



Out of Court Disposal Scrutiny Panel Annual Summary 2020

Background:

The Cumbria 'Out of Court Disposal Scrutiny Panel' was established in November 2013 and is currently chaired by the chief executive of the Office of Police and Crime Commissioner. Cases submitted to the panel are selected independently from anonymised data by a magistrate from the Out of Court Disposal Scrutiny Panel facilitated by a representative of the Crime Reduction & Criminal Justice Partnership and overseen by a delegate from the Office of Police and Crime Commissioner. This ensures transparency, maintains public confidence and allows the system to have credibility in Cumbria Constabulary's desire to be open and accountable.

Out of Court Disposals allow the police to deal quickly and proportionately with low level, often first time, offending which can be appropriately resolved without a prosecution at court. Delivered ethically, effectively, to the right people and in the right circumstances they provide swift and meaningful justice for victims, hold offenders accountable for their actions and reduce re-offending. The aim of the panels is to determine whether the method of disposal is considered appropriate, based on a review of the information/evidence available to the decision maker at the time. The panel considers the offence category and severity of offence, evidence present at the time of disposal, rationale in officers' decision-making process and whether decisions were victim focused.

Covid dominated this year with no area of life escaping the impact. From the first lockdown in March right up to the current day we continue to face challenges in the way we carry out our day to day business. The nature of our work is constantly evolving, crime does not stop and neither does our police force. Our panel scheduled for May was postponed to September, and we are now successfully holding the scrutiny panels via Teams which has the benefit of saving travel time and expenses for all the members.

Purpose and processes:

The purpose of the scrutiny panel is to independently review a selection of anonymised cases that have been resolved by use of an out of court disposal. The scrutiny panel has no referral or appeals capability and is not intended to re-judge cases. It assesses the relevant processes, interactions and decisions to identify any areas for development and to promote continuous organisational learning.

The panel members discuss each case, identify any areas that could be improved or require additional information, and either agree or disagree with the disposal decision. Where the panel has identified learning issues, these are tasked as action points for individual panel members to take forward.

The panel continues to acknowledge the implications of conducting dip samples on a small number of overall cases; however it must also be recognised that alongside cases identified as having been handled in line with policy, there are cases where inappropriate and inconsistent disposal options have been identified and these findings have led to improved knowledge and understanding of disposal options.

Terms of Reference:

The Terms of Reference have been reviewed by panel members and approved at our February meeting prior to publication. It was noted that Cumbria is auditing a higher percentage of cases compared to other forces, and it was agreed that the frequency of panels should remain at 3 per year to avoid overburdening the members. It was deemed that there were no integrity issues with the OPCC chairing the meetings as the cases are selected independently by a magistrate. The Terms of Reference are included here as Annex A.

Statistical summary of findings:

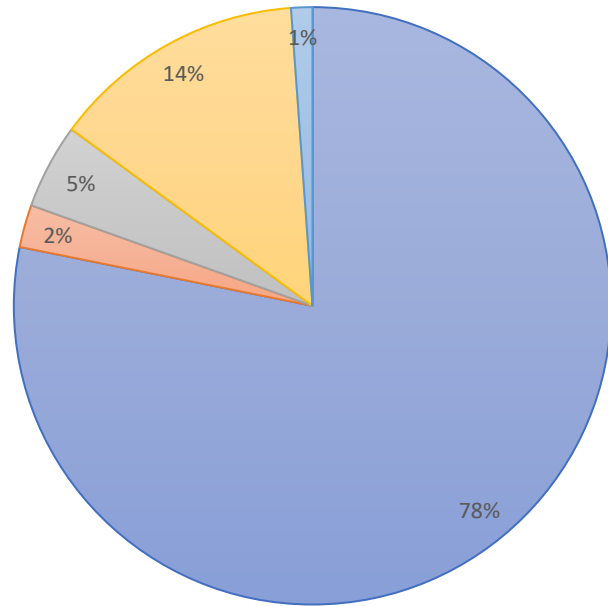
Cumbria Constabulary recorded 38,002 crimes in 2020. 6,309 of these had positive outcomes, of which 2,246 (35.6%) were Out of Court Disposals.

