

# Jake Anderson

Investigation into the treatment of Mr Jake Anderson whilst in detention prior to his death at Peterlee police station on 25 June 2019

> Independent investigation report

## > Investigation information

Investigation name:	Jake Anderson
IOPC reference:	2019/121485
Investigation type	Conduct matter
IOPC office:	Wakefield
Lead investigator:	Paul Whitaker
Case supervisor:	Sarah Parker
Director General delegate (decision maker):	Ian Tolan
Status of report:	Final
Date finalised:	19 June 2020

The primary purpose of this report is to provide information to the appropriate authority (AA) and decision maker to allow them to perform their obligations under the PRA. Although this report may be disclosed to other parties, its primary audience is stakeholders who have knowledge of the complaints system. Therefore, IOPC/police responsibilities or the detail of the misconduct system will not be explained in this document. For cases using this template, complainants and interested parties will be updated separately in a plain English outcome letter supported by a document explaining the IOPC and the complaints system processes.

In conduct investigation reports, the role of the designated investigator is to provide an accurate summary of the evidence, and attach or refer to any relevant documents for the decision maker.

On receipt of the report, the decision maker will make their CPS referral decision. The decision maker will also reach an opinion<sup>1</sup> about whether there is a case to answer for misconduct, gross misconduct in respect of any person serving with the police or whether the performance of such persons was unsatisfactory. The report and DM's opinion will then be sent to the AA; upon receipt of the AA's proposals, the decision maker will make their other determinations in accordance with the legislation.

## The investigation

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### > Background to the investigation

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1. At 10:30am on 24 June 2019, Durham Constabulary police officers arrested Mr Jake Anderson and transported him to Peterlee police station. The custody officer authorised his detention and allocated Mr Anderson a cell. Mr Anderson was placed on Level 2 *'rouse and response'* observations, to be conducted every 30 minutes.
2. The detention officers conducted cell checks and recorded their observations on the custody log. They described Mr Anderson's behaviour as *'erratic'* and noted that he believed he was in Lanchester Road Hospital, a local mental health facility, rather than in custody. During the afternoon, a custody Health Care Practitioner (HCP) conducted a medical examination of Mr Anderson and considered that Mr Anderson may have been under the influence of *'substances'* and possibly having a psychotic episode. They requested that the police Liaison and Diversion Team (L&D) conduct a review due to Mr Anderson's apparent mental health issues.
3. Detention officers moved Mr Anderson to a CCTV cell *'for safety and observations due to his state of mind'* late in the afternoon. He remained on Level 2 observations and the custody officer called the Force Medical Examiner (FME) to assess Mr Anderson. The FME advised that Mr Anderson required an assessment under the Mental Health Act (MHA) and recorded that he was fit to be detained.
4. At 10:38pm, two doctors and a social worker, also qualified as an Approved Mental Health Practitioner (AMHP), conducted a MHA assessment on Mr Anderson in his cell. They concluded that he should be transferred to a mental health facility and the social worker began to contact local facilities to locate a suitable bed for him.
5. Around midnight, a detention officer found Mr Anderson unresponsive in his cell and informed the custody officer. They both entered Mr Anderson's cell and found Mr Anderson lying face down on the mattress on the cell floor.
6. Both the custody officer and detention officer left the cell and returned with additional officers. They called an ambulance, performed CPR and attached a defibrillator. The paramedics arrived and after providing Mr Anderson with medical care pronounced Mr Anderson dead in his cell at 12.31am on 25 June.
7. On 25 June, Durham Constabulary referred this matter to the IOPC and I was appointed to lead the independent investigation. Our investigators attended the scene and post-incident procedures shortly after we received the referral.

## Terms of reference

8. The terms of reference for this investigation were to investigate the treatment of Mr Anderson whilst in detention between 10.30am on 24 June 2019, and paramedics pronouncing him dead at 12.31am on 25 June. Specifically, in relation to:
  - a) The decisions and actions of officers of Durham Constabulary involved in the arrest and transportation of Mr Anderson to Peterlee police station;
  - b) The level of medical assistance and care provided to Mr Anderson;
  - c) The decisions and actions of the custody officers on duty at Peterlee police station, including risk assessments, reviews they conducted and their response when Mr Anderson was discovered to be unresponsive in his cell;
  - d) The decisions and actions of the detention officers on duty, including how they conducted and recorded cell checks and their response when Mr Anderson was discovered to be unresponsive in his cell;
  - e) To identify whether the decisions and actions of the police officers/staff members complied with legislation, local and national policy and procedure.
9. The evidence relating to each of these matters will be presented in this report.

## Subjects

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D67  
D116

10. Following a thorough review of the available evidence, I determined there was an indication that Detention Officers (DO) Patrick Varley and Michael Kenny, and Police Sergeant (PS) Andrew Harron, may have breached the Standards of Professional Behaviour (SOPB). We served them with Regulation 16 Notices of Investigation, which detailed allegations against each of them.

Name and role	Brief description of alleged conduct/breach of Standards of Professional Behaviour	Severity	Were criminal offences investigated? If yes, please list these below
Patrick Varley – Detention Officer	<ul style="list-style-type: none"> <li>• It is alleged that DO Varley may have failed to conduct cell checks on Mr Anderson in line with APP guidance and failed to accurately record the results of those checks</li> </ul>	N/A	No

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<p>Michael Kenny – Detention Officer</p>	<ul style="list-style-type: none"> <li>It is alleged that DO Kenny failed to conduct cell checks on Mr Anderson in line with APP guidance and failed to accurately record the results of those checks</li> <li>It is alleged that DO Kenny failed to provide immediate medical assistance when Mr Anderson was found unresponsive in his cell</li> </ul>	<p>N/A</p>	<p>No</p>
<p>Andrew Harron - Custody Officer</p>	<ul style="list-style-type: none"> <li>It is alleged that PS Harron failed to adequately assess, review and record the appropriate levels of observation (including an increase in the level)</li> <li>It is alleged that PS Harron failed to provide immediate medical assistance when Mr Anderson was found unresponsive in his cell</li> </ul>	<p>Misconduct</p>	<p>No</p>

## Summary and analysis of the evidence

11. This report divides the period of Mr Anderson's interaction with police into three separate sections; Mr Anderson's arrest and transportation to Peterlee custody, his time in custody up until 7pm and his time in custody after 7pm.

> **Mr Anderson's arrest and transportation to custody**

> **Timeline of events**

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12. At 9.57am on 24 June 2019, a member of the public contacted Durham Constabulary on 999 to report that he had been assaulted by a man, later identified as Mr Jake Anderson, who had now entered his neighbour's property.

D6

13. The member of the public explained that he had first seen Mr Anderson at his neighbour's house. He did not recognise Mr Anderson and was concerned for his neighbour. He approached Mr Anderson and asked him who he was and what he was doing. The caller explained that Mr Anderson then '*became hostile and attacked*' him before going inside his neighbour's house.

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- D6 14. The caller told the police that he thought the man's name might be 'Jake'. Police conducted an intelligence check on his neighbour's address, but the check did not link Mr Anderson to it. The check did show that the neighbour was a [REDACTED] [REDACTED] and there may have been [REDACTED] [REDACTED] [REDACTED].
- D6 15. The call handler graded the incident as requiring an immediate response and at 10.16am, deployed PC Thomas Crosier and PC Dan Richardson to attend the address.
- D6 16. At 10.19am, the caller contacted police on 999 again to ask about police attendance. He described Mr Anderson as 'off his head' and 'drugged up'.
- D6 S8 17. At 10.23am, PCs Crosier and Richardson arrived at the address. We obtained statements from both officers and in his statement, PC Richardson said that he and PC Crosier spoke to the caller first and could see that he had a cut to his eye.
- S8 18. PC Richardson added that he and PC Crosier then went to the neighbour's house and tried to get a response from inside, but nobody answered.
- D73 19. PC Richardson activated his body worn video (BWV) during the incident, which we obtained, reviewed and produced a viewing log. The BWV footage shows that at 10.30am, the owner of the house arrives and identifies himself as Mr Anderson's grandfather.
- D73 20. The BWV footage shows that at 10.31am, the officers enter the neighbour's house. Mr Anderson was standing in the living room, holding a wine glass, which he places on the table when the officers enter. The officers speak to Mr Anderson and establish his name and date of birth.
- D73 D6 21. At 10.33am, PC Richardson left the living room and provides an update, via the radio, to the control room. The call handler recorded the following information on the incident log; 'male is Jake Anderson dob 07/02/1995. He appears intoxicated'. At 10.36am, the call handler added three warning markers linked to Mr Anderson relating to the possession of weapons, mental health, and self-harm.
- D73 22. The BWV footage shows Mr Anderson explaining what happened to the officers. He told them that the neighbour had confronted him, asked him who he was and how long he had lived at the house. Mr Anderson claims that the man 'squared up' to him and attacked him with a metal broom handle.
- D73 23. At 10.34am, Mr Anderson's mother arrives at the house. Mr Anderson tells her that he thought she was dead and that he has been crying. She replies 'don't be silly...you know I'm not dead Jake'.
- D73 24. PC Richardson begins to explain the situation to Mr Anderson's mother and why police had been called. Mr Anderson interrupts PC Richardson and alleges that the

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<sup>2</sup> Redacted words detail information that it is not in the public interest to disclose.  
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neighbour had *'...come out of the house with a metal broomstick near the door, (and) whacked us in the face with it'*. PC Richardson tells Mr Anderson he could not see any visible marks on Mr Anderson's face and then instructs him to sit down, to which Mr Anderson replies *'I thought me Ma was dead though'*.

- D73 25. PC Crosier tries to establish the details of the incident and Mr Anderson offers a different explanation saying that the neighbour had injured himself as he tried to get inside the house.
- D73 26. At 10.37am, Mr Anderson states that the neighbour has taken his mobile phone from him, but he is not sure which phone it is. He then begins to talk about the phone and a pair of combat trousers. During this conversation, the BWV footage shows Mr Anderson has a small mark or scratch on his right cheek.
- D73 27. At 10.39am, the officers and Mr Anderson move into the kitchen where PC Richardson checks the pockets of pair of combat trousers and a jacket as he looks for Mr Anderson's mobile phone. They return to the living room and PC Richardson again tries to clarify what happened between Mr Anderson and the neighbour.
- D73 28. At 10.41am, PC Crosier asks Mr Anderson if he has taken any drugs today or if he was *'on any'*. Mr Anderson replies *'no'* and PC Crosier explains, *'you're behaving quite erratically'*. He asks Mr Anderson if he has *'any mental health problems?'* and Mr Anderson explains he has depression, anxiety and schizophrenic personality disorder, for which he is taking medication.
- D73 29. At 10.42am, PC Crosier places Mr Anderson under arrest on suspicion of assault.
- D6 30. At 10.46am, the police control room operator updated the incident log with the following information: *'2875 advises 1 intoxicated male detained suspicion of assault'*.
- R1b 31. We examined CCTV footage from the police van used to transport Mr Anderson to custody and produced a report summarising the footage. The footage shows that the officers placed Mr Anderson in the back of the van, with his wrists in handcuffs to the front of his body. The footage had no audio, but Mr Anderson appeared to be either talking to himself or the officers in the front of the van. Mr Anderson remained seated, but *'fidgets'* around and there were visible scratches on Mr Anderson's right cheek.
- D85  
S9 32. The CCTV footage of the van dock at Peterlee police station custody facility shows the officers and Mr Anderson arrive at 11.51am. PC Crosier described Mr Anderson as *'quite calm, talking, and had colour in his face'*.

### > PC Crosier and PC Richardson's accounts

- S9 33. On 3 October 2019, we obtained a statement from PC Crosier in which he explained that in response to the incident, he knew he needed to speak to Mr Anderson to

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make sure that *'people were safe, and [REDACTED] secure'*. PC Crosier described Mr Anderson as *'a bit agitated; his pupils were quite dilated'* and, whilst he believed that Mr Anderson may have consumed *'drugs,'* he did not think Mr Anderson needed to go to hospital.

- S9
34. PC Crosier stated he had experience of arresting people whilst they were under the influence of drink and drugs, and he was concerned that Mr Anderson could have [REDACTED]. He stated, *'the safest option was to remove Mr Anderson from the address by arresting him.'* He explained this would prevent issues with the neighbour escalating and would allow time for the situation to de-escalate.
- S8
35. We also obtained a statement from PC Richardson in which he explained that they responded to an allegation of assault and he and PC Crosier had two options; they could arrest Mr Anderson or arrange for him to attend a voluntary interview. PC Richardson explained that, due to the risk of [REDACTED] and Mr Anderson's apparent assault on his neighbour, they made the decision to arrest Mr Anderson to prevent any further issues and to make further enquiries.
- S8
36. PC Richardson stated that when he spoke to Mr Anderson, he was standing, talking and engaging with him. PC Richardson described him as *'a bit fidgety and agitated'* but *'relatively complaint'* and *'more or less co-operative'*.
- S9
37. PC Crosier explained he contacted Durham custody to inform them of Mr Anderson's arrest but they told him that the Durham facility was full and he should take him to Peterlee custody instead. PC Crosier stated that the drive took 45 minutes. During this time, he did not notice any change in Mr Anderson's behaviour, and recalled that Mr Anderson had been *'singing'* in the back of the police van.

