



**Police and Crime Plan Priority:** *Improving confidence in policing*

**Title:** *Use of force*

**Presented by:** *Superintendent Nick Rowe*

**Purpose of Paper**

1. This paper will provide the members of the Strategic Police and Crime Board with an overview of the progress of West Midlands Police (WMP) in meeting the national use of force recording requirements.

**Background**

2. In October 2014 the then Home Secretary, Theresa May, tasked Chief Constable David Shaw, the former National Police Chiefs' Council (NPCC) lead for conflict management, with conducting a review of use of force recording. The review produced a report for the Home Secretary in October 2015 which made a number of recommendations for forces to start recording data about all types of use of force, publishing the data on a quarterly basis locally and that a subset of this data should appear in the mandated Annual Data Requirement (ADR).
3. The NPCC recording requirement consisted of a 9 page form with extensive details required about all types of Use of Force and numerous questions covering officer, subject and location information. It was intended that forces should start capturing this data by April 2017.
4. The Chief Constable of WMP, following consultation with key internal and external stakeholders, proposed that a more streamlined version of the form be adopted by the force in order to reduce bureaucracy for officers, releasing them to focus on operational duties, and that the data would be captured by way of a technical solution to be developed by the force. This approach was supported by

key stakeholders at a public consultation event and the Office of the Police and Crime Commissioner (OPCC).

5. WMP started capturing use of force data on 4<sup>th</sup> January 2018. The intention of the WMP use of force recording process is that accurate information will be provided to the public to enable them to hold the force to account for its use of force.

### **Relevant Legislation Governing Use of Force<sup>1</sup>**

6. The [Criminal Law Act 1967](#), the [Police and Criminal Evidence Act 1984](#) and common law apply to all uses of force by the police and require that any use of force should be 'reasonable' in the circumstances. Reasonable in these circumstances means:
  - a. absolutely necessary for a purpose permitted by law
  - b. the amount of force used must also be reasonable and proportionate (i.e., the degree of force used must be the minimum required in the circumstances to achieve the lawful objective) otherwise, it is likely that the use of force will be excessive and unlawful. Excessive use of force is unlawful.
7. [Section 76\(7\)](#) of the Criminal Justice and Immigration Act 2008 sets out two considerations that should be taken into account when deciding whether the force used was reasonable. Both are adopted from existing case law. They are:
  - a. that a person acting for a legitimate purpose may not be able to weigh to a nicety the exact measure of any necessary action
  - b. that evidence of a person's having only done what the person honestly and instinctively thought was necessary for a legitimate purpose constitutes strong evidence that only reasonable action was taken by that person for that purpose.

### **Development of the Use of Force Recording System**

8. In order to determine the requirements for a use of force recording system within WMP, a governance structure and internal stakeholder working group were established. The leads for this are as follows:
  - a. Gold – Assistant Chief Constable Gareth Cann
  - b. Silver – Superintendent Nick Rowe
  - c. Bronze – various specialist departments represented at Bronze level on the stakeholder group including:

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<sup>1</sup> [College of Policing APP - Police Use of Force](#)

- i. Fairness in Policing
  - ii. Learning and Development
  - iii. Health and Safety
  - iv. Corporate Communications
  - v. Professional Standards Department
  - vi. Force Operations
  - vii. Force Intelligence
  - viii. Information Security
  - ix. Custody
  - x. Her Majesty's Inspectorate of Constabulary and Fire and Rescue Services (HMICFRS) WMP team
  - xi. The OPCC
9. Research was conducted with other forces to establish what they were recording and how and to identify good practice that could be replicated in the WMP system.
  10. A draft version of the form was devised based largely on the form used by Thames Valley Police and piloted on the Force Response Unit by way of a Snap Survey, to help to refine the form and to identify any initial issues.
  11. The form was developed as an App that is accessible through frontline officers' mobile devices as well as on a desktop computer. The App underwent a further period of robust period of testing to ensure that it was user friendly and captured all the necessary information.
  12. The purpose of the use of force recording system is to gather statistical data for analysis and publication. It does not provide an opportunity for officers and staff to justify their use of force. Officers and staff will still need to record this in the usual manner which may be in their pocket notebook, by way of evidential statement, on the OASIS command and control log for the incident or on the ICIS custody system.
  13. The form developed by WMP does not match the full 9 page NPCC form but will meet the majority of the requirements of the ADR. There are varying levels of compliance with the ADR and NPCC form across police forces nationally and the current NPCC lead, Commander Matt Twist (Metropolitan Police Service) has acknowledged that the year one data may have varying degrees of reliability and accuracy across the country. The ADR data for 2017-18 will be published by the Home Office in the near future.

