

Oversight Board Update – Criminal Justice

Date: 17th November 2020
To: DMPC, Cmsr Cressida Dick & D/Cmsr Sir Steve House
From: DCI Damon Williams – Met Prosecutions / LCJB Support
Topic: Oversight Board - Criminal Justice Update

Purpose and Background

To provide an annual update to MPS/MOPAC Oversight Board on Criminal Justice in the MPS.

An annual review of CJ in London would be incomplete without some discussion of the far-reaching impact of the coronavirus pandemic, which has affected almost every area of work in London's CJS. Many of our partner agencies have been forced to adopt dramatically different ways of working at great pace. The challenges stemming from the pandemic mean that priorities and risks have shifted and changes to the CJ landscape have, at least in the short term, made it harder than ever to establish what good performance looks like. However, the MPS has and will continue to focus on those improvement areas that most influence the core of any effective criminal justice system – its ability to deliver justice fairly and swiftly.

Our focus remains to achieve the best outcomes in the pursuit of justice and in support of victims by:

- Conducting high-quality investigations, which lead to proportionate and appropriate disposal decisions
- Producing high-quality case-files which provide the best evidence to support effective prosecutions
- Optimising case progression and reduce delay to minimise the wait for justice.
- Improving the experience of victims and witnesses.
- Using legal powers at our disposal to minimise the risk that victims are intimidated or harmed during the course of an investigation/prosecution, and prevent further offending by suspects/defendants.

1. What Is Going Well

More Crime Solved

Over the last 12 months the sanctioned detection rates have risen overall, and across a number of priority crime types. Although total recorded offence numbers in each category have fallen, in five crime types, the increase in SD rate also represents an increase in total sanctioned detections.

Crime Section	Rolling 12mths to Nov 2019			R12 to 31st Oct 2020			SD Rate Change (p.p.)	Total SD Change
	Offences	SDs	SD Rate	Offences	SDs	SD Rate		
Total Notifiable	913,778	73,403	8.0%	819,746	85,601	10.4%	+2.4 p.p.	+12,198
Violence with Injury	77,791	10,694	13.7%	71,268	11,384	16.0%	+2.2 p.p.	+690
Total Knife Crime	15,236	1,812	11.9%	12,801	1,998	15.6%	+3.7 p.p.	+186
Total Gun Crime	2,089	416	19.9%	1,653	385	23.3%	+3.4 p.p.	-31
Robbery	38,764	2,092	5.4%	30,459	2,451	8.0%	+2.7 p.p.	+359
Burglary	81,809	3,756	4.6%	65,280	3,700	5.7%	+1.1 p.p.	-56
Sexual Offences	19,955	1,298	6.5%	19,064	1,627	8.5%	+2.0 p.p.	+329

Table 1 (Source MPS Daily Dashboard 18/11/20)

Arrest Numbers

In December 2019, Oversight Board examined arrest numbers in detail and explored the decline in arrest numbers over previous years. The review indicated that the decline appeared to have been halted, and that arrest numbers in 2019 were likely to be higher than those in 2018 – the first increase

for a number of years. This proved to be the case, and the MPS arrested 144,292 people in 2019 compared to 142,617 in 2018. Arrest numbers have continued to increase slightly, and the average monthly number of arrests over the previous 12 months has risen from 12,109 last year to 12,142 now.

