and 9, being able to process information was difficult because of the combination of the speed with which things happened and the difficulties associated with being in detention itself. This meant they did not always process their rights or the questions they were being asked in the booking-in, as well as the police interview. As such, it is recommended that police officers should allow autistic individuals more time to process information. For instance, it is recommended that police officers talk through information slowly and pause frequently to allow autistic individuals to digest this information at their own pace. They should also check their understanding before moving on to verify that they have processed this information sufficiently and ascertain if they need further clarification. As will be discussed in section 3.2, it may also help to provide accessible information which autistic individuals can process at their own pace.

Thirdly, as highlighted in Chapters 8 and 9, participants also experienced difficulties processing information because of the technical language used and the way questions were phrased. This subsequently made it difficult for them to answer the questions and provide the necessary information. Because some of these difficulties are attributable to the design of the booking-in itself, which police officers are required to follow, it is recommended that this process should be re-designed to make it simpler for detainees to understand. It is recommended that the booking-in process should: i) ask clear and direct questions ii) avoid or define technical terminology and iii) provide accompanying information and/or tick boxes. One benefit of making these changes is that it would make the booking-in easier for all detainees, both with and without mental

vulnerability; in turn, helping police officers to obtain the information which is necessary to fulfil their role under Code C.

Asking clear and direct questions would clarify what information is being asked for. For example, as illustrated by Chapter 9, asking 'What is your full address?' rather than 'Where do you live?'. Furthermore, it is recommended that the booking-in and risk assessment include the following question: 'Do you have an Autistic Spectrum Condition?'. As highlighted by Chapter 9, most forces rely on autistic individuals disclosing this information when they are asked: i) 'Do you have any mental health conditions?' ii) 'Do you have any illnesses?' or iii) 'Do you have any learning disabilities?'. But, because there is no universal definition of 'mental health condition', 'medical illness' and 'learning disability' the way these terms are interpreted differs between individuals. As such, detainees may not associate Autism with these terms and may not disclose this information, as illustrated by Chapter 9. Asking them directly would make this clear to individuals and prompt them to disclose this information to police. Related to this, avoiding technical terminology, or explaining key terminology to detainees, would aid their understanding of what was being asked. In turn, improving their understanding of their rights and reducing the risk they may waive these rights. For instance, 'Appropriate Adult' and 'Solicitor' should be clearly defined to clarify what these rights mean. Finally, providing additional guidance or altering the format of the questions would aid understanding. As suggested in Chapter 9, providing a list of pre-set conditions when they are asked about any mental conditions and/or illnesses would also help encourage disclosure.

Finally, participants highlighted the need to make adjustments to other practices in order to minimise the impact of

the general demands of detention. For instance, some participants carried out the pre-charge process themselves which helped remove some of the additional difficulties associated with the loss of control and being touched by others. One participant described how police officers left the cell door open during their detention and how this reduced the feeling of claustrophobia. In addition, as discussed in section 2, participants emphasised the benefits of having something to do during their detention and how this could help to minimise the impact of detention and any difficulties they were experiencing. However, this research has highlighted two issues associated with making such adjustments. The first issue relates to the participants concerns that police officers need to be more proactive in helping detainees. These practices are dependent upon police officers identifying the need to make adjustments and actively taking steps to implement them; it is not clear from this research that police officers are always pro-active in meeting the needs of detainees. This is further complicated by the fact that not all autistic individuals may feel comfortable communicating their needs to police officers or asking for adjustments to be made to assist them during detention. The second issue relates to the fact these adjustments depend upon the risk posed to the individual i.e. self-harm and suicide, or to others i.e. physical injury. In some cases, making these adjustments may create a significant risk and may only be permitted if this can be balanced accordingly.

In light of this, it is recommended that:

- Police officers demonstrate how the fingerprints and DNA swab processes are carried out and ask individuals if they would prefer to do this themselves or with assistance

- Autistic individuals are permitted to have reading material, paper and pens, playing cards or similar recreational items which pose a minimal risk of harm
- Where time permits, police officers ask individuals if they would like an exercise break and actively take steps to facilitate this
- Police officers directly ask if individuals require assistance and how they can help i.e. 'Do you need something to eat?'
- Depending on the level of risk, police officers ask if an individual would prefer the cell door open or closed and allow someone to supervise the individual in their cell

10.3.2 Information and Explanation

One of the key ways to support autistic individuals is through the provision of accessible information. As discussed in section 2, participants highlighted the importance of knowing what will happen during a specific process, why something is being done and how it would be done. They also referred to the need to know when things would happen and how long things would take. While PACE and Code C outline that detainees should be provided with certain information in police custody, it is evident from the research that this may not be sufficient to help autistic individuals understand what happens in police custody. More specifically, as illustrated across Chapters 7 – 9, this information is not always accessible to autistic individuals. For instance, as outlined in Chapters 8 and 9, under the Act police officers are only required to inform detainees of the reasons for taking non-intimate samples and fingerprints where this is done without consent (see s 61 & 63 PACE 1984). They are also only required to inform detainees who are requested to do a drugs test, the

authority and grounds for doing the test and what will happen if they refuse (see s 63B(5) PACE 1984). While Code C also specifies that detainees are entitled to a copy of the Codes of Practice and a written notice of their rights, as discussed in Chapter 3, the Code does not create a binding duty to provide this information. Moreover, these documents do not contain detailed information about what happens in police custody; nor, despite the availability of an easy-read version, are they necessarily easy to understand.

