



British Transport Police Out of Court Disposal Scrutiny Panel Meeting Notes: Wednesday 18th October 2023

UPDATES

Legal Updates

BILLS IN PARLIAMENT:

[Economic Crime and Corporate Transparency Bill 2022](#) – final stage before RA.

This will provide additional powers to law enforcement so they can quickly and easily seize/recover crypto assets which are the proceeds of crime or associated with illicit activity, amongst other powers.

[Online Safety Bill](#) – final stages of RA.

The primary purpose of the Online Safety Bill is to protect online users by placing duties on technology companies (i.e. social media platforms), but it does introduce a couple of new offences, including – Sending photograph or film of genitals; False Communication Offence; and Threatening Communication Offence.

[The Misuse of Drugs Act 1971 \(Amendment\) Order 2023](#) – Commencement: 8th November 2023.

Will make Nitrous Oxide a Class C controlled drug – adding it to the schedule under the MDA 1971

[Protection from Sex-based Harassment in Public Act 2023](#) – Commencement: TBC.

This Act inserts S.4B into the Public Order Act 1986 and creates the following offence: 'Intentional harassment, alarm or distress on the account of sex'. This is where a person commits a S.4A offence and carried out the conduct referred to in S.4A(1) (i.e. threatening words, or behaviour) because of the relevant person's sex (or presumed sex). As per the explanatory notes, it is envisaged that this new offence will cover behaviour such as:

- following a person (for example, deliberately walking closely behind someone as they walk home at night)
- making an obscene or aggressive comment towards a person
- making an obscene or offensive gesture towards a person
- obstructing a person making a journey, and
- driving or riding a vehicle slowly near to a person making a journey

Furthermore:

- this offence will be added as a relevant offence under Schedule 1 of the Football Spectators Act 1989 for Football Banning Orders.
- as per s.2, guidance relating to this section (in particular, in reference to the reasonable conduct offence in s.4(3)(b)) is to be drafted and consulted on.

[Firearms Act 2023](#) – Commencement: TBC

This Act inserts s.3A into the Firearms Act 1968 to introduce an offence of possession of ammunition with the intent to manufacture. Also, seeks to regulate certain rifle ranges and shooting galleries.

[The Forensic Science Regulator Act 2021 \(Commencement No. 2\) Regulations 2023](#) – Commencement: 2nd

October 2023. These regulations bring into force the remaining sections of the Forensic Science Regulator Act 2021. Forensic Science Regulator Code of Practice in force from 2nd October 2023.

CONSULTATIONS:

New OCCD Code of Practice for Diversionary and Community Cautions (Home Office), which may come into force sometime Summer next year (Denis will probably provide more of an update on that). BTP have made a submission for this consultation to both the NPCC leads and Ministry of Justice

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National Guidance for Community Scrutiny Panels (Home Office), on draft community scrutiny framework and how local scrutiny processes can be improved to help police serve communities more effectively. Not too relevant to BTP as we do not have a local framework and the national guidance would not apply to us, but did submit some views on the framework from a BTP perspective

OTHER:

Domestic Abuse Protection Notice/Order (DAPN/DAPO) pilot to start JUNE 2024. Will be piloted by BTP, Greater Manchester, Gwent, and certain parts of London by the MET (Croydon, Bromley, and Sutton). Will allow police to apply for order against those committing domestic abuse (the order will impose requirements and prohibitions on individuals).

Charging model update. BTP is adopting this from 23rd October 2023 onwards. There are a number of changes and benefits which will arise from the new model, including but not limited to:

- There will be no requirement for a phone-call to take place between an OIC and the reviewing lawyer for in-custody matters (unless an OIC feels it would be particularly beneficial, or the lawyer has a question).
- A streamlined digital process with case categorisation using a colour coded priority system - – Red, Green and Green Priority.
- A three-hour service level agreement, meaning the CPS must provide a decision in three hours from submission for in-custody matters.
- Local CPS will take a greater responsibility for daytime (9am – 5pm) in-custody cases, meaning it's more likely you'll retain the same lawyer throughout.