### **What does the Use of Force System Capture?**

14. WMP will make a record on the use of force recording system of the following types of use of force:
  - a. Non-compliant handcuffing
  - b. Unarmed tactics (holds, strikes, takedowns, ground pins)
  - c. Dog bites
  - d. Baton (actual use only)
  - e. PAVA spray (actual use only)
  - f. Limb / body restraints
  - g. Spit Guards
  - h. Shield (when used to strike a subject)
  - i. Taser (all types of use from 'red dot' through to Taser fired)
  - j. Use of Firearms (drawn / used)
  - k. Use of Attenuated Energy Projectiles (baton rounds)
15. The following information is captured on each use of force record:
  - a. Type of use of force (more than one type can be recorded if used)
  - b. Subject information such as age, gender, ethnicity, perception of mental health issues or intoxication
  - c. Incident specific information such as time, date, location
  - d. The reason for the use of force
  - e. Injury sustained by officer / subject
  - f. Outcome of the incident
16. WMP will not make a record of the following types of use of force on the system albeit officers and staff will still be required to make a record of this use of force in their pocket notebook, evidential statement or on other systems as per current practice:
  - a. Tactical Communications
  - b. Compliant Handcuffing
  - c. Very low level unarmed skills
  - d. Baton deployed but not used
  - e. PAVA spray deployed but not used
17. The officer or staff member using force should also record on the form whether there is body worn video footage of the incident.
18. A record is made by each officer using force so if for example officer 1 discharges PAVA spray against subject 1 and officer 2 applies handcuffs when

subject 1 is being non-compliant then both officers will complete a use of force record.

19. In public order situations, officers will still need to complete a form for individual uses of force, but for a collective use of force, for example where a group of officers have all deployed and used shields to push a crowd back during a disorder, then the commander for that operation is responsible for completing a collective use of force form.

### **Public Consultation**

20. On 24<sup>th</sup> July 2017 a public consultation event was held at Lloyd House jointly chaired by the Chief Constable and the Police and Crime Commissioner. Representatives of various scrutiny panels, Independent Advisory Groups and other community reference groups were invited to attend and the event was streamed live via the OPCC website.
21. Presentations were made by subject matter experts (SMEs) on the new Taser X2, the rollout of Spitguards in the force and on use of force recording. Members of the public were invited to ask questions of the panel including the SMEs, the Chief Constable and the PCC.
22. In relation to the process for use of force recording, the attendees at the event were overwhelmingly supportive of the approach proposed by the force to not utilise the full NPCC use of force form and to only make a record of actual and higher level uses of force. The members of public did not want to see officers tied up with completing overly bureaucratic forms.
23. Additional consultation has taken place with the OPCC-led Custody Visitor groups based at Oldbury and Perry Barr custody blocks.

### **Training**

24. No formal training has been developed for completion of the use of force form as the form itself is very intuitive and during the testing period no issues were raised by officers as to its use.
25. A briefing pack was designed and rolled out across the force to support the launch of the recording system on 4<sup>th</sup> January 2018. The use of force recording process now features in the officer personal safety training refresher programme.

