**OFFICE OF POLICE AND CRIME COMMISSIONER**

**TITLE:** Legitimacy Scrutiny Panel Exercise – November 2023

**DATE:** January 2024

**TIMING:** Routine

**PURPOSE:**For Scrutiny

|  |  |
| --- | --- |
| **1.** | **RECOMMENDATION**1. For the Commissioner to consider and put forward the recommendations from the Legitimacy Scrutiny Panel exercise to Gwent Police.
2. For Gwent Police’s Head of Special Operations to consider and act on the outcomes of the Legitimacy Scrutiny Panel exercise.
3. For Gwent Police to provide feedback to the OPCC in response to the recommendations to demonstrate how the recommendations will be addressed.
 |
| **1.** | **INTRODUCTION**A Legitimacy Scrutiny Panel (LSP) session took place in November 2023. The session reviewed a selection of stops and searches and use of force incidents recorded between 1st July to 30th October 2023. Use of force may involve any of the following actions:* handcuffing (compliant and non-compliant)
* unarmed skills (including pressure points, strikes, restraints and take downs)
* use of dogs
* drawing or use of baton
* drawing or use of irritant spray
* limb/body restraints (usually used in addition to handcuffs when dealing with excessively violent individuals that continue to pose a threat to themselves and/or to others present).
* spit guard (a mesh hood worn by the detainee to help control spitting or biting behaviour, preventing, or reducing harm to everyone present)
* shield
* drawing or use of Taser
* drawing or use of attenuating energy projectile (AEP) (soft-nosed projectiles that are intended to deliver a high amount of energy over an extended period)
* firearms
* any other actions which are deemed forceful.

A selection of Body Worn Video (BWV) was randomly chosen for dip sampling by a member of the Panel. In the case of stop and search, BWV was reviewed along with the relevant recorded grounds for the encounter. A range of data, including race disproportionality and item found rates was also considered. As previously agreed, any stop and search incidents involving a strip search of a child would be referred to the LSP for review. The Head of Special Operations had provided one incident to the LSP which was included with the dip sample for this session. This report highlights the outcomes of the Scrutiny Panel’s activity for this session.  |
| **2.** | **ISSUES FOR CONSIDERATION****Feedback on Previous Actions****Outstanding action from the April 2023 exercise:****Summary (stop and search):** On speaking to the occupants of a parked vehicle, officers detected a smell of cannabis. The passenger admitted that they were in possession and handed a quantity of drugs to the officer. A further quantity of cannabis was found by the officer during the vehicle search. During this encounter, the driver could be heard raising their voice to the other officer present. Due to this, BWV from the second officer (driver search) was also reviewed for additional context. **Action 1:** Gwent Police to feed back to the officer on the quality of weak grounds provided, specifically regarding: * Lack of any reference to intelligence on the vehicle;
* Lack of any rationale for initially engaging with the occupants of a parked car;
* ‘Smell of cannabis’ stated without supporting detail; and
* Clearer explanation needed as to whether the car was parked or driving.

