HMICS

HM INSPECTORATE OF CONSTABULARY IN SCOTLAND

Audit and Assurance Review of Stop and Search: Phase 1

March 2015

Improving Policing Across Scotland

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HM Inspector of Constabulary in Scotland

HM Inspectorate for Constabulary in Scotland (HMICS) is established under the Police and Fire Reform (Scotland) Act 2012 and has wide ranging powers to look into the state, effectiveness and efficiency of both Police Scotland and the Scottish Police Authority (the Authority).[1]

We have a statutory duty to ensure that the Chief Constable and the Authority meet their obligations in terms of best value and continuous improvement. If necessary, we can be directed by Scottish Ministers to look into anything relating to the Authority or Police Scotland as they consider appropriate. We also have an established role in providing professional advice and guidance on policing in Scotland.

- Our powers allow us to do anything we consider necessary or expedient for the purposes of, or in connection with, the carrying out of our functions.
- The Authority and the Chief Constable must provide us with such assistance and co-operation as we may require to carry out our functions.
- When we publish a report, the Authority and the Chief Constable must also consider what we have found and take such measures, if any, as they think fit.
- Where we make recommendations, we will follow them up and report publicly on progress.
- We will identify good practice that can be applied across Scotland.
- We work with other inspectorates and agencies across the public sector and co-ordinate our activities to reduce the burden of inspection and avoid unnecessary duplication.
- We aim to add value and strengthen public confidence in Scottish policing and will do this through independent scrutiny and objective evidence-led reporting about what we find.

Our approach is to support Police Scotland and the Authority to deliver services that are high quality, continually improving, effective and responsive to local needs.[2]

This inspection was undertaken by HMICS in terms of Section 74(2)(a) of the Police and Fire Reform (Scotland) Act 2012 and laid before the Scottish Parliament in terms of Section 79(3) of the Act.

[1] Police and Fire Reform (Scotland) Act 2012, Chapter 11
[2] HMICS Corporate Strategy 2014-2017, May 2014

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Our inspection

The aim of this audit and assurance review was to **assess the state, efficiency and effectiveness of the processes for recording stop and search activity within Police Scotland and the associated procedures for supervision, audit and governance**. We also examined **the impact of the performance framework and targets in relation to stop and search activity**.

The results of our review aim to provide the public and key stakeholders with an evidence base upon which to make an assessment of the accuracy of stop and search data. It also seeks to provide a strategic overview of stop and search in Scotland and inform the current debate on the future direction of the tactic.

We have included fieldwork with British Transport Police (BTP) in Scotland to enable comparisons with Police Scotland in relation to policy and practice. BTP operates throughout Great Britain and is responsible for policing the rail network and its environs. D Division of BTP covers Scotland and operates under relevant Scots law. We also visited the Metropolitan Police Service (MPS), to gain an understanding of its approach to stop and search and allow comparisons with Police Scotland. Additionally we visited HMIC to gain an overview of the changes that have been introduced in England and Wales.

In order to assess the quality of Police Scotland stop and search data we reviewed available documents such as training notes, memos, briefings and standard operating procedures. We also reviewed the end to end process of data capture from notebooks and electronic personal data assistants (PDAs), the transfer of this information to databases and the extraction of data for reporting. We conducted interviews and focus groups with a range of officers to better understand the relationship between the performance framework and the impact this may have on officer behaviour. We also comment on the extent to which changes to stop and search that are being piloted in Fife Division may have an impact if they were rolled out across Scotland. A detailed explanation of our methodology is included in Appendix 2.

While our original intention had been to undertake an extensive audit of stop and search records, we were unable to meaningfully progress this due to an absence of definitive guidance and counting rules against which to audit. However, in May 2014, Police Scotland made changes to their stop and search database[3] and a subsequent ICT programming error resulted in 20,087 positive search records having incomplete data.[4] Police Scotland then sought to retrieve this missing information, which allowed us to review the findings of the data retrieval exercise. We provide comment on the validity of the Police Scotland internal audit and have applied our findings to provide an assessment of the reliability of the stop and search data.

In February 2015 we were asked by the Scottish Police Authority (SPA) to undertake an independent audit of the 356 records held by Police Scotland that relate to searches of children aged 11 or under. We have included the findings of this additional audit within this report.

[3] The national stop and search database is where stop and search data that is entered through the national stop and search application is captured. Throughout this report we have used the term national database to cover both the stop and search application (this is the user interface where officers input data) and the national database where the information from the application is captured

[4] These records had been recorded by officers from 6 May 2014 to the 14 July 2014

Police Scotland is currently reviewing stop and search practices and the on-going requirement for consensual search. We acknowledge that Police Scotland has been reviewing stop and search throughout 2014 and that some changes to practice have been tested through the stop and search pilot in Fife. The National Stop and Search Unit (NSSU) was set up in May 2014 and has identified areas for improvement and undertaken internal workshops and external consultation with a range of stakeholders to aid in the development of a future approach to stop and search. Police Scotland recently established a Short Life Working Group and a Tactical Delivery Group with representation from a wide range of interests and has committed to providing an update on the future of stop and search to the Cabinet Secretary for Justice by 31 March 2015. We trust this HMICS review will inform Police Scotland and the members of the Short Life Working Group and assist in setting the future direction of stop and search in Scotland.

In our review, we have suggested an approach that could result in significant reductions in consensual stop and search across Scotland, whilst at the same time building a reliable evidence base to identify any operational practice gaps or vulnerabilities that may require future legislation. We have recommended a general presumption amongst officers that stop and search encounters should be legislative, which combined with improvements in recording practices, training, audit and supervision should give communities across Scotland more confidence in the use of the stop and search and allow a more informed view on the future need for consensual stop and search.

We have also recommended that Police Scotland and the SPA consult with the Scottish Government on the potential development of a statutory Code of Practice for stop and search in Scotland. We believe this would establish clearly understood principles and safeguards for the public and be particularly beneficial in providing clear and transparent guidance to officers.

As a consequence of our review, Police Scotland will be asked to create an improvement plan, so that our recommendations are taken forward and that relevant good practice is disseminated across Scotland to promote continuous improvement. We will monitor progress against this plan and publish our findings as part of our annual reporting process. We acknowledge that some of our recommendations include changes to policy and would expect Police Scotland and the SPA to follow the processes recently agreed in their *Joint Agreement on Police Policy Engagement – "Strengthening Police Decision Making, Strengthening Policing by Consent".*

We will be returning to undertake a statistically significant audit, of both positive and negative searches, once Police Scotland has had sufficient opportunity to consider our recommendations and implement improvements to stop and search across Scotland.

HMICS wishes to thank the National Stop and Search Unit within the Licensing and Violence Reduction Division, the territorial divisions where we conducted fieldwork, British Transport Police, Metropolitan Police Service, HMIC and the Scottish Institute for Policing Research, (SIPR) for their support and co-operation during our review.

Our review was led by Justine Menzies and was supported by other team members.

Derek Penman QPM
HM Inspector of Constabulary in Scotland
March 2015

Key findings

Accuracy of stop and search data

- We found that officers in Scotland do not have definitive guidance or a common view of what should be recorded as a stop and search. This makes it difficult to fully understand what is contained within the current stop and search data set.

- There is no guidance on how stop and search should be counted and there is a lack of data validation and quality control processes.

- Routine audit mechanisms have not yet been established and there is no definitive guidance for supervisors in relation to their quality assurance role.

- Due to the lack of guidance and processes to maintain this dataset, we do not have confidence in the stop and search data currently held by Police Scotland. This dataset should not be relied upon to make informed decisions about future policy and practice in Scotland until an accurate baseline is established. We do not consider it viable for Police Scotland to retrospectively improve the data quality of existing records.

- We found that Police Scotland currently record and report positive searches on the basis of what officers search for and not on what is actually recovered. This approach has the potential to skew public perceptions of local crime and disorder trends.

- Formal training on legislative search is only provided to officers during their probationary training period. There is no formal training to officers on the use of consensual search and there is no refresher training provided for officers after they have completed their probationary training.

- The national stop and search database was developed in a short timescale and the usual processes for testing and accepting ICT systems were not always followed. This impacted negatively on the quality of the data.

- The stop and search data is not an official statistic, although we recognise the legitimate public and political interest in the accuracy of the data and believe that the principles of good data management, associated with organisations that are producers of official statistics should be understood and where applicable applied by those issuing the data.

Consensual search, seizure and confiscation

- The majority (70%) of searches recorded in Scotland are consensual. These searches must have the informed consent of the person being searched.

- Almost two-thirds (62%) of consensual searches recorded are for items other than alcohol.

- The use of consensual stop and search varies substantially across Scotland and has become an embedded practice in some divisions.

- We acknowledge the recent announcement that Police Scotland will engage with the Scottish Police Authority, Scottish Government and other stakeholders to explore whether the continued use of consensual stop and search is in the best interests of the public in Scotland. We are supportive of this debate, but recognise there is a need to more fully understand current practice in relation to consensual search and clearly consider the impacts of any major changes to policy and practice, especially, in relation to young and vulnerable people, before the future strategic direction should be decided.

- There is greater scope to encourage officers to use legislative searches where reasonable suspicion exists. Police Scotland should consider a policy which raises a general presumption among officers that stop and search encounters should be legislative.

- Police Scotland currently record all seizures and confiscations of alcohol as a positive stop and search even where there is no physical search of a person. This artificially increases the number of stop and searches recorded.

- We recognise that the seizure of alcohol from young people is an important safeguard and contributes to better health and wellbeing outcomes. We are encouraged by the commitment of Police Scotland in incorporating the seizure of alcohol, other age restricted products and harmful substances into the wider safeguarding and prevention agenda.

- We believe there is merit in considering a statutory code of practice for stop and search in Scotland. This would establish clear principles and safeguards for the public in relation to stop and search and potentially provide statutory safeguards around consensual stop and search (should this practice continue). We believe that the introduction of a code of practice would be beneficial particularly to provide guidance in relation to operational practice.

Measuring the effectiveness of stop and search and performance

- There is very little research evidence on the impact of stop and search, either as a localised crime prevention/deterrence measure, or in terms of its wider impact on feelings or perceptions of safety in the community. The evidence that exists does not suggest any clear causal connection between the use of stop and search and reductions in crime. The research evidence indicates that policing is most effective when officers engage in problem solving or problem-oriented policing, typically in partnership with other agencies.

- Officers recognised one consistent message within Police Scotland that stop and search should be targeted at the "*right people, in the right place at the right time*". We found that officers consider stop and search to be effective when it is used appropriately and believe it is a vital policing tactic in Scotland.

- Officers, supervisors and managers thought that there was too much focus on stop and search and that the target of 20% for positive searches should be removed.

- We remain concerned by the consistent feedback from officers and staff associations that performance is driving negative behaviours. Despite clear messages from the Force Executive that there are no volume targets, this does not seem to be well understood at an operational level.

- We welcome that Police Scotland intends to remove the target for positive searches. However we believe that stop and search should also be removed as a key performance indicator within the performance framework and be published as management information.

- There are opportunities for Police Scotland to build on its commitment to local policing and demonstrate greater transparency through the alignment of stop and search with local priorities.

Police Scotland data recovery and audit

- In May 2014 an ICT update to the national stop and search database contained a programming error. This resulted in the database fields containing information on the item found as a result of a positive search not being saved and retained. This prompted Police Scotland to undertake an internal audit of affected records.

- We found that the internal audit highlighted that the overall quality of the stop and search data could be improved.

- Officers generally welcomed the Police Scotland internal audit on stop and search and thought that the quality of data would improve as a result.

- The lessons learned from the Police Scotland audit of stop and search data are documented and should be used to develop a more robust approach to future stop and search audits.

- In the interests of greater transparency, we consider that the results of future audits of stop and search should be scrutinised by the SPA through its Audit and Risk Committee.

HMICS Audit of searches of children aged 11 or under

- The communication of the change in policy to cease searching children aged 11 or under could have been more effective. The time between the announcement of the change to policy and its implementation was only five days. This did not give sufficient development time to update IT systems and other key processes.

- We found that Police Scotland conducted a total of 83 consensual searches of children aged 11 or under, that were outwith its policy, between 23 June to 31 December 2014.

Recommendations

Recommendation 1:

Police Scotland should develop definitive guidance and counting rules for officers to provide clarity on what constitutes a stop and search and how these should be recorded and counted. This should include what a search can involve, particularly in relation to turning out pockets or bags, to ensure there is a common understanding among officers.

Recommendation 2:

Police Scotland should require officers to record their grounds for suspicion for legislative searches and make this a mandatory recording requirement on the national stop and search database. This information should be used as a qualitative measure to support effective supervision and audit and to drive improvement in the use of legislative stop and search.

Recommendation 3:

Police Scotland should accurately record and publicly report on items recovered as a result of a positive stop and search encounter. This should provide greater transparency and better inform local communities about local crime and disorder trends.

Recommendation 4:

Police Scotland should develop, record and publicly report on disposal categories which effectively capture the outcomes of stop and search activity. This should include a range of measures which support the statutory purpose of policing to improve the safety and well-being of persons, localities and communities in Scotland.

Recommendation 5:

Police Scotland should develop definitive guidance for officers about what information should be recorded from a stop and search encounter into their notebook or personal data assistant (PDA) to ensure consistency of practice.

Recommendation 6:

Police Scotland should emphasise the rationale for recording the self-defined ethnicity of those who are stopped and searched and provide guidance.

Recommendation 7:

Police Scotland should introduce processes for the proportionate supervision of stop and search activity. This should allow opportunities for individual feedback and learning to officers, which increases their confidence in the effective use of legislative stop and search and considers the quality of the encounter.

Recommendation 8:

Police Scotland should define the roles and responsibilities of the National Stop and Search Unit and all internal business areas that impact on the end to end process of stop and search, including the quality of published data.

Recommendation 9:

Police Scotland should remove the default selection of consensual search from the national stop and search database and require officers to specifically select the legislative power exercised in their stop and search encounter from a pre-defined list. An option to select consensual search should still be maintained until such time as a decision is taken over its continued use in Scotland.

Recommendation 10:

Police Scotland should review its business processes and governance arrangements for the development, testing and acceptance of its ICT systems. This should include the testing and acceptance of ICT changes and updates to existing force systems.

Recommendation 11:

Police Scotland should identify all opportunities to improve data validation on both the national stop and search database and personal data assistants (PDA) databases to maximise data integrity.

Recommendation 12:

Police Scotland should develop proportionate quality control procedures for stop and search data, detailing how the process will be administered, what regular checks will be implemented and how data errors will be rectified and reported.

Recommendation 13:

Police Scotland should review the principles and protocols contained within the Code of Practice for Official Statistics to develop proportionate internal guidance for publicly reported stop and search data.

Recommendation 14:

Police Scotland should assess the training needs of officers in relation to stop and search and consider techniques that will improve officer confidence in the application of their legislative stop and search powers. This assessment should be informed by proposed changes to stop and search policy and practice across Scotland.

Recommendation 15:

Police Scotland should consider a policy which raises a general presumption amongst officers that stop and search encounters should be legislative. This should encourage a position where officers only revert to consensual searches, supported by informed consent, where no legislative power exists.

Recommendation 16:

Police Scotland should seek legal opinion on whether Section 61 of the Crime and Punishment (Scotland) Act 1997 can be interpreted to show an implied power of search for alcohol from young people under the age of 18 and adults in specific circumstances. This opinion should inform whether there is a requirement to seek further legislation in the absence of consensual stop and search.

Recommendation 17:

Police Scotland should record seizures of alcohol and other age restricted products separately on the national stop and search database where there is no search of the individual. This should allow them to be counted and reported independently from stop and search activity. Police Scotland should also ensure that offences under alcohol by-laws are not recorded as stop and search encounters.

Recommendation 18:

Police Scotland should engage with the Stop and Search Short Life Working Group and members of the Children and Young Peoples Reference Group to consider the implications that stop and search recording may have on young people.

Recommendation 19:

Police Scotland and Scottish Police Authority should consult with the Scottish Government on the potential development of a statutory Code of Practice for stop and search.

Recommendation 20:

Police Scotland should publish information on stop and search for local scrutiny and engagement committees and local communities. This should include detail on how this activity is aligned to local priorities and delivering positive outcomes.

Recommendation 21:

Police Scotland should consider developing a framework for stop and search that aligns national and local priorities and promotes a values-based approach to the treatment of those who are subject to a search. Police Scotland should consider placing public confidence at the centre of this approach to stop and search and commit to on-going measurement through an independent survey commissioned by the Scottish Police Authority.

Recommendation 22:

Police Scotland should remove the target for positive searches and the key performance indicator on the number of searches from its performance framework. In the interests of transparency and effective scrutiny, it should continue to collect and publish this data.

Recommendation 23:

Police Scotland should put in place a proportionate audit regime for stop and search including positive and negative searches. There should be clear guidelines for officers completing the audit and those analysing the results. The findings of all audits should be scrutinised by the Scottish Police Authority Audit and Risk Committee.

Background to stop and search

1. Police Scotland has defined a stop and search as *'any encounter between a police officer and a person, which results in that person being searched, where the search was either conducted on a consensual basis, or where the person was searched under legislative powers.'*[5] We are aware that Police Scotland is currently reviewing definitions in relation to stop and search through the Stop and Search Tactical Delivery Group. Stop and search should also be carried out in accordance with the Police Scotland Code of Ethics.[6]

2. Stop and search is a tactic that is used alongside a range of other tactics to address local and national priorities. Stop and search has been used in Scotland for many years. Published figures show that over 640,000 stop searches were recorded by Police Scotland in 2013/14. In the first nine months of 2014/15 published data show that 33% less searches have been recorded compared to the same period in the previous year[7]. We do not have confidence in the quality of the published stop and search data, and caveat our use of these statistics within this report accordingly.

3. A legislative search is defined by Police Scotland as '*one that is conducted by a police officer in the execution of their duty using legislative powers.*'[8] Before using legislative powers, officers must establish reasonable grounds for suspicion. This means that there must be an objective basis for their suspicion based on observations, information and/or intelligence that is relevant to the likelihood of finding an item in an individual's possession which would constitute an offence. Reasonable suspicion cannot be supported on the basis of personal characteristics, such as gender, age and race.

4. Some of the enabling legislation for stop and search powers in Scotland are outlined in table 1 below. Some of this legislation also permits the searching of property, vehicles and vessels.

Table 1: Legislative framework

Search	Legislation
Alcohol[9]	Section 61 Crime and Punishment (Scotland) Act 1997
Knives/bladed/pointed items and offensive weapons	Section 50, Criminal Law (Consolidation) (Scotland) Act 1995 and Sections 48 (1), Criminal Law (Consolidation) (Scotland) Act 1995)
Drugs	Section 23 (2), Misuse of Drugs Act, 1971
Firearms	Section 47, Firearms Act 1968
Sporting events (alcohol, sealed containers, bottles, fireworks, flares etc.)	Section 21, Criminal Law (Consolidation) (Scotland) Act 1995
Stolen property	Section 60 (1) Civic Government (Scotland) Act 1982
Terrorism	Section 43, Terrorism Act 2000
Wildlife crime	Protection of Wild Mammals (Scotland) Act 2002

[5] Police Scotland Stop and Search Toolkit 03 October 2013 Version 1.02
[6] Police Scotland Code of Ethics (2014)
[7] http://www.scotland.police.uk/about-us/our-performance/
[8] Scottish Parliament, Justice Sub-Committee Policing, Police Scotland: Stop and Search Briefing Paper June 2014
[9] The Crime and Punishment (Scotland) Act 1997 states a power for seizure rather than search and seizure

5. In 2013/14 over 640,000 stop searches were recorded by Police Scotland.[10] The volume of searches recorded continues a trend of decline since 2012, with 33% fewer searches recorded in the first nine months of 2014/15 compared to the previous year. Over the same period there has also been a decline in violent crime, anti-social behaviour and disorder.

