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MANAGING HIGH-RISK SUSPECTS IN POLICE CUSTODY: A LEGAL AND OPERATIONAL ANALYSIS

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Abstract

1.Thesis Title: 'Managing High-Risk Suspects In Police Custody: A Legal and Operational Analysis'

2. Key Research Question and sub-questions: What are the available options for retaining in custody, or intensively managing in the community, suspects identified statistically as being at high-risk of high harm?

> *2.a. BACKGROUND* What does prior research literature report about serious crimes committed by persons under investigation for matters that have not yet come to court? What options for retaining such persons in custody have been proposed, criticized, or rejected? Of those offenders released on police bail or released under investigation in Northwest BCU during April 2019-March 2021, what proportion of a representative sample were arrested within 100 days of subsequent release? What proportion of these offenders were arrested more than once during April 2019-March 2021. What offences were they arrested for?

> *2.b*. Based on focus group discussions and interviews in NW BCU with Custody Sergeants, homicide SIOs, police investigating officers and senior detectives, what options do they use to attempt to manage the suspects who are released into the community on police bail or under investigation?

> *2.c*. What has been their experience with different tools, both successes and failures?

> *2.d*. Based on the answers to all the questions above, what recommendations for developing policy on these issues can be made?

3. Unit of analysis, data set size and time period:

Unit of analysis:

- Arrests with suspected offenders recently released from custody on bail or released under investigation;

- Professionals dealing with custody and release decisions in NW BCU;

- Data set size: 62 suspects; 12 persons interviewed.

Time period: 2 years 2019-2021

4. Key measures of independent, dependent or descriptive variables:

See above

5. Research design: Mixed methods qualitative and quantitative.

6. Data and Methodology: Breakdown of representative sample of custody records for repeat arrests, offence type and crime harm over 100 days and two years. Operational assessment from structured interviews of how suspects are identified as posing a high risk of further offending, and what operational methods are used to mitigate the risks.

7. Key Findings: Of a cohort of 62 robbery suspects released from custody on police bail or "under investigation" (RUI) over a two year period in a London policing area, 30 were arrested within 100 days of release. Over the two years from 1 April 2019, 47 of the 62 were arrested more than once, and the cohort accounted for a total of 264 arrests, for offences ranging from minor public order and assaults to murder.

Police officers involved in custody and serious crime investigation attested to a lack of systematic risk assessment or offender tracking for persons released on bail or RUI. Little faith was expressed in the efficacy of police bail or RUI, and the Crown Prosecution Service was perceived as having different priorities from the police when it came to charging advice for suspects in custody.

8. Policy Implications Statement: This study could help police to reduce harm caused by high-risk people committing serious crime on police bail or having been "released under investigation". The findings indicate a need for robust risk assessment of people being released from police custody, and a system for tracking, monitoring, and controlling those presenting the highest risk. The findings indicate a dysfunctional relationship between police officers and the Crown Prosecution Service.

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I should like to thank my academic supervisor, Dr Peter Neyroud, whose advice, judgement and encouragement helped me both to keep this project focused on the research questions and to spot the implications of what I was finding.

Finally, I should like to thank my family, for their support, love, and tea.

Contents

Chapter 1 - Introduction

Are police officers in London routinely releasing from custody people who are likely within days or weeks to commit serious crime? If officers knew of such a risk, do current English legal and operational menus present realistic prospects of mitigating or eliminating the risk? And what do professionals and practitioners of serious crime investigation and custody management say about what could or should be available to them to manage these risks?

News outlets and court reports from the UK and elsewhere regularly publish stories about people "on bail" committing rape, murder and other serious crimes, from which it might be inferred that somehow the authorities, by allowing the offender to be free, had failed to protect the public. Many outlets reported the sentencing in January 2022 of Kenneth Salomon-Ngua, who was convicted of attempted murder for stabbing a stranger at a bus stop in London. At the time of the attack, Salomon-Ngua was on bail following arrest for possession of a knife (Islington Gazette, 2022; TheLawpages.Com, 2022). In January 2017, less than a week after being released on bail, Dimitrious Gargasoulas drove his car onto a pavement in Melbourne, Australia killing six pedestrians (DPP v Gargasoulas [2019] VSC 87 (22 February 2019). And in December 2021 a British tabloid reported that 102 people had been murdered in the previous four years by offenders on bail (The Mirror, 2021).

The introduction in England and Wales in 2016 of a new status for people arrested but not charged with crime – "Released Under Investigation" (RUI) – removed the finite (although extendable) timescales for police investigations post-arrest as well as creating a presumption that bail, with or without conditions, would not be imposed (Sosabowski and Johnston, 2022). Perhaps inevitably, serious offences were soon being committed by suspects who were 'RUI'd'. Sometimes there were tragic consequences, such as the case of Alan Martin, who was arrested for raping his estranged wife Kay Richardson in September 2018. Released Under Investigation

and subject to no restrictions or monitoring, less than two weeks later Martin murdered Richardson before committing suicide (Chronicle Live, 2019).

The contemporary context of this research finds policing under renewed pressure and expectation to get better at protecting the public from the most serious violent crimes and, notably, to address the "epidemic of violence against women and girls" (HMICFRS, 2021b). The addition of the latter (VAWG) by the UK government to the "Strategic Policing Requirement" (Home Office, 2022) – in other words considering it a threat to the nation's safety and security on a similar level to terrorism – was announced as Baroness Casey of Blackstock began a review of Metropolitan Police Culture (MPS, 2021) amid concerns that the force was guilty of "systemic misogyny" (Parliament, House of Commons, 2022). The Metropolitan Police acknowledged, echoing the aftermath of failed investigations into the racist murder of Stephen Lawrence (see Macpherson, 1999), that a "bond of trust" with the public has been fractured, leading to concerns that the very foundation of British policing – consent – may be at risk (MPS, 2021).

Despite this, there appears to be no immediate threat of police "defunding" in England and Wales. Announcing "inflation-busting" budget increases for policing for 2022-23, the UK government linked the additional money to "driving down homicide, serious violence and neighbourhood crime". Violence against women, rape, sexual violence, knife-crime and drug-trafficking were highlighted as further significant priorities (Home Office, 2021). Low rates of prosecution and conviction for rape continues to be a concern. In April 2021 the UK Parliament Home Affairs Committee launched an enquiry, highlighting that whilst police referrals to the Crown Prosecution Service (CPS) for charging advice had fallen by 27 per cent since 2014, CPS decisions to prosecute had fallen by 51 per cent over the same period (Parliament, House of Commons, 2021a). And another element of the criminal justice system – the management of offenders on release from prison – has been subject to a decade of disruption through changes to the operating model for probation: the "Transforming Rehabilitation" programme of 2014 that

fragmented the system and introduced private sector providers was followed by the full-scale reversal of these changes in 2021 (Parliament, House of Commons, 2021b).

Perhaps the most significant, and unforeseeable, shock to policing in recent times has been caused by COVID-19. As British policing entered the pandemic the "end of austerity" was being hailed by the Government (BBC, 2019) following nearly a decade of budget cuts. Nevertheless, there were nearly 15,000 fewer warranted officers in England and Wales compared to 2010 (Home Office, 2021b) and evidence of rising high-harm crime trends (Caveney et al, 2019). For example, in London recorded offences of robbery, violence against the person, and rape had been steadily increasing for five years (MPS, 2022). Lockdowns, sickness, self-isolation, frequently changing regulations, and unusual crime-patterns presented unprecedented peace-time challenges to policing, not least to legitimacy (Rowe et al, 2022), officer welfare (De Camargo, 2022), and the unpredictability of the return to 'normal' (Maskaly et al, 2021). Yet in this landscape, officers faced a familiar problem that global crises such as COVID-19 seem unlikely to eliminate: what to do when there is not enough evidence to charge a detainee suspected of a high-harm crime?

This study looks in detail at a cohort of 62 people arrested for robberies and detained within the jurisdiction of North West Basic Command Unit (NW BCU), Metropolitan Police - a geographical area comprising three London boroughs - Brent, Barnet and Harrow. The analysis considers what happened to these offenders within 100 days of being released from police custody on investigative bail (BTR), or under investigation but without bail being applied (RUI). The study further considers the observations of professionals in the policing fields of serious crime investigation and custody management through a series of structured interviews.

Chapter 2 - Literature Review

The literature review explores the key questions in four sections. First, the prior literature on serious offending whilst under investigation. This section will begin with an overview of the relevant legal framework in England and Wales, before considering previous research findings and case studies. The second section will cover literature on risk assessments and in particular the accelerating use of algorithmic risk assessment tools in the context of custody decisions. The third section will examine the pertinent criminological theory and concepts, leading in to the fourth section which will cover the management of offenders or suspected offenders, including options that have been adopted, rejected, or proposed.

Serious Offending Whilst Under Investigation

Legal Frameworks

The Human Rights Act 1998 (HRA) incorporated the European Convention on Human Rights (ECHR) into UK domestic law, nearly five decades after Parliament first ratified the Convention (von Staden, 2018 pp. 67-76). Of particular importance to policing are the rights under Article 2 (to life), Article 5 (to personal liberty) and Article 8 (to private and family life). The Articles are set out in Schedule 1 to the HRA. Neyroud and Beckley (2001) presented four principles of the Convention that can be considered the "building blocks" of a human rights policing style. They are:

- Legality – police officers' powers, and their use of those powers, should be transparent and legally constituted;
- Proportionality – applying a 'utilitarian calculus' in the exercise of authority, adopting a minimalist approach, balancing the rights of individuals against the interests of the wider community;

- Necessity – 'absolute necessity' being where alternative courses of action have been tried and failed, or discounted as likely to be unsuccessful, and 'pressing social need', where there must be justification for any course of action in a democratic society that cherishes values of tolerance and pluralism;
- Accountability – the requirement for citizens to have remedy for wrongful breaches of their rights, including an effective and independent system for investigating serious complaints against the Police.

Coincidentally, as the HRA passed through Parliament the European Court of Justice delivered its judgement in the case of *Osman v United Kingdom,* finding against the UK on the question of police immunity from civil claims for negligence "in respect of their acts or omissions in the investigation and suppression of crime" (Gearty, 2001). The applicants in *Osman* petitioned to sue the Metropolitan Police for culpability in failing to prevent the fatal shooting of a relative. Although no Article 2 breach was found in *Osman,* under ECHR the state has both a negative duty to refrain where possible from taking life, and a positive obligation to protect life (Hoffman et al, 2006).

Article 5 of ECHR allows for lawful deprivation of liberty in six particular 'cases', which include detention following conviction by a 'competent court', and the lawful arrest of someone in order to bring them before a court on suspicion of an offence, or to prevent them from committing an offence or escaping having done so. In England and Wales, the primary power of arrest in such circumstances is found in s24 of the Police and Criminal Evidence Act 1984 (PACE). A police officer may arrest, in other words deprive of their liberty, any person they reasonably suspect to be guilty of an offence, or whom they suspect is committing or is about to commit an offence.

Arrest under PACE triggers other powers such as entry to search premises, seizure of property and searching the arrested person themselves. The procedures to be followed by police after arrest are covered in 29 sections on detention (Zander, 2015 p. 161). The responsibilities of the

Custody Officer, usually a sergeant and who should not be part of the investigating team (Zander, 2015 pp 165-6), are set out in these sections. The Custody Officer may authorise the detention of an arrested person on arrival at the police station where they have reasonable grounds for believing that such detention is necessary to secure or obtain evidence of the offence under investigation. Detention may continue for 24 hours (subject to reviews by an Inspector after six, and therafter nine hours), at which point the person must be released or charged. Where the offence under investigation is indictable, provision exists under s.42 of PACE for a superintendent to authorise an additional 12 hours' detention. The superintendent must have reasonable grounds for believing that further detention is necessary to secure or preserve evidence of the offence. After 36 hours, officers may apply to a magistrate for a warrant allowing up to 36 hours of further detention on the same grounds as above. In such circumstances, the detainee may petition the court against the application. Longer detention periods apply under the Terrorism Act 2000 (Zander, 2015 p.196, pp 207-208) - an initial period of 48 hours, and up to 14 days on application to a Senior District Judge.

PACE is a wide-ranging piece of legislation. The provisions outlined above give a flavour of its regulatory and procedural tone. The Act has its origins in a catalogue of inadequacies in how crime was investigated and prosecuted in England and Wales in the 1970s. For example 'abuse of powers and violation of suspects' rights' were 'common in the Met' (Reiner, 2000 p168). These were notably illustrated in the report by retired judge Sir Henry Fisher into the Confait case, in which three innocent youths were convicted and later cleared of murder and arson (McBarnet, 1978). There followed the establishment in 1978 of a Royal Commission on Criminal Procedure (the 'Phillips Commission') which reported in 1981 (Sanders, 2008 p.46). PACE broadly adopted the recommendations of Phillips, which sought to balance the increasingly 'crime control'-oriented direction of police powers and practices with safeguards for the rights of citizens and the safety of convictions - a 'due process' concern (Sanders, 2008 pp 46-47).

