

OFFICE OF POLICE AND CRIME COMMISSIONER

TITLE: Legitimacy Scrutiny Panel Exercise - October 2018

DATE: January 2019

TIMING: Routine

PURPOSE: For scrutiny

1. RECOMMENDATION

To consider the outcomes of the scrutiny exercise undertaken on 26th October 2018 and the observations arising from the activity.

2. INTRODUCTION & BACKGROUND

Since January 2013, the Office of the Police and Crime Commissioner (OPCC) has undertaken a procedure to dip sample stop and search records held by Gwent Police (Decision Log PCCG-2013-001). The Dip Sample Group comprised of Independent Advisory Group (IAG) members, the OPCC Policy Officer with responsibility for Equality and Diversity, Gwent Police's Head of Diversity and Inclusion and the Diversity and Inclusion Officer, who provided advice to the group on operational queries arising during the scrutiny exercise. In September 2017, at the request of the Assistant Chief Constable, work commenced to expand the remit of the group to include all use of force exercised by Gwent Police. The group was renamed the Legitimacy Scrutiny Panel (LSP) and continues to be chaired by the OPCC Policy Officer with support as before. The Panel is convened on a six-monthly basis and the data examined aligns with the financial year.

3. ISSUES FOR CONSIDERATION

The LSP process is split into two parts. Part 1 considers Gwent Police's use of stop and search powers and Part 2 reviews use of force. Within each part, members are provided with a highlight report of the overall data for the scrutiny period for the preceding six-months. Members also review a selection of available, relevant body worn video (BWV) footage from the period. Commentary and feedback includes positive points as well as issues of concern and operational learning. In addition, the Panel reviews a random sample of the total number of stop and search forms submitted during the same timeframe. The scrutiny timescale for this exercise runs from 1st April 2018 to 30th September 2018.

The Panel are given opportunities to review and discuss other matters related to stop and search and use of force, and their feedback is considered in informing further activity in these areas. These are included within the report.

The Bronze Inspector with responsibility for stop and search and use of force improvement regularly provides operational support and advice to the LSP

exercise. In addition, invites to the October 2018 exercise were sent to the President of the National Black Police Association (a serving member of Gwent Police), and a Neighbourhood Officer from the East local policing area (LPA), to provide further insights into the observations arising from the exercise from both the national and the local perspective. This is the first time that additional operational views have been included at this stage. At the conclusion of the exercise, members stated that they had benefitted from the range of experiences provided and welcomed a similar approach in future.

Part 1 – Stop and Search

Members were provided with the following information and updates related to stop and search.

College of Policing Authorised Professional Practice (APP) Cannabis Guidance

Earlier in 2018, the College of Policing undertook a consultation across the police service regarding the stop and search of persons suspected of being in possession of a controlled drug, including vehicle and vessel stops under Section 23 of the Misuse of Drugs Act 1971. The intention was to understand current police activity in this area, and remove the reported ambiguity in the wording of the related APP guidance. Specifically, this related to the use of ‘smelled cannabis’ as grounds to detain a person for the purposes of a search.

In August 2018, the College published revised APP relating to searches based on the smell of cannabis, acknowledging a number of conflicting points of view in respect of searches where grounds are based on this alone. The revised APP is underpinned by College research based on analysis of 2,000 records from two forces, which found that ‘the inclusion of the smell of cannabis in officers’ grounds made no difference to outcomes’. In publishing the refreshed guidance, the following points are important to note:

- *Current legislation and associated case law does not explicitly prohibit officers from carrying out a search based on the smell of cannabis alone. If an officer conducts such a search then it is their individual responsibility to set out and accurately record the justification for the search based on the specific circumstances they face*
- *The research has identified that a number of behavioural factors can significantly increase the likelihood of a cannabis search resulting in a positive outcome. The revised APP focusses on these areas, providing constructive information to help inform an officers approach and encouraging them to consider multiple factors in their decision making*
- *It is essential that senior leaders provide focus and clear direction to officers. It is apparent that where officers develop grounds that are based on more than the smell of cannabis alone (such as observing*

and describing the suspect's demeanour and behaviour, use of relevant intelligence and crime analysis for that location, third party observations, CCTV evidence, etc.) they are more likely to conduct productive searches. This in turn can improve public confidence and provide evidence of a more efficient and effective service in the communities we serve.

Panel members welcomed the update in terms of informing their knowledge when undertaking stop and search scrutiny. Gwent Police has also invited members to participate in a planned visit to Merseyside Police to explore how this issue is handled in other areas.

The Colour of Injustice: 'Race', drugs and law enforcement in England and Wales

In September 2018, StopWatch, the London School of Economics and Political Science, and Release published their report *The Colour of Injustice: 'Race', drugs and law enforcement in England and Wales*¹. The report documents the disproportionate impact that drug law enforcement continues to have on black, Asian and minority ethnic (BAME) communities in England and Wales. The analysis covers various aspects of the criminal justice process, including:

- Stop and search
- Arrests and out of court disposals
- Prosecution and sentencing.

Panel members were provided with the Executive Summary and recommendations from the report to enable discussion from a Gwent perspective. The report confirms a number of national trends observed in Gwent Police's data over the last few scrutiny exercises, and reiterates the need for the police service (and other criminal justice agencies) to understand the reasons for any disproportionality. The Policy Officer explained that, where applicable, the findings are being considered to help inform any additional focus for future stop and search scrutiny.

Members welcomed the approach to the findings and were provided with a link to the full report following the LSP exercise. We discussed including prosecution data where available to provide end-to-end context for stop-search activity. This will be explored prior to the next exercise. The Police and Crime Commissioner has also requested a position statement in terms of the report contents; this will include any specific feedback received from the Panel.

¹ <http://www.stop-watch.org/news-comment/story/the-colour-of-injustice>

Update on Internal Activity

Ride Along Scheme

Members received an update on the Ride Along Scheme (lay observation) from the Head of Diversity and Inclusion. Lay observation is one of the requirements for the police service under the Home Office *Best Use of Stop and Search Scheme*. Since its launch in August 2015, Gwent Police has received over 1000 applications to the Ride Along Scheme with more than 90 applications received from 1st January 2018. Over 800 of these were approved following successful background checks. 230 applicants were aged between 16 and 19 years; 611 were aged between 20 and 29 years. 50 applicants identified themselves as from a BAME background.

