

OFFICE OF POLICE AND CRIME COMMISSIONER

TITLE: Legitimacy Scrutiny Panel Stop and Search Exercise - April 2019

DATE: May 2019

TIMING: Routine

PURPOSE: For scrutiny

1. RECOMMENDATION

To consider the outcomes of the scrutiny exercise undertaken on 26th April 2019 and the recommendations arising from the activity. Whilst there are a number of recommendations, it should be noted that Gwent Police has demonstrated a significant commitment to continuous improvement in stop and search practices over the last 18 months.

2. INTRODUCTION & BACKGROUND

The Legitimacy Scrutiny Panel for stop and search convenes on a six-monthly basis to examine and consider Gwent Police's use of stop and search powers, providing independent, public scrutiny of data, stop and search records and body worn video (BWV). Gwent's HMICFRS Inspector attended the April 2019 session as an observer and provided feedback to the OPCC for consideration in future exercises.

This report provides the key findings and recommendations related to the exercise. Detailed findings are provided at Annex A.

3. ISSUES FOR CONSIDERATION

The latest exercise took place on the 26th April 2019 to examine activity undertaken between the 1st October 2018 and 31st March 2019. 1365 records were available, of which 194 related to individuals that had self-identified as having a black, Asian and ethnic minority (BAME) background. All BAME records were examined across the Panel and 147 of the remaining records were randomly dip sampled by members.

Key Findings

Stop-search activity showed a 45.3% increase compared to the last scrutiny period. Two spikes were recorded in January and March 2019. The January increase corresponded with inputs on use of stop and search given to the probationer officers, whilst the March spike related to Operation Sceptre II¹.

Around 64.5% of those stopped and searched during the period were aged 25 or under, with around 36.1% of persons in this age category responsible for crimes during the same time period. Across the whole Gwent area, the most

¹ Operation Sceptre is a national campaign that aims to tackle the growing issue of knife crime across the UK

common times for stops was between 23:00 and 01:00hrs. This timeframe accounts for approximately 19% of the total. Saturday, Sunday and Monday showed the highest activity with 278, 297 and 235 encounters recorded respectively.

Data Quality - the BAME and dip sampled records showed a continued improvement since the last exercise. Several records were found to be duplicate entries and it is unknown how many duplicate entries were present within the overall data set.

Grounds – whilst all of the 341 records examined had completed grounds fields, three records showed alternative information related to the search. In most cases, there was continued improvement in the way grounds were written. A number of records had comprehensive and thorough grounds including some that provided detail against each requirement of the ‘GOWISELY’² process.

Ethnicity - all self-defined ethnicity (SDE) fields for both the BAME and the dip-sampled records were completed. Across the entire record set, 73.1%% of individuals identified as white, a slight increase on the previous exercise. For the BAME encounters, increases were seen across over half of the ethnicities with Asian Pakistani followed by White/Black Caribbean showing the greatest rises.

Gender - 55.1% of BAME records and 38.1% of the dip sample identified subjects as male, with the proportions similar to those of the previous exercise. 0.6% and 4.4% respectively were identified as female. Whilst there was a slight decrease for BAME females, there was a 50% increase for the white dip sample compared to the previous exercise. In considering the overall data set whilst the BAME figures are similar to those from the previous scrutiny exercise, the white figures have increased for both male and female encounters.

Age - the greatest increases were seen for the 18 to 25 and the 26 to 35 age groups and, compared to the population data for Gwent, individuals aged 18 to 25 continue to be 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 and the impact of operational activity.

Purpose - drugs remains the highest purpose for stop-searches in Gwent. For the dip sample, this provided 44.3% of BAME stop-searches and 22.9% white. The BAME figure is consistent with the previous exercise, with white

² GOWISELY – **G**rounds; **O**bject; **W**arrant card; **I**ntity; **S**tation; **E**ntitlement of the search record; **L**egal power; **Y**ou are being detained for the purposes of a search. As long as this process is undertaken the order of delivery is not important.

results showing a decrease by comparison. For all records, 11.1% of BAME stop-searches and 58.2% of white related to drugs. The BAME result is consistent with the previous exercise; however, there is a significant increase in white stops-searches for drugs.