The 1984 Act created a new regulated framework for police powers and introduced additional measures of accountability for their exercise. Brown (1997) summarised the research conducted into the impact of PACE over its first ten years of operation. Among the findings were:

- Stop and search – PACE introduced a requirement for officers to record their objective grounds for every stop and search. However, compliance was questionable, supervision was often non-existent, and there was racial disproportionality to the detriment of black citizens, who were more likely to be stopped than white or Asian people;

- Entry, search and seizure – searching of premises after arrest, without the need for a court warrant, became commonplace, with a high (greater than 50%) success rate of finding evidence;

- Arrest and detention – there was evidence of greater professionalism in the arrest process, and suspects' time in custody tended to be shorter than pre-PACE. However black people were disproportionately represented in arrest data. There was wide variation between forces in the granting of bail after charge. Suspects in custody were benefitting from access to legal advice;

- Workability of the rules – compared to previous regimes, PACE appeared to have greater clarity, particularly in regard to custody procedures, but there was still no conclusion that the system had achieved a balance between safeguards for suspects and police powers.

The question of whether due process can co-exist effectively with crime control is at the heart of this thesis. The Phillips Commission established three principles that should underpin the system of criminal justice: "fairness"; "openness and accountability"; and "workability or efficiency" (Munday, 1981). The latter principle largely concerned itself with the practicalities of regulation, rather than effectiveness in controlling crime. In other words, controlling or preventing crime is not explicit as a founding principle or objective of the legislation that underpins the criminal justice system. Sanders (2008 p 72-) nevertheless argues that PACE is a coercive body of powers that is ineffectively regulated. Others point out the realities of PACE in practice - Dixon (2008 p26) compares the maximum permissible detention period with the reality that most suspects are held

for six hours or less. From a practitioner perspective, Wilding (2008, p122) claims that PACE from

its inception was balanced in favour 'solely on suspects' rights', to the detriment of victims and

citizens in general.

At any point during police detention, where there is insufficient evidence to charge, the arrested

person may be released, either with or without bail. Granting bail is a 'balancing act' (Dhami,

2010; Auld and Quilter 2020) in which the accused citizen's rights to liberty and presumption of

innocence are weighed against any risk the decision-maker considers they present, whether of

absconding, committing further offences or interfering with the course of justice. Auld and Quilter

identified a trend of decreasing access to bail for persons awaiting trial over a ten-year period in

three Australian states. Legislative changes designed to improve "community safety" often

followed "trigger" events such as the Gargasoulas case, in which the public discourse, with rare

exceptions, was characterised by a lack of balance regarding citizens' rights or evidence of why

each modification would achieve its declared objectives. This could be described as a function of

human nature's "counterfactual" response (Ball 2020) to bad events, characterised by regret and

the construction of "if only" scenarios in which disaster was prevented.

By contrast, in England and Wales, recent years have seen new legislative restrictions on the

power of police to impose pre-charge bail at all. Amendments to PACE in 2017 created a

presumption of release without bail unless bail was 'necessary and proportionate', and restricted

the imposition of bail, with or without conditions, to 28 days, extendable to three months with the

authority of a superintendent, or six months on application to a magistrate (Policing and Crime

Act 2017). Where the investigation is incomplete, but bail is not deemed necessary or

proportionate by a police inspector, the suspect may be "released under investigation" (RUI) - a

status that places no time limits on the investigation, nor obligation on police to provide status

updates to suspects, nor obligations on the suspect to comply with any conditions of release or

return to a police station at any future date (Furlong et al, 2021). This was hailed by the

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Government as bringing "an end to the injustice of people being left to languish on very lengthy periods of pre-charge bail" (gov.uk, 2017).

The due-process tilt of these changes followed high-profile cases in which public figures arrested on suspicion of sexual offences were on bail for 12 months or longer, but ultimately never charged with an offence (Furlong et al, 2021, para 3.4). The broadcaster Paul Gambaccini claimed, without evidence, in a House of Commons hearing that the Metropolitan Police kept him on bail so that his case could be "flypaper" to attract further complaints of sexual abuse by celebrities (The Guardian, 2015). However, the available evidence suggested that only a small proportion of all arrestees were subject to police bail for more than a few weeks. Hucklesby (2015) in a study of two police forces found suspects were bailed for an average of 46 days by one force and 47 days by the other. A Home Office (2015 pp. 24-25) estimate based on data from 12 forces suggested approximately 404,000 people were released on pre-charge bail from April 2013-March 2014 in England and Wales. Of these, around 79 per cent remained on bail for three months or less, and about 5,000, or roughly one per cent, were bailed for more than a year. Nevertheless, being subject to bail with or without conditions is a restriction on liberty, and then Home Secretary Theresa May claimed there were a 'significant number' of people bailed but never charged (Home Office 2015 p.3). Hucklesby (2015) found that 48 per cent of cases in one force, and 47 per cent of cases in the second force resulted in no further action (NFA).

A few studies have suggested that use of pre-charge bail fell significantly following the 2017 changes, although there are no official published data (Brown, 2021; HMICFRS, 2020). The Law Society (2019) published figures obtained from 30 English and Welsh forces that demonstrated this fall. In the Metropolitan Police area, the number of people on pre-charge bail fell from 67,838 in 2016-17 to 9,881 in 2017-18. In the same period, suspects released under investigation (RUI) - in other words released without bail, without conditions and without any obligation to present themselves at a police station at some future date - numbered 46,674. Similar findings were gathered from the other forces. The Law Society (2019 pp. 3-5) highlighted potential adverse

consequences of this trend: victims could be 'at risk' from suspects released without control or conditions, and no time limits for conclusion of the investigation; harmful effects on the well-being of suspects left 'in limbo', often without any updates or information on the progress of their case. Following emerging concerns, the Police Inspectorate (HMICFRS) conducted a thematic inspection of six forces' use of pre-charge bail and RUI in 2019. Their report (HMICFRS, 2020) was critical of the overall lack of control and oversight in RUI, as opposed to bail, cases, and expressed the view that the 2017 changes had been rushed through by the Home Office without consideration of the impact on victims, and without clear guidance to forces on how the changes would operate. In short, HMICFRS called the situation 'unacceptable' (HMICFRS, 2020 p. 3). Following further consultation in response to the consequences of the 2017 changes, the UK Government announced plans to make further amendments to the bail provisions, including removal of the presumption against bail, and extension of pre-charge bail time limits (Brown, 2021).

The literature points to a constant tension in the legislative and regulatory landscape between control of criminal suspects, and the rights and freedoms of citizens in a democratic society. The notion of balance is a theme through the legal frameworks and the academic studies – that liberty should not, in the words of Robert Peel, necessarily "consist in having your house robbed by organized gangs of thieves" (quoted in Sherman 1993b p182).

Offending Whilst Under Investigation - Studies

Mayson (2018), in the US context, argues there is no "constitutional, moral or practical basis" for drawing a distinction between "defendants" charged with a crime and others who pose similar risks of harm - that a "parity principle" should be applied to preventive restraint, whether or not the object of the restraint is a defendant awaiting trial. Yet there is little research literature on

offences committed by persons released on pre-charge bail by police (with or without conditions), or released under investigation (RUI) and not subject to bail (Furlong et al, 2021).

Official studies of offending on bail in the UK date back to the 1970s. Early in-force studies were conducted in Avon and Somerset, Northumbria and London during the 1980s (Morgan, 1992). Conclusions from these studies were constrained by inconsistencies in data collection methodology, but indicated between 10-17 per cent of persons on bail were convicted of offences committed during their bail period (Morgan, 1992). A small Home Office study in 1996 found offending rates for persons bailed by both police and courts in the range 12-15 per cent, with juveniles (30 per cent) breaching conditional bail more frequently than adults (7 per cent) (Brown, 1998). Hucklesby (2000) highlighted the differences in counting methodologies that make comparisons over time and between studies problematic, which include but are not limited to: counting arrests whilst on bail; counting defendants charged with offences whilst on bail; and counting defendants convicted of offences committed whilst on bail. Understanding "on-bail offending" behaviour may be further confounded by the lack of consistency in bail decision-making by courts. Studies have demonstrated such inconsistencies in the English magistrates' courts by individual magistrates in regard to similar cases, and between different magistrates when confronted with similar or identical real and simulated cases (Dhami and Ayton, 2001; Dhami, 2010).

This paper is concerned with offenders at high risk of committing serious crimes after release from police detention, therefore it is appropriate to consider the literature on recidivism. Reoffending, recidivism and probabilities of further offending post-sentence or conviction have been subjected to extensive research. Fazel and Wolf (2015) conducted a systematic review of recidivism rates internationally, identifying data from18 countries including the UK, USA and several European states, finding considerable variation in definitions and counting practices. Smethurst et al (2021) reviewed the literature on sexual recidivism, finding it "riddled with inconsistencies" in findings and methodologies - for example, recidivism itself can be

characterised by a conviction for a new offence, a charge for a new offence, or an arrest for a new offence. In England and Wales, the Ministry of Justice (MoJ) publishes "proven reoffending" statistics, defining the latter as a conviction, caution, reprimand or warning within a year of release from prison *or* conviction, reprimand or warning without a custodial sentence (Ministry of Justice, 2021). MoJ data records an overall proven reoffending rate of 25.2 per cent for the last reported quarter (although this statistic is for all offences and not weighted for crime harm).

MoJ acknowledged in 2015 that official data for serious offending on bail was incomplete, because there was no single database in which such information was held (MoJ, 2015). In response to a Freedom of Information Act request for statistics on the number of offenders on bail who had committed rape, murder or armed robbery, data was supplied from one source - the Police National Computer. The data came with a warning that 'extreme care' should be taken in their interpretation. Nevertheless, MoJ reported for the years 2010-2014, annual rapes committed by persons on bail in the range 57-129 and murders in the range 21-41 in England and Wales (no data was supplied for armed robbery). No distinction was drawn between police- and court-imposed bail.

Piquero et al (2015) included 31, mainly US-based, studies in a meta-analysis of demographic risk factors as predictors of violent recidivism. Prior incarceration or 'correctional supervision' were inclusion criteria for this study, with the meta-analysis finding that age, race and gender were significant in predicting adult violent recidivism (pp 11-17). Zamble and Quinsey (1997) describe the research on recidivism as having generated a degree of consensus on variables that tend to predict recidivism - these include youthfulness, number of previous arrests, alcohol abuse and age at first arrest. Studies have demonstrated the tendency for offending to peak during late adolescence and then decline during maturity (Farrington, 1986; Sampson and Laub, 2003). Life-course crime theories can be sorted into three groups: static, which ascribe offending to some unchanging characteristic about the offender; dynamic, in which the circumstances surrounding an individual affect their offending behaviour, regardless of any propensity to crime; and

typological theories, in which life or criminogenic circumstances will not affect all offenders in the same way (Blokland and Nieuwbeerta, 2005).

The efficacy of specific interventions and supervision regimes on re-offending have been tested in regard to various settings, offenders and offence categories. The Milwaukee Domestic Violence Experiment was a rare evaluation of pre-charge intervention on subsequent re-offending (Sherman et al, 1992). The Milwaukee finding that arrest for misdemeanour domestic violence led some types of people towards more offending challenged assumptions that arrest is always a deterrent (p.139). By contrast, post-release interventions to reduce recidivism have mixed evidence. Newton et al (2016) reviewed the literature on prisoner vocational training and post-release employment programmes and found insufficient data from which to draw any conclusions on their effectiveness.

Algorithms and Risk Assessment Models

Mayson (2018) notes the increasing move towards data-driven, statistical risk assessment across the United States, as pre-trial detention policy becomes more concerned with the risk of defendants committing more crime, and less concerned about the risks of them absconding. Such tools depart from traditional approaches to risk identification that relay on 'intuition' or the professional judgement of the decision-maker (Hamilton, 2021). US federal and state jurisdictions apply a variety of actuarial risk assessment models, predicting re-offending rates within six months of arrest for high-risk offenders in the range 10-42 per cent, and approximately 8 per cent likelihood of arrest for a violent crime (Mayson 2018, p. 520). Hamilton (2021) suggests algorithmic risk assessment presents a kind of calculus for pre-trial decision-making, that maximizes public safety, court attendance by defendants, and release from custody - or what might be termed a "minimalist" approach to custody.   An algorithm can be described as a mathematical formula applied by a computer to an input, producing an output. The UK and

Europe lag behind the US in the adoption of algorithmic tools in a policing context (Oswald et al, 2017).