In light of this, it is recommended that autistic individuals are provided accessible information which outlines:

- What happens in police custody
- What happens during each stage of the custody process
- Why these processes have to be carried out
- How each stage of the process will be carried out
- How long they may be detained for
- The order of the custody process
- How long each part of the custody process will take

This information should be provided: i) visually i.e. picture booklets, picture timetables, diagrams etc. ii) verbally i.e. explaining processes to detainees, providing updates etc. and/or iii) in a written format i.e. lists, booklets, fact sheets etc. It is recommended that police officers check what the preferences of detainees are with regard to the provision of this information. Because this information is not widely available, it is also recommended that autistic individuals are involved in the development of any materials to ensure they are clear and easy to understand and reflect the needs of this population.

10.3.3 Minimising the Demands of the Custody Setting

As illustrated by this research, the custody setting can have a significant impact on autistic individuals. As discussed in section 2, the lighting, noise and space can be problematic. To minimise the demands associated with these factors, it is recommended that: i) autistic individuals are provided with suitable accommodations and or/ ii) adjustments are made to the custody setting. However, it is also recognised that it may not always be feasible to implement these changes due to the costs and practicalities associated with this. For instance, forces may be unable to meet these costs because of funding restrictions. It may also be impractical to make physical adjustments to the custody setting or to provide accommodations because they may create a risk to the individual or others in the police station. As will be discussed in section 4, the law itself may also act as a barrier to the implementation of these changes.

To address this, these two recommendations must be balanced against these concerns. In some instances, it may be preferable to accommodate autistic individuals within the custody setting through the provision of sensory tools. For example, it is recommended that autistic individuals have access to eye masks or glasses and ear plugs or ear defenders. These items allow autistic individuals to control the level of sensory input they are exposed to and helps them to process sensory demands, reducing the likelihood of sensory overload. This is also a cost-effective way of minimising sensory stress and the risk posed by these tools can be minimised by restricting their use to times when they are supervised. There are also smaller less costly adjustments that could be made to the custody setting. As illustrated by Chapter 9, the lighting in some cells can be controlled by a switch, meaning it can be adjusted to make it

dimmer. Where this is possible, asking autistic individuals what setting they prefer and adjusting the lighting accordingly would help to reduce the sensory demands associated with this. Moreover, another way of accommodating autistic individuals is by using an alternative part of the station which is quieter and less busy such as another floor of the police station. As was demonstrated in Chapter 9, this can minimise the sensory demands associated with noise.

Alternatively, it may be better to make adjustments to the physical design of the custody setting. Because the provision of accommodations is dependent on autistic individuals being identified in police custody, there is a risk that these accommodations may not always be provided. By making changes to the custody setting, this would minimise any demands from the outset; thus, reducing the need to provide accommodations and minimising the costs associated with this. Thus, where it is practical to do so, it is recommended that the custody setting is adjusted in the following ways:

- Replace florescent lighting with soft lighting i.e. LEDs
- Allow for greater natural lighting with more windows
- Use neutral colours for paintwork
- Create quiet cells

Each of these adjustments addresses a specific aspect of the custody setting which act as a barrier for autistic individuals in police custody; in particular, they address the sensory demands specifically created by the custody setting. For instance, changing the lighting would reduce the difficulties associated with exposure to bright artificial lighting. Similarly, creating quiet cells would reduce the demands associated with the noise that is a feature of the police station. However, not only would this

benefit autistic individuals, but it would also reduce the demands experienced by other detainees, as illustrated in Chapter 1 (see Skinns, 2011). As such, while the costs of re-designing the custody setting may be greater as compared to providing accommodations, the overall benefits are more significant.

10.3.4 Being Supported by Others

As discussed in section 2, the only support that autistic individuals generally received in police custody was the support of others i.e. AAs and solicitors. However, this support was only effective when they had a relationship with their supporters and they knew about Autism and how it affected them. In light of this, it is recommended that autistic individuals should be supported by a solicitor and an AA who have knowledge of Autism. They should also be made aware of how Autism affects the individual they are supporting. There are two ways of ensuring this. Firstly, in line with suggestions made in Chapter 8, it is recommended that a family member or an Advocate i.e. a social worker or someone from a support group act as the AA for autistic individuals. As discussed in Chapter 8, this was particularly favoured by the participants as they felt that these individuals knew them best and understood how Autism affected them.

