

The police use of pre-charge bail: An exploratory study

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Executive Summary

The Association of Chief Police Officers (ACPO) Reducing Bureaucracy Programme Board and ACPO Criminal Justice Business Area commissioned exploratory research on the use of pre-charge bail by police in England and Wales. The research was undertaken by NPIA Research, Analysis and Information (RAI) with support from ACPO and the Crown Prosecution Service (CPS). The purpose of the research was to help identify and explain sources of variation in processes relating to the use of pre-charge bail, in particular those leading to unnecessary work, and inform the development of force initiatives intended to improve the process.

Findings are based on opinions of officers and staff involved in the bail management process, including the CPS. Due to the timescale and available resources, the scope of the study was limited to the general use of pre-charge bail in the custody suite. It does not attempt to cover issues such as youth bail, street bail, ethics and the impact of bail on suspects.

Key findings

Overall, there were difficulties in obtaining a clear overview of the pattern of pre-charge bail use across the policing areas. No single aspect of the bail process in particular was seen to be overly bureaucratic or inefficient, however officers did question potential over-use of bail. The research identified four aspects of the bail process that were perceived to be driving the use of pre-charge bail, and were potentially sources of unnecessary use: unplanned arrests, insufficient quality in initial investigations, demands on limited custody space and differing perceptions on levels of evidence required for charge leading to

delays in the process. Four broad themes identified in the research which help to explain variations and potential avoidable use are set out below.

Explanatory themes

- **Force policies and processes.** Some officers reported what they felt were overly high levels of unplanned arrests, driven in part by policies which required mandatory arrest for certain crime types. These arrests represented unpredictable workload which could lead to the use of pre-charge bail to manage resource bottlenecks. Policies that required 'named suspects' (individuals wanted in connection with an offence) to be arrested within 14 days, whether investigative work had been completed or not were also seen as a potential factor in over use of pre-charge bail.
- **Risk aversion.** There was a perception from some response officers that they were often required to arrest individuals due to risk aversion from senior management, although some officers themselves also suggested that arrest was a safe option with well understood resource implications. Alternatives to arrest, such as voluntary attendance, were felt by some officers to be a complicated process on which they had little instruction. Some police officers also felt that there may be risk aversion from some CPS representatives and these officers perceived that this could lead to inconsistencies in the levels of evidence required to charge.
- **Performance pressures.** Participants largely saw reasons for variation in the use of bail as driven by differing reactions to standards and performance targets. Response officers felt under pressure to arrest and respond to incidents quickly which was felt to have a negative effect on the quality of

their primary investigations. Performance measures were also thought sometimes to work against each other with, for example, response officers being driven to make arrests, deliver to custody and return to the streets with custody sergeants needing to free up cells by encouraging prisoners to be processed by those same officers. The bail option was sometimes seen as a way to manage the differing pressures on each group.

- **Resources:** Perceived limited resources were felt to fracture efficient relationships between the various teams involved in the arrest to charge process. For example, some respondents felt that the pressures on response officers which may have reduced the quality of primary investigations consequently put more pressure on specialist investigative teams. Additionally, the use of specialist investigation teams, although seen to improve the quality of case files, were felt to have contributed to a loss of investigative skills in response officers. Resource availability in the custody unit and the time and resources required to process forensic analysis and collect evidence were also felt to contribute to the use of pre-charge bail. In addition, in some areas it was reported that bail return dates were often set based on dates available for appointments for answering bail in a bail management diary rather than an assessment of the investigative work required.

Implications for initiatives to manage the use of pre-charge bail

The present study suggests various options for introducing changes to the pre-charge bail process which are discussed in the main report. Some options could involve relatively straightforward changes to policies and processes or re-focusing of resources around bottlenecks, whereas others may require a more

fundamental change in supervision and management and in organisational culture. The research has identified a number of areas for police forces to consider when reviewing bail management in order to make processes more efficient and effective. These points cover issues relating to polices and processes, performance targets and resources. An area that the research would suggest is key to minimising the use of pre-charge bail is dealing with the demand at the front-end by ensuring that, as far as possible, arrests are timely with the required evidence available at the point the individual is taken into the custody suite. This approach will not always be possible but removing factors that encourage early arrest, (such as policies requiring named suspects to be arrested within 14 days) may be a fruitful place to start focusing changes.

A. Introduction

In England and Wales, three types of bail can be given: Pre-charge bail (sometimes called 'police bail'), where a suspect is released without charge but must return to a police station on a given date; Police bail to Court, where a suspect is charged and given bail but must attend a court hearing at a given date and location; and, Court bail, to allow for preparation for hearings and trials. There has been some previous research on the police's use of post-charge bail powers and in particular on the impact of attaching conditions (e.g. Raine & Willson, 1995; 1996; 1997; Hucklesby, 1994; 2001), and the legal and ethical aspects of use of post-charge bail in general (see Corre & Wolchover, 2004). Some previous research has covered use of pre-charge bail (Phillips and Brown, 1998), but overall much less is known about the use of pre-charge bail by police.

The Police and Criminal Evidence Act (PACE) 1984 sets out the provisions for pre-charge bail (see Box A below). Details of the levels of evidence that may be necessary for the Crown Prosecution Service (CPS) to make a charging decision are provided in Appendix A.

In May 2011, the appropriateness and legitimacy of the use of pre-charge bail across forces was questioned by the High Court judgement in the case of R (on the application of the Chief Constable of Greater Manchester Police) v Salford Magistrates Court and Paul Hookway [2011] 3 ALL E.R. 521. In particular, the judgement challenged the practice of releasing detained persons while investigations were proceeding and stopping the countdown of the detention 24-hour period (often called the 'custody clock') during this period. The Hookway judgement interpreted the custody clock as running continuously from time of

arrest rather than only being active when an individual was actually in custody. While emergency legislation in July 2011 (Police Detention and Bail Act 2011) restored the operation of police detention and bail to that in place before Hookway, the case highlighted that there was little information on how pre-charge bail and re-bail were being used across forces and whether its use was appropriate or excessive. Following the judgement, the Home Office committed to undertake a formal consultation and review of pre-charge bail.

The commissioning of the present study also followed the Hookway judgement and was instigated due to a concern about the size and management of the bail population and its potentially high operational impact on the police service. The Association of Chief Police Officers (ACPO) Reducing Bureaucracy Programme Board and ACPO Criminal Justice Business Area commissioned NPIA Research, Analysis and Information (RAI) with support from ACPO and the CPS to undertake exploratory research on the use of pre-charge bail by police in England and Wales. The purpose of the research was to help identify and explain sources of variation in processes relating to the use of pre-charge bail, in particular those leading to unnecessary work, and inform the development of force initiatives intended to improve the process.

Box A: Pre-charge bail and the Police and Criminal Evidence Act 1984

Some of the pre-charge bail provisions under PACE (1984) are:

- Sec 34(5) – Where officers are empowered to bail if further investigation is needed, even if the grounds for detention have ceased to apply. Bail granted under this section cannot have conditions attached
- Sec 37 (2), Sec 37 (7) (a) and (b) – Broadly scenarios where the police may decide to grant bail with or without conditions pre-charge where:
 1. there is as yet insufficient evidence to charge with an offence suspect whom it is necessary to continue to investigate without their having to be held in custody (Sec 37(2))
 2. the police consider there is sufficient evidence to charge but the case has been referred to the CPS for a charging decision (Sec 37(7) (a)) or
 3. there is sufficient evidence to charge but not for the purpose outlined in Sec 37(7) (a) (usually where further inquiries are required) (Sec 37(7) (b)).
- Sec 47 – An individual is bailed to court or to report to a police station, pending further enquiries. Sec 47 (1A) empowers the custody officer to apply bail conditions to a person released under any part of Sec 37.

The extent of use of pre-charge bail

Data on the use of pre-charge bail by police in England and Wales is not routinely collated centrally, and therefore there is no national picture on how extensively it is used and whether its use varies across forces. In 2011, the NPIA and ACPO Criminal Justice Business Area undertook a data collection exercise across all forces (see Appendix B). Returns were received from twenty-three forces and indicated that over a six month period approximately one-third of individuals brought into custody were reported to have been given bail. While there were some data quality issues, the results suggest that the use of pre-charge bail in England and Wales is widespread. However, there was also variation in the reported use of bail and the reported average length of bail given across forces, although it is not clear if this is due to different recording practices or in the actual use of bail across forces.

The exercise did highlight that many forces could not report precisely the numbers of individuals that were on pre-charge bail, the length of this bail, and how many people were re-bailed. Reasons for these difficulties are described in Appendix B.

An earlier data collection exercise involving ten police stations estimated that approximately one fifth of individuals brought into custody were given pre-charge bail. This study also found that there was wide variation in use of pre-charge bail between police stations and by offence type and suggested that generally the use of pre-charge bail was on the rise (Phillips and Brown, 1998).

The research

The objectives of the research are to explore:

1. Bail management processes within police forces: the steps in the process and who is involved and when;
2. Reasons for variation in use of bail both between and within participating police forces: factors that inform decisions to use bail; and,
3. Practitioners' views on areas where improvement, simplification and efficiency savings could be made in relation to use of bail, i.e. what in the process works well and what does not.

The research was conducted by RAI with a non-random sample of six policing areas in five forces, chosen to provide a mix in terms of geography (urban/rural) and use of bail (as indicated by the data collection exercise in Appendix B). It consisted of semi-structured interviews and focus groups with a total of eighty police practitioners involved in the use of pre-charge bail: officers and police staff from neighbourhood, response, criminal investigation department, custody, criminal justice, and other investigative units. In each area, lawyers from the CPS were also interviewed in order to provide a complete view of the charging process (total of six interviews including senior prosecutors). Findings are based on the perceptions of these individuals as communicated to the research team. A more detailed description of the method used in the present research is provided as Appendix C.

The research will inform the development of force initiatives intended to improve the pre-charge bail process.

Structure of the report

The next section outlines participants' perceptions relating to the intended purpose of pre-charge bail and the processes involved (Section B.1). Potential sources of unnecessary use of bail are identified in Section B.2 and key themes that appear to explain this possible unnecessary use and variation in the use of bail are set out in Section B.3. Respondents' views on where improvement, simplification and efficiency savings could be made in relation to use of bail are also covered in Section B.3. Overall themes that could inform the development of force initiatives intended to improve the pre-charge bail process are brought together in the final section of the report.