Introducing statistical predictive risk assessment creates the opportunity, and the challenge, of designating an appropriate threshold, or "cut point" for risk-based pre-trial detention decisions (Mayson, 2018 p.497, pp 501-2). Such a "cut point" might for example be related to the predicted likelihood of a future serious violent crime arrest, thus allowing enforcement or other activity to be focused on offenders posing the greatest threat of harm, or in greatest need of support (Berk et al, 2009). The random forest methodology is a predictive tool using machine learning that is widely considered accurate and suitable for real-world applications (Biau and Scornet, 2016). When random forest risk models of predicted violence were made available to the Pennsylvania parole authorities, Berk (2017) found that re-arrests of detainees after release for violent crimes were less frequent, and by a greater margin than re-arrests for all offending compared with a control sample.

In England, Durham Constabulary's Harm Assessment Risk Tool (HART) used a random forest algorithm to classify detainees as being at high, moderate, or low risk of committing serious offences within two years. (Oswald et al, 2017). The random forest system allows for the 'costing' of forecasting errors (Berk et al, 2009) such that, for example for every false negative (a dangerous error that falsely predicts an event will not happen) a number of false positives (less dangerous errors) will be predicted. HART was found to be highly accurate in forecasting high-risk offenders (few false negatives), correctly predicting 98 per cent of these cases, and significantly better than human prediction (Urwin, 2016). Within English policing generally, formal pre-release risk assessments are primarily concerned with the safety, welfare and detainee of the person being released (HMRCFRS, 2021a; HMICFRS 2019). This unsurprising given the College of Policing (2021a) "Authorised Professional Practice" (APP) for the release of detainees.

Research conducted by the College of Policing found eleven risk tools used by police forces in England and Wales "to identify and assess vulnerability" (Critchfield et al, 2021), with "extremely limited" evaluation evidence in favour of four of them and no evaluation evidence whatsoever in favour of the remaining seven. The last decade has seen more and more police forces adopting a methodology called "THRIVE+" – standing for "Threat, Harm, Risk, Investigative Opportunities, Vulnerability, Engagement, Prevention and Intervention (+)" as a decision-making tool (National Police Chiefs' Council (NPCCC), 2017). Initially developed by West Midlands Police for call centre staff (NPCCC, 2017), it now forms an element of operational risk assessment and decision-making processes in many frontline roles in the Metropolitan Police (MPS, 2021 p.58). Such widespread adoption has progressed in spite of THRIVE+ being one of the models lacking reliable evaluation evidence (Critchfield et al, 2021).

Criminological Theory and Concepts

At the heart of this thesis is the tension between crime control and due process. Packer (1968) presented a thesis that depicted crime control as a coercive, repressive exercise. Law should be concerned with protecting citizens' freedoms, whereas the activities of the police largely serve the interests of the police. Sherman (1993b) argues that this prompted many sociologists and criminologists towards a doctrine that police perhaps should not even try to control crime. Such bias sowed confusion, not least amongst police leaders (Sherman, 1993b), about the role of policing, and informed developments in legal thinking. For example, Katz (1969), whilst critiquing Packer's (1968) orthodox analysis of deterrence, stated that the "existing structure of the criminal law is useless". The culmination of the Royal Commission on Criminal Procedure (RCCP) - PACE (1984) - combined the RCCP objectives of fairness, openness, and workability into the overarching legal framework of policing in England, Wales and Northern Ireland (Zander, 1989) with no mention of controlling, reducing or preventing crime in the Act nor in its codes of practice.

This despite the then Conservative government having been first elected in 1979 on a manifesto that included an "assertive" stance on law and order (Brain, 2010 pp 56-60).

Yet studies over several decades demonstrate that policing can reduce and prevent crime (or increase it) in an environment regulated by due process (Sherman, 1992 pp.183-221; Sherman et al, 1993), in particular when supported by tested, evidence-based practice (Lum and Koper, 2015): Braga (2007) concluded in a systematic review of "hot spot" patrolling that targeting police activity in a small number of specific locations can reduce levels of offending. A meta-analysis of 53 studies of hot spot policing programmes found a mean 16 per cent reduction in. offending compared to control areas (Braga and Weisburd, 2020). These findings are consistent with the observation that crime concentrates consistently over time in a small number of places (Weisburd, 2014). This concentration in turn is consistent with a "Pareto" distribution, where roughly 80 per cent of effects are produced by roughly 20 per cent of causes, a finding common in multiple disciplines (Tanebe, 2018).

Sherman (2007) refers to this leveraging minority as a "power few", and it is not limited to places, but can be found in distributions of victims, offenders, police officers and other units of analysis in which crime harm is considered. Of 30,000 probation or parole cases in Philadelphia in 2002-2004 a power few of only 322 (1.1%) offenders were arrested for homicide or attempted homicide in the following two years (Bark et al, 2009). Using a crime harm index as a currency of crime (Sherman et al, 2020), offenders who act as 'recruiters' to criminal networks in London are up to 137 times as harmful as an average offender (Linton and Ariel, 2020). The Cambridge Crime Harm Index (CHI) (Sherman et al, 2020) uses days' imprisonment as the currency of harm, giving a weighting factor to each specific offence on the basis that some crimes are more harmful than others.

Deterrence theory proposes that a credible risk of arrest and punishment discourages offending (Entorf, 2013). Becker (1968) noted a theoretical consensus that increasing the probability of

conviction or punishment will tend to decrease the number of offences committed by an individual, when all other variables are unchanged. General deterrence can be considered as a theory of deterring the general population from offending by employing sanctions against those who do transgress, whereas specific deterrence assumes the personal experience of being sanctioned will reduce the frequency of further offending by that individual (Apel and Nagin, 2011).

Meta-analysis by Pratt et al (2006) indicated that the scope of general deterrence theory is insufficient to address the multi-dimensional drivers of criminal behaviour. Sherman (1993a) identifies legitimacy, social bonds, shame, and pride as key factors in how individuals respond to criminal sanction, resulting variously in those sanctions provoking defiance, deterrence, or irrelevance in the sanctioned. In other words, policies aimed at deterring crime may result in desistance by would-be offenders, make no difference, or under certain conditions, backfire and cause it to increase - as observed in the "Scared Straight" experiment (Petrosino et al, 2000). Where police officers or policing activity is present, such presence may function as the "capable guardian", the absence of which according to Routine Activity Theory (Cohen and Felson, 1979) can lead to increasing levels of crime when "motivated offenders" and "suitable targets" converge in space and time.

Managing High Risk Offenders

'Offender Management' in policy and legislative terms tends generally, and certainly in the UK, to refer to systems and processes for managing offenders after they have been convicted. Probation, police, statutory agencies, and voluntary bodies have been encouraged and expected to manage targeted cohorts of convicted offenders jointly under the "Integrated Offender Management" (IOM) system in England and Wales since 2009 (Hadfield et al, 2020). IOM was founded from a perspective of desistance theory, targeting prolific offenders with specific

measures to help people move away from criminal lifestyles (Williams and Ariel, 2013). Laub and Sampson (2001) noted a combination of situational factors, individual choices and external influences that could create 'turning points' towards desistance from crime in the lives offenders. Studies into the effectiveness of IOM suggest that its overall effect has been to reduce recidivism, although individual tactics and treatments vary, with some negative effects (Hadfield et al, 2020).

IOM is one element of the offender management landscape, and one that has focused primarily on prolific acquisitive criminals, with no consensus on the suitability of these arrangements for managing, for example, violent offenders, gangs, or domestic abusers (Worrall and Corcoran, 2015). 'High risk' offenders, without a universal definition, can be considered as those likely to commit a violent or sexual offence, or who have done so (Kemshall, 2008). This is a similar definition to 'dangerous offenders' under the Criminal Justice Act 2003

Multi-Agency Public Protection Arrangements (MAPPA) created a statutory responsibility on relevant agencies in the UK in 2000 for the supervision of certain high-risk sexual and violent offenders in the community (Wood et al, 2007). People subject to MAPPA fall into one of three categories, covering registered sex offenders, violent and other sex offenders who have been imprisoned for at least 12 months, and offenders considered to pose 'a risk of serious harm to the public' (Criminal Justice Act 2003). Each offender is given a risk level, with the most serious - level three - triggering Multi-Agency Public Protection Panels (MAPPPs). Participating bodies, including police and probation services as lead agencies, must produce a risk management plan. This may include active intervention and supervision, such as setting particular conditions on under a release from prison on licence, or applying for court orders and identifying particular accommodation (Peck, 2011). Studies on re-offending by MAPPA-supervised offenders have demonstrated a correlation with lower re-conviction rates. Peck (2011) found a 2.7 per cent lower one-year reconviction rate for MAPPA offenders in a 2001-2004 cohort, compared to a 1998-2000 cohort - coinciding with the introduction of MAPPA.

There is promising evidence from a systematic review of 11 schemes that "focused deterrence" - targeting a small number of prolific offenders - can reduce the incidence of repeat offending by groups and individuals (Braga and Weisburd, 2012). This application of 'special' rather than 'general' deterrence is exemplified by the Boston "Operation Ceasefire" project (Braga et al, 2001). This initiative used a problem-oriented approach (Goldstein, 1979), with law enforcement and partner agencies working together to 'pull every lever', but focusing on young people involved in gang-related violence. Tactics included direct contact with gangs to offer support coupled with warnings about the consequences of continued offending - heavy enforcement and prosecution. The Boston project reported statistically significant reductions in homicide and gun crime when controlled for national trends and seasonal effects. Similar strategies, notably Chicago (Papachristos et al, 2017:231-233), were among those reviewed, with Braga and Wiesburd (2012) concluding that evidence supports their effectiveness in tackling gang violence and repeat offending.

The focused deterrence concept complements the notion of a power few who cause the greatest proportion of harm, whom Sherman (2012) argues should be targeted for "offender desistance policing" (ODP) in the spirit of Peel's original mandate for the Metropolitan Police - the prevention of crime (Lyman, 1964 p.153). Sherman's ODP entails three elements: effective forecasting of the risk of harm presented by individual offenders; diversionary schemes for lower-risk, lower harm offenders; and "maximum prosecution" of the highest harm individuals. With limited police resources, such a model seeks to maximise the marginal benefit of policing activity towards crime reduction.

In London, the contemporary strategy for monitoring offenders was summarized in recent Metropolitan Police Service Force Management Statements (MPS, 2019; 2021). The strategy covers the principal categories of offender to be managed, using the MAPPA and IOM structures, alongside Youth Offending Teams (YOT), who work with local authority agencies to offer alternatives to prosecution aligned to intervention and diversionary activities for young offenders.

The statements made no reference to a cohesive plan for managing high-risk people released on police bail or RUI who are not subject to judicial or other control. Nor do these categories of suspected offender feature in the sections on crime prevention.

Chapter 3 - Data and Methodology

This research was designed as a mixed-methods study using quantitative data from the Metropolitan Police custody database, and structured interviews with police officers in the fields of serious crime investigation and custody management. The original proposal was to present a study profiling the prior arrest history of detainees for serious crime over a two-year period, in conjunction with a qualitative analysis of current police tactics for managing these detainees after release from custody on police bail (BTR) or under investigation (RUI). Difficulties with the quantitative data shaped the final research design.

Quantitative Data

The original research intention was to study a data set comprising two years of MPS custody records where detainees had been arrested for homicide, GBH, rape and robbery. The study would be limited to the custody centres located within the North West Basic Command Unit of the MPS (NW BCU), a jurisdiction covering the aforementioned three boroughs. Analysis would have been conducted on these records to identify what proportion of the cases involved a detainee who was subject to police bail or released under investigation at the time of arrest. Those cases in turn would then have been categorised according to the offence for which they were BTR or RUI, with particular interest in previous arrests for serious offences including robbery, sexual and violent offences.

MPS performance analysts extracted the necessary data set, with parameters set for records corresponding to arrests for homicide offences, robbery, GBH and a custody suite identifier from NW BCU (suites being at Colindale, Wembley or Harrow police stations). This search generated approximately 5000 rows of data - each attributable to a case "disposal" decision (for example to grant bail) by a custody sergeant. This did not mean there were 5000 custody records - more than one disposal can be recorded on a single custody record. The data set was downloaded to Excel. Each "disposal" was linked to a specific person identifier in the form of a record on the

Police National Computer (PNCID). A total of 1525 unique PNCIDs were identified, meaning the 5000 disposals were generated by custody records concerning 1525 detainees. Some detainees had one, or multiple custody records, and one, or multiple disposals per custody record, but only one PNCID.