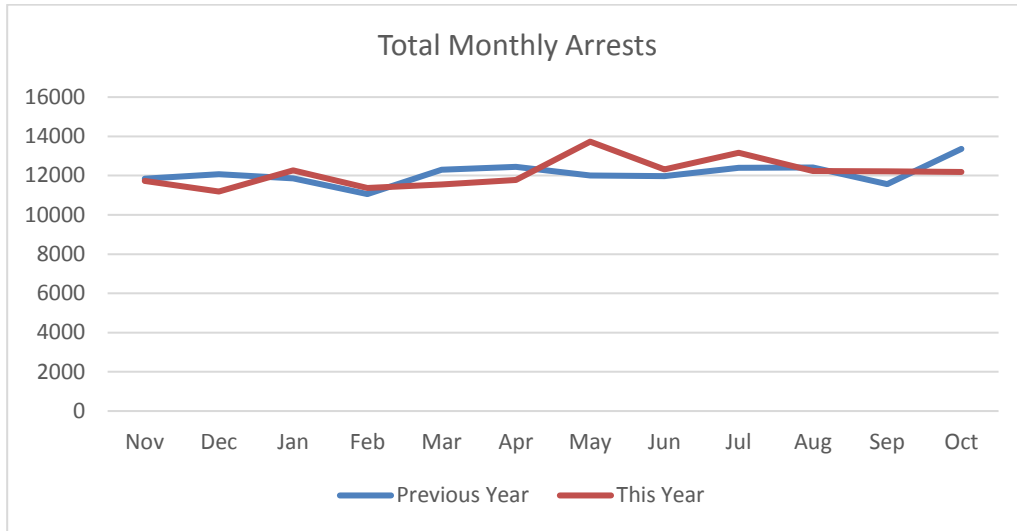


Fig. 1 (source: MPS Met Detention Dashboard)

Greater Use of Bail and Reduced Use of Release under Investigation (RUI)

The MPS Pillar 3 priorities include objectives to ensure that more victims are satisfied with the service they received, and to treat all victims fairly. One aspect of this is ensuring that we use the legal powers at our disposal to protect victims and witnesses from intimidation and harm during the course of an investigation or prosecution – this means using conditional bail whenever it is appropriate.

In August 2017, shortly after the Bail Act changes came into force in April 2017, MPS use of bail fell to 5.5% of total custody records. In the 12 months to Oct 2019, that rate had more than doubled to 11.9%. Over the last 12 months, the bail rate has continued to rise, and the 12-month average is now 19.3%.

In August 2017, the MPS used Release under Investigation (RUI) for 28.9% of our arrests. In the 12 months to Oct 2019, that rate had fallen to 26.4% (that year includes Extinction Rebellion protests 1 & 2, which both led to large numbers of RUI cases). Over the last 12 months, the RUI rate fell to 20.3%.

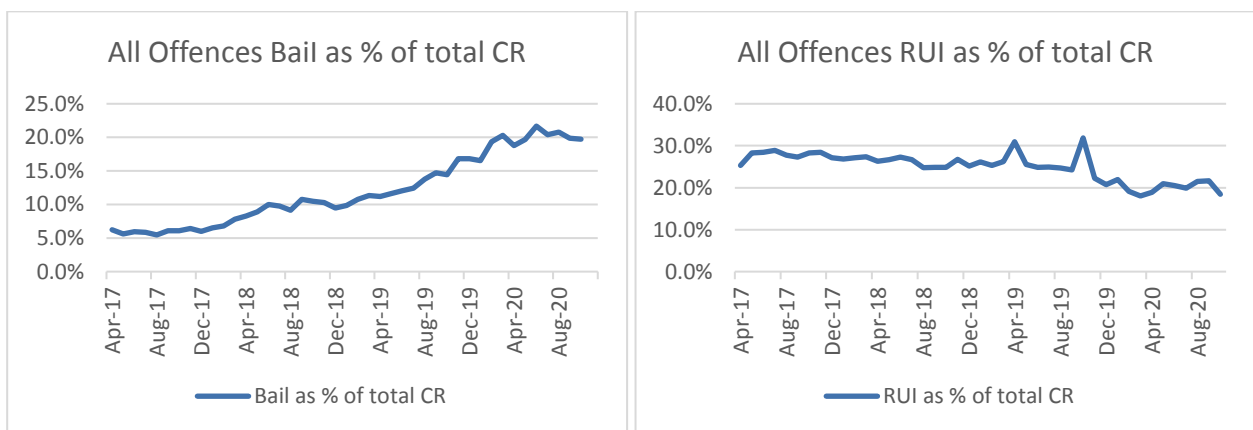


Fig 2 (Source: MPS Criminal Justice Dashboard)

In April 2019, the MPS CJ Improvement Gold Group set an objective to increase the use of bail for Domestic Abuse victims to >85% of those arrests not dealt with during the first period in custody (Dealt With On The Day – DWOTD) by April 2022. Since April 2019, the DA Bail rate has risen from 66.7% to 87.4% in Oct 2020. The >85% objective was achieved in Feb 2020, and has been maintained since then.

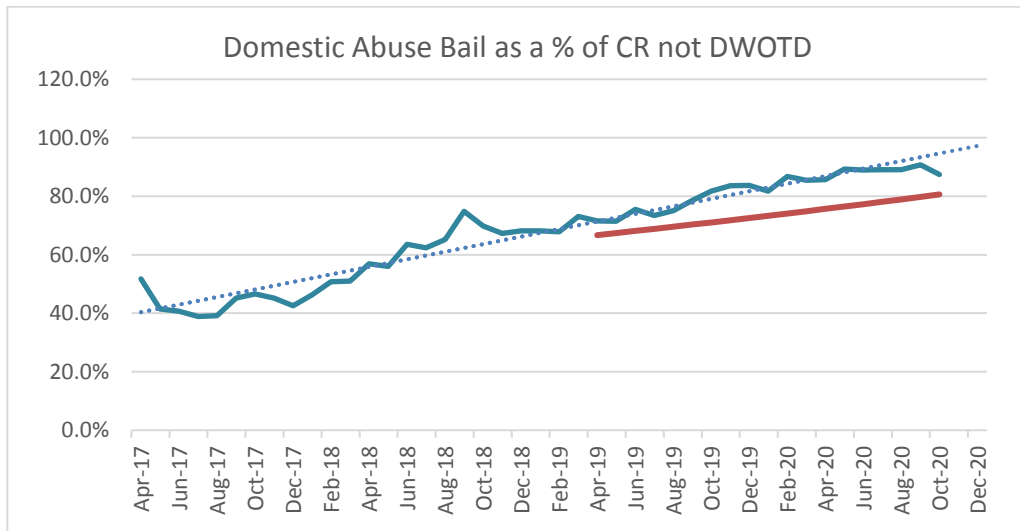


Fig 3 (Source: MPS Criminal Justice Dashboard)

Wanted Offenders

Offenders who are wanted pose a risk to victim, witnesses and the wider public. The stock of ‘wanted’ offenders managed by MPS rose between 2015 and 2018 to a peak of 18,455 records in Oct 2018. Ongoing work through the fortnightly Silver Wanted Offender Group, overseen by the CJ Improvement Gold/Silver groups, has driven this down and it now stands at 15,626. A significant fall in EWMS records can be seen during the early part of the COVID-19 pandemic. This is attributable to combination of reduced fail-to-appear warrants (as very few cases were being listed) and an increased focus on enforcement using additional capacity created by the temporary fall in demand on front-line policing. The increase since May seems to be attributable to a gradual return to more normal use of power-of-arrest circulations and an increasing number of FTA warrants. From May ’19, the Silver Wanted Offender Group has focussed on ‘High Harm’ offenders. November’s meeting is a DA deep dive. We anticipate that the number of FTA warrants issued will increase further as a greater number of cases involving defendants whose cases have been adjourned more than once are listed. We are exploring ways to combat this including contacting defendants and/or solicitors prior to their scheduled court appearance to remind them of the date/time.

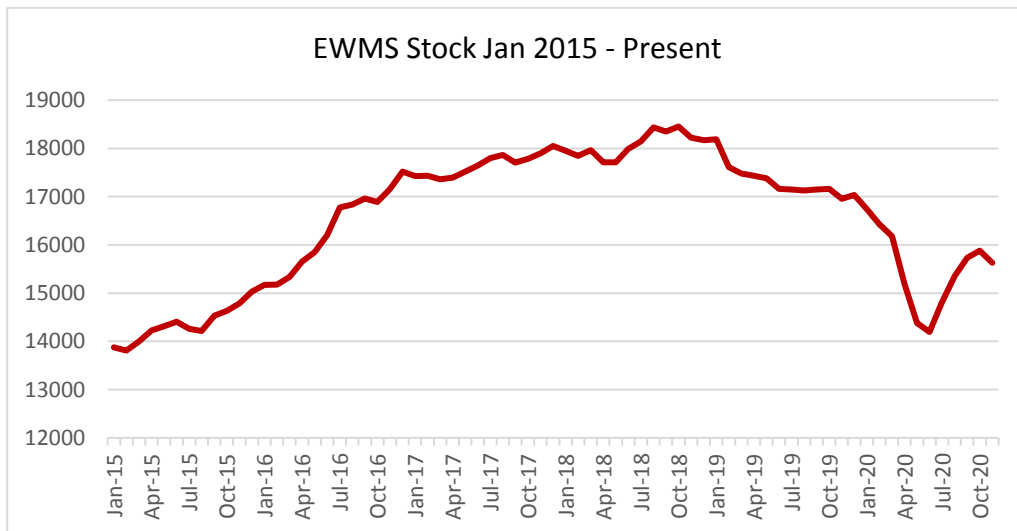


Fig 4 (Source: MPS Criminal Justice Dashboard)

2. Challenges

Court Backlogs

The biggest single impact of COVID 19 on the CJS has been felt in the court system, and much of the work across the CJS since March has focussed on mitigating the impact of this on delivery of justice. The early weeks of lockdown saw the number of cases ‘finalised’ in London courts each week plummet from 1,291 in Feb to 305 in the first week of April. Although the number of finalisations

has recovered (recent weeks have seen finalisations outstrip receipts consistently), there remains a considerable backlog of cases that can only be resolved by an effective trial. This challenge is exacerbated by a lack of consistent and reliable data to describe the backlog. The data we do have suggests that some headway is being made in reducing the Mags Court trial backlog, but there remain significant issues in the Crown Court, where the estimated backlog of trial continues to grow. CPS data collated for the Oct LCJB suggests that there are now 6,300 cases awaiting trial in London Crown Courts, up from 3,400 in February. The increase in live caseload resulting from delayed trials has led to an increase in workload on witness care units of approx. 89% between Feb and Oct, which poses significant resource challenges.

Video Remand Hearings

Measures introduced to allow courts to operate safely led to a significant reduction in permissible footfall in their buildings. To support this the MPS agreed to take part in a rapid national roll-out of Video Remand Hearings using the HMCTS Cloud Video Platform (CVP) technology. Pre-COVID, the MPS had three custody suites with a VRH facility as a legacy from an existing pilot. As part of the national rollout, the MPS rolled out VRH across all 23 suites throughout April and May, with all suites live by the beginning of June. Between May and Sept '20, the average number of VRH carried out using the new capability was 86 per day (1887 per month). The provision requires two dedicated officers per day at each custody suite, meaning that delivery across the MPS requires a commitment of 276 officers per week (including staff at the three suites that were running VRH pre-COVID). The costs of providing this service are considerable - the MPS estimates that salary costs alone are approx. £1m since introduction, in addition to a capital expenditure of approx. £160k. The requirement to provide VRH exacerbated existing challenges making MPS custody suites COVID-safe for staff, visitors and prisoners, and has increased pressure on custody estate and staffing such that the service provision to front-line officers has been impaired. The MPS has concluded that these resource requirements are unsustainable, and a large number of other chief constables have expressed similar concerns. NPCC Chiefs' Council discussed ongoing provision of VRH in November, where forces agreed to withdraw by end of Dec. The MPS is currently considering a number of options, including a phased total withdrawal concluding towards the end of December.

Common Platform

The Common Platform is an HMCTS-led digital system, forming part of the wider HMCTS crime reform programme. In addition to other functionality, it will replace existing HMCTS systems for listing and resulting cases, and must be integrated with police IT systems. HMCTS have asked the MPS to support a pilot at Croydon Crown and Mags Courts. However, the existing COPA system requires modification to support this, which has considerable cost implication. The HMCTS programme is unable to finance this work, and the funding gap has not yet been resolved.

Domestic Abuse

The potential for an increase in domestic abuse because of coronavirus lockdown measures and associated financial impact on families and households is clear. As anticipated, unlike the majority of crime-types reported DA increased during lockdown, and volumes have remained higher than the previous year since. The number of DA offences solved (SDs) also increased over the last year from 12,978 to 13,338 (R12 to Oct), but the increase in reported offences means that this represents a decline in SD rate from 14.4% to 14.2%. There are extensive plans to improve DA performance which are outside the scope of this update.

Prisoners Dealt with On The Day

To minimise delay, the MPS needs to ensure that our investigators use available detention time effectively and, wherever possible, resolve cases on the first occasion the suspect is in custody. This reduces the need to use bail or RUI, and supports good case progression. The MPS has seen a decline in the proportion of offences 'dealt with in the day' (DWOTD) for all offences (see Fig. 5 below). In Oct '19, the R12 average for all offences was 61.8% of arrests DWOTD, which had declined to 60.4% by Oct '20. Of concern, the decline has been steeper for domestic abuse offences, where the rolling 12-month average has declined from 70.3% to 63.7% over the last year. There is ongoing work within the Frontline Policing CJ Improvement plan to explore the reasons for this decline and identify how this can be reversed.

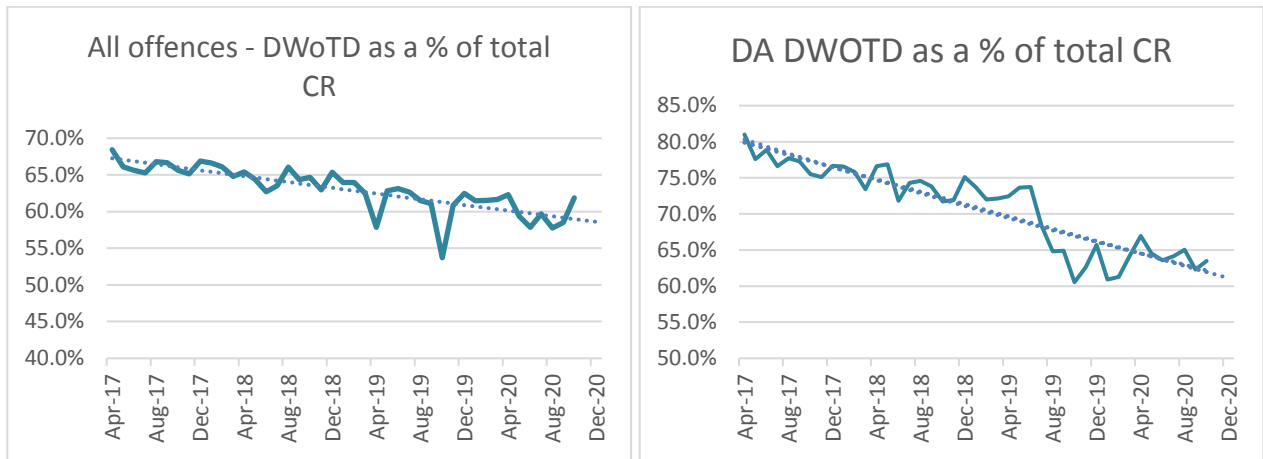


Fig 5 (Source: MPS Criminal Justice Dashboard)

Case File Quality

The MPS performance framework includes an objective to reduce our case-file ‘proxy’ failure rate to 30% by April 2021. Although there has been improvement over our historic position, this has stagnated and it now seems unlikely that we will achieve the objective. In recent months, the rate has proved increasingly volatile, and provisional figures suggest that October may show our worst failure rate since June 2018. It’s clear that there remains much work to do to improve our file quality and identify better measures to support improvement work and focus our efforts where they will have the greatest impact.

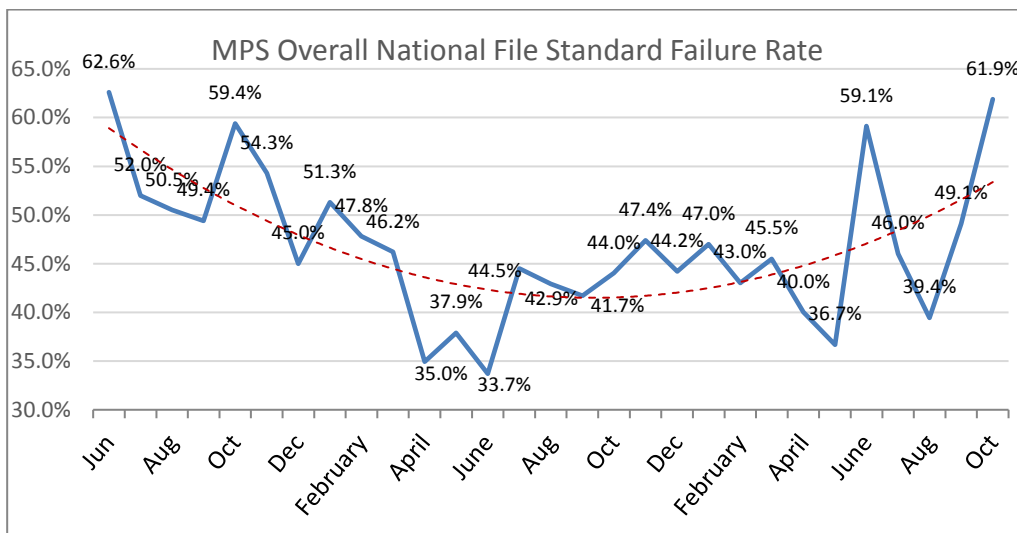


Fig 6 (Source: CPS National File Quality Reports)

3. Areas of Continued Focus & Next Steps

Victim Care and the Court Backlog

The biggest current challenge the MPS faces in CJ delivery is mitigating the impact of the current backlog of trials resulting from the COVID pandemic. In particular, the impact on those victims whose cases will not reach trial for months or years.

As of 12/11, London had 129 Crown Court trials have been listed in 2022. The offences include GBH, kidnap, stalking, robbery, assault of an emergency worker, threats to kill and engage in controlling / coercive behaviour. Fifty-one of these cases appear likely to have a victim who is vulnerable or intimidated.

At present, all victims are automatically offered a ‘detailed needs assessment’ and referral to the London Victim and Witness Service (LVWS) when their case is listed for trial. During the pandemic, letters to victims have been reviewed, and now contain full details of the LVWS self-referral process.

The MPS are engaged with a number of CJ partner meetings which discuss victim support and attrition. These are:-

Meeting	Attendees
Victim and Witness Delivery Group	MOPAC, BTP, MPS, Probation, LVWS, CPS and HMCTS
LCJB Domestic Abuse Delivery Group	MOPAC, MPS, CPS, IDVA Support Services, HMCTS, LVWS
Legal Justice Area meeting (local courts)	HMCTS, MPS, CPS
Supporting Witnesses (implemented during the pandemic)	MOPAC, BTP, MPS, CPS, LVWS, Witness Service
CPS / WCU Meeting	CPS / WCU (MPS)

Next Steps:

- Set-up a cross-agency task-and-finish group to explore ways to ensure that vulnerable and intimidated victims whose cases are in the backlog are supported.
- WCUs will contact all victims in trials cases listed post April 2020 to remind them that they can be referred to the LVWS or they can self-refer with the relevant details provided.

Case File Quality & Case Progression

The quality of police files is crucial to ensuring that cases progress effectively through the CJS. Files that require remedial work create additional and unnecessary work for MPS officers and CPS prosecutors, cause delay and ultimately damage the experience of victims. Although much has been done to upskill staff, raise the profile of CJ and provide access to guidance/advice, work to date has not seen the anticipated improvement in file quality. Data shows that file submitted through the Case Management Team are less likely to fail. Data from Jan – Sept '20 shows that 19% of files submitted through the CMT fail compared to 31% of files that bypass the CMT. However, 85% of eligible cases bypass the CMT i.e. they are submitted directly to the CPS by a local supervisor.

(Note: Overall, 29% of our NGAP (Not Guilty Anticipated Plea) files submitted Jan - Sept failed. This not the same as the CPS proxy failure rate because the CPS failure data include files that fail more than once, and files that were submitted as Guilty Anticipated Plea (GAP) files but pleaded 'not guilty')

Next Steps:

- Review CJ Improvement Performance Measures - The small numbers involved and the increasing monthly volatility have shown CPS file-quality proxy measures may be an unreliable measure of performance. The volatility has made it difficult to identify areas of focus. Recent work by CMT and Strategy and Governance colleagues has created additional data sets that are capable of allow us to explore compliance with the CMT. Developing this data further will allow BCUs to identify individual supervisors who bypass the CMT, which supervisors submitted files that fail, and which supervisors submit GAP files that plead 'not guilty'. Increasing the proportion of files submitted via the CMT will increase file quality.
- ERO Training – File submitted by supervisors who have undertaken ERO training in the last two years are only slightly less likely to fail (28% vs 29%) but are much less likely to bypass the CMT (92% vs 53%). Approx. 800 additional ERO courses have been made available to increase the number of trained staff on BCUs.
- 'See It Through' – The CJ Comms campaign will continue to raise the profile of CJ, and signpost officers and staff to new training material
- CJ App – The MPS has developed a CJ App which guides the user through case-file build. Pilot on 3 BCUs AS, SE & SW. This will be released onto MPS devices.
- FLP CJ Improvement Plan – In early Nov, the Frontline Police Commander lead for CJ signed off a FLP CJ improvement plan.
- Review and re-energise PTPM process to ensure effective delivery, focussing on: what we want the PTPM to achieve, what we need to put in place to allow them to do this and how we will monitor progress
- Civilian Disclosure Officers deployed to all Safeguarding Hubs to support local investigators undertaking CPIA obligations

- DAC chaired task-and-finish group overseeing DG6 / AG's Guidelines (below) will support case-file quality improvement work
- The MPS Strategic Insight Unit will complete a sprint to examine case-file quality improvement work

Out of Court Disposals and Diversion

The MPS has a number of separate pilots and strands of ongoing work involving out-of-court disposals and diversion. The London CJB has commissioned a London Diversion Strategy that will set out our strategic intent and direction of travel. The sentencing whitepaper published in Sept indicates that the 'two-tier framework' (in which the only available OoCDs are conditional caution and community resolution) will become mandatory through legislation. The MPS is actively looking to expand our use of conditional cautions and community resolution.

Next Steps:

- Agree and sign-off of London Diversion Strategy
- Seek extension for Female Offender Diversion Scheme and Turning Point to 2022 to allow meaningful evaluation.
- Explore options to pilot Two-Tier Framework for OoCDs & extend use of Restorative Justice

DG6 & AG's guidelines

The new Directors Guidance on Charging Edition 6 (DG6) and the revised Attorney General's (AG) guidance on Disclosure and CPIA are due to commence 31/12/20. These require a great deal more work to be completed by police pre-charge and will have far-reaching consequences for how the MPS prepares files for the CPS and seeks advice. The key changes are:

- Redaction – Officers must ensure that personal information is passed to the CPS at any stage (inc. pre-charge) unless it needs to be included. This means that officers will have to redact all material before submission to the CPS, and is a significant amount of extra work.
- Provision of Unused Material Schedules – Officers must provide 'disclosure' schedules at the pre-charge stage in all cases. This is a significant amount of extra work, which is wasted for those cases that do not proceed to charge. At present approx. 50% of pre-charge CPS consultations result in a charge, with the remainder either NFA'd (25-30%) or 'Admin Finalised' (20-25% - Closed by CPS when a case returned to police with an action plan has not been resubmitted or updated after 90 days).

Next Steps:

- Met Prosecutions and FLP are working to identify the implications and consider process/system changes needed to ensure compliance.
- The go-live of DG6 and the AG's guidelines will be accompanied by a comms plan which will include the publication of guidance and the launch of a toolkit to support front line officers.
- Localised training will be delivered through CJ hubs
- Governance will be through a DAC chaired T&F and a working-group chaired by the Head of Met Prosecutions
- Changes will be incorporated in the new ERO training course.

Disproportionality

Fairness is central to a justice system that has the confidence of victims and offenders, and a vital aspect of delivering a justice fairly is ensuring that the CJS is 'blind' to the ethnicity of participants. As part of our commitment to reducing disproportionality in the CJS, the MPS has developed a dashboard to explore disproportionality across various crime-types and outcomes.

The Next Steps:

- Further develop data sets with CJ partners to broaden our understanding of drivers of disproportionality.
- Develop an MPS CJ Disproportionality Action Plan to identify and drive specific activity we can undertake to reduce disproportionality.
- Expand the MPS chaired LCJB outcomes board to include cross-agency activity to reduce disproportionality.