However, as outlined in Chapter 3, it may not always be practical or possible for these individuals to act as the AA. Previous research has illustrated that family members and social workers may be reluctant to act as AAs and may not always understand the role of the AA (Williams, 2000; Hodgson, 1997; Bucke & Brown, 1997). Moreover, it has been suggested that it may not always be in the detainee's best interests for them to

act as the AA (Gendle & Woodhams, 2005; Littlechild, 2005). While recognising these limitations, this research has shown that autistic individuals may actually benefit from having a family member or Advocate act as the AA. As such, in some cases the best way of supporting autistic individuals is to respect their preferences as to who acts as their AA. One way of balancing this is by asking autistic individuals directly who they prefer to act as their AA. This allows them to choose who they would be most comfortable with and to choose someone they feel knows how best to support them.

Secondly, where it is not possible to use family members or Advocates as the AA, it is recommended that autistic individuals are matched with AAs who have knowledge of Autism. Similar recommendations apply with regard to solicitors, particularly where individuals opt to use a duty solicitor. However, as discussed in Chapter 3, the provision of AAs is not governed by a statutory scheme which means that quality and training of AAs is varied (Perks, 2010; NAAN, 2015). Similarly, solicitors do not receive Autism training as standard. Police officers are also prevented from matching detainees to AAs and solicitors with suitable expertise because of a lack of information about their background and in some cases, the needs of the individual. This raises questions about how best to implement a matching system. To facilitate this system, information about the expertise and training of AAs and solicitors would have to be routinely provided and collated into a national database. Alternatively, it is recommended that all solicitors and volunteer AAs receive Autism training. This should cover the same content as police training, as well as how this relates to the practical duties of each role. Such training would help ensure all professionals are aware of the difficulties autistic individuals may

face in police custody, how this may affect their ability to participate throughout the whole custody process and know how best to support them. However, it is also recognised that it may not be practical for all AAs and solicitors to undergo this training due to costs and time commitments. Therefore, an appropriate balance between these factors would have to be made by those responsible for setting the quality standards for these professions.

In addition to who fulfils these roles, this research has illustrated concerns about how the role of the AA is carried out. As discussed in Chapter 8, participants expressed that they would have liked to have been supported by an AA throughout the custody process, not just during the police interview. Moreover, as highlighted above, this support was considered more effective when they took an active role in supporting them. In light of this, it is recommended that AAs should be provided throughout the custody process, where possible, and that they take an active role in supporting autistic individuals. This will be dependent on when police officers call an AA and whether they have identified that an individual requires an AA at the point of arrival. It is also dependent on AAs being provided sufficient information about their role and purpose in police custody, so they know how best to support individuals throughout the custody process. This is partially connected to who fills the role, as discussed previously. Thus, it is also recommended that all AAs are given more information about their role and the ways they can support detainees during the custody process. Furthermore, it is suggested that AAs are given the opportunity to liaise with detainees and police officers about how they can be best supported throughout the custody process. This will allow

them to share this information between parties and ensure that they are supported appropriately.

10.4 A Case for Legal Reform?

The previous two sections have established that autistic individuals will experience barriers to participation in police custody and as such, will require additional support. However, this research has also raised questions about whether domestic legislation is sufficient for ensuring that autistic individuals are supported appropriately in police custody. In particular, this research has highlighted three key problems with domestic legislation: i) the effectiveness of the safeguards provided by PACE and Code C is limited; ii) PACE and Code C are inconsistent with the Equality Act 2010 and CRPD and; iii) the Equality Act 2010 is also inconsistent with the CRPD. In light of these concerns, this section will answer the final research question: Should the current legal arrangements which facilitate the accommodation of autistic individuals in police custody be reformed?.

Firstly, this research has shown that the effectiveness of PACE and Code C with regard to supporting autistic individuals in police custody is limited; consequently, undermining their right to access to justice under Article 13 CRPD. To some extent, this relates to the way in which PACE and Code C are enforced. But, it is also associated with the content of the Act and Code C. While PACE and Code C specifies that detainees should be provided with certain information during their detention, this research has raised doubts as to whether this information is sufficient for ensuring autistic individuals can effectively participate in police custody. Although police officers are legally

required to inform detainees of the reasons for carrying out certain pre-charge processes, as discussed above, this may not always be communicated to detainees. In part, this is due to the fact that PACE only requires this in specific circumstances. Moreover, whilst Code C states that detainees are entitled to read a copy of the Codes of Practice, these are not always made available. One reason for this is because Code C is not legally binding and as such, police officers may not always enforce this right. However, even when this information is provided in line with the Act and Code C, the actual content of this information is insufficient. This research has illustrated the need for *accessible* information about each specific custody procedure and detention as a whole; PACE and Code C do not make provision for this.