Relevant MPS IT systems are the custody management system, known as NSPIS, from which the above data was extracted, and CRIS - the system on which all crimes are recorded and almost all criminal investigations are managed. Although the systems are not connected, it is possible to cross-reference custody and CRIS records where the CRIS reference number is recorded on a searchable field on the NSPIS custody record. Only NSPIS will provide a definitive record of whether or not an individual has been in custody because it links to the PNCID for each detainee. CRIS relies on the user manually completing the relevant fields for arrests, suspect and/or accused details, PNCID numbers and the offence classification. There is a weakness in the basic accuracy of both systems in that a single arrest of an individual does not automatically generate matching details on each system. For example, an arrest for robbery may be recorded later on CRIS with a crime classification of assault, theft or something entirely different, as new facts and evidence generate a more accurate picture of the incident that led to the arrest. Where an individual is arrested for a list of offences, for example a series of robberies for which they are suspected, a single custody record is generated. This custody record may be completed with multiple disposals, but there is no system-mandated closure procedure or fail-safe that makes sure the offence recording and classification on NSPIS and CRIS are accurately matched. In other words, CRIS is the single database for recorded crime in the MPS, but the database that captures data on persons arrested for those offences is not linked to it via an IT solution, and as will be described later, there is no convincing evidence that police procedures or quality-assurance processes are leading to data accuracy on this point.

It is worth noting that the MPS business plan for 2020-23, published in 2020, committed the force to implementing a new IT solution called "Connect" that promises to link custody, crime

investigation and intelligence systems (MPS, 2020). At the time of writing in early 2022 this system had not gone live.

A pivot table was generated that enabled the original data set to be broken down into offence categories with associated disposals. This highlighted further issues with data accuracy. For example, extracting from this pivot table for murder arrests identified 48 nominals by PNCID. Of these, only 30 had a recorded disposal for an offence of murder. The remainder were disposed for other offences. So whilst the arrest was for murder, there were disposals recorded for another offence. Only manual checks of each custody record would have enabled further exploration of this. Extracting via a pivot table did not answer the original intended research question - what proportion of these detainees were, at the relevant time, on police bail or RUI, and what for. An approach of filtering records where the recorded disposal was BTR or RUI, and searching for duplicates was explored. However this method returned all those cases where a single custody record generated multiple disposals (either because the offender had returned on bail, or bail status lapsed to RUI, or later no further action, or where the original arrest had been for more than one offence).

It was clear that on the data set obtained - which was a direct return of a non-complex set of search parameters - the answer to the intended research question could only be found by manually checking every custody record associated with a particular PNCID and checking whether arrest dates fell within the time parameters of previous BTR/RUI dates. That exercise could run into many hundreds if not thousands of hours of database interrogation.

A revised research plan was designed to address the overarching issue - what is the scale of serious offending by suspects on bail or RUI? Robbery of personal property was selected as the crime of choice to be studied. Instead of looking back - given the above difficulties, looking forward was considered a worthwhile method of exploration. The set of 1525 detainee records contained 309 unique PNCIDs where the NSPIS recorded the arrest offence as robbery of personal property *and* a corresponding disposal was recorded of bail or RUI. A representative

sample of 62 records - roughly 20 percent - was randomly selected for analysis. The 309 records were extracted onto a worksheet, each with a row number A1-A309. These identifiers were used to refer to individual cases throughout the study. The online randomizer at randomizer.org was used to generate 61 random numbers from the set 1-309. Each was allocated to a row on the PNCID worksheet.

Several factors were identified that resulted in a randomly selected subject being excluded from the analysis. Where a PNCID was excluded, the next available number was selected for inclusion. Factors that led to a record being excluded were:

1. The bail decision was following a charge and the person was released on bail to attend court on a future date.

2. None of the custody records associated with a PNCID could be confirmed as having been for a robbery offence committed in NW BCU.

3. None of the arrests associated with a PNCID were for robbery of personal property (for example, an offence may have been linked to a subject whilst in custody or under investigation, but that offence was not the reason for the arrest).

4. General data-quality concerns – where no reference to an arrest for robbery was found in connection with the custody record following a manual check.

5. In one case, the PNCID recorded in the data set, when entered into the corresponding search field on NSPIS generated no results (from which it was inferred that an incorrect PNCID had been recorded or inputted).

The following are two examples of cases excluded from the analysis:

Case A258 was extracted as part of the robbery data set. When NSPIS was searched manually for this PNCID, one record was found - the arrest was for GBH and the disposal was NFA for the more serious offence of GBH with intent. No reference to robbery was found in the main user-searchable fields. This record was cross-referenced with CRIS to search for any possible match

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for this suspect as having been arrested or processed for a robbery offence. No match was found. Similarly, case A259, which was extracted from the data set as a robbery disposal, but when manually checked was an arrest for obstructing a drugs search. No disposal or reference to a robbery offence was found in the custody record.

Each selected PNCID was entered into a specific user search field on NSPIS to find custody records created between 1 April 2019 and 31 March 2021. The earliest robbery arrest between these parameters was established, followed by a check of the disposal - BTR or RUI - and a follow-up period of 100 days was checked for further arrests, 100 days being just over the three-month limit on police-imposed investigative bail. The total number of arrests for each PNCID during the two-year period was recorded. Where the 100-day post-robbery arrest period expired after 31 March 2021, the search was extended to cover the full follow-up period. Records were also checked for "rolling 100-day arrests", where an arrest was made within 100 days of disposal, and a further arrest made within 100 days of the second arrest and so-on.

Data Limitations

Many of the limitations of this data have been explained above. The analysis has several further caveats. No analysis was conducted on ethnicity of detainees. Demographic breakdowns are limited to age and sex. Although self-defined ethnicity and nationality is recorded on NSPIS, this research is concerned with the re-arrest data for persons arrested for robbery irrespective of these factors.

NW BCU is one of 12 such policing areas in the MPS. The raw data set generated by the original search is therefore confined to that BCU. The secondary search of NSPIS using the randomly selected set of 62 PNCIDs was conducted for the entire NSPIS system, so includes arrests recorded at custody suites across London. This does not, however include arrests outside the Metropolitan Police district. It should be noted that the NW BCU shares a boundary with the Hertfordshire Constabulary policing area, with densely populated areas such as Watford and Potters Bar within a few miles of suburbs within the BCU area such as Harrow and Edgware.

Bail decisions can be granted by police officers after charge, creating an obligation on the now-accused to attend court on a given date. This analysis is limited to cases where police disposal decisions - BTR or RUI - indicate that there remain reasonable grounds to suspect the detainee to have committed the offence, but the case is not ready for prosecution. The ultimate outcome of the robbery investigations that qualified these suspects for inclusion was not examined. No inferences as to the guilt of the detainees have been made, simply that they are suspects by virtue of having been arrested on suspicion of having committed robbery.

Extracting a cohort from NSPIS will not provide a complete picture of the offending or suspected offending of suspects even within the NW BCU area. This is because suspects may be arrested for multiple offences in one action. For example, where an individual is identified for a number of offences and arrested for all of them at once, this will generate a single custody record. The totality of the suspected offending will not always be captured on the custody record. Only a further interrogation of the CRIS will identify the full range of crimes of which they are suspected. A case within this cohort illustrates this difficulty. Case A34, a 16-year old male first recorded as having been arrested for robbery during the period being studied, on 13 March 2020. His custody record shows an initial disposal of release on bail the following day. He was eventually identified as a suspect for involvement in a total of 12 robberies, which occurred between October 2019 and March 2020. Only in October 2020, nearly a year after the first offence, was he formally made a suspect for this series of offences. So his total arrest record for April 2019-March 2021 shows three arrests, but he was a confirmed (and eventually charged) suspect for at least 12 robberies. Where necessary, CRIS numbers were checked for details omitted from the custody record but necessary for a particular piece of analysis – for example whether or not a knife was used or intimated during an offence.

A sample size of 62 cannot be said to be representative of the population of robbery arrestees in London as a whole. This cohort is a subest of a subset - robbery offenders released on police

bail or RUI in one of 12 London BCUs. Nevertheless, the sample size represents 20 per cent of all detainees bailed or RUI'd following a robbery arrest over a two-year period in the NW BCU.

QUALITATIVE DATA

Structured interviews

A purposive sampling method was used to select interviewees according from professional policing roles that require them to make decisions on the release or case progression options for high-risk offenders. Purposive sampling is a non-random selection strategy (Robinson, 2014) and in this case was designed to choose interviewees who had both expert knowledge on the questions being considered and who were likely to have opinions and ideas on the issues raised. Qualitative interviews allow participants to share their knowledge of the subject matter from their own perspectives (Kelly, 2010 p307-356). This was considered appropriate in the context of this mixed-methods study, where the research questions seek to understand how policing professionals manage the risk posed by offenders who are released from custody without charge.

Senior Investigating Officers (SIOs) in the Metropolitan Police Homicide and Serious Crime Command, Senior Detectives (Detective Inspectors and Detective Sergeants) in Metropolitan Police BCUs, and Custody Sergeants and custody department managers (Inspectors) were contacted and invited to take part in the study. A total of twelve interviewees were chosen from respondents, broken down by role as follows:

Detective Chief Inspector (DCI)- Homicide SIO:	3 interviewees
Detective Inspector (DI) - local CID:	3 interviewees
Inspector - custody department manager:	1 interviewee
Police Sergeant - custody officer:	3 interviewees
Detective Sergeant (DS) - local CID:	2 interviewees

Homicide SIOs were the most senior in both rank and police experience, with a range of operational history that included investigating domestic violence, child abuse, organised crime and homicide at previous ranks. Detective Inspectors included officers trained in child abuse investigation, serious crime and proactive operations including covert operations targeting high-harm offenders and organised crime groups. Custody officers generally had uniform backgrounds, and detective sergeants had experience of serious crime investigation in local CID and in specialist crime units. Guest et al (2006) noted the variation in the literature on recommended sample sizes for purposive sampling, whilst finding that "data saturation" in their experimental investigation of this issue was reached after twelve interviews.

The interview questions were designed to reflect the research questions, with the opening two questions asking the participants to explain their role and how it relates to the management of high-risk offenders being released from custody. Further questions asked the participants to relate their experiences in dealing with high-risk offenders, how risk was identified and managed, the tactics that were commonly used and those that participants felt were generally effective or less effective. Interviewees were asked to describe any barriers or problems they faced, and what options they felt would improve their ability to manage the risks posed by offenders being released. The question script is reproduced below at Annex A.

Each interview was conducted during the participant's work time, over Microsoft Teams. Interview times ranged from 20 – 45 minutes. The interviews were audio-recorded and transcribed. The transcriptions were coded, with keywords and phrases recorded for each interviewee and interview question. For example, under risk identification, where an interviewee said that general "intelligence" checks were conducted on a detainee, this was recorded as a piece of data and given a code (in this case "MR01"). The coded data was transferred to an Excel worksheet, with a column for each interviewee and a row for each coded piece of data. In

this way, it was possible quickly to see where the strong themes emerged from the set of interviews. A total of 94 rows of coded data were recorded for the set of interviews.

Where appropriate, comments were added behind cells to capture further information or sections of transcribed interview data. This worksheet, when complete, provided a grid in which patterns of findings were quickly identifiable, and linked to relevant information and to the research questions.

Data Limitations

Interviews were conducted during an arguably turbulent period for the Metropolitan Police Service, from December 2021 to February 2022. The force featured regularly in the national media due to a succession of scandalous events, including the murder of Sarah Everard by a servicing Police Constable, disorder during the policing of a public vigil following that murder, and several negative stories about the MPS Commissioner Cressida Dick, culminating in Ms Dick's resignation (BBC, 2022). This context may have influenced how police officers felt at that time, representing an organisation "under siege". Waddington (1999 p.117) highlighted the self-image of the policing profession as an "heroic" one on a "crime-fighting mission" with "defensive solidarity" at lower ranks. This may have played out in the responses.

The combined perspective of the interview cohort was one of operational warranted police professionals. This is relevant when considering the observations of interviewees on the role of other agencies, primarily the Crown Prosecution Service (CPS), in the management of high-risk suspects. The data must be considered as a "police view" of the issues. The author's own potential for bias in selection of findings to report cannot be discounted due to their role as a serving senior Metropolitan Police officer, with responsibility for overseeing the management of serious crime investigation and offender management in the area being studied - NW-BCU.

