

HMICFRS, CoP, and IOPC Report on the Criminal Justice Alliance’s super-complaint – Section 60 of the Criminal Justice and Public Order Act 1994 and independent community scrutiny of stop and search: Association of Police and Crime Commissioners Response

Purpose

1. The purpose of this report is to provide a summary of the Association of Police and Crime Commissioners’ (APCC) response to Recommendation 8 in HMICFRS, College of Policing and the IOPC’s (hereafter ‘HMICFRS et al’) report regarding the abovementioned super-complaint, as well as APCC members’ (Police and Crime Commissioners, Police, Fire and Crime Commissioners, Deputy Mayors for Policing and Crime, and Police Authority Chairs – hereafter ‘PCCs’) response to the report’s other recommendations.

Summary of Key Points

- **All 43 PCCs from the territorial force areas in England and Wales accepted Recommendation 8.**
- Many of our members are in the process of reviewing community scrutiny arrangements, and/or have used this report and its recommendations to inform their holding-to-account role locally.
- A number of our members, or their forces, are providing training to scrutiny panel members. Meanwhile, panels are being provided with Body-Worn Video to aid their scrutinising role, whilst being enabled to specifically scrutinise the use of Section 60.
- A number of our members, or their forces, have taken steps locally to improve panels’ representativeness.
- Many of our members have requested or will request updates from their forces on the recommendations in the report made to Chief Constables.

Background

2. In May 2021, the Criminal Justice Alliance submitted their super-complaint, entitled [More Harm Than Good](#), to raise their concerns around the “harms caused by ‘suspicion-less’ stop and searches and inadequate scrutiny of stop and search powers”.
3. ‘Suspicion-less’ stop and search refers to stop and search powers under Section 60 of the Criminal Justice and Public Order Act 1994, which authorises the police to

stop and search people and vehicles without suspicion, within a designated locality for a set period.

4. In their super-complaint, the CJA stated that the power is:
 - Ineffective - that it results in “very low arrest rates”.
 - Discriminatory and traumatising - there is particular disparity faced by Black people in the use of the power. The impact of the power can be “long-lasting” and permanently alter perceptions of police.
 - Opaque and unchecked - many police forces “are neither collecting data on the use of the power in a consistent way or analysing it effectively”.
 - Undermining reforms - particularly the [Best Use of Stop and Search Scheme \(BUSSS\)](#), which was introduced in 2014 to increase transparency and community involvement in the use of Stop and Search powers.
 - Counter-productive and damaging - in terms of how the damage it does to community trust can make it harder for the police to tackle crime.
 - An example of mission creep - representing a “slippery slope” to the “removal of the important safeguard of reasonable grounds” for the police to use stop and search powers, as outlined in CODE A of the [Police and Criminal Evidence Act 1984](#).
5. To examine these claims, HMICFRS et al carried out an investigation that included a review of section 60 policy and community scrutiny policy in 11 forces, interviews with 150+ police officers and staff in 14 forces, reviews of body-worn video recordings and section 60 authorisations, engagement with academia and the third sector, and interviewing community scrutiny panel chairs and members.
6. In December 2023, HMICFRS et al published [their report](#). Positively, they found that:
 - “Forces were using section 60 authorisations to address serious violence, and that senior leaders generally understood the need to use it legitimately, proportionately and where necessary”.
 - There is a “strong commitment to independent scrutiny of stop and search through community scrutiny panels”.
7. However, they agreed with the CJA’s assessment in a number of areas, finding that:
 - Officers aren’t receiving “the training they need” in relation to the power.
 - There is a lack of a standard format for authorising the use of the power, which hinders evaluation and assessment of the power’s use.
 - Forces are not paying “sufficient regard” to existing legislation and guidance.

- There are “inconsistencies” in terms of how section 60 authorisations are communicated to the public.
- There is a “lack of publicly available data and information on section 60 authorisations”.
- There are a number of issues with community scrutiny panels, including: forces not making “full use” of feedback from panels; a lack of training; few panels being consulted prior to the use of section 60 being authorised; and a lack of co-ordination of “established positive practice for community scrutiny panels to learn from”.