**Update:** Feedback has been provided to the officer regarding the inclusion extra contextual detail in written grounds and the need for supporting information for suspected cannabis-related stop searches.**Actions agreed from the August 2023 exercise:****Summary (use of force):** Officers responded to a request from mental health practitioners to detain and escort a young male to hospital for assessment and treatment. The male disclosed to the officer that he suffers from a mental disorder and had stopped taking his medication. During this time, the male’s father became verbally and physically aggressive towards the officers, resulting in an assault on one of the officers and the father’s arrest. Incapacitant spray was used by the officer during the incident. Additional contextual information was provided to members including the presence of warning markers for violence and weapons in relation to the male family member.**Action 2:** Gwent Police to provide the Panel’s positive feedback to the officers involved regarding their engagement with the young male.**Update:** The Panel’s positive feedback has been provided to the officers regarding the manner of engagement with the individual and their conduct during the incident.**Summary (use of force):** Officers attended a private residence following a 999 call that a male had made threats to kill his mother. While speaking with the mother, it was disclosed that the male suffered from a mental health disorder. **Action 3**: Gwent Police to provide the Panel’s positive feedback to the officers regarding their engagement with the young male.**Update:** The Panel’s positive feedback has been provided to the officers regarding the manner of their engagement with the individual.**Summary (stop and search):** Officers attended reports of a large violent disorder between young males aged between 10 and 17 years from different areas of Gwent. The individuals were believed to be in possession of knives.**Action 4:** Gwent Police to provide the Panel’s feedback to the officer regarding positive engagement with the individual and include the comments about the search of the hood and questions about cannabis, which were felt to be unnecessary in the scope of the search.**Update:** The Panel’s positive feedback has been provided to the officer along with their observations concerning the hood search and perceived appropriateness regarding the questions about cannabis. Appropriate supervisor guidance has been given.**Data**The Head of Special Operations provided an overview of the most recent stop and search and use of force data. Due to the sequencing of internal governance and data reporting, the information provided covered the quarter 1 period which had been seen at the previous Scrutiny Panel. However, updates on any work undertaken since the last report would be included. We noted that Gwent Police had enacted a Section 60 use of stop and search at the end of August 2023 in response to youth violence in Newport. The order was only in place overnight and engagement with housing, youth services and other key partners was initiated as a result. Subsequent use of dispersal orders also appeared to effectively reduce further incidents.The OPCC is now implementing a Section 60 review process to ensure that any use of this power in Gwent is appropriate and proportionate and supported by effective decision-making. We were reminded that the total number of stops had reduced by 2.6% during Quarter 1 when compared to Quarter 4 of last year. The Newport area accounted for 45.1% of the force-wide total, a decrease of 7.5% on the previous quarter. People from ethnic minority backgrounds were 2.5 times more likely to be stopped and searched in Gwent than those from white backgrounds, a decrease from 2.6 recorded in Quarter 4 22/23. Members of the Asian and Black communities were most likely to be stopped and searched of all the ethnic minority groups in Gwent. Arrest rates for those from an ethnic minority background decreased from 24.3% in Quarter 4 to 20% in Quarter 1. Arrests made on a person with a White background decreased from 14.9% to 12.3%. The largest proportion of stop searches continued to be conducted on those aged between 18 and 25; however, encounters involving those aged 17 and under had increased from 118 to 145. 18.5% of all stop searches in Quarter 1 resulted in a positive outcome, including an arrest or caution, compared to 22.9% recorded last quarter. We were informed that, due to the low number of arrests compared to the total number of stop searches conducted, more needed to be done to understand the cause of the disparity. This would be monitored through the Coercive Powers Scrutiny Board with feedback to be provided to the LSP in due course.Data for strip searches is also provide to the LSP. This is divided into four subcategories: full strip, no clothes removed, outer clothes only and partial strip. During Quarter 1, a total of four full and one partial strip searches resulting from stop searches were carried out by Gwent Police:

|  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Age | Under 10 | 10-17 Years | 18-25 Years | 26-35 Years | 26-45 Years | 46-55 Years | 56-65 Years | Over 65 Yrs | Total |
| Full Strip | 0 | 1 | 0 | 1 | 0 | 1 | 1 | 0 | 4 |
| Partial Strip | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 1 |

The ethnicity of individuals aged between 10 and 17 is also included within the strip search data reporting:

|  |  |  |  |
| --- | --- | --- | --- |
| 10-17 Years | White British | Ethnic Minority | Not Stated |
| Full Strip | 1 | 0 | 0 |
| Partial Strip | 0 | 0 | 0 |
| Grand Total | 1 | 0 | 0 |

