**OFFICE OF POLICE AND CRIME COMMISSIONER**

**TITLE:** Legitimacy Scrutiny Panel Stop and Search Exercise – November 2022

**DATE:** February 2023

**TIMING:** Routine

**PURPOSE:**For Scrutiny

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| **1.** | **RECOMMENDATION**1. For the Commissioner and Gwent Police’s Head of Operational Support to consider the outcomes of, and recommendations from the Legitimacy Scrutiny Panel exercise undertaken in November 2022.
2. For Gwent Police to provide feedback to the Office of the Police and Crime Commissioner (OPCC) in response to the recommendations to demonstrate how the recommendations will be addressed.
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| **1.** | **INTRODUCTION**A Legitimacy Scrutiny Panel (LSP) session took place in November 2022 covering stop and searches conducted during the period 1st April to 30th September 2022. This was the first face-to-face session since the pandemic, as the process had moved to a virtual meeting during that time. A selection of records, randomly chosen by a Panel member for dip sampling, was reviewed along with recent body worn video (BWV). A range of data, including race disproportionality and item found rates was also considered. This report highlights the outcomes of the Scrutiny Panel’s activity for this session.  |
| **2.** | **ISSUES FOR CONSIDERATION****Feedback on Previous Actions**During the May 2022 session, the following actions were agreed during the dip sample of records:**Action 1:** Gwent Police to provide feedback to the LSP regarding the outcome of the investigation into the presence and rationale behind the exceptionally poor grounds provided on the stop and search form which stated that the encounter was “intel based”.**Update:** The community resolution was a cannabis formal warning. The officer was provided with feedback that if specific intelligence had been available then the information provided would be sufficient and appropriate to protect sources (provided this was recorded elsewhere); if, however, it was general intelligence around markers on vehicles etc then this would not be appropriate.**Action 2:** Gwent Police to give feedback to the officer and their Sergeant regarding the lack of recorded details in the grounds, particularly around the rationale for “reasonable suspicion” and following actions.**Update:** The insufficient grounds had already been identified and addressed by the Sergeant prior to the feedback from the LSP.**Action 3**: Gwent Police to provide feedback to the officer regarding the lack of detail in the grounds and the reason for a No Further Action (NFA) outcome when the individual had admitted to possession of the item searched for.**Update:** Feedback provided to the officer regarding the grounds.  The admission of possession was part of the grounds, whereby the smell and the admission that the subject had been in possession of cannabis prompted the search which proved fruitless. The officer has been advised accordingly.**Data**The Head of Operational Support provided an overview of Home Office national data year ending 31 March 2021 (published in October 2022) and comparative Gwent Police data. The Panel was informed that:* The decrease in stop and search activity seen in Gwent was reflected in national trends for the year;
* Section 60 use had also decreased nationally; however, this power was not used frequently in Gwent, and not at all during the last three years;
* Outcomes linked to the reason for the encounter increased to 23% from 20% nationally. During quarter 2, Gwent Police recorded above average performance of around 25%.
* The force-wide find rate stood at 24%, an increase from the 20% achieved during quarter 1. National find rates were not reported by the Home Office.
* There was a slight rise in the national arrest rate, from 11% to 13%. Approximately 24% of those arrested identified with Black, Asian, or mixed ethnic groups. During quarter 2, Gwent Police recorded an arrest rate of 25%, with approximately 13% of those arrested identifying with ethnic minority backgrounds.
* Nationally, race disparity in the use of stop and search persists but fell during the 2020/21 reporting year due to the increased number of searches on individuals from white backgrounds. Figures for Gwent remained relatively consistent between 2020/21 and 2021/22:
	+ Individuals from a Black or Black British background were 6.2 times more likely to experience stop search than those from a white ethnic group in 2020/21. In Gwent, the rate for 2021/22 was 6.4 times. It was noted that this figure had been incorrectly reported in local media coverage as 8.1 times more likely (further comments are provided later in this report).
	+ Individuals identifying as Asian or Asian British were 2.1 times more likely to experience stop search than those from a white ethnic group. In Gwent, the rate was 2.2.
	+ Individuals identifying as mixed ethnicity were 2.3 times more likely to experience stop search than those from a white ethnic group. In Gwent, the rate less than 1 times more likely.