OoCD Updates since last Panel

- The Draft Code of Practice for Cautions was released to Forces (and the public) for consultation with a closing date for responses of 13/10/2023 – BTP submitted a response and contributed to responses of other working groups too – the outcome of the Consultation is expected in January 2024. However, we continue to await key documents from the MoJ and NPCC to accompany the legislation in advance of go-live.
- BTP is part of a working group examining possible changes/updates to the Adult Gravity Matrix (a tool used by decision-makers to assist with selecting appropriate disposals). The Adult GM working group is currently looking to emulate some of the approaches taken by the Child GM, but this is a work in progress
- BTP went live with a new OoCD intervention in August 2023 – this is called “Consider” and is a joint initiative with BTP’s VAWG team. It relates to USB cases and is available as part of a conditional caution to those offenders with no previous offending who make full admissions. The course seeks to address sexualised behaviour in public settings which fall short of offences under the Sexual Offences Act. It will be closely monitored for compliance and the suitability of referrals.
- BTPs Analytics and Insight team continue to work on the adult **Force Outcomes Dashboard** which JS are scrutinising closely to ensure it provides the necessary metrics around crucial aspects of OoCDs, 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. We expect to be able to give a regular update in future Panels on key points from the data
- Forces received the updated Child Gravity Matrix (note: it was released in July and subsequently withdrawn). Issues with the new Matrix have been reported to the NPCC and YJB – specifically in relation to railway offences. For an unknown reason, Railway Trespass score increased from 2 to 4, which at first sight eliminates Trespass from CR intervention. Dispensation for continued use has been received from the NPCC and work is ongoing with the YJB and NPCC to ensure railway offences are properly represented in the GM.

OVERVIEW OF CASES THAT WERE CONSIDERED BY THE PANEL

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

Possession of Class B (2), s.5 Public Order (2), Drunk & Disorderly (2), Assault by Beating/Common Assault (1), Drunk in charge of a child (1), Common Assault and Drunk & Disorderly (1), Driving without Insurance (1), Criminal Damage <£5000 and Theft (1), Possession of Stolen Goods (1), Attempted Theft (1), Theft (1), Railway Trespass (1), Possession of Class A (1)

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

OoCDs:

Appropriate and consistent with guidelines / policy	6
Appropriate but with observations	3
Inappropriate and inconsistent with guidelines / policy	5
Panel fails to agree on appropriateness of decision	1
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 a bespoke feedback template which has been developed.

Feedback to officers and supervisors will include the following points discussed in the panel:

- In a number of cases, concerns were raised as to whether the OIC had failed to ‘look past the offence’. For example, failing to address the offender’s relationship with alcohol and drugs or exploring any safeguarding issues present at the time of the offence. Officers must think of the ‘bigger picture’ and not just the offence itself.
- In some cases, OICs had not sought the views of the victim in the case before finalising the disposal decision. This is a significant element of OoCDs and should be sought in every case and included within the casefile.
- Concerns were raised around the suitability of the conditions attached to the CCs and CRs. For example, the condition set on one of the cases ‘not to be drunk on the railway’, was deemed poor by the Panel. When setting a condition, officers should consider whether it is enforceable, whether it contributes to preventing further offending and whether it addresses the behaviour of the offender. Simply setting a condition which tells them not to commit the offence again in the future is not effective.
- Some casefiles were missing MG6s, or they were not complete with enough detail. If this document is missing, it is difficult for the Panel to assess OICs rationale in their decision-making.
- Officers should not call YOT. Referrals to YOT should be done in the correct procedure, according to policy – refer the case to the Pre-Charge Team and they will contact YOT on the OICs behalf.
- In one case, the OIC presumed YOT did not offer translation services for offenders who don’t speak English. This is not true and regardless to language barriers, all child-related cases should be referred to YOT.

Date of next meeting: 10:00am Wednesday 17th January 2024, online via MS Teams.