**OFFICE OF POLICE AND CRIME COMMISSIONER**

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

**DATE:** October 2023

**TIMING:** Routine

**PURPOSE:**For Scrutiny

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

A selection of Body Worn Video (BWV) was randomly chosen for dip sampling by a member of the Panel. In the case of stop and search, BWV was reviewed along with the relevant recorded grounds for the encounter. A range of data, including race disproportionality and item found rates was also considered. This report highlights the outcomes of the Scrutiny Panel’s activity for this session.  |
| **2.** | **ISSUES FOR CONSIDERATION****Feedback on Previous Actions**Use of Force:During the February 2023 session, the following actions were agreed:**Summary:** Officers attended a residential property with mental health practitioners to escort a male with mental health conditions and warning markers to hospital for assessment and treatment due to the male having stopped their medication. On arrival, the male assaulted the group with a firearm, injuring one of the officers.**Action 1:** Gwent Police to provide positive feedback to the officer(s) regarding their manner of conduct in the circumstances.**Update:** Feedback has been arranged with the officers. Further information will be requested at the next LSP session.**Summary:** Officers responded to a call to locate a vulnerable missing person. Once located, the female refused to cooperate, claiming to have a knife on their person.**Action 2a:** Gwent Police to provide the Panel’s positive feedback to the officers involved regarding their engagement with the female.**Update:** Feedback has been arranged with the officers. Further information will be requested at the next LSP session.**Action 2b:** Gwent Police to advise of what dementia friendly training is provided to officers and staff to support the force’s Dementia Friendly accreditation.**Update:** Sessions were previously provided to all new starters as part of the formal induction process; however, it does not appear that this is now taking place. The OPCC has contacted the Learning and Development lead to further explore opportunities to re-establish inputs across the force.**Summary:** Officers responded to reports of a male causing problems for a neighbour and destroying residential property. The male was aggressive and violent and made threats towards to the officers. While restrained, the male bit one of the officers on the leg.**Action 3**: Gwent Police to provide the Panel’s positive feedback to the officer in question regarding their demeanour and how the situation was handled and risk assessed overall, including any missed opportunities to resolve the engagement more quickly.**Update:** Feedback has been arranged with the officer. Further information will be requested at the next LSP session.**Summary:** Officers attended a call regarding an individual carrying a knife. The individual was intercepted in a public area and officers made to intercept them and locate the knife.**Action 4:** Gwent Police to reinforce training around lead officer roles during engagement and effective use of communication, both with the individual and the other officers involved.**Update:** Feedback has been arranged with the officers. Further information will be requested at the next LSP session.Stop and Search:During the April 2023 session, the following actions were agreed:**Action 5:** OPCC to consolidate both scrutiny themes for the July LSP session with a view to quarterly combined sessions.**Update:** Completed. **Summary:** On speaking to the occupants of a parked vehicle, officers detected a smell of cannabis. The passenger admitted that they were in possession and gave the officer a quantity of drugs from their person. A further quantity of cannabis was found by the officer during the vehicle search. During this encounter, the driver could be heard raising their voice to the other officer present. Due to this, BWV from officer 2 (driver search) was also reviewed for additional context. **Action 6:** Gwent Police to feed back to the officer on the quality of weak grounds provided, specifically regarding: * Lack of any reference to intelligence on the vehicle;
* Lack of any rationale for initially engaging with the occupants of a parked car;
* ‘Smell of cannabis’ stated without supporting detail; and
* Clearer explanation needed as to whether the car was parked or driving.

**Update:** Feedback has been arranged with the officer. Further information will be requested at the next LSP session.**Inspection Update**At the last LSP session, members were advised that Gwent Police had received an ‘Adequate’ rating in the His Majesty’s Inspectorate of Constabulary, Fire and Rescue Services (HMICFRS) police effectiveness, efficiency, and legitimacy (PEEL) inspection report published in April 2023. The report included a requirement for the force to ‘[improve its recording of reasonable grounds for stop and search, in compliance with force policy and the authorised professional practice](https://hmicfrs.justiceinspectorates.gov.uk/peel-assessments/peel-assessments-2021-22/gwent/)’. Following an audit conducted as part of the inspection, HMICFRS estimated that around 76% of all Gwent Police’s stop search records within the reporting period had reasonable grounds. To maintain the trust and confidence of the public, police forces should be able to show that their officers use stop and search powers fairly and effectively.We were assured by the Head of Special Operations that the issue of grounds remained a priority for the force and was a focus for the Coercive Powers Improvement Group. Internal audits of the grounds for all stop searches involving individuals from ethnic minority backgrounds continued to be carried out, with over 80% of recorded grounds now found to be ‘reasonable’ in accordance with HMICFRS audit gradings. The PEEL inspection report also made two suggestions relating to the LSP:* Quarterly independent review of stop and search and use of force – this has now been taken forward by combining the themes into a single session and will be reviewed regularly to ensure that the process remains effective.
* Expanded diversity of existing membership – this work is ongoing. At the last LSP session, members had been advised that the OPCC and Gwent Police were working together to scope opportunities to increase the representation of people with lived experiences within local scrutiny processes, including the LSP. This will be continued by the new Head of Diversity and Inclusion and the OPCC and will be supported by the revised Home Office Guidance for Community Scrutiny Panels, which is currently out for consultation and has been responded to by the OPCC. The draft guidance has also been shared with Gwent Police’s Diversity and Inclusion Team and the Police Custody Disparity Scrutiny Group lead for review and feedback as appropriate.

