

OFFICE OF POLICE AND CRIME COMMISSIONER

TITLE: Legitimacy Scrutiny Panel Use of Force Exercise – February 2022

DATE: February 2022

TIMING: Routine

PURPOSE: For Scrutiny

1.	<p><u>RECOMMENDATION</u></p> <ol style="list-style-type: none">1. For the Commissioner and Gwent Police’s Head of Operational Support to consider the outcomes of and recommendations from the Legitimacy Scrutiny Panel exercise undertaken in February 2022.2. For Gwent Police to provide feedback to the Office of the Police and Crime Commissioner (OPCC) in response to the recommendations to demonstrate how they will be addressed.
1.	<p><u>INTRODUCTION</u></p> <p>To accommodate the continued COVID-19 restrictions, a virtual Legitimacy Scrutiny Panel (LSP) session took place in February 2022 covering use of force during the period 1st July to 31st December 2021. Use of force may involve any of the following actions:</p> <ul style="list-style-type: none">• 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. <p>Data for the period, along with a random selection of body worn video (BWV) were also reviewed by the panel.</p>

As a result of Gwent Police's improved internal governance and scrutiny of use of force, the Commissioner is confident that effective arrangements are now in place. Therefore, this report will highlight the outcomes of the Scrutiny Panel's activity for this session.

2. **ISSUES FOR CONSIDERATION**

Members discussed the recent Panorama television programme that covered two high profile deaths that occurred in 2021 following police contact. They expressed concerns that the time taken for investigations by the responsible agencies was damaging to community cohesion and relations with the police. It was felt that the type of scrutiny work undertaken by the panel was important to enable public perceptions of use of force to be challenged and improved.

Updates on Actions

Gwent Police provided feedback on the actions from the previous session in August 2021.

Action 1: *Gwent Police to link in with Taser training team to in relation to officers providing radio updates in front of vulnerable subjects*

Update: Feedback was provided to the Learning and Development Team around use of phraseology and officers being mindful of the content of their radio communications, particularly when dealing with vulnerable individuals, to avoid potential escalation of a situation. Appropriate guidance has been included within officer training.

Action 2: *Gwent Police to determine the full circumstances around contact with the individual in relation to perceived risks to officers.*

Update: We were advised that the attending officers had been made aware of the individual's predisposition to violent behaviour and had based their decision-making on the information provided.

Feedback was given to the Learning and Development Team regarding the lateness of the BWV camera being switched on. A recommendation was made that in such instances, greater transparency should be provided by the officer during the start of the recording, such as an explanation for the delay and a brief description of the circumstances and engagement with the individual up to that point. However, the most appropriate action would always be to ensure that cameras were activated on receipt of the call, or at the earliest point of spontaneous engagement with an individual, to capture everything in the lead up to the incident.

Action 3: *Gwent Police to provide the LSP with an update on the outcome of the complaint once finalised.*

Update: No update was available as the complaint was still being dealt with by the Professional Standards Department (PSD). This action will be carried over to ensure monitoring of the outcome by the LSP.

Action 4: *Gwent Police to refer the incident to Operational Safety Training for report and then follow up with the officer to determine the rationale for using incapacitant spray on the subject at that point during the incident. Also, to refer the incident to the Learning and Development Department to assess any potential training issues*

Update: We were advised that all the officers on that shift had been spoken to regarding the incident, with supervisors also made aware of the actions taken. The officers directly involved in the incident had been provided with further training and suitable words of advice with regards to appropriate use of incapacitant spray.

Data

The number of use of force incidences recorded does not tell us how many individual people had force used on them, but rather how many times force was recorded by officers (in accordance with Home Office recording rules), which could be multiple times on a single individual (for example, tactical communications, handcuffing, unarmed skills, etc.).

During the period 1st July to 31st December 2021, Gwent continued to experience a drop in the use of force, from 3467 incidences recorded in the previous scrutiny period, to 2880 incidences in the current period. This could not be attributed to anything specific, other than the ongoing impact of COVID restrictions and changes in public behaviour, and better officer compliance with recording of incidences where force had been used.

Table 1 shows the top five use of force tactics during the scrutiny period. It was noted that overall, the data was consistent with the previous period and did not provide any concerns. Males continued to experience a higher use of force than females. Around 45% of all incidences involved compliant handcuffing, followed by 36% involving use of tactical communications. We were informed that the recorded use of tactical communications was lower than expected; this could stem from officers not fully understanding what constitutes tactical communications and the recording requirements.

Action: Gwent Police to ensure that officers understand what constitutes tactical communications and the recording requirements.

