



WEST YORKSHIRE POLICE AND CRIME PANEL

19 July 2019

Review of Pre-charge Bail and Release Under Investigation Update

1. Purpose

- 1.1 To provide members of the Police and Crime Panel with an update to the Post Implementation Review and the how the force is addressing the changes to pre-charge bail and release not on bail under Investigation as amended by the Policing and Crime Act 2017.

2. Background

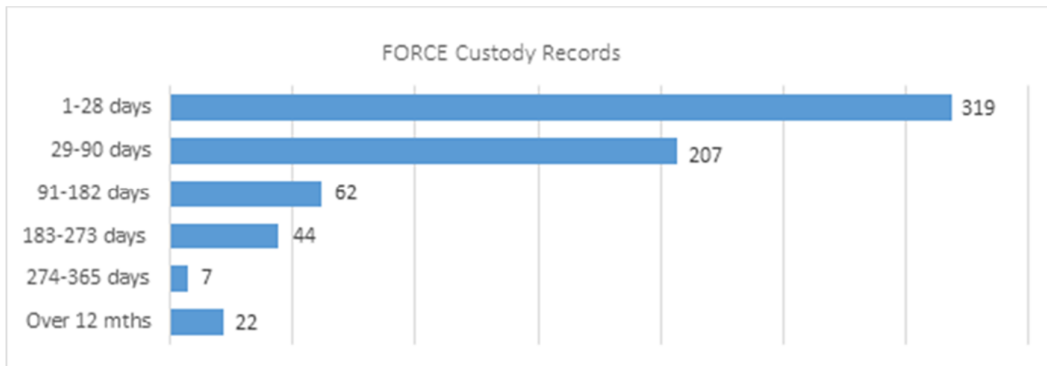
- 2.1 In April 2017, the Policing and Crime Act 2017 amended the Police and Criminal Evidence Act 1984 in relation to the use of pre-charge bail. The use of pre-charge bail must now follow a statutory process as follows:
 - i. The presumption is for a person to be released without bail. A Custody Sergeant must be satisfied that where bail is required it is both necessary and proportionate in all the circumstances.
 - ii. Where bail is not appropriate, a person will be released not on bail under investigation also known as RUI. This will allow the retention of Biometrics without triggering POFA (Protection of Freedoms Act).
 - iii. All cases where a person is released on bail an Inspector's authority is required for the first 28 days Authorised Bail Period (ABP). The ABP will be calculated from the day following arrest.
 - iv. One extension from 28 days to 3 months is allowed subject to a Superintendent's authority. This requires four tests to be met. The Superintendent may vary and/or remove conditions including releasing without bail. If more than 28 days are needed at the time of release, the Inspector can authorise the first 28 days immediately, followed by the Superintendent who can then authorise the full 3 months before release.
 - v. The Magistrates' Court subject to three tests being met can approve further extensions. The District Judge can extend the ABP for 3 or 6

months from the expiry of the original Superintendent’s ABP depending upon the circumstances.

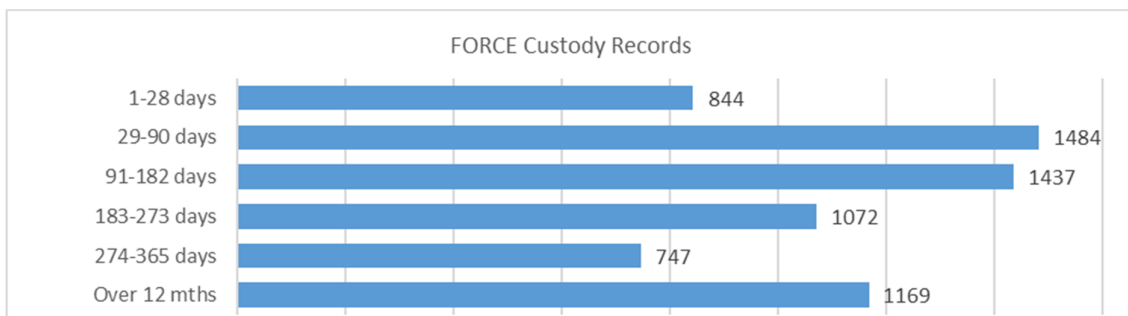
- vi. Bail for Director of Public Prosecutions (DPP) charging authority does not require authority subject to any further work being required by the Crown Prosecution Service (CPS).
- vii. Chief Officers can authorise ABP in complex cases in consultation with the CPS for up to 6 months, calculated from the day following arrest.

