



British Transport Police Out of Court Disposal Scrutiny Panel

Meeting notes: 20th July 2022

UPDATES

General

- Work continues with the Analytics and Insight Team on BTP's OoCD data dashboard to ensure it is as user-friendly and complete as possible: it is intended to present resulting data to the Panel in future meetings

Legal Update

Police, Crime, Sentencing, and Courts Act 2022

- Received Royal Assent on 28th April, with only a few administrative sections coming into force on that day. More substantive sections came into force on **28th June**, including:
 - Changes to the statutory time limit of common assault/battery domestic abuse offences so that the 6-month STL is calculated from the day the witness statement or video-recorded interview is provided, with an overall 2-year time limit from offence date
 - A new offence relating to unauthorised encampments
 - Introduction of a new voyeurism adjacent offences relating to breast-feeding
 - Changes to the legal tests for imposing conditions on public processions and assemblies under the Public Order Act 1986; introduction of power to allow senior police officers to impose conditions on one-person protests in certain circumstances
- Other sections will come into force as and when commencement regulations are published. This includes changes to pre-charge bail, for which BTP are taking preparatory action

Domestic Abuse Act 2021

- 19th May: Youth Justice Court and Evidence Act 1999 was amended to provide domestic abuse complainants with eligibility to be considered for a number of special measures (evidence by live link, screens, removal of wigs/gowns etc.) The court will still need to determine whether the special measure would improve the quality of the evidence before allowing use
- 7th June: Serious Crime Act 2015 was updated with a new offence of non-fatal strangulation or suffocation

Section 28 introduced into more Crown Courts for certain intimidated witnesses

- A growing number of Crown courts now allow s.28 special measures (pre-recorded cross-examination) for intimidated witnesses that are complainants in respect of sexual offences, slavery, or trafficking. It is expected Domestic Abuse complainants will be included for such by the end of the year

Increase in Magistrates' Sentencing Powers

- 28th April: maximum Mags' Court sentencing powers increased from 6 months to 1 year for a single offence

Updates to Attorney General's Disclosure Guidance

- The AG's Guidance on disclosure was amended on 25th July 2022. The main amendments include:
 - A new test and set of principles on how to access third party material
 - Reference to 'contemporaneous records of incident' removed from presumed disclosable material list
 - Explicit requirement to include all relevant BWV that is not provided as evidence but is footage of the incident in action; irrelevant footage should not be provided and clipping/editing should be used; if multiple BWV capture the same content, only one set of footage should be provided.
 - Obligation to redact certain material provided to CPS where charging decision is sought
 - Prosecution and defence are now under an explicit duty to engage promptly to aid understanding of the defence case

Queen's Speech and Current Bills in Parliament

- The Queen's Speech in May provided for new bills to be introduced into parliamentary session, including: Public Order Bill, National Security Bill, Modern Slavery Bill, Online Safety Bill, Draft Victims Bill, Draft Mental Health Act Reform Bill, and the Bill of Rights

Other Updates

BTP Streamlined Community Resolutions (CR) Pilot

- The pilot has been running for a year and is aimed at ensuring the CR process and relevant conditions were as simple as possible
- It is trialling officers completing just the CR Notice and no other OoCD paperwork (akin to a PND). This is reserved for 'on the street' CRs which can be authorised by a PC, are resolved at the time of the offence or soon after, and can be monitored locally
- The pilot commenced in Manchester and was extended to Leeds and Birmingham to obtain a bigger sample size of cases to further determine effectiveness
- For the period Apr-May, of the 23 CRs issued for the areas, 12 were suitable for the Pilot with a variation in levels of compliance
- Learning from the Pilot will be brought into longer term procedural considerations around CRs, not just whether Force-wide officers will no longer have to complete additional paperwork for CRs, but also as BTP are looking at the possibility of introducing a digital CR
- Overall, the trend with the Pilot cases was that the decision to issue a CR was correct, but the recording or data capture side was not complete

OoCD Updates since last Panel

- The PCSC Act was made law at around the time of the last Panel. As mentioned, this introduces a new OoCD Framework amongst its provisions, with only two statutory OoCD, diversionary cautions and community cautions - all other are abolished aside from CRs which forces can use if they wish (hence referred to as a two-tier plus system). This part of the Act is currently due to "go-live" in April 2023. A BTP project is well underway focused on ensuring smooth implementation of the Act's OoCD provisions which is making good progress and BTP is currently on track
- The next edition of the OoCD quarterly bulletin mentioned previously (and currently in draft form) will be updated to include anything of note from the July Panel. This highlights the legislative changes, explains/demystifies the auditing of OoCD, and introduces learning and upskilling points. The target audience is all force OoCD decision-makers and has already led to improved lines of communication, highlighting further avenues for performance improvement
- The outcomes of today's Panel will be communicated for the first time to OICs, supervisors and Divisions on the feedback template designed by Justice Solutions to provide uniform guidance and advice around the Panel. This will not only highlight learning opportunities and good practice which can be shared throughout the force but is also a potential way of distilling different thematic aspects of OoCDs/decision-making into a dataset which can be monitored and the basis of a more targeted approach to problem areas
- BTPs Analytics and Insight team have recently undertaken work on the Force OoCD Dashboard and the Justice Solutions are scrutinising this closely to ensure that it is providing the necessary metrics around different aspects of OoCD cases, again for scrutiny from a performance and lessons-learned standpoint. This is particularly the case as it can potentially identify disproportionality from a gender or ethnicity perspective, allowing for any necessary action to be taken in this vital area.

OVERVIEW OF CASES THAT WERE CONSIDERED BY THE PANEL

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

Possess class B - cannabis (6), Trespass (6), Battery (3), s5 Public Order Act (1), Assault Emergency Worker (1), Railway Byelaws (1), D&D (1), Possess class A & B (1)

Of the 20 cases reviewed, the panel classified the disposals as follows:

OoCDs:	Appropriate and consistent with guidelines / policy	4
	Appropriate but with observations	5
	Inappropriate and inconsistent with guidelines / policy	7
	Panel fails to agree on appropriateness of decision	3
	Not enough information	1

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 the feedback template mentioned above
- Case specific enquiries to be carried out to update the panel in the next meeting
- Feedback to officers and supervisors to include the points discussed in the panel
- At the start of the October 2022 panel, provide a “round-up” of what was said and what the BTP did after this panel by way of recap on business discussed and anything general left unfinished

Date of next meeting: 10:00 Wednesday 12th October 2022, online via MS Teams with option to attend in-person