

**Police and Crime**

**Commissioner for Dyfed-Powys**

**Scrutiny Panel**

**Dip Sampling Exercise**

**Stop and Search Incidents**

**Panel Members’ Findings & Feedback**

**September 2023**

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# **1.0 Overview, Background, Purpose and Methodology**

The Quality Assurance handbook, available on the [PCC’s website](http://www.dyfedpowys-pcc.org.uk/media/6081/002qualityassurancepanelhandbookjune18.pdf), states the background and purpose of the Panel along with how the dip sampling is carried out and what the Panel is asked to consider.

On the 7th of September 2023, members from the Quality Assurance Panel met at Dyfed Powys Police Headquarters to review a selection of Stop and Search forms and their accompanying Body Worn Video Footage. The Panel reviewed 4 Stop and Search incidents in total.

A Specialist Operations Trainer who delivers training to newly recruited police officers on Stop and Searches gave an input to the panel on the procedures to conduct a Stop and Search.

The Specialist Operations Trainer emphasised that the purpose of a Stop and Search was to prevent and deter crime.

It was explained that all Stop and Searches should follow GOWISELY:

* Grounds – reason for the search
* Object – what is being searched for
* Warrant card – if not in uniform
* Identity – officer name & collar number
* Station – officer’s base
* Entitlement – copy of the record
* Legal power – legislation being searched under
* You – explain you are being detained for a search

All Stop and Searches should be undertaken when there is a genuine suspicion that an officer will find the object being searched for. Suspicion should be based on facts and information such as the person’s behaviour, conversations and actions; the surrounding circumstances and/or accurate and current intelligence. Stops should not be carried out on:

* the smell of drugs alone;
* physical appearance – unless matching a description of a suspect;
* being a known criminal or known drug user; or
* being in an area of high crime and drug usage.

It was also explained that the mnemonic ‘SHACKS’ has been introduced for officers to use when completing Stop and Search forms to ensure that there are adequate grounds documented for the stop.

* **S**een – What have you seen? Include actions, behaviour, articles present.
* **H**eard – What have you heard? Include conversations, alarms, glass breaking etc.
* **A**ctions – What did you do? Include what they did in response to your presence.
* **C**onversation – What did you say to them? Include what they said in response or whether they evaded answering questions or gave differing answers.
* **K**nowledge – What is already known?
* **S**mell – What could you smell?

The only exception to the above is in the presence of a Section 60 of the Criminal Justice and Public Order Act, whereby an officer of rank of inspector or above may authorise searches to be made in certain areas where there is a concern of serious crime ‘may’ be committed whereby officers may stop and search someone without reasonable suspicion for weapons or instruments.

#  **Review of Stop & Search Incidents**

Search 1

**Person was stopped by two male officers for smoking cannabis on the street.**

* The panel felt that the search location provided in the written report was not correct stating that it was not in a public place, as the search location was conducted on a residential street. This meant that it was very accessible for members of the public to view from their residential windows.
* The panel also expressed that the Body Warn Video (BWV) should have been switched on prior to the initiation of the conversation with the subject. The panel were informed that there is a 30 second delay of sound when the video is prompted to start recording. Conversation with the subject had begun with one officer already having their latex gloves on in preparation of the search when the BWV commenced recording which made the context of the circumstances and grounds difficult to establish. The panel felt that earlier consideration to switching on the BWV would have been beneficial.
* However, it was noted that the person searched was very compliant and that the officers had a good rapport with them. Officers displayed positive attitudes, approachability, politeness and were perceived as non-threatening throughout the process of the search. Officers were considered very professional, considering the sensitivity of two officers searching a person of the opposite sex. Records evidence that the outcome of the search was positive.

Search 2

**Subject stopped by MOD site who had entered the yard and climbed the radar tower. Both officers have identified the described subject on the main road away from the location. Both officers exited the van to start Stop & Search.**

