



UNIVERSITY OF
BIRMINGHAM

**Pre-charge bail and Release Under Investigation:
an examination of their use, effectiveness and
impact on suspects' and victims' rights and
confidence in the criminal justice system**

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Report

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Website: <https://birmingham.ac.uk/prechargebail>

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Executive summary

The project examined the practical operation of police powers to bail suspects or release them under investigation after they had been arrested and detained and before charging decisions were made. It examined their use when investigations were incomplete and further enquiries were required (s.37(2) of Police and Criminal Evidence (PACE) Act 1984) and when the police had completed its investigation and cases were sent to the Crown Prosecution Service (CPS) for charging decisions (s.37(7) of PACE 1984). It aimed to investigate the use of pre-charge bail (thereafter bail) and Release Under Investigation (RUI) after the implementation of the Police, Crime, Sentencing and Courts (PCSC) Act 2022 and examine if, and how, it had changed police practice.

The PCSC Act 2022 was intended to increase the use of bail when necessary and proportionate. It aimed to address the dramatic decline in the use of bail after the Policing and Crime Act 2017 which enshrined a presumption against bail. This Act also led to the emergence of RUI which left victims insufficiently protected and suspects 'in limbo' (Hucklesby, 2021). The PCSC Act 2022 repealed the presumption against bail. It extended the initial bail period from 28 days to three months and allowed Senior police officers, instead of magistrates' courts, to authorise extensions to the Applicable Bail Period (ABP) at three and six months. It also introduced a three hour pause in the PACE clock to incentivise arrests for breaches of bail. It placed a duty on the police to consult victims about bail and the imposition of bail conditions.

The research took place in three police forces over a 14 month period (March 2023 to April 2024). Data include: 18 days of observations of custody suites, administrative data relating to 16,093 custody records, 271 surveys completed by police officers and interviews with 97 police officers and four victims' organisations. The data closely matched that collected in a previous study in the early 2010s allowing for a comparison between three periods of time when different legal frameworks were in place – pre-2017, pre-2022 and post-2022.

Main findings

Knowledge and training

All officers had a basic knowledge and understanding of bail and RUI, but some gaps were apparent. Although most officers recalled receiving training on bail and RUI, concerns were raised about whether it was sufficient, correctly targeted, effective and delivered in the most effective way.

Attitudes to the PCSC Act 2022

The changes to pre-charge bail in the PCSC 2022 Act were overwhelmingly endorsed and welcomed because they provided a better balance between suspects' and victims' rights and reduced pressure on the police. Only a small minority of interviewees suggested any further changes to bail and RUI.

Police views of bail and RUI

Most interviewees saw merit in using both bail and RUI. A significant minority of participants preferred RUI because it was 'less faff' i.e. it was more efficient, less work and less pressurised. No interviewees suggested that RUI should not be available.

Bail was useful for protecting victims, keeping control of suspects and expediting investigations. Bail cases were prioritised over RUI cases because bail had deadlines. Bail was synonymous with conditional bail. RUI had largely replaced unconditional bail when conditions were deemed to be unnecessary.

A risk adverse culture was evident in which all reasonable lines of enquiry would be exhausted before no further action was taken, even if the outstanding evidence was unlikely to be sufficient to result in charging suspects with offences.

Initial bail/RUI decisions

Three quarters (75%) of suspects were released on bail post-2022 ranging from 88% in Force C, 76% in Force A and 59% in Force B. This represented a 24% increase in the use of bail compared with pre-2022.

Individuals suspected of all types of offences were more likely to be bailed post-2022 but the increase was much larger for acquisitive offences (burglary, vehicle crime and theft and fraud) than other offence types. The proportion of domestic violence related cases in which suspects were bailed from custody increased from 71% pre-2022 to 90% post-2022. Over 90% of individuals suspected of sexual and violence offences, robbery and burglary were bailed post-2022.

Post-2022, the increase in the use of bail was largely accounted for by the definition of offences involving victims expanding to include acquisitive and property offences (burglary, robbery, vehicle crime, theft and fraud) as well as offences raising safeguarding concerns (violence and sexual offences). Pre- and Post-2022, RUI was used mostly for 'victimless' offences or offences against the Crown i.e. 'Rex' offences e.g. driving and drugs offences, although the number of suspects bailed for these types of offences increased post-2022.

Conditional bail

Most (93%) suspects released on bail had conditions imposed. Conditions were used to safeguard victims, manage suspects, particularly the risk of offending, and to ensure that suspects answered bail. The imposition of bail conditions tended to be formulaic and based on type of offences. Post-2022, if alleged offences raised safeguarding concerns and/or had a victim, conditional bail would be used. Most suspects had one or two types of conditions imposed; most frequently, not to approach victims/witnesses and to keep away from victims' addresses. There was little evidence that conditions were reviewed during investigations, and they were rarely amended. Any changes to conditions were usually at the request of suspects rather than being police-led. Suspects were not routinely brought into custody for conditions to be varied raising questions of legality.

Bail for CPS charging decisions (PACE s.37(7))

Most suspects were released on bail from custody for further enquiries (s. 37(2)) but 11% were bailed for a CPS charging decision (s.37(7)). Investigations are legally required to be completed before s.37(7) bail can be used but questions were raised by the research findings about whether they always were.

Suspects were not always moved to s.37(7) bail and back to s.37(2) bail when legally required, confirming the findings of the pre-2017 research. The process of moving suspects to s.37(7) bail and back to s.37(2) if the CPS required further enquiries to be undertaken was described as complex, confusing and time consuming. The introduction of gatekeeping teams to triage cases before they were sent to the CPS produced legally 'grey' time periods when the bail status of suspects was unclear.

The Applicable Bail Period (ABP) is suspended whilst files are with the CPS. Calculating the ABP when files moved backwards and forwards to the CPS was subject to error and was one cause of bail lapsing to RUI.

Decision-makers

Bail/RUI decisions have become primarily the responsibility of investigation teams, contrary to a fundamental principle of PACE 1984 whereby custody and investigation functions should be separated. Although custody sergeants were the final arbiters of initial decisions and influenced investigators' recommendations, they rarely had a direct impact on initial bail/RUI decisions. Their influence was limited to tweaking conditions and ensuring that suspects had an opportunity to voice any concerns about bail and/or conditions. Investigation teams were responsible for all decisions after suspects had been bailed or RUI from custody with custody officers' roles largely relegated to administrative tasks.

Bail Management Teams (BMTs)

BMTs were widely welcomed because they were a source of advice and oversaw all bail related matters after the initial release. BMT's tasks included sending reminders about suspects answering bail, actioning tasks sent to them by investigators and following up lapsed bails and suspects who failed to answer bail. BMTs contributed to bail and RUI being viewed as administrative processes rather than decisions which had implications for the lives of suspects and victims. They also appeared to result in the deskilling of investigators, allowing them to view the management of bail as someone else's role. There was some evidence that the approach of Force A in maintaining bail/RUI as part of the normal business of custody blocks deterred some of the questionable practices of investigation teams.

Extensions

Bail review and extension procedures were created by the Policing and Crime Act 2017 to ensure that bail and any conditions remain necessary and proportionate and that investigations are being conducted expeditiously. The procedure was retained by the PCSC Act 2022, requiring extensions to be authorised every three months. There are clear disincentives to refusing extensions because suspects would be moved to RUI or no further action taken, potentially leaving victims vulnerable.

Inspectors' and Superintendents' extensions at three and six months were invariably authorised. Inspectors from investigators' own teams were responsible for authorising extensions at three months, raising concerns about the extent to which such reviews

were independent and complied with the principle of the separation of investigatory and custody functions.

Extensions were a routine part of investigations which involved certain types of cases and/or evidence. Extension applications were made based on enquiries which were viewed as being outside of investigators' control (forensic analysis, digital evidence and third-party material). Although there was some evidence that bail reviews ensured that investigations were completed within ABPs, they were also avoided by moving suspects onto RUI. This was most likely to happen when investigators were responsible for the lack of progress. Some Detective Inspectors were reported to condone moving suspects to RUI in these circumstances.

Moving suspects from bail to RUI during the investigation

Post-2022, over a quarter (28%) of suspects who were initially bailed were moved to RUI during the investigation resulting in conditions being removed in most cases. Consequently, just over half (57%) of suspects were on bail at the end of investigations compared with three quarters (75%) at the beginning.

The practice of moving suspects from bail to RUI became less common for all types of offences post-2022. The largest increases in the use of bail throughout the investigation were for acquisitive offences - 68% of suspects investigated for burglary, 67% investigated for robbery and 51% investigated for theft were on bail when their cases concluded. As only three quarters (77%) of individuals suspected of sexual and/or violence offences were on bail at the end of the investigation, a significant minority of victims were left without the protection of bail conditions.

Suspects moved to RUI for two reasons, because bail had lapsed due to the ABP ending or because a positive decision was taken to change their bail status. Bail lapses happened relatively frequently but forces recognised the problem and had put a range of measures in place to prevent them. Setting the bail return date before the ABP provides a safety-net to avoid bail being removed without a risk assessment and careful consideration.

Moving suspects to RUI at the request of investigations teams was a simple and routine administrative process with little independent scrutiny. Suspects were moved onto RUI because investigations were expected to be lengthy and/or to avoid bail reviews and applying for extensions. Other reasons included changes in the circumstances of victims and/or suspects, the passage of time since the incident, and suspects' compliance with bail conditions.

Breaches

Despite changes made by the PCSC Act 2022 to incentivise the arresting of suspects for breaches of bail conditions, it rarely happened. A culture of inaction existed both in monitoring conditions and acting upon evidence of breaches. Conditions were viewed as 'toothless tigers', because PACE 1984 requires that suspects are released on the same conditions if investigations are not completed. As investigations were rarely ready to progress normal practice was for breaches to be noted in the investigation log. There was little evidence that breaches were risk assessed or that risk influenced police responses. Arrests involved additional work for investigators (and custody

blocks) and this applied equally to the potential to arresting existing suspects for new offences as it did to breaches of bail.

Outcomes

A third (31%) of individuals released on bail and RUI were charged, with a further 4% receiving out of court disposals. Two thirds (65%) of cases ended in no further action.

Most of those charged received a postal requisition rather than being charged in person - 80% in Force B and 73% in Force A. In Force C, only 16% of cases were recorded as in-person charges. Interviewees frequently reported that suspects on bail were charged by postal requisition because it was quicker and easier. This practice resulted in bail and bail conditions being removed during a period of heightened risk, when suspects were waiting for their first court appearance. Moving suspects to RUI to facilitate postal charging was reported to occur regularly. The ability to charge by postal requisition was one of the often stated advantages of RUI.

Time to disposal

The PCSC Act 2022 increased the initial ABP from 28 days to three months. All forces invariably bailed suspects for three months using automatic calculators to do so. Little flexibility was reported in setting bail return dates, even when officers, including custody sergeants, thought that enquiries could be completed more quickly. The 'policy' appeared to be driven by administrative convenience and expediency. It also seemed to have arisen from a mistaken interpretation of the law which conflated the ABP with the bail return date.

Statutory bail reviews appeared to drive police behaviour. Officers worked to ABP deadlines, using the dates to manage their workloads and prioritise cases. Peaks in moving suspects from bail to RUI and cases completions were apparent in the period immediately before review dates.

Lengthening the initial ABP in 2022 contributed to increasing the length of time suspects spent on bail/RUI. All cases took longer to complete post-2022 compared with pre-2017 and pre-2022. The mean time to completion increased post-2022 to 102 from 94 days pre-2022 and the median to 94 days from 78 days. This is double the means found pre-2017 which were 46/47 days. Pre-2017, over 80% of cases were completed within three months compared with a half pre- and post- 2022.

Cases involving suspects on bail were completed more quickly – 71% of cases involving suspects on bail were completed within three months compared with 42% of RUI cases and 36% of cases switched from bail to RUI. Over 90% of bail cases were completed within six months compared with three quarters of cases when suspects were RUI. Post-2022, the mean time to completion ranged from 71 to 96 days compared with a range of 104 to 186 days for suspects on RUI throughout the investigation. The highest mean completion times were for cases switched from bail to RUI (ranging from 141 to 186 days). These data confirm interview findings that bail cases were prioritised over RUI cases because bail was subject to reviews and extensions required approval.

Protected characteristics

Some differences in bail/RUI decisions and outcomes according to protected characteristics, especially ethnicity and nationality, were apparent from the administrative data. These need to be explored by further research and closely monitored by the Home Office and individual forces. Protected characteristics should be accounted for when making bail/RUI decisions but the lack of significant differences between men and women and adults and juveniles raise questions about whether they were considered sufficiently.

Similarly, whilst no significant variations were found in bail/RUI decisions according to ethnicity or nationality, differences became apparent when more in-depth analysis was undertaken. When controlling for offence type, a higher proportion of suspects from minority ethnic groups were moved onto RUI during the investigation. British nationals from minority ethnic groups were more likely to be switched from bail to RUI than all White suspects. Foreign national suspects from minority ethnic groups were more likely to remain on bail throughout the investigation than their White counterparts and British Nationals.

Differences were apparent in outcomes. White suspects and British Nationals were more likely to be charged than suspects from minority ethnic groups and foreign nationals respectively.

Victims in the pre-charge bail process

The PCSC 2022 required the police to seek victims' views on whether, and what, conditions should be imposed and notify victims of the conditions imposed and any changes to bail/RUI. These legal duties continue throughout the investigation.

Safeguarding victims was a primary consideration in police bail/RUI decisions. Victims were likely to be informed about police decisions at the beginning of the investigation, but there was less evidence that they played an active role in decision-making. The research findings raise concerns about the authenticity of consultations, the use of standard bail conditions rather than fully considering what was necessary to enable victims to continue with their everyday activities, a lack of proactive monitoring of conditions, the police's reliance on victims reporting breaches and a lack of responses to alleged breaches. Victim's organisations reported that these concerns likely resulted in victims not reporting breaches and withdrawing their cooperation.

The relationship between bail conditions and civil orders, including non-molestation orders and Domestic Violence Prevention Orders, was unclear with some officers seeing them as alternatives whereas victims' organisations saw them as mutually reinforcing. Another function of bail conditions from the perspective of victims' organisations was to send important messages of reassurance to victims and indicate to other institutions such as the family courts that the allegations were being taken seriously.

Conclusion

The research findings suggest that bail and RUI were often treated principally as administrative processes rather than decisions impacting upon the lives of suspects and victims during the stage when reported offences were allegations, a significant proportion of which did not result in further action. An important contributing factor to these findings was that the investigation teams led on, and made most of, the

decisions about bail and RUI. Consequently, many of the checks and balances provided by PACE 1984 were removed, bypassed or reduced. This blunted their effectiveness in ensuring that bail and RUI were used in ways which adhere to the principles of the Act especially the separation of custody and investigation functions and protecting suspects' and victims' rights.

The current approach to managing bail and RUI appears to be in line with the Statutory guidance which describes bail as 'an integral part of the investigation' (College of Policing, 2023, para. 5.2). It is also expedient for individual officers to manage their workloads and for police forces to manage the number of people under investigation and their busy custody blocks.

To ensure fair, workable and effective bail and RUI decisions and processes requires changes to PACE, the Statutory guidance and police forces' policies and practices as recommended in the report. However, the number of individuals on bail and RUI is large and growing, adding to pressures on police forces. Further scrutiny of initial decisions to investigate offences and, particularly what is and is not a reasonable line of enquiry, would assist with reducing the number of individuals on bail and RUI and reduce the proportion of them that end up with no further action being taken.

Chapter 1 Introduction

The project examined the practical operation of police powers to bail suspects or release them under investigation after they had been arrested and detained and before charging decisions were made. It examined their use when investigations were incomplete and further enquiries were required (s.37(2) of Police and Criminal Evidence (PACE) Act 1984) and when the police had completed its investigation and cases were sent to the Crown Prosecution Service (CPS) for charging decisions (s.37(7) of PACE 1984). It aimed to investigate the use of pre-charge bail (thereafter bail) and Release Under Investigation (RUI) after the implementation of the Police, Crime, Sentencing and Courts (PCSC) Act 2022 and examine if, and how, it had changed police practice. The more specific objectives were:

- To explore the categories of suspects who are bailed and RUI, and identify similarities and differences between the two groups and how they have changed over time;
- To examine the circumstances in which PCB/RUI are used and the justifications for their use;
- To explore any patterns in the use of PCB/RUI and understand trends overtime;
- To investigate the impact of PCB/RUI on case management;
- To examine the outcomes of cases in which suspects were bailed or RUI and explore any changes over time;
- To explore police officers and staff and victims' groups views of PCB/RUI, their use and management;
- To compare the findings of the research with the findings of previously collected data to understand the impact of legislative change.

The project builds on a previous project undertaken in two police forces prior to changes in legislation in 2017, so allowing for a comparison at three points in time under three different legal frameworks - pre-2017, pre-2022 and post-2022.

The research was carried out in three police forces over a 14 month period (March 2023-April 2024). Data include: 18 days of observations of custody suites; administrative data relating to 16,093 custody records; 271 surveys to, and 97 interviews with, police officers and four interviews with victim's organisations. The research received approval from the University of Birmingham Ethics Committee.

1.1 A short history of pre-charge bail and Release Under Investigation

Pre-charge bail has existed for decades, but the current legal powers are enshrined in PACE 1984. It is a mechanism for the police to release suspects under an obligation to return to police stations and, where necessary, comply with conditions whilst investigations are concluded. The legal provisions are complicated not least because several different sections of PACE govern the release of suspects on bail (College of Policing, 2023; Hucklesby, 2021). The law has been further complicated by a myriad

of amendments enacted over time which has resulted in a complex and fragmented legal basis for pre-charge bail.

Historically pre-charge bail has been a largely uncontroversial and hidden police power. It began receiving attention during the late 2000s when new powers to enable conditions to be attached to it were introduced, raising questions about proportionality and human rights (Cape and Edwards, 2010; Hansard, 2009; 2011). The public and media profile of pre-charge bail increased again in the summer of 2011 because of the *Hookway* case (Greater Manchester Police v (1) Hookway, (2) Salford Magistrates' Court, AC, 19 May 2011). This case overturned longstanding and accepted police practices overnight, stating that pre-charge bail was subject to the same time limits as police detention i.e. normally 24 hours. Emergency legislation was enacted to reverse the court's decision.

Research by the National Policing Improvement Agency (NPIA) followed, suggesting that pre-charge bail was over-used and identifying key drivers as unplanned arrests, insufficient quality of initial investigations, limited space in custody suites and different perception of levels of evidential sufficiency to charge (Hillier and Kodz, 2012). The growing concerns were amplified further by a series of high-profile celebrity cases involving historical allegations of child sexual abuse and phone hacking scandals in which suspects were released on police bail for significant periods of time. The concerns about very long bail periods added to disquiet about on the large number of suspects on bail. This led to calls for maximum time limits to be enshrined in law (Liberty, 2014). As a result, the Policing and Crime Act 2017 brought in a range of measures aimed at curtailing the use of pre-charge bail.

The Policing and Crime Act 2017 introduced a presumption against bail, enshrined a duty to use bail only when it is both necessary and proportionate, and introduced a review process, which included an initial bail period of 28 days authorised by an Inspector, followed by Superintendents' extensions up to three months. Beyond three months, extensions needed to be requested at, and be granted by, magistrates' courts (Cape, 2017). The change in the law led to an immediate sharp decline in the use of bail (Hucklesby, 2021). Instead of bailing suspects, high numbers of individuals were Released under Investigation (RUI). RUI has no basis in law and is, therefore not legally regulated. Whereas conditions can be imposed on pre-charge bail, no bail conditions can be applied to RUI and it has no end date. Consequently, suspects were left in 'legal limbo' not knowing when their cases would be concluded (Dehaghani *et al.*, 2023). Other concerns related to the lack of protection provided to victims and delays with dealing with cases because of the number of suspects who failed to appear for their court appearance (Centre for Women's Justice, 2019; HMICFS, 2020; Home Office, 2021). In 2018, Kay Richardson was murdered by her ex-husband who was on RUI, despite having a history of domestic abuse.