### > Analysis

38. Authorised Professional Practice (APP) is national guidance developed by the College of Policing for use in police procedures.
- D124
39. APP guidance relating to incidents states that officers should conduct an initial response risk assessment which should take account of:
- What is known or believed to have happened
  - The number of persons involved or capable of becoming involved
  - Details provided about named individuals, including all intelligence and any warning or information markers recorded on force or agency crime and/or intelligence systems
  - Potential or known risks about the locations

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<sup>3</sup> Redacted words detail information that it is not in the public interest to disclose.  
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- Concealed weapons or access to weapons in the contact environment
- D124 40. The evidence suggests that the officers performed risk assessments that were in line with APP guidance.
- D124 41. APP states that under the Police and Criminal Evidence Act (1984), a lawful arrest by a police constable requires two elements:
- A person's involvement, suspected involvement or attempted involvement in the commission of a criminal offence
  - Reasonable grounds for believing that the person's arrest is necessary.
- S8 42. In his statement, PC Crosier explained there was an allegation of assault which required investigation. The officers could either arrest Mr Anderson or arrange for him to attend a voluntary interview. Due to the evidence suggesting that an assault had already taken place and a further risk due to [REDACTED], the officers decided to arrest Mr Anderson and take him to a police station. This information and the risk assessment provided appears to satisfy the elements required for a lawful arrest.
- D124 43. APP guidance states that a detainee must be transported directly to hospital if they:
- Are showing any symptoms of head injuries
  - Are, or have been, unconscious
  - Have suffered serious injury
  - Are drunk and incapable and treatment centres are not available
  - Are believed to have swallowed or packed drugs
  - Are believed to have taken a drugs overdose
  - Are suffering from any other medical condition requiring urgent attention
  - Are suffering from any condition that the arresting officer or transporting staff believes requires treatment prior to detention in custody.
- S9 44. In his statement, PC Crosier acknowledged that Mr Anderson may have been under the influence of drugs but did not think that he required hospital treatment. Mr Anderson denied taking drugs and the available evidence suggests that the officers had no information to suggest that Mr Anderson may have taken a drugs overdose or swallowed drugs.
- S9 45. PC Richardson described Mr Anderson as *'a bit fidgety and agitated'* but *'relatively compliant'* and *'more or less co-operative'*. The BWV footage shows Mr Anderson engaged with the officers and his family and the available evidence suggests Mr Anderson was not *'drunk and incapable'*.

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<sup>4</sup> Redacted words detail information that it is not in the public interest to disclose.  
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D124

46. Mr Anderson told the officers he had mental health issues and explained that he controlled his symptoms through medication. Although the officers described Mr Anderson's behaviour as *'erratic'*, the available evidence suggests the officers saw no behaviour that would suggest Mr Anderson was having a mental health crisis or that he needed medical attention. The available evidence suggests the officers' decision to arrest Mr Anderson and take him to custody was in line with APP guidance.

> Peterlee custody - events to 7pm

> Timeline

47. We obtained copies of the custody footage throughout Mr Anderson's detention and produced comprehensive viewing logs of his behaviour and the actions of the custody staff and officers.

D4  
D85

48. The footage shows that at 11.51am, PC Crosier escorts Mr Anderson to the custody desk where Police Sergeant (PS) Graeme Devine and Detention Officer (DO) Patrick Varley are stood.

D85

49. The CCTV camera overlooking the charge desk has a microphone but some of the audio is inaudible. At 11.52am, PS Devine asks PC Crosier to search Mr Anderson and Mr Anderson tells PS Devine: *'I've been no bother, Sarge'* and laughs. Mr Anderson removes his socks and shoes as part of the search and then asks for a drink and describes himself as *'dead thirsty'*.

D85

50. At 11.54am, PS Devine asks Mr Anderson if he had *'taken anything'* and Mr Anderson replies that he had not. The conversation continues and Mr Anderson explains that he takes medication for *'ADHD'*. PS Devine asks PC Crosier if Mr Anderson has any medication and PC Crosier explains that they did not find any in the house. Mr Anderson begins to speak, the beginning of which is inaudible, but he can be heard saying *'I've had two in the morning'*.

D85

51. Following Mr Anderson's search, PS Devine asks PC Crosier to get Mr Anderson a cup of water. Mr Anderson drinks the water all at once and asks PC Crosier for another. Again, Mr Anderson drinks this quickly and asks for third cup. PC Crosier asks Mr Anderson if he is *'gaspng'*, Mr Anderson replies *'aye, proper'*. PC Crosier gave him a third cup of water, which he again drank straight away.

D85

52. At 11:57am, PC Crosier explains to PS Devine that at the time of arrest Mr Anderson was being *'very erratic, up and down and potentially under the influence or something'*. At 12pm, PS Devine asks Mr Anderson if he was okay, to which he responds *'mmm, yeah, feel fine (inaudible)'*. PS Devine authorises Mr Anderson's detention.

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- D4  
D85 53. At 12.02pm, PS Devine asks Mr Anderson questions to assist his risk assessment and records the answers on the custody record. PS Devine asks Mr Anderson if he has previously tried to harm himself. Mr Anderson replies 'no'. PS Devine asks, 'you sure?' and again Mr Anderson replies 'no'. PS Devine explains that the information available to him suggests that Mr Anderson may have tried to harm himself previously. Mr Anderson explains that he had accidentally overdosed on his prescription medicine.
- D4  
D85 54. At 12.04pm, PS Devine offers Mr Anderson another drink, which he accepts and again drinks this all at once and then asks for another, which an officer gives him. The officer advises Mr Anderson to sip the water to help quench his thirst.
- D4  
D85 55. PS Devine continues to ask Mr Anderson a series of further questions related to the custody booking-in procedure and if Mr Anderson has any mental health issues. PS Devine established that Mr Anderson had been diagnosed with personality disorder, ADHD, and depression. Mr Anderson explains that his ADHD affects his concentration and makes him fidget excessively.
- D4  
D85 56. PS Devine asks Mr Anderson when his next dose of medication is due and Mr Anderson explains that one drug (fluoxetine, used to treat major depressive disorders) would not be needed until the next morning; and the second (quetiapine, used to treat schizophrenia, bipolar disorder and major depressive disorders) would not be needed until later in the day. Mr Anderson confirms he has no other medical conditions.
- D4  
D85 57. PS Devine asks Mr Anderson whether he had taken any drugs or consumed alcohol in the last 24 hours. Mr Anderson says that he has consumed a bottle of beer that morning. PC Crosier states that he suspected that Mr Anderson had been drinking a glass of wine when they had arrived but Mr Anderson tells him it was Ribena.
- D4  
D85 58. PS Devine asks Mr Anderson if he is dependent on drugs, alcohol or any other substances. Mr Anderson says that he was dependent on alcohol but did not 'withdraw' from it. Mr Anderson says that he is not addicted to any other drugs or substances. When asked if he took drugs, Mr Anderson says 'I have in the past but not recently'.
- D4  
D85 59. The custody booking-in procedure continues and PS Devine asks Mr Anderson whether he had any dietary needs, any allergies or if there was anything that might affect his welfare whilst he is in custody. Mr Anderson answers 'no' to all three questions.
- D85  
D18 60. The corridor footage shows that DO Varley takes Mr Anderson to his cell on the 'NE male corridor'. Mr Anderson walks with DO Varley and they both enter the second to last cell on the right side of the corridor. We obtained a floor plan of Peterlee custody which showed this as cell M2. This cell did not have a CCTV camera inside.
61. At 12.19pm, PS Devine made the following entry on the detention log, 'Observation Level, Level 2 – Checked and roused every 30 minutes...Reason: In line with RA'

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- D85 62. The custody desk footage shows that at 12.20pm, PS Devine calls for DO Varley to bring Mr Anderson back to the desk. Mr Anderson walks back to the desk unaided.
- D85  
D4 63. PS Devine reads Mr Anderson his legal rights. Mr Anderson replies 'yeah' to them and gives the details of the solicitor he would like contacting to represent him. Mr Anderson says that he does not want anyone informed that he is in custody and signs his record of rights, and his custody property record.
- D86 64. Mr Anderson requests a cup of tea and whilst he waits, he laughs with custody staff and appears in good spirits. DO Varley returns with a cup of tea and the two then walk back to Mr Anderson's cell.
- D85 65. As DO Varley takes Mr Anderson to his cell, PS Devine and PC Crosier continue to talk. PC Crosier comments 'very strange' and PS Devine comments 'I think he's affected by something... but then he's also (of a) quite nervous disposition'. PC Crosier replies 'Yes he is, when I was speaking to him I couldn't decide what it was, substance or he's got some like, say ADHD and stuff cause he was, he couldn't sit still, he couldn't...'
- D85 66. The corridor footage shows that DO Varley conducted a cell check on Mr Anderson at 12.42pm and provided him with some toilet paper. At 1.01pm, DO Varley returns to Mr Anderson's cell and the camera records DO Varley asking Mr Anderson what he is building, and Mr Anderson responds, 'er, a Rastafarian prince (inaudible), put some dreadlocks in'. DO Varley asks Mr Anderson if he knew where he was and Mr Anderson replies that he is in Lanchester Road hospital.
- D4  
S5 67. At 1:25pm, DO Varley updated Mr Anderson's detention log with the following information '*...Awake and responding to questions...DP requested toilet roll but was rambling and stated he did not want to make mess due to the toilet roll flowing across the floor.*' The entry included that Mr Anderson was making a 'Rastafarian doll' and that he believed that he was 'in Lanchester Road Hospital.' DO Varley concluded the entry with, '*behaviour was getting more erratic and I informed the custody officer. CCP (custody care practitioner) phoned for FTD (fitness to detain) ref BA 09075*'.
- D85 68. At 1.36pm, DO Varley opens the door to Mr Anderson's cell, walks inside and speaks with Mr Anderson. DO Varley asks Mr Anderson if he is alright, to which he replies 'yeah'. When asked if he knows where he is, Mr Anderson responds that he is in Lanchester Road Hospital. DO Varley then walks out of the cell but continues to look into it for a further 10 seconds before he shuts the door and walks away.
- D85  
D4 69. At 2pm, DO Varley conducts a further cell check. He recorded the following corresponding entry on the detention log that '*He rouses ok but doe [sic] not make any sense*'.
- D85 70. At 2:22pm, DO Varley and the Health Care Practitioner (CCP/HCP), Ms Tracy Wear, enter Mr Anderson's cell. The microphone picks up some of their conversation as

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they speak about Mr Anderson's 'model', (Rastafarian doll) but due to other voices, the detail of the conversation cannot be deciphered.

- D4  
D5
71. At 2.30pm, Ms Wear leaves Mr Anderson's cell. Ms Wear recorded her assessment on the Detained Person Medical Form. She recorded that Mr Anderson was fit to be detained but would require an appropriate adult due to mental health issues. She added that Mr Anderson was not fit to be interviewed, transferred or charged due to him requiring a Liaison & Diversion (L&D) review. Ms Wear recommended that Mr Anderson's level of observation remain at 'level 2 – *Checked and roused every 30 mins*'. These comments were also included on the detention log, with the exception of the observation level.
- D85
72. At 2.46pm, DO Varley takes a drink to Mr Anderson's cell and stands at the cell door for 49 seconds. The full conversation between DO Varley and Mr Anderson is not audible but the microphone records DO Varley telling Mr Anderson that they would get the doctor to him.
- D4
73. At 3.15pm, DO Varley updated the detention log with the following entry: '*Detainee visited – awake and responded to questions. Detail: DP is awake but affected by substances*'.
- D85
74. Between 3.23pm and 3.30pm, DO Varley attended Mr Anderson's cell three times, initially responding to banging heard from the area. DO Varley has a short conversation with Mr Anderson where he tells him that he couldn't '*let him out*'. DO Varley then brings Mr Anderson a cup of tea and a cup of water.
- D4  
R2
75. At 3.25pm, a member of the L&D team placed a summary of Mr Anderson's current care on his detention log. They recorded that L&D had tried to contact Mr Anderson's support worker, but she was unavailable. They added that Mr Anderson had last seen his support worker on 19 June and there was '*no identified risk to self*'. In addition, Mr Anderson had recently told his support worker that '*he has bought on the dark web "blue" tablets from Thailand. The DP has a diagnosis of Schizotypal disorder with emotional dyscontrol. The DP has been advised not to take this medication*'.
- D85
76. The corridor CCTV footage shows that at 3.46pm, PS Devine attends Mr Anderson's cell. He looks through the hatch for 22 seconds before entering the cell for 18 seconds. PS Devine leaves the cell before looking back into it for 1 minute and 19 seconds. PS Devine again asks Mr Anderson if he had taken anything to which Mr Anderson responds '*No (inaudible)*'.
- D4
77. At 3.55pm, PS Devine updated the detention log with the following entry: '*Detainee visited – awake and responding to questions. Details: The DP is fully awake and responding to questions however his behaviour is still erratic and he is still not making some sense on occasions*'.
- D85
78. At 4pm, DO Varley opens the hatch on Mr Anderson's cell and looks in for 49 seconds. He talks to Mr Anderson and tells him to '*have a lie down*'.

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- D85 79. At 4.01pm, DO Varley returns to the charge desk where PS Devine is dealing with another detained person at the desk. DO Varley says to PS Devine *'First time I've ever seen someone try to climb through the hatch'*. PS Devine replies *'I think we'll get him swapped over, we'll get him in one of those, yeah'*.
- D84 80. At 4.35pm, DO Varley lets Mr Anderson out of the cell. Mr Anderson walks independently to the charge desk, ahead of DO Varley. Mr Anderson is heard off camera saying *'this is disgusting this like...I'm not going in any cell I'm not a prisoner'*.
- D84 81. As DO Varley and Mr Anderson approach the charge desk, Mr Anderson continues to voice his disapproval at being moved: *'I'm not being put in a prison, I've just done a podcast where they've ripped (inaudible), right? I've said how much I've hated that.'* Mr Anderson then begins to walk back down the corridor but PS Devine stops him and guides him in the direction of a CCTV cell. DO Varley and a female member of staff in a blue shirt follow PS Devine and Mr Anderson. Mr Anderson continues to argue as they walk away from the charge desk.
- D85  
D19 82. They walk down the corridor and PS Devine shows Mr Anderson into cell D3, the doorway of which is obscured by the open door of cell D4. DO Varley follows PS Devine and Mr Anderson into D3. The woman in the blue shirt remains outside the cell. The CCTV cells within Peterlee custody contain an outer door that leads to a small vestibule, containing the toilet. There is then a further inner door into the cell. These cells do not have a 'hatch' in the door that can be lowered to view a detainee in the cell. To physically view a detainee a 'spyhole' is located in the inner door with a further spyhole built into the cell wall.
- D84 83. Once inside, DO Varley leaves the cell vestibule and kicks the wall opposite the cell, which activates an alarm. Mr Anderson comes out of the cell and back into the corridor. DO Varley and the woman in the blue shirt struggle with Mr Anderson trying to get him back into the cell.
- D84 84. Other police staff/officers come to assist and restrain Mr Anderson. PS Devine walks out of the cell and stands in front of Mr Anderson, who stops resisting. The attending officers then carry Mr Anderson by his arms and legs into the cell. DO Varley remains outside the cell. A further struggle ensues however the view of this is blocked by the open door of cell D4.
- D84 85. The CCTV footage from cell D3 shows that at 4.37pm, Mr Anderson is carried into the cell by four police officers/ staff on his front with PS Devine placing his hand on Mr Anderson's head. PS Devine removes the blue mattress from the bed in the cell and places it on the floor. Mr Anderson is lowered onto the mattress. The police staff leave the cell one by one and Mr Anderson then lifts his head up and rolls onto his left side.
- D84 86. The footage from the CCTV cell shows that at 4.39pm, Mr Anderson sits down on the bed and removes his t-shirt and trousers. Mr Anderson walks around the cell, gesturing with his hands and appearing to talk to himself.