Table 1



Table 2 shows the outcomes for use of force during the scrutiny period. The recorded were positive and consistent with the previous period, with around 73% of incidences resulting in arrest. Incidences involving section 136 mental health detentions and hospitalisation remained low.

Table 2

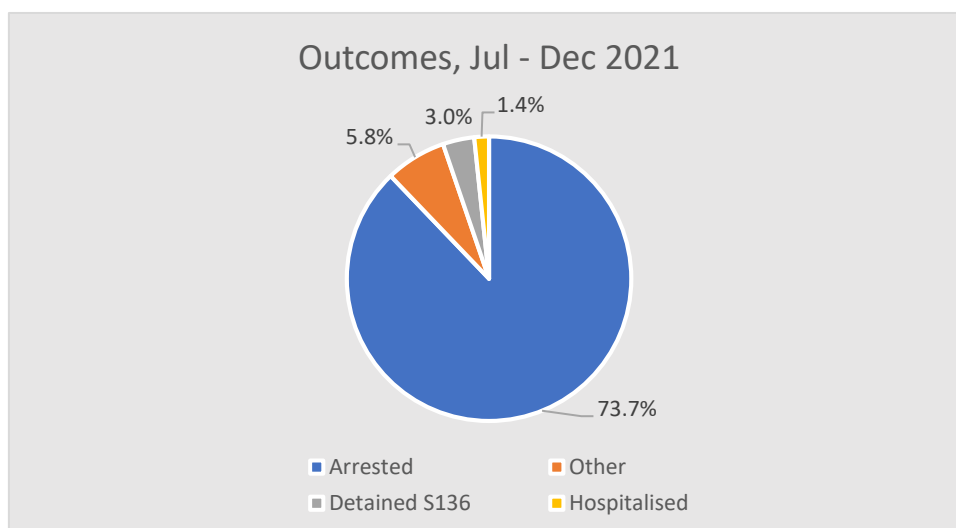
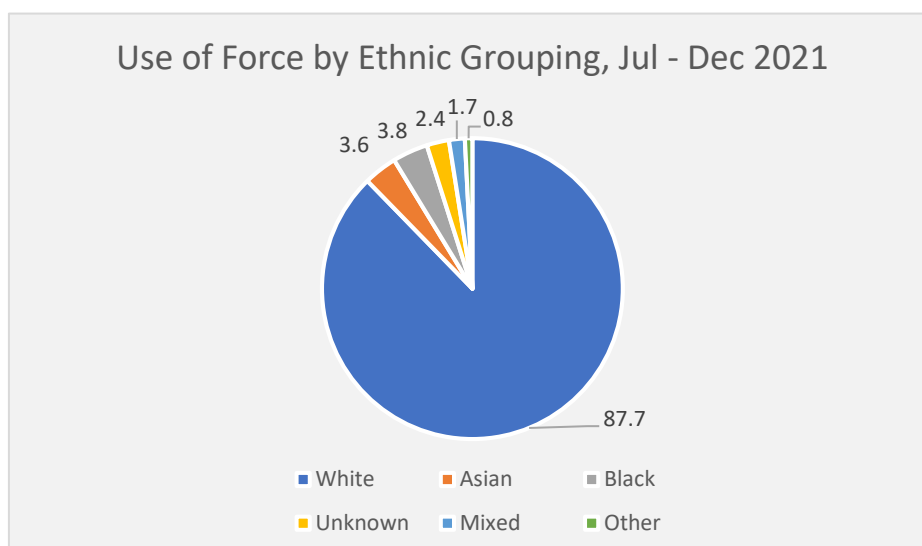


Table 3 shows use of force for the period by ethnic grouping. We were advised that again, the figures were consistent with the previous period. The proportion of use of force on individuals from ethnic minority backgrounds remained low compared to that for stop and search.

Members welcomed the data on ethnicity and asked how this compared with the demographic data for Gwent to be able to better understand if there was any risk of disproportionate use of force against a single group of ethnic minority people. Members were concerned that public perception could be negatively influenced by other factors and greater data transparency support positive conversations around those perceptions. We were advised that this would be seen in data

broken down by geographic area which would show a higher proportion of incidences involving force on individuals from black ethnic groups in Newport rather than in Blaenau Gwent, for example. We were informed that ethnic minority population data stood at 14.2% for Newport, 3% for Monmouthshire, 2.7% for Torfaen, 2.4% for Blaenau Gwent and 1.5% for Caerphilly but that the number of form submissions for each of those areas would also be needed to provide a more detailed picture of how force was being used.

