

OFFICE OF POLICE AND CRIME COMMISSIONER

Legitimacy Scrutiny Panel Use of Force Exercise - July 2019

The Legitimacy Scrutiny Panel convened on the 26th July 2019 to examine Gwent Police use of force activity for the six-month period 1st January 2019 to 31st June 2019. This was the first dedicated scrutiny session for use of force since the theme was introduced into the Legitimacy Scrutiny Panel process in November 2017; previously, the process had taken place at the same time as the stop and search exercise. Therefore, the dedicated session was convened to correspond with the rolling six-month timetable for scrutiny exercises.

The process focuses on reviewing body worn video (BWV) footage captured by officers during incidents where force has been used, as well as compliance regarding submission of Use of Force forms post incident. A list of the types of force available to Gwent Police is included at Appendix A.

The use of force scrutiny process aims to:

- Consider the available data for use of force in Gwent for the scrutiny period, providing feedback on any queries or issues identified;
- Provide comment on the interactions between officers and members of the public observed through a selection of BWV footage to enable good practice and points of learning to be fed back to Gwent Police as appropriate. Selection can be either at random or thematic;
- Examine compliance regarding submission and completion of Use of Force forms, as identified through the Operational Tactics meeting;
- Promote public confidence in how Gwent Police uses force in our communities.

A member of Gwent's HMICFRS inspection team attended the session to observe the new process.

Data Overview

Due to the timing of the scrutiny exercise, three sets of data were provided for context and continuity: 1st April to 30th September 2018 covering the last scrutiny period, 1st October to 31st December 2018 covering the interim three months due to the LSP process change, and 1st January to 30th June 2019 for the current scrutiny period.

Table 1 compares the data for the three periods, where available. There was a marked increase in the number of form submissions across the data. For the three months for October to December, Use of Force form submissions increased by 78.9% compared to the previous six months. This trend continued into the current scrutiny period, when almost the same number of forms were submitted within the six-month period as compared with the

previous nine months (96.4% of 3297 form submissions between April and December 2018). During the scrutiny period, Gwent Police provided a focus on the completion and submission of Use of Force forms, which would account for the noted increase in submissions

Table 1 – Comparison data across time periods

	1st Apr to 30th Sep 2018	1st Oct to 31st Dec 2018	1st Jan to 30th Jun 2019
<i>Total number Use of Force forms submitted</i>	1843	1454	3180
<i>Gender: Male subjects</i>	80.5%	80.7%	79%
<i>Female subjects</i>	19.5%	18.6%	21%
<i>Top 5 tactics used</i>	Compliant Handcuffing 43.5%	Compliant Handcuffing 49.2%	Compliant Handcuffing 40.5%
	Tactical Communications 26.6%	Tactical Communications 28.5%	Tactical Communications 27.8%
	Non-Compliant Handcuffing 11.5%	Unarmed Skills 27.8%	Unarmed Skills 13.2%
	Unarmed Skills 10.4%	Non-Compliant Handcuffing 21.3%	Non-Compliant Handcuffing 9.4%
	CED (Taser) 1.9%	Ground Restraint 9.0%	Ground restraint 3.2%
<i>Records involving CED (Taser)</i>	1.9%	2.8%	2.0%
<i>Top 5 reasons for use</i>	Prevent Harm 39%	Effect Arrest 37.2%	Effect arrest 50%
	Effect Arrest 29%	Prevent Escape 9.2%	Prevent Harm 15%
	Prevent Escape 13%	Prevent Harm 7.1%	Prevent Escape 12%
	Other 12%	Protect Self 5.6%	Protect Self 11%
	Protect Self 7%	Effect Search 3.6%	Other 9%
<i>Outcomes shown: Arrested</i>	90%	72%	76%
<i>Detained S136 MH Act</i>	2%	1.6%	3%
<i>Hospitalised</i>	0.7%	1.2%	2%
<i>Other</i>	-	5.4%	-
<i>Age: Under 11 years</i>	0.1%	-	-
<i>Age: 11-17</i>	11.8%	-	9.2%
<i>Age: 18-34</i>	61.0%	-	62.0%
<i>Age: 35-49</i>	21.9%	-	22.7%

