

# MOPAC MPS Oversight Board

## 6 January 2022

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### Criminal Justice Update

Report by: T/Cdr Sue Williams - Head of Profession for Criminal Justice

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#### 1. Purpose of this Paper

The purpose of this paper is to provide an annual update to MPS/MOPAC Oversight Board on Criminal Justice in the MPS.

#### 2. Recommendations – that the Oversight Board:

a) No recommendations – update paper only.

#### 3. Information for Consideration

##### Overview

##### Over the last 12 months:

- Although we do not have a consistent file quality measure following a change of approach in July, we are confident that quality continues to improve. However, it is likely that compliance with DG6 and disclosure continue to be a challenge.
- Overall reported crime has fallen by 5.8% and arrests have fallen by 5.7%
- Positive outcomes have fallen by 2.4 p.p. from 14.7% to 12.3%, but gun crime, knife crime, robbery, hate crime and burglary have all seen increases in positive outcome rate.
- Bail use has increased and RUI use has decreased. Overall, we are dealing with slightly fewer cases during the first period in custody (61% vs 60.5%) although we have improved against this measure for DA arrests (63.9% vs 64.7%).

##### Over the next 12 months:

- The MPS will improve our RASSO performance through ongoing engagement with Op Bluestone and Op Soteria.

- To help officers tackle serious crime (inc. RASSO and serious violence) more effectively, we will begin work to improve digital evidence gathering through the £11m investment in digital forensics over three years.
- To improve measures to protect victims, we will implement the changes to bail delivered by the Police, Crime, Sentencing and Courts Bill, and continue our work to improve management of suspects release on bail/RUI.

## Investigations, detections, and post arrest

### Case file quality and the timeliness of investigations

- 3.1. Following the case-file quality update at Oversight Board in Dec. '20, the MPS monthly proxy failure rate (National File Quality – NFQ) fell from 61.9% in Nov. '20 to 40.0% in June '21. The failure rate in April '21 was 40.8% against the MPS performance framework objective of 30% by April 2021. The graphic below shows a clear trend of improvement.

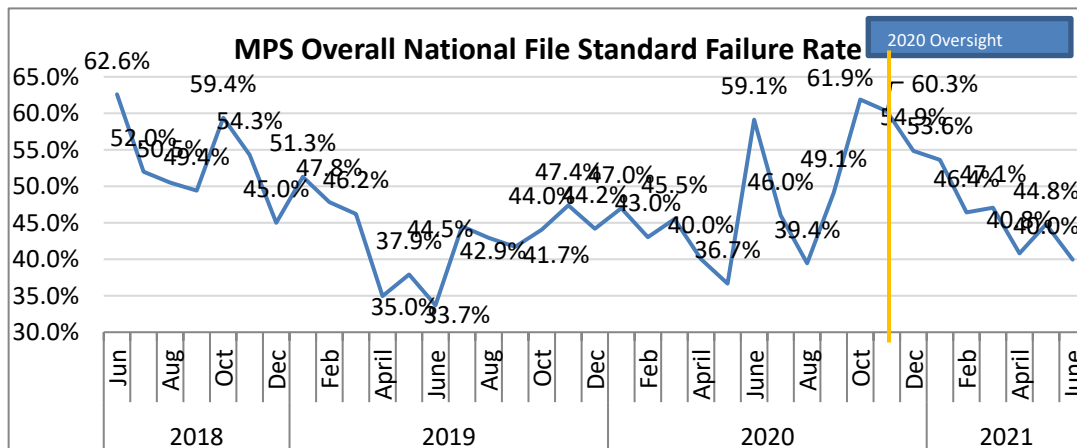


Fig.1 – MPS National File Standard Failure Rate June 2018 – June 2021 (Source: CPS National Data)

- 3.2. Owing to the changes resulting from the implementation of Director’s Guidance 6 (DG6) and the Attorney General’s Guidelines, and concerns raised by a number of forces about the consistency with which the NFQ has been applied, the NPCC Case Progression lead (CC Jo Farrell – Durham) and national CPS colleagues recently completed a review of joint file quality assessment.
- 3.3. CC Farrell met with CJ leads on 9<sup>th</sup> July '21 and announced that the NFQ was to be replaced with a new ‘Director’s Guidance (Charging) Assessment’ re-focused on compliance with DG6 by police investigators and CPS prosecutors. This went live on CPS systems on 21<sup>st</sup> June '21 and NFQ data was no longer collected by CPS from this date.
- 3.4. The MPS received our first tranche of the new data in October and we are working with CPS colleagues to agree the cases that should be recorded as failures as part of the new process. The MPS has disputed a significant

proportion of 'failures' on the basis that the assessment process appears not to have been followed and, on that basis, it appears likely that the DGA assessment process will take some time to bed in. Once we have a jointly agreed data set of sufficient quality, fresh benchmarking will be required to assess MPS performance and is unlikely that meaningful analysis will be possible until at least the new year.