Limitations of the present research

The method does not allow findings to be generalised to all forces in England and Wales. The research identified themes in the use of pre-charge bail and, while particular contexts may be force-specific, these themes will be relevant for other forces. The research and its findings have been discussed with national practitioner groups.

The research was not intended to produce evidence relating to the relative weight of the different factors seen as causing unnecessary use of pre-charge bail / re-bail and no attempt has been made to quantify findings. The research provides a flavour of issues identified by research participants and where specific examples of concerns are given, this could just be a reflection of the views of individual respondents. It is not possible to ascertain how prevalent such issues might be.

The scope of the research has been restricted to ensure it meets the research objectives and can be delivered within a relatively short time scale. Hence, it focuses only on pre-charge bail and does not specifically cover ethics of bail usage, or look at the impact of bail on individuals (for example on young people) or on re-offending.

B. Findings

1. The intended purpose of pre-charge bail and the pre-charge bail process

The Police and Criminal Evidence Act 1984 (PACE) outlines that pre-charge bail is available to manage an arrested individual while an investigation continues to obtain evidence in connection with the offence for which the individual was detained or whilst a decision to charge is being obtained. There are many circumstances in which the use of pre-charge bail is an appropriate means of managing an individual and custody officers (generally sergeants) formally control the application of bail¹ and any conditions. The following sections set out the intended purpose of using pre-charge bail and police processes relating to its use. It should be noted that throughout the report no distinction is made between the different types of pre-charge bail and the different sections of PACE 1984 that they relate to (as set out in Box A above). The focus of the study was on police processes and the different sections of the act that may have been used appeared to make little difference in relation to these operational processes. Most respondents did not distinguish between different types of pre-charge bail during the interviews.

The decision to use pre-charge bail

The interviews / focus groups with police officers suggested that the custody officer's responsibility for detainee welfare, resource management, and balancing evidence gathering requirements with time of stay in custody (i.e. the 24 hour detention period) are key to decisions around the use of bail. The factors that influence these decisions are as follows.

¹ In this section, 'bail' refers exclusively to pre-charge bail

- **PACE requirements and welfare of the arrestee** Custody officers should ensure that evidence is collected in accordance with PACE and the time required to meet these requirements can necessitate the use of pre-charge bail. For example, intoxicated detainees should not be interviewed until they are sober, detainees who are under the age of seventeen or mentally disordered or mentally vulnerable require an appropriate adult to attend interviews with them, and solicitor attendance is needed if detainees request legal representation (except in extreme circumstances²). The responsibility of custody officers for the well-being of arrested individuals was noted by all research participants as the most important aspect of these officers' role. Interviewees reported that if an individual was not fit to be detained they would be bailed so that they could be taken to hospital.
- **Evidence gathering** Custody officer participants in the study stated that where they perceived that a period longer than 24 hours may be required in order to collect evidence (although specialist investigative teams may also be consulted) they might suggest use of pre-charge bail. The nature of the evidence required could increase the probability of bail being given, in particular, forensic (e.g. DNA, blood, fingerprints) and digital forensic evidence (e.g. on computers and mobile phones). Several aspects of non-forensic evidence gathering were also seen to take time and potentially require the use of bail. Obtaining witness statements was a particular example. Similarly, participants reported that if a victim or witness was

² PACE 1984 Code C, paragraph 6.1 states that: "Unless Annex B applies, all detainees must be informed that they may at any time consult and communicate privately with a solicitor, whether in person, in writing or by telephone, and that free independent legal advice is available."

intoxicated, a statement would need to be taken at a later date and the suspect may need to be bailed. Another example of where bail may be required was when CCTV needed to be collected as it could be difficult to obtain from private companies and local authorities.

- **Acquiring a charging decision** The final decision about whether to charge can be complex, sometimes involving both the police and the CPS (see Box B). Acquiring a charging decision can therefore lead to the use of bail where either (a) the evidence required has not yet been obtained or (b) a CPS representative cannot be contacted within the 24 hour custody clock period. Within the forces visited, it was reported that generally, CPS contact was via phone, with face-to-face meetings available if a consultation was expected to last over 90 minutes (some policing areas also had a regular CPS representative in the station on one day a week, which was universally seen to be helpful). For phone consultations, the local CPS was generally available between the hours of approximately 9am and 4pm and CPS Direct (a national CPS call-line) covered other periods.

Box B: Charging decisions

The police may charge any summary only offence (including criminal damage less than £5000) irrespective of plea and 'either way' offences that can be sentenced in a magistrates' court and where a guilty plea is anticipated, except in certain serious circumstances (e.g. a case requiring the consent to prosecute of the Director of Public Prosecutions or Law Officer involving a case involving a death; connected with terrorist activity or official secrets; classified as Hate Crime or Domestic Violence under CPS Policies; an offence of Violent Disorder or Affray; causing Grievous Bodily Harm or Wounding, or Actual Bodily Harm; a Sexual Offences Act offence committed by or upon a person under 18; an offence under the Licensing Act 2003').

For other cases, the CPS should make the charging decision (e.g. 'indictable-only' cases and 'either way' offences suitable for sentencing in a crown court or where a guilty plea is not anticipated). The only exception to this is that an officer of inspector level or above may authorise a charging decision that would normally be referred to the CPS, if a CPS decision cannot be obtained before the custody clock limit is reached. However, participants in the present study suggested that this happened relatively infrequently.

Pre-charge bail processes

- **Length of bail:** The time required for gathering of forensic evidence would often determine the length of bail, in particular, forensic (e.g. DNA, blood, fingerprints) and digital forensic (e.g. on computers and mobile phones) tests were associated with waits of at least four weeks in all of

the forces visited. Digital forensics was reported to commonly take much longer, and cases involving computer analysis (such as Indecent Images or Fraud) could be held up considerably while evidence was collected. Interviews with police officers for this study suggested that length of bail could also be influenced by other factors such as slots available in the diary for bail return dates, and in some of the policing areas length of bail was limited by a maximum period, typically four weeks.

- **Bail conditions:** Sometimes, the individual would be given bail conditions by police – particularly, according to the interviews / focus groups with police officers, in gang or domestic violence related cases. Research participants felt that for victims this could provide reassurance. If the terms of the conditions were breached, suspects may be arrested again but often would be re-released on the same conditions, as breaching conditions is not in itself an offence.
- **Answering bail and outcomes following bail:** An individual who has been released on bail is required to report back to the police station (generally to a custody suite) on a given date, at which time they may be informed of the progress of the investigation. Ideally, the arresting officer (or investigating officer) should be available at the time of the bail return to complete the case. There were, generally speaking, three potential courses of action on an individual returning to answer bail: the individual may be charged, the individual may be re-bailed, or the case may be dropped or no further action taken.

No data on outcomes following pre-charge bail were collected as part of this study. The earlier study (Brown and Phillips 1998) on use of pre-

charge bail suggested that the pattern of outcomes for arrestees given pre-charge bail was very different to those who were not bailed, in particular those bailed were much more likely to be disposed with 'No Further Action' (NFA).

- **Re-bail:** According to participants in the present study, the re-bailing of individuals should only occur when the investigation has not progressed sufficiently to make a charging decision and there remains a realistic chance of more evidence relevant to the charge being gathered.

Individuals may be re-bailed when it has taken longer than expected to get results of forensic analysis back or an individual has been bailed for a shorter amount of time than was needed to complete investigations.

Delays in contacting witnesses could also lead to re-bail if witnesses could not be contacted within the original bail period. Some officers noted that when key witnesses to an incident were not initially available or were identified at a later stage in the investigation, repeated attempts at contact were sometimes required to get their statement. Re-bailing was closely scrutinised in the police areas visited, and was commonly subject to increasingly high-profile management checks.

2. Potential sources of unnecessary use of bail

Although there are circumstances, as indicated above where use of pre-charge bail is necessary in effectively managing an investigation, the interviews and focus groups, as well as the earlier Phillips and Brown (1998) study findings, suggest that there might be ways of managing the process differently to minimise the need for the custody officer to use pre-charge bail and potentially reduce the operational impact of managing pre-charge bail. Analysis of the

research findings has identified four aspects of the bail process that were perceived to be driving the use of pre-charge bail, and were possible sources of unnecessary use: unplanned arrests, insufficient quality in initial investigations, demands on limited custody space and inconsistent advice on levels of evidence required for charge leading to delays in the process. These four aspects and how they potentially have an impact on numbers of arrestees bailed and re-bailed are described in turn below.

2.1 Unplanned arrests

Participants felt that unplanned arrests (i.e. arrests that were made immediately as the result of attending an incident) were the major route of entry into the police system for individuals who were subsequently given bail. Participants felt that unplanned arrests were a major influence on levels of use of bail because they constituted unpredictable workload for forces' custody and investigative capacities.

In contrast, planned arrests (even in large numbers) were generally seen to place less of a strain on resources since they could be preceded by all the investigation necessary for a charging decision – indeed, the Crown Prosecution Service might already have been consulted. However, participants pointed out that planned arrests may still sometimes require use of bail for investigative work to be undertaken if an early arrest was deemed in the public interest.

2.2 Insufficient quality of initial investigations

The interviews and focus groups with police officers suggested that the quality of primary investigations conducted by arresting officers prior to arrest, which was characterised by officers across all roles and ranks as being low, also created pressures and could lead to use of pre-charge bail. Response officers'

descriptions of the process of arresting an individual did not commonly include a substantial investigative element, and officers in custody / investigative roles felt that individuals were often taken to custody with relatively little evidence that would be relevant to a charging decision. Bail was, therefore, often needed to allow further investigative work to be completed. A limited primary investigation also reportedly sometimes led to a less efficient investigative process, for example due to the degradation of evidence (including memories fading over time):

“[After a delay] you’ll get less evidence in that statement. I’ll review it, and having known the case from the start I’ll say, ‘We’ve missed out on a vital element there, we’re going to have to go back and get another statement’... You’ll find you’ll have to get three statements from a witness where one would have done, just because the investigation has been so prolonged” – Specialist Investigative Officer

The impact of this issue was that bail or re-bail was reportedly used where the case-file needed amending as it was not of sufficient quality and there was little time left on the custody clock (or before an individual returned to the station to answer bail).