<i>Age: 50-64</i>	4.9%	-	4.7%
<i>Age: 65 and above</i>	0.2%	-	0.2%
<i>Impact Factors</i>	Over 1 in 3 forms cited alcohol Over 1 in 5 forms cited drugs	None stated	Almost 1 in 3 forms cited alcohol 1 in 5 forms cited drugs
<i>Injuries</i>	5% subjects injured as a result of force used 113 officers physically injured 32 officers intentionally assaulted	None stated	7% subjects injured as a result of force used 166 officers physically injured 79 officers intentionally assaulted
<i>Ethnicity</i>	See Table 2		

Members were satisfied that, overall, the figures appeared to be proportionately comparable across the data range, and that the increase in submissions was linked to Gwent Police's focus on this, rather than as a result of increased use of force. Gender and age profiles for use of force reflected those seen for stop and search activity. Members queried the meaning of 'Other' in terms of Reasons for Force and the outcomes shown. It was suggested that this section of the form may provide a free text box, and that we would be able to have a look at some examples of this as part of the review of forms during the BWV session.

Members asked whether there was an internal review process for forms similar to the one in place for stop and search. We were advised that there is currently no automatic referral of forms to supervisors for checking. However, there is a local policing area (LPA) focus on dip sampling Use of Force forms by Sergeants, with outcomes collated into a document for overall review.

We also discussed the 'Subject Perceived Age' data provided, and members queried whether the actual ages of the subjects within the 11 to 17 age-range were available. An attempt was made to look up the information using the QlikView data system; however, the information was not easily identifiable. Members expressed that it would be helpful to identify whether there were any age-related patterns or concerns for under-18s, and felt that Gwent Police could be challenged on the (lack of) information as the data was publicly available. Therefore, we agreed that it would be useful to include a breakdown of numbers of subjects aged 17 and under, if possible.

Members proposed that it might be helpful to see the number of incidents for each of the local authority areas. This would enable a more in-depth analysis of activity across the Gwent area, and enable an overview of incidents within

each of the two local policing areas (LPAs).

Gwent Police should be able to identify and explain use of force on children aged 17 and under and whether it is linked to any specific operational activity to provide a better understanding of activity on this age group. This should include a breakdown of the numbers of subjects aged 17 and under within the data sheet.

Gwent Police should include in the data sheet the number of use of force incidences for each of the local authority areas. This would provide a greater understanding of where activity is taking place.

Ethnicity Proportionality

Whilst there is far less national scrutiny of use of force as compared to stop and search, it is still important to understand whether there is any disproportionate impact on certain communities. Use of Force forms do not record a subject's self-defined ethnicity, but instead, record the subject's *perceived* ethnicity (i.e. what the officer believes the individual's ethnicity to be). As such, the forms do not show the same range of ethnicity classifications as used for stop and search; therefore, the same level of detailed scrutiny is not currently possible.

Table 2 compares recorded 'subject perceived ethnicity' data across the three time-periods.

Table 2 – Subject perceived ethnicity

	1st Apr to 30th Sept 2018	1st Oct to 30th Dec 2018	1st Jan to 31st Jun 2019
<i>White</i>	95.6%	89.4%	88.3%
<i>Unknown</i>	1.5%	0.9%	1.7%
<i>Asian (or Asian British)</i>	1.1%	2.9%	3.3%
<i>Mixed</i>	1.0%	2.3%	2.4%
<i>Black (or Black British)</i>	0.6%	2.9%	2.9%
<i>Chinese</i>	0.0%	0.0%	0.1%
<i>Other</i>	0.3%	1.5%	1.3%

We noted that, across the date ranges, incidences of use of force had decreased for White and Other subjects, but increased across the remaining Black, Asian and minority ethnic (BAME) groupings. The greatest increase was recorded within the Black (or Black British) grouping; this changed from 0.6% for April to September 2018, to 2.9% for January to June 2019. However, the Asian (or Asian British) group had the most experience of use of force compared to the other BAME groups.