The Recommendations

8. Of specific relevance to PCCs, in Recommendation 8 HMICFRS et al stated that:

“By 14 June 2024, Chief Constables and where applicable Police and Crime Commissioners (or equivalents) should make sure their forces work in partnership with community scrutiny panels (or their equivalents) to:

- *review panel membership and vetting arrangements to remove any unnecessary barriers to recruiting panel members.*
- *promote the recruitment of culturally diverse members, with a particular focus on representing, involving, and retaining those from under-represented communities and young people.*
- *promote the representation, involvement, and retention of those who have been stopped and searched.*
- *make sure the force gives community scrutiny panels information on the police use of force, including handcuffing, relevant to the police use of stop and search powers.*
- *make sure they support and help community scrutiny panels to review section 60 authorisations, searches, community impact assessments and associated complaints.*
- *give members appropriate training and support to help them effectively carry out their role scrutinising all stop and searches, taking account of the effect the role could have on them.*
- *provide the right level of police representation at panel meetings to support and advise as required, and to make sure the panel’s feedback helps to improve both individual officer and organisation learning.”*

9. The report also made five recommendations to Chief Constables:

- Recommendation 1 states that forces should review training for both officers who may be required to authorise section 60s, and those who may be required to conduct section 60 stop and searches.
- Recommendation 3 states that Chiefs should ensure that briefing and debriefing arrangements for their forces' activities under section 60 are in line with the relevant legislation and authorised professional practice.
- Recommendation 4 states that officers who exercise stop and search powers should understand and comply with their responsibilities in relation to safeguarding children.
- Recommendation 5 states that Chiefs should ensure that forces effectively communicate with communities and “interested on parties” on the police use of section 60.
- Recommendation 7 states that Chiefs should satisfy themselves that their forces are providing all relevant information to community scrutiny panels or their equivalents.

10. The report also makes one recommendation (2) to the National Police Chiefs Council on agreeing minimum requirements for logging and recording section 60 authorisations. Two recommendations are also made to the Home Office: on amending the Annual Data Requirement to include more information on section 60 authorisations (Recommendation 6), and ensuring that their forthcoming [national guidance for community scrutiny panels](#) mirrors the report's findings (Recommendation 9).

The APCC Response

11. In December 2023, Giles Orpen-Smellie, APCC Lead on Transparency & Integrity, Alison Lowe OBE, APCC Deputy lead on Transparency and Integrity and Joint Lead on Race Disparity, Equality & Human Rights (RDEHR) and John Campion, APCC Joint Lead on RDEHR, wrote to their PCC colleagues across England and Wales, asking them or a representative of their office (OPCC) to complete an online survey that we created. APCC members were given until the 15 February 2024 to respond.

12. The online survey asked PCCs:

- If they agreed with Recommendation 8, and invited them to submit any examples of relevant action they have taken or intend to take.
- To provide a reason if they did not agree with the recommendation.
- To provide any further comments or information regarding recommendation 8.
- To provide any relevant information regarding the report's other recommendations.

Recommendation 8

13. **All 43 PCCs from the territorial force areas in England and Wales accepted the recommendation.**

14. The vast majority of our members took the opportunity presented by this survey to inform us of relevant work they are doing. Here, this information has been categorised under the following sub-headings:

- **Reviewing Arrangements** – the steps our members are taking to review scrutiny arrangements locally, either because of this report, or as part of work that was already underway.
- **PCCs Holding to Account** – the way in which PCCs are holding the Chief Constable to account for more effective community scrutiny locally.
- **How the Panel Operates** – the way in which panels are scrutinising Stop and Search, including Section 60 use, locally.
- **Improving Representativeness** – the steps that PCCs, and their forces, are taking to ensure that panels are more representative of local communities.

15. To note, a number of our members pointed out that Section 60 powers are used rarely or infrequently in their areas:

- West Mercia OPCC stated that the power is “rarely used”; Warwickshire OPCC said “infrequently”; whilst in Hampshire & the Isle of Wight the OPCC stated that the use of the power is “limited”.
- Norfolk OPCC stated that it has not been used by their force since 2015. Durham OPCC reported that it had only been used once in the previous five years.
- Meanwhile, the Essex Office of the Police, Fire, & Crime Commissioner (OPFCC) stated that the power had only been utilised in the force areas five times within the previous twelve months; Dyfed-Powys OPCC stated that the power had been used twice in the same time frame.