3. Current Position within West Yorkshire

3.1 There are currently 661 Custody records with a linked person who is on pre-charge bail. The chart below differentiates how long these people have been on bail.

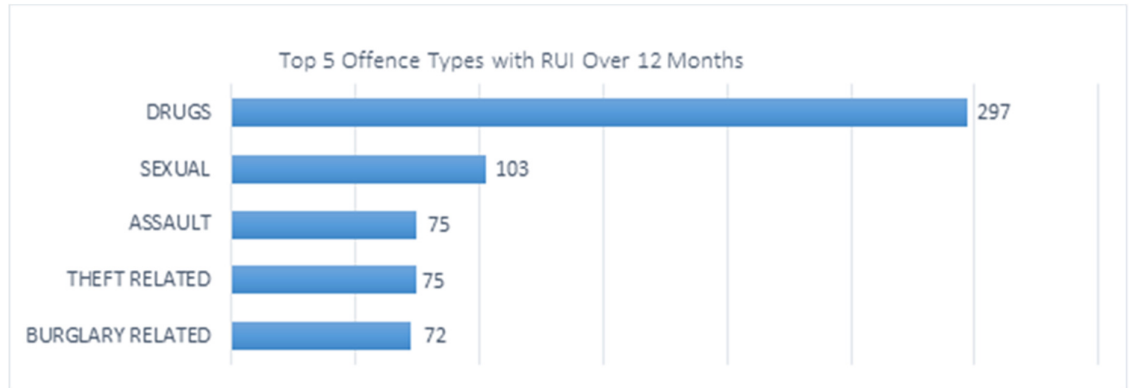


3.2 There are currently 6,753 Custody records with a linked person who is Released Under Investigation (RUI). The chart below differentiates how long these people have been RUI.



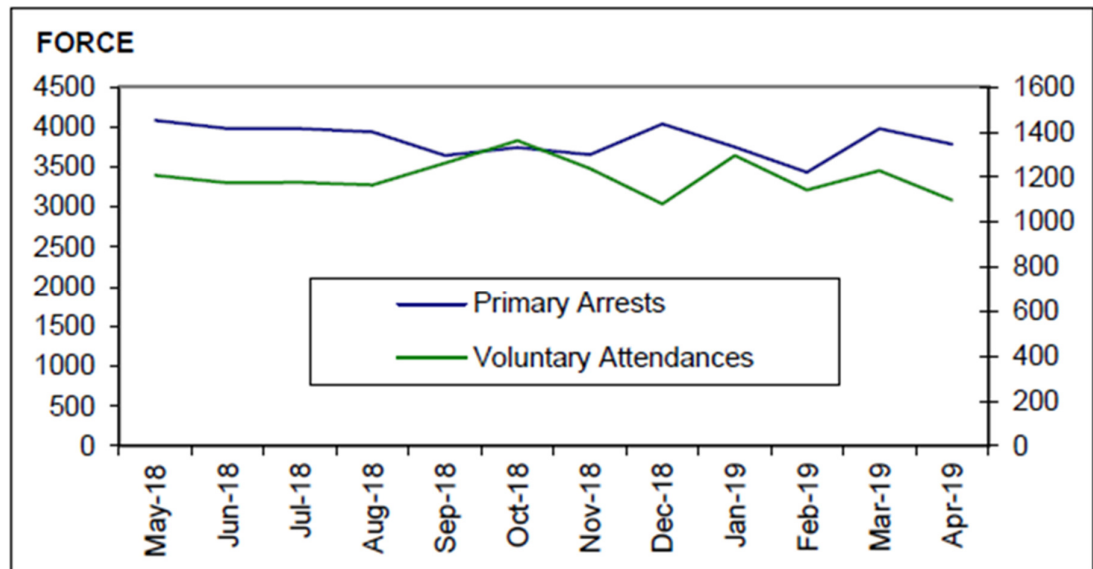
3.3 A recent dip sample of 133 RUI cases over 12 months old revealed these were in the main more complex investigations. A large number had outstanding forensic work including Digital forensics; others were with the CPS awaiting charging advice. Some were found lacking sufficient detail to establish why the investigation had taken so long.

3.4 The below chart shows the top five offence types where the RUIs are over 12 months.

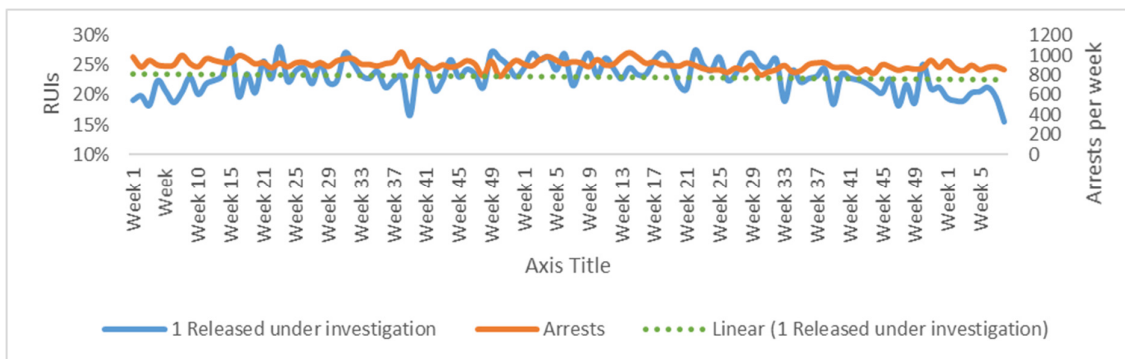


Primary Arrests and Voluntary Attendance (VA)

3.5 The number of persons arrested by officers and the numbers being dealt with by VA as part of the investigative process has remained reasonably consistent over the past 12 months. This can be seen from the chart below.

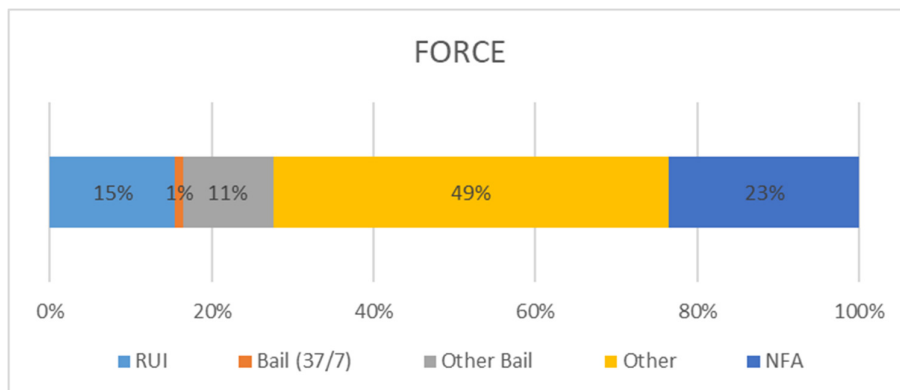


3.6 The below chart shows that the use of RUI has remained consistent up to the start of this financial year where we have started to see a reduction in its use. This may be linked to the recent focus on Districts to make sure they manage pre-charge bail and RUI more robustly, ensuring it is used correctly.



Disposals since the introduction of the new legislation

3.7 The below chart highlights the total custody disposals over the last 2 years and displays Bail and RUI in context to other outcomes. It shows that 15% of all detainees were RUI with 12% being released on bail (1% 37/7 bail is where a person is bailed for CPS Advice). The 49% shown as ‘Other’ are those cases where the RUI and/or bail record has been finalised and there has been a positive disposal added such as Charged, Conditional Caution or Reported.



4. Post Implementation Review

4.1 The purpose of the review was to:

- i. To ascertain the project’s degree of success, in particular, the extent to which it met its objectives, delivered planned levels of benefit, and addressed the specific requirements as originally defined.
- ii. To examine all elements of the working business solution to see if potential exists to realise further improvements in efficiency and effectiveness.
- iii. To determine whether the implementation has led to unintended or unforeseen consequence, how it has affected the force and what risks it has posed.

- 4.2 The scope of the PIR can be seen at Appendix A.
- 4.3 The PIR made several recommendations; these can be seen at Appendix B.
- 4.4 In addition to the recommendations from the PIR the National Police Chiefs' Council (NPCC) produced Operational Guidance for the use of pre-charge bail and RUI. See Appendix C.
- 4.5 OPCC Internal Audit will be carrying out a review of pre-charge bail and RUI later this year.
- 4.6 HMICFRS are preparing for a joint inspection with HM Crown Prosecution Service Inspectorate into the changes to the Policing and Crime Act 2017 and the use of pre-charge bail and RUI. The inspection will assess the effectiveness of how we manage pre-charge bail and RUI.
- 4.7 The methodology of the inspection has not been finalised but the inspection activity will include the review of relevant documents, case file assessments and interviews with key personnel across the Police, the CPS and the wider criminal justice system.
- 4.8 HMICFRS will finalise their selected forces in June, and they will conduct a pilot inspection in late autumn to test their methodology. Their fieldwork is scheduled to finish in March 2020, with the report published in late spring. It is not known at this time if West Yorkshire Police will be one of the forces inspected.

5. Ongoing Work

- 5.1 A new force policy on the use of pre-charge bail and RUI based on the NPCC guidance has been drafted, is currently with Districts for consultation and will be finalised and published at the end of July. The policy aims to increase the management and scrutiny attached to the pre-charge bail and more specifically the RUI process, taking into account safeguarding and vulnerability of victims and witnesses.
- 5.2 Learning materials and guides for officers have been refreshed and will be linked to the new force policy for ease of access.
- 5.3 There has been additional refresher training for custody officers and Inspectors on the use of pre-charge bail and RUI.
- 5.4 Corporate Services Performance Review now support Districts with detailed performance information regarding the number of people on pre-charge bail and RUI.
- 5.5 HQ Criminal Justice are now reviewing and dip sampling Crime Occurrences (crime reports) and Custody Records to ensure the correct use of pre-charge bail and RUI. This information has already formed part of the Local Accountability Meetings with Districts and will be a regular feature of the Custody & Criminal Justice Board.

6. Strategic Risk Implications

- 6.1 The use of pre-charge bail is now regulated by statute and the levels of authority required provide robust management of those persons subject to pre-charge bail. This appears to have had an unfavourable but not surprising impact with the number of people who are on pre-charge bail reducing significantly with a move to the use of RUI. A number of current non-recent Child Sexual Exploitation & Abuse investigations in force have highlighted the time consuming and bureaucratic nature of the process officers have to follow when using pre-charge bail for a large number of suspects for up to 12 months and beyond.
- 6.2 Concerns have been raised nationally that the new legislation presents a greater risk for vulnerable victims due to the unrestricted nature of being RUI. There is currently insufficient evidence to support or refute this fear, but irrespective of that, the consideration of whether or not to apply bail must take into account all the circumstances of the case, including the necessity to support and protect victims and witnesses (especially those who are identified as vulnerable and at risk of high harm), and ensure public safety.
- 6.3 The upgrade to NICHE Custody (computer system) is still awaited and unlikely to come before 2020. This would allow greater management and scrutiny of pre-charge bail and RUI. At present, we are using the Bluestar Corvus (computer system) module to manage RUI reviews.