Members were satisfied that the upturns appeared to be proportionate to the increases in the number of Use of Force forms submitted. However, the data did not provide any references to operational activity that might have

contributed to the changes in the numbers of BAME subjects recorded; for example, Operation Sceptre II that took place between the 11th and the 17th of March 2019, and the ongoing serious organised crime work in Newport.

The 2011 UK Census recorded the BAME population of Gwent to be approximately 4%. However, the Welsh Government's Annual Population Survey for the year ending 31st March 2019 now estimates this to be at least 19.9%. Gwent Police data for the current scrutiny period indicates that around 10% of use of force incidences involved BAME subjects; in terms of Gwent's population, this suggests that use of force is proportionate.

Gwent Police needs to demonstrate an understanding of the impact of use of force linked to operational activity within BAME communities. Comparing operational information against use of force data will help to provide reassurance that any increases in activity are proportionate and justified.

Body Worn Video

In a change to the previous use of force scrutiny process, following each BWV viewing the relevant Use of Force forms will be examined. The BWV footage observed during the exercise was split between Taser incidents, referrals by the Professional Standards Department (PSD), and a random dip sample.

Video 1 - Taser: Two officers attended a property where the homeowner had reported an aggressive male 'visitor' that was refusing to leave. Impact factors were stated as alcohol and drugs. Children were also reported to be present at the address and the male was suspected to be in possession of 'weapons'. The Taser was aimed and some instructions issued, and although initially very vocal, the male was compliant to handcuffing by the second officer. However, the male was found to have self-harmed prior to the officers' arrival and an ambulance was called to convey him to hospital for treatment.

Comments: Members were satisfied that the officers had acted appropriately in the circumstances, checking the subject's welfare and offering reassurance to him in his distressed state. Members felt that there could have been more communication with the subject at the start of the encounter, particularly regarding the officers' expectations of him and the potential for Taser use.

Only one Use of Force form was found, which stated 'active resistance' as the primary reason for using force. Members did not agree that this was accurate in comparison to the BWV. In addition, the Taser section of the form had not been completed correctly. Members noted that the form contained 'Other' information within a free-text box. This described the treatment of the subject's injuries at the property and his refusal of other medical attention. No form was found to have been submitted by the handcuffing officer.

Video 2 - Taser: Officers attended an address to execute a 'no bail' warrant on a male within the property. The subject refused to let the officers into the room, acting aggressively towards them. Other family members were also in the room and the furnishings appeared to be in disarray. In response to the subject's behaviour and perceived threat, the Taser officer entered the property to provide support. Pava was sprayed and Taser was used twice on the subject who was then restrained in handcuffs and taken into custody.

Comments: Panel members were concerned that both Pava and Taser were used in close proximity to the other individuals in the room, which could have resulted in unintentional harm. We noted that the Taser officer gave very few verbal commands other than shouting "Taser". However, we were unaware of what instructions the other officers had given to the subject prior to the Taser officer's arrival. Due to the conditions in the property and the video not giving clear sight of the subject, we acknowledged that the observations might not accurately reflect the situation and context, but agreed that the footage showed the subject acting aggressively towards the officers already present.

Forms were found to have been submitted for use of Pava and Taser; however, no form was found for handcuffing. The information in the forms was found match the observations from the video.

Video 3 - Taser: Officers attended an address to conduct a section 18 search for additional evidence linked to an individual held in Police custody. They engaged with the detainee's father who allowed the officers into the hallway of the property. The individual re-emerged from further inside the house, wielding a machete and making threats to the officers. Pava spray and Taser were both drawn but not used; the officers retreated from the hallway and the male closed the door on them. He later gave himself up to the officers and was compliant to handcuffing.