This research has also highlighted limitations with AAs. On the one hand, the ability of police officers to implement the AA safeguard under Code C depends to an extent on their ability to know when this support is needed. Police officers are restricted by the definition of 'mentally vulnerable' and 'mental disorder' which determines who requires support. As emphasised in Chapter 4, these terms are not disability specific. While they may include individuals with disabilities, they are at risk of being overlooked by police officers because of the reliance on *impairment* and the failure to consider the effect of barriers to participation on individuals. This definition itself is contrary to the understanding of disability outlined by Article 2 of the CRPD, as discussed in Chapter 4. Moreover, as discussed in Chapter 3, the lack of a clear definition means that police officers have to rely on their own interpretation of these terms and on their ability to identify individuals who satisfy this definition (see Dehaghani, 2017; Herrington & Roberts, 2012; Palmer, 1996). Linked with this, this research has highlighted a lack of

understanding of Autism among police officers which influences how they deal with and respond to autistic individuals. Not only can this affect their ability to identify autistic individuals, but also their ability to identify the need for support.

On the other hand, this research has identified limitations with the AA role itself. While the Code specifies certain processes where the presence of an AA is needed, as discussed in Chapter 3, it is not a legal requirement for AAs to be present during these processes. As a result, the use of AAs in varied. Moreover, the Code does not specify that AAs have to be present during the pre-charge process or booking-in, as recommended by the participants of this research. Similarly, although the Code states that AAs should be advised of their duties before an interview (see para 3.17A Code C), it is clear that AAs are not always given sufficient information to be able to effectively support vulnerable suspects. In addition, while Code C states that an AA can be a relative, there is some inconsistency within the Code as to who should act as the AA. As discussed in Chapter 3, the Code states that in some cases it may be preferable for the AA to be "someone experienced or trained in their care rather than a relative lacking such qualifications" (Note 1D PACE Code C). This appears to encourage police officers to use volunteer AAs or social workers. But, the Code also recognises that vulnerable suspects may prefer "a relative to a better qualified stranger or objects to a particular person" (Note 1D PACE Code C). In contrast, this appears to encourage police officers to respect the preferences of vulnerable suspects where possible. Yet, this research has shown that autistic individuals often prefer to be supported by a family member or Advocate *because* they are more experienced in Autism and know how best to support them. Conversely, this research has also shown that volunteer AAs do

not always have Autism training, meaning they are unable to support autistic individuals effectively. This stands in contrast to Code C.

Secondly, PACE and Code C are inconsistent with the wider duties towards individuals with disabilities outlined by the Equality Act 2010 and the CRPD. Aside from the AA safeguard, PACE and Code C do not specify how to support individuals with disabilities in police custody in general, never mind autistic individuals in particular. As illustrated by this research, this often means that autistic individuals do not receive appropriate support in police custody, in turn, undermining their right to access to justice contrary to Article 13 CRPD. There are two problems associated with this. The first relates to the inconsistency between the Equality Act 2010 and Code C in their approach to disability. The Equality Act 2010 specifically applies to individuals with disabilities, as outlined in Chapter 4, whereas Code C applies to a broader range of individuals - it is not disability specific. Interestingly, the Code also emphasises that an individual is not necessarily vulnerable because they have an impairment i.e. a disability. As such, there is a risk that police officers may not consider their duties towards individuals with disabilities when they do not identify them as vulnerable. This is further complicated by the second issue which relates to the duty to provide reasonable accommodations. As highlighted in Chapter 4, the CRPD makes clear that access to justice should be facilitated through the provision of reasonable accommodations. While the Equality Act requires police officers to take steps to remove or minimise disadvantages and to meet their specific needs, it is not clear that police officers are aware of their duties under the Act. Though Code C does state that police officers should fulfil their duties towards individuals with disabilities

under the Equality Act 2010, the Code does not specifically outline these duties, nor how they should be fulfilled. Moreover, because the Code is not binding on police officers, there may be some confusion about their legal duties towards individuals with disabilities, particularly if it is not clear to whom this duty applies.

Finally, while the Equality Act provides scope for implementing reasonable accommodations, the Act itself is also incompatible with the CRPD. The Act only applies to those individuals who have "a physical or mental impairment which has a substantial and long-term adverse effect on [their] ability to carry out normal day-to-day activities" (s 6(1) Equality Act 2010). As highlighted in Chapter 4, this definition is more medical focused, contrary to the approach of the CRPD. In addition, as highlighted in Chapter 4, the duties towards individuals with disabilities are qualified. Foremost, reasonable adjustments are only required where there is a substantial disadvantage. Furthermore, any adjustments must be reasonable and a failure to comply with these duties is excused where it is a proportionate means to a legitimate aim or it was not known or could not have reasonably have been know the individual had a disability (see s 20, 15 & 19 Equality Act 2010). Some of the recommendations made by this research may not always be practical or feasible to implement. As such, according to the Equality Act 2010, police officers may be excused from making these adjustments. Similarly, this research has highlighted that police officers may not always know when an individual is autistic; either because they have not been diagnosed, have not disclosed this or because their lack of training prevents them from identifying this. Accordingly, the Equality Act suggests they would be excused for failing to

provide appropriate support to autistic individuals. In contrast, as discussed in Chapter 4, the CRPD makes clear that accommodations must be made unless there is an undue or disproportionate burden; this right is not restricted to instances where there is a substantial disadvantage (see Butlin, 2011; Lawson, 2012).