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- D84 87. At 4.46pm, Mr Anderson wipes his head and body with his clothes. He does this again at 4.48pm, and then urinates on the cell floor.
- D84  
D97 88. At 4.49pm, Mr Anderson looks toward the cell door and begins to speak to someone. The CCTV camera covering the corridor shows DO Varley walking into cell D4 next to Mr Anderson. Mr Anderson walks over to the cell door and begins pushing on it repeatedly with both hands. Mr Anderson then starts to bang on the door before turning around and appearing to talk to himself.
- D84  
D97 89. At 4.51pm, PS Devine, three police officers and a non-uniformed officer attend Mr Anderson's cell. An officer is also seen in the doorway of Mr Anderson's cell. Mr Anderson tries to push his way past the officer, however the officer pushes Mr Anderson back into the cell, two of the officers then restrain Mr Anderson, whilst the non-uniformed officer removes Mr Anderson's clothes and places them outside of the cell before returning with different clothing.
- D84 90. The officers attempt to put the new clothing on Mr Anderson but he resists. The officers leave the cell without dressing Mr Anderson.
- D96  
D4 91. The charge desk CCTV shows that at 4.55pm, PS Devine asks DO Varley to request the Force Medical Examiner (FME) to assess Mr Anderson. At 4.58pm, DO Varley makes a telephone call requesting the FME.
- D4 92. At 4.59pm, DO Varley updated the detention log and recorded that Mr Anderson had been moved to a CCTV cell for 'safety and observation' due to concern over his 'state of mind'.
- D96 93. At 5.01pm, Dr Said, the FME, telephones the custody facility and speaks with PS Devine. The CCTV shows that PS Devine informs the doctor that Mr Anderson 'may well have been on something', that he had been 'a bit up and down' but that his (Mr Anderson's) behaviour is getting 'more and more erratic, and more and more bizarre'. PS Devine tells the doctor that Mr Anderson also has 'mental health issues' and relays to the doctor brief details of the L&D update which had been placed on the detention log. PS Devine explains to the doctor that based on his previous experience Mr Anderson's behaviour now appeared to be more than 'just substance issues'.
- D111  
D84  
D4 94. At 5.06pm, DO Varley walks into the vestibule outside Mr Anderson's cell and stands there for six seconds. During this time, Mr Anderson is holding his weight against the cell door. DO Varley did not record this cell check on the detention log.
- D111 95. The footage shows that between 5.06pm and 5.59pm, DO Varley continues to work within the custody area, making and answering telephone calls, assisting cleaning staff, and assisting with booking in a detainee at the charge desk.
- D84 96. The CCTV footage from the cell shows that during this time, Mr Anderson continues to talk to himself as he moves around the cell. Mr Anderson appears to become more animated as he continues to talk to himself.

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- D4 97. At 5.58pm, PS Todd, the reviewing detention officer, recorded a review of Mr Anderson's detention on the detention log. He authorised the further detention of Mr Anderson and stated that he was not fit to be interviewed.
- D4 98. At 5.59pm, DO Varley completed the custody adverse incident form and recorded details of Mr Anderson's restraint when the officers carried him into the CCTV cell.
- D4 99. At 6.03pm, DO Varley added the following warning signal to Mr Anderson's detention log: *'Mentl Hlth [sic], Description: apparent psychosis and hallucination in cell'*.
- D111 100. The CCTV footage shows that at 6.13pm, DO Varley goes to cell D4 (next to Mr Anderson's) and walks out with the occupant. He takes the occupant to the exercise area before returning to the charge desk at 6.18pm. He does not perform a cell check on Mr Anderson.
- D111 101. The charge desk footage shows that at 6.21pm, DO Varley is working on the computer, which has the CCTV screen above it showing a view of Mr Anderson's cell. DO Varley looks at the CCTV screen and then begins to type on the computer keyboard.
- D4 102. At 6.21pm, DO Varley recorded the following entry on the detention log: *'Observation recorded on Mon 24/06/2019 at 18:16. Outcome: Detainee Visited – Awake and responding to questions. Details: sitting on seat in cell.'*
- D84 103. The CCTV footage from Mr Anderson's cell shows that between 6.08 and 6.24pm, he is sitting on the bench in his cell talking to himself.
- D84 104. From 6.24pm, Mr Anderson's behaviour continues to be unusual. CCTV shows Mr Anderson tries to look out of the window, look through the air vents at the base of the cell bed and he begins to make gathering motions with his hands on the floor. He inspects the floor and tries to pick something up from it that appears only visible to him.
- D96 105. At 6.29pm, PS Andrew Harron and DO Michael Kenny take over the custody night shift. PS Devine provides them with a verbal handover and explains that he thought Mr Anderson had *'obviously taken something at some point during the day'*. He added that Mr Anderson had told his support worker that he had bought drugs from the internet.
106. PS Devine explains the reason for Mr Anderson's arrest and describes his arrival in custody. PS Devine recalls that Mr Anderson was *'just a little bit skew wiff [sic] really'* but that he and Mr Anderson had conversed without issue and he had been booked into custody without incident. PS Devine explains that Mr Anderson had never been *'comatose or anything like that'* but he was acting *'more and more weird'*. PS Devine says that he cannot decide if Mr Anderson's behaviour is due to the *'gear (drugs) that he's had'* or if *'there's a mental health issue there'*.
- D96 107. PS Devine briefs PS Harron and DO Kenny about the incident when moving Mr Anderson to cell D3 where officers had to restrain Mr Anderson and place him in the

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cell. PS Devine tells them *'although he's a little lad he's a stocky strong lad just have to watch it with him, he changes like that (clicks his fingers)'*.

- D96 108. PS Devine finishes the handover and explains they had called Dr Said, the FME, who had forwarded the details to the night shift doctor, Dr Estenberg, so he could conduct a medical assessment of Mr Anderson. PS Devine tells the officers that he feels that the FME may recommend a mental health assessment for Mr Anderson.
- D96 109. After the briefing, they watch Mr Anderson on the CCTV monitor. DO Varley comments *'he's walking like that because he thinks it's a river, not for any other reason'* and states that Mr Anderson had been hallucinating in the cell believing that he was *'in the middle of a river and all the water was rushing past'*.
- D84 110. Throughout the handover, the CCTV footage from the cell shows Mr Anderson bending down and touching the floor, moving his hands in a gathering motion. He continues to speak to someone as if they are with him in the cell. At 6.47pm, Mr Anderson appears to be pushing a button on the wall. Mr Anderson is stood on the edge of his mattress (which is on the floor) and as he takes small steps, he appears unsteady on his feet. He covers his genitals with one hand throughout but at times, covers them with both hands and crouches down.
- D97 111. At 6.51pm, DO Kenny enters the vestibule area of Mr Anderson's cell for 15 seconds before going into the cell next door.
- D4 112. At 6.53pm, DO Kenny updated the detention log: *'...Outcome: Other. Details: awake having a full conversation with himself and another?'*
- D4 113. At 7pm, PS Harron assumed responsibility for the care of Mr Anderson as detailed on the detention log.

> Accounts

> Tracy Wear

- S6 114. In her account, Ms Wear stated that she was asked to attend for a *'fit to detain assessment'*, as Mr Anderson was acting *'strangely'* and it was thought he may be under the influence of substances.
115. Ms Wear stated that when she arrived at custody, PS Devine and DO Varley discussed whether it would be appropriate for her to see Mr Anderson alone in the medical room. PS Devine and DO Varley thought it would be more appropriate for Anderson to be seen in his cell as he was *'acting strangely and could be inappropriate'*. Ms Wear stated the officers did not know if Mr Anderson would want to see her and told her that he could be *'aggressive.'*

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116. Prior to seeing him, Ms Wear reviewed Mr Anderson's medical record. Ms Wear stated that she felt police had obtained and recorded *'useful information which matched up with Mr Anderson's System [sic] One (GP) records'*. Ms Wear noted that police had recorded Mr Anderson's ADHD and his history of depression. She also noted that the police records showed that Mr Anderson had *'personality disorder'* where the GP's notes had said, *'schizotypal disorder'*. Ms Wear said that she thought this *'strange'* but assumed that they were the same things.
117. Ms Wear stated that DO Varley attended Mr Anderson's cell with her to ensure her safety. Ms Wear stated that Mr Anderson was sitting on the bench in the cell and he was *'engrossed in making a Rastafarian doll from the toilet roll'*. She said Mr Anderson's demeanour changed and he ran to the cell wall as if *'frightened'* by something.
- 56 118. Ms Wear explained that she tried to calm Mr Anderson's apparent fears by explaining to him who she was and why she was there. Ms Wear said that as she asked him about his medical history Mr Anderson was leaning against the wall of the cell and looking towards the floor on her right side. Ms Wear wondered if he was hallucinating and asked why he was looking there. Mr Anderson replied that he *'could see a running tap'*. Ms Wear asked him if he had seen things before and Mr Anderson said that he had and that *'it was his ADHD'*. Ms Wear asked him if he had had taken anything (drugs/alcohol), and reported that Mr Anderson told her he had not, saying to her that *'he didn't take drugs'*.
119. Ms Wear recalled that Mr Anderson continued to look down to the floor where he had said a tap was running and he told her he could see toilet rolls disappearing under the floor.
120. Ms Wear stated that it was Mr Anderson's demeanour, hallucinations and varying attention span that made her consider that his behaviour may have been a combination of drugs and problems with his mental health. Ms Wear explained she had previously seen people who had gone into a psychotic episode following the ingestion of *'substances'*.
121. Ms Wear also commented on Mr Anderson's physical appearance, stating that he did not appear to be under *'physical distresses'*. She reported that his pupils were *'large'* which could have suggested *'ingestion of drugs'* but said that Mr Anderson was *'breathing normally, speaking in full sentences and was a good colour.'* Ms Wear said Mr Anderson agreed to let her take his pulse, which she reported was *'slightly above normal'* but *'strong and regular'* so it did not unduly concern her.
122. Ms Wear stated that following the assessment she spoke with PS Devine and DO Varley about Mr Anderson's assessment. They explained to her that they were making arrangements for Mr Anderson to be moved to a cell with better observation (a CCTV cell). It was agreed that *'we would see how Mr Anderson was over the next 1-2 hours'* and then if necessary refer him to the FME. Ms Wear stated that PS Devine had already asked L&D for a mental health screening of Mr Anderson.

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> PS Graeme Devine

D120

123. PS Devine provided an initial account and then an enhanced account to the IOPC as part of the Durham Constabulary Post-Incident Procedure. PS Devine has since retired from Durham Constabulary.

124. PS Devine stated that his initial thoughts when Mr Anderson was presented to him during the booking-in process was if Mr Anderson was *'suffering from any form of substance misuse'* and/or if Mr Anderson's present condition was attributable to *'mental health issues'*.

125. PS Devine stated that following Ms Wear's assessment he contacted L&D and agreed that Mr Anderson would be monitored before requesting a face-to-face review with either L&D or the FME. PS Devine stated that the further information later provided by L&D helped him build his knowledge of Mr Anderson and his situation.

D120

126. PS Devine stated that following a visit to Mr Anderson's cell in which he said that Mr Anderson's behaviour was *'erratic'* and that he was *'still not making sense,'* he decided to move Mr Anderson to a camera cell in order to *'utilise every possible tool at my disposal to maintain the safety of Mr Anderson.'* He also noted that around this time the level of work in the custody facility *'peaked quite significantly'*.

127. PS Devine described how Mr Anderson became *'resistant'* just prior to them entering the cell and *'other officers'* came to assist after the custody alarm had been activated. PS Devine stated that following this incident, he decided that he wanted *'a full mental health assessment'* of Mr Anderson.

128. Following Mr Anderson's move to a video cell, PS Devine noticed that Mr Anderson was placing his t-shirt on his head. PS Devine said he was concerned that Mr Anderson may self-harm so requested Mr Anderson's clothes be removed and replaced with anti-ligature clothing.

D120

129. PS Devine stated that when they entered the cell, *'it was clear the situation was going to escalate'*. He said that he felt Mr Anderson *'appeared ready for us and was pushing towards the door.'* PS Devine said that Mr Anderson was restrained by the officers as they took his clothes. The officers attempted to place the bottoms of the anti-ligature suit onto Mr Anderson in order to *'preserve his dignity'*, but due to Mr Anderson resisting, they simply withdrew from the cell leaving Mr Anderson to put the anti-ligature clothing on himself.

130. PS Devine stated that at some point, whilst dealing with *'a myriad of other on-going matters'*, he spoke at length over the telephone with the FME, Dr Said. PS Devine said that given Mr Anderson's demeanour and conduct at that time, it was agreed that an assessment could be delayed until Mr Anderson's demeanour improved to enable an assessment to take place safely.

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131. PS Devine's account continued stating that at the end of the shift, he provided 'a *thorough resume of the relevant information*' to PS Harron in respect of Mr Anderson. He said that prior to completing his shift he again spoke with Dr Said and told PS Harron that the nightshift FME (Dr Estemberg) would undertake the assessment of Mr Anderson and not Dr Said.

> DO Patrick Varley

D92

132. DO Varley initially provided an account of events as part of the Durham Constabulary Post-Incident Procedure. This account was provided to the IOPC.