Comments: Panel members were impressed with the way the officers approached the situation, noting that the focus was on entry and search rather than use of force. We discussed the use of the National Decision Model (NDM) during this incident, as Pava and Taser were both drawn and aimed but not used due to the elevated risk level. The officers communicated with the individual throughout the encounter, and the lead officer gave clear instructions to ensure his and his colleague's safety. The officers remained calm and their response was felt to be proportionate to the situation.

Two forms were submitted for the incident, one for Pava and the other for Taser. The information on the forms matched the observations from the video footage.

Video 4 – PSD referral: A single-crewed female officer responded to an emergency call of a domestic incident in progress. The male perpetrator was

known to Gwent Police and warning markers were in place related to mental health, stalking, drugs and possession of firearms and ammunition. On arrival at the property, the male was observed to be grappling aggressively with the distressed female and holding her by the hair. The officer used Pava spray on the male to enable successful restraint and handcuffing. Following the incident, the subject lodged a complaint with Gwent Police for 'assault by a Police officer'.

Comments: We discussed at length the use of Pava, specifically whether the apparent immediate and continued use was proportionate to the circumstances, and whether more warnings should have been given prior to the Pava being used. We acknowledged that the camera angle made it difficult to see clearly what was happening between the male and female as the officer arrived, so the perspective given may not have truly represented the actual situation.

We were informed of the advice given during Pava training and that in this case, the officer appeared to be complying with this. However, members queried whether the continued spraying was appropriate to the subject's relative position to the officer and whether the officer had put herself at risk of harm from the subject. Members expressed some concern that the officer had dealt with the incident without any support and that there were potential additional risks to her safety.

We were advised that PSD had found the use of force to be proportionate to the circumstances and the complaint not upheld.

A single form had been submitted for the incident, which covered both Pava and handcuffing. The information on the form matched the observations from the video footage.

Video 5 - Random: A male held in Police custody was acting aggressively towards an officer undertaking a one-to-one observation of the subject, who was already in handcuffs in the cell. Footage was recorded by a second officer in attendance. The detainee was repeatedly verbally and racially abusive towards the first officer and escalated his behaviour throughout the duration of the footage. Eventually, additional officers assisted in using force to put the subject on the floor and apply further restraints.

Comments: Members praised the officer's attitude and demeanour throughout the detainee's attempts to provoke him. We discussed whether the Custody Sergeant should have moved the officer in question to de-escalate the situation, but acknowledged that this may not have been possible depending on the resources available at that time. We were unable to determine exactly what led to additional force being required as the camera view was obstructed by the first officer. However, due to the subject's behaviour up to that point, members believed that the force used was likely to be the most appropriate for the circumstances.

Three forms had been submitted; however, we noted that there should have been four in total. The information on the forms matched the observations from the video footage. We also dip sampled the additional investigation forms and the officer statements attached to the incident record, which were all found to correspond with the video observation.

Video 6 – Random: Officers stopped two males on the street as one of the individuals had been observed drinking alcohol. The male was found in breach of a Public Spaces Protection Order (PSPO) and subsequently issued with a fixed penalty notice. The second male was very obstructive throughout the encounter, videoing the exchange on a mobile phone while verbally challenging the officers, who managed to separate the males and move the obstructive individual way from the recipient of the PSPO penalty. As the recipient appeared intoxicated, the officer explained why he had been issued with a penalty notice and what he needed to do to either pay or appeal the fine. Due to his continued and escalating obstructive behaviour, the second male was eventually arrested and handcuffed.

Comments: Members felt that the officer treated the apparently intoxicated male respectfully and that the situation with the obstructive male was handled well. We acknowledged the potential for escalation due the presence of additional members of the public but believed that the officers' actions and behaviours successfully mitigated any risk.

A single form had been submitted for compliant handcuffing. The information on the form matched the observations from the video footage.

Gwent Police should regularly promote positive internal messages about use of BWV to provide reassurance to officers in using their powers. Further public messaging about use of force would help to promote confidence in local policing.

Conclusion and Recommendations

Overall, members felt that Gwent Police demonstrated appropriate and proportionate use of force. However, there was some concern that not all use of force had been captured as required.