- 3.5. There are a number of strands of ongoing work to improve file quality contained in the CJ Improvement Plan, and driven locally through the fortnightly Frontline Policing task-and-finish group. Recent activity includes the rollout of a newly developed mandatory e-learning package for all investigators, supported by a wider comms programme and the in-house myCJ application.

#### DG6 Performance - BCU / OCU submission to Case Management Team (CMT)

- 3.6. The most recent data (fortnight to 6<sup>th</sup> October '21) indicates that 16% of pre-charge cases submitted to the CMT are compliant with the file standards set out in DG6. This rises to 73% on subsequent submission to the CMT (once an action plan has been set and the file returns). This indicates that there is still considerable work to do to improve DG6 compliance on case-files submitted by OCUs/BCUs to the CMT.
- 3.7. RASSO inc Op Bluestone & Soteria - Op Bluestone is an approved evidential approach in transforming rape investigation. The MPS evaluation work began on the 6<sup>th</sup> Sept '21 and runs for two months. Academics will review policy, process, performance, well-being and training and give bespoke recommendations for the MPS to improve our response to RASSO.
- 3.8. The MPS is one of five forces taking part in this national project, also known as Op Soteria, which incorporates Bluestone as well as Transforming Forensics, Digital Extraction and NFA panels. London South CPS are also a pilot site for Soteria. The MPS have been successful in bidding to be a pilot site for digital extraction and will be provided digital equipment in the form of ruggedised laptops and a digital van to achieve the objective of only keeping hold of a victims phone for less than 24hrs. The MPS does not yet have any update on evaluation.

#### **Crime Solved**

- 3.10. Comparing the 12 month period to 31<sup>st</sup> Oct for 2021 with the previous year shows that the number of reported crimes in London has fallen by 5.8%. Over the same period. The most significant factor in these reductions is likely to be the CV-19 pandemic, and the resultant changes in behaviour patterns in London.
- 3.11. Over this period, reported gun crime, knife crime, robbery and burglary have all fallen by more than 15%, but these reductions have been partly offset by increases in reported rape and sexual offences by 12% and 23% respectively.

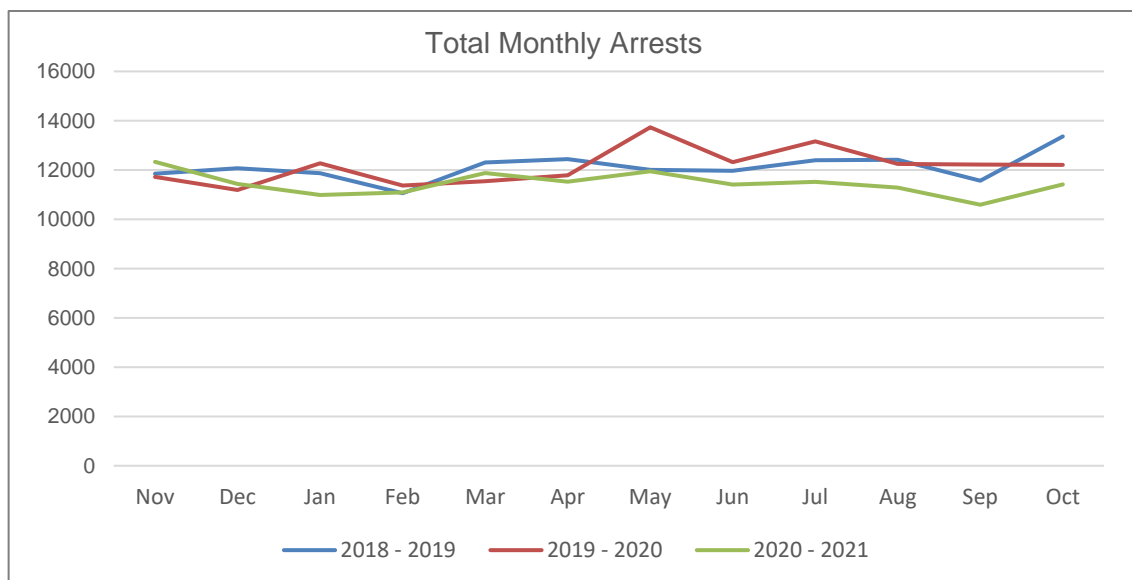
Positive outcomes over the same periods show an overall reduction in total number and rates.

- 3.12. Although the overall number of positive outcomes for rape has increased slightly, the large increase in volume means that the positive outcome rate has fallen by 0.2 p.p. For other sexual offences, the overall number of positive outcomes has fallen slightly which, in the context of a large increase in volume has led to a fall in positive outcome rate of 2.9 p.p.
- 3.13. Positive outcomes for hate crime have increased despite an increase in volume.

