Review Article

Section 136 of the Mental Health Act: a new literature review

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Abstract
Section 136 of the Mental Health Act 1983 (amended) provides police officers in the United Kingdom with the authority to remove individuals who appear to be suffering from a mental illness from any public place to a designated ‘place of safety’ for appropriate assessment. A considerable amount of research has been dedicated to investigate who is detained under this section and how it is implemented. A review of the literature revealed a high prevalence of schizophrenia, personality disorders and mania in individuals detained under Section 136 and an over-representation of black detainees. Several studies also reported poor communication between different agencies and poor levels of knowledge regarding the implementation of the section. There is a lack of qualitative research exploring detainee and professional experience of Section 136 and in particular the patient pathway to mental health care via Section 136 experienced by black detainees. Implications for clinical practice, multi-agency collaboration and future research are discussed.


Introduction
It has been well-documented that atypical behaviour resulting from serious mental illness often results in attention from the police.1–3 Such behaviour typically deviates from what is accepted by society but often does not constitute an offence.4 In the United Kingdom (UK), one option available to any police officer upon becoming aware of such behaviour is to detain the individual under Section 136 (hereafter S136) of the Mental Health Act (1983),5 which states:

(1) If a constable finds in a place to which the public have access a person who appears to him to be suffering from mental disorder and to be in immediate need of care or control, the constable may, if he thinks necessary to do so in the interests of that person or for the protection of other persons, remove that person to a place of safety…

(2) A person removed to a place of safety under this section may be detained there for a period not exceeding 72 hours for the purpose of enabling him to be examined by a registered medical practitioner and to be interviewed by an approved social worker and of making any necessary arrangements for his treatment or care.

A place of safety, as defined in the Act, refers to residential accommodation provided by a local services authority, a hospital as defined by the Act, a police station, a mental health nursing home or residential nursing home for mentally disordered persons, or any other suitable place the occupier of which is willing to temporarily receive the individual. S136 is the only section of the Act whereby one person – acting without medical evidence or training – has the authority to deprive another person of his or her personal liberty.6–7 Perhaps not surprisingly, this section is viewed by many as controversial and previous researchers have highlighted the ethical and moral ambiguity of several aspects of S136.2 These include the ‘serious civil liberty issues’ associated with compulsorily removing a person from a public place – often to a police cell, despite no offence having been committed – and the fact that police officers do not necessarily have to be correct in their informal diagnosis of mental illness in order to implement the section; rather, the individual merely needs to appear to the officer to be mentally ill on the basis of his or her observable behaviour.27

Research in the UK has investigated various aspects of S136 ranging from admission rates and subsequent diagnoses to levels of knowledge among professionals and the experience of individuals referred. To the knowledge of the authors, however, there has been no formal review of the UK S136 literature since 1999 when Churchill et al.8 included S136 in their systematic review of research relating to the Mental Health Act (1983), during which time a considerable amount of research has been conducted in the area. Further, the new Code of Practice9 to the recently amended Mental Health Act (1983/2007) places new obligations on the police and mental health professionals to work together to develop, implement and monitor the use of S136, while at the same time indicating the potential role of S136 in the enforcement of new supervised Community Treatment Orders. A review of the literature
Methods

Search techniques and inclusion criteria

Variations of the terms ‘S136’ and ‘police, Mental Health Act’ were entered into Ovid, Medline, PsycINFO, CINAHL, PubMed and The Cochrane Library. A relatively small amount of research relating to S136 currently exists and much of what does exist has not been published in peer-reviewed journals. In light of this, a catalogue search of the King’s Fund library, London, was conducted using the same terms in order to include non-database and unpublished reports (grey literature) in the review. Papers were included if they were UK-based empirical studies or reviews of such published between 1983 (when the Mental Health Act [1983] was implemented) and 2008 (implementation of the revised Act [1983/2007]). A total of 78 papers were identified during the initial search. Due to the nature of S136, no randomized controlled studies or intervention studies were located and neither were any systematic reviews of such. Fifteen studies were omitted as they were based on data collected prior to the implementation of the 1983 Act and 21 editorial/correspondence pieces relating to S136 were omitted as none was found to be directly grounded in empirical data. Therefore, a total of 42 papers have been included in the current review. Literature reviews will be discussed first, followed by population and demographic studies, surveys of police officers and mental health professionals and, finally, qualitative studies.

