

# **Independent Scrutiny of Police Powers Panel**

## **Case Review Report**

**20 July 2022**

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## Who are the Panel?

The Scrutiny Panel, currently 14 local people of diverse backgrounds, started in June 2017.

The Panel meet quarterly and select categories of police cases to scrutinise.

### Panel member Diversity and Inclusion:

**Age: 20s to 70s**

**Disability: 2**

**Sex: Female 7; Male 7; Non binary = 0**

**Race: White = 8; Black = 3; Asian 2; White European 1**

**Sexual orientation. LGBT+: 1**

## What does the Panel do?

- Independently scrutinises Avon and Somerset Police (the Police) use of their powers.
- Enhances the public's confidence in the work of the Police.
- Ensures Police openness and transparency.
- Acts as a 'critical friend' to the Police.
- Give feedback on drafted Police documents.
- Offers feedback, from a local person's perspective, to the Police on their use of police powers, in particular the use of force.
- Views Body Worn Video (BWV) camera footage of police incidents, including Stop and Search.
- Observe Police training.

The Independent Scrutiny of Police Powers Panel (the Panel) has been appointed to scrutinise the use of Police powers to ensure it is appropriate and proportionate. This includes reviewing the use of Taser, Stop and Search and other use of force, by reviewing Body Worn Video (BWV) camera footage and reading Police records of each incident.

The Panel of trained members acts on behalf of the Police and Crime Commissioner (PCC) as a 'critical friend' to Avon and Somerset Police by communicating local people's views on how the Police use their powers.

In addition to special case reviews, as standard every 4 months (each quarter) the Panel chooses

60+ cases to scrutinise, reviewing the BWV on each case and preparing a Report. Feedback is sent to the Police with particular emphasis on identifying Police Officer and Organisational learning.

**In the Panel year from September 2021 to August 2022 the Panel scrutinised 225 cases, completed 458 Feedback Forms and viewed 53 hours of BWV.**



# CATEGORIES OF CASES SCRUTINISED

## Cases referred by public

### Use of Force:

- Taser
- Pava
- In Custody
- On 17 year olds and under (children)

### Stop & Search

- Of 17yr olds and younger
- By Op Remedy Officers
- Involving seizure of phones
- With a ground of Cannabis
- With Handcuffing
- After a RTA stop
- Complaints

**More detail is at Appendix 2**

# KEY FINDINGS – THEMES



## **The Panel identified Themes from:**

**64 Selected cases**

**23 Use of Force cases**

**30 Stop and Search cases**

**9 Complaint cases**

**2 public/media highlighted cases**

**44 scrutinised cases (body worn video provided)**

**10 hours of Body worn video (BWV) reviewed**

**115 Feedback forms completed by Panel members**

## **Total number of Stop and Search complaint allegations**

<b>Apr-Jun 2021</b>	<b>14</b>
<b>Jul-Sep 2021</b>	<b>9</b>
<b>Oct-Dec 2021</b>	<b>6</b>
<b>Jan-Mar 2022</b>	<b>9</b>

## **Presentations at the Panel Meeting on:**

Body Worn Video

Stop and Search – Police Officers' training package

Youth Group on Stop and Search – their first meeting

# Panel Themes and Constabulary responses

## THEME 1:

Smell of cannabis as the only ground for a Stop and Search.

Case no: 21, 22, 23, 24, 25

1. The Constabulary is committed to ensuring that the grounds for every stop search are reasonable according to the objective test set out in PACE. Whilst not definitively laid out in APP or case law, the smell of cannabis is unlikely to be sufficient on its own to provide grounds for search, which has been reiterated to officers in the recent stop search training package that was released in July 2022 and is mandatory for all officers to complete.

## THEME 2:

Inadequate BWV and no available BWV

<b>2.1: Of 30 Stop and Search (S&amp;S) and 23 Use of Force (UoF):</b>	<b>S&amp;S</b>	<b>UoF</b>	<b>Total</b>
<b>Start late, finish early, obscured:</b>	5	4	9
<b>BWV not found:</b>	2	1	3
<b>No BWV on system:</b>	6	6	12
<b>Totals:</b>	<b>7</b>	<b>11</b>	<b>18</b>

65% = adequate

2.2: Of 9 complaint cases:

**Ends early:** 1

**No BWV:** 1

**BWV not found:** 5

**Total:** 7

22% adequate

2.3: of 5 Use of Force in custody cases,  
No CCTV available

2. The Constabulary has made changes with regards to BWV use in stop search. This has included changes to retention periods, clarification around it being mandatory for use in all stop searches and included this in the most recent training package.

### **THEME 3:**

Compliant Handcuffing at a Stop and Search.

Case no 7, 25, 27, 53, 58.

3. The use of handcuffs in stop searches has been chosen as the first theme to be reviewed by the newly created use of police powers internal scrutiny team. The findings of this scrutiny will be reported to the Independent Panel and recommendations made / actions taken as appropriate to address instances where it is felt by reviewing officers that handcuffs have been used unnecessarily to ensure learning takes place.

### **THEME 4:**

Officers showing good attitude and communication to establish a professional rapport.

Cases 9, 10, 15, 22, 48, 53, 61, 64.

