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Analysis of electronic custody record data to examine the efficacy of PACE safeguards on suspects detained and questioned by the police in England and Wales

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October 2023

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Introduction

With funding from Capabilities in Academic Policy Engagement (CAPE), we have worked in partnership with the Ministry of Justice in analysing and reporting on electronic custody record data gathered from eight police forces on all suspects during a two-month period in 2019, 2020 and 2021.¹ The legal framework concerning the arrest and detention of suspects in England and Wales is governed mainly by the Police and Criminal Evidence Act (PACE) 1984 and the associated Codes of Practice, with Code C governing the detention, treatment and questioning of suspects.² Custody officers also have to take into account Authorised Professional Practice (APP) – official police guidance – on detention and custody issued online by the College of Policing (2013).³ The legal framework deals with the specific responsibilities and authority that custody officers have when making decisions and looking after the welfare of people while held in police custody.

Code C of PACE requires a custody officer to open a custody record for each person detained in police custody. This custody record must record key details relating to the individual detained, and as some data is recorded electronically, it can be downloaded. Because these electronic records provide descriptions of those detained and chart some of the main events concerning the suspect's time in police custody, they are an effective way of collecting data relating to their experiences of police custody. This administrative data has enabled us to examine factors relating to the treatment of people arrested and detained by the police, when exercising their legal rights, and in relation to case outcomes. Also, from an earlier analysis of electronic custody record data undertaken in 2009, we are able to comment on changes taking place over time.⁴

The key highlights arising out of this study are as follows:

- Legal advice – 60% of adults, 81% of vulnerable adults and 80% of children requested legal advice.⁵
- On average, adults spent 13.9 hours in custody, vulnerable adults 16.8 hours and children 11.6 hours. 61% of adults, 68% of vulnerable adults and 54% of children were detained overnight.

¹ The Nuffield Foundation funded a study to examine the impact of PACE on the detention and questioning of child suspects. The months of March and September were chosen so that the findings could be compared to those reported in earlier studies.

² PACE and Code C have been revised many times following their implementation in January 1986, and this has included revisions to take into account changes to the right of silence brought about by the Criminal Justice and Public Order Act 1994.

³ College of Policing (2013) *Authorised Professional Practice: Detention and Custody – Response, Arrest and Detention*. <https://www.college.police.uk/app/detention-and-custody/responsearrest-and-detention#necessity-to-detain> (Accessed 1224 August 2022).

⁴ Pleasence, P., Kemp, V. and Balmer, N.J. (2011) The justice lottery?: Police station advice 25 years on from PACE. *Criminal Law Review*, 2011(1). <https://doi.org/10.1177/1473225410394288>

⁵ It is not known from these statistics whether legal advice requested was received. Neither is it known whether the lawyer was present in the police interview.

- In relation to case outcomes, 50% of adults, 52% of vulnerable adults and 56% of children had ‘no further action’ taken by the police. 35% of adults, 34% of vulnerable adults and 21% of children were charged. 6% of adults and vulnerable adults and 14% of children received an out-of-court disposal.

From our analysis of electronic custody record data, we were also able to model requests for legal advice, force used by the police prior to detention, and when a strip search was undertaken.

Placing our findings into context, we know from arrest statistics reported by government that there were 663,036 arrests overall in the year ending March 2022, which is an increase of 3% compared to the previous year.⁶ Black people were more than 3 times as likely to be arrested as White people in this time period (there were 29 arrests per 1,000 Black people and 9 arrests per 1,000 White people), and men were 6 times more likely to be arrested than women (with 20 arrests for every 1,000 men and 3 arrests for every 1,000 women).⁷ The total number of arrests has remained fairly stable for four years, following a downward trend between the years ending March 2008 to March 2018.⁸ For children (suspects aged 10 to 17 years), there has been a significant fall in the number of arrests, reducing by two thirds between April 2012 and March 2022 (from 160,213 to 52,953), although there has been a 7% increase over the past year.⁹ The proportion of children arrested when compared to adults has also decreased, over time, comprising 24% of all arrests in the year ending March 2007 to 8% in 2022.¹⁰ The annual reduction in the number of children arrested since 2008 coincided with the credit crunch and the emerging times of austerity. For adults, it was following a change to PACE Code G in 2012, that required custody officers to be more challenging of the ‘necessity’ of arrest that the number of adults arrested began to decline.¹¹

With fewer children now being arrested, those detained are known to have greater and more complex needs,¹² and they are acknowledged to be particularly vulnerable according to a

⁶ Home Office (2022) *Police Powers and Procedures: Stop and Search and Arrests, England and Wales, Year Ending 31 March 2022* (London: Home Office). Available at: <https://www.gov.uk/government/statistics/police-powers-and-procedures-stop-and-search-and-arrests-england-and-wales-year-ending-31-march-2022/police-powers-and-procedures-stop-and-search-and-arrests-england-and-wales-year-ending-31-march-2022#arrests> (Accessed 12 July 2023).

⁷ Gov.UK (2022) *Ethnicity Facts and Figures*. Available at: <https://www.ethnicity-facts-figures.service.gov.uk/crime-justice-and-the-law/policing/number-of-arrests/latest> (Accessed 12 July 2023).

⁸ Home Office (2022) *Police Powers and Procedures: Stop and Search and Arrests, England and Wales, Year Ending 31 March 2022*.

⁹ Ibid.

¹⁰ Ibid.

¹¹ Ibid. See also Kemp, V. (2013) *Bridewell Legal Advice Study: Final Report* (London: Legal Services Research Centre) for details of changes to Code G. Available at: <https://nottingham-repository.worktribe.com/index.php/output/1002649/bridewell-legal-advice-study-adopting-a-whole-systems-approach-to-police-station-legal-advice> (Accessed 10 July 2023).

¹² Bevan, M. (2019) *Children and Young People in Police Custody: An Exploration of the Experience of Children and Young People Detained in Police Custody Following Arrest, from the Perspective of the Young Suspect* (PhD thesis, London School of Economics and Political Science).

range of measures.¹³ It is because of a child's vulnerability that there is a mandatory requirement under PACE Codes of Practice for children to have an appropriate adult when detained by the police.

While the Codes of Practice state that all vulnerable adults (including those with learning disabilities, mental health conditions, brain injury, or autism spectrum conditions) should have an appropriate adult in custody, government publications do not report statistically on the number of vulnerable adults arrested. Having obtained electronic custody record data on suspects via a Freedom of Information Request, the National Appropriate Adult Network (NAAN) published a report in 2020¹⁴ concluding that vulnerability is being under-identified in police custody. Indeed, while clinical interviews indicate that 39% of adults in police custody have a mental disorder that would classify them as vulnerable,¹⁵ they found that vulnerability was recorded in 6.2% of detentions.

In relation to disproportionality, David Lammy MP found racial bias when reviewing the treatment of, and outcomes for, Black Asian and Minority Ethnic (BAME) individuals in the criminal justice system in 2017.¹⁶ Such bias is seen to continue with Black people being more than 3 times as likely to be arrested as White people in the year ending March 2022.¹⁷ Disproportionality has also led to looked after children being overrepresented in the youth justice system, with just 1% of the under-18 population being in care,¹⁸ but with 59% of children in youth custody reporting having been a looked after child.¹⁹ Despite this overrepresentation of looked after children in the criminal justice system, there is no information captured electronically on the custody record that would identify a looked after child.

¹³ Kirby, A. (2021) *Neurodiversity – A Whole-Child Approach for Youth Justice* (London: HMIP) and Day, A.-M. (2022) *Comment: The Youth Justice System is Harming Neurodivergent Children* (Keele University). Available at: <https://www.keele.ac.uk/about/news/2022/november/neurodivergentjustice/neurodivergent-children-justice.php> (Accessed 11 July 2023). While children who are recognised as neurodivergent have been identified as being disproportionality represented in the youth justice system, many others will not have had the opportunity to be assessed and diagnosed, or they may not meet the criteria for a clinical diagnosis.

¹⁴ NAN (2020) *There to Help*. Available at: <https://www.appropriateadult.org.uk/policy/research/theretohelp3> (Accessed 10 June 2023).

¹⁵ McKinnon, I., and Grubin, D. (2013). Health screening of people in police custody – Evaluation of current police screening procedures in London, UK. *European Journal of Public Health*, 23(3), pp. 399-405.

¹⁶ Lammy, D. (2017) *An Independent Review into the Treatment of, and Outcomes for, Black, Asian and Minority Ethnic Individuals in the Criminal Justice System* (London: Ministry of Justice). Available at: <https://www.gov.uk/government/publications/lammy-review-final-report> (Accessed 3 June 2023)

¹⁷ Home Office (2022) *Police Powers and Procedures: Stop and Search and Arrests, England and Wales, Year Ending 31 March 2022*.

¹⁸ Department for Education (2020) *Children Looked After in England including Adoptions*. Available at: <https://explore-education-statistics.service.gov.uk/find-statistics/children-looked-after-in-england-including-adoptions/2020#releaseHeadlines-tables> (Accessed 3 June 2023).

¹⁹ HM Inspectorate of Prisons (2023) *Children in Custody 2021–22*. Available at: <https://www.justiceinspectores.gov.uk/hmiprisons/inspections/children-in-custody-2021-22/> (Accessed 9 June 2023) (Accessed 3 June 2023).

Data Collected

We sent out a request for anonymised electronic custody record data to all 43 territorial police forces in England and Wales in July 2021, and in January 2022, we repeated this request to forces that did not respond. We requested data relating to all those first detained in police custody (including both adults and children) during the months of March and September in 2019, 2020 and 2021. Subsequently, we liaised individually with 29 forces regarding entering into data-sharing agreements prior to obtaining the electronic data. While we eventually received 12 datasets, data in four of these datasets are incomplete; for example, information about requests for legal advice was not available from three forces. Table 1 describes the missing data by force.

Due to missing data on key outcomes or demographic variables in four forces, we analysed eight comprehensive datasets, which includes a total of 51,504 custody records, with 3,328 (6%) relating to vulnerable adults and 3,722 (7%) relating to children aged under 18 years of age. A breakdown of this data is set out in Table 2. Table 2 shows the overall volume of custody records reported by the eight police forces, and the proportion of which are adults, vulnerable adults, or child suspects. Whilst we have undertaken not to name the participating forces, we can confirm that six forces are in England and two in Wales. The four excluded datasets were from police forces in England. No participating forces are in London.

Table 1: Data Availability and Missing Data. * indicates the force was excluded from the main analysis due to missing data

Force	Outcome Variables				Demographics				Offence description	Contextual Information	
	Legal Advice Requested	PACE Clock	Strip Searched	First and Final Disposals	Ethnicity	Age	Detainee Type (Adult, Vulnerable Adult, Juvenile)	Person Vulnerability Warnings	Offence Description (gravity score, offence type)	Whether the detention was initial or return for that offence	Custody Suite
A	✓	✓	✓	✓	✓	✓	✓	1. 2. 3. 4. 5. 6. 7. 8. 9. 10. 11. 12.	✓	Missing	✓
B	✓	✓	✓	✓	✓	✓	✓	1. 2. 3. 4. 5. 6. 7. 8. 9. 10. 11. 12.	✓	Missing	✓
C	✓	✓	✓	✓	✓	✓	✓	1. 2. 3. 4. 5. 6. 7. 8. 9. 10. 11. 12.	✓	Missing	✓
D	✓	✓	✓	✓	✓	✓	✓	1. 2. 3. 4. 5. 6. 7. 8. 9. 10. 11. 12.	✓	Missing	✓
E	✓	✓	✓	✓	✓	✓	✓	1. 2. 3. 4. 5. 6. 7. 8. 9. 10. 11. 12.	✓	Missing	✓
F	✓	✓	✓	Final only	✓	✓	Missing	9. 10. 13.	✓	Missing	✓
G	✓	✓	✓	✓	✓	✓	✓	9. 10. 13. 14. 15.	✓	✓	✓
H	✓	✓	Missing	Final only	✓	✓	✓	9. 10. 13. 14. 15.	✓	✓	✓
I*	Missing	✓	✓	Final only	Format not comparable	✓	Missing	5. 9 & 10 combined. 15.	✓	Missing	✓
J*	Missing	✓	✓		✓	✓	✓	9. 10. 13.	✓	✓	✓
K*	Missing	Missing	✓	Format not comparable	✓	✓	Missing	Missing	✓	Missing	✓
L*	✓	✓	✓	Format not comparable	Missing	Only provided in bands	✓	Missing	Missing	✓	✓

Note to accompany Table 1: Key for person warnings as provided by police forces:

1.	Ailment
2.	Alleges
3.	Conceals Items
4.	Contagious
5.	Drugs
6.	Escaper
7.	Firearms
8.	Mental Disorder
9.	Self-Harm
10.	Suicidal
11.	Violent
12.	Weapons
13.	Mental Health
14.	Child at Risk
15.	Disability

From this point forwards, tables and figures relate to the 8 included forces (A-H) unless specifically stated otherwise. Force F did not provide any information relating to detainee type, and as a result we calculated children as those aged 17 and under, and vulnerable adults as those aged 18 and over who also had an appropriate adult present.

This is the largest study of electronic custody records to date, with Pleasence et al. (2011)²⁰ previously having received electronic datasets from four police forces for March and September 2009, which contained 30,921 custody records, 5,153 relating to children.

²⁰ Pleasence, P., Kemp, V. and Balmer, N.J. (2011) The justice lottery?: Police station advice 25 years on from PACE. *Criminal Law Review*, 2011(1).

Table 2: Summary of Raw Data by Police Force

Force	Number of Custody Records	Number of Individuals	Number of detentions not authorised	Number removed due to anomalous data, likely to be indicative of administrative errors (>100 hours)	Number removed due to being held on non-PACE matters	Number removed due to being a return detention. *Indicates removed due to being likely a return detention.	Number in final dataset			
							Adults	Vulnerable Adults	Children	Total
A	15,070	8,923	130	10	1,400	215*	6,375	330	462	7,168
B	8,396	5,182	136	6	703	4*	3,931	105	296	4,333
C	11,226	6,873	96	7	883	50*	4,496	912	428	5,837
D	8,971	5,329	47	10	705	10*	3,892	317	348	4,557
E	11,370	6,736	18	10	999	12*	4,703	523	461	5,687
F	23,166	11,312	38	22	1,377	0*	8,619	451	805	9,875
G	16,375	4,601	35	171	588	101	3,343	121	242	3,706
H	NA	12,506	13	16	1,759	655	8,693	569	680	9,942
Total		61,462	513	252	8,414	756	44,055	3,328	3,722	51,105

Forces A to F are in England, forces G and H are in Wales.

Note: Forces I, J, K, and L were excluded from the final dataset due to their missing data. Information on whether a detention was initial or return was only provided by two forces. This is important, as return detentions are likely to be shorter than initial detentions, and our research questions only related to initial detentions. Where information about return detentions was not available, individuals held in custody for less than 30 minutes were removed for being likely a return detention (indicated by an *). This threshold was agreed with some participating forces, however, is likely to still be an underestimate of the number of return detentions, so should be regarded as a source of error. See Table 2 for further detail on missing data. Due to the need to strip custody record numbers from force H as per their data sharing agreement, the raw number of records is unavailable. Number of Custody Records refers to the raw number of records, where number of individuals refers to how many individuals these related to once duplicates, multiple detentions, and multiple records for one case, were removed.

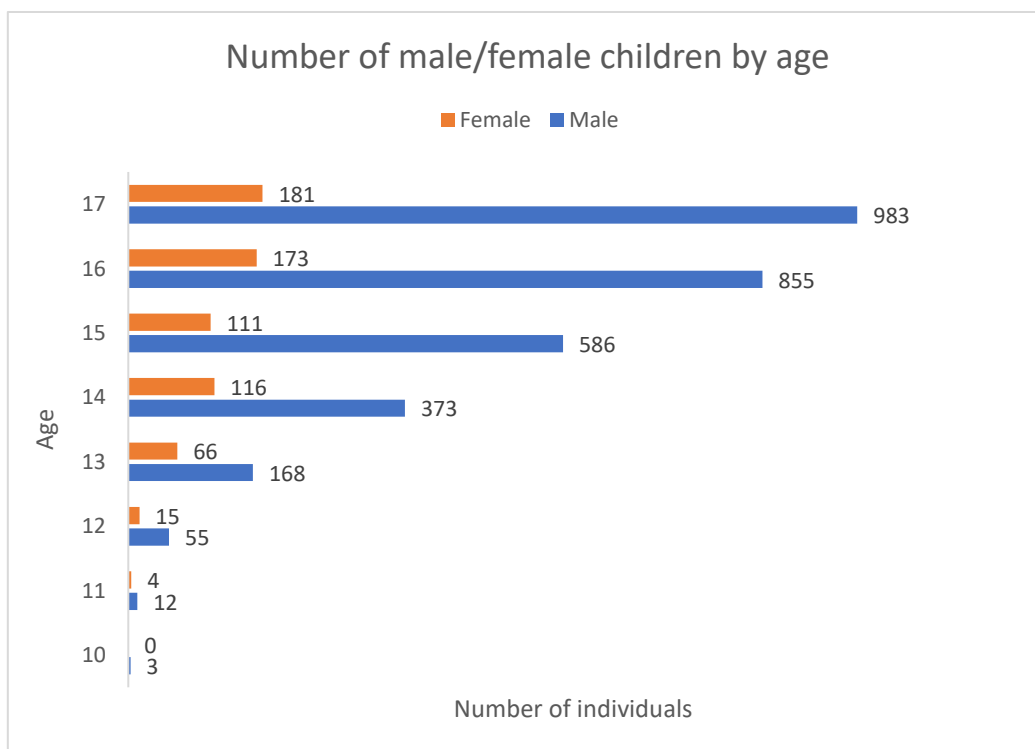
While we identified almost the same proportion of vulnerable suspects, at 6.4% compared to 6.2% identified by McKinnon and Grubin,²¹ as illustrated in table 2, there is considerable variation identified between forces, ranging from 2.6% of all adults in force B, to 16.8% of all adults in force C.

Part 1. Profiles of suspects

In this section we comment on the profile of suspects when examining age and gender and ethnicity, type and seriousness of the offence, and the vulnerability of suspects. We also note some of the limitations experienced when obtaining electronic custody record data from individual forces.

Age and Gender. The (mean) average age of adult suspects was 34.2, the average age of vulnerable adults was 33.7, and the average age of child suspects was 15.6. 14.9% of adult suspects were female, 20.7% of vulnerable adults were female, and 17.9% of child suspects were female. A more detailed breakdown of the age of child suspects by gender is available in Figure 1.

Figure 1 illustrates the breakdown of age amongst male/female children



²¹ Mc McKinnon, I., and Grubin, D. (2013) Health screening of people in police custody – Evaluation of current police screening procedures in London, UK. *European Journal of Public Health*, 23(3), pp. 399-405.

²¹ Lammy, D. (2017) *An Independent Review into the Treatment of, and Outcomes for, Black, Asian and Minority Ethnic Individuals in the Criminal Justice System* (London: Ministry of Justice).

Ethnicity. The majority of suspects were White British. Tables 3, 4, and 5 illustrate the breakdown of ethnicity by force for children, vulnerable adults, and adults.