2.3 Demand on custody space

The practical resource requirements of running the custody suite were also identified as leading to the use of pre-charge bail. Some custody officers reported that they felt an additional duty to help manage the custody suite (despite there being dedicated custody managers), including controlling the workforce resources at their disposal and ensuring a throughput of detainees in order to avoid suite capacity being reached. Custody officers were therefore

motivated to remove individuals from custody as soon as possible in order to free up custody cells, in addition to limiting the risk of detainees being in a stressful and potentially hazardous environment. Use of pre-charge bail therefore appeared to be a way of managing demand in custody.

2.4 Advice on evidence required to charge

The levels of evidence required for a charging decision from some CPS representatives and the time required gathering this evidence were amongst the most common factors contributing to potentially inappropriate use of bail cited by officer participants. There was considerable uncertainty amongst officer participants concerning the level of evidence required by the CPS to charge particular offences and charging decisions by the CPS were sometimes perceived as being inconsistent by some of the police officers interviewed. It was felt that some officers managed this uncertainty by over building case files (ie potentially providing more descriptions of evidence than might be required for a charging decision) rather than risk the CPS returning a file. The perceived inconsistencies related in particular to the advice provided by the local CPS and CPS Direct, to the point where some officers reported choosing one or the other service depending on the case, as they knew the level of evidence required from one was likely to be lower. The interviews / focus groups suggested that sometimes the police and the CPS took a different view about what level of evidence was appropriate. Additionally, a common complaint, although one the present research was unable to verify, was that the CPS was not applying Streamlined Process³ – again, a potential source of unnecessary bureaucratic burden.

³ Streamlined Process is a national initiative introduced in 2008 by the CPS and ACPO in order to cut the amount of paperwork in prosecution files when dealing with straightforward cases with the aim of reducing (continued on next page)

3. Explanatory themes

Participants in the research suggested that features of each stage of the process, from initial arrest through to making the disposal decision, could lead to potentially unnecessary use of bail. It was therefore felt that any attempt to improve the efficiency and effectiveness of bail processes and the use of bail might require a holistic approach that took into account the interplay between the investigative process, policy and workforce management. With this in mind, four specific themes have been identified from the research findings that help to explain variations in the use of pre-charge bail and potential unnecessary or avoidable use. These themes are force policies and processes, an organisational culture of risk aversion, performance pressures and resources. Although each theme is discussed in turn below, there is a substantial degree of overlap between the themes, for example performance measures are related to arrest policies which in turn will impact on resources. Each theme and its impact on numbers on bail, numbers re-bailed, length of bail and potentially unnecessary bureaucracy is discussed in turn below.

3.1 Force policies and processes

3.1.1 Arrest policies and processes

Two examples of arrest policies were identified by research participants as driving up arrest rates and potentially inappropriate use of bail:

1. **'Arrest all' response for certain crimes:** All participants reported that their forces had a policy of automatically arresting all individuals

the time burden on police forces, without diminishing the effectiveness of the magistrates' courts.

involved in domestic violence cases.⁴ While it was felt that this might be appropriate,⁵ it was recognised that these cases might inevitably lead to bail (possibly with conditions) while statements were being collected. Another example in one force was a policy that guided officers to arrest shoplifting suspects as soon as possible in order to prevent the individual committing further crimes. However, due to a lack of primary investigation, these individuals would subsequently be given bail while evidence (e.g. CCTV) was collected. Some participants speculated that the crimes that were meant to be prevented by the arrest were still occurring once the individual was on bail. Hence, they believed that the rush to arrest and detain was causing unnecessary work pressure.

2. **Arrests of 'named suspects':** The arrest policy in some policing areas regarding individuals who had been identified and were wanted in connection with an offence (so-called 'named suspects') was seen by some participants as a potential factor in high levels of bail use. Response officers reported considerable pressure to clear named suspect lists. For example, several of the areas involved had a policy of no individual being a named suspect for more than 14 days. This target provided an incentive to find and arrest suspects as quickly as possible, and officers could be specifically tasked to complete such an arrest. However, participants stated that such action could take place in the absence of a thorough primary investigation having been

⁴ This was the case even where the actual force policy seen by researchers was for 'positive action' rather than arrest

⁵ Evidence for the effectiveness of automatic arrest for reducing domestic violence reoffending is mixed, see e.g. Maxwell et al. (2002)

completed, and that in these cases they would arrest an individual only to bring them to the police station to be given bail. Although conditions would sometimes be attached, an example was given where police officers felt that the speed of the arrest-release cycle was embarrassing and undermined the position of the police. They believed that the process was a bureaucratic exercise: individuals were simply being moved from the 'named suspect' lists to the 'individuals on bail' list with little apparent benefit for the force except meeting a local policy objective.

3.1.2 Bail policies and processes

Some bail management policies and processes were identified by research respondents as contributing to re-bails and creating inefficiencies:

- **Re-arrest for breach of bail conditions:** Some forces would commonly re-arrest for breach of police bail conditions, leading to repeated use of bail where cases had not progressed sufficiently to charge. While the frequency of this occurrence varied from area to area, according to the interviews / focus groups with police officers, it was a common complaint of custody officer participants. Since breaching police conditions is not in itself an offence and the arrested person had not been brought in for a planned appointment (and so often insufficient additional investigative work had been completed to allow a charge), custody officers pointed out that the only option open to them was to release on the terms of the original bail. They saw this as needlessly using up the custody clock and tying-up police resources. When questioned on this issue, some response officers answered that arresting on breach of conditional bail was

sometimes used as a disruption tactic to prevent future criminal activity. Some participants argued that the only impact it really had was to disrupt the work of police. Overall, the penalties for breaching police bail conditions were seen to be inadequate, and conditions were commonly described as being a “toothless tiger”. A typical comment was:

“When we really want to use [police bail conditions] it ties up your custody clock... If you arrest them, they’ll come in, we’ll interview them, and then I’ll bail them. And you think, ‘Well, that’s an hour and a half gone’. Which you can ill-afford, otherwise you wouldn’t have bailed them in the first place” – custody sergeant.

- **Restrictions on the length of bail:** The length of bail in some of the policing areas in the present study was limited by a maximum period, typically 4 weeks, reportedly in order to ensure that cases were completed on a timely basis. However, such policies were seen as a source of re-bail as even though officers setting the bail period were reasonably certain that the evidence required to charge would not be available on their return, individuals were still required to report back to a police station within the maximum period. Officers not having the freedom to alter the length of the original bail to correspond with the investigative process increased the likelihood of re-bailing.

3.1.3 Human resource management policy – overtime restrictions Force policies to restrict the use of overtime were also reported as having an effect on the use of bail. Some participants felt that if an arresting officer who was also responsible for progressing the case had reached the end of their shift, it was difficult to justify that officer remaining in the custody suite for a substantial

amount of time without pay when overtime was not allowed. Since handing cases over to other officers was felt by participants to be associated with substantial difficulties, mostly involving effectively transferring information about a case, bail would be used. However, it is difficult to ascertain how widespread this issue might be due to the exploratory nature of the interviews and focus groups with police officers.

3.1.4 Research participants' suggested improvements

Some police officers in the interview / focus groups suggested that making the breaching of bail conditions itself an offence might reduce the number of pre-charge bails due to lack of investigative progress where there has been a re-arrest for breach of conditions (since an individual could be charged with a breach). It was also felt this could increase the gravity of being arrested in the first place. However, the CPS participants reported that they would feel uneasy with criminalising the breaching of conditions when arrested individuals may not in the end be proven guilty for the original offence. A further concern of CPS participants was a perception that the conditions applied might not always be appropriate.

3.2 Risk aversion

A culture of risk aversion within the police forces visited appeared to be an important contributory factor to the possible unnecessary use of bail. It was also an issue raised by CPS research participants.

3.2.1 Perception of arrest as a safe option

Response officers felt that they were often pressured to arrest individuals due to the risk aversion of their senior management. Arrest was perceived to be a safe option, with clear guidelines and well-understood resource implications.

Participants who felt that there was excessive arresting in their area often commented that an issue was the erosion of response officers' discretion in relation to when to arrest and what they saw as the decreasing remit of the response officer role in relation to investigation. However, some response officers themselves felt that arrest was often a 'safer' choice compared to other options for dealing with an incident.

3.2.2 Perception that alternatives to arrest might be risky

Alternatives to arrests were discussed, with voluntary attendance most frequently mentioned by participants. A frequent comment, though, was that members of the public may not understand why the police were not arresting individuals, and that some individuals could not be trusted to attend a police station voluntarily. Some officers also reported that they had received little instruction on how to use voluntary attendance and they felt it was a complicated process the use of which would often be questioned by their managers.

3.2.3 Decisions to present cases to the CPS

While a distinction is made between the cases that police can charge and those which the CPS charge, the police have a potentially important role in CPS decisions through deciding initially what cases are passed to the CPS. In the policing areas involved in the present study, Specialist Investigation Officers (SpIOs) often had a substantial input into the decision of whether a charge could be made by police without referral to the CPS. While types of cases being referred were seen to be appropriate, some participants felt that overall too many cases were being presented to the CPS. If a case does not meet the

Threshold Test or will not meet the full Code Test (See Appendix A) it should not be passed to the CPS; the suspect should be released without charge⁶.

3.2.4 Concern about releasing arrestees without charge

In the short period that followed the Hookway judgement and prior to the emergency legislation in July 2011, rather than being given bail more suspects were released without charge and re-arrested if new evidence came to light. Some research participants reported that this practice had carried on to some extent with fewer arrestees given pre-charge bail 'just-in-case'. Nevertheless, the organisational culture of particular policing areas appears to have contributed to an overall atmosphere where the decision to bail has continued to be perceived as the least adversarial course of action. Although believing that they had sufficient organisational support overall for their decisions, custody officers in some areas reported feeling under pressure not to release arrestees without charge. Some participants commented that releasing without charge was seen as a failure by response managers, and recalled specific instances when senior officers had questioned this course of action. The pressure not to release without charge was also recognised by some participants from the CPS, who believed that the police were generally unwilling to make the decision to do this, particularly in cases of domestic violence.