**Data**The Head of Special Operations provided an overview of stop and search data for Quarter 1 2023/24. We were informed that the total number of stops reduced by 2.6% during Quarter 1 when compared to Quarter 4 of last year. The Newport area accounted for 45.1% of the force-wide total, a decrease of 7.5% on the previous quarter. People from ethnic minority backgrounds were 2.5 times more likely to be stopped and searched in Gwent than those from white backgrounds, a decrease from 2.6 recorded in Quarter 4 22/23. Members of the Asian and Black communities were most likely to be stopped and searched of all the ethnic minority groups in Gwent.Arrest rates for those from an ethnic minority background decreased from 24.3% in Quarter 4 to 20% in Quarter 1. Arrests made on a person with a White background decreased from 14.9% to 12.3%. The largest proportion of stop searches continued to be conducted on those aged between 18 and 25; however, there was an increase in the number of encounters involving those aged 17 and under (from 118 to 145). 18.5% of all stop searches in Quarter 1 resulted in a positive outcome, including an arrest or caution, compared to 22.9% recorded last quarter. The force-wide find rate was 24%, a decrease from the 27.1% achieved in the previous quarter. Data for strip searches is also provide to the LSP. This is divided into 4 subcategories: full strip, no clothes removed, outer clothes only and partial strip. During Quarter 1, a total of 4 full and 1 partial strip searches resulting from stop searches were carried out by Gwent Police:

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

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

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

Searches carried out in custody differ to those carried out in relation to stop and search. Each detainee is searched when they enter the custody unit. The search involves being asked to removed outer clothing (e.g., coats) and shoes. They will have a physical search by running hands over the outside of their clothing and then a metal detector wand will be used to check for metal objects. Strip searches in custody are included within the remit of the Police Custody Disparity Scrutiny Group. The Head of Special Operations provided an update on recent work with the Local Safeguarding Board in response to a letter from the Children’s Commissioner regarding police strip searches. A multi-agency Task and Finish Group had been established, with members including Gwent Police and the OPCC. The group reviewed Gwent Police strip searches undertaken between 2017 and 2022. It was noted that of the 13 cases reviewed, 1 case provided concern linked to Appropriate Adult use in custody and a recording issue within the Niche form for 10- to 17-year-olds. We were advised that work was underway to resolve the recording issue.The role of the LSP was highlighted at the Safeguarding Board Task and Finish Group, with a request that the OPCC policy lead attend future sessions to provide a link through to the existing scrutiny work. Partners would welcome any opportunity to be involved with the LSP, particularly those from the Youth Offending Services. In addition, the potential for the LSP to include strip searches of children within the core criteria was suggested. Members supported these approaches with agreement for follow up by the OPCC and Head of Special Operations as appropriate.**Action 1:** Stop and search incidents involving strip searches of children to be included in the core scrutiny criteria. Any undertaken during a scrutiny period to be reviewed by the LSP.**Action 2:** OPCC policy lead to approach the Youth Offending Service Managers regarding representation at future LSP sessions.An overview of use of force data for Quarter 1 2023/24 was also provided. We were informed that a total of 1,150 subjects had force used against them, of which 8.9 % were from a Black, Asian, or ethnic minority background. This is slightly higher than the percentage of the population in Gwent (8.6%) (see table below).

