Policing and Crime Bill

About the BMA
The British Medical Association (BMA) is a professional association and independent trade union, representing doctors and medical students from all branches of medicine across the UK and supporting them to deliver the highest standards of patient care. We have a membership of over 170,000, which continues to grow each year.

Executive Summary
The BMA welcomes the aim of the Policing and Crime Bill to better support and meet the needs of vulnerable people in times of mental health crisis. In particular we support the Bill’s aims to stop police cells being used as ‘places of safety’ for children, which echoes recommendations in our report, Young lives behind bars; to introduce limits on the use of police cells as ‘places of safety’ for adults; and to reduce the time someone can be held prior to assessment to 24 hours.

The BMA recognises the commitments which this Government has made for increasing support for those suffering mental health problems, but believes there is still more to be done to achieve true parity of esteem between physical and mental health. The BMA is therefore calling for an amendment to be made to the Bill, which would require the Secretary of State for Health to report annually to Parliament the numbers of health based places of safety available for under 18s. We believe such an inclusion within the Bill would promote improved safeguarding for vulnerable young people.

The BMA also supports amendment 159 and New Clause 11 laid by Kevan Jones MP and Liz Saville Roberts MP. We believe that these amendments also promote greater safeguarding by requiring police forces to report annually on the number of detentions in places of safety and to ensure that the ‘permitted period of detention’ starts when the decision is taken to remove a person to a place of safety, rather than the point at which they arrived there.

Background
- The stated aim of the Bill is to make provision for collaboration between the emergency services; to address details of police complaints handling police powers and other matters relating to police conduct. Specifically of relevance to the BMA and doctors, are proposals to amend the powers of the police under the Mental Health Act 1983 (MHA) and to amend treatment of those aged under 18 under the Police and Criminal Evidence Act 1984 (PACE).

- **Provisions in Chapter Two, clause 53: PACE: treatment of those aged 17**
  This amendment allows government to comply with a High Court ruling and a review of the way that 17 year olds are treated under the primary provisions of PACE. Previously 17 year olds denied bail would be kept in police custody before appearing in court. This practice was largely changed

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Provisions in Chapter Three, clauses 59, 60 and 61: Extension of powers under sections 135 and 136 of the MHA

In December 2014, the Home Office and Department of Health published the outcomes of a joint review of the operation of sections 135 and 136 of the MHA. The published review included recommendations for a number of legislative changes to sections 135 and 136. The Bill makes provision for some of these recommendations to become law:

- Bans police cells as a ‘place of safety’ for under-18s.
- Limits the circumstances where police cells are used a ‘place of safety’ for adults.
- Reduces the maximum period of detention prior to an assessment from 72 to 24 hours.
- Clarifies that assessments under the Act can take place in a private dwelling.
- Amends the current definition of a ‘place of safety’ to include a private dwelling.

Amendments and BMA position

The BMA supports two proposed amendments:

- **New Clause 11**: (Kevan Jones MP and Liz Saville Roberts MP) would require police forces to report annually on the number of detentions in places of safety, including information on the age of the detainee and the location and duration of the detention.

  We believe that this new clause would enable the needs of those in mental health crisis to be better understood, and subsequently inform the development of services tailored more closely to the needs of vulnerable adults and children.

- **Amendment 159**: (Kevan Jones MP and Liz Saville Roberts MP) would legislate that the ‘permitted period of detention’ starts when the decision is taken to remove a person to a place of safety, rather than the point at which they arrived there.

  We believe that this amendment is in line with the intention of the Bill to reduce the amount of time vulnerable people are held prior to assessment by a S12 (2) approved doctor and an Approved Mental Health Professional (AMHP). This amendment would further reduce the risk of vulnerable children and adults spending a disproportionate amount of time in police vans.

In the BMA’s report, *Young lives behind bars*, we set out several areas which require attention from policy makers to ensure that we are providing the best possible care for children in detention. The report stated that:

- Up to 81% of children and young people in contact with the criminal justice system suffer from mental health problems. We believe that this is a situation which should be recognised and addressed with urgency by Government and consider that removing police cells as a place of safety for under 18s is one positive step in tackling this worrying trend.
- An in-depth review of the youth secure estate should be carried out and further research conducted into more welfare-based alternatives, so that more young people experiencing mental health problems can be supported in appropriate settings. This would better facilitate recovery and prevent future crisis.

Reporting:

- The BMA is calling for an amendment to the Bill which would create a provision requiring the Secretary of State for Health to report annually to Parliament the numbers of health based places
of safety available for under 18s, broken down by their locality and the nature of the facility. Such an amendment would facilitate better understanding of service gaps and requirements.

- We also support the Royal College of Psychiatrists’ call for a Government commitment to publish statistics on how often the police are able to consult street triage teams before using section 136 of MHA. The BMA is also supporting calls for street triage teams to be adequately supported to meet patient need, these are important services which often prevent detention in inappropriate settings.

**Access to mental health support:**

- The BMA considers that where possible, unless a threat of violence exists, people in mental health crisis should always be referred to an appropriate healthcare setting, including Section 136 Suites.
- Where it is not possible because of ongoing shortages and regional variation to place someone in an appropriate healthcare setting, and they subsequently remain in police cells, the BMA believe they should benefit from the same principle of parity of esteem which was recently recognised by Government as applying to those in the secure estate.

**Definition of assessment**

- The BMA considers that the definition of an assessment should be contained either within the Bill or within the subsequent supporting guidance. This should include a definition of who is a qualified assessor (S12 (2) approved doctor acting together with an AMHP) and definition of what constitutes the commencement of an assessment.
- The guidance should also include clarification as to whether the assessment should be completed within the designated time, currently the Bill makes provision for 24 hours, or merely commenced within that timeframe. We consider it desirable for assessors to see the person early enough within that period to complete the assessment, in most cases, within 24 hours, but recognise in more complex cases that this may not always be possible.

**Concluding comments**

Crucially, we recognise the investment in resource which Government has made towards parity of esteem between physical and mental health including: the announcements made by the Prime Minister on 11 January 2016; waiting time targets for teenagers; funding for mental health services in hospital emergency departments; funding for 24/7 treatment in communities; and commitments made by the Chancellor in his 2015 Autumn Statement. However, despite these welcome announcements the current situation for mental health support across England and Wales, remains subject to regional variation and is widely under resourced – more must be done.

The BMA considers that in order for the new provisions within the Policing and Crime Bill to achieve their aim, the Government must solidify its commitments, through investment in services and reporting of progress to ensure appropriate mental health settings are available as places of safety. This should include ongoing funding for expansion of Section 136 Suites, and investment in approved MHA assessors, namely S12 (2) approved doctors and AMHPs, to ensure they can meet the increased demand arising from the reduction in holding time from 72 to 24 hours.

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