* The panel observed that the subject’s demeanour appeared “down” and the initial contact with the officers could be considered as either defensive or aggressive. The first officer explained in detail the reasoning for the search by specifying the grounds, circumstances and powers from PACE. The Panel considered the officer to be patient and polite. During the search, the subject was very compliant. It was noted that the subject disclosed feeling “suicidal” when prompted. The officer offered reassurance to provide support whilst conducting the search, emphasising that police officers are there for the protection and care to the public as well as to enforce the law.
* The second officer’s approach was considered unnecessarily assertive with the reference to sectioning as the subject would not provide the officer with answers surrounding their comment of being suicidal. The panel queried whether the officer had the grounds to reference this, as they felt that the term ‘sectioning’ was unhelpful and caused the situation to escalate unnecessarily.
* The panel had further concerns regarding the welfare of the individual searched and queried whether a follow up with other suitable services or organisations such as mental health/crisis team or whether a welfare check was considered as there was nothing further included within the report.
* There was little information provided surrounding the rationale of the trespass. The Panel were of the view that further detail could have been included surrounding the circumstance of the trespass which formed part of their grounds for the search.
* Further issues surrounding the report were highlighted with regards of the timings not being consistent. The stop commence time was 30.08.23 19:05:00 but occurrence time was 30.08.23 19:06:37. The panel would like clarification on this.
* Overall, it was felt that unfortunately despite the positive initial commencement of the search, it was felt that overall it could have been handled better.

Search 3

**A driver was stopped for driving erratically at speed and did not stop for some distance whilst police blue lights were in operation. After the identification process, it was discovered that the individual had a history for drug cultivation and other offences.**

* The Panel felt that the manner of the officer waiting for identification checks to conclude was unprofessional.
* There was a discussion amongst the Panel on whether the officer had the correct grounds to search the person and the vehicle. The officer disclosed that they initially stopped the vehicle for driving erratically, but following enquiries, the officer felt it necessary to pursue the driver’s history associated with drugs. This resulted in the car and the driver being searched for drugs despite nothing indicating that the driver was either under the influence nor smelling of drugs. Others in the group concluded that this was justified due to the nature of information of what was disclosed about the driver and that the driver was evading the officer’s questions surrounding these events; prompting the officer’s suspicions which they believed gave grounds to be searched.
* The definition of what is considered to be public view was also questioned again by the Panel, as the driver was stopped in a residential area, with the officer’s siren lights still luminating the street, it was queried whether the siren lights needed to remain on during the questioning process. The Panel felt was appropriate as both vehicles were parked in the dark and on double yellow lines. However, this was queried further when the officer decided to turn the siren lights off halfway through the stop and search process.

Search 4

**Two PCSO officers have identified an individual who has admitted taking items from a supermarket store and attempting to sell the goods.**

* The Panel felt that the person being stopped and searched appeared inebriated, erratic and possibly under the influence of alcohol or drugs. As a consequence, they were uncertain whether the individual would have known what was happening or understood why they were being searched. The Panel felt that the officers dealt with the matter very well, explaining the reasons for the stop and search whilst displaying a good attitude towards the individual. Officers also appeared to take into account the person’s safety throughout the process.
* The only area the Panel would like clarification on is the query surrounding public view. The search was conducted on a public street; however, no member of public was in view.