In light of these concerns, it is clear that domestic legislation requires reform to ensure that autistic individuals are supported appropriately in police custody. Under the current framework it may be difficult to implement the recommendations of this research because the scope to provide additional support is limited. Unless amendments are made to domestic legislation, it is likely that autistic individuals will continue to experience difficulties in police custody with the consequential risk that their rights as disabled individuals will be undermined. More specifically, their rights to access justice on an equal basis with others as affirmed by Article 13 will continue to be compromised, as has been illustrated throughout this research. Therefore, to ensure that autistic individuals are supported appropriately in police custody and they are able to access justice on an equal basis with others, there is a clear need for legislative reform. Most importantly, PACE and the Equality Act need to be reformed to make them consistent with the broader requirements of the CRPD, as specified by Article 4 CRPD.

To achieve this, several recommendations can be made. Firstly, it is recommended that the Equality Act 2010:

- includes a definition of disability which reflects the understanding that individuals are disabled as a result of the interaction between disabling barriers and impairment, consistent with Article 2 CRPD

- outlines the right to access justice on equal basis with others as specified by Article 13 CRPD
- outlines a wider duty of reasonable accommodation consistent with Article 2 CRPD
- includes a specific duty of reasonable accommodation to facilitate access to justice and outline how this specifically applies to police custody, in line with Article 13 CRPD

Secondly, PACE should be reformed to reflect these changes and to ensure that police officers fulfil these duties. In particular, it is recommended that PACE contains a new section specifically relating to the treatment of individuals with disabilities and autistic individuals. This should specifically define disability as a category of vulnerability and outline the rights of individuals with disabilities in line with the Equality Act. It is also recommended that this specifies that:

- all professionals who interact with suspects must have appropriate Autism and disability training, in line with Article 13(2)
- all police stations must provide accessible forms of information to detainees explaining what will happen in police custody, why, and how
- all police stations must be accessible to all detainees, in line with Article 4 CRPD

In addition, PACE also needs to be reformed to make the provision of AAs legally binding. PACE should include a section relating to the right of vulnerable suspects to be provided with an AA. For example, it is recommended that this specifies that:

- vulnerable suspects must be provided with an AA throughout the whole custody process where this is practical and possible to do so

- an AA may be an independent person from the police such as a: i) family member; ii) partner; iii) support worker/social worker/Advocate; iv) volunteer from an AA scheme or organisation; or v) other independent person who has suitable knowledge of the needs of the suspect
- vulnerable suspects must be able to choose who acts as their AA on the provision that this would not: i) pose a risk to their welfare or the welfare of others; ii) compromise the effective investigation of the offence or; iii) be against their best interests
- an AA should take an active role by: i) providing support, assistance and advice to vulnerable suspects during each custody procedure; ii) facilitating communication by checking understanding, rephrasing questions or information and helping them to communicate with police officers; iii) liaising with suspects and police officers to identify the needs of the suspect and how these needs can be supported and iv) intervening in instances where a suspect's welfare is being adversely affected or taking steps to prevent this
- all AAs are provided with accessible information to enable them to understand and fulfil their role

Finally, Code C should also be reformed to reflect these changes by including an Annex which specifically outlines the rights of individuals with disabilities and autistic individuals. Recognising that the Code is intended to act as guidance for the police, it is not suggested that the Code is made legally binding on police officers, in so far as these duties are reflected by PACE.

10.5 Limitations and Future Research

While this research has addressed a substantial gap with regard to understanding the experiences of autistic individuals in police custody, as outlined in Chapter 5, there are limitations to this research. This research is one of the only in-depth studies into the lived experiences of autistic individuals in police custody. The way this research was carried out was influenced by my role as a researcher. This is further reflected in the data that was collected and in the findings of the research; this research is only one interpretation of the experiences of autistic individuals in police custody. By choosing to focus specifically on autistic individuals to the exclusion of other individuals, the findings of this research are specifically limited to autistic individuals. While this a purposeful choice, as it allowed me to focus on the difficulties specifically faced by this population, this raises questions about the experiences of other individuals in police custody, both with and without disabilities. In addition, due to the small size and unique character of the sample, the findings of this research may be restricted to a specific population of autistic individuals who have had particularly negative experiences in police custody and who were particularly vocal about advocating for change. Moreover, there were a small number of female participants and participants from other ethnic backgrounds. As such, there may be a wider range of experiences that are not represented by the findings or reflected in the recommendations of this research. Furthermore, the participative walkthrough was limited to one specific location. As a consequence, it does not represent the range of police stations across England and Wales or the practices employed by other police forces. However, given the consistency between the findings of the walkthrough and the

interview and online survey, the effect of this limitation may be minimal.

