

Stop and search in Scotland: A post reform overview Scrutiny and accountability

Kath Murray
University of Edinburgh
June 2015

Contents

EXECUTIVE SUMMARY	4
<i>Structure of Scottish policing</i>	5
<i>Data quality and limitations</i>	6
KEY FINDINGS	7
PART 1. STOP AND SEARCH: KEY SCOTTISH TRENDS	9
1.1 <i>Ten year overview: 2005-6 to 2014-15</i>	9
1.2 <i>Post-reform: the national perspective</i>	10
1.3 <i>Post-reform: the local perspective</i>	11
1.4 <i>National and local summary</i>	14
1.5 <i>Post-reform: the comparative perspective</i>	15
PART 2. WHY ARE STOP AND SEARCH RATES IN SCOTLAND SO HIGH?	17
2.1 <i>Performance management</i>	17
2.2 <i>Under-regulation</i>	17
2.3 <i>Scrutiny and accountability</i>	18
PART 3. NON-STATUTORY STOP AND SEARCH	19
3.1 <i>Informed consent</i>	19
3.2 <i>Legality</i>	20
3.3 <i>Post-reform: non-statutory stop and search trends</i>	21
3.4 <i>'London style' policing</i>	24
PART 4. POLICING YOUNG PEOPLE	24
4.1 <i>Age-distribution of stop and search: pre and post-reform</i>	24
4.2 <i>Policing young people: geographical variation</i>	26
4.3 <i>Non-statutory stop and search and young people</i>	27
4.4 <i>Policing young people: summary</i>	29
CONCLUSION	29
<i>References</i>	31

List of Figures

Figure 1. Stop and search in Scotland, per 1,000 people, 2005/6 to 2014/15	9
Figure 2. Number of recorded stop searches: April 2013 to February 2015.....	10
Figure 3. Number of recorded stop searches, West region, April 2013 to March 2015.....	10
Figure 4. Number of recorded stop searches, East & North region, April 2013 to March 2015	11
Figure 5. Indexed stop and search by Division (West region) April 2014 to February 2015.....	13
Figure 6. Indexed stop and search by Division (East region) April 2014 to February 2015	13
Figure 7. Indexed stop and search by Division (North region) April 2014 to February 2015.....	13
Figure 8. Number of statutory and non-statutory searches, April 2013 to February 2015.....	21
Figure 9. Number of non-statutory searches, West region, April 2013 to February 2015	22
Figure 10. Number of non-statutory searches, East & North region, April 2013 to February 2015	22
Figure 11. Proportional use of non-statutory stop and search per Division, 2013/14, 2014/15	23
Figure 12. Number of stop searches by age; detection by age (%) 2010 (Legacy forces)	25
Figure 13. Number of stop searches by age; detection by age (%) 2013/14.....	25
Figure 14. Number of stop searches by age; detection by age (%) 2014/15.....	25
Figure 15. Age-spread (%) of stop and search, West region, 2014/15	26
Figure 16. Age-spread (%) of stop and search, East region, 2014/15.....	26
Figure 17. Age-spread (%) of stop and search, North region, 2014/15	26

List of Tables

Table 1. Stop and search in Scotland, by Division 2012/13, 2013/14, 2014/5	12
Table 2. Stop and search per 1,000 population, Scottish Divisions (2014/15), England/Wales forces (2013/14).....	16
Table 3. Geographical distribution of non-statutory searches across Scotland, by Division 2013/4, 2014/15	23
Table 4. Proportion of non-statutory searches; search rate per 1,000, by age-group, 2014/15	28
Table 5. Proportion of non-statutory searches; search rate per 1,000 12- 17 year olds, 2014/15.....	28

Copyright Notice

Kath Murray has asserted her right under the Copyright, Design and Patents Act, 1988 to be identified as the author of this work. Permission is granted to reproduce any part or all of this report for personal and educational use only. Commercial copying, hiring or lending is prohibited.

Copyright © Kath Murray 2015

Executive Summary

This report examines police stop and search practice in the first two years of Police Scotland, following the amalgamation of the eight Scottish forces under the Police and Fire Reform (Scotland) Act 2012 in April 2013.

The report follows on from an earlier evaluation of stop and search published by the *Scottish Centre for Crime and Justice Research* which examined police practice between 2005 and 2010 (Murray, 2014). This found that by 2010, search rates in Scotland were around four times higher than in England and Wales; that seventy per cent of recorded searches were undertaken without reasonable suspicion; and that searches were disproportionately targeted towards young people in some parts of Scotland.

Since its publication, the use of stop and search in Scotland has been subject to an unprecedented degree of media and political attention. Yet despite this spotlight, relatively little is known about police practice in the post-reform period. A Scrutiny Review report by the Scottish Police Authority published in May 2014 provided a snapshot of police practice in the first nine months of Police Scotland. Further cross-sectional data were provided in a review by HM Inspectorate of Policing in Scotland (HMICS, 2015b), and some statistics have been published in the media.

Nonetheless, the story seems confused. On the one hand, Police Scotland Executives have pointed to a fall in searches in the post-reform period (e.g. Herald 9/4/15). On the other hand, officers have expressed concerns in relation to a disproportionate focus on stop and search, and pressure to increase the numbers of searches (HMICS, 2015a; 32, 2015b; 54). One of the objectives in this report is to untangle these different interpretations.

The report examines police practice from three perspectives: national; local and comparative. At the **national** level, the trends seem encouraging. In the first two years of Police Scotland, the overall number of recorded searches fell by 38%. The number and proportion of non-statutory searches has fallen, and the overall trend in relation to young people is positive. In 2014/15, the number of recorded searches on sixteen year olds fell by 39% from the previous year.

At the **local** level, the picture is mixed. The overall fall in searches was underpinned by the five ex-Strathclyde Divisions. These Divisions accounted for 83% and 81% of all recorded searches in 2013/14 and 2014/15 respectively. This means that the national picture was not necessarily representative of police practice in the remaining nine Divisions. For example, the use of non-statutory search and the proportion of searches carried out on young people varied considerably across Scotland.

Taking a **comparative** perspective, search rates remain stubbornly high, over and above what might be expected in a small country with relatively low rates of recorded crime. Looking across the 43 forces in England/Wales and the 14 Scottish Divisions, Scottish Divisions accounted for seven of the ten highest ranking Divisions and forces,

REPORT No. 6 /2015 Stop and search in Scotland: A post-reform update

with the ex-Strathclyde Divisions taking the top five places. Search rates were also comparatively high in other parts of Scotland. For example, in 2014/15, the per capita search rate in Tayside was higher than London.

The analysis shows how police practice can be viewed in different ways, each equally valid. This means that precedence should not be given to one outlook over another. Whilst the national picture appears positive, this does not necessarily reflect local policing in Scotland. Nor does the national trend reflect the fact that search rates in Scotland remained unduly high in the first two years of Police Scotland.

The report suggests that stop and search rates in Scotland may be attributed to a combination of strict performance management, weak regulation, and to a lack of scrutiny and accountability prior to reform. By the same token, the recent fall in recorded searches can be linked to increasing levels of political and media scrutiny in the post-reform period.

On the one hand, this engagement is both welcome and overdue. Prior to the formation of the single service the use of stop and search was not openly accounted for and remained beyond public scrutiny. On the other hand, the degree of critical attention directed towards Police Scotland has destabilized the single service at a time of huge structural change. The report concludes that one of the key challenges therefore is to make the use of stop and search formally accountable. That is, to establish robust governance processes that provide transparency, and ensure that the use of stop and search, and other key powers, are subject to rigorous scrutiny and monitoring.

Structure of Scottish policing

Between 1975 and March 2013, Scottish policing was structured as eight forces (now referred to as ‘legacy’ forces). These were Strathclyde, Lothian and Borders, Central, Fife, Tayside, Northern, Grampian and Dumfries and Galloway. The largest legacy force, Strathclyde, accounted for 43% of the Scottish population. On 1 April 2013, the Police Service of Scotland (known as Police Scotland) was established under the Police and Fire Reform (Scotland) Act 2012. Police Scotland is currently structured into three regions (West, East, North), which are sub-divided into fourteen Divisions. The regions and Divisions are shown below, with the corresponding legacy force in brackets.

West	East	North
Greater Glasgow (<i>Strathclyde</i>)	Edinburgh (<i>Lothian & Borders</i>)	Tayside (<i>Tayside</i>)
Argyll & W. Dunbartonshire (<i>Strathclyde</i>)	The Lothians & Scottish Borders (<i>Lothian & Borders</i>)	Aberdeenshire & Moray (<i>Grampian</i>)
Ayrshire (<i>Strathclyde</i>)	Fife (<i>Fife</i>)	Aberdeen City (<i>Grampian</i>)
Renfrewshire & Inverclyde (<i>Strathclyde</i>)	Forth Valley (<i>Central</i>)	Highland and Islands (<i>Northern</i>)
Lanarkshire (<i>Strathclyde</i>)		
Dumfries & Galloway (<i>Dumfries & Galloway</i>)		

Data quality and limitations

This paper is based on three main data sources: data accessed by the Freedom of Information (Scotland) Act (FOISA); data published by Police Scotland (2014, 2015a); and England/Wales statistics published by the Home Office. Both the Police Scotland and Home Office data are available online.¹ Population estimates are based on National Records of Scotland (NRS) Mid-2014 Population Estimates Scotland.²

The Police Scotland data comes with a very strong health warning. In March 2015, HMICS stated that they had no confidence in Police Scotland data (2015b; 5). The Inspectorate observed that counting rules were unclear and the recording process inconsistent, concluding that the 'dataset should not be relied upon to make informed decisions about future policy and practice in Scotland until an accurate baseline is established' (ibid.). However, Police Scotland data was used to inform the HMICS report; moreover it is the only data available. It also seems unacceptable that police practice in the first two years of the single service cannot be accounted for.

Taking these observations into account, the report provides a very broad brush overview of stop and search trends in the first two years of Police Scotland, with a view to ascertaining the general direction. It does not include detailed or small-scale analyses. The additional caveats should also be noted.

Data caveats

- Police Scotland data cover the period 1 April 2013 to 22 March 2015 (nine days short of the full year). All references to 2014/15 (year two) data should be caveated with this nine day shortfall.
- Due to Police Scotland recording practices, data on alcohol searches also include confiscations under section 61 of the Crime and Punishment (Scotland) Act 1997 which may not necessarily involve a physical search. In March 2015, HMICS recommended that alcohol searches and confiscations should be recorded separately (2015b; 44).
- Stop and search data from the eight legacy forces were provided by calendar rather than financial year. To allow comparison with England/Wales in the legacy period (see Figure 2), Scottish data are shown in terms of the nearest financial year. For example, Scottish 2005 data is compared with 2005/6 data from England and Wales.
- England/Wales stop and search data are available up to 2013/14. These data are designated Official Statistics and published annually in April, covering the previous financial year. Police Scotland statistics are management data, and available up to 2014/15.

¹ Police Scotland data are available at: <http://www.scotland.police.uk/about-us/police-scotland/stop-and-search-data-publication>

England/Wales data are available at: <https://www.gov.uk/government/publications/police-powers-and-procedures-england-and-wales-year-ending-31-march-2014/police-powers-and-procedures-england-and-wales-year-ending-31-march-2014>

² Mid-2014 population estimates: <http://www.nrscotland.gov.uk/statistics-and-data/statistics/statistics-by-theme/population/population-estimates/mid-year-population-estimates/mid-2014/list-of-tables>

Key findings

National overview

- In the first year of Police Scotland (2013/14), the total number of recorded searches fell by 6% from the previous year. In the second year (2014/15), recorded searches fell by 34% from the previous year.
- In the first year of Police Scotland, 642,643 searches were recorded. In the second year, 426,404 searches were recorded.
- National trends were largely driven by the five ex-Strathclyde Divisions.³ These Divisions accounted for 83% of all recorded searches in 2013/4, and 81% in 2014/15.
- The five ex-Strathclyde Divisions accounted for 86% of the overall fall in recorded searches between 2013/14 and 2014/15. The Greater Glasgow Division alone accounted for 44% of the overall fall.
- The fall in recorded searches does not appear to have had an adverse effect on police-recorded crime.

Local overview

- Despite the overall fall in recorded searches in the first year of Police Scotland, search rates *increased* in 10 Divisions. In the second year, search rates fell in all Divisions, albeit inconsistently.
- Over the first two years of Police Scotland, recorded search rates fluctuated sharply in many Divisions.
- Some fluctuations, for example, parallel trends in different Divisions, appeared to be driven by organizational factors rather than offending or intelligence factors alone.

Comparative overview

- In 2014/15, seven of the ten highest ranking forces and Divisions in Britain were Scottish. The top five places were held by ex-Strathclyde Divisions.
- In 2014/15, the per capita search rate in Tayside (37 per 1,000 population) was higher than the Metropolitan Police (35 per 1,000 population).

Explaining stop and search trends

- High search rates may be linked to a combination of strict performance management, weak regulation, and to a lack of accountability and scrutiny in the pre-reform period.
- The post-reform fall in searches may be linked to intense media and political scrutiny following the move to the single service.

³ Greater Glasgow; Lanarkshire; Ayrshire; Renfrewshire & Inverclyde; Argyll & West Dunbartonshire

Non-statutory stop and search⁴

- The legality of non-statutory stop and search remains unclear.
- Between the first and second year of Police Scotland, the number of recorded non-statutory searches fell by 40%, from 450,173 to 271,704.
- In April 2013, 69% of recorded searches were non-statutory. By March 2015 this proportion had dropped to 47%.

Policing children and young people

- In the first year of Police Scotland (2013/14), 47,445 searches were recorded on sixteen year olds. Of these, 39,027 (82%) were on boys. This figure is higher than the resident population of sixteen year old boys in Scotland (30,657).
- Between the first and second year of Police Scotland, the overall number of recorded searches on sixteen year olds fell by 39%, from 47,455 to 28,808.
- The age-spread of stop and search varied across Scotland. In the West, 7% of recorded searches fell on sixteen year olds in 2014/15, compared to 4.2% in the North.
- In 2014/15, there were 8,831 recorded searches on sixteen year olds in Glasgow. This figure is higher than Glasgow's resident population of sixteen year olds (6,065).
- In 2014/15, 72% of recorded searches on 12 to 17 years olds were non-statutory, compared to 57% of recorded searches on 30 to 35 year olds.
- In 2014/15, 75% of recorded searches on fourteen year olds were non-statutory.

Police powers: accountability and scrutiny

- Accountability for stop and search is improving. However there are gaps in relation to the use of other police powers.
- No data are available on the use of detention, arrest, road checks, intimate searches, strip searches⁵ or breath tests. These data are openly available in England and Wales, with the exception of strip searches.⁶
- The findings suggest that Police Scotland, the Scottish Police Authority and the Scottish Government should establish robust governance mechanisms in relation to the use of police powers.

⁴ A non-statutory stop and search is premised on verbal consent. It is not backed by legal authority and does not require reasonable suspicion. The use of non-statutory stop and search is examined in part two.

⁵ A strip search is any search that involves the removal of an article of clothing that is being worn (wholly or partly) on the trunk and is worn either next to the skin or an article of underwear. An intimate search is one involving a physical examination of a person's body orifices (Scottish Government, 2013; 12)

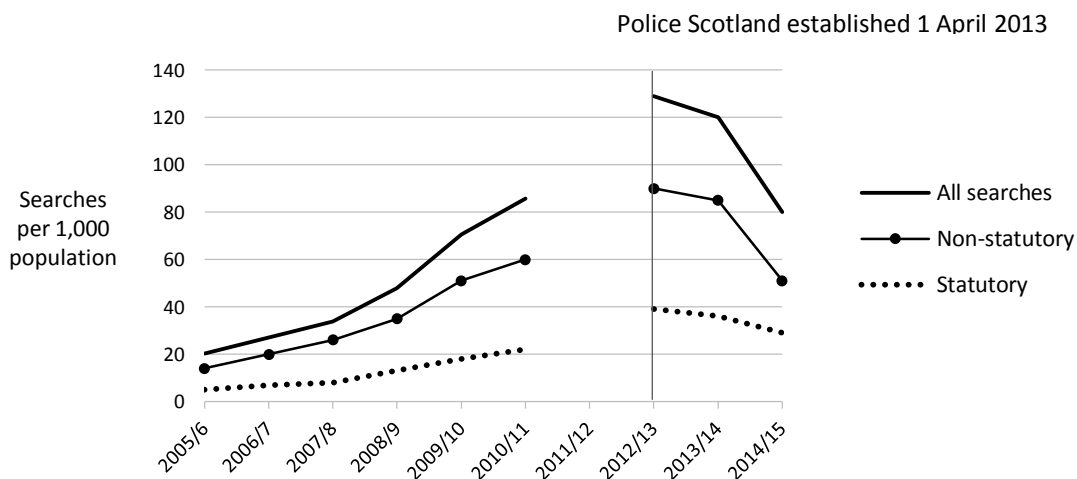
⁶ See: <https://www.gov.uk/government/publications/police-powers-and-procedures-england-and-wales-year-ending-31-march-2014/police-powers-and-procedures-england-and-wales-year-ending-31-march-2014>

Part 1. Stop and search: Key Scottish trends

1.1 Ten year overview: 2005-6 to 2014-15

In order to put the post-reform period in context, **Figure 1** maps out recorded stop and search rates over a ten year period. Trends are shown for overall, statutory and non-statutory search rates per 1,000 people between 2005/6 and 2014/15, according to data availability. The missing 2011/12 data illustrates the accountability deficit prior to reform. The vertical line marks the move to Police Scotland in April 2013.

Figure 1. Stop and search in Scotland, per 1,000 people, 2005/6 to 2014/15



Sources: FOISA (2005/6 to 2010/11); Police Scotland, 2015a

1. No data were available for 2011/12
2. Population calculations based on ONS Mid-year estimates, 2005/6 to 2012/13
3. Dumfries and Galloway and Fife were unable to provide data between 2005/6 and 2009/10. Tayside was unable to provide data between 2005/6 and 2008/9. In the years for which these three forces provided data, they accounted for 2 to 3 per cent of all searches in Scotland. This suggests their omission is unlikely to affect the overall trend.

Figure 1 shows an increase in recorded search rates from 2005/6 onwards. The search rate appears to peak in 2012/13 (although it is possible that search rates in 2011/12 exceeded this). Searches rates fell in the first two years of Police Scotland; by 6% in year one, and by 34% in year two. The overall drop over the two year period was 38%.

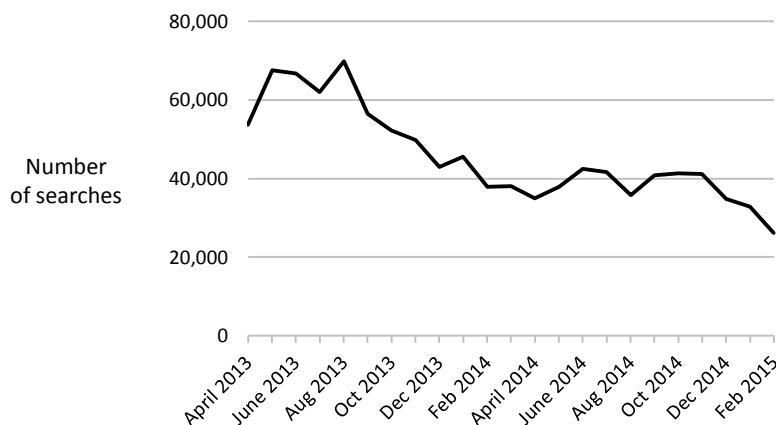
The pre-reform upward trend was largely driven by the increasing use of non-statutory stop and search, which rose from 14 searches per 1,000 people in 2005/6, to around 90 searches per 1,000 people in 2012/13. The rate of statutory stop and search also rose, from 5 searches per 1,000 people in 2005/6, to 39 searches per 1,000 in 2012/13.

The overall drop in recorded searches over the first two years of Police Scotland resulted from a 43% fall in the number of non-statutory searches, and a 26% fall in the number of statutory searches.

1.2 Post-reform: the national perspective

Below, **Figure 2** shows the post-reform fall in recorded searches on a monthly basis.

Figure 2. Number of recorded stop searches: April 2013 to February 2015



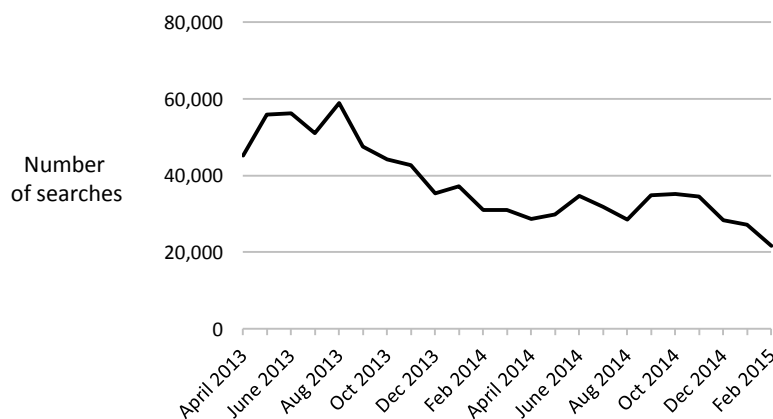
Source: Police Scotland, 2015a

Figure 2 reveals a more variable trend than **Figure 1**. In the first two months of Police Scotland, the monthly number of recorded searches increased by 26%, from 53,741 in April 2013, to 67,532 in May 2013. The number of recorded searches peaked in August 2013 at 69,883, and fell thereafter, albeit inconsistently.

Over the two year period, the number of recorded per month searches fell by 51%, from 53,741 searches in April 2013, to 26,202 in February 2015.

Below, **Figures 3 and 4** unpack the trend at the regional level (West, East and North).

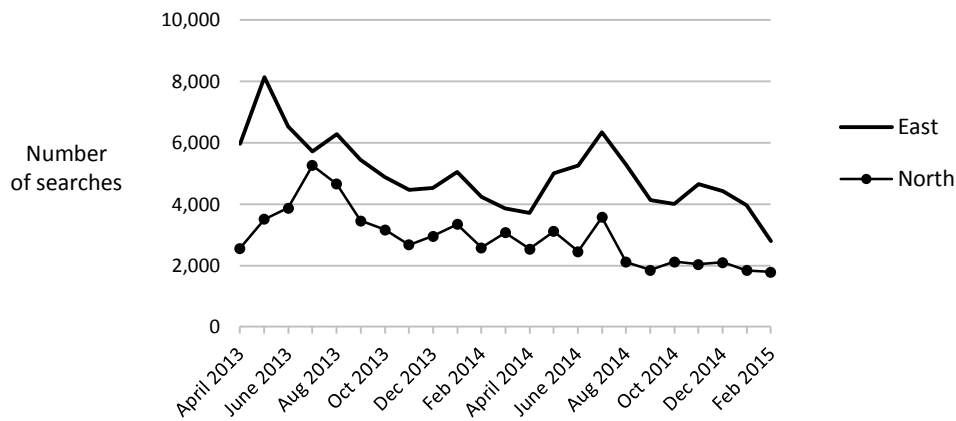
Figure 3. Number of recorded stop searches, West region, April 2013 to March 2015



Source: Police Scotland, 2015a

REPORT No. 6 /2015 Stop and search in Scotland: A post-reform update

Figure 4. Number of recorded stop searches, East & North region, April 2013 to March 2015



Source: Police Scotland, 2015a

Figure 3 shows that the number of searches recorded per month in the West more than halved between April 2013 and February 2015, from 45,211 to 21,617. Note also the almost identical patterning shown in **Figure 2** (all recorded searches) and **Figure 3** (recorded searches in the West).

Figure 4 shows a less consistent downward trend in the East. The number of searches recorded per month peaked in May 2013, at 8,131 and fell unevenly, with a sharp increase between April and July 2014. In February 2015, 2,803 searches were recorded.

In the North, the number of recorded searches peaked in July 2014 at 5,257, fell variably until August 2014, and then plateaued at around 2,000 searches per month. **Figure 4** also reveals that the patterning of searches in the East and the North was very similar between August 2013 and August 2014

These data suggest first, that the overall downward trend was principally driven by policing in the West (which incorporates the legacy Strathclyde force). Second, the drop was not felt evenly across Scotland. And third, the downward trend was prone to sharp fluctuations in some areas. The parallel trends in the East and North are particularly striking, and suggest that police practice was influenced by organizational factors, rather than local offending or intelligence factors alone.

1.3 Post-reform: the local perspective

Following the move to Police Scotland, critical attention focused on the roll-out of a high-volume, legacy Strathclyde approach to stop and search, underpinned by targets and key performance indicators. For example, HMICS observed that officers in some areas felt pressurized to undertake searches (2014a; 42, 57; 2015b; 55).

These observations, which at first glance appear to run counter to the national trend, are supported by Divisional data shown in **Table 1**.

REPORT No. 6 /2015 Stop and search in Scotland: A post-reform update

Table 1. Stop and search in Scotland, by Division 2012/13, 2013/14, 2014/5

Division	2012/13		2013/14 (Year One)			2014/15 (Year Two)		
	No. searches	Searches per 1,000	No. searches	% change from 12/13	Searches Per 1,000	No. searches	% change from 13/14	Searches Per 1,000
Greater Glasgow	327,280	410	247,414	-24	310	152,577	-38	191
Ayrshire	94,301	254	99,082	+5	267	53,603	-46	144
Renfrewshire and Inverclyde	62,305	245	61,104	-2	240	47,935	-22	189
Argyll & W. Dumbartonshire	32,280	182	26,287	-19	148	19,454	-26	110
Lanarkshire	97,004	148	99,506	+3	152	73,019	-27	112
Dumfries and Galloway	16	0	3,110	+19,319 ⁷	21	2,128	-32	14
Edinburgh	21,031	43	29,767	+42	60	24,147	-19	49
Lothian and Scottish Borders	14,594	30	16,157	+11	34	11,298	-30	24
Forth Valley	7,428	25	9,141	+23	30	6,080	-33	20
Fife	1,740	5	9,987	+474	27	9,523	-5	26
Tayside	9,960	24	22,999	+131	56	15,342	-33	37
Aberdeen City	6,444	28	8,954	+39	39	5,917	-34	26
Highlands and Islands	5,895	19	5,553	-6	18	2,884	-48	9
Aberdeenshire and Moray	2,690	8	3,582	+33	10	2,497	-30	7
Total	682,968	129	642,643	-6	120	426,404	34	80

Source: Police Scotland, 2014a, 2014b, 2015a; NRS Mid-2014 Population Estimates Scotland.

In the first year of Police Scotland (2013/14), there were 40,325 fewer searches compared to 2012/13, a fall of 6%. However, **Table 1** shows that recorded searches *increased* in ten out of the fourteen Divisions, from a 5% increase in Ayrshire, to a 474% increase in Fife.⁷ These increases may also reflect changes in recording practices.

Aside from the Highland and Islands, only three Divisions saw a fall in recorded searches in 2013/14. These were all located in the legacy Strathclyde region (Greater Glasgow; Argyll & West Dunbartonshire, Renfrewshire & Inverclyde). In Greater Glasgow, there were 79,866 fewer searches compared to 2012/13. This figure was nearly double the overall drop in recorded searches.

In 2014/15, the number of searches fell by 216,239 from the previous year. Again, this was dominated by ex-Strathclyde Divisions⁸, which accounted for 86% of the overall fall, with the Greater Glasgow Division alone accounting for 44% of the overall fall. Whilst recorded search levels fell in all Divisions in 2014/15, the trends were complicated.

⁷ The 19,319% increase in Dumfries & Galloway reflects under-recording in 2012/13 and should be ignored.

⁸ Greater Glasgow; Lanarkshire; Ayrshire; Renfrewshire & Inverclyde; Argyll & West Dunbartonshire

REPORT No. 6 /2015 Stop and search in Scotland: A post-reform update

Figures 5 to 7 show Divisional data over a 23 month period. The data are indexed (calculated from a common base to allow comparison) and grouped by region.

Figure 5. Indexed stop and search by Division (West region) April 2014 to February 2015

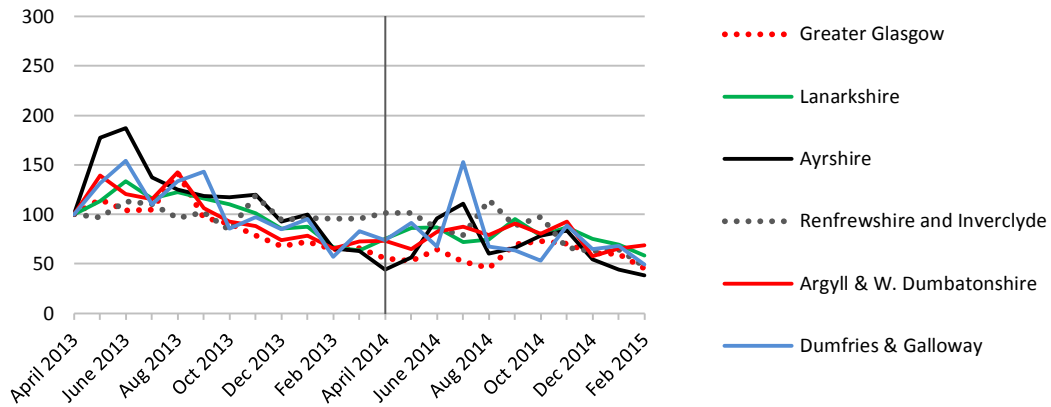


Figure 6. Indexed stop and search by Division (East region) April 2014 to February 2015

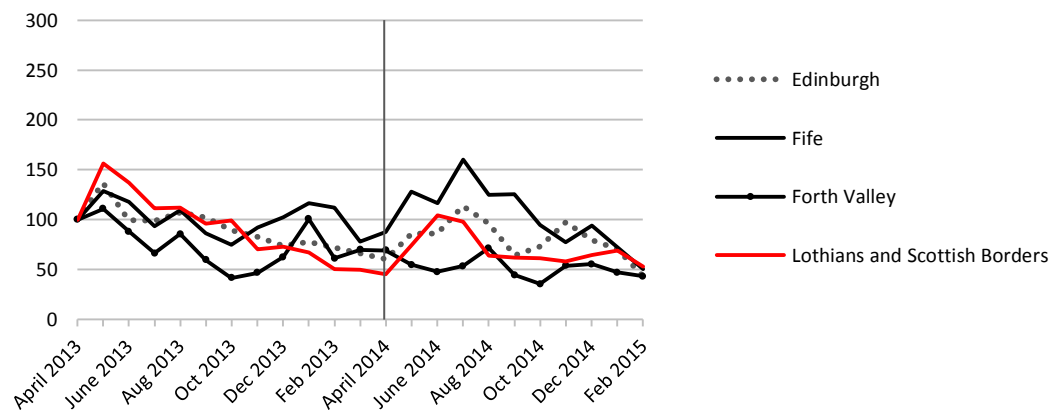
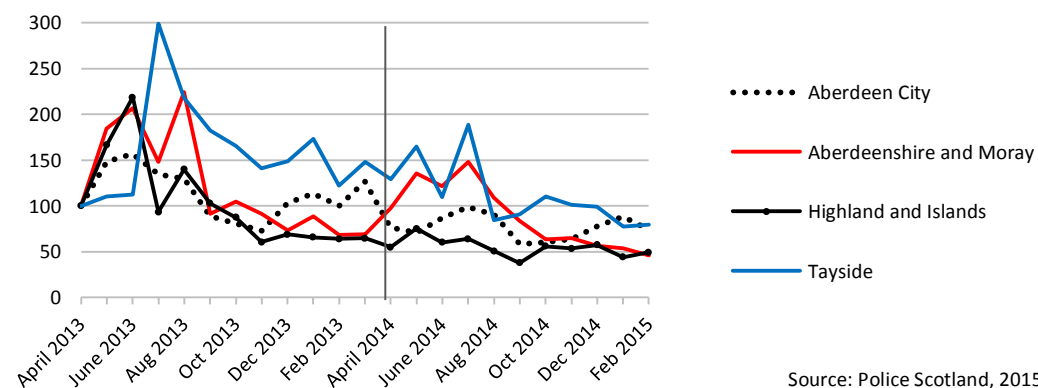


Figure 7. Indexed stop and search by Division (North region) April 2014 to February 2015



Source: Police Scotland, 2015a

Figure 5 shows that in the West, recorded searches fell in all Divisions in the first year of Police Scotland (2013/14). In the second year (2014/15) search levels in the West dropped further, although the trends were much less pronounced and marked by multiple spikes.

Figure 6 shows fluctuating downward trends in the East in 2013/14. In 2014/15, there was a less pronounced downward trend in three Divisions, and a slight increase in the Lothians and Scottish Borders. There were also sharp increases across 2014/15, notably in Fife, which may relate to the Fife pilot on stop and search, which ran between July 2014 and February 2015.⁹

Figure 7 shows that the downward trend in the North fluctuated sharply across the two year period, particularly in Tayside and Aberdeenshire & Moray.

1.4 National and local summary

Taking an overview, there are two stories here, both equally valid. At the national level, search rates fell in the first two years of Police Scotland. However, this overarching trend was dominated by the huge proportion of searches recorded in the five ex-Strathclyde Divisions, which accounted for 83% of all recorded searches in 2013/14, and 81% in 2014/15. These five Divisions accounted for 86% of the overall drop between the first and second year of Police Scotland, with the Greater Glasgow Division alone accounting for 44% of the overall drop.

At the local level, the direction was less consistent. Search rates increased in most Divisions in the first year of Police Scotland, particularly in areas which used the power sparingly prior to reform, or previously under-recorded searches. In the second year, search rates dropped across all Divisions, however the fall was uneven and marked by sharp fluctuations.

This suggests that the overarching fall in recorded searches was not necessarily representative of policing nationally. In other words, it did not reflect the experiences of front-line officers or the experiences of the public in some parts of Scotland. The parallel trends in some Divisions, such as the spike in summer 2014, suggest that police practice was influenced by organizational factors, rather than offending or intelligence factors alone.

The overall post-reform fall in recorded searches may be linked to an unprecedented degree of media attention and increasing political scrutiny. By contrast, in the pre-reform era, media interest was limited and political engagement negligible. As one senior officer commented, stop and search was viewed as a “*non-issue*” (Murray, 2014; 1). The fall may also reflect changes in recording practices, for example, a reduction in over-recording in year two, which can be linked to increasing scrutiny.

Police Scotland management data suggest that the overall reduction in recorded searches does not appear to have had an adverse impact on recorded offending. This is consistent with the observation that there is a lack of robust evidence to support a causal relationship between search rates and offending levels (Scottish Police Authority, 2014; 17, HMICS, 2015b; 47).

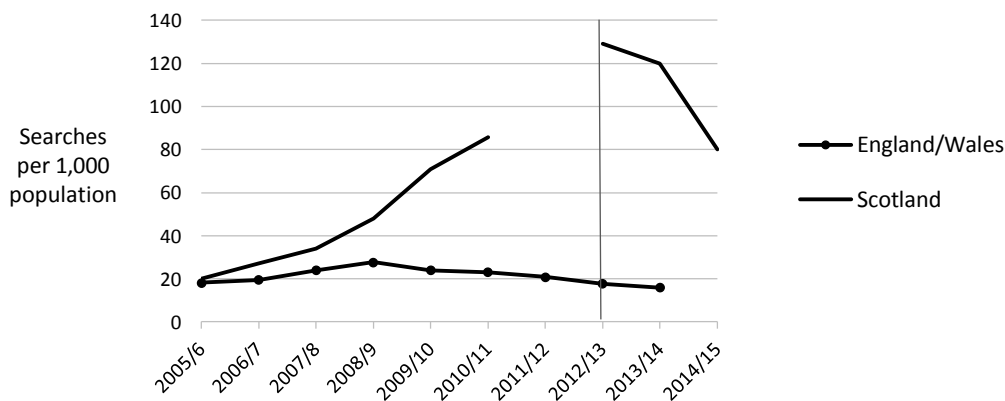
⁹ See: <http://www.dundee.ac.uk/news/2014/dundee-and-napier-researchers-to-evaluate-stop-and-search-pilot-.php>

1.5 Post-reform: the comparative perspective

Extending the analysis beyond Scotland, search rates remained high in the first two years of Police Scotland. To put Scottish trends in context, **Figure 8** compares overall search rates in Scotland with those in England and Wales, according to data availability.

These data are based on all recorded stop searches recorded in both jurisdictions. Despite different legal systems, the use of stop and search in England/Wales and Scotland is underpinned by broadly similar legislation, with the notable exception of non-statutory stop and search in Scotland. Approximately half the powers available to officers in Scotland are UK wide, and the remaining powers are substantively similar (Lennon and Murray, 2015).

Figure 8. Stop and search in Scotland, England/Wales per 1,000 people, 2005/6 to 2014/15



Source: FOISA (2005/6 to 2010/11); Police Scotland, 2015a; Home Office, 2015 (Table SS.01 Stops and searches in England and Wales [excluding British Transport Police] by legislation).

Notes: See Fig. 1. There is a 3 month time lag in the England/Wales and Scotland data between 2005 and 2010.

Figure 8 reveals that from a position of parity in 2005/6, by 2012/13 the overall search rate in Scotland was seven times higher than England and Wales. From this exceptionally high base-line, the gap then began to narrow. In 2014/15, search rates in Scotland were approximately four times higher than those in England and Wales in the nearest comparable period (2013/14). To regain parity with England/Wales, the number of searches in Scotland would need to fall to around 85,000 per year.

This divergence is striking given the similarities in offending trends between the two jurisdictions. Scottish police recorded crime and the Scottish Crime and Justice Survey (which measures self-reported victimization) indicate that overall crime and violent crime has fallen since the early 1990s. In England and Wales, a similar trend is evidenced by police-recorded crime and the Crime and Justice Survey of England and Wales (Bradford, 2015). Also, as noted, the legislative powers are similar.

In other words, the demands placed on officers and the means to deal with them appear to be roughly similar. As such, there is no obvious reason why search rates in Scotland should be so much higher.

REPORT No. 6 /2015 Stop and search in Scotland: A post-reform update

Table 2 ranks the fourteen Scottish Divisions with forces in England and Wales in terms of per capita search rates.

Table 2. Stop and search per 1,000 population, Scottish Divisions (2014/15), England/Wales forces (2013/14)

Division/Force	Searches per 1,000 population		
Greater Glasgow	191	South Wales	13
Renfrewshire and Inverclyde	189	Lincolnshire	12
Ayrshire	144	West Mercia	12
Lanarkshire	112	Dorset	11
Argyll & West Dunbartonshire	110	Lancashire	11
Edinburgh	49	North Yorkshire	10
Cleveland	45	Bedfordshire	10
Tayside	37	Greater Manchester	10
London ¹	35	Sussex	10
Northumbria	27	Thames Valley	10
Merseyside	26	Wiltshire	9
Aberdeen City	26	Highland and Islands	9
Fife	26	Warwickshire	9
Lothians & Scottish Borders	24	West Midlands	9
Cumbria	23	Devon and Cornwall	8
Hertfordshire	22	North Wales	8
Forth Valley	20	Gloucestershire	7
Durham	20	Gwent	7
Dyfed-Powys	18	Suffolk	7
South Yorkshire	17	Humberside	7
Cambridgeshire	16	Aberdeenshire & Moray	7
Hampshire	15	Northamptonshire	6
West Yorkshire	15	Cheshire	6
Norfolk	15	Derbyshire	6
Avon and Somerset	15	Essex	5
Dumfries and Galloway	14	Kent	5
Staffordshire	13	Nottinghamshire	5
Surrey	13	Leicestershire	5

Source: Home Office, 2015 (Table SS.8); Police Scotland, 2015a; NRS Mid-2014 Population Estimates Scotland.

¹ Metropolitan Police Service and City of London

Table 2 shows that seven of the ten highest ranking Divisions and forces in Britain were Scottish. Remarkably, the per capita search rate in Tayside (37 searches per 1,000 population) was higher than the London police forces (35), and the search rate in Dumfries and Galloway (14) higher than Greater Manchester (10).

Part 2. Why are stop and search rates in Scotland so high?

High stop and search rates in Scotland can be linked to a combination of factors, including strict performance management, weak regulation, and until recently, a lack of scrutiny and accountability. Each factor is discussed below.

2.1 Performance management

Post-reform, a high-volume proactive approach to stop and search, underpinned by key performance indicators and localized targets was rolled out across Scotland. This approach, adopted from the legacy Strathclyde force (Strathclyde Police Authority, 2012), is evidenced in early Police Scotland statements, and directly, by officers' accounts (Scottish Police Authority, 2014a; HMICS, 2015b; 54).

'Chief Constable to outline approach to tackle violence

People who carry knives and put the safety of the public at risk are to be proactively targeted in a Scotland-wide effort to reduce violence, Chief Constable Steve House will announce tomorrow (Tues 23 April). Mr House will say he wants police officers to ensure the use of Stop and Search powers are used more effectively as a tactic to disrupt and deter those who use weapons...' (Police Scotland, 24/4/2013)

In March 2015, HMICS expressed concerns that an emphasis on performance was driving negative behaviours in some areas, and recommended that stop and search should be completely removed as a performance measure for officers (2015b; 7). In view of this recommendation, it is disappointing that stop and search has been retained as a performance measure in some 2015/16 Area Plans (Police Scotland 2015b; 9, 2015c; 9).

2.2 Under-regulation

The fact that Scotland has higher stop and search rates than England/Wales can be linked to regulatory differences between the two jurisdictions. In England/Wales, stop and search powers are codified and regulated under the Police and Criminal Evidence Act (PACE). Also, non-statutory stop and search is prohibited, principally due to concerns around informed consent. The introduction of the Best Use of Stop and Search scheme in 2014 sought to achieve greater transparency, promote community oversight, and support a more intelligence-led approach (Home Office, 2014). It is however, too early to assess the impact of the scheme.

In Scotland, there are comparatively few restraining factors placed on police discretion. At the time of writing, the use of stop and search is not codified and officers may search people on a non-statutory basis, which does not require reasonable suspicion. HMICS have also highlighted a lack of clear rules in relation to stop and search (2015b; 9), as well as limited training (2015b; 5).

The regulation of stop and search is currently under review (Scottish Government, 31/3/2015, also see part 2). Also, recent policy changes have placed some limits on the

use of non-statutory stop and search. In June 2014, age-restrictions were introduced, which prohibited the use of non-statutory stop and search on those aged eleven years and under (see section 2.1). In March 2015, Police Scotland announced that officers should use statutory powers in preference to non-statutory powers whenever possible (2015d; 18), as recommended by HMICS (2015; 6). This presumption in favour of statutory powers should result in a significant fall in the number and proportion of non-statutory searches.¹⁰

2.3 Scrutiny and accountability

The disparity in search rates between Scotland and England/Wales may also be linked to differing levels of scrutiny and accountability in the two jurisdictions.

In England/Wales, the use of stop and search has been subject to critical attention for over three decades. For example, the tactic was addressed in the Scarman Report (1981), the 1981 Royal Commission on Police Procedure (which resulted in PACE), and the Macpherson Report into the death of Stephen Lawrence (1999). Annual statistics have been available in varying form since 1992¹¹, making police practice accountable and open to public scrutiny. These data are now designated National Statistics and must comply with the UK Statistics Authority Code of Practice for Official Statistics.

By contrast, the scrutiny process in Scotland is in its infancy. The publication of the Scottish Police Authority (SPA) review in 2014 marked the first policy engagement in over a decade. Likewise, political engagement is limited to the Police Scotland period. This has primarily been driven by the Scottish Liberal Democrats, whose proposed amendments to the Criminal Justice (Scotland) Bill in February 2015 signalled the first serious democratic engagement with police practice.

No national statistics were published prior to June 2014. Until this point, the main vehicle for data was FOISA. In May 2014 the SPA recommended that it would take responsibility for the publication of comprehensive stop and search statistics (2014; 26), although to date, these have not been made available. In March 2015, Police Scotland stated that it would work 'in consultation with the SPA to proactively publish stop and search data on a quarterly basis' (2015d; 19).

Just as a lack of scrutiny and accountability can be linked to the increase in searches prior to reform, it can be argued that a critical spotlight in the post-reform period has been a key factor in the corresponding fall in searches, in particular, the fall in non-statutory searches shown in **Figure 1**. The next section outlines some of the key issues associated with non-statutory stop and search, and examines post-reform practice.

¹⁰ Police Scotland data indicate that statutory powers were potentially available in around 62% of non-statutory encounters in 2015. This estimate is based on the proportion of non-statutory searches carried out in relation to drugs, offensive weapons, stolen property, fireworks and firearms (2015a).

¹¹ Since 1992 the Home Office has published statistical information to meet the requirement under Section 95 of the 1991 Criminal Justice Act.

Part 3. Non-statutory stop and search

Officers in Scotland may stop and search a person using statutory powers, as conferred by legislation, or on a non-statutory basis. To recap, a non-statutory search is premised on verbal consent rather than legal authority, and does not require reasonable suspicion. In this context, an officer can simply ask a person if they are willing to be searched. Until recently, around 70% of recorded searches were undertaken on this basis (Murray, 2014; HMICS, 2015b; 6).

The use of non-statutory stop and search is highly controversial. In March 2015, the Scottish Government established an Independent Scrutiny Group to review the use of stop and search powers. Three options were put forward for consideration: to retain non-statutory stop and search and use it minimally; to end the tactic completely; or to end the tactic for a defined age-group. Consideration was also given to the introduction of additional steps or legislation to mitigate any 'gaps' which could emerge from absolute cessation.

There are two main areas of contention in relation to non-statutory search: whether informed consent can be secured, and if the tactic is lawful. Each one is examined next, followed by an overview of police practice.

3.1 Informed consent

The use of non-statutory stop and search hinges on the principle of informed consent. At a minimum, this involves knowledge of all the relevant facts, the ability to consent without pressure, and having the capacity or maturity to consent. It is however, unclear whether non-statutory encounters can meet these criteria.

First, it is questionable whether young people have the maturity or capacity to give consent. As of June 2014, children aged eleven and under are no longer subject to non-statutory searches (SP Sub-Justice Committee on Policing, 19/6/14). However, this does not resolve the capacity problem. Moreover, it is questionable whether a twelve or thirteen year old would have the confidence to refuse a search request by two officers.

Second, a lack of regulation means that non-statutory encounters are more ambiguous than their statutory counterparts. Research shows how this lack of clarity means that people can be 'bamboozled' into being searched (Dixon, 1990; 348). Research also shows that refusals may be viewed as suspicious, and taken as grounds to carry out a statutory search (Murray, 2014; 21-22).

Third, Police Scotland guidelines state that if evidence is found in a non-statutory search, an officer should then undertake a statutory search (Stop and search Toolkit, 2013; 9). Whilst this approach may render evidence admissible, it means that the legal process begins after the evidence has been found, and raises concerns in relation to consent and due process.

Fourth, officers are not obliged to tell a person that they can refuse. This precedent is based on case law which states that informing a person is unnecessary because it is 'perfectly obvious that the answer to that request may be either yes or no' (*Brown v Glen* (1998) SLT 115: 117). Aside from the point that it may not always be 'perfectly obvious' that it is possible to refuse, this interpretation goes against the principle of informed consent.

Finally, it is arguable that the notion of freely consenting to the police is untenable; that people consent 'not because they make a free choice... but because that is how people respond to the authority of the police' (Delsol, 2006; 116).

3.2 Legality

At the time of writing, the legality of non-statutory stop and search remains unclear. Principally, it is unclear whether non-statutory searches comply with Article 8 of the European Convention on Human Rights in regard to privacy.

On the one hand, Police Scotland have asserted that the tactic is lawful. In regard to the admissibility of evidence, Police Scotland state:

'Scots law has long recognised the principle of consensual stop and search and has developed tests, administered by prosecutors and the courts, to ensure that any evidence flowing from a consensual stop and search is based on informed consent, underpinned by the principle of fairness.' (2015d; 7)

Note however, that the 'broad, but rather vague' (Duff, 2004; 17) approach adopted by the Scottish courts when dealing with irregularly obtained evidence means that the issue of legality may not receive the scrutiny it might in other jurisdictions:

'An irregularity in the method by which evidence has been obtained does not necessarily make that evidence inadmissible in a criminal prosecution. There is no absolute rule governing the matter.' (Renton & Brown, para 24-153. See *Lawrie v Muir* (1950) JC 19.)

This approach may help to explain why there has been no scrutiny of non-statutory stop and search in the courts. As Duff states:

'As yet, no principled, logical and coherent regime has emerged in Scotland to guide the courts in the use of their power to admit or exclude irregularly obtained real evidence.' (2004; 99).

More broadly, the overarching Police Scotland position is not consistent with views expressed by the Scottish Human Rights Commission:

The position of Police Scotland is that there is no need for a statutory basis for such stop and searches – and that the legal basis for such interference is consent. This creates a serious barrier in terms of being in accordance with the law. The fact that there is no law against the police doing something is not the test. The exercise of power by public officials, as it affects us as individuals, must be governed by **clear and publicly accessible rules of law**.

REPORT No. 6 /2015 Stop and search in Scotland: A post-reform update

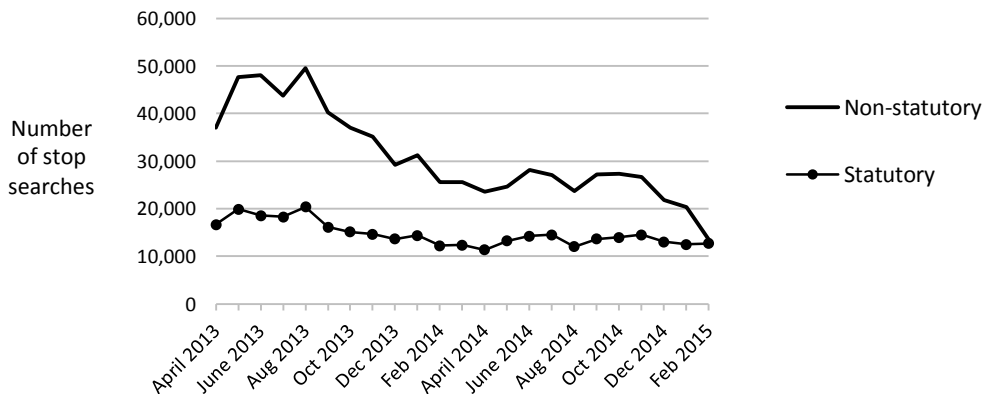
In order to justify breaching the right to private life of an individual there needs to be a basis in domestic law **and** it must also be compatible with the rule of law, which is expressly mentioned in the preamble to the Convention and inherent in the object and purpose of Article 8. Therefore the law must be: Accessible¹², Foreseeable [and] Precise. Those affected must be able to foresee the circumstances in which the law applies and the extent to which their rights will be interfered with in a given situation – so they may make choices (and perhaps take advice) accordingly¹³. There must also be sufficient safeguards to avoid the risk of the power being abused or exercised arbitrarily. Bearing in mind the large numbers of people, particularly children that are being subjected to this interference – the broad scope of non-statutory stop and search in Scotland – along with the scale at which it is used means brings the legality of the practice into question.’ (SHRC, 29/10/2014. Also see SHRC 2/2/2015)

3.3 Post-reform: non-statutory stop and search trends

Between 2013/14 and 2014/15, the number of non-statutory searches fell by 40%, from 450,173, to 271,704. The number of statutory searches fell by 20% in the same period, from 192,469 to 154,700.

Figure 8 shows non-statutory and statutory trends between April 2013 and February 2015.

Figure 8. Number of statutory and non-statutory searches, April 2013 to February 2015



Source: Police Scotland, 2015a

Figure 8 shows that the gap between the number of statutory and non-statutory searches narrowed in the post-reform period, to a point of parity in February 2015.

In April 2013, 69% of recorded searches were non-statutory. By February 2015, this proportion had dropped to 52%. The proportion fell again in March 2015, to 47%. If the presumption against the use of non-statutory stop and search announced in March 2015 is effective (Police Scotland, 2015d; 18), the proportion of non-statutory searches should fall to around 24% (allowing for non-statutory alcohol searches/confiscations).

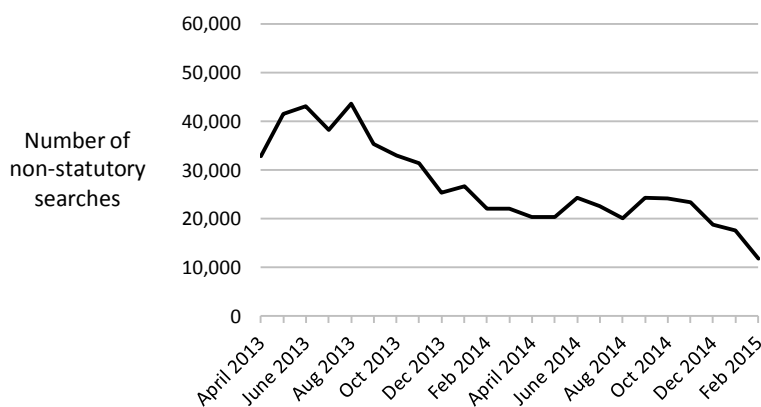
¹² *The Sunday Times v United Kingdom* (1979) 2 EHRR 245

¹³ *Malone v United Kingdom* (1984) 7 EHRR 14; (*S. & Marper v. the United Kingdom* [GC], nos. 30562/04, 30566/04, §§

REPORT No. 6 /2015 Stop and search in Scotland: A post-reform update

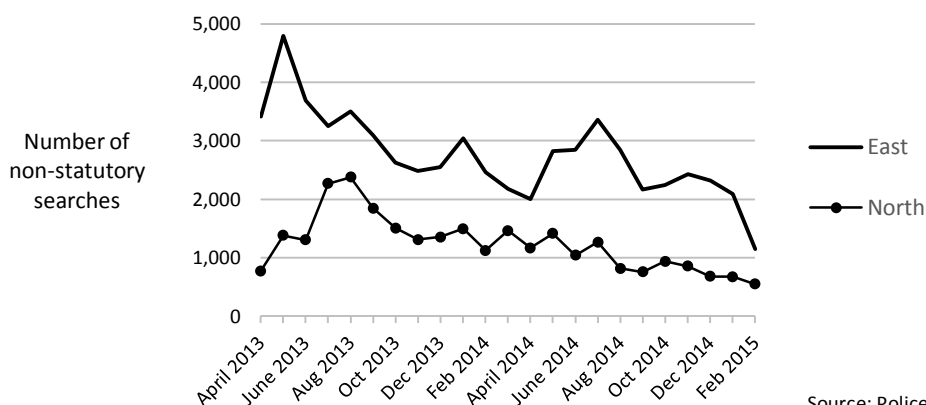
Figures 9 and 10 show the patterning of non-statutory searches in the three regions between April 2013 and February 2015.

Figure 9. Number of non-statutory searches, West region, April 2013 to February 2015



Source: Police Scotland, 2015a

Figure 10. Number of non-statutory searches, East & North region, April 2013 to February 2015



Source: Police Scotland, 2015a

Figure 9 shows an initial increase in the number of recorded non-statutory searches in the West, followed by a fairly consistent downward trend from August 2013 onwards. In August 2013, 43,604 non-statutory searches were recorded; by February 2015, the monthly total had fallen to 11,818, a decrease of 73%.

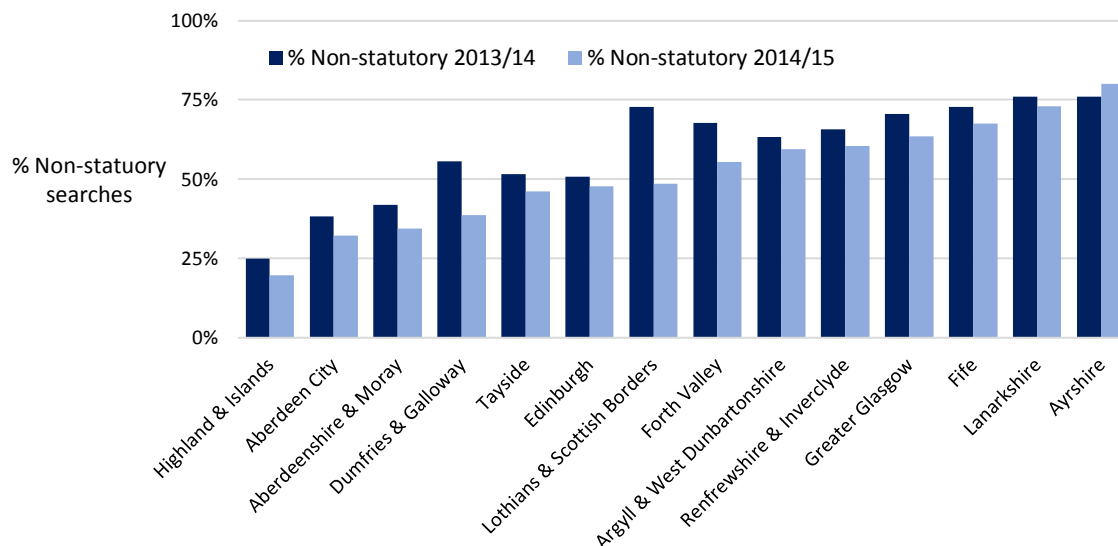
Figure 10 reveals a less consistent downward trend in the East. Recorded non-statutory searches peaked in May 2013, at 4,791, and fell variably thereafter, with a large spike between April and July 2014.

In the North, the number of recorded non-statutory searches peaked in August 2013, at 2,375, and fell gradually, to 545 searches in February 2015.

Next, **Figure 11** shows how the proportion of recorded non-statutory searches varied by Division.

REPORT No. 6 /2015 Stop and search in Scotland: A post-reform update

Figure 11. Proportional use of non-statutory stop and search per Division, 2013/14, 2014/15



Source: Police Scotland, 2015a

Figure 10 shows a marked variation in the proportion of recorded non-statutory searches across the Divisions. In 2014/15, this ranged from 20% in the Highlands and Islands, to 80% in Ayrshire. The proportion of recorded non-statutory searches fell in all Divisions in year two, apart from Ayrshire. Table 3 shows the geographical distribution of recorded non-statutory searches across Scotland, by Division.

Table 3. Geographical distribution of non-statutory searches across Scotland, by Division 2013/4, 2014/15

Division	2013/14	2014/15
Greater Glasgow	38.7%	35.7%
Ayrshire	19.2%	15.8%
Lanarkshire	16.8%	19.6%
Renfrewshire and Inverclyde	8.9%	10.7%
Argyll and West Dunbartonshire	3.7%	4.3%
Edinburgh	3.4%	4.2%
Tayside	2.6%	2.6%
Lothians and Scottish Borders	1.9%	2.0%
Fife	1.6%	2.4%
Forth Valley	1.4%	1.2%
Aberdeen City	0.8%	0.7%
Dumfries and Galloway	0.4%	0.3%
Aberdeenshire and Moray	0.3%	0.3%
Highland and Islands	0.3%	0.2%
Total non-statutory searches	450,173	271,704

Source: Police Scotland, 2015a

3.4 'London style' policing

The recently proposed move to a statutory model has raised concerns that searches may become over-formalized (Police Scotland, 2015d; 20, 28), resulting in a more adversarial 'London style' of policing (Chief Constable Sir Stephen House, Herald 9/4/15).

Four observations can be made here. First, the data in **Figure 11** suggest that non-statutory stop and search is not necessarily the dominant model in Scotland; rather it is the dominant model in the ex-Strathclyde Divisions, Fife and the Forth Valley. In these Divisions, over 50% of recorded searches were non-statutory.

Second, the distinction between a statutory and non-statutory search hinges on reasonable suspicion, not the informality or otherwise of the encounter. There is no reason why a statutory encounter cannot be courteous and non-adversarial.

Third, research suggests that the public are more likely to support the use of stop and search when encounters are backed by robust reasons that are explained to the person (Stone and Pettigrew, 2000).

Finally, reasonable suspicion is a key legal safeguard, intended to guard against the arbitrary or unjust use of police power. The fact that non-statutory stop and search is used extensively in some parts of Scotland and not in others means that public access to this safeguard is uneven. It seems unacceptable that standards of legal protection should vary in this way.

Part 4. Policing young people

The use of stop and search on young people and children has also proved controversial, in relation to the scale of searches, and to the use of non-statutory stop and search.

Prior to reform, the age-distribution of recorded searches varied across the legacy forces. In brief, searches tended to fall disproportionately on younger age-groups across the Central Belt, notably in forces which took a high-volume, proactive approach, and made greater use of non-statutory search. By contrast, the age-distribution in legacy forces outwith the Central Belt appeared more proportionate and consistent with the typical age-distribution of offending (Murray, 2014; 17-18).

4.1 Age-distribution of stop and search: pre and post-reform

Figures 12 to 14 show the age-distribution of stop and search in 2010 (pre-reform), and in 2013/14 and 2014/15. The number of recorded searches carried out on 16 year olds (the peak age for stop and search in Scotland) is labelled and highlighted. The percentage detection rate is also shown, which can be read as an indicator of proportionality (for example, a completely flat detection line would indicate that the probability of detection does not vary by age).

REPORT No. 6 /2015 Stop and search in Scotland: A post-reform update

Figure 12. Number of stop searches by age; detection by age (%) 2010 (Legacy forces)

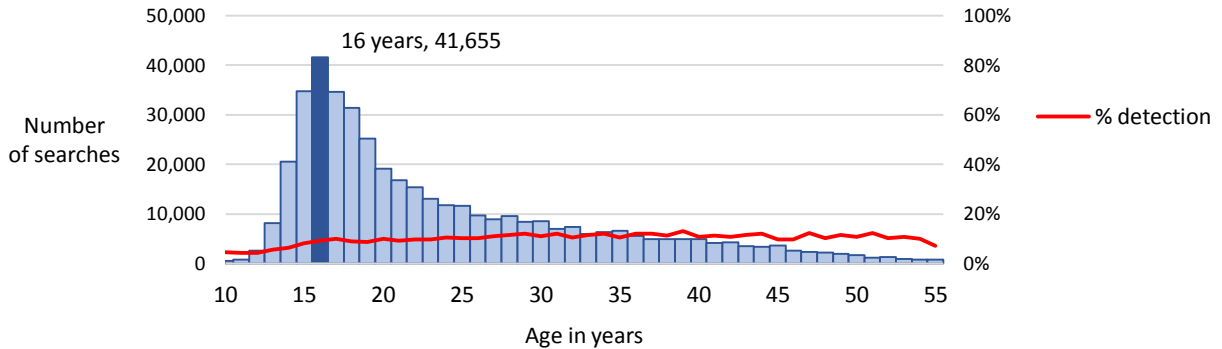


Figure 13. Number of stop searches by age; detection by age (%) 2013/14

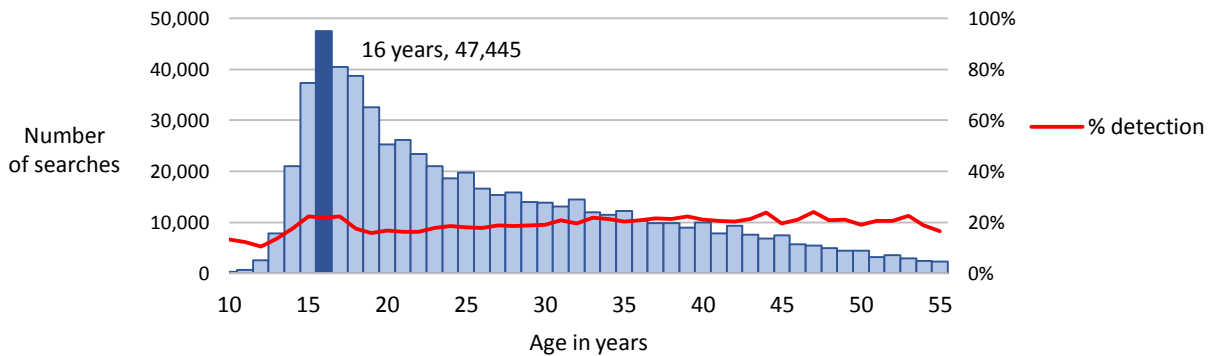
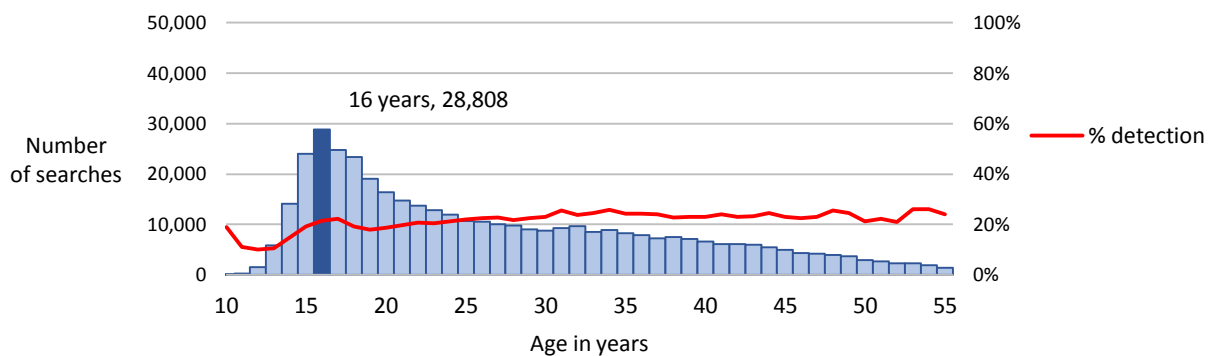


Figure 14. Number of stop searches by age; detection by age (%) 2014/15



Source: FOISA (2010); Police Scotland, 2015

Looking at the pre-reform period, **Figure 12** shows a strong focus on young people in their mid-teens in 2010. However, the percentage detection line was almost flat. This means that the probability of detection was not higher among young people.

Figure 13 shows that the number of recorded searches on sixteen year olds increased by 14% in the first year of Police Scotland, compared to 2010, from 41,655 to 47,445. Of these, 39,027 (82%) were on boys. This figure is higher than the resident population of sixteen year old boys in Scotland (30,657)¹⁴. **Figure 14** shows that in year two, the number of searches on sixteen year olds fell by 39%, to 28,808.

¹⁴ NRS Mid-2014 Population Estimates Scotland (Table 2)

4.2 Policing young people: geographical variation

Figures 15 to 17 show how the percentage age-spread of recorded searches varied across the three regions in 2014/15. The proportion of recorded searches on sixteen year olds is labelled and highlighted.

Figure 15. Age-spread (%) of stop and search, West region, 2014/15

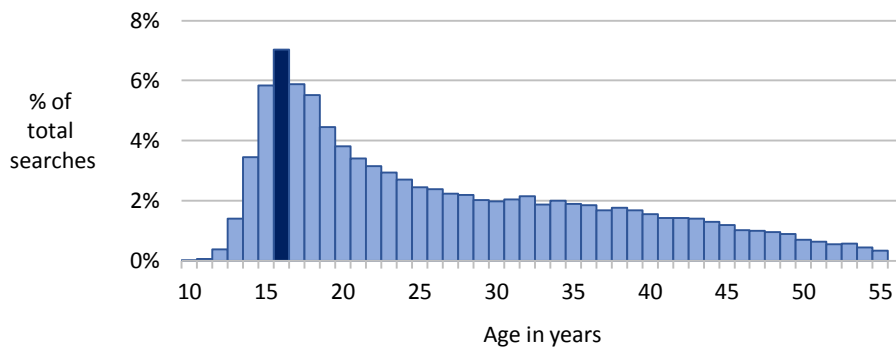


Figure 16. Age-spread (%) of stop and search, East region, 2014/15

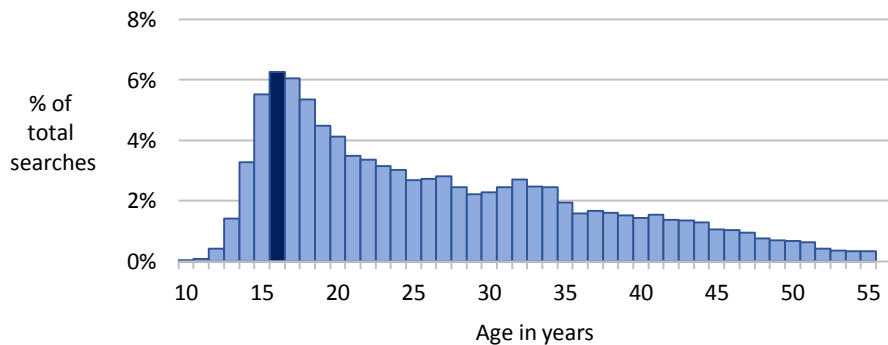
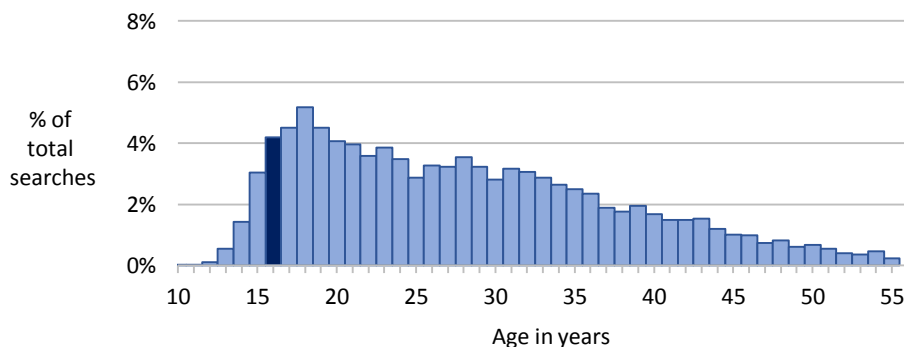


Figure 17. Age-spread (%) of stop and search, North region, 2014/15



Source: Police Scotland, 2015a

Figure 15 shows that recorded searches in the West were heavily skewed towards young people in their mid-teens in 2014/15, with sixteen year olds accounting for 7% of all recorded searches in the region.

REPORT No. 6 /2015 Stop and search in Scotland: A post-reform update

In the West, Glasgow City accounted for 29% of all recorded searches on sixteen year olds in Scotland (8,381 out of 28,808 searches), compared to a 10% share of Scotland's resident population of sixteen year olds (6,065 out of 59,820 sixteen year olds).¹⁵ This means that the number of recorded searches on sixteen year olds in Glasgow was higher than Glasgow's resident population of sixteen year olds.

Figure 16 shows that recorded searches in the East were also skewed towards young people in their mid-teens, with sixteen year olds accounting for 6.3% of recorded searches in 2014/15.

Figure 17 shows a less skewed distribution in the North. Sixteen year olds accounted for 4.2% of recorded searches in 2014/15. Searches then peaked at age eighteen, although this was less pronounced, at 5.2%. Overall, the age-distribution appeared more proportionate, that is, closer to the age-distribution of recorded offending which peaks in the early 20s, according to convictions data (Matthews, 2014).

Recorded detection rates also varied by region in 2014/15. For example, 21% of recorded searches on sixteen year olds in the West resulted in detection, compared to 27% and 28% in the East and North respectively.

These data suggest that the geographical distribution of searches in the first two years of Police Scotland was broadly consistent with the patterning of searches prior to reform; that is, heavily skewed towards young people in their mid-teens in the West and the East, and more evenly distributed in the North.

These regional variations also suggest that the national trends should be read with caution. In particular, care should be taken to distinguish between the number of recorded searches carried out on young people, which have fallen substantially, and the proportion of recorded searches on young people, which remains high in some areas.

4.3 Non-statutory stop and search and young people

As noted, in June 2014 Police Scotland announced an end to searching children aged eleven and under on a non-statutory basis. From this point, the proportion of non-statutory searches on those aged eleven and under fell, from 74% in the first quarter of 2014/15, to 19% in the final quarter.

Table 4 shows the proportion of non-statutory searches by age-group in 2014/15. The overall search rate per 1,000 population for each age-group is also shown.

¹⁵ NRS Mid-2014 Population Estimates Scotland.

REPORT No. 6 /2015 Stop and search in Scotland: A post-reform update

Table 4. Proportion of non-statutory searches; search rate per 1,000, by age-group, 2014/15

Age-group	% Non-statutory	Total searches	Total searches per 1,000 population
<i>11 and under</i>	59%	573	1
12 to 17 years	72%	99,132	288
18 to 23 years	63%	100,227	236
24 to 29 years	59%	62,194	145
30 to 35 years	57%	53,600	131
36 to 41 years	58%	42,580	111
42 to 47 years	60%	31,159	67
48 to 53 years	63%	17,968	37
54 to 59 years	68%	7,427	17
60 to 65 years	70%	2,891	8
66 year and over	72%	1,886	2
<i>Age unknown</i>		6,767	
Total	64%	426,404	80

Source: Police Scotland, 2015a, NRS Mid-2014 Population Estimates

Table 4 shows that children and young people aged 12 to 17 were more likely to be searched without reasonable suspicion than most adults. This finding raises concerns about the current age limit on non-statutory searches. The per capita search rate was also highest in the 12 to 17 years age-group. The proportion of recorded non-statutory searches increased at the other end of the age-spectrum, although the number of searches was far smaller. **Table 5** breaks down the 12 to 17 age-group by year.

Table 5. Proportion of non-statutory searches; search rate per 1,000 12- 17 year olds, 2014/15

Age in years	% Non-statutory	Total searches	Total searches per 1,000 population
12	73%	1,598	30
13	73%	5,815	106
14	75%	14,120	250
15	73%	24,026	410
16	72%	28,808	482
17	68%	24,765	399
Total	72%	99,132	288

Source: Police Scotland, 2015a, NRS Mid-2014 Population Estimates

Table 5 shows that within the 12 to 17 years age-band, fourteen year olds were most likely to be searched on a non-statutory basis. The search rate for sixteen year olds was strikingly high, at 482 searches per 1,000 population.

4.4 Policing young people: summary

Whilst the fall in recorded searches on young people is welcome, the findings suggest that further work is needed, both in relation to the scale of stop and search, and the proportion of searches which fall on young people in some areas. The data also suggest that the use of stop and search in some areas may be inconsistent with Scotland's diversionary approach to offending by young people, which aims to minimize young people's contact with criminal justice agencies (McAra and McVie, 2014; 290-291).

The finding that those aged 12 to 17 were more likely to be searched without reasonable suspicion¹⁶ than most adults is concerning, given the lack of legal safeguards in this context. As such, the newly established presumption in favour of statutory powers is welcome, and should be closely monitored to ensure that this policy change benefits all age-groups.

Conclusion

From the national perspective, the findings presented in the report are broadly encouraging. The number of recorded searches has fallen, the number and proportion of recorded non-statutory searches has fallen, and fewer searches are falling on young people.

However, familiar themes persist. In 2014/15, the scale of stop and search remained unduly high, searches were disproportionately directed towards young people, notably in the West, and young people were more likely to be searched without reasonable suspicion than older age-groups. The findings also suggest a lack of fit between police practice and Scotland's diversionary approach to youth offending in some areas.

The analysis suggested that a combination of three factors has acted to drive up search rates. First, a strict approach to performance management, underpinned by key performance indicators and targets, and focused on volume. Second, weak rules and regulations. And third, a lack of scrutiny and accountability.

Encouragingly, progress is being made in each of these areas. The adverse impact of performance management has been highlighted by HMICS and recommendations made, including the removal of stop and search as a performance indicator (2015b; 11). The regulation of stop and search is under review, with a view to establishing a statutory Code of Practice (Scottish Government, 31/3/2015). Detailed stop and search data have been made available (Police Scotland, 2015a), and Police Scotland have made recommendations with a view to improving scrutiny and monitoring (2015d; 25).

¹⁶ Some of these 'searches' were alcohol confiscations and did not involve a physical search. Improved recorded should clarify this breakdown (HMICS 2015b; 44).

REPORT No. 6 /2015 Stop and search in Scotland: A post-reform update

Looking ahead, the demand for greater accountability within Scottish policing is unlikely to go away. After a challenging two year period, it seems clear that one of the key tasks for Police Scotland, the Scottish Police Authority and the Scottish Government is to establish robust governance mechanisms in relation to the use of police power. That is, to ensure accountability and transparency not only in regard to stop and search, but in relation to all police powers. At the time of writing, no data are available on the use of arrest, detention, road checks, intimate searches, strip searches or breath tests. As such, the use of these powers is not open to scrutiny or monitoring. By contrast, in England and Wales, with the exception of strip searches, these data are openly available.¹⁷

The case for improved accountability and transparency is, in the first instance, ethical. The police are entrusted with significant powers, and with this comes a duty to account for their use. As Simey points out, 'it is not about control but about responsibility for the way in which control is exercised' (1985).

Accountability also provides an important check on police powers. Just as the exponential rise in search rates prior to reform can be linked to a lack of transparency and scrutiny, the corresponding fall in the post-reform period can be tied not only to the unprecedented level of critical attention; but to the simple fact that the numbers were finally in the public domain and perceived to be excessive in some quarters.

Put another way, robust accountability makes it is possible to identify areas of concern, to review policing priorities, and to assess whether resources are being deployed fairly and effectively. This observation is reflected in the HMICS recommendation that Police Scotland should provide stop and search data for local scrutiny and engagement committees and local communities (HMICS, 2015b; 11).

Finally, greater accountability and transparency, together with a willingness to engage with constructive criticism, promotes legitimacy, trust and public support. As Mawby and Wright point out, the process may be difficult at first, however in the longer term it is likely to result in stronger community-based policing (2005; 12-13).

¹⁷ <https://www.gov.uk/government/publications/police-powers-and-procedures-england-and-wales-year-ending-31-march-2014/police-powers-and-procedures-england-and-wales-year-ending-31-march-2014>

References

- Delsol, R. (2006) *Institutional Racism, the Police and Stop and Search: A Comparative Study of Stop and Search in the UK and USA*, PhD Thesis.
- Duff, P. (2004) *Irregularly obtained real evidence: The Scottish solution?* International Journal of Evidence and Proof, vol. 8 (2) pp. 77-99. Online at: <http://aura.abdn.ac.uk/bitstream/2164/41/1/040928-001.pdf>
- Herald (9/4/2015) 'Stop-search row latest: Scotland's chief constable stresses 'downside' of London-style policing'. Online at: <http://www.heraldscotland.com/news/home-news/stop-search-row-latest-scotlands-chief-constable-stresses-downside-of-london-style-po.122708503>
- HMICS (2015a) *Local Policing+ Inspection of Ayrshire Division*. Online at: <http://www.hmics.org/sites/default/files/publications/HMICS%20Local%20Policing%2B%20Inspection%20Programme%20-%20Inspection%20of%20Ayrshire%20Division.pdf>
- HMICS (2015b) *Audit & Assurance Review of Stop and Search: Phase 1*, HMICS. Online at: http://www.hmics.org/sites/default/files/publications/HMICS%20-%20Audit%20and%20Assurance%20Review%20of%20Stop%20and%20Search%20-%20Phase%201_0.pdf
- Home Office (2014) *Best Use of Stop and Search Scheme*. Online at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/346922/Best_Use_of_Stop_and_Search_Scheme_v3.0_v2.pdf
- Lennon, G. and Murray, K (2015) *Under-regulated and unaccountable? Explaining variation in stop and search rates in Scotland, England and Wales* (under review)
- Matthews, B. (2014) *Where have all the young offenders gone?* AQMEN Research Briefing. Online at: https://www.aqmen.ac.uk/sites/default/files/RB4-young-offenders_0.pdf
- Mawby, R. and Wright, A. (2005) *Police Accountability in the United Kingdom, Commonwealth Human Rights Initiative*.
- McAra, L. and McVie, S. (2014) 'The Scottish Juvenile Justice System: Policy and Practice' in (ed.) John Winterdyk *Juvenile Justice: International Perspectives, Models and Trends*, CRC Press.
- Murray, K. (2014) *Stop and Search in Scotland: An Evaluation*, Scottish Centre for Crime and Justice Research. Online at: http://www.sccjr.ac.uk/wp-content/uploads/2014/01/Stop_and_Search_in_Scotland1.pdf
- Police Scotland (22/4/2013) 'Knife carrying? It's not worth the risk.' Online at: <http://www.scotland.police.uk/whats-happening/news/2013/april/163403/>
- Police Scotland (2014a) *Management Information Year End 2013/14*. Online at: <http://www.scotland.police.uk/assets/pdf/138327/232757/management-information-police-division-report-year-end-2013-14>
- Police Scotland (2014b) *Management Information. Police Division Report. Year End 2013/14*. Online at: <http://www.scotland.police.uk/assets/pdf/138327/232757/management-information-police-division-report-year-end-2013-14>

REPORT No. 6 /2015 Stop and search in Scotland: A post-reform update

Police Scotland (2015a) *Stop and search data publication*. Online at:
<http://www.scotland.police.uk/about-us/police-scotland/stop-and-search-data-publication>

Police Scotland (2015b) *Kirkcaldy Area Plan 2015/16*. Online at:
<http://www.scotland.police.uk/assets/pdf/281948/284425/area-plan-kirkcaldy-2015?view=Standard>

Police Scotland (2015c) *Glenrothes Area Plan 2015/16*. Online at:
<http://www.scotland.police.uk/assets/pdf/281948/284425/area-plan-glenrothes-2015?view=Standard>

Police Scotland (2015d) *Police Scotland stop and search update report*. Online at:
<http://www.gov.scot/Resource/0047/00474484.pdf>

Renton, R. and Brown, H. (1996) *Criminal Procedure According to the Law of Scotland*, 6th Edition (ed. G. Gordon), W. Green and Son/Sweet and Maxwell.

Scottish Government (31/3/2015) *Stop and search review*. Online at:
<http://news.scotland.gov.uk/News/Stop-and-Search-review-181d.aspx>

Scottish Human Rights Commission (29/10/2014) '*Police Scotland: Good or Bad for Scottish Justice?*' Online at:
<http://www.scottishhumanrights.com/resources/presentations/policingandhumanrights>

Scottish Human Rights Commission (2/2/2015) '*Commission calls for an end to non-statutory stop and search.*' Online at:
<http://www.scottishhumanrights.com/news/latestnews/stopandsearchfeb15>

Scottish Police Authority (2014) *Scrutiny Review – Police Scotland's Stop and Search Policy and Practice*. Online at: <http://www.spa.police.uk/assets/126884/230479/scrutinytaskgroupreport>

Simey, M. (1985) *Democracy Rediscovered: a study in police accountability*, London, Pluto

Stone and Pettigrew (2000) *The Views of the Public on Stops and Searches*, Police Research Series, Paper 129, London, Home Office.

Strathclyde Police Authority (2012) *Strathclyde Police: Stop and search activity* (unpublished report).