Crime Section	R12 to 31st Oct 2020			R12 to 31st Oct 2021			Volume Change	PO Rate Change (p.p.)	Total Positive Outcomes Change
	Offences	Positive Outcomes	PO Rate	Offences	Positive Outcomes	PO Rate			
<b>Total Notifiable</b>	<b>821,781</b>	<b>120,682</b>	<b>14.7%</b>	<b>773,980</b>	<b>94,883</b>	<b>12.3%</b>	<b>-5.8%</b>	<b>-2.4 p.p.</b>	<b>-25,799</b>
Total Gun Crime	1,828	650	35.6%	1,344	559	41.6%	-26.5%	+6.0 p.p.	-91
Total Knife Crime	12,945	4,115	31.8%	10,375	3,496	33.7%	-19.9%	+1.9 p.p.	-619
Business Robbery	2,481	330	13.3%	1,877	273	14.5%	-24.3%	+1.2 p.p.	-57
Personal Robbery	28,017	2,117	7.6%	20,900	1,722	8.2%	-25.4%	+0.7 p.p.	-395
Hate Crime	24,616	3,053	12.4%	25,440	3,261	12.8%	3.3%	+0.4 p.p.	208
Residential Burglary	49,432	1,848	3.7%	40,981	1,551	3.8%	-17.1%	+0.0 p.p.	-297
Rape	7,574	317	4.2%	8,489	337	4.0%	12.1%	-0.2 p.p.	20
Theft & Vehicle Offences	304,074	10,623	3.5%	270,900	7,009	2.6%	-10.9%	-0.9 p.p.	-3,614
Domestic Abuse	94,582	12,052	12.7%	95,038	9,934	10.5%	0.5%	-2.3 p.p.	-2,118
Violence with Injury	71,465	11,750	16.4%	69,714	9,493	13.6%	-2.5%	-2.8 p.p.	-2,257
Sex. Offences (ex. Rape)	11,524	1,282	11.1%	14,174	1,162	8.2%	23.0%	-2.9 p.p.	-120

**Fig. 2 - Reported offences and positive outcomes by crime type. 24 months to Oct '21** (Source: Data Office MPS Crime Dashboard – Strategic Summary – Outcomes 09.11.21)

- 3.14. An examination of monthly arrests over the same periods (R12 to 31<sup>st</sup> Oct this year and last year) shows a fall in total arrests of 5.7%, which amounts to approx. 700 fewer arrests per month. The reduction in arrests broadly aligns with the decline in reported crime of 5.8% over the same period.



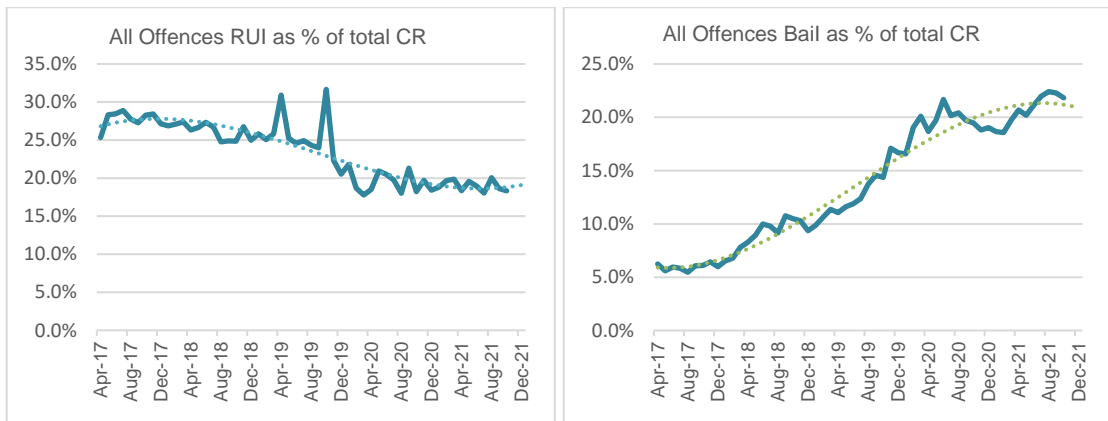
**Fig. 3 – Total Monthly Arrests Nov 2018 – Oct 2021** (Source: Data Office MPS Met Detention Dashboard – Numbers 10.11.21)

12 mths to Oct.	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Mean	Change
2018 - 2019	11850	12070	11867	11058	12302	12439	12006	11970	12397	12418	11563	13362	12109	
2019 - 2020	11721	11189	12269	11367	11544	11786	13732	12317	13164	12248	12222	12206	12147	0.3%
2020 - 2021	12331	11432	10987	11089	11877	11527	11946	11407	11519	11284	10591	11416	11451	-5.7%