6. The table below provides a breakdown of the full 2013/14 data detailing the volume of consensual and legislative searches and the proportion with a positive result. While there is only a legislative power of search for alcohol in relation to designated sporting events, these are not routinely recorded as a stop and search. It is likely that the majority of alcohol searches recorded as legislative searches relate to either the statutory seizure of alcohol from young people or under local by-laws. This highlights the inconsistency in recording practices.

Table 2: Volume of consensual and legislative searches recorded 2013/14[11]

Searched For	Consensual	Legislative	Total	Positive
Alcohol	172,831	28,295	201,126 (31%)	72,214 (36%)
Drugs	162,902	115,946	278,848 (44%)	32,028 (12%)
Weapons	87,473	26,834	114,307 (18%)	5,224 (5%)
Stolen property	23,411	19,345	42,756 (7%)	13,359 (31%)
Fireworks	1,000	317	1,317 (0.002%)	187 (14%)
Firearms	504	362	866 (0.001%)	311 (36%)
Terrorism	4	6	10 (-%)	3 (30%)
Wildlife	50	25	75 (-%)	16 (21%)
Other	920	474	1,394 (0.002%)	209 (15%)
Total	**449,095 (70%)**	**191,604 (30%)**	**640,699**	**123,551 (19%)**
(-%) indicates a percentage of less than 0.001%				

7. In Scotland the majority of searches recorded are consensual (70%). For a consensual search the officer does not require reasonable suspicion and can search the individual as long as the person to be searched provides verbal consent. This type of search has been viewed as lacking a legal framework by the Scottish Human Rights Commissioner[12] and has become the most controversial aspect of stop and search. Police Scotland has sought legal advice in relation to consensual stop and search, which confirms that it is lawful. In England and Wales consensual stop and search was prohibited in 2003[13] amidst concerns that informed consent was unlikely to be secured in this type of encounter.

[10] As highlighted in the previous section, we do not have confidence in the quality of the published stop and search data, and caveat our use of these statistics within this report accordingly. We have nonetheless included them within this section to provide context

[11] Source: Police Scotland Year End Performance Report 2013/14

[12] Sunday Herald, Stop and search: now Police Scotland is collecting your phone numbers, 22 March 2015 http://www.heraldscotland.com/news/home-news/stop-and-search-now-police-scotland-is-collecting-your-phone-numbers.121203494

[13] Police and Criminal Evidence Act 1984 (Codes of Practice) (Statutory Powers of Stop and Search) Order 2002, SI 2002/2075

8. A consensual search was defined by Police Scotland as part of the Fife pilot as *"one that is conducted by a police officer in the execution of their duty with the consent of the individual being searched. The search will be undertaken in line with their general police duties for the purpose of keeping people safe."*[14] Where a person refuses a consensual search, this factor cannot then be used to justify a legislative search.[15]

9. A positive search was defined by Police Scotland as part of the Fife Pilot as when "*some item is recovered where possession of same infers criminality on the part of the person being searched or some other person; or compromises the safety of that person or some other person. For the avoidance of doubt, the recovery of alcohol is treated as a positive stop search.*"[16] As previously mentioned, there is no statutory power of search for alcohol in a public place other than at a designated sporting event.[17] Officers can however seize or confiscate alcohol in certain circumstances.

Timeline of key events

10. The main functions of the Scottish Police Authority (SPA) are to maintain Police Scotland and to hold the Chief Constable to account for the policing of Scotland, while supporting continuous improvement in policing and to keep it under review. The Scottish Parliament established the Justice Sub-Committee on Policing on 13 March 2013 with the remit to consider and report on the operation of the Police and Fire Reform (Scotland) Act 2012 as it relates to policing.

11. Following media attention on the effectiveness of stop and search and the publication of academic research,[18] SPA members requested information on stop and search activity at their June 2013 meeting. A paper from Police Scotland was submitted to the SPA Board at their meeting in August 2013 and following discussion, the Board decided to undertake a detailed scrutiny review.

12. In October 2013 the Justice Sub-Committee on Policing asked the Chief Constable a series of questions about stop and search.[19] The committee has returned to this topic on numerous occasions.

13. In May 2014 the SPA published their Scrutiny Review of Police Scotland's Stop and Search Policy and Practice.[20] It made ten recommendations (Appendix 3) to Police Scotland, including a request to review operational practice in relation to any perceived pressure on police officers to attain volume stop and searches; and improvements in the recording of searches including the details of those who do not consent to a search. The SPA also recommended that they themselves should regularly publish comprehensive stop and search data. Police Scotland accepted all recommendations and progress towards them is currently being monitored by the SPA.

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[14] Police Scotland Stop and Search Briefing Paper for Justice Committee and SPA, 19 June 2014
[15] Police Scotland Stop and Search Toolkit 03 October 2013 Version 1.02
[16] Scottish Parliament, Justice Sub-Committee on Policing, Stop and Search Letter from Police Scotland to the Convener, April 2014
[17] Criminal Law (Consolidation) (Scotland) Act 1995, Section 21 in relation to sporting events
[18] The Scottish Journal of Criminal Justice Studies, Stop and search in Scotland and perceptions of police fairness Murray, K, August 2012
[19] Scottish Parliament, Justice Sub-Committee on Policing, Official Report, October 2013
[20] Scottish Police Authority, Scrutiny Review of Police Scotland's Stop and Search Policy and Practice May 2014, http://www.spa.police.uk/assets/126884/230479/scrutinytaskgroupreport

14. Police Scotland decided to set up the stop and search pilot in Fife Division in May 2014. The aim of the pilot was to implement enhanced measures to '*ensure the use of stop search is transparent, meets the expectations of the public when subject to scrutiny, to capture best practice and inform policy and practice and crucially to ensure that its use is lawful, ethical, proportionate and effective in keeping people safe"*[21] The pilot ran for six months from 7 July 2014 to 7 January 2015 and is currently subject to an independent evaluation by Dundee and Edinburgh Universities which was commissioned through SIPR. Specific elements of the pilot including, recording, supervision and the audit of stop and search were explored by HMICS during this inspection. We provide some early observations on the pilot and highlight elements that may be considered by Police Scotland moving forwards.

15. On 19 June 2014, the Justice Sub-Committee on Policing received a briefing from Police Scotland on stop and search. During this session, Police Scotland announced a change to policy and committed to end the practice of consensual searches of children aged 11 years or under. Following this session, the sub-committee wrote to Police Scotland and the Scottish Police Authority with remaining questions that could not be answered in the time available. In this letter the sub-committee noted that work was on-going to establish robust recording mechanisms on how often individuals are being stopped and searched, on what grounds they are being searched and how this is reducing crime. The committee stated they would welcome further information on the stop and search pilot operating in Fife Division.[22]

16. On 30 October 2014, Police Scotland provided an update on stop and search to the SPA Board meeting and submitted a formal response[23] to the Scrutiny Review recommendations. The update included confirmation that weekly checks were being carried out in terms of the policy to end consensual searches of children less than 12 years of age. It also highlighted that following the introduction of the new National Stop and Search database, regular routine monitoring of the data had identified that approximately 20,000 records had been affected by an ICT programming error between 6 May and 14 July 2014. The programming error was rectified within 24 hours of being identified and the National Stop Search Unit (NSSU) had been working with individual officers to re-enter the incomplete data in the database.

17. On 30 October 2014, HMICS published our Terms of Reference for the first phase of our Audit and Assurance Review of Stop and Search within Police Scotland.[24]

18. On 4 February 2015, media reporting informed by a Freedom of Information request,[25] highlighted that the practice of consensually searching children aged 11 years or under had continued, despite the announcement that this practice would cease in June 2014. The First Minister later announced to Parliament that Police Scotland "*is now considering whether the practice of non-statutory or consensual stop-and-search should be completely ended.*'[26] This was followed by a statement by

[21] SPA Board Paper, Scottish Police Authority and Police Scotland's response to Stop and Search Scrutiny Enquiry 30 October 2014
[22] http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/82844.aspx#sthash.6DqHPCFU.dpuf
[23] http://www.spa.police.uk/assets/126884/252938/item23
[24] HM Inspectorate of Constabulary in Scotland, Audit & Assurance Review of Stop and Search: Phase 1, October 2014
[25] BBC News "Police search hundreds of children despite commitment" – 4 February 2015
[26] BBC News Scottish police consider ending consensual stop-and-search, 5 February 2015

Police Scotland on 5 February 2015 that it was to consider whether the practice of consensual stop and search should continue, in conjunction with its partners, HMICS and the SPA.

19. The SPA Board held an extraordinary meeting on 13 February 2015, where the Chief Constable and other senior officers provided an update to members on the extent of stop and search activity on children 11 years or under. This meeting included discussion on the quality of the stop and search data held by Police Scotland and the management of the Freedom of Information request that informed the subsequent media reporting. Police Scotland provided information on 356 records relating to all children searched between 21 June 2014 and 31 December 2014. This prompted the SPA to request an independent audit of these records by HMICS, the findings of which are contained within this report (see paragraph 201).

20. On 19 February 2015 the Justice Sub-committee on Policing held an evidence session on stop and search, where the Chief Constable and other senior officers provided an update to members on the extent of stop and search activity on children 11 years or under. This included discussion on the reliability of stop search data and the ICT programming error in May 2014 that resulted in 20,087 positive search records having incomplete data. We have provided comment in relation to both these issues within this report (see paragraphs 174 and 201).

21. Police Scotland has recently established a Stop and Search Short Life Working Group and committed to provide an interim report to the Cabinet Secretary for Justice by 31 March 2015. This report will outline whether Police Scotland believe the practice of consensual search should be completely ended and make recommendations to inform the future use of stop and search. HMICS has been invited onto this group and has attended the meetings held to date.

Stop and search in England and Wales

22. The use of stop and search in Scotland has been widely reported as being at least twice that of the Metropolitan Police. However, there are variances between Scots law and the legal framework used in England and Wales. Whilst routine consensual stop and search is prohibited in England and Wales, there are two Acts which include provisions to enable police officers to search persons without reasonable suspicion. These are section 60 of the Criminal Justice and Public Order Act 1994 and section 47A of the Terrorism Act 2000.

23. Police in England and Wales have a range of powers to stop and search persons on a legislative basis when reasonable grounds for suspicion exist. The powers most widely used are those conferred by section 1 of the Police and Criminal Evidence Act 1984 (PACE); which allows the police to stop persons or vehicles in public places and search them for stolen goods and other articles, and the UK-wide Misuse of Drugs Act 1971.

24. In December 2011 the Home Secretary commissioned Her Majesty's Inspectorate of Constabulary (HMIC)[27] to carry out an inspection into the use of stop and search legislation by police forces in England and Wales. The subsequent HMIC report[28] found that *'some of the most intrusive and contentious powers granted to the police are those of stop and search; but the majority of forces do not understand how to use these powers effectively and fairly to prevent and detect crime'*. Over a quarter (27%) of the 8,783 stop and search records examined by HMIC did not include sufficient grounds to justify the lawful use of the power. HMIC concluded that the priority chief officers give to improving the use of stop and search powers had slipped since the publication of the Stephen Lawrence Inquiry Report in 1999. The report also found that undertaking approximately one million stop and searches would cost £3.7 million. HMIC has recently revisited[29] nine forces in England and Wales to monitor progress against the recommendations made within their 2013 stop and search report and examine the way in which police use their powers to stop motor vehicles and strip search people. Whilst we did not examine vehicle stops or strip searching within the scope of our inspection, these issues are likely to be worthy of further consideration by Police Scotland and the Stop and Search Short Life Working Group.

25. In July 2013 the Home Secretary announced a consultation into stop and search powers in England and Wales. The consultation aimed to gauge the views of the public, police, campaign groups and other organisations.[30] As a result the Westminster Government developed a number of proposals which include;

- revisions to guidance to make clear what constitutes reasonable grounds for suspicion;
- reviewing the national training of stop and search;
- introducing an annual review of the use of stop and search powers;
- introducing a voluntary Best Use of Stop and Search Scheme (BUSS) which seeks to achieve greater transparency, community involvement in the use of stop and search powers and to support a more intelligence-led approach, leading to better outcomes;
- increasing public reporting of stop and search data.

26. As a result of the consultation the main guidance PACE Code A was revised. This was laid before the Westminster Parliament on 5 December 2014.[31]

27. In March 2015,[32] HMIC found that while forces have made efforts to examine the effectiveness of stop and search, more consideration should be given as to whether the application of the tactic was fair. It was commented[33] that *'Too many police leaders and officers still don't seem to understand the impact that the use of powers to stop and search people can have on the lives of many, especially young people, and those who are from black and minority ethnic backgrounds. This is disappointing*

[27] Her Majesty's Inspectorate of Constabulary in England and Wales is referred to as HMIC while Her Majesty's Inspectorate of Constabulary in Scotland is referred to as HMICS
[28] HMIC (2013) Stop and Search Powers: Are the police using them effectively and fairly?
[29] HMIC (2015) Stop and Search Powers 2: Are the police using them effectively and fairly?
[30] https://www.gov.uk/government/consultations/stop-and-search
[31] https://www.gov.uk/government/collections/police-and-criminal-evidence-act-1984-pace-current-versions
[32] HMIC (2015) Stop and Search Powers 2: Are the police using them effectively and fairly?
[33] http://www.justiceinspectorates.gov.uk/hmic/news/news-feed/police-forces-failing-to-understand-the-impact-of-stop-and-search/

because getting it wrong can lead to resentment, anger and, in time, a loss of trust in the police.' Since 2013, forces in England and Wales have made good progress in finding a way to better use technology to record relevant information about stop and search encounters, which allows judgments to be made on how effectively and fairly the power is being used. HMIC has made eleven further recommendations for improvement which include the introduction of minimum recording standards, guidance and training for officers in relation to powers of search and seizure for alcohol and tobacco from young people. The recommendations also cover the recording and publication of data which relates to search encounters involving the removal of more than an outer coat, jacket and gloves and the publication of a working definition of what constitutes an effective and fair stop and search encounter.

28. As part of this inspection we visited the Metropolitan Police Service and HMIC in England and Wales to gain a fuller understanding of the changes that have been undertaken and are being developed in England and Wales. Where relevant, we have indicated how these changes may be considered within the context of Scottish policing to drive improvement.

Accuracy of stop and search data

29. HMICS previously highlighted that the recent political and public debate over armed policing in Scotland has crystallised around questions of *legality*, *legitimacy* and *police accountability.*[34] We consider that these three questions are equally relevant to the current debate over stop and search. Policing must have the trust and confidence of the communities it serves. Transparency and public accountability are fundamental and underpin the notion of policing by consent. It is therefore vital that the public have confidence in the published statistical information that is used to inform policing practice and hold Police Scotland to account.

30. We do not have confidence in the stop and search data currently held by Police Scotland and believe it should not be used to make informed decisions around the future policy and practice in Scotland until a more consistent approach to recording, supervision and audit is introduced and an accurate baseline established. In addition robust internal and external governance arrangements need to be in place to provide confidence in the dataset. Throughout this report we highlight our concerns with the stop and search data and make recommendations to drive improvement. We do not consider it viable or a good use of limited resources for Police Scotland to retrospectively improve the data quality of existing records, but believe they should instead establish a reliable new baseline going forward.

31. Stop and search has been subject to much debate over recent years and has centred on the high volume of searches and the ethical use of consensual search. Management information which is published by Police Scotland has been used to provide comparisons with other jurisdictions and has informed the on-going debate regarding the legitimacy of stop and search.

32. In March 2014 there was widespread media reporting that stop and search figures were inaccurate with concerns being raised publicly by the Scottish Police Federation.[35] In May 2014, there was also media reporting that indicated the Chief Constable had conceded that "some" stop and searches carried out by his officers were "made up."[36]

33. In February 2015 it was widely reported that the stop and search data was 'inaccurate' despite data being published regularly by Police Scotland and released under Freedom of Information.[37] At a Special Board meeting of the SPA on 13 February 2015, information was provided by Police Scotland that highlighted internal concerns over the recording of stop and search data. The national lead for Stop and Search is the Assistant Chief Constable, Local Policing (West) who stated "*very early on in the process internal concerns were raised regarding the quality of the data.*"[38] This view was reinforced by the Chief Constable who stated that the stop and search data was "*not fit for public consumption.*"[39]

[34] HMICS Review of Standing Firearms Authority for Armed Response Vehicle Crews within Police Scotland, October 2014
[35] http://www.dailyrecord.co.uk/news/scottish-news/labour-slam-police-scotland-over-3276152 and http://www.edinburghnews.scotsman.com/news/crime/police-making-up-stop-and-search-results-1-3351392
[36] http://www.heraldscotland.com/news/home-news/police-chief-admits-to-fake-stop-and-search-figures.23761106
[37] SPA Board 13 February 2015
[38] Holyrood Justice Briefing, Friday 13 February 2014
[39] http://www.bbc.co.uk/news/uk-scotland-31448972

34. The Scottish Parliament called for further evidence on the issue of stop and search on 19 February 2015.[40] At this session the quality of stop and search data held by Police Scotland was questioned. There was also debate on the impact that performance measures may have on officers and whether there are targets on the volume of stop and search (see paragraph 168).

Guidance and counting rules for stop and search

35. In order to ensure that police data is accurate and can be relied upon, there should be accessible guidance for officers in terms of recording. This should be supplemented by robust supervision, audit and governance processes. We found that officers in Scotland do not have definitive guidance or a common view of what should be recorded as a stop and search. There is no guidance on how stop and search should be counted and there is a lack of data validation and quality control processes. In addition routine audit mechanisms have not yet been established and there is no definitive guidance for supervisors in relation to their quality assurance role. This has had a significant impact on the quality of stop and search data.

36. Although there is no single definitive source document available to officers, we reviewed a range of Police Scotland documents that could constitute guidance in regard to stop and search. These included the Stop and Search Policy, Toolkit, Probationer Training Notes, Notebook Standard Operating Procedures, Stop and Search Briefing (October 2013), Stop and Search Briefing (Fife Pilot), Stop and Search Application Guide (May 2014) and a Training Note (Fife Officer Training Programme).

37. The Police Scotland stop and search toolkit provides legislative guidance and practical scenario examples that officers may face when carrying out their duties. This does not include detailed information on what should be recorded as a stop and search, although it is stated that '*Police are required to record stop and search activity'*. The stop and search policy states that '*as a police activity/incident stop and search is a matter of record. It is therefore appropriate that personal details, where given, are recorded'*.

38. In October 2013 Police Scotland acknowledged that stop and search data was inconsistent and a briefing was sent to all divisions to provide further clarity on what constitutes a stop and search. This included the following examples of what should *not* be recorded as stop and search:

- ***Prisoner Search (Custody Suite)*** – where a prisoner is being searched as part of the standard procedure within a custody suite, irrespective if items were recovered during the search. The exception is where a person is brought to the custody suite for the purpose of a search.

