



**Police and Crime Plan Priority:** Improving Confidence in Policing

**Title:** Use of Stop and Search Powers

**Presented by:** Chief Superintendent Chris Todd

**Purpose of paper**

1. To provide members of the Strategic Policing and Crime Board with an update on the use of stop and search powers by West Midlands Police (WMP).

**Background**

2. Prior to establishment of a WMP Gold Group to improve the fair and effective use of stop and search powers, in parallel to a national Home Office and College of Policing driven campaign of a similar nature, WMP experienced poor levels of compliance and low outcome rates associated with the use of these powers. There was also growing concern amongst communities that the use of these intrusive powers was not being applied fairly and transparently.
3. Specifically in 2011/12 64,000 people were subject of stop and search across the West Midlands, but only 4% of such encounters resulted in an arrest, 27% of records did not meet the requirements to demonstrate lawful use of the power and members of the black and minority ethnic (BAME) community were 5 times more likely to be subject to stop and search than members of the white population.
4. By 2016/17 the numbers of searches had been reduced to 13,000, but the positive outcome rate (including arrests) had grown to 29%, 97% of all records were shown to be lawfully compliant and the rates of disproportionality had fallen to 3 times that of the white population.

## Current Performance

5. The following table illustrates the key performance indicators for the force as a whole and then across the eight neighbourhood policing units (using 2017/18 annual data).

Area	Total	Live	Positive Outcome %	Arrest %	PACE s.1 by %	Drugs by %	Firearms by %	Disproportionality	
								Black	Asian
Force	12284	83.3	31.0	19.9	45.0	46.1	7.4	4.3	2.0
BE	3125	85.2	34.1	22.4	45.3	47.1	6.6	2.7	1.5
BW	4212	85.0	29.6	18.6	39.9	49.2	9.5	3.6	1.6
CV	993	79.7	31.4	23.7	50.7	40.4	7.9	4.0	1.2
DY	499	79.8	36.1	22.6	57.1	35.3	7.0	4.5	3.1
SH	575	76.9	28.0	19.6	58.3	32.7	6.3	8.6	5.6
SW	1104	80.3	28.4	17.5	46.2	48.1	5.2	3.0	2.5
WS	745	81.7	26.9	15.4	45.2	40.5	7.4	4.0	1.8
WV	1030	83.4	31.9	19.5	44.6	50.7	4.0	2.7	1.1

6. It should be noted that that the live recording rates of searches remain stable whilst positive outcome rates, and arrest rates within that dataset, have increased. Levels of disproportionality have also remained stable following a marginal increase last year. It should be noted that the data continues to be calculated against 2011 census data which is widely accepted now as outdated. Nevertheless this baseline continues to be that against which the Home Office data is published and so is retained for the purposes of consistent reporting.
7. Levels of disproportionality appear to be high across the Dudley (DY) and Solihull (SH) NPUs, but these two neighbourhood policing units have the lowest levels of searches across the force, meaning that small numbers will have a disproportionate impact on percentage figures. Nevertheless when the positive outcome levels are calculated for these two NPUs it is also evident that in addition to there being a greater chance of being searched if BAME, the outcome rates for members of that community are also lower than average in these areas.
8. Both NPUs therefore accounted for these figures at the last public Stop and Search Commission chaired by the Office of the Police and Crime Commissioner (OPCC). Satisfactory explanations were given indicating proportionate, intelligence-led activity focused on local criminal gangs. Whilst the justification for targeted activity in these areas was borne out, the results nevertheless reinforced the importance of intelligence led direction of such operations.

## Searches Conducted under s.60 of the Criminal Justice and Public Order Act

9. This power gives officers the authority to search a person for offensive weapons or dangerous instruments without requiring the officer to personally form a reasonable suspicion that the individual possesses such items. Rather

the authority is granted by a senior officer across a specific geographic area, based on an intelligence led belief that incidents involving serious violence in that location will take place.