87 independently selected cases were audited across 3 meetings during 2020 which equates to a dip sample of 3.9% of available cases. Overall, 68 cases were found to have a disposal that was both appropriate to the offence and consistent with national guidelines and local policy, which is 78% of the cases that were selected. This compares to 85% in 2019 and 64% the previous year. Positive feedback was provided to a number of officers and their supervisors in cases that stood out due to the quality of the work undertaken. In particular, praise was given when it was clear that all the options had been thoroughly considered including multi-agency approaches and referrals to support schemes, that the victim's views had been taken into consideration, that the decision-making rationale was clearly explained, and that it was easy to establish from the documentation what actions had been taken.

2 cases were deemed to have an appropriate outcome despite the decision not being consistent with policy, and 4 cases were deemed to have an inappropriate outcome despite the decision makers following policy. 12 cases (14%) were found to be both inappropriate and inconsistent with policy, this is up from 9% the previous year, but still an improvement on the 2018 figure of 31%. In all these cases feedback was provided to the officers involved and to supervision to allow growth of knowledge and further improvement.

There was one single case where the panel failed to reach a decision. Further enquiries were made including a full evidential review with the case being returned to the next panel for consideration. The additional information enabled the panel to form the opinion that the original decision was inappropriate and inconsistent with policy. This type of multi-agency discussion highlights the difficult decisions officers are taking on a daily basis and supports continuous learning for the organisation.

Cases Audited in 2020
Out of Court Disposals Decisions



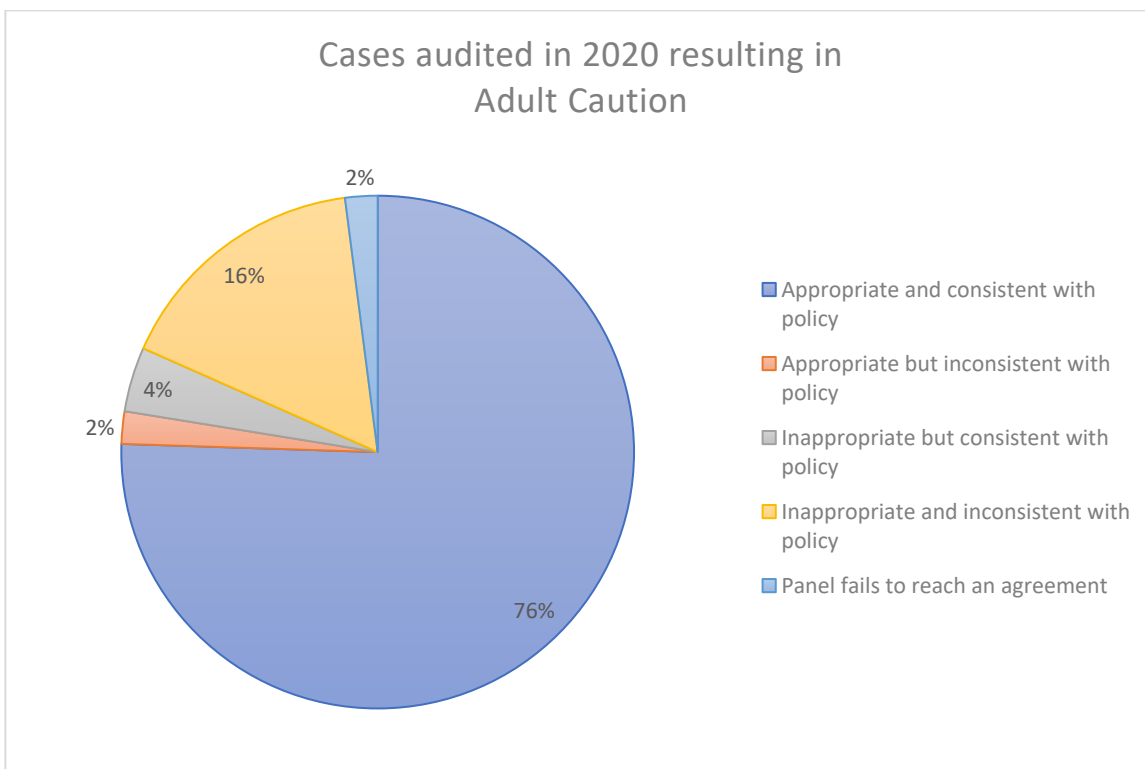
- Appropriate and consistent with policy
- Appropriate but inconsistent with policy
- Inappropriate but consistent with policy
- Inappropriate and inconsistent with policy
- Panel fails to reach an agreement

Youth Conditional Cautions:

Eight Youth Conditional Cautions were reviewed over the course of the year, and all were found to be appropriate and consistent with policy, this was the same 100% outcome as both 2019 and 2018.