Results and discussion

Reviews

Four reviews of the S136 literature, published between 1989 and 1999, were identified using the above search methods. The most recently published review regarding S136 exclusively was that by Gray et al.\(^1\) who conducted a systematic review of research published between 1972 and 1996. They concluded that individuals detained were often white, single, unemployed men in their 20s with a diagnosis of schizophrenia and a previous psychiatric history. They also reported an over-representation of ethnic minority groups, particularly black men, postulating that a combination of clinician or police bias, presentation of illness and socioeconomic status may have contributed to this finding. Gray et al.\(^1\) noted that behaviours commonly precipitating a detention under S136 included causing a disturbance, threatened or actual violence towards person or property, threatened or actual self-harm, verbal abuse and aggression, wandering in traffic, speech abnormalities, disorientation, threatening behaviour and overt sexual behaviour.

Fahy\(^6\) conducted a review of S136 literature including issues frequently encountered by police in the recognition, management and referral of the mentally ill. In addition to reporting a similar demographic profile of those detained under S136 to that reported by Gray et al.,\(^1\) Fahy\(^6\) noted that such individuals were frequently disorganized and unsupported, they had a high absconding and self-discharge rate, few were registered with a general practitioner and they were unlikely to attend follow-up. He further reported that many police officers expressed interest in having access to more flexible support from social workers and medical staff, a finding that has since been replicated.\(^10\) Fahy\(^6\) also reported reluctance by many police officers to respond to incidents in which individuals were reported as behaving bizarrely or abnormally solely on the basis of the individual appearing to be mentally ill. Fahy\(^6\) suggests that such reluctance may be influenced by the police officer’s own presumption that s/he lacks expertise in diagnosing mental illness, or by beliefs among police officers that dealing with the mentally ill does not constitute real police work, or that seeking the appropriate medical help can be time-consuming and often futile.

Bean et al.\(^11\) published a review of MIND’s research into police and psychiatric action implemented under S136, including an investigation of attitudes and interprofessional relations surrounding S136. They too reported similar demographic data and precipitating behaviours to those published by Gray et al.\(^1\) and noted that there was a high correlation between police officers’ assessments of mental illness and subsequent hospitalization by psychiatrists. Bean et al.\(^11\) also reported that individuals referred under S136 can often be from socially excluded groups, including black and minority ethnic groups, and unwilling to comply with treatment or after-care.

Churchill et al.\(^8\) conducted a systematic review of research pertaining to the Mental Health Act (1983), including several studies relating specifically to S136. They also noted an over-representation of the black population in S136 detainees, as well as a perceived lack of social worker involvement by police officers and psychiatrists alike. Despite the relations between these three groups being poor and characterized by mistrust, police officers were found to be correct in their decisions to detain individuals for psychiatric assessment in a majority of cases. Churchill et al.\(^8\) stated that police stations and hospitals should not be considered places of safety and that places of safety should be clearly designated, dissociated from formal inpatient facilities, able to provide security and multidisciplinary assessment, and be within easy access of medical facilities. They further recommended that a general revision of S136 was needed, including provision to implement S136 on private premises and improved policies surrounding the use of S136.\(^8\)

Population and demographic studies

Twenty-nine population and demographic studies were identified, a majority of which were based on retrospective designs and gathered data from patient notes, questionnaires and structured interviews with patients, police and mental health professionals. While most studies sought to characterize detainees, a handful of studies explored use of S136 by police and mental health professionals. This
section of the review is divided into the findings, patterns and overarching themes that were common to these studies.