After a Government consultation (Home Office, 2021) the law relating to pre-charge bail was overhauled once again via the Police, Crime, Sentencing and Courts (PCSC) Act 2022, which came into force in late October 2022. The central aim of the new Act was to encourage greater use of bail to better protect victims and witnesses. It also aimed to provide a better balance between the rights of suspects and victims.

The Act introduced a neutral position in terms of the presumption of bail, to encourage the use of bail when it was necessary and proportionate, and changed who could

authorise bail extensions and the length of Applicable Bail Periods (ABPs). The initial ABP was increased from 28 days to three months, with extensions required at six and nine months and three-monthly intervals thereafter. Custody sergeants authorise the first period of bail, followed by Inspectors at six months and Superintendents at nine months, after which extensions are the responsibility of magistrates' courts. A different review and extension regime exists for certain complex cases. The Act also required the police to seek victims' views about bail and introduced a three hour pause to the custody clock to encourage the police to arrest suspects who were accused of breaching conditions or failing to answer bail. Notably, despite consulting on regulating RUI, the PCSC Act makes no mention of RUI, so it remains unregulated. The College of Policing (2023) published Statutory Guidance in March 2023, which provides more detailed guidance for police forces about how the new pre-trial bail law should operate in practice.

The Home Office (2024) published statistics on pre-charge bail, although they remain experimental and do not yet cover all police forces. The statistics are derived from cases concluded within a given period, so they currently include cases which began under the Policing and Crime Act 2017 as well as the more recent PCSC Act 2022. No distinction is made between these cases. It will take some time for the statistics to focus exclusively on the new bail legislation. The administrative data for this research includes all suspects who were released from police custody on bail or RUI having not been charged and who remained under investigation. Consequently, the Home Office statistics are not comparable with the data collected for this research.

Home Office statistics (2024) show that, of the cases concluded between April 2022 and March 2023, 172,453 individuals were on bail and 140,997 were on RUI. The statistics demonstrate that a higher proportion of bail cases were dealt with more quickly – 73% of bail cases compared with 29% of RUI cases were concluded within three months. Just under two thirds of bail (63%) and RUI (67%) cases ended in no further action. It also uncovered some evidence of cases being moved from bail to RUI during the investigation. Data show that 14% of bail cases were moved to RUI. The recorded breach rate was 3%. The statistics also include information about offences and age. Many of the issues raised by these statistics are examined in more depth in this report.

1.2 Structure of the report

The report begins with a discussion about officers' knowledge, understanding and training in relation to bail and RUI before examining their views of the purposes and use of bail and RUI as well as their preferences. It then moves on in Chapter 3 to discuss the findings relating to initial bail/RUI decisions when suspects leave custody. The role of various decision-makers is the focus of the Chapter 4. Chapter 5 discusses bail/RUI decision-making during, and at the end of, the investigation. Outcomes and breaches are the focus of Chapter 6. The final substantive chapter, Chapter 7, discusses victims' involvement in the bail/RUI process from the police perspective followed by the views of victims' organisations. The final chapter draws some conclusions before recommendations are presented.

Chapter 2 Officers' perspectives on training, bail and Release Under Investigation

This chapter provides a detailed account of officers' views on training, bail and RUI gleaned from surveys and interviews.

2.1 Officers' knowledge, understanding and training

The survey and the interviews permitted the assessment of levels of knowledge and understanding of bail and RUI amongst the officers involved in the study. The survey included a self-assessment by respondents, whereas interviews incorporated questions which allowed the level of officers' knowledge to be gauged during the analysis. It became clear, however, that a small number of interviewees had spent time reviewing relevant materials on forces' intranets before interviews took place.

Nearly all of those interviewed had a basic knowledge of bail and RUI but the depth of knowledge varied considerably. Several of the officers interviewed in each force were students and/or had been in the police for relatively short periods of time. Most of them had limited knowledge and understanding of bail/RUI. They reported relying heavily on their supervising officers, and custody officers were often seen to be 'coaching' them during observations. However, as will become clear below, even some of the more experienced officers had some gaps in knowledge and understanding which resulted in varied and, at times, problematic practices.

The survey asked respondents to rate their knowledge of four areas: the law relating to pre-charge bail, College of Policing statutory guidance, force policies and guidance and changes to PCB and RUI since 2022. Over half (57%, n=154) of respondents rated their knowledge across these four areas as good with a further third (32%, n=86) rating it as OK. A total of 30 respondents assessed their knowledge as poor. The proportion of respondents who assessed their knowledge as good across two areas (the law and force policy) was consistent at 60% with slightly less knowledge being reported of the legal changes in October 2022 (53%). Respondents were less confident about their knowledge of the statutory guidance with only a third (35%) assessing it as good and nearly a fifth (18%, n=48) rating it as poor.

There were some differences across the forces in self-assessments. For example, nearly two thirds (63%, n=72) of officers assessed their knowledge of pre-charge bail law as good or better in Force A and nearly four fifths (87%, n=34) in Force C compared with less than half (47%, n=50) in Force B. All but one of the respondents who assessed their knowledge as poor (n=29) were from Force B. An interesting question is whether the lower knowledge levels in Force B were related to the existence of a Bail Management Team (see below).

Survey respondents were also asked how they would describe the law and policy relating to bail and RUI in terms of its understandability. Very few (8%, n=21) described it as easy to understand, with an additional 43% (n=107) describing it as mostly understandable. By contrast, 15% (n=38) described it as difficult to understand or incomprehensible. A third (n=84) of the sample found some aspects of the law difficult to understand. Interviewees were not directly asked about their understanding of the

law, but it was clear that several misunderstood specific requirements and some referred to the law as being complex.

Interviewees often described how they learnt about bail and RUI on the job, from training received as part of formal examinations and from a variety of e-communications. Most interviewees and survey respondents recalled having some training on bail and RUI at some point in their careers. However, a significant minority of interviewees reported that they had not received any training.

Most interviewees recalled receiving an e-learning package and/or information prior to the changes in October 2022, as well as various e-mails about bail and RUI at the time and since. But they often disputed whether these and/or online materials were 'training', viewing them instead as a way of distributing information or technical knowledge. There was a clear sense from some interviewees that recent training focused on how to complete the necessary 'paperwork' to justify decisions rather than on the principles of bail and RUI.

There was a mixed take-up and reaction to the training packages. Some interviewees reported diligently completing the online training and others mentioned engaging with it, particularly when it was mandatory, and completion was monitored by senior officers. Some of the interviewees had found it useful. Many were vague about when it took place and what it entailed. For instance,

I suppose, I'd have to say yes [to the question have you received any training on bail and RUI] in terms of input in regards to the exam we took, which is the national investigators exam ... so we had an input there into bail procedures ... it certainly covers bail. I'm sure it does, I'm sure there's questions in relation to it. If I'm wrong, then that's probably because I've got mixed up with just dealing with it on the job (B3: 2).

Another group suggested that they had not engaged with the online training. A relatively large group mentioned not having the time to do it and/or quickly scanning it or skipping over it. As one interviewee explained:

I think we might have received some form of training which is online ... and when you're busy its sort of a skip, skip, skip, leave that ... it's probably not that good to be fair (B5: 2).

A significant minority were less than positive about training being online. This group often said that they would have preferred face to face training, although they recognised that this presented challenges in terms of taking time out of normal duties.

Positively, most interviewees stated that they knew where to get advice about bail and RUI which included from force's intranet and from colleagues. Many interviewees in Force B highlighted the accessibility and usefulness of the Bail Management Team in providing a one-stop shop for advice.

2.2 Officers' views of bail and RUI: its purposes, uses and preferences

Interviewees and survey respondents were generally supportive of the recent legal changes made by the PCSC Act 2022. Interviewees used terms such as being happy

with the changes and the post-2022 legislation. The benefits of the new scheme were invariably compared with the post-2017 regime which was widely condemned. The 2022 changes were viewed positively for a wide range of reasons but most numerous because they provided increased timescales for investigations which were more likely to match the durations needed, an easier process for bail extensions, better suspect management, tighter scrutiny of investigations and additional safeguards for victims. The removal of the requirements for Inspectors to authorise initial bail decisions was particularly welcomed by custody sergeants and Inspectors because of the logistical difficulties caused by the previous regime.

Interviewees recognised that the new regime provided a better 'balance' of suspects' and victims' rights. Those that had been in service long enough tended to recognise that the pre-2017 regime gave too much discretion to the police and left suspects on bail for too long. The post-2017 regime was viewed as doing the opposite and giving too much credence to suspects' rights and not protecting victims sufficiently. The 2022 changes provided safeguards to victims and suspects, a timeframe to work to and a longer time to investigate. In other words, the new regime provided structure to the process. The longer periods allowed for investigations also saved police time and allowed investigations to proceed at a more effective pace.

The overwhelming endorsement of the 2022 changes was further supported by most interviewees not identifying anything that they would like to change about pre-charge bail. Survey respondents were more forthcoming about potential changes, but they were still raised by relatively few individuals. Most proposed changes related to breaches of conditions, with several interviewees suggesting that it should have greater consequences (see below), changes to CPS bail (see below) and changes to internal policies and procedures. Several survey respondents suggested that the requirement set out in paragraph 14.4 of the Statutory Guidance (College of Policing, 2023) for suspects to answer bail at the station from which they were bailed was archaic when records were electronic and should be repealed.

A small minority of interviewees did not welcome the PCSC Act 2022 changes because the new system increased complexity and resulted in additional workload and pressure on investigation teams. Several survey respondents and interviewees mentioned that the timescales for investigations remained too short, particularly for complex investigations. These concerns were often voiced by some of the significant minority of interviewees and survey respondents who had a clear preference for using RUI. The reasons for this preference were succinctly summed up by one survey respondent 'RUI is less faff'. In other words, RUI was viewed as more efficient, less work and less pressure specifically because releasing suspects from custody was a simpler and quicker process and it facilitated postal charging, less custody visits and does not need to be extended. One respondent wrote 'RUI means you can summons the suspect later, thus reduce the waste of time of the suspect attending at custody to be charged'. Another respondent wrote:

With no specific date to work to, it [RUI] allows officers more flexibility to investigate but this often leads to longer investigations. After they leave custody, we rarely have them back in custody for the same incident, so it is a much better disposal for us from an efficiency point of view.

Investigations could take longer progressing at the officers' own pace and with less urgency. RUI was viewed by this group as particularly useful for long and/or complex investigations.

Many other survey respondents and interviewees saw RUI as an option to be used in conjunction with bail, even when some of them had a clear preference for using bail. No survey respondents or interviewees mentioned that RUI should not be used at all. These findings signal a significant shift in police views about bail compared to research pre-2017 (Hucklesby, 2015; 2021). In this research most officers were adamant that bail was a vital policing tool which was necessary for them to do their jobs. They thought that bail was the only viable option and that any alternatives were unworkable. Nearly 10 years and two sets of legislative change later, nearly all officers had different views. RUI had become a viable, and sometimes preferred, alternative to bail.

These views were particularly strongly held in relation to unconditional bail, which most survey respondents and interviewees thought was unnecessary. RUI was usually the preferred option in cases in which conditions were deemed to be unnecessary. One interviewee commented:

... if you are going to use unconditional bail ... it would make more sense to RUI because the idea of conditional bail is to attach conditions which will safeguard. If you're just going to bail for the sake of it, you may as well RUI (A20: 9).

Consequently, RUI had largely replaced the role of unconditional bail pre-2017. As a result, many interviewees struggled to articulate the difference between unconditional bail and RUI mainly because bail was seen as synonymous with conditional bail. The only advantage of unconditional bail over and above RUI was a requirement for suspects to return to the police station. For this reason, unconditional was rarely used especially in Forces A and B. Its only reported use was for suspects who did not have a stable address. The picture differed in Force C, where interviewees were more likely to articulate a presumption in favour of bail, usually but not always with conditions. Here interviewees expressed more of a role for unconditional bail, and this was supported by administrative data (see below).

Recommendation

1. Consideration is given to whether the Statutory guidance should be amended to state that unconditional bail should be used in preference to RUI.

Most survey respondents and interviewees viewed bail as a measure to safeguard and protect victims. Less frequently interviewees mentioned safeguarding witnesses and suspects. Linked to the safeguarding functions of bail, the ability to impose bail conditions was frequently reported as an important purpose of bail. Bail was also identified as having a reassurance function for victims. Interviewees regularly mentioned that bail allowed them to 'control' or manage suspects, manage risk and prevent 'further' offending. Some interviewees identified bail specifically as a deterrent. Another aspect of control facilitated by bail was that it required suspects to return to the police station on a certain date. These purposes were summed up succinctly by one interviewee, 'Protecting the victim, keeping a tag on the offender and expediting the investigation' (A33: 2). Some respondents and interviewees identified that bail

provided a structure for everyone and deadlines to work to. It had the advantage over RUI in that it focussed everyone's minds of getting the investigation completed. Interviewees also regularly repeated that bail cases were prioritised over RUI cases so that investigations were completed more quickly. One interviewee explained:

... [if] the suspect has been released on bail, you would be more likely to complete the enquiries on that quicker because you are working to a set timeframe. Whereas if someone is RUI, you don't have those time pressures as much (A32: 2).

The pre-2017 research uncovered evidence of a 'just in case' culture whereby suspects in cases which were known to be unlikely to end in a charge were bailed to ensure that every aspect of the investigation was completed (Hucklesby, 2015; 2021). This research found less overt evidence of this culture, although interviewees explained the importance of completing all 'reasonable lines of enquiry' before ending investigations and the risk adverse culture of some of their supervisors. There was still some evidence of this culture especially in relation to analysing the contents of mobile telephones, which had become a routine part of all types of investigations and arguably seen to be required to meet the criteria of 'all reasonable lines of enquiry' (see also Griffiths et al., 2024). Although downloads from telephones might be the 'magic' source of the evidence needed to charge suspects, a lack of understanding of what may be found, its admissibility and so on may mean that it may be an unnecessary enquiry (Griffiths et al., 2024). Interviewees were often vague about what evidence might be found when downloading the contents of telephones and tended to suggest that they had asked for all of their contents to be made available, just in case evidence came to light. Ensuring that digital forensic analysis (and indeed all outstanding enquiries) was necessary is important because the timescales for completion were reported to be significant and a major cause of delays in both bail and RUI cases, switching cases from bail to RUI and bail extensions.

The pre-2017 research also found evidence that suspects remained on bail for longer than necessary when cases were going to be no further actioned (NFA) because of the value officers' placed on bail and the control that it allowed over suspects. This research found no evidence of this. Instead, it found that interviewees were focused on completing cases as quickly as possible thus removing them from their workloads.

Chapter 3 Initial bail and Release Under Investigation decisions

The focus of this chapter is on initial bail and RUI decision-making before, and at the point that, suspects left custody.

Table 3.1 shows the number of individuals released on bail and RUI pre- and post-2022. It demonstrates that post-2022, three quarters (75%) of those released from custody were released on bail. The proportion of suspects released on bail varied from 88% in Force C, 76% in Force A and 59% in Force B post-2022.

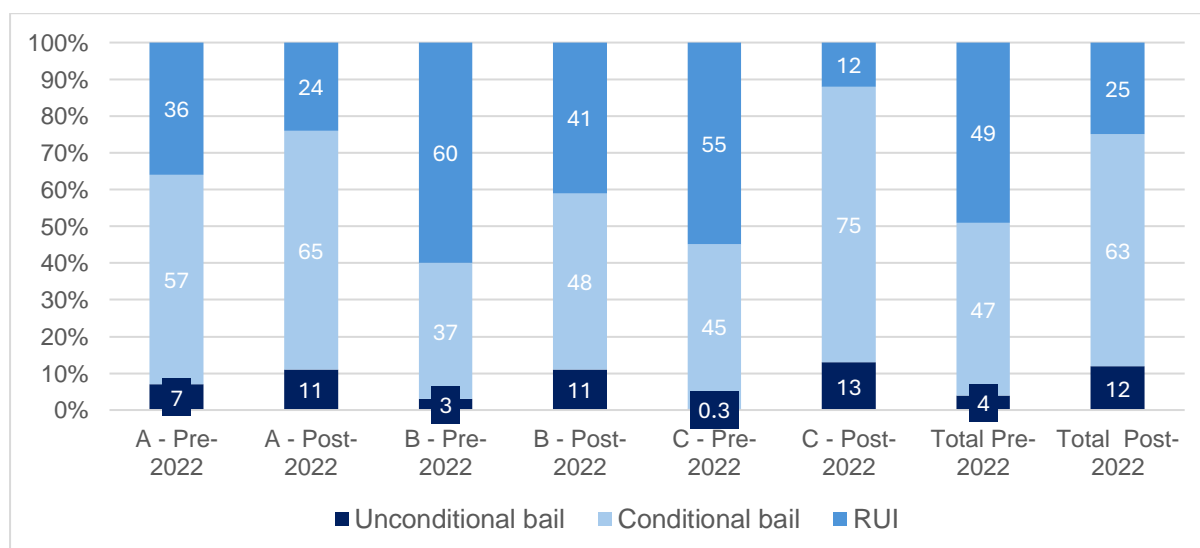
Table 3.1 The number of suspects released on bail and RUI pre- and post-2022

	Force A				Force B				Force C				All forces			
	Pre-2022		Post-2022		Pre-2022		Post-2022		Pre-2022		Post-2022		Pre-2022		Post-2022	
	N	%	N	%	N	%	N	%	N	%	N	%	N	%	N	%
Bail	1950	64	2313	76	851	40	1411	59	1218	45	2437	88	4019	51	6161	75
RUI	1106	36	715	24	1302	60	968	41	1490	55	332	12	3898	49	2015	25
Total	3056		3028		2153		2379		2708		2769		7917		8176	

Table 3.1 also shows that compared with pre-2022, the use of bail rose by 24% post-2022. The most significant increase was in Force C where the proportion of suspects released on bail rose from 45% to 88%. This was compared with a rise of 12% in Force A and 19% in Force B. The differences were likely to be explained by Forces A and B pre-empting the legal changes and amending practices in expectation of the implementation of PCSC Act 2022, which was reported not to have happened in Force C.

Figure 3.1 shows that the majority of those bailed were released with conditions pre- and post-2022 (93% and 84% respectively). The use of unconditional bail trebled from 4% to 12% post-2022.

Figure 3.1 Percentage of suspects released from custody on bail and RUI by force



3.1 Offences

Individuals suspected of all types of offences were more likely to be bailed post-2022 (see Table A4.1). The biggest increases were for acquisitive offences which were likely to have identifiable victims but would not have traditionally been viewed as raising safeguarding risks (burglary (50%), vehicle crime (49%) and theft and fraud (42%)).

A high proportion of individuals suspected of sexual and violence offences, offences traditionally raising safeguarding concerns, were already bailed pre-2022 (81% and 75% respectively). Bail was used more for this group post-2022, but the increases were much smaller than for acquisitive offences (15% for sexual offences and 17% for violence offences). Post-2022, over 90% of individuals suspected of sexual and violence offences, robbery and burglary were bailed from custody.