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

It was noted that there were some areas of disproportionality when looking at the ethnic groups individually. 2.9% of Black (or Black British) individuals had force used against them compared the 0.8% population in Gwent, as recorded in the 2021 Census. In addition, 3.7% of subjects were identified as Asian (Or Asian British) compared to the 2.9% population, and 1.7% were identified as Mixed ethnicity compared to the 1.5% population. In comparison, only 0.5% of subjects were identified as Other ethnicity compared to the 3.5% population of Gwent who identify as Other ethnicity. However, it is important to consider that use of force forms only provide the officer’s perceived ethnicity of the subjects, whereas the Census data is self-defined. In addition, the national ethnicity groupings used slightly different way in the Census data compared to the use of force form. The most common tactic was Compliant Handcuffing which was used 806 times (33.2%) in total. 5.6% of forms stated that the subject received an injury due to force used. 73.9% of forms stated that the subject had been arrested (the most common reason for use of force).The Head of Special Operations stated that, using the data, there was more work to be done to understand officers’ approaches to engaging with Black, Asian, and ethnic minority individuals, including decision-making around actions. Members discussed the challenges of using officer perceived ethnicity to identify individuals (as per the national recording requirement) and the risks of misidentification of someone’s ethnic background, as well as the limitations of the current ethnicity classifications, particularly for those grouped as ‘Black’.The OPCC Policy Officer suggested that any incidences involving children, particularly those perceived to be aged 10 and under, should be reviewed by the force to provide assurance over the type of force used and rationale. The Head of Special Operations also stated that they would welcome the LSP reviewing incidents where the subject had been injured during use of force.**Action 3:** Gwent Police to review any incidents of use of force for the 0-10 age group and provide assurance of the justification of use.**Action 4:** OPCC Policy Officer and Head of Special Operations to scope any additional factors for inclusion in the scrutiny process.**Action 5:** Head of Special Operations to provide more information on what ‘Other/Improvised’ involves as a use of force tactic. **Action 6:** Head of Special Operations to meet with the proposing member to provide supporting narrative around ethnicity classifications that can be fed into national governance mechanisms for use of force.**Dip Sample** A random selection of BWV recordings had been made prior to the session by a Panel member. A total of 8 incidents were reviewed with relevant contextual and supporting information provided by Gwent Police to inform the scrutiny process. Comments and feedback are summarised below: **Video 1 (use of force):** Officers responded to a request from mental health practitioners to detain and escort a young male to hospital for assessment and treatment. The male disclosed to the officer that he suffers from a mental disorder and had stopped taking his medication. During this time, the male’s father became verbally and physically aggressive towards the officers, resulting in an assault on one of the officers and the father’s arrest. Incapacitant spray was used by the officer during the incident. Additional contextual information was provided to members including the presence of warning markers for violence and weapons in relation to the male family member.Panel members agreed that the engagement with the young male was very good, and that the officer had shown attention to ensuring the male’s welfare. They felt that this encouraged him to voluntarily attend hospital, even though he had stated that he did not want to be ‘sectioned’. The use of incapacitant spray during the altercation was discussed, but it was agreed that knowledge of the warning markers would have influenced the officers’ decision-making in trying to minimise the risk of injury to anyone present. The use of force was believed to be justified by the circumstances.**Action 7:** Gwent Police to provide the Panel’s positive feedback to the officer regarding their engagement with the young male.**Video 2 (use of force):** Officers attended a private residence following a 999 call that a male had made threats to kill his mother. While speaking with the mother, it was disclosed that the male suffered from a mental health disorder. Panel members agreed that generally the engagement with the male was good; however, they felt that the communication was potentially confusing due to one officer giving instructions to the male at the same time as the other officer was making the arrest. The use of force was believed to be justified by the circumstances.**Action 8:** Gwent Police to provide the Panel’s positive feedback to the officers regarding their engagement with the young male.**Video 3 (use of force):** Officers arrested a male following his attendance at court and sentencing for several offences linked to stalking, harassment, and public order. Panel members agreed that the engagement with the male was very good. The location of the arrest was discussed in terms of public access, but no concerns were noted for follow-up. The use of force was believed to be justified by the circumstances.**Video 4 (use of force):** Doormen at a pub reported a male causing a nuisance and refusing the leave the premises. On attendance, the male became aggressive and verbally abusive towards the officers. Following an altercation with the officers, the male was subsequently arrested for Section 5 Public Order offences.Members commented that the officers had been calm and patient with the individual, who had been provided with several opportunities to leave the premises. While it was difficult to hear everything that the individual said to the officers throughout the encounter, it was clear that the officer’s decision to use force was in response to what was said by the individual at that point. The use of force was believed to be justified by the circumstances.**Video 5 (stop and search):** A male was stopped by officers following information that drugs were believed to be in the vehicle. The recorded grounds were assessed as ‘reasonable’; however, it was felt that reference to how the intelligence had been received (for example, from a member of the public, etc.) would have further strengthened the grounds.