Adult Cautions:

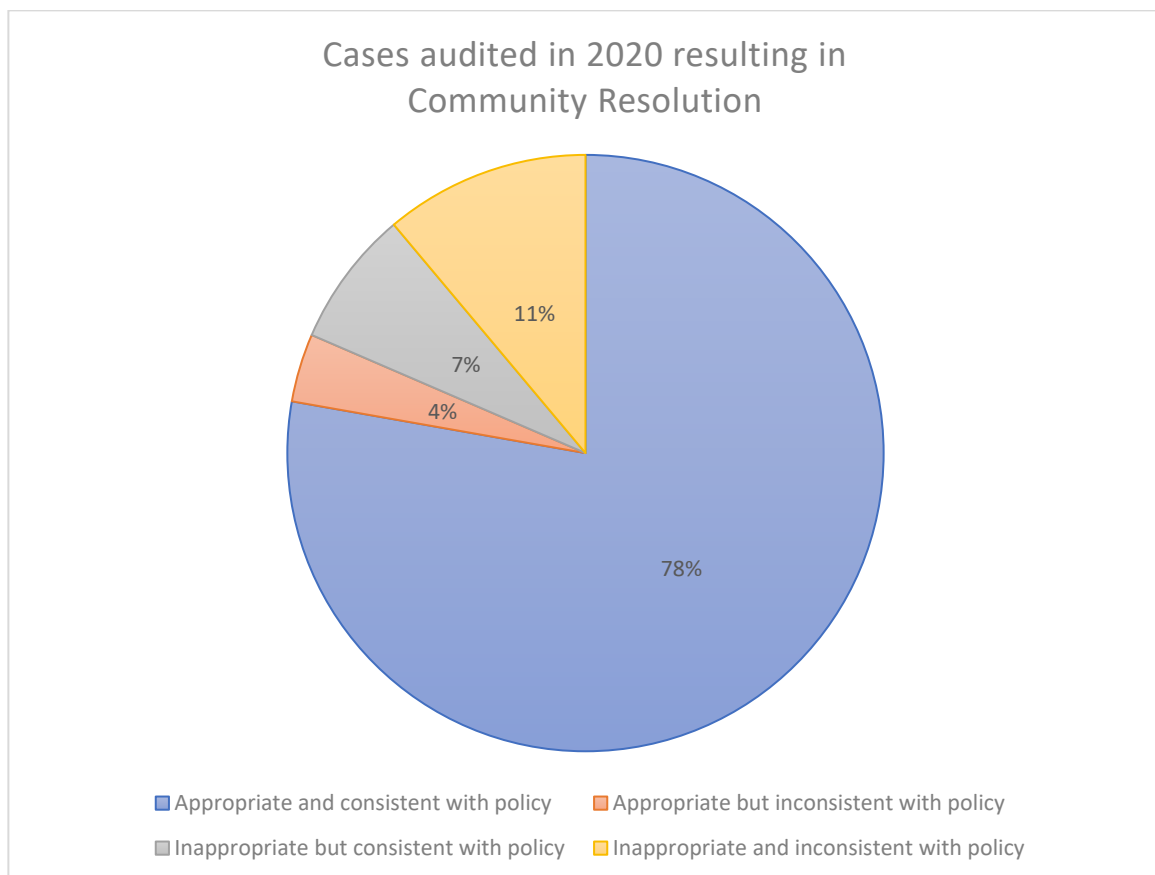
Adult Cautions (adult simple cautions) made up the majority of the disposals of the cases that the panel examined, with 49 out of the 87 cases having this disposal recorded. Of the 49 cases audited, 37 cases or 76% were considered to be appropriate and consistent with policy, the previous year was 85% with 56% in 2018. 16% were believed to be inappropriate and inconsistent with policy, which is higher than the 10% figure for the previous two years.

**Adult Conditional Cautions:**

The panel did not scrutinise any Adult Conditional Cautions during 2020.

Community Resolutions:

27 Community Resolutions were audited during 2020, of which 21 or 78% were considered to be appropriate and consistent with policy, compared to 74% in 2019 and 65% the previous year. 11% of the Community Resolution cases overall were found to be inconsistent with policy compared to 22% last year and 29% for 2018.

**PND and Cannabis Warnings:**

Only three PND disposals were considered, two were deemed to be appropriate and consistent with policy with the other being inappropriate and inconsistent.