133. DO Varley's account stated that his '*first impression*' of Mr Anderson was that he was '*reasonably calm*' but that his behaviour was '*erratic and unsettled*'. DO Varley said that he formed the view '*there was something not quite right*' about Mr Anderson.

134. DO Varley understood that Mr Anderson was on level 2 observation checks and said that when he performed a cell check on Mr Anderson he received '*a comprehensive verbal response*' from him. DO Varley said that he also observed Mr Anderson '*more regularly*' than recorded on the detention log.

135. DO Varley recalled that during a check at 1.15pm, Mr Anderson thought that the floor of his cell was covered in water and that he did not want to stand up and get wet. DO Varley also recalled that when he asked Mr Anderson where he believed he was, Mr Anderson had replied that he thought he was in Lanchester Road Hospital.

136. DO Varley explained that his detention log entries in respect of Mr Anderson were '*functional and brief*' and this was due to it being a '*busy shift with a number of other pressures on my time*'.

137. DO Varley described Mr Anderson as '*resisting*' and '*struggling*' as they moved him into a CCTV cell. DO Varley said that despite struggling Mr Anderson was not '*violently throwing punches, or anything of that nature*.' DO Varley said that they did however have cause to restrain him in order that he did not struggle and '*come to some harm*'.

S14

138. In response to the allegation that he failed to conduct cell checks in line with APP guidance and failed to accurately record the results of those checks on Mr Anderson, DO Varley provided a further written account of his actions to the IOPC on 23 April 2020.

139. DO Varley acknowledged that he did not carry out '*physical*' cell checks on Mr Anderson between 5.06 and 6.30pm. He further acknowledged that he did not make a record on the detention log as required by the codes of practice and APP. DO Varley acknowledged that he had '*no explanation*' for the entry he made on the

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detention log at 6.21pm which stated that he had visited Mr Anderson's cell and observed Mr Anderson *'sitting on the seat'* and *'awake and responding to questions'*.

140. DO Varley provided mitigating circumstances within his response saying that he had injured his shoulder whilst moving Mr Anderson into the video cell and he had been *'in some pain'*.

141. DO Varley explained that he was *'very busy'* dealing with Mr Anderson and other detainees, who had *'specific and defined needs'*. He stated that whilst dealing with Mr Anderson he was also making and receiving phone calls, performing computer work and *'liaising'* with the *'cell cleaner, police officers, and the custody sergeant.'*

S14

142. During the period in which he admitted that he did not conduct the cell checks on Mr Anderson, DO Varley said that he was in the custody area dealing with a *'young girl'* who was *'angry and threatening self-harm'*. DO Varley said that his attention was *'taken'* with her as she had to be *'settled into custody without exacerbating her mental health issues.'*

143. DO Varley said that he was the only detention officer on duty and *'too much was being placed on me'* and it was not possible to complete everything *'that was being thrown at me'*. Whilst he stated that he was fit for duty, he said that he was awaiting counselling treatment for Post-Traumatic Stress Disorder after being diagnosed with the condition.

### > Analysis

144. The Police and Criminal Evidence Act Code C sets out the standards for the care and treatment of people detained in custody, and states that a custody officer must perform the functions of Code C as soon as practicable.

145. PACE Code C also states that if at any time an officer has any reason to suspect that a person of any age may be vulnerable (which includes possible mental health issues) in the absence of clear evidence to dispel that suspicion, that person shall be treated as such for the purposes of this Code.

D126

146. College of Policing Approved Professional Guidance (APP) in respect of Detention and Custody lists the information to be recorded on a person's detention log on arrival into custody. Not all of these were relevant to Mr Anderson upon his arrival at custody.

147. Evidence shows that PS Devine recorded the following information on the detention log:

- Grounds for arrest
- Grounds for authorising detention

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- Search (level of search and persons present) and property withheld from or kept by the detainee following the search
- Risks identified and control and/or support measures
- The level of observation required for a detainee
- Medical questionnaire
- Time placed in cell and cell number
- Other relevant information

148. In addition to the above, the evidence shows that when completing the detention log, PS Devine recorded in detail an accurate record of Mr Anderson's answers during the booking-in process. PS Devine appears to have recorded this in line with APP guidance.

149. The following information was not recorded on the detention log and does not appear to be in line with APP guidance:

- That the cell was searched
- That the cell call system within each cell had been checked to ensure it was fully operational

D126

150. APP states that the detainee should be informed of their rights. The evidence shows that PS Devine informed Mr Anderson of his rights, and this is recorded in the detention log signed by Mr Anderson. This appears in line with APP guidance.

D126

D128

151. PS Devine placed Mr Anderson on level 2 observations. APP states the following regarding level 2 (intermittent observation): 'Subject to medical direction, this is the minimum acceptable level for detainees who are under the influence of alcohol or drugs, or whose level or consciousness causes concern. It includes the following actions:

- The detainee is visited and roused at least every 30 minutes
- Physical visits and checks must be carried out – CCTV and other technologies can be used in support of this
- The detainee is positively communicated with at frequent and irregular intervals
- Visits to the detainee are conducted in accordance with PACE Code C Annex H'

152. A level 1 observation requires a check on the detainee every hour, and a level three observation requires the detainee be under constant observation. Given the information available to PS Devine at the time, it appears that level 2 observations were appropriate for Mr Anderson at the time and in line with APP guidance.

D130

153. APP states that the custody officer must, in accordance with PACE Code C paragraph 9.5 and the Mental Health Act 1983, ensure that appropriate medical

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attention is given as soon as practicable to any detainee who: *...appears to be, they suspect, or have been told may be experiencing mental ill health...*. Following further information from L&D services and after visiting the cell himself, PS Devine requested a HCP assess Mr Anderson. This action appears in line with APP guidance.

- D128 154. APP states the custody officer must ensure that all relevant information is made available to the HCP. Ms Wear had access to Mr Anderson's records prior to her visiting Mr Anderson, which is in line with APP guidance.
- D126 155. APP states that following an examination, the HCP should record any clinical findings relevant to their custodial healthcare and directions in the detention log. Ms Wear completed the detained persons medical form which updated the detention log, therefore her actions appear to be in line with APP guidance.
- D126 156. APP states that detainees should be able to remain clean and comfortable while in custody. Changes of clothing, especially underwear, should be facilitated as required. Forces should ensure that alternative clothing is readily available within their custody suites. Officers must justify the removal of clothing for safety or investigative purposes and record this in the risk assessment and detention log.
157. In his account, PS Devine stated that Mr Anderson's clothes were removed for safety purposes, however this was not recorded on the detention log, only by DO Varley when recording the adverse incident. The decision to remove Mr Anderson's clothing for safety purposes appears in line with APP, however the failure to record it on the risk assessment and detention log was not.
- D126 158. APP states that custody staff are directly responsible for observing and supervising detainees. They should be aware of the risks that have been identified, and the purpose of the allocated level of supervision that is deemed necessary. Staff must note all visits and observations, including the detainee's behaviour/condition, in the detention log. They must report on any changes in the detainee's behaviour/condition to the custody officers immediately and review and update the risk assessment as appropriate. It continues, saying that the use of technology does not remove the need for physical checks and visits.
- D126 159. Under level 2 intermittent observations, APP states that:
- The detainee is visited and roused at least every 30 minutes
  - Physical visits and checks must be carried out – CCTV and other technologies can be used in support of this
  - The detainee is positively communicated with at frequent and irregular intervals
160. The available evidence shows that prior to Mr Anderson's move to the CCTV cell, DO Varley visited Mr Anderson's cell in line with level 2 observations and recorded accurate corresponding entries on the detention log. DO Varley also liaised with PS

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Devine and kept him updated on Mr Anderson's behaviour. These actions appear in line with APP guidance.

161. The evidence suggests that after the officers moved Mr Anderson to a CCTV cell, DO Varley did not conduct cell checks in accordance with level 2 observations. The CCTV footage shows that between 5.06 and 6.30pm nobody conducted a cell check on Mr Anderson. This is not in line with APP guidance as Mr Anderson was still on level 2 observations.

162. At 6.21pm, DO Varley made an entry on the detention log that Mr Anderson had been visited, was awake, responding to questions and was sitting on the seat in the cell. The available evidence shows that DO Varley did not conduct a physical check but instead appeared to use the CCTV monitor at the charge desk to observe Mr Anderson. APP states that technology can be used in support of cell checks, but it does not remove the need for physical checks and visits. DO Varley's actions in not performing the physical check, and recording that he had were not in line with APP guidance.

> Events – post 7pm

> Timeline

D4 163. At 7pm, PS Devine recorded on the detention log that PS Harron took over responsibility for the care of Mr Anderson.

D96 164. The charge desk footage shows that at 7.17pm, PS Harron has a telephone conversation in which he says: *'He seems ok, he's settled down, erm he's walking about the cell. Erm, erm, yeah he's calmed down, he's talking to himself. Erm I think it's more mental than influence, he's been in since twelve o'clock. So he's (inaudible). Right, yeah, no problem doctor. See you later, bye'*. PS Harron then returns to the computer at the charge desk.

D97  
D4 165. At 7.18pm, DO Kenny performs a cell check on Mr Anderson and updated the detention log with the following: *'Outcome: Other. Details: continues to converse himself [sic]'*.

D95 166. At 7.45pm, Dr Paul Estemberg arrives at the Peterlee custody facility. The CCTV at the charge desk shows that a conversation took place off-camera between Dr Estemberg and PS Harron regarding Mr Anderson, but the majority of this is inaudible due to other noises in the custody area.

D95 167. At 7.47pm, PS Harron and Dr Estemberg look at Mr Anderson's record on the computer screen at the charge desk and discuss his medical history. Preparations are made for extra officers to attend Mr Anderson's cell with Dr Estemberg in case Mr Anderson *'kicks off'*.



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- D97 168. The CCTV footage of the corridor shows that at 8.06pm, Dr Estemberg and two police officers visit Mr Anderson's cell. The two police officers enter first, followed by Dr Estemberg.
- D84 169. CCTV footage from inside the cell shows Mr Anderson initially naked then attempting to put this clothing on, but he puts both legs through one leg of the trousers. Mr Anderson kicks the trousers off and walks towards the cell door but is stopped by one of the officers. Mr Anderson walks back into the cell and attempts to put his trousers on but does not manage to do so and he throws the trousers on the floor.
- D84 170. Mr Anderson picks up the trousers and begins to fidget with them. One of the officers steps into the cell and picks the trousers up, holding them out to Mr Anderson who takes them. The officer walks back out the cell, followed by Mr Anderson who is stopped at the door.
- D84 171. Mr Anderson walks back to the bed in the cell and sits there for 22 seconds before standing up and walking back towards the cell door. Mr Anderson is out of the cell for a few seconds before he walks back in and picks up his clothing. Mr Anderson walks back over to the cell door which had now been shut and bangs on it. He throws the clothing onto the cell mattress, points towards something unidentified in the cell and then begins to press on the cell door.
- D97 172. At 8.07pm, Dr Estemberg walks back down the corridor to speak with DO Kenny. The two stop to obtain what appears to be a blanket from a cupboard on the corridor
- D84 D97 173. At 8.09pm, DO Kenny takes the blanket into cell D4, the one next to where Mr Anderson is, and one of the police officers motions for Mr Anderson to leave cell D3, which he does. Mr Anderson then walks into cell D4.
- D83 174. CCTV footage within cell D4 shows that Mr Anderson again attempts to put the clothing on. After putting one leg inside the trousers, Mr Anderson appears to be shaking and there is a delay in him putting his other leg through.
- D83 175. The footage shows that at 8.10pm, Mr Anderson walks forward and raises his hands as he gets to the cell door. One of the police officers places his hand around Mr Anderson's wrists and pushes him back into the cell. Mr Anderson holds his hands out and again walks back towards the door. The police officer then places his hand on Mr Anderson's right biceps and pushes Mr Anderson back into the cell.
- D83 176. At 8.11pm, Mr Anderson again tries to leave the cell, but he is stopped by the police officers, who have their hands up with open palms. Mr Anderson appears agitated and attempts to leave the cell again, but an officer pushes him back into the cell. Mr Anderson then sits on the bed while officers continue to talk with him. At 8.12pm, Mr Anderson stands up and starts pointing as he speaks to the police officers. In response, one of the police officers shakes his head and holds both hands up with open palms. Mr Anderson takes a step forward and the officers move him back towards the bed where Mr Anderson sits down. The officers then leave the cell.