10. Whilst the legislation allows for an Inspector or above to grant this authority, WMP complies with the Best Use of Stop and Search Scheme (BUSS) and directs that, other than in extremis, such a request for authorisation should be escalated to an Assistant Chief Constable. Since implementing this requirement, the number of occasions on which this power is authorised, has dropped dramatically and the number of searches conducted on each such occasion has also dropped dramatically.
11. In 2016/17 there were 11 occasions on which a s.60 authority was granted. Four of these were in Wolverhampton, two in Birmingham East and five in Birmingham West and Central. In 2017/18 this increased to 19. One authority has been granted for each of Coventry, Sandwell and Walsall, with the remainder all being focused on Birmingham (East and West). Whilst this reflects an increase in the use of this power compared to the previous year, it remains at a level lower than 'pre-BUSS'. It also reflects a period in which gang-related violence and the criminal use of firearms across Birmingham was unusually high and a robust approach was taken by WMP to bring this criminality back under control.
12. The process surrounding the use of s.60 authorities has recently been reviewed in order to demonstrate greater transparency. Whilst it has been the policy for some time now to reflect the use of this power and the outcomes of such operations on the Police and Crime Commissioner's website, tighter control is now being exercised through a revision of internal process, which also includes a requirement to inform the Corporate Communications Department so that advanced notification of the intended s.60 can also be circulated through social media, when appropriate.

### **Her Majesty's Inspectorate of Constabulary, Fire and Rescue Services (HMICFRS)**

13. WMP was last inspected by HMICFRS in relation to stop and search in October 2017. The force was found to be fully compliant with the Best Use of Stop and Search Scheme (BUSS) and it was noted that, "Officers in the West Midlands Police force have a good understanding of national guidance in relation to the fair and respectful use of stop and search powers," so that, "The public can be confident that most officers carrying out stop and search in the West Midlands understand how to do so lawfully, fairly and respectfully."
14. It was also noted that, "The force has highly effective measures of scrutinising information and data on the use of stop and search to improve the extent to which its workforce treats people with fairness and respect." HMICFRS also commented that, "The force places a strong emphasis on preventing the disproportionate use of stop and search powers."

15. When examining the degree to which the force holds its officers to account both internally and externally, the Inspectorate recorded that, "These processes provide very effective external scrutiny of the force's use of stop and search at both local and force level. In conjunction with the force's own internal scrutiny they are helping the force to achieve consistently high standards in the fair and respectful use of this intrusive power."
16. Finally, a random selection of 200 stop and search records were examined by HMICFRS, of which only 3 were found to be less than satisfactory. This equates to a rate of 98.5% compliance which is the highest that WMP has received since HMIC/HMICFRS inspections began in this area.
17. Although stop and search alone was not graded by the Inspectorate, as it formed a part of the wider legitimacy report, for which WMP was graded overall as 'good', the findings could hardly have been more complimentary.

### **Internal Governance**

18. The force continues to hold quarterly governance meetings, chaired by the Chief Officer lead (ACC), supported by the Force Tactical Lead (Chief Superintendent) with representation from all NPUs and Departments and the OPCC.
19. It is recognised that whilst the use of stop and search powers has a localised impact on specific communities, the officers responsible for carrying out such searches may come from any number of corporate departments. Accountability to local communities remains the responsibility of the respective neighbourhood policing units, but in recognition that corporate departments are line managed outside of these structures, data is now made available through the internal governance arrangements which enables local senior leadership teams to work with colleagues across the force.
20. This data will show, for example, that over the last 6 months, 59% of all stop and search encounters are conducted by officers outside of the NPU itself. The levels of live recording versus retrospective recording of searches acts as a good benchmark for the fair and effective use of these powers. It is useful, therefore, for NPUs to understand that the lowest levels of such live recording occur across student officers, ROCU officers and Force Response units. This data then enables further bespoke training to be delivered where appropriate (for example with student and ROCU officers) and for NPU senior leaders to work with colleagues to address localised variations.
21. These revised data scrutiny capabilities now allow for granular detail to be examined across smaller teams and units, down to the individual level. As a result, in addition to the regular scrutiny of datasets such as those referred to in this document, every NPU has been tasked to identify on a monthly basis the top five persons subject of multiple stop and search encounters. This exercise highlighted that contrary to popular opinion, the data did not support any repeat stopping of persons other than those that were actively engaged in criminality and had been subject to arrest as a direct result of the use of these powers.