Table. 1 – Total Monthly Arrests Nov 2018 – Oct 2021 (Source: Data Office MPS Met Detention Dashboard – Numbers 10.11.21)

## Bail and RUI

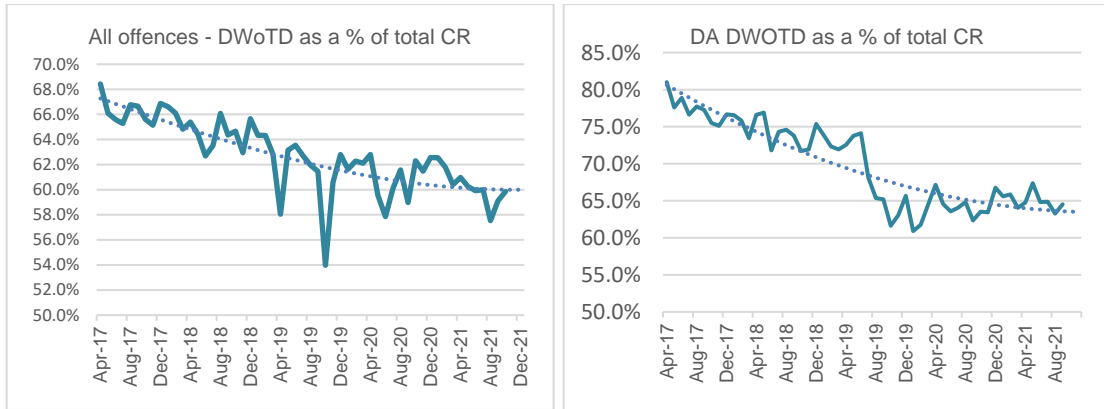
3.15. The MPS has continued to make progress in reducing our use of RUI and shifting towards greater use of bail. In the 12mth to Oct '20, 19.9% of arrests resulted in RUI, which fell to 19.0% in the 12mth to Oct '21. We have increased our use of bail over the same periods from 19.1% to 20.4%.



Figs. 4&5 – Overall RUI & Bail Rates Apr '17 – Oct '21 (Source: Data Office – Criminal Justice Dashboard)

Month of First Case Document Disposal	Total new CR	Number CR with Bail	Bail as % total CR	Number of CRN with RUI (no Bail)	RUI as % total CR	Bail as % of CR not DWoTD	RUI as % of CR not DWoTD	DWoTD as a % of total CR
Nov-20	12333	2320	18.8%	2433	19.7%	48.8%	51.2%	61.5%
Dec-20	11433	2177	19.0%	2104	18.4%	50.9%	49.1%	62.6%
Jan-21	10988	2049	18.6%	2069	18.8%	49.8%	50.2%	62.5%
Feb-21	11090	2063	18.6%	2180	19.7%	48.6%	51.4%	61.7%
Mar-21	11878	2343	19.7%	2360	19.9%	49.8%	50.2%	60.4%
Apr-21	11530	2386	20.7%	2114	18.3%	53.0%	47.0%	61.0%
May-21	11955	2455	20.5%	2404	20.1%	50.5%	49.5%	59.4%
Jun-21	11411	2414	21.2%	2164	19.0%	52.7%	47.3%	59.9%
Jul-21	11530	2533	22.0%	2081	18.0%	54.9%	45.1%	60.0%
Aug-21	11290	2530	22.4%	2265	20.1%	52.8%	47.2%	57.5%
Sep-21	10596	2360	22.3%	1972	18.6%	54.5%	45.5%	59.1%
Oct-21	11422	2494	21.8%	2093	18.3%	54.4%	45.6%	59.8%
<b>Nov '20 - Oct '21</b>	<b>137456</b>	<b>28124</b>	<b>20.5%</b>	<b>26239</b>	<b>19.1%</b>	<b>51.7%</b>	<b>48.3%</b>	<b>60.5%</b>
<b>Nov '19 - Oct '20</b>	<b>145812</b>	<b>27872</b>	<b>19.1%</b>	<b>28958</b>	<b>19.9%</b>	<b>49.0%</b>	<b>51.0%</b>	<b>61.0%</b>