- ***Events*** – general searches or 'pat downs' that occur at admission to an event that are carried out by officers or by stewards.

[40] Scottish Parliament, Justice Sub-Committee on Policing, 19 February 2015

- ***Shoplifter*** – When responding to a detained shoplifter and the stolen goods have already been recovered by shop/security staff. If it is suspected that the person has further hidden items about their person and an officer conducts a legislative search, then this should be recorded.

- ***Vehicle stop*** – where a vehicle is searched for whatever reason but no occupants are searched. Only person searches should be recorded on the electronic stop search form.

39. We found that officers were not always aware of or had seen this briefing and that some officers were still recording searches in relation to these examples. While this was not widespread, we found some evidence in all of the divisions we visited. In particular, some officers cited examples where people were searched following arrest or detention.[41]These would not fall within the definition of a stop and search as defined by Police Scotland and as such should not have been recorded as a stop and search encounter.

40. We were told that on some occasions, officers had been instructed by a supervisor or crime manager to record a positive stop and search where the information contained within a crime report inferred that a positive recovery had been made. In some cases the reporting officer did not agree that the circumstances constituted a stop and search. This practice was mentioned by a small proportion of officers in more than one division and suggests that the performance target for positive searches may be driving these behaviours. It is not possible from the data available to estimate the proportion of searches that are recorded under these circumstances.

41. We found that counting of stop and search lacked consistency across Scotland and individual officers record the number of stop and searches differently. There are no counting rules available to officers to provide clarity on how to count searches. We developed seven scenarios involving stop and search which were tested during focus groups with officers as part of our inspection fieldwork. These scenarios were designed to ascertain whether officers would consistently record a stop and search encounter and to test whether in cases involving multiple persons, officers across the country would record the same number of stop and searches. There was evidence of varying recording practices and a divergence in opinion as to what constituted a stop and search between different officers within the same Division and in different areas around the country.

42. In one scenario we asked officers about a situation involving multiple people. We asked what they would record in their notebook or PDA and whether they would thereafter record a stop and search. Officers within the focus groups that were working within the same division would often record the situation differently. The answers to this particular scenario ranged from nothing being recorded to five positive stop searches being recorded.

[41] Once is person is arrested officers have power to search the person to find any articles which may have assisted the person in the crime or are products of the crime or offence with which the person has been charged

43. In our recent Crime Audit Report 2014[42] we refer to the Scottish Crime Recording Standard (SCRS) and Scottish Government Counting Rules. These documents provide a framework for determining when an incident should be recorded as a crime, the type of crime that should be recorded and how many crimes should be counted. This was primarily introduced to ensure greater consistency of recording across the eight legacy police forces in Scotland. This guidance has had a beneficial impact on the consistency of crime records across Scotland. It also provides clear standards against which to conduct internal and external audits. In our most recent Crime Audit we reported that the quality of most incident and crime recording decisions by Police Scotland was good, with 92% of incidents closed correctly[43] and 94% of crime counted and classified correctly.

44. As part of our comparative fieldwork, we found that BTP has a well-developed stop and search strategy and manual of guidance that highlights key considerations when undertaking stop and search. The manual provides a policy statement, background to stop and search, covers encounters with members of the public and the appropriate use of stop and search. It also includes practical guidance such as information that should be provided to the individual prior to search, how to determine reasonable grounds for suspicion, the principal stop and search powers, recording requirements and responsibilities of the searching officer, supervisors and outlines an audit of records.

Recommendation 1:
Police Scotland should develop definitive guidance and counting rules for officers to provide clarity on what constitutes a stop and search and how these should be recorded and counted. This should include what a search can involve, particularly in relation to turning out pockets or bags, to ensure there is a common understanding among officers.

Recording of stop and search

45. The majority of officers in Police Scotland record a search in their paper notebook at the time of the encounter. This information should then be electronically recorded onto the national stop and search database. This database was created by Police Scotland and is available to all officers through the force intranet.

46. In some divisions in Scotland electronic Personal Data Assistants (PDAs) are used by front line officers instead of paper notebooks. PDAs have been used in legacy Lothian and Borders (E and J Divisions) since 2007 and were introduced as a pilot in legacy Strathclyde in 2011 (mainly in G Division but also to a small number of officers in Q, K, L and U Divisions). The PDAs have an electronic form that is used to record stop and search. The officer will complete the form at the time of the search and can review this on a desktop computer before submitting to a separate PDA database. Officers that have a PDA can also record a stop and search directly through a desktop computer application that replicates the stop and search form on the PDA and stores the information directly on the PDA database.

[42] HMICS, Crime Audit 2014, November 2014
[43] Correct closure means either that (a) the incident was closed as non-crime related and contained sufficient information to dispel any inference of criminality; or (b) the incident indicated a crime had occurred and a crime record was traced

47. We found several variations between what is recorded in the data fields on the PDA and on the national database (Appendix 4). In particular, we found there is currently no facility for officers to record their grounds for suspicion on the national database. This facility exists on the PDA, but it is not consistently completed. We consider that the grounds for suspicion, which primarily justify the use of legislative stop and search, should be captured by officers and recorded as a mandatory entry in the national stop and search database. This approach is taken by the MPS and is used effectively as a qualitative measure as part of its supervision and audit function to ensure search activity by officers is both justified and proportionate. The recording of grounds has also allowed the MPS to undertake force wide analysis, identify training needs and generally drive improvement and the confidence of officers in the use of legislative stop and search.

Recommendation 2:
Police Scotland should require officers to record their grounds for suspicion for legislative searches and make this a mandatory recording requirement on the national stop and search database. This information should be used as a qualitative measure to support effective supervision and audit and to drive improvement in the use of legislative stop and search.

Recording positive searches

48. We found that Police Scotland currently record and report positive searches on the basis of what officers search for and not on what is actually recovered. For example, if an officer conducted a search for weapons but recovered alcohol, the search would be reported as a positive weapons search. This approach has the potential to skew public perceptions of local crime and disorder trends, particularly where stop and search data might indicate a higher level of recoveries for a particular search type than is actually the case.

49. As part of the Police Scotland Internal Audit (see paragraph 174), we requested that a comparison be drawn between what was searched for and what was found. This analysis was undertaken by Police Scotland and provided to HMICS. Table 3 provides information on the number of times what was searched for was actually found. The analysis relates to 19,274 records that were included in the Police Scotland data recovery exercise.[44]

[44] For this analysis we excluded 14 records that relate to wildlife searches as it is unclear what was found due to the way in which this data is currently captured

Table 3: Comparison of item searched for and item found

Item searched for	Number of searches	Item searched for and item found match[45]		Item searched for and item found no match	
Alcohol	12032	11833	98%	199	2%
Drugs	5118	4633	91%	485	9%
Property	1543	1318	85%	225	15%
Weapons	542	442	82%	96	18%
Firearms	37	29	78%	8	22%
Fireworks	2	2	100%	-	-
Total	**19274**	**18257**	**95%**	**1013**	**5%**

50. This information highlights differences between the reason for the search and the item recovered. It illustrates that while drugs searches have a high rate (91%) of finding the item searched for; almost one in five (18%) positive weapon searches do not actually result in the recovery of a weapon. We believe it is important that the item recovered is used for the public reporting of stop and search to provide greater transparency and an understanding of local crime and disorder trends. We also believe this information is important for Police Scotland and agree with HMIC in England and Wales that it provides an internal qualitative measure of the strength of the grounds for suspicion[46] and informs the local intelligence assessment.

Recommendation 3:
Police Scotland should accurately record and publicly report on items recovered as a result of a positive stop and search encounter. This should provide greater transparency and better inform local communities about local crime and disorder trends.

51. The recent consultation published by the Home Office highlighted a lack of measurement of outcomes from stop and search in England and Wales.[47] The HMIC inspection found that fewer than half of police forces in England and Wales recorded whether a stop and search encounter resulted in a non-arrest disposal and that by not recording other outcomes, the ability of the force to assess the effectiveness of stop and search powers was hindered.[48]

52. Police Scotland does not currently record disposals although there are a range of measures that could be recorded following a positive stop and search. These include but are not limited to; a referral to another agency, fixed penalty notice, confiscation, crime/offence report or arrest. We agree that recording the disposal provides greater clarity on the effectiveness of stop and search and improves the correlation between positive searches and offences recorded (see paragraph 99). We consider that the available disposals for stop and search should not be restricted to criminal justice measures, but should include measures which support the main purpose of policing

[45] Data is counted as a match if other items as well as the item searched for were found
[46] HMIC (2013) Stop and Search Powers: Are the police using them effectively and fairly?
[47] Home Office, Police Powers of Stop and Search Summary of Consultation Responses and Conclusions, April 2014
[48] HMIC (2013) Stop and Search Powers: Are the police using them effectively and fairly?

to improve the safety and well-being of persons, localities and communities in Scotland.[49]

53. BTP record the result of the search, the application of the grounds for suspicion, whether the search resulted in finding the item searched for and if there was an arrest as a result of the search.[50] BTP use this information to assess the outcomes achieved. This information is also used to monitor the application of reasonable suspicion by officers, offering support and further guidance if the grounds recorded could be improved.

54. The SPA has made a recommendation[51] for outcome measures to be defined and provide greater clarity on how stop and search contributes to the priorities of most concern to local communities. We support this recommendation.

Recommendation 4:
Police Scotland should develop, record and publicly report on disposal categories which effectively capture the outcomes of stop and search activity. This should include a range of measures which support the statutory purpose of policing to improve the safety and well-being of persons, localities and communities in Scotland.

55. The SPA also made a recommendation that information should be provided on the numbers of people who refuse a consensual stop and search.[52] Currently, consensual search refusals are not being captured on the national database as there is no facility to record this. An attempt to record this information has been made during the Fife Pilot, where officers were requested to verbally inform their supervisor. This information is then provided to the divisional co-ordination unit within Fife. We found that two refusals had been recorded at the end of January 2015. Officers told us that this did happen more frequently but often they forgot to update supervisors, and as there was no formal requirement to record refusals there were no mechanisms to record this after the fact. We would expect this issue to be included within the evaluation of the Fife Pilot and consideration given on how best to capture and record such refusals in the future.

Recording by officers

56. We found there is no definitive guidance available to officers about what they should record in their notebooks or PDA when they undertake a stop and search.

[49] Police and Fire Reform (Scotland) Act 2012, Section 32(a)
[50] BTP in Scotland do not conduct any consensual searching they solely rely on legislative powers of search
[51] SPA Scrutiny Review of Police Scotland Policy and Practice of Stop and Search, May 2014
[52] SPA Scrutiny Review: Police Scotland's Stop and Search Policy and Practice, May 2014

57. During their probationary period, officers are provided with training on *legislative* search powers. The current training notes provided to officers contain the following list of what '*must be recorded in their personal notebooks in every case.*'[53]

- The collar/registered number of the officer conducting the search.
- The search type.
- Whether the search was conducted under legislation or was a voluntary search.
- The date and time.
- The nearest known address.
- Whether conducted in private place or street.
- The self-defined ethnicity of the person searched.
- The age of the person searched.
- The sex of the person searched.
- Whether the result was positive or negative.

58. This information has only been provided to officers who attended probationary training in recent years and as such would only have been seen by a small proportion of officers during their initial training. The probationary officers stated that the more general input on notebooks provided a format for officers, but did not outline prescriptive parameters in terms of what officers must write in their notebook.

59. We noted that there had been a presentation issued to officers in May 2014 that included what should be recorded on the national stop and search database.[54] This details the fields that should be recorded on the computer application and includes screen shots of the relevant pages. While this was a helpful development, no specific guidance was provided on what officers should record in their notebooks to enable the transfer of data.

60. During our focus groups, officers were asked to complete a list of what information they would normally record when they entered a stop and search in their notebook.[55] We identified 36 pieces of information that officers could potentially record in relation to a stop and search encounter. We would not expect all of these to be recorded within notebooks and used this list as a basis to identify areas of common recording practice throughout Scotland. We found that officers said they would always record six of the 36 items (name, date of birth, date and time of search, the result of the search and the location of any items found). The items that officers said they would note least frequently were; gender (16%), self-defined ethnicity (18%), officer perceived ethnicity (24%) and a description of the person searched (30%).[56] The full results of this analysis are contained in Appendix 5. Police Scotland has identified this as an area for improvement following their recent internal audit and will take this forward through the Stop and Search Tactical Delivery Group.

[53] Scottish Police College, Searching People Training Notes Unit 2, version 8th July 2012
[54] National Stop and Search Application Overview, May 2014
[55] The sample size for this exercise among Police Scotland Officers was very small (n=53 officers). This was to provide a general indication of what officers would record
[56] The percentage figures indicate the proportion that said they would record this item

Recommendation 5:
Police Scotland should develop definitive guidance for officers about what information should be recorded from a stop and search encounter into their notebook or personal data assistant (PDA) to ensure consistency of practice.

61. A consistent theme discussed with officers was the recording of ethnicity. Many officers did not ask the ethnicity of the individual as they would deduce this from place of birth information provided. The majority of officers stated they would ask if they were unsure of the ethnicity of the individual and could not deduce it from the place of birth. There were a minority of officers that felt uncomfortable asking the ethnicity of the individual specifically in relation to stop and search. The importance of an individual defining their ethnicity was not always recognised by officers, with some believing this information would be required for statistical purposes rather than as a means of implementing duties under the Equalities Act 2010.

Recommendation 6:
Police Scotland should emphasise the rationale for recording the self-defined ethnicity of those who are stopped and searched and provide guidance.

Local supervision

62. Part of a supervisors' role is to check the work of the officers under their supervision. We found no specific guidance for first line managers in terms of the supervision of stop and search although there was guidance,[57] which requires supervisors in each division to check officers' notebooks or PDAs. We reviewed this document and established that legacy force processes remain in place, with variation across the divisions in terms of the frequency of checks required from once per shift to every four weeks. There was no specific supervisory guidance on stop and search within the notebook SOP. We found from speaking to officers and supervisors that in most instances supervisors would not specifically check stop and search recording in notebooks.

63. Supervisors can check the records of officers that use the PDA system and have the ability to check stop and search records via this method. We did not speak to any supervisors who had specifically checked stop and search records by this means, although some supervisors stated that they had reviewed a stop and search record to fulfil their duties to check notebooks or PDAs. At present there is only a limited facility for local supervisors to check the stop and search records submitted via the national stop and search database and to correlate this with the information recorded in notebooks.

64. We found there is insufficient supervision and guidance at a local level to monitor stop and search. Stop and searches submitted are uploaded automatically and the data is used for performance and management information purposes without regular checks or audit in place.

[57] Police Scotland Notebooks and PDAs Standard Operating Procedure 11/05/2014

65. Within the MPS supervisors monitor all searches submitted by officers. The grounds for the search are reviewed to ensure the officer is applying the appropriate judgement and that the officers' suspicions are recorded accurately. Officers that are not recording sufficient grounds or have high levels of negative searches are offered guidance and support to ensure this improves. We consider this to be effective practice.

66. Within BTP all stop and searches conducted by officers are subject to review by the officer's supervisor before they can be submitted.[58] The submitted records are subject to further scrutiny by the Divisional Intelligence Unit. This unit checks all searches, including the grounds for reasonable suspicion. Internal guidance states that: "*Supervision of stop and search is required at all levels in BTP. The role of the first line manager, especially the sergeant, is critical to the success of stop and search activity. The use of search powers should be evaluated by their relevance, legality, quality and how they link to current intelligence and briefings*."

67. The role of the supervisor within BTP is not simply to check the forms that officers submit, but includes proactive and intrusive supervision to ensure good quality encounters are taking place. Guidance within BTP further states that supervisors should ensure they monitor the conduct of searches to ensure the public are treated with respect and courtesy. This means accompanying officer on patrol and direct observation of stop and search encounters where opportunities arise. In accordance with best practice, supervisors should be checking notebooks and signing on a regular basis. On a monthly basis, the Divisional Stop and Search Co-ordinator will obtain a list of the previous month's 'stops' recorded on the Force Intelligence System. The Stop Search Co-ordinator will, in conjunction with the relevant first or second line manager, conduct a random sample of the monthly records held on the system and compare these with the details held within the officers' notebooks. Where necessary, feedback will be provided to the officer in question and best practice shared throughout the Division.

68. We recognise that the approaches taken by BTP and MPS are comprehensive despite significantly varying volumes of search activity[59] and consider that any approach within Police Scotland should be proportionate.

Recommendation 7:
Police Scotland should introduce processes for the proportionate supervision of stop and search activity. This should allow opportunities for individual feedback and learning to officers, which increases their confidence in the effective use of legislative stop and search and considers the quality of the encounter.

[58] It should be noted that all searches undertaken by MPS and BTP are legislative and as such officers are required to have reasonable grounds for suspicion
[59] From 1 April 2013 to 31 March 2014 BTP conducted 282 stop and searches and during the same period MPS conducted 291,319 searches

National governance

69. Police Scotland set up the National Stop and Search Unit (NSSU) in May 2014 in response to the political and public concerns on the targeting, effectiveness and transparency of stop and search.[60] We consider the establishment of the NSSU is a positive development that has the potential to develop a national approach. There is acknowledgment at senior levels that there remains scope for improvement in many areas of stop and search and much of this work is under development by the NSSU.

70. In a paper submitted to the SPA Board[61] it was stated that the NSSU will enhance governance and scrutiny of stop and search by monitoring activity, reviewing practices and procedure and ensuring consistency of approach. In order for the NSSU to fulfil this role there are interdependences with other internal business areas. This includes colleagues responsible for training, analysis and performance, information technology, mobile data, as well as local divisions and other stakeholders. Input from other business areas is necessary to ensure the right skills are available to deliver on the range of improvements required. We found that while there is evidence of internal collaboration between departments, there has been a lack of collective ownership of stop and search. The roles and responsibilities for oversight of the end to end process for recording stop and search have not yet been defined and there is an absence of collective responsibility for the stop and search data among the business areas that are involved in its administration and reporting.

Recommendation 8:
Police Scotland should define the roles and responsibilities of the National Stop and Search Unit and all internal business areas that impact on the end to end process of stop and search, including the quality of published data.

71. Police Scotland established a National Stop and Search Working Group (also referred to as the Gold Group) which has taken responsibility for the governance of stop and search. This group is chaired by the ACC Local Policing (West). The strategic objective of the group is to "*develop and deliver a comprehensive programme which supports stop and search as an essential component in Police Scotland's drive to keep people safe, and further increase community trust and confidence.*"[62] The group has endorsed an action plan which includes working towards a governance structure for the future that ensures that the continued use of the tactic is ethical, proportionate and justified with clear evidence that this is outcome focussed and demonstrates that Police Scotland are meeting the needs of the wider community.[63]

[60] Scottish Parliament, Justice Sub Committee, Stop and Search Briefing Paper, 19 June 2014
[61] SPA Board Paper , Scottish Police Authority and Police Scotland's response to Stop and Search Scrutiny Enquiry 30 October 2014
[62] SPA Board Paper , Scottish Police Authority and Police Scotland's response to Stop and Search Scrutiny Enquiry 30 October 2014
[63] SPA Board Paper - Scottish Police Authority and Police Scotland's response to Stop and Search Scrutiny Enquiry 30 October 2014

72. We found that there were no minutes recorded for the Stop and Search Gold Group that had been set up in April 2014 although there is an action plan from May 2014 that details five actions for progression. The extent to which these actions have been taken forward and implemented varies, and we found that the action plan had not been updated since May 2014. However, Police Scotland confirmed that working group meetings had been held throughout the duration of the Fife pilot and that further meetings where held to manage the recovery of data that was incomplete as a result of the ICT failure, to oversee the internal audit and to discuss the HMICS audit.

73. During the Fife Pilot a local Gold Group was established and chaired by the Fife Divisional Commander. This group met monthly and included external stakeholders to oversee the pilot. We received a task/action log from this group and found that all actions are shown as complete. Following conclusion of the pilot, the responsibility for governance and the wider improvements and learning from the pilot transferred to the National Stop and Search Gold Group on 3 February 2015.

74. During our inspection we found that the internal governance processes for stop and search could be improved. We acknowledge that Police Scotland is in the process of re-establishing national governance structures and working groups to progress many of the issues recently identified. We welcome this and will monitor progress.

75. We also welcome the establishment of the Expert and Children and Young People working groups to provide a platform for Police Scotland to engage with key partners on the issues around stop and search.

76. At the time of this inspection the Expert Working Group for stop and search had met once on the 9 July 2014 to establish the terms of reference for the group. The group contains a range of stakeholders, including those involved in human rights and legal representation. It is currently a virtual group that is consulted by Police Scotland when required.

77. The Children and Young Persons Reference Group (CYPRG) includes a range of stakeholders including; Children in Scotland, YoungScot, Youthlink Scotland, Education Scotland and other Children's Rights organisations. This group was established in May 2014 and has met on numerous occasions. The group has a wide remit linked to the divert and prevent agenda[64] and has stop and search as a standing item on the agenda. The group has added value to on-going developments in stop and search such as reviewing the stop and search policy for the Fife Pilot and developing the '*Know your Rights*'[65] document which explains young people's rights in regard to stop and search. We recognise the work of the CYPRG as a positive development and will continue to monitor progress.

[64] Divert and Prevent are key strategies to aid in preventing and diverting young people from being involved in serious and organised crime and terrorism

[65] http://www.scotland.police.uk/assets/pdf/keep_safe/know-your-rights

78. During the Fife Pilot an opportunity to involve members of the Scottish Youth Parliament from Fife was taken. As a consequence, every division in Police Scotland now has a single point of contact for their local Member of the Scottish Youth Parliament (MSYPs). Police Scotland has also set up a Youth Volunteer Programme. The volunteers have assisted Police Scotland in the development of a letter that is sent to parents if a child is stopped and searched as part of the Fife Pilot. Youth volunteers are also supporting training for probationer officers and newly appointed first line managers. Police Scotland is developing a youth engagement strategy in consultation with young people and adults. The strategy will adopt a two tier approach with one area specifically involving engagement with young people and the other focused on engagement with adults, youth workers, teachers and parents.

Data entry and validation

79. We learned that not all searches are recorded on the database or on PDAs due to competing demands on officers' time. While this practice was not widespread, officers stated that the recording of stop and search was seen as less of a priority, particularly in cases where the outcome of a search had proved negative. Officers choose to prioritise activities such as completing crime reports and making entries on the vulnerable persons database, (iVPD) over recording a stop and search encounter. Some officers stated that it was sometimes difficult to gain access to a computer and if they were unable to complete this prior to finishing duty, there was a risk that competing priorities and the passage of time could cause them to forget to update information retrospectively. It is not possible to state the extent of this throughout the organisation, although we believe that our recommendation to improve supervision should address this (see recommendation 7).

80. We also found that the recording of searches on the database could be problematic in that there is a drop down box that the officer uses to indicate if the search was legislative or consensual. This box defaults to a consensual search and can easily be selected by officers in error. In the Police Scotland audit we found examples where officer notebooks stated a legislative search was conducted but a consensual search was recorded on the database. We noted that BTP officers have to select the relevant legislative power they have used when recording the search on their force system. We view this as good practice and believe the addition of this descriptor would significantly improve data quality, analysis and public reporting.

Recommendation 9:
Police Scotland should remove the default selection of consensual search from the national stop and search database and require officers to specifically select the legislative power exercised in their stop and search encounter from a pre-defined list. An option to select consensual search should still be maintained until such time as a decision is taken over its continued use in Scotland.

81. At the start of our inspection we found that basic data validation was not coded into the stop and search database. During our inspection, some data validation was added which included: age, date of birth and the date and time of search. We were made aware of on-going discussions with Police Scotland ICT to improve data validation.

82. During our inspection we noted that officers could select a box stating nominal details[66] withheld. While this may be a valid option for consensual search, where there is no obligation for the person being searched to provide such information, we found that officers could select this option for legislative searches. We raised this with the NSSU in November 2014 and are aware that they are liaising with ICT in an effort to amend the database.

83. It is important that nominal information is collected and accurately recorded onto the stop and search database, as this supports the identification of repeat searching of the same individuals and can aid in the development of referral thresholds to partners. This information would also highlight if individuals are being disproportionately targeted and would add value in terms of being able to report accurately on the number of people searched compared to the number of searches undertaken. Studies have shown that searching the same people repeatedly has a multiplicative effect on their levels of trust and perceptions of the police, such that no amount of fairness in an individual encounter will be perceived fairly.[67] However, we also recognise that data collection needs to be balanced against the sensitivities of holding personal data and highlights the need for safeguards around its retention and use.

84. The collection of personal data in relation to stop and search has benefits and drawbacks as highlighted in recent media reporting.[68] We suggest that Police Scotland should consult with the Stop and Search Short Life Working Group to determine what information should be recorded by officers during a stop and search encounter (see Recommendation 5).

85. We learned that ICT had developed the national stop and search database in a short timescale and this had impacted on the quality of the application. Data validation was not requested in the initial user requirements and the usual force processes for testing and accepting a new ICT system were not always followed. We found no evidence of formal sign off by the business at key stages of development and understand this was primarily due to time constraints on the development. We were provided with documentation which details the approach to testing and acceptance of ICT systems within Police Scotland and recommend that suitable business process and governance arrangements are introduced to ensure that these are carried out consistently across all systems.

Recommendation 10:
Police Scotland should review its business processes and governance arrangements for the development, testing and acceptance of its ICT systems. This should include the testing and acceptance of ICT changes and updates to existing force systems.

[66] Nominal information relates to the name of the individual
[67] Bowling, B. and Philips, C. (2007) 'Disproportionate and discriminatory: Reviewing the evidence on police stop and search'. The Modern Law Review, 70(6): 936-961
[68] Sunday Herald, Stop and search: now Police Scotland is collecting your phone numbers, 22 March 2015 http://www.heraldscotland.com/news/home-news/stop-and-search-now-police-scotland-is-collecting-your-phone-numbers.121203494

86. The purpose of data validation is to ensure no unintentional data errors occur in the final data set. By incorporating error prevention procedures at the beginning of the quality control process it significantly reduces the duration and cost to complete error correction tasks such as data cleansing. We acknowledge that not all data errors can be eliminated at data entry, however a high proportion of the errors within the stop and search data, particularly in relation to age, could have been prevented if validation rules were in place at an earlier stage.

Recommendation 11:
Police Scotland should identify all opportunities to improve data validation on both the national stop and search database and personal data assistants (PDA) databases to maximise data integrity.

Future-proofing ICT and i6

87. The national stop and search database was developed in-house by Police Scotland as an interim measure and was due to be decommissioned and replaced by i6.[69] However, the original specification of the stop and search element of i6 did not include key fields that have since been added to the national database. This has altered the user specification for i6 and in July 2014 the i6 Programme Board recommended that the stop and search element of i6 should either be "paused or de-scoped". The stop and search working group requested that stop and search remain within the scope of i6 and it was agreed that the i6 user specification be paused until the outcome of the Fife pilot. This was reported to the i6 Programme Board on 28 August 2014. At present the amended user requirement for stop search remains paused and is not currently included in the initial roll out of i6 scheduled for late 2016. We are satisfied that Police Scotland is monitoring this issue and we will observe progress through our on-going interest in i6. In the meantime, we would encourage Police Scotland to progress improvements within the current national stop and search database.

Quality control and national standards

88. Compliance with legislation such as the Freedom of Information Act and Data Protection Act relies on effective records management. The Public Records (Scotland) Act 2011 places an obligation on Police Scotland as well as many other named public authorities to prepare and implement a records management plan which sets out proper arrangements for the management of records. It is therefore essential that information is captured, managed and preserved in an organised system that maintains its integrity and authenticity. This should include weeding and retention policies.

[69] i6 is the name of a national integrated IT solution for 6 key policing areas: crime, custody, case reporting, vulnerable persons, missing persons and productions / property management

89. Prior to the creation of the NSSU there was no quality control on stop and search data other than daily verification of key performance information. Stop and search data is transferred overnight from the national database and the PDA databases into the internal Operational Data Store (ODS) and then imported into the Scottish Management Information System (SCOMIS). This data captured in SCOMIS provides the basis for the production of stop and search management information for Police Scotland and the published data. Automatic error messages are generated if the data fails to upload.

90. When the database was developed the NSSU did not exist and the data set was originally designed to provide only basic management information. Data cleansing was not included in the system as it was viewed as not essential to produce the statistics needed for performance data. As the data became more complex with the addition of nominal details, additional quality control mechanisms should have been initiated, particularly given the importance of the integrity of publicly reported data. We noticed that the internal management reports produced in 2013 highlight obvious errors in the data such as missing age and date of birth fields or high volume recording by individual officers. This could have been picked up earlier by Police Scotland and improvements made to improve data quality.

91. There are no logic checks on the stop and search data that would prevent duplicate records. ICT stated that this has not been asked for and would be difficult to implement. During the Police Scotland audit the NSSU found 22 duplicates from the 20,087 records. While we accept this is a small number, it highlights a need for improved functionality to remove duplicate records and maintain data integrity.

92. We established that the NSSU only gained access to business objects reports, which can be used for quality control, in late 2014 and initially had to rely on reports generated by ICT or APU. There was no documentation to outline the frequency of the data control process, how this would be administered, what regular checks would be made and how data errors would be rectified.

93. The UK Data Archive (UKDA) states that quality control of data should be an integral part of any dataset and should take place at various stages, during data collection, data entry, digitisation, and data checking. Generally suitable procedures to ensure accuracy and reliability of the data would begin before data gathering starts. Control procedures should mitigate all known significant risks to data reliability. In addition, system processes and controls should be adequately documented to support consistent application over time and reporting of results. Outturn data should be presented fairly and any significant limitations should be disclosed.

94. The Office of National Statistics produces Guidelines for Measuring Statistical Output Quality.[70] The sections on accuracy and reliability and processing are of particular relevance to the stop and search dataset. Additionally, the International Organisation for Standardisation (ISO), provides ISO 9000 covering Quality Management. The British Standards Institute (BSI) also produce standards relating to quality management and auditing.

[70] Office For National Statistics, Guidelines for Measuring Statistical Output Quality, Version 4.1, September 2013

Recommendation 12:
Police Scotland should develop proportionate quality control procedures for stop and search data, detailing how the process will be administered, what regular checks will be implemented and how data errors will be rectified and reported.

95. While we acknowledge that the Police Scotland stop and search data is not an official statistic,[71] we recognise the legitimate public and political interest in the accuracy of the data. We believe that the principles of good data management and the actions associated with the production of official statistics should be reviewed and appropriate elements of the practice adopted into proportionate guidance for those issuing the data.

96. The Framework for National Statistics was agreed by the four administrations in the United Kingdom in 2000;[72] setting out the governance arrangements and the key principles and standards that should apply to the production and publication of official statistics. This is supported by the Scottish Government Framework for Scottish Official Statistics – Introduction and was subsequently augmented by the Code of Practice for Official Statistics[73] which set out standards in more detail. The Code encompasses the production, management and dissemination of official statistics and covers the entire statistical process from the identification of needs, to the decision to collect or compile data, through to providing advice to the user.[74]

97. We found that there was awareness of these principles within the Police Scotland APU, who publish the stop and search data. The APU stated that they tried to follow the good practice guidelines but do not adhere to all aspects of the Code as the stop search data set is management data rather than being an official statistic. The APU further stated that the stop search data that forms part of the published data set is not subject to further scrutiny.

Recommendation 13:
Police Scotland should review the principles and protocols contained within the Code of Practice for Official Statistics to develop proportionate internal guidance for publicly reported stop and search data.

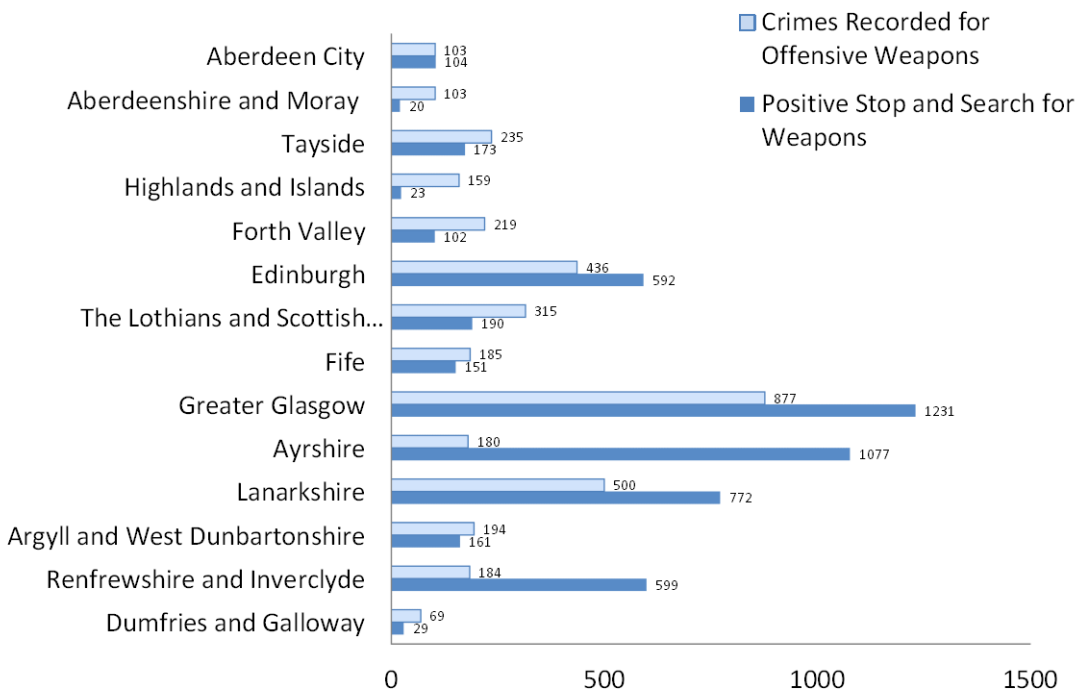
Validating stop and search data against other datasets

98. We compared the publicly reported data for positive stop and searches to the number of reported offences recorded on the Police Scotland crime management systems. Our assumption was that there should typically be more offences recorded than positive stop searches for specific categories, given that not all offences will be identified through stop search. For example, it is likely that weapon offences will be identified through a range of other means, including complaints received from the public.

[71] Official statistics are collected and produced by national statistical organisations. Organisations that are producers' of official statistics have to be named in an Official Statistics Amendment Order laid before the Scottish Parliament
[72] http://www.scotland.gov.uk/Topics/Statistics/About/scottishframework/frameworkfoot
[73] http://www.statisticsauthority.gov.uk/assessment/code-of-practice/index.html
[74] United Kingdom Statistics Authority, Quality Assurance of Administrative Data - Setting the Standard, January 2015

99. Overall we found that there was a wide variation in some Divisions across Scotland in regard to the number of offences recorded against some search types. The most pronounced variations were for weapons searches. As discussed above (see paragraph 48), stop and search data is currently reported in terms of what was searched for rather than what was found and we would therefore expect some variation in the data. However we found that in 2013/14 there were 5,224 positive searches for weapons and during the same timescale there were 3,759 offences recorded for offensive weapons or bladed instruments.[75]

Chart 1: Positive Weapons Searches and Crimes Recorded



100. Chart 1 shows the significant variation in respect of weapon searches across Scotland. In Highlands and Islands there were 159 crimes recorded and 23 positive searches for weapons, whereas in Ayrshire there were 180 crimes recorded despite 1077 positive searches for weapons. We found similar variation between positive searches and recorded offences for drugs.[76]

[75] Crimes included are carrying offensive weapons and handling bladed/pointed instruments, Police Scotland data March 2013 to April 2014

[76] Crimes Included are Group 5 crimes of Drugs supply and production, possession of drugs and other drugs offences (incl. importation & production). Police Scotland data March 2013 to April 2014

101. This issue was highlighted in the media in June 2014 when it was reported[77] that the total number of detections for offensive and bladed weapons for the first 12 months of Police Scotland was 1,506 lower than the number of positive searches for the same category.[78] It was reported that the discrepancy exists because a positive search for offensive weapons does not necessarily mean a weapon has been found. We consider this discrepancy should be resolved once Police Scotland improves recording practices and reports positive searches on the basis of the item found and not what was initially searched for. We believe that Police Scotland should triangulate the accuracy of positive stop and search data against recorded crimes and offences as a means of quality assuring the dataset.

Officer training

102. Training on the application of legislative search powers is provided to officers during their probationary training period. We found that this training provided an overview of legislative search powers which provides a good foundation for officers. The modules for search powers are covered over 8 hours of teaching. These modules focus on drugs, weapons and stolen property and are taught in relation to wider legislative powers. Stop and search powers form part of this training but it is not the sole focus of lessons. We found that the probationary training notes currently being used are in two parts, the pre-course reading and the lesson notes. We found that the pre-course reading notes have not been updated since February 2013 and that lessons notes have not been updated since July 2012.

103. Police Scotland data shows that the majority of stop and search in Scotland is conducted on a consensual basis. We found that consensual search is mentioned in the probationary training notes and that it is explained to officers that individuals have a right to refuse consensual search. However, the trainers for this course stated that the focus of the training is on the availability and application of legislative search powers and consensual search is only touched upon. There is no training on the application of consensual search as there is an expectation that this will be covered in practical terms by the probationary officer's tutor when they complete their initial training and are posted to a division. Consensual searching is not covered during any other formal course. We spoke to a small number of probationary officers during this inspection and found that their understanding of consensual search varied and was aligned to how the individual tutors used this form of search rather than any written practical guidance.

104. We consider that the co-ordination between the probationer training unit and the NSSU could be improved in regard to developments in stop and search policy and practice. The stop and search toolkit is not used as part of the probationary training and the test version of the national stop and search database is not available to provide a practical input in regard to what should be recorded. Changes to policy and practice are not specifically communicated to those responsible for stop and search training at the college and training does not cover what outcomes stop and search is seeking to achieve. This has been acknowledged by Police Scotland and we understand that under new governance structures for stop and search, a training working group will be established. We were also informed that the search training

[77] Herald Scotland, Revealed: how police stop and search policy misleads the public, 22 June 2014
[78] The Herald article used detections for offensive/bladed weapons (total of 3712) whereas HMICS used crimes recorded for offensive/bladed weapons (total of 3759)

syllabus was under review and new materials would be rolled out in the coming months.

105. There is no additional or follow-up training provided on stop and search for officers after they have completed their probationary training. As part of the Fife pilot, refresher training was introduced as part of the annual officer safety training (OST) course. We found mixed responses to this during our focus groups with some officers unable to recall this as part of recent OST course they had attended. Others recalled the trainer reading the aide memoire available to officers in Fife. The refresher training will be evaluated as part of an independent evaluation and we will monitor the findings.

106. Most officers did not perceive a need for further training on stop and search following the completion of their probationary training. However, some officers stated that more information on alcohol searches would be useful as they were often unsure of their powers in this area. Given the inconsistent practice in terms of what constitutes a stop and search and what is recorded and counted we believe further training will be important to establish a consistent baseline.

Recommendation 14:
Police Scotland should assess the training needs of officers in relation to stop and search and consider techniques that will improve officer confidence in the application of their legislative stop and search powers. This assessment should be informed by proposed changes to stop and search policy and practice across Scotland.

107. As part of our comparative fieldwork we found that BTP offer Behavioural Assessment Screening System (BASS)[79] training to officers. While the training is based on behavioural profiling of people under stress in airports or transport hubs, BTP officers said that they found this training valuable and used it regularly in relation to the practical application of determining whether they had reasonable suspicion for a legislative search.

[79] British Transport Police Authority, Minutes of Stakeholder Relations and Communications Strategy Committee Meetings 20 January 2009 and 6 April 2009

Consensual search, seizure and confiscation

108. As previously highlighted, (see paragraph 7) the majority of stop searches recorded in Scotland are consensual (70%). For a consensual search officers are not required to have reasonable suspicion and do not have to state the purpose of the search. A consensual search is progressed upon verbal agreement between the officer and the person being searched. The legal validity of consensual search relies on the concept of "informed consent". In the medical profession, this is underpinned by three core requirements; (i) that the person must be fully informed with the relevant information to make a decision, (ii) that the person has the legal capacity and competency to give consent and (iii) that consent is given voluntarily.[80]

109. The legitimacy and effectiveness of consensual search continues to be the subject of on-going debate within Scotland. In 2014 the volume of consensual search in Scotland was highlighted by an academic report which stated that '*the use of non-statutory stop and search raises concerns in relation to procedural protection, consent, proportionality and human rights. It is recommended that this practice is phased out. The use of stop and search should be underpinned by legislation.*'[81] More recently, the Chair of the Scottish Human Rights Commission echoed these sentiments by stating that the commission has serious concerns about the legality of and scale of non-statutory [consensual] stop and search of individuals and that there should be no non-statutory stop and search.[82]

110. Academic research has raised concerns over the lack of procedural protection inherent in non-statutory stop and search and states that searches are unlikely to meet the basic standards required to secure consent.[83] Consensual search also raises concerns in relation to the Human Rights Act and the right to privacy.[84] The issue of consent becomes more complicated by the power imbalance inherent in the relationship between a civilian and a police officer. The SPA in their review stated that *'it is not evident that those searched on a non-statutory basis are aware of their right to decline, nor is there evidence of informed consent having been obtained for non-statutory searches. Non-statutory search should only be carried out where there is informed consent*'.

111. On 5 February 2015 the First Minister confirmed that Police Scotland was considering ceasing the practice of non-statutory stop and search following public concerns over this issue. In particular, concerns were voiced over the ability of persons, in particular children, to exercise their rights and be able to sufficiently provide informed consent.[85] The SPA in its review recommended that training should include dealing appropriately with children and young people and giving clarity about what constitutes consent with respect to non-statutory searches. We agree with this recommendation but consider that informed consent is a pre-requisite from *all* individuals subject to a consensual search. We support the development of criteria that officers could apply to satisfy themselves that informed consent has been gained.

[80] Beauchamp, and Childress (1977) The Principles of Biomedical Ethics, Oxford University Press
[81] Murray, K. (2014), 'Stop and search in Scotland: An evaluation of police practice.' SCCJR Report 01/2014
[82] Herald Scotland, 1st February 2014, Scotland's human rights tsar demands: scrap stop and search without suspicion
[83] Murray, K. (2014), 'Stop and search in Scotland: An evaluation of police practice.' SCCJR Report 01/2014
[84] Gillan and Quinton versus the United Kingdom application number 4158/05 (2010)
[85] http://www.bbc.co.uk/news/uk-scotland-31460120

112. We recognise that the issue of informed consent has been explored during the Fife Pilot and welcome the addition of the following statement being read to individuals prior to search - *"You can refuse to agree to this search as it is purely being done on a voluntary basis, do you understand that and are you still content for this voluntary search to go ahead".* We are aware that the Pilot is subject to an independent evaluation and we will monitor the findings in relation to the issue of informed consent.

113. At present there are significant volumes of consensual search recorded for all search types.[86] A large proportion of consensual search relates to the seizure or confiscation of alcohol or consensual searches for drugs. Much of the debate about consensual search has centred on alcohol, however, it is important to note that almost two thirds (62%) of all recorded consensual searches are for reasons other than alcohol. Although legislative searches are lower in proportion, they generate higher levels of positive searches (28%) compared to consensual searches (15.6%).

114. We found that the use of consensual search varies substantially across local policing divisions as shown in the table below[87] and that consensual search has become an embedded practice within some divisions. In Ayrshire, some 87% of all recorded searches are consensual, whereas in Highlands and Islands only 25% of all recorded searches are consensual.

Table 4: Divisional breakdown of consensual versus legislative search

Division	Legislative	Consensual
Aberdeen City	62%	38%
Aberdeenshire and Moray	58%	42%
Tayside	48%	52%
Highlands and Islands	75%	25%
Forth Valley	32%	68%
Edinburgh City	49%	51%
The Lothians and Scottish Borders	47%	53%
Fife	27%	73%
Glasgow City	30%	71%
Ayrshire	13%	87%
Lanarkshire	24%	76%
Argyll and West Dunbartonshire	37%	63%
Renfrewshire and Inverclyde	34%	66%
Dumfries and Galloway	44%	56%
Total	**30%**	**70%**

115. There was mixed opinion among officers we interviewed in regard to the practical application of consensual search. Some officers had a preference towards legislative search due to the perception that if an item were to be found during a consensual search then courts may be more likely to challenge the legality of the search. However, some officers told us that they considered consensual search to be less confrontational and would be a preferred option, even when reasonable grounds for

[86] Police Scotland Data April 2013 to March 2014
[87] Ibid

suspicion had been established and a legislative search could have been undertaken. It is important to understand the reasons that some officers adopt this method of search even when reasonable grounds for suspicion exist.

116. We found that BTP officers were predominately focused on legislative searching although officers may on occasion undertake consensual search in Scotland.[88] Officers stated that the justification for the search and the quality of the encounter for the individual were the most important considerations. Stop and search was viewed by BTP officers as an intrusive tactic that had to be conducted ethically and legitimately. Officers also stated that their actions are highly visible to the public given the environs in which they work. They were keen to uphold the reputation of the force and ensure individuals were being treated fairly.

117. We acknowledge the recent announcement that Police Scotland will engage with the Scottish Police Authority, Scottish Government and other stakeholders to explore whether the continued use of consensual stop and search is in the best interests of the public in Scotland. We are supportive of this debate but recognise there is a need to more fully understand current practice in relation to consensual search and clearly consider the impacts of any major changes to policy and practice, especially, in relation to young and vulnerable people *before* the future strategic direction should be decided.

118. However, in the meantime we believe that there is greater scope to encourage officers to use legislative searches and that Police Scotland should consider a policy which raises a general presumption amongst officers that stop and search encounters should be legislative. When combined with improved recording practices, training and changes to the recording of alcohol seizures, this would significantly reduce the use of consensual stop and search in Scotland. It would also minimise the use of consensual searches to only those circumstances where officers encounter an operational practice gap. A new and more accurate baseline of information could be collated and used to inform the current debate on the future need for consensual search and provide an evidence base to parliament in support of any additional legislation.

Recommendation 15:
Police Scotland should consider a policy which raises a general presumption amongst officers that stop and search encounters should be legislative. This should encourage a position where officers only revert to consensual searches, supported by informed consent, where no legislative power exists.

Searching for alcohol

119. Although the power of *search* for alcohol only applies to designated sporting events, most officers stated that such searches were not recorded as a stop and search. We therefore asked officers what they would record as a legislative stop and search. Most highlighted occasions when they were using their legislative powers of seizure or confiscation and many linked legislative search to issuing of a fixed penalty notice when someone was in breach of a local by-law. Officers stated that most consensual

[88] From 1 April 2013 to 31 March 2014 there were two consensual searches recorded by BTP officers in Scotland out of a total of 282

searches were for alcohol and drugs. A few officers thought they had legislative powers of search under local by-laws or under the Crime and Punishment Act. This apparent confusion reinforces the difficulties with current recording and counting practices and the need for Police Scotland to provide definitive guidance to officers.

120. Officers have powers under Section 61 of the Crime and Punishment (Scotland) Act 1997[89] to require the surrender of alcohol from people under 18 who are drinking in a public place, and from people aged 18 or over if it is suspected that the alcohol has been consumed or is intended for consumption by people under 18. This Act can be applied if the constable has reasonable grounds for suspicion. A clear distinction here is that the power is for *seizure* rather than *search and seizure*.

121. At the time of passing the Crime and Punishment (Scotland) Act 1997 the Confiscation of Alcohol (Young Persons) Bill was also progressing through the Westminster Parliament. Clause 58 of the Alcohol (Young Persons) Bill was adopted as part of the Crime and Punishment (Scotland) Act. During discussion of the Alcohol Bill the power of search for alcohol was considered and deemed not appropriate. An MP commented that '*the Bill also contains no powers of search on the street, which I welcome. The absence of powers could be controversial, but I believe that the way in which [Dr Spink] explained the matter makes it clear that it is right and appropriate not to have them.*[90] Further discussion states '*under the Bill, if the alcohol is not given up, or if false details are given, the police will have the power of arrest without warrant and can take the youngsters straight to the police station—where, as [Dr.Spink] pointed out, they usually become sensible very quickly, especially when their parents turn up. I hope that that power, together with the increasing community dimension to policing, means that we will be able to tackle the problem positively.*[91]

122. There may be value in seeking a legal opinion as to the practical application of Section 61 of the Crime and Punishment (Scotland) Act 1997. While the legislation does not expressly confer a power of search, it makes it an offence for a person under the age of 18 or an adult in specific circumstances to fail to hand over alcohol, where an officer reasonably believes them to have it in their possession in a public place. There may be an argument that the legislation infers a power of search, as it would otherwise be unenforceable, with officers being unable to satisfy themselves that the young person or adult was actually in possession of the alcohol and refusing to surrender it. This is supported by the statutory power of arrest without warrant under Section 61(5) of the act, which would ultimately allow a search of the young person or adult prior to being taken into custody. While any legal opinion would ultimately need to be tested in court and substantiated by legal precedent, we believe that Police Scotland should seek such an opinion. This would inform whether there is a gap in the current legislation and a requirement to seek further police powers if there was an end to consensual searches.

[89] http://www.legislation.gov.uk/ukpga/1997/48/section/61
[90] Hansard, Confiscation of Alcohol (Young Persons) Bill, *House of Commons Debate 24 January 1997 vol 288 cc1165-206 and Chalmers, J (2015), University of Glasgow, A Police Power to search children for alcohol?* http://schooloflaw.academicblogs.co.uk/2015/02/13/a-police-power-to-search-children-for-alcohol/
[91] Ibid

Recommendation 16:
Police Scotland should seek legal opinion on whether Section 61 of the Crime and Punishment (Scotland) Act 1997 can be interpreted to show an implied power of search for alcohol from young people under the age of 18 and adults in specific circumstances. This opinion should inform whether there is a requirement to seek further legislation in the absence of consensual stop and search.

123. In Police Scotland's definition of a positive stop and search it is explicitly stated that '*the recovery of alcohol is treated as a positive stop search.*"[92] We found that in most divisions the confiscation of alcohol under local by-laws is recorded as a stop and search. In addition, most alcohol related seizures under the Crime and Punishment (Scotland) Act 1997 are recorded as consensual searches regardless of whether a physical search occurred.

124. We believe that fixed penalty tickets issued under local by-laws for alcohol should not be recorded as positive stop and searches, unless officers undertake a physical search. We would envisage these encounters being recorded as offences through crime recording or fixed penalty systems and reported accordingly rather than being duplicated in the stop and search database. This change in recording practice would reduce the current levels of recorded consensual and legislative stop searches and provide a more accurate baseline going forward.

125. HMICS has already highlighted an apparent anomaly over statutory seizures of alcohol from young people and the fact that these are routinely recorded by officers as stop searches, even where no search takes place.[93] We believe the recording of alcohol seizures in this way has skewed the stop and search data, as many encounters of this type will not involve a search. This was confirmed by most officers we interviewed, who frequently saw young people in possession of alcohol and seized it from them without the need for any physical search.

126. We believe that Police Scotland should amend its current recording practices and guidance to ensure that all seizures and confiscations of alcohol under section 61 and other age restricted products are recorded as legislative *seizures* and not positive stop and searches. This would allow accurate records of this activity to be maintained and reported upon across Scotland, but would remove them from the reported stop and search data. Where officers actually search the young person or adult for alcohol, then these should still be recorded on the stop and search database. As the prevailing view is that there is no statutory power of search for alcohol under this legislation, then such searches would be consensual and subject to the requirement of informed consent. This approach should significantly reduce the levels of both consensual and legislative stop searches recorded and provide a more accurate baseline going forward.

[92] Scottish Parliament, Justice Sub-Committee on Policing, Stop and Search Letter from Police Scotland to the Convener, April 2014
[93] Scottish Parliament, Justice Committee (19 August 2014) Official Report of Meeting

Recommendation 17:
Police Scotland should record seizures of alcohol and other age restricted products separately on the national stop and search database where there is no search of the individual. This should allow them to be counted and reported independently from stop and search activity. Police Scotland should also ensure that offences under alcohol by-laws are not recorded as stop and search encounters.

127. We recognise that the seizure of alcohol and other harmful products from young people is an important safeguard and contributes to better health and wellbeing outcomes for young people. We welcome the current debate on this important issue and are encouraged by the commitment by Police Scotland to incorporate the seizure of alcohol, other age restricted products and harmful substances into the wider safeguarding and prevention agenda, underpinned by the principles outlined within Getting it Right for Every Child (GIRFEC) and the Whole Systems Approach (WSA) to youth justice.

128. There are other anomalies in regard to consensual search which relate to recoveries that aim to reduce harm. The confiscation of tobacco products from someone under the age of 18 years[94] and the confiscation of drugs paraphernalia are currently being recorded as a positive stop and search. In relation to tobacco there are similar issues to alcohol in that there is no power of search and as such many of these confiscations of tobacco are recorded as a consensual search. We acknowledge that enforcement activities to remove tobacco products from young people is clearly in the public interest although the contribution to wider partnership outcomes could be clearer. We are aware that Police Scotland is progressing this as part of its commitment to GIRFEC and WSA.

129. There have been concerns raised about the formal recording of legislative seizures and searches, the referral of young people to other agencies and the implications this may have for young people in the future. We believe that the establishment of the Short Life Working Group by Police Scotland to inform the future direction of stop and search in Scotland provides a timely opportunity to consider the implications that such recording may have on young people. This should include what information is recorded and retained, current referral thresholds to other agencies and inform the development of clear guidelines.to ensure that children and young people are not unintentionally criminalised.

Recommendation 18:
Police Scotland should engage with the Stop and Search Short Life Working Group and members of the Children and Young Peoples Reference Group to consider the implications that stop and search recording may have on young people.

[94] Tobacco and Primary Medical (Scotland) Act 2010 – It is an offence for a person aged 18 or over who knowingly buys or attempts to buy a tobacco product or cigarette papers on behalf of a person under the age of 18. This Act also allows the confiscation of tobacco products from persons under 18 where a constable has reasonable grounds for suspecting that a person in a public place is under the age of 18 and is in possession of a tobacco product or cigarette papers

130. There is a high volume of consensual drugs searches recorded. We found that some of these related to the recovery of New Psychoactive Substances (NPS). We recognise that NPS are harmful and there is value in recording NPS recoveries given that deaths where it was reported that one (or more) NPS was implicated in the death have increased, from 3 in 2009 to 60 in 2013.[95] There is very little data around the use of NPS and Police Scotland has an opportunity to add to the evidence base and inform partners. Although NPS are currently not banned substances, and there would be no offence for a person to have NPS in their possession, there are practical difficulties that officers face in distinguishing them from controlled drugs and it may not be established that a substance is NPS until after the analysis. We consider that provided an officer has reasonable cause to suspect a person to be in possession of controlled drugs, then they would be entitled to search that person under the Misuse of Drugs Act 1971. This should be recorded as a legislative stop search.

Code of practice

131. On 17 February 2014, Alison McInnes MSP wrote to the Cabinet Secretary for Justice to request that the regulatory regime for stop and search be strengthened through amendments to the Criminal Justice (Scotland) Bill. One of the amendments included the requirement that Ministers establish a code of practice, similar to that established in England and Wales, to be approved by Parliament and updated every four years.[96]

132. The Codes of Practice within the PACE Act sets out parameters that police officers in England and Wales must follow. PACE Code A sets out the guidance for stop and search and includes the following:

- Principles governing stop and search
- Types of stop and search powers
- Stop and search powers requiring reasonable grounds for suspicion
- Explanation of reasonable grounds for suspicion
- Securing public confidence and promoting community relations
- Questioning to decide whether to carry out a search
- Conduct of searches
- Recording requirements
- Monitoring and supervising the use of stop and search powers

133. The PACE codes of practice are statutory codes. Failure by a police officer in England and Wales to adhere to a code of practice does not render them liable to criminal or civil proceedings. However, not adhering to the codes can be introduced as evidence in civil and criminal proceedings (PACE 1984 section 67) and any evidence obtained by the police in relation to the investigation of any criminal offence where they have failed to adhere to PACE can be deemed inadmissible in court.

[95] Scottish Government New Psychoactive Substances - Evidence Review, August 14, 2014
[96] http://www.scotlibdems.org.uk/mcinnes_seeking_snp_support_for_stop_and_search_reforms

134. We believe there is merit in considering a statutory code of practice for stop and search in Scotland. We consider it could usefully address many of the recommendations we have made in this review and establish clearly understood principles and safeguards for the public in relation to stop and search. It could avoid the need for any complex consolidation of existing legislation and potentially provide statutory safeguards around consensual stop and search (should this practice continue). We believe that the introduction of a code of practice would be beneficial in providing guidance in relation to operational practice. The development of such a statutory code would require the approval of the Scottish Parliament and would create a real opportunity for any guidance on the future conduct of stop and search to be subject to democratic debate and regular scrutiny. We consider that Police Scotland and the SPA should consult with the Scottish Government on the potential development of such a code.

Recommendation 19:
Police Scotland and Scottish Police Authority should consult with the Scottish Government on the potential development of a statutory Code of Practice for stop and search.

Measuring the effectiveness of stop and search

135. The Police Scotland Stop and Search Policy[97] states that the effective and appropriate use of stop and search powers will lead to the detection and deterrence of crime, will build public confidence and keep people safe.

136. Determining the impact and effectiveness of stop and search has been a topic reviewed by academics and governments, with many sources concluding that the effects of the tactic are difficult to disentangle. Stop and search is often described in terms of the benefit it provides in deterring offenders, preventing crime, and increasing the risk of offenders being subject to sanctions.[98] However, there are those who argue that stop and search is not an effective method of prevention or detection and is a wasteful diversion of police resources.[99]

137. There is very little research evidence on the specific effect of stop and search, either as a localised crime prevention/deterrence measure in areas where it is used, or in terms of its wider impact on feelings or perceptions of safety in the community[100] The evidence that exists does not suggest any clear causal connection between the use of stop and search and reductions in crime. Analysis of the data for England and Wales concluded that *'it is not clear to what extent searches undermine criminal activity through the arrest and conviction of prolific offenders*',[101] while another study of trends in police recorded searches and offences over a three year period found 'no sustained' or 'strong relationship' between the two.[102]

138. Furthermore there is little research evidence to support the mechanisms through which stop and search would be expected to have an impact on '*keeping people safe*'. In relation to detection only a small minority of searches result in an arrest, while in relation to deterrence there is little strong evidence of a deterrent effect unless used intensively in a particular location over a short period of time.[103] [104] Given that the factors that impact on community safety are much more nuanced and complex than just one component of policing activity, the potential for being able to disentangle the impact of one initiative such as stop and search is limited.

139. There is strong research evidence of police effectiveness in keeping people safe when policing presence is increased at places where crime concentrates ('hot spots policing'). The rationale for concentrating police in crime hot spots is to create a high risk of apprehension [arrest] by increasing levels of guardianship[105] at a place in which high levels of potential opportunities to commit crime exist.[106] What police do in

[97] Police Scotland Stop and Search Policy 1 July 2014 Version 1.2
[98] National Policing Improvement Agency (2012) National Training for Police: Stop and Search and Hogan-Howe, B. (2012) 'Making the Met Work'. London Police Pensioner March 2012
[99] Lustgarten, L. (2002) 'The future of stop and search' Criminal Law Review, 603-618. Walker, C., Starmer K. (1993) Justice in Error, Blackstone Press Limited
[100] Police Foundation (2013) Policing and Crime Reduction: The evidence and its implications for practice
[101] Miller, J., Bland, N. and Quinton, P. (2000) The impact of stops and searches on crime and the community, Home Office
[102] Fitzgerald, M., Stockdale, J., and Hales, C. (2003) Young people and street crime: London: Youth Justice Board
[103] Police Foundation (2013) Policing and Crime Reduction: The evidence and its implications for practice
[104] Miller, J., Bland, N. and Quinton, P. (2000) The impact of stops and searches on crime and the community, Home Office
[105] Cohen & Felson (1979) describe human surveillance as "guardianship." The police in their role as sentinels also act as guardians—a liquor store with a police car idling outside is not an attractive criminal target
[106] Lum, Cynthia and Daniel Nagin, (Forthcoming) Reinventing American Policing: A six-point blueprint for the 21st century Crime and Justice: A review of Research, Chicago, IL, University of Chicago

hot spots also matters and the research evidence indicates they are most effective when they engage in problem solving or problem-oriented policing, typically in partnership with other agencies.

140. A key conclusion from the existing evidence then is that pro-active problem oriented policing strategies are effective in keeping people safe, particularly where the police role is one of 'guardianship' rather than being focused on arrest. This is not to say that a tactic like stop and search 'doesn't work'; rather, the evidence indicates it is only effective when targeting very specific crime problems, in specific locations for short periods.

141. The other key dimension of keeping people safe is for the police to maintain the trust and confidence of citizens.[107] This connects with the broader role of the police in enhancing community well-being which requires them to be accountable, transparent, open, responsive, reliable and fair. Research suggests that the decisions on what tactics and strategies that police choose to deploy may worsen or improve public trust and confidence in policing. If the police are perceived as being overly focused on enforcement (and less interested in prevention and problem-solving), this can be detrimental to police-community relations and erode public confidence. In turn, members of the public who distrust the police or are sceptical about their effectiveness in preventing crime, may not share information about crime, nor act as witnesses or co-operate with investigations. All of these reactions may reduce police effectiveness in keeping people safe.[108]

142. The SPA in their scrutiny review of Stop and Search stated that Police Scotland should define outcome measures.[109] In their response Police Scotland stated that the preventative success of stop and search can be judged through reductions in violent crime, antisocial behavior and disorder in areas where the tactic is used. Police Scotland also state that 75% of multi-member wards have seen a reduction in publicly reported antisocial behaviour and that, while there is only one target for stop and search on the positive search rate of 20%, both positive and negative searches contribute to a wider preventative outcomes.[110] The preventative outcomes were not explicitly outlined in the Police Scotland report.

143. Police Scotland asserts that stop and search is a significant factor in the reduction of violent crime. However, falling levels of violent crime have followed a similar pattern in legacy Grampian as they did in legacy Strathclyde, despite Grampian having significantly lower volumes of stop and search activity.[111] Since February 2012, the MPS has reduced its overall use of stop-and-search by 20%, and has reduced no-suspicion [consensual] stop-and-search by 90%. In the same period, stabbings have fallen by a third and shootings by 40%. Complaints against the police have gone down and the arrest ratio has improved.[112] The reduction in stop and search activity

[107] Lum, C. and Nagin, D. (2015) Reinventing American Policing: A six-point blueprint for the 21st century. Washington DC: George Mason University.
[108] Ibid
[109] SPA Scrutiny Review – Police Scotland's Stop and Search Policy and Practice May 2014
[110] SPA Board Paper - Scottish Police Authority and Police Scotland's response to Stop and Search Scrutiny Enquiry 30 October 2014
[111] SPA Scrutiny Review – Police Scotland's Stop and Search Policy and Practice May 2014
[112] House of Commons, Daily Hansard Debate, Wednesday 30 April 2014

in the MPS has fallen further from January 2012 to March 2015, with an overall reduction in activity of 64%.[113] Similar findings were reported by the UK Equality and Human Rights Commission,[114] in Leicestershire where the overall number of stops and searches recorded from April to November 2012 fell steeply from 4,183 in the first quarter to 1,660, while the downward direction in recorded crime uninterrupted.

144. Both the MPS and HMIC in England and Wales have reviewed the effectiveness of stop and search. In a convergence of views both cite similar factors for determining the impact and effectiveness of the tactic. This includes;

- developing an understanding of the reasonable suspicion applied by the officer and how this is applied
- understanding the disposal as a result of the search
- alignment of activity to the local and national policing priorities
- public confidence

145. As detailed earlier there is no facility to record reasonable grounds for suspicion on the Police Scotland national stop and search database and the quality of this information on the PDA is variable. The lack of recording of reasonable grounds means it is not currently possible to effectively assess the application of stop and search by officers in Scotland. We have discussed the requirement for officers to record their grounds for reasonable suspicion (see paragraph 47), the benefits of recording and reporting on what was searched for and what was found (see paragraph 48) and understanding the disposal as a result of stop and search (see paragraph 52). We have made recommendations to Police Scotland in regard to all three areas.

Alignment to local priorities

146. In their inspection of police forces in England and Wales, HMIC[115] found little evidence that police leaders were focusing stop and search activity towards priority crimes in their areas. Most forces had priorities in relation to acquisitive and violent crime, and in some urban areas this included the use of weapons by gangs. However, about half of the stop and searches in 2011/12 were focused on drugs, the vast majority of which were low-level possession offences.

147. All local divisions in Scotland have a local policing plan and multi-member ward plans that establish the key priorities for local areas. Most have priorities that focus on reducing acquisitive crime, violent crime and drugs. We consider this commitment to localism provides an ideal framework for officers to direct policing activities towards local priorities. Given these will typically include alcohol-fuelled disorder, violent crime, drugs and acquisitive crime, it is clear that stop and search can be used across local communities to tackle these priorities. We believe that there are further opportunities for Police Scotland to build on its approach and demonstrate greater transparency around the use of stop and search and its alignment with local priorities. This could involve more detailed reporting to local scrutiny groups and the public on

[113] Metropolitan Police Service use of stop and search, March 2015
[114] UK Equality and Human Rights Commission, Stop and Think Again: Towards race equality in police PACE stop and search, May 2013
[115] HMIC (2013) Stop and Search Powers: Are the police using them effectively and fairly?

how stop and search was addressing local issues and delivering positive outcomes for communities. In addition to strengthening localism and accountability, this could increase views of legitimacy and public confidence in the use of stop and search within communities.

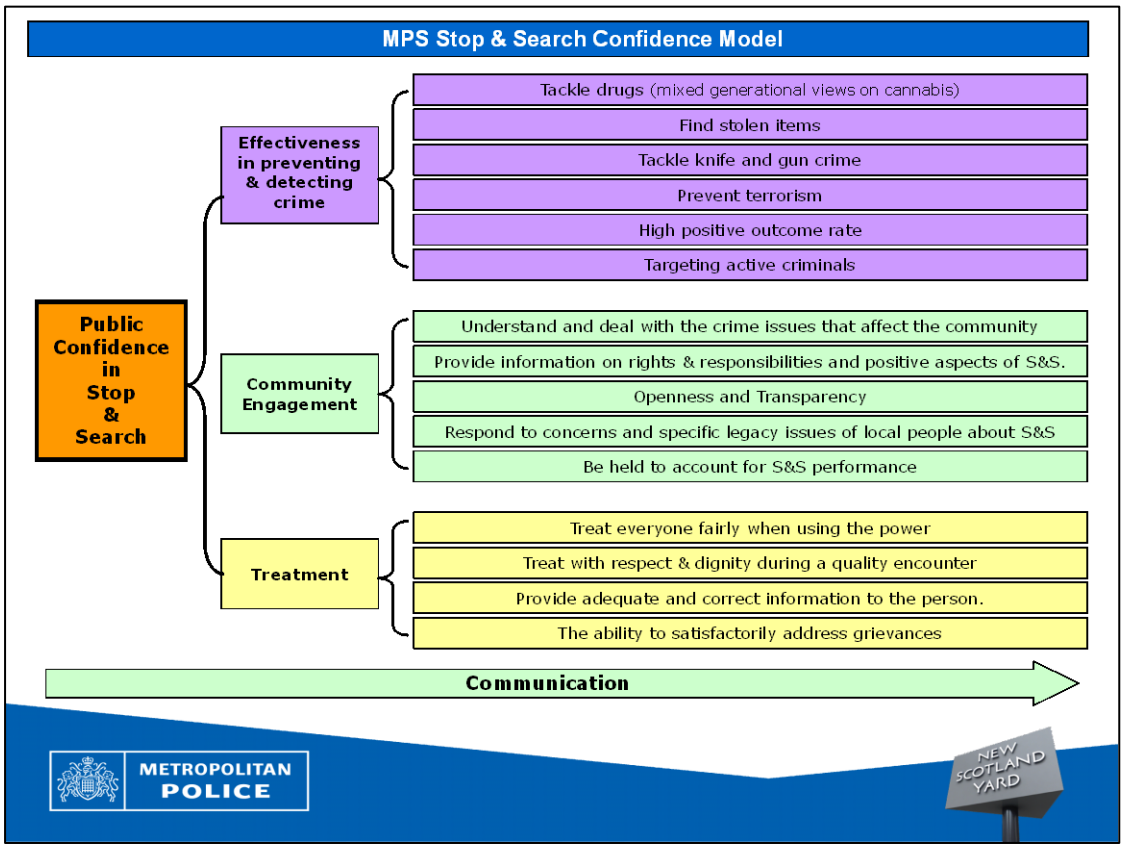
Recommendation 20:
Police Scotland should publish information on stop and search for local scrutiny and engagement committees and local communities. This should include detail on how this activity is aligned to local priorities and delivering positive outcomes.

Public confidence

148. Police Scotland has stated that effective and appropriate use of stop and search powers will lead to improved public confidence. Notwithstanding our recent observations on the current methods used by Police Scotland to measure and report on public confidence,[116] there is currently no national mechanism to capture public confidence in stop and search. As part of the Fife Pilot, Police Scotland are seeking to measure levels of service by; seeking feedback from people stopped and searched, using questionnaires to monitor community confidence in feelings of safety, and seeking opinion on perceptions of the use of stop and search as a tactic for impacting on feelings of safety. We welcome this initiative by Police Scotland and await the findings of the evaluation of the pilot on the effectiveness of the methodology.

149. The MPS view public confidence as a key principle in ensuring the on-going public support for stop and search. It has developed a public confidence model, shown overleaf, which aims to focus on achieving the highest level of trust and confidence in the use of stop and search as a tactic for tackling crime and keeping the streets safe.

[116] Local Policing+ Inspection Programme Inspection of Ayrshire Division, February 2015 – Para 83-85



150. As well as developing this model MPS has been measuring public confidence in stop and search since 2012. The survey is independently administered through the well-established Public Attitudes Survey[117] and has been tracking Londoner's views on stop and search for many years. By March 2014, 15,772 people had been canvassed, and the latest results show 71% are in favour of the use of stop and search and 70% are confident it is used fairly.[118] Public confidence is one of the two outcomes measures the MPS use for stop and search, the other is arrest rates. The second target relates to the outcome expected following a stop and search being conducted. This means the MPS aims for 20% of all stop and searches to result in an arrest. The arrest rate has been steadily rising, from 8 per cent in 2011 to 18.9 per cent in December 2014.

[117] The Metropolitan Police Service Public Attitudes Survey is independently conducted by BMG Research
[118] Metropolitan Police Service use of Stop and Search, January 2015

Case Study - Metropolitan Police

In January 2012 the Metropolitan Police Service launched a renewed focus on stop and search to make it more intelligence led, effective and fair. Since then the MPS have seen significant reductions in the volumes of searches carried out, increased arrest rates and reduced complaints.

The MPS have developed a stop and search confidence model which seeks to ensure that officers are searching for the right objects in the right areas. The model is designed to focus on public confidence and to impact this through the effectiveness of stop and search in preventing and detecting crime, community engagement and the treatment of the individuals being searched.

The policy for Stop and Search[119] states that the 'vision is to achieve the highest level of trust and confidence in the police use of stop and search as a tactic for tackling crime and keeping our streets safe. The focus for MPS use of stop and search is dealing with crimes that cause Londoners the most concern. MPS expect a minimum of 20% of all stops and searches should target weapons and 40% should target neighbourhood crimes. This approach also provides flexibility to address specific local concerns. It is important to measure the impact stop and search has on communities and individuals. This is done through both effective engagement and community accountability'.

151. The MPS provides a framework to link force and local priorities promotes effective community engagement and offers a values-based approach to the treatment of those who are subject of search. We particularly like the fact that the MPS has placed public confidence at the centre of its approach to stop and search and measure this through an independent survey. We believe this would be worthy of consideration by Police Scotland in developing future approaches to stop and search.

Recommendation 21:
Police Scotland should consider developing a framework for stop and search that aligns national and local priorities and promotes a values-based approach to the treatment of those who are subject to a search. Police Scotland should consider placing public confidence at the centre of this approach to stop and search and commit to on-going measurement through an independent survey commissioned by the Scottish Police Authority.

[119] MPS Stop and Search Policy version 3.2

Impact of the performance framework

152. Since the advent of Police Scotland a national performance framework has been introduced. In relation to stop and search, the performance framework has two measures; (i) the number of stop and searches conducted, which there is no target for, and (ii) the proportion of positive searches where there is currently a target of 20%. The performance framework provides indicative information on the number of stop searches this year to date compared to the same period in the last year. The performance framework also measures crime and detection rates and this is commented on in the stop and search section of the published data.[120]

153. Direction on national stop and search policy flows from key messages from the force executive and local divisional commanders which are included in briefings, presentations and communications to officers. In addition, the National Stop and Search Unit (NSSU) under the remit of the Licensing and Violence Reduction Division (LVRD) has a leadership and governance role. The LVRD is led by a Chief Superintendent who oversees the work of the NSSU. The NSSU comprises a Chief Inspector who has a wider remit within the LVRD and five staff (1 Inspector, 1 sergeant and 3 constables). There is an expectation on leaders within the service to promote the ethical use of stop and search ensuring that they set a style of policing in line with the ethics of the service (integrity, fairness and respect) and that they intervene when things are not done correctly.

154. Monitoring of the stop and search performance data continues to be exercised at national monthly performance meetings, chaired by the DCC for Local Policing. These meetings focus on the 90 indicators within the Police Scotland performance framework. Stop and search is contained within the performance framework and is considered in terms of number of searches and the percentage of positive results. Comparators are drawn between the levels of violent crime and the extent to which stop and search is undertaken within each of the local divisions.

155. Police Scotland stated that to ensure the appropriateness of the target for stop and search, they established a baseline from their performance over the past three years by examining the recorded information in the final years of legacy forces and the initial performance year of Police Scotland. The overall positive rate in 2011/12 was 13%, this increased to 13.7% in 2012/13 and it is currently 21.3%.[121]

156. The table overleaf details the number of searches per division in the first nine months of 2014/15[122] and the proportion of those with a positive result. The positive search rate has increased year on year and continues to be above the current target of 20% in all divisions except Ayrshire which is only marginally below at 19%.

[120] Police Scotland Quarter 3 Data 1 April 2014 to 31 December 2014
[121] Ibid
[122] Ibid

Table 5: Positive search rate per division

Division	Number of searches April – December 2014	Positive searches April – December 2014
Aberdeen City	4,478	26%
Aberdeenshire and Moray	2,163	25%
Tayside	12,883	23%
Highlands and Islands	2,294	28%
Forth Valley	4,973	26%
Edinburgh City	19,142	30%
The Lothians and Scottish Borders	8,227	23%
Fife	8,279	23%
Greater Glasgow	122,340	20%
Ayrshire	45,933	19%
Lanarkshire	59,762	20%
Argyll and West Dunbartonshire	15,521	22%
Renfrewshire and Inverclyde	40,481	21%
Dumfries and Galloway	1,756	32%
All Police Scotland	**348,232**	**21%**

157. Whilst it is acknowledged that KPIs can drive improvement and increase accountability, it is also recognised that '*the problem of integrity can of course be linked to the very nature of performance targets.*'[123] We found that many officers, supervisors and managers thought that the target of 20% for positive searches should be removed. They also thought that there was too much focus on stop and search given that it was a set of police powers that could be used in conjunction with a range of other activities to tackle the issues faced by the communities they police. Officers thought stop and search as a tactic is very useful, but stated the focus on volume hindered their ability to effectively target the right people at the right time.

158. Although there is no target on the volume of stop and searches, this is closely monitored as a key performance indicator (KPI). We found that some officers felt more pressure in terms of the number of stop and searches than the positive conversion rate. We believe that the existence of a KPI is having an impact on behaviour at an operational level and it is important that the consequences of putting a target or KPI on stop and search is better understood.

159. Overall we found that there has been a focus within Police Scotland on the number of searches and the positive conversion rate. Whilst there have been internal communications to re-emphasise the values of the service and explain the importance of intelligence led stop and search, there remains a perceived focus on key performance indicators in many of the divisions we visited.

[123] Loveday, B (2006), Policing Performance: The impact of performance measures and targets on police forces in England and Wales, International Journal of Police Science and Management vol.8 no. 4 pp. 282-293

160. Within two of the seven divisions we visited officers felt supported and took an ethical approach to stop and search. They did not feel under pressure to carry out stop and search and were clear that the tactic was used when appropriate at the right times and with the right people. Within these divisions the language used by officers echoed that of the divisional commander and it was clear that the leaders throughout the local team provided consistent messages that reinforced an ethical approach to stop and search.

161. In the other five divisions we visited there were different messages, approaches and styles adopted. While officers were clear about the right place, people and time this was often difficult to reconcile with a perceived pressure to undertake stop and search. There were mixed opinions within these divisions, but generally it was felt that there was too much focus on stop and search as a tactic and that leaders placed a high value on stop and search activity. Officers often found it difficult to align the values of the service with stop and search due to the pressure they felt to conduct searches.

162. Within BTP there are no performance targets for stop and search. The officers we spoke to aligned stop and search to the values of the force and the principles outlined with the stop and search guidance document. No officer felt under pressure to conduct stop and search and were clear that the use of the power needed to be justified under legislation. Officers were conscious of the 'customer' experience and the perceptions of the public witnessing them using their powers.

163. Within Police Scotland, we found that officers recognised one consistent message, that stop and search should be targeted at the "*right people, in the right place at the right time*". We found that officers consider stop and search to be effective when it is used appropriately and believe it is a vital policing tactic in Scotland. Officers stated that they want to be stopping the right people and preventing crime as this is core to their role as a police officer.

164. In most divisions officers stated that stop and search was in the main intelligence led. Officers receive sufficient information at their daily briefing to ensure stop and search was targeted and they could also access further information on the Scottish Intelligence Database (SID). While officers knew their local hotspot areas and individuals to target in relation to stop and search, there were sometimes difficulties when applying this approach in practice due to competing operational demands. Despite this officers continued to be routinely asked by supervisors whether they had completed any stop and search activity. This persistent focus in some divisions reinforced the perception amongst officers of a prevailing performance culture.

165. We also found in some divisions that supervisors felt under pressure to demonstrate their team was performing in relation to stop and search. Some supervisors we spoke to mentioned that comparisons were drawn between teams and they did not want their team to be the lowest performing in the area. Some supervisors also mentioned that they had been asked to monitor stop and search rates and been told to remind officers to record their stop and searches at the end of every shift, while others recorded stop and search activity on a spread sheet as part of the debrief at the end of each shift. While officers state they had no individual targets in relation to stop and search, in some areas supervisors would comment on the team performance and urge officers to be more proactive. Officers translated this as being asked to return more searches.

166. In some divisions we visited the area commanders stated that they received information on team performance in relation to stop and search. While they confirmed that teams do not have a target, this information was monitored frequently in the divisions where it was gathered. Some of the divisional commanders we spoke to mentioned that the volume of stop and search is not a target but it is a *focus*. They stated that the number of searches conducted is often talked about at performance meetings. Most of the divisional commanders stated that this is often linked to levels of violence. If violence was increasing there was an expectation that stop and search activity would also increase.

167. Officers recognised the need for management information and thought that completing the forms for stop and search was a relatively easy process. However, there was a lack of understanding of why all data was required. Furthermore officers in some divisions believed that stop and search being included in the performance framework added a focus that had developed into a 'numbers game'.

168. During the Justice Sub-Committee on 19 February 2015[124] there was discussion about targets and the volume of stop and search. A member of the committee asked if there is a perception among front-line officers that they are under pressure to deliver targets. The Chief Constable stated that '*It is possible that they are under that perception, so I am grateful for this opportunity to say to them—yet again, as I have on numerous occasions internally and externally—and to a number of people in this room, that there are no targets for volume of stop and search*.' During this committee the Scottish Police Federation stated that '*I believe him [Chief Constable] when he tells me that there are no individual targets, but I have officers and office bearers from all over Scotland telling me something different….. [Federation representatives] have experience either directly or indirectly of being contacted by members who have been told that they have volume targets…… There is clearly a disconnect between the messaging that is being delivered on the ground and the messages being delivered by the Chief Constable*'.

169. We remain concerned by the consistent messages we heard from staff and also from the staff associations that performance is driving negative behaviours. Despite clear messages from the Force Executive that there are no volume targets, this does not seems to be well understood at an operational level. As discussed earlier in our report, there are issues around the inconsistent recording of stop and search and there is evidence to support that some of the variances in recording practices is being driven by perceived pressures on officers and supervisors to deliver against performance targets.

170. We do not consider it sufficient for Police Scotland to rely on the absence of performance targets for volume and its internal communications to address this issue and believe more needs to be done by senior staff to engage constructively with front line officers and listen to their concerns. This should allow a safe space for specific issues and behaviours to be identified and support the introduction of additional monitoring and safeguards. These would reassure the force executive that performance measures are not driving negative behaviours or producing unintended consequences.

[124] Scottish Parliament, Official Report, Justice Sub-Committee 19th February 2015

171. We welcome that Police Scotland intends to remove the target for positive searches. However, we believe that stop and search should also be removed as a KPI within the performance framework. Police Scotland should retain the current measure for both volume and positive search rates but this should only be provided as management information. Following improvements in recording, this information should be published by Police Scotland as part of its wider public performance reporting, together with further stop and search data which aligns the use of the tactic to local priorities.

Recommendation 22:
Police Scotland should remove the target for positive searches and the key performance indicator on the number of searches from its performance framework. In the interests of transparency and effective scrutiny, it should continue to collect and publish this data.

Complaints

172. In 2013/14 Police Scotland reported that there were 34 complaints related to stop and search. In the first nine months of 2014/15 Police Scotland received 31 complaint allegations arising from stop and search activity.[125] Studies on complaints about stop and search in England and Wales have shown the reasons for not complaining generally included a lack of an independent complaints process, that complaints would be viewed as a waste of time, that there was a lack of information on how to complain, fear of harassment or powerlessness.[126] HMIC report that '*research by the Independent Police Complaints Commission and the results of our [HMIC] survey of people stopped and searched reveal that, of those who are dissatisfied as a result of being stopped and searched, very few make a formal complaint. In our survey, only 16% of those dissatisfied with their experience complained. When asked why not, many expressed a lack of faith in the complaints system.*'[127]

173. We found that during the Fife Pilot officers were provided with an advice slip to give to people who are stopped and searched. This slip details the rights of the individual and provides information on how to contact police if they require further information. We view the concept of advice slips as effective practice, however upon review of the advice slip currently in use we would suggest that this should be equality impact assessed. The language may be difficult for the public to understand and the information on consensual search does not state that people have the right to refuse. Additionally, there is no information in regard to available complaints procedures. The Fife pilot is subject to independent evaluation and we will monitor the findings of this in relation to this issue.

[125] Police Scotland Quarter 3 Data 1 April 2014 to 31 December 2014
[126] Stop and Search: The views and experiences of Black communities on complaining to the police. A study conducted for the Metropolitan Police Authority June 2004
[127] HMIC Inspection Findings, Leicestershire Police, Stop and Search, 2012/13

Police Scotland data recovery and internal audit

174. On 6 May 2014, there was an ICT update to the national stop and search database. This contained a programming error which resulted in two fields containing information on the item found as a result of a search not being captured by the database. This error only related to positive searches recorded on the national stop and search database and did not affect any data captured by officers through a PDA. This meant that although officers entered the data, it was not captured in the database. All other fields entered by officers were successfully saved. This meant that the records affected by this error were saved but were partially incomplete. The missing data was not deleted from the database as it was never saved.

175. This error was identified during preparation of an analysis report of the quarter one stop and search data on 14 July 2014. Once identified ICT put in place an emergency fix on the 15 July 2014, meaning that all searches entered after that date was saved to the database in full. It was discovered that this ICT programming error had resulted in 20,087 positive search records not being fully captured by the database.[128]

176. Police Scotland thereafter initiated a process to recover the missing data directly from the reporting officer and then initiated an audit of a sample of records that were recovered. This was undertaken in two stages:

- **Stage 1** - An initial recovery of data returned by officers for the 20,087 records. This process uncovered data anomalies that are outlined below.
- **Stage 2** - A random sample of approximately 2,800 records from within the dataset of 20,087 records affected by the ICT error were selected for audit.[129]

177. As a consequence of the incomplete data Police Scotland decided not to publish the full suite of stop and search data within the management reports for quarter one and quarter two of 2014/15. This was intended to allow Police Scotland sufficient time to implement improvements and audit the stop and search data, with a view to updating the database with the incomplete data and publishing accurate statistics. HMICS was made aware of the ICT error and supported this approach by Police Scotland not to publish incomplete stop and search data. However it became evident during the internal audit by Police Scotland that there were significant concerns with the data that would not be capable of correction in time for publication of quarter three data, which was subsequently released without the full breakdown of the stop and search data.

178. Police Scotland contacted the individual officers that had submitted the searches affected by the ICT programming error by email and asked them to refer to their notebook and return the information relating to the missing field by email. This information was checked by supervisors prior to being sent back to the NSSU.

[128] These records had been recorded by officers from 6th May 2014 to the 6th July 2014
[129] The sample size aimed to provide a statistically significant sample of data at a divisional level with confidence intervals of +5% divisionally and +2% nationally. Records identified as an anomaly at phase one were excluded from this phase

179. This process is currently on-going and on 15 January 2015 the missing information from 19,474 records had been recovered[130] with 19,288 (96%) having been uploaded onto the national database on 18 December 2014.

180. Within the dataset of the 19,288 records that have been uploaded, 885 included positive alcohol searches where the officer had not recorded the name of the individuals that they had taken alcohol from. The NSSU requested reports from the relevant divisions to receive more information on each incident. Many of these searches related to large scale incidents over the summer months when groups of people congregated in outdoor spaces. Officers were instructed to remove the alcohol where this was appropriate however, due to the volume of people, officers were unable to note the personal details of all involved. This was overseen by a supervisor. The NSSU decided to upload these affected records as they were satisfied that the records were viable.

181. The internal review of the records highlighted further data anomalies, some of which are still under review. The table overleaf relates to the remaining 799 records that are currently being investigated by the NSSU before the record is removed, amended or uploaded onto the database. The table outlines the data anomalies as at 15 January 2015 as defined by Police Scotland and highlights the reason for the anomaly and the decision on further action that will be undertaken.

182. We note from the findings of the internal Police Scotland audit as shown in the table below, that 333 (1.7%) of the records reviewed were recorded as a positive search when the outcome was negative and a further 69 (0.3%) records are duplicated or should be removed. This combined with further errors such as name and age anomalies will affect the quality of the data overall.

[130] The data anomalies are being dealt with daily and therefore the number of records are subject to change. We have reported on the data at a fixed point in time as at 15 January 2015 when the majority of replies had been received

Table 6: Police Scotland data anomalies

Reason for the anomaly	Number of records	Decision taken by Police Scotland	Further work to be done by Police Scotland
The record has been entered in error by the officer	38	Remove	These searches will be removed from the national database
The officer has entered the same record twice by mistake	22	Duplicate	These searches will be removed from the national database
The record has been entered in error as a positive result but should have been a negative search	333	Positive to negative result	The search result will be changed and uploaded onto the database
The record has been inputted from a paper form completed during a large scale event. It is not possible to trace the submitting officer	9	Remove	These searches will be removed from the national database
The officer has not recorded the name of the individual subject to a positive search in their notebook and as such the record is incomplete (this does not include alcohol searches)	43	Upload	The record is complete other than the missing nominal details.
The officer has insufficient information in their notebook to respond with the item found or their notebook is unavailable to them	14	Still under review	Still under review
Outstanding returns – the NSSU has not yet received a reply from the officer	340	Still under review	Still under review
Total	**799**		

183. As outlined earlier in the report the national stop and search database requires extensive improvement to ensure that the data anomalies outlined above are not repeated.

184. Once a significant proportion of the records subject to the IT fault had been recovered by Police Scotland (19,288) a decision was made for the NSSU to start an internal audit of these records. Police Scotland developed instructions and guidance for officers to complete the audit form and return them to the NSSU for analysis. HMICS provided advice to Police Scotland on the number of records that should be audited to return a statistically representative sample. The audit was designed to be representative of the 20,087[131] records in terms of a proportional allocation of the sample to each division.

[131] When the data was supplied to HMICS in September 2014 there were 20,086 records. This was altered to 20,087 records on the 15th January 2015 when we received the up to date information on the outstanding data anomalies

185. Each officer was asked to complete an audit compliance form to indicate what was recorded in their notebook. This was then checked and signed off by a supervisor and returned to the NSSU for collation. The information checked for compliance was:

- Time/date of search
- Name
- Date of birth
- Address
- Telephone number
- Ethnicity
- Corroborating officer
- Type of search
- Grounds for suspicion
- Outcome
- Item recovered
- Location

186. As at 30 January 2015 Police Scotland had received 2,496 completed audit forms, a total of 87% of all expected returns (2,862). The NSSU continue to liaise with service delivery chief inspectors to receive the remaining completed audits.

187. Police Scotland inputted the data from the forms manually into an excel spread sheet analysed the data and provided the results to HMICS. Table 7 provides the data we received from Police Scotland.

Table 7: Findings of the Police Scotland internal audit

Criteria	Item in notebook	Item not in notebook	Percentage of missing data
Time/date of search	2418	78	3%
Name	2414	82	3%
Date of birth	2393	103	4%
Address	2359	137	6%
Telephone number[132]	1161	1335	54%
Ethnicity	1057	1439	58%
Corroborating officer	2121	375	15%
Type of search	2187	309	12%
Grounds for suspicion	2295	201	8%
Outcome of the search	2263	233	9%
Item recovered	2222	274	11%
Location	2102	394	16%

188. We also requested the number of times when there had been no information recorded in the notebook of the officer and were informed that 60 such forms have been received to date. Police Scotland state that these records will be subject to further scrutiny.

[132] Telephone number is not a mandatory field in the stop and search database and was added to facilitate a quality control process introduced as part of the Fife Pilot. Therefore we would not expect officers to record this information

189. The results of the internal Police Scotland audit reinforce the requirement for many of the recommendations within this report to be taken forward and highlight an on-going need to closely monitor and review stop and search records. As there is currently no definitive guidance on what officers should record, the variance is to some extent expected. However, there are clearly training issues identified such as the proper recording of ethnicity to comply with legislative requirements.

190. Officers generally welcomed the Police Scotland internal audit on stop and search and thought that the stop and search data would improve as a result. They thought data would be more accurate since the audit as it had raised awareness amongst officers that recorded information would now be checked. They viewed the audit as similar to the PNC audits[133] and thought it would be a good opportunity to learn from mistakes.

191. As part of the Fife pilot a stop and search compliance audit was introduced to check the details recorded in officers' notebooks against data entered on the national database. The findings of the compliance check are not available at this time and will be subject to independent evaluation.

HMICS validation of the Police Scotland internal audit

192. As well as receiving the results of the audit from Police Scotland, HMICS sought to validate the findings by undertaking a quality check on 10% of the returned forms. This was done proportionately based on the number of records returned from each division. Records were selected at random and HMICS was given access to the scanned forms and the excel spread sheets where the return had been logged.

193. We found that the audit process had been labour intensive for Police Scotland as it was not an automated process. The forms were sent electronically from the NSSU and had to be manually inputted into an excel spread sheet upon return. One spread sheet was created for each division. This manual data entry introduced errors in the audit.

194. We found that there had been no guidance issued to the officers that were responsible for collating the audit information. On some forms officers had written in comments, provided an explanation or left the fields on the form blank. This meant the inputting officer often had to make a judgement on the information contained within the form. This introduced a degree of subjectivity into the recording of the audit findings.

195. For the validation check, we reviewed the completed audit form and compared this to the information recorded in the excel spread sheet. We checked that where information was missing this was correctly recorded in the spread sheet. We found that there were inaccuracies in the data recording of the audit and that there was both over and under recording of the missing fields.

[133] PNC Audits are regular audits that are undertaken by all Police forces in the UK. The audits check the quality of the data inputted on the Police National Computer (PNC)

196. We are aware that at the time of the HMICS validation check that Police Scotland had not completed an internal check on the inputted data which was scheduled towards the end of the completed audit process.

197. Of the 278 forms we examined we found that over half (59%) were coded correctly as either complete or incomplete on the excel spread sheet. We found that a small number of records were shown as being fully complete, but would have been marked as having missing information on at least one field by HMICS (7%). Conversely, we found that a small number were shown to have a field missing when we would have marked the form as complete (2%).

198. We found that in almost one third (32%) of records marked as incomplete, the field(s) listed as missing were incorrectly classified. This can largely be attributed to the data transcription issues and lack of audit guidance, and will be picked up by Police Scotland to inform the approach to future audits (see paragraphs 193 and 194).

199. Our validation exercise highlights the importance of clear guidance for any audit not only for those completing the audit but also for those compiling the results. The degree of subjectivity applied to audit results should be minimised and information should be requested for all fields in a compliance check to eliminate as many errors as possible. Processes should be developed to ensure a common approach to the interpretation of data. There was no indication that incomplete or unclear forms had been returned and we found no documented methodology to assist decision making where information returned could be subject to interpretation. We suggest that future audits should be automated in an electronic format to reduce error and that clear guidance is issued to those completing the audit and those analysing the results.

200. We suggest that the lessons learned from the initial audit of the stop and search data are documented and used to develop a more robust but proportionate approach to future stop and search audits. We also believe that learning can be taken from the approaches taken by Police Scotland in the internal audit of recorded crime and incidents as part of the Scottish Crime Recording Standards. This would include the results of future audits being scrutinised at an executive level within Police Scotland. In the interests of greater transparency, we consider that the results of future stop and search audits should be scrutinised by the SPA through its Audit and Risk Committee.

Recommendation 23:
Police Scotland should put in place a proportionate audit regime for stop and search including positive and negative searches. There should be clear guidelines for officers completing the audit and those analysing the results. The findings of all audits should be scrutinised by the Scottish Police Authority Audit and Risk Committee.

HMICS audit of searches of children aged 11 or under

201. At the Justice Sub-Committee on 19 June 2014 Police Scotland announced that it would cease the consensual searching of children aged 11 or under. On 4 February 2015 the BBC published data that had been provided by Police Scotland under Freedom of Information that highlighted 356 searches of children had occurred from 23 June to 31 December 2014. Two-thirds of these searches were shown as consensual. Following the SPA Extraordinary Board Meeting on 13 February, the SPA chair requested that all 356 records be subject to an independent audit by HMICS. We agreed to this request and conducted the audit of the 356 records between the 27 February and the 5 March 2015. The complexity of the audit and subsequent reconciliation with Police Scotland meant that we had to extend our original timetable and slightly delay the publication of our report.

Internal communication

202. To communicate the end of consensual searching of those aged 11 or under a memorandum was sent out by the ACC with the lead for stop and search on the 20 June 2014. The memorandum was sent to all Divisional Commanders within the 14 local policing divisions and was asked to be brought to the attention of all staff and officers under their command. It also stated that '*as of Monday 23rd June we [Police Scotland] will no longer undertake consensual searches of young children, aged 11 and under'*. The Police Scotland internal newsletter 'In Focus' also provided information to officers, stating that consensual searches could no longer be conducted with children aged 11 or under without parental consent. While the condition of "without parental consent" had not been included within the original memorandum, we recognise this was intended to highlight the issues of informed consent from the young person and parental consent.