The panel did not audit any Cannabis Warnings this year.

Examples of Lessons Learned:

Feedback is routinely cascaded out following the scrutiny of cases. This can be for cases that could have been handled differently and is either utilised corporately in police training or internal notices to assist organisational learning, or individually to the officers concerned and their supervisors. Correspondingly, the panel has seen many examples of excellent work and has provided positive feedback to the Constabulary and the officers involved.

Threaten with a blade or sharply pointed article – Community Resolution

The case concerns an elderly male who lives at an address with his seriously ill wife. Youths had been playing in the street outside the address, where they had kicked a ball against the wall. Offender had attempted to resolve the issue by speaking to the youths requesting that they play elsewhere due to the distress being caused to his wife.

During the evening the offender (84 years) has left the address and gone up to the group of youths gathered outside of his address. He has produced a knife from his waist and made a comment that he would be willing to use it if necessary. Officers have spoken to all the individuals involved and this transpired to be a larger issue that had been occurring during the school summer holidays. The offender is well known in the community and all the people involved know each other well. All the parents of the children were supportive of the police in the decision to undertake a community resolution due to the issues with the children and the offender and have also re-enforced that they are not to go near the offender or cause him any concerns. No issues have occurred since the incident took place and no issues with the community have also been raised.

Supplying controlled drug – Adult Caution

This offence related to the supply of controlled substances where the offender was seen on CCTV passing drugs to a male and taking money in return. The offender admitted to buying 7 MDMA tablets, taking 2 and his intention was to sell the others just to his friends, stating this was a semi-regular occurrence to supplement his low income and feed his alcohol habit. Sentencing for Class A drugs is up to 3 years custody, however the policy states that a caution can be given for supplying controlled drugs. Panel members felt that the rationale was not appropriate with emotive language being used rather than reflecting the facts and issues of the offence. It was questioned whether this case should have been presented at court. Panel noted that a conditional caution would have been more appropriate which would have allowed for liaison and diversion support to be monitored. Panel decided that this outcome was inappropriate and inconsistent with policy and feedback was provided to the Constabulary.

Assault with injury – Adult Caution

Police were called to an address where the offender had assaulted the victim by punching him to the face. The victim refused to provide a statement and asked officers to leave his address. At the time of the incident the offender was on bail, and it was questioned whether the offender should have been given a caution if she was under investigation for another offence at the time of the incident. The supervisor should have allocated the multiple offences to one officer as this would have made it easier to identify the correct outcomes. Whilst the outcome was deemed to be appropriate and consistent

with policy, the Constabulary's Crime Registrar took this case forwards to highlight the need for IT development so that police systems flag up if a person is already under investigation for another crime.

Shoplifting – Community Resolution

This case involved a 22-year-old male who concealed alcohol whilst in a shop and was then detained prior to him leaving the shop. The offender admitted the offence. The offender had previous convictions and already had a community resolution for a similar offence. The panel noted that although the officer stated they had checked police systems and no previous convictions had been recorded, the offender was found to have previous convictions. The outcome was considered to be inappropriate and inconsistent with policy, and feedback was provided with regards to appropriate system checks.

Having an Article with a Blade or Point on School Premises – Youth Caution

A 14-year-old was found in possession of a kitchen knife at school. The rationale was very detailed with consideration being given to secondary vulnerabilities, learning difficulties (child and both parents), attitude, openness and previous compliance with Step Up intervention (child on adult violence within the family). Other agencies were consulted, and a Youth Offending Team intervention was required to educate the young person, especially around knife crime. This was considered to be a well thought out response with a proportionate and relevant outcome with positive feedback provided to the officers involved.

Stalking involving serious alarm/distress- Community Resolution

In this case the offender had made strange comments to the victim on a number of occasions including repeatedly saying "Go kill yourself" and asking her to marry him. The offender's comments made the victim feel distressed and uncomfortable, this matter was reported to police by the victim's college tutor. The victim did not wish to attend court, she was more concerned with the offender's mental health. When spoken to the offender confirmed the victim's account was true but stated he had not meant to cause alarm or distress, it was just his dark sense of humour. The comment "Go kill yourself" was often used as a sarcastic comment and he had not meant it literally. The offender was undertaking an autism diagnosis and was thought to misunderstand social cues. He wrote a letter of apology to the victim and would not seek further contact with her. The victim was happy with the outcome. This was a well-documented and proportionate response with all angles considered. It was considered a really good piece of work with this 17-year-old offender which should help him to not re-offend.