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- D4 177. At 8.11pm, DO Kenny updated the detention log with the following for an observation recorded at 8pm: *'...Details: continues same behaviour'*.
- D95 178. CCTV footage shows that at 8.13pm, Dr Estemberg returns to the medical room within the custody facility. During this time DO Kenny is sat at the charge desk where PS Harron and a female member of staff are dealing with another detainee. CCTV coverage in the custody area does not extend to the custody facility back office, and the available CCTV evidence of the area does not record a conversation between Dr Estemberg and PS Harron prior to Dr Estemberg entering the medical room.
- D95 179. CCTV footage shows that 8.14pm, Dr Estemberg walks out of the medical room and into the area behind the charge desk. At 8.16pm, he returns to the medical room.
- D95 180. At 8.17pm, DO Kenny enters the medical room and leaves shortly afterwards to return to the custody desk.
- D95 181. At 8.20pm, Dr Estemberg leaves the medical room with his phone in his hand and into the area behind the charge desk. At 8.22pm, Dr Estemberg returns to the medical room.
- D95 182. At 8.24pm, DO Kenny approaches PS Harron at the charge desk. DO Kenny holds one arm up with his hand in a fist with his thumb pointing down the corridor. The two speak and though much of the conversation is inaudible DO Kenny comments *'he's just going to call the crisis team'*. The investigation found no CCTV or audio evidence that Dr Estemberg verbally informed PS Harron of his findings in respect of Mr Anderson or recommended a change in observation level for him.
- D4 183. At 8.31pm, DO Kenny updated the detention log with the following for an observation recorded at 8.30pm: *'...Details: continues behaviour'*.
- D4 184. At 8.32pm, DO Kenny updated the detention log with the following: *'Person moved to Peterlee – Det 4 on Mon 24.06.2019 at 20:10 BST by CIV 6371 Kenny for current cell soaked in urine and FME required DP to be assessed in cell and requested a dry one.'*
- D95 185. At 8.33pm, DO Kenny enters cell D3 with a mop and bucket. DO Kenny walks back and forth between a cupboard on the other side of the corridor and the cell as he cleans the cell with the mop.
- D4 186. At 8.40pm, Dr Estemberg updated the detention log with the following: *'A medical examination was carried out on Mon 24/06/2019 at 20:00 BST by CIV 70552 ESTEMBERG at DET4. (HCP Reference DHM). The HCP's opinion I seen in the cell agitated, tried to get out. He did not make any sense when verbally engaged. Where the advice given by the HCP is EDT contacted in a purpose to organise mental health act assessment. The risk of self harm/suicide of the detainee is high. The detainee is not to have an appropriate adult. The detainee is fit to be detained. The detainee is not fit for interview because mental assessment. The detainee is fit for transfer. The detainee is not required for a medical review. The HCP recommends*

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*the detainee is a... [sic] The detainee is not fit for charging because mental assessment. The medical exam was concluded on 24/06/2019 at 20.42 BST by Health Care Professional'. Dr Estenberg leaves custody at 9.30pm.*

- D95 187. At 8.45pm, DO Kenny returns to cell D3 for six seconds before walking away from the cell.
- D4  
D83 188. CCTV footage then shows DO Kenny in the vestibule outside Mr Anderson's cell at 9pm, 9.21pm and 9.59pm. DO Kenny recorded<sup>n</sup>the visits on the detention log and noted that Mr Anderson *'continues to argue with himself'*.
- D95 189. Mr Kemp, Dr Suresh and Dr Salim arrive to perform the mental health assessment of Mr Anderson, and at 10.20pm, PS Harron shows them the view of Mr Anderson on the CCTV monitor at the charge desk.
- D98  
D83 190. At 10.30pm, PS Harron, two police officers, Mr Kemp, Dr Suresh and Dr Salim walk to Mr Anderson's cell to perform the mental health assessment. CCTV footage shows Mr Anderson interacting with people at the cell door between 10.31 and 10.39pm.
- D4 191. At 10.38pm, DO Kenny updated the detention log with the following: *'Details: MHA assessment being carried out in cell'*.
- D98 192. At 10.39pm, the group return to the charge desk area and go into the back office area off-camera. Their conversation is inaudible.
- D83 193. The cell footage appears to show Mr Anderson's demeanour change following the assessment and he becomes more agitated as he shifts his weight between his feet. Mr Anderson throws a pillow at the door a number of times before holding the pillow to the door and twisting it as he applies pressure. Mr Anderson then throws the pillow at the door and jumps onto the bed.
- D98  
D4 194. At 11.01pm, DO Kenny performs a cell check and recorded the following on the detention log: *'...Details: continues to wander about cell talking to himself and punching pillow'*.
- D83 195. The cell footage shows that at 11.17pm, Mr Anderson climbs on to the bed before stumbling off. Mr Anderson lands on his right foot but as his body turns he falls and lands on the floor on the right side of his hip. Mr Anderson stands up straight away, limping on his right foot once before walking on it normally. Shortly afterwards, Mr Anderson appears unsteady on his feet.
- D83 196. Mr Anderson presses his shoulder against the cell door and at 11.19pm, he falls onto the mattress on the floor, landing on the left side of his body. Mr Anderson remains on the mattress curled up and appears to be talking to someone. At 11.20pm, Mr Anderson lifts his head up and pushes himself up so that he is sat on the floor. Mr Anderson appears breathless. At 11.22pm, Mr Anderson, who is now sat on the bed, raises his hands to his mouth appearing to mimic swallowing something.

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- D83 197. As Mr Anderson continues to walk around the cell, he is now noticeably more unsteady on his feet, struggling to keep his balance.
- D83 198. At 11.24pm, Mr Anderson tries to stand but does not appear to be able to do so and stumbles onto the cell floor on his back. He turns himself over and raises himself onto his hands and knees. Mr Anderson then continues to move around the cell on his knees, gesticulating with his arms.
- D83 199. Between 11.25 and 11.34pm, Mr Anderson, increasingly unsteady on his feet moves around the cell. During this time, he loses his balance a number of times and drops to the floor. At different times he is standing, kneeling, sitting and lying in the cell but his movements do not display the same co-ordination as earlier in the day. Mr Anderson appears to lack coordination. He tries to push himself up to his knees and stand several times but eventually he lies on the floor of the cell. There is movement in his head, arms and legs at various times but also times when he remains still.
- D83 200. At 11.34.35pm, Mr Anderson's body begins to roll slightly and five seconds later he stretches out his right arm to the side of him, which moves in a jerking motion. After four seconds, Mr Anderson brings his arm back to where it had been resting on the mattress. His body rests back down on the mattress, continuing to make small movements.
- D83 201. At 11.35.21pm, Mr Anderson lifts up his head and his legs move to his right side in a jerking motion. Mr Anderson holds onto the edge of the mattress with his left hand (his right arm is out of view underneath him), and he appears to be trying to pull himself up. At 11.35.26pm, Mr Anderson's face rests back down on the mattress, his legs continue to make small jerking movements. Mr Anderson rests on his knees with his arms out either side of him, bent at the elbow. Mr Anderson's sways his body from side to side twice.
- D4 202. At 11.35pm, DO Kenny updated the detention log with the following: '*...Details: remains awake appears otherwise physically well.*'
- D83 203. CCTV footage shows Mr Anderson continues to make small movements with his head until 11.36.22pm. At 11.37.13pm Mr Anderson shifts his body twice and his legs begin to move slightly. After this, Mr Anderson lies still apart from small head movements, which eventually stop. Mr Anderson then remains on his stomach on top of the mattress on the cell floor. His feet are close to the cell door and his head is near the bed. His right leg is straight, and his left leg is bent slightly at the knee. Both arms are above his head and bent at the elbow.
- D97 204. At 11.59pm, DO Kenny enters cell D4 vestibule area, where he remains for 48 seconds. Cell CCTV shows that DO Kenny did not enter the cell. DO Kenny then goes into D3 vestibule and at 12.01am, he walks back up the corridor towards the charge desk.
- D98 205. CCTV footage of the charge desk shows that at 12.01am, DO Kenny walks back to the custody desk and into the back office. A conversation can be heard but is

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inaudible, apart from the word *'face down'*. DO Kenny and PS Harron walk back into the charge desk area, where PS Harron picks up some gloves. DO Kenny says to PS Harron: *'Just to make sure he hasn't knocked himself out'*. The conversation continues as they walk back towards Mr Anderson's cell but it is inaudible.

D98  
D83

206. At 12.02.29am, DO Kenny and PS Harron walk into cell D4. CCTV footage inside the cell shows that DO Kenny walks into the cell and stands in the corner, looking down at Mr Anderson for 14 seconds. DO Kenny then steps to his right and walks around Mr Anderson. PS Harron then enters the cell and stands where DO Kenny had initially stood. As the CCTV footage does not have sound it is not known what, (if anything) is said at this point.

D83

207. At 12.02.47am, DO Kenny bends down and places his left hand on Mr Anderson's left hip and his right hand on the side of Mr Anderson's neck. DO Kenny moves his right hand to Mr Anderson's left shoulder and gently shakes him twice. Mr Anderson does not respond. DO Kenny then places his right hand on Mr Anderson's left side and pulls back with his arms, but Mr Anderson does not respond.

D83

208. At 12.02.54am, DO Kenny stands up and appears to say something to PS Harron. DO Kenny tenses both of Mr Anderson's arms which are bent out at the elbow. He relaxes his arms and then looks down at Mr Anderson before tensing his arms again. DO Kenny then bends down and places his right hand on Mr Anderson's left arm and shakes it but Mr Anderson does not respond. DO Kenny and PS Harron speak to each other; PS Harron points to DO Kenny and then towards Mr Anderson's right arm.

D83

209. At 12.03.17am, DO Kenny bends down on Mr Anderson's right side with PS Harron on Mr Anderson's left side. DO Kenny shakes Mr Anderson's right shoulder and PS Harron lifts Mr Anderson's left arm at the biceps. As PS Harron lifts Mr Anderson, Mr Anderson's body appears rigid with no movement in his arm, neck or head. Due to PS Harron obstructing the camera's view, it is not clear when he lets go of Mr Anderson but at 12.03.29am, DO Kenny's hand is free. PS Harron remains bent over Mr Anderson as DO Kenny stands at Mr Anderson's feet.

D83  
D98

210. At 12.03.34am, both officers leave the cell. Mr Anderson does not move and remains in the same position. CCTV in the corridor shows PS Harron walk down the corridor first, followed by DO Kenny five seconds later.

D98

211. CCTV footage of the charge desk shows that at 12.03.36am, PS Harron and DO Kenny walk through to the back office and have a conversation which is not recorded on the camera. At 12.04.32am, PS Harron and DO Kenny walk back into the charge desk area followed by two police officers. DO Kenny says: *'that's the thing, he's not unconscious cause he's like that (he mimics Mr Anderson's position with his arms). It's like he's gone into a spasm but he's (inaudible)'*. PS Harron takes a black bag from the charge desk area and the group then walk back towards the cell.

D98  
D83

212. At 12.04.59am, PS Harron, DO Kenny and the two officers walk into cell D4. DO Kenny enters the cell first and walk towards Mr Anderson's head. A police officer and

OFFICIAL

PS Harron follow him into the cell and the second police officer stands in the doorway.

- D83 213. At 12.05.11am, DO Kenny taps Mr Anderson on the right shoulder but there is no response from him. DO Kenny then places his left hand on Mr Anderson's shoulder and turns him over. Mr Anderson appears rigid in his torso, arm, neck and head (which remained in position as he is turned). DO Kenny moves Mr Anderson's left arm but there is no response from Mr Anderson. DO Kenny then places his right hand on the side of Mr Anderson's neck.
- D83 214. At 12.05.30am, DO Kenny moves Mr Anderson onto his back. Mr Anderson still appears rigid and his right arm remains bent at the elbow. PS Harron and the two police officers stand over Mr Anderson while DO Kenny is bent over, checking Mr Anderson's neck.
- D83 215. At 12.05.47am, a police officer commences CPR on Mr Anderson and at 12.06.10am, PS Harron and DO Kenny place defibrillator pads on to Mr Anderson.
- D96 216. CCTV footage shows that at 12.05.46am, an officer calls an ambulance from the charge desk telephone. The officer informs the ambulance service that Mr Anderson is not breathing and that they need an ambulance immediately. The officer says: '*...we believe he's just died*'. He says that officers are currently providing first aid and that his colleagues attached a defibrillator to Mr Anderson which is advising '*not to shock*'. The officer provides the ambulance service with Mr Anderson's personal details and details of his medical history whilst in custody.
- D83 217. At 12.06.37am, in cell D4 a second police officer takes over chest compressions on Mr Anderson. Officers then briefly stop as the first police officer places something over Mr Anderson's mouth, however it is not clear from the CCTV footage what this is.
- D83 218. The officers continue CPR until 12.11am, when paramedics arrive and provide him with medical assistance. The officers assist the paramedics whilst they work on Mr Anderson.
- D4 219. At 12.19am, DO Kenny made an entry on the detention log detailing that he had checked Mr Anderson at 12am and that Mr Anderson '*remained in the same position as he had been previously*.' DO Kenny noted that Mr Anderson was '*not making a sound*' and this differed from his earlier check when he had heard Mr Anderson '*talking to himself in a low mumble*'. DO Kenny recorded that he did not enter the cell alone due to Mr Anderson's '*earlier action*', and that he informed PS Harron of his '*concerns*' and requested that he attend the cell alongside him. DO Kenny's entry noted that as he and PS Harron got to the cell, Mr Anderson was still '*unresponsive*' but felt that Mr Anderson was resisting attempts to move his arms. The entry stated that '*it was decided that we should summon further assistance*' so they could '*safely move the detainee (Mr Anderson) around*.' When the other officers arrived, they moved Mr Anderson, began CPR and attached a defibrillator.

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220. CCTV footage shows that the paramedics continue with first aid until 12.31am, when they declared Mr Anderson as *'life extinct'*. All medical and custody staff leave the cell at 12.34am.

D98

221. After leaving Mr Anderson's cell officers initially gather back in the charge desk area. CCTV footage shows DO Kenny in conversation with other officers saying that when he checked on Mr Anderson at 11.35pm, he was in positioned in similar a way to how he had been later discovered, but DO Kenny says that Mr Anderson was *'breathing'* and *'talking to himself'*. During these exchanges DO Kenny also says to PS Harron " *'...And then that's why I said I needed you so I could go in, cause earlier I wasn't gonna go in by myself... (inaudible). That's why I put on the log, otherwise appears physically well cause that's what he appeared, physically well. He was breathing, he was talking'*.

> Accounts

> Dr Paul Estemberg

S12

222. We obtained a statement from Dr Estemberg, who recalled that on 24 June 2019 he was the night shift FME and started his shift at 7pm. He stated that the day shift FME, Dr Said, contacted him and told him he had been asked to conduct a mental health assessment on a detainee at Peterlee custody.

223. Dr Estemberg explained Dr Said told him that he had been informed by custody staff that the detainee was *'aggressive, volatile and not fit for assessment at that time'*. Dr Said told him that he would not be able to conduct the assessment as he had to attend the scene of a sudden death elsewhere. Dr Said asked Dr Estemberg to *'pick up the mental health assessment'* at the start of his shift.

224. Dr Estemberg agreed to conduct the assessment at Peterlee custody and contacted them by telephone at 6.58pm, and then again 7.13pm, both calls without reply. He telephoned again at 7.17pm and spoke PS Harron. Dr Estemberg recalled that PS Harron identified the detainee as Mr Anderson and informed him he was still in custody and a mental health assessment was still required. Dr Estemberg informed PS Harron that he would be there in approximately 30 minutes.