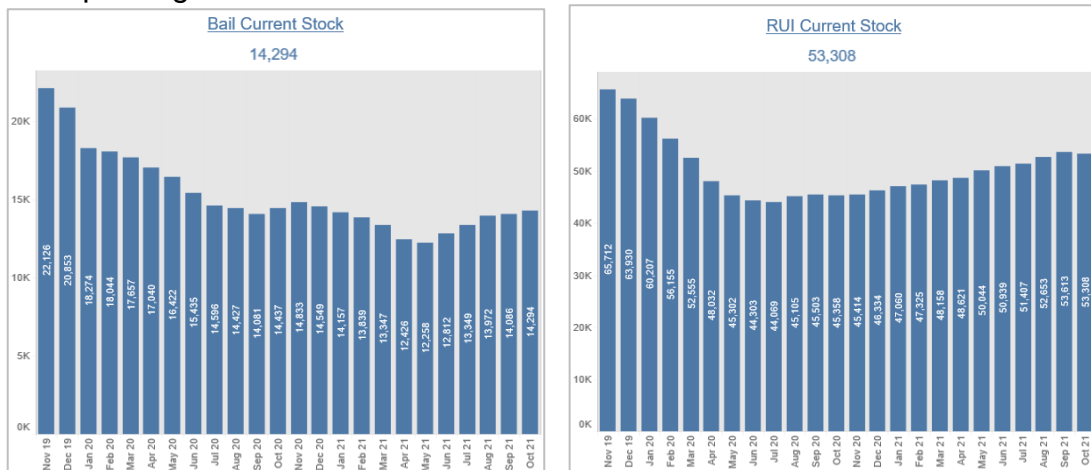
Table. 2 – Overall RUI & Bail Rates Apr '17 – Oct '21 (Source: Data Office – Criminal Justice Dashboard)



**Figs. 6&7 – Overall Proportion of Cases ‘Dealt With on The Day’ – DA and TNO Nov ’20 – Oct ’21** (Source: Data Office – Criminal Justice Dashboard)

3.16. The proportion of MPS arrests disposed of during their first period in custody (Dealt With on The Day – DWOTD) fell slightly over the last 12 months from 61% to 60.5%, which continues a trend observed since 2017 when it stood at 68.4%. The situation for DA offences is slightly different – although there has also been a fall since April 2017, when the DWoTD rate was 81.0%, the rate has been stable since mid-2019, and increased over the last 12 months from 63.9% to 64.7%.

3.17. The total number of custody records released under investigation in the 12 months to Oct ’21 fell by 9.4% in comparison the previous 12 months (26,239 vs. 28,958), but this has not translated into a fall in the total number of ‘live’ custody RUI records. This is likely to be an increase in more recent RUI records remaining open in error following the scale-back of the dedicated Met Detention team once reconciliation of the historic RUI records was completed. The problem may be eliminated when Connect investigation is rolled out, although there may remain some necessity for manual updates. Delays to this have prolonged issues.



**Figs. 8&9 – Overall Bail and RUI Stock Nov ’19 – Oct ’21** (Source: Data Office – Criminal Justice Dashboard)

### Bail Breaches

3.18. An examination of bail shows that we have 2,944 live records with a future return date. Of these 2,875 (97.7%) have bail conditions attached. A dip-

sample of bail conditions indicates that the most commonly used conditions are 'Not To Contact' a specified person or persons (35%) and 'Not to attend/go to/enter' a specified place or address (31%). In general, policing these conditions relies on the specified person or occupant informing us that the detainee has breached the condition.

- 3.19. Approx. 10% of bail records contain a 'sign on' condition or condition to 'live and sleep' at a specified address. To enforce 'sign on' conditions, the MPS is trialling a new digital bail kiosk which allow subjects to quickly & effectively sign on without queueing, and for the MPS to monitor bail subjects remotely & automatically. The new 'Digital Book 41 Bail Kiosk' proof of concept is expected to launch in early 2022 and is scheduled to last for approximately 4 weeks.
- 3.20. The MPS is engaged with three concurrent GPS tagging pilots involving DA offenders, knife-crime offenders and acquisitive crime offenders. These pilots only involve offenders who are serving determinate sentences i.e. they have been released on licence. These offenders are managed by the Probation Service, and the MPS has no involvement in direct enforcement unless the offender is 'recalled to prison' by the Probation offender manager.
- 3.21. The new acquisitive crime tags provide a capability to cross-match the locations of tagged offenders with reported crime. The pilot launched on 29 Sep '21 and there are 30 nominals currently tagged.
- 3.22. Defendants who have a curfew as a condition of bail imposed by a court are primarily monitored using traditional 'RF' tags i.e. physical proximity to a box located in the offenders address, although there are now some GPS tags used. Police are notified of court bail tag breaches by EMS, who are the company commissioned to provide the tagging service.
- 3.23. As of 11<sup>th</sup> Nov, there are 581 live tag breaches that await action (78 high-harm & 52 youths). 59 of these relate to GPS tag breaches of which 53 relate to battery breaches i.e. failure to charge the device. Tag breach performance and activity is reviewed at the fortnightly Offender Management Meeting chaired by the MPS 'Lead Responsible Office' which reports into the CJ Commander's CJ Improvement Board.