### **Analysis of 2018 data on Use of Force**

26. WMP started recording use of force data from 4<sup>th</sup> January 2018. The following data was gathered between 4<sup>th</sup> January until 31<sup>st</sup> March 2018. Some caution should be exercised when using this data as uptake of the use of force system

over the first quarter of data gathering has been variable while awareness of the new process was being raised.

27. Compliance with the new process is monitored by the dip-sampling of incident logs and other force systems to ensure that where force has been used, a form has been completed. Where incidents have been identified and a form has not been completed this is flagged to the officer's supervisor to enable them to rectify the situation.
28. It should also be noted that in an incident where more than one officer has used force against the same subject this will show as multiple use of force records with the potential to skew the data slightly.

#### Volume of use of force incidents

29. During the recording period, 1,595 use of force incidents were recorded on the system.

#### Top locations

30. The breakdown of locations shows that the most frequent locations for use of force are street / highway, followed by dwellings and custody blocks.

<b>Top 10 Locations</b>	
<b>Location</b>	<b>No of Incidents</b>
Street / Highway	514
Dwelling	330
Custody Block	325
Other	60
Open Ground (e.g. Park, Car park, Field)	44
Hospital / A& E (non mental health setting)	44
Retail Premises	23
Police Vehicle without prisoner handling cage	22
Licensed Premises	22
Ambulance	4

#### Incident types

31. The most common type of incident where force was used was a crime incident, closely followed by in custody.

<b>Incident Types</b>	
<b>Type of Incident</b>	<b>No of Incidents</b>
Crime	382

Custody	371
Public Order	171
Domestic	171
Firearms Incident	149
Mental Health	88
Fear for Welfare	85
Assault	73
Traffic	39
Suspicious Person	35
Sexual	1
Warrant	30
<b>Grand Total</b>	<b>1,595</b>

### Types of force used

32. The most frequent type of use of force is unarmed skills followed by non-compliant handcuffing.
33. It should be noted that the total number of uses of force at 2,556 is somewhat higher than the 1,595 incidents recorded during the period, as officers and staff will record every type of force they have used against an individual.
34. Where firearms are recorded as a tactic this will only be where an authorised firearms officer has aimed a weapon at an individual which would form part of the tactical option authorised for that incident / operation. This will incorporate both spontaneous and pre-planned incidents. More detailed data on firearms operations is collated by the Firearms Operations Unit and reported and published via the Home Office.<sup>2</sup>

<b>Types of Force Used (officers may select more than one tactic)</b>		
<b>Tactics Used</b>	<b>Number</b>	<b>%</b>
Unarmed Skills (including pressure points, strikes, restraints and take-downs)	798	31
Non-Compliant Handcuffing	628	25
Ground Restraint	354	14
Irritant Spray used	161	6
Limb Restraints/Body Restraints	135	5
Firearms (aimed or fired)	132	5
Taser (aimed)	110	4
Other or Improvised tactics used	84	3
Spit Guard	65	3
Baton used	34	1
Taser (Used)	31	1
Dog Biting	16	1

<sup>2</sup> Police use of firearms statistics - <https://www.gov.uk/government/publications/police-use-of-firearms-statistics-england-and-wales-april-2016-to-march-2017/police-use-of-firearms-statistics-england-and-wales-april-2016-to-march-2017>

Shield	7	0
AEP (Aimed)	1	0
AEP (Used)	0	0
<b>Grand Total</b>	<b>2,556</b>	

### Reasons for using force

35. While there is nowhere on the form for officers to write the rationale for their use of force, the ADR sets out a number of standard 'reasons' why officers may use force. These categories are pre-determined by the ADR and do not cover all circumstances where an officer may be required to use force, hence the 1,196 responses recorded for the period against the 'other' category.
36. Officers may select more than one reason for using force hence the total number of records being greater than the total number of incidents. The most common reasons for using force are to protect themselves, to protect other officers and 'other'.