The number of stop searches conducted by Gwent Police during quarters 1 and 2 of this year remains significantly below the numbers recorded during the past few years. The reasons for this decline have been articulated in previous reports including the effect of lockdowns during the pandemic, operational team restructuring, capacity to respond to priority demand, and a reduction in the number of large-scale operations being conducted by Gwent Police. The Head of Operational Support provided assurance of the continued focus and activity to increase the use of effective and justified stop and search encounters, with oversight provided by the quarterly internal Coercive Powers Scrutiny Board, chaired by the Head of Operational Support and attended by the OPCC and IAG members of the LSP.Race disproportionality data to ward level is reviewed at the Coercive Powers Scrutiny Board. We were advised that for quarter 2:* People from Black, Asian and minority ethnic backgrounds were 3.5 times more likely to be stopped and searched in Gwent than those from white backgrounds, an increase from the 2.9 times recorded for quarter 1 but still below the 4.4 times recorded in quarter 4, 2021/22.
* The highest number of encounters with people from ethnic minority backgrounds occurred within Newport City Centre (nine encounters).
* Overall, 22 stops took place within Newport (an increase of four stops from quarter 1), with only 16 encounters with ethnic minority individuals recorded in all other locations across the force area (an increase of 1 from the previous quarter).
* Three of the top five wards were located in Newport; while the percentage of individuals from ethnic minority backgrounds stop searched within these wards reduced from 18.3% to 14.4%, activity within four of the top five wards was shown to be disproportionate.
* Only two policing sections, Blaenau Gwent, and Caerphilly North, showed no evidence of disproportionality based on the race disproportionality ratio (RDR). However, other areas such as Monmouthshire and Caerphilly South can see relatively low numbers of stop searches which has a big impact on their RDR figures.

Reviewing the data down to ward level enables a better understanding of the relationship between resident population and the numbers of stop searches conducted, and how this affects the proportionality of policing activity in areas of low ethnic minority population. This data will be reviewed at the next Coercive Powers Scrutiny Board in December with an expectation that the reasons for disproportionality can be explained, or actions agreed to address identified issues.Data quality remains an area of scrutiny for Gwent Police, with a particular focus on the recording of ethnicity, grounds, and location, as well as the quality of encounter. However, technical issues with accurate location recording persist which will also be further reviewed at the Coercive Powers Scrutiny Board meeting. It was noted that use of BWV had increased across the force in quarter 2, rising from a compliance rate of 93.8% to 96.5% - this was welcomed by LSP members as a positive outcome of recent internal messaging regarding use of BWV cameras during stop and search encounters.To support 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.LSP members acknowledged that they are in a position of privilege with regards to police data and information, stressing the need for effective public communications regarding police performance to help to balance the impact of local and national media. Members reflected on recent community feedback they had received and reinforced the importance of direct engagement with communities by all levels of Gwent Police, from Community Support and neighbourhood officers up to senior management and leadership, to demonstrate the breadth of positive work undertaken to tackle issues within policing and help to increase public trust and confidence in the force.**Action 1:** The Head of Operational Support and Strategic Equality and Diversity Manager to review corporate messaging and communications and public engagement for stop and search, with a targeted approach for areas that experience higher or disproportionate rates of stop search activity (links to existing actions already agreed within the force’s Stop and Search Action Plan).**Action 2:** Linked to action 1, Head of Operational Support and Strategic Equality and Diversity Manager to develop the narrative around stop and search and the use of police powers to support public engagement and communication.**Action 3:** Gwent Police to create an easy-to-read data summary for police powers that can be regularly published (recommend quarterly) and used to support public engagement and messaging.**Dip Sample of Records**For the scrutiny period, 651 ‘person’ stop searches were recorded; of these, 87 were randomly selected for this period with 13 chosen for dip sampling by Panel members to assess the recorded grounds (of these, six related to white and seven related to Black, Asian and minority ethnicities). During their audit of stop and search records in 2021, Her Majesty’s Inspectorate of Constabulary and Fire and Rescue Services (HMICFRS) found that 24% of grounds were ‘weak’, similar to the independent consultant’s findings from 2019. While many good examples of grounds were available in the record selection, to support organisational learning and improvement members focused on identifying examples of weak grounds. Of the 13 records reviewed, 42% were determined to have ‘weak’ grounds, with the reasons agreed as:1. Grounds being copied and pasted between records relating to a group of individuals stop searched with no amendment or additional relevant information added (it was also noted that no BWV (officer discretion) or supervisory checks had been recorded either);
2. Lack of detail within the grounds to support the rationale for the decision to stop that individual, with officers assuming knowledge of the background or intelligence related to the stop;
3. More information needed to rationalise the outcome of the search where an item was found but no further action recorded; and
4. Grounds written in a confused or muddled way with use of police jargon and acronyms.

