Original Article

'A frightening experience': detainees' and carers' experiences of being detained under Section 136 of the Mental Health Act

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Abstract

Aims: This research reports on the views of detainees and their carers of their experiences of being detained under Section 136 (S136) of the Mental Health Act 1983. Individual interviews were conducted with 18 detainees and six carers.
Method: A semi-structured questionnaire was administered face-to-face to gather qualitative data, which was analysed using a grounded theory approach.
Results: The results indicated a general dissatisfaction with the quality of care and treatment from both police and professionals. Though several detainees recognized the need for police to be involved, most felt they lacked the skills needed to meet the needs of mentally ill people. Nearly all participants felt that the police station was an inappropriate setting for further assessment, and found their experiences in police cells distressing, making them feel like criminals.
Conclusions: Detainees and carers would like to see the provision of a place of safety other than emergency departments or police stations, and this study reinforces the Mental Health Code of Practice 2008 which states that police stations should only be used on an exceptional basis.

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Introduction

Section 136 (S136) of the Mental Health Act 1983 gives a police constable the power to detain an individual that they find to be mentally disordered in a public place and in need of care and control. The individual is then conveyed to a place of safety (POS) to allow for further assessment by an approved mental health practitioner (AMHP) and medical practitioner(s). The POS is usually either a police cell or a hospital. This power dates back to the Vagrancy Acts of 1714 and 1744 which allowed a constable on the order of two magistrates to lock up a 'lunatic pauper' in a secure place.

There has been very little research on S136. Electronic database searches (Medline, PsychLit, HMIC, NeuroSciences, PsychINFO, Serfile and Embase) identified a paucity of research, which focuses largely on health-care professionals' knowledge of details of S136 law. The Royal College of Psychiatrists Multi-Agency group (2007) also met with a few detainees and carers with first-hand experiences. S136 has not had the same scrutiny as other sections of the Act, despite there having been over 11,000 detentions in police stations, 5500 of which were followed up in hospital.[1]

Historically over recent years, in Gloucestershire, those detained on S136 of the Mental Health Act are taken into police custody for a period not exceeding 72 hours, to allow for examination by an FME, usually followed by an examination from a Section 12 medical practitioner and interviewed by an AMHP. In some areas emergency departments are used but their use has been criticized.[2] Detainees have a legal right to representation and for someone to be informed of their whereabouts, under PACE procedures (Police and Criminal Evidence Act, 1984).[3]

The aim of this qualitative study was to elicit the views of individuals of their experiences of being detained under S136 of the Mental Health Act 1983. We also wished to gain the views and perspectives of their carers about the process of being detained on an S136. It forms one of three papers that also describe findings from an audit of the use of S136 in Gloucestershire and responses of different professional groups involved in the S136 process.[4] Once a favourable opinion for the research was obtained from the local Research Ethics Committee (REC 05/Q2005/68), along with the sponsoring Trust approval, the study commenced.

Methods

Sample

Individual interviews were conducted with 18 detainees. These were identified monthly by Gloucestershire constabulary over a period of 18 months through their routine

computerized monitoring of S136. At the start of the study the research team were unsure of the accessibility to the S136 population, and originally recruited for a 12-month period. This was extended for a further six months until it was thought that data saturation had been reached through the interviewing process. Exclusion included those of no fixed abode; whose care team did not think they should be approached; who were under age 18 years or who lived out of the county; otherwise all eligible detainees were sent an invitation letter. The [2]gether NHS Foundation Trust audit department ascertained from the patient record system those detainees in current receipt of mental health services. Their consultant psychiatrist was contacted for their agreement for the detainee to be approached with an invitation pack via their care co-ordinator. For detainees who were not using mental health services, an invitation was sent directly to their home address by the research assistant. To avoid selection bias all detainees who met the eligibility criteria were invited to take part. The study team acknowledge that one set of detainees would have received invitations from an NHS organization and the other received police constabulary headed paper, due to 'ownership of data', and it is likely that this would have affected recruitment uptake. All interviews were conducted by the research assistant (GR) who undertook the consent procedure. All participants gave informed consent to participate in the research and signed a consent form. Interviews were conducted on Trust premises or in the individual's home (if they were known to the Trust) and lasted 45–90 minutes. Over the 18-month period of recruitment there was a total of 250 S136 arrests of 204 individuals by Gloucestershire constabulary (with some individuals being detained on more than one occasion). Allowing for exclusion criteria and repeat detainees, 190 detainees were sent invitation letters, yielding 24 expressions of interest and subsequently leading to 18 interviews with detainees; with the remainder choosing not to proceed further after initial contact. Of the 18 interviewed detainees only eight carers were then invited to take part, with six choosing to do so.