The significant driver for the changes to bail in the PCSC Act 2022 was concerns about the safeguarding of victims in domestic violence related cases. Data suggest that the emphasis on these cases resulted in an increase in the number of suspects bailed rather than RUI. A quarter (27%) of offences were flagged as domestic violence related. The proportion of domestic violence related cases in which suspects were bailed from custody increased from 71% pre-2022 to 90% post-2022. Bail was imposed in less domestic violence related cases in Force C (78%) compared with Forces A and B post-2022 (96% and 95% respectively).

Although all interviewees and respondents maintained that conditional bail was necessary when there were safeguarding issues, some exceptions were discussed when RUI or unconditional bail would be used instead. It was explained that when other safeguarding measures were already in force, or put in place, including non-molestation orders and Domestic Violence Prevention Orders in domestic abuse cases, conditional bail was not always necessary. This was because the other measures provided more protection and had more sanctions for non-compliance. Some interviewees in all three forces, including custody sergeants, suggested that they would not impose bail conditions to run alongside civil orders which were already in place and would move suspects from bail to RUI if they were put in place during the investigation. However, these views appeared to be more common in Force C. For example, a custody sergeant explained:

... it was a domestic matter and he already had the conditions set out for a domestic violence protection order ... they [investigators] wanted to put the conditions which were very similar to the DVPO and I said, what's the point ... so they were basically copy and pasted the conditions imposed by the DVPO ... the conditions were there anyway so I didn't put them on (C9: 9).

In Force A an interviewee from the child safeguarding team suggested that this would also apply to child protection measures.

3.2 Conditional bail

Bail appeared to be regarded as synonymous with bail conditions. The primary purpose of bail conditions was to safeguard victims. They were also used to manage suspects, particularly the risk of 'further' offending. Whether or not suspects would

answer bail was also considered, particularly for suspects who had the contacts and resources to leave the country.

There appeared to be formulaic use of conditional bail. Survey respondents identified a wide range of factors which were considered relevant to decisions to impose conditions and which ones they used. These mainly related to the potential threat, harm and risk associated with the suspects flowing from the alleged offences, criminal history, the victim and whether the suspect knew the victim and their address and/or lived nearby. Interviewees' accounts focused on the latter factors i.e. whether there was an identified victim. In practice, however, it appeared to be decided on the basis of the type of offence. If alleged offences were viewed as raising safeguarding concerns or had, or would be expected to have, victims conditional bail was invariably used. An extreme example of this logic was provided in one force where the rape and sexual offences team had been mandated to impose the same five conditions on everyone they bailed.

Post-2022 the definition of offences involving victims had expanded to include acquisitive and property offences as well as the more obvious offences raising safeguarding issues (sexual and violence offences). The expansion of the definition largely accounted for the increase in the use of bail post-2022. By contrast, RUI was generally used when offences were 'victimless' and/or offences against the Crown so called 'Rex' offences, including drug and driving offences pre- and post-2022, although individuals suspected of these types of offences were also more likely to be bailed post-2022. Given the focus of the concerns about the 2017 legislation, these findings were not unexpected. However, it is not legal or legitimate to impose conditions primarily based on offence type, which seems to have become the norm.

Two other issues relating to the use of conditions raised issues of necessity and proportionality. Local priorities and crime problems were reported to influence the imposition of conditions. For example, one survey respondent wrote that because of the force's focus on knife point robberies suspects being investigated for these offences were also subject to a condition to stay out of the city centre. Similarly, interviewees recounted how a spate of sexual offences in a specific location led to a blanket condition being imposed on all suspects investigated for similar offences to keep out of the location where the offences were being committed. Two, several custody sergeants in Force A suggested that conditions were used tactically for repeat 'offenders'. In these cases, it was reported that the wider picture, particularly in relation to their offending was considered. They ensured that conditions matched the specific alleged offence but also included 'a wider catch-all' (A12: 9).

3.2.1 Administrative data on conditional bail

This section examines the use of bail conditions as recorded in the administrative data of each of the forces. Data were provided on the number of different types of conditions imposed but not the total number of conditions. It was possible, therefore, that suspects had more than one bail condition of a particular type imposed. Consequently, the number of conditions were likely to be underestimated.

Most (84%) suspects pre- and post-2022 had one or two types of conditions imposed (see Table A4.2). The median number of different types of conditions in all forces was two with the mean varying slightly (2.08, 1.84 and 1.75 in Forces A, B and C

respectively). The maximum number of different types of conditions ranged from four to seven. Usually, the conditions were no contact with the victim(s) (79%) and/or exclusion zones around victims' addresses (68%) (see Table A4.3). Residence (13%), curfews (8%), no unsupervised contact with under 18s (4%) and signing on at police stations (2%) were also applied but in much lower numbers.

There was little evidence that conditions were reviewed during the investigation to ensure that they remained necessary and proportionate. Conditions were reportedly rarely changed during investigations. Some interviewees, mainly from Force A, stated that they occasionally added and removed conditions because of changes in the investigation, for example, new witnesses coming to light. However, other officers stated that they would never remove conditions because of the potential jeopardy of a harmful event occurring. Most changes to conditions were reported to be suspect led resulting in conditions being varied rather than added or removed. Conditions were varied to accommodate house moves, new jobs, shift changes etc., but were always reported to be risk assessed before being approved.

If bail conditions are changed the Police and Criminal Evidence (PACE) Act 1984 requires suspects to be brought back into custody. This acted as a disincentive to amending conditions because it increased workload and presented logistical issues for investigators. In practice, officers got around this requirement and suspects were not always brought back into custody for conditions to be varied, even when the amendments were requested by the police. If conditions were varied at suspects' request, this was treated as an administrative matter in Forces B and C and conditions were amended and details sent to defence solicitors and/or suspects. In Force B, suspects were brought back into custody for police-led changes to conditions. In Force A, 'doorstop bail' was often reported to be used when conditions were changed. Appropriate paperwork was prepared by custody sergeants and investigators took it to suspects' homes to be signed, returning it to be scanned onto custody systems. Custody sergeants in this force were of the view that suspects were required to sign bail sheets so that they were enforceable.

Recommendation

2. The Statutory guidance is strengthened to ensure that all changes of conditions are authorised by custody sergeants and amendments are communicated to suspects orally and in writing by custody sergeants.

3.3 Section 37(7) (Crown Prosecution Service) bail from police detention

Most suspects were released on bail for further enquiries (PACE s. 37(2)). Just over a tenth (11%) were released on PACE s.37(7) or CPS bail from police detention for a charging decision (see Table A4.4).

Releasing suspects on CPS bail requires all enquiries to have been completed. This research raised questions about whether this was always the case in practice. These questions related to whether CPS bail was used prematurely, and specifically about the time taken by officers to build files and for police processes to be completed before files were sent to the CPS (see below). In practice, no cases were sent to the CPS immediately and some were reported to take several weeks. There was also some

evidence that investigators, particularly inexperienced officers, sometimes used CPS bail when investigations were outstanding.

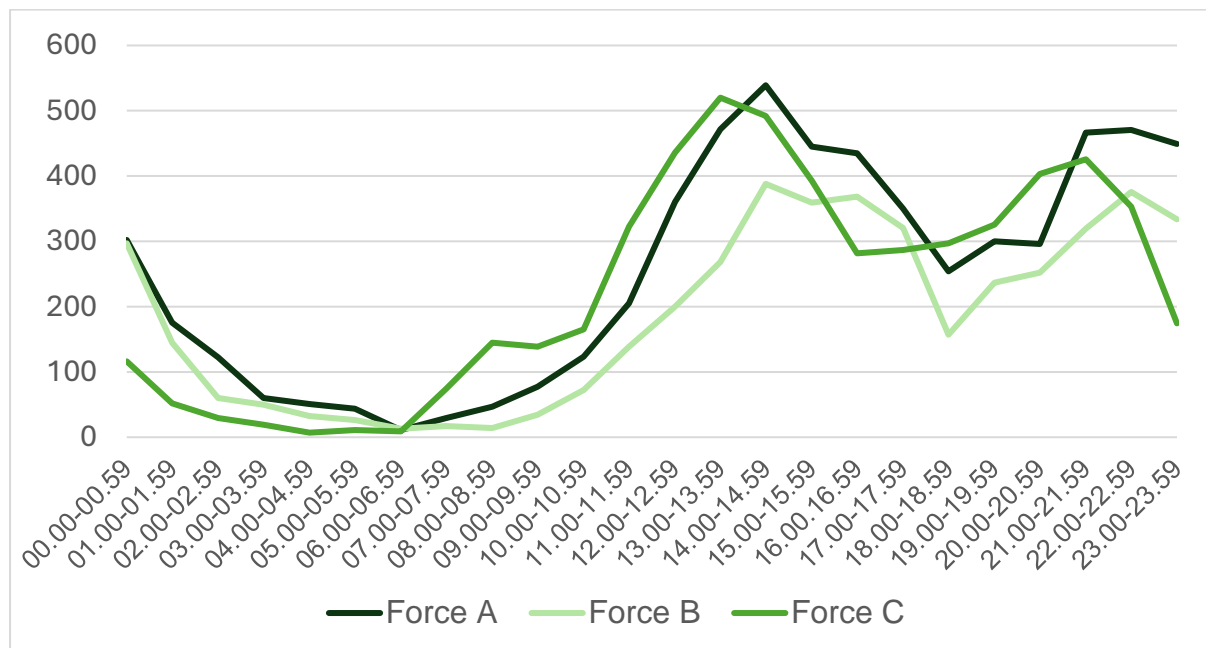
Recommendation

3. Consideration is given to removing the power to release suspects from custody on s.37(7) (CPS bail) recognising that cases are rarely sent to the CPS immediately.

3.4 The timing of releases

The pre-2017 research (Hucklesby, 2015) found a clear pattern of when suspects were released from custody which was confirmed by this research. Figure 3.2 shows that releases peaked in periods directly before shift changes in the early afternoon and late evening. This practice was confirmed by observations and interviews in which a ‘rush to release’ was noted with queues forming at custody desks.

Figure 3.2 Time of release from custody



Chapter 4 Decision-makers

PACE 1984 places the responsibility for decisions to release suspects on pre-charge bail, and the safeguarding of suspects' rights more generally, with custody officers. It enshrines the important principle of the separation of their tasks and decisions from those who are responsible for investigating offences. PACE (1984) also provides for the provision of free legal advice as another measure to ensure that suspects' rights are safeguarded. This chapter assesses the extent to which these principles are upheld in light of the findings of the research.

The findings of the research suggest that bail decisions have largely become the responsibility of investigation teams. However, custody sergeants remain the final arbiters of initial bail decisions and influence the recommendations put forward by investigators indirectly. Less frequently and, only at the margins, do custody sergeants have a direct impact on initial decisions. The balance of power in relation to initial bail decisions between custody sergeants and investigators varied depending on the custody suite, individual custody sergeants, the level of experience of investigators and the extent to which sergeants and inspectors from investigation teams were involved. Investigation teams were responsible for all bail decisions after the initial decision had been made. Custody sergeants articulated their role in the process as final arbiters:

... the power of a custody sergeants has been dissolved significantly over the years ... a decision is made by their [investigators'] respective managers ... It's just we have the final say, ... so the way it happens now is the officer will come up to use and say 'My sergeant says this, this and this. Are you OK with that? So it's kind of, the decision is made elsewhere, we just almost ratify it (A18: 8).

In all the forces, investigators were required to complete bail forms on the IT system whilst suspects were in custody which provided the details their recommendation including bail conditions, a summary of victims' views and a rationale for imposing bail. Investigators reported that they usually discussed their bail plans with custody sergeants and their 'own' sergeant before completing bail forms. In most teams, investigation sergeants signed off bail forms before they were submitted to the custody block remotely. By contrast, some officers, usually those of longer service working in specialist teams, suggested that they did not consult with their sergeants before submitting bail recommendations because their judgement was trusted by their superiors. Occasionally it was reported that Inspectors would be consulted about specific cases.

Investigators and custody sergeants reported that investigators decisions to bail and RUI suspects were rarely questioned. This was particularly the case for decisions to RUI which were viewed as decisions for investigation teams rather than custody sergeants as explained by one custody officer:

... we don't necessarily get involved too much in that [RUI] ... it's down to the investigating officer's supervisors ... in custody really we sort of more serve as an admin. function, really to put a suspect on RUI ... we don't really make the decisions on whether they're RUI'd, although the legislation's in place to say, you know, it's the custody officer that makes the decision. We

make the decision based on the ... investigator's supervision or sergeants, they'll put a rationale on the custody record why they think bail isn't required or isn't necessary and then we will review that ... (A36: 3, 7).

The limit of custody sergeants' influence on initial bail decisions was to occasionally ask why enquiries could not be completed whilst suspects were in custody. Usually, investigators reported simply clarifying and justifying why they could not be done in the time available, but a few cases were observed where cases were progressed within the custody clock when bail had previously been requested.

The direct influence of custody sergeants was reported to be confined to amending conditions which usually involved limiting their scope, for example, narrowing exclusion zones or reducing curfew hours, and/or improving their clarity for instance naming roads instead of stating a certain distance of an address. One custody sergeant explained:

... the questions we have are the type of conditions that officers want to impose ... we'll say 'No, we're not going to put that condition on'. For whatever reason, if it's too onerous or because the legislation says that the condition should be manageable, they should be capable of being enforced ... and quite often the conditions can be quite widespread or too punitive (A36: 9)

Custody officers sometimes refused to impose specific conditions, most often curfews. More rarely they added conditions. They also questioned the enforceability and workability of some conditions. The findings suggest an important function of custody officers was to ensure that conditions were proportionate and enforceable. A second function was to provide an opportunity for suspects to voice concerns about conditions. This was important because investigators reported that they consulted defence solicitors, not suspects, for representations about bail and conditions. Custody sergeants reported adapting conditions because of representations from suspects. These usually related to exceptions to allow them to attend certain events, go on holiday etc.

Initial discussions about investigators proposals were reported and observed to usually take place between investigators and custody sergeants after interviews. These were generally cooperative and supportive, particularly when investigators were inexperienced, when custody sergeants were observed to educate and steer decisions. Disputes were reported to occur between custody sergeants and investigators, but these happened infrequently and were discussed and agreed professionally. Disagreements were most likely to be resolved at the level of sergeants. However, investigators reported calling on their Inspectors occasionally who would trump sergeants on the basis of their rank. Custody Inspectors stated that they were very rarely asked to adjudicate on cases.

There is little doubt that the de facto decision-makers were investigation teams as this quote from an investigation sergeant indicates:

... officers and team sergeants would fill out what they want the bail conditions to be ... then you put that before a custody sergeant and they *have* to agree it and I'd say in most cases, what the officer put forward is

what would end up being the conditions. But yes, it has to go through that process before the custody sergeant approves it (C18: 7) (emphasis added)

But investigation decisions were influenced and tempered by their knowledge and experience of what custody officers would allow. One interviewee explained when asked if custody sergeants ever pushed back on the conditions they proposed:

They do occasionally but the more you deal with prisoners and bail conditions and stuff, you know what's likely to be acceptable and what isn't. So, I had it [a situation] in the past where they've [custody officers] changed them slightly (B31: 5).

In Force A in particular, investigators spoke about the strict regime in the busiest custody block and how it ensured that their applications were correctly completed and watertight, and how it influenced them to manage bail well throughout the process because they feared response of custody staff. All investigators were aware that custody sergeants were the final decision-makers and could, even if they never or rarely did, question their decisions.

All forces had detention officers i.e. civilian staff working in custody blocks. The role they played in the bail process varied. Practices in Force A raise questions about whether detention officers were doing what were, legally, custody officers' tasks. During observations detention officers were observed doing the whole spectrum of tasks from simply handing back suspect's property to completing the whole bail process including adding the custody sergeant signature and releasing the suspect, after a cursory check that the custody officer was happy for them to do so. A custody officer confirmed questionable practices observed during custody visits, 'one of their detention officers had just put their name on it [the bail application] rather than the custody sergeant doing it themselves' (A36: 4). More commonly, detention officers would complete the administrative tasks, ask the custody sergeants to look over the application, they would sign it and the detention officer would then release the suspect once the custody sergeant had moved back to their own desk. Not only was this legally questionable but it also caused problems subsequently. For example, one custody sergeant recounted how bail dates had been miscalculated by detention officers and bail had lapsed to RUI because the ABP had run out before the bail return date.

Recommendations

4. The Statutory guidance is amended to underline that the primary responsibility for bail and RUI decisions, and for managing bail and RUI, lies with custody departments rather than investigation teams.
5. Further guidance is provided on the tasks which can and cannot be undertaken by detention officers in relation to bail and RUI.

4.1 Legal representatives

Legal representatives play a key role in the bail/RUI process and provide a 'voice' for suspects. Theoretically, they are the personnel who should ensure that suspects' views are presented to officers and raise objections to plans to bail or RUI suspects, and any concerns they have about specific conditions. Overall, the findings suggest a cooperative rather than adversarial working relationship between the police and legal

representatives, although it is important to bear in mind that this comes from a police perspective only. Interviewees reported that legal representatives rarely made representations about bail and RUI as one custody officer said 'I don't really get a lot of pushback from solicitors ... we tend to find mutual agreement' (C11: 7). Occasionally, they would raise issues about specific conditions. These included changing exclusion zones to accommodate visits to family members, changing curfew times to allow suspects to work and making arrangements to see children. The police reported that these requests were usually accommodated unless it compromised the protection of victims. However, even this function was not always discharged effectively, because suspects were reported, and observed, to raise concerns about specific conditions during the release process. Legal representatives were rarely present at this time.

An important function of legal representatives was as the main conduit for information from the police to suspects throughout the investigation. Interviewees suggested that they communicated all decisions relating to bail and RUI to legal representatives and expected them to liaise with their clients. It was reported that the information flow between legal representatives and suspects was not always timely or efficient and was one of the reasons why suspects answered bail when it had already been extended.

Chapter 5 Bail and Release Under Investigation after release

This chapter discusses the findings relating to the period suspects spent on bail or RUI before the case was concluded. It examines the processes which happen, and decisions which are taken, during the period of bail or RUI after the initial release decision. It covers suspects' answering bail, extensions, suspects moving from bail to RUI, moving suspects onto s. 37(7) (CPS) bail and breaches. Before this, it discusses who makes bail/RUI decisions during the investigation.

5.1 Decision-makers post-release

Once suspects were released the role of custody officers was limited. Investigation teams were largely responsible for managing bail from this point with the support of Bail Management Teams. Forces B and C had created Bail Management Teams which were responsible for managing bail and to a lesser extent RUI from the point of release. In these forces custody sergeants who worked in the custody blocks had no responsibility for bail or RUI after suspects were released. Their only knowledge of post-release bail was when suspects arrived at the custody block to answer bail or because they had been arrested for alleged breaches.

The introduction of Bail Management Teams was widely supported by interviewees because they were a source of advice and guidance but primarily because they could pass all bail related administration to them, therefore alleviating workload pressures. However, there were some downsides to Bail Management Teams, primarily that they contributed to bail and RUI being viewed as administrative processes. In Force A, bail tasks continued to be carried out as part of the daily business of custody officers and was done alongside managing prisoners in the custody blocks. One custody block in Force A had a dedicated bail manager. There was some evidence that this approach deterred some of the questionable practices of investigation teams.

The Bail Management Teams (BMT) worked remotely, either based at home or in Headquarters. In Force C, the BMT comprised two and sometimes three custody sergeants. In Force B, the BMT comprised custody sergeants and police staff. Contact with investigators was usually via e-mail, Teams or occasionally telephone. During the research, Force B deployed some members of the BMT into custody block, and latterly into one central custody block, to manage suspects answering bail, facilitate in-person charging etc.