**Diagnosis/presentation of illness**

Several studies have reported the diagnostic profiles of individuals referred under S136. Results from many of these studies have been quite similar, with diagnoses of schizophrenia, mania, personality disorders and drug-induced psychosis typically featuring most prominently.\(^{12–17}\)

**Socioeconomic status and demographics**

The social demographics and socioeconomic status of individuals detained under S136 have been frequently reported in the literature. In 1993, Mokhtar and Hogbin\(^13\) reported that approximately half (49%) of the 39 individuals detained in inner London catchment areas over a one-year period were listed as transitory or having no fixed abode, 56% were not registered with a general practitioner and 28% had confirmed forensic histories. They also reported that individuals detained were unlikely to access community services, that 77% of the sample were either single or separated and that approximately three-quarters (74%) were unemployed at the time. In a sample of 100 S136 detainees from Ealing and Camberwell in London between 1991 and 1993, Burnett et al.\(^18\) reported a significant relationship between police involvement in hospital admission and unemployment, noting that the likelihood of police involvement in hospital admission is 5.5 times as high for unemployed individuals when compared with those with current employment. Pipe et al.\(^14\) reported that 34% of 99 individuals detained at a south London psychiatric hospital over a 12-month period in 1986 had previous S136 admissions, 84% were already known to psychiatric services and that one-third had forensic histories. They also reported that many individuals referred had confirmed previous psychiatric histories. Spence and McPhillips\(^16\) reported that 88% of 65 individuals detained in Westminster, London in 1991 were unemployed and 82% were either single or separated, supporting the findings of Mokhtar and Hogbin.\(^13\) Between July 1991 and June 1992, Cole et al.\(^20\) interviewed 93 individuals presenting with a first episode of psychosis in the London borough of Haringey (12 of whom were detained under S136) to trace the different available pathways to care. Factors significantly associated with being detained under S136 were living alone, the absence of a general practitioner and not having a friend or family member involved in help-seeking behaviour.

Various studies have reported men accounting for between 50% and 60% of the respective S136 samples.\(^{12,17,21–23}\) Spence and McPhillips\(^16\) reported that 68% of the 65 individuals detained in Westminster under S136 over a six-month period were men, though the authors did not comment on this uneven distribution between the genders. The mean age for both men and women detained under S136 is typically reported to be between 32 and 41 years, with some variation among different ethnic groups also reported.\(^{4,13,23,24}\) Fahy et al.\(^12\) reviewed all S136 admissions to two psychiatric hospitals in south west London over a two-year period in 1984 and 1985. They reported that black individuals were, on average, significantly younger than their white counterparts, a finding that has since been replicated in other studies.\(^{14,17,25}\)

Several studies have reported the over-representation of ethnic minority groups in S136 referrals, particularly black men.\(^1,6,12,13,15,17,25\) Pipe et al.\(^14\) found that black people accounted for 21.2% of all S136 admissions over a one-year period, despite this group making up only 5.5% of the local population. Further, Burnett et al.\(^18\) reported that black people admitted to psychiatric hospitals were more likely to have had the police involved in such admissions than either white or Asian individuals. Similarly, Pipe et al.\(^14\) reported that individuals with black and minority ethnic backgrounds were three times more likely to be referred under S136 on more than one occasion than their white counterparts. In an unpublished PhD thesis, Rogers\(^15\) examined S136 records from the North East Metropolitan Police area between 1984 and 1987, in addition to interviewing 160 police officers about their experiences of S136. She reported that black individuals were referred to police attention less frequently by relatives or neighbours (that is, those who already knew the individual) and more frequently by strangers or passersby.

**Previous psychiatric history**

The literature suggests that being referred under S136 is often not the first contact with psychiatric services for many individuals. Various authors have published findings indicating that between 75% and 84% of individuals referred had confirmed previous psychiatric histories.\(^3,12,14,16,17\) Studies have also reported that between 18% and 34% of the respective samples had been previously detained under S136.\(^{12,14,17,26}\) Diagnoses of schizophrenia and/or personality disorders were found to be significantly higher in those individuals detained under S136 on more than one occasion.\(^14,17\)

**Drug and alcohol use**

Misuse of alcohol or drugs has been reported as contributing to detention under S136 in 22–29% of cases.\(^12,17,27\) Dunn and Fahy\(^25\) reported that 11.5% of individuals detained during a 27-month period were diagnosed with drug-induced psychosis, while Mokhtar and Hogbin\(^13\) reported a finding of 8%.

