



## Surrey and Sussex Criminal Justice Partnerships Meeting Minutes – Collaborative Session

10:25 -12:15hrs, Wednesday 11<sup>th</sup> September 2019  
Sackville House, Lewes, BN7 2FZ

### 1. Welcome and Apologies – Katy Bourne

Katy Bourne	Sussex Police and Crime Commissioner ( <b>Chairman</b> )	KB
David Munro	Surrey Police and Crime Commissioner ( <b>Chairman</b> )	DM
Frank Ferguson	Chief Crown Prosecutor – South East ( <b>Vice-Chairman</b> )	FF
HH Judge Laing`	Judiciary	HHJL
Lisa Herrington	Office of the Surrey Police and Crime Commissioner	LH
Mark Streater	Office of the Sussex Police and Crime Commissioner	MSt
Justine Armstrong-Smith	East Sussex County Council	JAS
Jo Player	Brighton and Hove City Council	JP
Emily King	West Sussex County Council	EK
Stephen Fradley	HMP Ford	SF
Neil Bryant	HMP Coldingley	NB
Rob McCauley	Legal Aid Agency	RM
Mark Burden	HM Prison and Probation Service	MB
Sam Goolding	Surrey Police	SG
Shannon Carpenter	Surrey Police	SC
Rob Harris	Surrey Police	RH
Nick May	Sussex Police	NM
Chris Mayle	Sussex Police	CM
Pierre Serra	Sussex Police	PS
Susan Howard	HM Prison and Probation Service	SH
Vicky Pattenden	Sussex Partnership NHS Foundation Trust	VP
Rebecca Hills	Sussex Partnership NHS Foundation Trust	RH
Dave Manning	HM Courts & Tribunals Service	Dma
Gail Rogers	Surrey YOS	GR
Michael O'Connor	Surrey YOS	MO
Nicola Maxwell	Sussex YOS	NMa
Kay Birch	Victim Support	KB
David Smith	Frame Solicitors	DS
Laura Plant	Goodall Partners	LPI
Bruce Tippen	SSCJP Business Manager	BT
Lindsey Parris	SSCJP	LP

#### Observing:

<i>Susie Miller</i>	<i>Office of the Sussex Police and Crime Commissioner</i>	<i>SM</i>
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#### **Apologies received from:**

<i>Clive Davies</i>	<i>Surrey Police</i>	<i>CD</i>
<i>Hannah Lane</i>	<i>HMP Ford</i>	<i>HL</i>
<i>Julia Chapman</i>	<i>Sussex Police</i>	<i>JC</i>
<i>Jenny Offord</i>	<i>CPS</i>	<i>JO</i>
<i>Manjinder Purewal</i>	<i>KSS – Community Rehabilitation Company</i>	<i>MP</i>
<i>Nev Kemp</i>	<i>Surrey Police</i>	<i>NK</i>
<i>Simon Nelson</i>	<i>Sussex Police</i>	<i>SN</i>
<i>Claire Mullarkey</i>	<i>HMCTS</i>	<i>CM</i>
<i>Robin Brennan</i>	<i>HM Prison and Probation Service</i>	<i>RB</i>
<i>Tania Riedel</i>	<i>Sussex YOS</i>	<i>TR</i>
<i>Samantha Allen</i>	<i>Sussex Partnership NHS Foundation Trust</i>	<i>SA</i>

**Absent:**

Susanne Jarman	Citizens Advice – Witness Service	SJ
Wendy Penfold	Public Health England	WP
Anne Elgeti	NHS England	AE
Vicky Robinson	HMP Bronzefield	VR
Ian Whiteside	HMP Bronzefield	IW

KB welcomed members to the collaborative session.

**Declarations of Interest:**

None received

**2. Minutes and Rolling Action Log from previous meeting 5<sup>th</sup> June 2019**

The minutes from the previous meeting were agreed as an accurate record following an amendment requested by FF to Item 4 page 3.

The minutes have been amended to reflect the change.

**3. Rape Prosecutions**

FF reported there has been a lot of media coverage over the summer about Rape and serious sexual offences – in particular requests for complainants consent to analyse their digital devices. Rape prosecutions are some of the most challenging cases the CPS prosecutes. For that reason all charging decisions are taken by specialist prosecutors, who are trained to understand victim vulnerabilities and the impact of rape as well as consent issues, rape myths and stereotypes and the challenges of prosecuting cases involving vulnerable witnesses and young people. The growing gap between the number of rapes recorded and the number of cases going to court is a cause of concern for all of us in the criminal justice system and for the public.