⁶ Section 2 of The Director's Guidance on Charging 2011 states that the police are responsible for:

- assessing cases before referral to ensure the Full Code or Threshold Test can be met on the available evidence as appropriate to the circumstances of the case;
- taking "no further action" in any case that cannot meet the appropriate evidential standard, without referral to a prosecutor

(http://www.cps.gov.uk/publications/directors_guidance/dpp_guidance_4.html#a02)

3.2.5 Attitude within the CPS towards police-provided evidence

Officers reported that they felt that the CPS did not appear always to trust their reporting of the evidence which could lead to delays and the use of bail whilst expert opinion was sought. Three specific examples were given to illustrate this. However, it should be noted that these examples are drawn from interviews with police officers and have not been corroborated, for example with CPS representatives.

- Officers from one area with a particular local issue concerning cannabis cultivation reported that they felt they were not trusted to do what they saw as the simple task of counting cannabis plants. Overall, this led to drugs yield experts within the force being over-worked, with calculation of yields taking several weeks, requiring suspects to be bailed.
- Another example provided by participants related to the description of injuries (e.g. for making a decision between an ABH or GBH charge), where it was reported that the CPS often asked for medical notes and photographs before they would make a charging decision. Since it could take a relatively long time to obtain a physician's report, this could lead to delays requiring the use of bail.
- In a further instance, police officers reported that the CPS would often ask to see CCTV footage / still photographs of apparently minor or obvious incidents even when the officer had made a statement concerning what it showed. Participants from the CPS commented that sometimes the actual footage could be required in order to help lawyers understand exactly what had happened, since written descriptions could sometimes be unclear.

As noted in section 2.4 a particular concern amongst police officers was that requirements for evidence could vary according to which CPS representative was consulted and that some police officers themselves took a risk averse approach to managing this by over building case files rather than risk the CPS returning a file. It was felt that the CPS drive for convictions may have incentivised a risk averse attitude towards police-provided evidence, requiring either self-verification or expert advice in all cases. As one CPS representative put it when commenting on a case lost through police descriptions of evidence that were subsequently disproved in court or did not stand up to court scrutiny: "We were stung once, we didn't want to be stung again".

3.2.6 Research participants' suggested improvements

Voluntary attendance as an alternative to arrest was generally perceived by police officer participants to be underused and had the potential to be a valuable alternative to arrest, although they felt that it had to be applied carefully (due to the concerns raised about this practice detailed above). One predominantly rural force reported frequent use of voluntary attendance, the benefit of which was recognised by officers of all ranks. In this force, the use of voluntary attendance was seen to have clear benefits as it meant a reduction in officer travel time (e.g. between the incident and the custody suite).

Improving communication with the CPS: Overall, participants believed that improving communication with the CPS had the potential to improve the process of obtaining charging advice, and noted the value of involving the CPS as soon as possible in the investigation. Even SpIOs, whose role was sometimes to act as a proxy-CPS for police, generally commented that CPS advice at an early stage could make the investigative process more efficient. Many of the participants

believed that having a single point of contact for the CPS might facilitate a good working relationship, and promote consistency in advice. Participants felt that the best experiences with the CPS were from face to face meetings, but recognised that limited resources might not enable such meetings on all occasions. Nevertheless, officers perceived that face to face meetings might reduce the workload pressure on police and CPS alike. CPS participants reported that if cases took longer than 90 minutes to deal with on the phone, officers were referred to a face to face appointment (the individual in custody would then need to be bailed). However, some officers stated that the time taken to deal with a case over the telephone might be substantially reduced following an initial face to face conversation.

3.3 Performance pressures and management checks

3.3.1 Target response times

As noted in section 2.2 above, bail was often needed due to insufficient quality of primary investigation and the requirement for further investigative work to be completed post arrest. Participants felt that there was often little opportunity for response officers to complete an effective primary investigation due to high workloads. Response officers generally reported that this workload strain came less from the volume of incidents (although this could be a factor, see section 3.4 below) than from target response times. Given that calls graded as 'Emergency' and 'Priority' had to be attended within a very tight time period, these could draw officers away from completing evidence-gathering at another scene. For example as one respondent reported:

“There’s a lot of pressure. [While in custody] the PCs get told, ‘Get out and deal with that [priority incident]’. So they’re actually leaving someone

in custody, getting out and dealing with another call... [The detainee is] bailed back to [a specialist investigative officer]... there's no statements, no CCTV. And the [officer] is left doing a job they shouldn't have to do, which is the initial primary investigation" – Criminal Justice (other)

3.3.2 Arrests

The nature and cause of the reported pressure on response officers to make arrests was a complex issue. Some participants believed there was a drive from senior management for arrests, even in the absence of force arrest targets. In one force, response officers reported feeling no explicit pressure from their superiors to arrest. However, each month the details of officers with the highest number of arrests were circulated on the force intranet as examples of good work. Hence, the feedback in place gave the impression that the force implicitly valued arrest above alternatives. In addition, discussions with more senior officers in this and other areas suggested that while there may be no actual force-wide arrest target, individual local policing areas might have priority targets that could include making more arrests for certain offences.

3.3.3 CPS performance pressures

As noted above, respondents felt there was a degree of risk aversion amongst the CPS which could lead to the need to bail an individual in order to obtain the required evidence for charge. What some police officers felt was a lack of trust, however, may also be explained by a difference in police and CPS objectives. The interviews / focus groups suggested that officers were motivated to dedicate the minimum level of resource to a case in order to achieve a successful outcome, which could push them towards wanting to gather the minimum amount of evidence required for a charge. Officers commonly reported their

performance targets (sometimes implicit) as being the number of detections and charges they achieved.

The CPS, on the other hand, was motivated to ensure that cases moved through court effectively, with the major objective cited by CPS representatives being to achieve a conviction. Some CPS participants commented that once a charge had been made the CPS had to work quickly to get the case file ready to take to trial. If a relatively little amount of work had been completed in the pre-charge stage of the investigation, there was substantial pressure on the post-charge process.

3.3.4 Monitoring and controlling the use of bail

In some of the policing areas in the study, the use of bail was not monitored in the course of everyday work by police or by the CPS. Indeed, some areas were not able to produce an accurate estimate of how many individuals were currently on bail. (Many of the reasons for the problems experienced in providing information on the custody population are provided in Appendix B). Some senior officer participants felt that the lack of a cohesive overview made it difficult to understand how efficient the investigative process was in their area, and hence monitor whether bail was being used appropriately.

The use of re-bails, however, was extensively scrutinised in many of the policing areas. In particular, police had identified that re-bails that eventually culminated in No Further Action disposals might constitute wasted effort. The process of re-bailing was commonly subject to increasingly high-profile management checks. A typical force policy was that a second re-bail had to be signed-off by an inspector. Further re-bails would have to be agreed by a chief inspector, superintendent, and so on as the number of re-bails increased. Senior managers interviewed in the course of the present study saw this as an incentive for

officers to make sure that re-bails were not used just because work that should have been done was not, since they would have to justify their actions. Many of the forces had also made re-bails the subject of senior management meetings, where specific instances of re-bail were examined to ensure that re-bail was not being used inappropriately.

The use of dedicated bail sergeants in some policing areas enabled the use of bail to be monitored through the sergeants' detailed analysis of custody logs (the results of which were sent to senior management) and through having these officers as managers who had an overview of the use of bail for particular custody suites. These areas commonly used statistics on the use of bail to compare against different policing areas in the same force in performance meetings. While such performance management was seen as being a potential means of reducing the use of bail by indicating where it was being over-used, it was noted that the statistics could only provide a rough comparison due to differences with levels and type of crime in the areas, and difficulties with the available data (see Appendix B, particularly point 3[iv]).

Participants at constable and sergeant rank tended to distrust the scrutiny of bail by senior officers on a case by case level, seeing this as ultimately counter-productive. Several custody officers pointed out that if a constable took a request for a re-bail to a more senior officer, only very infrequently could they refuse it, as approaches were often made when there was no option to do anything else. While recognising that having to explain actions to a senior officer might discourage use of re-bail, constable and sergeant participants believed that it could be difficult for those not directly involved in particular cases to judge whether the re-bail was justified. Sergeants in particular viewed the

involvement of more senior officers as micro-management that degraded the sergeant role. In addition, it should be noted that some participants reported that officers may look to avoid the scrutiny of higher ranks on re-bails by having inappropriately long first bail periods. Hence, the use of supervisor checks would not address the underlying issues, although the number of re-bails may be reduced.

3.3.4 Research participants' suggested improvements

Effective supervision

A view that came through repeatedly from the interviews with police officers was that rather than relying of scrutiny on bail use by senior officers on a case by case basis, the role of sergeants is crucial in actively supervising and managing the investigations up to the point of arrest, during detention and whilst the suspect is on bail. While good supervision was clearly seen as being a means to help officers with investigations, some participants felt that response sergeants (who might normally fulfil this role) were being sidelined by bureaucratic performance checks and risk-assessment, For example, in the words of one officer:

“Because you’re so vulnerable to getting it wrong and getting busted”
(CID sergeant).

Some respondents felt that officers who persistently re-bailed suspects could have development issues that would be more usefully addressed by their immediate supervisors. The role of supervisors in knowing what their staff's workload is and assisting them to prioritise and ensure that all tasks are completed on time, for example for bail return dates, was also noted (Case Study 1 below and Case Study 2 in the following section both provided examples

of the key role of sergeants and effective supervision where improvements to bail management processes have been made).

Case study 1: 'If you bail, you fail'

Response officers from one policing area felt that the use of bail was itself evidence of poor practice, and that there was a general push against its use. In addition, efforts have been made to raise the standard of initial investigative work conducted by response officers. Response sergeants have a key role in ensuring initial investigative packages are of a sufficient standard and where these standards are not reached development points are identified for the individual response officer concerned. The general attitude was "If you bail, you fail", with the understanding that using bail appropriately might be an important part of the case investigations process, but that its use should be minimised. A substantial cultural shift had reportedly been achieved, whereby ambivalent attitudes towards bail had been challenged by senior management, and officers had been encouraged to take responsibility for the use of bail. One of the response officers, for example, said that as a result they did not use bail since they recognised that there was value in concluding jobs as soon as possible: "[You] never know what is around the corner".