Lay observation intends to provide participants with a better understanding of operational policing and the community, including when stop and search might be used and how it can be useful in tackling crime. Performance data for to the scheme is reported to the quarterly Operational Tactics Meeting and from here, any feedback from participants is fed back to LPA command teams. Where an issue requires immediate attention, processes are in place to report directly to command teams.

Examples of participants' feedback were provided to members who agreed that lay observation is valuable in raising awareness of how Gwent's communities are policed and the challenges faced by officers. The feedback also suggested that the scheme can raise community confidence in the use of police powers as it has positively changed many participants' perceptions of policing.

Internal Improvement Plan

Members received an update on Gwent Police's internal activity around stop and search and use of force since the last scrutiny exercise in April 2018. The update focused on the internal Improvement Action Plan, which incorporates the recommendations and observations from the previous exercise as well as any other findings from internal scrutiny, for example, supervisor checks and interim dip samples of stop and search submissions undertaken by the Bronze Inspector. Key activities include:

- Providing legislative updates to officers as part of training with future plans to introduce virtual stop and search training across the force
- Targeting data quality improvement by introducing mandatory fields on the electronic stop and search form, including self-defined ethnicity
- Reducing technical differences through the recording and data entry process
- Supervising stop and search processes and using frequent dip sampling and internal auditing to provide feedback and guidance to officers where insufficient grounds have been identified

- Increasing use of body worn video to record stop and search encounters with personal issue cameras and appropriate guidance to be provided over the next few months
- Understanding the reasons for current numbers of recorded encounters and providing support to officers regarding appropriate use of powers
- Understanding any reasons and mitigating factors for disproportionality throughout stop and search processes
- Improving public confidence in stop and search in Gwent with greater transparency through data publication, improved take-up of the ride-along scheme, and digital solutions to issue receipts following encounters.

Members welcomed the update and the active use of the outcomes from the scrutiny exercise. Scrutiny Panel members that are also IAG leads for stop and search attend the Operational Tactics Meeting and will continue to support progress of the Improvement Action Plan.

Operation Sceptre

Between the 18th and the 25th September 2018, Gwent Police took part in Operation Sceptre, a national campaign that aims to tackle the growing issue of knife crime. The operation recorded 196 stop and searches during the week, 60% of which took place in the Newport area. 11% of individuals stopped identified as BAME, 52% as white, and 25% had no ethnicity recorded. 24% of all encounters resulted in arrests. This caused an increase in expected stop-search numbers for September 2018; whilst the ratio of white to BAME stops appears consistent with current stop and search activity, it is difficult to determine accurately the impact of the operation on proportionality due to the level of unrecorded ethnicity information.

Data Overview

Panel members considered a data report for stops encounters undertaken between 1st April 2018 and 30th September 2018. The report showed a spike in the number of encounters recorded for September, which is attributable to the activity undertaken as part of Operation Sceptre. Overall, the lower numbers for the period continue to reflect national trends.

During the previous exercise, Panel members expressed concern at the lack of positive outcomes and the high rate of NFA outcomes observed. In considering the current data, this has improved across all stops (22.6% positive outcomes) and youth stops (21.7% positive outcomes). The upturn in the number of positive outcomes recorded may be linked to the internal improvement work undertaken during the period, as well as more accurate recording and submission of information at the time of completing forms.

The Race Disproportionality Ratio (RDR) for the period has increased slightly

from the previous six-month period, from 3.5 to 4.7. This may be partly attributable to improved recording of self-defined ethnicity and the increased stop-search activity relating to Operation Sceptre.

Dip Sample of Records

852 stop and search records were available for the dip-sample. Of these, 105 related to vehicle stops and were therefore excluded from the total. The dip sample target was calculated to be 180 records for the exercise (providing a 24% sample). 104 records related to BAME encounters, all of which were scrutinised, and the remaining stop and search records were shared between the Panel members with 76 'white' records randomly chosen. All selected records were individually examined against the criteria set out within the record monitoring form.

Table 1.1 provides analysis of the 180 records dip-sampled and Table 1.2 shows the overall figures for the 747 records for the same period.

Table 1.1 – Analysis of 180 records (dip sample)					
Category		# White	# BAME	% White	% BAME
Gender	Male	71	99	39	55
	Female	4	2	2	1
	Other 'I' (Indetermined)	0	1	0	0.5
	Not Recorded – ethnicity unknown	3		2	
Self-Defined Ethnicity	Asian Indian	0	2	0	1
	Asian Pakistani	0	13	0	72
	Asian Bangladeshi	0	6	0	3
	Other Asian Background	0	23	0	13
	Black Caribbean	0	5	0	3
	Black African	0	13	0	7
	Other Black Background	0	8	0	4
	White/Black Caribbean	0	4	0	2
	White/Black African	0	4	0	2
	White Asian	0	4	0	2
	Other Mixed Background	0	17	0	9
	Officer Called Away	7	0	4	0
	Any Other Ethnic Background	0	5	0	3
	White British	66	0	37	0
Not Stated	3		2		
Age	Under 17	15	26	8	14
	18 to 25	31	50	17	28
	26 to 35	16	16	9	9
	36 to 45	8	5	4	3
	46 to 55	3	4	2	2
	56 to 65	0	0	0	0
Purpose	Articles for Use in Theft	6	4	3	2
	Bladed Article	14	10	8	6
	Drugs	47	80	26	44
	Firearms	1	1	0.5	0.5

	Going Equipped	1	0	0.5	0
	Not recorded	0	0	0	0
	Offensive Weapons	3	4	2	2
	Public Order	0	1	0	0.5
	Seizure of Alcohol or Tobacco	0	1	0	0.5
	Stolen Property	3	0	2	0
	Threat or Harm	1	3	0.5	2
Outcome	Arrested	7	9	4	5
	Caution (Simple or Conditional)	0	2	0	1
	Community Resolution	1	0	0.5	0
	Drug Warning	3	5	2	3
	No Further Action (NFA)	43	57	24	32
	No Outcome	8	21	4	12
	Penalty Notice for Disorder	3	2	2	1
	Police Discretionary Resolution	1	4	0.5	2
	Summoned	2	0	1	0
	Voluntary Attendance	1	4	0.5	2