While recognising these limitations, this research still makes a substantial contribution to understanding the experiences of autistic individuals in police custody. But, as the first in-depth study into the experiences of autistic individuals across the whole custody process, it has only been able to answer so much. As such, this research has raised further questions about how best to approach the support of autistic individuals in police custody. This research has raised interesting considerations about the impact of detention on the ability of autistic individuals to participate in the police interview. It would be beneficial to explore this in further depth. In light of the limitations of the research, questions have also been raised about the wider range of experiences in police custody among autistic individuals and other populations. While this research has outlined the significant impact detention can have on autistic individuals and the difficulties they may experience during detention, it is unclear whether the difficulties experienced by autistic individuals are also a feature in the experiences of other detainees. Moreover, the support which is recommended by this research may also be helpful for other detainees. As such, future research should examine the wider population of individuals arrested and detained in police custody and the difficulties they may experience in this setting. Moreover, future research should also include a bigger, more diverse sample of autistic individuals to gain further insight into the specific experiences of this population in police custody. Given the unique insight into the custody process offered by the participative walkthrough, it would also be beneficial if other studies were carried out using this method across a range of settings.

10.6 Conclusion

In conclusion, this thesis has explored the experiences of autistic individuals who have been arrested and detained in police custody. As discussed in Chapter 1, while previous research has explored the general experiences of detainees in police custody, Chapter 2 illustrated the limited research that has been carried out into the lived experiences of autistic individuals in this setting. Moreover, although previous research has identified problems associated with the current safeguards governing the rights and treatment of detainees in police custody under PACE and Code C, as outlined by Chapter 3, this thesis also identified a lack of research examining the way these provisions are applied to autistic individuals. Linked with this, Chapter 4 highlighted the potential inconsistency of PACE with the Equality Act 2010 and the CRPD, with regard to ensuring the wider rights of individuals with disabilities in police custody. Having identified a gap in the research in relation to understanding the experiences of autistic individuals in police custody, this thesis set out to address this gap. This thesis highlighted the difficulties experienced by autistic individuals in police custody and examined how autistic individuals should be supported in police custody. This thesis then went on to consider whether legislative reform is required to facilitate access justice, in line with Article 13 CRPD.

Across Chapters 6 – 9, a range of difficulties experienced by autistic individuals were identified. These chapters also highlighted the lack of support in police custody. This thesis described the perceived lack of criminal intention in the offending behaviour of autistic individuals and emphasised how this perception affected their subsequent experiences of arrest and detention. It illustrated how these feelings influenced their perception of their detention and the way they were treated

throughout the police custody process, highlighting the punitive effect of detention. When this was combined with the additional stresses they experienced in police custody, the emotional impact of detention was particularly acute. As a result, this thesis illustrated how autistic individuals may find it difficult to cope with detention and how this may create an overwhelming desire to escape police custody. In turn, affecting their ability to participate in the custody process.

In light of these findings, this thesis concluded by emphasising how these difficulties undermine autistic individuals' right to equal access to justice as affirmed by Article 13 CRPD. This thesis identified the main barriers to participation relating to their ability to understand arrest and detention, cope with being detained and to participate in custody processes. Following on from this, this thesis outlined the ways in which these barriers can be addressed. This thesis emphasised the need to change police practice and the way police officers interact and respond to autistic individuals. As part of this, it highlighted the importance of Autism training to ensure that police officers have a better understanding of the behaviour of autistic individuals and the ways they can support them in police custody. This thesis also illustrated the need to provide information and explain the what, why and how to aid understanding of the custody process. It also identified the need to minimise sensory demands to reduce the stress experienced by autistic individuals. Finally, this thesis stressed the importance of the support of others and recommended making adjustments to the way AAs are used in police custody. In conclusion, this thesis highlighted the limitations of PACE and the Equality Act 2010 with regard to supporting autistic individuals in police custody and emphasised the need for legislative reform to make current legislation

consistent with the CRPD. Only will this guarantee that autistic individuals receive appropriate support in police custody and ensure that their right to equal access to justice is upheld.

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APPENDIX 1

INFORMATION SHEET

I would like to invite you to take part in a study that explores the experiences of autistic individuals who have been arrested and detained in police custody. This research is part of my studies at the University of Nottingham and is funded by the Economic and Social Research Council.

To take part:

- You must have a diagnosis of an Autism Spectrum Condition or Asperger's Syndrome.
- You must be 18 or older and live in England or Wales.
- You must NOT have previously been arrested and detained in police custody.