The tasks which BMT reported carrying out were largely administrative. They sent reminders about suspects returning to answer bail, which investigators reported were helpful. However, they struggled to undertake this task sufficiently far in advance because of the volume of work which contributed to suspects answering bail unnecessarily and bail lapsing. They actioned tasks sent to them by investigators such as amending ABPs and bail return dates. They also followed up cases in which bail had lapsed or when suspects failed to answer bail. Their other role was to provide expertise and advice to investigation teams. They also appeared to deskill investigators and allow them to view bail as someone else's role to manage.

5.2 Suspects' answering bail

In most cases, suspects did not need to report to custody blocks on their bail return date. All forces had processes in place to extend bail and inform suspects of their new bail date to avoid the need to travel to the custody blocks. This was the primary task of BMTs. However, whilst the processes worked effectively in some cases, in others it resulted in practices which were legally questionable and left suspects in a state of legal limbo.

Extensions were often granted before the bail return dates. Consequently, bail diaries that may have been very full a few days before were reported to be sparsely populated on the actual day. Suspects were informed by post, by telephone, via their legal representative or the officer in the case that they were not required to attend the police station and given a new bail date. However, decisions were not always communicated effectively so suspects answered bail unnecessarily. Last minute decision-making exacerbated by the reliance on postal services and/or the problems investigators and BMTs encountered contacting suspects were reported to be the main causes of suspects arriving unexpectedly at custody blocks. In Force A, these problems were sometimes circumvented by officers using 'doorstop bail'.

Suspects who answered bail unexpectedly were not booked into custody suites in Forces B and C, but either waited at reception or outside of the building. Consequently, the custody clock was not restarted even though they were technically in police custody. Whilst suspects waited, custody staff would check the status of investigations. In Forces B and C, if suspects had already been rebailed a bail notice would be printed and handed to them, therefore not booking them into custody. In Force A, suspects answering bail were routinely booked into custody to be rebailed.

In all forces if no update was available, custody staff attempted to contact the officer in the case and/or their team. Many interviewees reported that they had had to deal with these 'surprise bailers' quite frequently. The outcomes sometimes resulted in last minute applications for Inspectors' extensions, but often suspects would be RUI either at the behest of investigations teams or because no information was available about the case. This resulted in them being moved to RUI with little, if any, scrutiny. Whether a thorough risk assessment would be done was questionable given the time constraints. These events were reported to cause considerable and unexpected work for custody staff. As discussed above, Force B had moved some of its BMT into custody suites to deal with suspects returning on bail to free up custody sergeants and other staff to focus on prisoners. This provides one example of how the management of bail was being separated from the duties traditionally associated with the custody function.

5.3 Extensions

The increase in ABPs and changes in authority levels in for bail reviews in the PCSC Act 2022 were universally welcomed by police interviewees and respondents. Since October 2022, extensions to the ABP must be applied for, and approved, every three months starting at the three-month point. Inspectors approve extensions at three months, Superintendents at six months and magistrates' courts at nine months, and at three-month intervals thereafter. The purpose of the bail review process is to ensure that bail (and any conditions) remain necessary and proportionate and that

investigations are being pursued expeditiously. If extensions are not approved, cases would be moved to RUI or no further action taken, which should be avoided if risks and safeguarding issues were initially identified and continued to be a concern.

As expected, interviewees identified that the number of extensions had reduced post-2022 because of the longer ABP which has increased the chances of investigations being completed within three months. It was welcomed by interviewees because it had decreased workloads and increased the time available for investigations.

As already discussed, an important principle enshrined in PACE 1984 is the separation of the custody and investigation functions to safeguard suspects' rights and guard against practices such as bail bargaining (Bottoms and McClean, 1976). Under PACE 1984, bail decisions are the responsibility of custody officers. However, the amendments made to PACE 1984 by the PCSC Act 2022 did not stipulate the portfolio role of the Inspectors who review extension requests and make decisions to extend bail. Consequently, Inspectors from investigation teams rather than from custody teams were responsible for these decisions, which had consequences for the independence of decisions.

The extension process was reported to be relatively smooth. Inspectors' extensions were usually described as straightforward and viewed as unproblematic. This was largely because the Detective Inspectors who undertook these reviews were usually from investigators' own teams, so they worked closely together on a daily basis. Investigators reported that Inspectors also had a good knowledge and understanding of their investigations as well as an appreciation of reasons put forward for the investigation not being completed. One interviewee explained:

... I don't really have any issues. There might be the odd query but usually when we send it, it's usually someone in the department who, you know they are in the officer with us, so they can ask us ... there are usually no issues, it goes through smoothly (B20: 11).

Another interviewee concurred:

... the good thing about bail post-2022 is when you go for an extension you will go to your *own* Detective Inspector for authorisation ... so there is someone who works within the department ... who is watching us and supervising us, managing us, and knows what's happening [with the investigation] ... [they] will probably have a good idea of what the case is anyway, would know where you are up to and would know that yes this extension is justified [emphasis added] (B27: 13).

Interviewees often talked about the relatively close working relationship they had with Inspectors in their teams as one interviewee described: 'We've got quite an open office and then a secluded office. She's [the Inspector] in there, but we're always popping in and out to speak to each other' (C15: 8). The risk this poses was articulated by a custody Inspector:

... I just think there is a risk of just, you know, not being neutral from the actual investigation itself because they have first-hand knowledge of the officer investigating. You obviously have, you work with them, you see them

daily. So you're not necessarily neutral and separate from the investigation ... the Detective Inspector who does the extension of the bail period is not neutral from the investigation (C12: 8).

Most extensions were reported to be authorised. Investigators recognised the need to justify extensions. They talked about the 'art' of putting together successful applications which came with experience. Generally, applications were based on enquiries which were outside of their control e.g. phone downloads, which were viewed as safe ground on which to apply. Interviewees reported that Senior Officers were very aware of delays in receiving evidence and took their explanations at face value. Only occasionally did Senior Officers ask additional questions of investigators before authorising extensions.

Several interviewees mentioned avoiding applying for extensions when the lack of progress in investigations was their responsibility. One tactic was to move suspects onto RUI to avoid scrutiny of investigations. A sergeant explained:

... after three months we will tend to release pending further investigation ... as a supervisor I ... have to be satisfied that the officer has done a thorough investigation and can justify extending that bail ... I need to put a report into the Inspector to say ... my officer has done a proportionate and expeditious investigation and a lot of the time I can't put my hand on heart and say that is the case (C6: 5).

It was also reported that Inspectors sometimes suggested or condoned this practice, especially when Superintendent's extensions were due.

Inspectors reported that they took applications on trust and rarely followed up with investigators or asked additional questions. It was also noted that Senior officers were unlikely to decline extensions because of the risk involved of releasing suspects onto RUI. Some extension requests were done at short notice leaving Senior officers in the unenviable position of agreeing extensions or allowing bail to lapse to RUI. Bail conditions did not appear to be reviewed as part of the extension process.

Far fewer interviewees mentioned that extensions were significant events which motivated them to complete their investigations. However, it became a more prominent factor the longer the investigation went on. Most interviewees had no experience of Superintendent's extensions, partly because many cases were concluded before this point. However, there was evidence that investigators avoided these extensions because they were more challenging. They were perceived to require a more thorough justification because Superintendent's had no prior knowledge of cases. Despite this, no one reported that a request had been refused. Magistrates' extensions were reported to be avoided and much harder to get because there was a higher level of scrutiny.

Overall, there was some evidence that the extension process acted as a deterrent and speeded up investigations, especially when investigations would be expected to be completed within three months. However, there was ample evidence that extensions were a routine part of investigations which involved certain types of evidence and/or complex cases. Consequently, they were rarely questioned and invariably authorised.

Surveys and interviewees provided consistent reasons for enquiries not being done expeditiously. The primary reason was workload. Both survey respondents and interviewees cited examples of officers carrying caseloads of 30 plus, particularly in domestic abuse teams. Linked to this was the need to always prioritise live cases which constantly increased caseload and required time to interview suspects. Time pressures were also reported to result in administrative days being cancelled, further squeezing the time available to do on-going investigations. Delays with receiving results from forensic tests, especially phone downloads, and information from third parties such as medical and social services records were also consistently mentioned. These reasons largely mirror those provided in the pre-2017 research, although workload pressures have gained prominence. A new explanation was the time it took to build case files which was reported to have increased dramatically especially with the introduction of the 2020 CPS charging standards (CPS, 2020). Also new, and particularly prominent in Force C, was the number of inexperienced investigation officers.

Survey respondents were also asked for the main reason for extending bail. Although many of the reasons provided mirrored those given for delays in investigation there was an important difference. Reasons for extending bail largely focused on factors external to investigation teams and which were perceived to be outside of their control whereas delays in investigations were usually explained with reference to workloads etc. The most prominent reasons for needing to extend bail related to delays in receiving forensic results, especially from phones, evidence from third parties and limited availability of witnesses and victims. Workloads and emerging new lines of enquiry were also mentioned but not to the same extent.

Recommendation

6. PACE 1984 and the Statutory guidance are amended to state that extensions must be authorised by PACE/custody Inspectors.

5.4 Moving suspects from bail to RUI

Many interviewees reported that most suspects remained on conditional bail throughout the investigation, especially in the domestic abuse/safeguarding teams. Usually this was because conditions remained relevant. By contrast, a significant number of interviewees across all three forces reported that suspects moved from bail to RUI during investigations. This confirmed that the practice first identified by HMICFRS inspection in 2020 continued post-2022 (HMICFRS, 2020). As a result, any conditions and the requirement to answer bail were removed. There were two ways in which this happened: bail could lapse because the ABP ran out or suspects could be actively moved from bail to RUI. Unfortunately, these two explanations cannot be separated in the administrative data. Neither of these two scenarios are adequately dealt with by legislation nor in the College of Policing (2023) Statutory guidance.

Interviewees reported that bail lapses were a relatively frequent occurrence, but that they were happening less often more recently. Interestingly from the perspective of the impact of Bail Management Teams on investigators' practice, interviewees in Forces B and C implied that bail lapses happened more often than in Force A. In Force A, investigators appeared to be much more concerned about the response they would

receive from custody sergeants, which acted as a deterrent and a motivator to ensure that investigations were completed or extensions in place before the ABP ended.

Various measures had been put in place to avoid suspects unexpectedly answering bail which included reminders sent automatically by the IT system, by bail managers or by a nominated person in a team or custody block. However, lapsed bails were still reported often when officers in the case were not available. The mechanisms for setting bail dates contributed to this problem. In Force A, bail dates were set when officers were on duty whereas in Force B and C dates were set with no discussion about when officers were working.

One of the outcomes of the Policing and Crime Act 2017, and the restrictive bail periods it introduced, was the emergence of the practice of switching suspects from bail to RUI sometime after they were initially released (HMICFRS, 2020). This practice continued after the PCSC Act 2022 was enacted.

Interviewees suggested that it was a simple and easy process to move suspects from bail to RUI. This was reported to be the case even in teams dealing with cases involving safeguarding concerns, when Inspectors were required to authorise such moves. There appeared to be little, if any, independent scrutiny of decisions outside of investigators' own teams. In Force A, there was some, albeit quite limited, evidence that questions were sometimes raised by custody sergeants when investigators planned to move suspects from bail to RUI. In one reported case this scrutiny was sufficient to stop some officers from moving suspects to RUI. However, several custody officers mentioned the moving of suspects from bail to RUI was routine practice, therefore, seemingly condoning the practice. By contrast, in Forces B and C the role of bail management teams was purely administrative. They were sent tasks by investigators to remove bail and they did so apparently without asking any questions.

Most suspects who were moved onto RUI were initially released with conditions, resulting in questions about why the initial grounds for imposing conditions had dissipated sufficiently for them to be released without them. Many reasons were provided for moving suspects onto RUI and removing conditions. These included: avoiding applying for extensions, especially when evidence was expected to take some time to be available; investigations not being complete; a view that investigations would be more thorough because more time would be available; a higher likelihood that suspects would be charged; and, to manage workloads. Another set of reasons related to the length of the time spent on bail. Interviewees suggested that risks reduced over time so suspects could be moved to RUI if no adverse events had occurred whilst they were bailed. Similarly, the passage of time allowed a 'cooling off' period after which risk was thought to be reduced. It was also suggested that bail conditions were sometimes no longer necessary because suspects and/or victims had moved. Another set of factors were linked to the likely outcome. Interviewees suggested they moved some suspects to RUI if the case was not expected to result in a charge, but all reasonable lines of enquiry were not completed. Some of these reasons mirror those found by the HMICFRS inspection before the PCSC Act 2022 was introduced suggesting that they had become embedded into police practice.

Around a third (31%) of suspects who were originally bailed were switched to RUI during the investigation (see Table A4.5). Although the proportion of suspects switched

from bail to RUI decreased slightly post-2022 (from 34% (n=1713) to 28% (n=1724)), it still represents a significant number of suspects for which bail was cancelled when it was initially deemed to be necessary and proportionate.

The practice of switching from bail to RUI was more common in Force C (34%) than in Forces A and B (24%) post-2022 (see Table A4.5). The higher rate may be linked to initial bail decisions. Some interviewees disagreed with Force C’s ‘policy’ that suspects should be bailed unless there were good reasons not to do so (demonstrated by a significant increase in the use of bail). They initially complied with this ‘policy’ because decisions were monitored, but later reported switching to their preferred option of RUI. This was explained by one interviewee:

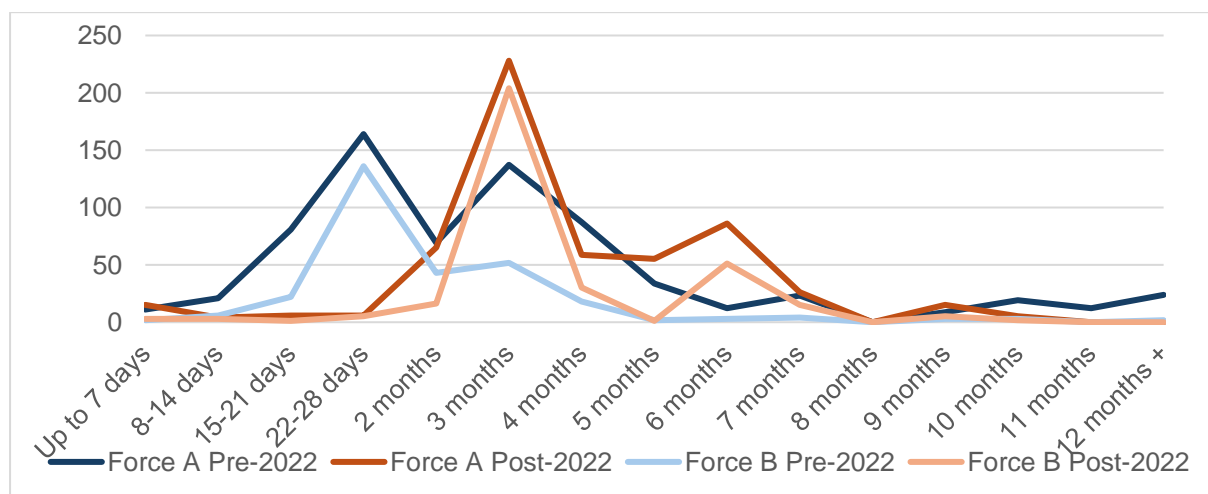
Most of the time, I’d say 99 times out of a hundred they [custody sergeants] will insist that we bail [even when we recommend RUI] ... so they bail them with no conditions at all, which seems a bit pointless really. But then yes, what tends to happen is after three months that person will be released pending further investigation anyway, so it does seem a bit of a futile exercise (C6: 4).

Another potential contributory factor was the reportedly common practice of removing bail once investigations were complete to facilitate postal charging (see below).

The proportion of suspects switched from bail to RUI dropped for most offences post-2022 (see Table A4.5). The practice has become less prevalent for offences which raised safeguarding concerns (robbery and sexual and violence offences). Reductions in the number of cases switched from bail to RUI were less pronounced for cases involving offences which were less likely to have identifiable victims (drugs, vehicle crime and motoring offences).

Figure 5.1 shows that the timing of suspects being moved from bail to RUI in Forces A and B was clearly linked to ABP and the requirements for extension applications at 28 days pre-2022 and at three, six and nine months pre- and post-2022. The highest peak for moving suspects to RUI was at three months. Unfortunately, no data were available for Force C.

Figure 5.1 Time spent on bail before suspects were moved to RUI in Forces A and B



The practice of switching suspects to RUI may explain why victims' organisations reported that they were unaware of significant changes in the use of bail post-2022 (see below).

Recommendations

7. The Statutory guidance is amended to ensure that cases can only be moved from bail to RUI during the investigation in exceptional circumstances, and with the authority of senior officers.
8. Police forces should strengthen review procedures to ensure that bail is no longer necessary and proportionate before it is removed.
9. Police forces should monitor the use of RUI throughout investigations and not just at the point suspects are released from custody.

5.5 Section 37(7) (CPS) bail during investigations

In cases which require the CPS to make the charging decision, suspects should be moved from s.37(2) bail for further enquiries to s.37(7a) bail for CPS advice. Data on cases which were released on s.37(7) (CPS) bail sometime during the investigation were not available (Force B) or reliable (Force A and C). This was because cases were not always moved onto CPS bail when enquiries were completed, and files sent to the CPS. There were several reasons for this legally questionable practice: officers did not understand the requirement to move suspects onto CPS bail or could not see the rationale or need for doing so, the administration involved in the process, and cases going back and forth to the CPS for action plans to be completed. The process was described as complex and confusing. These findings replicate those of the pre-2017 research (Hucklesby, 2015; 2021).

Differential practices were uncovered within and across the three forces in relation to processes linked to CPS bail. Some interviewees reported that they did not change s.37(2) to s.37(7) bail when files were sent to the CPS. One interviewee explained when asked what they did when sending a file to the CPS: 'I keep it on the same bail [s.37(2)] until I get an answer from the CPS' (C26). Other interviewees said that they did not revert bail to s.37(2) when they received CPS action plans. Force A reportedly had a policy to only revert cases back from s.37(7) bail if action plans were going to take more than seven days to complete. However, many interviewees in this force stated that cases were rarely moved back onto s.37(2) bail anyway. Delays in moving suspects were also reported in all three forces because CPS action plans were returned when officers in the case were not working. One interviewee explained:

So it might be that it's been returned with an action plan and then let's say my rest days are three days or I'm on annual leave and it comes in and it's sat there for two weeks, and no one would see it. So, there's an action plan pending for two weeks with nobody working on it, so yes that happens quite a lot (C24).

Interviewees generally thought that the requirements to constantly switch suspects from s.37(2) to s.37(7) bail were complex and produced additional work. They were also confusing for suspects given that they should get notified of each time their bail status changed. Interviewees reported varied practices in terms of keeping suspects, their solicitors and victims updated on changes to bail status. Some said they always

informed solicitors and/or suspects, others said they told them only that files were at the CPS but made no mention of bail status changes, whilst others said that they would only contact solicitors and suspects if bail dates needed to be changed, and this was often unnecessary.

A further complicating factor was the introduction of gatekeepers within all three forces to triage files before cases were sent to the CPS. This had produced a legal 'grey' area: s.37(2) bail did not apply because police enquiries were complete, nor did s.37(7) bail because the case was not at the CPS. Once enquiries were completed officers took time to build files creating one legal 'grey' area. The files were then sent to police decision-makers (PDM), a second legal 'grey area', who may send files back to officers for further work before submitting them to the CPS. This process could be lengthy and last for several weeks. Delays were routinely reported by interviewees. Forces had different approaches to switching cases from police to s.37(7) bail during the time when the files were with the gatekeeping teams. One force was reported to switch cases to CPS bail once cases were with the PDM team whereas the other two forces did not switch them until cases were cleared by the PDM teams and submitted to the CPS. In both cases, it was not always evident that cases were switched to CPS bail.