<b>Reasons for Using Force</b>		
<b>Reason for Force</b>	<b>No of Reasons</b>	<b>%</b>
Protect Self	1,338	84
Other	1,196	75
Protect Other Officers	1,157	73
Effect Arrest	781	49
Prevent Harm	728	46
Prevent Offence	722	45
Protect Public	627	39
Prevent Escape	624	39
Protect Subject	566	35
Effect Search	370	23
Secure Evidence	275	17
Remove Handcuffs	87	5
Method of Entry	33	2

### Outcomes of use of force incidents

37. The following are the outcomes required to be recorded as part of the ADR. It should be noted that there may be many more outcomes following a use of force incident such as safeguarding referrals, out of court disposals, cannabis warnings, fixed penalty notices, street bail, conditional cautions and no further action taken.
38. In 61% of the incidents where force was used, the person upon whom force was used was arrested.

<b>Outcomes (officers may select more than one)</b>		
<b>Outcome</b>	<b>No</b>	<b>%</b>
Arrested	1,001	61
Detained under MHA	58	4
Hospitalised	59	4
Made Off / Escaped	22	1
Other	510	31
<b>Grand Total</b>	<b>1,650</b>	

Characteristics of those who have had force used against them

39. In total, during the recording period, force was used against 813 subjects. When this is compared with the total number of incidents at 1,565 it is clear that records are submitted where more than one officer has used force against the same subject.
40. This is not unexpected as where an incident has escalated to the point where using force is necessary it is likely that more than one officer will have been deployed to the incident and more than one officer will have been involved in the use of force.
41. Where an incident or operation involves the use of firearms tactics it is likely that multiple officers may aim their firearm towards a subject as part of the tactic and all of the officers would submit a use of force form.
42. 85% of the subjects who have had force used against them are male.

<b>Gender</b>		
<b>Gender</b>	<b>No of Incidents</b>	<b>%</b>
Male	689	85
Female	123	15
Transgender	1	0
<b>Grand Total</b>	<b>813</b>	

43. The most common age group subject of use of force is 18-34yrs. It should be noted there are 2 records where force has been used against a child under 10 years. As part of the internal scrutiny process these incidents will be examined to ensure the use of force was fair and appropriate in the circumstances and to ensure any learning from the incident is captured.

<b>Age</b>
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Age	No of Incidents	%
0-10 years	2	0
11-17 years	59	7
18-34 years	500	62
35-49 years	198	24
50-64 years	50	15
65 or over	4	0
<b>Grand Total</b>	<b>813</b>	

44. The following tables set out the ethnicity of those subjects force has been used against, the comparison to the census data of 2011 and also comparison with ethnicity data of those brought into custody for the same period.

45. The most common subject ethnicity for use of force is white.

Ethnicity		
Ethnicity	No of Subjects	%
White	481	59
Black (or Black British)	142	17
Asian (or Asian British)	123	15
Mixed	44	5
Other	18	2
Don't Know	4	0
Chinese	1	0
<b>Grand Total</b>	<b>813</b>	

46. In comparison to the 2011 Census data it would appear that force may be being used in a disproportionate manner against those from Asian, black and mixed ethnic backgrounds. However, caution should be applied when using the Census data to measure disproportionality in that it is now several years out of date and the demographic of the West Midlands may have changed significantly during this time. This has also been recognised as an issue in the analysis of Stop and Search data and academic research has been commissioned by the OPCC to attempt to address this issue.

Ethnicity Compared to WMP Population (Census)		
Ethnicity	Census %	UOF %
White	70	59
Asian (or Asian British)	19	15

Black (or Black British)	6	17
Mixed	4	5
Other Ethnic Groups	2	2

47. When comparing use of force data with custody detainee data for the same period it is clear there is a strong correlation between the ethnicities of those brought into custody, and potentially entering the criminal justice system, with those against whom force is used.