Table 3



The Head of Operational Support highlighted that this information is scrutinised at the internal Coercive Powers Scrutiny Board (attended by the OPCC). At the December 2021 meeting, it was noted that during quarter 2 of 2021 / 22, members of ethnic minority communities were around two times more likely to have force used on them than those from white backgrounds. This was the first time that this rate had been seen in Gwent and nothing had been identified to explain this increase; however, as use of force relates to the volume of forms submitted and not individual incidents it is difficult to accurately determine proportionality. This would be closely monitored at the next Coercive Powers Scrutiny Board in March 2022. Gwent Police's use of force data is available on their website at [Use of force | Gwent Police](#). A link is also provided on the relevant page of the OPCC website.

We were advised that the Head of Operational Support had recently participated in an extraordinary meeting with the Home Office to look at how to improve data clarity and transparency for use of force, as this was a frustration shared across the police service. Further updates would be provided to the panel as appropriate.

Members were reminded that Gwent Police had engaged an independent consultant to review its use and governance of use of force. During the early stage of this work, the consultant had engaged with the OPCC to determine how the independent scrutiny process operates and whether it is effective in

supporting Gwent Police's improvement work. The feedback received was very positive and recognised the valuable role of the Scrutiny Panel in supporting continuous improvement and accountability processes, transparency and public confidence.

Body Worn Video

A selection of video footage was provided for review by the panel. Standard criteria for selection includes incidences involving Taser, mental health, individuals identified as from ethnic minority backgrounds, and children aged 17 and under. The selection can also incorporate footage provided by Gwent Police's PSD in connection with closed complaints. While any feedback provided by the panel would not affect the outcome of the complaint investigation, additional organisational learning may still be identified as part of the independent review.

Members also have an option to review any additional footage for incidents to obtain wider context and support greater understanding of the circumstances in which force was used on that individual. Where this is the case, videos will be labelled as such.

Video 1: Officers attended a call to assist staff at a public house following the individual having been asked to leave. On arrival, the individual was found trying to re-enter the premises.

Members had a dynamic discussion about the engagement that took place between the officers and the individual. Concerns were raised that earlier opportunities to de-escalate the situation were missed by the officers, and that the way the officers physically responded to the individual could be perceived to have escalated matters. It was felt that the officers had lost some control over the situation as well as an earlier opportunity to either arrest the individual or encourage them to leave the area. Comments were made about the individual's claim of a pre-existing injury and that once restrained, officers could have proceeded more cautiously to ensure safe management. The timing of the use of incapacitant spray was also questioned, as it reflected the incident seen during the last LSP session. We noted that the officer's arm obscured the camera several times during the incident. We also noted that the officer appeared to have been assaulted while restraining the individual. However, the wider public response was highlighted as positive in the circumstances, with help offered to the assaulted officer after the incident had ended. We agreed that learning opportunities would be provided to Gwent Police.

Action: Gwent Police to follow up on the learning opportunities with the officers involved and the Learning and Development Department as appropriate and provide feedback to the panel on the outcomes.

Video 2: Officers attended a domestic call in where the individual was reported to have used threatening and abusive language towards their family members, whilst brandishing a large kitchen knife.

Members praised the calm and professional way the officers dealt with the incident and acknowledged the safeguarding of the other family members. The timing of the Taser use was discussed; however, it was agreed that this was appropriate due to the unknown location of the knife and the individual's attempt to escape from the officers.

Video 3: Officers responded to a domestic call where an individual experiencing a mental health crisis had barricaded themselves in a bedroom with a knife. During the encounter the individual was heard to say that they wanted to end their life.

Members praised the way the officers calmly dealt with the situation and commended the lead officer's engagement with the individual, showing compassion and empathy towards them throughout. Members also praised the Taser officer's clear self-awareness of their actions and the individual's response, helping to reassure the individual and contribute to a calm conclusion to the incident. It was agreed that members' recognition of how the individual was dealt with would be fed back to the officers involved.

Action: Gwent Police to provide the positive feedback and recognition from the LSP to the officers involved.

Video 4: Officers attended a call from a member of the public that the individual was damaging the caller's vehicle with a baseball bat.

Members noted the clear communication by the officer, including additional narrative provided to the BWV camera to ensure the context of the response was captured before arrival at the scene. It was also noted that the Taser officer ensured the safety of their colleagues as well as the individual when the individual had been red dotted. We observed a contrast in the use of incapacitant spray compared to the first video and felt that this was appropriate to the circumstances. We agreed that the officers handled the situation well and that this should be fed back in support of the positive way they conducted their engagement with the individual.

Action: Gwent Police to provide the positive feedback and recognition from the LSP to the officers involved.

Video 5: Officers responded to a report that the individual had made threats towards a neighbour and had left the home with a knife.

