

For Information	
Public	
Report to:	OPCC's Strategic Resources and Performance meeting
Date of Meeting:	4th September 2019
Report of:	Use of Force
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Agenda Item:	8

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Use of Force

1. Purpose of the Report

- 1.1 To update the OPCC's Strategic Resources and Performance meeting around use of force within Nottinghamshire Police.

2. Recommendations

- 2.1 It is recommended that the contents of this update report and appendices are noted.

3. Reasons for Recommendations

- 3.1 For Information Purposes

4. Summary of Key Points (this should include background information and options appraisal if applicable)

- 4.1 Police officers can lawfully use force under certain legislation. Use of force is recorded in Nottinghamshire on Niche. The raw data from Niche is sent to the Home Office annually. Quarterly the raw data is published on the website following recommendations from the NPCC.
- 4.2 There is a national trend of under reporting for use of force. Nottinghamshire experience the trend and as such, various measures are being put in place to try and mitigate the recording issue. (Please refer to report in Appendix 1)
- 4.3 Use of force is subject to scrutiny internally through a dedicated quarterly meeting. A recent development is the analysis of the raw data leading to an analytical product that is produced for the meeting for review. This product also provides a breakdown around ethnicity following recommendations from the Organisational Risk and Learning Board. Other protected characteristics are recorded within the raw data however ethnicity was the only one subject to analysis.

- 4.4 There have been no recent changes to procedure or legislation. Nottinghamshire Police have recently purchased spit-guards that were available to all officers from December 2018. They are now available to front line officers in all marked Police vehicles. The organisation is also looking to change the irritant spray used by officers. The current CS irritant spray is now out of date and has to be replaced. There is a current risk around flammability from the current CS product if used in close proximity to Taser due to the solvent used in the product. At present there is no CS irritant spray available for procurement without the risk of being flammable. Nottinghamshire Police are following the national trend and moving to the safer option of Pava as an irritant spray. (Please refer to report in Appendix 1).

5. Financial Implications and Budget Provision

- 5.1 The recommendation for the move to a Pava irritant spray was agreed at the July Force Executive Board. The cost of the transition is approximately £21,475, however, following direction from Chief Constable Guildford this cost may be reduced if the organisation is able to gift its stock to another force that are currently using CS Spray.

6. Human Resources Implications

- 6.1 None

7. Equality Implications

- 7.1 It should be noted that the ethnicity recorded in the analytical document provided for the internal scrutiny meeting is not accurate. The data reflects what is recorded on Niche and the under recording of use of force leads to discrepancies in the data recorded around ethnicity. An example is the use of force data for the last two quarters of 2018-2019 performance year which saw significant increases in white British ethnicity figures. During those recording months there was significant activity on Op Palmitate, (Fracking Protest), which led to an increase in use of force by officers involved. The majority of the protestors were white British and the view is that this may have skewed the statistics recorded for that ethnic group.

8. Risk Management

- 8.1 The flammable risk around CS irritant spray has been well documented. With no current alternative and in order to mitigate the risk Nottinghamshire Police are moving to a Pava based irritant spray.

9. Policy Implications and links to the Police and Crime Plan Priorities

- 9.1 The irritant spray policy is currently being changed to incorporate Pava.

10. Changes in Legislation or other Legal Considerations

10.1 None

11. Details of outcome of consultation

11.1 Extensive public consultation took place prior to the implication of Spit Guards. This included a presentation to the IAG, a public survey, demonstrations to colleges across the county to obtain the view of young people as well as attendance at youth groups/boxing clubs etc. The vast majority of the general public fully supported the use of spit- guards to protect officers and the public from assaults by spiting.