Table 3: Ethnicity of child suspects – Officer defined

Force	White	Black	Asian	Other or Unknown
A	74%	21%	4%	2%
B	93%	6%	2%	0%
C	83%	11%	6%	1%
D	75%	23%	2%	1%
E	71%	18%	11%	2%
F	82%	14%	3%	2%
G	84%	7%	5%	4%
H	87%	7%	3%	2%
% in total sample of children	81%	13%	4%	2%

Table 4: Ethnicity of vulnerable adult suspects – Officer defined

Force	White	Black	Asian	Other or Unknown
A	84%	12%	4%	1%
B	98%	1%	0%	1%
C	88%	8%	4%	0%
D	87%	9%	3%	1%
E	82%	8%	9%	1%
F	90%	7%	3%	0%
G	96%	1%	3%	1%
H	90%	5%	3%	1%
% in total sample of vulnerable adults	88%	7%	4%	1%

Table 5: Ethnicity of adult suspects – Officer defined

Force	White	Black	Asian	Other or Unknown
A	81%	12%	6%	1%
B	95%	3%	1%	1%
C	86%	6%	7%	1%
D	85%	11%	1%	1%
E	70%	12%	17%	1%
F	84%	10%	4%	2%
G	92%	3%	3%	1%
H	90%	5%	3%	2%
% in total sample of adults	85%	8%	5%	1%

Note: Percentages may not sum to 100% due to rounding. Rounding has been completed to integers to avoid low cell counts.

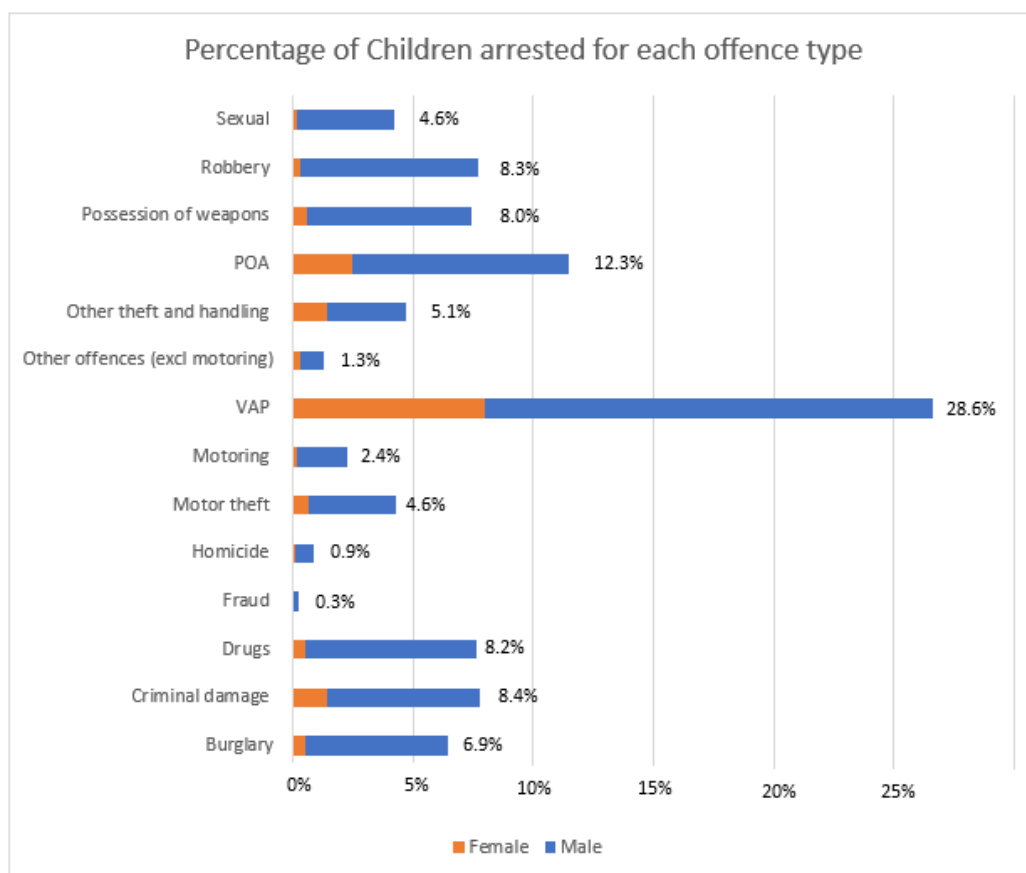
We used officer defined ethnicity in this analysis, as if bias was introduced on the basis of ethnicity, officer defined was most likely to capture this. If an officer decides to strip search a suspect, for instance, if some bias in their decision was based on ethnicity, the officer defined ethnicity category captures this better than self-defined. While we were interested in exploring differences between the two categories, a core reporting issue is that officer-defined and self-defined ethnicities are difficult to compare, as different categories are available. For example, the self-defined ethnicity includes several options for being of ‘mixed’ background, whereas officer defined ethnicity is limited to single backgrounds. This means a test of concurrence between officer-defined and self-defined isn’t valid. Consistency in reporting both between forces (there was variation in how some forces collected the data and which categories were available) and between officer-defined and self-defined ethnicity is therefore a recommendation arising from this analysis. Due to variation between forces in how ethnicity data is collected, we can only use very coarse categories ‘White’ ‘Black’ ‘Asian’ for the purposes of this analysis, which is a limitation.

We have not provided comparative average ethnicity data by region, as this would identify the forces who participated. However, to add context, according to the 2021 census of the whole population of England and Wales (including adults): 81.7% of people identified as being from any White ethnic group, 9.3% of people were from Asian ethnic groups, 4.0% were Black, 2.9% were from mixed ethnic backgrounds, and 2.1% belonged to other or unknown ethnic

groups.²² However, it should be noted that these national statistics include London, and our electronic data did not include any London forces. Those identifying as White British accounted for 43.4% of London's population compared with 78.4% for England and Wales overall.²³ Therefore, the proportion of those identifying as White in the participating regions may be slightly higher than the national averages. From this national data, it appears Black people were over-represented in custody in our participating forces compared to the proportion of Black people in the general population, particularly in relation to children.

Type of Offence. Figures 2, 3, and 4 illustrate the types of offences that children, vulnerable adults, and adults were arrested for.

Figure 2: Percentage of children arrested for each offence type



Note: 'POA' are Public Order Act offences and 'VAP' are violence against the person.

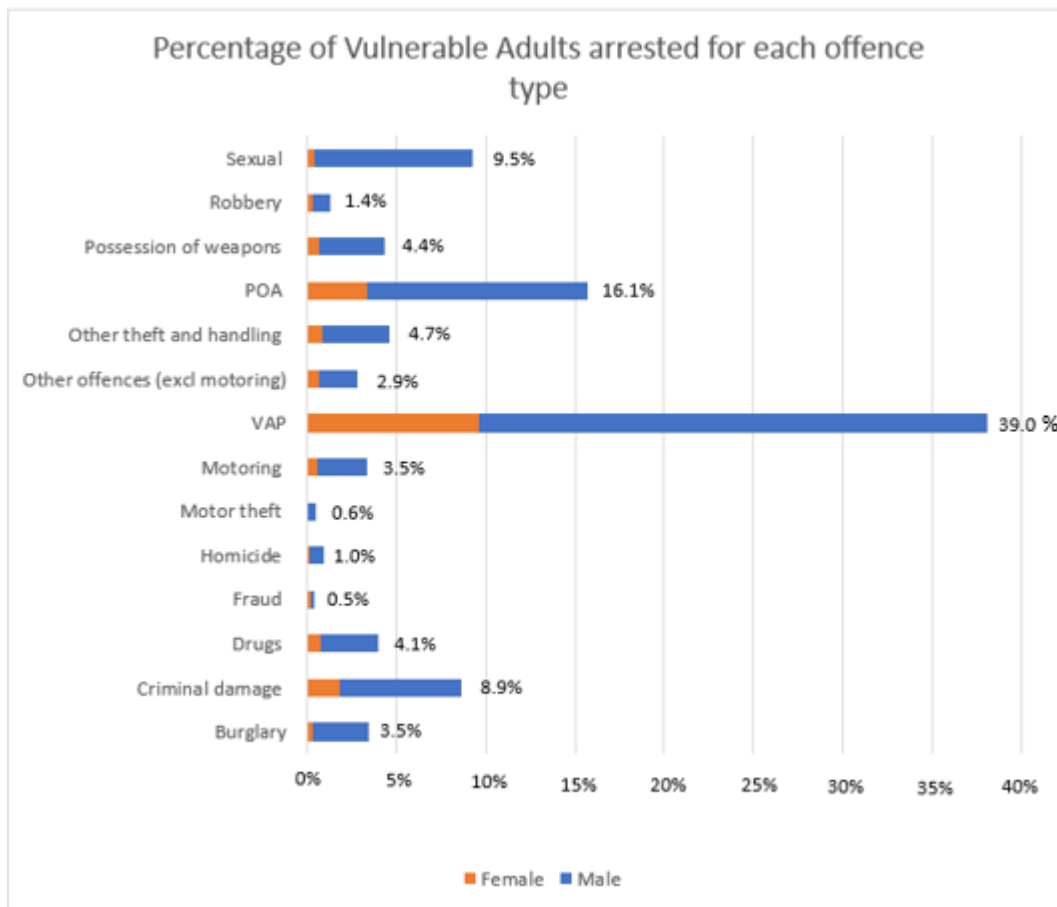
Within the 'VAP' category, there are three main types of offences: minor assault, assault occasioning actual bodily harm (ABH) and assault occasioning grievous bodily harm (GBH). While 50% of boys were arrested for a minor assault, this was 60% of girls: 31% of boys were

²²<https://www.ethnicity-facts-figures.service.gov.uk/uk-population-by-ethnicity/national-and-regional-populations/population-of-england-and-wales/latest>

²³<https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/populationestimates/articles/populationestimatesbyethnicgroupandreligionenglandandwales/2019>

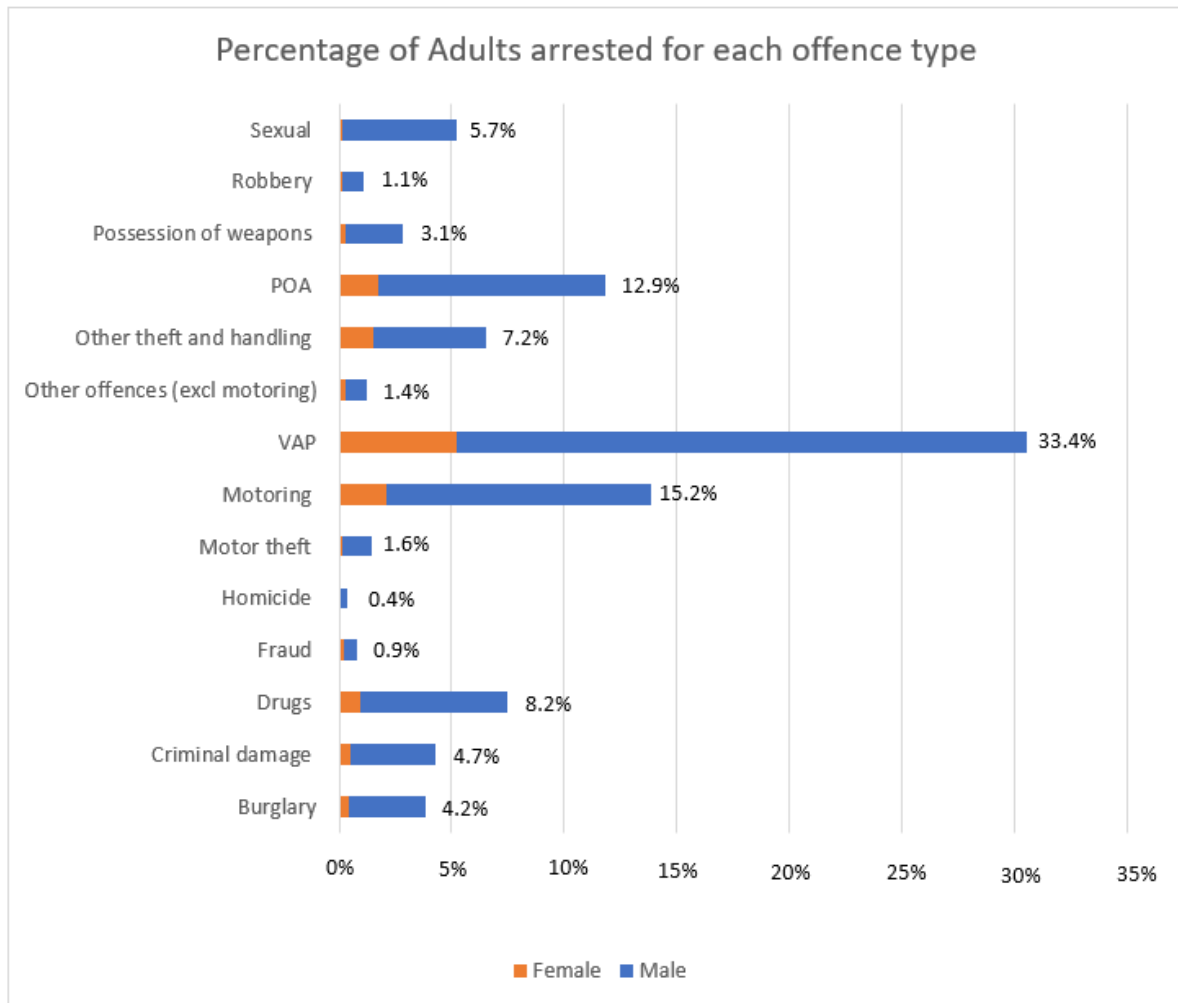
dealt with for ABH and 33% of girls, and 19% of boys and 7% of girls were dealt with for GBH offences.

Figure 3: Percentage of vulnerable adults arrested for each offence type



Note: 'POA' are Public Order Act offences and 'VAP' are violence against the person.

Figure 4: Percentage of adults arrested for each offence type



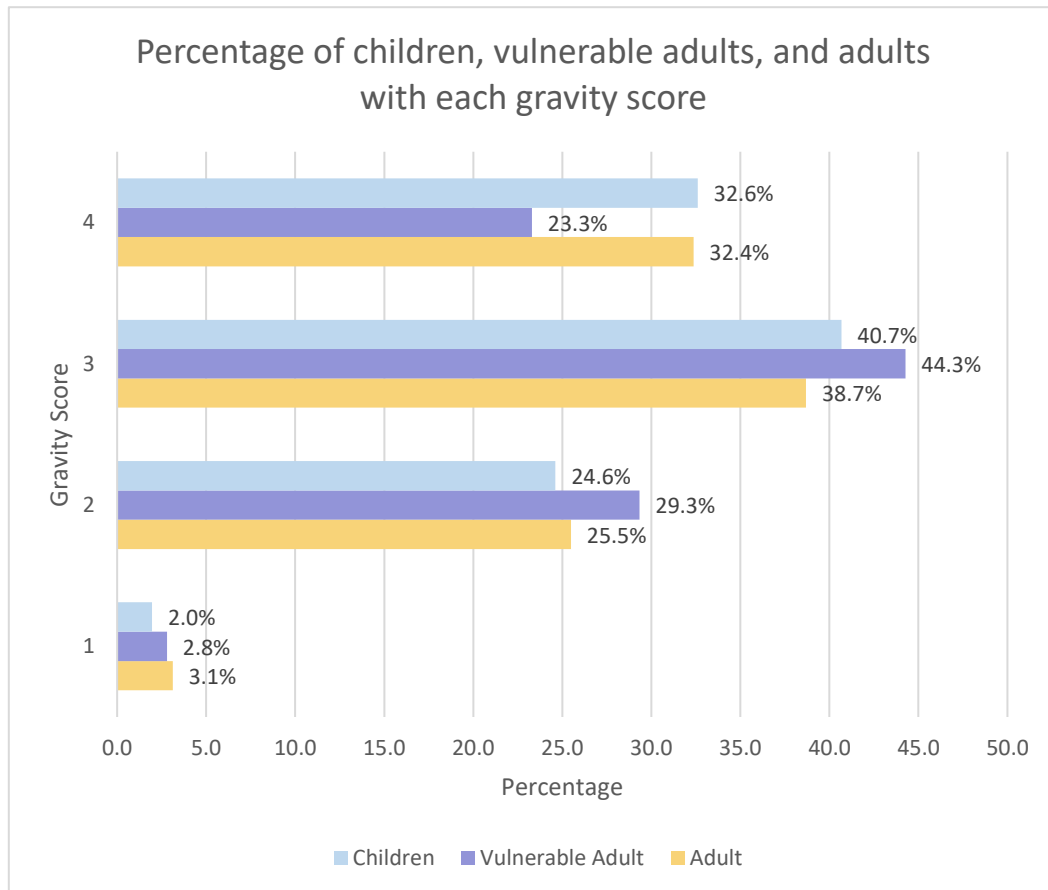
Note: ‘POA’ are Public Order Act offences and ‘VAP’ are violence against the person.

Gravity Scores. Gravity scores were calculated for each offence, and the percentage of adults, vulnerable adults, and children with each gravity score can be found in figure 5. Lower gravity scores are indicative of less serious offences and increase with the severity of the offence.²⁴ Gravity scores were calculated manually using offence descriptions and the youth /adult gravity score matrix as appropriate. Due to recording of offence descriptions, and time constraints of this being a manual procedure, contextual information which may mitigate or inflate the gravity score was not available and as a result gravity scores could be +/-1 in reality. This should be considered a limitation of the data, but provides an approximate indication of the severity of the offence. Where a suspect had been arrested for more than one offence, we included the most serious offence in our dataset after applying the gravity scores.

²⁴ See for gravity scores relating to adults - <https://www.whatdotheyknow.com/cy/request/349779/response/878197/attach/3/FOI%20428.2016%2017%202%20Gravity%20Matrix%20Current.pdf> and for children - <https://yjlc.uk/sites/default/files/ACPO%20Youth%20Gravity%20Matrix.pdf> relating to children.

We excluded gravity scores from our statistical models as we found they were highly skewed, as illustrated by figure 5, in addition to being prone to error as described above.

Figure 5. Seriousness of offences



While children have a slightly higher proportion of cases coming under gravity score 4 when compared to adults, there are important differences when considering the gravity score in relation to individual offence types. For adults and vulnerable adults, for example, if being dealt with for an offence of robbery, this is an ‘indictable-only’ offence, which means that it can only be tried in the Crown Court. This is not the case when dealing with children as ‘robbery’ offences can include less serious types of offences than recorded for adults. When commenting on the offence types above, for example, it is noted that 8% of children were dealt with for an offence of robbery compared to 1% of adults and vulnerable adults.

Multiple Offences. It is important to consider that outcomes could be impacted by complexity as well as seriousness of offences. Information about whether an individual was being held for multiple offences was available from 5 forces. 35.6% of adults, 39.4% of vulnerable adults, and 41% of children were being held for multiple offences.