Table 1.2 – Analysis of 747 records (total for the scrutiny period)					
Category		#	#	%	%
		White	BAME	White	BAME
Gender	Male	511	99	68	13
	Female	30	2	4	0.3
	Other 'I' (Indeterminate)	1	1	0.1	0.1
	Unknown	3	2	0.4	0.3
	Not Recorded – ethnicity unknown	8		1	
Self-Defined Ethnicity	Asian Indian	0	2	0	0.3
	Asian Pakistani	0	13	0	2
	Asian Bangladeshi	0	6	0	0.8
	Other Asian Background	0	23	0	3
	Black Caribbean	0	5	0	0.7
	Black African	0	13	0	2
	Other Black Background	0	8	0	1
	White/Black Caribbean	0	4	0	0.5
	White/Black African	0	4	0	0.5
	White Asian	0	4	0	0.5
	Other Mixed Background	0	17	0	2
	Officer Called Away – ethnicity unknown	73		8	
	Any Other Ethnic Background	0	5	0	0.7
	White British	524	0	70	0
	White Irish	3	0	0.4	0
	Other White Background	18	0	2	0
Not Stated – ethnicity unknown	25		3		
Age	Under 17	112	26	15	3
	18 to 25	232	50	31	7
	26 to 35	133	16	18	2
	36 to 45	93	5	12	0.7
	46 to 55	26	4	3	0.5

	56 to 65	8	0	1	0
	65+	1	0	0.1	0
	Not recorded	25	0	3	0
Purpose	Articles for Use in Theft	39	4	5	0.5
	Articles to Cause Damage	4	0	0.5	0
	Bladed Article	61	10	8	1
	Drugs	367	80	49	11
	Evidence of Offences under the Act	3	0	0.4	0
	Firearms	6	1	0.8	0.1
	Going Equipped	22	0	3	0
	Intoxicating Liquor	1	0	0.1	0
	Not recorded	3	0	0.4	0
	Offensive Weapons	14	4	2	0.5
	Other	1	0	0.1	0
	Public Order	0	1	0	0.1
	Stolen Property	24	0	3	0
	Threat or Harm	10	3	1	0.4
	Traffic Violation	1	0	0.1	0
	Outcome	Arrested	42	9	6
Caution (Simple or Conditional)		1	2	0.1	0.3
Drug Warning		44	5	6	0.7
Item Seized		4	0	0.5	0
No Further Action (NFA)		355	42	47	6
No Outcome		63	21	9	3
Penalty Notice for Disorder		10	2	1	0.3
Police Discretionary Resolution		4	4	0.5	0.5
Summonsed		4	0	0.5	0
Voluntary Attendance		18	4	2	0.5

Data Quality

Poor data quality provides one of the biggest risks for stop and search. Previous reports highlighted issues regarding incomplete forms and duplicate submissions related to mobile data connectivity. The records examined during the dip sample were found to be of an improved quality compared to previous exercises. This was also noted in the overall data for the period. Missing information was seen across categories including gender and ethnicity; however, there was a marked improvement due to the recent mandating of fields within the electronic form. However, it was difficult to confirm whether any records has been duplicated as a result of mobile data issues.

Gwent Police continues to recognise the risks associated with poor data quality and focuses progress through its Improvement Action Plan and the internal Operational Tactics Meeting.

Grounds

All grounds fields for the 180 records examined had been completed. In 80%

of cases (144 records), members believed the stated grounds to be reasonable (of this number, 33% were for white and 47% for BAME encounters); however, the remainder were queried due to either ambiguous, limited or absent details (for 9% white and 10% BAME records). Member observations for these records included:

- Stops in relation to road traffic offences that lack clarity on the original purpose
- Smell of cannabis still used without any other justifying grounds
- Overall lack of detail provided, including where linked to targeted operational activity
- Queries over perceived profiling of individuals stopped based on personal factors such as previous convictions or physical appearance.

These findings partially replicate comments from previous exercises; however, there was a general improvement in the way grounds were written. Panel members also commented on several records that had comprehensive and thorough grounds and, once again, a small number provided legitimate grounds detailed against each requirement of the 'GOWISELY'² process. The timing of the APP guidance may have had a limited impact on improvements to 'smell of cannabis' grounds for this exercise; this will be revisited in the next exercise.

Gender

170 records of the 180 reviewed (94%) related to individuals who identify as male and 13 (8%) identify as female. 3 records (2%) did not have any gender information recorded (0.5% white and 1% BAME).

In considering the overall data set of 747 records, 8 records (1%) show the gender as 'unknown'. Furthermore, 86 male (11%), 8 female (1%), 1 'indeterminate' (0.1%), 3 'unknown' (0.4%) entries (98 records in total) do not have any ethnicity recorded. This is due to either a blank field or the officer being 'called away'.

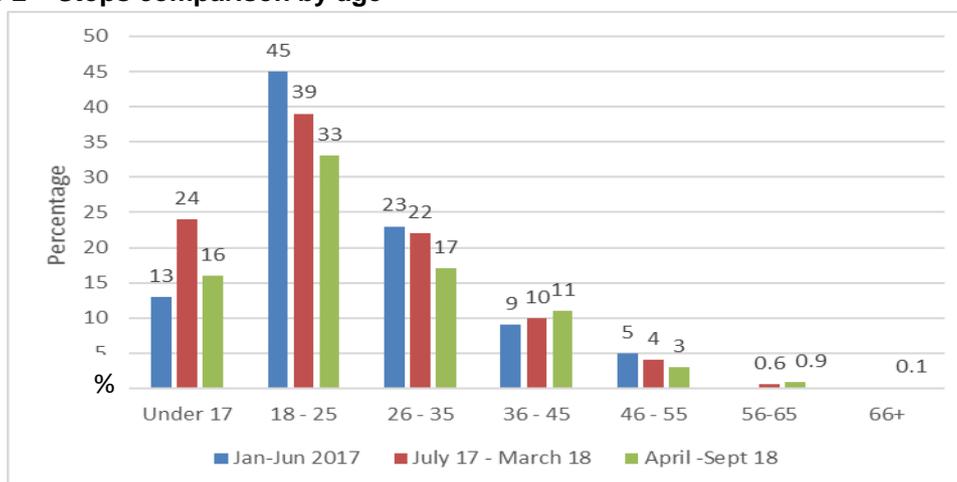
Age

Within the dip sample, the highest number of encounters were recorded with individuals in the 18 to 25 age range (282 records; 9%), followed by the 17 and under age range (138 records; 5%). 4% of encounters (149 records) were recorded with individuals aged 26 to 35. Table 2 provides a comparison by age and percentage of the last three dip samples and offers a useful indication of changes in stop and search activity over time. The chart indicates a reduction in the proportions of recorded encounters for the 17 and under group, the 18 to 25 group, the 26 to 35 group, and the 46 to 55 age