**Video 6 (stop and search):** Officers approached a group of males smelling of cannabis in a well-known hotspot for drug dealing. The group ran away from the officers; however, a 16-year-old was detained for a search, stating that he had a grinder with him and was a cannabis user. Drug paraphernalia was found during the search.Members felt that the search was conducted well and, in an age-appropriate manner. The recorded grounds were assessed as ‘reasonable’ due to the group fleeing when approached by the officers linked to the smell of cannabis.**Video 7 (stop and search):** Officers attended reports of a large violent disorder between young males aged between 10 and 17 years from different areas of Gwent. The individuals were believed to be in possession of knives.Members believed that largely the engagement with the 15-year-old individual was appropriate; however, it was felt that the officer’s questioning regarding drugs and the search of his hood were not relevant to the circumstances. The recorded grounds were assessed as ‘reasonable’.**Action 9:** Gwent Police to provide the Panel’s feedback to the officer regarding positive engagement with the individual and include the comments about the search of the hood and questions about cannabis, which were felt to be unnecessary in the scope of the search.**Video 8 (stop and search):** Officers responded to a call reporting a male and a female trying car doors. A male matching the description was located in the area and searched.The recorded grounds were assessed as ‘reasonable’; however, it was felt that a little more supporting detail such as the description of the male would have further strengthened the grounds. **Conclusion**The strength of grounds remains an area for improvement for Gwent Police, as identified by HMICFRS and consistent with the feedback from the LSP. This will continue to be a focus for scrutiny by the force and monitored through internal governance processes. Improvements in the standard of engagement between officers and the public was evident through the BWV review, which may begin to reflect the outcomes of training and internal messaging on the required standard and quality of engagement. Both aspects will remain under review by the LSP as part of its core scrutiny criteria. |
| **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 internal meetings as appropriate. The OPCC will continue to engage directly with the Head of Special Operations and the Strategic Equality and Diversity Manager to contribute to and support the force’s work in this area.To ensure that members are fully supported in their role, the existing LSP guidance will be refreshed to include any new thematic areas included within the scope of the Panel. The guidance is also used to support the induction of new members to the LSP.To enable better public awareness and understanding of the outcomes of local activity, Gwent Police’s stop and search data is available on their website at [Stop and Search | Gwent Police](https://www.gwent.police.uk/police-forces/gwent-police/areas/about-us/about-us/stop-and-search/). A link is also provided on the relevant page of the OPCC website. |
| **4.** | **FINANCIAL CONSIDERATIONS**LSP members’ costs are met by Gwent Police in undertaking this role as part of the Independent Advisory Group function; currently there are minor costs for the OPCC in providing refreshments for the Panel due to the duration of face-to-face scrutiny exercises. Sessions are hosted on police premises with virtual attendance provided, which does not incur any additional costs. However, financial consideration would need to be given to the addition of other independent members in line with existing volunteer schemes. |
| **5.** | **PERSONNEL CONSIDERATIONS**The scrutiny exercise is undertaken as part of the OPCC’s normal working arrangements, and support is provided by Gwent Police colleagues to ensure access to data and BWV footage as appropriate. |
| **6.** | **LEGAL IMPLICATIONS**Under section 5.4 of PACE Code A, Chief Constables, in consultation with Police and Crime Commissioners, must make arrangements for stop and search records to be scrutinised by representatives of the community, and to explain the use of the powers at a local level. The exercise also falls within the Commissioner’s wider accountability duties. |
| **7.** | **EQUALITIES AND HUMAN RIGHTS CONSIDERATIONS**Legitimacy and fairness form an objective within the Joint Strategic Equality Plan 2020-2024 and the LSP process is a core activity within this objective. Under the Equality Act 2010, in carrying out their functions, police officers must pay due regard to the need to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity between people who share a relevant protected characteristic and people who do not share it; and take steps to foster good relations between those persons. The scrutiny process aims to help demonstrate that police powers are being used effectively, proportionately, and justifiably across all communities in Gwent. Consideration has been given to requirements of the Articles contained in the European Convention on Human Rights and the Human Rights Act 1998 in preparing this report. Any decision to exercise the powers contained within stop and search procedures must be based on the principles of legality, legitimate aim and proportionality as required under the Human Rights Act. |
| **8.** | **RISK** Stop and search has the potential to negatively affect public confidence in the police if not carried out appropriately and with consideration of an individual’s needs. Children may be more likely to find the experience of stop and search traumatic which may have long-term effects on their perceptions of the police.The scrutiny process aims to help ensure that encounters are undertaken appropriately. For the purposes of the exercise all data is anonymised, and members of the LSP have been vetted according to Gwent Police processes. A robust Terms of Reference sets out the expectations of members whilst engaged in the scrutiny process. This is reviewed annually to ensure it remains fit-for-purpose. |
| **9.** | **PUBLIC INTEREST**The scrutiny exercise can help promote public confidence in the use of Police powers. The report is published externally on the OPCC website. |
| **10.** | **CONTACT OFFICER**Caroline Hawkins – Policy Officer, Office of the Police and Crime Commissioner |
| **11.** | **ANNEXES**None |