4. The Constabulary thanks the panel for their positive feedback around the attitude and communication of officers to build rapport. This is an area that we have been working on to improve through, for example, cultural intelligence inputs, our yearly refresher sessions for personal protective equipment and de-escalation training. It is great to see the output of this training resulting in positive engagements that build trust and

### **THEME 5:**

Failure to provide a Stop and Search receipt. Cases 9, 29.

5. The Constabulary has reiterated to all officers through the recent training package that the provision of a receipt is mandatory. Work is currently being undertaken to refresh the receipt process, to ensure it is accessible and available in a number of formats (e.g. email, QR code). The Constabulary will include the OPCC and ISoPPP in the consultation process as key stakeholders and critical friends, to ensure the product is fit for purpose for our communities.

### **THEME 6:**

Officers asking for personal information and/or detaining after a negative Stop and Search.

Cases 11, 17, 27.

6. The Constabulary recognises the importance of getting this right and the importance of ensuring that officers do not act in a way that suggests people stopped and searched are obliged to provide their details. It is not to preclude the officers from asking, as this is an important part of policing practice which isn't limited to stop and search, but to be cognisant of a person's rights under Code A of PACE in the way in which this request is made. This topic also featured heavily in the stop search CPD package, for which the Constabulary is grateful of the panel's feedback on.

## Organisational Learning tracking (coloured by date)

No.	Date	Panel's Identified Organisational Learning	Avon and Somerset Police Response	Action: Completed or Ongoing
1.	Sep 2021	At a Stop Search the Police Officer should not give the impression that personal information has to be disclosed.	Officers have been reminded not to hector someone reluctant to provide this info. ISP has it as an ongoing theme.	Ongoing
	Apr 2022	As above.	This is a training issue and part of a Continuing Professional Development (CPD) package.	Ongoing
	Jul 2022	As above.	This topic is included in the July 2022 Annual Training Package (ATP).	Ongoing
2.	Sep 2021	Poor positioning of BWV cameras by Firearms officers.	Fixings are being issued to attach cameras to helmets	Completed
3.	Dec 2021	A Police Officer's power to detain an individual for a Stop Search ends when a negative search is completed. Thereafter the individual cannot be lawfully detained. For example the person can't be detained for a PNC check.	This has previously been part of yearly stop search training, regarding detention period for a stop search (no longer than is required to carry out an effective search). If we are seeing this being abused, then a refresher of this information would be timely. The lead for Stop Search should carry out a review of this situation.	Ongoing
	Jul 2022	As above.	This topic is included in the July 2022 Annual Training Package (ATP).	
4.	Dec 2021	BWV switched on late, obscured, inadequate or not saved as evidential. Of the 40 cases scrutinised 11 i.e. 27% came into this category. The stated use of BWV is 92% but in this sample it reduce to 71%.	A topic within yearly training. A technical fix of the camera operating 30 seconds before it's turned on is being considered.	Ongoing
	Apr 2022	In this sample the available use of BWV was 44%		Ongoing
	Jul 2022	In this sample 65% of cases had complete BWV. For Stop & Search changes have been made to BWV retention periods, clarification regarding its mandatory use and included in the ATP.		Ongoing



No.	Date	Panel's Identified Organisational Learning	Avon and Somerset Police Response	Action: Completed or Ongoing
5.	Dec 2021	Standard practice handcuffing a compliant person at a Stop and Search.	This is an ongoing discussion and training on whether to handcuff or not. Certainly there should be no automatic handcuffing. It is partly a cultural issue.	Ongoing
	Apr 2022	As above.	A briefing note has been distributed to all front line staff.	Ongoing
	Jul 2022	As above.	The use of handcuffs will be reviewed by the Police's newly formed Internal Scrutiny Team. Findings will be discussed with the Panel.	Ongoing
6.	Dec 2021	Lack of consistency about explaining the availability of a Stop Search receipt and how the person searched can access it.	Internal working group set up to address this issue, which will feature in Spring 2022 training.	Ongoing
	Jul 2022	As above.	ATP emphasises the mandatory requirement to offer a receipt. A working group convened in December 2021 to refresh the provision of receipts. Its work continues.	
7.	Dec 2021	<p><b>The practice of seizing mobile phones,</b> or viewing the content, under Section 23(2)(c) Misuse of Drugs Act 1971. The Panel's questions include:</p> <p>a) In what circumstances would a mobile phone constitute 'evidence of an offence under this Act'.</p> <p>b) Once seized, are officers empowered to 'interrogate' the phone and record details, regardless of the outcome of the search?</p> <p>Continued ...</p> <p>c) Are officers obliged to explain to the detainee the justification for the seizure of the phone?</p> <p>d) How does the officer record the justification for the seizure and detention of the phone?</p>	This practice is being considered by the Police.	Ongoing