FF added he wanted to provide reassurance that it is not an indication of any change in policy or lack of CPS commitment to prosecute. We consider every case referred to us by the police. In rape cases as with all crimes the decision on whether or not to prosecute is based on the same legal test - does the evidence provide a realistic prospect of conviction and is it in the public interest to prosecute?

Nationally we believe that a number of factors have contributed to the drop in rape charges, including:

- a significant reduction in referrals from the police, the number of rape cases referred to the CPS by Sussex Police decreased from 252 in 2016/17 to 131 in 2017/18. Whereas reports of rape in Sussex rose from 1056 in 2016/17 to 1381 2017/18. In Surrey 104 cases were referred to CPS in 2016/17 reducing to 60 in 2017/18. Reports of rape in Surrey rose from 539 in 2016/17 to 726 2017/18. This is something for us all to address
- a substantial rise in the volumes of digital data
- an increase in the number of pre-charge consultations between police and prosecutors. This can result in charging decisions taking longer but should mean stronger cases are taken forward.
- A national figure of 78 days has been quoted as the average length of time a case takes from referral to the CPS to the decision to charge. This figure is measured from first referral to the CPS by the police and includes the time taken for the police to investigate all reasonable lines of enquiry. It may include several consultations with the CPS for further advice to strengthen the case. It is not as has been suggested in some reports the time the CPS has taken to review the file. At CPS South East we are first nationally for the timeliness of our charging advice (and RASSO cases are turned around in 28 days.).

The figures for the last business year (2018-19) for cases owned by the Surrey and Sussex RASSO Units are as follows: Surrey 84 days and Sussex 79 days. More recent figures (Aug 2019) show Surrey 95 days and Sussex 95 days. It should be noted however that using our average charging timeliness figures (which measure accepted triages plus lawyer consultation days) our figures are good: Surrey 23 days and Sussex 25 days. National average is 37 days.

**Requests for digital material from rape complainants:**

FF reported concerns have been raised about requests for material from rape victims by the police using the digital consent forms. It is important to understand that mobile phones are not routinely requested when someone reports a rape.

The CPS has issued guidelines for police and prosecutors which mean mobile phones and digital data must only be requested to follow a reasonable line of enquiry and when it forms an essential part of a fair investigation and prosecution.

Every decision must be taken fairly and impartially and prosecutors have a duty to be even handed and to protect the rights of suspects and defendants while providing the best possible service to victims. These forms were introduced by the police to bring consistency across the country after different approaches were being used by police forces. This inconsistency resulted in a number of the examples that we have been reading about in the press recently.

Digital data searches must not be merely speculative or an exercise to find material to undermine the complainant. This was reinforced by the recent Court of Appeal judgment which confirmed that a fair trial was still possible in a case where a mobile phone had not been seized.

Privacy must be balanced with a thorough investigation to ensure a fair trial.

It is simply not true that material which is not relevant to the case will be shared with the defence or shown in court. There are well established safeguards which govern the disclosure of such sensitive information.

When the new digital consent form was launched the NPCC and the CPS pledged to review it once the ICO had reported. We also said that we would consider stakeholder concerns at the same time. I would welcome any views that you might have about the forms and invite you to share any concerns that you have about any other issues raised.

**Action: Members to contact FF with any concerns or issues regarding the use of the digital consent form.**

FF added CPS are committed to understanding what is behind the drop in the number of cases now going before the courts. This is a complex picture and it is important that we look at what is happening at every stage from police referral through to the end of the trial. We are a partner in the wide-ranging cross-Government review of how rape and sexual offences are handled. It is looking at how the CPS, police, courts and others can work together to improve our response to these cases

NM reported Surrey and Sussex police are alive to the issues around rape prosecutions and ongoing discussions with partners continue.

NM added the number of rape cases continue to rise in Sussex on average of 3 per day.

DM asked if case file quality was an additional issue in terms of getting rape prosecutions to court in a timely manner.

FF reported case file quality is starting to improve and the SSCJP is maintaining focus and oversight of case file quality issues.

FF noted file quality is measured on cases charged and not pre-charge cases.

KB reported governance for RASSO cases sit with the multi-agency joint Surrey and Sussex RASSO Group chaired by DS Jon Hull.

MSt reported there was a suggestion there may be a lack of CPS RASSO specialist lawyers.

FF confirmed CPS are fully staffed and there are no capacity issues.

PS reported there are now permanent RASSO Liaison Officers and DI's within the Public Protection Team.

PS reported case file quality still needs improvement and case file quality clinics remain ongoing. Decisions to take no further action are at Det/Insp level.