Searches for bladed articles and offensive weapons provided the second and third highest recorded purposes. Bladed articles accounted for 4.7% of BAME and 7.6% of white activity in the dip sample, showing slight decreases compared to the previous exercise. Offensive weapons accounted for 2.9% of activity for each ethnicity grouping, providing a slight increase on both counts. For all records, 1.2% of bladed article stop-searches related to BAME encounters, a nominal increase compared to the previous exercise, and 7.3% of white searches, a small decrease on the last period. 0.7% of BAME and 3.4% of white searches related to offensive weapons, a nominal increase for BAME encounters and a small increase for white encounters.

Outcomes – ‘No Further Action’ (NFA) accounted for 39% of BAME and 21.1% of white encounters in the dip sample, a marked increase for BAME encounters compared to the previous period. For arrests, 4.4% of BAME encounters and 9.0% of white encounters were given an NFA outcome in the dip sample. Drug warnings were issued in 1.2% BAME and 4.2% white stop-searches. ‘No Outcome’ was recorded for 8.2% and 2.6% of records respectively. The presence of ‘no outcome’ impacts on the data as it is not possible to determine what the appropriate outcome should have been in each case. It is still unclear whether the ‘No Outcome’ result is due to a genuine lack of outcome recording by officers or is a result of data transfer processes.

Across all records, 9.7% BAME and 55.7% white outcomes were NFA, an increase in each case compared to the previous exercise but proportionate to the increased stop-search activity for the scrutiny period. Arrests accounted for 1.1% BAME and 9.4% white outcomes, a significant increase for white ethnicities compared to previously. Drug warnings were issued in 0.6% BAME and 5.2% of white encounters, nominal and minor reductions respectively compared to the previous exercise which could have been affected by the increases in arrests for the scrutiny period.

Copies Provided - work was undertaken with the Digital Services Division to implement a digital stop-search receipt that can be sent by e-mail. Recent feedback from police colleagues has highlighted challenges in obtaining subjects’ contact information to enable digital receipts to issued.

Ethnicity Proportionality

The Race Disproportionality Ratio (RDR) helps indicate whether different groups of people are being stop and searched more disproportionately than others. Gwent’s RDR rose from 2.9 in 2017/18 to 4.9 in 2018/19, meaning

that currently, BAME people are stop-searched almost five times more than white people in Gwent. Compared to the national RDR of over 8, Gwent Police continues to operate below this threshold. However, over time, the number of BAME stop-searches has continued to increase disproportionately.

In considering BAME drug-related stop-searches, Asian people were stop-searched the most, at 2.8 times the rate of white people. They were also arrested more than other BAME groups, at 2.4 times the rate of white people.

For bladed articles, Asian people and black people were stop-searched at 1.6 times the rate of white people.

The high number of NFAs remains a concern with an increase shown in comparison to the previous exercise. Asian people were 2.6 times more likely to receive an NFA outcome than white people, with black people 1.4 times more likely and the mixed group 0.9 times more likely to receive an NFA outcome.

Stop and search activity in Gwent has the greatest impact on our Asian communities, who were stop-searched for drugs more often and arrested for a range of offences more often than other ethnicities during the scrutiny period.

Body Worn Video

Six videos were randomly selected and reviewed by the Panel. Panel members were encouraged to see officers increased use of BWV due to all personal use equipment having been issued and the positive messaging that have been sent out as a result of Scrutiny Panel feedback.

Panel members were generally satisfied that the encounters observed had been conducted according to PACE requirements and that the individuals had been treated appropriately. A number of positive comments were made regarding officer's use of clear communication and positive attitudes towards individuals.

Panel members' feedback and concerns related to some of the encounters observed included:

- Officer safety where a single officer was required to deal with multiple subjects
- Officers ensuring that all parties have understood the grounds for the search
- Perceptions of attitudes and body language when dealing with younger subjects
- In one case, the apparent excessive number of officers attending the stop-search encounter
- The absence of any Niche record was conducted for one of the

- encounters observed
- Ensuring body worn cameras are switched on prior to the start of the encounter

Feedback was provided to the Chief Superintendent (Operations) for consideration at the next Operational Tactics Meeting. Panel members have also received an update on feedback in response to their concerns.

Conclusion and Recommendations

Public perceptions of policing and negative media coverage regarding the use of stop and search powers linked to perceived institutional racism remain a challenge to the service. Concerns over the increase in knife crime and serious violence and national changes to the use of section 60 powers³ also contribute to negative perceptions towards the police service.