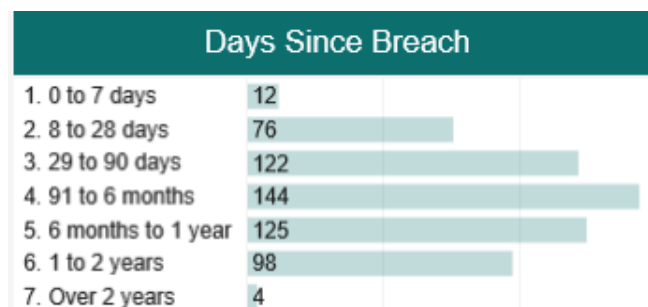


Fig. 10 – Tag Breaches – Days Since Breach (Source: Data Office – Offender Management Dashboard)

- 3.24. High Harm Offenders. Having identified that bail compliance checks were not routinely carried out, VCTF instigated a process in May 2020 for 'high harm' offenders as part of the violence 'step up' activity. VCTF passed details of 'high harm' offenders on court bail to BCU's each weekend. BCUs then allocated resources to visit and check compliance, and reported compliance on the weekend violence conference calls chaired by the VCTF SLT.
- 3.25. The task was handed back to BCUs on 18th Oct '21, and there is ongoing work to fully embed this as business as usual for the BCUs. We are aware that there have been breaches identified and arrests made as a result of the activity, but cannot give any accurate assessment of numbers.

### **Impact of Police, Crime, Sentencing and Courts Bill**

- 3.26. The amendments are contained within the Police, Crime, Sentencing and Courts Bill. The bill is at the committee stage in the House of Commons.
- 3.27. The Bill will reverse some of the changes made to police bail in 2017. Changes include:
- Creating a 'neutral position' – no presumption for or against pre-charge bail.
  - Extending the initial bail period from 28 days to 3 mths.
  - Permitting an Insp (previously Supt) to extend bail beyond 3 mths.
  - As before, further extensions must be approved by a superintendent, and extensions beyond 9 mths must be authorised by a Mags Court.
- 3.28. The MPS welcomes the proposed changes, but our view is that they do not go far enough. The amendments are expected to increase the proportion of suspects released on bail pre-charge, and will allow us to make better use of bail conditions to protect victims/witnesses and the public. However, the 'pre-conditions of bail' remain unchanged, meaning that bail will only be available where it is necessary, so there will still be a significant number of suspect released under investigation.
- 3.29. The legislative changes affect police management of suspects pre-charge, but do not directly address the causes of pre-charge delay (investigative resources, forensic capacity, increasing complexity & volume of digital evidence).

### **Pre and Post Charge Prosecution**

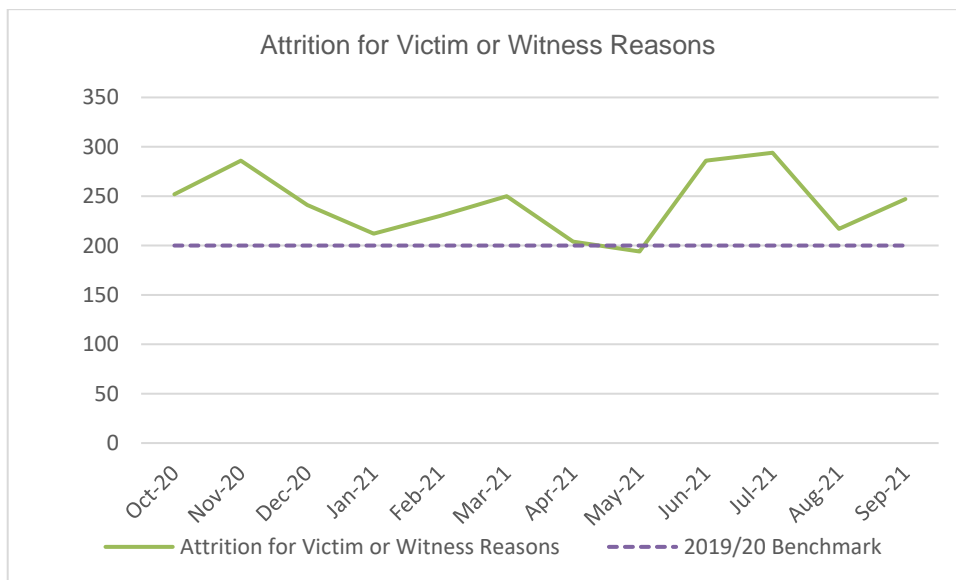
#### **Impact of Court Delays**

- 3.30. The backlog is starkly different in the Mags and Crown Courts:
- 3.31. For London magistrates' courts, the CPS estimate the live caseload to be 16% higher than before the pandemic. This is slightly better than the national average of 17% and a considerable improvement on London's position in Aug



'21 (the peak) when the estimated caseload was nearly twice what it is now (20,845 vs 11,921).