FF reported having RASSO Liaison Officers working closely with CPS colleagues has been extremely beneficial.

KB noted the good work being undertaken by all partners but is concerned about the low level of RASSO cases being brought to justice and asked that a further update is given at the next meeting.

**Action: Agenda item for next meeting – RASSO case volumes progressing to court**

#### **4. Released under Investigation – risk assessment**

NM reported legislative changes to pre-charge bail through the Policing and Crime Act 2017 introduced the presumption that suspects should be released from police detention while remaining under investigation known as 'released under investigation' unless bail is deemed

both necessary and proportionate. The Act also introduced statutory time limits and judicial oversight of extensions of bail beyond three months.

This presumption has raised concern nationally that releasing some suspects without bail conditions can lead to an increased risk to victims and the public. Whilst there are no specific examples highlighted it is clear that perpetrators of serious offences including domestic abuse are being released without conditions. Currently there are approximately 12,000 people that are released under investigation in Sussex.

NM reported T/Detective Chief Inspector Jon Fanner has produced a report outlining the impact of Bail Reform and he has made recommendations for improvements going forward.

Recommendation 1:

Conduct a root and branch review of the current operating model for investigations across Sussex. Is it fit for purpose or should it be revised?

Recommendation 2:

Review the supervision structure for investigations with a view to bringing this in line with NPCC Guidance.

Recommendation 3:

When a case is RUI'd, supervisors agree an Expected Finish Date (EFD) with investigators. This date must take into consideration the investigation plan including forensic and digital evidence submissions which are deemed necessary.

Recommendation 4:

Ensure suspects and/or their solicitors are informed of decisions post RUI from custody especially in cases where it is decided to take no further action or unexpected delays.

Recommendation 5:

Develop further guidance and training for officers concerning bail and extensions of bail.

Recommendation 6:

Consultation with Divisional Commanders and Crime Managers around the effectiveness of Operational Competence and review how this can be improved, changed or stopped altogether.

NM reported a meeting was being held on 12<sup>th</sup> September where this matter would be discussed in further detail.

DS asked how many were people were released under investigation in Surrey.

SG reported there were approximately 4,900 people released under investigation in Surrey.

DS reported the current RUI process is unsatisfactory and some clients have been RUI for over two and a half years. The old Bail arrangements ensured there was a potential end date.

FF expressed concern around the high number of people RUI in Sussex and noted Kent had reduced the number of people RUI from 8,000 to 5,000.

NM confirmed ongoing review of the number of people RUI in Sussex will continue.

FF reported good governance is required for RUI and on-going national debate needs to continue to resolve the issues already identified.

EK noted the community space is also being affected by RUI in terms of supporting these people with their drug and alcohol, stress and mental health issues.

Members agreed a further update is required on RUI at the next meeting.

**Action: BT to update the SSCJP risk log accordingly and RUI to be added as an agenda item for update at the next meeting.**

## 5. Crown Court Caseload

HH Judge Laing reported there has been a huge drop off of cases coming through to Crown Court with some cases being over 12-18 months which is having a detrimental effect on Crown Court business and it has also has a huge impact on victims and witnesses. Some offenders were 16 years old at the time of offence but by the time the case gets into court the offender could be over 18 years and therefore sentencing guidelines would have changed.

HHJL also raised her concern that sexual offence cases were also taking a long time to get into court but pleased to see work is under way to address the number of people RUI in Sussex.

HHLJ reported up until recently there had been over 900 cases on the Crown Court books - this number has now reduced to only 300 cases resulting in 600 sitting days being lost. Cases can now not be listed even though there is capacity and court rooms are available. One or two crown court rooms will have to be closed in Sussex and one crown court room in Surrey until March 2020 due to a lack of cases coming through the system.

DMA noted the closure of crown court rooms is purely down to the drop off in workload and it is not a decision made by HMCTS.

DMA asked if the increase in the number of officers being recruited in Sussex would increase the Crown Court workload going forward.

NM reported police recruitment in Sussex already underway and the number of arrests are on the rise but we are not likely to see a surge of new cases coming through as most of these officers will be engaged on prevention work and there are currently real challenges in attracting new Investigators.

DM noted additional police officers would be recruited to arrest but to also prevent.

FF suggest KB could raise this issue at her roundtable discussions to ensure there is also parity and future proofing for courts should court workload increase following the proposed recruitment of 20,000 additional police officers across the country.