Overall, Gwent Police continues to demonstrate improvement in the recording of stop and search encounters during the scrutiny period. The review of BWV footage also provided generally positive feedback and members remain impressed with the way officers are seen to engage with subjects during encounters. There was no discernible evidence of any adverse impact related to the introduction of new front-line officers in terms of quality.

Current public engagement work regarding stop and search will also help support improvement in public confidence. Following on from the 'Know Your Rights' awareness sessions delivered through the Police Schools' Liaison Programme and Positive Futures, a joint OPCC and Gwent Police stop and search engagement programme commenced in late 2018. Delivered by the Diversity and Inclusion Team, the programme engages initially with young people to raise awareness of why the police use stop and search, their rights if they are stopped, and how to make a complaint if they feel they have been treated unfairly or discriminated against. Over time, the programme will engage more broadly across our BAME communities to help better understand people's historic experiences of stop and search and to promote more positive engagement with the police.

Whilst the majority of recommendations relate to data quality, others aim to support Gwent Police's transparency around use of stop and search, improve public confidence in its use, and to promote a better understanding by the organisation of the causes of any apparent disproportionality for BAME encounters.

1. Gwent Police should continue to focus on improving data quality to ensure that the causes of any discrepancies or ambiguities are

³ Section 60 of the Criminal Justice and Public Order Act allows the police to stop and search anyone in a designated area without needing reasonable grounds for suspicion if serious violence is anticipated

understood and, where possible, addressed to provide greater accuracy.

2. **Gwent Police should ensure that supervisor record checks are regularly carried out and include the quality of grounds to improve the standard of entries. Where grounds are found not to be satisfactory, supervisors should ensure that feedback and guidance is provided to those officers to encourage improvement. In addition, manual entries created by the CMU should be consistent with the original data submission from officers.**
3. **Gwent Police should regularly remind officers of the importance of recording a subject's SDE to minimise the absence of ethnicity information, which provides data inaccuracy and impacts on the RDR. Where this field shows 'Officer Called Away', Gwent Police needs to be confident, as far as possible, that this is an accurate reflection of operational demand and not being completed in error.**
4. **Gwent Police needs to understand the causes of any large variances in gender data and be able to identify where repeat stops of individuals have an impact on the figures.**
5. **Gwent Police needs to demonstrate an understanding of the reasons behind the appearance of the age demographics as linked to operational or other activity. This will help to provide public reassurance that certain age groups are not targeted for stop and search.**
6. **Gwent Police needs to evidence understanding of why certain ethnicities are more likely to be stop-searched for particular purposes. This will help to demonstrate that activity is justified and not linked to racial profiling. 'Mapping' operational activity showing purpose, ethnicity, location and outcome for each operation will support this and should be fed routinely into the Operational Tactics and Equality 'Legitimacy and Fairness' Meetings as appropriate.**
7. **Gwent Police needs to ensure that data transfer processes are accurate and demonstrate understanding of the causes of any significant variances in outcomes for BAME groups.**
8. **Gwent Police should continue to work with the community to build confidence and trust in the way police powers are used in Gwent, raising awareness of how to obtain copies or make a complaint regarding their stop and search experience.**
9. **Gwent Police needs to demonstrate an understanding of the reasons**

why stop and search activity disproportionately affects the Asian community in Gwent.

10. Gwent Police should regularly promote positive internal messages about use of BWV and positive outcomes relating to stop and search to provide reassurance to officers in using their powers. Support should continue to be provided to new officers to ensure confidence in using powers legitimately.

4. NEXT STEPS

The Stop and Search and Use of Force Action Plan will continue to provide a focus on continuous improvement. Improvements have been seen as a result of Gwent Police's adoption of previous recommendations from scrutiny exercises and future Scrutiny Panel reports will provide additional opportunities for improvement. Progress will be monitored via the Operational Tactics and Equality Meetings as appropriate.

Any thematic issues identified from either external sources or thorough Gwent Police self-assessment processes will be used to inform future Scrutiny Panel exercises.

5. FINANCIAL CONSIDERATIONS

LAG members' costs are met by Gwent Police; there is currently 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. 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.

9. 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 Scrutiny Panel 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.

10. 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 and, where appropriate, discussed at the Commissioner's public Strategy and Performance Board.

11. CONTACT OFFICER

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12. ANNEXES

Annex A – Legitimacy Scrutiny Panel April 2019 – Stop and Search