² GOWISELY – Grounds; Object; Warrant card; Identity; Station; Entitlement of the search record; Legal power; You are being detained for the purposes of a search. As long as this process is undertaken the order of delivery is not important.

groups with small increases for the 55 to 65 and over 66 age groups. In considering the population data for Gwent, the 18-25 age group are over-represented in terms of stop and search. This may relate to the demographics of the available population, the time of day and geographic locations of encounters.

Table 2 – Stops comparison by age



Further analysis regarding the location of stops across the whole data set for the 17 and under age range identified that over half of encounters took place in the Newport area. 16 encounters took place within the Stow Hill ward, 15 in the Pillgwenlly ward, 10 in Lliswerry and eight in Victoria. 8 records had no ward recorded. The same is true for all 747 records, with 55% of encounters recorded in the Newport area. Unfortunately, the data provided for the exercise did not indicate the time of day for stop-searches so it was not possible to link activity with the night-time economy. Some encounters would also be associated with Operation Sceptre; again, it was not possible to distinguish these from all of the records.

Ethnicity Proportionality

Of the records dip sampled, 37% of people (66 records) stopped and searched during the period identified as White British. Of the 58% of BAME encounters, 23% identified as being from 'any other Asian background', followed by 17% as 'other mixed background'. 2% (3 records) did not state any ethnicity and 4% (7 records) stated that the officer was called away (thus not recording the ethnicity). 26 BAME encounters (14%) were undertaken for the 17 and under age range. For the 18 to 25 age range, 50 BAME encounters (28%) were recorded.

In considering all the stop and search records for this period, 73% of individuals (545 records) identified as white; 14% (104 records) identified as BAME; 3% (25 records) show no ethnicity recorded and 10% (73 records) stated that the officer was called away. The absence of self-defined ethnicity information prevents accurate analysis of the data and calculation of the RDR and risks misrepresenting the activity recorded within Gwent.

Applying the RDR helps indicate whether different groups of people are being stop and searched more disproportionality than others. Comparing the total data since 2013/14 (Table 3) it is evident that the RDR for Gwent Police rose significantly in 2014/15 and has continued to do so since.

Table 3 – Year-on-year comparison

Stop and Searches	# of Stops (Total)	# of Stops ('White')	# of Stops (BAME)	% of Stops ('White')	% of Stops (BAME)	RDR
2013/14	4597	4303	225	94%	5%	1.3
2014/15	2318	2148	203	93%	9%	2.3
2015/16	1770	1597	143	90%	8%	2.2
2016/17	1410	1248	127	88%	9%	2.5
2017/18	1296	872	103	67%	8%	2.9
2018/19 (6 months)	747	545	104	64%	12%	4.7

In line with national trends, Gwent has seen a significant and progressive reduction in the number of recorded stops encounters year-on-year since 2013/14. This showed a large decrease in the number of encounters recorded for white ethnicities but only a small reduction across BAME stops during the five-years. However, due to planned operational activity involving use of stop and search powers, overall activity during the six-month scrutiny period has increased compared to the previous year. Around 58% of encounters have already been recorded compared to the overall number of stop-searches undertaken during 2017/18; for BAME encounters, the number of stop-searches recorded for the six-months just exceeds the total for the previous year. The resulting increase in the proportion of BAME encounters recorded during this time suggests that, on the current data, BAME people are at least four times more likely to be stopped than white people.

Cognisant that this data only reflects the scrutiny period, it is possible that the figures will level-off throughout the remainder of 2018/19. Over the last six months, Gwent Police has undertaken a number of targeted operational campaigns within geographic areas of higher BAME populations that may have contributed this increase. Compared to the national RDR of over 8, Gwent Police continues to stop BAME people proportionately. However, it is difficult to determine the exact impact of operational police activity on this increase during the remainder of the year. This will continue to be monitored by the OPCC and Gwent Police via internal processes, which also include IAG members as previously stated.

The Colour of Injustice report states that nationally in 2016/17:

- Black people were stop-searched at more than eight times the rate of white people. Asian people and those in the 'mixed' group were stop-searched at more than twice the rate of white people
- Black people were stop-searched for drugs at almost nine times the rate of white people, while Asian people and those in the 'mixed' group were stop-searched for drugs at almost three times the rate of white people.
- The 'find' rate for drugs is lower for black people than for white people.

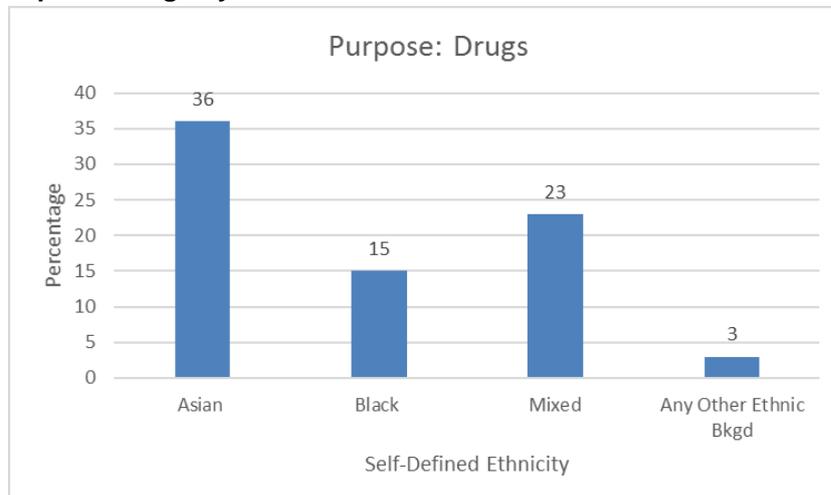
In terms of disproportionality across BAME ethnicities and the observations made in *The Colour of Injustice* report, the data for the scrutiny period shows that, in Gwent, black people were stop-searched at 1.2 times the rate of white people. Asian people were stop-searched at 2 times the rate of white people and those in the 'mixed' group were stop-searched at 1.3 times the rate as white people. This suggests that Gwent falls below the national RDR thresholds stated in the independent report.