**Action: KB to consider raising this issue at her roundtable discussions to ensure there is also parity and future proofing for courts should court workload increase following the proposed recruitment of 20,000 additional police officers across the country.**

## 6. Investment in Prosecution Team

FF reported this item is linked to extra funding referred to with regards to the recruitment of 20,000 additional police officers across the country. Additional funding for CPS will be used to recruit more lawyers and increase the budget for Counsel fees. Additional lawyers will also assist with disclosure and file quality issues.

FF confirmed in terms of additional funding there needs to be a balance and parity for all other agencies within the criminal justice system.

## 7. Service Personnel and Veterans

VP reported the Armed Forces Covenant is an enduring covenant between the people of the United Kingdom, Her Majesty's Government and all those who serve or have served in the armed forces of the Crown and their families.

In April 2017 NHS England launched a new veterans' mental health transition intervention and liaison service (TILS) for armed forces personnel approaching discharge – Veterans South East started in July 2017. The service across England will seek to provide increased access and treatment to appropriate mental health services for the armed forces. There is a South East hub covering Kent, Surrey and Sussex and the team comprises of:

- Clinical Nurse Specialist
- Clinical Psychologist
- Counselling Psychologist
- Assistant Psychologist
- Psychiatrist
- Administrator

Types of referrals include:

- Mental Health – depression, anxiety, PTSD
- Substance Misuse
- Housing
- Physical Health

Referrals can come from the individual, professional, family/carer or other agencies.

VP added a lot of good work has already been achieved with Sussex Police colleagues. Armed Forces Champions have been identified across the force and referrals can be made via these champions to the TILS service as appropriate and if consent has been given.

VP reported she would welcome engagement with Surrey CJS partners.

KB asked if there is a need for a police co-ordinator in Surrey as a start point. VP agreed that this is exactly what she is hoping to achieve through this presentation. DM and LH agreed to pursue this.

**Action: LH to explore with Craig Jones (OPCC) and contact VP to discuss TILS engagement with Surrey Police.**

SH reported approximately 10% of the prison population is made up of veterans and it would be useful to get the message out in the prison community.

VP reported HMP Ford have been very supportive and she will be visiting HMP Lewes later this afternoon.

RM reported he would be happy to send out any relevant information to the defence community if required.

## 8. Partner Updates

### Brexit Planning

EK confirmed local authorities have resilience forums across the county, Districts and Boroughs all have Brexit leads and hold regular meetings.

RH confirmed Sussex Partnership NHS Foundation Trust are linked into the resilience forums. SH/SF were both concerned about the potential lack of food and medication for the prison community but forward planning remains ongoing.

FF reported multi-agency meetings chaired by Claire Mullarkey – HMCTS Head of Crime are ongoing and the next meeting is scheduled for 17<sup>th</sup> September 2019.

NM reported Brexit planning sits with ACC Dave Miller and Chief Superintendent Jayne Derrick for Surrey and Sussex Police.

NM added both forces were mindful about the south east road network, sea ports, Gatwick and Heathrow airports.

NM asked members if they want to be linked in with the police Brexit planning to contact him directly.

DS reported he was not aware of any Brexit work being undertaken within the defence community whilst noting defence firms are all individual.

FF agreed to contact Claire Mullarkey to suggest invites are sent out to all CJS partners including defence to the next meeting on 17<sup>th</sup> September 2019.

**Action: FF to contact Claire Mullarkey to suggest invites are sent out to all CJS partners including defence to the next meeting on 17<sup>th</sup> September 2019.**

## 9. AOB

FF noted the CPSD contingency plans have been updated and there should now be a reduction in time the officers have to wait to for advice.

FF asked members to let him know if they have any feedback on CPSD.

**Action: Members to provide any feedback on CPSD to FF.**

BT reported the Lammy Group held their first meeting on 5<sup>th</sup> September 2019. The meeting was well supported and Terms of Reference have been agreed. Each member organisation has taken away areas of action to consider and report back at the next quarterly meeting.

LPI raised her concern regarding duty solicitors and the poor level of service being received following recent changes to Call Centre contracts. LPI highlighted the importance of gaining early access to legal advice for persons in police custody so that investigations are not delayed. Staffing reductions at the Call Centre and IT issues with the website have caused considerable delays.

RM confirmed the Call Centre contract had recently been re-tendered. The previous contract was awarded to Capita and HGS have now been awarded the new contract.

RM acknowledged there had been several issues following transition however the service has now stabilised but ongoing monitoring would continue.

**Action: RM to provide an update on the Call Centre performance at the next meeting.**

### **Close – Katy Bourne**

KB thanked members for their time and input during the meeting.

### **Next Meeting:**

***Wednesday 18<sup>th</sup> December 2019 – Surrey Police HQ, Schofield Room, Guildford***