Under the PCSC Act 2022 the 'bail clock' is suspended whilst cases are at the CPS, restarting when action plans are returned to the police requiring further investigations. Consequently, not moving cases to s.37(7) bail or putting, or leaving, them on s.37(7) bail when further enquiries needed to be done had consequences for the ABP and may lead to miscalculations of bail periods. Moving suspects from police to s.37(7) bail requires accurate time calculations to be done, which are critical if cases are not to lapse onto RUI. This was reported to be challenging. It is worth quoting one interviewee at length:

So, we tell the Bail Management Team ... the date it gets submitted to the CPS we tell them, and they pause it. If we don't tell them it's been returned, it carries on being paused so we have to be physically tell them, ... then we have to then tell them again that we've sent it off again. So, if the officer isn't telling that Bail Team that the case has come back and gone again that clock is always going to be paused for that entire [time], until that charge decision comes back ... again. It's one of the processes where it's too much hassle to contact them ... It's easier for me just to do those actions within an hour and re-submit it as opposed to go on the system, contact the Bail Team, which can take me half an hour, they'll do those actions within an hour and then [they] do it themselves which is another half hour. So, what would have been an hour of my actions then becomes a two hour process. So, it's better to just remove those two half hours and just do it, which [is] against PACE and we shouldn't be doing it but okay it just happens (C24).

Incidences when cases had lapsed to RUI were reported. The ability to suspend the bail clock also opens the process up to potential abuse. Officers could move cases onto s.37(7) bail to avoid scrutiny of their investigations and applying for extensions. No evidence of this practice being pursued deliberately was uncovered, although some evidence of inappropriate use of s.37(7) bail was reported by interviewees.

None of the IT systems were reported to allow the automatic calculation of remaining bail periods. Instead, it was done manually and described a cumbersome and subject to error.

Recommendations

10. PACE 1984 is amended to abolish the distinction between pre-charge police bail (s.37(2)) and s.37(7) (CPS) bail which creates unnecessary complications and legally questionable practices.
11. Consideration is given to the legal status of suspects on bail during the time that files are being prepared by investigators and reviewed by police decision-makers.

5.6 Breaches of bail

PACE allows for the arrest of suspects for breaching police bail conditions (s.46(A)(1A)) and for failing to answer bail (s.46(A)). No data were available to enable conclusions to be drawn from administrative data about the extent of breaches or how they were dealt with. However, both issues were discussed during interviews and observations.

Suspects failing to answer bail was not discussed very often during interviews and did not appear to be a priority in any of the forces. A few interviewees identified it as an area which needed to be addressed because non-attendance was not consistently followed up. Bail Management Teams in Forces B and C were tasked with identifying and circulating suspects who had not attended, but it was not clear how consistently this was done, nor the priority given to these cases by the teams expected to arrest suspects. It also raises another legal 'grey' area relating to the bail status of these suspects. Given that the ABP will have ended in most cases, suspect were not technically on bail or subject to any conditions. Consequently, victims may be at an increased risk.

By contrast, breach of conditions was a constant theme in interviews. Previous research identified a disincentive to arresting suspects for breaching bail conditions because it would run down the custody clock and have implications for the investigation if suspects needed to be reinterviewed (Home Office, 2021; Hucklesby, 2015). Consequently, the PCSC 2022 enabled the custody clock to be paused for three hours when suspects were detained for alleged breaches to incentivise arrests (PACE s. 47(6A)). No evidence was uncovered relating to why three hours was chosen as the appropriate period. Most, but not all, interviewees were aware of the additional time available, but a significant minority said that it was insufficient to progress cases. The general view of the additional time was, although useful theoretically, in practice it was of limited use. There was little evidence that it had resulted in more suspects being arrested for breaching bail conditions. There was a consensus that the additional three hours was only useful if investigations were complete, and they rarely were. If cases were not charge ready, PACE s.37c(4) requires suspects to be released on bail with the same conditions.

Nearly all interviewees suggested that they very rarely, if ever, arrested suspects for breaching conditions alone. Custody sergeants confirmed that they infrequently dealt with breach cases. If suspects were detained for breaches of bail conditions, it was

usually because inexperienced of response officers had been 'too quick to arrest' and did not understand the implications. Instead, normal practice replicated that identified in the pre-2017 research (Hucklesby, 2015). Investigators would receive reports about conditions being breached which would be recorded on the investigation log for potential use as evidence for a remand application, if suspects were subsequently charged. Some interviewees reported that statements were collected. A few interviewees reported that they contacted suspects so that they were aware that breaches had been identified but most did not. However, most suspects would believe that they had 'got away' with any breaches. There was little evidence that breaches were risk assessed or that risk influenced police responses.

In the unlikely event that suspects were arrested for breach of conditions, custody staff would make enquiries about whether the investigation was complete. This could be a time-consuming process because it was a lottery whether relevant teams were available, especially because investigation teams do not work overnight. In all forces, these enquiries were reported to be started before suspects reached the custody block or whilst they were in the holding cell. Consequently, custody officers reported usually booking these suspects in and out of custody simultaneously. For this reason, interviewees generally saw no value in arresting suspects for breach of bail because there were no consequences.

Some potential reasons for arresting suspects were identified by survey respondents but generally not by interviewees. These included arrests acting as a deterrent, sending messages that breaches would not be tolerated, providing evidence for a custodial remand application and providing an opportunity to review cases and conditions. However, the overwhelming theme from interviews and surveys was that conditions were 'toothless tigers', replicating the findings of pre-2017 research (Hucklesby, 2015). This term referred to the perceived lack of sanctions available for breaching bail conditions. Despite positive actions being available, including arresting suspects for breaching conditions or for new offences and notifying them that breaches had been detected, an ingrained culture of inaction was pervasive across all forces. It was also used by some interviewees to argue for the use of more RUI.

The culture of inaction in relation to breaches extended to monitoring of compliance. Most interviewees were vague about the mechanisms which were in place to monitor bail conditions. They suggested that details of the suspects subject to conditions were put onto PNC and forwarded to neighbourhood teams who were tasked with monitoring them. However, they were seemingly unaware of whether monitoring was done especially given the resource constraints of these teams. 'Signing on' at police stations was the only condition which they appeared to be confident was routinely monitored. Victims were the primary source of information about breaches and generally, interviewees reported relying on them exclusively.

The cynical attitude to bail conditions was also evident in discussions about suspects' compliance. Most interviewees distinguished between the 'usual suspects' who were thought not to comply to bail conditions, which included many suspects accused of domestic related offences and prolific offenders. Other groups, namely first time suspects and those accused of sexual offences, were believed to comply with bail conditions. Bail conditions were thought to have a deterrent value for the latter group which did not exist for the former group because they were aware that no action would be taken if they did not comply.

An alternative way of dealing with breaches of bail is to arrest suspects for new offences when this is feasible. This was the preferred option of senior officers and appeared to have been particularly prioritised in Force A and B. Interviewees in all forces mentioned this option and often identified potential offences, but they also identified several barriers to the approach. These included the limited knowledge of response and investigation officers and the additional workload involved for investigators.

Chapter 6 Ending cases

The chapter reviews the findings in respect of the bail status of suspects at the point at which cases were concluded and outcomes after a period on bail or RUI. It then moves on to consider time to disposal. It demonstrates that more suspects were on RUI at the end than at the beginning of investigations, that nearly two thirds of cases ended in no further action and that the time spent on bail had increased as a result of the changes made by the PCSC Act 2022.

6.1 Final bail status

As a result of suspects being moved from bail to RUI during the investigation, the number of suspects who were on bail at the end of the investigation was significantly less than those bailed from custody. Table A4.6 shows that less than half (44%) of suspects whose cases had been completed were on bail at the conclusion of their cases. The proportion increased post-2022 to 57% from 31% pre-2022. However, this was still significantly less than the 75% of suspects who were bailed at the start of investigations confirming the need to introduce monitoring processes beyond initial decisions.

The shift from bail to RUI was evident in all forces (see Table A4.6). The proportion of cases in which suspects remained on bail at the conclusion of their cases post-2022 varied from 63% in Force A, 58% in Force C and 49% in Force B. These figures demonstrate a significant drop from the proportion of suspects on bail at the beginning of the investigation – a drop of 30% in Force C, 18% in Force A and 10% in Force B.

The proportion of suspects who remained on bail throughout the investigation varied by offence type (see Table A4.7). Individuals suspected of safeguarding offences (sexual and violence offences) were the most likely to be on bail throughout both pre- and post-2022 (77% post-2022). However, around a quarter were not on bail at the end of investigations, leaving a significant number of victims without the protection of bail and/or conditions.

Individuals suspected of all types of offences were more likely to be on bail at the end of the investigation post-2022 than pre-2022. However, the largest increases in the use of bail throughout the investigation were for acquisitive offences (burglary, robbery and theft and fraud). Consequently, 68% of suspects being investigated for burglary, 67% of those investigated for robbery and 51% for theft and fraud were on bail at the conclusion of their cases post-2022.

6.2 Case outcomes

Outcomes are one measure of whether bail and/or RUI was used appropriately. However, there would be no expectation that all custody events would end in a charge or be dealt by way of out of court disposals.

Table 6.1 shows that just under a third (31%) of cases ended in suspects being charged with a further 4% being dealt with in another way. Most cases (65%) ended in no further action (NFA). Charge rates were consistent pre- and post-2022 (31% pre-2022 and 30% post-2022) but lower than found in the pre-2017 research (Hucklesby, 2015). Pre-2017, 39% of suspects were charged and 9% and 12% were otherwise

dealt with in the two forces in the study (Hucklesby, 2015). NFA rates were 47% and 48%, significantly lower than in the 2022 cohort.

Table 6.1 Case outcomes

	Force A				Force B				Force C				All forces	
	Pre-22		Post-22		Pre-22		Post-22		Pre-22		Post-22		All periods	
	N	%	N	%	N	%	N	%	N	%	N	%	N	%
Charge	809	30	613	27	805	41	754	38	530	24	594	26	4105	31
Out of court disposals	82	3	60	3	52	3	53	26	121	6	97	4	465	3
Other	22	1	29	1	2	>1	0	0	11	>1	10	>1	74	1
NFA	1791	66	1556	69	1125	58	1164	59	1518	70	1556	69	8710	65
Total	2704		2258		1984		1971		2180		2257		13354	

Table 6.2 shows that outcomes differed depending on whether suspects were on bail or RUI at the time the case concluded. Overall, 21% of suspects on bail at the end of the investigation were charged compared with 38% of those RUI. This pattern existed for all forces and pre- and post-2022. The higher charge rate for RUI cases was likely to be explained by different offence types. As discussed above, RUI was most commonly used for drug and motoring offences. In these cases, outstanding enquiries usually relate to analysis of substances or blood, which confirm offences were committed. Another potential explanation for the higher charge rate for RUI was that suspects were moved onto RUI to facilitate postal charging which is discussed in the next section.

Table 6.2 Outcomes by bail/RUI status at time the case concluded all forces

	Bail		RUI		Total	
	N	%	N	%	N	%
Charge	1224	21	2847	38	4071	31
Out of court disposals	179	3	285	4	464	3
Other	37	1	29	2	66	1
NFA	4402	75	4205	56	8607	65
Total	5842	100	7366	100	13208	100

6.3 In person/postal charging

Section 47 of PACE allows suspects to be released on bail after charge. Post-charge bail requires suspects to attend a magistrates' court on a specified date and failure to do so can result in arrest. It may be conditional or unconditional (s.47(1A) PACE). PACE also requires that suspects are charged by a custody officer, and it is their decision whether post-charge bail is necessary and proportionate. Alternatively, suspects may be issued with a postal charge requisition which also requires them to

attend court, but no conditions can be imposed. The College of Policing (2023) Statutory guidance (para.14.29/14.30) makes it clear that postal charges should not be used when suspects are on pre-charge conditional bail.

According to the administrative data, postal charging was frequently used – 73% of cases in Force A and 80% of cases in Force B were recorded as being charged by post. In Force C, only 16% of cases were recorded as being charged in person, although data may be less reliable. The small number of in-person charges was also noted during the observations and confirmed by interviewees. However, some interviewees, particularly in Forces A and C, reported that suspects were often charged in person. However, when asked how frequently this happened, they suggested it was not a regular feature of their working days.

Given the increasing use of bail post-2022 reported in this research, it was expected that in-person charging would have become more prevalent. However, there was only a slight drop in the use of postal charging post-2022 – Force A (3%) and Force B (9%). These figures need to be treated with some caution because interviewees in these forces mentioned attending suspects homes to deliver charges and it was not always clear whether they would be recorded as in-person or postal charges. These home visits do not comply with PACE and its codes of practice.

All interviewees stated that suspects who were on RUI would be postal charged. Most of them also said that there was no option to charge these suspects in custody. Consequently, all suspects who were moved from bail to RUI would be postal charged, resulting in no conditions being imposed in the period between charge and their court appearance.

Postal charging was used when suspects were on conditional bail resulting in conditions being removed. Interviewees readily acknowledged that this was a frequent practice. It was reported to happen even when offences were serious as one interviewee from a rape and sexual assault team explained:

... if it's by post in relation to what we are dealing with, we will go out because certain things have to be provided as well, because ... we deal with some of the most heinous offences [rape and sexual offences] ... we have various different forms that we provide them [suspects] with' (B3: 17).

Some interviewees were aware that this practice would result in bail and any conditions lapsing. Others, including some of those working in domestic abuse and sexual offences teams, were not aware that conditions would lapse instead believing that they continued to apply. One interviewee explained:

... even if we postal charge, we can still, well we can still put conditions on, because on the postal charge ... you're still subject to the same conditions ... if we have someone on conditional bail and circumstances haven't changed, everything's in order, and we know where they live, we can postal charge them. The conditions will remain the same' (C21).

Generally, interviewees appeared to be unaware of the potential risks associated with postal charging, especially because the point of charge may put victims at greater risk. Many assumed that conditions would be reimposed by courts and were seemingly not

aware that it was unlikely if suspects turned up for their court appearance and therefore had complied with the postal requisition.

There were also divergent practices in terms of when suspects would be charged. If they were to be charged in person, some interviewees reported waiting for suspects to answer bail whilst others said they would invite them in earlier. Their decision was usually linked to the proximity of the charging decision to the bail return date. If it was sufficiently close, most interviewees said they would wait until suspects were due to answer bail. Otherwise, they might contact the suspect or their solicitors to ask them to come in early. The bail period which was left also influenced the decision to postal charge suspects, with bail dates sometime in the future increasing the chances of issuing charges by post. An investigator interviewed in January explained:

... There had been no breaches of bail whatsoever, and I just got the charges back from the CPS, so I summoned him instead of bringing him back for his bail ... because his bail date was in March and I thought there's no point in my waiting until March to charge him, I'll just change it and summons him instead (A31: 14).

Explanations for the prevalence of postal charging appeared to relate to reducing investigators' workloads – finalising cases and removing them from workloads as quickly as possible and postal charges being dealt with by another department. An investigator working in a safeguarding department explained:

... the reason we don't sometimes [charge in person], although we should ... is that once there are charges, it disappears from your front page ... the investigation is over and you think then that I don't need to worry about this person answering bail anymore ... so a lot of times this is a risk time when someone is charged and the victim or witnesses hasn't got any bail conditions to protect them. It's risky but we still do it (A14: 16).

There was also evidence of a lack of knowledge and understanding of post-charge bail.

Some interviewees from investigation departments also mentioned that they perceived that custody officers discouraged in-person charging because of pressures in the custody blocks. Custody officers provided no evidence to support their views. Instead, they explained suspects coming back to be charged as part of their role. As discussed above, one of the Bail Management Teams had been deployed in custody suites to facilitate in person charging and alleviate pressures on custody blocks.

Interviewees from Force C were more likely to be aware of the need to bring suspects into custody and reported doing so more frequently than in the other two forces. However, interviewees from investigation teams in this force, alongside the others, also discussed switching suspects from bail to RUI frequently once charges were ready to facilitate postal charging. A member of the BMT explained:

... you'd quite often get requests saying, can this be RUI'd so that we can postal charge them? ... [Investigators] seem to like postal charging because, I guess, it doesn't mean that they have to send an officer to the station ... (C5: 11)

Importantly, this quote illustrates the finding that BMTs did not mention ever questioning these requests. Although the process differed in these cases, the outcome was the same, suspects who had been on conditional bail during the investigation were not subject to bail or bail conditions whilst awaiting their court appearance.

Post-charge bail is a custody function, but one which custody officers could not always exercise because postal charging bypassed them. This is one of the consequences of official moves towards bail being overseen by investigation teams rather than an integral part of the custody function.

Recommendations

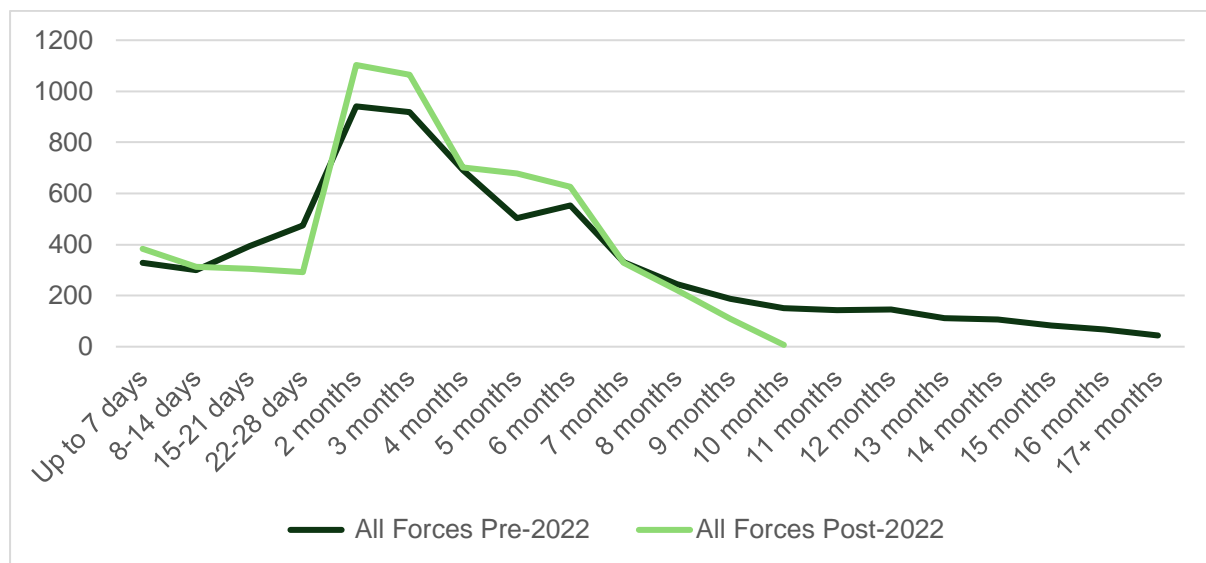
12. Police forces put processes in place to monitor the use of postal requisitions when suspects are on bail.
13. The Statutory guidance is strengthened to clarify that all suspects initially released on bail from custody should be charged in person with the expectation that post-charge bail should be imposed with appropriate conditions.
14. The Statutory guidance is amended to clarify that moving suspects from bail to RUI for the purpose of issuing postal requisitions should only be done in exceptional circumstances.