16. Additionally, different terminology exists for panels across force areas, and depending on each Panel’s scope. Variations include: the Legitimacy Scrutiny Panel in Gwent, the Independent Stop and Search/Use of Force Scrutiny Panel in Lancashire, the Best Use of Stop and Search Panel in Durham, and the Community Monitoring Groups in London.

Reviewing Arrangements

17. A number of OPCCs highlighted how they, or their force, are taking steps to review community scrutiny arrangements locally. For example:

- Dyfed-Powys OPCC, Northamptonshire OPFCC, the Mayor’s Office of Policing and Crime (MOPAC) in London and the North Yorkshire OPFCC all stated that they were reviewing their community scrutiny structures locally, whilst London and North Yorkshire specified that they would complete their review by the Report’s June deadline.
- The South Yorkshire OPCC stated that they are conducting a “gap analysis” based on Recommendation 8’s bullet points.
- Lancashire OPCC stated that they had recently reviewed the membership and effectiveness of their Independent Stop and Search/Use of Force Scrutiny Panel, whilst Bedfordshire OPCC stated that they have recently reviewed the Terms of Reference for their Stop and Search and Use of Force Panel.
- Sussex OPCC reported that the force has commissioned The Consultation Institute to provide independent and external assurances about their scrutiny arrangements in Sussex to identify potential areas for future development.
- Hertfordshire OPCC stated that their panel’s governance arrangements - including its membership - were “under constant review”, to ensure that there are no unnecessary barriers to membership.

PCCs Holding to Account

18. A number of OPCCs reflected how they have used or were using Recommendation 8 to hold the Chief Constable to account locally with regard to community scrutiny. For example:

- The South Yorkshire OPCC stated that the PCC has oversight of Recommendation 8’s implementation through their regular updates with the force.
- Dyfed-Powys OPCC stated that the PCC will discuss Recommendation 8 at the next Policing Board meeting for their area where he holds the Chief Constable to account. Similarly, Kent OPCC stated that the PCC had requested the Chief Constable to provide an update on the recommendation at their next public Holding to Account meeting.
- Warwickshire OPCC stated that the responses provided by the force to Recommendation 8 had been subject to scrutiny and assurance by the OPCC.

How the Panel Operates

19. With regards to Recommendation 8, a number of our members took the opportunity to provide further information on how community scrutiny operates in their area.

20. For example, in terms of who administers the panel locally – the OPCC or the force – our members provided the following information:

- Greater Manchester Combined Authority (GMCA) and Essex OPFCC both informed us that their scrutiny arrangements are administered by the Force.
- Warwickshire OPCC stated that whilst their community scrutiny panels are currently arranged by the force, there is “a strategy drive for greater involvement and oversight from the OPCC”.
- Meanwhile, Devon & Cornwall OPCC stated that the Community Scrutiny Panel is independent of both the police and the OPCC, and that it manages its own recruitment, training, and welfare support.
- Conversely, Gwent OPCC stated that management of their Panel is provided by the OPCC policy lead for equality, diversity, and inclusion (EDI). Northumbria OPCC also established their Police Powers External Advisory Panel.

21. On the use of Body-Worn Videos, our members provided the following information:

- West Mercia OPCC stated that the panel in their force area uses Body-Worn Video (BWV) to review all stop and search incidents. Meanwhile, Cumbria OPCC stated that their Ethics and Integrity Panel randomly selects BWV footage, whilst West Yorkshire Combined Authority (WYCA) stated that they undertake dip sampling to “achieve greater transparency”.
- Dorset OPCC stated that their Panel meet quarterly to scrutinise BWV footage, and assess incidents using scoring which considers “voice, neutrality, dignity, respect, and trustworthiness [of the officer]”.