- 3.32. The magistrates courts have returned to pre-pandemic listing patterns, and the courts' focus remains on listing 'high priority' cases for trial at the earliest opportunity which includes DA cases.
- 3.33. 'Trial Blitzes' focussed on high priority cases inc. DA are ongoing at two more challenged Mags Ct sites throughout Oct & Nov.
- 3.34. The situation in London's Crown Court sites is significantly more challenging. The CPS estimate the live caseload to be 135% higher than before the pandemic, which is markedly worse than the national average of 69%. The estimated caseload is decreasing slightly, but only fell by 94 over the four week to 7<sup>th</sup> Nov '21. The current estimated caseload (taking into account those cases currently in the Mags but destined from the Crown Court) stands at 16,181 cases from a pre-COVID baseline of 6,878 cases
- 3.35. The impact of these delays on London and the MPS include:
- 3.36. Victim & Witness Attrition – From CPS finalisation data, an average of average of 200 defendants per month had their cases finalised for victim or witness disengagement in in 2019/20. Throughout the 12 months to Sept '21, the average was 243 (+22%). Victim/witness attrition has remained relatively stable for the last 12 months.



**Fig. 11 – CPS Finalisations – Victim/Witness Attrition Nov '19 – Oct '21** (Source: CPS finalisation data)

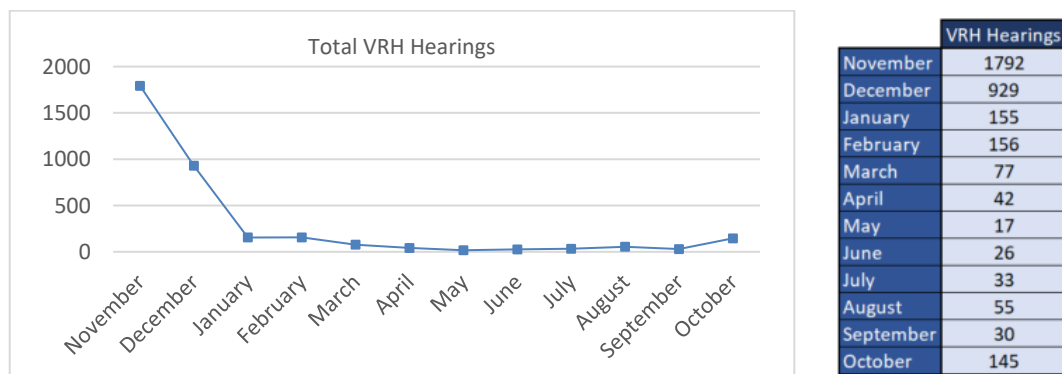
- 3.37. Witness Care Units (WCU) - Workloads in WCUs remain challenging. We have recruited 12 additional agency Witness Care Officers until 31st Mar '22. Additional MoJ funding has enabled the MPS to start recruitment of 20 additional Witness Care Officers on 2-yr fixed contracts. We also have agreement for a permanent uplift of 7 additional WCOs, 5 for Crime WCU and

2 for the Specialist Crime WCU (BCU and RTPC fall to 'Crime WCU') with the target of 218 WCOs.

- 3.38. Custody Time Limits (CTL) – Timescales for custody time-limits, set by courts when defendants are remanded into custody, were extended during the early stages of the pandemic but reverted to the shorter timings before summer. This has led to a situation whereby a 'double dose' of CTLs are due to expire over the next few months - Combined with the existing backlogs in Crown Court, this means an exceptional number of cases will need to be finalised or have their CTLs extended between now and February.
- 3.39. For context, fewer than 200 defendant's CTLs expired in Oct compared to 378 due to expire in Dec, 481 in Jan and 416 in Feb. This is a significant concern, as it's likely that courts will have limited appetite to extend CTLs if delays are attributable to prosecution delays and, as a result, there is a risk that dangerous offenders will be released who may go on to commit serious offences.
- 3.40. In response, BCUs/OCUs have been tasked to review cases with expiring CTLs to ensure that all lines of enquiry and actions are complete or progressing effectively. We have established a joint CPS/MPS Gold Group to oversee this, chaired by Cdr Sue Williams, which is due to convene on 19th Nov.

### Video Remand Hearings

- 3.41. The NPCC-led national withdrawal from VRH has reduced the demand on MPS custody facilities and staff. Before withdrawal, the MPS was using an additional two officers every day in each custody suite to staff VRH, with an estimated staff cost of approx. £200k per month.