3.4 Resources

Resource pressures at the time of arrest, within the custody suite and at the evidence gathering stages were all identified by the police officers participating in this research as having an impact on use of pre-charge bail.

3.4.1 Response officers' workload and skills

The phenomenon of response officers having little time to complete an effective primary investigation was noted in section 3.3.1 in relation to the need to respond to priority calls within target times and this potentially leading to use of bail in order to complete investigations. This lack of available time was felt to be exacerbated by resource pressures meaning there was a reported persistent need for response officers to be available to answer public calls for service. A further issue raised was the skills and experience of response officers in conducting investigations. The policing areas in the study all had specialist investigative units in place, although the precise extent of their involvement in cases sometimes differed.⁷ After individuals had been brought into custody and detained, each case should have been referred to one of the Specialist Investigative Officers (SpIOs). The SpIOs' role was to review and assess the strength of evidence for all cases that required a charging decision, based on a case file prepared by the arresting officer. SpIOs often had a substantial input into the decision of whether a charge could be made by police without referral to the CPS.

Participants from the CPS felt that the use of SpIOs had substantially raised the overall standard of case files they received. Nevertheless, the interviews / focus groups with police officers suggested that the use of specialist investigative teams had possibly had the effect of lowering the quality of the primary investigation. Response officers felt that they no longer needed to undertake substantive primary investigations as they could hand over this work to another team. Some participants commented that the use of these units meant that investigative skills had gradually been specialised to the point that new response

⁷ Sometimes also called Evidence Review Officer or Custody Investigation teams

officers were not able to develop these skills as they did not get the experience of following-through a case from beginning to end.

3.4.2 Custody bottlenecks

As already discussed in section 2.3, some police officer respondents gave examples of where resource pressures in custody suites could potentially lead to the use of bail. When custody suites were busy and when there were more potential detainees than cells, participants in some of the policing areas noted that the use of bail could be used to manage demand for cells. In these situations, bailing individuals to appear at a later date could be a convenient way to handle resource limitations.

“I’ll bail people for later that day if we’re busy or we’re full, or it’s going to be a quick decision but there are other issues ...[like if detainees] have got hospital appointments, I’ll be flexible” – custody sergeant

3.4.3 Availability of medical practitioners in custody suites

Custody officers reported an overall need to be sensitive to any indication of detainee illness in order to avoid adverse custody events, and stressed the value of being able to involve medical practitioners in the custody environment in order to obtain professional advice. However, coverage of medical practitioners across the custody suites in all the forces involved in the present study was felt to be sporadic. Where illness was suspected and no medical practitioner was available, some participants stated that individuals would routinely be given bail so that they could be taken to hospital – even if the signs of illness were relatively minor. The time spent waiting for medical practitioners was also said to reduce the custody time available for interviews of suspects and hence had an effect on bail usage.

3.4.4 Shift patterns

Some officers reported that individuals could be re-bailed due to difficulties in managing the investigation. For example, SpIOs' and other officers' shift patterns may not be coordinated, which may result in a limited amount of time available for officers to liaise about a case within the first bail time limit (if one is in place). The efficient completion of an investigation hence relied on effective communication by email, which was understood by some participants as being difficult given reasonably complex cases. These difficulties could cause delays and in some cases the use of bail.

3.4.5 Evidence gathering

Resources affected the use of bail when forensic tests were required.⁸ For example, policing areas differed in the availability of specialist teams for accessing certain types of forensic information, including mobile phone data and computer analysis. Delays in collecting this type of evidence could lead to the use of bail. More generally, participants from some areas reported that in a drive to save money and increase efficiency, evidence was being sent for forensic analysis in a piecemeal fashion. For example, SpIOs might send DNA evidence first, and only on a negative result send other evidence. In other areas, SpIOs waited until a batch of evidence was available before they sent it for analysis in one go. Both of these approaches would increase the length of the investigation, and hence increase the probability of the use of bail.

⁸ Nevertheless, delays due to collecting evidence (e.g. statements, CCTV, etc.) were generally accepted by officers in the interviews / focus groups as being unavoidable. Greater frustrations were felt around the bureaucracy that related to the gathering of evidence, particularly forms that would need to accompany forensic evidence.

Officers also described the challenge of gathering CCTV evidence in terms of both trying to rationalise the many formats in use by private businesses (e.g. in shoplifting cases) to one that was viewable by police and CPS, and physically getting hold of the recordings. Many of the police officers participating in the research felt that the police in their areas were relatively unsupported by those groups who they often acted to protect, in particular local businesses and local authorities. Officers commented that while prosecutions could be vigorously pursued by such groups, police would often not be given help to collect the evidence that they held.

3.4.6 Bail return dates

In addition to a maximum bail period as discussed above (see section 3.1.2), there were other constraints on the bail return dates that were given. Some custody officers and bail sergeant participants commented that it could be challenging to find a free appointment in the bail diary (i.e. a day/time slot in which the individual on bail can be seen), and that availability could often set the date of return rather than an assessment of how much investigative work was required for a particular case. This was said to be a symptom of over-use of bail, requiring management action to get it under control so the real bail picture could be seen. The setting of a bail return date was further complicated in a small number of policing areas by difficulty in accessing force duty management systems to check when the arresting officer was available.

3.4.7 Research participants' suggestions for improvement

In order to relieve resource pressures, police officers participating in the interviews / focus groups not only gave examples of where improvements could

be made but also some policing areas had already taken steps to relieve pressures and details of these are set out below.

Response officers' investigations experience and case file composition skills

Some participants suggested that giving response officers a chance to work in an investigations unit at an early stage in their careers might improve their knowledge of the investigative actions that would need to be completed for particular cases in order for them to be taken to charge. Participants speculated that having gained this experience, response officers might be in a position to either complete more of the primary investigation or to gather information that could subsequently reduce the overall investigation time (e.g. full lists of key witnesses, etc.). There was also a feeling that greater understanding of the investigative process might lead in the long-term to increased case-file quality.

Many participants felt that the quality of case files overall could be improved through the creation of formal feedback mechanisms to enable the arresting officer (mostly response officers) to develop their case file composition skills (see Case Study 1 above). Some SpIOs reported that having assessed case files provided by response officers, in the process of judging whether they were ready to progress to the CPS, they would often offer detailed constructive comments to the officer involved (via email) relating to the quality of the work. In addition to pointing out where the officer may have gone wrong, they also praised officers who submitted good case files. While the SpIOs noted that this could take some time in the first instance, they believed that this saved them effort in the long run as response officers would often improve their standard for the next case file they submitted, which would then require less corrective work.

Efficiencies in evidence gathering

The difficulty of gathering evidence was addressed by many participants who were asked how they would change the investigations process. In particular, an opportunity was identified for speeding-up the gathering of digital and CCTV evidence. Some participants, for example, believed that greater resourcing of internal teams dedicated to analysing computers and mobile phones could have a substantial benefit for decreasing the length of time required to obtain evidence for a charging decision. Mobile phones were singled out by some participants as a source of evidence they felt was likely to become increasingly important for police. One police force had invested in resources to speed up the investigation process (case study 2).

Case study 2: an investigations hub

One policing area had taken key investigative work into one central unit, or 'hub', in order to provide a 'one stop shop' for investigations. This was staffed by 30 officers on 12 month rotations from response duties and six sergeants who had extensive detective experience. Numbers on bail had reduced significantly since the introduction of the hub. The elements of the investigation process that could lead to the use of bail had been identified and now the hub provided assistance with each of these:

- CCTV – Investing in technology enabling officers to view CCTV evidence quickly and in a wide variety of formats
- Mobile phone analysis – Providing quick turnaround of analysis prior to interview

- Drugs – Having specialist analyst teams for drug identification
- Identification – with ProMat identification technology at the hub

To facilitate the investigations process, the policing area also had linked IT systems. For example, the 999 call system was interfaced with the crime management system, so that officers could send a media file of a 999 call relevant to a case to the CPS as evidence. It could also be saved on to a portable format (e.g. CD) for court.

Agreements in place with local hospitals and personal contacts meant that medical statements ('casualty cards') could be obtained in a timely fashion.

The agreement related particularly to data protection, enabling physicians to share photocopies of Accident and Emergency notes with diagrams of injuries.

It was perceived that the key to the success of the hub was the close supervision provided by the six sergeants who oversee its operation: "The reason the hub is successful is the guys we put in there ... it is all down to the six sergeants."

A common belief was that increased local partnership work might make CCTV evidence easier to access. One police force had an agreement in place with a local council which meant that the council had specific personnel whose job it was to supply police with requested CCTV evidence (case study 3). Another example was with a police force that had a dedicated hospital point of contact, whose role was to supply police with medical statements when required (case study 2).

Case study 3: Local agreements for evidence-gathering

In one policing area, an agreement was in place between local businesses and police, and local authorities and police to facilitate the quick transfer of CCTV footage. For example, the local council had staff whose role included supplying the police with footage on request. Local businesses ensured that their CCTV systems had the capability to record in the same format, which made it more straightforward for police to view.

Officers in these areas felt that the good local relationships greatly improved their efficiency and, hence, ability to serve the local community. By speeding-up the evidence-gathering process, the relationships also decreased the use of bail.

Postal requisitioning

In some forces, instead of requiring an individual to return to a police station in order to be charged, police could inform them of a charging decision by letter – so-called ‘postal requisitioning’. Officers noted that where local stations had closed, postal requisitioning could make it easier for individuals to keep up to date with their bail appointments and reduced the amount of travelling between their homes and the police station, particularly in rural areas. While seen as a generally positive step, officers felt that postal requisitioning could be used more and its utilisation varied even where it had been approved, confirming one of the findings of Bowles & Perry (2009). With the benefits of individuals returning to the station for charge being uncertain and the length of bail sometimes being influenced by administrative capacity, participants stressed the potential value of increased use of postal requisitioning.

C. Conclusions and implications

The use of pre-charge bail can be a useful tool for police. Even in relatively minor cases, evidence may be difficult to gather due to unavoidable contextual factors, such as unavailability of witnesses. Bail can be used to manage and reduce the time arrested individuals spend in police cells while allowing the police to conduct a thorough and robust investigation. Nevertheless, the present study suggests that the perceptions among practitioners (mainly the police) is that there may be some use of pre-charge bail and re-bail that could be avoided, due to inefficiencies in the arrest-detention-investigation-charge process and aspects of the organisational management of the process.