22. On training for panel members, our members provided the following information:

- Cambridgeshire OPCC stated that training is delivered in advance of members of the public joining the panel. Bedfordshire OPCC stated that training on stop and search and use of force is provided quarterly, whilst North Yorkshire OPFCC stated that training is “regularly undertaken” by panel members.
- Hertfordshire OPCC stated that new members of their panel receive comprehensive and mandatory training on the PACE Code A, disproportionality, and unconscious bias. They are also encouraged to go on police ride-alongs.
- MOPAC stated that they are moving towards “formalised training” for members of Community Monitoring Groups, incorporating both induction and annual refresher training.

23. On reviewing Section 60 authorisations specifically, our members provided the following information:

- The Cambridgeshire OPCC stated that there is an agreement in place between the Panel Chair and the force that any use of section 60 will be flagged.
- Derbyshire OPCC stated that their scrutiny group will review Section 60 searches undertaken by the force, assess the rationale for their authorisation, and consider any relevant complaints.
- Hertfordshire OPCC stated that when their Stop and Search Panel reviews the use of Section 60, the relevant Chief Inspector or Inspector for the area attends the panel meeting to explain the decision-making process behind the authorisation.
- MOPAC stated that London Community Monitoring Groups receive weekly breakdowns of Section 60 authorisations.
- GMCA specifically stated that the Deputy Mayor will seek assurances that all Section 60 authorisations can be reviewed by their Independent Community Scrutiny Panels locally.
- Northumbria OPCC stated that going forward the OPCC website will include up-to-date reports on section 60 authorisations.

24. In terms of feedback mechanisms to forces, our members provided the following information:

- Humberside OPCC stated that at their Police Powers panel, feedback is passed on via a force representative to both officers involved in incidents and their supervisors.
- Gwent OPCC stated that actions or recommendations identified during a Panel session are assigned to the force by the Chief Superintendent for Special Operations.
- Essex OPFCC stated that feedback is recorded in an action tracker and provided directly to officers, whilst Derbyshire OPCC reported that their Scrutiny Group collates a feedback form that is sent to the force for a response.
- Norfolk OPCC stated that their Panel reports directly to the Deputy Chief Constable, and also has access to the PCC to raise issues that may require his scrutiny.
- Surrey OPCC stated that they were in the process of developing a traffic light system for reviewing BWV, with accompanying personal development plans for officers that receive amber gradings, whilst ensuring that positive feedback can be provided to officers involved in incidents graded green.

25. In terms of support, Cumbria OPCC stated that their Panel is provided with briefing from “subject matter professionals”, e.g., Chief Inspectors, who are able to answer any questions panel members may have.

26. In terms of meeting frequency, Derbyshire OPCC stated that their Stop and Search Scrutiny Group meets monthly, whilst Bedfordshire OPCC stated that their Panel meets eight times a quarter.

Improving Representativeness

27. A number of our members reflected on steps that are being taken locally to improve panels' representativeness of local communities. For example:

- Thames Valley OPCC stated that the PCC has led on a comprehensive review to identify and remove “unnecessary barriers” to recruiting panel members, with an emphasis placed on promoting the recruitment of “culturally diverse members”.
- West Midlands OPCC stated that they have pursued several initiatives to enhance the representativeness of their community scrutiny panels, including [their ‘Know Your Rights’ project](#).
- West Mercia OPCC reported that contact cards are now handed out following stop and search encounters by officers, which includes a link providing information on how to join the local panel.
- North Wales OPCC reported that they would work with the force to develop both physical and online material about how people can get involved in community scrutiny.

28. In terms of vetting for panel members specifically, OPCCs provided the following information:

- West Midlands OPCC stated that they were refraining from vetting panel members in order to prioritise the increased representation of individuals with lived experience of being subject to police powers.
- West Mercia OPCC and MOPAC both stated that in their force areas vetting arrangements had been reduced, whilst Humberside OPCC stated that they had agreed a new policy with the force in this regard.
- Gwent OPCC stated that they were in the process of working with the police “to identify and remove unnecessary barriers” to panel member recruitment “in terms of vetting”.
- Cambridgeshire OPCC observed that not vetting panel members has had a positive impact on diversity.