Searches carried out in custody differ to those carried out in relation to stop and search. Each detainee is searched when they enter the custody unit. The search involves being asked to removed outer clothing (e.g., coats and hats) and shoes. They will have a physical search by running hands over the outside of their clothing and then a metal detector wand will be used to check for metal objects. Strip searches in custody are included within the remit of the Police Custody Disparity Scrutiny Group, of which the OPCC is a member. The multi-agency Safeguarding Child Stop/Strip Search Task and Finish Group had continued to meet and progress the work agreed, with a view to presenting recommendations to the Regional Safeguarding Board by March 2024. For use of force, we were reminded that a total of 1,150 subjects had force used against them, of which 8.9 % were from a Black, Asian, or ethnic minority background, slightly higher than the percentage of the population in Gwent (8.6%) We were reminded that there were some areas of disproportionality for the individual ethnic groups compared to the 2021 Census. 2.9% of Black (or Black British) individuals had force used against them compared the 0.8% population in Gwent. In addition, 3.7% of subjects were identified as Asian (Or Asian British) compared to the 2.9% population, and 1.7% were identified as Mixed ethnicity compared to the 1.5% population. In comparison, only 0.5% of subjects were identified as Other ethnicity compared to the 3.5% population of Gwent. However, it is important to note that use of force forms only provide the officer’s perceived ethnicity of the subjects, whereas the Census data is self-defined. In addition, the national ethnicity groupings used slightly different way in the Census data compared to the use of force form.Since the last reporting of this data when a disparity in Taser use for Asian subjects was noted, a review of incidents was undertaken by the force to ensure that any issues were identified and addressed. All incidents were found to have reasonable grounds for use and were proportionate to the circumstances.

|  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | 0-10 Years | 11-17 Years | 18–34 Years | 35–49 Years | 50 -64 Years | 65 and Over | Unknown | Total (n) | Total (%) |
| White | 0 | 129 | 501 | 334 | 58 | 14 | 1 | 1037 | 90.2% |
| Black (or Black British | 0 | 4 | 17 | 12 | 0 | 0 | 0 | 33 | 2.9% |
| Asian (or Asian British) | 0 | 5 | 27 | 10 | 0 | 0 | 0 | 42 | 3.7% |
| Chinese | 0 | 0 | 1 | 0 | 1 | 0 | 0 | 3 | 0.2% |
| Mixed | 0 | 1 | 12 | 5 | 1 | 0 | 0 | 19 | 1.7% |
| Other | 0 | 0 | 2 | 3 | 1 | 0 | 0 | 6 | 0.5% |
| Unknown | 0 | 0 | 2 | 0 | 0 | 0 | 9 | 11 | 1.0% |
| Total Number | 0 | 139 | 562 | 364 | 61 | 14 | 10 | 1150 | 1150 |
| Total % | 0.0% | 12.1% | 48.9% | 31.7% | 5.3% | 1.2% | 0.9% | 100% | 100% |