No.	Date	Panel's Identified Organisational Learning	Avon and Somerset Police Response	Action: Completed or Ongoing
	<p>Apr 2022</p> <p>Jul 2022</p>	<p>e) Are seizure cases 'flagged' in some way to facilitate scrutiny?</p> <p>f) If the S&amp;S is not under section 23, is it the case that there is no power to seize or detain?</p> <p>g) If the search is after a vehicle stop, is there any power to seize or detain?</p> <p>As above.</p> <p>The Panel first raised this issue in the summer of 2021 and our questions set out in December 2021 remain unanswered. We are told that the issue is complicated and that it has not been included in the Annual Training Package (ATP). For the Panel this is a major issue going to the heart of police legitimacy at a Stop and Search.</p>	<p>The review is continuing.</p>	<p>Ongoing</p> <p>Ongoing</p>
8.	Dec 2021	The significance of language, volume, tone and content, when speaking to a member of the public, particularly in escalation/de-escalation situations.	A topic within yearly training.	Ongoing
9.	<p>Apr 2022</p> <p>Jul 2022</p>	<p>Smell of cannabis alone does not provide grounds for a Stop search.</p> <p>As above.</p>	<p>This is a training issue and part of a CPD package.</p> <p>Included in ATP.</p>	Ongoing
10.	Apr 2022	At a strip search BWV on audio only should be activated.	This is a training issue and part of a CPD package.	Ongoing
11.	Apr 2022	Lack of adequacy of grounds for a stop search.	This is a training issue and part of a CPD package.	Ongoing
12.	Jul 2022	Police Officers showing good attitude and communication skills to establish a rapport with the subject, resulting in a positive engagement and de-escalation.		Ongoing

## Operational policing general questions - Q&A

**Q1.** What's the Police policy regarding cannabis? (Case 10 refers).

**A:** The Constabulary adopts the Authorised Professional Practice for Stop and Search authored by the College of Policing, which includes factors relating to cannabis and their relationship with providing grounds for search - <https://www.app.college.police.uk/app-content/stop-and-search/>, as its stop and search policy.

**Q2.** Is a lack of car insurance a good/appropriate ground for a Stop & Search? (Case 20 refers).

**A:** Whether a factor is sufficient to provide grounds is for an officer to individually justify, as they must be able to explain how that factor, or a combination of factors, provided them with reasonable suspicion. This must however, pass the objective test of a reasonable person with access to the same information and intelligence as the officer being able to form that same suspicion. It is unlikely that the lack of insurance alone, without further information or intelligence, would provide sufficient grounds for search based on that objective test, but it will be for the individual officer to justify in the specific example of Case 20.

**Q3.** Can Police Officers perform a drug wipe/test on a driver without a Stop and Search? (Case 20 refers).

**A:** Yes – the power to request a drug swipe comes from the Road Traffic Act, it does not provide a power of search. Equally, having grounds for search does not automatically provide a power to request a drug swipe. That said, the ultimate purpose of the drug swipe and stop search in such a case would be to confirm or allay any suspicion of offences that may have been committed – whether driving or drug possession / supply offences, so it is reasonable to see situations where both take place and are justified. It does not mean however that they have to happen together – both need individual justification against different tests set out in law.

**Q4:**

1. Is detention after a negative search justified?
2. Is an Officer's threat to arrest a subject justified?
3. Is Google translate (or an Interpreter Service) best for a person who's first language is not English? (Case 27 refers)

**A:**

1. According to Code A of PACE, officers may detain a person in order to carry out a search. PACE is not specific as to whether this is solely limited to the physical search of the person, or extends to anything carried by them or a search of an area in which they may have been seen coming from. This is where it is important to consider the spirit of the law – for example, if a person had been seen coming from an alleyway by officers who have reasonable grounds to search for items involved in theft and they are stopped at the end of the alley, would it be reasonable to expect officers to detain the person after they had been searched to look down the alleyway for any discarded items. Whilst this is a specific example and it is imperative this is not overstretched to become unlawful, it will be for the officer to justify the detention and how it relates specifically to the use of search powers (i.e. searching a bag or the area the person has just come from). The detention cannot be for

any other policing purpose such as checking Police systems or filling out a record at the roadside.

2. A 'threat to arrest' can be justified but must be delivered in the appropriate way. Providing a clear explanation to a person of the potential outcome of their actions can be the difference between a person choosing to co-operate or not. Clearly, it must be carried out in a way that is justifiable in the circumstances and always done professionally to achieve a legitimate aim.

3. Police have use of an interpreter service over the phone, which can be accessed at any time, however it is a national service and that can mean finding an interpreter, particularly if the language is quite rare in terms of qualified interpreters, can take a long time. This will be time the detained person will have to remain with the officers at the roadside. With the advancement of technology, translation functions such as Google Translate can help expedite situations and in cases where a detained person speaks no English, give some quick reassurance about what is happening, which may not be as quick in happening if a phone interpreter is being arranged. If the person is in company with someone that can translate, this is an option, though not preferred, as there is no way of knowing if the detained person would consent to information about them being passed to them, nor can what is being translated be confirmed as the exact message the officer wished to convey. Face to face interpreters are only arranged for the evidential process (i.e. victim / witness or suspect interviews).

**Q5.** For a strip search in a custody cell, are the Officers Custody Sergeants or Frontline Officers? (Case 36 PAVA use in Custody refers)

**A:** Strip searches (searches involving exposure of intimate parts) will be conducted by PCs on most occasions. There may be situations where Custody Sergeants or Detention Officers support (for example, if the person is violent) but this will always be done in accordance with force policy and in line with their training.

