



## British Transport Police Out of Court Disposal Scrutiny Panel

### Meeting notes: 12<sup>th</sup> October 2022

#### UPDATES

##### Legal Update

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

- Pre-charge bail changes due to commence on 28<sup>th</sup> October 2022
- In summary, the pre-charge bail changes include:
  - Removing the presumption to release without bail
  - Introducing a duty to seek victims' views prior to releasing a suspect on bail, including on any conditions
  - Changes to applicable bail periods and extension periods

##### ***Section 12 of Mental Health Units (Use of Force) Act 2018 – commenced on 18<sup>th</sup> August 2022***

- Requires officers to bring and keep their Body Worn Camera switched on at mental health units when on duty that involves assisting staff in that mental health unit

##### ***Section 28 Special Measures (Pre-Recorded Cross-Examination under the Youth Justice and Criminal Evidence Act 1999)***

- As of 26<sup>th</sup> September 2022, these measures have now been introduced into all Crown Courts for select intimidated witnesses (complainants of modern slavery offences and sexual offences) & into the Youth Court at Leeds Magistrates Court for vulnerable witnesses

##### ***Updated Joint CPS and NPPC Principles on Redaction when submitting cases to CPS***

- Introduces new supporting guidance for how and when non-redaction can be justified on grounds of disproportionality, reflecting Annex D of the Attorney General Guidelines
- Explains when certain personal data may/may not be redacted e.g. job, DOB, names within statements etc.

##### ***Knife Crime Prevention Orders***

- These are still being piloted by MPS, with the pilot now to end on 31<sup>st</sup> March 2023

##### ***CPS Updated Guidance on Street-Based Sexual Harassment***

- CPS guidance now includes potential offences that may be considered in cases amounting to street-based sexual harassment e.g. exposure, upskirting (voyeurism), "cyberflashing", and s.4A Public Order Act 1986

##### ***Nationality and Borders Act 2022 – some sections commenced on 28<sup>th</sup> June 2022***

- New offence: anyone requiring entry clearance under immigration rules knowingly arriving in the UK without a valid clearance
- Amends old Immigration Act 1971 immigration offences from summary to either-way offences, along with changing some key points to prove

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

- *Economic Crime and Corporate Transparency Bill 2022* – among other changes, 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
- *Online Safety Bill* is with parliament at the report stage within the House of Commons
- *Public Order Bill* is currently at the report stage within the House of Commons

## Other Updates

### BTP Streamlined Community Resolutions (CR) Pilot

- The CR pilot has been running for a year and is aimed at ensuring the CR process and relevant conditions were as simple as possible – monitored by local police and resolved on street
- As a reminder, the pilot is trialling officers completing just the CR Notice and no other Out of Court Disposal (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
- The pilot commenced in Manchester and was extended, currently also operating in Leeds and Birmingham to obtain a bigger sample size of cases to further determine effectiveness
- By the time of the next Panel (January 2023), the long-term future of the initiative is expected to be known: the results over the period are being reviewed and workshops have recently been held with a cohort of officers to ascertain their views as to the feasibility of streamlining OoCD procedures

### OoCD Updates since last Panel

- The PCSC Act (see legal updates, above) was made law earlier this year - this introduces a new OoCD Framework for adults amongst its provisions, with only two statutory OoCD, diversionary cautions and community cautions - all other are abolished aside from CRs. This part of the Act is currently due to “go-live” in April 2023. A BTP project is underway, focused on ensuring smooth implementation of the OoCD provisions which is making progress and on track
- Nationally, forces await the outcome of work on key documents to accompany the legislation in advance of go-live – these are the Codes of Practice for Cautions, the adult gravity factor matrix, the finalised versions of the CR Guidance, the National OoCD Strategy, and standards of readiness and are being prepared by the MoJ and NPCC – some will need to be released for wider consultation before they can be finalised
- Whilst the Act does not specifically apply to children, there is child offender work running alongside the national changes for adults and mirrors a proportion of it; there are 3 documents in particular: the CR guidance (applies to both adults and children), the youth gravity factor matrix, and the guidance on the use of Outcome 22 – a code used on force IT systems to record case outcomes where no formal police action is taken but some education/diversion activity was completed with the offender, common in cases involving children; the gravity matrix is going to encompass more material than ever around such cases which could be crucial for criminal justice professionals; the BTP will work closely with the Youth Justice Board around the changes to ensure it is at the forefront of progressing such cases with minimal delay
- Work continues on BTP’s OoCD Dashboard to ensure it provides the necessary metrics around crucial aspects of OoCDs, again for scrutiny from a performance and lessons-learned standpoint. This is important as it can be used to potentially identify disproportionality from a gender or ethnicity perspective, allowing for any necessary action to be taken in this vital area
- BTP are looking to develop in-house a digital CR – the benefits of such a tool include building into the interface “safeguards” to ensure cases are not over-built (included extra documents), data is entered in the correct fields, crucial parts are not overlooked, and previous offending history is fully considered; work on this electronic tool has been approved at the initial stage and is being progressed

### Previous Panel updates

- The Panel asked for the feasibility of introducing a copy of the Stop-Search record on relevant cases so that this could also be scrutinised and discussed; those running the Panel decided against this as BTP already has a separate “Stop-Search Panel” which critically evaluates that aspect of policing therefore we did not want to duplicate or intrude upon their efforts, or unnecessarily widen the scope of the OoCD Panel
- Feedback has been given widely to officers around “self-referral” conditions of CR or CC such as “visit your GP” or “visit the Talk to Frank website” which, whilst in certain circumstances could be useful if written up properly or approached in the right way, there is limited way of monitoring compliance or the success of such a condition; further, the rationale for doing so was not well-recorded

## OVERVIEW OF CASES THAT WERE CONSIDERED BY THE PANEL

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

**Trespass (7), Possess class B - cannabis (4), D&D (4), s5 Public Order Act (2), Possess Imitation Firearm (1), Railway Byelaws (1), Criminal Damage (1)**

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

<b>OoCDs:</b>	Appropriate and consistent with guidelines / policy	10
	Appropriate but with observations	5
	Inappropriate and inconsistent with guidelines / policy	4
	Panel fails to agree on appropriateness of decision	1
	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:
  - Impact of previous OoCD/convictions on decision-making, particularly if recent
  - Greater consideration to conditions mandating specific interventions like Druglink or VAC
  - Seriousness of offence in terms of likely outcome at court should be considered wherever possible
  - Does the outcome address the offending behaviour and any underlying issues?
  - 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?
  - Have all offences which present themselves been considered/addressed in the decision-maker's rationale? This is particularly the situation in cases where violence is used towards police, even if relatively low-level

**Date of next meeting:** 10:00 Wednesday 18<sup>th</sup> January 2023, online via MS Teams with option to attend in-person