The research identified four overarching and inter-related themes which helped to explain the use of pre-charge bail: force policies and processes, a culture of risk aversion, performance pressures, and resources. Participants felt that officers often did not have a clear choice to arrest, especially given certain policies, and that they were not always trusted to verify evidence. The explicit and implicit (e.g. performance cultures) targets of different participant groups may have encouraged the use of pre-charge bail as a means of supporting the delivery of performance against the targets. The resourcing of all stages of the process from arrest to charge was seen to influence the use of bail.

Implications for force initiatives

There does appear to be scope for forces to improve the use of pre-charge bail and encourage its use only when appropriate and as the case studies have shown, a number of forces are already implementing initiatives to address issues they have identified. Some options identified by the participants in the research

(the majority of whom were police officers and therefore these options largely come from a police perspective) could involve relatively straightforward changes to policies and processes or re-focussing of resources around bottlenecks. Other options may require a more fundamental change in performance management regimes and increasing use of professional discretion which will challenge what has potentially become a risk averse culture. That said, some practitioners perceive that since the Hookway judgement there has been a sustained reduction in the 'just in case' use of pre-charge bail which suggests that there is scope for this culture to be addressed. These explanatory themes operate simultaneously and this will need to be considered when developing any options to address the use of pre-charge bail.

An area that the research suggests is key to minimising the use of pre-charge bail is in dealing with the demand at the front-end by ensuring that, as far as possible, arrests are planned and timely with the required evidence to charge available at the point the individual is taken into the custody suite. This approach will not always be possible but removing factors that encourage early arrest, where the risk is minimal, and supporting officers to consider and use alternatives to arrest may be a fruitful area to start focusing changes. Forces could in the short to medium term consider the following:

- Identify any patterns in the use of pre-charge bail to inform action to address areas where it appears to be highest e.g. when a specific type of evidence is required, because there are maximum bail lengths imposed. An in-depth understanding of the use of pre-charge bail in the force will help to ensure that any initiatives that are developed are targeted appropriately.

- Clarify with CPS practitioners what are the required levels of evidence for charge, using the CPS (2011) The Directors Guidance on Charging (4th Ed) that incorporates the Streamlined Process as a reference point and use the SpIOs to ensure that officers are clear and understand the requirements.
- Review policies that apply blanket approaches to arrest with a view to assessing which are justified and which can be amended to rely on officer discretion.

These are just a few suggestions around how forces may wish to address officers' use of pre-charge bail. Although these suggestions can potentially be implemented in isolation, they may be worth considering alongside longer-term options to address issues of operational risk aversion. Given the difficulty in delivering culture change there may be merit in focusing these initiatives around the greater use of discretion and professional judgement. In the medium to longer term forces could:

- Improve frontline officer knowledge and understanding of alternatives to the use of pre-charge bail and under what circumstances to apply these.
- Address the culture of risk aversion that some practitioners have reported has developed around arrest. In particular officers should be clear about when alternative options are appropriate and can be applied.
- Encourage greater use of professional judgement in relation to decision-making around timings of arrests and engender an attitude in officers that pre-charge bail should only be used in appropriate circumstances and not as a method for managing demand.

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- Move away from the use of arrests as a performance management tool (either implicitly or explicitly) to focus more on demand reduction with the custody suite and the quality of case files and whether they are fit for purpose.
- Assess, and if necessary improve, front line officer investigative skills to ensure that the quality of the initial investigation is appropriate.

References

Bowles, R. & Perry, A. (2009). Assessment of the implementation of postal requisitioning in six pilot areas. Ministry of Justice.

Corre, N. & Wolchover, D. (2004). Bail in criminal proceedings. Oxford University Press.

Hucklesby A. (1994). The use and abuse of conditional bail. *The Howard Journal of Criminal Justice*. vol. 33, 3, pp. 258-270

Hucklesby, A. (2001). Police bail and the use of conditions. *Criminology & Criminal Justice*, vol. 1, 4. pp. 441-463.

Maxwell, C.D., Gerner, J.H. & Fagan, J.A. (2002). The preventive effects of arrest on intimate partner violence: research, policy and theory. *Criminology & Public Policy*, vol. 2, 1, pp. 51-80.

Phillips, C. & Brown, D. (1998). Entry into the criminal justice system: a survey of police arrests and their outcomes. Home Office Research Study 185. Home Office

Raine, J.W, & Willson, J. (1995). Just bail at the police station? *Journal of Law and Society*, vol. 22, 4 pp. 571-85

Raine, J.W, & Willson, J. (1996). The imposition of conditions in bail decisions: from summary punishment to better behaviour on remand. *The Howard Journal of Criminal Justice*, vol. 35, 3, pp 256-270.

Raine, J.W, & Willson, H. J. (1997). Bail with conditions: Perspectives on the use, misuse & consequences of a new police power. *British Journal of Criminology*, vol. 37, 4, pp. 593-607.

Appendix A: Evidence required to charge

When judging how much evidence is needed to charge (and hence the requirements on the pre-charge investigative process), prosecutors may apply two guidelines: the Full Code Test and the Threshold Test.

The **Full Code Test** has an evidential stage and the public interest stage. The former stage requires that prosecutors be satisfied that there is sufficient evidence to provide a realistic prospect of conviction against each suspect on each charge. The latter stage requires that a prosecution should be in the public interest, for example if an offence is serious or the suspect has a record of criminal behaviour.

The **Threshold Test** may be applied when there is insufficient evidence to apply the Full Code Test, further evidence is likely to become available within a reasonable period, the case requires an immediate charging decision (e.g. it is serious), and there are grounds to object to bail being given. If a prosecutor is satisfied that all these conditions have been met, that there is a reasonably strong suspicion of guilt and there is a realistic prospect of conviction, a charge may be brought under the public interest stage of the Full Code Test without needing to pass the evidential stage.

In some cases, police may ask prosecutors to accept a case file prepared in accordance with **Streamlined Process**. Streamlined Process was intended to reduce the levels of bureaucracy in file preparation by introducing a much simplified, proportionate procedure for preparing straightforward volume case files for first hearing, anticipated guilty pleas that are likely to be sentenced in the magistrates' court. As part of the streamlined process a sufficient case file is

produced that ensures effective case management decisions at the first hearing
in complex or likely contested cases

Appendix B: Data on use of bail

In May 2011, a data request unconnected to the present research was sent to all police forces in England and Wales by ACPO/NPIA asking for the total number of individuals in custody, number of individuals given bail, and number of individuals re-bailed pre-charge for the six months between October 2010 and March 2011. Forces were also asked to provide these data and, in addition, the average length of bails for the following offence categories (chosen to provide a range of offences): Section 4 and 5 Public Order Act⁹, Shoplifting, Theft (Other), Actual Bodily Harm, Grievous Bodily Harm (Section 18 and 20 under the Offences against the Person Act 1861), Indecent Images, and Sexual Offences

Twenty-four forces out of forty-three in total in England and Wales provided at least some data, with twelve returning all the information requested. The findings were not, therefore, taken as nationally representative. In addition, limitations with data on the use of bail and re-bail are discussed below, and mean that it is likely that the data may not be an accurate picture of the bail population. However, if it is assumed that the data provided were accurate, they suggested the following:

- According to the data provided by the forces for a six month period, approximately a third of individuals taken into custody were bailed pre-charge.

⁹ Section 4 of the Public Order 1986 is fear or provocation of violence and section 5 is harassment, alarm or distress.

- There seems to have been substantial variation between forces in the proportion of bails reported per total individuals in custody, and the proportion of re-bails reported per total bails.
- Of the seven offence types for which data was requested, the three categories for which use of bail and re-bail was more commonly reported, and which had the highest reported average length of bail, were possession of indecent images, GBH (Sections 18 & 20), and Sexual Offences.
- While the increased use of bail for the offence categories above might be expected (i.e. they are likely to be more complex and require more investigation), the variation across forces indicates either (a) the data has been recorded differently across the forces, or (b) local force context affects the use of bail.

Difficulties with collecting data on the use of pre-charge bail and re-bail

1. **Context:** (i) Local policies limiting the length of bail exist in some forces, and are different from force to force. Hence, it may not be appropriate to compare average length of bail between forces or to calculate an estimate of the national average length of bail.

(ii) Some arrests will have been planned to occur following an extensive investigation and should therefore not require pre-charge bail for investigative purposes (e.g. cases controlled by CID teams). These may skew the overall figures.

2. **Recording:** (i) If the number of bails per offence type is required, there are difficulties concerning the initial recording of information. In particular, it can be unclear how to record people who were bailed for more than one offence. This can mean that the numbers re-bailed who were arrested for particular offences could be recorded as a re-bail for that offence regardless of whether the re-bail was for that offence or another.

(ii) The number of individuals on bail can be influenced by the choice of whether to include those individuals on bail who are a known wanted nominal (sometimes called 'named suspect'). While technically being on bail, if these individuals were found by police they would be arrested and charged. Some forces keep a record of named offenders by eliminating them from their named offender list, but keeping them on a bail list.

3. **IT systems:** [It is important to note that forces utilise different IT systems to manage bail, and the issues below may not be relevant for all of them]

(i) With some IT systems currently being used by forces, it is not possible to easily run a query that returns the detainees that have been re-bailed, since this information is only stored within the actual custody record (i.e. it is not recorded as a separate field). Therefore, it is not possible to differentiate between which records are re-bails and which are initial disposals (except, potentially inaccurately, through inferring a re-bail when there is a long time between the initial arrest and the disposal date). The data therefore has to be manually extracted – a time-intensive process with possibility for human error.

(ii) It is possible that an individual can be arrested on one charge code and bailed on another which may mean that some proportions have been artificially inflated. Duplicates can also occur with some systems if there are multiple charges and different disposal codes for each. It is not known whether this issue has affected the data.

(iii) With so-called "door-step" bails (where individuals are not physically present in a police station when bail is extended), one force reported that the original bail date is simply over-written in its system, and a note placed in the details of the file. Again, getting this information is dependent on manual extraction.