# **General Comments and Observations**

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| **Observations** | **Force Response** |
| The panel would like clarification on the meaning of ‘public view’. In all the footage observed for scrutiny, it was felt that all searches were conducted in a residential area, where members of the public would be able to observe these searches from their windows or cars. In all of the reports, they stated that the stop and search was not conducted in public view. | A police officer can ask an individual to take off their coat, jacket or gloves, in public view. The police might ask an individual to remove other clothing which is worn for religious reasons - for example a veil or turban. If they do, they must take that individual to somewhere out of public view.Where an officer requires an individual to remove more than an outer jacket or gloves, the person searched must again be taken to a location out of public view. Therefore, officers who have selected No to this question, would have selected that answer as they did not perceive there to be a need to take an individual away from public view, as the criteria for this was not met. |
| The panel observed in one incident footage that the BWV was not recording prior to the initiation of conversation. They believed that advice should be passed to officers that all recordings should commence immediately when initiating a stop and search. | The force is now working to add audio to the 30 second buffering period. A meeting is being held with the ICT department in force on the 5th October 2023, in order to activate this on all devices, which should apply the necessary remedy to this issue.  |
| The person searched in *Search 2,* declared during the process of feeling “suicidal”. The panel were concerned by this as they felt that this was a reach out for help. Whilst the initial officer showed compassion and suggested to discuss this further once the search had concluded, the second observing officer’s tone was not sympathetic and appeared to be overly assertive, using reference to “sectioning” which quickly lost the rapport with the person and seemingly caused unnecessary escalation. The panel were also concerned that no mention of “suicide” was referenced in the final report. The subject was allowed to leave without understanding the reason for the trespass on the MOD site (which formed part of the officer’s grounds to stop and search) and not enough was felt to be done to determine whether the individual was a danger to himself or to others. . The panel would like to know:* What should have been the correct procedure with someone declaring themselves as suicidal? Could more have been done to follow this up either with external mental health services or a welfare check, given that the subject’s identity and address was checked during the search.
* Whether the grounds for “sectioning” this individual were proportionate, given that this unfortunate wording, in the eyes of the panel, caused the officers to lose control over the situation.
* Why was not more done to ascertain the reasoning of the subject’s trespass?
 | The views of the panel will be fed back to the officers concerned. Dependent on the level of risk that is identified against an individual which may be created by a mental health episode or illness, officers can detain an individual under S136 of the Mental Health Act, which of course takes away the persons liberty in a similar way to if they were arrested. The individual would then be taken to a place of safety in order to have an assessment by trained practitioners. This course of action should only be taken in the more serious cases, where there is a serious imminent threat or risk to the individual or the general public. The officers could ensure there is somebody with the individual, who is able to care for them, or take the individual to a health facility such as a hospital, but this would of course require the individual’s consent.Otherwise, officers could consider whether to signpost an individual for relevant help and support for partner agencies, or outlining where they could get this support from if required. |
| The panel would like clarification on when and how often do Supervisors review Stop & Search?  | Supervisors are required to review every single stop and search that is conducted across the force. The force has created an automated ICT process to support this activity and created an ability to monitor compliance in this area through a stop and search performance dashboard. It should be noted that the force has recently implemented a new records management system, which has impacted the organisation’s ability to scrutinise our existing data sets. The forces ICT department are scheduled to re-build the dashboard system in the new year, at which point, normal scrutiny of supervision compliance rates will resume within the Ethical Use of Police Powers Group meeting, which is chaired by the force lead for this area. The Authorised Police Practice (APP) for Stop and Search does not stipulate any time frame for forces, in relation to when a supervisor should review a stop search encounter. Within Dyfed Powys, the expectation on supervisors is that this is done as soon as possible, following the submission of a stop search form by any one of their staff. As outlined, the force has built an automated system, which notifies supervisors when one of their officers submit a stop and search form. The force will then monitor whether supervisors are reviewing these forms at the EUPP group meeting. On average, the force sits at around 95% compliance, meaning 95% of all forms will be supervised at any one time. The EUPP group will then work to understand why the remaining forms have not been supervised. Generally, this will be because a Sergeant is away from the workplace on annual leave etc. However, the EUPP group will ensure those forms are supervised by the time that the meeting next sits.  |
| The panel would like clarification on whether the blue light of a police vehicle needed to remain on during the questioning and identification period, as this was raising awareness to members of the public in the area due to the time of night this incident occurred. The panel was split, as they recognised that the blue lights were needed for the safety of the officer and the member of public with regards to consideration of other vehicles; however, midway through the enquiries the officer turned the lights off. This caused confusion as to the purpose of them being on for that period of time. | Officers are trained to activate the blue flashing lights on their vehicle, when they conduct a traffic stop on another vehicle. This will ensure they preserve the safety of all concerned, and provide necessary warning to other motorists that the stop is taking place. Often officers will stand near to or at the side of vehicles they stop in a live carriageway. The activation of the blue lights will help protect them from other moving vehicles.Of course, if the officer feels the blue lights are not required, due to the time of day for example, where there is little or no other traffic, or if the lights cause distress to other persons or even a medical episode, such as epilepsy, then they can conduct a dynamic risk assessment as to whether the lights should remain on or be turned off. Ultimately this would be a decision for the individual officer.  |
| Is it standard practice to allow the driver to remain in the driver’s seat whilst conducting background checks? | Yes, this is standard practice. This practice enables the officer to provide protection to the individual from other moving traffic, but also provides an element of safety for the officer, as until they conduct such checks, they will not be aware if the person has any warning markers, for violence, weapons, ailments etc. Therefore, once the checks are complete, they will be better informed as to whether it is safe to ask the person to leave the vehicle. For example, if a person is known to carry weapons, the officer may want to put on extra protective equipment, or call for another resource to support them before they ask someone to step out of a vehicle. |