The Head of Special Operations stated that there was more work to be done by the force to understand the reasons for changes to the numbers of use of force record submissions, and public perceptions of the use of Taser to improve information on appropriate use and the governance in place. In addition, we were informed that Gwent Police had been recognised for good practice around the four-day training provided to Taser officers, compared to the national model of two to three days, and that the Gwent model would be adopted nationally.**Dip Sample** A random selection of BWV recordings had been made prior to the session by a Panel member. A total of six incidents (some with additional footage) were reviewed with relevant contextual and supporting information provided by Gwent Police to inform the scrutiny process. Comments and feedback are summarised below: **Videos 1a and 1b (stop/strip search):** Officers pursued the male subject who had run away from them at sight. The subject’s associates had stated that he was in possession of drugs. When stopped and searched, bags of cannabis and a scale with white powder residue were found on his person. When officers moved the male to the police vehicle, his behaviour escalated violently resulting in use of force to restrain and handcuff him. Members were informed that once in custody, the male was advised by officers that a strip search would be required to check for any additional concealed articles, including knives. Additional contextual information was provided relating to the male’s history with drug supply, possession of bladed weapons and knives. Further safeguarding steps were also highlighted due to concerns for the male’s welfare, the possession of drugs with intent to supply, and possible exploitation.Panel members asked to look at additional video due to a gap in the primary BWV reviewed, and to better understand the circumstances for the male’s sudden behaviour change resulting in use of force.  **Feedback:** Members felt that generally the engagement observed with the young male was good but that some of the questions asked by the officer were more appropriate for a custody rather than community setting. Supplemental feedback on the reason for the escalation requiring use of force would be welcomed. Members also expressed some concerns regarding an increased risk of injury to all involved due to the confines of using force in the back of the police car. However, the force used was believed to be justified by the circumstances. Members noted the additional actions regarding the child’s welfare and safeguarding.**Action 1:** Gwent Police to further review the incident to identify the trigger for the behaviour change and provide assurance to the Panel regarding the circumstances and whether any learning is identified. **Action 2:** Gwent Police to provide feedback regarding the way in which the information relating to the strip search element was written and identify any opportunities for improvement around communication with the individual.**Videos 2a and 2b (use of force):** The officer was in a vehicle pursuit following a report of a robbery and assault. On stopping the vehicle, the officer unholstered his Taser and gave warnings and instructions to the driver and passengers. The driver was subsequently handcuffed and detained in the police car enabling the officer to engage with the passengers while waiting for support to arrive. Panel members asked to look at additional video due to gain further perspective on the way the incident was handled. **Feedback:** Panel members agreed that the officer was superbly professional throughout the incident with use of de-escalation tactics to retain control of the situation. However, concerns were expressed at the potential risk to the lone officer in dealing with multiple subjects. The use of force and presence of Taser was believed to be justified by the circumstances.**Action 3:** Gwent Police to provide the Panel’s positive feedback to the officer regarding their professional conduct during the incident.**Action 4:** Gwent Police to provide feedback to the second officer regarding their overheard use of expletives and the perception of professionalism. **Video 3 (stop and search):** Officers attended a premises following a 999-call reporting a group of youths trespassing on the site. Members of the group initially fled the scene before being detained and searched for suspected involvement. During the searches, the officer confiscated several vapes from the children.**Feedback:** Panel members agreed that the engagement with the group was conducted well with the officer providing good explanations for how the searches would be conducted. It was noted that that officer informed the individuals separately about the grounds and reason for the search. The grounds were assessed as ‘strong’; however, it was noted that the officer referred to a “call about drugs” which was not recorded in the grounds.**Action 5:** Gwent Police to provide feedback to the officer regarding the missing information in the grounds for the search.**Videos 4a and 4b (use of force):** Officers attended a hospital premises where a male under the influence had been reported as refusing to leave, claiming to possess a knife and a bomb. The individual disclosed that he was seeking readmission to hospital due to his circumstances. A member of hospital staff was also present during the incident and provided additional information relating to the individual and his earlier behaviour which had posed a danger to himself and others. While the male was being handcuffed his behaviour became violent and disruptive.**Feedback:** Members commented on the way the officer worked to quickly develop a rapport with the individual, showing empathy and patience and taking time to understand their situation. The use of force was believed to be justified by the circumstances.**Action 6:** Gwent Police to provide the Panel’s positive feedback to the officer on their manner of engagement with the individual.