



## British Transport Police Out of Court Disposal Scrutiny Panel Meeting Notes: 18<sup>th</sup> January 2023

### UPDATES

#### Legal Updates

##### ***New Pre-Charge Bail (PCB) Provisions within the Police, Crime, Sentencing and Courts Act (PCSCA) 2022***

- Provisions came into force on 28th October 2022 - BTP has prepared relevant briefings (published on internal pages) and updated officers with guidance; College of Policing e-learning is also available for officers/staff to complete (no relevant statutory guidance issued yet)
- Some of the PCB changes include:
  - encouraging police to use PCB by removing the presumption *against* bail
  - introducing new PCB time periods and authorisation thresholds
  - a new requirement to seek the views of victims on PCB conditions relating to their safeguarding

##### ***Sexual Harm Prevention Orders and Sexual Risk Orders***

- Since 29<sup>th</sup> November 2022, relevant sections of PCSCA 2022 now allow BTP to apply for such Orders directly
- A briefing and suitable communications have been disseminated force wide

##### ***Serious violence reduction orders (SVROs)***

- Civil orders issued to offenders convicted of a bladed article or offensive weapon offence – allow police to detain a person in a public place subject to an SVRO, and to search them for bladed articles or offensive weapons
- Breach of SVRO (i.e. through failure to do anything required by the order) is a criminal offence punishable by a sentence of up to two years' imprisonment, an unlimited fine, or both
- SVROs made on conviction are to be piloted in Merseyside, Thames Valley, Sussex, and West Midlands
- Stop and Search powers relating to SVROs will apply to all Home Office forces in England and Wales as well as BTP: a recently published revised PACE Code A will be used to guide the exercise of SVRO stop and search
- BTP are currently leading on the process guidance for non-pilot forces which stop an individual subject to SVRO

##### ***Extraction of information from Electronic Devices***

- PCSCA 2022 introduced new powers of extracting information from victim or witness-owned electronic devices
- This will be done only for the purposes of preventing, detecting, investigating, or prosecuting crime, locating a missing person, or protecting a child or at-risk adult from harm
- The individual must voluntarily give their device and consent to the information being extracted
- A supplementary code of practice, and relevant operational guidance, has been produced and disseminated

##### ***Removal of driving licence surrender requirements***

- Amendments to the Road Traffic Offenders Act 1988 streamline fixed penalty, conditional offer, and court procedures for road traffic offences by removing the need for driving licence surrender (except disqual. cases)

##### ***New and Current Bills in Parliament***

- **Economic Crime and Corporate Transparency Bill 2022:** report stage is due in the House of Commons on 24<sup>th</sup> January – provides, amongst others, additional powers to law enforcement to quickly and easily seize/recover crypto-assets which are the proceeds of crime or associated with illicit activity
- **Online Safety Bill:** currently at the report stage in the House of Commons. The Bill's primary purpose is to protect online users by placing duties on tech companies, but also introduces new offences:
  - Sending photograph or film of genitals
  - False Communication Offence
  - Threatening Communication Offence
- **Public Order Bill:** report stage due in the House of Lords on 30<sup>th</sup> January. Far-reaching implications for BTP:
  - Introduces a range of 'protest-related offences' such as 'locking on', 'interfere with major transport works' as well as 'tunnelling offences', and associated stop, search and seizure powers relating to those offences
  - Other provisions include extending to the BTP powers to manage public assemblies, and Serious Disruption Prevention Orders – allow BTP to apply to court to place prohibitions/requirements on someone to prevent them causing serious disruption
- **National Security Bill:** currently at the Committee Stage with the House of Lords
  - Reform of espionage laws - seeks to repeal the Official Secrets Act and create new offences to tackle state-backed sabotage, foreign interference, the theft of trade secrets, and assisting a foreign intelligence service