Vulnerability Flags. While it will be noted on an individual’s custody record if there are any issues relating to vulnerability, there is no central requirement for police forces to capture some of this data electronically. For children, all those aged under 18 years are recognised as

vulnerable and there is a mandatory requirement for an appropriate adult to be involved in these cases. This is not the situation for vulnerable adults, although if an adult has been identified as ‘vulnerable’ the police are required to arrange for them to be supported by an appropriate adult. As noted above, however, in only a small proportion of cases are adults identified as being vulnerable.

Within the custody record data, 99.0% of children and 99.5% of adults identified as being vulnerable had a flag indicating that they had an appropriate adult. However, no information was available about who the appropriate adult was (e.g., family member/carer or from an agency).

We collated vulnerability in four areas: suicide, self-harm, drugs, and mental health. These areas were selected as they were most consistently collected between forces and were areas of interest for the participating forces. However, we made an assumption here that ‘mental disorder’ meant the same/was assessed in the same way as ‘mental health’.

Table 6: Vulnerability flags

	% of Adults	% of Vulnerable Adults	% of Children
Suicide	19.1%	35.3%	12.5%
Self-Harm	22.7%	40.2%	24.8%
Drugs	13.9%	26.7%	15.2%
Mental Health	30.3%	57.3%	24.0%

Note: The drugs vulnerability flag was not provided by three forces, so the percentage was calculated proportionally.

With this information being recorded inconsistently between forces, we recommend the standardisation of the collection of key vulnerability variables.

Without having the address of detainees, we were unable to obtain socio-economic information about suspects.

Limitations when obtaining custody record data from individual police forces

Our requests for data were sent out to individual police forces by the National Police Chiefs’ Council (NPCC), both in July 2021 and January 2022. While having support from the NPCC, it was not possible to organise collection of data centrally and, instead, we liaised individually with each force that expressed an interest to participate in this study. In some cases, it took over a year between our initial request for data and obtaining the datasets. While initially liaising with 29 police forces, due to the time and effort required, not only in extracting the

data but in sorting out a data sharing agreement, we eventually obtained datasets from 12 police forces. This effort is not to be underestimated and we are extremely grateful to all participating forces that made this effort on our behalf. The reason why this process was so time consuming, both for the researchers and the forces involved, however, was because each force wanted their own bespoke agreement to be entered into before sharing data. Instead of liaising separately with each force, it would have been far more efficient if we had been able to make the request for custody record data centrally, or least had one force, recognised as having the relevant expertise in this area, take responsibility for creating a template data sharing agreement which other forces could then adopt.

With sensitive personal information being held on custody records, it is not surprising that police forces were cautious when sharing information with academics who were outside of the police. Instead of asking for personal data, such as the name, address, and date of birth of detainees, we asked for the unique custody record number and age in years of individuals, so that researchers could not identify those involved. Subject to data sharing agreements, most forces were prepared to share the electronic custody record number with the researchers, with the proviso that this would be replaced by a coded reference at the end of this study. While we received eight comprehensive datasets, there were three others where there was missing information due to the limitations of the computer systems in these areas. In a fourth force, while comprehensive data could be extracted from the police computer, there was a reluctance to share some of this with researchers. This included not sharing the custody record number but instead replacing this with a coded reference, which was not a problem for the research analysts, but it also included giving us age ranges instead of the age of detainees. More importantly, this force was not prepared to provide arrest data, so we were unable to split off detainees from suspects or understand the type or severity of the offence, and no information was provided on ethnicity. With only partial information received, it was not possible to include this force's dataset in our in-depth analysis of electronic custody record data. The problems encountered by academics in trying to access electronic custody record data highlights the need for this key data to be collected centrally by the Home Office.

Part 2. Findings

Statistical analysis of the electronic custody record data was undertaken using SPSS and R statistical software. Significance threshold was set to $p < .05$ throughout. From our analysis of 51,105 custody records (44,055 adults, 3,328 vulnerable adults, and 3,722 children) drawn from eight police force areas, we report on the following areas of activity in relation to adults, vulnerable adults, and children:

- Proportion of cases where detention was refused by a custody officer.
- Request rates for legal advice – broken down into types of offence, gravity scores, and age.

- Average time spent in police custody, including overnight stays, and with differences observed based on ethnicity, time of detention and time spent based on type of offence.
- Whether force was used prior to detention.
- Police strip searches of suspects.
- Case outcomes, both on suspects' release from police custody and later on in relation to 'final' case outcome. Case outcomes are further analysed in relation to age, gender, if legal advice was requested, and in relation to case outcomes.
- Changes in the volume of cases and the average length of time suspects were detained during the pandemic.

Authorising Detention

Police custody officers have the power not to authorise the detention of someone arrested and brought into custody if they deem it unnecessary, but we found that this occurred in less than 1% (0.8%) of cases. A breakdown by police force can be seen in Table 2. Demographic information about the individuals for whom detention was not authorised was not consistently available.

Legal Advice

The eight forces were only able to provide information about whether or not legal advice was requested, not whether it was actually received, whether there was a change of mind, and what form it was received in. This is a caveat to hold in mind as our models and statistics can only assess factors associated with requesting legal advice, not whether it was received. In total, 80.2% of children, 80.6% of vulnerable adults, and 59.5% of adults requested legal advice. This is considerably higher than the average request rate identified in 2009, when 45% of both children and adult suspects requested legal advice.²⁵ It is anticipated that with fewer people now being brought into custody, particularly children, those detained are more likely to be dealt with for more serious and complex offences, in which cases suspects are more likely to request legal advice. In addition, there is a pilot project running in London and other police force areas in which there is a presumption that children who are detained will have legal advice.

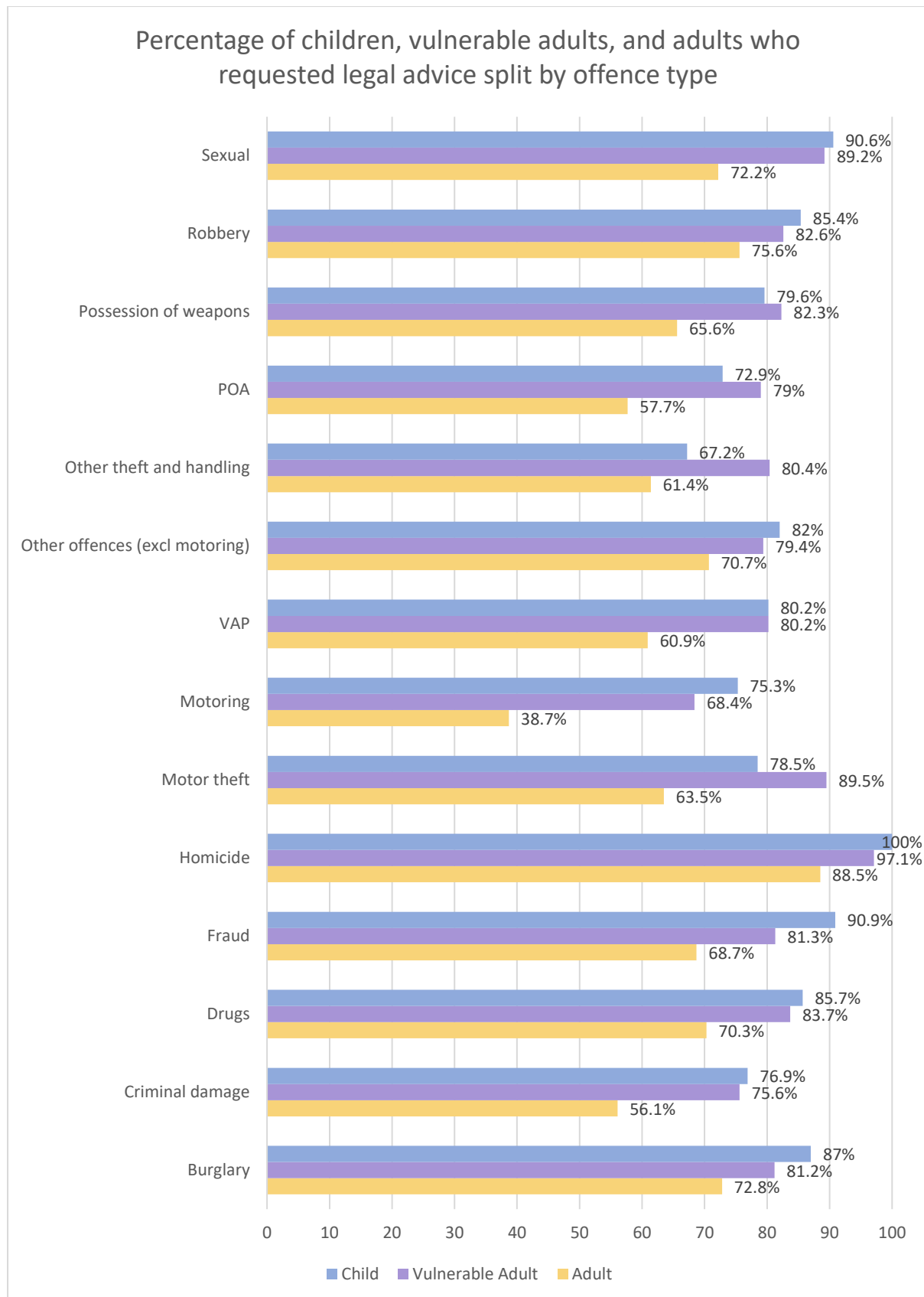
²⁵ Kemp, V., Pleasence, P. and Balmer, N.J. (2011) Children, young people and requests for police station legal advice: 25 years on from PACE. *Youth Justice*, 11(1), 28–46.

Table 7. Percentage of adults and children who requested legal advice

Force	Adults	Vulnerable Adults	Children
A	59.8%	79.7%	82.9%
B	52.8%	86.7%	75.0%
C	59.8%	79.1%	91.8%
D	63.9%	81.7%	87.6%
E	62.3%	84.5%	86.1%
F	55.2%	80.3%	69.2%
G	57.0%	65.0%	74.4%
H	64.1%	81.5%	80.4%
% in total sample	59.5%	80.6%	80.2%

Figure 6 indicates the percentage of children, vulnerable adults and adults who requested legal advice, split by offence type. Children who were arrested for homicide requested legal advice in 100% of cases, whilst the least frequent legal advice requests were for other theft and handling (67.2% request rate). Homicide was also associated with the highest percentage of legal advice requests for Vulnerable Adults (97.1%) and adults (88.5%).

Figure 6. Percentage of children, vulnerable adults and adults who requested legal advice, split by offence type



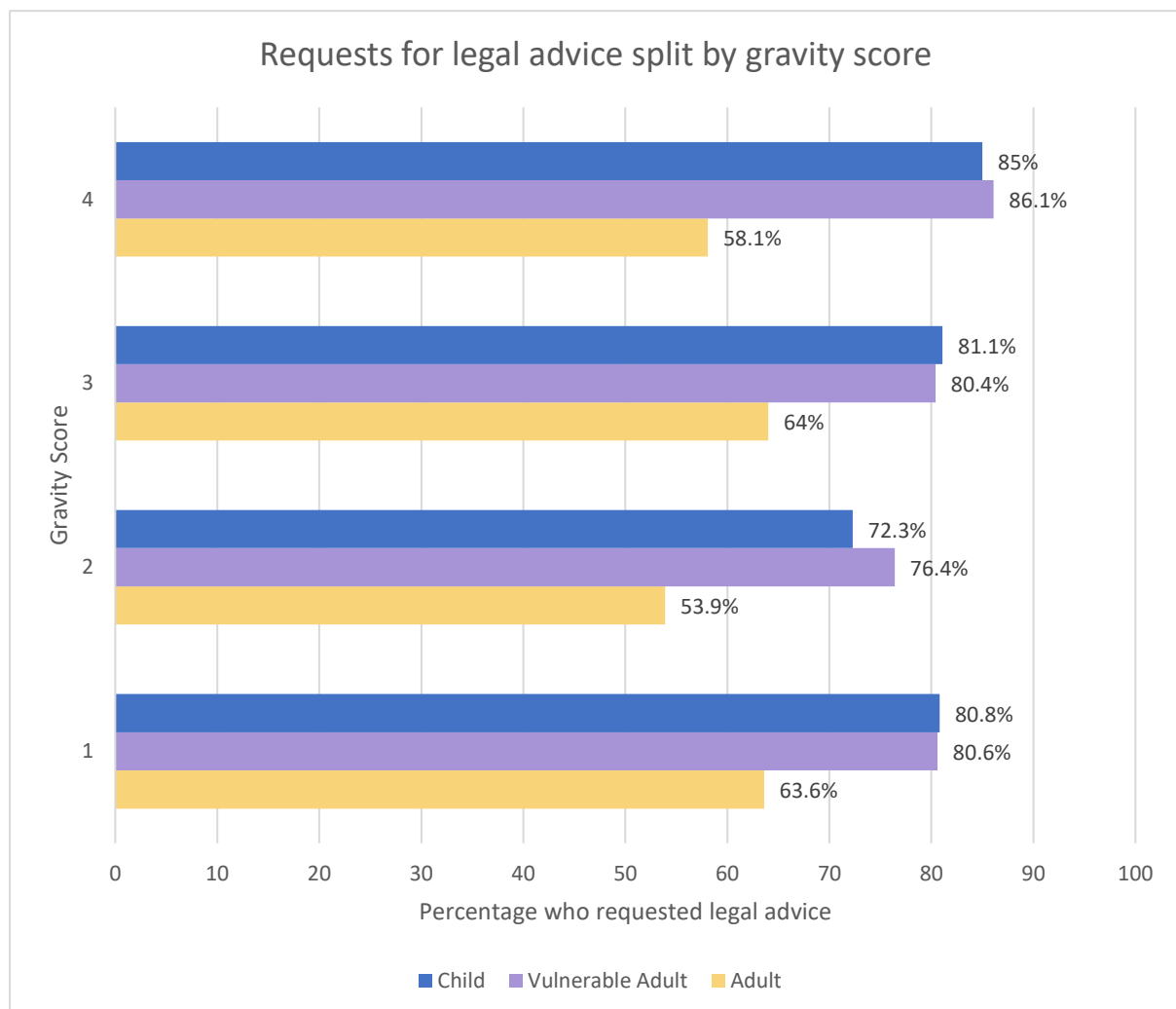
Note: ‘POA’ are Public Order Act offences and ‘VAP’ are violence against the person.

Females requested legal advice less frequently than males (Children: 73% of females and 81.7% of males, Vulnerable Adults: 78.4% of females and 81.1% of males, Adults: 56.8% of females vs 60.0% of males). This difference could be associated with the offence types and severity of offences.

By ethnicity overall, 60.7% of White people requested legal advice, compared to 72.0% of Asian people and 72.3% of Black people. There were similar findings when examining 2009 custody records, with Black, Asian and minority ethnic detainees, and particularly Black people, being more likely to request legal advice, which was felt to reflect greater mistrust of the police.²⁶

Figure 7 illustrates legal advice requests by gravity score. Gravity score didn’t have as consistent an impact on legal advice requests as we had initially expected, possibly due to the erroneous nature of gravity score calculation as described above.

Figure 7: Legal advice requests by children, vulnerable adults, and adults, split by gravity score



²⁶ Pleasence, P., Kemp, V. and Balmer, N.J. (2011) *The justice lottery?: Police station advice 25 years on from PACE*. Criminal Law Review, 2011(1).

Note: a higher gravity score indicates a more serious offence .

Also of note is that amongst children, a higher proportion of older children requested a lawyer (see table 8). Importantly, as found when analysing 2009 custody records²⁷, 10- to 13-year-olds are least likely of all children to request legal advice. We assume that this difference is due to younger children being more likely to have a parent or carer attend as their appropriate adult and, not knowing how a lawyer can help them, they are less likely to encourage their child to request legal advice. As children get older, they are more likely to have an agency appropriate adult and they are trained to require a lawyer to be involved when dealing with under 18 year olds. It would be helpful to record electronically the type of appropriate adult involved so that we can analyse what difference this can make to the take-up of legal advice.

Table 8: Requests for legal advice by children according to age

Age	Proportion who requested a lawyer
10–13	73.1%
14	76.6%
15	77.4%
16	81.9%
17	83.8%

Statistical Models for legal advice. We ran three logistic regression models (one for children, one for vulnerable adults, one for adults) to test which factors were significantly statistically associated with requesting legal advice. This allows us to input multiple variables and assess their influence in the presence of other variables. For the purposes of the model, we grouped offences into acquisitive crime (burglary, fraud, theft of motor vehicles and other theft/handling); violent offences (including offences against the person, robbery, and possessing a weapon); sexual offences; drug offences; criminal damage; motoring offences; and other offences (including Public Order Act offences and other offences). Other offences was used as the reference category for all models. Homicide was not included in the model, due to there being very small numbers in this category. The extent to which force was used prior to detention was coded as no force used, handcuffs to the front, handcuffs to the back and more serious forms of force (such as tasering, incapacitant sprays or other restraining devices to the legs, for example). Requesting legal advice was treated as a binary. The full results can be seen in the statistical appendix, tables 1-3.

We found that Black children were significantly more likely to request legal advice than White children (there was no effect for Asian children), having had handcuffs to the front or back meant that children were more likely to request legal advice than children for whom

²⁷ Kemp, V., Pleasence, P. and Balmer, N.J. (2011) Children, young people and requests for police station legal advice: 25 years on from PACE. *Youth Justice*, 11(1), 28–46.

no force was used, and those who were detained for drug offences or sexual offences were more likely to request legal advice than those detained for other offences.

For vulnerable adults, only having 'more serious force' used before detention, and being detained for sexual offences were associated with an increased likelihood of requesting legal advice. This could be a feature of the high legal advice request rates anyway within this group. Being detained for motoring offences compared to other offences meant individuals were significantly less likely to request legal advice.

For adults, there were considerably more significant associations (possibly due to the increased sample size being powered to detect more effects). Being Black, and being Asian (compared to being White) increased odds of requesting legal advice. Younger adults were more likely to request legal advice than older adults. All three vulnerability flags (suicide, self-harm, and drugs) were associated with greater odds of requesting legal advice, as were all three categories of force used before detention (handcuffs front, handcuffs back, and more serious force) compared to no force used. Being detained for acquisitive, drug related, and sexual offences were associated with more legal advice requests than other offences, and criminal damage or motoring offences were associated with lower odds of requesting legal advice compared to other offences.

Duration of Detention

Police forces provided a detention duration variable, which was the PACE clock. Time spent in detention not on the PACE clock (e.g., when remanded, or having a medical visit) was therefore not included. It is notable here that vulnerable adults spent the longest time in police custody, an average of 16 hours and 48 minutes compared to 13 hours and 54 minutes for adults not identified as vulnerable, and 11 hours and 36 minutes for children. A full breakdown of the average time spent in police custody by force is provided in table 9.

Table 9: Average number of hours spent in custody by police force.

Force	Adults (hours)	Vulnerable Adults (hours)	Children (hours)
A	14.9	17.7	11.9
B	12.4	16.2	10.5
C	13.4	16.3	10.1
D	14.1	16.6	11.4
E	13.9	15.7	11.0
F	14.5	19.7	13.2
G	10.9	11.7	9.4
H	14.7	17.3	12.2
average in total sample	13.9	16.8	11.6

Note: 0.1 of an hour is 6 minutes.