Common Assault and Battery- Community Resolution

An elderly disabled couple reported that they had been having issues for around 3 years with children in the woods behind their property. The children had repeatedly shouted obscenities and thrown stones towards the couple and their home. The victims were not harmed but shaken and fed up with the torrent of abuse which prevented them from enjoying their garden. They did not want to make any formal complaints but wanted the behaviour to stop as they felt intimidated when they went outside. The children were identified by their school and they admitted the behaviour to their teachers. The victims were consulted and agreed that Community Resolution would be the best outcome. Police went into the school to educate about the implications of this kind of behaviour. All the offenders' parents were spoken to as well as the children, the children wrote letters of apology which were delivered to the victims along with a bunch of flowers. The victims have had no further issues and have expressed their appreciation for the effort that went into resolving this situation. This crime was

flagged as a disability hate crime and was reviewed. This was considered to be an excellent outcome for everyone due to the restorative work that was undertaken.

Factors Contributing to an Inappropriate Disposal:

1. Cases not being submitted to CPS/YOS for advice.
2. Evidential difficulties in cases involving family members.
3. Rationale not reflecting the facts and issues of the offence.
4. Police systems not being thoroughly checked, or previously recorded information being missed.
5. Incorrect disposal recorded.
6. Incorrect disposal used when there was no admission of guilt, or other reason against policy.
7. Previous offences not being taken into account

Key findings of the Panel:

The victims were regularly consulted with their wishes being taken into consideration and were frequently happy with the outcomes achieved.

When restorative processes were undertaken the victims were more likely to be reassured and satisfied with police actions and the offenders were more likely to engage and be educated.

Officers recognised cases that might cause community tension and wider implications with work being taken to mitigate this.

Rationales were often very detailed and clear to understand with many of the outcomes being sensible and proportionate.

Many cases involved offenders and victims displaying signs of mental health issues, learning difficulties, autism, domestic abuse, CSE and toxic relationships etc. These were frequently referred to other agencies for support, and safeguarding reports were routinely submitted.

Other agencies were commonly consulted about individuals' previous history and any ongoing work.

Officers are not always referring on to programmes and interventions that are there to support and help.

For several cases, the panel considered that a conditional caution would have been more beneficial to allow interventions to take place with the offender in a more formal and recorded manner.

Cases were not always referred to CPS for advice when they should have been and some of the cases should have gone to court.

The checks on police systems were not always carried out accurately.

Covid had been a factor taken into consideration for several of the cases that were audited.

Recommendations:

The ongoing recommendations of the panel were:

1. Consider issuing Conditional Cautions:

In several cases simple adult cautions were issued where the panel considered that an opportunity had been missed and a conditional caution might have had a more far reaching impact. A conditional caution can be issued if the offence is suitable, and if the offender admits the offence and accepts the conditions. The victim may be consulted about use of this disposal, which puts an extra requirement onto an offender to either address the cause of their offending

or to apologise/compensate the victim. If the conditions are complied with within the timescales determined the case is finalised and there is no prosecution. If the conditions are not complied with then a prosecution may follow. The additional advantage of this disposal is that it is more victim focused enabling victims to cope and recover following an incident. Conditional Cautions often have a degree of reparation or education likely to reduce the likelihood of the offender re-offending.

2. Greater utilisation of Community Remedy:

Although this disposal has been used as a positive outcome for many recorded incidents, there were still occasions when Community Remedy and the wider options could have been utilised to have a constructive impact, especially for the victims of crime and anti-social behaviour. There is a greater knowledge, awareness and appreciation of this valuable work by the Constabulary, but this disposal still needs to be being promoted to ensure that officers consider this option as part of their decision-making process.

3. Maximising referrals to perpetrator/victim intervention programmes:

In some cases, opportunities to refer victims or offenders onto programmes that would assist them and reduce the likelihood of them coming to further police attention have not been taken. The panel are very aware that there are many prevention programmes or interventions in existence which are evaluated and monitored to ensure that they are well delivered, the outcomes are successful and that they provide value for money. In the fast-paced environment of the Constabulary, it was acknowledged that it would not always be easy for each officer to keep abreast of all the interventions that were available for them to refer persons on to. Officers should be encouraged and provided with the necessary mechanisms to refer perpetrators/victims onto early interventions programmes aimed at reducing the likelihood of re-offending and/or reducing an escalation in offending behaviour and violence.