## Other Updates

### OoCD Updates since last Panel

- The PCSC Act will introduce a new OoCD Framework for adults, with only two statutory OoCD - diversionary and community cautions - all others are abolished, although forces can continue to use Community Resolutions (CR)
- Nationally, the MoJ and NPCC have released finalised versions of the CR Guidance, the National OoCD Strategy, and Force Standards of Readiness however forces continue to await the outcome of work on key documents to accompany the legislation in advance of “go-live” of 01/04– such as the Codes of Practice for Cautions, the adult gravity factor matrix, and the College of Policing Learning Standards
- An internal BTP project focused on ensuring smooth implementation of the Act’s OoCD provisions is making progress towards “go-live”, however without the above-mentioned documents planning is becoming increasingly difficult for all forces; serious consideration is being given by the MoJ to the date being pushed back
- One of the project’s workstreams is the proposed introduction of a digital CR – the benefits of such include building into the interface “safeguards” to ensure process compliance, e.g. avoiding cases being “over-built”, data not being entered correctly, and considerations re: offending history being overlooked; development of this electronic tool is progressing well
- A related workstream is the streamlining of CR processes, building on a CR process Pilot, trialling officers completing just the CR Notice and no other OoCD paperwork. This is reserved for ‘on the street’ CRs which can be authorised by a PC and are resolved at the time of the offence or soon after
- Overall, the trend with the Pilot cases was that the decision to issue a CR tended to be the correct one, but the recording or data capture side was lacking; aspects of the Pilot will be amalgamated into the work around the digital CR and progress updates can be shared
- From a child and young person perspective:
  - Youth Gravity Matrix - draft was shared with trusted stakeholders for consultation in November: an update on final version sign-off and publication (plus any expected changes) should be available at April’s Panel
  - Outcome 22 and CR Guidance –these have now been finalised and shared with force leads although yet to be published on the NPCC Website
  - Youth Justice Board (YJB) OoCD Case Management Guidance - being developed: YJB aims to publish in Spring
- BTP’s Analytics team continue to work on the Force Outcomes Dashboard; this is being closely scrutinised to ensure it provides the necessary metrics around crucial aspects of OoCDs for oversight from a performance and lessons-learned standpoint. This is anticipated to identify disproportionality from a gender or ethnicity perspective, allowing for any necessary action to be taken in this vital area

### Previous Panel updates

- Suggestion to consider work around autism (a point of note in some cases) and potential engagement with Mental Health professionals, as well as looking at what support is available
  - Work with the vulnerability unit around OoCD generally and the new framework (one aspect of force readiness) is underway to ascertain what is currently accessible for officers but also what is in the pipeline/what can be done to assist with this
  - The Inclusion and Diversity team are leading concerted efforts to upskill and educate BTP officers and staff in general on neurodiversity matters which will have a positive impact on the way in which relevant interactions with the public are conducted
- Request to refresh the policy on BTP’s approach to the trespass CR (i.e. the exception to those with multiple or recent previous convictions being ineligible for OoCD)
  - Once the national framework “go-live” is known for certain, Policy updates will be considered as needed
  - For now, this can be circulated as part of a regular series of internal BTP “OoCD Tips”
- The YJB representative requested some further information about a Fare Evasion Case considered at the Previous Panel so they can look into it with the YOT involved to address any concerns

## OVERVIEW OF CASES THAT WERE CONSIDERED BY THE PANEL

The cases which were discussed at the panel consisted of the following offences:

**Assault (4), Trespass (4), D&D/Assault Emergency Worker (1), Possess class B – cannabis/Criminal Damage (1), Fare Evasion (1), Theft (1), Possess class B - cannabis (1), Obstruct Police (1), Possess class B – cannabis/ Possess Imitation Firearm (1), Outrage Public Decency/Possess class B – cannabis (1)**

Of the 16 cases reviewed, the panel classified the disposals as follows:

<b>OoCDs:</b>	Appropriate and consistent with guidelines / policy	6
	Appropriate but with observations	4
	Inappropriate and inconsistent with guidelines / policy	6
	Panel fails to agree on appropriateness of decision	0
	Not enough information	0

### Actions:

- Each of the individual cases discussed by the panel will be fed back to the decision makers with appropriate guidance to both officers in the case and their supervisors, in terms of both lessons learned and best practice: this will follow and use a bespoke feedback template which has been developed
- Feedback to officers and supervisors will include the following points discussed in the panel:
  - Appropriate use of financial penalties and compensation (especially where the victim is a police officer)
  - Greater consideration to conditions mandating specific interventions like Druglink or VAC
  - Greater consideration to obtaining, and fully recording, victims' views
  - Impact of previous OoCD/convictions on decision-making, particularly if recent or numerous
  - Where certain learning difficulties or mental health problems are apparent in the case circumstances, what support measures has the OIC looked into? Is there anything specific that is needed?
  - Adequacy of letters of apology if used as a condition
  - Ensuring all offences presented are dealt with (especially fare evasion)

**Date of next meeting:** 10:00 Wednesday 18<sup>th</sup> April 2023, online via MS Teams