According to the Home Office definition of an overnight stay (spending a minimum of 4 hours in custody and at least part of this period being between 00:00 and 04:00 – regardless of when they came into custody) - 53.6% of children, 67.5% of vulnerable adults, and 61.3% of adults had an overnight custody stay. This is higher than the 45% of children found to be held overnight in police custody in the Home Office analysis of custody-record data from 26 police forces in 2022.²⁸

Significantly more Black and Asian children had an overnight stay when compared to White children ($\chi^2 = 9.276$, $p = .010$): 58% of Asian children, 59% of Black children and 52% of White children had an overnight stay.

Likewise, there were significant differences amongst adults ($\chi^2 = 6.127$, $p = .047$). However, here, White adults were more likely to have an overnight stay. 60% of Asian adults, 59% of Black adults, and 61% of White adults had an overnight stay.

There were no statistically significant differences by ethnicity for vulnerable adults ($\chi^2 = 1.875$, $p = .392$). However, 69% of Black, 74% of Asian, and 67% of White vulnerable adults had an overnight stay.

²⁸ Home Office (2022) *Police powers and procedures: Other PACE powers, England and Wales, year ending 31 March 2022*. Available at: <https://www.gov.uk/government/statistics/police-powers-and-procedures-other-pace-powers-england-and-wales-year-ending-31-march-2022/police-powers-and-procedures-other-pace-powers-england-and-wales-year-ending-31-march-2022> (Accessed 14 July 2023).

We also examined the time spent in custody depending on the time an individual was detained. Children detained between midnight and 04:00 spent the longest time on average in custody – 14 hours and 48 minutes. Children detained between 08:00 and noon spent the least time in custody on average - 9 hours and 18 minutes. This pattern is similar for adults and vulnerable adults, where being brought in between 08:00 and noon was associated with the shortest custody stays (14.1 hours for vulnerable adults and 12.1 hours for adults). Figure 8 illustrates this.

Figure 8: Time spent in custody by children, vulnerable adults and adults dependant on time brought into custody

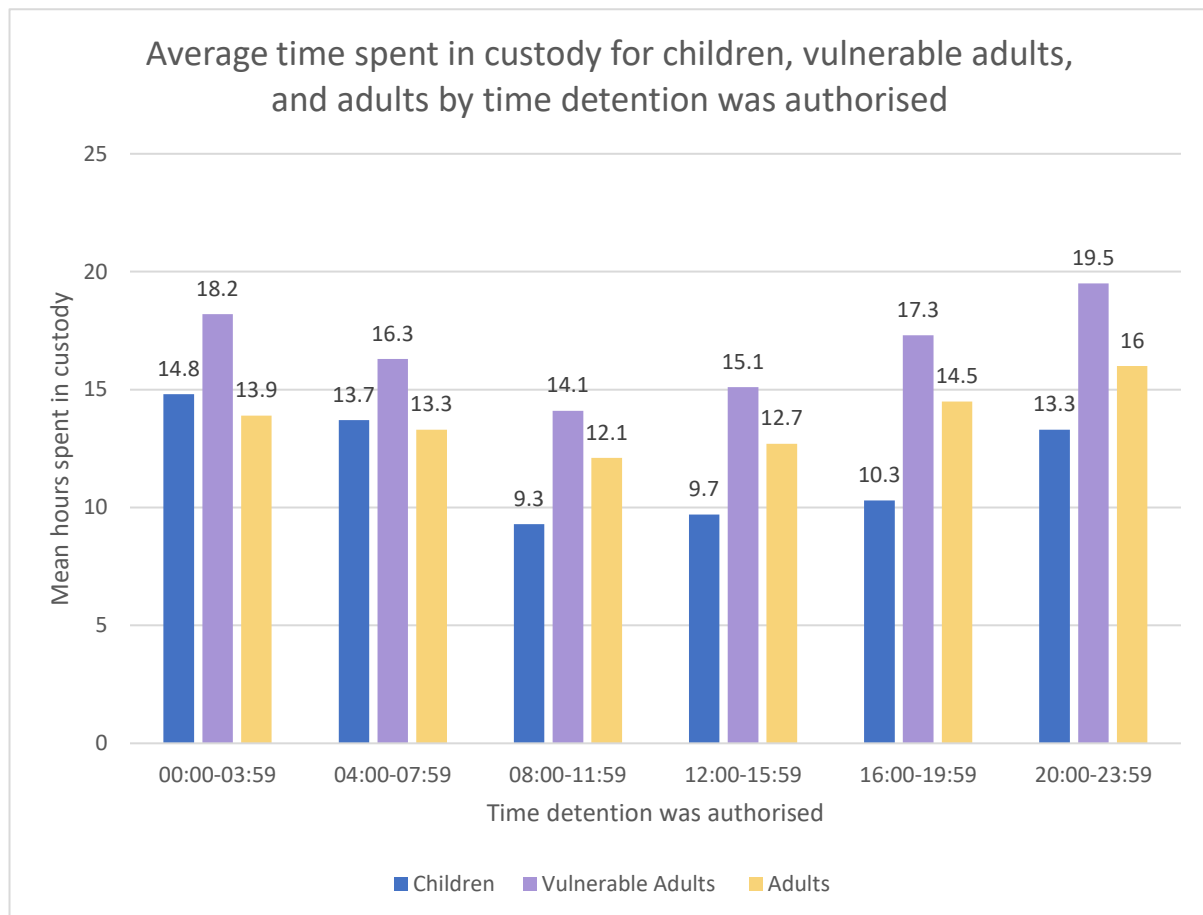
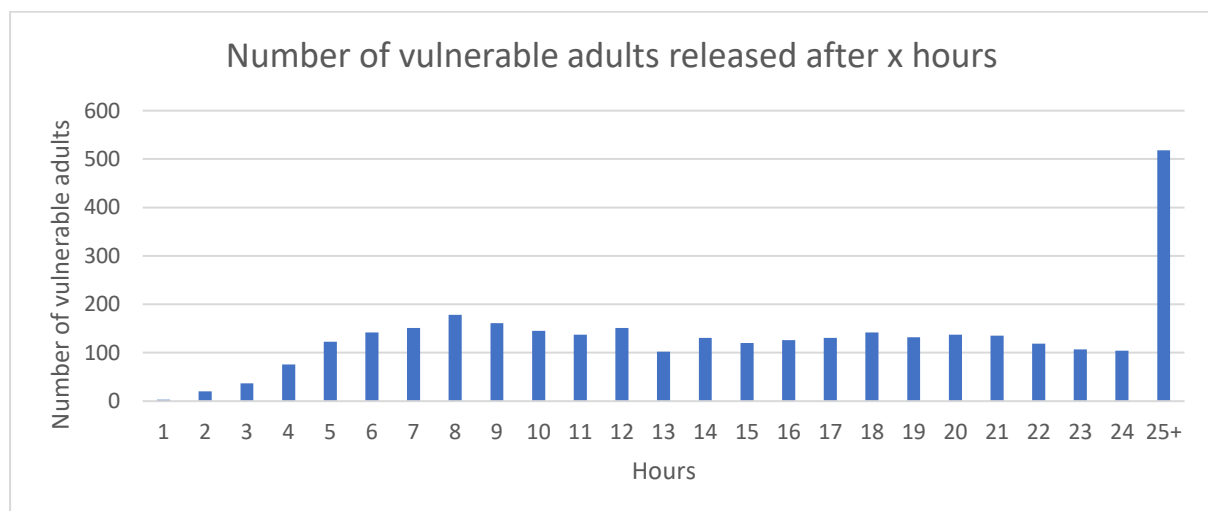
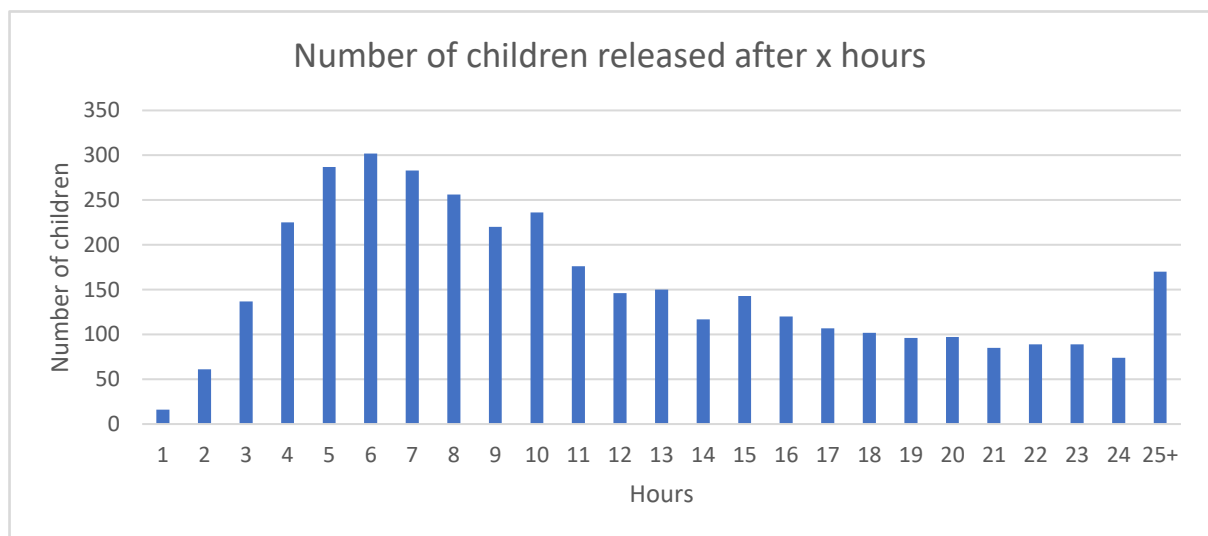
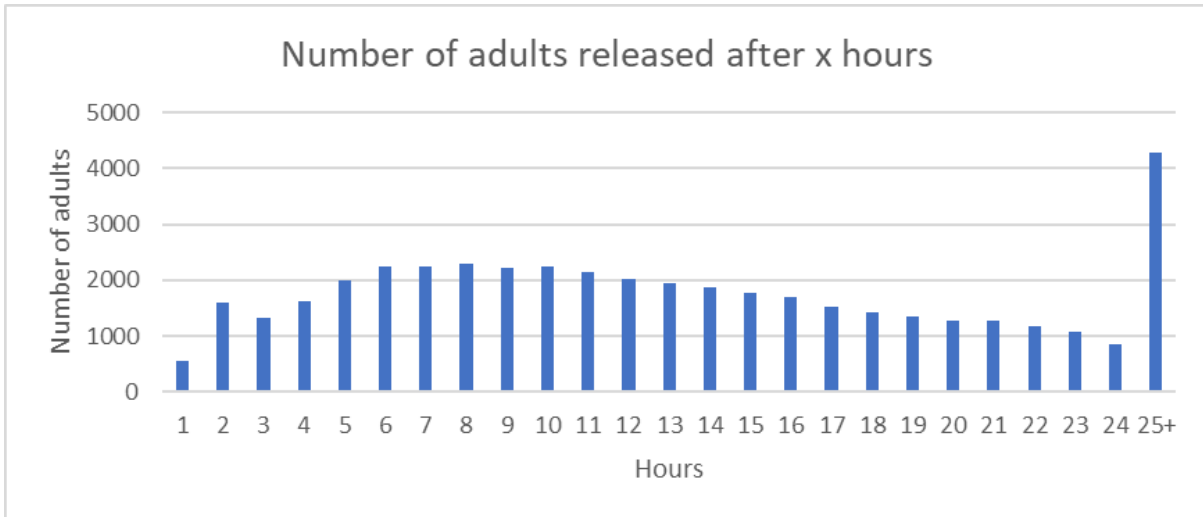


Figure 9 shows the number of children, vulnerable adults, and adults released after X number of hours. Custody reviews occur at 6, 15, and 24 hours. Research has identified inspectors’ reviews of detention to be a perfunctory exercise, not having an impact on the release time of suspects.²⁹ While the highest number of children were released after spending 6 hours in custody(the time of the first inspector’s review), there is no spike in the release of children at this time, or at the 15-hour review, which we would expect if the reviews were effective in helping to expedite cases.

Figure 9: Number of children, vulnerable adults, and adults released after being detained for X number of hours

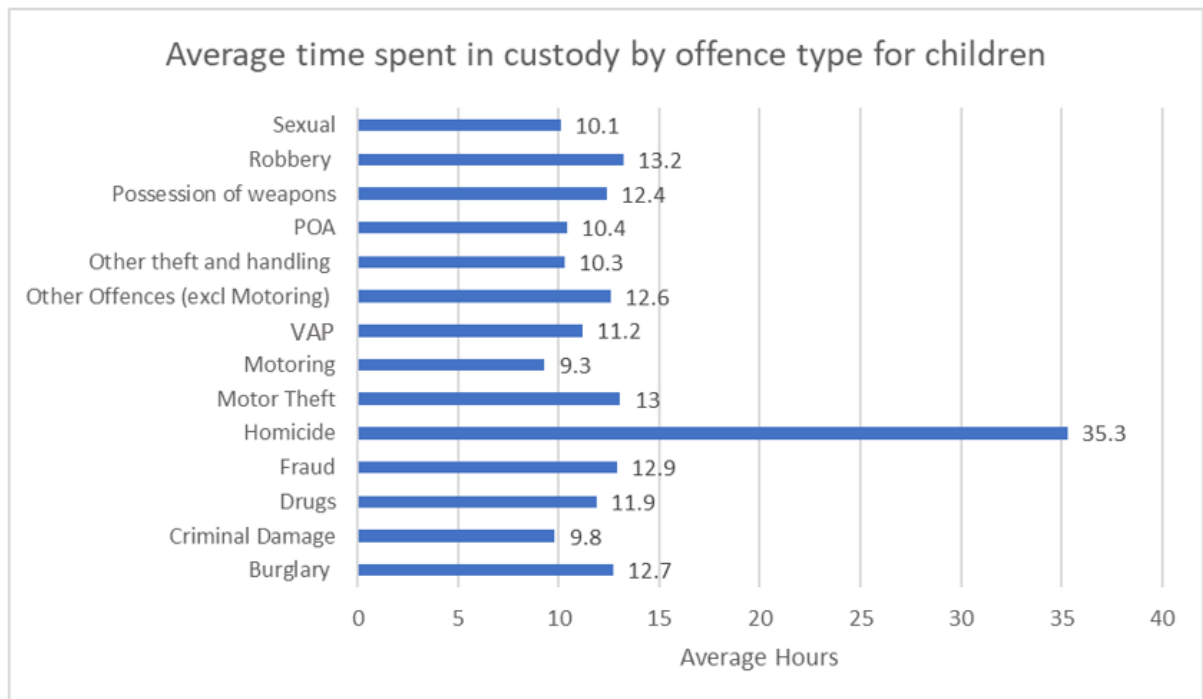


²⁹ Kemp, V. (2020) Authorising and reviewing detention: PACE safeguards in a digital age. *Criminal Law Review*, 2020(7), 569–584.



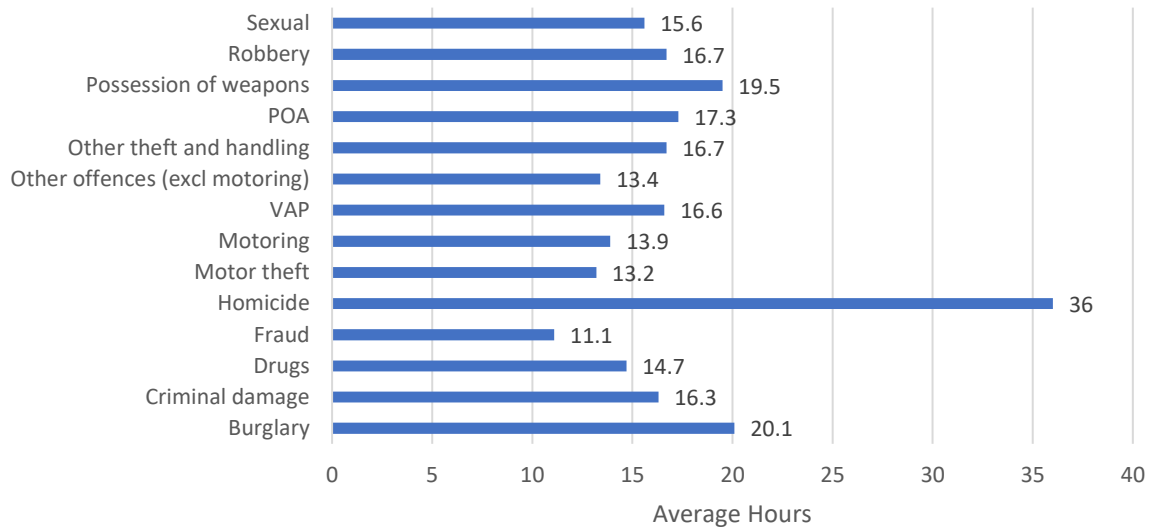
It is only possible to consider the potential impact of the inspectors’ reviews on the detention when comparing this data with earlier 2009 records.³⁰ In 2009, it was noted that 47% of all detainees were released within 6 hours compared to 21% in our study. In addition, the proportion of those released between 6 and 14 hours in 2009 was 34%, compared to our 39%; the proportion of those released between 15 and 24 hours was 14% in 2009, compared to our 31%. A total of 5% of detainees in the 2009 study were held in custody in excess of 24 hours, compared to 10% in this study.

Figure 10: Average time spent in custody by offence type

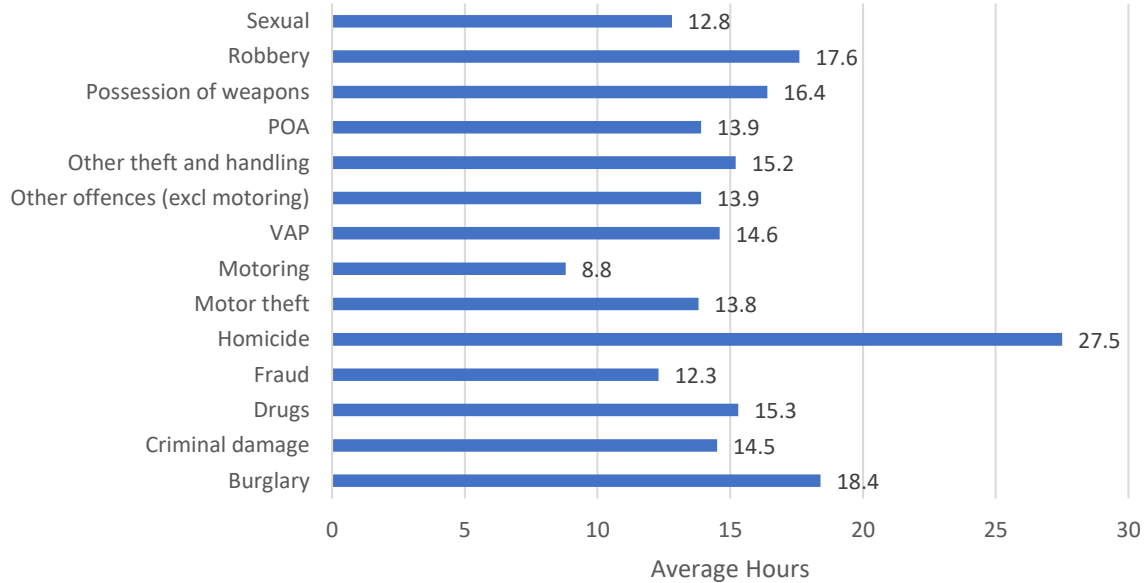


³⁰ Kemp, V., Pleasence, P. and Balmer, N.J. (2012) Whose time is it anyway? Factors associated with duration in police custody. *Criminal Law Review*, 2012(10), 736–752.

