

Surrey PCC's Response to HMICFRS Report: Pre-Charge Bail and Released Under Investigation - Striking a Balance

I welcome this report by HMICFRS on pre-charge bail and released under investigation (RUI). I am pleased with the focus on this area and recommendations made as well as supporting the recently announced Bail reform.

I have asked the Chief Constable for a response to the report and he has said:

"I welcome the HMICFRS report "Striking a balance: Pre charge bail and released under investigation" which recognises the efforts of police forces across the country in implementing changes to the bail act which were brought in very quickly. Surrey was one of the six forces who were inspected as part of the inspection. The report suggests a number of national recommendations for better management of Bail and Released under investigation (RUI) and in particular two specifically for policing. Surrey has processes in place and will monitor and make the relevant changes to ensure compliance with the recommendations."

In terms of the recommendations within the report for police forces, Surrey Police have provided me with an update as follows:

The HMICFRS report makes a number of national findings which can be summarised as follows:

- **Protecting the victim** – Forces worked hard to adapt to the Policing & Crime Act 2017 legislation but changes were introduced extremely quickly and without consideration as to how these would affect victims. Forces had little guidance and this led to a range of interpretations of the legislation. It is felt that released under investigation (RUI) can leave too many victims without reassurance and protection that bail conditions provide. In some cases forces were not informing the Crown Prosecution Service (CPS) that a suspect was RUI. This means that CPS would not know that a suspect had no bail conditions and therefore was not sufficiently informed when giving instructions to the court advocate regarding bail conditions.
- **The effect on suspects** – Many suspects who were on RUI were rarely told of the progress of the investigation and had little or no subsequent contact with police. Some were not even informed when the investigation had ended
- **Delays in investigation** – It was felt that nationally forces often give RUI cases less priority than bail cases, meaning investigations take much longer than they should. For example, due to delays in digital forensic analysis often the decision is to RUI rather than bail as the delay is likely to be in excess of three months meaning bail would need to be extended by a magistrate's court. In many cases suspects would move to RUI after the initial 28 day bail period and there were concerns that no rationale had been recorded.
- **National Data Picture** – There appears to be no accurate local or national picture of bail or RUI. It is felt that data on the number of suspects either on bail or RUI is inaccurate and some forces were unable to effectively scrutinise this information. National guidance was published in January 2019 outlining what forces should do and consider when releasing suspects RUI or on Bail. HMICFRS found few forces complied with this guidance and many officers who were asked did not know of its existence.

It should be noted that many of these issues are well known and the Home Office has recently completed a public consultation on changes to the legislation for the future.

The HMICFRS report makes a number of recommendations, of which two relate specifically to Police Custody and Criminal Justice which can be summarised as follows:

- ***Forces should develop processes and systems to clearly show whether suspects are on bail or RUI. This will help them to better understand the risk a suspect poses to victims and the wider community and will help to increase safeguarding.*** *Surrey documents the current status of a suspect on both NICHE and PNC. The disposal page of a suspect's Custody Record documents whether the suspect is on bail (with or without conditions) and what those conditions are or whether the suspect is on RUI. The disposal page automatically links to PNC to ensure that the suspect's PNC record accurately reflects their current status, and any changes to the disposal status will also update PNC to keep it current. This assists all forces in identifying the suspect's current situation and enabling Forces to evaluate the risk the suspect poses to the victim and/or witnesses. The NICHE Occurrence Enquiry Log (OEL) also documents whether the suspect is bailed or RUI along with any relevant safeguarding measure in place. If the suspect is to be bailed then an initial bail application is completed by the OIC. This form documents identified risks and safeguarding strategies and any proposed bail conditions and is reviewed/endorsed by a Sergeant prior to further assessment and approval by an Inspector. The suspect's bail is then recorded in a bail spreadsheet which is maintained and updated by custody staff as part of their daily role. The investigating officer and their supervisor will risk assess each investigation at the point a decision is made as to Bail or RUI. This is then documented on the OEL. If the suspect is to be RUI then the custody record clearly documents this. The details are also placed into a departmental diary to ensure that there remains supervisory oversight of progress every 28 days. After each 3 months from the date of release from custody an Inspector will review the investigation and after each 6 months a Superintendent will review. Each department has its own RUI diary so it is very clear for supervisors and auditors to see how many suspects under investigation are RUI.*
- ***Forces should record whether a suspect is on bail or RUI on the MG3 form when it is submitted to the CPS. This should be regularly checked and any changes in bail or RUI provided to the CPS. The CPS should work with the police to ensure this information is provided.*** *Surrey is a Two Way Interface (TWIF) enabled force and therefore no longer uses the MG3 document. Bail and RUI are regularly checked by supervisors and TWIF ensures any changes are easily communicated to the CPS electronically.*

Overall, I am content that, as one of the forces involved in the inspection, Surrey Police fully understands and is has plans in place to address the recommendations made.

David Munro
Police and Crime Commissioner for Surrey