12. Appendices

12.1 Appendix 1 - Use of Force report for the OPCC's strategic resources and performance meeting.

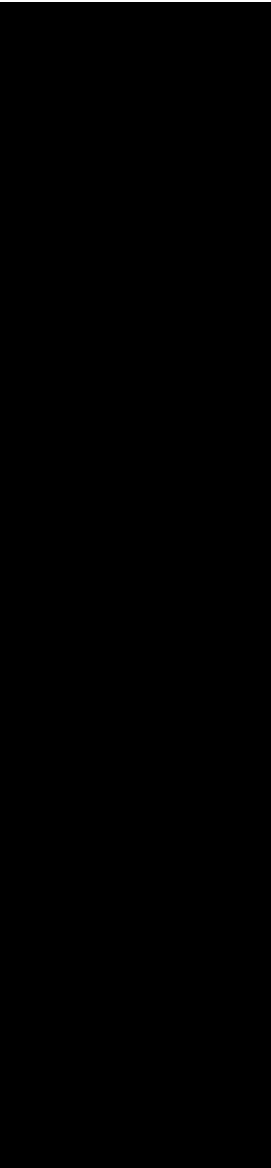
13. Background Papers (relevant for Police and Crime Panel Only)

13.1 Not applicable for this report

**Use of Force report
OPCC's Strategic Resources
and Performance meeting**

Date: September 2019

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Overview

Police Officers can lawfully use force in the execution of their duties under the following legislation:

Common Law – Self-defence to self or another

Section 3 Criminal Law Act - prevention of crime / Lawful arrest of offender

Sec 117 PACE – use force to exercise powers under PACE i.e. arrest / search etc.

The Human rights Act dictates that any force officers use must be proportionate to the threat, lawful, justified and necessary.

Officers are required to record any use of force on persons whether arrested or not. Use of force is recorded on the Niche system.

The raw data from the recorded use of force occurrences on the Niche system are sent to the Home Office annually for review. Each quarter the raw data is published on the Police website to allow public scrutiny following direction from the NPCC.

Recording use of force.

The following information is recorded by an officer when force has been used:

- Officer
- Incident number / custody number
- Location type i.e licensed premises, private address etc
- Impact factors (Possession of weapon / alcohol / drugs mental health / previous knowledge etc)
- Reason for force – Self-protection / protect others / prevent offence Etc
- Tactics – Tactical communication, Handcuffs , Asp Taser etc
- Subjects perceived Age
- Subject's gender
- Subject's ethnicity
- Disabilities – physical / mental
- Injury to Police officer
- Injury to subject
- Outcome – Arrest / escape / hospitalised etc.

In the 2018 – 2019 performance year for Nottinghamshire Police there were nearly 5000 use of force incidents recorded on Niche. However there were approximately 19,000 persons arrested during this performance year. Taking into account that the majority of persons arrested are handcuffed, and handcuffing whether compliant or not is a use of force, this demonstrates that the compliance around the recording of use of force is an area of concern.

However this is not just a Nottinghamshire Problem but a national issue. The national picture is that every force experiences under reporting and the amount of force Nottinghamshire records is in line with a force of its size.

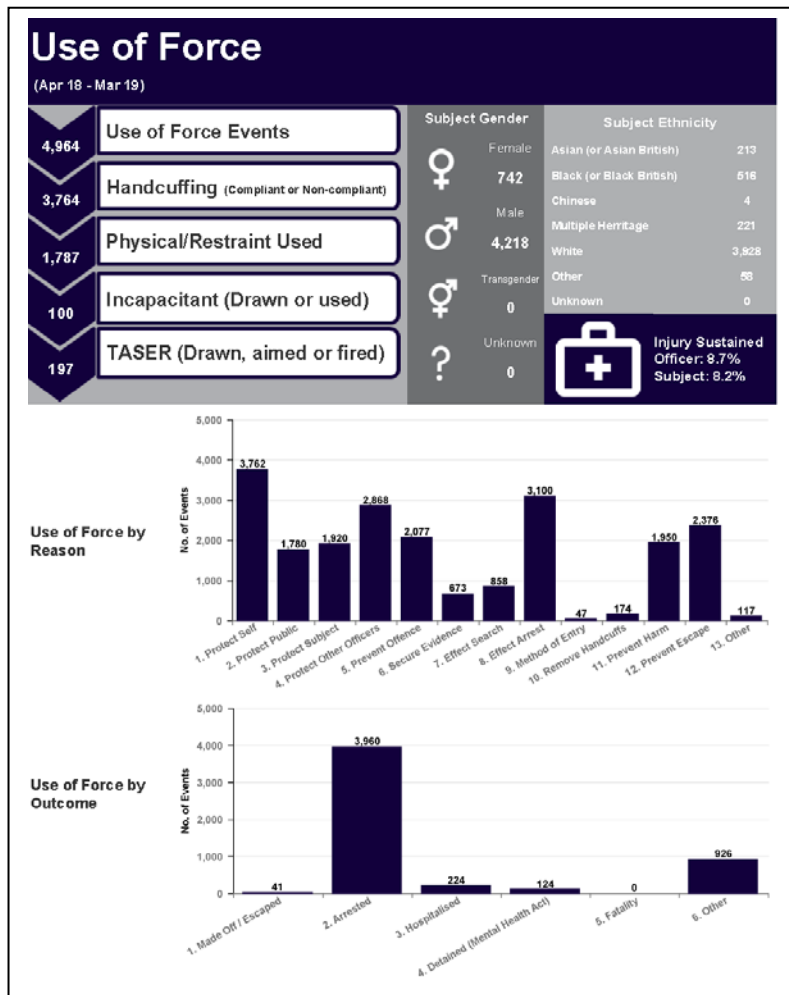
There are numerous initiatives that are being implemented to try and improve the compliance around use of force numbers. These include:

1. Recording of use of force previously was recorded on the MFSS system. In 2018 the recording system was changed to Niche to make it more user friendly for Police Officers as Niche was the main recording database that officers use and are familiar with.

- The stop and search forms have been developed to allow the recording of compliant handcuffing only, which count towards the Home Office returns for use of force. The reason for the decision was to prevent officers having to complete two separate forms when someone is compliant thus reducing bureaucracy for the officer encouraging greater recording.
- The Niche team are currently developing a button on niche so that when an individual subject to force is being booked into custody, the custody sergeant will click a button to generate a task on Niche requesting the completion of a use of force form. The task will not be able to be closed until one is completed. However the programme and database that records the information on Niche is owned by Northampton and so this development is something that is being progressed regionally and not just for Nottinghamshire so there have been delays on the process being available.
- The launch of the custody process will coincide with a renewed internal communication to all staff reminding them of the requirement to complete use of force forms. The focus will be on the positives aspects of completing the forms mainly around officer safety and sharing the knowledge of an individual's compliance for future reference. The intention is for officers to see the benefits of completing the document and the strands that the information feeds rather than seeing it as a bureaucratic exercise for the Home Office.

As stated the use of force raw data is returned to the Home Office annually. The information is also put on website quarterly and is available for public scrutiny. However to make it more user friendly the information is redacted into an infograph.

The 2018 – 2019 Infograph that is on the Nottinghamshire Police website is below to demonstrate the information available to the public.



Analytical product.

Nottinghamshire Police have a quarterly operational use of force meeting. The meeting is designed to review use of Force by the organisation with a view to highlight and learning areas for development as well as highlighting areas of good practice.

The meeting has representatives from the following areas of the organisation:

- Professional Standards Department
- Police Federation
- Health and safety
- City / County and Operational Support teams.
- Custody
- Human Resources.

Previously the meeting attempted to analysis the raw data, however a recent development is an analytical document that interprets the data allowing for scrutiny by the group.

Below are some extracts from the latest document that demonstrate areas for scrutiny.

Subjects: Age, Ethnicity & Tactics Used



	CMD	Compliant Handcuffing	Force	Used/Not used	Non-compliant Handcuffing	Other	Other/Impaired	Tactical communications	Use of Force	Other	Total
White	27	212	1	22	421	22	122	242	422		2167
Asian (or Asian British)	2	22			14	4	2	22	22		111
Black (or Black British)	12	27		2	72	12	22	122	22		421
Mixed	2	22		4	24	2	11	22	21		122
Don't know	1	4			1		2	1			2
Other	1	2			2			4	2		14
	1	12						2	1	21	21
Total	112	421	1	27	622	72	212	621	22	21	2222

Percentage of Actual Age	Count of Records
0-10	4
11-17	122
18-24	752
25-34	412
35-44	22
45 and over	14
	22

Key Points:

- Subjects of White Ethnicity had the highest number Uses of Force used against them (2167), with Black (or Black British) with the 2nd highest (421).
- Non-Compliant Handcuffing was the most common form of handcuffing for subjects with White, Black or Mixed Ethnicity.
- Tactical communications is the most commonly used tactic for each ethnicity.
- The most common age group for Use of Force is 18-34 (752).
- Use of Force was used 4 times for subjects between the ages of 0-10.

Teams and Subject Ethnicity



	White	Asian (or Asian British)	Black (or Black British)	Mixed	Don't know	Other	Total
NOTTS SUPPORT GENERAL	82	7	12	2	1	2	122
NOTTS RESPONSE OXCLOSE LANE & BULWELL	82	2	12	2	1		112
NOTTS RESPONSE CITY CENTRE	22	2	21	1		4	102
NOTTS CJ CUSTODY STAFF BRIDWELL	77	2	2	2		1	22
NOTTS RESPONSE BROMTON ECITY	24		12	2	1	2	21
NOTTS CJ CUSTODY STAFF MANSFIELD	72	1	2	2		2	22
NOTTS RESPONSE MANSFIELD	24		7	2		4	22
NOTTS RESPONSE RIVERSIDE & ST ANNS	24	2	17	2		1	22
NOTTS RESPONSE HUCKNALL & HERBY	22	1	1			4	72
NOTTS RESPONSE RADFORD ROAD	22	1	21	1		1	22
NOTTS OPERATIONAL SUPPORT TRAPT	22	2	12	2	1	2	21
NOTTS NP NGU	27		2	2		2	21
NOTTS NP CITY CENTRE CDM	21	1	12	2	1	1	22
NOTTS PIIT BRIDWELL	22	1	2				22
NOTTS RESPONSE BASSETLAW	27		2			1	22

Key Points:

- Notts Support General recorded the most Use of Force (122), the majority of which were against White Ethnicity Subjects (82).
- Notts Response Oxclose Lane & Bulwell had the highest Use of Force (82) against White Ethnicity Subjects.
- Notts Response City Centre and Notts Response Radford Road both recorded the joint highest Use of Force against subjects of Black Ethnicity (21).

There have been no changes recently to legislation around use of force however there have been some changes to tactics and equipment by Nottinghamshire Police.

Spit guards.

In February 2018, the Force Executive Board (FEB) authorised the purchase and use of spit guards by police officers and designated police staff within the organisation. The direction from the FEB was that the spit guards were to be available in custody suites and to be carried on police vans only. Following consultation with partners and training of approved staff, spit guards were deployed in December 2018, with the FEB directions adhered to.

The rationale for the use of spit-guards were that Police Officers and designated Police staff are likely to encounter incidents, which can have possible health risks from transmission of infection, through contaminated body fluids from spitting by non-compliant violent subjects, being detained or in custody. The main risks, albeit a very low risk are from blood borne viruses (BBV), HIV, Hep C and Hep B. Although saliva itself will not transmit the infections the risk increases when it is contaminated with blood. This could be from an injury to the mouth or long term issues associated with dentistry that even the subject may not be aware of. Although the risk of infection is extremely low the personnel impact to an officer subject to spitting or biting over a period of time can cause increased emotional and mental stress. Spit guards provide an additional level of personal protective equipment (PPE) to be considered in circumstances where a subject is spitting or threatening to spit to reduce the risk from BBV, HIV, Hep B and Hep C. Another consideration is that Chief Officers have a duty to protect staff when carrying out their lawful duties. If a subject is persistently spitting / biting or threatening such actions then Officers will use appropriate force to prevent this action (lawfully to prevent crime – Assault). The use of a Spit guard is a lower tactical option than officers using force to physically restrain a subject.