Once again, incomplete ethnicity data presents a risk in determining accurate proportionality and the true RDR may be lower than seen here. Ensuring that self-defined ethnicity is recorded for each encounter provides more precise data analysis and RDR calculations, and the changes implemented through the Improvement Action Plan should help to address this issue.

Purpose

Drugs remains the highest purpose for stop-searches in Gwent. The dip sample showed that 80% of BAME stops were on suspicion of drugs, compared to 47% for white stops. Table 4 illustrates the breakdown of drugs-related stops across BAME categories and shows that, within Gwent, those from other Asian or mixed backgrounds were stop-searched for drugs more often during the scrutiny period than other ethnicities.

Table 4 – Purpose: Drugs by BAME breakdown

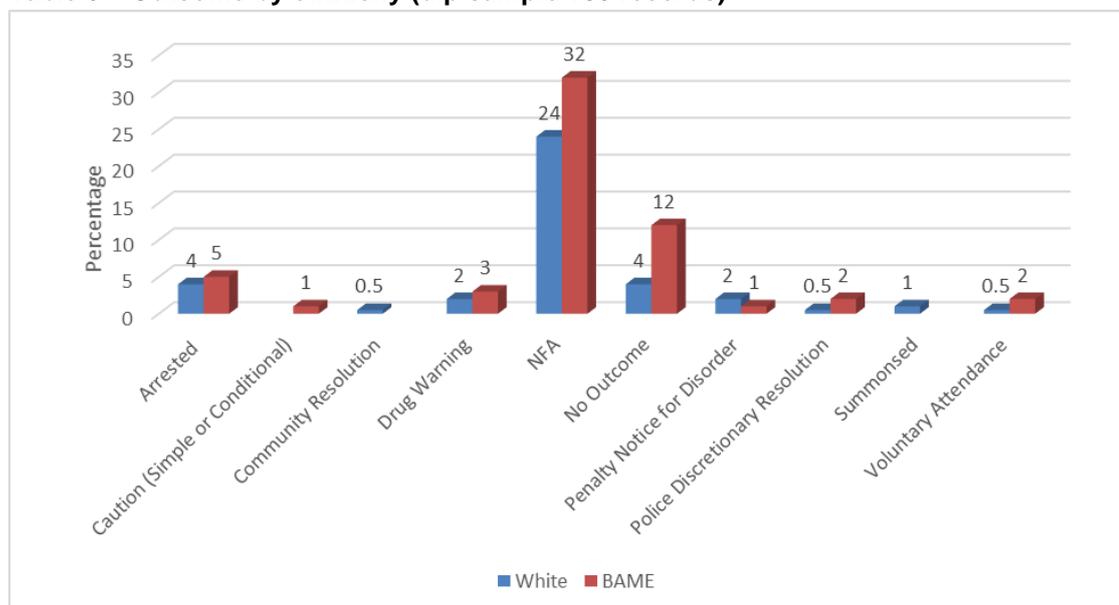


As compared to *The Colour of Injustice* report, during the scrutiny period, black people were stop-searched for drugs at 1 times the rate of white people, Asian people at 2.5 times the rate of white people, and those in the 'mixed' group were stop-searched for drugs at 1.6 times the rate of white people. This suggests that Gwent is well under the national rates for drug stops.

Outcomes

No Further Action (NFA) remains the most common outcome within the dip sample, accounting for 24% (43 records) of white encounters and 32% (57 records) of BAME encounters. This is consistent with the overall six month stop and search data where 47% (355 records) of white stop-searches and 6% BAME (57 records) resulted in NFA. 4% (8 records) of white encounters and 12% (21 records) of the BAME records dip sampled show incomplete outcomes. Table 5 provides a comparison of white to BAME outcomes for the dip sample.

Table 5 – Outcome by ethnicity (dip sample 180 records)



Compared to the last exercise, there is an increase in the range of disposals used for stop and search outcomes for this period. This presents a combined positive outcome rate of 30% for the dip sample (compared to 8% for the previous exercise) which breaks down to 14% for BAME stops compared to 29% for white stops. Records where no outcome was shown will have an impact on the data and it is possible that the positive outcome rate will be higher than is seen here. Work is being undertaken by the QlikView Analysts to review the way data is imported from Niche into the QlikView database. This will ensure that source information is transferred accurately between the two systems, reducing the risk of future inaccuracies or gaps in data.

The increase in positive outcomes has reduced the combined NFA rate for this dip sample to 31% compared to 64% for the previous report (48% overall compared to 69% respectively). There is also a decrease in outcomes not

recorded for this period: 9% for the current dip sample and 11% overall, compared to 28% for the previous dip sample and 23% overall. This is a positive change in terms of outcomes for stop and search compared to previous scrutiny exercises that may result from a combination of officer training, operational activity and improvements to data recording.

Tables 6a and 6b shows a comparison of outcome by ethnicity for the overall data for the scrutiny period. The continued high number of NFAs remains a concern; however, members were encouraged to see the increased range of outcomes used during the period, albeit that the range is greater for white stops compared to BAME.