225. Dr Estemberg said he arrived at around 7.45pm and he initially observed Mr Anderson on the CCTV monitor at the charge desk. He recalled that Mr Anderson was naked and appeared to be talking to himself. He added that Mr Anderson had been *'screened'* by the Liaison and Diversion (L&D) team but they had not seen him.

226. Dr Estemberg said that PS Harron informed him of the circumstances surrounding Mr Anderson's arrest. He described Mr Anderson's demeanour as *'aggressive and unpredictable'* and told Dr Estemberg that Mr Anderson had said he felt like he was *'plunging in a river'*.

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OFFICIAL

227. Dr Estemberg went to the medical room in order to read the notes from the L&D team, which he felt would be useful as it included notes from the mental health services computer system to which he does not ordinarily have access. Dr Estemberg said that these notes showed that Mr Anderson was *'involved'* with mental health services and was assigned to a community psychiatric nurse. He recalled that the notes showed that Mr Anderson had been *'seen'* in regard to his mental health on 19 June 2019 and had been *'okay'*. He interpreted the notes to indicate that *'there were no urgent symptoms of mental health deterioration'* at the time of that examination.

S12

228. Dr Estemberg also noted that Mr Anderson had earlier been seen by an HCP (Ms Wear) who had concluded Mr Anderson was fit to be detained. Dr Estemberg decided to conduct the mental health assessment with Mr Anderson in his cell. If possible, he would then continue it in the medical room.

229. Two police officers accompanied Dr Estemberg to Mr Anderson's cell. Dr Estemberg recalled that the floor was covered in fluid that he believed to be urine. Mr Anderson was sitting naked on the bench in the cell. When introduced to Mr Anderson, Dr Estemberg recalled that Mr Anderson's response was *'check my balls'* which Dr Estemberg took to be a sarcastic remark. Dr Estemberg examined Mr Anderson from the open door whilst Mr Anderson sat on the bench in the cell

230. Dr Estemberg recalled asking Mr Anderson if he had any medical conditions or if he had used drugs, but Mr Anderson did not provide a *'coherent response'*. During the examination Mr Anderson became *'more agitated'* arguing with the officers and attempting to get out of his cell.

231. In order to *'continue the conversation in a more human way'*, Dr Estemberg asked Mr Anderson to put on the pair of shorts that were in the cell. He noted that Mr Anderson attempted to put on the shorts but struggled *'due to his agitation'*. Dr Estemberg noticed that the shorts were wet and advised the officers that Mr Anderson should be moved to a clean cell and provided with dry clothes.

232. Dr Estemberg said that Mr Anderson was moved to another cell and the officers assisted in putting him in some shorts. Dr Estemberg said that he again tried to engage Mr Anderson in conversation, asking about his *'health and possible use of drugs'* but he did not receive *'any coherent answers'*. Dr Estemberg noted that Mr Anderson *'became aggressive, moving toward the officers attempting to leave the cell'*, and the officers had to block Mr Anderson from leaving.

S12

233. Dr Estemberg decided that he could no longer continue with the assessment. He explained that if he continued it would *'increase Mr Anderson's agitation and the chances of a physical struggle with the officers'*. Dr Estemberg recalled his examination of Mr Anderson in the cell(s) took *'approximately 13-15 minutes'*.

234. On completion of his examination, Dr Estemberg noted that due to Mr Anderson's behaviour, his lack of coherent conversation, apparent hallucinations, and his previous engagement with mental health services, Mr Anderson needed an

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## OFFICIAL

assessment under the Mental Health Act. Dr Estemberg stated he informed PS Harron of his findings and that he would telephone the 'emergency duty team'

235. Dr Estemberg added he informed PS Harron that Mr Anderson required level three CCTV cell observations and that he passed this information on to the sergeant at the 'custody booking in desk, or custody back office'. Dr Estemberg could not recall if there was a response from PS Harron in relation to this information.
236. Dr Estemberg said that he went into the medical room to arrange the Mental Health Act assessment of Mr Anderson. After receiving no answer from the Durham crisis team, he telephoned the emergency duty team to arrange the assessment. After speaking with them, Dr Estemberg updated Mr Anderson's notes on the NHS record system.
237. Dr Estemberg also recorded his findings on the Detainee Custody Medical Form and placed Mr Anderson on level three cell observations. He explained that he 'classed' Mr Anderson as 'high risk from self-harm/suicide due to his unpredictable behaviour'. He explained he considered Level 3 observations appropriate as an officer by the cell door conducting level four, close proximity observations, may have unnecessarily agitated Mr Anderson further.
- S12 238. Dr Estemberg said that at 8.28pm, he received a telephone call from a social worker who took details of his referral. The social worker said that he would telephone 'his doctors' to check their availability. If they were not available, Dr Estemberg would have to remain and be the 'second doctor' in the Mental Health Act assessment. Dr Estemberg recalled that he received a telephone call back at 9.23pm, whilst still in custody, informing him that enough doctors had been located and he was not required to assist in the assessment. He passed this information on to PS Harron before leaving custody at around 9.30pm.
239. In regard to Mr Anderson's medication Dr Estemberg said that he 'cannot recall' if he had a conversation with custody staff regarding this but noted that he did not administer any medication to Mr Anderson.
240. Prior to leaving custody, Dr Estemberg stated that he checked the CCTV monitor above the charge desk and said that he 'did not notice any improvement or deterioration of Mr Anderson'.

### > Mr David Kemp

- D15  
S11 241. Mr David Kemp was a social worker and trained Approved Mental Health Professional (AMHP). Part of his duties were to provide emergency Mental Health Act assessments. Mr Kemp provided a written account to Durham Constabulary in the early hours of 25 June and we obtained a further statement from him on 8 October.

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242. Mr Kemp said that on 24 June, he was informed via his department's call handling service that the 'on duty' FME had requested a Mental Health Assessment for a detained person at Peterlee custody.
243. Mr Kemp said that he telephoned Dr Estemberg who explained details of Mr Anderson, the events of his arrest, and how he was currently presenting whilst in custody. Dr Estemberg told Mr Kemp that Mr Anderson was '*psychotic*' and believed that he was '*in a river*' and that he was trying to get out of his cell. Dr Estemberg believed that Mr Anderson was unfit for interview. Mr Kemp asked if the police were able to move Mr Anderson, but Dr Estemberg told him that this '*wouldn't be manageable*'.
- D15  
S11 244. Mr Kemp recalled that Dr Estemberg asked if he would be required to wait at Peterlee custody and assist in the mental health assessment. Mr Kemp informed Dr Estemberg that he would not have to remain if Mr Kemp was able to secure two approved doctors to perform the assessment of Mr Anderson along with him.
245. Mr Kemp telephoned the Tees, Esk and Wear Valleys NHS Trust on-call psychiatrist, Dr Suresh, to inform her of the proposed assessment; and then telephoned Dr Salim, an approved doctor who also agreed to attend. They agreed to meet at Peterlee custody at 10.30pm to conduct the Mr Anderson's assessment.
246. Prior to attending custody, Mr Kemp recalled that he checked local social services databases for information about Mr Anderson and made tentative enquires with the '*crisis team*' to secure a bed in a psychiatric care facility. Mr Kemp also contacted Mr Anderson's mother. Mr Kemp said that Mrs Anderson gave him background information as to the recent deteriorating state of Mr Anderson's mental health.
247. Mr Kemp stated that he arrived at around 10.15pm and met with Dr Salim and Dr Suresh. They observed Mr Anderson in his cell via the CCTV monitor. Mr Kemp noted that Mr Anderson was talking to himself and appeared agitated. Mr Kemp said that Mr Anderson '*presented very similar to people I have seen in the past who are suffering from psychosis*'. He added that as Mr Anderson's behaviour was '*unpredictable*', he and the two doctors decided not to remove Mr Anderson from the cell in order to perform the MHA assessment.
248. Accompanied by police officers and the doctors, Mr Kemp walked to Mr Anderson's cell. Mr Kemp noted that Mr Anderson was talking continuously and would not initially sit down, despite requests from the officers. Mr Kemp and the doctors started their assessment through the open door from the threshold of the cell.
- D15  
S11 249. Mr Kemp saw that Mr Anderson was wearing paper shorts and noted he had an injury to his right hand and blood on the cell walls that he felt may have been from Mr Anderson punching them. He recalled Mr Anderson presenting as '*psychotic*' at this time, with rapid speech, and responding to '*unseen stimulus*'. Mr Kemp said they struggled to get any answers from Mr Anderson at this time and that he '*appeared to have no insight as to how ill he presented*'. After spending ten minutes assessing Mr Anderson in the cell, Mr Kemp and the doctors returned to main custody area and

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observed Mr Anderson again via the CCTV monitor. During this time, they saw Mr Anderson holding up the blue cell mattress in front of himself as some kind of 'shield' as he talked at the door. He then threw the mattress at the cell door. Mr Kemp said that following this, he and the doctors decided that Mr Anderson needed to be 'formally detained' under Section 2 of the Mental Health Act 1983.

250. Mr Kemp said that as an AMHP he completed an 'application for detention form', as he felt that Mr Anderson could not return home or to his grandfather's address and as such community support options were not open to him. Due to the way Mr Anderson was presenting he believed, 'more intensive assessment and treatment would be needed within a psychiatric hospital'.
251. Shortly before 11pm, Dr Salim and Dr Suresh left custody and Mr Kemp remained in the medical room attempting to locate a psychiatric inpatient bed for Mr Anderson to be transferred to. No beds appeared to be available at this time and Mr Kemp said that as he continued his search, he updated Mr Anderson's mother and told her that he would contact her again when a bed had been found for her son.
252. At 12.20am, whilst he was still in the medical room Mr Kemp said that the local crisis team telephoned him for an update on Mr Anderson as they were assisting in locating a bed. Mr Kemp recalled he left the medical room to make enquires and was informed that paramedics were treating Mr Anderson. He was told shortly afterwards that sadly, Mr Anderson had died.

> DO Kenny

S1  
D107

253. DO Michael Kenny gave a brief account of events as part of the Durham Constabulary Post-Incident Procedure. We interviewed him on 5 November 2019 under the misconduct caution.
254. During his interview, DO Kenny confirmed that he was the detention officer on duty at Peterlee custody during the evening of 24 June 2019, and he had started his shift at around 6.30pm. He stated that Peterlee custody operated with a custody sergeant, and a single detention officer working together as a team covering custody operations.
255. DO Kenny explained that at times he is 'stretched' to be able to perform his duties, particularly when custody is busy or contains a number of challenging detainees. He added that it is difficult to perform and document cell checks when there are competing demands on his time.
256. DO Kenny stated that on arrival, PS Devine and DO Varley provided him with a verbal briefing, but he did not read the details of Mr Anderson's custody log as he 'did not have the chance' to do this. He stated that he was aware of an 'outburst incident' in which Mr Anderson had been restrained and that it had taken 'quite a bit of effort' to get him back into a cell. DO Kenny stated that PS Devine advised him to

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be *'very wary'* of opening the cell door as Mr Anderson may try to force himself through. DO Varley informed him that Mr Anderson felt that he was *'in a river'*.

D107

257. DO Kenny stated he was aware they were waiting for the FME to attend and assess Mr Anderson. He was also aware that Mr Anderson had been placed in a video cell so that they could *'keep an eye on him'*. DO Kenny recalled that of the two video cells, D3 was shown on the monitor at the charge desk and D4 was shown within the bank of screens in the back office behind the charge desk.

258. DO Kenny explained that at the time he thought that level 2 checks were unnecessary. He felt that Mr Anderson's behaviour and activities in the cell demonstrated that he was conscious and that he did not need to physically rouse him or obtain a response to confirm this.

259. He described Mr Anderson as *'very much awake at that point'* and that at times he appeared to be *'wading through water'*. DO Kenny stated that although he did not feel they were necessary, he performed the level 2 checks as required.

D107

260. We asked DO Kenny about an entry on the detention log which stated he had conducted a cell check on Mr Anderson at 7.23pm. The CCTV footage does not show him performing a physical check on Mr Anderson in his cell at or close to that time. DO Kenny stated the check could refer to a CCTV check but accepted that APP does not allow for this.

261. Further to this, we informed DO Kenny that we found no evidence to corroborate his entry on the detention log which stated that he completed a cell check on Mr Anderson at 8.31pm. DO Kenny was cleaning the cell next door to Mr Anderson but he did not conduct a visual check. DO Kenny explained that the observations he noted on the detention log were from hearing Mr Anderson in the adjacent cell. He again accepted that this did not constitute a cell check under APP.

262. DO Kenny recalled Dr Estemberg arrived and assessed Mr Anderson. DO Kenny explained that he was not aware of the details of the assessment, but he knew that Mr Anderson was to be seen by other mental health doctors. DO Kenny stated that he was not instructed to change the level of checks from level 2 to level 3.

D107

263. In the period between Dr Estemberg leaving and Mr Anderson's later mental health assessment, DO Kenny stated that he did not notice any significant change in Mr Anderson's behaviour, and reflected this in his entries on the detention log.

264. DO Kenny recalled Mr Anderson had a mental health assessment and the doctors left custody but the AMHP remained. DO Kenny felt this may have been in order to secure a bed in a mental health facility for Mr Anderson, although he was not directly told this. DO Kenny stated he continued to perform level 2 checks and record the outcomes. He recalled that following the mental health assessment Mr Anderson became *'violent'* punching the walls and doors of the cell, *'throwing things around and punching his pillow'*. He recalled Mr Anderson shouting loudly but did not remember any specific words.

OFFICIAL

265. DO Kenny recalled the last check he performed prior to finding Mr Anderson unresponsive. He explained he looked through the spy hole in the cell door at around 11.30pm and saw Mr Anderson on the floor of the cell. Mr Anderson was facing away from him but he could see that he was moving and breathing. DO Kenny stated he was *'pushing his arms away'* in a motion that looked like Mr Anderson was doing the *'breast stroke'*. DO Kenny said he heard Mr Anderson *'mumbling to himself...breathing in a sort of like fashion as you would do if he was swimming'*. DO Kenny stated he observed this for around five seconds before the detainee in the cell at the side of Mr Anderson began shouting so he went to deal with them. Following this, he then had other duties, so he did not have time to go back and observe Mr Anderson any further.