29. In terms of specifically improving representativeness of panels with regard to age, our members provided following information:

- Humberside OPCC stated that they now allow people to join who previously did not meet residency criteria, e.g., university students.
- Essex OPFCC reported that college students are now attending their panels to “increase representation of young people”.
- City of London Police Authority stated that their force has established a Youth Independent Assurance and Scrutiny Group to involve young people in community scrutiny processes.
- Hampshire and the Isle of Wight OPCC stated that advertising through universities had “some success” in recruiting younger people from diverse backgrounds to volunteer.
- Merseyside OPCC reported that Merseyside Youth Commission will be conducting a piece of work focusing on the stop and search of young people and the use of Section 60.

30. In terms of improving representativeness of panels with regard to ethnicity, our members provided the following information:

- Norfolk OPCC reported that the PCC and the Chief Constable had personally encouraged members of the Black community to join the Panel.
- Derbyshire OPCC stated that they were currently “assessing innovative ways” to recruit more volunteers from underrepresented groups, placing adverts with local community groups throughout the force area, as well as on social media.
- Durham OPCC stated that they would soon be undertaking a recruitment exercise to ensure “balanced and diverse representation” on the Panel, with a particular focus on “those from under-represented communities and young people”.
- North Yorkshire OPFCC reported how they had recruited an Inclusivity and Public Confidence Manager in order to improve community engagement and confidence in policing.

Further Information Regarding Recommendation 8

31. We also invited our members to provide any further information or comments regarding Recommendation 8. The following was provided:

- Dorset OPCC reflected how their panel will pick up on both national issues and local trends. For example, following the murder of Sarah Everard by the serving Metropolitan police officer Wayne Couzens, their Police Powers Panel held a meeting specifically where through the use of BWV police interactions with females were scrutinised.

- Both Surrey and Devon & Cornwall OPCCs mentioned that they were awaiting the publication of the Home Office’s Community Scrutiny Framework (see paragraph 10 above).
- Greater Manchester Combined Authority underlined the need for more investment if PCCs and Mayors are to be more active in panel delivery and co-ordination.
- Durham OPCC reflected how their force had maintained the Best Use of Stop and Search standard, in terms of ensuring that Section 60 authorisations can only be made by an officer operating at a strategic level.

Responses to the Report’s Other Recommendations

32. PCCs were asked to provide any relevant information regarding the other recommendations in the report. The following information was provided.

All Recommendations

33. A number of our members detailed how they were holding their Chief Constable to account for driving progress on the recommendations made to them (see paragraph 9 above). For example:

- Essex OPFCC stated that they had received an update on these recommendations from the force, where they assessed themselves as being compliant in all areas.
- GMCA stated that the Chief Constable of Greater Manchester Police has provided a full briefing to the Deputy Mayor on actions to be taken in response to the report, and that they understand that the Chief Constable will also provide a statement in response to the report on the force’s website in due course.
- Dorset OPCC stated that these recommendations had been discussed with the force’s strategic Lead on Stop and Search.
- Staffordshire and Northamptonshire OFPCCs and Kent OPCC all stated that they have requested feedback from the Chief Constable on these recommendations.
- WYCA, Lincolnshire, Lancashire, Hampshire & IOW, Leicestershire and North Wales OPCCs all stated that their Deputy Mayor and PCCs respectively would monitor and discuss their Chief Constable’s progress on these recommendations through their existing governance frameworks.

Recommendation 1 – Training

34. In response to Recommendation 1 on training, Merseyside OPCC stated that a learning module for frontline staff was in development to address the report’s recommendations, whilst Dorset OPCC stated that training had been reviewed in their area for officers who may need to authorise sections 60s.

Recommendation 3 – Briefing and Debriefing Arrangements

35. In response to Recommendation 3 on briefing and debriefing arrangements, Merseyside OPCC stated that going forward debriefing processes will be informed by the force’s public engagement.

Recommendation 4 – Safeguarding Children

36. In response to Recommendation 4 on safeguarding children, Hertfordshire OPCC stated that in line with the Children’s Commissioner for England’s [recent report](#), as a matter of policy their panel now reviews all strip searches of children. Meanwhile, Northumbria OPCC stated that training “on minimising emotional harm” would be rolled out in future.

Recommendation 5 – Communicating with Communities

In response to Recommendation 5 on community engagement processes, Merseyside OPCC reported that they already publish the details of the outcomes of Section 60 uses.