**Q6:** What is the police procedure for searching face and head coverings? e.g. a Sikh's turban (Case 64 refers)

**A:** Avon and Somerset does not have a local policy or procedure in relation to the searching of face and head coverings, as this is clearly set out in Code A of PACE as follows:

Many people customarily cover their heads or faces for religious reasons - for example, Muslim women, Sikh men, Sikh or Hindu women, or Rastafarian men or women. A police officer cannot order the removal of a head or face covering except where there is reason to believe that the item is being worn by the individual wholly or mainly for the purpose of disguising identity, not simply because it disguises identity. Where there may be religious sensitivities about ordering the removal of such an item, the officer should permit the item to be removed out of public view. Where practicable, the item should be removed in the presence of an officer of the same sex as the person and out of sight of anyone of the opposite sex.

## APPENDIX 1:

### CASE REVIEWS WITH POLICE RESPONSES

12 of the 64 CASES are highlighted within this Report:

Page no.	Case no.	BWV length (minutes)	Case Category	Why highlighted by the Panel
14	10	25	S&S	Good practice example
14	20	40 (first 12)	S&S	Cannabis / handcuffed
15	25	5	S&S	Handcuffing
16	27	22	S&S/UoF	Graffiti incident
17	36	2	UoF/PAVA	Custody incident
17	46	20	UoF/PAVA	Panel questions
18	47	10	UoF/PAVA	Public/media interest
19	48	15	UoF	16 year old child
20	53	20	UoF/Stop & Search	Good practice example
21	58	14 x 2 = 28	UoF/S&S/Complaint	A complaint
22	63	35	UoF/Taser/baton/PAVA	Public/media interest
23	64	21	Use of Force (UoF) / Stop & Search (S&S) / Taser	A complaint



## 1. Stop and Search cases

### Case 10: 20/4/2022 Section 23 Misuse of Drugs Act Stop & Search of a child Bristol East

**Stop Search Grounds:** Not provided in narrative to Panel.

**Background:** ASB and drug dealing in Gaunts Ham Park.

**Was the searched for item found?** Yes. Cannabis joint. **Positive outcome?** Yes.

**Positive member feedback:** Calm, amiable approach from the Officer regarding the young lad. Good community engagement with youngsters in the park. Good community policing and an amicable outcome with no hassle or aggravation. Officers displayed good local knowledge. It's nice to see the Officers just chatting to the locals, sociably.

### Member concerns and comments:

Is the **BWV switched on late, obscured, turned off early or inadequate?** Yes (1), No (1).

### *Constabulary response to members' feedback:*

The Constabulary thanks the Panel for its feedback in this case, which will be shared with the officers involved.

Is there from this case any Officer learning? No Any Organisational learning? No

### Case 20: 24/3/2022, Strip Search. S23 Misuse of Drugs Act Stop Search Somerset West

**Stop Search Grounds:** Not provided in narrative to Panel. Smell of Cannabis?

**Background:** Male provided positive drug wipe for cocaine and cannabis, also found in possession of suspected class A drug and offensive weapon.

**Searched for item found?** Yes. Wrap of Cocaine.

**Positive outcome?** Drugs Education Program and Summons file.

**Member concerns:** Smell of cannabis is the only Ground stated.

### Organisational or Individual learning point:

The Stop and Search Ground: Smell of cannabis alone.

## Constabulary response to members' feedback:

*The Constabulary notes the feedback relating to this stop search. The observation in relation to the grounds for search being solely the smell of cannabis will be shared with the officer concerned, who will be directed to refresh their knowledge using the CPD package.*

Is there from this case any Officer learning? Yes Any Organisational learning? No

### Case 25: 30/3/2022, S23 Misuse of Drugs Act Stop Search. S. Bristol Stop Search Grounds: Smell of Cannabis.

#### Background:

Section 23 Stop Search after vehicle seen at speed and smell of cannabis coming from within vehicle.

Searched for item found? Yes. Cannabis .

Positive outcome? Yes.

**Positive member feedback:** Switched on BWV in the car, before stopping the vehicle. Good practice.

**Member concerns:** Compliant handcuffing. The subject of the Search was handcuffed immediately, even though not showing any resistance and totally compliant.

**Individual learning point:** The BWV ends early? Yes (1), No (1) .

## Constabulary response to members' feedback:

*Thanks to the Panel for its comments in this case. The subject of compliant handcuffing will be a focus for both Use of Force and Stop Search leads in the next quarter – this case will be included in the feedback provided as part of this focus.*

Is there from this case any Officer learning? Yes

Any Organisational learning? Yes (generally in relation to the use of handcuffs in stop search)

## Case 27: 4/2/2022, Section 1 Police & Criminal Evidence Act (PACE) Stop Search Handcuffed. Central Bristol

**Stop Search Grounds:** Not provided in narrative to Panel.

**Background:** Male detained by University security staff. Suspicion of spraying graffiti.

**Searched for item found?** N/A

**Positive outcome?** N/A.

### Positive member feedback:

Unusual to hear from the officer, "Sir, you're detained for a search, but you don't need to tell me your name. Do you want to tell me your name? ..."

### Member concerns:

The Officer speaks very fast, to the extent that the subject of the search (English not being their first language) may not have fully followed the conversation or understood what was going on.

Handcuffing immediately appears unnecessary and overly cautious in this instance because the Police are not looking for anything dangerous such as a bladed item.