Ethnicity Compared to Custody Detainees		
Ethnicity	Custody Detainees %	UOF %
White	60	59
Asian (or Asian British)	17	15
Black (or Black British)	17	17
Other Ethnic Groups	1	8
Unknown	5	0
Chinese	0	0

48. When completing the use of force form officers should indicate what impact factors relating to the subject were present and may have formed part of their decision to use force. Officers may select more than one factor.
49. It should be noted that these will be a combination of what is known by the officer, intelligence or information about the subject that the officers may have been passed and their own perception of the behaviour of the subject. So for example, where the mental health of the subject has been cited as an impact factor this may be that the officer is aware that the subject has mental health issue or that they perceive the behaviour of the subject indicates they may have mental health issues.

Impact Behaviours (officers can select more than one)	
Impact Behaviours	No of Reasons
Alcohol	703
Size / Sex / Build	566
Mental Health	523
Drugs	470
Possession of a Weapon	348
Other	318
Prior Knowledge	264
Crowd	167
Acute Behavioural Disorder	111
<b>Grand Total</b>	<b>3,470</b>

### Characteristics of those using force

50. The following tables set out information about the officers and staff who have submitted use of force forms.

<b>Incidents and Arrests by Department</b>		
<b>Team</b>	<b>No of Incidents</b>	<b>Arrests</b>
Force Response	740	544
Operations	375	267
Criminal Justice Services <sup>3</sup>	234	18
Birmingham West NPU	91	65
Wolverhampton NPU	34	25
Birmingham East NPU	30	17
Student Officers	29	19
Motorway Policing	26	16
Force CID	9	8
Sandwell NPU	7	6
Coventry NPU	5	3
Walsall NPU	4	4
Regional Organised Crime Unit	4	4
Solihull NPU	3	3
Intelligence	2	0
Dudley NPU	1	1
Public Protection	1	1
DCC Task Force	0	0
Force Executive Team	0	0
<b>Grand Total</b>	<b>1,595</b>	<b>1,001</b>

51. In the below table the category 'unspecified' will include police staff members who have designated powers to use force such as Detention Escort Officers.

<b>Use of Force by Rank</b>	
<b>Rank</b>	<b>No of Incidents</b>
Constable	1,296
Sergeant	208
Unspecified	71

<sup>3</sup> Please note that officers and staff within the Criminal Justice Services team will work primarily in the custody environment and would not ordinarily undertake arrests unless deployed on other duties, hence the relatively low arrest figures.

Inspector	15
Special Constable	5
<b>Grand Total</b>	<b>1,595</b>

Injuries and assaults as a result of use of force

52. The following tables set out the details of the proportion of officers assaulted during the incident where they have used force and also whether they sustained injuries during that incident.
53. It should be noted that this will not be a complete picture for the force of officer injuries and assaults as there may be circumstances other than in a use of force incident where officers and staff have sustained injuries or are assaulted. These are captured on a separate system.

<b>Injuries sustained by officers</b>		
<b>Sustained Injuries?</b>	<b>No of Incidents</b>	<b>%</b>
NO	1,492	94
YES	103	6
Unspecified	0	0
<b>Grand Total</b>	<b>1,595</b>	

<b>Officer Assaults</b>		
<b>Assaulted?</b>	<b>No of Incidents</b>	<b>%</b>
NO	1,455	91
YES	140	9
Unspecified	0	0
<b>Grand Total</b>	<b>1,595</b>	

<b>Top Five Departments based on assaults</b>			
<b>Team</b>	<b>No of Incidents</b>	<b>Assaults</b>	<b>%</b>
Force Response	740	87	12
Birmingham West NPU	91	18	20
Criminal Justice Services	234	10	4
Operations	375	10	3
Wolverhampton NPU	34	6	18

Use of body worn video

54. It can be seen from the table below that Bodyworn Cameras were worn by 51% of the officers and staff that have recorded a use of force. It should be noted that at present Bodyworn Cameras have only been rolled out to certain departments such as Force Response although there are plans to roll this out further to other

roles. This is subject of a separate paper submitted to the Strategic Police and Crime Board.