The participants were asked to supply the name and address of a carer who could be approached to participate in the study. A carer was defined in this study as someone well known to and nominated by the individual. While this was often a family member or close friend, occasionally it was a professional carer. This is a broader use of the term carer than is usual. All participants were offered a refund of their travelling expenses but no other payment was made. Once NHS ethical approval and Trust approval were received, the study commenced.

Research design and data analysis

A semi-structured questionnaire was administered face-to-face, to gather qualitative data. Interviews were anonymized and transcribed into Microsoft Word files. Individual interviews were audiotaped and transcribed. GR checked the tapes for accuracy. Data were analysed using a grounded theory approach.[5] A detailed analysis of the transcripts was undertaken by GR and EF using a line-by-line approach. We worked first independently and then together, to explore the individual's experiences of being detained under S136. GR and EF used QSR NVivo software to identify codes and categories and themes from free nodes and data-sets.[5] Illustrative quotations that exemplified the emerging themes were identified and imported into Microsoft Word files. Data were presented to and agreed by the Research Project Steering Group. Data were analysed as an iterative process and data saturation occurred when no new material was identified.[6]

Results

Eighteen detainees were interviewed, some of whom had been detained under S136 of the Mental Health Act on more than one occasion. Six carers accepted and completed an interview.

Detainees' experiences in a cell

Treated as a criminal

Detainees were taken to police cells as a POS. All those detained recalled being frightened by their experiences of being detained in a police cell. Some were handcuffed prior to their custody, which made them more agitated. A few reported being shoved into a police van. Some others said they felt as though they were treated like criminals and had their personal possessions removed. This was resented by some who thought their possessions were a comfort to them.

> 'I was handcuffed and put in a police van and taken straight from the van into the cells. I was terrified.' (004 detainee)

Only a few detainees said the police had been good to them and had calmed them down quickly. These detainees said they realized that the police needed to be involved when they were in such a vulnerable state and the police were doing their job. These detainees thought that the police were being used to look after them until they could be assessed, but were unable to give the immediate help that was needed. A few detainees thought there needed to be more resources and that the police needed a better insight into mental health.

Patients' emotional distress

Being detained in a cell was for all of them a distressing experience. Some commented that there was no one to talk to or who would help calm them down. Others reported being cold and hungry and lacking sleep as there was so much noise from people in other cells. Another reported being kept in the dark as light bulbs had been removed. Another alleged s/he was supervised while going to the lavatory. A few others reported they wanted to make a phone call but it was some hours before being allowed to do so.

A few commented that their mental state worsened by being detained in a cell as it added to their stress and

anxiety. A few reported they had previously self-harmed while in custody while others reported suicidal feelings before being arrested ($n = 13$). Some others felt as though they were being punished for having a mental illness.

> 'Not a nice place to stay, I didn't feel safe, it almost felt like I was being punished for having a mental illness, as if I wasn't allowed to feel depressed. Lots of other people in the cells were screaming and shouting and kicking doors, it made me really nervous, they handcuffed me, I started to struggle and I was on the floor in the police station and they were kneeling on me and my wrists were really hurting. The handcuffs made me more agitated.' (078 detainee)

Lack of attention to medical needs

Some thought their condition was made worse either by not being allowed their medication while in a cell or because access to a medical practitioner was delayed. One detainee reported not having antiepileptic medication available that might be needed before being seen by a doctor. Another reported having hurt a hand in a door in the morning but that a doctor was not called until early evening to attend to it. A few did not have their medication with them when they were detained. These detainees reported being scared and confused and hearing voices that contributed to their feelings of paranoia.