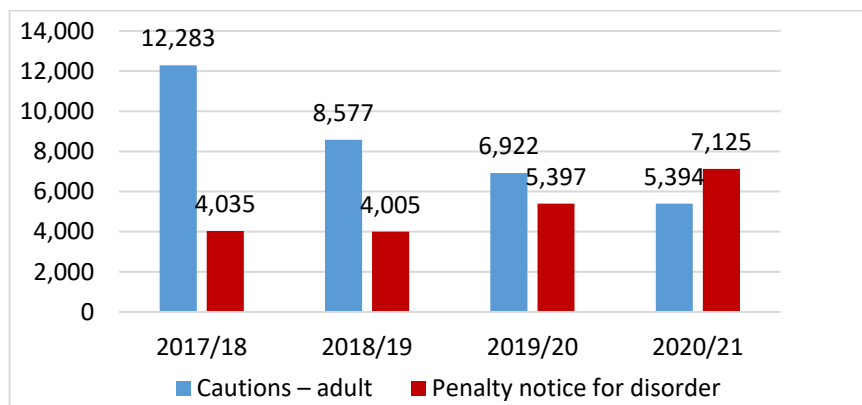
- 3.42. From the 5th Oct' 21, the MPS has been participating in the "Virtual Court Pilot Project" in which court offences (Breach of court bail/orders & FTA warrant's etc.) are heard via a VRH hearing at eight pilot sites (Brixton, Bromley, Bexleyheath, Charing Cross, Croydon, Hammersmith, Lewisham & Walworth).
- 3.43. The pilot project is expected to last for twelve weeks. Evaluation will include consideration of the resourcing implications and likely IT infrastructure requirements/costs. There are anticipated policing benefits to processing breach hearings remotely, as it allows us to place the detainee in front of a

court and, in many cases release them, more quickly, reducing demand on custody. This is not the case for newly charged remand prisoners. The pilot also makes use of an online calendar application, Team Up, to schedule cases, a facility that was missing from the COVID VRH roll-out.

- 3.44. The MPS continues to use VRH on an ad-hoc basis at all suites when detainees are confirmed or suspect CV-19 cases, or where we are able to do so to support a specific local court issue.

**Out of court disposals/diversion – New Statutory Framework**

- 3.45. The Policing, Crime, Sentencing and Courts Bill legislates for the most significant change to out of court of disposals (OoCDs) since the introduction of conditional cautions in 2003.
- 3.46. The proposed ‘two-tier plus’ framework will replace the existing options of penalty notice for disorder, simple caution and conditional caution with two new types of cautions with conditions. The community caution will be the new lower-tier outcome, whilst the upper-tier caution is currently to be known as a diversionary caution. Community resolutions, although not legislated for, will remain available for use for offences such as simple possession of cannabis.
- 3.47. The MPS has formed a task-and-fish group (chaired by the CJ Commander) to started planning for the proposed framework, and a further working group with MOPAC to examine service provision across London, identify gaps and work to commission services. We have commissioned MPS HQ Strategy & Governance to explore the likely impact on resourcing across the organisation, and are working with other police services nationally, particularly with the City of London Police, in anticipation of the Government’s start date of April 2023.
- 3.48. The MPS is supporting the development of a technical solution to assist with the diversion and compliance monitoring of offenders who are issued with these new cautions. This is being supported by funding from the NPCC Science, Technology and Research (STAR) fund. A pilot running of the application is planned to commence in December 2021.



**Figure 12. MPS Out of Court Disposals Volumes 2017/18 – 2020/21** (Source: CRIS)

- 3.49. As the largest force in the UK, the volume of OoCD's is considerable. Research has been conducted regarding the management of the implementation and management of the new framework and a different options have been considered from leaving the compliance monitoring to frontline officers to removing the management entirely from frontline officers or a mixed model utilising a central team and frontline officers.
- 3.50. It is proposed that a small centralised team, led by an inspector, will be created to implement the new framework across the MPS and subsequently act as the central point of contact for compliance monitoring and oversight of the diversion services with frontline officers being notified of non-compliance cases for them to then follow-up. Discussions are currently underway concerning where the posts will be found to create the team.
- 3.51. There is currently only one formal conditional caution diversion service within the MPS, under the female diversion scheme. Further diversion provision will be required in order to address the primary objective of the cautions – rehabilitation.
- 3.52. Although some provision may come from the charity sector, formal diversion services will be required, which will require decisions concerning funding. Nationally, some police forces require that an offender pays for a diversion or intervention, such as a victim awareness course; whilst with other forces such provision is free at the point of delivery for a divertee.

#### **4. Equalities and Diversity Issues**

- 4.1. Work to understanding and address disproportionality in the CJS is overseen within the Criminal Justice 'Head of Profession' Improvement Plan. There is ongoing work with the partners in this space.

Our CJ improvement plan includes a number of projects, programmes and measures that directly support a collective effort across the CJS to reduce disproportionality:

- Initiative to improving the quality of remand application & decision making
  - Turning Point trial
  - Roll-out of Community Resolutions for cannabis for under 18 y/o
  - DIVERT
  - ENGAGE
-