You do not have to take part in this study if you do not want to. Before you decide, please read this information carefully.

This study aims to re-create the process followed when an individual is arrested and taken to police custody for a criminal offence. The goal of the study is to find out how the process of being arrested and detained feels for autistic individuals. It is NOT the aim of the study to make you feel very frightened, or anxious or angry. If taking part in the study makes you feel very strong feelings you can take a break. You may also ask to stop taking part at any time. You do not have to explain how you feel. We will make sure there are trained volunteers around to help support you. You may ask a relative or friend to come with you. They will NOT be present whilst the study is carried out but you may ask them to help if you feel uncomfortable at any time.

The study will take place in a police custody suite and will be carried out by police officers. The police officers will know that you have a diagnosis of an Autism Spectrum Condition/Asperger's Syndrome. They will try and help you throughout the study. They may ask to know more about you and any difficulties you may experience. This information will NOT be shared with anyone else.

During the study, you will be booked-in by the custody officer. They will ask you questions about yourself and tell you your rights in police custody. The information you provide will NOT be kept by police officers. After you have been booked in, you will be taken through the 'pre-charge' process. This is where an individual would give a DNA swab, provide fingerprints, undergo drugs testing (if necessary) and have their photo taken. Police officers may ask you to take part in some activities which represent what would happen in the actual process. For example, they may place your hand on a piece of paper to represent the fingerprint process and may use a cotton swab to take a 'DNA sample'. You would be given these items to throw away afterwards. Police officers may also conduct a personal search where they will search you for any items are a risk to your safety. Each stage will be explained. You do NOT have to participate in these aspects of the study if you do not want to.

After the pre-charge has been completed, a police officer will take you to a police cell. You may decide if you would like the door to be closed or to remain open. While you wait in the cell, you will be asked to look around the cell and think about how you might feel being detained in this setting for a long period of time. If you do not want to enter the cell, you can view the cell from outside. This will be the end of the study.

As the study is carried out, I will observe and record what is happening. CCTV will also be operation during the study. This footage will only be used for the purposes of the research. If you do not wish to be recorded, please tell me. I will ask you some questions throughout the study. Once the study has finished, you will be invited to take part in an interview. The interview will last for approximately 10 minutes. You will be asked questions about your experiences of the study and any difficulties you had during the custody process. You will also be invited to share your views about whether the custody process or the police station could be improved.

Anything that happens during the study or anything you say during the interview will only be used as part of my studies. Your identity will not be made known to anyone else. All information collected will be kept safe. To thank you for your participation, you will be offered an Amazon voucher worth £15. You may also be reimbursed for any travel expenses you incurred to take part.

If you are concerned about taking part in the study or would like to know more, please email me at: llxch12@nottingham.ac.uk.

Thank you.

Miss Chloe Hocking

School of Law, University of Nottingham

If you have any further concerns or complaints about the study you can contact:

Dr Danielle Ropar

School of Psychology, University of Nottingham

Email: danielle.ropar@nottingham.ac.uk

APPENDIX 2

CONSENT FORM

Thank you for your interest in participating in this study. In order to take part in the study, you must read and agree to the following:

- I am at least 18 years old.
- I have read and understood the information sheet provided.
- I have been given contact details to ask questions and discuss the study.
- Any questions have been answered to my satisfaction.
- I have received enough information about the study.
- I am aware that this is a simulation of the custody process and that there will not be real legal consequences as a result of my participation.
- I understand that this study will be submitted in fulfilment of the requirements for the degree of Doctor of Law at the University of Nottingham.
- I understand that this study may be used in publications or shared through presentations.
- I understand that any data collected from this study will be stored according to the conditions of the Economic and Social Research Council and the School of Law at the University of Nottingham.
- I am aware that the study will be audio recorded unless agreed otherwise.
- I am aware that the study will be video recorded unless agreed otherwise.

- I am aware that all data will be stored as safely and securely and that confidentiality will be maintained as far as possible.
- I understand that I am free to withdraw from the study at any time and without having to give a reason up until the 1st September 2017.

Having read this information, I confirm that I, _____

freely consent to taking part in this study. (print name here)

Signed: _____ Date: _____

I have given oral consent to:

☐ Taking part in the 'fingerprinting' activity
☐ Taking part in the 'DNA swab' activity
☐ Being personally searched by police officers and personal items being removed
☐ Waiting in a police cell with the door closed/open

APPENDIX 3

INTERVIEW QUESTIONS

Below is an example of the kinds of questions you may be asked during the course of this interview. Please note that not all questions may be asked. You will be asked other questions that have not been mentioned here depending on your answers. You do NOT have to answer a question if you do not want to. If at any stage you feel uncomfortable, please let me know and we can move on. You may also end the interview at any time.

