



**Metropolitan Police Authority**

**Metropolitan Police Authority - 20 September 2001**

**USE OF MPS CUSTODY FACILITIES BY HER MAJESTY S IMMIGRATION SERVICE**

**Report by the Commissioner**

**Summary**

The MPS is required to assist Her Majesty s Immigration Service in its role of removing failed asylum seekers from the UK. Current custody procedures are hampering HMIS progress and MPS operations are being effected by HMIS arrests filling up MPS custody cell accommodation. The HMIS have requested that the MPS provide them with centralised exclusive custody facilities.

**A. RECOMMENDATION**

**That the Authority note a request to the MPS from HMIS for dedicated custody facilities for the detention of failed asylum seekers .**

**B. SUPPORTING INFORMATION**

**Background**

1. In 2001 Her Majesty s Immigration Service (HMIS) have been set a target to remove 12,000 failed applicants. That target rises to 30,000 in 2002.
2. It is estimated that approximately 75% of failed applicants reside in London.
3. HMIS estimate that currently approximately 10 people a day are arrested as failed asylum seekers and brought into custody facilities within the MPS. They anticipate that this will rise to 80 100 at some point in 2002.
4. To achieve its targets, HMIS require assistance from the MPS in two respects:
  - To arrest failed applicants for asylum.
  - To detain these applicants pending their removal to an HMIS Holding Centre for repatriation.

### **Arrests of failed applicants**

1. In recent months the MPS has initiated training of HMIS staff to make low risk arrests without direct police involvement. The MPS has trained (and recovered the costs of training) 48 HMIS officers in arrest techniques. The deployment of the HMIS arrest teams is subject to a formal joint protocol (**Appendix 1**) and operations are now being rolled out across the MPS. This has considerably reduced the need for police officers to be employed in the arrest phase of removals.
2. The MPS has accepted the joint ACPO/HMIS Protocol (**Appendix 2**) which commits the Police Service to assisting the HMIS and seconding a number of officers (on a full costs recovery basis) who will act as tactical advisers for significant HMIS arrest operations.

### **Detention pending removal**

3. The Police and Criminal Evidence Act 1984 (PACE) requires that persons arrested for offences, including immigration offences, must be taken to a designated police station and brought before a police custody officer. It is only after the Immigration Officer has determined that an individual is to be forcibly removed from the UK and served statutory notice, that they are no longer subject to PACE and no longer regarded as being in police detention. Once the relevant notification has been served, prisoners may be transferred to an HMIS Holding Centre to await repatriation.
4. Despite its newly enhanced capacity to make arrests, HMIS have identified that even at its current level of activity, its effectiveness and capacity to remove failed applicants is hampered by lack of available police custody facilities. It is for this reason that HMIS has requested the MPS provide dedicated custody facilities.
5. In summary, Police *may* be involved in the initial arrest of suspected failed asylum seekers but we are *statutorily obliged* to be involved in the initial detention and custody of such persons.
6. Thus if HMIS is to fulfil its targets, the MPS must determine the most efficient arrangements to provide support. The MPS has considered two possible options detailed below.
7. In the longer term there is scope for legislative change to remove the necessity for police to provide custody facilities. It is recommended that this be pursued with some urgency.

**The MPS in liaison with HMIS are currently considering the two possible options**

**Option 1. The MPS does not provide any special facilities.**

8. This is a no change option i.e. simply maintain our current arrangements to support HMIS but accept the additional demand will be dispersed across London as operations dictate. Persons arrested by HMIS would be taken to the nearest police station subject to cell space availability.

Advantages

- 13 Arrested persons would generally be detained near to where they reside. This would allow friends and relatives easy access to detained individuals.

14. Disadvantages

HMIS operations would be hampered by limited custody capacity at the times and locations required.

- Where custody capacity is available, there would be disruption to already busy custody suites. At times this will be localised but extensive. HMIS has indicated its method of operation is to visit a specific location (as indicated by intelligence) and make multiple arrests in a single geographical area. The effect of this could be that custody suites in a part of London become full, forcing MPS staff to have to travel further with our ordinary prisoners.
- Experience indicates that there can be considerable delays between the HMIS serving the formal Repatriation Notices and the removal of detainees from police premises. This results in detainees remaining in police cells for several days at a time. Provided HMIS has *potential* access to custody facilities across London, there is no operational pressure to ensure the most rapid possible arrangements for physical removal.
- Under this option whilst recovery of cost from HMIS is legally possible it poses administrative problems. There will be an increase in real costs in relation to Forensic Medical Examiners, Interpreters and catering that whilst easy to apportion, will become difficult to collect and aggregate over multiple sites. In addition the accurate determination of costs including staff costs and non-direct activity like telephone calls would create significant problems. When these costs are incurred at over 50 different locations, auditable justification is unlikely to be achieved. Consequently it is likely that much of the cost would, in practice, be borne by the MPS.
- Over recent weeks government policy and activity in relation to asylum seekers has generated political controversy and some public demonstrations. Public protest / demonstrations at police stations at

which significant numbers of asylum seekers are detained must be regarded as a possibility. Such street protest may be organised at very short notice and can become intense. If detainees are simply located where convenient to HMIS, the MPS may face the challenge of organising (possibly multiple) public order operations without the facility for pre-planning. It is likely that the majority of HMIS arrest will take place in inner London boroughs and thus may generate community tension / protest in those areas which already face the most difficult policing challenges.