Provision of information to detainees and carers

Only a few detainees reported that they were informed about the reasons as to why they were in custody. These reported being told by the police that it was for their own safety, but said they were not listening when they were being restrained, but were informed later. Very few recalled that they were informed of their rights either to make a telephone call ($n = 4$), or see a solicitor ($n = 6$) or have someone notified of their arrest ($n = 8$). Other carers reported being distressed by not knowing the detainee's whereabouts until carers received a call.

Detainees' and carers' views on vulnerability, risk to themselves and others

Detainees recalled losing control ($n = 8$), hearing voices, self-harming and suicidal feelings ($n = 13$) at the time of arrest. For a few there was no recall of the events leading up to being detained but most of the detainees were aware of their deteriorating condition and health needs. A few wanted access to a psychiatrist because of their mental state. For these detainees, being arrested was a way of gaining access to help.

> 'I was very upset; everyone keeps telling me I am an alcoholic. I don't think I have a mental disorder, but I knew I had a drink problem, I got to the stage where I thought no-one cares about me.' (128 detainee)

Many detainees admitted that they were a danger to themselves ($n = 15$), but not to other people ($n = 2$). Some detainees were under the influence of alcohol ($n = 7$) when they were detained and knew that alcohol exacerbated their mental state. Some carers said detainees could not remember the events which led to them being taken into custody. Other carers recalled a number of features or events that had caused detainees to lose control.

Detainees' and carers' views of police stations as a POS

All but two detainees ($n = 16$) and all of the carers ($n = 6$) thought that a police cell as a POS was unacceptable. Most detainees wanted somewhere they could feel safe, a sanctuary where there were especially suitable facilities such as no mirrors or coat hangers, which would prevent detainees from self-harming while they were in custody. Some detainees and carers commented that future provision of a POS should be either in a specialized unit such as adjacent to a psychiatric hospital or police station where they would have access to treatment or someone with whom to talk.

> 'Just somewhere like [psychiatric unit], somewhere with a room, where you can talk to someone, a trained nurse like on [name of ward] with no mirror or coat hangers so you can't self harm. Somewhere you don't feel threatened.' (084 detainee)

Others thought the police did not have the skills to meet the needs of mentally ill people. Most of the detainees felt misunderstood ($n = 7$) and their access to health care was delayed. It was those detainees who had experienced an S136 in the police cells on previous occasions who were less distressed by their environment, but acknowledged that this was because they had been through similar experience before.

Most of the detainees and carers thought that emergency departments were not suitable places of safety as the staff there had little experience of dealing with acute mental illness ($n = 12$). Detainees recognized that there was great pressure on emergency departments who were primarily there to deal with patients who had been physically injured. Some detainees had been taken there when they had been injured as a result of self-harm, but felt misunderstood by staff or thought they had other priorities.

> 'Depends on the staff, some are good and others don't have the time for me, they don't understand what's going on . . . I find it embarrassing going to hospital to be stitched up – 'oh not you again', I wish more people would understand how I am feeling. They don't know and come to their own conclusions.' (078 detainee)

Experiences of follow-up (or lack of it) following detention

Some of the detainees reported they did not receive any additional help following their release from a police cell ($n = 14$). A third of detainees were admitted to a psychiatric hospital following assessment and those that were reported that they were cared for well. Most detainees were released from custody and carried on with existing

community-based support from either secondary or primary mental health services ($n = 13$). A few reported receiving a referral to a community mental health team. Many detainees and carers referred to the lack of specialist resources available to provide them with the help they needed.