### Individual learning points:

1. The BWV camera was switched off early.
2. Compliant, immediate handcuffing.

### Constabulary response to members' feedback:

*The Constabulary notes the Panel's observations in this case. This case will also be included in the handcuffing focus referred to in the response to Case 25. The importance of effective BWV use has been reiterated in the stop search CPD and will be included in ongoing internal scrutiny work and feedback*

Is there from this case any Officer learning? Yes    Any Organisational learning? Yes  
(effective use of BWV)



## 2. Use of Force Cases

### Case 36: 11/3/2022 PAVA use. Bridgwater Custody Unit.

**Background:** Narrative of phone call to Police: Caller reports her son has called to say her other son is at his house beating him up and has stolen items from him. Incident type - dwelling burglary.

**Force used reason:** To prevent injury.

**Outcome:** Subject arrested and charged.

**Positive member feedback:** None recorded.

#### Member concerns:

It appears that the subject is becoming compliant and about to follow instructions, yet he is PAVA'd and without any prior warning that could be seen on the short, incomplete video provided. Only 2.5 minutes of video. Members question the necessity and appropriateness of the use of PAVA in the Custody cell search. However, it's not possible to comment without knowledge of what went on before this short BWV clip started.

#### Organisational learning:

Is the BWV switched on late, obscured, turned off early or inadequate? Yes

#### Constabulary response to members' feedback:

*We thank the panel for their feedback on this case. The force used in this matter was by a Custody Sergeant who activated their BWV just prior to using force. Their actions prior to this would have been captured on the Custody CCTV and this is normal practice.*

*BWV from other officers has been viewed and this demonstrates the volatile behaviour of the subject leading up to the use of force. The subject is provided with ample opportunity to follow the requests of the officers who needed to seize clothing from the subject as part of the investigation.*

*The use of PAVA has prevented officers from needing to go physically 'hands on' with the subject and as a result he is safely searched and left in his cell.*

*There is some officer learning present around the recording of their UoF in their statement or Custody record.*

Is there from this case any Officer learning? Yes    Any Organisational learning? No

### Case 46: 10/3/2022 Use of Force (PAVA). Central Bristol

**Background:** Officers responding to multiple assaults during the night time economy.

**Force used reason:** Maintenance of lawful custody, Prevent escape, Prevent harm, Prevent offence, Protect other officers, Protect self.

**Outcome:** Arrested and investigation ongoing.

## Positive member feedback:

The Officers are very patient, trying all avenues over a fairly long period of time before finally deploying PAVA. The Officers deal with the non-compliant suspect very well. De-escalation is attempted, with Officers loosening the handcuffs. Appropriate use of force.

The female Officer who was assaulted by this person dealt with the suspect exceptionally well.

## Member concerns:

BWV started late. Bad language used by the Officer. The Officer also points a bottle at the male. The Panel member doesn't know why and doesn't know if the male is formally arrested. The member asks if the need to PAVA the man should alert Officers to the benefit of calling for a van rather than using a Police car.

## Organisational learning:

The BWV is switched on late.

## Constabulary response to members' feedback:

*We are grateful for the balanced comments from the Panel in relation to this incident. We accept that at one stage a bottle is pointed towards the subject and there is also foul language used at one point. However, we support the officers in this case as this is a difficult matter to deal with and on the whole the officers demonstrated professionalism and patience with a volatile subject. We recognise the officers will have human emotions and the swearing has taken place out of the hearing of the subject.*

Is there from this case any Officer learning? No    Any Organisational learning? No

## Case 47: 27/3/2022 Use of Force (PAVA). Central Bristol.

**Background:** Officers encountered a male who was drunk and disorderly in the course of their duties.

**Force used reason:** Effect arrest, Prevent escape, Prevent harm, Prevent offence, Protect other officers, Protect self.

**Outcome:** Arrested and cautioned.

## Positive member feedback:

The Officer engages with the subject who is concerned about the use of force but the Officer's use of PAVA is legitimate, as is the use of force.

The Police have done their best and appropriately arrested the person.

## Member concerns:

A member is interested to have Constabulary view of whether there was sufficient de-escalation. The initial interaction, the Officer shouting, seems inappropriate and members query the necessity of the PAVA spray use. The subject is already on the ground and

appears fairly well restrained by the Officers present. Handcuffs are nearly on so Panel members question whether it is really necessary to deploy the PAVA spray at this late stage in the arrest process.

A panel member is unsure why the male suspect isn't arrested earlier in the encounter as he was trying to get into a Police car with his own keys in his hand, appearing drunk. Manpower alone has subdued the suspect and handcuffs are being fitted at the point the PAVA is used. It appears that the restraint and arrest is under control without the use of PAVA.

## Organisational learning point:

Public interest aspect.

Members query PAVA deployment necessity when things seem to be pretty much under control.

## Constabulary response to members' feedback:

*We thank the panel for their feedback in this case. We share the same concerns as the panel in relation to the language used and the lack of de-escalation present. We are committed to ensure that we continue to learn and individual feedback will be provided to the officers involved.*

Is there from this case any Officer learning? Yes Any Organisational learning? No

### Case 48: 1/1/2022 1am. Use of Force on under 16 year old. South Bristol

**Background:** Unknown male has come to the caller's house, is banging on the door and is shouting at the caller's husband.