Figure 1 provides comparative dip sample outcomes for the last three exercises. While a small decrease in the proportion of ‘weak’ grounds was noted for November 2022 compared to May, there was a large increase in ‘moderate’ grounds suggesting that there remains a need for repeated and consistent reminders to officers in what constitutes ‘strong’ grounds and how grounds should be recorded. The Head of Operational Support stated that this was a constant feature of his performance review at the Coercive Powers Scrutiny Board and it would again be highlighted in relation to the feedback provide by the LSP. Figure 1As part of Gwent Police’s internal scrutiny processes, all grounds relating to stop searches of Black, Asian and minority ethnic individuals are reviewed and assessed for ‘strength’ using the same approach as the LSP, with the outcomes fed into the Coercive Powers Scrutiny Board. The outcomes from the LSP dip sample are also fed into Board meetings to support internal scrutiny and continuous improvement processes.The following actions were agreed during the dip sample exercise, with outcomes to be provided to the Panel in due course:**Action 4:** Gwent Police to review URN \*9\*\*0 in respect of the inconsistent information around recording and provide feedback on the outcome**Action 5:** Gwent Police to review URNs \*3\*\*9 and \*1\*\*7 where grounds were copied and pasted, no BWV was used and no supervisory checks recorded, and provide feedback on why this occurred and any resulting opportunities for learning.One point of discussion related to the difference between what is recorded within the Niche police system compared to the grounds on a stop and search record. To better understand the context for encounters with weak grounds, Gwent Police shares information verbally from the Niche records which usually contains a far more detailed description of the encounter than the stop and search record itself. It was acknowledged that Niche records would be expected to hold greater detail relating to restricted information such as specific operational activity, police intelligence, etc. Members discussed the perceived impact of duplication for officers creating multiple records for the same incident and police systems not effectively cross-referencing information and suggested that this was more widely discussed to determine whether any improvements could be made to current processes.**Action 6:** OPCC to recommend that Gwent Police considers and reflects more widely the discussion over the duplication of entry and disparity of information in police records for stop and search incidents, exploring opportunities to streamline information capture and sharing across police systems.One of the encounters reviewed was a response to a call from a mental health crisis organisation regarding concerns for the individual believed to be in possession of a bladed article with intent to self-harm; while ‘strong’ grounds were provided, it was suggested that the circumstances more closely resembled a use of force incident. However, no action was agreed due to the appropriateness and context of the safeguarding provided by officers. **Body Worn Video**A selection of BWV was provided for members to dip sample. Due to time constraints only three videos were reviewed. **Video 1:** A vehicle was stopped due to the manner of driving and a smell of cannabis when it pulled out at a junction in front of the officer’s car. While speaking to the driver, the officer explained this and commented on the strong smell still present. The driver admitted having smoked prior to starting his journey and the officer stated that a drugs wipe would be taken. When questioned, the individual also admitted to having drug paraphernalia in the vehicle.Members commented that the engagement between the officer and the individual was excellent, with the individual remaining compliant throughout the encounter. It was noted that all the required information was explained clearly and good communication was evident. Members did express concern that the officer did not wear gloves when conducting the person search, particularly as the individual believed a knife used for professional purposes might be found in a pocket. **Action 7:** Gwent Police to provide positive feedback from the LSP to the officer to recognise the quality of encounter and standard of engagement observed. **Video 2:** A vehicle was stopped due to intelligence and markers linked to criminal activity in another policing area. On stopping the vehicle, the driver absconded from the scene. The officer attempted to engage with the passenger who was found to not speak English. Members commented that the engagement between the officer and the individual was very poor, noting that a substantial length of time had passed before the officer attempted to determine the individual’s nationality and language. It was felt that the officer’s attitude was abrupt but members acknowledged that the officer was also attempting to direct other officers to intercept the driver while attempting to communicate with the individual. It was also noted that attempts were made to provide all the required information for the stop and search despite the language barrier, but that the grounds were not given until at least five minutes into the encounter.**Video 3:** Officers attended a pub restaurant in response to a call regarding an individual believed to have concealed a steak knife on their person. It was reported that a group of young people had been causing problems with the individual and other customers. The officer conducting the search was seen to be young in service and supported by another officer.Members discussed the use of peer training by the force. While concerns were raised about the efficiency and public perception of this, they recognised that there is always a ‘first time’ and additional support and live-time oversight may be required to ensure all requirements are met. It was noted that the individual was compliant and knew their rights, even appearing to prompt the officer at times. **Recommendation 1:** Recommendation that Gwent Police considers the impact and effectiveness of current stop and search training methods, particularly for newly deployed officers undertaking supported searches on members of the public. **Conclusion**Gwent Police remains committed to the continuous improvement of stop and search practices, which is demonstrated through its governance processes. The strength of grounds remains a recognised area for improvement for the force. Improvements have been seen in line with feedback provided by the LSP, particularly in respect of engagement with children. Other improvements linked to feedback around areas such as training may take longer to become visible within operational practices due to the timescales required for delivery to frontline officers. These actions remain under review for the next two LSP sessions to ensure that the desired outcomes are seen within a reasonable timeframe.LSP sessions are one way of ensuring that voices from communities most likely to be affected by police powers are heard. Gwent Police is undertaking additional activity to ensure that, more widely, these communities are provided with opportunities to review and discuss how stop and search is used, and to provide feedback on their experiences. Outcomes from this engagement will be fed through the Diversity and Inclusion Team to enhance the information available to the force and the OPCC to support internal scrutiny and improvement processes.  |
| **3.** | **NEXT STEPS**Progress will continue to be tracked and monitored by the OPCC through LSP exercises and via the Coercive Powers Scrutiny Board and other associated internal meetings as appropriate. Consideration is being given to expanding the membership of the LSP beyond the IAG. Previous attempts to recruit external members were unsuccessful, due in part to existing vetting requirements. The OPCC is working with the Strategic Equality and Diversity Manager to identify suitable opportunities for the LSP’s development.  |
| **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. 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 the Police and Criminal Evidence Act (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. 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 |