Average time spent in custody by offence type for vulnerable adults



Average time spent in custody by offence type for adults



Statistical models for time spent in custody. We conducted a multiple linear regression to establish which demographic, offence-related, and contextual factors were statistically significantly associated with time spent in custody, for those detained from 30 minutes to 96 hours. Those arrested for homicide offences were removed from the analysis, as this is a statistical outlier for time spent in custody and would skew results. As before, we grouped offences into acquisitive crime (burglary, fraud, theft of motor vehicles and other theft/handling); violent offences (including offences against the person, robbery, and possessing a weapon); sexual offences; drug offences; criminal damage; motoring offences; and other offences (including Public Order Act offences and other offences). Other offences was used as the reference category for all models. The full models can be found in the statistical appendix, tables 4-6.

We found that older children were detained longer – a one year increase in age was associated with a 43 minute longer stay on average. Ethnicity had no impact on detention duration. Being arrested for motoring offences or criminal damage offences was associated with shorter times in custody than other offences. Children who requested legal advice spent significantly longer in custody (140 minutes on average longer), and use of handcuffs to the front or rear before being brought into custody was also associated with longer stays.

For vulnerable adults, requesting a solicitor was associated with custody stays an average of 182 minutes longer than those who did not request a solicitor. Being arrested for drug offences was associated with shorter stays in custody than other offences. Having had handcuffs used to the front or rear was associated with longer stays in custody compared to having had no force used.

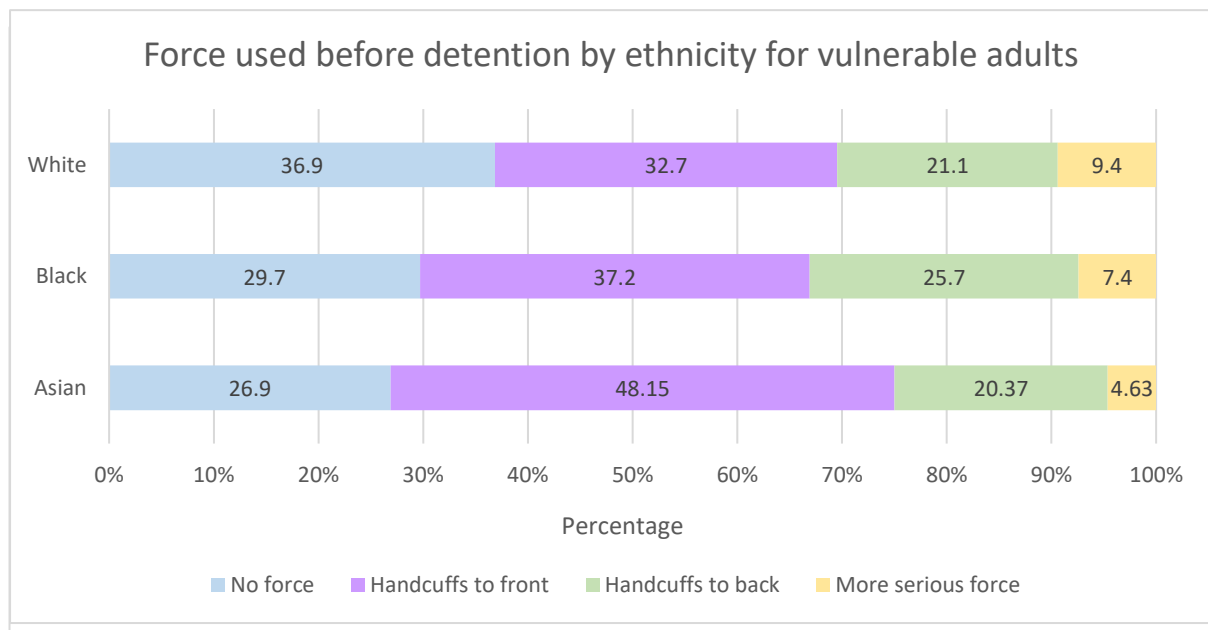
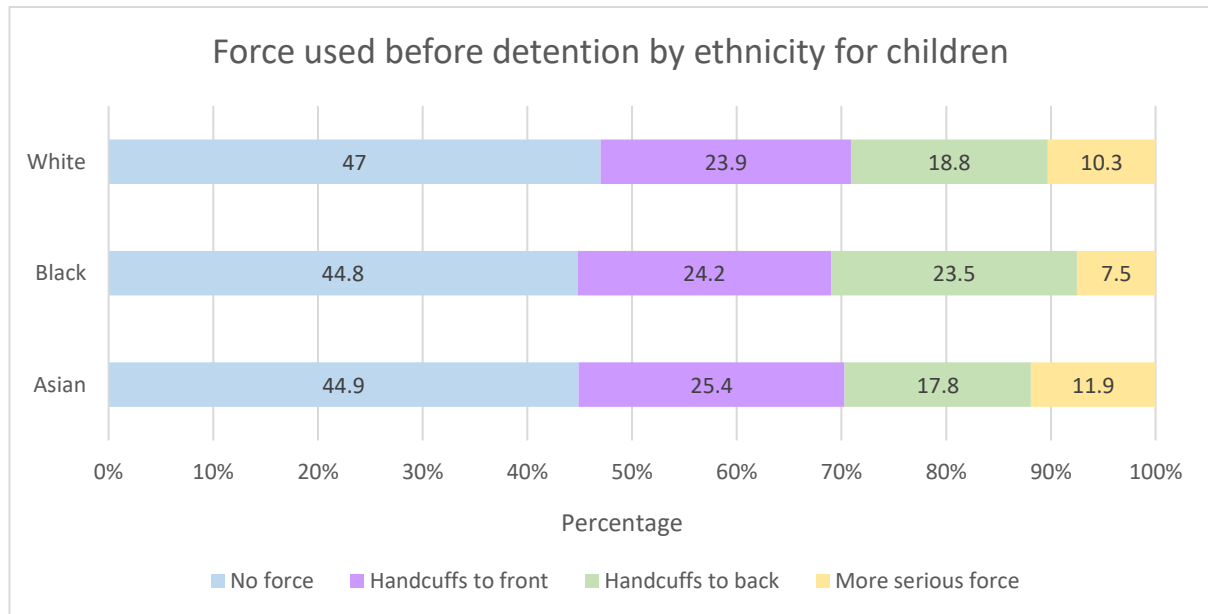
For adults, there were more statistically significant associations (again, likely due to having more statistical power). Being male was associated with longer stays in custody, and older adults spent longer in custody than younger adults. All three tested vulnerability flags (suicidality, self-harm, and drugs) were associated with longer custody stays. All three levels of force used (handcuffs front, back, and more serious force) were associated with longer stays in custody than having had no force used. Requesting a solicitor was associated with being in custody 298 minutes longer (on average). Drug offences and acquisitive offences were associated with longer stays in custody. Those who had ‘more serious force’ (such as incapacitant spray, physical restraint holds) used before custody spent an average of 359 minutes (almost six hours) longer in custody than those who had no force used on them. Speculatively, this may be because they were arrested for more serious crimes, and because they may have been in a heated emotional state when brought into custody and so left to ‘cool off’ of a period of time.

Force used before detention

We grouped this into four categories: no force used, handcuffs to front, handcuffs to back, and then more serious force which includes incapacitant sprays, leg restraints, taser devices, and other.

By ethnicity. Figure 11 illustrates force used before detention by ethnicity for children, vulnerable adults, and adults.

Figure 11: Force used before detention by ethnicity for children, vulnerable adults, and adults



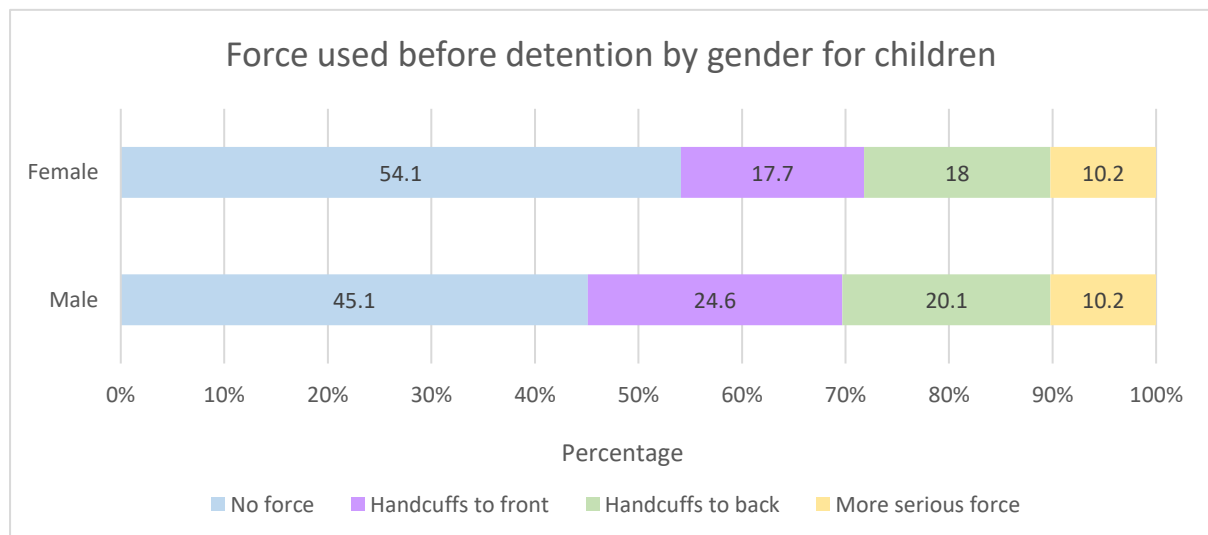
While the differences are small, there were statistically significant differences between ethnic groups for children ($X^2 = 33.0, p = <.001$). White children were less likely to have force used when brought into custody than Black and Asian children. A similar proportion of all children had handcuffs to the front, which is not as restrictive as being handcuffed to the rear. For Black children, they were more likely than White and Asian children to have handcuffs to the rear, although they were less likely to have more serious force used than White and Asian children.

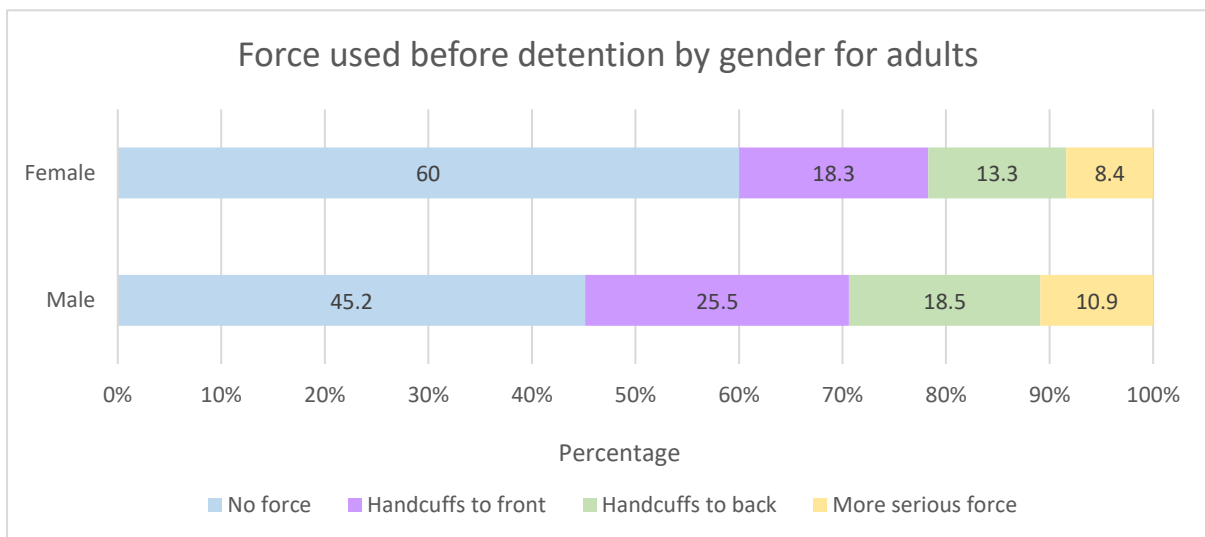
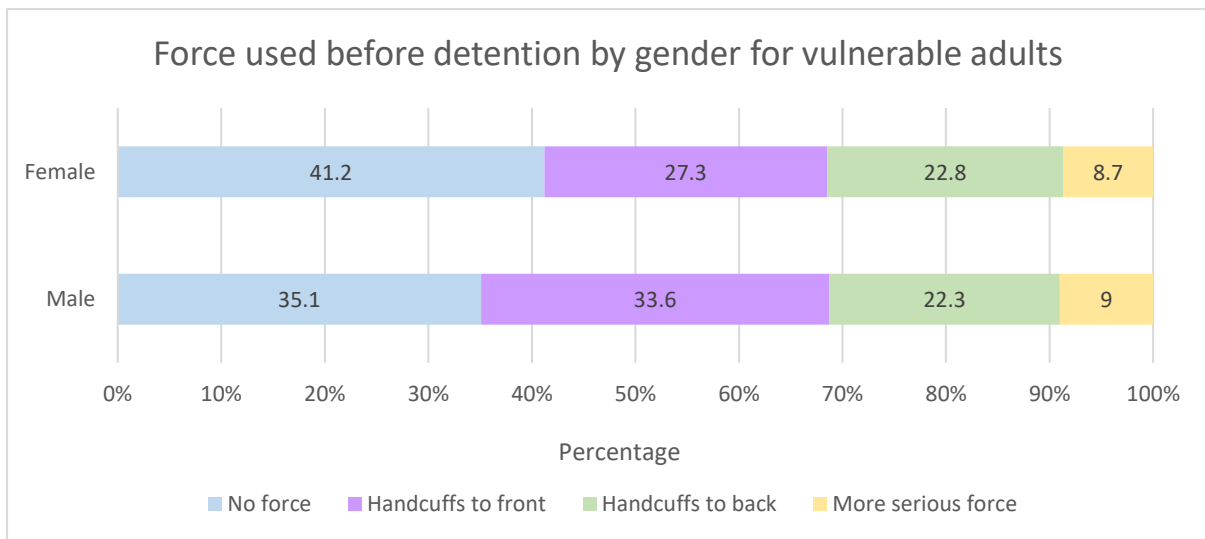
There were also significant differences by ethnicity for vulnerable adults ($X^2 = 17.2, p = .009$). Most notably, White vulnerable adults were least likely to have no force used before detention, but also had the highest proportion of most serious force used. Asian vulnerable adults were most likely to have had handcuffs to the front.

Differences between groups for adults were also statistically significant ($X^2 = 155.1, p <.001$). For adults, Asian people were again most likely to have had handcuffs used to the front, and White people were most likely to have had more serious force used. Black people were least likely to have had no force used, and a higher proportion had handcuffs used to the back (a more restrictive form of restraint than handcuffs to the front).

By Gender. We also examined force used before detention by gender. Figure 12 illustrates this.

Figure 12: Force used before detention split by gender for children, vulnerable adults, and adults





There were significant differences by gender for children ($X^2 = 25.2, p = <.001$). For girls, while a higher proportion had no force used when first brought into custody and in having handcuffs to the front, a similar proportion had handcuffs to the rear and the same proportion had more serious force used when comparing girls and boys.

For vulnerable adults, differences by gender were not statistically significant ($X^2 = 17.9, p = .119$).

Differences by gender for adults were statistically significant ($X^2 = 525.9, p = <.001$) Females were more likely to have had no force used, whilst a higher proportion of males had handcuffs to the front, handcuffs to back, and more serious force used.

Strip Searches

A binary variable indicating whether or not an individual was strip searched was available for 7 out of the 8 forces included in this analysis. Set out in Table 10 is the proportion of strip searches carried out on adults, vulnerable adults, and children, also broken down into gender, and ethnicity.

Table 10: Strip searches by adults, vulnerable adults, and children

Strip searches	Adults	Vulnerable adults	Children
Male	9.9%	7.5%	8.1%
Female	9.2%	7.0%	4.9%
White	8.6%	6.2%	6.7%
Black	15.7%	10.4%	10.9%
Asian	7.7%	7.8%	11.2%
All	9.8%	7.4%	7.5%

We conducted three logistic regression models to test which factors were statistically significantly associated with being strip searched, in the presence of all the other variables in the model. The full models can be found in the statistical appendix, tables 7-9.

We found that for children, the strongest predictor of being strip searched was having committed a drugs offence compared to other offences (odds ratio = 14.6). Having had handcuffs to the back used was associated with being strip searched compared to having had no force used (odds ratio = 3.5), and being Black was associated with being strip searched compared to being White (odds ratio = 2.6). There was no significant effect of being Asian compared to being White.

For vulnerable adults, having had handcuffs to the front (odds ratio 3.2) or back (odds ratio 5.6) was significantly associated with being strip searched. Additionally, having been arrested for a drugs offence was significantly associated with being strip searched (odds ratio 2.9), as was being Black compared to White (odds ratio 2.7). There was no significant effect of being Asian compared to White.

For adults, factors significantly associated with being strip searched included being female rather than male (odds ratio 0.7), being younger (odds ratio 0.9), being Black as opposed to being White (odds ratio 1.6), having a warning flag for self-harm (odds ratio 1.7), having a warning flag for drugs (odds ratio 2.1), and having any of the three forms of force used rather than no force used (handcuffs front odds ratio 2.4, handcuffs back odds ratio 3.8, more serious force odds ratio 3.9). In terms of offence types, being arrested for acquisitive or drug

offences was associated with increased odds of being strip searched (acquisitive odds ratio 2.7, drugs odds ratio 9.4), whereas violent offences were associated with lower odds of being strip searched (odds ratio 0.7). Again, being Asian was not statistically significantly associated with being strip searched.

Case Outcomes

Initial disposals, when suspects were released from police custody, were provided by six of the eight forces, and a 'final' disposal by all eight. Note that whilst we use the terminology 'final disposal' these files can be left open indefinitely, and this is just indicative of what the most up to date disposal was at the time when data were pulled from the police system (between February and December 2022). Those cases from 2019 will have therefore had more time to resolve than cases from 2021, which must be noted as a limitation. Some cases when suspects were 'released under investigation' therefore exist in the 'final' disposals, as these remain unresolved at the time data were collected. These outcomes are displayed for English and Welsh forces as well as overall, as there appears to be significant difference in policy across England and Wales in relation to the final use of out-of-court disposals in police custody.