6.4 Time to disposal

As already discussed, the PCSC Act 2022 increased the initial ABP from 28 days to three months. Over the course of the research each of the forces had moved towards using the whole (or nearly all) of the ABP as the initial bail return date and then each ABP thereafter. Force B always bailed for three months. Some interviewees in Force C suggested more flexibility but in practice, encouraged by the BMT and apparently stipulated by some Senior Officers, bail dates were set on the ABP. In Force A interviewees again identified more flexibility but also indicated that around three months had become the norm. Automatic calculators available on IT systems were used to set bail return dates relative to the ABP in each of the forces. This 'policy' and/or practice appeared to have arisen partly because of guidance from the College of Policing, although it does not appear in the Statutory guidance (College of Policing, 2023). However, at its foundation was a mistaken interpretation of the legislation which conflated the ABP, which is legally three months, with the bail return date which is not subject to regulation. The bail return date cannot be longer than the ABP, but nothing prevents it from being shorter.

Data displayed in Figure 6.1 suggest that statutory bail reviews drive police behaviour in terms of when cases were completed. Case completions peaked just before statutory review points at three, six and nine months. These peaks of case completions were most prevalent in bail cases. These data indicate that investigators work to the deadlines of the review periods, especially in bail cases. Interviewees' accounts supported this explanation and confirmed that the regime to review cases was an important determinant of when cases were concluded. In addition, investigators were clear that they viewed bail return dates as deadlines for completing investigations, so they worked to them, using them to manage their workloads and prioritise cases. One investigator explained when asked if three months was sufficient time: 'I could probably turn it round in a shorter amount of time, but you have lots of jobs ... you've just got to manage your workload ...' (B2: 7).

Figure 6.1 Time to disposal all forces



The current approach to bail return dates appears to have been driven by administrative convenience and expediency. Having a consistent approach to setting bail return dates made it administratively neater, reduced the need for bail extensions and the workloads of investigators and bail managers. Theoretically, suspects could be contacted earlier if cases were concluded more quickly. In practice, early notification of outcomes usually happened only if cases ended in NFA or if suspects were postal charged. As discussed above, investigators often waited for the bail return date to charge suspects in person, especially if it was within a few weeks of a decision to charge. A significant minority of interviewees, especially custody sergeants, thought that they should have more discretion to set bail return dates because many enquires could be undertaken in a shorter period.

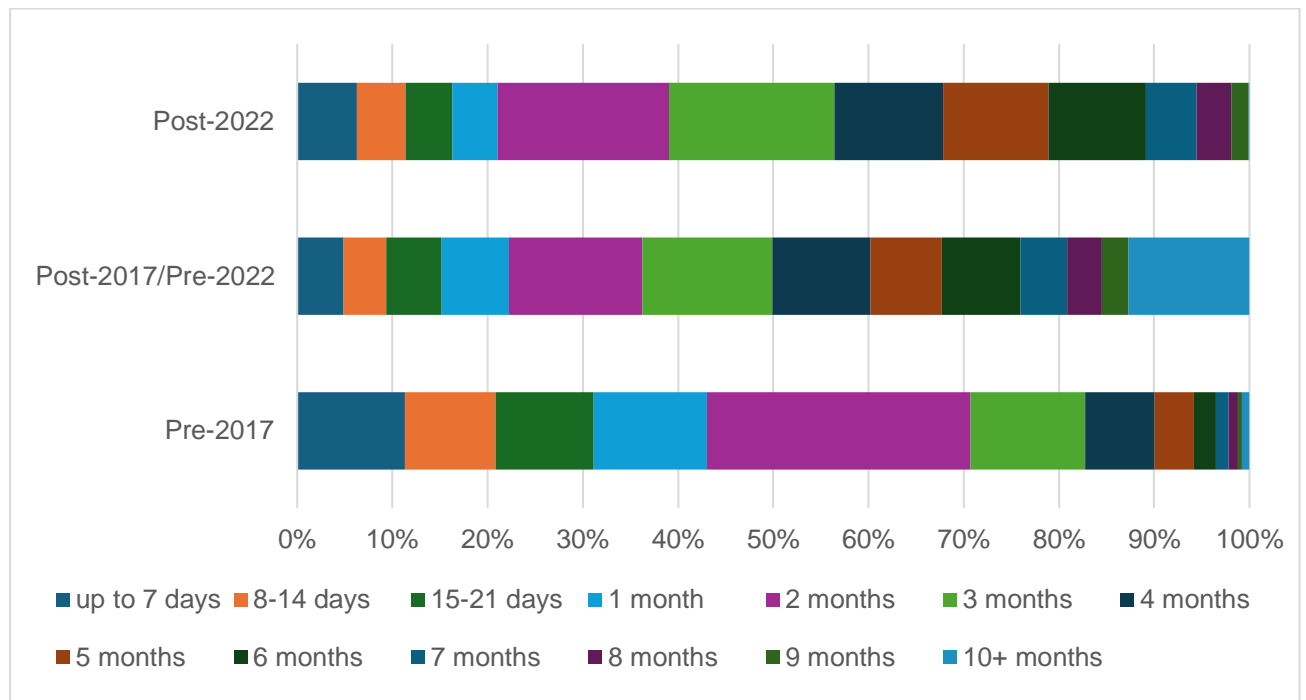
Forces had slightly different approaches to setting the bail return dates. Force C tended to use the ABP as the date whereas the other two forces tended to set the bail return date a few days earlier. The latter approach allowed bail managers and/or custody staff to extend bail for a few days if investigation teams had not updated cases without suspects lapsing onto RUI. This approach was discouraged by the BMT in Force C because it created more work for them. Whilst all forces reported suspects arriving at custody blocks unexpectedly, more of these cases appeared to have no update on the investigation log in Force C, suggesting that setting an earlier ABP may reduce pressures on custody blocks.

Increasing the length of the ABP in 2022 clearly contributed to the increasing length of time suspects were spending on bail. Cases took longer to complete post-2022 than pre-2022.¹ The mean time to completion increased from 94 days to 102 days and the median from 78 days to 94 days. This was double the averages found in the pre-2017 research which were 46/47 days (Hucklesby, 2015; 2021). Figure 6.2 demonstrates the longer processing times. Pre-2017, over 80% of cases were completed within three

¹ The data were extracted in Forces A and B in October 2023 but considerably later for Force C (April 2024). For reasons of comparability, data relating to time on bail have been analysed as of 7th October 2023 in Force C.

months compared with around half of cases pre-2022 and just over half post 2022. This pattern was also evident when only suspects bailed from custody were included.

Figure 6.2 Time to disposal by periods of legislative change

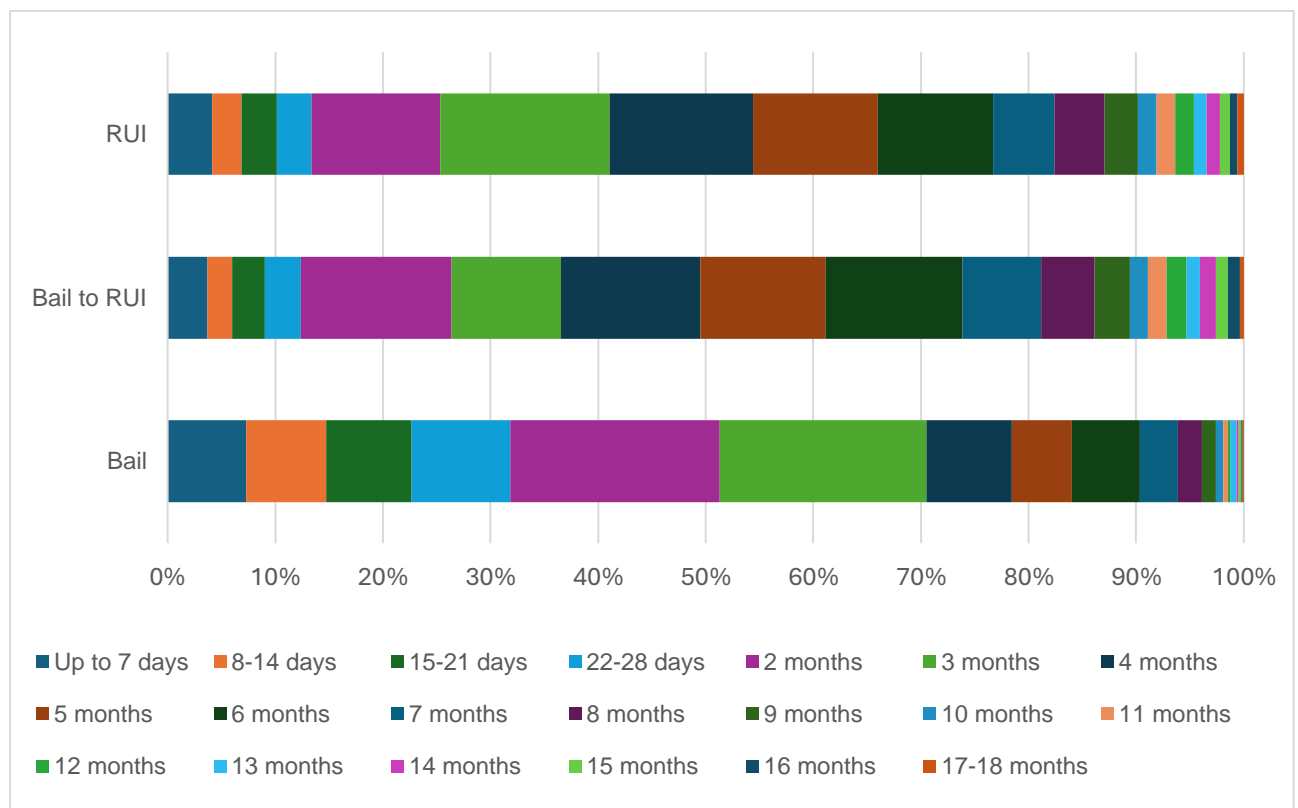


Cases involving suspects on bail tended to be completed earlier. Comparing the completed and uncompleted cases indicates that cases in which suspects were on bail throughout the investigation were more likely to be completed when data were extracted than when suspects were initially released on RUI or switched from bail to RUI. Cases involving the latter group were the least likely to be completed by the time the data were extracted - 45% of cases in which suspects were switched from bail to RUI in the post-2022 remained incomplete compared with 25% of those on RUI throughout and 17% of those on bail. The difference between bail and RUI cases was also evident in the pre-2022. In this sample, 7% of bail cases were outstanding. However, there were no differences between those on RUI and those switched from bail to RUI (18% and 19% respectively).

Figure 6.3 shows that 71% of cases involving suspects on bail were completed within three months compared with 42% of RUI cases and 36% of cases switched from bail to RUI. Over 90% of bail cases were completed within six months compared with about three quarters of cases when suspects were RUI. These findings were mirrored and remarkably consistent in all forces.

Mean and median times to completion confirm the quicker completion of bail cases. Post-2022, the mean for bail cases ranged from 71 days to 96 days compared with a range of 104 days to 186 days for suspects on RUI throughout the investigation. The highest mean completion times post-2022 were for cases in which suspects were switched from bail to RUI (ranging from 141 days to 186 days). Completion times increased post 2022 for all groups.

Figure 6.3 Time to disposal by bail status



Many interviewees and survey respondents confirmed that bail cases were prioritised over RUI cases. This was because of the ABP, the oversight of these cases by their supervisors, the higher risk posed to victims and the public generally by these cases and concerns about the suspects' well-being. They also suggested that the CPS prioritised dealing with cases when suspects were on bail.

Recommendations

- 15. The Statutory guidance is amended to clarify that bail return dates may be shorter than the Applicable Bail Period and should be set with reference to the expected time required to undertake outstanding investigations.
- 16. Consideration is given to amending PACE 1984 to include a presumption of bail rather than the current neutral position.

Chapter 7 Protected characteristics

This chapter discusses the findings relating to protected characteristics of suspects. Data were available on gender, age, ethnicity and nationality. The findings suggest some differences in bail and RUI decisions according to protected characteristics, particularly ethnicity and nationally, which should be explored in further research and closely monitored by the Home Office nationally and police forces locally. As striking were the similarities in decisions according to gender and for juveniles and adults which raise questions about whether protected characteristics were taken account of sufficiently when bail and RUI decisions were made at the beginning, and during, investigations. Appendices 1 and 5 provides more detailed data on protected characteristics.

7.1 Gender

Women accounted for 13% (n=2071) of the sample which is comparable to Home Office statistics which show females comprised 15% of those detained in police custody in 2023 (Home Office, 2024). Data show no differences in initial bail decisions and final bail status for men and women across the whole sample or pre- and post-2022. Women were slightly more likely to be RUI (38%, n=253) than men (32%, n=1545) in Force C but the difference was not visible in the other two forces. Differences in decision-making for women and men arrested for safeguarding offences were also apparent. Women were slightly less likely than men to be bailed from custody² and to be on bail at the end of the investigation.³ It is possible that the nature and seriousness of the offences differed for these groups, but it is also possible that officers assessed the risks associated with these types of offences differently for men and women.

There were no significant differences in outcomes between men and women. However, women were slightly more likely to be NFA'd (62%, n=338) than men (57%, n=1949) in Force B and slightly less likely to be NFA'd (65%, n=331) than men (70%, n=2712) in Force C.

7.2 Juveniles

Suspects under 18 at the time of arrest comprised 11% (n=1787) of the sample which is slightly higher than the 7% of this group detained in police custody nationally in 2023 (Home Office, 2024). The sample of juveniles was slightly lower in Force B (8%, n=364) than in Forces A (12%, n=712) and C (13%, n=711). No differences were found in initial bail decisions between adults and juveniles. However, juveniles were slightly more likely to be moved from bail onto RUI during the investigation – a quarter (26%, n=469) of this group were switched to RUI compared to a fifth (19%, n=2730) of adults. This pattern was evident in all three forces with the proportion of juveniles on bail at the end of the investigation ranging from 43%, 28% and 35% compared with 50%, 37% and 42% of adults in Forces A, B and C respectively.

² 85% (n=5526) of men compared with 78% (n=806) of women.

³ 53% (n=547) of women compared with 61%, n=3921 men.

Juveniles arrested for safeguarding offences were less likely to be bailed from custody than adults.⁴ They were also less likely to be on bail at the end of the investigation than adults.⁵ Juveniles were more likely to be on bailed from custody than adults when investigated for acquisitive offences - 66% (n=412) of juveniles compared with 58% (n=1115) of adults. This difference had all but disappeared by the end of the investigation when 35% (n=220) of juveniles and 37% (n=714) of adults were on bail. These findings potentially indicate that officers were more likely to use bail to provide an element of short-term control on juveniles than for adults.

Outcomes were similar for juveniles and adults with 65% of cases ending in NFA for the whole sample. However, outcomes differed in Forces B and C with juveniles more likely to be NFA'd in Force B than adults⁶ and slightly less likely to be NFA'd in Force C.⁷

7.3 Ethnicity

Two thirds (67%, n=10,810) of the sample were recorded as White (see Table A5.1) which is comparable to Home Office (2024) statistics. The proportion of suspects from minority ethnic groups was the same in Forces A and C (29%) but considerably lower in Force B (11%).

No significant differences were found in initial bail and RUI decisions according to ethnic origin, 62% (n=6714) of White suspects compared with 66% (n=3049) of suspects from minority ethnic groups were bailed (see Table A5.1). Black and Asian suspects were slightly more likely to be bailed (68% and 66% respectively) compared with other ethnic groups. Suspects from minority ethnic groups were slightly more likely to be switched from bail to RUI during the investigation than White suspects – 30% of White suspects were moved onto RUI compared with 34% of suspects from minority ethnic groups. Suspects with mixed heritage were most likely to be moved from bail to RUI (37%) followed by Asian (34%) and Black (32%) suspects. There were no significant differences in the final bail status of different groups according to ethnicity (see Table A5.2).

Table 7.1 shows differences in outcomes by ethnic group. White suspects were more likely to be charged than suspects from minority ethnic groups. This pattern is evident for all ethnicities but is greatest for Asian suspects – only a fifth of Asian suspects were charged compared with a third of White suspects. A similar pattern existed when only suspects who were initially bailed were included.⁸

NFA rates varied between the three forces according to ethnicity. The gap in outcomes was greatest in Force B where NFA was taken in 67% (n=1125) of cases involving White suspects after a period on bail compared with 74% (n=134) of suspects from minority ethnic groups. The gap between these two groups was smaller but still present in Force A where 66% (n=2224) White suspects were NFA'd after a period on bail

⁴ 72% (n=450) of juveniles compared with 86% (n=5896) of adults.

⁵ 45% (n=278) of juveniles compared with 61% (n=4197) of adults.

⁶ 67% (n=189) compared with 57% (n=2099) respectively.

⁷ 64% (n=374) juveniles compared with 70% (n=2700) of adults.

⁸ For this sample, 67% (n=4472) White suspects were NFA compared with 72% (n=2135) from minority ethnic groups. The highest NFA rates were for Asian suspects (75%, n=1152) and other ethnicities (73%, n=128) which compared with 69% (n=526) for Black suspects and 68% (n=329) for mixed heritage suspects.

compared with 72% (n=981) suspects from minority ethnic groups. The sample sizes were too small in Force B to distinguish between different groups, but this analysis was possible in Forces A and C. In Force A, the NFA rate was higher for all minority ethnic groups than for White suspects ranging from 73% (n=618) for Asian suspects, 71% (n=172) for Black suspects, 70% (n=45) for other groups and 68% (n=146) for suspects from mixed heritage backgrounds. The disparity was not present in Force C, 69% (n=1123) of White suspects compared with 67% (n=1020) of suspects from minority ethnic groups were NFA'd after a period on bail.

Table 7.1 Outcomes by ethnicity

	Charge		NFA		Other		Total
	N	%	N	%	N	%	N
White	3002	33	5761	63	361	4	9124
Asian	405	22	1334	74	66	4	1805
Black	261	26	676	68	50	5	987
Mixed	188	30	414	66	24	4	626
Other	69	28	168	69	7	3	244
Total BME	923	25	2592	71	147	4	3662
Total	3925	31	8353	65	508	4	12786

Offence patterns were investigated to explore whether they explained similarities and differences in bail and RUI decisions and outcomes. Offence patterns were very similar for all types of protected characteristics within and between forces. There were also no significant differences in offence types pre- and post-2022. To facilitate the analysis, offences were categorised into four types: safeguarding (violence offences and sexual offences); acquisitive offences (burglary, robbery, theft, fraud and vehicle crime); Rex offences (drug and driving offences); and other. Any differences, alongside the relatively small samples sizes, were not sufficient to explain the variations in bail decisions. However, in relation to ethnicity examination of offences uncovered hidden disparities in the treatment of suspects from minority ethnic groups which are discussed below.

The same proportion of White and suspects from minority ethnic groups were bailed initially for safeguarding offences (85%) and other offences (60/61%) but a higher proportion of suspects from minority ethnic groups were initially bailed for acquisitive offences (64% (n=461) compared with 58% (n=1007) of White suspects) and Rex offences (27% (n=212) compared with 15% (n=345) of White suspects). By the end of the bail period there had been significant reductions in the proportion of suspects from minority ethnic groups who were on bail compared with White suspects for acquisitive, Rex and other offences. The proportion of BAME suspects on bail for acquisitive offences dropped to 38% (n=274) compared with 63% (n=627) of White suspects, 9% (n=71) compared with 7% (n=146) for White suspects for Rex offences and 28% (n=256) compared with 60% (n=4476) for other offences.

7.4 Nationality

One of the criteria on which pre-charge bail decisions are made is whether suspects are likely to surrender to custody (PACE 30A(1B)). One of the factors which may contribute to a decision that suspects are flight risks is whether they are foreign nationals. They may be more likely to have, or be thought to have, connections abroad. Indeed, interviewees regularly referred to concerns about suspects fleeing the country who had the connections and resources to go abroad. The police are also responsible for checking the immigration status of suspects with foreign nationalities to alert immigration authorities which may make them more cautious about releasing foreign national suspects without bail. Consequently, it might be expected that foreign national suspects would be more likely than British nationals to be bailed rather than RUI, so that they were required to return to the police station and/or have bail conditions which monitored their continued presence in the country.