## **Option 2. Provide HMIS with dedicated Immigration arrest suite.**

15. The MPS Management board considers it is **not appropriate** to use custody facilities within an operational police station as a dedicated HMIS facility. There is only one MPS facility in London that is not an operational police station that has the potential to be adapted to provide detention facilities that could be offered exclusively to HMIS. This location would require extensive building work to satisfy the requirements for the detention of prisoners.
16. The MPS management board recommend that the option of leasing this building to HIMS for up to 5 years should be explored. This option would require the HMIS to carry out the necessary building work rather than placing that responsibility on the MPS.
17. Advantages
  - The detention of the failed asylum seekers could be portrayed for what it is - an HMIS operation utilising a single location which is not recognisably a police station albeit as a matter of law, the MPS would be giving obligatory support.
  - The HMIS have already indicated an acceptance that they would fund such custody facilities in their entirety, including all staff, direct and indirect costs. It would be a requirement that MPS staff would be working on rest days. This is essential if staff are not to be deployed to this work at the expense of core policing.
  - Whilst public protest may not be averted, the specification of a single location would enable pre-planning and avoid the possibility of multiple seats of protest.
  - A small number of dedicated staff can be given a better understanding of the specific needs of detained persons. Where members of specific ethnic minority groups are detained then greater attention can be given to the needs of those groups.
  - Persons subject to enforced repatriation have a greater propensity to self-harm. A formal risk assessment in relation to self-harm should be undertaken to inform the necessary training.

- Provision of a single facility with finite capacity would create an operational incentive to HMIS to arrange the repatriation of failed asylum seekers quickly since should they fail to do so there will be no capacity to process new prisoners.

18. Disadvantages

- Only one location (in north west London) has so far been identified as being potentially suitable. Currently the facilities that exist only allow for the short-term detention of prisoners (up to 6 hours). There are only 3 large detention rooms and limited interview and consultation facilities as well as no washing or sanitation facilities within the cell complex.
- This location could however provide up to 35 cells that are suitable for prisoner detention. It has been estimated that the cost of building work is likely to be in the region of £2 - 2½ million. Minimum requirements of the custody centre include interview and consultation rooms, shower and washing facilities and air conditioning which make up the remaining of the building costs. Initial outline estimates indicated that it is likely to take 10 months to carry out the design, tendering and building stage with a further 3 months for submission and approval of the planning application. Estimates are based on smooth progression at each stage.
- Where there is to be a change of usage of a building, planning permission is required. Provision of custody facilities to HMIS could be blocked by local authorities and planning authorities refusing planning permission on political grounds.
- Arrested person would be taken to a centralised location away from friends, relatives and the ethnic minority communities that could support them. This will result in visits to detained persons becoming more difficult for those friends and relatives.
- HMIS have indicated that in the short term they intend to operate within the East London area. Their method of operation requires custody facilities within close proximity of the target arrests. Therefore they have indicated that they would find it unacceptable if the custody facilities offered involve transportation of prisoners across London.
- There will be a requirement for the MPS to arrange the staffing and operation of this facility as well as maintaining a register of the costs incurred by the MPS for accounting purposes (and recovery from HMIS). The costs of this new work should be added to the overall costs of the operation claimed from HMIS.

**Risks**

19. HMIS activity against failed asylum seekers is likely to generate community tension and possibly a requirement for public order maintenance.
20. In the event of a death or serious injury occurring while a person is detained, it is highly likely that there will arise a public perception that the fault lies with the MPS.
21. Whichever dedicated custody facility is made available to HMIS, it would potentially be unavailable to the MPS in the event of it being required urgently to house prisoners from a spontaneous outbreak of disorder anywhere in London. HMIS have, however, agreed in principle that should a dedicated facility be required by the MPS, all HMIS prisoners would be removed/released forthwith and the suite returned for MPS use.
22. Assisting HMIS with the detention and repatriation of failed asylum seekers may hinder our efforts to improve relations with the broader community of asylum seekers, particularly in respect of our work to reduce hate crime.

#### **MPS Management Board.**

23. MPS management board has considered the issues and options detailed above.
24. The MPS has a statutory duty to assist the HMIS in its endeavours to remove failed asylum seekers from the UK.
25. The MPS should explore the feasibility of using a centralised charge centre as an immigration custody facility.
26. The MPS should negotiate with HMIS to ensure that the full direct, indirect and ongoing running cost of this facility are identified, agreed and recovered.
27. That joint MPS / HMIS representations should be made to the Home Office in respect of a change in primary legislation so that persons arrested do not have to be brought to police managed custody suites.

#### **S. FINANCIAL IMPLICATIONS**

If option 1 is selected, no special arrangements, although recovery of costs from HMIS would be problematic.

If option 2 (a centralised custody centre) were selected, costs would be dependent upon the rate of through put of prisoners. Based on the ability to detain up to 30 prisoners at any one time staff costs are estimated at £1,860,405. (1 sergeant custody officer and 2 gaolers per 10 prisoners with an inspector per tour of duty). Accommodation costs are estimated at £178,998 per annum. Meals

and refreshments are estimated at £109,500 per annum. Costs of forensic medial examiners have been estimated at £151,432 per annum. Bedding and linen costs are estimated at £6,460. The total additional budgeted cost (excluding premises) is therefore £2,306,795. Full cost recovery, including administrative costs would need to be agreed within HMIS.

The only premises so far identified require extensive building work that is estimated to cost at least £2 2½ million. Two options exist in this respect, either leasing the building to HMIS and requiring them to carry out that building work or offering the building on the condition that the cost of building work is fully recoverable from HMIS.

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**Background Papers**

None