Table 11: Percentage of adults, vulnerable adults, and children with each first disposal outcome, broken down by English and Welsh forces.

First Disposals		Adults	Vulnerable Adults	Children
No Further Action	English Forces	18.4%	19.2%	16.6%
	Welsh Forces	25.9%	24.2%	18.5%
	Total	19.4%	19.4%	16.8%
Released Under Investigation	English Forces	17.6%	14.9%	20.6%
	Welsh Forces	23.6%	23.3%	43.8%
	Total	18.3%	15.3%	22.1%
Released on Bail	English Forces	17.3%	19.3%	14.4%
	Welsh Forces	18.0%	22.5%	14.5%
	Total	17.4%	19.5%	14.4%
Charge	English Forces	38.2%	40.1%	20.2%
	Welsh Forces	25.2%	23.3%	8.2%
	Total	36.4%	39.3%	18.9%
Out of Court Disposal	English Forces	7.2%	5.4%	1.2%
	Welsh Forces	6.8%	6.7%	12.8%
	Total	7.1%	5.5%	2.5%

Note: percentages may not sum to 100, as some had other disposals such as being transferred to another force. Also note that for first disposals, only one Welsh force provided data so this may not be representative.

Table 12: Percentage of adults, vulnerable adults, and children with each final disposal outcome, broken down by English and Welsh forces.

Final Disposals		Adults	Vulnerable Adults	Children
No Further Action	English Forces	50.0%	52.1%	58.5%
	Welsh Forces	48.9%	53.3%	46.4%
	Total	49.9%	52.1%	55.5%
Released Under Investigation	English Forces	6.1%	5.3%	5.8%
	Welsh Forces	1.3%	1.7%	2.2%
	Total	5.7%	5.1%	4.9%
Charge	English Forces	34.5%	34.0%	21.1%
	Welsh Forces	36.6%	35.8%	22.2%
	Total	34.7%	34.1%	21.4%
Out of Court Disposal	English Forces	6.0%	5.8%	11.2%
	Welsh Forces	8.6%	9.2%	22.2%
	Total	6.3%	5.9%	14.0%

Note: percentages may not sum to 100, as some had other disposals such as being transferred to another force.

There are important differences when comparing case outcomes with the findings based on adults and children in our 2009 custody records³¹. In relation to the final disposal, for example, the proportion of cases where ‘no further action’ is taken has increased significantly from 32% in 2009 for both adults and children to 50% for adults and 56% for children in this study. This is a surprising finding when taking into consideration the significant reduction in the number of children brought into police custody, particularly when it is those being dealt with for the most serious offences who are now more likely to be detained. The proportion of adults and children charged, or who receive an out-of-court disposal has reduced over time. In 2009, for example, 49% of adults and 42% of children were charged and 19% and 26% received an out-of-court disposal³¹. In this study, 35% of adults and 21% of children were charged, and 6% of adults and 14% of children received an out-of-court disposal.³²

It is when examining the out-of-court disposals we can see the Welsh forces using this disposal more often than the English forces. While the difference for adults is 6% of forces using an out-of-court disposal in England compared to 9% in Wales, and 6% for vulnerable adults in England compared to 9% in Wales, for children this rises from 11% in England compared to

³¹ Kemp, V., Pleasence, P. and Balmer, N.J. (2011) Children, young people and requests for police station legal advice: 25 years on from PACE. *Youth Justice*, 11(1), 28–46. <https://doi.org/10.1177/1473225410394288>

³² There was no information available on ‘vulnerable adults’ in the 2009 data.

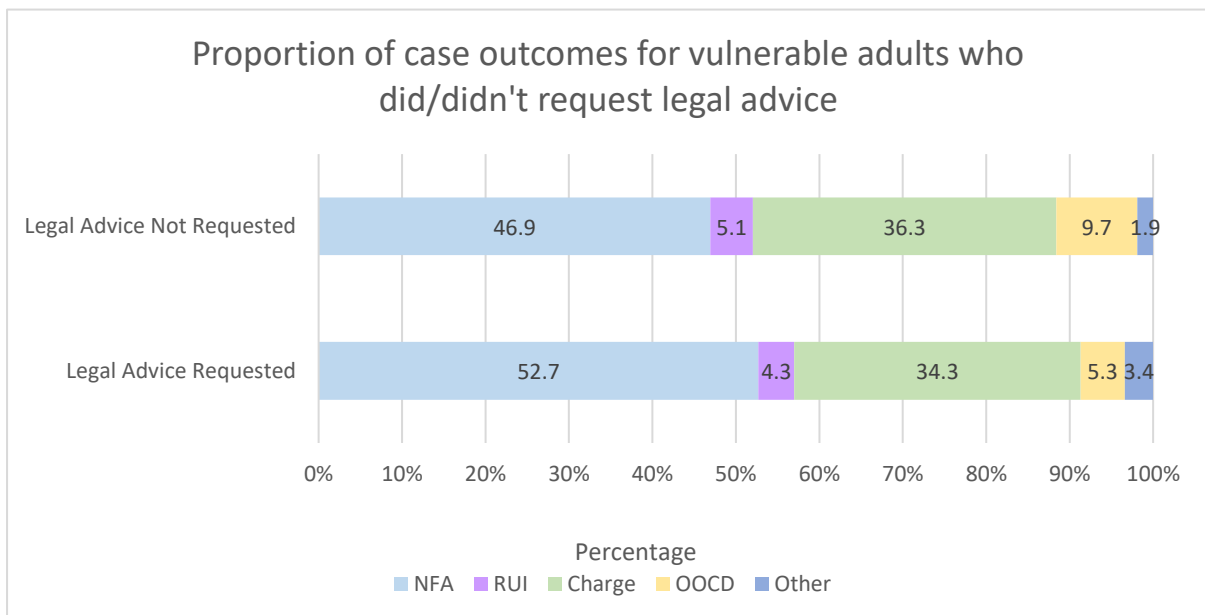
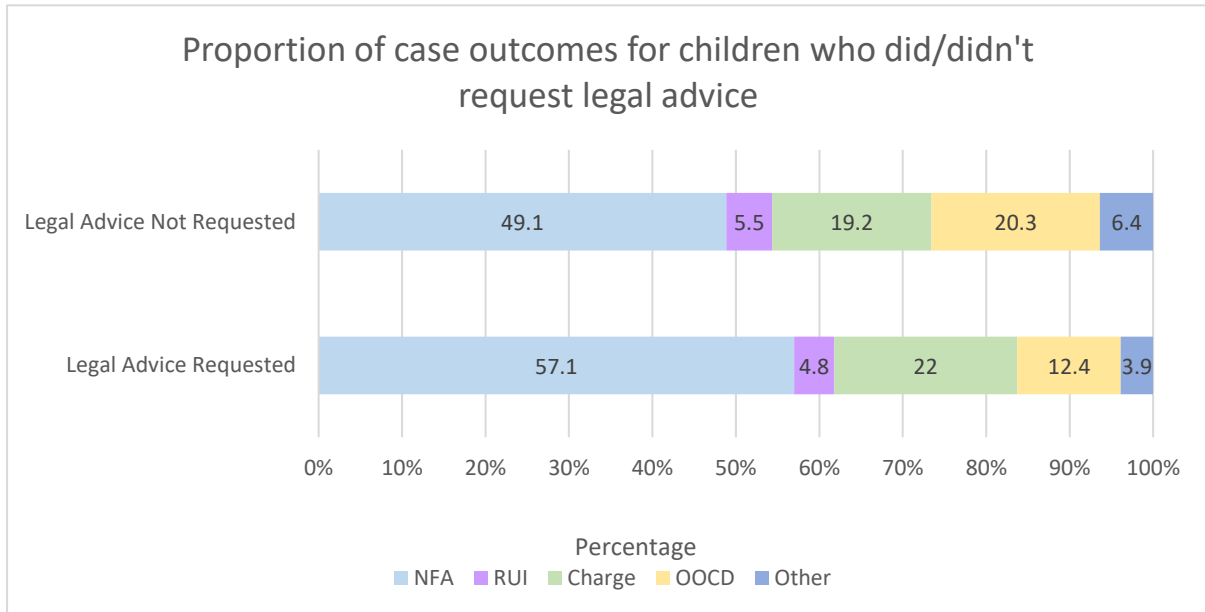
22% of Welsh forces. With a similar proportion of children being charged in England and Wales, it is important to consider further any differences in the way the police, lawyers, and appropriate adults deal with children in the police interview in Wales, that might have an impact on the outcome of cases.

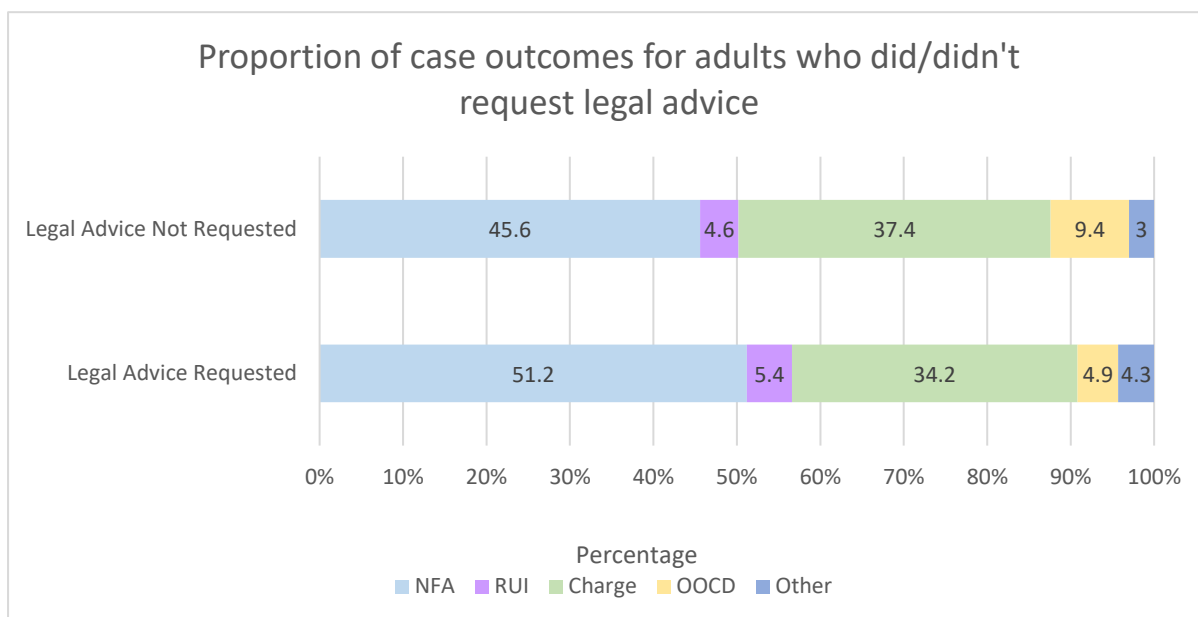
Table 13: Time spent in custody by first disposal type for children, vulnerable adults, and adults

First Disposal Type	Mean detention time (hours)		
	Adults	Vulnerable Adults	Children
No Further Action	10.2 hours	11.4 hours	8.9 hours
Released Under Investigation	10.1 hours	11.8 hours	8.9 hours
Released on Bail	13.6 hours	14.4 hours	12.4 hours
Charge	17.7 hours	21.9 hours	14.9 hours
Out of Court Disposal	9.6 hours	10.2 hours	8.4 hours

For all detainee types, those who received an Out of Court Disposal as their first disposal type spent the shortest period of time in custody, whilst those who were charged spent the longest time in custody.

Figure 13: Case outcomes for children, vulnerable adults, and adults who did, and did not request legal advice



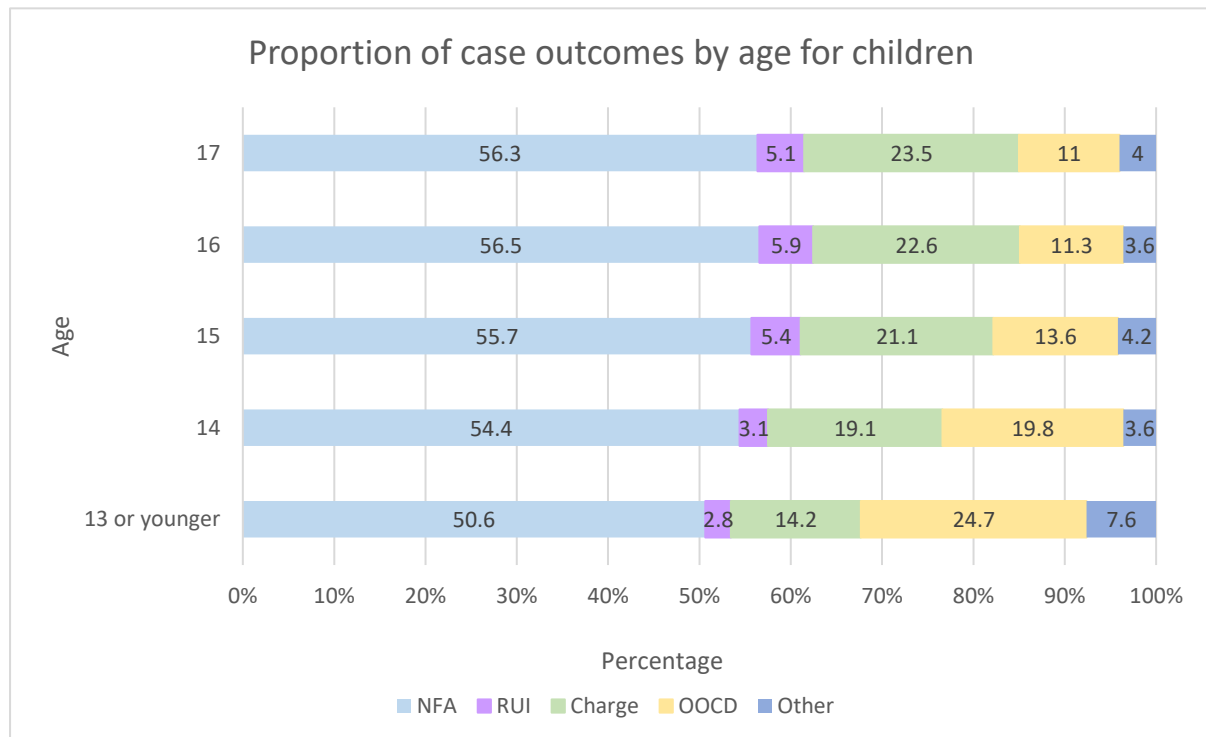


We can see that children who requested legal advice were more likely than those who did not to have no further action taken (57% compared to 49%). There was little difference in the proportion of cases charged depending on whether a lawyer was requested (at 19% and 22%), but there is a significant difference in the proportion who received an out-of-court disposal, being 20% of those without legal advice and 12% of those who requested a lawyer. Differences in case outcomes based on legal advice requests were statistically significant ($X^2 = 43.1, p < .001$). While it might be assumed that child suspects are less likely to be given an opportunity to be diverted from court when having legal advice, it could be that lawyers are less likely to advise their client to accept an out-of-court disposal unless the offence is admitted and the police have shown that they have sufficient evidence to take the case to court. These are legal criteria that have to be met before an out-of-court disposal can be imposed, and questions arise about the extent to which a child is able to take such criteria into account when accepting such a disposal. It would be helpful if there was a review of out-of-court disposals so that there was confidence that these disposals were being imposed only when the legal criteria were met.

Differences for vulnerable adults ($X^2 = 24.7, p < .001$), and adults ($X^2 = 500.4, p < .001$) were also statistically significant, and followed a similar pattern wherein those who requested legal advice had more cases where 'no further action' was taken as their final case outcome. Likewise, a higher proportion of those who did not request legal advice had out of court disposals.

For children, we provide a breakdown of case outcomes at final disposal by age in figure 14.

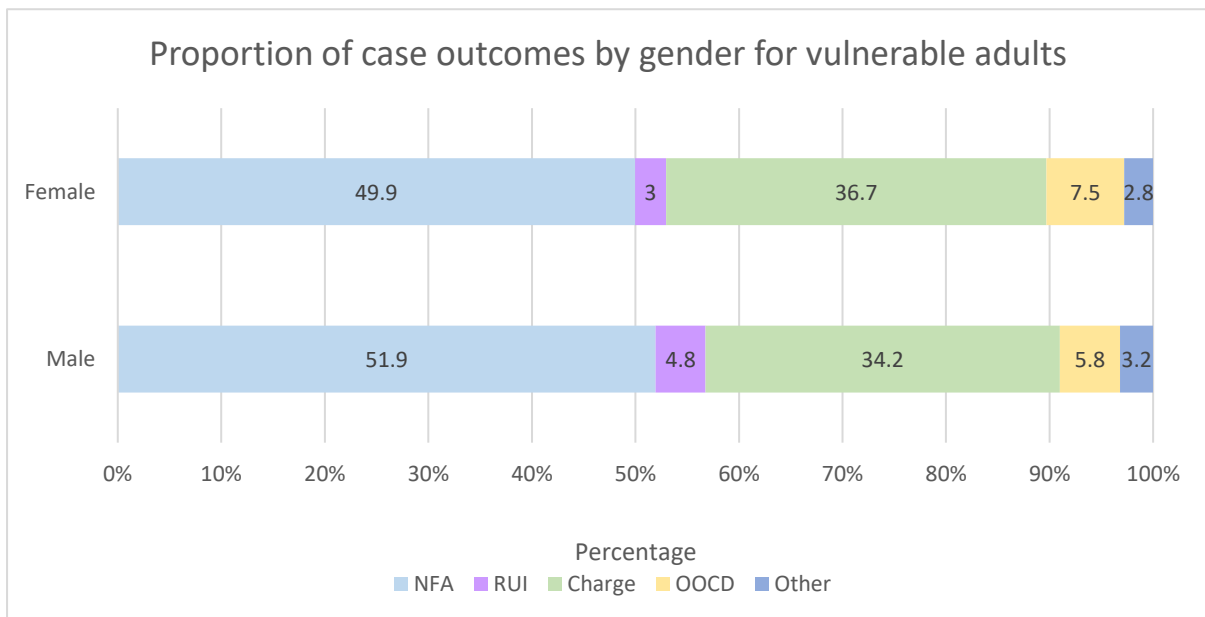
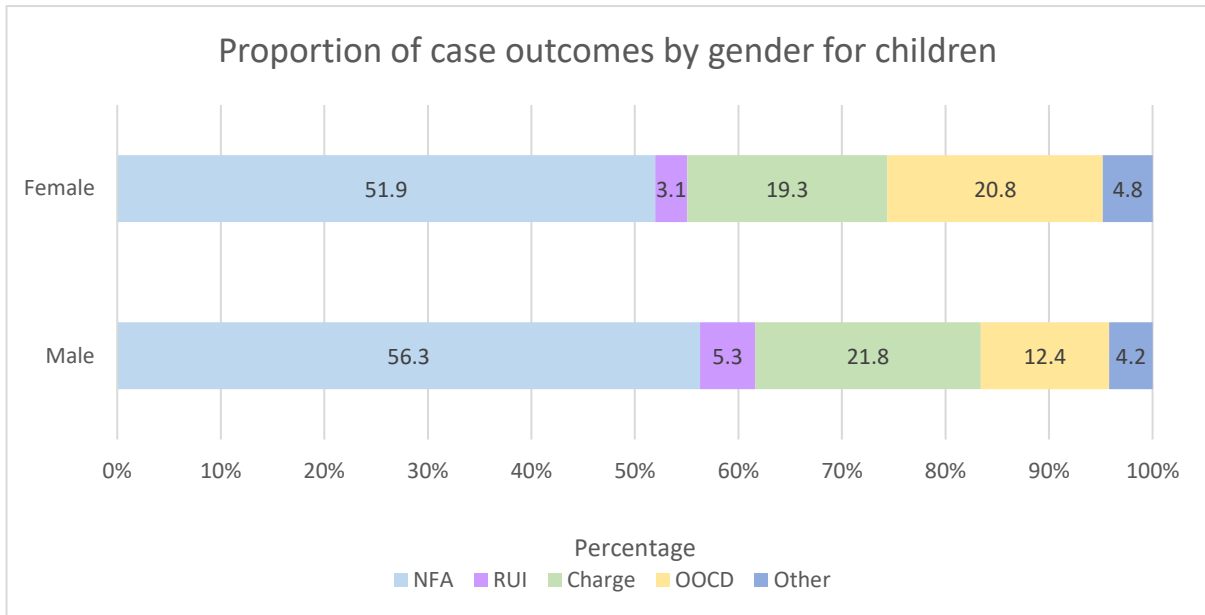
Figure 14: Proportion of case outcomes at final disposal by age for children