Unexpectedly, foreign national suspects were only slightly more likely to be bailed when released from custody than British nationals.⁹ This pattern was observed in Forces A and B but not in Force C where foreign nationals were slightly less likely to be bailed than British nationals.¹⁰ Foreign nationals were also slightly more likely to remain on bail throughout the investigation - 45% (n=864) of foreign nationals on bail at the end of the investigation compared with 40% (n=5333) of British nationals. This pattern was apparent in Forces A and C but not in Force B where a similar proportion of UK and foreign national suspects were on bail at the end of the investigation.¹¹

Only marginal variations in offences patterns for UK and foreign nationals were apparent. For example, a slightly higher proportion of foreign nationals were investigated for safeguarding offences (50% (n=955) compared with 46% (n=6059)). However, data show that initial bail decisions for foreign national and British nationals varied for different offence types. Foreign national suspects investigated for Rex offences (drug and driving offences) were more likely to be bailed than British nationals¹² and less likely to be bailed for offences other than safeguarding, acquisitive and Rex offences.¹³ By the end of the investigation foreign national suspects were more likely than British nationals to be on bail for safeguarding offences¹⁴ and Rex offences.¹⁵

Outcomes varied by nationality with a higher proportion of cases involving foreign national suspects being NFA'd (73%, n=1120) than British nationals (64%, n=2368).

7.5 The intersections between ethnicity and foreign national status

The data were investigated to understand the relationship between ethnicity and foreign national status in bail/RUI decision-making. There were 14,545 cases which included both of these data, 65% (n=9543) of which were White British nationals. The

⁹ 66% (n=1256) compared with 63% (n=8269)

¹⁰ 64% (n=466) compared with 67% (n=2707)

¹¹ 36% (n=1475) and 37% (n=153) respectively.

¹² 26% (n=87) compared with 17% (n=468).

¹³ 49% (n=145) compared with 61% (n=1470)

¹⁴ 74% (n=611) compared with 59% (n=3583).

¹⁵ 13% (n=90) compared with 6% (n=172).

second largest group were BAME British nationals (22%, n=3183) followed by BAME foreign nationals (7%, n=1010) and White foreign nationals (6%, n=809).

Table 7.2 demonstrates that initial bail decisions were influenced by ethnicity for British nationals and foreign nationals. Suspects from minority ethnic groups were more likely to be bailed than RUI whatever their nationality status. However, the difference between White and BAME suspects was much larger for foreign nationals than for British nationals suggesting that foreign national status and ethnicity both play a role in initial bail decisions.

Table 7.2 Proportion of suspects released on bail from custody by nationality and ethnicity

	Foreign national		UK citizen	
	N	%	N	%
White	469	58	5869	62
BAME	700	69	2117	67

Table 7.3 demonstrates that although less suspects from all groups were on bail at the end of the investigation than the beginning differences were apparent related to ethnicity and nationality. Two fifths of White suspects and British nationals from minority ethnic groups remained on bail throughout the investigation. British nationals from minority ethnic groups were more likely to be switched from bail to RUI during the investigation than all White suspects. Foreign national suspects from minority ethnic groups were the most likely to remain on bail throughout the investigation.

Table 7.3 Proportion of suspects on bail throughout the investigation by nationality and ethnicity

	Foreign national		UK citizen	
	N	%	N	%
White	326	40	3918	41
BAME	465	46	1235	39

In relation to outcomes, Table 7.4 shows that suspects from minority ethnic groups were more likely to be NFA'd irrespective of their nationality, but cases involving foreign national suspects from minority ethnic groups were the most likely to be NFA'd. Three quarters of cases involving foreign national suspects from minority ethnic groups ended in NFA. This suggests that outcomes after a period on bail or RUI were influenced by the ethnicity with nationality influencing decisions only for those suspects from minority ethnic groups.

Table 7.4 Proportion of suspects NFA by nationality and ethnicity

	Foreign national		UK citizen	
	N	%	N	%
White	422	63	5024	62
BAME	591	75	1803	71

Recommendation

17. The Home Office and police forces should put mechanisms in place to comprehensively monitor the use of bail and RUI throughout investigations for all protected characteristics.

7.6 Time to disposal

The mean time to disposal did not differ significantly for any of the protected characteristics with two exceptions. Cases involving juveniles in Forces B and C took on average a month longer than cases involving adults. Cases involving foreign national suspects were dealt with slightly quicker than cases involving UK nationals in Forces A and C (11 and 24 days respectively).

7.7 Bail conditions

No significant differences in number of different types of bail conditions according to protected characteristics were found.

Chapter 8 Victims in the pre-charge bail process

Following criticisms of the pre-2022 bail legislation because it insufficiently protected victims (Centre for Women's Justice, 2019), one of the aims of the PCSC Act 2022 was to increase the use of bail and bail conditions to provide additional protections to victims. It also included provisions for victim consultation. This chapter explores the research findings to understand the impact of these changes on police practice. It draws on interviews with police officers and victims' organisations.

Without exception officers stated that safeguarding victims was a primary consideration in their decisions relating to bail and RUI. This was a much stronger theme in their responses than in the pre-2017 research, suggesting that the way in which the police talk about, and perhaps view, the purpose of pre-charge bail has changed following the widespread criticism of the police's overuse of RUI post-2017, which left victims without the protection of bail conditions. This increased awareness alongside the legal duty were likely to mean that victims were more informed about police decisions. However, whether it had also resulted in victims playing an active role in decision-making was questioned by the research findings. The use of conditions also raises questions about whether the way in which bail and RUI were used provided sufficient confidence for victims to enable and empower them to continue their daily lives whilst police investigations were on-going.

8.1 Seeking victims' views

PACE (s.47ZZA) requires investigating officers to seek the views of victims on whether, and what, conditions should be imposed on pre-charge bail and notify victims of the conditions which are imposed. The police also have a legal duty to consult with victims about any proposed variations in bail conditions during the investigations. These legal duties are qualified so that they are mandatory only 'if it is reasonably practicable to do so', leaving officers leeway not to comply.

The findings relating to victims' participation in the bail/RUI decisions suggest that forces were complying with the letter but not the spirit of the law. Both the survey and the interviews demonstrated that officers usually spoke to victims about the bail conditions they were planning to impose on suspects. However, there was less evidence that they were consultations or of officers changing their minds because of the interactions. This raises questions about their authenticity. For some officers, there was a clear sense that they knew best, even if it was contrary to victims' views.

A total of 116 survey respondents answered the question about seeking victims' views. Of these, two thirds (68%, n=78) said they always sought victims' views or did so most of the time. A further fifth (19%, n=22) reported that they sometimes sought victims' views. Interviewees confirmed that victims' views were usually, but not always sought. Participants gave a range of reasons for not seeking victim's views. These included the time of night, the victim being in hospital, incapacitated, vulnerable, a child and/or not having capacity which could all be viewed as legitimate. Other less legitimate reasons were because of time pressures and limited time left on the custody clock. Some interviewees, especially in Force C, suggested that there was less of a culture of consulting with victims as an Inspector commented:

We tend to make the decision around bail conditions on behalf of victims rather than call them and we will put bail conditions in place ... sometimes against victim's wishes because we feel like we need to protect them (C13: 4).

From other responses, mainly in relation to domestic abuse cases in which victims were not supporting prosecutions, it was clear that officers thought they could ignore victims' views and that they knew what was more appropriate. Responses to the question in what circumstances would it not be practicable to seek victim's views illustrate this point:

If the victim could not foresee the risks that I could, to protect them from the suspect.

DV cases where victim's do not want the suspect to be prosecuted but bail is necessary for their own protection.

There is such a risk that we would want to safeguard, regardless of the victims' views.

Honestly in most situations, it's not really down to the victim to decide.

Similarly, whilst interviewees suggested that they would listen to victims' views, they also said that they would put conditions in place to safeguard victims irrespective of their views whether at the initial point of release or later if victims requested that conditions be removed. For instance, one interviewee said 'If I felt there was an immediate risk, I would trump that' (A29: 5). A second interviewee said that there may be a range of reasons why victims were not supportive of bail conditions 'however, the threat and the harm and the risk takes precedence and their welfare and safety over their wishes' (B3: 9). One interviewee mentioned that this sometimes led to victims withdrawing their cooperation.

By contrast, some interviewees and a quarter (25%, n=29) of survey respondents said that they had changed their minds because of consulting victims. This usually involved either tweaking conditions to fit better with their domestic circumstances, for example, accommodating child access/care arrangements or adding additional conditions because of concerns voiced by victims. A few respondents suggested that they were persuaded that bail or RUI were more appropriate after talking to victims, but no officers reported that it had happened, suggesting that it rarely did.

The positive picture provided by the police about their consultation with victims contrasted with the views of victims' organisations. They suggested that the police imposed standard bail conditions of not to contact victims and keep away from home addresses with little thought for the victims and the consequences for their daily lives. For example, whilst conditions to keep away from a victims' house or street were commonly imposed, it was much rarer to include other areas that victims habitually inhabit such as workplaces and family and friends addresses. One organisation was also concerned that victims were not consulted when bail was changed to RUI which resulted in victims 'feeling abandoned and unprotected'.

8.2 Recording victims' views

All forces included a text box on their systems which officers were required to complete to provide a record of their consultation with victims. During interviews, custody officers reported that it was the responsibility of investigators to contact victims, which conforms to the Statutory guidance (College of Policing, 2023). They also took what was written in the bail application on trust, rarely questioning investigators about the nature of the contact or what victims had said. These practices were also observed during custody observations. A custody sergeant elaborated:

... the custody officer should be the one that makes the decision, should be the one that does X, Y, and Z around anything to do with releasing and reviewing evidence. But that's impossible, because there is no way that the custody officer has time to do that ... so we are reliant purely upon what the investigation ... officer tells us. So, if they're telling us they've spoken to the victim ... they've got to endorse their investigation and then we endorse the custody records. Is it happening 100% of the time ... you have to take them at their word? (A12: 9).

The small number of investigation sergeants interviewed also reported liaison with victims was the sole responsibility of investigating officers with no checks seemingly being made by them that the contact was made and/or that victims views were adequately recorded or considered. Given that victims' organisations suggested that victims' experiences varied depending on the officers in the case, the lack of oversight from their supervisors and custody staff was potentially of concern.

8.3 Explaining police decisions to victims

All investigators said that they contacted victims to explain their bail or RUI decisions and notify them of any bail conditions. Most officers suggested that they spoke to victims before, or at the point at which, suspects were released. It was less clear that all officers always kept victims informed about extensions, moves to RUI and variations in conditions. They were most likely to say that they kept in regular contact with victims but without being specific about when and what was discussed. One victims' organisation suggested that police decisions about bail were not very well explained to victims.

8.4 The views of victims' organisations

This research did not have the resources to speak directly with victims but contacted over 20 national and local victims' organisations or representatives to seek their views on the 2022 bail changes. Most indicated that they did not have the resources to participate. However, four interviews were conducted with victims' organisations and another organisation provided some written feedback. Whilst the findings need to be treated with some caution because of the small sample size, several clear themes arose.

Victims' organisations seemed to have moved onto other priorities, so bail and RUI were no longer near the top of their agendas since the legal changes made in 2022. They confirmed that the 2017 legal changes were problematic for victims because the widespread use of RUI left victims with no protection from bail conditions and a general

feeling of being poorly treated and that investigations took much longer. There was a general view that, whilst there were still problems, the 2022 reforms had addressed the immediate concerns arising from the 2017 legislation because bail, and importantly conditions, were again available to assist with safeguarding victims and there was a better balance between suspects' and victims' rights. The 2022 changes were generally welcomed with some concerns that they did not go far enough. None of the organisations had monitored the impact of the changes on victims' experiences so were unable to provide detailed feedback on police practices.

Victims' organisations generally reported that bail was used more post-2022 than pre-2022 but there was also a suggestion that the changes were not significant, and that RUI was still being used frequently.

Victims' organisations clearly viewed the purpose of bail to be the ability to impose conditions which protected victims, with a recognition that this was more in theory than in practice. They also believed that bail sends a symbolic signal to victims and other organisations that the police are taking the investigation seriously, which could be helpful when applying for civil orders such as non-molestation orders, for family court applications and for other services such as housing. Bail was also reported to make victims feel safer, providing them with reassurance and a breathing space. One interviewee stated:

I think it gives victims a sense of safety, there's a consequence if this person now contacts me ... most victims are scared of reporting. It's often a reason they don't report ... when there's a bail condition to have no contact ... it give[s] the people a little more sense of security that actually, if bail conditions were broken ... potentially [there] would be an arrest.

Several interviewees also recognised that releasing suspects on bail gave the police the opportunity to work with victims and prevent future offences. It was also recognised that in some cases conditions acted as a deterrent and suspects complied, resulting in victims being safer.

The most prominent concern of victims' organisations was in relation to breaches of bail conditions. They were concerned that conditions were not monitored and that the police relied on victims to report any breaches. This was confirmed by most police interviewees who stated that they relied almost exclusively on victims to report any breaches of conditions. Several interviewees from victims' organisations argued that this places significant and unfair responsibility on victims. Another concern was the perceived lack of action after bail conditions were breached which was summed up by one interviewee:

... clients do say, even if there is bail, they don't have a lot of reassurance that if that bail is broken that anything is actually going to be done about it ... a client where there was bail conditions on the perpetrator and he kept breaking them over and over again, and it was reported to the police and just nothing was done about it ... she said 'What's the point in having bail ... there's no consequences to it'.

This resulted in a vicious circle because victims did not see any positive outcomes from reporting breaches, they stopped reporting them. They were also concerned that

the only option available to the police was to arrest suspects and then re-release them which may increase the risk for victims. This was also discussed in relation to RUI:

... when somebody has been arrested or not even necessarily arrested ... it increases the victim's risk because the perpetrator is going to be annoyed by it and maybe more likely to take revenge on the victim etc. I know certainly that's how victims feel, whether that's true or not.

There was clear support for more punitive actions to result from breaches, but organisations had differing views about what these might be. One interviewee was of the view that breaches should result in an escalation of responses and evidence used for the police to apply for civil orders. They felt that it was important that the police, rather than victims made applications because of the costs involved and because of distances victims and perpetrators. The same interviewee also argued that the police could and should arrest suspects for new offences more frequently than they do.

Other consequences of police use of bail and RUI were identified by victims' organisations which, they argued, contributed to the low conviction rates for domestic related and sexual offences. Several interviewees recognised that cases were taking much longer to be dealt identifying the use of RUI as a contributing factor. Several interviewees also suggested that the increase in RUI had reduced reporting and increased the likelihood that victims would retract their complaint (although another interviewee had seen no evidence of the latter). One interview said:

If people are feeling that they haven't got the security around them during that time where they are waiting for [court], then I think there's definitely the possibility that they may pull out, and if that's sometimes people's reasoning for doing it, surely if there's firm bail conditions, it would help.

Another interviewee concurred:

... if they don't feel that they're being protected and they're not feeling safe enough then yes, there's a good possibility that they will just think, actually, it's probably best for me not to go any further with this ... fear of the repercussions ... I think they're definitely more likely to retract.

8.5 Bail and civil orders

Bail and the imposition of bail conditions can fit into a complex web of potential measures which aim to safeguard victims of domestic abuse, harassment and sexual offending. These included a range of civil orders such as Non-molestation Orders and Domestic Violence Prevention Notices and Orders. Not many police interviewees discussed these orders but those that did recognised that they provided greater protection to victims because they were more enforceable and came with a power of arrest. Consequently, they would be something that would be applied for to run alongside bail or as previously discussed replace it when RUI was used.

Victims' organisations were critical of the approach of failing to impose bail conditions when civil orders were in place. They identified a number of advantages of police-led orders including that there was no financial cost to victims and responsibility is firmly

placed with the police rather than victims, potentially reducing the likelihood of retaliatory action by perpetrators.

Family court orders are also available when children are involved in alleged offending. Officers investigating alleged offences involving children all stated that they worked closely with social services to ensure that relevant protections were in place.

Recommendations

18. Additional training is put in place to underline the importance of authentic consultation with victims on relation to the bail/RUI status of suspects.
19. Consideration is given to whether custody officers should be responsible for consulting and liaising with victims about the bail/RUI status of suspects.
20. Guidance is produced to clarify the relationship between bail and RUI and civil orders and to reinforce the message that they should be used as mutually reinforcing safeguarding measures.

Chapter 9 Conclusion and recommendations

The research findings suggest that bail and RUI were often treated principally as administrative processes rather than decisions which impact upon the lives of suspects and victims during the stage when reported offences were allegations, a significant proportion of which did not result in further action. An important contributing factor to these findings was that the investigation teams appeared to lead and make most of the decisions. As a result, many of the checks and balances provided by PACE 1984 were removed, bypassed or reduced, blunting their effectiveness in ensuring that bail and RUI were used in ways which adhere to the principles of PACE 1984, especially the separation of custody and investigation functions, and protecting suspects' and victims' rights.

The current approach appears to be in line with the Statutory guidance which describes bail as 'an integral part of the investigation' (College of Policing, 2023, para. 5.2). It is also expedient for individual officers to manage their workloads and for police forces to manage the number of people under investigation and their busy custody blocks.

To ensure fair, workable and effective bail and RUI decisions and processes requires changes to PACE, the Statutory guidance and police forces' policies and practices as recommended below. However, the number of individuals on bail and RUI is large and growing, adding to pressures on police forces. Further scrutiny of initial decisions to investigate offences and, particularly what is and is not a reasonable line of enquiry, would assist with reducing the number of individuals on bail and RUI and reduce the proportion of them that end up with no further action being taken.

9.1 Recommendations

It is recommended that:

1. consideration is given to whether the Statutory guidance should be amended to state that unconditional bail should be used in preference to RUI;
2. the Statutory guidance is strengthened to ensure that all changes of conditions are authorised by custody sergeants and amendments are communicated to suspects orally and in writing by custody sergeants;
3. consideration is given to removing the power to release suspects from custody on s.37(7) (CPS bail) recognising that cases are rarely sent to the CPS immediately;
4. the Statutory guidance is amended to underline that the primary responsibility for bail and RUI decisions, and for managing bail and RUI, lies with custody departments rather than investigation teams;
5. further guidance is provided on the tasks which can and cannot be undertaken by detention officers in relation to bail and RUI;
6. PACE 1984 and the Statutory guidance are amended to state that extensions must be authorised by PACE/custody Inspectors;
7. Statutory guidance is amended to ensure that cases can only be moved from bail to RUI during the investigation in exceptional circumstances, and with the authority of senior officers;
8. police forces should strengthen review procedures to ensure that bail is no longer necessary and proportionate before it is removed;

9. police forces should monitor the use of RUI throughout investigations and not just at the point suspects are released from custody;
10. PACE 1984 is amended to abolish the distinction between pre-charge bail (s. 37(2)) and s. 37(7) (CPS) bail which creates unnecessary complications and legally questionable practices;
11. consideration is given to the legal status of suspects on bail during the time that files are being prepared by investigators and reviewed by police decision-makers.
12. police forces put processes in place to monitor the use of postal requisitions when suspects are on bail;
13. the Statutory guidance is strengthened to clarify that all suspects initially released on bail from custody should be charged in person with the expectation that post-charge bail should be imposed with appropriate conditions;
14. the Statutory guidance is amended to clarify that moving suspects from bail to RUI for the purpose of issuing postal requisitions should only be done in exceptional circumstances;
15. the Statutory guidance is amended to clarify that bail return dates may be shorter than the Applicable Bail Period and should be set with reference to the expected time required to undertake outstanding investigations;
16. consideration is given to amending PACE 1984 to include a presumption of bail rather than the current neutral position;
17. the Home Office and police forces should put mechanisms in place to comprehensively monitor the use of bail and RUI throughout investigations for all protected characteristics;
18. additional training is put in place to underline the importance of authentic consultation with victims on relation to the bail/RUI status of suspects;
19. consideration is given to whether custody officers should have responsibility for consulting and liaising with victims about the bail/RUI status of suspects; and
20. guidance is produced to clarify the relationship between bail and RUI and civil orders and to reinforce the message that they should be used as mutually reinforcing safeguarding measures.