Table 6a – Outcome by ethnicity - white (overall 747 records)

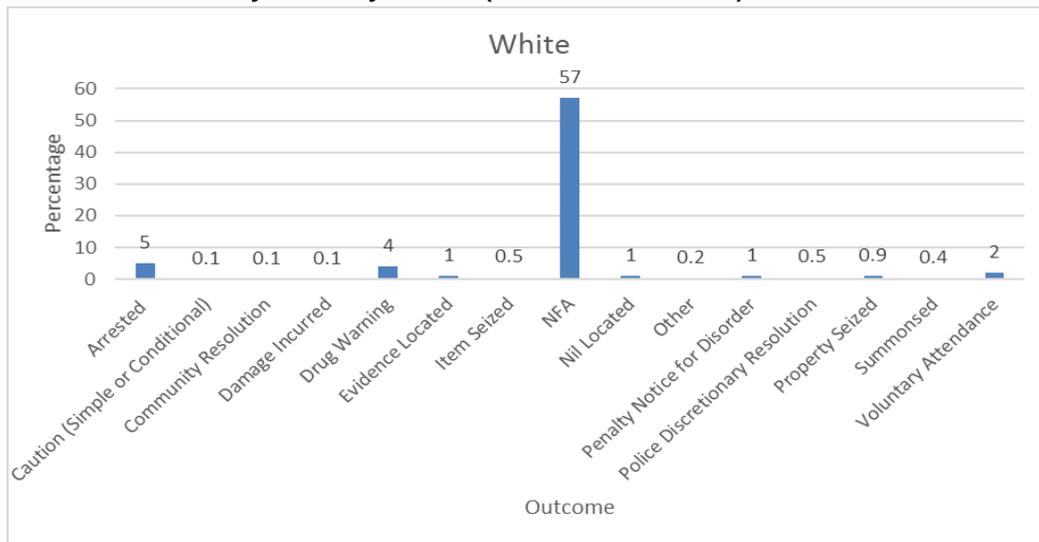
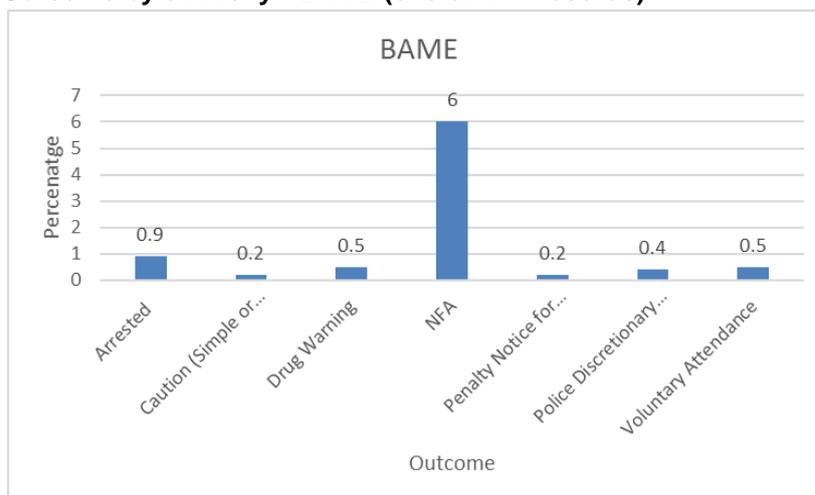


Table 6b – Outcome by ethnicity - BAME (overall 747 records)



367 white and 80 BAME encounters took place on the suspicion of drugs or drug-related activity, equating to 49% and 11% respectively. Of the total record set, 0.7% of BAME encounters resulted in arrest, 0.7% received a drugs warning, and 6% showed NFA. By comparison, 8% of white encounters resulted in arrest, 6% received a drugs warning, and 29% showed

NFA. Looking at the overall picture, this would suggest that the find rate for drugs is higher for white people than for BAME, as proposed by *The Colour of Injustice* report. However, in considering the white and BAME encounters separately, we see that for the white drugs stops:

- 67% of all white stops (367 of 545 records) were linked to drugs
- 4% resulted in arrest
- 8% resulted in drugs warnings
- 40% resulted in NFA
- 3% resulted in requirement for voluntary attendance at a police station to enable further enquiries.

In considering the BAME drugs stops, we see that:

- 77% of all BAME stops (80 of 104 records) were linked to drugs
- 5% resulted in arrest
- 5% resulted in drugs warnings
- 44% resulted in NFA
- 3% resulted in requirement for voluntary attendance at a police station to enable further enquiries.

This suggests a higher number of BAME stops were linked to drugs in the first instance, providing a marginally higher arrest rate. This may link to the available population, location and time of day for activity – 42% of BAME drugs stops took place within the Pillgwenlly, Stow Hill and Victoria wards of Newport. However, it is not currently possible to determine accurately the find rate for drugs and the related outcome (other than drugs warning) from the data provided.

In line with the requirements of the BUSS Scheme, the dip sample exercise also attempted to identify:

- The connection between the outcome and object of searches. For the dip sample, 7% of BAME and 6% of white ethnicities did not show a definite or confirmed connection; and
- The item found rate. Records did not clearly show whether an item was found that could be linked to the original purpose of the stop. Of the records examined, only 12% BAME and 8% white ethnicities indicated that an item had been found in connection with the object of the stop.

The link between QlikView and Niche is being checked to ensure that any available data is drawn across – this will be reviewed again as part of the next scrutiny exercise.

Copies Provided

Following a stop and search encounter, PACE Code A (section 3.8 (e)(i)) requires that a copy of the stop and search record or a receipt is provided to anyone requiring it. Officers have been reminded to offer a paper receipt to individuals and work is being undertaken with the Digital Services Division to implement an electronic version that can be sent by e-mail. This could also enable individuals to provide feedback to Gwent Police on their experiences of stop and search encounters via a link to a brief survey.

Body Worn Video

Members were provided with observation forms to complete during the body worn video review to gain feedback on the legitimacy of the stop and search and the Officer's conduct and treatment of individuals in each case.

Review Comments

Incident 1: The subject handed an officer a small quantity of cannabis during the stop and search encounter. Arrangements were made for the subject to voluntarily attend the police station for a cannabis formal warning to be issued. However, it appears that the male provided incorrect personal details to the officer. Further information provided stated that BWV from the encounter was circulated on social media in an attempt to establish his identity so that he could be dealt with for possession of cannabis and perverting the course of justice.

Panel members were generally satisfied that the encounter had been conducted according to PACE requirements but felt that the BWV had not been switched on early enough to capture the entire exchange between the officer and the individual. Members queried the way the officer spoke to the subject, believing that this could have been conducted in a calmer and more professional way. However, it was felt that the officer treated the individual fairly and with respect.