Chapter 4 - Findings

Quantitative Data

The first finding from this study was the impossibility of tracking released suspects automatically in a methodical or systematic way using the CRIS or NSPIS custody IT systems. From the point of release, either on RUI or police bail, no standard process appears to exist for flagging risk, warning of risk, or triggering monitoring, further enforcement, or control of the highest risk offenders. The evidence from the qualitative data puts this in operational context below. The case of A34 referred to in the previous chapter illustrates the global inadequacies of the police databases and software systems for the identification of high risk – A34 being an apparently prolific knife-using offender released on police bail with no mechanism other than human diligence to flag and monitor the risk they presented.

Characteristics of the Sample

The 62 PNCIDs represented 62 individuals arrested for robbery during the period 1 April 2019 to 31 March 2021, of whom 58 were male and four were female. The mean age of the sample was 18 years and six months. The youngest arrestee was aged 13 years and the oldest was 43. The modal age was 15 years. Chart 1 gives a full age breakdown for the sample, with Chart 2 showing the breakdown by age range into teenage, 20s, 30s and 40s.
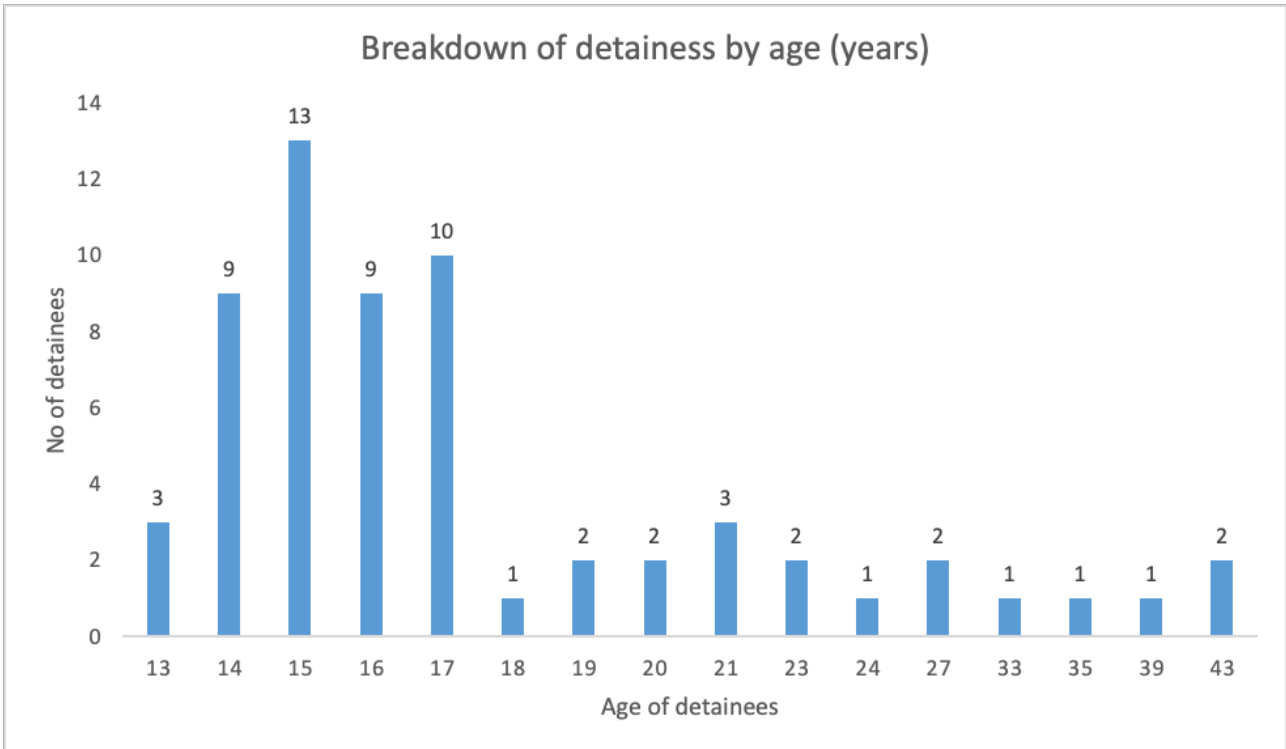
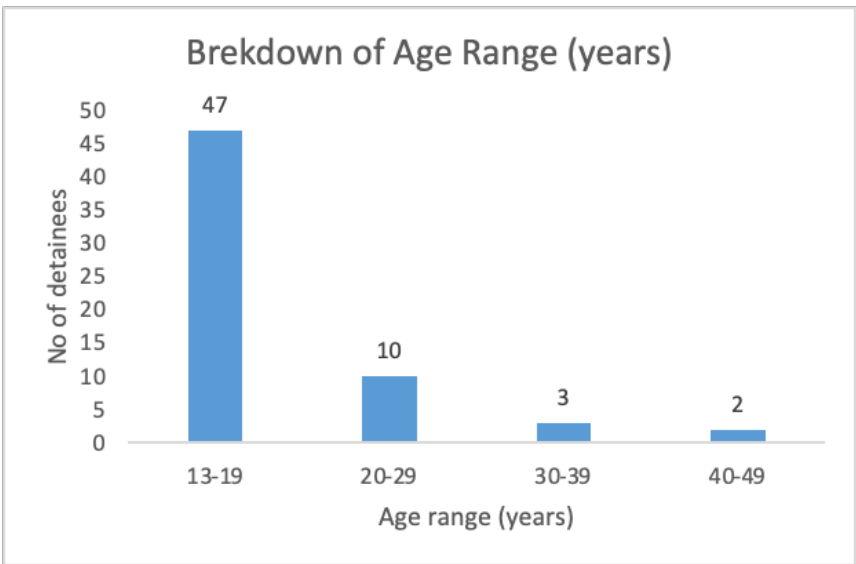Chart 1: Breakdown of detainees by age

Chart 2: Breakdown of Age Range (years) of detainees.

The predominantly teenage profile of the cohort is obvious in both charts, with 47 out of 62 - 76% of all suspects – aged 13-19.

Bail v RUI

The BTR / RUI split for the cohort was 41:21 in favour of BTR, in other words more suspects were bailed than RUI'd. There was a difference in re-arrest rates between suspects released on bail and suspects RUI'd. The 41 suspects bailed after arrest for robbery accounted for a total of 28 arrests in the subsequent 100 days. The 21 suspects RUI'd accounted for 22 arrests in the subsequent 100 days. RUI suspects therefore averaged one arrest in the subsequent 100 days, compared to 0.7 arrests for suspects bailed.

The total number of arrests during the entire two-year period again generated a different arrest rate for the two parts of the cohort. The 41 suspects bailed were arrested a total of 150 times during the two-year period, an average of 3.7 arrests per detainee. The 21 suspects RUI'd were arrested a total of 114 times during the two-year period - an average of 5.4. However one RUI case (A114 - see below) was an outlier accounting for 24 arrests over two years. Removing this case from the RUI sample still leaves a higher arrest rate for RUI suspects- 90 arrests distributed amongst 20 detainees, an average of 4.5 arrests each.

This data is presented in Table 1.

	No of arrests after 100 days from robbery arrest	Average no. of arrests after 100 days	No of arrests 1 April 2019 - 31 March 2021	Average no. of arrests 1 April 2019 - 31 March 2021
Suspects BTR for Robbery	28	0.7	150	3.7
Suspects RUI for Robbery	22	1	114	5.4

Table 1: BTR-RUI breakdown of arrests after 100 days and over two years

100-Day and Two-year Arrests

Of the total cohort of 62 suspects, 30 were arrested within 100 days of being released on bail or RUI. Over the two years from 1 April 2019, 47 of the 62 were arrested more than once, and the cohort accounted for a total of 264 arrests, for offences ranging from minor public order and assaults to murder.

There were 18 different offences for which detainees were arrested during the 100-day post-release period. The finding included three arrests in connection with an offence already under investigation – two for breaching bail conditions and one for failing to appear at court. One arrest was for a recall to prison. The most common offence resulting in a further arrest was robbery (22 arrests), followed by possession of weapons/bladed articles (five arrests) and Grievous Bodily Harm (GBH), theft from a vehicle, common assault, criminal damage, affray, and drug-trafficking (PWITS) all with two arrests. The full data is in Table 2, which also records the total crime harm score (CHI Score) for each set of arrests using the Cambridge Crime Harm Index (Cambridge Centre for Evidence-Based Policing, 2021). Offences relating to possession of drugs have been CHI scored for "Class B – Cannabis". Had the possession-only drug offence been scored as a "Class A" drug, for example crack, the CHI for that offence would have been three days rather than two, making negligible difference to the overall CHI arrest score for the cohort. However, where PWITS offences are concerned, the CHI score for "Class A" and "Class B" are five days and 547.5 days respectively. This makes a more significant difference to the overall CHI score for the cohort. Of the two PWITs offences found during the analysis, one was for "Class B", specifically cannabis, and the other for "Class A", namely crack cocaine.

Offence	Total No. of arrests Within 100 days	CHI Score (days)
Robbery of personal property*	22	8030
Possession of weapons/bladed articles	5	25
Affray	2	20
Breach of bail conditions	2	2
Common assault	2	2
Criminal damage	2	2
Drugs – possession with intent to supply (PWITS): Class A	1	547.5
Drugs – possession with intent to supply (PWITS): Class B	1	5
GBH	2	1095
ABH	1	20
Burglary	1	19
Driving whilst unfit through drugs	1	3
Drugs – possession only	1	2
Firearms - possession	1	10
Recalled to prison	1	N/A
Theft from motor vehicle	1	2
Theft of motor vehicle	1	10
Public order – intentional harassment/alarm/distress	1	3
Wanted on warrant	1	N/A
	TOTAL CHI Score	9797.5

CHI scores for the separate offences of possession of an offensive weapon and possession of an article with a blade or point are the same: CHI=5.

Table 2: **Arrests of robbery suspects within 100 days of release on bail/RUI, and corresponding total crime harm (CHI) score.**

In terms of crime harm, most of the harm for which the cohort was arrested within 100 days is attributable to robberies. These 22 arrests were less than half of the total yet accounted for 82% of harm. The two arrests for GBH together accounted for a further 11% of harm. The single PWITS "Class A" arrest accounted for another 6% of the harm. The remaining 25 arrests accounted for a mere 1.3% of harm. The domination of robbery, GBH, and "Class A" drug-dealing offences in the total crime harm caused by the crimes for which the cohort was arrested in the first hundred days is illustrated in Chart 3.
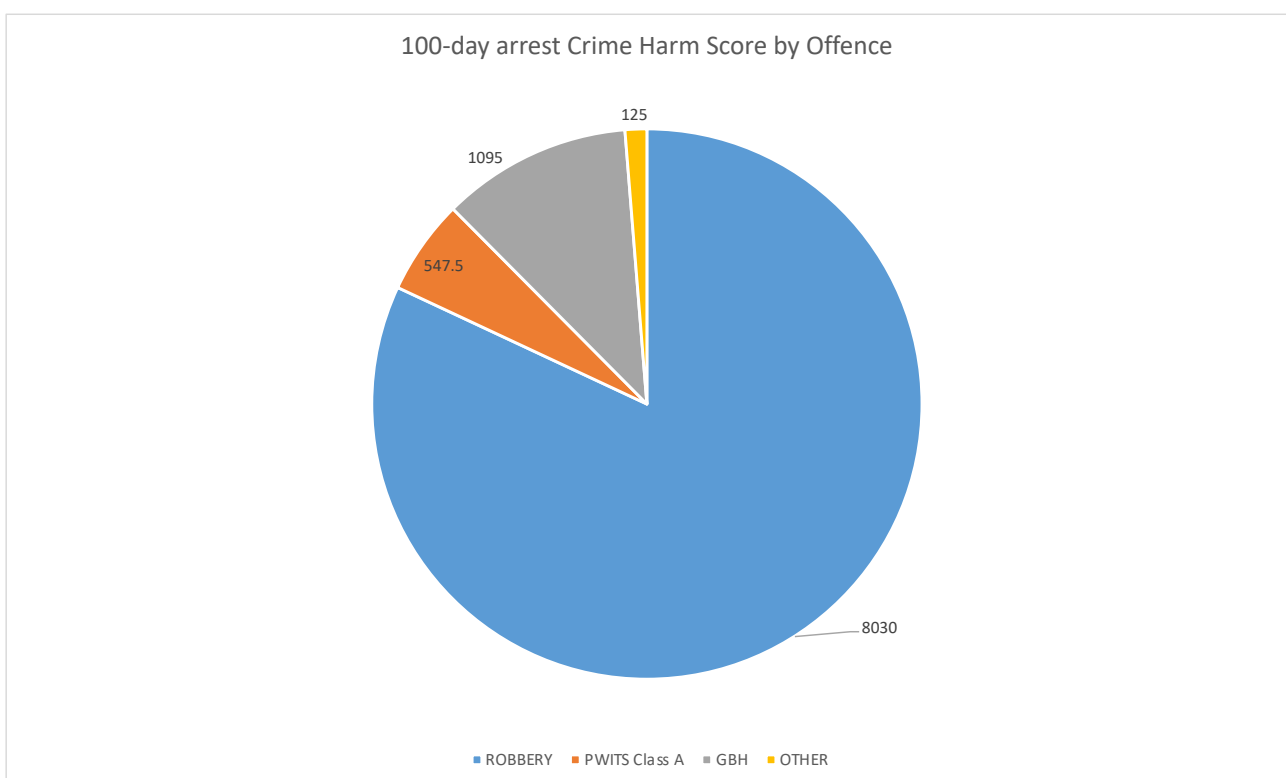

Chart 3: **100-day arrest crime harm by offence type**

This finding is indicative of robbery being a crime committed by prolific offenders and is consistent with findings in other studies. In a 2021 study, Hilder et al analysed 1249 suspects aged 25 or under arrested for robbery in London in 2019. Of these, 6.5% (81 suspects) had been arrested for four or more robberies, accounting for 24% of recorded offences (Hilder et al, 2021). The findings above are also interesting in the context of knife-enabled crime, with possession of a blade or weapon being the second most common reason for a subsequent 100-day arrest. Hilder

et al (20210) reported that 65 of their cohort of prolific (four-plus arrests for robbery) offenders had used or threatened to use a knife in the commission of their alleged crimes. In response to this and to the above finding in regard to knife possession, a further analysis was conducted on the 17 suspects who accounted for the 22 new robbery arrests within the 100-day cut-off.