Appendix 1 Administrative data

The administrative data captured information on all suspects leaving custody having been detained in police custody after being arrested for an offence. They were not charged but released on bail or under investigation for further enquiries or for CPS charging advice. Data were provided by the police from police databases including custody records and investigation logs. They provided what data were available from a 'wish list' of relevant data. Not all data were available in all three forces. Data were provided in Excel and analysed with SPSS.

The three forces provided data pre- and post- October 2022 to facilitate an analysis of what, if any, changes had happened because of the PCSC Act 2022. They provided four months of data, two prior to, and two post, October 2022 (May and June 2022 and January and February 2023). The data from Force A and Force B were downloaded on consecutive days in October 2023 (6th and 5th respectively). Data were not downloaded in Force C until 25th April 2024.

Table A1.1 Number of cases in each force

Force	Pre-2022		Post-2022		Total
	N	%	N	%	%
A	3056	50	3028	50	6084
B	2153	48	2379	52	4532
C	2708	49	2769	51	5477
Total	7917	49	8176	51	16093

Custody events were counted once irrespective of the number of offences related to a single custody event. This meant amalgamating data from different alleged offences to provide a record of a single custody event. Forces A and C provided data in this format. Force B provided multiple lines of data, one for each alleged offence, relating to a single custody event. The same 'rules' were applied to all data. They were collated using the most serious offence, bail/RUI outcome and disposal even if these did not correspond to the same offence. This approach provided the most accurate picture of custody event and its outcomes given that multiple offences in a single custody event often relate to the same incident and offences may be alternative charges at this early stage of the investigation.

Description of the samples

Most of the sample were male. Females comprised 13% (n=2071) of the sample (Force A, 13% (n=775); Force B, 14% (n=633); Force C, 12% (n=663)). Most of the sample were adults. Juveniles comprised 13% (n=2077) of the sample (Force A, 15% (n=887); Force B, 11% (n=479); Force C, 13% (n=711)). There were no significant differences between the pre- and post-2022 samples. The samples were also similar in terms of the age at the time of arrest with the mean and median being slightly higher in Force B at 34 and 33 years respectively compared with Force A (both 32 years) and Force C (31 years and 30 years respectively). The age range was similar in all forces. The youngest suspects arrested were 10 or 11 years old and the oldest were between

92 (Force A) and 78 years old (Force B). There were no significant differences between the pre- and post-2022 samples.

Table A1.2 shows that two thirds (67%, n=10810) of suspects were recorded as White. It also demonstrates that the proportion of suspects from different minority ethnic groups differs across the forces which largely reflects the representation of different minority groups in their catchment areas. Force C had the highest proportion of suspects from minority ethnic groups followed by Force A. Suspects of Asian origin accounted for the largest proportion of suspects from minority ethnic groups in Forces A and C. Black and mixed heritage suspects comprised a higher proportion of suspects in Force C than either of the other two forces. The proportion of suspects from different ethnic groups is generally consistent pre- and post-2022 within each force, except in Force A where there is a slightly lower proportion of White suspects and a slightly higher proportion of Asian suspects in the post-2022 sample.

Table A1.2 Suspects' ethnicity

	Force A		Force B		Force C		Total	
	N	%	N	%	N	%	N	%
White	4075	67	3946	87	2789	51	10810	67
Asian	1093	18	81	2	1176	21	2350	15
Black	303	5	108	2	787	14	1198	7
Mixed	275	5	110	3	381	7	766	5
Other	93	1	116	3	111	2	320	2
Missing	245	4	171	4	233	4	649	4
Total	6084	100	4532	100	5477	100	16093	100

Table A1.3 shows the composition of the samples by nationality. Four fifths (82%, n=13,236) of the sample were British nationals. Most suspects were recorded as British in all forces, but Force B had a noticeably higher proportion of British nationals than the other two forces. There were no significant differences between the pre- and post-2022 samples.

Table A1.3 Nationality

	Force A		Force B		Force C		Total	
	N	%	N	%	N	%	N	%
British	4927	81	4120	91	4189	77	13236	82
Foreign national	767	13	411	9	747	14	1925	12
Missing	390	6	1	0	541	10	932	6
Total	6084	100	4532	100	5477	100	16093	100

Offences

Forces provided different levels of detail about alleged offences, so data were not completely comparable. Many suspects were also arrested for more than one offence. Force A provided high level data on the most serious offence according to its own method of classification. Force B data included details of all offences charged and the research team classified the most serious according to both the type and gravity of the offences. For both of forces, the offence used for the analysis was the one recorded when the suspect was booked into custody. It was not necessarily the same as the most serious offences for which they were arrested, nor the most serious offence charged. It is also possible that the most serious offence used in the analysis was not the offence relating to the bail/RUI decision used for analysis purposes.

Force C did not record offences at the time suspects were detained. Instead, it recorded the 'reason for arrest'. This category usually referred to an offence type but also included breaches of a range of criminal and civil orders and bail (see Table A1.4). Therefore, these data were not completely comparable with the other forces. The offence selected for analysis was the most serious reason for arrest.

Table 1.4 shows that two fifths (38%, n=6188) of individuals were arrested for violence offences. The pattern of offences was similar across the three forces. However, motoring and drugs offences (Rex offences) comprise a higher proportion of alleged offences in Force B. There were no significant differences between offence patterns pre- and post- 2022.

Table A1.4 Most serious offence

	Force A		Force B		Force C		Total	
	N	%	N	%	N	%	N	%
Violence offences	2597	43	1591	35	2000	37	6188	38
Drugs	559	9	695	15	449	8	1703	11
Motoring	354	6	845	19	250	5	1449	10
Sexual offences	626	10	243	5	460	8	1329	8
Public Order	360	6	281	6	296	5	937	6
Burglary	334	6	122	3	268	5	724	4
Theft and Fraud	223	4	157	4	282	5	662	4
Vehicle crime	181	3	172	4	259	5	612	4
Weapons	157	3	128	3	298	5	583	4
Robbery	200	3	51	1	297	5	548	3
Property damage	173	3	127	3	158	3	458	3
Breaches	0	0	0	0	256	5	256	2
Other	320	5	120	3	204	4	644	4
Total	6084	100	4532	100	5477	100	16093	100

Appendix 2 Survey sample

An online survey prepared using Qualtrics. It was circulated by the three forces via e-mail to relevant officers. Whilst all forces sent reminders to officers to complete the survey, responses varied across the forces. The completed responses were downloaded into SPSS for analysis.

A total of 271 surveys were wholly or partially completed. Of those that completed the survey, 65% (n=175) were male and 94% (n=254) were White British. The average age of respondents was 25 years old and ages range from 19 to 66. Respondents had been in the police for an average of 16 years but ranged from less than a year to over 30 years. The breakdown of the forces was 126 from Force A, 106 from Force B and 39 from Force C. Analysis was done on the sample as a whole because of the relatively small number of respondents in each force.

The majority (89%, n=240) of respondents were police officers, 41 of which were custody officers. Two fifths (42%, n=114) identified themselves as investigators with the remainder either being patrol officers or not identifying their specific role. Other respondents (n=31) included individuals in a variety of roles including Detention Officers, Civilian investigators and decision-makers and Police Community Support Officers. All of the custody officers indicated that they worked with bail and RUI every shift as did 19 of the police staff. Over two fifths (26%, n=70) of other police officers reported working with bail and RUI every six shifts or less and 19 of this group reported never using it directly.

Appendix 3 Interview sample

A total of 97 interviews were conducted with police officers. Most interviews lasted about an hour. Some were conducted in person, but the majority were done online on Microsoft Teams. Interviews were mostly with single officers but three were done with two officers present. All interviewees were provided with information about the research and the interviews prior to them taking place. They all gave their informed consent to be interviewed.

The largest number of interviews were completed in Force A (n=37) followed by Force B (n=33) and Force C (n=27). Just over a quarter (n=28) of interviewees were female. Just over a tenth (12%, n=12) of interviewees were from minority ethnic groups and their representation did not differ significantly across the forces. Half (n=51) of those interviewed had undergraduate or postgraduate degrees, 12 had diplomas and 22 had School level qualifications. The remainder has a range of other vocational qualifications. The average length of service of interviewees was 12 and a half years. Length of service ranged from 27 years to a few months.

One senior officer with responsibility for bail and RUI was interviewed in each police force. Just over a quarter (n=27) of the officers interviewed worked in custody including three Inspectors. A similar proportion of interviewees (n=26) worked in safeguarding or domestic abuse teams. The remainder worked in general investigation departments and/or CID.

Appendix 4 Administrative data tables

Table A4.1 Proportion of suspects initially granted bail by type of offence

	Force A					Force B					Force C					All forces				
	Pre-2022		Post-2022		Change	Pre-2022		Post-2022		Change	Pre-2022		Post 2022		Change	Pre-2022		Post-2022		Change
	N	%	N	%	%	N	%	N	%	%	N	%	N	%	%	N	%	N	%	%
Burglary	84	57	164	82	+25	13	25	63	91	+66	49	40	135	94	+54	146	42	362	92	+50
Vehicle crime	35	35	59	73	+38	6	8	40	42	+34	22	16	104	87	+71	63	20	203	69	+49
Theft and Fraud	40	39	68	65	+26	14	19	51	65	+46	30	22	106	72	+50	84	26	225	68	+42
Drugs	28	11	92	31	+20	17	5	144	40	+35	22	10	186	82	+72	67	8	422	48	+40
Weapons	32	43	44	54	+11	27	34	20	41	+7	29	19	121	83	+64	88	29	185	67	+38
Property damage	57	64	69	82	+18	33	53	46	71	+18	29	40	74	86	+40	119	53	189	80	+33
Robbery	61	66	94	88	+20	9	82	39	98	+16	79	59	158	98	+39	149	62	291	94	+32
Public Order	160	77	133	88	+10	61	40	89	68	+28	51	32	124	91	+59	272	52	346	83	+31
Violence offences	1095	84	1208	93	+9	567	75	731	88	+13	652	64	917	94	+30	2314	75	2856	92	+17
Sexual offences	276	87	295	95	+8	90	78	123	96	+18	164	73	229	97	+24	530	81	647	96	+15
Driving	3	2	1	1	-1	4	1	27	6	+5	6	5	46	35	+30	13	2	74	9	+7
Other	79	44	86	61	+17	10	19	34	51	+32	34	32	93	86	+54	123	28	213	46	+18
Total	1950	64	2313	76	+12	851	40	1411	59	+19	1218	46	2437	88	+42	4019	51	6161	75	+24

Table A4.2 Number of different type of conditions

Force			Number of conditions					Total
			1	2	3	4	5+	
A	Pre-2022	N	578	916	174	55	5	1728
		%	33	53	10	3	>1	100
	Post-2022	N	648	1076	194	52	12	1982
		%	33	54	10	3	>1	100
	Total	N	1226	2002	368	107	16	3720
		%	33	54	10	3	>1	100
B	Pre-2022	N	237	499	52	4	0	792
		%	30	63	7	4	0	100
	Post-2022	N	408	642	83	5	0	1138
		%	36	56	7	>1	0	100
	Total	N	645	1141	135	9	0	1930
		%	33	60	7	>1	0	100
C	Pre-2022	N	219	701	226	51	12	1209
		%	18	58	18	4	1	100
	Post-2022	N	593	1067	336	108	27	2078
		%	26	52	16	5	2	100
	Total	N	758	1768	562	159	39	3287
		%	23	54	17	5	1	100
All forces	Pre-2022	N	1034	2116	452	110	17	3729
		%	28	56	12	3	>1	100
	Post-2022	N	1649	2785	613	165	39	5251
		%	31	53	12	3	1	100
	Total	N	2629	4911	1065	275	55	8935
		%	29	55	12	3	1	100

Table A4.3 Type of conditions

	Force A		Force B		Force C		Total	
	N	%	N	%	N	%	N	%
No contact with victims/witnesses	3181	86			2289	70	5470	61
No contact with co-suspects	107	3			520	16	627	7
No contact (not specified)			1626	84			1626	18
Not to enter	2397	64	1347	70	2303	68	6047	68
Residence	490	13	167	9	546	17	1203	13
Curfew	362	10	55	3	334	19	751	8
No unsupervised contact with U18	257	7	65	3	0	0	322	4
Sign on	31	1	110	6	0	0	141	2
Other	2	>1	0	0	519	16	521	6
Total	3720		1930		3287		8937	

Table A4.4 Number of suspects bailed for further enquiries (s.37(2)) and s. 37(7) (CPS) bail (s. 37(7)) from custody

Bail Type	Force A				Force B				Force C				All forces			
	Pre-2022		Post-2022		Pre-2022		Post-2022		Pre-2022		Post-2022		Pre-2022		Post-2022	
	N	%	N	%	N	%	N	%	N	%	N	%	N	%	N	%
37(2)	1481	76	1938	84	701	82	1256	89	1114	91	2297	94	3296	82	5488	89
37(7)	463	24	360	16	150	18	155	11	104	9	140	6	717	18	655	11
Other	6	>1	15	>1	0	0	0	0	0	0	0	0	6	>1	15	0
Total	1950		2313		851		1411		1218		2437		4019		6161	

Table A4.5 Proportion of suspects released on bail who were later released under investigation by type of offence

	Force A					Force B					Force C					All forces				
	Pre-2022		Post-2022		Change	Pre-2022		Post-2022		Change	Pre-2022		Post-2022		Change	Pre-2022		Post-2022		Change
	N	%	N	%	%	N	%	N	%	%	N	%	N	%	%	N	%	N	%	%
Robbery	35	61	25	27	-34	4	44	10	26	-18	52	67	53	34	-33	91	61	88	30	-31
Sexual offences	127	46	69	23	-23	49	54	27	22	-32	106	65	74	32	-33	282	53	170	26	-27
Violence offences	328	30	211	17	-13	164	29	106	15	-14	360	55	247	27	-28	852	37	564	20	-17
Property damage	9	16	9	13	-3	13	39	4	9	-30	16	55	18	24	-31	38	32	31	16	-16
Burglary	32	38	55	34	-4	4	31	16	25	-6	33	67	47	35	-37	69	48	118	33	-15
Theft and Fraud	20	50	12	17	-33	7	50	20	39	-14	16	53	48	45	-8	43	51	80	36	-15
Public Order	61	29	24	18	-11	29	48	16	18	-30	34	67	82	66	-1	124	46	122	35	-11
Weapons	12	28	22	50	+22	15	55	8	40	-15	21	72	56	46	-26	48	55	86	46	-9
Driving	2	<1	1	<1	0	0	0	11	41	+41	5	84	25	50	-34	7	53	37	50	-3
Vehicle crime	10	29	29	49	+20	0	0	16	40	+40	16	73	32	31	-42	26	41	77	38	-3
Drugs	20	71	62	68	-3	9	52	95	66	+14	15	68	107	58	-10	44	66	264	63	-3
Other	48	27	41	29	+2	2	20	6	18	-2	39	41	42	18	-23	89	72	89	42	-30
Total	704	36	560	24	-12	296	35	335	24	-11	713	57	829	34	-23	1713	43	1724	28	-15

Table A4.6 Bail/RUI status when cases were finalised

	Force A						Force B						Force C						All Forces					
	Pre-2022		Post-2022		Total		Pre-2022		Post-2022		Total		Pre-2022		Post-2022		Total		Pre-2022		Post-2022		Total	
	N	%	N	%	N	%	N	%	N	%	N	%	N	%	N	%	N	%	N	%	N	%	N	%
Bail	1204	45	1432	63	2636	53	518	26	960	49	1478	37	418	19	1309	58	1727	39	2140	31	3701	57	5841	44
RUI	1500	55	825	36	2325	47	1466	74	1011	51	2477	63	1733	80	831	37	2564	58	4699	68	2667	41	7366	55
Other	0	0	0	0	0	0	0	0	0	0	0	0	29	1	117	5	146	3	29	>1	117	2	146	1
Total	2704		2257		4961		1984		1971		3955		2180		2257		4437		6868		6485		13,353	

Table A4.7 Number of suspects who were on bail at the conclusion of their cases by type of offence

	Force A					Force B					Force C					All forces				
	Pre-2022		Post-2022		Change	Pre-2022		Post-2022		Change	Pre-2022		Post-2022		Change	Pre-2022		Post-2022		Change
	N	%	N	%	%	N	%	N	%	%	N	%	N	%	%	N	%	N	%	%
Burglary	50	36	90	73	+37	9	20	41	74	+54	16	10	79	60	+50	75	25	210	68	+43
Robbery	25	28	52	63	+35	5	50	28	90	+40	32	19	99	65	+46	62	28	179	67	+39
Theft & Fraud	20	20	41	55	+35	5	8	29	43	+35	7	9	47	54	+45	32	14	117	51	+37
Sexual offences	136	54	148	80	+26	36	38	71	87	+49	50	28	124	69	+41	222	42	343	77	+35
Property damage	46	53	54	75	+21	18	30	40	65	+35	13	20	52	68	+40	77	36	146	70	+34
Vehicle crime	25	26	30	50	+24	6	8	23	30	+22	4	4	58	57	+53	35	13	111	47	+34
Violence offences	751	62	849	82	+20	381	53	566	80	+27	266	29	635	71	+42	1398	49	2050	77	+28
Public Order	96	54	94	80	+26	29	21	69	63	+42	17	13	39	36	+23	142	32	202	60	+28
Weapons	18	29	18	27	-2	12	17	11	31	+14	8	6	53	48	+42	38	14	82	36	+22
Drugs	7	3	30	16	+13	6	2	45	18	+16	5	4	52	36	+32	18	2	127	22	+20
Driving	1	<1	0	0	0	4	4	15	3	-1	1	3	11	65	+62	6	2	26	11	+9
Other	29	20	30	39	+19	7	16	22	44	+28	13	8	58	27	+19	49	19	110	53	+34
Total	1204	45	1432	58	+13	518	26	960	49	+23	418	19	1309	58	+39	2140	31	3701	57	+26

Appendix 5 Protected characteristics data

Table A5.1 Initial bail/RUI decision by ethnicity

	Bail		RUI		Total	
	N	%	N	%	N	%
White	6714	62	4096	38	10810	70
Asian	1554	66	795	34	2349	15
Black	809	68	389	32	1198	7
Mixed	494	64	272	36	766	5
Other	191	62	119	38	310	2
Total BME	3049	66	1575	34	4623	30
Total	9762	63	5671	37	15433	100

Table A5.2 Final bail status by ethnicity

	Bail		RUI		Bail to RUI		Total
	N	%	N	%	N	%	N
White	4476	41	6260	58	74	1	10810
Asian	964	41	1358	58	27	1	2349
Black	475	40	695	32	28	2	1198
Mixed	283	37	472	62	11	1	766
Other	123	40	185	59	2	1	310
Total BME	1845	40	2710	59	68	1	4623
Total	6321	41	8970	59	142	1	15433

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A briefing paper and more information about the research are available at: <https://birmingham.ac.uk/prechargebail> or by contacting Professor Anthea Hucklesby, University of Birmingham, UK (A.Hucklesby@bham.ac.uk).

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