**Force used reason:** Effect arrest, Prevent harm, Protect self, Protect subject.

**Outcome:** Arrested then de-arrested and returned to care of parents.

## Positive member feedback:

Officers do all they can to de-escalate the situation after achieving control. Compassionate Officers trying to deal with a hysterical 16 year old at 1.30 a.m.

## Constabulary response to members' feedback:

*We are in agreement with the panel for this case in that the officers present have used force that was appropriate and necessary. More importantly, they have displayed care, compassion and professionalism throughout. We thank the panel for their positive endorsement.*

Is there from this case any Officer learning? No Any Organisational learning? No

## Case 53: 29/3/2022 Use of Force on under 18 and Stop Search. B&NES.

**Background:** Strip search of young person

**Force used reason:** Effect stop and search, Prevent escape

**Outcome:** negative.

### Positive member feedback:

Compliments to this Police Officer.

A really good example of a Stop and Search of both male subjects. A pragmatic approach.

The Officer is very courteous and respectful to the young people, thanking them for their cooperation. The Officer explains clearly the Stop Search grounds and the GOWISELY acronyms and process, including an excellent explanation why handcuffs are applied.

The Officer advises the subject that he is not obliged to give his name.

A pleasant interaction throughout, notwithstanding the Officer's suspicions.

The Officer ensures that the BWV camera is unobscured. Good use of BWV.

### Member concerns:

The boy does not object to being handcuffed and the Officer explains it is to ensure the boy doesn't run away - but the boy is quiet and compliant, so it seems a bit excessive to handcuff him immediately. Also only one of the two people are handcuffed. Whilst it is good that the handcuffs are removed as soon as the search is completed, the necessity of using the handcuffs at all is questioned by members.

### Organisational learning point:

A good example of a well-performed Stop and Search.

### Constabulary response to members' feedback:

*We thank the panel for their positive comments in this case and also for the concern highlighted. We have reviewed the case and are satisfied that this is a proportionate use of force that is well explained to the subject and only used for as long as necessary, thus demonstrating continued application of the NDM.*

*We agree with the panel that this is a good example of Stop and Search being used effectively and also demonstrates good use of BWV at the initial stage of an investigation.*

Is there from this case any Officer learning? No    Any Organisational learning? No

### 3. Use of Force Complaints against the police

#### Case 58: 10/2/2022 Stop & Search complaint plus Use of Force. 2 BWVs

**Background:** The complainant states 'I was aggressively approached by one Officer pointing what I believed to be pepper spray at me and shouting "get you're fucking hands up", as I raised my hands he shouted "tie you're fucking dog up or I'll spray him in the fucking eyes and then I'll spray you in the fucking eyes".'

**Outcome:** The Policing Service provided was not acceptable. No action.

#### Positive member feedback:

BWV 1: The officers act professionally whilst carrying out the search of the suspect when the dog is safely secured. The Officer's grounds to Stop and Search is sound but no receipt offered.

BWV 2: A Search receipt is offered by the Officer to the subject and the Officer is patient. The Officer in the 2<sup>nd</sup> BWV is a better example of policing. A receipt is offered.

#### Member concerns:

BWV 1: The Officer gets out of the Police car with PAVA and the Officer's use of foul language is unprofessional and unnecessary.

The Officer also immediately threatens to use PAVA on the man and on his dog too. This is unacceptable, unnecessary and excessive for this situation. The Officer acts very aggressively to the male who is entirely compliant. There is a lack of conversation.

Handcuffs are immediately applied.

The Officer asks for personal details after a negative search.

It appears to one member that the Officer is afraid to approach the male subject and dog.

The Grounds for the Stop Search appear very loose and are queried. The man is walking his dog in open ground.

A member queries whether the Officer is new in job or has been subject to a recent assault. He seems very nervous and uses his PAVA spray as a protective threat immediately. There appears to be a lack of calmness and control.

**Question:** PSD's complaint outcome is that the police service is not acceptable. What were the consequences of that finding?

#### Individual learning:

A member feels that this Officer needs retraining. The member has never seen anything like this incident before. The Officer seems to have lost his confidence, hiding behind a weapon rather than using his Police skills.

#### Constabulary response to members' feedback:

*We thank the panel for their detailed feedback in this case. We have viewed the BWV and tend to agree with some of the panel's comments based solely on the review of BWV. We also feel that the initial approach on this occasion could have been better and this may have changed the overall way in which the incident was dealt with.*

*We are aware that this matter was investigated as a complaint via PSD and learning was identified for the officer by their Inspector.*

Is there from this case any Officer learning? Yes      Any Organisational learning? No

## 4. Public/Media interest highlighted cases

### Case 63: 9/6/2021 Use of Force (Taser, PAVA, Baton). Keynsham Section 32 of PACE

**Background:** Media: Man Tasered and PAVA'd. British Transport Police (BTP) dealing with trespass offences.

**Force used reason:** BTP

**Outcome:** Nothing found.

**Positive member feedback:** BWV camera turned on early and good conversation early on.

### Member concerns:

The male suspect admits he has been drinking and is acting uncooperatively, but it does not warrant the amount of force used. Taser, PAVA, baton and being physically taken to the ground. This is considered to be disproportionate.