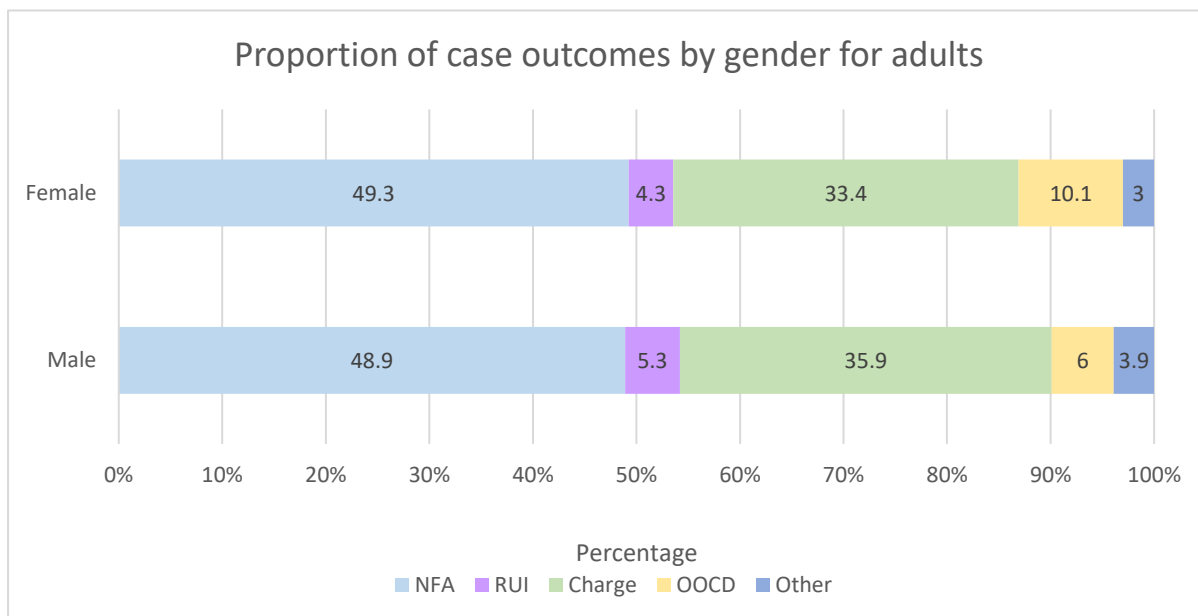


There were significant differences by age for case outcomes ($\chi^2 = 84.3, p = <.001$). It is of concern to note that children aged 10 to 13 years of age are less likely to have no further action taken than older children. This was also the finding in 2009, when 10 to 13-year-old children were found to be least likely of all age groups to have a lawyer,³³ which is also the finding in this study. While 10 to 13-year-old children were less likely to be charged and more likely to receive an out-of-court disposal than older children, the same proportion of this age group and 14-year-olds received both disposals at 39%. The proportion of children charged increases with age and the proportion overall who are charged or receive an out-of-court disposal reduces, to 35%, 34% and 35% for 15, 16 and 17-year-olds respectively.

³³ Kemp, V., Pleasence, P. and Balmer, N.J. (2011) Children, young people and requests for police station legal advice: 25 years on from PACE. *Youth Justice*, 11(1), 28–46.

Figure 15: Final case outcomes by gender for children, vulnerable adults, and adults



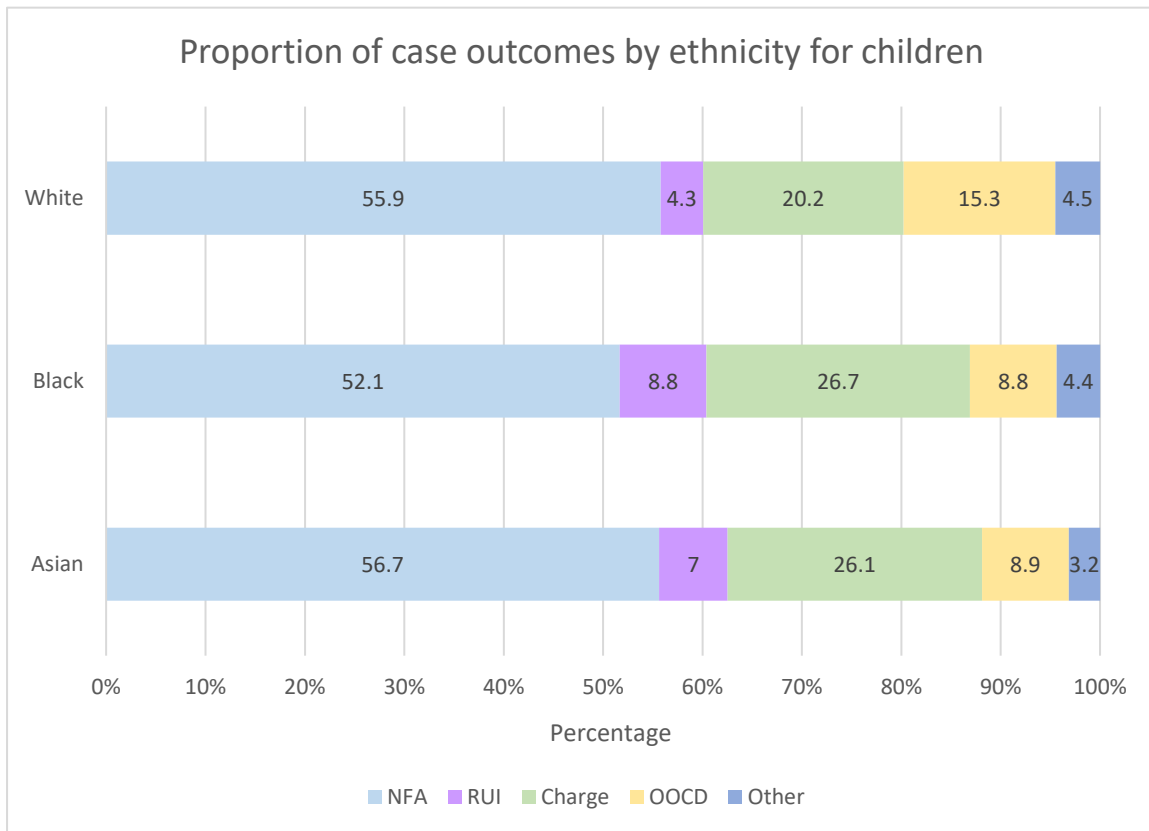


Amongst the children in this sample, with girls being arrested for less serious offences than boys, it would be expected that more boys than girls would be charged, which with a difference of just 2% is not really the case. For girls, not only are a higher proportion receiving an out-of-court disposal than boys, 21% compared to 12%, overall, it is concerning to note that 40% of girls received formal action from the police compared to just 34% of the boys. Differences between genders for case outcomes for children were statistically significant ($X^2 = 37.2, p < .001$).

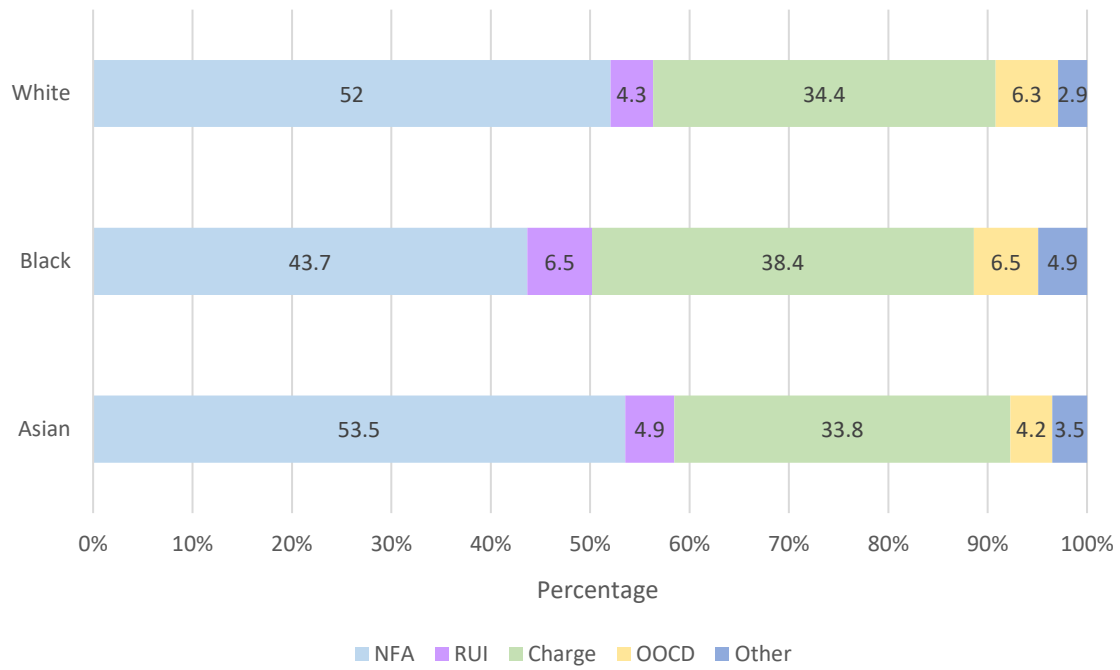
Differences by gender for vulnerable adults were not statistically significant ($X^2 = 10.7, p = .827$).

Differences by gender for adults were statistically significant ($X^2 = 191.0, p < .001$), with the main differences being that females received out of court disposals at higher rates than males, with fewer charges, likely reflective of less serious crimes.

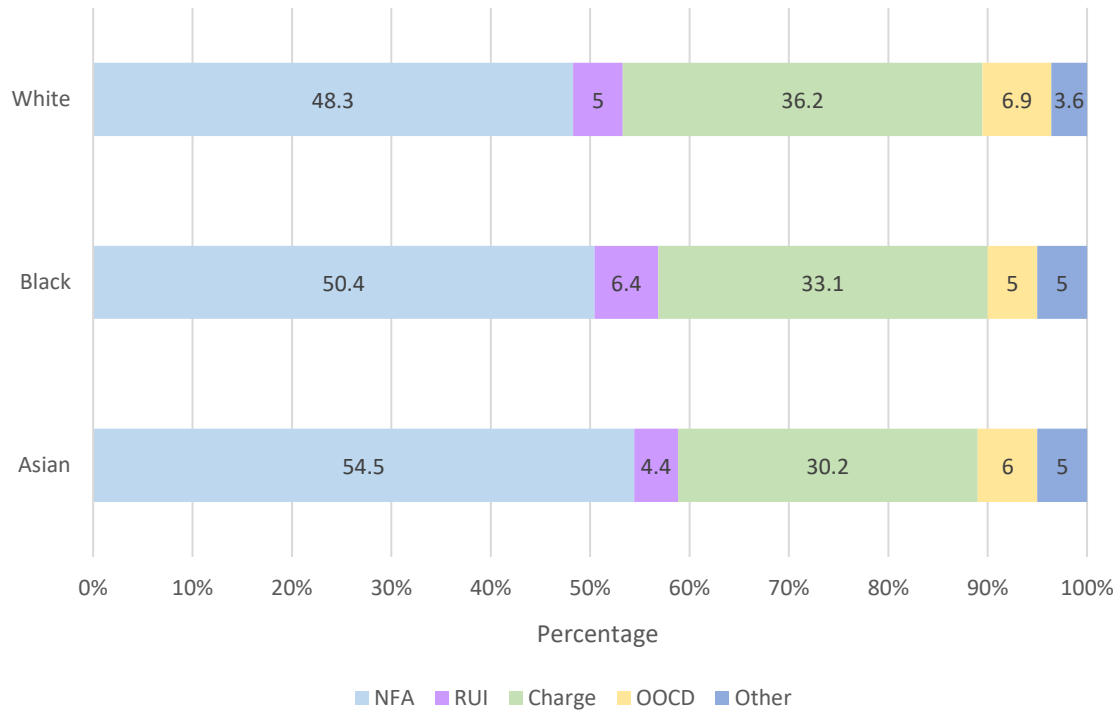
Figure 16: Case outcomes by ethnicity for children, vulnerable adults, and adults



Proportion of case outcomes by ethnicity for vulnerable adults



Proportion of case outcomes by ethnicity for adults



While White and Asian child suspects had a similar proportion of cases where no further action was taken, at 56% and 57% respectively, this was less for Black suspects at 52%. Most significantly, we can see that White child suspects are less likely to be charged at 20% than Black or Asian children, at 27% and 26% respectively. While White, Black, and Asian child suspects all had a similar proportion of cases where formal action was taken, at 36% for White and Black children and 35% for Asian children, the proportion of White children receiving an out-of-court disposal sat at 15%, compared to just 9% for Black and Asian child suspects. Differences in case outcomes by ethnicity were statistically significant ($X^2 = 56.2$, $p < .001$). This suggests the potential for racial bias within police decision-making when considering case outcomes, which requires further exploration.

Differences in case outcome by ethnicity for vulnerable adults were not statistically significant ($X^2 = 14.5$, $p = .264$).

For adults, these differences in case outcomes by ethnicity were statistically significant ($X^2 = 133.5$, $p < .001$). A lower proportion of Black and White suspects received no further action than Asian suspects, and White suspects received the highest proportion of charges (36.2%) followed by Black suspects (33.1%).

Police Custody During the Pandemic

With our custody record spanning the time of the COVID-19 pandemic, it is important to consider what impact this might have had on this data and on the people in custody. We collected data only from two months per year – March and September 2019/2020/2021. This is not granular enough to be able to track the changes in volume of people detained in custody during the pandemic, as any changes may have had a delayed impact on the data. It is possible that the nature of cases changed (e.g., people detained for remaining in a public place during a “stay at home” order and a higher volume of domestic violence cases), but we do not have the data required to confirm this. Additionally, changing policy landscapes regarding the detention of children may have had an impact on the volume brought into custody over and above the effect of the pandemic. However, the latter must be considered as a confounding feature of the data, and collection of more data over the next few years will help to elucidate what a return to “normal” looks like. Summary plots of the variations in the numbers of adults, vulnerable adults, and children brought into custody are given in Figure 17, and summary plots showing changes in the average time spent in custody are given in Figure 18.

Figure 17: Volume of adults, vulnerable adults, and children brought into custody in March and September 2019 (pre-pandemic), 2020 (early pandemic), and 2021 (1+ year into the pandemic)

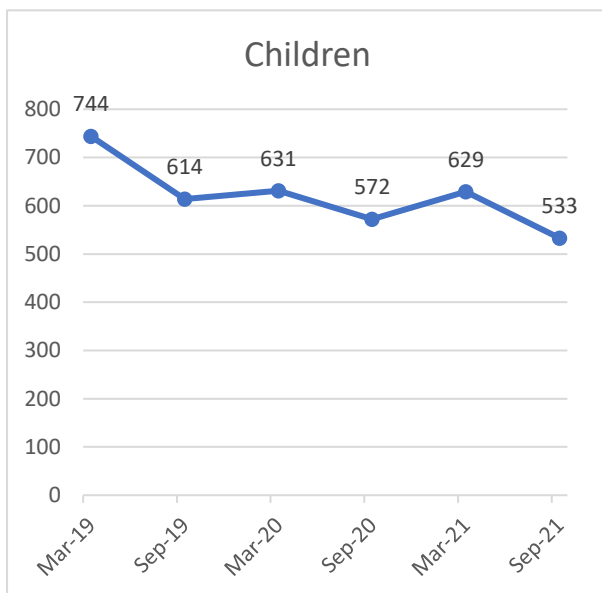
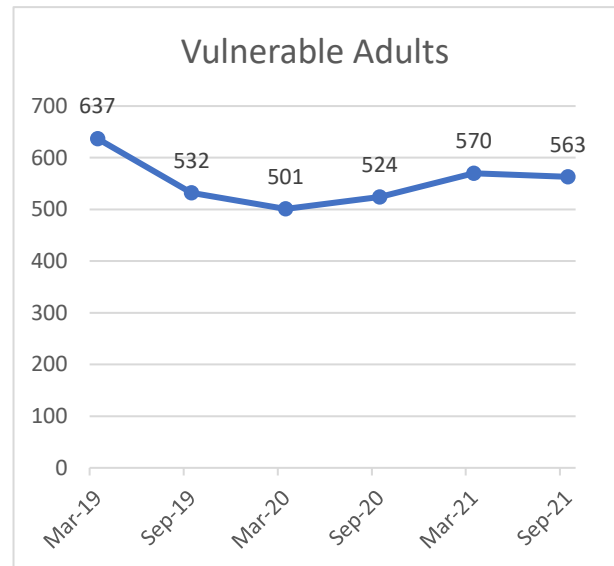
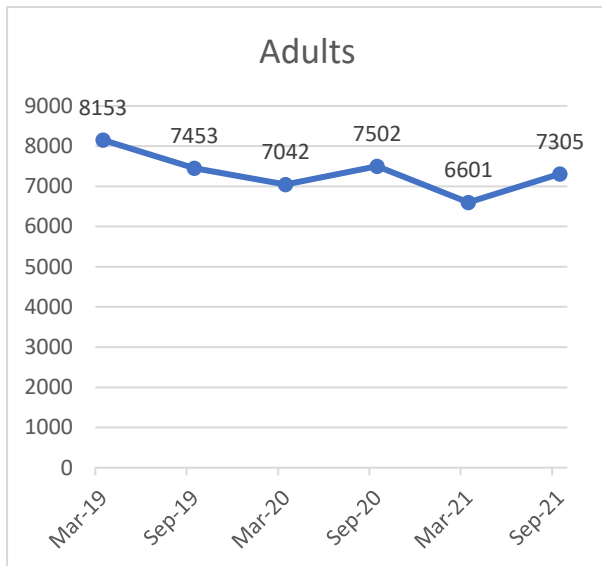


Figure 18: Average time spent in custody for adults, vulnerable adults and children in March and September 2019 (pre-pandemic), 2020 (early pandemic), and 2021 (1+ year into the pandemic)



Note: For average time spent in custody homicide cases have been excluded, as they are likely to skew these averages.