> 'The social worker at the assessment promised me some information and websites and government schemes to help me get back into work and it never arrived. I need help with getting back into work … I'm still unemployed. I don't care anymore, or if I live or die. I'm writing about what has happened. I've lost my belief in everything.' (047 detainee)

Some of the detainees reported they had deliberately self-harmed since they were detained, whereas others had attempted or considered suicide ($n = 8$). Very few detainees reported taking more care of themselves. However, a few detainees had contacted their general practitioner (GP), one of whom was able to change medication but other GPs were thought to give little help to detainees. One detainee reported positive support from the local crisis team. Carers reported a similar picture with gaining access to resources at follow-up.

Discussion

Key findings

The most important findings from this study were that this group of detainees can be reached and are willing to participate in research. Detainees in this study were in the process of being detained, made to feel like criminals and terrified by their experiences of being in police custody. The removal of personal possessions when taken into custody led to feelings of dehumanization as a result of having a mental illness. Both detainees and carers did not think their emotional needs were being met while they were in police custody. Detainees and carers were concerned about the lack of follow-up or resources available to meet their needs. A surprising finding was the apparent lack of attention to detainees' physical health needs during the period of their detention. An over-riding feature of the data was the detainees' and carers' feelings of disempowerment throughout the process of being detained. The qualitative nature of the interviews allows for reporting of detainees perception and experience, although it is possible that detainee recall may not be factually accurate during such a time of crisis. It was interesting to note that almost three-quarters of the participants declined to have a carer invited to interview, either because there was no one appropriate to ask or because they did not want to upset their carers.

Other work in this area

Previous research has shown a disproportionate number of black and ethnic minority individuals being detained under S136.[6] The London Development Centre study found similar findings to ours in their study of S136 detainees. A lack of knowledge by police about mental illness may in turn influence their decisions about the most suitable arrangements for detention of individuals. Concern was also expressed about the possibility of stigma, fear and anxiety caused by being detained in a police station. Information sharing between the various health-related agencies was not a concern. Victims of crime were also dealt with appropriately by the helping agencies.

However, Jones and Mason's study of 16 male patients[4] found that the police placed more emphasis on maintaining law and order than concern for the person's mental health state. The participants in this study displayed a state of passiveness and had feelings of dehumanization while in custody. These participants also felt they were being punished for being mentally ill and utilizing police resources. However, when the police displayed compassion towards detainees, this was viewed positively and contributed to the quality of care. This study's findings show similarities to that of our own.

In Lynch *et al.*'s[7] study of police and health professionals, opinions differed as to which public places could be designated as a POS. The majority of police considered both police stations and emergency departments to be places of safety. Only 50% of consultants and specialist registrars thought emergency departments to be a POS. About half of emergency department staff and the police in their study did not know that detainees were entitled to information and legal rights if requested. This study points to the need for ongoing education and training about S136.

Lester *et al.*[16] found that most people with serious mental illness living in the community receive the majority of their care through their GP. The care of patients at times of crisis, particularly out of hours, presented difficulties for both patients and professionals. The lack of expertise and continuity particularly out of regular hours was of particular concern. Health professionals need increased awareness that patients' poor attendance at appointments could herald a crisis and needed proactive follow-up. This study also identified the need for preventive work with patients and attention to their physical as well as mental health needs.

Strengths and weaknesses of this study

These study findings represent the views of S136 detainees in Gloucestershire and their nominated carers who live and work in a county that is largely rural with two large urban centres. In the planning stages of the research, recruitment levels were hard to predict; we expected that this group of detainees and their carers would be hard to reach. Yet this research does demonstrate accessibility to this population. Co-operation from the constabulary made identification of all detainees possible, and was the first time this 'sharing of identifiable data' between agencies had occurred in our county. The S136 detention of individuals who are often in crisis or in need of social care does suggest that this population may be hard to reach. We aimed to demonstrate that it was possible to ascertain their views and believe a sample of 18 has done so, although we acknowledge it does not make the results generalizable to a wider population.

