



## WEST YORKSHIRE POLICE AND CRIME PANEL

13 NOVEMBER 2015

### LONG TERM USE OF BAIL UPDATE

#### HISTORY

In May 2013, the BBC published results from their Freedom of Information request which focussed on the number of people on bail and those who had been on bail over 180 days. 34 of the 44 police forces responded which included West Yorkshire.

- Since the time this data was produced, West Yorkshire have reduced the number of people on bail over 180 days from 859 to 436, a reduction of 49%.
- Notable absences in the data were GMP and Merseyside.
- It is worthy of note that the data produced by West Midlands comes from a different IT system, called ICIS. Their Performance Team have discovered an error in the system affecting figures in this area. In short there are a number of ways to re-bail a person and one of those, the quickest and easiest method, is simply to add the new bail date. This impacts by re-setting the date the bail was first granted to the date the re-bail was arranged. Hence, the numbers on bail over 180 days are now known to be unreliable.
- Enquires with South Wales who at the time of the request stated they only had one person on bail over 180 days revealed significant differences in the timescales to obtain Hi-tech and medical evidence. For example, a download of a computer takes 6 weeks on average compared to West Yorkshire which is 12 months (for a standard request). Similarly, they obtain medical records within 24hrs and a statement within a month whereas in West Yorkshire, this is nearer 4 months.

#### Current Position-

The table below shows the reduction in all categories of pre-charge bail since June 2014.

Overdue bails include records which have been finalised incorrectly and effectively remain open indefinitely until they are discovered and corrected. A Force wide cleansing exercise was conducted in March 2015, a short time before the last data was produced and it is likely that the increase noted below is because the same exercise has not been repeated in advance of the most recent data being collected.

	16 <sup>th</sup> June 2014	1 <sup>st</sup> Oct 2014	1st April 2015	28 <sup>th</sup> August 2015
Live bail records	3734	3693	3551	3132
Bailed Twice	866	784	711	746
Bailed 6+ times	91	85	97	67

Bail in excess of 180 days	716	N/A	614	436
Bails shown overdue	454	465	305	342*

\* Of the 342 overdue bails, 83 have BOLOs (be on the lookout) attached which means that they are circulated as wanted and police are making enquiries to trace the suspects, some of who are known to be out of the country. The remaining 259 are made up of admin errors and cases where a detainee has failed to answer bail but the enquiry still requires further evidence to be obtained prior to re-arrest or circulation as a wanted person.

West Yorkshire Police are not involved in the NPCC (ACPO) Bail pilot but have adopted 7 of the 8 bail standards agreed by the Chief Constable's Council. The standard that has not been adopted is the incremental rank approval of bail depending on the length of the bail period. However, our Force Bail Policy invokes an incremental rank requirement for bails based on the number of times a person has been bailed, so scrutiny from senior officers is incorporated. Benchmarking in this area is shown below.

The Home Office have indicated their intention to legislate further for pre-charge bail but timescales are not known. This legislation includes changes to allow suspects to be released without bail whilst an investigation continues and changes to prevent biometrics being destroyed.

If we were to adopt the one outstanding bail standard with the current legislative situation, a senior officer would be only able to decide if bail should be granted or not which would in effect allow an investigation to continue or to cease. However, once the proposed legislation is in place, a senior officer would have a real choice whether to approve bail or direct a detainee to be released without it whilst the investigation continues.

#### Positive Disposal Rates on Multiple Bails

All finalised bail records from August 2015 (1138 records) were examined and the prosecution rates compared with the number of times bailed are shown in the table below.

Number of Times Bailed	% Positive Disposals
1	41.1
2	47.3
3	48.4
4 +	41.8

#### Benchmarking

Enquires have been made with Greater Manchester Police (GMP), Merseyside and West Midlands to establish their position on pre-charge bail relative to that of West Yorkshire Police's. When compared with other similar forces we are in line or better and have managed ours down by 50% over time.

#### Bail Management Considerations

Consideration has been given to releasing individuals without bail when conditions are not required but lengthy enquiries still need to be undertaken. A classic example in this category is any case where a suspect has their laptop seized and a download is required to establish what, if any evidence it contains.

Whilst any downloads would class as new evidence and allow the police to re-arrest if evidence was located on the computer, there are other factors which prevent this from being a viable option.

Firstly to release without a positive disposal or bail will lead to the destruction of biometrics under the Protection of Freedoms Act 2012 (POFA) in many cases. Contact has been made with the Biometrics Commissioner who has confirmed this to be the case. This has recently been brought to their attention and they are looking for a solution.

Introducing a new disposal on Niche which does not trigger the disposal of biometrics has also been considered. However, as part of the planned legislative changes to PACE, the Home Office intend to include the ability to release a person without bail whilst an investigation is ongoing and the Home Office have confirmed that this should not be an approach taken by forces until the legislation is in place.

PACE allows for fingerprints to be re-taken in the course of an investigation under certain circumstances but not in the scenario described. Similarly, there is a power to re-take fingerprints under the Anti-social Behaviour, Crime and Policing Bill if an investigation comes to an end and new evidence comes to light and the biometrics have been destroyed in the meantime. This relies on the investigation being at a genuine end at the point of release. The Home Office Powers Unit have confirmed that neither of these pieces of legislation cover the situation.

In light of the above it is apparent that we are restricted in making significant changes in the way we manage bail until the legislation is changed to support a different way of dealing with investigations.

#### Inherent Barriers to Pre-Charge Bail Management

- Whilst not out of sync with comparable forces (West Midlands and Greater Manchester Police), the length of time it takes for Hi-Tec Crime, Forensic and medical evidence to be obtained has a significant impact on the length of time detainees remain on bail.
- A greater level of supervisory oversight would benefit the management of bail, ensuring, where relevant, bails are cancelled in advance if a case is to be discontinued and custody are notified so the record can be finalised. (Some Forces have adopted a central Bail Management Unit for this purpose).
- Cancelling bail in advance when the only reason they are answering bail is to be charged. This can be done via the postal charging system in most cases.
- The Niche finalisation process is complex when dealing with a number of offences and disposals leading to admin errors being common place. We are currently working with Niche to establish a simple process but even if this is possible, it will take time to resolve.