**Video 5 (stop and search):** A vehicle was stopped by the officer due to excessive speeding and the manner of driving. The female driver had previous convictions for drink driving and class A drugs. A roadside breathalyser test was conducted by a second officer in attendance.**Feedback:** Engagement with the individual was felt to be very good with clarity of communication for the grounds for the stop and the actions being taken by the officer. The recorded grounds were assessed as ‘moderate’ as it was felt that more information on the manner of driving would have further strengthened the grounds.**Videos 6a and 6b (use of force)** Officers responded to a call from a member of the public reporting that a male and female had been seen having a violent argument. When questioned by the officers, the male became agitated and was subsequently handcuffed to contain the situation.Further information was provided regarding warning markers associated with the male, breach of conditions relating to the female, and pre-existing domestic abuse safeguarding arrangements for the female. **Feedback:** Members believed that the use of force was justified by the circumstances. **Conclusion**The strength of stop and search grounds remains an area for improvement for Gwent Police, as identified by His Majesty’s Inspectorate of Constabulary, Fire and Rescue Services (HMICFRS) and consistent with the feedback from the LSP. The outcomes of internal auditing and scrutiny processes are reported to the Coercive Powers Scrutiny Board to highlight further opportunities for improvement and ensure that suitable progress is made by the force.Gwent Police continues to improve the identification and understanding of where disproportionality in the use of police powers occurs and is engaged with UK and Wales work programmes to inform improvement and change to police systems and processes.  |
| **3.** | **NEXT STEPS**An internal communications plan resulting from collective scrutiny and improvement activity is being developed by the force which will bring together key messaging for stop and search, use of force, and custody practices. The LSP will continue to have opportunities to ‘deep dive’ on any persistent or emerging issues.Progress will continue to be tracked and monitored by the OPCC through LSP exercises and via the Coercive Powers Scrutiny Board and other internal governance arrangements as appropriate. The OPCC will continue to engage directly with the Head of Special Operations and the Strategic Equality and Diversity Manager to contribute to and support the force’s work in this area.To enable better public awareness and understanding of the outcomes of local activity, Gwent Police’s stop and search data is available on their website at [Stop and Search | Gwent Police](https://www.gwent.police.uk/police-forces/gwent-police/areas/about-us/about-us/stop-and-search/). A link is also provided on the relevant page of the OPCC website. |
| **4.** | **FINANCIAL CONSIDERATIONS**LSP members’ costs are met by Gwent Police in undertaking this role as part of the Independent Advisory Group function; currently there are minor costs for the OPCC in providing refreshments for the Panel due to the duration of face-to-face scrutiny exercises. Sessions are hosted on police premises with virtual attendance provided, which does not incur any additional costs. However, financial consideration would need to be given to the addition of other independent members in line with existing volunteer schemes. |
| **5.** | **PERSONNEL CONSIDERATIONS**The scrutiny exercise is undertaken as part of the OPCC’s normal working arrangements, and support is provided by Gwent Police colleagues to ensure access to data and BWV footage as appropriate. |
| **6.** | **LEGAL IMPLICATIONS**Under section 5.4 of PACE Code A, Chief Constables, in consultation with Police and Crime Commissioners, must make arrangements for stop and search records to be scrutinised by representatives of the community, and to explain the use of the powers at a local level. The exercise also falls within the Commissioner’s wider accountability duties. |
| **7.** | **EQUALITIES AND HUMAN RIGHTS CONSIDERATIONS**Legitimacy and fairness form an objective within the Joint Strategic Equality Plan 2020-2024 and the LSP process is a core activity within this objective. Under the Equality Act 2010, in carrying out their functions, police officers must pay due regard to the need to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity between people who share a relevant protected characteristic and people who do not share it; and take steps to foster good relations between those persons. The scrutiny process aims to help demonstrate that police powers are being used effectively, proportionately, and justifiably across all communities in Gwent. Consideration has been given to requirements of the Articles contained in the European Convention on Human Rights and the Human Rights Act 1998 in preparing this report. Any decision to exercise the powers contained within stop and search procedures must be based on the principles of legality, legitimate aim and proportionality as required under the Human Rights Act. |
| **8.** | **RISK** Stop and search has the potential to negatively affect public confidence in the police if not carried out appropriately and with consideration of an individual’s needs. For example, children may be more likely to find the experience of stop and search traumatic which may have long-term effects on their perceptions of the police.The scrutiny process aims to help ensure that encounters are undertaken appropriately. For the purposes of the exercise all data is anonymised, and members of the LSP have been vetted according to Gwent Police processes. A robust Terms of Reference sets out the expectations of members whilst engaged in the scrutiny process. This is reviewed annually to ensure it remains fit-for-purpose. |
| **9.** | **PUBLIC INTEREST**The scrutiny exercise can help promote public confidence in the use of Police powers. The report is published externally on the OPCC website. |
| **10.** | **CONTACT OFFICER**Caroline Hawkins – Policy Officer, Office of the Police and Crime Commissioner |
| **11.** | **ANNEXES**None |