Incident 2: Following warning markers and Automatic Number Plate Recognition (ANPR) intelligence, a full car/person search was conducted by the officer. Information suggested that the vehicle has been involved in the supply of drugs. The detained person was seen driving the vehicle, which was initially stopped for a search under the Misuse of Drugs Act. A roadside drugs wipe was administered which provided a positive response for cannabis and the individual was arrested for failure of a roadside drug test.

Panel members were satisfied that the encounter had been conducted according to PACE requirements and that the officer involved had treated the individual professionally, fairly and with respect. It was noted that the individual asked the officer why they had been stopped, but otherwise, members were happy that the officer had provided the required information. Discussion took place regarding safeguarding of a minor present in the stopped vehicle and members were satisfied that the officer took steps to

ensure minimal impact on the child during the search.

Incident 3: Officers came across two males in the centre of Newport acting suspiciously. One of the males was shaking and had a 'stressed' expression on his face. The officers stated that the individual smelled of cannabis and took the opportunity to search under section 23 of the Misuse of Drugs Act. The individual was handcuffed for the purposes of the search. A Police National Computer (PNC) check showed that the male was wanted for multiple offences and an arrest was subsequently made.

Panel members were generally satisfied that the encounter had been conducted according to PACE requirements. However, once again, the BWV had not been switched on early enough to capture the entire exchange between the officer and the individual. Members noted the presence of an inexperienced, probationary police officer and commented that the individual could have been handcuffed earlier in the search due to a previous 'assault police' charge.

Incident 4: Officers saw a male driving a vehicle that was insured to a female individual only. The vehicle stopped on the side of the road where officers witnessed the male remove a large box seen to contain harvested cannabis plants and cannabis bush. The arresting officer approached the vehicle and found the cannabis and the male, who was emptying items from the vehicle. The male was arrested for cultivation of cannabis and driving without insurance. A roadside drug wipe was also administered as he appeared 'under the influence'. This showed as positive for cocaine and the male was subsequently arrested. A search was conducted at the corresponding address where a hydroponic growing system was located along with another small cannabis plant.

Panel members were satisfied that the encounter had been conducted according to PACE requirements. They felt that the individual was treated fairly and respectfully, and that the officer communicated well during the encounter.

Members felt that, overall, the stop-searches were conducted satisfactorily with a few observations regarding the timing of BWV during encounters.

Part 2 – Use of Force

Data Overview

Panel members were provided with a data report for incidents recorded between 1st April and 30th September 2018. The report had recently been produced in a new format and members were consulted on its suitability as a public document. They agreed that the information was presented clearly and queried whether a similar format could be produced for the stop and search data report.

It was noted that 1843 use of force forms had been submitted for the period, an increase from 1159 during the previous six-months. In the case of 'subject perceived ethnicity', around 95% of subjects were recorded as white, around 1% Asian, 1% mixed race, and 0.6% black. In considering the total number of entries, the RDR shows that individuals from BAME backgrounds are 0.7 times more likely to be subjected to use of force in Gwent than those from white backgrounds.

It was also noted that two subjects were perceived to be under 11 years of age; however, no further information was provided to be able to determine whether these were 'test' entries as had been seen in the previous exercise.

The data overview indicated that the majority of subjects are likely to be:

- Of 'white' ethnic origin (1035 incidences)
- Male (1484 incidences)
- Aged 18 to 34 (1125 incidences) compared to 11 to 17 year olds (218 incidences)
- Subjected to compliant handcuffing (802 incidents)
- Under the influence of alcohol (one in three incidents) with drugs as the second most likely impact factor (one in five incidences)
- Subject to arrest (1659 incidences).

Use of force was most likely to be used to prevent harm (39% of incidences) followed by making an arrest (29% of incidences).

Additional data also suggested that 21 individuals had an officer defined mental disability compared to 5 individuals with an (officer defined) physical disability. Members queried whether there was a standard definition of 'mental disability' for use of force as it would be useful to understand what this means within this context.

Body Worn Video

Three videos relating to the use of force were selected for review. In each instance, the background and operational context was provided by the Diversity and Inclusion Officer.

Review Comments

Incident 1: Officers responded to a call that a male neighbour had been to the caller's house and smashed windows at the property. The caller also alleged the same had been done to their sister's house. The subject had intimidated the caller, wanting to fight with the caller's partner. The caller stated that they had a disabled daughter and that their sister was heavily pregnant. On attending the property, the male was found to have caused the damaged with a knife. Subsequently, the officers attempted to arrest the male who became violent, resisted the arrest and assaulted the officers by spitting and kicking at

them. Eventually, the male was safely detained and arrested for multiple offences.

Panel members commented on the officers' calm and professional attitude throughout the challenging encounter. Members acknowledged the volatile nature of the situation and felt that the officers had used appropriate force to deal with the subject under the circumstances. They also commented that steps had been taken to ensure the wellbeing of the individual who may or may not have been under the influence of drugs or alcohol.

Incident 2: Officers responded to a call regarding an intoxicated male with a carrier bag in a public shopping area. The caller stated that he was unable to walk properly and had pulled a knife out of his pocket, proceeding to use it to stab the exterior of the shop. They were unsure of what he had done with the knife and the exact size of it, but stated that it was 'bigger than a pen knife, approximately six or seven inches'. The officers searched the male and his belongings, locating the knife and subsequently arrested him.

Panel members commented on the way the officers dealt with the potentially vulnerable individual. The lead officer communicated clearly and calmly throughout the search. It was felt that there may have been some minor issues with the handcuffing technique and procedure used, but the use of force was appropriate for the circumstances.

Incident 3: Officers attended a residential area where a female was reported to be screaming in the street, asking the occupants of the caller's residence for help. She was admitted into the property but ran back into the street, appearing unstable on her feet. The individual was extremely agitated and aggressive towards the officers, spitting at the officers' faces and pinching them in response to any attempts to restrain her. One officer received minor injuries and spit in the eyes. To prevent any further injury, force was used to restrain the female as the officers move her to their car to await a police van for transport. The female remained highly agitated and vocal throughout the encounter and made repeated attempts to escape from custody.