D107

266. DO Kenny explained that he was not concerned by Mr Anderson's behaviour as he felt that it was a manifestation of his illness. Mr Anderson's actions appeared to be consistent with his apparent belief that his cell contained water. He added that Mr Anderson's behaviour was different from earlier on, but he did not feel as though he was in distress. He explained that Mr Anderson had been seen by three doctors, all of whom had said he was mentally unwell. DO Kenny said he had not been told there was *'anything physically unwell'* with Mr Anderson.

267. We asked DO Kenny regarding his entry on the detention log which referred to the 11.30pm cell check. DO Kenny recorded *'remains awake, appears otherwise physically well.'* DO Kenny stated that he considered his words at the time and stated he wanted to show that Mr Anderson was mentally unwell, but he did not appear to be displaying symptoms of physical illness.

268. DO Kenny stated that when he conducted the next check on Mr Anderson at around midnight, he could not see any movement from Mr Anderson. DO Kenny immediately informed PS Harron and asked him to *'come down and have a look'*. He explained that he did not go into Mr Anderson's cell straight away due to concerns for his own safety.

269. DO Kenny and PS Harron opened the cell door and entered the cell. DO Kenny recalled that Mr Anderson was in the same position as he had seen him at his 11.30pm check but he was not moving, not making a noise, and did not appear to be breathing. DO Kenny felt that Mr Anderson may have *'passed out'* or that he was *'pretending to have passed out'*.

D107

270. DO Kenny stated he *'touched'* Mr Anderson's feet to see if he got a response, but there was none. PS Harron and DO Kenny then attempted to move Mr Anderson's arms. DO Kenny recalled that Mr Anderson's arms *'appeared locked'*, and he believed this inconsistent with someone who was unconscious. DO Kenny explained that if Mr Anderson had lost consciousness, his arms would have been *'quite flaccid'* and *'limp'*. He believed Mr Anderson was not unconscious and that he appeared to be *'resisting'... 'like he was pulling back'*. DO Kenny recalled that PS Harron said that he *'perceived a twitch'* in Mr Anderson's eye at this time.

OFFICIAL

271. DO Kenny explained that he and PS Harron were unsure whether Mr Anderson was unconscious or not. They wanted to turn him over so they could examine him further but feared that if they did, it would leave them *'prone to attack.'* DO Kenny added that he had experience of detainees attempting this previously and that DOs are *'taught'* to look after their own safety first.

D107

272. PS Harron and DO Kenny left Mr Anderson in the cell and went to request assistance from other officers. They returned to the cell with the officers and Mr Anderson was still in the same position. At that point, DO Kenny knew Mr Anderson was in need of first aid.

273. DO Kenny stated they turned Mr Anderson over and he applied the defibrillator pads to Mr Anderson's chest, noting that Mr Anderson's chest was *'red hot'*. DO Kenny continued to provide first aid to Mr Anderson but he remained *'rigid'*.

> PS Harron

D30  
D75  
D108  
D109

274. PS Harron gave a brief account of events as part of the Durham Constabulary Post-Incident Procedure in the early hours of 25 June 2020. On 29 August 2019 he provided a written response to the Regulation 16 notice issued to him. We interviewed him on 1 November 2019 under the misconduct caution.

275. In his recorded interview PS Harron confirmed that he was the custody officer at Peterlee on 24 June 2019 and worked a 7pm - 7am nightshift, assisted on duty by DO Kenny. As the custody officer he was responsible for the safety of detainees at Peterlee custody during his shift.

276. PS Harron stated that PS Devine provided him with a verbal handover regarding Mr Anderson. PS Devine informed him of the circumstances of his arrest and that Mr Anderson had been in custody since 11.50am. PS Harron added that during the briefing PS Devine informed him that there had been an *'altercation'* and Mr Anderson had been *'violent'* and *'fighting'* with officers in his cell. PS Devine described Mr Anderson's behaviour as *'strange'*, that he had been seen by the custody nurse and that they were unsure if Mr Anderson's behaviour was due to *'intoxication or mental health'*.

277. PS Devine had placed Mr Anderson on level 2 cell checks and PS Harron stated that he was *'quite happy'* with that assessment. He explained that Mr Anderson had been in custody since the morning and ordinarily *'if there's someone who's intoxicated after that period of time they're usually starting to sober up.'*

278. At 7pm, PS Harron assumed responsibility for Mr Anderson's detention and continued with the level 2 cell checks. PS Harron added that Mr Anderson was being checked on every half an hour, was in a CCTV cell and had anti-ligature clothing. PS Harron recalled *'the only way he can harm himself is if he's bashing his head off the wall'*, or if *'he has something plugged in an orifice'*.

OFFICIAL

279. PS Harron recalled that PS Devine told him he had requested the FME. Dr Estemberg telephoned custody at 7.19pm and informed he would attend shortly. PS Harron did not feel that raising the level of cell checks prior to the doctor's assessment was necessary.
280. PS Harron felt that he was able to monitor Mr Anderson adequately that night. He explained that Mr Anderson was in a CCTV cell with the footage available on the monitor at the custody charge desk. PS Harron recalled that custody was 'quiet' and as he spent most of his night at the custody charge desk he felt that he had the opportunity to view Mr Anderson via the CCTV screen. He acknowledged that he had relevant information regarding Mr Anderson from the detention log, a briefing from PS Devine and DO Kenny performed the ongoing cell checks.
281. PS Harron stated that before the FME's arrival, Mr Anderson was 'acting bizarrely' walking around the cell talking to himself and he felt it appropriate that Mr Anderson had been referred to the FME for assessment.
282. Dr Estemberg arrived and examined Mr Anderson in his cell. PS Harron explained that he could not ensure the doctor's safety if the examination took place in the medical room. He provided Dr Estemberg with two escorting officers throughout the examination.
283. PS Harron recalled that immediately after the examination, Dr Estemberg went straight into the medical room to write his notes. He left the medical room 15 minutes later and informed PS Harron that Mr Anderson was not fit to be interviewed and that he had requested the crisis team. Dr Estemberg informed him that he had told the crisis team he considered Mr Anderson to be at risk of self-harm if he was released into the community. He added that Dr Estemberg did not mention that he was at risk whilst in custody.
284. PS Harron stated that Dr Estemberg '*never mentioned constant watch at all.*' He added that in his experience, the doctor should inform the custody officer immediately after the examination if constant watch was required. PS Harron explained that '*everything stops for a constant watch*', and if Dr Estemberg had informed him of increased risk or had a recommended change in the observation levels, he would have done so '*there and then*'. PS Harron added, '*we don't mess about with that, it's not worth it*' and that if a doctor recommends an increase to '*constant watch*,' it makes his job '*a hell of a lot easier*' as he would '*just go and get a cop and they sit with them*'. PS Harron was adamant that Dr Estemberg did not inform him that Mr Anderson's level of observations should be increased.
285. PS Harron explained that on the detention log, there was information on detainees listed under different option tabs and he would usually only have the main detention log screen open as this was a '*chronological order of what's happened throughout the detention*'.
286. PS Harron stated that whilst he had access to the detained person medical form on the custody computer system, he would only usually view the content when there

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was *'medication to be delivered'*. He added that he did not read the HCP or FME notes as they are *'usually put on the detention log'*, and *'the necessary stuff that we need to look at is on the detention log'* and *'if there's anything urgent needs doing, They'll (medical staff) come and give us a verbal handover'*, before recording it on the log.

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287. In his interview, we showed PS Harron a printout of the detained person's medical screen relating to Mr Anderson which showed Dr Estemberg's notes recommending level 3 observations. PS Harron stated this was not replicated on the detention log and he continued Mr Anderson on level 2 observations.
288. PS Harron explained he was aware that he could overrule the doctor's decision regarding levels of observation, but he was satisfied that following Dr Estemberg's assessment, Mr Anderson should remain on level 2 observations. He added that Mr Anderson was in a camera cell and that it was *'a quiet night'* that allowed him to watch Mr Anderson on CCTV *'a lot of the time,'* but accepted that *'it certainly wasn't a constant watch'*.
289. PS Harron stated that following Dr Estemberg's examination, Mr Anderson had periods of agitation, walking around the cell and speaking to himself, and times when he laid down in the cell. He added that he did not see Mr Anderson punch the walls of the cell or do anything that would have caused him to consider increasing the levels of observation on Mr Anderson.
290. PS Harron recalled the crisis team entered custody and he provided them with *'a bit of background'* on Mr Anderson. PS Harron and DO Kenny accompanied the crisis team to Mr Anderson's cell where they assessed him. PS Harron described Mr Anderson as agitated but not violent and *'obviously distressed mentally'*.
291. After the assessment, the crisis team informed PS Harron that Mr Anderson needed to go to hospital and the social worker entered the medical room to contact the mental health facilities to try and find Mr Anderson a bed. The two medical doctors left immediately after the assessment. PS Harron stated he could not recall any conversation or discussion regarding Mr Anderson's physical health and he was not instructed to increase Mr Anderson's observation level and he did not think it necessary to do so.
292. PS Harron said he was *'relieved'* that Mr Anderson was going to leave custody and be placed into psychiatric care, but he knew that finding a bed on a mental health ward could take some time. PS Harron continued to watch Mr Anderson on the CCTV monitor and observed him walking around and lying down, which was consistent with his previous behaviour.
293. PS Harron recalled that around midnight, DO Kenny asked him to *'check on'* Mr Anderson as *'he's been talking to himself and he's just laying down on the floor.'* They both went to the cell and PS Harron explained that he was *'still a bit wary of going in,'* as Mr Anderson had been violent earlier in the day. PS Harron saw Mr

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Anderson lying face down on the floor of the cell but was still wary of going in, as he had experience of detainees feigning injury before assaulting officers.

294. He touched Mr Anderson's shoulder and said his name in an attempt to get a response. PS Harron believed he saw *'movement'* on Mr Anderson's chest and he did not think he was unconscious at that point, only that he did not want to engage. PS Harron explained that he had experience of detainee non-engagement and felt that this was what Mr Anderson may have been doing. He felt that Mr Anderson may have realised he was about to be detained in a mental health facility and perhaps not wanted to go, so was now not engaging as some sort of *'protest'*.
295. PS Harron pulled Mr Anderson's shoulder and felt that Mr Anderson was *'tense'*. He believed Mr Anderson was offering resistance and he was *'not wholly'* convinced that Mr Anderson needed first aid. He explained, *'there was nothing that made me think, oh God, he's in trouble'* and if he had, he would have immediately kicked the panic strip to raise the alarm and take Mr Anderson straight to hospital.
296. PS Harron told DO Kenny to wait outside the cell so he could observe Mr Anderson and to quickly close the cell door should he *'jump up'*. PS Harron walked away from the cell to ask for assistance, but he said this was to assist if Mr Anderson *'starts jumping up and fighting with one of us'*, and not assistance with first aid.
297. PS Harron stated he requested assistance and collected the defibrillator on the way back to Mr Anderson's cell. He explained that detainees have previously complained of chest pains or *'feeling unwell'* and he collects the defibrillator *'just in case it escalates'*. He added that he did not take the defibrillator to Mr Anderson's cell because he thought it was a medical emergency, only that it was his normal practice to do so.
298. PS Harron returned to the cell and, when an officer turned Mr Anderson over, *'it was immediately apparent that there was a real issue'*. PS Harron stated he assisted with first aid and requested an ambulance. PS Harron added that he directed officers to ensure that the ambulance crew could quickly access the custody area.

### **Custody computer system.**

299. Within its custody operations Durham Constabulary uses the PoliceWorks computer system to manage its detention logs.
300. Features of the system include a full digital detention log, electronic property management and electronic management of detainee movements through custody, and the system uses a number of information screens within the program to detail the various aspects of custody management.
301. PoliceWorks manufacturers claim that the digital *'whiteboard'* within the system ensures that custody staff are kept fully informed of the status and location of all

detainees, and that timed events, such as PACE reviews, observation visits and the administration of medication are clearly displayed and highlighted as they change.

S13

302. On 18 November 2019, the IOPC met with Inspector Ian Scott, System Manager within the business innovation team of Durham Constabulary who simulated entries on the PoliceWork computer system consistent with some of those performed during Mr Anderson's detention on 25 June 2019.
303. Whilst in the Detained Person Medical Information screen, Inspector Scott entered a similar narrative to that written in the 'free text' box on the screen by Dr Estemberg on the evening of Mr Anderson's detention. He inputted the same information in the available drop down menus as Dr Estemberg had, changing the drop down menu for the recommended observation level on the screen from level 2 to level 3.
304. We obtained a statement from Inspector Scott in which he explained that the changes he had made did not copy over onto the main digital 'whiteboard,' despite showing as changed on the detained person medical information screen. He added that if this had happened on 25 June, then the main detention log screen would not have shown Dr Estemberg's recommendation to increase Mr Anderson's observation level.

> **Post-mortem examination and toxicology results**

S2

305. On 26 June 2019, Dr Louise Mulcahy performed a post-mortem (PM) examination of Mr Anderson's body. We attended the PM and obtained a witness statement from Dr Mulcahy. In her statement, Dr Mulcahy provided a preliminary cause of death as cardio-respiratory arrest and recorded that she found no evidence of a traumatic injury that could have caused Mr Anderson's death. In addition, she stated she found no drugs or tablets *'associated with the body.'*

D125

306. The subsequent toxicological analysis of Mr Anderson's bodily fluids found that Mr Anderson had a high concentration of beta-hydroxybutyrate (BHB) in his body. The analyst explained that BHB and acetone are natural ketone bodies produced by the body. The body increases production during times of stress, strenuous exercise or as a result of poor nutrition or fasting. High concentration levels of these substances can lead to ketoacidosis, which can also be linked to diabetes or heavy drinking. The analyst concluded the level of BHB found in Mr Anderson's blood *'was well within the range of values reported in previous cases of fatalities due to ketoacidosis.'*
307. The analyst recorded that a small amount of alcohol and prescribed drugs were found in Mr Anderson's fluids. They did not find any illegal substances (drugs) and the analyst noted that *'their involvement in his death may therefore be ruled out.'* The PM report and subsequent analysis around a possible cause of death has not yet been completed.