1. Overall study

- Can you describe your experience of the learning exercise?
- How did you feel about being in the police station?
- How did you feel about interacting with the police officers?
- Were there any aspects of the police station surroundings that you found difficult (e.g. lights, noise or layout)?
- Why did those aspects of the police station surroundings cause difficulties?
- What could be changed about the police station surroundings (i.e. rearrange layout, more windows, different lighting)?
- Is there anything else that could have helped you with those difficulties (i.e. ear defenders, eye mask, fidget items, sensory items)?

2. Booking In

- How did you feel during the booking in process?
- Were there any parts of the booking in process that you found difficult?
- Why did those parts of the booking in process cause difficulties?
- Did the police officers do anything to help you during the booking in process?
- How did this help with the difficulties you had?
- What could the police officers have done to help you with those difficulties during the booking in process (i.e. explained things, used different language)?
- Is there anything else that could have been done to help you with those difficulties (i.e. could the questions have been re-phrased, should the police officers have asked you directly whether you were autistic, would visual/written information help)?
- Summarise how the booking in process could be improved to help other autistic individuals detained in police custody?

3. Pre-Charge Process

- How did you feel during the pre-charge process?
- Were there any parts of the pre-charge process that you found difficult?
    - Ask about:

i. Fingerprinting

ii. DNA swabs

iii. Photographs

iv. Personal search

- Why did those parts of the pre-charge process cause difficulties?
- Did the police officers do anything to help you during the pre-charge process?
- How did this help with the difficulties you had?
- What could the police officers have done to help you with those difficulties during the pre-charge process (i.e. explained things, used different language, given you more personal space, allowed you to do the sample yourself, not used flash)?
- Is there anything else that could have been done to help you with those difficulties (i.e. would visual/written information help, a timeline of what would happen, being allowed to keep an item with you)?
- The police officers also explained what would happen if you were arrested in relation to a theft/drug offence (i.e. strip search & drugs testing), how would you have felt if you had taken part in these processes?
- Would these aspects of the process have caused difficulties?
- Why do think those aspects of the process would have caused difficulties?

- How do you think the police officers could have helped with those difficulties?
- What do you think could have been done to help with those difficulties?
- Summarise how the pre-charge process could be improved to help other autistic individuals detained in police custody?

4. Police Cell

- How did you feel being in the police cell?
- Were there any aspects of the police cell surroundings that you found difficult (i.e. light, space, toilet/personal hygiene facilities, being watched through the door, temperature, sleeping arrangements, nothing to do)?
- Why did those aspects of the police cell cause difficulties?
- Did the police officers do anything to help you while you were in the police cell?
- How did this help with the difficulties you had?
- What could the police officers have done to help you with the difficulties you had being in the police cell (i.e. left the door open, talked to you, provided water, explained why you were there and what would happen next)?
- Is there anything else that could have been done to help you with those difficulties (i.e. would visual/written information help, a timeline of what would happen, being allowed to keep an item with you, alternative personal hygiene facilities, better lighting)?

- How do you think you would have felt if you had been detained in the police cell for a longer period of time (i.e 1 hour - 24 hours)?
- How do you think the police officers could have helped you if you had been detained for a longer period of time (kept you up to date with changes, asking you whether you were okay, asking if they could get you food/drink)?
- What else do you think could have been done to help you if you had been detained for a longer period of time (i.e. being detained somewhere else, having access to a sensory room)?
- Summarise how the police cell could be improved to help other autistic individuals detained in police custody?

5. Final comments

- Is there anything else you think could be improved to help other autistic individuals who are detained in police custody?
- Is there anything else you would like to say about your experience of taking part in the exercise?

6. (Optional) For police officers

- Can you describe your experience of the learning exercise?
- How did you feel about interacting with the participant?
- Were there any aspects of the custody process that you found difficult?

- Why did you find those aspects difficult?
- What would have helped you with those difficulties?
- Summarise what you think could be done to help you when interacting with autistic individuals who are brought to police custody?

APPENDIX 4

DE-BRIEF

Thank you taking part in this study!

This research was carried out to find out more about how autistic individuals are supported in police custody and the kinds of difficulties they might experience throughout the custody process. Currently, not very much is known about these experiences or the support available.

It is hoped that findings from this research will improve the understanding and awareness of the difficulties autistic individuals may encounter in police custody and the ways they can be supported.

If you wish to withdraw from the study please contact me at llxch12@nottingham.ac.uk. You have until 1st September 2017 to do so. Any information you provided will be deleted.

You may also contact me if you would like to find out more about the research. I would be happy to share the findings of the research with you when it is complete.

Any feedback on the study is welcome.

If you have been affected by any issues raised by this study, please contact me and I will help to direct you to organisations that may be able to help you.

If you have any concerns directly relating to your participation in the study, please contact Dr Danielle Ropar:

Email: danielle.ropar@nottingham.ac.uk