Panel members praised the way in which both officers dealt with the extremely challenging situation. They felt that the conduct shown was as calm and respectful as it could have been in the circumstances. Attempts were made to calm the female to minimise any further triggers to her behaviour and minimum force was used as a result. Members felt that additional force could have been justified to prevent her escaping from the handcuffs and presenting any further risk to the officers and to herself. However, they appreciated the steps taken to minimise any escalation of the situation.

Members expressed overall satisfaction with the use of force observed during the exercise. They agreed that the officers involved exercised high levels of

professionalism in some very challenging situations and made attempts to safeguard the individuals and themselves from harm.

Conclusions

Stop and Search

Overall, there is a positive improvement in the recording of stop and search encounters. Support should continue to be provided to new officers to ensure confidence in using powers whilst acting with legitimacy.

Quality of Records

Due to the work undertaken following the last exercise, a number of improvements have been seen across the data examined. Compared to the previous exercise, for the entire record set:

- Gender recording has improved, from 11% 'unknown' in April to 1% for October
- Self-defined ethnicity not stated or 'officer called away' has improved from 32% to 13%;
- Purpose 'not recorded' has improved from 51% to 0.4%;
- Outcome not recorded ('No Outcome') has improved from 23% to 9%.

The mandating of fields within the electronic form has contributed to this progress, as has the overall focus on improvements to stop and search and supervisor checks. The work undertaken by the QlikView team to rectify the data transfer issues between Niche and QlikView should further improve the accuracy of the data transfer, which will be reconsidered in the following scrutiny exercise.

The completion of grounds remains an area for improvement, particularly where officers have not provided enough, or in some cases, any detail at all. As part of refresher training, officers are being provided with reminders of PACE and other information requirements around stop and search. This should have an ongoing positive impact in the quality of encounters and the grounds provided.

Outcomes

Over 50% of the 747 stop-searches for the scrutiny period resulted in an NFA outcome. However, the profile of outcomes has changed since the last exercise, with increase in arrests from 0% in April, to 7% in October as well as for other disposals. The work undertaken by the QlikView team will help minimise the future number of 'no outcome' recordings. Scrutiny exercises will continue to focus on the outcome rates recorded as an area of national concern. Further consideration should also be given to the appropriate and proportional use of alternative disposals relating to drug stops.

Proportionality

Mapping operational activity against stop and search data will further our understanding of trends and impacts relating to our BAME communities and help to provide confidence that stop and search powers are used effectively, proportionately and legitimately within Gwent. The internal Equality Meeting enables a specific focus on legitimacy and fairness across police activity with any issues or concerns escalated to the Deputy Chief Constable and the Police and Crime Commissioner as appropriate.

Body Worn Video

Members were very positive about the examples seen during the exercise. The provision of personal issue BWV cameras to officers should help reduce some of the usage issues reported and increase the availability of footage for scrutiny. Gwent Police should continue to provide positive feedback to officers where their conduct is identified as exemplary in the circumstances of the encounter. BWV footage could also be used in officer training to provide learning points from a range of encounters.

Engagement

'Know Your Rights'

Following on from the 'Know Your Rights' awareness sessions delivered in through the Police Schools' Liaison Programme and Positive Futures and the subsequent evaluation report, the programme is moving into a new phase. Know Your Rights is a national initiative that aims to help the public understand their rights if they are stopped and searched. Working with Gwent Police, the Youth Offending Service and other relevant organisations, the programme will engage with young people to raise awareness of why the police use stop and search, their rights if they are stopped, and how they can make a complaint if they feel they have been treated unfairly or discriminated against. Youth Offending Managers welcome their involvement in the programme, which will provide wider reaching and more sustainable and manageable delivery into the future. The OPCC and Gwent Police will continue to review and evaluate the programme over time to ensure relevance and effectiveness.

Use of Force

Data Quality

Data quality has improved since the last exercise partly due to the focus provided by the Superintendent lead for Operational Tactics. Work has been undertaken to improve and simplify data analysis to enable greater transparency and confidence in the use of force by Gwent Police.

Body Worn Video

Once again, Members were very positive about the examples seen during the exercise. Similar consideration should be given to using BWV as part of training on use of force.

4. NEXT STEPS

The Stop and Search and Use of Force Action Plan will continue to provide a focus on continuous improvement. Recommendations and observations from the Scrutiny Panel reports will continue to be incorporated into the document as appropriate. Progress will be monitored via the Operational Tactics Meeting and equality data and associated stop and search activity will be monitored via the Equality Meeting. Any thematic issues identified from either external sources or thorough Gwent Police self-assessment processes will be used to inform future Scrutiny Panel exercises.

Plans are in place to review the use of force scrutiny process to provide a more in-depth analysis of activity. This work will take place with Gwent Police prior to the next LSP meeting and members will be consulted on any proposed changes prior to implementation.

5. FINANCIAL CONSIDERATIONS

LAG members' costs are met by Gwent Police; there is no additional expenditure for the OPCC relating to this exercise.

6. PERSONNEL CONSIDERATIONS

Whilst the scrutiny exercise is undertaken as part of the OPCC's normal working arrangements, it is supported by Gwent Police colleagues to ensure access to data and BWV footage as appropriate.

7. 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.

8. EQUALITIES AND HUMAN RIGHTS CONSIDERATIONS

Legitimacy and fairness form an objective within the Joint Strategic Equality Plan 2016-2020 and the Legitimacy Scrutiny Panel process is a core activity within this objective. This demonstrates clear commitment to ensuring that we regularly monitor the use of Police powers to ensure they are used lawfully.

Under the Equality Act 2010, when Police Officers are carrying out their functions, they also have a duty to have 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 use of force procedures must be based on the principles of legality, legitimate aim and proportionality as required under the Human Rights Act.

9. RISK

All use of force 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, the stop and search records have been anonymised thus limiting any issues regarding data protection. All members of the Scrutiny Panel have been vetted according to Gwent Police processes.

10. PUBLIC INTEREST

The scrutiny exercise can help promote public confidence in the use of Police powers. In addition to discussion at the OPCC Management Board and/or Commissioner's Strategy and Performance Board and Gwent Police meetings, the report is provided to IAG members to form part of their stop and search discussions and to allow any further feedback to be considered. The report is also published externally on the OPCC website.

11. CONTACT OFFICER

Caroline Hawkins – Policy Officer, OPCC.

12. ANNEXES

None