55. Where a use of force took place in the custody environment it is likely to have been captured on the extensive CCTV camera network within those locations.

<b>Bodyworn Camera?</b>		
<b>Bodyworn Camera</b>	<b>No of Incidents</b>	<b>%</b>
NO	780	49
YES	815	51
<b>Grand Total</b>	<b>1,595</b>	

### **Use of Force and Mental Health**

56. Mental health facilities, as a location, do not feature in the top 10 locations where use of force has been recorded during the period.
57. Mental health as a subject behavioural impact factor features in 523 (33%) of the records completed during the period.
58. The silver lead for use of force, Supt Nick Rowe, has undertaken some work to look at use of force and mental health. This has so far included a visit to a medium risk mental health facility and research into the Merseyside Police project 'no force first' where information cards are completed about the patients to explain their condition and what may trigger them to behave in a certain way.
59. There are plans to develop a specific public scrutiny panel for use of force aligned to the mental health IAG.

### **Comparison with Other Forces**

60. It is not possible, at this early stage in the recording process, to provide context and comparison to other similar forces to help interpret whether the use of force captured in these statistics is reasonable. This is in part due to the fact WMP is not recording all of the information that other forces are recording and also that the national ADR data has not yet been published. This is an area for future development.

### **Future System Development**

61. As the App and use of force system is further refined it will include geo-spatial data so use of force hot-spots can be mapped. The system will also incorporate the current detailed Taser and Dog Bite forms which at present are being completed in addition to the use of force form as per national requirements.

62. The system will have more enhanced analytical capabilities similar to those developed as part of the Stop and Search system used by the force, eSearch.

### **Internal and External Scrutiny of Use of Force**

63. The plan for public scrutiny of use of force is to mirror the robust scrutiny arrangements for Stop and Search. The established local Stop and Search scrutiny panels will incorporate use of force and be able to select a number of cases from their area for the relevant time period and will be presented with additional information such as incident logs, statements and BWV footage, if available, to allow the panel to make an assessment as to whether the use of force was, in their opinion, fair and appropriate in the circumstances.
64. The panels will also be presented with local use of force data for their area, for the relevant time period, to enable them to assess any trends in use or to raise any key issues.
65. Any individual and organisational learning will be gathered by the police representative at the panels and fed back into the use of force silver lead to allow this to shape force policy, where appropriate, and to facilitate the delivery of both positive and developmental feedback to officers and staff.
66. A pilot scrutiny panel is due to be held during April 2018 with representatives from local scrutiny panels, the mental health IAG and the custody visitors' scheme to set the terms of reference for the groups and to test the proposed scrutiny process before it is rolled out forcewide.
67. Some of the data has already been presented to the Fairness in Policing community reference group and their feedback is being incorporated into the data packs that are being developed for the scrutiny panels.
68. Separate scrutiny panels will be established for mental health and custody as these areas have specific issues would benefit from the experience of a bespoke group familiar with work in that arena.
69. On a quarterly basis, use of force data will be published as part of the Freedom of Information publication scheme on the WMP external website for public consumption.
70. In terms of internal governance, once use of force recording becomes business as usual, a quarterly use of force group will sit as a sub-group to the force trust board. The group will analyse use of force data seeking to identify trends and areas of improvement for the force. In the interim this group has been established as a working group to progress the development of the recording system and the associated policy, communications and training.

71. WMP was inspected as part of the 2017 HMICFRS Legitimacy inspection for which the overall rating (including use of force) was 'requires improvement'. At the time of the inspection WMP was not recording use of force although its plans to do so were discussed with HMICFRS. A significant amount of work has been commenced since the inspection to design and implement a recording system, to undertake public consultation to ensure there was support for the WMP approach to use of force recording and to design a public scrutiny process.

### **Next Steps**

72. The board is asked to note the content of this paper.

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