

Police and Crime Panel

12th March 2021

HMICFRS Inspections

Report of the Acting Police, Crime and Victims' Commissioner



Purpose

1. To brief the Police and Crime Panel on the findings of the recent inspections by HM Inspectorate of Constabulary and Fire and Rescue Services (HMICFRS) that have required a PCC comment, as listed below:
 - *Disproportionate use of police powers – A spotlight on stop and search and the use of force- 26 February 2021;*
 - *An inspection of the effectiveness of the Regional Organised Crime Units- 10 February 2021;*
 - *Safe to share? Liberty and Southall Black Sisters' super-complaint on policing and immigration status- 17 December 2020; and,*
 - *Pre-charge bail and released under investigation (RUI): striking a balance- 8 December 2020.*

Individual Inspections and Findings

Disproportionate use of police powers – A spotlight on stop and search and the use of force - 26 February 2021.

2. The inspection's overarching findings are as follows:
 - a) despite having more data on the use of force and stop and search, police forces are still unable to explain why these powers are used disproportionately based on ethnicity;
 - b) over 35 years since the introduction of stop and search, the police still cannot explain why these powers are used disproportionately. HMICFRS found that the most common reason given for the use of these powers is due to suspected drug possession. This unfairness risks further reducing public trust in the police and could lead to more Black, Asian, and Minority Ethnic people being drawn into the criminal justice system;
 - c) the inspectorate is calling on police leaders to consider whether focusing stop and search on tackling drug possession is an effective use of these powers; and,

- d) HMICFRS also called for police forces to analyse their data and either explain, with evidence, the reasons for disproportionality in stop and search and use of force, or take clear action to address it.
3. The inspection report details national themes. In Durham, there are a plethora of strands which seek to address the issue of disproportionality and appropriateness surrounding use of force and stop and search. These include; the BAME Arrest, Use of Force, and Stop and Search External Scrutiny Panel, the Independent Complaints Scrutiny Panel, external scrutiny findings' internal feedback loops, internal Durham Constabulary meetings (relating to custody and police legitimacy). It is acknowledged that more work is to be done to continue addressing the concerns highlighted within the inspection.

An inspection of the effectiveness of the Regional Organised Crime Units - 10 February 2021.

4. The inspection's overarching findings are as follows:
 - a) the Home Office should look to legislative possibilities which would allow the National Crime Agency (NCA) to formally task Regional Organised Crime Units (ROCU's);
 - b) the National Police Chiefs Council (NPCC) and Home Office should develop technical arrangements to make exchanging sensitive intelligence between organisations more efficient which should then be adopted by forces and the NCA;
 - c) forces should streamline communication processes between ROCU's and the relevant force's in their respective catchment areas;
 - d) a counter-corruption strategy should be published for ROCU's and adopted by all relevant forces; and,
 - e) the NPCC should design a national function that can ensure ROCUs operate in a coordinated and consistent manner.
5. The inspection report details national themes. The improvements laid out regarding improved communications and tasking for ROCUs and national bodies is welcomed. It should be bore in mind the importance that regional and local requirements and integrated into ROCU operation and national systems which are implemented.

Safe to share? Liberty and Southall Black Sisters' super-complaint on policing and immigration status - 17 December 2020

6. This super-complaint concerns migrant victims in vulnerable circumstances. They usually arise from crimes of domestic abuse or modern slavery and human trafficking. The super-complaint put forward by Liberty and Southall Black Sisters is about the treatment of victims of crime and witnesses with insecure immigration status. It focuses on how information about them is passed to the Home Office for immigration enforcement. It concerns two features of policing:

- a) the passing of victim and witness data to the Home Office by the police for immigration enforcement purposes; and,
 - b) the operation of and/or perception of a culture of police prioritising immigration enforcement over safeguarding and the investigation of crime.
7. Liberty and Southall Black Sisters say that these features deter victims and witnesses engaging with the police because of their unsettled immigration status. As a consequence, victims are denied justice, while offenders go unpunished and remain a threat to the public.
8. The inspection's overarching findings are as follows:
- a) where officers only have concerns or doubts about a domestic abuse victim's immigration status, they should immediately stop sharing with Immigration Enforcement information on those victims;
 - b) the Home Office should review the relevant legal framework and policy to establish sound and fair priorities regarding migrant victims of crime and migrant witnesses to crime, with insecure or uncertain immigration status;
 - c) the Home Office and the National Police Chiefs' Council should develop a safeguarding protocol about the police approach to migrant victims and witnesses of crime; and
 - d) the police should establish safe reporting pathways for all migrant victims and witnesses to crime.
9. Durham Constabulary currently adhere to all national guidance regarding the issues raised in the report. Additionally, the Force also continue to apply principles in line with THRIVE¹ when assessing each case, which aims to consider 'by making the decision to share what additional risks are generated?'. The Force are currently awaiting the most up to date guidance from national policing bodies and will act accordingly.