The escalation to use of force is very rapid yet the subject appears to be showing signs of compliance, the deployment of all three force devices is most unusual and feels unnecessary and excessive. Escalation is very rapid with no real warnings given other than a very brief red dotting prior to all three devices being deployed.

Members question whether being uncooperative gives Officers sufficient justification to use the level of force shown in this video.

In addition, the man is not offered water to help wash out the PAVA spray from his face and mouth, so when he advises he might need to spit, he is further cautioned about assaulting police!

It seems that the use of force escalates very quickly and is somewhat excessive to deploy all three available options including the use of a baton. The situation could have been de-escalated given a more patient approach, with more conversation, although the Panel member does appreciate that previous PNC information highlighted previous violence towards police and so may have influenced the BTP Officers' actions. Once things settled down it may have been prudent to ease off the handcuffs considering the Officer who checked had confirmed they were tight.

The BTP may not have attended recent training.

### ***Constabulary response to members' feedback:***

*We thank the panel for their feedback in this case. We tend to agree with the findings of the panel, however, it is difficult to review this matter as the officers deploying PAVA and using the baton are BTP officers and we have no knowledge of their training.*

*We wish to highlight the good work of the A&S Officer in the terms of the use of BWV and the attempts to build a rapport and de-escalate prior to any force being used.*

*We support that force was required to resolve this incident, but all three methods (Taser, PAVA and Baton) may not have been proportionate.*

Is there from this case any Officer learning? No      Any Organisational learning? No



## Case 64: 9/3/2022 Use of Taser, Stop and Search s.1 PACE, Complaint. E. Bristol

**Background:** Original Bristol Live media article:

<https://www.bristolpost.co.uk/news/bristol-news/taser-arrest-bristol-tonight-captured-6779494>

Second, follow-up article:

<https://www.bristolpost.co.uk/news/bristol-news/police-explain-taser-arrest-bristol-6785435>

### Police statement:

Police were called just before 6pm on Wednesday 10 March by staff from a takeaway on Stapleton Road, Bristol, reporting being threatened. Attending officers were told a man had been aggressive towards staff, damaged the glass panel of the door and then returned to threaten them with a knife. Just after 6.15 pm officers spotted a man matching the description walking along St Marks Road towards Stapleton Road. Due to the mention of a weapon Taser was drawn, but not discharged, and a man was detained and arrested on suspicion of criminal damage and possession of cannabis. No knife was found. A 39-year-old man remains in police custody at the time of writing and enquiries continue. If you have any information or footage which could help the investigation please call 101 and give the reference 5222057190. Our use of force, such as Taser, is subject to constant review by senior officers and through the Scrutiny of the Police Powers panel set up by the Police and Crime Commissioner, which is made up of independent members of the public. Every time Taser is drawn officers must complete a written report which is sent to the Home Office.

**Force used reason:** Information not provided

**Positive outcome?:** Yes. Cannabis. Criminal Record or Conditional Caution is pending.

**Searched for item found?** No. The search was positive for a small amount of cannabis but the object of the search (a knife) was not found

## Positive member feedback:

The Officer showed respect towards the man's Sikh religion regarding searching his turban and bringing him in for a search. This incident is a good response to reported possession of a knife. Good use of Taser by a single Officer knowing of the allegation of a knife and in a public place. A professional Officer interaction with the detainee. Great work by the Taser Officer who handled the call very well. Use of Taser was most appropriate.

## Member concerns:

Although appearing unstable, the suspect makes a counter allegation of the other party having a gun in the shop. Was the firearms allegation ever taken forward or was it just assumed it was a throwaway remark at the time?

Querying the immediate default to Taser considering the subject was at that stage fairly compliant. However, it's understood that the Officer is single crewed and is responding to a call that the suspect has a knife.

Was the counter allegation of the shop owner possessing a firearm investigated?

Was there any CCTV evidence of a knife being used?

The Officer failed to complete the Stop & Search items of the 'GOWISELY' acronym.

## Constabulary response to members' feedback:

*The panel's comments are acknowledged and we have considered the use of Taser in this incident. This incident was reviewed by our Lead Taser Instructor, who commented that this Taser Use is as per the training for solo crewed officers. Distance is maintained due to the threat of a knife mentioned, verbal control of the person is gained giving an indication of the subject's intentions and the officer awaits further assistance instead of approaching potential threat.*

Is there from this case any Officer learning? No    Any Organisational learning? No

## Appendix 2: CATEGORIES OF CASES

The Panel selected 60 cases to review from Police incidents within these Categories:

### Themed cases (Jan-Mar 2022 incidents, financial quarter 4):

#### 1. Cases referred by public. 2 received:

1. 9/6/2021 ([YouTube](#)) Keynsham Train Station. One BWV (37 mins) from Taser Officer 2236 (with British Transport Police who performed the arrest).
2. 9/3/2022 Taser (media).

#### 2. Mobile fingerprinting

C/Fwd from Dec 2021. Noted: No cases.

#### 3. Use of Force:

**3.1** Taser in Somerset West of Black and Asian people by Officers with 1-3yrs experience. Referred to in ASP quarterly report.