(iv) A local issue is that records may not be up to date, which could lead to the appearance of long bails when a custody number was 'owned' by one policing area but was managed in another – i.e. when cases are eliminated but the record is not updated on the host system. Similarly, cases where individuals have apparently failed to appear at the end of their bail date (and so are on the bail system) may actually have been cleared by another policing area.

Appendix C: Research method

The research was conducted during November and December 2011, comprising a series of semi-structured interviews and focus groups with practitioners in five forces. The method was selected in order to explore the beliefs/perceptions of practitioners concerning the use of pre-charge bail, and to generate discussion through which some of these beliefs/perceptions could be explored.

1) Policing areas involved

The policing areas involved were selected opportunistically according to certain criteria (sometimes called a 'purposive' sample), in order to ensure that the research would take consideration of a wide range of force contexts. A data collection/analysis exercise by NPIA/ACPO prior to the present study was able to identify forces which seemed to be high/low users of bail and which bailed for short periods/long periods according to the data they returned (see Appendix A). This information was used to identify forces that might be of interest to include in the present study, in order to allow the project to explore differences in use of bail. A further factor in whether forces were asked to participate was their size. The forces/policing areas that participated were:

- A large northern force
- A small northern force
- A large force in Wales
- A small Midlands force
- Two Metropolitan Police boroughs

2) Participants

Participants included representatives from the response, neighbourhood, Criminal Investigations Department (CID), custody and criminal justice functions, as well as representatives from the CPS in each of the policing areas. Eighty-six participants took part in the research (see Table A1 below).

Table A1: Research participants				
Function	Rank / role			
	Constable	Sergeant	Inspector	Other
CID	6	6	3	3
Criminal Justice	2	2	1	3
CPS	N/A	N/A	N/A	6
Custody	1	19 ¹⁰	8	0
Investigation¹¹	2	2	1	0
Neighbourhood	2	0	0	1
Response	10	1	2	2
Other	0	0	0	3
Total (n=86)	23	30	15	18

¹⁰ Including bail sergeants

¹¹ Specialist investigation teams, including evidence review officers and custody investigation teams, for example

These groups of officers were selected in order to provide an overall picture of the investigation process, it being considered likely that all roles would have some investigative duties. Individual participants were selected opportunistically, ie by the main contact in the force following some guidance from the researchers in terms of roles of officers to be represented, but also determined to some extent by who would be available on the day of the visit. As the interviews / focus groups required officers to be abstracted from their normal duties, representatives from the forces involved in the study assisted the research team in identifying and enlisting potential participants. There was hence a potential for selection bias, although the research methods allowed researchers to explore issues with participants and to identify when views reflected a wider issue or a personal concern for participants.

3) Interviews and focus groups

i) Topic guide

The interviews and focus groups were structured around a topic guide, with specific questions for certain groups of participant (included as Appendix D). The topic guide was refined following discussion of the first force visit in order to ensure that it was of an appropriate length and covered sufficient detail. While the research team were asked to ensure that all the areas in the guide were covered in the interview/focus group, the questions did not need to be strictly ordered and so the sessions were only loosely structured.

ii) Setting

The interviews/focus groups each lasted approximately an hour and were conducted by NPIA researchers, supported by a NPIA field officer,

custody/criminal justice lead or ACPO criminal justice representative (including an ex crown prosecutor). The researcher led each of the discussions and the supporting individual probed on specific technical points as appropriate. Each of the interviews/focus groups were conducted in the officers' force, in a quiet office or room.

The focus groups were initially targeted at questioning only one role or rank of officer. However, during the early sessions it became clear that there was value in developing a group discussion based on the differing perspectives of participants. In particular, the multi-role/rank group discussions were able to explore how the different aspects of the charging process related to each other. Officers above the rank of inspector were, however, generally omitted from focus groups in order to facilitate a frank discussion. While running sessions consisting of multiple roles / ranks, researchers were directed to follow the overall structure of the topic guides and ask any specific questions of particular groups before broadening out to a group discussion.

Interviewers made notes for each of the sessions, with some interviews / focus groups being recorded in order that illustrative quotes could be obtained for the final report and interviewer notes could be verified. Participants' consent was obtained before interviews/focus groups were recorded, and participants were assured of confidentiality.

4) Analysis

Following the interview/focus groups, the researcher and support discussed the session, with the researcher writing up their notes. This process was collaborative, with both the researcher and support having the opportunity to

contribute. None of the recordings were transcribed verbatim, although these were used to verify notes made by the interviewers.

After the fieldwork finished, the whole research team discussed key themes that they felt were brought out in the interviews / focus groups, and how these related to the research objectives. In particular, findings from the different sites were compared and contrasted, in order to draw out common influential factors in the use of pre-charge bail. Themes that were brought out by this process were discussed with practitioner groups at the end of the data collection period and post-analysis in order to further explore the issues and validate findings.

Appendix D: Topic guides

NPIA police bail research – Fieldwork November/December 2011

Guidance for Interviewers

Research aims

This research is intended to provide understanding of bail management processes, **specifically relating to pre-charge bail**. We are speaking to custody sergeants, bail sergeants, custody managers, PCs and custody investigation teams in a number of forces. [Deleted section outlining NPIA commissioning]

Focus

For this research – we are interested in the **interviewees’ own personal experiences and thoughts/beliefs**. While we may want to hear about force policy, it is important that we understand what is happening “on the ground” so that we can provide as realistic a picture as possible in the research outputs. We want to capture honest and frank opinions.

Confidentiality

Interviews will be treated as confidential. **Participants are guaranteed anonymity and will not be named or identifiable in the research write-up**. We are interested in identifying where there may be value from improving processes, and not in assessing individual or team performance.

Duration

Interviews = 1 hour approximately

Focus groups = 1 hour approximately

Interview Format

1. Explain aims, focus and confidentiality
2. Begin interview session

NOTE: Bail terminology

The type of bail we are interested in examining is **pre-charge bail**. [Deleted section outlining relevant sections of PACE as described in Box A in Section A above].

NOTE: Use of topic guides

Processes will differ according to the particular force. Generally, custody sergeants will ultimately be responsible for bailing and re-bailing an individual. Where there are custody investigation teams (or similar), these teams will inform the custody sergeant's decision. The CPS will advise the force whether there is sufficient evidence with which to charge an individual, and may request further evidence to be gathered if not.

Nevertheless, responsibilities will differ according to the force, and the topic guides should be used in the context of the particular circumstances. Not all questions will be appropriate for all forces.

Interview Guide – officers (e.g. response, CIT, CID)	
Discussion area	Guidance for interviewers
<p><u>Your role</u></p> <p>1. What is your role in relation to the use of bail in your force? 2. Have you received any recent training / guidance concerning bail?</p>	<p>2. PROBE: When/where? Quality? Are you familiar with the law and force policies?</p>
<p><u>The process of bailing someone</u></p> <p>3. In the main, how would you describe the bailing process in your force? 4. Are there any frustrations regarding the process of bailing an individual, in your opinion? 5. [If Response officers] Do you use street bail in your force? a) Can you talk me through the steps of a recent example of you using street bail? b) What factors influenced your decision to bail this person?</p>	<p>4. PROBE: How long does this take?</p>
<p><u>Your views</u></p> <p>6. Can you tell me some of the major reason or reasons for use of bail in your force, in your opinion? 7a. [If Response] When you take an individual into custody, what are some of the considerations that are made that lead to someone being bailed? 7b. [IF CIT] When an individual comes into custody, what are some of the considerations that are made that lead to someone being bailed? 7c. [IF CID] When 8. When is bailing a useful option to have? 9. What is the major reason or reasons for re-bailing in your force, in your opinion? 10. In the main, do you think re-bailing is being used appropriately in your force, in your opinion? 11. Have you got any specific anecdotes of when an individual was re-bailed and it could have been avoided? 12. What would you like to see being taken into account in any policy changes that might occur around use of bail?</p>	<p>6. Operational (e.g. investigative time) and non-operational (policy, admin, etc.)</p> <p>7. PROBE: Changes in other business areas? Bureaucracy? Discretionary powers?</p> <p>8. PROBE: Do you ever use voluntary attendance? 9. PROBE: Is re-bailing always down to an investigative process? Are there administrative-type reasons for use of bail?</p> <p>11. PROBE: Do examples chime with other group members’ experiences of use of re-bail?</p> <p>13. PROBE: In an ideal world (e.g. no PACE, no local policies, etc.), what would you want to see?</p>

13. What do you think could be done to reduce the number of bails in your force? 14. What do you think about current bail legislation?	14. PROBE: Simple/complex?
15. What are your feelings overall about the use of bail? 16. Is there anything that we haven't covered that you would like to add?	
THANK INTERVIEWEE FOR THEIR TIME	

Topic Guide – Sergeants (e.g. custody/Bail Sergeants)	
Discussion area	Guidance for interviewers
<p><u>Your role</u></p> <p>1. What is your role in relation to the use of bail in your force? 2. Have you received any recent training / guidance concerning bail?</p>	<p>1. PROBE: At what stage do you get involved? 2. PROBE: When/where? Quality? Are you familiar with the law and force policies?</p>
<p><u>The process of bailing someone</u></p> <p>3. What are some of the considerations you have when you are making the decision about whether to start the process of bailing an individual? 4. What kind of organisational support do you have when you are trying to decide whether to bail an individual? 5. [FOR (i) Violent/serious offence, and (ii) non-violent offence] a) Could you talk me through the steps you went through on a recent occasion when you used bail for a [i/ii] offence? b) What factors influenced your decision to bail this person? 6. Would you say the examples we've just been through are typical of the bail process? 7. Can you tell me what role the CPS plays? What is the process of getting them involved?</p>	<p>3. PROBE: Key steps? Are these independent decisions? Who is available for advice? Do you like the set-up as it is?</p> <p>5. PROBE: How much time was spent on each step (and is this about normal)? Who else was involved in the process? How? What went on the custody record (i.e. did the offence arrested for differ from that they were bailed on?)?</p> <p>7. PROBE: How does CPS impact on the overall process?</p>
<p><u>Your views</u></p> <p>8. Can you tell me the major reason or reasons for use of bail in your force, in your opinion? 9. Why would you say individuals are most commonly re-bailed? 10. Why might individuals be re-bailed on multiple occasions? 11. What are your thoughts about the efficiency of the bailing process? 12. Are there any ways that the bailing process should be changed in your force, in your opinion? What? 13. Can you tell me about situations where you would say that bail is a useful power to have? 14. Do you think that there are any problems associated with how bail is applied in your force? What?</p>	<p>8. PROBE: Operational (e.g. investigative time) and non-operational (policy, admin, etc.). Is voluntary attendance used in your force? 9. PROBE: What are the factors that influence whether an individual is bailed? What are the pressures on the decision to bail? Do you have control? Is bailing used to help manage availability of, e.g. interpreters, support services, etc. When do you NFA (is there pressure on this choice)? 10. PROBE: Officer unavailability, lack of progress in investigations, initial bail length. Specific examples? 12. PROBE: In an ideal world (e.g. no PACE, no local policies, etc.), what would you want to see? Is the</p>