As an addendum to the above recommendations, it is important to note that the Constabulary will be introducing a new adult out of court disposals framework in April 2021. The tender process is ongoing, but the following information has been shared as part of the market engagement event detailing the aims of the new framework-

- To implement the National Police Chiefs Council (NPCC) Out of Court Disposal (OoCD) strategy together with an early intervention offender management programme, providing a disposal framework in Cumbria named Pathways.
- Seeks to address the root cause of offending at an earlier stage of the 'offending journey' and address the consequences of their actions.
- Identifying **Critical Pathways** – Finance, Drugs, Alcohol, Employment, Health, Alcohol, Accommodation, DA, Relationships, Sexual exploitation.
- Prescriptive interventions to reduce the likelihood of reoffending.

- Pathways Support Workers will identify the root cause(s) of offending, refer to prescriptive interventions while addressing underlying vulnerabilities and/or issues with appropriate partner agencies.

Ethnicity and Gender Data:

National guidance recommendation:

Panels should ensure that there is examination of disproportionality with respect of OOCs issued to both BAME (Black, Asian, Minority & Ethnic) communities and females. This is to ensure greater transparency and trust that these are issued appropriately. Forces should ensure they undertake thematic reviews of these areas. These thematic panels should be held at least annually and should be properly documented since scrutiny panels may be asked to share this information periodically to inform national policy and operational practice.

Data reviewed covers the period 1/10/19 – 30/9/20

Figures quoted in the below tables include disposals not recognized as an '*Out of Court Disposal*', such as:

- 'Named suspect – not in the public interest',
- 'Formal action against the offender is not in the public Interest',
- 'Investigation complete – no suspect identified',
- 'Other agency delegation'

Ethnicity and Gender analysis has been conducted on disposals recognized as an '***Out of Court Disposal***', including cautions; Community Resolutions; PNDs; Cannabis Warnings, **and** '***Court***' disposals - Charge or summons, and TICs (Taken Into Consideration)

Overall:

There were 7117 crimes falling within the above categories of '*Court*' and '*Out of Court Disposal*'. *Out of Court Disposals* represented 34.77% of those disposals (2475) – up 4% on previous year.

Ethnicity

All resolved crimes:

(court and police disposals)

Count of CrimeNumber	Column Labels												Grand Total	% Total
	= 2019						= 2020							
Row Labels	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep		
White - British	426	535	526	534	562	575	455	536	483	419	505	524	6080	85.4%
White - Any Other White Background	5	23	6	4	8	32	19	9	10	8	10	8	142	2.0%
Mixed - Any Other Mixed Background		2		2	1	4	1		1		2		13	0.2%
Asian - Any Other Asian Background			1	3	3	1	2	1		5	2	4	22	0.3%
Other - Any Other Ethnic Group				3		3	3	2		4	1	1	17	0.2%
Black - Any Other Black Background	2			6	1	3	4	2	1		7	3	29	0.4%
White - Irish	1	2	1		4	3	5	4	2		1	4	27	0.4%
Black - African	1				1	2		2	1		5	1	13	0.2%
Mixed - White and Asian	1	1					1		2		1		6	0.1%
Mixed - White and Black Caribbean					1		2	1		1			5	0.1%
Asian - Bangladeshi										1			1	0.0%
Asian - Pakistani			1	3	2								6	0.1%
Black - Caribbean			3										3	0.0%
Mixed - White and Black African	2								1				3	0.0%
Not Stated	50	63	57	63	52	70	70	65	50	53	82	75	750	10.5%
Grand Total	488	626	595	618	635	693	562	622	552	490	616	620	7117	100%

Total court disposals:

4590 of which 210 were non-white British = 5.02% of the identified ethnic groups (excludes not stated)

Row Labels	Count of CrimeNumber
White - British	3970
White - Any Other White Background	112
Mixed - Any Other Mixed Background	11
Asian - Any Other Asian Background	14
Other - Any Other Ethnic Group	10
Black - Any Other Black Background	25
White - Irish	19
Black - African	4
Mixed - White and Asian	2
Mixed - White and Black Caribbean	4
Asian - Bangladeshi	1
Asian - Pakistani	3
Black - Caribbean	3
Mixed - White and Black African	2
Not Stated	410
Grand Total	4590

Total out of court disposals:

2475 of which 74 were non-white British = 3.46% of the identified ethnic groups (excludes not stated)