**Admission rates and outcome**

Despite concerns that police officers are not adequately qualified to recognize or diagnose mental illness,\(^7\) several studies have reported a high correlation between the brief assessments conducted by police officers and those conducted by psychiatrists at a later time.\(^14,16,23\) Rogers\(^15\) reported a concordance of 95% between police assessments of the presence of mental illness and psychiatrists’ later
formal assessments: that is, only 5% of individuals detained under S136 were deemed ‘not mentally ill’ by psychiatrists, and only 12% were not admitted to hospital after psychiatric assessment. The Mental Health Act Commission reported that between 2003 and 2004, a full 99.5% of the 1488 individuals detained under S136 in London were admitted as either formal or informal patients. The authors speculated that several factors may have contributed to such findings, including the possibility that the tolerance of unusual behaviour or apparent distress may be higher in London than in other areas, leading to a higher threshold of abnormal behaviour for police in London to detain under S136.

A report by the NHS Information Centre for Health and Social Care highlighted a substantial annual increase over the course of a decade in the number of individuals in England being formally admitted to hospital after being detained under S136. Between 1995 and 2005, the number of individuals in the previous 12 months who were admitted as informal patients following S136 detention increased from 465 to 3385, while the number of individuals detained under Section 2 following S136 increased from 303 to 966 and those detained under Section 3 following S136 increased from 119 to 362. Several authors have reported a lack of clinical follow-up provided to individuals detained under S136 and not subsequently admitted to hospital, with results indicating that as many as 42% of those discharged without hospital admission receive no follow-up from health or social services. Several studies have also published findings stating that a majority of incidents involving S136 typically occur outside of standard business hours, with as many as 77% of cases taking place between 18:00 and 09:00 h the following morning. In July 2005, the Care Services Improvement Partnership conducted a review of S136 practices across London including common issues, existing facilities and recommendations. The authors stated that data on S136 assessments were variable and that there were no consistent auditing processes to ensure the appropriate use and evaluation of S136 systems.

Surveys of police officers and mental health professionals

A small number of studies surveyed police officers and mental health professionals in order to explore their knowledge of S136, training, interprofessional communication and experiences of using S136. Research has reported unsatisfactory levels of knowledge among professionals involved in the use of S136. Lynch et al. sent a structured questionnaire to all casualty departments and all police constables in the Yorkshire region asking respondents to indicate their understanding of S136. They received a very high response rate 79.6% (179 out of a possible 225) which included consultant psychiatrists, senior nurses, specialist registrars, senior house officers and police constables and their results indicated marked discrepancies in the beliefs of such professionals regarding the implementation of S136. Twenty-four percent and 11% of casualty staff and police, respectively, did not realize that a person needed to appear to be suffering from a mental disorder to be detained under S136. Furthermore, 55% of casualty staff and 14% of police officers incorrectly believed that S136 could be applied within an individual’s home and 16% of police officers were not aware that the section only applies to places to which members of the public have access.

Furthermore, Lynch et al. reported that 23% of police officers and 10% of casualty staff they interviewed had not received any formal training with regard to S136. They reported poor levels of communication between police, community agencies and mental health professionals, in addition to misunderstanding and mistrust between these parties which ultimately contributed to poor standards of care. They also endorsed the provision of more collaborative training to be conducted between the relevant agencies to improve standards of local service provision.

Dunn and Fahy surveyed 41 inspectors from 41 Metropolitan police stations (of a possible 184 stations contacted) to ascertain officers’ feelings about S136, including their interaction with medical and social services while applying this section. Seventy-one percent of officers surveyed stated that they believe the level of assistance they receive from medical and social services staff in relation to S136 is inadequate; 61% of officers reported receiving inadequate training in relation to mental illness; and 56% stated that hospitals do not provide enough support to the police. Other areas of dissatisfaction included the scarcity of social workers in many districts and the strain placed on police manpower by S136 in others. Such findings were replicated by Greenberg et al. who conducted a prospective survey of 178 consecutive S136 episodes in two counties in rural England (Devon and Cornwall) in 2000. They reported that the longest delay in completing S136 assessments was the arrival of the approved social worker which, on average, took three hours and 25 minutes (significantly longer than the arrival of the psychiatrist).