Members praised the calm way the officers dealt with the situation and the individuals present. We discussed how the tone of an officer's voice can change the dynamic of engagement and the importance of self-awareness in this regard. Members queried whether it was good practice for all the officers present to shout "Taser" following the initial warning, as it was felt that this could escalate any existing tensions. We were advised that this formed part of the training to ensure that all present were aware that the Taser had been unholstered, in case the initial verbal warning had been missed.

Video 6: Officers attended a domestic call where the individual was experiencing a mental health crisis and had locked themselves in the bathroom with a knife.

Members acknowledged that this had been a very distressing situation for all present. They commended the officers for their empathy and calmness and the reassurance provided to those involved. Members noted how the officers' decision-making and engagement with the family members contributed to a successful outcome and the safety of the individual. It was agreed that the members' feedback would be provided to the officers in recognition for the exemplary way they had dealt with the situation.

Action: Gwent Police to provide the positive feedback and recognition from the LSP to the officers involved.

Video 7: Officers attended in response to reports of a fight at a public house. On arrival, the individual was found outside the location behaving aggressively and obstructively to those present.

It was agreed that the officers had missed an earlier opportunity to avoid escalation by delaying the arrest the individual. Members commented on the engagement by one of the officers which was seen to contribute to the tensions between the police and the individual. However, members felt that the engagement by the BWV officer was excellent, providing a calming influence on the situation and preventing any further escalation. Members queried who would be the lead officer in such situations with multiple officers in attendance. We were advised this could change depending on the circumstances and what the first officers on the scene were dealing with as support arrived.

Action: Gwent Police to provide the positive feedback and recognition from the LSP to the BWV officer.

Conclusion

Gwent Police has continued to demonstrate a commitment to effective governance and scrutiny of the use of police powers during this period. Focus remains on the appropriateness of the use of force and compliance with recording. The independent review of use of force further confirms this commitment and the findings will enable Gwent Police to make greater progress

	<p>in improving the use and outcomes and increasing public confidence locally. The work has also highlighted many of the concerns that have arisen from Scrutiny Panel exercises; this is a positive outcome that supports the contribution of the OPCC's independent scrutiny process.</p> <p>The observations and actions included within this report aim to support Gwent Police's transparency around use of force, improve public confidence in its use, and promote a better understanding by the organisation of the causes of any apparent disproportionality for people from Black, Asian and minority ethnic backgrounds. An overview of the session and outcomes is provided to the Coercive Powers Scrutiny Board.</p> <p>The OPCC Policy Officer and Gwent Police's leads for coercive powers continue to work together on related matters and provide support to the force's operational lead for use of force as appropriate.</p>
3.	<p><u>NEXT STEPS</u></p> <p>Progress will continue to be monitored by the OPCC through Legitimacy Scrutiny Panel exercises and via the Coercive Powers Scrutiny Board and other associated internal meetings as appropriate. Feedback on the actions will be provided back to the LSP at the next scheduled use of force session.</p>
4.	<p><u>FINANCIAL CONSIDERATIONS</u></p> <p>Scrutiny Panel members' costs are met by Gwent Police in undertaking this role as part of the Independent Advisory Group function; there are minor costs for the OPCC in providing refreshments for the Panel due to the duration of the scrutiny exercise when meeting face-to-face.</p>
5.	<p><u>PERSONNEL CONSIDERATIONS</u></p> <p>Whilst the scrutiny exercise is undertaken as part of the OPCC's normal working arrangements, support is provided by Gwent Police colleagues to ensure access to data and BWV footage as appropriate.</p>
6.	<p><u>LEGAL IMPLICATIONS</u></p> <p>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 scrutiny and accountability duties.</p>
7.	<p><u>EQUALITIES AND HUMAN RIGHTS CONSIDERATIONS</u></p> <p>Legitimacy and fairness form an objective within the Joint Strategic Equality Plan 2020-2024 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</p>

	<p>who share a relevant protected characteristic and people who do not share it; and, take steps to foster good relations between those persons. By extension, these principles are applied to the Welsh language in support of the Standards imposed on the Commissioner and the Chief Constable. The scrutiny process aims to help demonstrate that police powers are being used effectively, proportionately and justifiably across all communities in Gwent.</p> <p>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.</p>
8.	<p><u>RISK</u></p> <p>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 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.</p>
9.	<p><u>PUBLIC INTEREST</u></p> <p>The scrutiny exercise can help promote public confidence in the use of Police powers. The report is published externally on the OPCC website.</p>
10.	<p><u>CONTACT OFFICER</u></p> <p>Caroline Hawkins – Policy Officer, Office of the Police and Crime Commissioner</p>
11.	<p><u>ANNEXES</u></p> <p>None</p>