> Analysis

- D126 308. APP states it is essential that enough time is allowed for a full and effective briefing between custody officers and staff when handing over responsibility for detainees, particularly at a shift change over. Custody officers and staff should carry out the handover together and briefings should include; the risks, disabilities, medical needs, vulnerabilities, emerging issues, control strategies and welfare needs of each detainee.
- D126 309. APP states that level 2 observation requires custody staff to visit, rouse and gain a response from the detainee at least every 30 minutes. All visits and observations, including the detainee's behaviour/condition, must be recorded on the detention log.
310. The CCTV footage shows that DO Kenny did not perform a cell check on Mr Anderson at 7.23pm or at 8.31pm, despite recording on the detention log that he did. The available evidence suggests that at these times DO Kenny was performing other duties within the custody facility. DO Kenny accepted that these actions were not in line with APP.
- D126 311. APP states that the custody officer is responsible for managing the supervision and level of observation of each detainee and should keep a written record in the custody record. It states the custody officer must take into consideration a detailed and up-to-date assessment of the risk the detainee poses to themselves and others, and any recommendations a HCP has made following medical assessment.
312. PS Harron stated he was 'happy' with the assessment of level 2 observation checks on taking over of Mr Anderson's care and thought it appropriate to continue at this level until the FME assessment. This appears to be consistent with APP.
- D126 313. APP states that the custody officer must ensure that all relevant information is made available to the HCP.
314. The available evidence shows that PS Harron provided a briefing to Dr Estemberg when he arrived at the custody facility. In addition, Dr Estemberg viewed Mr Anderson on CCTV and reviewed the appropriate custody and health records prior to conducting Mr Anderson's assessment in his cell.
- D126 315. APP says that following a medical assessment, the FME/HCP's recommendations should be given both verbally to the custody officer and in writing.
316. The evidence shows that Dr Estemberg noted the details of Mr Anderson's assessment on the detained person's medical screen on the PoliceWorks computer system and recommended that he be placed on level 3 observations. Dr Estemberg stated he also provided this information to PS Harron verbally, either at the 'custody booking in desk, or custody back office.' He did not recall a response from PS Harron.

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317. PS Harron said that Dr Estemberg *'never mentioned constant watch at all'* and that if he had, he would have increased the level of observations as *'we don't mess about with that, it's not worth it'*. The available evidence shows that PS Harron did not increase Mr Anderson to level 3 observations.

318. The investigation found no evidence of a conversation relating to the level of observations, but the conversation could have taken place in the custody back office, where there is no CCTV or audio recording.

D126

319. APP states that the custody officer is responsible for managing the supervision and level of observation of each detainee. APP further states that when they assess risk, a custody officer should take into account *'any recommendations a HCP has made following medical assessment'*.

320. APP in regard to level 3 (constant) observation states, *'If the detainee's risk assessment indicates a heightened level of risk to the detainee (eg, self-harm, suicide risk or other significant mental or physical vulnerability) they should be observed at this level.'*

D126

321. Regardless of whether Dr Estemberg recommended an increase in the observation level, the available evidence indicates that PS Harron was aware that Mr Anderson's mental health vulnerabilities were considered so severe that arrangements were being made for him to be assessed under the Mental Health Act. PS Harron considered the level of observations but was satisfied that level 2 remained appropriate. Similarly, following Mr Anderson's Mental Health Act assessment, PS Harron did not increase Mr Anderson from level 2 to level 3.

322. DO Kenny performed level 2, rouse and respond checks on Mr Anderson approximately every 30 minutes and recorded his observations on the detention log. DO Kenny accepted that he did not perform a physical check on Mr Anderson at 7.32pm, and that he recorded his observations from the CCTV monitor, which is not in line with APP. In addition, DO Kenny recorded that he conducted a cell check at 8.31pm but at that time, he was cleaning the cell next to Mr Anderson's. DO Kenny accepted that this was not in line with APP guidance for level 2 rouse and respond checks.

D130

323. PACE Code C states that the custody officer must ensure that appropriate medical attention is given as soon as practicable to any detainee who appears to need medical attention.

324. The CCTV footage supports DO Kenny's account that during the cell check he performed around midnight, he observed Mr Anderson face down on the cell mattress on the floor and apparently unresponsive. He did not enter the cell but went to the charge desk and reported this immediately to PS Harron. Both officers then went to the cell to rouse Mr Anderson but did not immediately provide him with first aid as they were concerned for their safety, due to Mr Anderson's earlier behaviour.

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325. Neither officer recognised that Mr Anderson was in need of immediate medical attention and both PS Harron and DO Kenny thought Mr Anderson was resisting their attempts to move him. PS Harron requested assistance from other officers, in case Mr Anderson became violent but they could not gain any response from Mr Anderson. PS Harron provided Mr Anderson with first aid and requested an ambulance.

- 326. The available evidence suggests there was a delay in providing Mr Anderson with first aid, due to the officers' concern for their safety and their suspicions that Mr Anderson was pretending to be unwell. The CCTV footage shows that once the officers recognised the severity of Mr Anderson's condition, they provided him with immediate first aid which continued until the paramedics arrived.

### > Overall analysis of Mr Anderson's detention

#### The level of medical assistance and care provided to Mr Anderson

327. Throughout his detention, the custody officers and staff sought appropriate medical attention and advice for Mr Anderson. They contacted the L&D team, the HCP and FME, who requested a Mental Health Act assessment, performed by AMHPs. When PS Harron and DO Kenny found Mr Anderson unresponsive, they firstly considered their own safety before providing him with first aid and requesting an ambulance. The available evidence suggests their actions were reasonable in the circumstances and in line with APP guidance.

#### The decisions and actions of the custody officers on duty at Peterlee police station

328. PS Devine authorised Mr Anderson's detention in custody. His initial risk assessment appears to have been conducted in line with APP guidance and he placed Mr Anderson on level 2 observations. Based on the information available to him at that time, this appears to be in line with APP.
329. Following Ms Wear's HCP assessment, PS Devine moved Mr Anderson to a CCTV cell to ensure his behaviour could be closely monitored. He did not increase his level of observations but did request a FME to examine Mr Anderson.
330. PS Devine and DO Varley provided PS Harron and DO Kenny with a detailed handover and highlighted their concerns regarding Mr Anderson. PS Harron agreed with PS Devine's risk assessment and did not think it necessary to increase Mr Anderson's observation level.

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331. Following the Mr Anderson's medical assessment, Dr Estemberg suggested a MHA assessment would be appropriate and recorded that he should be placed on level 3 observations. PS Harron stated Dr Estemberg did not inform him of his recommendation regarding the observation level and he did not see it on the detention log. Mr Anderson remained on level 2, rouse and respond observations.
332. Mr Anderson's MHA assessment concluded that he required treatment in a mental health facility. Despite being aware of this information, PS Devine did not increase Mr Anderson's observation level from level 2. APP guidance states level 2 *'is the minimum acceptable level for detainees who are under the influence of alcohol or drugs, or whose level of consciousness causes concern.'* APP states level 3 checks should be considered for those with a heightened risk of self-harm or suicide and/or other significant mental or physical vulnerability. PS Harron was aware that Mr Anderson had been assessed as requiring detention under the MHA, but he did not think it necessary to increase Mr Anderson's observation level. The available evidence suggests this was not in line with APP guidance.
333. After DO Kenny informed him of his concern for Mr Anderson, PS Harron immediately visited Mr Anderson's cell and tried to rouse him. Concerned for his own safety and not recognising that Mr Anderson required immediate medical attention, PS Harron requested further assistance before providing Mr Anderson with first aid and requesting an ambulance. The evidence suggests this delay in providing treatment, whilst not ideal, was reasonable in the circumstances.

### The decisions and actions of the detention officers on duty

334. DO Varley assumed responsibility for conducting the cell checks on Mr Anderson from the start of his detention until 7pm. Until approximately 5pm, DO Varley checked on Mr Anderson and accurately recorded his observations on the detention log. Between 5.06 and 6.30pm, DO Varley did not conduct any physical cell checks on Mr Anderson but recorded that he had on the detention log. In his interview, DO Varley accepted this was not in line with APP guidance.
335. DO Kenny conducted the cell checks on Mr Anderson from 7pm, until the paramedics arrived and pronounced Mr Anderson dead at 12.31am. DO Kenny completed most of his checks and recorded his observations on the detention log in line with APP guidance. However, the available evidence suggests that DO Kenny did not perform a physical check on Mr Anderson at 7.32pm or at 8.31pm but recorded that he had on the detention log. DO Kenny explained that he recorded his observations at 7.32pm from the CCTV monitor and his observations at 8.31pm, when he heard Mr Anderson whilst he was cleaning the cell next door to him. In his interview, DO Kenny accepted that these checks were not consistent with APP guidance.

## > Questions to be answered by the DSI investigation

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336. On receipt of this final investigation report, Ian Tolan acting with the delegated authority of the DG under paragraph 24A(4) of Schedule 3 to the Police Reform Act 2002, is required to finally determine the two matters referred to above.

337. To conclude this analysis, I, as lead investigator, will consider the following:

- a) What evidence is available regarding the nature and extent of police contact with Jake Anderson prior to his death?
- b) What evidence is available in relation to whether the police may have caused or contributed to Mr Anderson's death or serious injury?

### > What evidence is available regarding the nature and extent of police contact with Jake Anderson prior to his death?

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338. The available evidence shows that Durham Constabulary officers arrested Mr Anderson at 10.42am on 24 June 2019 and transported him to Peterlee custody. The custody officers and staff assumed responsibility for his care and detention until the paramedics declared his death at 12.31am on 25 June 2019. The investigation has considered the available evidence relating to Mr Anderson's detention, which has been presented earlier in the report.

### > What evidence is available in relation to whether the police may have caused or contributed to Jake Anderson's death?

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339. The available evidence suggests that the police did not cause Mr Anderson's death. The custody officers and staff arranged and provided Mr Anderson with a range of medical assessments and at the time of his death, a social worker had been searching for an available space in a mental health facility.

340. Whilst the detention officers did not conduct their checks in line with APP and the custody officer did not increase Mr Anderson's level of observations, the available evidence does not suggest this contributed to Mr Anderson's death.

## Criminal offences

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341. On receipt of the report, the decision maker must decide if there is an indication that a criminal offence may have been committed by any person to whose conduct the investigation related.
342. If they decide that there is such an indication, they must decide whether it is appropriate to refer the matter to the CPS.
343. The investigation found no evidence to suggest that any criminal offences have been committed by any person whose conduct has been investigated in this report.

## > Learning

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344. Throughout the investigation, the IOPC has considered learning with regard to the matters under investigation. The type of learning identified can include improving practice, updating policy or making changes to training.

There are two types of learning recommendations that the IOPC can make under the Police Reform Act 2002 (PRA):

- Section 10(1)(e) recommendations – these are made at any stage of the investigation. There is no requirement under the Police Reform Act for the Appropriate Authority to provide a formal response to these recommendations.
- Paragraph 28A recommendations – made at the end of the investigation, which do require a formal response. These recommendations and any responses to them are published on the recommendations section of the IOPC website.

### 345. Section 10 learning identified during investigation

During the investigation, the following section 10 recommendation was made and the decision maker may wish to consider whether any of these should now be issued as a Paragraph 28A recommendation/s:

1. The IOPC recommends that until the system glitch has been remedied, Durham Constabulary whilst using the Capita PoliceWorks Case and Custody System ensure that any changes to recommended observation levels made by its contracted medical staff are entered as free text in the 'HCP Opinion' narrative section. This will ensure that the change will be reflected in the main custody log screen and not simply on the Detained Persons Medical Form. Durham Constabulary should ensure all custody officers, custody staff and contracted medical staff are aware of the system's anomalies/defects. This should help to ensure all staff are aware of the issue and do not simply rely on the main information ribbon, which may be incorrect.

Furthermore when noting a request for an HCP to attend custody via the PoliceWorks Case and Custody System and using the 'Select Contact Type' screen, information entered in the 'Reason for request' drop down box should also be entered as free text. This ensures that the detail is



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accurately reflected when the information is replicated on the main custody screen. Durham Constabulary should ensure all custody officers, custody staff are aware of the system's anomalies/defects. This should help to ensure all staff are aware of the issue and do not simply rely on information within the main custody screen which may be incorrect.

The recipient of the recommendation was not required to provide a response.

## Summary for publication

346. The following summaries are of the incident and our investigation. If the decision is made to publish the case on the IOPC website, this text will be used for that purpose.

Section of summary	Text
Summary of incident	<p>At 10.42am on 24 June 2019, two Durham Constabulary police officers arrested a man and transported him to Peterlee police station, where the custody officer authorised his detention.</p> <p>During his detention, the man's mental health appeared to deteriorate and the custody officer requested a medical assessment for him. The doctor recommended that a Mental Health Act assessment was appropriate and requested approved mental health practitioners to conduct an examination.</p> <p>The doctors decided that the man needed immediate in-patient psychiatric care and they attempted to locate a bed in a suitable mental health unit. Whilst they arranged this, the man's physical condition deteriorated and officers found him unresponsive in his cell.</p> <p>An ambulance crew attended and provided first aid but the man died shortly after they had arrived.</p>
Summary of investigation	<p>Our investigators attended the scene and post-incident procedures. We obtained statements from the arresting officers, the custody and healthcare staff on duty. We reviewed the body-worn camera footage and investigators reviewed extensive CCTV footage from the custody area at Peterlee police station.</p> <p>During the investigation, we identified that the custody officer and two detention officers may have behaved in a manner that could justify disciplinary proceedings. We interviewed all three under the misconduct caution.</p>

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<p>Learning</p>	<p>We carefully considered whether there were any learning opportunities arising from the investigation. We make learning recommendations to improve policing and public confidence in the police complaints system and prevent a recurrence of similar incidents.</p> <p>In this case we identified the following areas for improvement</p> <ol style="list-style-type: none"><li>1. To ensure that information entered into drop down boxes within certain areas of the electronic custody record is accurately reflected in free text in order to ensure that this information is seen within the main detention log screen.</li></ol>
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