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15. In your experience, is the use of bail applied consistently in your force? 16. What would you do to reduce the number of bails in your force? 17. What would you do to reduce the number of re-bails in your force?	current use of bail: simple/complex, accountable, bureaucratic? Look for specific examples. 15. PROBE: How does application vary?
18. What are your feelings overall about the use of bail? 19. Is there anything that we haven't covered that you would like to add?	
THANK INTERVIEWEE FOR THEIR TIME	

Interview Guide – inspectors (e.g. custody managers)	
Discussion area	Guidance for interviewers
<p><u>Your role</u></p> <p>1. What is your role in relation to the use of bail in your force? 2. Have you received any recent training / guidance concerning bail?</p>	<p>1. PROBE: At what stage do you get involved? 2. PROBE: When/where? Quality? Are you familiar with the law and force policies?</p>
<p><u>The process of bailing someone</u></p> <p>3. When and how are you involved in the decision to use bail? 4. Can you tell me how the bailing decision-making process works, from your perspective? 5. Are there any management checks on the levels of use of bail, either administrative or involving ranks above sergeant level? What?</p>	<p>3. PROBE: Strategic / force policy. Other business areas? 4. PROBE: How/when are you approached? Any contact with higher managers? 5. PROBE: What are some of the important considerations?</p>
<p><u>Your views</u></p> <p>6. How would you describe current bail legislation? 7. Can you tell me the major reason or reasons for use of bail in your force, in your opinion? 8. What are some of the major reason or reasons for re-bailing in your force, in your opinion? 9. Have you ever felt under pressure to approve use of bail when you believed its use might have been avoided? When? 10. Could the management of use of bail be improved in your force, in your opinion? How? 11. Are bail decisions reviewed or managed systematically in your force? Can you describe this if so? 12. Do you think any wider changes would have to be made if the use of bail were restricted or reduced in some way? What? 13. What would you do to reduce the number of bails in your force?</p>	<p>6. PROBE: Simple/complex? Fit for purpose? 7. PROBE: Operational (e.g. investigative time) and non-operational (policy, admin, etc.). Are there any problems with how bail is used? Is the use of bail affected by issues in other business areas? Do you use voluntary attendance in your force? 9. PROBE: Have you ever had to justify use of bail when you felt it could have been avoided? Do you have organisational support in your decision-making? 10. PROBE: In an ideal world (e.g. no PACE, no local policies, etc.), what would you want to see?</p>
<p>14. What are your feelings overall about the use of bail? 15. Is there anything that we haven't covered that you would like to</p>	

add?	
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THANK INTERVIEWEE FOR THEIR TIME	
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Interview Guide – CPS representatives	
Discussion area	Guidance for interviewers
<p><u>Your role</u></p> <p>1. What is your role in the CPS? 2. Has there been any recent guidance that concerns police use of bail?</p>	
<p><u>The process</u></p> <p>3. Can you describe for me how the process of providing advice to a force works, in terms of what happens from initial contact to the advice being given? 4. Who is involved in this process, on the CPS side? 5. How would you describe the relationship with the local police? 6. Are there any frustrations in this relationship, from your perspective? 7. How would you describe the relationship with the local courts? 8. Are there any frustrations in this relationship, from your perspective? 9. Do you use Streamlined Process? Can you describe in what types of case this might be used / might not be used?</p>	<p>3. PROBE: How long does this take? What performance statistics are gathered?</p> <p>6. PROBE: Could it be made more effective? For example, standard of case file, personal (face-to-face) contacts, etc. 8. PROBE: Could it be made more effective? 9. PROBE: Do you think Streamlined Process is being used effectively?</p>
<p><u>Feelings about use of pre-charge bail</u></p> <p>10. Is the frequency of use of police bail by the local force something that you or your colleagues would be aware of in your day-to-day work? 11. Can you tell me some of the major reason or reasons for use of bail in the local force, in your opinion? 12. If we wanted to reduce the use of bail, what do you think we should look at? 13. What are your thoughts on PACE legislation?</p>	<p>13. PROBE: Is it simple/complex? Is it understood?</p>
<p>14. What are your feelings overall about the use of bail? 15. Is there anything that we haven't covered that you would like to add?</p>	

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THANK INTERVIEWEE FOR THEIR TIME

Appendix E: Evidence from other police forces

In the course of the present research, four police forces not involved in the data collection were contacted in order to learn from work they had conducted in the area of pre-charge bail management or findings from local research. These forces indicated the following:

Police Force 1

This police force has implemented a pilot project in one of their Divisions. Over a period of time they have monitored performance information relating to the number of individuals on bail and the time spent on bail with a view to determining a baseline for improvement. Staff were aware of the issues being considered and by improved management of the bail process the numbers on bail were reduced and settled at a reasonably steady level. A further project is being undertaken regarding the management of the investigation to further impact on the numbers on bail and the time spent on bail. However, based on the timescales involved with bail cases it will be some time before the impact of this work can be assessed.

The main considerations within this project are

- By promoting the use of alternatives to arrest and planned arrests the constabulary has reduced the numbers through custody, this in itself reduces the potential for bail.

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- The custody sergeant undertakes an objective and realistic assessment of the case to establish if there is any prospect of the case proceeding to a positive outcome.
- Once in custody every effort is to be made to complete enquiries within the first period of detention.
- Where bail is deemed essential realistic timescales are determined in order to minimise the number of re-bails.
- The investigation is then progressed in a timely manner by the Officer in Charge (OIC) and managed by their supervision. Constabulary computer systems are updated to reflect the investigation plan and hold information to allow the case to progress.
- Officers are reminded when an individual is due to answer bail to ensure that their investigation has progressed to a definitive conclusion.
- Where re-bails are requested the OIC must seek authority and update the investigation plan accordingly.
- The fail to appear process is clearly defined.
- A current Management Information (MI) framework is being developed to remove the onus away from just the number on bail and the timescales but to address the number of re-bails and the offences being bailed, ie fraud. It is hoped that by focusing on the timeliness of the investigation a positive impact will be seen on the MI figures.

Police Force 2

Over a 12 month period, this police force has focused on developing a strategy which allows suspects held on pre-charge bail to move robustly through the police investigative process in a timely manner. The aim is to create an approach that contributes to the reduction in harm to communities, an increase in public confidence and the delivery of safer neighbourhoods through putting the interests of victims at the heart of effective criminal justice services.

The key principles of this strategy are to co-ordinate staff and partners to fulfil their responsibilities of pre-charge case progression, agree and implement joint strategies that would deliver continuous improvement to services and ensure the most efficient, cost effective and lean delivery mechanisms were used.

The force has been working to secure the following outcomes:

- Provision of strategic direction and co-ordination to the force
- Delivery of a robust bail management, tracking and review regime that will ensure the numbers of people on pre-charge bail are necessary and being progressed expeditiously
- Delivery of joint strategies with criminal justice partners
- Delivery of common, agreed data sets and performance information to drive effective supervisory scrutiny over investigations.
- Delivery of pre-planned and spontaneous arrest and investigative strategies

- Maximisation of alternatives to bail and detention to streamline demand and operational resource commitments.
- Delivery of improved outcomes for victims.
- Improvements in efficiency of process and bureaucracy.
- Ensuring responsive, streamlined and effective investigative and criminal justice services.

Police Force 3

This police force has been focusing on increasing the use of alternatives to arrest, where appropriate, to reduce the numbers of offenders entering the custody process unnecessarily. The force has recognised that although arrest is a preferred tactical option it is also time consuming and expensive. The main objectives of this work are to:

- encourage officers to consider other options to arrest which would be more proportionate or appropriate to the level of offence and
- provide all officers with the facilities at parade stations that can support and record use of alternatives to arrest as efficiently as possible.

The force has been working on changing the culture within the force in relation to use of arrest. The main alternatives to arrest are: voluntary attendance, street bail, penalty notices for disorder and community resolution. In order to inform decisions as to whether to use an alternative to arrest, the force has developed a model to follow and officers use intelligence to consider in more depth the early views and vulnerabilities of victims and witnesses, the severity and complexity of the offence and information about the suspect, in consultation

with their supervision who have been tasked to scrutinise their officers use of arrest and alternatives to arrest. Processes and policies have been put in place to support this.

The force also had a concern about the number of bail cases finalised as 'no further action' (NFA). The solution to this has been to dedicate a resources to a prisoner processing team (PPT), lead by the Detective Inspector with an investigative sergeant in each custody area managing each team, to manage suspects in custody and task response and / or neighbourhood teams to complete outstanding or additional investigative activities to achieve a charging decision within a single period of custody. Where a charging decision is not achievable, prisoners will be bailed. The PPT will continue to own the crime and task Response and / or Neighbourhood teams to complete investigative activities to enable a charging decision to be reached at the earliest opportunity (this may be before the bail period has expired). The aim of this would be to reduce the volume of bails and the administrative pressure on Custody.

Police Force 4

Research conducted by a University Department has been conducted within this police force area. The objectives of the research have been to:

- examine the categories of suspects who are bailed prior to charge
- examine the circumstances in which pre-charge bail is used and the reasons for use
- explore any patterns in the use of pre-charge bail

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- investigate the impact of the use of pre-charge bail on the management of custody suites
- explore investigating officers' views on the use of and management of pre-charge bail.

Further research undertaken within the police force area is focusing on:

- the length of bail
- the appropriateness of offences for which pre-charge bail is used
- alternatives to use of bail
- inconsistencies in use of bail across the individual stations within the force.