Gloucestershire is a county with a very low percentage of ethnic minority residents, although there is a higher proportion of black and ethnic minorities in Gloucester City. Black and ethnic minority residents were under-represented in this study (all participants were white British). It is known that Afro-Caribbean men are over-represented as S136 detainees in some London Boroughs.[8] The sample in this study is probably similar to those in other mixed urban and rural locations in England, and so the findings may be transferable to other populations. The detainees who participated were two-thirds men and one-third women, a similar proportion to that found by Simmons and Hoar.[8] The percentage of S136 population admitted either on a voluntary or compulsory basis to acute psychiatric hospitals in this study is almost identical to the percentage in the overall S136 population nationally.[9]

Data protection legislation limited the way in which members of the research team were able to access information about detainees from the police. This meant that the team relied on the goodwill of the Trust Audit Department to assist with contacting detainees. It also meant that where mental health staff did not respond to letters about the research, detainees could not be contacted to take part, and thereby given an opportunity to express their views.

When non-mental health service detainees were contacted by the research assistant, data protection guidance meant that letters were sent using Gloucestershire Constabulary headed paper. Some participants reported that receiving a letter from the police had been an unexpected and worrying experience which had caused distress and the authors suspect that this may affected many individuals' willingness to take part in the study. Similarly, carers were only accessible to the research team if the detainees were willing for them to be contacted, or if they felt there was someone appropriate. This limited the sample for carers in this research.

Gloucestershire Constabulary data provided names and addresses of detainees. However, where an individual had no fixed abode, the research team had no means of contacting them so had no choice but to exclude them from the study. The views of the service providers were also collected as part of this study and have also been written for publication.

Implications for practice

The management of people with disordered mental health presents complex challenges for primary and secondary care providers, adult and community services and the police. The provision of a POS that is acceptable to detainees and carers, the police and mental health service professionals is optimal to the quality of care. Developing a more structured proactive approach to community health care with people who present with mental health problems may go some way to alleviating patients' distress, particularly those who are acutely aware that their mental health is deteriorating. The growth in Crisis team work and improving rapid access to secondary mental health services particularly out of hours may help to minimize crises and prevent the need for detention on S136. The provision of health-based assessment units for S136 detainees will provide a more conducive and non-threatening environment for patients' conditions to be assessed by Section 12 doctors and approved social workers. More research is needed into why people are repeatedly detained under S136 of the Mental Health Act and whether it is a failure by the police or other agencies.

The study reinforced the Mental Health Code of Practice 2008,[10] which states that police stations should only be used on an exceptional basis. The [2]gether NHS Foundation Trust has recently developed a new health-based POS with Department of Health funding. Detainees should have their rights explained to them as being a subject of a S136 is deemed as an arrest under the Police and Criminal Evidence Act 1984. They are entitled to have another person informed of their whereabouts and access to legal advice under the provisions of S136. While few detainees recalled these events, we cannot be certain that detainees did not receive information; there is clearly more work that needs to be done to ensure detainees are informed of their statutory rights. There is also a need to ensure that detainees receive appropriate follow-up. This is an area that needs further investigation. Research from Pipe *et al.*[11] concluded that this was a huge challenge. Detainees who are not admitted may still need follow-up in the community.

The results of this research have helped to highlight potential difficulties in developing an alternative POS to the police cells. The majority of detainees had found their experience of being detained under S136 in the police cells a distressing experience although they had generally found the police to be caring as individuals. This research helped to shape discussions within our Trust about where a health-based POS could be provided. From a national perspective, stigma was one of the reasons why police cells were felt to be unsuitable as a POS. Our research supported this, finding that detainees objected to the cells as they felt they were being viewed 'as a criminal' even though they had committed no crime. However, we were also mindful that using the psychiatric hospital might also cause stigma, as detainees might feel they were being treated as 'mentally ill' before any assessment had taken place, especially as our research showed that two-thirds of detainees were, after assessment, released rather than admitted to hospital.[12] Education and training for agencies including the police is needed to ensure optimal care.

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