Row Labels	Count of CrimeNumber
White - British	2065
White - Any Other White Background	30
Mixed - Any Other Mixed Background	2
Asian - Any Other Asian Background	8
Other - Any Other Ethnic Group	6
Black - Any Other Black Background	3
White - Irish	8
Black - African	9
Mixed - White and Asian	3
Mixed - White and Black Caribbean	1
Asian - Pakistani	3
Mixed - White and Black African	1
Not Stated	336
Grand Total	2475

Not stated:

There are two markers on a crime report – Ethnic appearance, and ethnic description;

The description marker is that detailed in this report as it defines more accurately the offender ethnic origins; The 'appearance' marker is stated in 93.5% of Out of Court Disposal cases, but officers fail to complete the description marker on a larger number of such disposals than charged offenders, which 'may' account for some of the disparity identified above. 13.57% of the out of court disposal cohort is listed as 'not stated' against 8.93 % of the court disposals.

In the four 'appearance' categories - 'Asian', 'Black', 'Chinese, Japanese or other South East Asian' and 'Middle East', there were 83 offenders charge (1.8%) and 40 who received an Out of Court Disposal (1.6%)

Gender:**All resolved crimes:**

Court and police disposals

Male = 77.2%

Female = 22.8%

Not specified or unknown = 0.06%

Count of CrimeNumber	Column Labels				
Row Labels	Male	Female	Not Specified	Unknown	Grand Total
- 2019					
Oct	358	130			488
Nov	487	139			626
Dec	419	175		1	595
2020					
Jan	489	128		1	618
Feb	484	150	1		635
Mar	537	156			693
Apr	467	95			562
May	495	127			622
Jun	422	130			552
Jul	367	122		1	490
Aug	485	131			616
Sep	483	137			620
Grand Total	5493	1620	1	3	7117

Total court disposals:

Male = 3726 (81.2%)

Female = 862 (18.8%)

- 2019					
Oct	237	52			289
Nov	345	86			431
Dec	274	110			384
2020					
Jan	303	64			367
Feb	338	86	1		425
Mar	364	70			434
Apr	320	47			367
May	342	66			408
Jun	303	75			378
Jul	239	70		1	310
Aug	325	71			396
Sep	336	65			401
Grand Total	3726	862	1	1	4590

Total out of court disposals:

Male = 1725 (69.7%)

Female = 748 (30.2%)

Count of CrimeNumber	Column Labels			
Row Labels	Male	Female	Unknown	Grand Total
- 2019				
Oct	121	77		198
Nov	139	52		191
Dec	144	65	1	210
- 2020				
Jan	183	63	1	247
Feb	145	64		209
Mar	163	85		248
Apr	145	48		193
May	150	58		208
Jun	116	53		169
Jul	121	52		173
Aug	157	59		216
Sep	141	72		213
Grand Total	1725	748	2	2475

Conclusion:

Whilst the panel are cognisant of the implications of conducting dip samples on a small number of cases, the percentage of cases overall that were deemed that have appropriate disposals complying with policy was slightly lower than the previous year, with this trend also applying to adult cautions. Correspondingly the percentage of cases considered to have an inappropriate disposal that was inconsistent with policy showed a fractional increase. It must be highlighted that this is not a true representation of all out of court disposals outcomes in Cumbria as the panel has sought to focus on high risk areas of business. For every case considered by panel, the main discussion points are fed back to the officers involved in the process. This enables officers and their supervision to either learn where improvements could be made, or to receive praise and acknowledgement of a job well done. Learning from panel is regularly cascaded throughout the organisation to assist officers in their decision making.

The use of appropriate community resolutions showed an improvement on previous years, but panel considered that it could have been used in more cases that received alternative disposals giving a greater positive impact on both the victim and the offender and reducing the demands on police time. Panel also considered that in several cases a conditional caution would have been a more effective disposal than a simple adult caution. There were many examples of multi-agency working, support programmes and vulnerabilities being addressed in a highly professional manner with good outcomes for all involved parties and often their families. These types of interventions are being promoted through the constabulary as highly beneficial and should be embedded into normal policing procedures and recognised as best practice.

Youth conditional cautions were audited as 100% appropriate and compliant once more which reflects the hard work and commitment by the officers and the organisation as a whole.

The Out of Court Disposal Scrutiny panel continues to operate effectively providing visible robust scrutiny by an engaged and credible panel which supports improvements to front line practice.

Annexe A - Terms of Reference: