Balancing Legality and Legitimacy in Stop and Search

Dr Sharda Murria – sharda.murria@bcu.ac.uk

Senior Lecturer in Policing & Criminology – Birmingham City University

Research Methods

65 social systematic observations of BWV footage of stop and search encounters

16 officer interviews (proactive and reactive teams)

16 scrutiny panel member, chair and PCC staff interviews

22 observations of stop and search scrutiny panel meetings

2500 stop and search records

Stop and Search

- The misuse of stop and search powers undermines public perceptions of police legitimacy (Delsol and Shiner, 2015, HMICFRS, 2021).

- A *lawful* stop and search is not necessarily a *'good'* stop and search.

- Public expectations and police guidance require both lawful and legitimate stop and searches (College of Policing, 2023).

- Procedural justice (PJ) is the strongest indicator of legitimacy (Bradford, 2017); however, PJ is an academic construct, and our understanding of PJ has primarily developed from self-reported surveys with few studies examining how officers interpret and operationalise PJ.

BWVs

1. A visibility tool to help understand how stop and search encounters unfold (causation, sequencing etc.). Given PJ is not included in officer training, this also provides a vital insight into PJ adherence in practice.

2. The potential to impact upon the encounter through surveillance/deterrence/ accountability

GOWISELY vs Procedural Justice

Understanding the balance and overlap
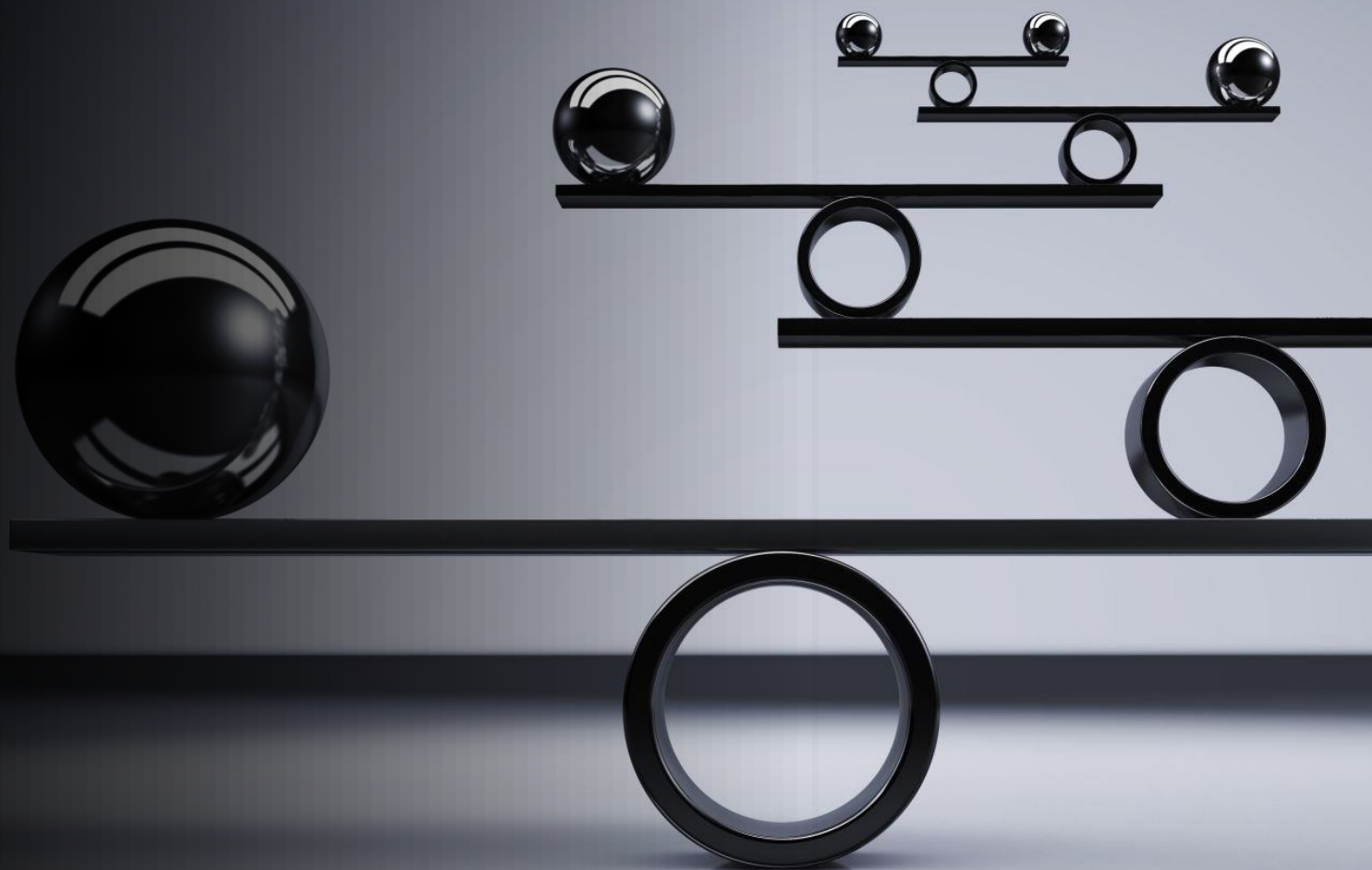
GOWISELY

- Forms the basis of officer stop and search training. For most officers this was the primary means of demonstrating legality and the primary source of accountability.

  TO3 : "It's lawful if you've got your grounds…everything else is irrelevant because you're following the law…You haven't got to worry about anything else"

- Methods of delivery varied by officer teams
  - 'Robotic' delivery favoured by Response teams - good for establishing dominance/authority
  - 'Conversational delivery' favoured by Proactive teams

'Robotic delivery'

'Conversational delivery'

RO 9:

"It's almost like a proforma: "I am PC [name] I'm based at the [area] police station, I'm searching you under this section because I believe that you may have these items on you". This sounds very formal, but I think if you're...giving that information...it's up to people if they listen to it or not".

PGO 14:

"For me it's a conversation...it's not GOWISELY, it's not, "I am PC 6..."...I might say, "Hi, I'm James, I'm Sarah", I might use my first name, but I'm introducing myself and guess what, I've already done part of GOWISELY."

FO 12: "...some officers just become robotic...they stop being themselves...relaxed...calm... If you need to crack a joke, crack a joke...there's no harm in that. But because they're aware the camera is on, they stop being themselves fully because they think that all they need to do is GOWISELY and your grounds..."

- BWV may prompt a 'robotic' delivery resulting in officers feeling more constrained (Rowe et al., 2018)
- Tension between PJ and BWVs as a surveillance tool

Adherence to PJ

Explanation

A lawful stop and search was one where the officer told the citizen the grounds for suspicion, whereas a 'good' stop and search was one where the individual understood the basis for the search.

> PG12: "Once they realise you're doing it for these reasons, and it's explained to them…they're more than happy to comply. It's only when they don't understand certain things that they get on the back foot…Sometimes, it's not just the public, I think it's officers as well, because we do it day in, day out, you presume they know what a stop and search is, what the power is. I think you…need to just explain: This is a stop and search, this is why I need to use it now on you."

PJ vs GOWISELY overlap?

PJ does not explicitly require officers to challenge rigorousness of grounds, the quality of the encounter, any influence of bias etc. which may leave officers inadequately prepared to justify their suspicions to citizens.

PG10: "…you come out of your training so…focused on GOWISELY, you miss that whole engagement and talking to people bit."

Voice, Dignity & Respect & Trustworthy Motives

Grouped together by officers

Insights into trust-building strategies and methods employed.

Good practice BWV footage which varied across teams, but a lack of embedded sharing practices.

"Soft Policing" – exercised powers "so quietly and innoculously that detainees hardly noticed" (Skinns, 2017).

- Officers based long-term in areas with a heavy reliance upon stop and search by masking coercive nature with appeals to cooperation:

  - 'Professional distancing' – reactive grounds
  - Local crime objectives

    PGO14: "If you can point to a personal level for them…do you have a house around here mate?", "Yeah I do", "So how [x] house was broken into last night, I'm trying to stop your mothers house being broken into in the night…"

  - Humour and small talk – appreciated by citizens and scrutiny panel members
  - Empathy / Post-search recovery
  - However, 25% did not want to engage – dignity & respect

BWVs

BWVs are not an absolute deterrent of procedurally unjust conduct

Supervising Officers were reluctant to question officers up for PJ and this was seen as unnecessary 'micromanaging' by officers, however…

Scrutiny panels became more focused on PJ over legality following the introduction of BWVs (Murria, 2023).

- A greater range of behaviours were scrutinised
- Can mask robust scrutiny of legality

BWVs are a valuable learning tool especially given variances in officer teams, however, more embedded sharing processed for L&D are needed.

Benefits and Barriers

PJ useful as a tool for 'risk management' although Response and Firearms were keen to not deescalate too quickly

Strong desire for training in PJ alongside s&s however…

(1) Perception that PJ requires confidence which was lacking in student officers, (2) could not always be taught, (3) would only occur following greater PST (4) should be more reflective of cultural challenges.

'New visibility' (Goldsmith, 2010) meant some officers were now 'playing to the crowd' (RO 7) instead of being focused on building rapport with 1 individual

References

- Mike Rowe, Geoff Pearson and Elizabeth Turner, 'Body-worn cameras and the law of unintended consequences: Some questions from emergent practices.' (2018) 12 A Journal of Policy and Practice 83.

- HMICFRS, 'Disproportionate Police Powers: A Spotlight on Stop and Search and the Use of Force' (HMICFRS, 26 February 2021) <https://www.justiceinspectorates.gov.uk/hmicfrs/wp-content/uploads/disproportionate-use-of-police-powers-spotlight-on-stop-search-and-use-of-force.pdf> accessed 14 January 2023.

- Rebecca Delsol and Mike Shiner, *Stop and Search: The Anatomy of a Police Power* (Palgrave Macmillan 2015).

- Ben Bradford, Stop and Search and Police Legitimacy (Routledge 2017)

- Layla Skinns, Lindsey Rice, Amy Sprawson and Andrew Wooff, 'Police Legitimacy in Context: An exploration of 'soft' power in Police Custody in England (2017) 40(3) Policing: An International Journal 601.

- Sharda Murria "The use of body-worn videos in community stop and search scrutiny panels" Journal of Policing Studies (2023)

  Fair | College of Policing