Qualitative studies

Only one peer-reviewed journal paper using qualitative methods was identified (in addition to the non-peer reviewed qualitative component of MIND’s research cited earlier). Jones and Mason conducted semistructured interviews investigating the perspectives of 40 patients from an English inner-city area on the quality of care they received from the time of being detained by the police to being admitted to hospital. They found a general dissatisfaction with treatment and care received from both mental health professionals and the police alike. Interviewees reported receiving little attention, being viewed as a nuisance, having few treatment or activity options and expecting a higher level of care and treatment from mental health professionals than they had received. Both expectations and perceived quality of treatment from police officers was lower than from mental health professionals, but regarded as more acceptable.

Conclusions

We conducted a review of the available literature surrounding S136 of the Mental Health Act 1983 (amended). Sample sizes varied considerably in the demographic studies.
reviewed. However, many findings were consistently reported, despite such variation. For example, a range of studies provided evidence that black men are over-represented in S136 detentions.1,6,12,13,15,17,25 Many studies reported that the typical persons held under S136 are men, white, aged in their 20s, unemployed, with a previous psychiatric history and a diagnosis of schizophrenia.1,12,25 Behaviours precipitating S136 detentions included causing a disturbance, threatened or actual violence or self-harm and aggressive or threatening behaviour, and drug or alcohol use has been shown to precipitate up to 29% of referrals.1,17 Many individuals detained had previously been detained under S136 at some time in the past and a majority of studies reported a strong positive correlation between police officer’s beliefs about a person’s mental state and corresponding psychiatric assessments.1,14–16,23 A majority of the research was conducted in London, making it difficult to draw comparisons nationally. It is likely, however, that the high proportion of London-based studies is representative of the fact that considerably more episodes of S136 occur in London than anywhere else in the UK.34 Despite the London-centric nature of the literature, studies from outside of London do indicate that S136 is inconsistently implemented and monitored across the UK and that differences exist between rural and urban areas.30,33,35 For example, the rate of hospital admissions resulting from S136 detentions is considerably lower in rural England when compared with London admission rates.33 Such findings may be influenced in part by the varying levels of knowledge of S136 legislation among health and law enforcement professionals, in addition to poor communication between the relevant agencies.10,31 It may also be the case that socially unacceptable behaviour is more likely to receive police attention in rural areas, even if not secondary to mental health problems. It is likely that an increased level of training for each of the major stakeholders involved in S136 (i.e. police officers, ambulance staff and mental health professionals), in addition to some form of collaborative training between the aforementioned agencies, would contribute to more effective use of resources and implementation of S136. Indeed, previous studies have reported a desire for such training by the various professionals involved as well as multi-agency S136 agreements.10,36

In research from the 1990s, explanations for the over-representation of black men among S136 detainees focused on several key issues. These included exploring the effect of racist attitudes on the implementation of S1366 and using conceptual models of ‘covert’,11 ‘institutional’14 and ‘transmitted’15 racism, with solutions sought in the racial awareness training of police officers.11 However, despite a raft of policy measures, this over-representation has persisted.37–39 An alternative and more current literature suggests that the source of this imbalance lies in pathways to care, with black people being less likely than white people to have their mental health problems recognized by general practitioners40 and more likely to follow aversive pathways into specialist mental health care.41 Detention may therefore be both inevitable and appropriate in the absence of available alternatives.42 However, while it remains the case that black people, and black men in particular, are more likely to access mental health services through emergency care (including S136) than planned entry points, it is vital that cross-agency training and communication seeks to improve the detainee experience of S136 as a point of entry to mental health services for black detainees. Future research might usefully include qualitative studies exploring detainee, mental health professional and police officer experiences of S136 that would inform improvements in inter-agency practice for the benefit of all detainees.

Finally, as many of the studies included were published in the late 1990s, future research may wish to explore whether the use of S136 has changed over the last decade, and in particular the impact of the recent amendments to the Mental Health Act (including the introduction of supervised Community Treatment Orders) on the use of S136 within the UK.

REFERENCES


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