The review of BWV footage provided generally positive feedback and members were impressed with the way officers conducted themselves and treated individuals during incidents. Members recognised that officers are required to make rapid assessments and quick decisions based on the information available at the time. We acknowledged that whilst BWV is an extremely useful tool, it has limitations and does not always provide a holistic view of the situation and circumstances. Therefore, feedback from the Scrutiny Panel only reflects what is seen during the exercise.

As a result of some of the discussions during the session, we agreed that it would be useful to invite representatives from PSD and the Officer Safety Training (OST) team to participate in future use of force scrutiny. This would support members' understanding of use of force and associated internal processes. In addition, members felt it would be useful to observe relevant OST sessions or receive an input from OST on how officers are trained in the NDM. This will be progressed by the OPCC.

The recommendations aim to support Gwent Police's transparency and effective self-assessment around use of force, improve public confidence in its use, and to promote a better understanding by the organisation of the causes of any apparent disproportionality for BAME ethnicities.

- 1. Gwent Police should be able to identify and explain use of force on children aged 17 and under and whether it is linked to any specific operational activity to provide a better understanding of activity on this age group. This should include a breakdown of the numbers of subjects aged 17 and under within the data sheet.**
- 2. Gwent Police should include in the data sheet the number of use of force incidences for each of the local authority areas. This would provide a greater understanding of where activity is taking place.**
- 3. Gwent Police needs to demonstrate an understanding of the impact of use of force linked to operational activity within BAME communities. Comparing operational information against use of force data will help to provide reassurance that any increases in activity are proportionate and justified.**
- 4. Gwent Police should regularly promote positive internal messages about use of BWV to provide reassurance to officers in using their powers. Further public messaging about use of force would help to promote confidence in local policing.**

Recommendations and observations from the Scrutiny Panel reports will continue to be provided to Gwent Police for follow-up as appropriate. A debrief meeting following each exercise has been established to ensure appropriate ownership, feedback and timescales on the recommendations by work stream leads.

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.

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Appendix A: Types of force

This list relates to the types of force that can be used by Gwent Police.

- Baton: a static or expandable stick, kept in a holster when not needed so that it doesn't impede an officer's movement. It can be pulled out of its holster to show escalation or used to temporarily incapacitate someone.
- Attenuating energy projectile (AEP): soft-nosed projectiles that are intended to deliver a high amount of energy over an extended period.
- Conductive energy device (CED) – this is the technical name for a Taser. Taser can be drawn as a warning or demonstration of an incident escalating, or used to temporarily immobilise an individual.
- Compliant handcuffing: may be used for transport or when searching someone.
- Dog deployed: specially trained dogs are available for situations where police officers need to control or pursue people.
- Firearms: the presence of specially trained armed officers can be enough to diffuse a situation and occasions where a firearm is used are incredibly rare.
- Ground restraint – putting the subject on the floor to aid restraint, similar to unarmed skills.
- Irritant spray - PAVA: used to incapacitate someone by irritating their skin, causing them to experience tears and coughing. The PAVA canister can be pulled out of its holster to show escalation, or deployed to cause temporary incapacitation.
- Limb/body restraints: specialist equipment used to reduce movement, such as an emergency restraint belt (ERB), and velcro or fast straps.
- Non-compliant handcuffing: used once an officer has gained control over an individual and is used to protect the officer and other people from harm.
- Spit guard: specialist equipment used to help control behaviour, thereby preventing or reducing harm to everyone involved in an incident.
- Shield: may be used by police officers to protect themselves and others and potentially strike an individual.
- Tactical communication: talking to a subject. This includes issuing orders such as asking them to move or stop, or to change their actions.

- Unarmed skills: include the physical holding, pinning or restraining of a person. It also includes any form of physical contact, such as pushing, pulling, striking or pinning someone to the ground.
- Other: refers to any other method of force outside the standard techniques set out above – such as using a police vehicle to stop someone moving.