In July 2019 the FEB made the decision that Spit-guards should be more readily available to officers. The restrictions around only being available in police vans and custody were considered too restrictive and the decision was made to have them in all operational vehicles. The Organisation has stopped short at approving personnel issue for Spit-guards as there is not believed to be a requirement for this taking into account the limited incidents of spitting that the force currently has.

PAVA irritant spray.

In November 2017 a paper was submitted to the Force Executive Board (FEB) to renew the stocks of CS irritant spray as the current stock is out of date. Considerations were made around retaining CS spray or moving to a PAVA product. The recommendation at that time was to move to a non-flammable CS product that was being developed and could be used with Taser. Representations were made to FEB to wait for a few months as the product was still being developed and The Home Office Centre for Applied Science and Technology (DSTL) were looking to approve the product imminently, which was supported. The product was approved late last year (2018) but has still not come onto the market for procurement.

As a result of this delay the majority of forces throughout the country have moved over to PAVA. The Met, Hampshire and PSNI were all waiting for the new non-flammable product along with Nottinghamshire Police. However The Met and Hampshire are currently in the process of moving to PAVA and PSNI are currently in the process of scoping the option of PAVA against the CS Non-flammable option. Including Nottinghamshire there will only be four forces left with CS. The Other 39 will be or have moved to PAVA.

A recommendation was made to FEB for Nottinghamshire Police to move to PAVA and replace all of the CS stocks. The rationale for this is as follows:

- Nationally Forces have raised concerns around user confidence of CS. Officers younger in service are reluctant to use CS spray as they have concerns around cross contamination, something that is not a factor with PAVA. This issue has not been evident within Nottinghamshire although we have seen a decline in the use of irritant spray. Officer safety trainers are aware and monitoring.
- Due to the above, forces who have switched to PAVA have experienced an increase in officers using irritant spray as a pre-emptive tactic rather than drawing batons or using UDT as the initial tactic which is reducing opportunities for officer assaults.
- CS spray has never been included as part of the public order tactics for crowd control due to the cross contamination issue. However with the majority of forces moving to PAVA this is now a consideration for inclusion as a tactic in the public order manual.
- There is also the flammable risk of CS spray. Although to a certain degree this has been mitigated with the new non-flammable spray being developed this is still not available from the procurement framework with no known date as to when it will be available. Furthermore this product, although comes up to scratch in laboratory trials, has not been tested operationally.
- There is a flammable risk around PAVA but it is far less than the current CS Spray.
- The training for PAVA is exactly the same as CS as is the canister holders so there would be no issues moving to this product.

Work is currently underway to develop a training package for the new PAVA product and the roll out is likely to be autumn 2019. With regards to the current CS stock there is no immediate risk around the use by date as this was set to guarantee the actual unit will work and it may fail to perform after the date. CS spray never goes out of date so if released will work. As of yet Nottinghamshire police have not had any units fail and they seem pretty robust.

7: Conclusion

- Nottinghamshire Police compile use of force records and send the raw data, annually to the Home Office. Quarterly data is published on the website along with a more customer friendly info graph to allow for public scrutiny.
- Use of Force is now recorded through Niche which is far more user friendly for officers thus increasing compliance around use of force.

- Compliant handcuffing can be recorded on stop and search forms and still be counted in the Home Office returns thus reducing bureaucracy for officers.
- The national trend is that use of force is under reported amongst Police Forces. Nottinghamshire Police are in line with other forces for numbers of use of force. Initiatives are in place to make use of force more compliant.
- The Organisation has a use of force internal scrutiny meeting. Recent developments have led to the creation of an analytical document developed from the raw data to aid with the scrutiny of the information collated.
- Recent developments are that Nottinghamshire Police now routinely have spit-guards available for front line staff. The organisation is currently transitioning its irritant spray product from CS Spray to PAVA.