The custody records for the first robbery arrest within 100 days for each of these 17 offenders was checked to obtain the corresponding CRIS number. These CRIS records were then checked to find out if a knife was recorded as having been used during the commission of the offence. Of the 17 relevant CRIS reports for robbery, eight were knife-enabled offences. So approximately half of the robbery suspects arrested within 100 days for another robbery offence were suspected of having used a knife during the offence. This sub-cohort of 17 was further analysed for average time to next arrest, finding that for any second arrest within 100 days the average time elapsed was 38 days for any offence, or 41 days until the next robbery arrest.

For the cohort of 62, the shortest gap between release and next arrest was six days. This was case A46, a 17 year-old male arrested three times within 100 days – six days after release he was arrested for criminal damage (for which he was cautioned). He was then arrested at day ten for burglary and at day 47 for affray, with a total of seven arrests over the two-year period from 1 April 2019. The average "survival time" – period from BTR/RUI until next arrest for the 62 suspects was 49 days. Broken down into BTR and RUI suspects, the survival times were 53 days and 43 days respectively (See Table 3).

Cohort	Average Survival Time (Days)
All Suspects	49
BTR Suspects (21 Individuals)	53
RUI Suspects (11 Individuals)	43

Table 3: **Average "Survival Time" Until Next Arrest (in days)**

Noteworthy Cases from the Cohort

Several individual cases are worthy of note, and of looking beyond the core 100-day analysis.

Case A114 is that of a 15-year-old male first arrested for robbery on 31 August 2019 (and possession of an offensive weapon, possession of "Class A" drugs and possession of "Class B" drugs). The alleged robbery had been committed in a London street earlier that day, the robber having threatened the victim with a "zombie knife" – a specifically prohibited type of offensive weapon notable for having a serrated edge and "images or words…that suggest it is to be used for the purposes of violence" (Offensive Weapons Act 2019). At the time of this arrest, A114 was RUI having been arrested six days earlier for possession of cannabis. He was RUI'd again for the 31 August offences and, whilst still RUI for those incidents, was arrested again for robbery and possession of controlled drugs with intent to supply (PWITS) on 7 November 2019. On this occasion he was given BTR, eventually being charged with three robberies that had occurred during his RUI period. In the meantime, during his BTR period he was arrested on two separate occasions for robbery, with a third arrest for breaching conditions of court-imposed bail. He was arrested a total of 24 times between 1 April 2019 and 31 March 2021, for offences that included GBH (twice), handling stolen goods, drugs offences, thefts, and several robberies. The total CHI score for the offences for which he was arrested was 4636.5.

Case A126 concerns a 14-year-old male whose first arrest for a NW robbery was on 9 April 2020. However during the period 01/04/19 - 31/03/21 A126 first appears in custody at a central London police station on 7 May 2019 - for robbery. NFA'd on this occasion, he was arrested less than two months later, on 2 July, in NW area for being in possession of a knife. Once again, he was NFA'd. He was not seen again in MPS custody until 09 April 2020 when he was arrested for two robberies in NW area. On that occasion he was charged and detained for court. On 13 May 2020 he is arrested again in NW area for possession of a knife and breach of bail and returned to court. On 3 June 2020 he was arrested for robbery in NW area and released on police bail on 4 June, which lasted until 30 September. On 20 November, police bail having by then been cancelled, he

was arrested for robbery and possession of a machete, being charged with the weapon offence and NFA'd for the robbery. Five days later, on 25 November he was arrested for robbery, assault, and criminal damage - being RUI'd for all of these. Whilst RUI, he was arrested on 23 December for assault and criminal damage. A 14/15-year-old with a total of eight arrests during the two year period, for which the minimum CHI score was 2576.

Case A130 concerns a 17-year old male, first arrested for robbery on 14 March 2020. This male had two arrest records, both for robbery, during the two year period but they concern 12 individual robbery offences. The later arrest, on 29 April 2020, happened when he was on police bail for three earlier robberies.

Case A147 concerns a 15 year-old male arrested in December 2020 for robbery. This individual has a total of seven custody records during the two-year period. Whilst on police bail for the December 2020 robbery offence he was arrested in March 2021for being concerned in the supply of drugs, an offence for which he was RUI'd. In June 2021, outside the two-year analysis period but within 100 days of the March arrest, he was arrested for murder. Case A202 was that of a 13 year-old girl, whose last arrests (out of a total of seven) during the period under review was for conspiracy to commit murder. Other offences for which she was arrested included robbery, possession of a knife and assaulting a police officer, none of which were charged during the initial custody period.

The oldest arrestee was a 43 year-old male, subsequently RUI'd and released into the care of mental health services. This man had subsequent arrests for possession of cannabis and possession of a bladed article.

Summary

A picture emerges from this data of a young, and prolific, cohort of suspects for robbery, who repeatedly get arrested for this offence type, get arrested relatively quickly after release and

continue to get arrested over the longer term. There is a lack of coherency and consistency when it comes to the tracking of these suspects after arrest. Current MPS IT capability does not deliver either the management information or the workflow tools to manage this issue. There appear to be indications that RUI status may be associated with earlier, and more frequent, re-arrests although no reliable or causal inference can be made from this analysis. Taking a harm-based perspective, repeat robbery arrests indicate a potential for robbery suspects to form a "power few" of criminal suspects causing a disproportionate level of harm to the community. Within this cohort, there exists a power few of the few, such as A114 whose two-year CHI arrest score was nearly half of the 100-day score for the entire cohort.

QUALITATIVE FINDINGS

Identification of Risk

It was notable that when asked about risk, custody sergeants tended to think in terms of the safety and welfare of the detainee whilst *in custody,* whereas detectives and senior investigating officers tended to consider the notion of risk primarily in terms of what the suspect might do if released. Whilst custody sergeants have a decision-making role when it comes to bail and imposing bail conditions, formal risk assessment is limited to the detainee's own health and safety. Custody sergeants did not report using any structured assessment of the risk posed to the public by detainees they were about to release. This would appear consistent with the College of Policing's comprehensive guidance under its "Authorised Professional Practice" (APP) for detention and custody (College of Policing, 2013). Custody officers referred to the "THRIVE+" decision-making framework having recently been introduced in the Met for custody sergeants' use in the assessment of the risks and vulnerabilities of detainees prior to release.

A qualitative, bespoke consideration of risk in each case is applied on the question of bail conditions, largely informed by the officer in the case. Investigating officers paid attention to the offending history and intelligence indicators of future behaviour to make professional judgements on risk, as well as the features of the offence under investigation. The precise role allegedly played by the detainee during the crime being investigated was regarded by all homicide SIOs as an indicator of future risk. In the case of gang-related violence, intelligence about the subject's position in a supposed gang hierarchy was considered relevant:

"The higher up they are the more risk they present."

DCI – Homicide SIO

Detective sergeants considered previous use of knives or other weapons as strong indicators of propensity for violence and future offending. Where a suspect in custody was already on bail following a previous arrest, one interviewee highlighted this as a relevant factor both in the

consideration of whether to bail or RUI, and in their representations to the CPS in favour of immediate charge on an evidential threshold test. Nearly all respondents cited frustration about the frequency with which the CPS declined to charge in favour of RUI or bail.

SIOs and other investigators reported presenting relevant intelligence and background information about detainees to custody officers prior to release on bail or RUI, with the latter option, according to custody sergeants, being a "default" in the absence of reasonable justification for bail. Interviewees referred to a huge number of intelligence and information sources that informed their assessment of the risks posed by their detainees. These include the multiple police databases, such as those holding information on missing people as well as IT systems for crime reports, criminal intelligence, and financial information. Non-police agencies were consulted, particularly in cases involving juvenile offenders or those suspected of sexual offences, and where child abuse is being investigated there are mandatory multi-agency case conferences that generate information-sharing between police and other responsible bodies such as social services. In general, however, the extent to which background research was conducted appeared to be dependent on the investigating officer's professional judgement about the necessity in each individual case. As an SIO put it, "*we don't do a risk assessment tool. We look to charge and remand where we can. And if we can't, we bail or RUI.*" Indeed, whilst they all considered the risk of further serious offending to be of importance, no interviewees referred to any systematic or actuarial method of judging the risk posed by suspects likely to be released on bail or RUI. Nor did any officer identify or present evidence of a systematic approach to tracking them once released.

The absence of a coherent risk assessment process was compounded in the view of one Detective Inspector because frontline officers were not formally trained in risk assessment methodology or risk-management. This interviewee perceived the professional culture in frontline policing as being not sufficiently rigorous about formal learning or continuous professional development – "learning on the job", with a "guiding principle of '*is this going to come back and*

bite me if I get it wrong'" (Detective Inspector, CID). This mindset disadvantaged police officers' ability to manage risk through charging and remanding suspects. Where officers and CPS officials disagree, the notional "opponent" – the CPS prosecutor – is generally better-qualified and better-equipped with knowledge of the legislative and threshold requirements for prosecuting suspects and keeping them in custody. The result is often an unsatisfactory outcome from the point of view of the investigating officer – a direction from the CPS to release a high-risk suspect for further enquiries, a situation that may indeed "bite" should further serious incidents occur.

Current options for Mitigating Risks

All but one interviewee cited the imposition of bail conditions as the primary tactical option, although doubts were expressed later about the effectiveness, or even point, of this tactic. Conditional bail was considered flexible in that restrictions can be tailored to the individual set of circumstances in each case and varied if circumstances change. Most commonly cited conditions were: restrictions on movement – for example prohibition on entering a defined geographical area; prohibition on contacting named witnesses or victims; requirement to live and sleep at a specific address, with or without a curfew; and "signing-on" regularly in person at a police station. One interviewee with responsibility for investigating robbery and burglary suggested conditions could include allowing regular visits to the bailee's home by the police team responsible for managing offenders on the IOM managed cohort. How realistic this was given the size of that cohort was not gauged but the officer, a Detective Inspector, did claim to have used it. This interviewee had also explored the use of appropriate adults, teachers, and others with caring responsibilities to monitor, in the case of juvenile suspects, their adherence to bail conditions and good behaviour generally. No quantitative data or evaluation was presented on this option, but again anecdotal evidence of success was indicated. A homicide SIO referred to a similar tactic of co-opting a suspect's family to help manage compliance with bail conditions. A Detective Inspector suggested that pressure can be put on suspect's families via the housing department to control behaviour where those families are in local authority accommodation.

Homicide DCIs were enthusiastic about targeting the threats posed by their suspects after release by addressing their continuing offending – *"removing the risk to society through dealing with other criminality" (DCI, Homicide SIO)* – for example where intelligence indicated involvement in drug-dealing. DIs in local CID aspired to this but lack of resources for these types of operations was a barrier. A DI in charge of a proactive unit had personal experience of immediately targeting suspects on release from the police station with surveillance, against defined operational objectives – for example finding other suspects, locations, or evidence. This tactic has the obvious benefit of keeping a suspect under direct watch, but with incredible resource requirements. In the absence of prosecution, detectives referred to the range of civil orders and injunctions that can be applied for at court as further mitigating options. For example, domestic violence protection notices and orders in cases of domestic abuse, non-molestation orders, and knife crime prevention orders were quoted as options that are regularly considered, although no evidence in support of their effectiveness was advanced.

What Tactics are More Successful and Less Successful?

Release on conditional bail was and is widely used, yet without enforcement of the conditions its effectiveness in preventing further offending was considered low. Interviewees unanimously cited it as the most-used tactic, but it was equally regarded potentially ineffective (not counting RUI, which was not considered as a tactic at all). In the words of an investigator:

> *"We don't enforce it. We stick it on as a kind of 'oh we've done it because we think people are going to abide by it' but I don't think that's the case. Let's be realistic about it, we're putting curfews on people, putting live and sleep, but how are we actively following up on that?"*
>
> *Detective Sergeant, CID*

Even when enforced, a Detective Inspector felt it was less effective because "*it's extraordinarily difficult to get someone convicted of breaching police bail*", in contrast to court-imposed bail which they felt was taken more seriously. This was echoed by a homicide DCI who said "*there doesn't seem to be any comeback*" for non-compliance. Another DI believed that bail conditions were more successful with first-time or inexperienced offenders, but that those with more experience of the criminal justice system were less likely to be deterred from breaching conditions or reoffending. Although:

"*We still use them because we don't have much else.*"

Detective Inspector, CID

Re-housing victims was cited as an effective tactic in cases, particularly of domestic abuse, where there is risk of the suspect attacking or targeting the same person or people again. Where possible this was felt to be more likely to protect those known to be at risk of attack than any measures applied to the suspect. An SIO with several years' experience investigating rape and domestic abuse thought even this had its weaknesses in domestic violence cases where, in their experience, new addresses were often disclosed to the suspect by their victim. Moving suspects to another area – either as a condition of bail or by negotiation – was thought to be effective, but only if monitored and enforced. Conversely, releasing suspects back to their previous environment was felt to be counterproductive, especially where the offence was gang-related. Placing a mandatory emergency response flag on calls from a particular address (known as "special schemes") was used in cases where a specific person was felt to be at risk, although officers using this tactic pointed out it was not a measure that addressed the suspect's behaviour:

"*I think people see that once we've got special schemes on then all the risk is taken out. I know we have to do it but … I don't have a lot of faith in them because how do you stop someone?*"

Detective Sergeant, CID

Targeting "other criminality" was believed to be highly effective by officers with experience of applying such an approach. Homicide SIOs favoured this – where they were unable to secure a charge in a murder investigation but perceived a high risk of further violence, proactive methods were considered whilst the main investigation continued. A DI from a proactive CID team described this as common in that branch of local policing.

Problems Encountered in Mitigating Risk

Investigating officers without exception preferred to charge and remand rather than bail or RUI. Multiple factors combine to produce the circumstances that make such an outcome impossible, but most cited were disagreements with CPS on threshold charging standards. This research is primarily concerned with the suspects in these non-charged cases. However, the observations of professionals in how such outcomes are produced is of relevance. There was not a unanimous view that CPS were entirely to "blame" for suspects being bailed or RUI'd rather than being charged. Nevertheless, the performance framework for that organisation was perceived by all BCU CID interviewees as conflicting with police priorities. The effectiveness of police in making best use of PACE detention time was called into question by a DI who, in a minority view, felt that current powers and legislative provisions were sufficient, if only the quality of investigations were better, as many investigations *are not complex – they are witnessed by the public or police officers"* (DI, CID).

There was broad consensus that police bail, as currently used, is in the words of more than one interviewee a "toothless tiger" , applied routinely but rarely enforced with rigour. This may be a resourcing issue – several interviewees were keen to point out that if they had the resources, they would make sure more was done to make police bail conditions effective. But even if enforced, officers in every role opined that there were no serious consequences for people caught breaching their conditions. Unless the offender is subject to some other regime – IOM, or a judicial control – the responsibility for managing bail adherence fell to the officer in the case, who

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was usually busy dealing with the next case or managing a high investigation caseload. Detective managers did not feel officers saw managing bail conditions was an element of that caseload. An officer in charge of a CID unit described it as follows:

"It comes down to resources – we don't have enough officers to monitor the situation, there's too much else going on, new crimes happening, to have someone monitoring each individual on a regular basis is difficult. It comes down to the individual officer investigating that crime, but they have many other live investigations. We could use LIT [Local Intelligence Team], but they have too many other things to be doing. It's probably very low down on the priority list of things to do. We rely on the individual to abide by the bail conditions. The officer gets on with investigating the crime until they are due back. If they breach, it is just more work for the officers."
Detective Inspector, CID

A similar picture was described by other DIs and DSs in local CID units, and even on homicide teams an SIO described the resourcing challenges as being "*our biggest risk factor…and all the time the person remains at liberty they are able to commit offences*". Another SIO mentioned the chaotic lifestyles and use of social media as factors in generating and provoking more harm, and making risk-management problematic. This officer described how bailed offenders in gang-related cases may post inflammatory content designed to "goad" rivals. Short of 24-hour surveillance and immediate intervention, this was felt to be impossible to prevent once offenders were at large:

"Use of social media to bait their rivals is becoming a significant problem. They seem to believe they are almost bullet proof. A person we arrested was subject to a 'threat to life" [intelligence indicating there was a credible threat against them]. He was released from the police station and went straight onto social media and posted videos of himself being released and walking down the street…

Unless you are putting people under 24-hour surveillance it's incredibly difficult if not impossible. Having any degree of control over them is very difficult. Individuals are out of control, have random sort of lifestyles, moving from house to house."

DCI – Homicide SIO

Arresting for bail breaches had the further complication of *"running down the PACE clock"* (Homicide SIO), meaning that the limited time to hold detainees without charge was eaten away if the suspect was brought back into custody on the original case, perversely making the investigating officer's job more difficult and potentially benefiting the suspect. This point was also made by custody officers. Nevertheless, bail was unanimously felt to be less problematic than RUI, where there was even less control over the suspect and less control administratively over the management of the case.

A custody officer highlighted difficulties keeping track of cases and suspects where the detainee requires admission to a mental healthcare facility from police custody. This officer recounted his experience over many years when suspects being sectioned under mental health legislation are *"bailed or RUI'd for the criminal offence. They are later frequently discharged from mental health units without police being notified"*.

What Methods or Tactics Not Currently Available Might Help?

The recent expansion of the GPS Tagging for convicted offenders released on licence for certain offences (MoJ, 2021) was cited by detectives as a practical and proportionate measure in *"a liberal society"* (Detective Inspector, CID) that could give 'teeth' to police bail enforcement, particularly where resources are stretched. This was felt to be a method that would strike a proportionate balance between control, individual liberty, and effectiveness. The simple allocation of more police officers to monitor and enforce bail was desired by DI's and SIOs.

The RUI provisions were generally thought to be unhelpful, and one DI insisted that getting rid of RUI alone would improve risk management by placing a greater duty on officers to progress their investigations more quickly. This was echoed by another DI who reported *"wasting hours of my week checking spreadsheets on RUIs"* (DI, CID) because there was no other reliable method of keeping track of these provisions. Delays and prolonged investigation times were felt by detectives to pose a risk of cases collapsing and offenders subsequently escaping justice. The question of resources in other units, for example forensic labs whose expertise is needed for the examination of digital devices or drugs, was raised:

> *"It takes months to get results back from the lab. If we could improve turnaround times we could manage risk better. As an investigation stagnates, you start to lose victims and they withdraw."*
> *Detective Inspector, CID*

Custody officers and detectives felt that breaching police bail conditions should be a new offence for which a prosecution could be pursued. This would remove the impact on the PACE clock for the offence under investigation in the case of arrest for the breach, and would create potential consequences and further control mechanisms for offenders.

Can other agencies help?

When asked about the contribution of other agencies, the role of the CPS was mentioned by all parties. Few other agencies were mentioned by interviewees, although Probation services were referred to by one homicide SIO. This officer had wanted a suspect facing bail from the police station to be returned ("recalled") to prison by the local probation officer and was met with an

unsatisfactory, in the officer's view, response. Two DIs from local CID had similar experiences with Probation services.

Custody sergeants expressed some grave concerns about the provision of mental health facilities, reflecting their experiences of dealing with detainees with chronic and/or acute mental illness. Officers reported regular difficulties in locating secure mental health accommodation, information not being shared, and failure to involve police in decision-making when patients who are also suspects in criminal investigations are discharged from hospital.

Regarding the CPS, there was recognition by local CID DIs and DSs that the relationship between police and this agency needed to improve, and perhaps that better and more timely communication from both sides at the operational level was needed. Nevertheless, all but one detective interviewee felt that the CPS too often refused to authorise charging of detainees in custody – a direct conflict of priorities in the eyes of police officers. There was clear evidence from this data that police claim to prioritise immediate risk, but that they perceive the CPS as having other priorities:

"The relationship between the police and CPS is not the best."
Detective Inspector, CID

"CPS in London became resistant to this [in-custody threshold charging], they became more worried about the attrition rate at court. They became resistant to charging on the threshold test. They even put out instructions to CPS Direct not to charge on the threshold. Instead, they wanted us to go through a long process that we should request early investigative advice [meaning the suspect had to be bailed]."
DCI – Homicide SIO

"They [the CPS] are keen to progress it if they're confident that it will hit one of their performance indicators. They're not so keen if not. They have unreasonable expectations of police – a guaranteed conviction. I have had so many arguments over charges because they believe a subject to be bailable. But that's my decision not theirs. They are not concerned with risk management."
Detective Inspector, CID (Child Abuse Investigation Team)

"I have no problem with someone being found not guilty after a trial, but what I really object to is when the CPS drop a job because they don't think they will win."
Detective Inspector, CID (Proactive Unit)

Complaints about the CPS were not restricted to in-custody charging decisions but extended to the processes before and at court. It was claimed that prosecutors were often poorly prepared for prosecuting cases or representing the prosecution in bail applications:

"Often the lawyer cannot be contacted, or the identity of the lawyer isn't known until police get to court. The lawyer is often given that case on the morning, both for trials and bail applications. They don't know anything about the job."
Detective Inspector, CID

In general, police officers had an overwhelmingly negative view of the CPS, based on their own experiences of dealing with that agency. Whilst recognising that CPS lawyers had a legitimate role in the process, they were universally regarded as having a different set of priorities to police officers, and as being an impediment to effective risk management.

Chapter 5 - Discussion

The major finding from this study concerns the impossibility for the police in London to track, systematically, what happens to suspects released on police bail or released "under investigation". Suspects for serious crime are leaving police custody suites, without evidence-based forecasting of their risk of committing serious crime. Nearly half of the above cohort were back in police custody within 100 days, most frequently for the high-harm offence of robbery. This group of robbery suspects accounted for 264 arrests over two years. Officers described a complex set of factors contributing to their perceived inability to manage high-risk suspects effectively. These factors included inadequate resources, insufficient legal powers, and a poor relationship with the CPS leading to suspects being released instead of going to court.

The MPS IT systems record important details on case disposal, bail dates and other relevant case information. An investigating officer or their supervisor can devise a post-release plan in individual cases, and certainly when it comes to murder investigations this is common. But there is no system to assess risk using an evidence-based process, identify the high-risk individuals, and trigger – according to an objective set of principles or parameters – a suitable plan to prevent, or mitigate, the threat of those people causing serious harm. The MPS data systems do not allow a user easily to establish retrospectively, from a cohort of suspects selected according to a time period, offence type, or any other set of parameters, the scale of offending on police bail or RUI by that cohort.

The arrival at some point in the next two years of the "Connect" integrated IT system for custody, crime and intelligence may go some way towards resolving this data quality problem. But an IT solution is not the same as a whole-system approach to managing high-risk offenders or transforming operational policies and working practices to a "desistance" and crime-control mindset. The custody environment seems primarily designed to comply with the due process of PACE procedures and minimise the risk of suspects themselves coming to harm whilst in the

police station. A legitimate set of concerns but a set that appears not to consider the prevention of harm to the community.

Evidence from this study is indicative of the propensity of robbery suspects to reoffend, and reoffend within a short period of time, after release from custody. Suspects in both in the BTR and RUI elements of the cohort were re-arrested for new robbery offences within 100 days of release. Robbery is a high-harm offence, compounded by the prolific recidivism apparent in those suspected of committing it. Action to reduce robbery alone would have a significant "power" effect on the crime harm experienced within any police jurisdiction, and it would be a reasonable assumption for a police officer that a person in custody for robbery, taking crime type alone as a risk factor, may well reoffend fairly quickly if released without restrictions, control or monitoring. Yet police officers expressed little faith in the mechanisms available to them through police bail to manage risk. The changes to police bail powers since 2017 further limited their options, whilst creating a new category – RUI – with no control mechanism at all. Professionals in both the detective and custody branches of the MPS were unanimously negative about the impact of RUI, both on how police officers manage caseload, and on the risk to the public.

Need for Risk Prioritisation Where Resources Are Limited

A strong theme from the qualitative data was a belief borne by experience that police cannot actively monitor or control every suspect released on bail or RUI. Even where bail conditions are applied, and in some cases with stringent requirements, the unanimous picture was that these conditions were not routinely enforced. Despite this, very real risks of serious harm are present when suspects for violent crime leave the police station – the finding of a 52% 100-day re-arrest rate for robbery suspects supports this statement. At least one of the arrestees in the cohort of 62 was later arrested for murder. The admission of one homicide SIO that no "risk assessment tool" is used prior to the release of murder suspects may be considered concerning. When it comes to people in custody for serious crime – and therefore by definition suspected of being

high-harm offenders – the Metropolitan Police cannot currently meet the first requirement of Sherman's offender desistance model: accurate forecasting that any selected offender will commit a seriously harmful crime.

Whilst it might reasonably be argued that murder suspects should be considered high-risk by default, even within this cohort not all will present the same level of risk and threat. In the absence of a systematic way of quantifying or estimating the risk, again professional clinical judgement appears to be the driving factor in the treatment of such cases, although homicide SIOs each stressed the importance they placed on "risk management" of suspects in their murder investigations. If police lack the resources to monitor every case, and the evidence strongly supports that proposition, then they need to be able to prioritise where limited resources are deployed, and select the "power few" offenders who are highly likely to cause the most harm.

Police Must Get Better at Tracking Offenders on Bail and RUI

Notwithstanding the limitations of current police IT, administrative systems and general protocols on managing non-defendants, the findings indicate little evidence of deterrence being an objective, or even a consideration, of post-BTR/post-RUI policy. Or at least, there is no evidence of a systematic approach to deterring offenders under investigation for serious offences from committing more crime after leaving the custody suite. The qualitative findings suggest compliance with due process to be the principal consideration, to the extent that imposing police bail conditions are almost a routine, and routinely ineffective, practice in the eyes of officers at the heart of the system.

Neither custody officers nor detectives gave evidence of any coherent process for managing RUI-status suspects. The NSPIS IT system allows the recording of this status, but no officer described any system or process for monitoring RUI as part of the investigative workflow. It

appears from the qualitative data that, like the assessment of risk prior to release, this relies on individual officer diligence and judgement. RUI generates no procedural trigger or duty on the investigating officer to do anything, either in respect of lines of enquiry, victim updates, or offender management. The literature, and the findings from this research, suggest that RUI has done little, if anything, to address the concerns of legislators who introduced it, whilst having some unfortunate, unintended consequences for the efficiency and effectiveness of the police service and criminal justice system.

Police Can be More Proactive at Managing High-Risk Suspects

Aside from cases involving murder suspects, there was no evidence from the structured interviews that officers are being proactive at managing suspects released into the community on bail or RUI, even when specific bail conditions are applied.   Despite resources being stretched, and the absence of a reliable, evidence-based risk assessment model, a layperson might find it surprising that, for example a suspect arrested 24 times in two years, most frequently for robbery, may not be subject to a post-release plan. Such a plan could include, where proportionate and justified under human rights considerations, surveillance and the application of stringent, and stringently enforced, bail conditions. Far from applying a focused-deterrence or offender desistance approach, officers who were interviewed appeared resigned to failure, citing the inadequacies of the legislative tools or police officer resources available to them. "Bail conditions are not a deterrent" was a theme.

Police Relationship with the Crown Prosecution Service

It seems that in the world of English criminal practice, the concept of the opponent is not restricted to barristers representing different sides in the courtroom. Police officers and Crown Prosecutors appear to be locked into a perverse and counterproductive adversarial relationship where, at least from the Police perspective, each sees the other as their opponent. Officers repeatedly spoke of the CPS as an obstructive, problematic issue to be negotiated and navigated

around; an organisation whose objectives and mission were not shared with the police. Such a view may or may not be fair or accurate, but it was such a strong theme from the structured interviews that it is real, significant, and indicative of a crisis in English criminal justice. This dysfunctional non-partnership serves neither the public, nor either institution, well. Police officers and the police service need to be sure of their ground before going on the offensive against another part of the criminal justice machine, and no organisation is perfect. Yet the strength, and the consistency, of the criticism of the CPS by officers who deal with it routinely, and indeed rely on it, is strong evidence of profound problems with this organisation whose stated duty is "to bring offenders to justice wherever possible" (CPS, 2017). Again, the question of "due process' versus "crime control" comes into the picture, with officers clearly at the "crime control" end of the continuum.

Data Quality

The absence of a single national database from which information about offending on bail or RUI can be extracted and compared across policing areas was surprising. The lack of consistency on the definition of "offending on bail" was found between jurisdictions. Official UK data sources were unclear on this matter, and definitions varied across the literature. Breaching police bail is not a recordable offence, therefore recorded crime statistics cannot help on this point, whilst with RUI, there are no obligations or restrictions on the offender that can be breached.

Research Implications

This was a mixed-methods study involving small cohorts. The study of robbery offenders would benefit from replication with a larger cohort, or indeed other offence types. The initial proposal for this project would be interesting given the above findings, looking at a wider range of offences and a greater sample size.

The variation in outcomes between suspects released under investigation versus suspects released on police bail is worth exploring. The interview subjects were negative towards RUI as a concept and in practice. The quantitative findings for this cohort that suspects RUI'd were arrested more than those released on bail, and within a shorter time from release is interesting and with further exploration may inform future policy and practice. No conclusions can be drawn, but the question needs to be answered – is RUI a more 'risky' option than police bail, in spite of the observations from officers about the limitations of the latter? It seems that professional judgement is the backstop against a 'default' option of RUI, reliant on the individual investigating officer, supervisor, or custody sergeant to make the decision based on personal experience and the circumstances of each case. No actuarial or algorithmic process is applied. Officers favour BTR with its implicit crime control connotations, but can an evidence base be constructed in favour of, or against this instinct? Experiments using randomised controlled trials testing different approaches to managing offenders on police bail have the potential to provide the answers, and to give some direction to post-release policy.

Chapter 6 – Conclusion and Policy Implications

This study focused on a legislative, policy and operational gap in protecting the public from high-risk suspects. The gap exists between executive action – the arrest of a suspect for an offence – and prosecution or conviction. Here exists a hinterland, where people are suspected of crime, are actively under investigation for crime, but are not subject to effective control by the police or courts whilst officers conduct their enquiries. Of course, many suspects are arrested and then bailed or RUI each year, and only a small number, a "power few" will pose a severe threat of high-harm. The evidence from this study confirms that there is no coherent, strategic, system for finding out who these people are, tracking them, and then applying an enforcement or monitoring regime to attempt to prevent the harmful crimes they are likely to commit. A useful illustration is case A114 from the above cohort, who was RUI'd in April 2020 despite having been arrested four times for robbery, twice for knife-related offences and had been in police custody on nine separate occasions in the previous eight months. This subject would go on to be arrested a further 14 times in the following 12 months. The evidence suggests that neither legislation, policy nor police operational practice are fit for the purpose of managing the risk of severe harm in this gap. Poor IT systems and a criminal prosecution agency, the CPS, that has its own severe failings compound these problems.

The literature described a complex picture of regulations, legal restrictions, and offender management regimes, principally designed to control proven offenders – whose guilt has already been established beyond reasonable doubt. Those merely suspected of being guilty by the police fall through the gap. Police bail conditions, described more than once by officers as a "toothless tiger", would be more effective if they were monitored, enforced and attracted sanction in the breach. The extension of GPS monitoring provisions to all offenders on bail, and the enactment of a criminal offence of breaching police bail conditions, are worth considering by policymakers. And rather than accelerate legislative changes, as was the case with the 2017 provisions, an

evidence-based approach should be applied to avoid potential unintended adverse consequences.

The management of high-risk offenders is a complicated, multifarious, pursuit. It is fraught with hazard. Things can, and do, go wrong in spite of the expert professional judgement of police officers whose experience and knowledge is often earned in an environment where decisions can literally have life-or death implications (Crego et al, pp181-197). The officers interviewed for this research demonstrated that they both cared about, and understood, the seriousness of the risk posed by the suspects they were dealing with. Each had personal experience of investigating the most serious of crimes – rape, child abuse, murder – or managing the detention of, and making decisions to release those suspected of committing these crimes into the community. The fact that they do so in the face of a singular lack of any systematic process for assessing risk, guiding decisions, and triggering further action to manage that risk in society is both stark, and staggering. The evidence from the quantitative data – more than half of suspects bailed or RUI'd for robbery were back in custody within 100 days, and more than half of these were arrested for another robbery – is a window on the burning need for the police service to be given more effective tools to address these matters.

Yet within the constraints of the current toolbox – multiple IT systems that 'clunk' but do not communicate, risk assessments that focus, legitimately, on the welfare of the detainee but without consideration of the risk to community safety – the police service needs to act. However bureaucratic and time-consuming it may be, the evidence from this research demonstrates that if police do not systematically track and take action against high-risk offenders, those individuals will re-offend and will cause significant harm. Data collected in this study demonstrates that suspects arrested for high-harm offences tend to be arrested for high harm offences again and again, and quickly. The first policy implication therefore is for the Metropolitan Police. It is to navigate the technical obstacles and the multitude of tactics towards a simple, and useable, process to identify, track and do something preventive about high-risk offenders when they are

released on bail or under investigation. If officers do not know there is a real threat or risk, they can hardly be expected to do something about it. Tested risk assessment methodologies are available now – the HART findings in Durham are evidence that there exists a pathway towards accurate prediction of high-risk, and therefore towards targeting high-harm threats with the very limited available policing resources.

The negative view of the CPS expressed by highly experienced police officers working in serious crime investigation must be a concern for policymakers. This finding was consistent with the evidence of HMICFRS inspectors conducting a thematic review of rape investigation as recently as July 2021 (HMICFRS 2021a). How can a criminal justice system function effectively if practitioners in the agencies responsible for investigating and prosecuting crime respectively have a such a poor relationship with each other? There is an implication form this research that similar qualitative studies with Crown prosecutors would be beneficial. What is the cultural gap between these two bodies of professionals who are nominally a "prosecution team"? Improving this police/CPS relationship at the operational, as well as the strategic level must be made possible, urgently, and put into effect.

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Appendix - Interview Protocols

Time of Interview:
Date:
Place:
Interviewer:
 Interviewee:
Role/Rank of interviewee:

Opening

Confidentiality: this interview will be audio recorded and transcribed for purposes of research. Your responses will be anonymised, and your identity will be known only to the researcher. The research material will not be shared with the MPS, but the final research paper will be generally available.

Questions

1. What is your role?

2. How does your role bring you into contact with (personally or as a leader/manager) people in police custody who present a high risk of commiting serious offences, in particular homicide, rape, serious violence or robbery?

3. What methods or processes do you currently use to conclude that someone in police custody, or about to be released from police custody presents a high risk of committing serious offences, in particular homicde, rape, serious violence or robbery?

4. What methods or tactics have you personally used, or caused to be used, to mitigate the risk of a person being released from police custody subsequently committing serious offences, in particular homicide, rape, serious violence or robbery?

5. What methods or tactics do you find:
       (a) more successful
       (b) less successful
in mitigating the risk of a person being released from police custody from committing serious offences, in particular homicide, rape, serious violence or robbery?

6. What do you think are the biggest problems facing the police in mitigating the risk of someone being released from police custody subsequently committing serious offences, in particular homicide, rape, serious violence or robbery?

7. What powers, methods or tactics that are not currently available do you think would improve the police's ability to mitigate the risk of someone being released from police custody from committing serious offences, in particular homicide, rape, serious violence or robbery?

8. How do you think other criminal justice agencies could contribute to mitigating the risk of people being released from police custody subsequently committing serious offences, in particular homicide, rape, serious violence or robbery?

Closing

Thank you for participating in this interview. I would like to remind you that your responses are confidential. When all the interviews have been completed, the research team will be transcribing them and analyzing them in order to make recommendations to improve this area of policing and criminal justice. Published data will take care, in using the interviews, not to identify individuals.