22. Nevertheless, where an officer's conduct or use of the powers is questioned by a scrutiny panel and found to be wanting, the SPOCs will in turn address the officer in person and ensure that an action plan is developed, if warranted.
23. The stop and search governance team also continues to feed into and draw best practice from the national Police and Public Encounters Board (PPEB). Through this relationship the governance group has been able to reflect the views of scrutiny panels that an excessive number of stop and search encounters were being justified on account of the 'smell of cannabis' alone. This was taken to the governance group, fed into the national PPEB and guidance has since been disseminated nationally to ensure that all officers are clear that such rationale alone is insufficient. This was established on the basis that current cannabis possession must be suspected rather than previous cannabis use which may be all that is indicated by the lingering smell sometimes found on an individual's clothing.
24. As is reflected above, HMICFRS were particularly complimentary of the manner in which WMP conducts internal governance around the use of stop and search.

### **External Scrutiny**

25. Each NPU continues to hold its own stop and search scrutiny panel, chaired by independent community members, supported by the NPU senior leadership team and SPOCs (single points of contact). The make-up of each panel is determined locally with some panels using social media to encourage engagement and some having made good use of feedback offered in the course of stop and search encounters themselves to recruit new panel members. Nevertheless it remains a common point of feedback that representation on panels does not always reflect the demographics of either the local community or those groups most directly impacted by stop and search; namely young BAME men.
26. Other methods of recruitment to scrutiny panels continue to be explored. NPUs now have access to focused messaging through the WMNOW platform and the PCC's youth trainers, delivering inputs on stop and search to schools and are encouraged to advertise opportunities for young people to join their local scrutiny panels. Any interested parties should contact their local command team using our online reporting platform [here](#) or alternatively the OPCC website, [here](#).
27. The PCC's youth trainers themselves also offer invaluable feedback to the stop and search governance team, either directly where appropriate, or via the PCC. For example, one of the youth trainers is currently advising on appropriate engagement with schools around education in relation to knife crime. This is to ensure that our messaging in relation to stop and search, empowerment of young people, violence prevention and attempts to combat escalating levels of knife crime are consistent.

28. The PCC also holds twice yearly commissions where all scrutiny panels, guests and the general public are invited to hold the PCC and WMP to account. The next Commission is scheduled for 19<sup>th</sup> July 2018. In order to ensure that the commission is as representative as possible, a workshop is to be convened prior to this, later this month.
29. Beyond this region, WMP continues to enjoy the support of non-governmental organisations, having been invited in recent times to represent UK law enforcement at the United Nations Commission for Human Rights, Dutch Human Rights Lobbyists, Kompas, in addressing legislators in The Hague and as indicated below, we are now working again with the Open Society Foundation; this time in the development of a pilot to record vehicle stops.

### **Joint Action Plan**

30. The OPCC and WMP continue to work closely together in developing the best use of stop and search locally and in ensuring that WMP leads the way both nationally and internationally in this area.
31. There are two key areas in the current joint action plan that are still pending delivery. The first relates to academic research commissioned through the OPCC with Warwick University. This concerns the levels of disproportionality still evidenced in the use of stop and search amongst BAME communities and research that endeavours to better understand this and inform policy so that improvements can be made. Professor Neil Stewart's findings will be fed into the OPCC directly, once available.
32. The second concerns the recording of vehicles stopped under section 163 of the Road Traffic Act 1988. Legislation allows for an officer in uniform to stop the driver of any motor vehicle on a road without the need to form reasonable suspicion of the commission of any offence, but only to confirm that the driver is licenced and insured to drive that vehicle. Such a stop may then lead to the execution of further policing powers and although lawful, may be perceived amongst some communities to be a power that is used disproportionately amongst those communities and is often difficult for the lay person to differentiate from stop and search.
33. The Home Office and College of Policing had suggested that they intended to mandate the recording of such encounters in order that perceptions of bias in the use of these powers was demonstrable. The Home Office and College have now retracted from that position and forces have been asked to determine for themselves whether such stops should be recorded.
34. WMP is keen to make further progress. To support this, the force has now developed the means of recording such stops through an additional area created in the eSearch App which will allow officers to do so independently using mobile devices, without unnecessarily drawing on Force Contact resource to record such encounters, as would otherwise have been necessary and thereby, prohibitive. With the support of the OPCC and with the direct engagement of the Open Society Foundation to provide objective independent scrutiny, WMP intends to push towards a pilot scheme in the next few months.

**Next Steps**

35. The board is asked to consider the findings of this report and invite further reporting in six months' time, to include the findings of Professor Stewart's research and an update on the work concerning s.163 RTA stops.

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