Pre-charge bail and released under investigation: striking a balance- 8 December 2020.

10. The inspection's overarching findings are as follows:
- a) that suspects are still faced with lengthy delays and that the changes also had unintended consequences for victims, who view them as overwhelmingly negative;
 - b) that not enough thought was given as to how the legislative changes would affect victims;
 - c) that RUI leaves too many victims without the reassurance and protection that bail conditions can provide;
 - d) there was an inconsistent implementation of the changes by forces due to a lack of clear guidance;
 - e) that investigations involving suspects released under investigation tend to take longer and are subject to less scrutiny than ones involving formal bail; and,

¹ Threat, Harm, Risk, Investigation, Vulnerability, Engagement (THRIVE).

- f) that victims and suspects do not understand the legislation and are not being updated about the progress of their case.
11. Durham Constabulary is addressing the recommendations held within the report effectively. The sharp decline in the use of police bail due to legislative changes is of concern, this resulted in suspects of high harm crimes being RUI with no constraints. Inevitably, this has had a negative impact upon victim care. With no limits placed upon a suspect who is RUI, there are no restrictions on who they can contact, nor is there a requirement to report to a police station. In contrast, the new reforms are encouraging and should provide the protection that victims require in the future, officers with the tools they need to make sure suspects are properly monitored, and the delivery of justice.

General comment on inspection reports

12. We take all Recommendations and areas for improvement seriously. I am confident that these are being dealt with appropriately, with the aim to improve methods of working and the effectiveness and efficiency of Durham Constabulary. Where the Force may operate differently to some recommendations, I am satisfied that there is a strong rationale behind doing so.
13. The OPCVC is currently in the process of preparing a response to HMICFRS on the above inspections.
14. Please find below the following link which will direct you to the Section 55 responses presented to HMICFRS by the Acting Police, Crime and Victims' Commissioner for Darlington and Durham:

<https://www.durhampcc.gov.uk/YourPCC/Accountability/HMICFRS-Inspections.aspx>

These will provide members of the Panel with all of the associated Durham Constabulary updates in relation to HMICFRS reports.

Known inspection schedule 2020

15. Some elements of planned thematic inspections for 2019/20 may be integrated into the PEEL all-force inspection programme; some may also be included in the Criminal Justice Joint Inspection Plan. It is important to note that thematic inspections are still an essential part of the programme of work and will continue to take place alongside the PEEL inspections.
16. The 2020/21 inspection programme includes:
- The policing response to COVID-19 (Durham Constabulary are currently awaiting formal feedback and publication of the report is pending);

- Joint inspection of the investigation and prosecution of rape cases; and,
 - Initial scoping for potential thematic inspections for 2021/22 which will potentially include issues of race and disproportionality (issues surrounding these areas will inevitably be touched upon throughout the current inspection programme).
17. HMICFRS will also continue their rolling programmes on child protection, Youth Offending Teams, and crime data integrity. Crime data integrity inspections assess whether police forces record and categorise crimes correctly. This current programme of inspection is due to finish this financial year.

Recommendations

18. That the Panel notes the content of the inspection report.
19. The Panel notes that all HMICFRS inspections were postponed due to the initial Covid-19 emergency but they were later resumed in October 2020.

James Atkinson
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Appendix 1: Risks and Implications

Finance

N/A

Staffing

N/A

Equality and Diversity

Many issues of the issues raised within HMICFRS inspections promote whole system work to address equality and diversity disparities.

Accommodation

N/A

Crime and Disorder

N/A

Children's Act 2004

N/A

Stakeholder/Community Engagement

N/A

Environment

N/A

Collaboration and Partnerships

N/A

Value for Money and Productivity

N/A

Potential Impact on Police and Crime Plan Priorities

N/A.

Commissioning

N/A

Other risks

N/A

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