Discussion

The findings presented highlight the importance of analysing and reporting on electronic custody record data for individuals arrested and detained by the police. While individual police forces are responsible for collecting and storing this data, it is important that forces are required to provide regular reports so that this can be monitored centrally. For the Ministry of Justice, for example, it is only from these electronic records we know the request rate for police station legal advice, although we do not know if the advice requested was received. It is also of concern to note that as forces are not required to report on the take-up of legal advice, three forces were unable to provide us with this information electronically. The data also provides information relating to PACE safeguards, including the authorisation and length of detention, vulnerability flags relating to those detained, the extent to which force is used prior to detention, and how many strip searches are undertaken. Importantly, the electronic custody records also provide details of case outcomes, both on release from custody and, later on, when the case is finally dealt with. With electronic data available on individuals, for the first time, we have shown how the data can be analysed in relation to children, vulnerable adults, and adults, as well as by gender and ethnicity. With the regular monitoring and reporting of this data at both a national and local level, this would help in providing strategic oversight of legal safeguards for people held in police custody.

For the analysts, a key finding in this study has been the lack of consistency in the recording of data by police forces, with no standardisation currently required in relation to the collection of core data, such as the type of offence. There is also no consistency required in the categories used when recording an individual's ethnicity, which has led to our having to report narrowly on three categories of White, Black, and Asian. Our inability to include in our analysis the category of 'mixed ethnicity' is of concern when statistics have shown that this group of children are overrepresented in most stages of the criminal justice system.³⁴

There are also gaps in the collection of data by forces that needs to be addressed as a matter of urgency. For the Ministry of Justice, for example, not only is it not known whether legal advice requested was received, there is also no information available on whether the lawyer was present in the police interview and, if so, if this was in person or remotely. With lawyers increasingly providing remote police station legal advice, this is important information that the Ministry will require if deciding to charge different rates depending on whether advice was provided in person or remotely.

It is also known that looked after children are overrepresented in the criminal justice system but there is no requirement to electronically record the status of a looked after child in the custody records. Also, in relation to PACE safeguards, it would be helpful to know the type of appropriate adult involved, i.e., whether this was a family member/carer or friend or an agency representative. Capturing data on vulnerability is another area where there is a lack

³⁴ Fraser, K. (2022) *Annual statistics: a youth justice system failing Black children*: Available at: <https://www.gov.uk/government/news/annual-statistics-a-system-failing-black-children> (Accessed 10 July 2023).

of consistency between police forces and, with an increased awareness of issues of neurodisability, it is important that forces are required to collect data on key variables.

The high proportion of cases where ‘no further action’ is taken by the police following detention is a key finding arising out of this study. This raises questions about the efficacy of bringing people into an adversarial system of justice, particularly those who are vulnerable. For children and vulnerable adults, for example, after having come to the attention of the police, no action is taken on their release from custody and the opportunity is missed to provide help and support to address any underlying causes of the offence or their offending behaviour. When comparing case outcomes with those arising out of an analysis of 2009 data,³⁵ we also note that the number of children charged and receiving out-of-court disposals have halved, with a corresponding increase in the number of cases where no further action is taken. This is despite the number of children arrested and detained having fallen significantly over recent years, leading to those being dealt with for more serious offences now being brought into police custody.

This report has arisen out of a collaboration between researchers at the University of Nottingham and the Ministry of Justice. It highlights how electronic custody record data needs to be collected and reported on centrally, providing monitoring data of PACE safeguards and, where new initiatives are being piloted, for this data to be used as part of a project evaluation. Following on from the first study, from 3 July 2023, the Nuffield Foundation have funded a second project to pilot a Child First approach in police custody. It is intended in this project we will request all police forces to provide us with electronic data for 2021/2022 and 2022/2023 and, with permission from individual forces, we intend to share fully-anonymised data with the Ministry of Justice and Home Office so that government analysts can become familiar with the data that is available, the quality of the data, as well as provide guidance to standardise the collection of data by police forces. In collaboration with the Ministry of Justice, we also propose undertaking a feasibility study of bringing custody record data into the Data First initiative, with this important initiative linking administrative data in relation to criminal courts, probation, education, and health.

³⁵ Kemp, V., Pleasence, P. and Balmer, N.J. (2011) Children, young people and requests for police station legal advice: 25 years on from PACE. *Youth Justice*, 11(1), 28–46.

Appendix: Statistical models

Theoretical assumptions

We designed the statistical models according to the assumptions outlined in Figure A2.1. We assume that individual characteristics, past history and the immediate circumstances of the arrest are associated with whether the detainee requested legal advice (the thin arrows represent these relationships).

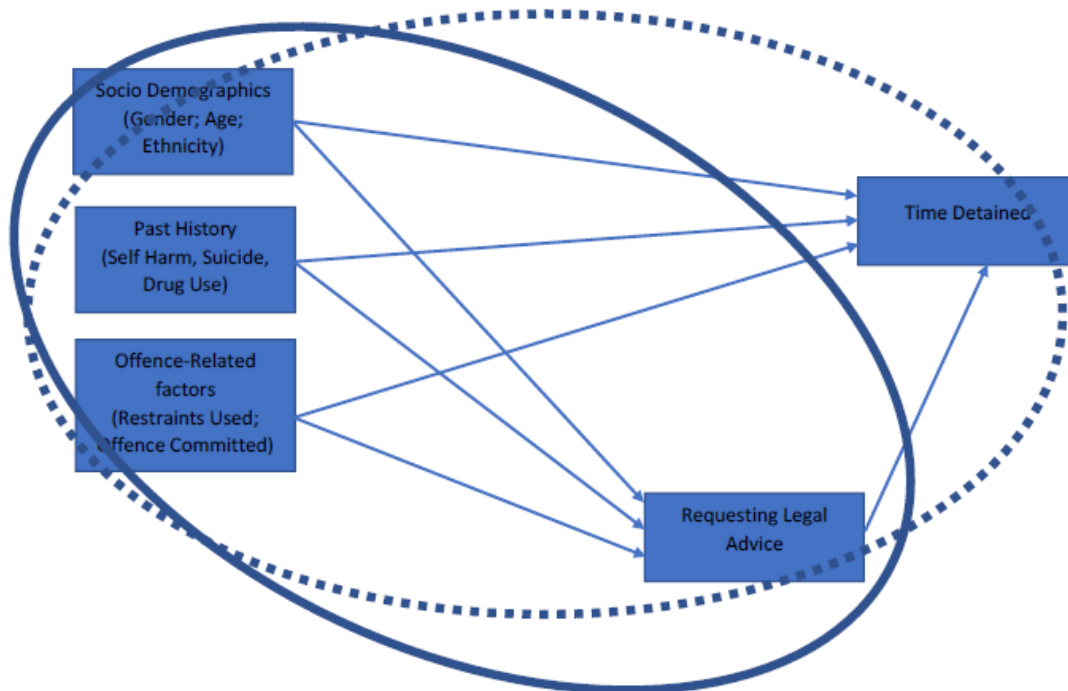


Figure A2.1: Schematic of statistical model structure

Statistical analysis of the electronic custody record data was undertaken using SPSS and R statistical software. Significance threshold was set to $p < .05$ throughout. The following tables detail the results from 6 logistic regression models (to predict legal advice requests in children, vulnerable adults, and adults, and to predict strip searches in children, vulnerable adults, and adults), as well as 3 linear regression models (to predict time spent in custody for children, vulnerable adults, and adults).

The estimate describes the relationship between the predictor and the outcome variables. Standard error is an indicator of the statistical accuracy of the estimate, where larger standard errors indicate less statistical accuracy. A p-value less than .05 indicates statistical significance. In logistic regression models, the odds ratio is a measure of association between the predictor and outcome variable, essentially indicating the size of the effect.

Table 1: Factors associated with requesting legal advice for children in custody

		Estimate	Standard Error	P-Value	Odds Ratio
Gender		.208	.184	.259	1.231
Age		.015	.052	.767	1.015
Ethnicity (White is the reference category)	Black	.744	.295	.012*	2.104
	Asian	.446	.391	.254	1.562
Vulnerability Flags	Self-harm	.192	.210	.359	1.212
	Suicide	-.462	.288	.104	.626
	Drugs	.043	.220	.846	1.044
Force used before custody, (no force used is the reference category)	Handcuffs front	1.078	.167	<.001***	2.940
	Handcuffs back	1.038	.186	<.001***	2.825
	More Serious Force	.619	.774	.424	1.856
Offence Type (Other offences - including Public Order Act offences - is the reference category)	Acquisitive	.154	.210	.463	1.166
	Criminal Damage	.414	.353	.241	1.513
	Drugs	1.007	.414	.015*	2.738
	Motoring	-.438	.414	.290	.645
	Violence	.322	.218	.139	1.380
	Sexual	1.273	.443	.004**	3.572

Note: * indicates p is significant at .05, ** indicates p is significant at .01, *** indicates p is significant at .001.

Table 2: Factors associated with requesting legal advice for vulnerable adults in custody

		Estimate	Standard Error	P-Value	Odds Ratio
Gender		.118	.143	.411	1.125
Age		-.002	.005	.707	0.998
Ethnicity (White is the reference category)	Black	.126	.252	.617	1.134
	Asian	.274	.303	.365	1.315
Vulnerability Flags	Self-harm	.274	.151	.070	1.316
	Suicide	.192	.163	.238	1.212
	Drugs	.059	.173	.735	1.060
Force used before custody, (no force used is the reference category)	Handcuffs front	.254	.141	.071	1.289
	Handcuffs back	.201	.159	.206	1.222
	More Serious Force	1.247	.613	.042*	3.480
Offence Type (Other offences - including Public Order Act offences - is the reference category)	Acquisitive	.270	.200	.176	1.310
	Criminal Damage	-.284	.226	.207	0.752
	Drugs	.472	.366	.198	1.060
	Motoring	-.589	.270	.029*	0.555
	Violence	.143	.156	.362	1.153
	Sexual	.889	.272	.001**	2.433

Note: * indicates p is significant at .05, ** indicates p is significant at .01, *** indicates p is significant at .001.

Table 3: Factors associated with requesting legal advice for adults in custody

		Estimate	Standard Error	P-Value	Odds Ratio
Gender		-0.060	0.042	.153	0.942
Age		-0.003	0.001	.009**	0.997
Ethnicity (White is the reference category)	Black	0.569	0.062	<.001***	1.767
	Asian	0.631	0.061	<.001***	1.880
Vulnerability Flags	Self-harm	0.121	0.046	.008**	1.129
	Suicide	0.208	0.053	<.001***	1.232
	Drugs	0.159	0.046	<.001***	1.172
Force used before custody, (no force used is the reference category)	Handcuffs front	0.362	0.034	<.001***	1.437
	Handcuffs back	0.502	0.040	<.001***	1.652
	More Serious Force	0.430	0.127	<.001***	1.537
Offence Type (Other offences - including Public Order Act offences - is the reference category)	Acquisitive	0.292	0.051	<.001***	1.339
	Criminal Damage	-0.351	0.082	<.001***	0.704
	Drugs	0.429	0.068	<.001***	1.172
	Motoring	-0.529	0.052	<.001***	0.589
	Violence	0.036	0.045	0.419	1.037
	Sexual	0.717	0.073	<.001***	2.048

Note: * indicates p is significant at .05, ** indicates p is significant at .01, *** indicates p is significant at .001.

Table 4: Factors associated with amount of time spent in custody (in minutes) for children

		Estimate	Standard Error	P-Value
Gender		54.165	29.813	.069
Age		42.745	8.040	<.001***
Ethnicity (White is the reference category)	Black	38.535	34.783	.268
	Asian	70.669	50.828	.165
Vulnerability Flags	Self-harm	24.230	30.617	.429
	Suicide	62.307	46.513	.181
	Drugs	17.426	31.464	.580
Force used before custody, (no force used is the reference category)	Handcuffs front	84.117	25.493	.001**
	Handcuffs back	150.975	28.493	<.001***
	More Serious Force	113.368	113.814	.319
Offence Type (Other offences including Public Order Act offences is the reference category)	Acquisitive	46.335	33.628	.168
	Criminal Damage	-116.658	52.694	.027*
	Drugs	-51.245	48.789	.294
	Motoring	-142.055	71.757	.048*
	Violence	-36.537	34.596	.291
	Sexual	34.783	59.160	.557
Requested a solicitor (binary)		140.770	30.140	<.001***

Note: * indicates p is significant at .05, ** indicates p is significant at .01, *** indicates p is significant at .001. Those who were in custody for upwards of 96 hours were removed from this analysis.

Table 5: Factors associated with amount of time spent in custody (in minutes) for vulnerable adults

		Estimate	Standard Error	P-Value
Gender		42.389	37.197	0.255
Age		2.316	1.223	0.058
Ethnicity (White is the reference category)	Black	40.600	62.129	0.514
	Asian	-37.019	71.876	0.607
Vulnerability Flags	Self-harm	71.063	37.031	0.055
	Suicide	38.381	39.589	0.332
	Drugs	51.673	41.883	0.217
Force used before custody, (no force used is the reference category)	Handcuffs front	166.574	36.398	<.001***
	Handcuffs back	209.799	41.216	<.001***
	More Serious Force	193.591	106.303	0.069
Offence Type (Other offences including Public Order Act offences is the reference category)	Acquisitive	81.155	50.061	0.105
	Criminal Damage	-50.601	61.637	0.412
	Drugs	-193.274	82.521	0.019*
	Motoring	-114.547	79.959	0.152
	Violence	-6.288	40.567	0.877
	Sexual	25.737	59.521	0.666
Requested a solicitor (binary)		182.053	37.603	<.001***

Note: * indicates p is significant at .05, ** indicates p is significant at .01, *** indicates p is significant at .001. Those who were in custody for upwards of 96 hours were removed from this analysis.

Table 6: Factors associated with amount of time spent in custody (in minutes) for adults

		Estimate	Standard Error	P-Value
Gender		88.933	12.184	<.001***
Age		1.987	0.373	<.001***
Ethnicity (White is the reference category)	Black	-25.260	16.736	0.131
	Asian	-23.718	16.645	0.154
Vulnerability Flags	Self-harm	54.443	13.082	<.001***
	Suicide	79.041	15.126	<.001***
	Drugs	68.133	12.905	<.001***
Force used before custody, (no force used is the reference category)	Handcuffs front	109.096	9.862	<.001***
	Handcuffs back	242.040	11.553	<.001***
	More Serious Force	358.817	36.528	<.001***
Offence Type (Other offences including Public Order Act offences is the reference category)	Acquisitive	114.923	14.667	<.001***
	Criminal Damage	-37.664	24.299	0.121
	Drugs	51.684	18.945	0.006**
	Motoring	-0.173	1.121	0.878
	Violence	-1.197	0.741	0.106
	Sexual	0.864	0.888	0.331
Requested a solicitor (binary)		297.567	8.678	<.001***

Note: * indicates p is significant at .05, ** indicates p is significant at .01, *** indicates p is significant at .001. Those who were in custody for upwards of 96 hours were removed from this analysis.

Table 7: Factors associated with being strip searched for children

		Estimate	Standard Error	P-Value	Odds Ratio
Gender		-.241	.454	.595	.786
Age		.221	.133	.097	1.248
Ethnicity (White is the reference category)	Black	.968	.338	.004**	2.632
	Asian	-.091	.589	.877	.913
Vulnerability Flags	Self-harm	-.127	.450	.777	.881
	Suicide	.622	.539	.249	1.862
	Drugs	.273	.367	.457	1.314
Force used before custody, (no force used is the reference category)	Handcuffs front	.835	.435	.055	2.306
	Handcuffs back	1.265	.447	.005**	3.543
	More Serious Force	-16.336	9961.435	.999	.000
Offence Type (Other offences including Public Order Act offences is the reference category)	Acquisitive	.400	.526	.447	1.491
	Criminal Damage	-.522	1.115	.640	.593
	Drugs	2.683	.522	<.001***	14.632
	Motoring	-.119	1.120	.915	.887
	Violence	-1.1146	.741	.122	.318
	Sexual	.920	.887	.300	2.510

Note: * indicates p is significant at .05, ** indicates p is significant at .01, *** indicates p is significant at .001.

Table 8: Factors associated with being strip searched for vulnerable adults

		Estimate	Standard Error	P-Value	Odds Ratio
Gender		-0.579	0.313	0.064	0.560
Age		-0.016	0.012	0.193	0.984
Ethnicity (White is the reference category)	Black	1.008	0.411	0.014*	2.740
	Asian	0.915	0.476	0.055	2.496
Vulnerability Flags	Self-harm	0.221	0.301	0.463	1.247
	Suicide	0.175	0.306	0.567	1.191
	Drugs	1.387	0.294	<0.001***	4.002
Force used before custody, (no force used is the reference category)	Handcuffs front	1.178	0.456	0.010**	3.247
	Handcuffs back	1.731	0.469	<0.001***	5.646
	More Serious Force	-13.553	559.243	0.981	0.001
Offence Type (Other offences including Public Order Act offences is the reference category)	Acquisitive	-0.480	0.398	0.228	0.619
	Criminal Damage	-0.441	0.497	0.375	0.643
	Drugs	1.060	0.415	0.011*	2.886
	Motoring	0.142	0.589	0.810	1.152
	Violence	-0.880	0.354	0.013*	0.415
	Sexual	-0.240	0.581	0.679	0.786

Note: * indicates p is significant at .05, ** indicates p is significant at .01, *** indicates p is significant at .001.

Table 9: Factors associated with being strip searched for adults

		Estimate	Standard Error	P-Value	Odds Ratio
Gender		-0.323	0.091	<.001***	0.724
Age		-0.011	0.003	<.001***	0.989
Ethnicity (White is the reference category)	Black	0.473	0.102	<.001***	1.604
	Asian	-0.023	0.132	0.864	0.978
Vulnerability Flags	Self-harm	0.530	0.085	<.001***	1.698
	Suicide	-0.201	0.108	0.063	0.818
	Drugs	0.073	0.075	<.001***	2.075
Force used before custody, (no force used is the reference category)	Handcuffs front	0.866	0.093	<.001***	2.376
	Handcuffs back	1.332	0.098	<.001***	3.788
	More Serious Force	1.373	0.253	<.001***	3.948
Offence Type (Other offences including Public Order Act offences is the reference category)	Acquisitive	0.986	0.116	<.001***	2.682
	Criminal Damage	0.054	0.211	0.797	1.056
	Drugs	2.240	0.119	<.001***	9.396
	Motoring	0.209	0.143	0.144	1.233
	Violence	-0.342	0.130	0.008**	0.710
	Sexual	-0.577	0.273	0.035	0.561

Note: * indicates p is significant at .05, ** indicates p is significant at .01, *** indicates p is significant at .001.