##### **3.2** Use of Force in Custody

No in-custody BWV provided in time for the Panel members' review.

##### **3.3** Use of PAVA

The Panel feel that PAVA appears to be the least effective method of gaining control.

##### **3.4** Use of Force on 17 year olds and under

ISoPPP concern about treating children as adults.

(Noted: Live investigation re Boy hit by woman with boat oar).

#### 4. Stop & Search

**4.1** By Operation Remedy (tackling burglary, knife crime and drugs).

Op. Remedy officers Stop and Search often generate comment from Panel members.

##### **4.2** Stop Search of 17 year olds and under

Panel concern about treating children like adults (Noted: Antwon case, as 3.4 above).

##### **4.3** Seizure of phones

Section 23 (2) (c) Misuse of Drugs Act [\*Note1 below] issue.

##### **4.4** Strip Search

##### **4.5** Smell of cannabis

[Identifying Disproportionality Report](#) (ID) Recommendation 2 [\*Note 3]

##### **4.6** Handcuffing at a Stop Search

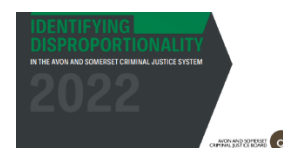
Panel's concern/theme of compliant handcuffing.

##### **4.7** Search after Section 163 Road Traffic Act vehicle stop

IOPC April 2022 National Stop Search Learning Report refers. Questionable grounds for search following use of suspicion-less stop under S.163 RTA. [\*Note2].

##### **4.8** ALL Stop & Search Complaints

Identifying Disproportionality Report Recommendation 9 [\*Note 4]. **Noted: 9 complaint allegations (2 in 1 complaint) in Q4.**



#### **\*Note 1: s.23 Misuse of Drugs Act - Powers to search and obtain evidence.**

(1) A constable or other person authorised in that behalf by a general or special order of the Secretary of State (or in Northern Ireland either of the Secretary of State or the Ministry of Home Affairs for Northern Ireland) shall, for the purposes of the execution of this Act, have power to enter the premises of a person carrying on business as a producer or supplier of any controlled drugs and to demand the production of, and to inspect, any books or documents relating to dealings in any such drugs and to inspect any stocks of any such drugs.

(2) If a constable has reasonable grounds to suspect that any person is in possession of a controlled drug in contravention of this Act or of any regulations [ F1... or orders] made thereunder, the constable may—

(a) search that person, and detain him for the purpose of searching him;



- (b) search any vehicle or vessel in which the constable suspects that the drug may be found, and for that purpose require the person in control of the vehicle or vessel to stop it;
- (c) seize and detain, for the purposes of proceedings under this Act, anything found in the course of the search which appears to the constable to be evidence of an offence under this Act.

**\*Note 2: s.163 Road Traffic Act - Power of police to stop vehicles.**

- (1) A person driving a [F1 mechanically propelled vehicle] on a road must stop the vehicle on being required to do so by a constable in uniform [F2 or a traffic officer].
- (2) A person riding a cycle on a road must stop the cycle on being required to do so by a constable in uniform [F3 or a traffic officer].
- (3) If a person fails to comply with this section he is guilty of an offence. ...

**Note:** Category 4.7: Search after s.163 RTA vehicle Stop. **No cases in the last 3 years.**

**\*Note 3: Identifying Disproportionality Report:**

**RECOMMENDATION 2**

**Avon and Somerset Constabulary's** scrutiny of the 'smell of cannabis' as the sole grounds for a stop and search, to continue to be a focus theme of the Avon and Somerset Office of the Police and Crime Commissioner (OPCC) Scrutiny of Police Powers Panel (SoPP) and Internal Scrutiny Panel to ensure any contravention is identified. A strategy needs to be developed to ensure comprehensive training and communications are provided to police officers, as appropriate, to ensure understanding of the policy and improved policing approach to stop and search.

The smell of cannabis is not a sole legitimate ground for a Stop Search and the Panel will continue with this case selection category to review incidents and BWV. The Panel is also working alongside the Constabulary's Internal Scrutiny Panel (ISP) and the lead Chief Inspector for Stop and Search, so the Police training and communications aim to improve policing of Stop Search is an objective supported by the Independent Scrutiny of Police Powers Panel.

**PCC's Police & Crime Plan**

**PRIORITY 2** Engaging, Supporting and working with communities, victims and partner organisations.

**PRIORITY 4** Increasing the legitimacy of and public confidence in the Police and Criminal Justice System

**\*Note 4: Identifying Disproportionality Report:**

**RECOMMENDATION 9**

**Avon and Somerset OPCC External SoPP** must review the scrutiny of stop and search complaints working with the Independent Residents Panel (IRP) to ensure all stop and search complaints are consistently scrutinised and lessons learnt. SoPP and the Stop and Search Internal Scrutiny Panel need to increase the rigour around the scrutiny of complaints by ensuring any areas of disproportionality are proactively addressed. Further analysis of the complaints 'process' may be required to assess disparities.

<sup>22</sup> PACE Code A 2015: PACE Code A (publishing.service.gov.uk)

The Independent Panels for scrutiny of Police Powers and scrutiny of Complaints will work together and continue to review complaints from members of the public against the Police regarding Stop and Search.

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