203. During our inspection we found that many officers were abstracted from core duties as a result of the Commonwealth Games[134] when this memo was issued. This meant that they were not subject to their normal routine and briefings and were often not at their home division with no access to IT to read local briefings, the force intranet or emails. We found that a few officers continued to be unaware of the change in policy. Some officers stated that they had only heard about the change in policy through the media. The majority of officers, when prompted recalled that children could no longer be consensually searched; however there was some confusion around this. Some officers thought that children could no longer be searched at all, even under legislative powers and there was confusion about the age range that the policy affected.

204. We are concerned that the communication of this major change in policy was not more effective, although acknowledge the recent communications by Police Scotland to reinforce this message. The time between the announcement and the implementation of the policy change was only five days. This did not give sufficient development time to update ICT systems and other processes. This left the NSSU having to find workarounds, which were not as effective as they could otherwise have been. Police Scotland should ensure that any future policy changes are considered in

[134] The opening ceremony of the commonwealth Games was held on 23rd July 2014

terms of the timescales required to effectively communicate, implement and monitor key changes.

Monitoring of the policy change

205. We found that during the period 23 June to 12 August 2014 the NSSU had undertaken weekly checks and identified 48 consensual searches of children aged 11 or under had been recorded. Each week during that period, a report identified the individual records that contravened policy and the NSSU followed this up by email to the individual officer to check the record and highlight force policy. The emails also provided a link to the internal memorandum highlighting that consensual search of children aged 11 or under had ceased. Of the 48 records queried those that contravened the policy related to only five records submitted by four officers. The NSSU spoke directly to these officers to inform them of the policy change and also spoke to their supervisors to highlight the error. There were a further 10 records that had not received a reply by 12 August 2014. The remaining records involved age inputting errors, legislative searches, had been conducted in front of a parent or guardian or should not have been recorded as a stop and search.

206. At that time there was no facility for the NSSU to edit, audit or delete records from the national stop and search database. The records that required alteration were kept on a spread sheet in the NSSU until such time that the additional ICT functionality was available.

207. Due to the fact that only four officers had been identified through weekly checks as having contravened the policy, it was decided that further errors could be identified from the on-going data recovery exercise and subsumed into future guidance. This was intended to create capacity within the NSSU to tackle other competing demands and meant there were no weekly checks being carried out for searches of children aged 11 years or under from week commencing 18 August 2014.

208. A warning message to alert officers of the change in policy was added to the database in August 2014. This message highlights that the officer is attempting to record a consensual search of an individual aged 11 years or under and prompts them to check that the information is correct. This was requested by the NSSU to address the age inputting errors it had identified.

209. Following the media reporting in February 2015, that data released under Freedom of Information included searches of children aged 11 or under years the NSSU reviewed all of the 356 records that these related to.[135] They issued an audit form to each officer that had submitted a record. The completed forms were then returned to the NSSU and the justification provided for each search was assessed. The results of the NSSU audit was discussed at the SPA extraordinary Board meeting on 13 February 2015 and the Justice Sub-Committee on Policing on 19 February 2015. This was also subject to widespread media reporting.[136]

[135] This audit was carried out between 4 and 12 February 2015

[136] http://www.heraldscotland.com/news/home-news/police-admit-over-counting-several-hundred-thousand-stop-and-searches-after-high-numb.118459735 **and** http://www.bbc.co.uk/news/uk-scotland-31448972

HMICS audit of search records relating to children aged 11 or under

210. HMICS reviewed each of the 356 records by assessing what had been recorded on the database against what had been recorded on the audit form and within corresponding emails. Audit forms had been completed by the officer that had submitted the record and were signed off by a supervisor. We were satisfied that the forms had been validated and were content to base our audit on the information contained within the forms provided. The audit involved five tests carried out independently by two members of HMICS staff. Police Scotland also provided a briefing paper on the *National Stop Search Unit Initial Review of 356 Records of Persons Searched Under 12* (Appendix 6). This details the methodology applied by Police Scotland together with its results.

211. The findings of the HMICS audit vary from the findings of Police Scotland, although the same information was used. This is primarily due to variances in the categorisation and interpretation of data by Police Scotland and HMICS. These variances have been explained throughout this section of the report.

Test 1 – Check of records against the original download

212. We obtained the original download from the database of the 356 records and confirmed that the number of records correlated with the Police Scotland internal business objects report that we ran on the 27 February 2015.

213. We then used the internal business objects report provided by Police Scotland to count the number of legislative versus consensual searches, as shown in the table below. Our test showed there were 152 legislative and 204 consensual searches, which indicates a variance of one with the numbers provided by Police Scotland, which showed 151 legislative and 205 consensual. This variance is the result of one record having been amended by Police Scotland between the time of the its audit and providing of the dataset to HMICS.

Table 8: Test 1 – Check of records

Category	Police Scotland	HMICS Audit
Legislative	151	152
Consensual	205	204
Total	**356**	**356**

Test 2 – Age errors

214. Our second test was to identify records that contained age errors. This is when the officer has inputted an incorrect age or date of birth that results in the individual showing as aged 11 or under when this was not the case.

215. Police Scotland reported that they had found 67 age anomalies in the data. We agreed with 65 of these records but assessed that two records could have been categorised differently. One as a duplicate record and the other as an officer safety search.

216. We found that in addition to the 65 records with age errors there were a further four records that should have been included. For three of these records the officers indicated on the audit form that the young person was aged 15 and not five as had been recorded in the database. The other record related to the officer recording the expiry date of a passport as the year of birth although they indicated in the audit form that the individual was aged over 11 years. The variance is shown in the table below and indicates that HMICS identified a total of 69 age errors.

217. HMICS found that the inputting error rate for age within this record set is 19%. We found that some of the errors related the year of birth being selected as the current year making the individual aged one or less. There should be a marked reduction in this type of input error in the future as the database now has age data validation and a warning message related to those aged under 12 years.

Table 9: Test 2 – Age errors

Category	Police Scotland			HMICS Audit		
	Legislative	Consensual	**Total**	Legislative	Consensual	**Total**
Age errors	27	40	**67**	28	41	**69**

Test 3 – Recoding and edit of search type

218. For test three we reviewed the forms to identify discrepancies between the search type (consensual or legislative) listed on the audit form submitted by the officer against what was recorded in the database. This was to identify the number of searches that had been undertaken on a consensual basis given that these are the searches that could be outwith policy.

219. Prior to the recoding of the search type, the records identified as age anomalies were removed. This left a total of 289 records for Police Scotland and 287 records for HMICS due to the variance in the age errors identified.

Table 10: Number of legislative and consensual searches before adjustment

Category	Police Scotland	HMICS Audit
Legislative	124	124
Consensual	165	163
Total number of records	**289**	**287**

220. Police Scotland found that 14 searches had been coded as legislative in the database when they should have been coded as consensual. HMICS agreed with the assessment of these 14 records. We also found a further six records that should have be recoded from legislative to consensual.

221. Police Scotland reported that a further 49 records were coded as consensual on the database when they should have been legislative. We agree that these 49 records should have been legislative. We also found a further nine records that should have been recoded from consensual to legislative.

222. As shown in the table below the adjustments to search type resulted in Police Scotland reporting that 130 consensual searches were recorded between the 23 June and 31 December 2014. HMICS found that 125 consensual searches had been recorded during the same period.

Table 11: Test 3 – Adjusted number of legislative and consensual searches

Category	Police Scotland	HMICS Audit
Legislative	159	162
Consensual	130	125
Total number of records	**289**	**287**

Test 4 – Consensual search of children aged 11 or under

223. At the SPA Board on 13 February 2015 Police Scotland stated that 130 records related to the consensual stop and search of individuals under 12 years of age. A breakdown was provided to inform members about the Police Scotland audit to contextualise the circumstances surrounding the searches. Of the 130 records, Police Scotland identified 18 records where they considered that no rationale could be applied, other than a contravention of force policy.

224. Test four involved a review by HMICS of each of the records that were identified as consensual. We found that 125 searches had been conducted on a consensual basis among children aged 11 or under. We thereafter reviewed each record to determine whether there was sufficient information to assess whether the officers concerned had acted in accordance with the Police Scotland policy.

Table 12: Test 4 – Categorisation of consensual searches

Category	Police Scotland	HMICS Audit	HMICS Comments
Outwith policy			
Outwith policy - physical search occurred	18	58	HMICS assessed these searches as instances where a child aged 11 or under was physically searched on a consensual basis without a parent or guardian being present.
Outwith policy - no physical search of the person was undertaken by officers	Category not used by Police Scotland	25	HMICS assessed these searches as instances when officers asked the individual to empty their own pockets or look inside a bag but did not physically search their person. We consider such action to constitute a search as the individual had to consent to the action requested by officers.
Sub-total	**18**	**83**	
Other			
Intervention	45	Category not used by HMICS	This was a Police Scotland category used to identify when the purpose of the search was to recover an age restricted product. HMICS did not use this category and coded these records in one of the other categories shown in this table.
Legislative grounds existed	36	Category not used by HMICS	This was a Police Scotland category used to identify records where legislative grounds existed for the search but had not been utilised. While this category may be useful for Police Scotland to identify training issues, HMICS did not use this category as legislative safeguards were not in place at the time of the search.
Parent/guardian present and gave consent	27[137]	15	HMICS assessed that a parent or guardian was present at the time of the search and provided consent and these searches would therefore comply with the policy.
Delete record	7	7	HMICS assessed one record as a duplicate. The other six records related to circumstances where no search occurred. These records should not have been recorded as a stop and search and should be deleted.
Officer safety search	10	2	HMICS assessed this as searches that were for officer safety reasons and conducted while the individual was under arrest prior to being placed in police vehicle. These are compliant with policy.
Further information required	Category not used by Police Scotland	18	HMICS assessed these records as requiring further information to make an assessment on whether a search occurred and whether the actions of the officers were outwith policy.
Sub-total	**125**	**42**	
Total	**143***	**125**	***The Police Scotland total of 143 is higher than actual number of searches (130) due to multiple categorisation by Police Scotland**

[137] The categorisation used by Police Scotland was that the parent or guardian was informed about the search. HMICS only counted searches in this category where the parent/guardian was present at the time of search and in a position to provide informed consent on behalf of the child rather than informed on some occasions after the search

225. We found that 15 searches had been conducted in the presence of a parent or guardian who provided consent to search the child. As the consent is provided by an adult we have categorised this as not outwith policy. Police Scotland should consider how to record such searches in the future to ensure that when consent is provided by an adult that this is recorded and can be reported.

226. We assessed that two searches were recorded for officer safety reasons when the child was under arrest and was being searched prior to being placed in a police vehicle. This type of search is not recorded as a stop and search in other jurisdictions. Police Scotland need to ensure that future guidance is explicit in terms of officer safety searches.

227. We found that a total of 83 consensual searches were outwith the Police Scotland policy. We found that in 58 instances the child had been physically searched by officers and in 25 instances the child was asked to turn out their own pockets or show the contents of their bag without their parent/guardian being present.

228. Police Scotland used a category to identify 45 searches which involved various interventions for alcohol, tobacco and other items where there was not a power of search. As these searches were all undertaken on a consensual basis we assessed whether a search had occurred or not and coded these records in one of the other categories shown in the table 12.

229. Police Scotland assessed 36 records as consensual, where from the officers response, it was clear that a legislative power was available but was not used and could have or should have been used. HMICS found that the description provided by officers in some instances indicated that a legislative search could have been undertaken[138] however, the officers clearly stated that the search was consensual and as such the legislative safeguards were not in place at the time of the search. On that basis HMICS coded these records in one of the other categories shown in the table 12.

230. Police Scotland identified seven records that could have or should have been deleted because it was assessed that a search never took place. HMICS also identified seven records to be deleted. We found one duplicate entry and six records where no search had taken place. These six records highlight training issues that should be addressed by Police Scotland. An example of this involved an instance where officers were informed by security guards at a shopping centre that a child was misbehaving. Officers spoke to the child regarding their behaviour and noted their details. A stop and search was submitted to note that the officers had spoken with the child but no search was conducted. This was incorrectly recorded as a negative consensual alcohol search.

231. HMICS found that of the 125 searches we identified as consensual, there were 18 where further information was required to make an assessment on whether a search occurred and whether the actions of the officers were outwith policy.

[138] We have not provided a figure for the number of cases where reasonable grounds for suspicion existed. The information on the audit forms varied and this information was not specifically requested. There may be instances where grounds existed but were not noted on the forms.

Test 5 – Legislative search of children aged 11 or under

232. We found that 162 legislative searches had been conducted among children aged 11 or under. Each record was reviewed and categorised as outlined in the table below.

Table 13: Test 5 - Categorisation legislative searches

Category	HMICS Audit	Comments
Alcohol seizure	1	These records were recorded as an alcohol stop and search. Information provided indicates an alcohol seizure took place and no search of the individual occurred.
Alcohol search	4[139]	These records indicate the individual was physically searched by officers for alcohol.
Legislative search	145	These were instances where a physical search took place in line with available legislative powers.
Legislative search - no physical search	1	This category relates to instances when officers asked the individual to empty their own pockets but did not physically search the individual.
Officer safety search	1	This search was for officer safety reasons and was conducted prior to a missing person being placed in police vehicle and being returned home.
Officer safety search	3	These searches were conducted for officer safety reasons although it is unclear why this course of action was required.
Searched under common law powers	3	These searches were conducted by the officer under common law powers of search whereby the officer suspected the individual had been involved in a crime.
No search	2	This record should not have been recorded as a stop and search as no search occurred.
Officer recorded in error	1	The officer submitted this record in error.
Test record	1	This was a test record submitted to test the database.
Total	**162**	

233. We found that 145 searches had been conducted under legislation among children aged 11 or under. We also found that four searches had been recorded as a legislative alcohol search, as highlighted earlier in the report there is no power of search for alcohol unless at a designated sporting event.

[139] These searches highlight a training issue as there was no legislative power of search for alcohol outwith a sporting event

234. Similar to the consensual searches for officer safety reasons we found that there were four legislative searches recorded for this purpose, one of which was prior to placing the individual into a police vehicle. The remaining three were undertaken by the same two officers and it is unclear from the contextual information provided why this course of action was required.

235. We found three searches were the individuals had been searched under common law powers, where the individuals were either arrested or detained under the terms of section 14 of the Criminal Procedure (Scotland) Act 1995. As such these searches should not be recorded as a stop and search.

236. We also found two records where no search occurred, similar to the six searches identified above (see paragraph 230) these highlight training issues that should be addressed by Police Scotland through the provision of guidance and counting rules (Recommendation 1). Two examples are outlined below:

- **Example** - Officers were driving down the street and saw a youth carrying a crowbar. The individual dropped the crowbar when the officers approached. The officers seized the crowbar and returned the individual home. The individual stated that they had found the crowbar. This was incorrectly recorded as a positive legislative weapons search.

- **Example** - Officers were provided with information that an individual had been in possession of a hammer. A hammer was recovered by officers after it had been discarded. The officers went to the home of the identified individual and spoke to them in front of a parent about the allegation that they had been in possession of a hammer. This was incorrectly recorded as a positive legislative weapons search.

Appendix 1 - Glossary of terms

ACC	Assistant Chief Constable
APU	Analysis and Performance Unit
BASS	Behavioural Assessment Screening System
BTP	British Transport Police
BUSS	Best Use of Stop and Search Scheme
ASPS	Association of Scottish Police Superintendents
DCC	Deputy Chief Constable
ECHR	European Convention on Human Rights
FOISA	Freedom of Information Scotland Act
GIRFEC	Getting it Right for Every Child
HMIC	Her Majesty's Inspectorate of Constabulary (England & Wales)
HMICS	Her Majesty's Inspectorate of Constabulary in Scotland
ICT	Information and Communications Technology
KPI	Key Performance Indicator
LVRD	Licencing and Violence Reduction Division
ODA	Operational Data Store
OST	Officer Safety Training
PDA	Personal Data Assistant
MPS	Metropolitan Police Service
MSYP	Members of the Scottish Youth Parliament
NSSU	National Stop and Search Unit
SCOMIS	Scottish Operational Management Information System
SIPR	Scottish Institute for Policing Research
SOP	Standard Operating Procedure
SPA	Scottish Police Authority
SPF	Scottish Police Federation
UKSA	United Kingdom Statistics Authority

Appendix 2 - Inspection methodology

The purpose of this audit and assurance review was to assess the state, efficiency and effectiveness of the processes for recording stop and search activity within Police Scotland and the associated procedures for supervision, audit and governance. We also examined the impact of the performance framework and targets in relation to stop and search activity.

A formal information request for documents was made to Police Scotland which included:

- strategies, policies, guidance and standard operating procedures
- agendas, minutes and internal memorandums and emails
- briefings and presentations
- action and improvement plans
- ICT specifications and plans for development
- training notes
- records of compliance checks
- quality assurance and quality control processes
- staffing structure
- audit processes and forms

The inspection was undertaken in numerous stages as outlined below;

- pre-visit/pre-interview preparation, literature review, development of inspection tools and document review
- interviews with key stakeholders and observation of meetings
- fieldwork including visits to seven divisions across Scotland (Fife, Greater Glasgow, Edinburgh City, Renfrewshire and Inverclyde, Highland and Islands, Forth Valley and Dundee). These visits included interviews and focus groups in each location with: the divisional commander, an area chief inspector, a community or response sergeant and two focus groups, one with community and response officers and the other with a range of officers from support functions such as road policing or flexible units.
- a visit to the Metropolitan Police Service to the stop and search unit. This visit was to explore the developments in England and Wales and to identify good practice. For this element we concentrated on the policies and practices adopted by MPS and did not analyse any statistical information.
- fieldwork with British Transport Police in Scotland, we visited two BTP offices and interviewed a range of officers in both locations to compare and contrast our findings within Police Scotland to that of another service. For this element we concentrated on the policies and practices adopted by BTP and did not analyse any statistical information.
- fieldwork in the National Stop and Search Unit to undertake the validation of the Police Scotland audit of stop and search records.
- audit of the 356 records related to the searching of children aged 11 or under from 23 June to 31 December 2014.
- report preparation and publication.

Appendix 3 - SPA scrutiny review recommendations

1. Police Scotland should define the contexts within which stop and search is used as a preventive tactic; and as a means of detection. It should also define appropriate outcome measures as well as the rationale for any target/s set.

2. Police Scotland should review operational practice in relation to any perceived pressure on individual officers to reach a certain volume of searches.

3. Police Scotland should roll out analysis tools, such as the Geographic and Temporal Alignment Tool (GTAT), across Scotland to target search activity on “the right people, in the right place at the right time”.

4. Police Scotland should ensure the consistent application of stop and search by reinforcing training for officers, ensuring that officer understanding is tested and that officer training is regularly assessed. Training should include dealing appropriately with children and young people and giving clarity about what constitutes consent with respect to non-statutory searches.

5. Police Scotland should ensure that its use of stop and search is proportionate across Scotland, focussed on successful outcomes, targeted at the right people, right place and right time. Care should be taken to ensure that:

- Particular communities and groups are not being disproportionately impacted by stop and search activity;
- Use of stop and search is proportionate to the risk of offending, crime rate and threat;
- Use of the tactic is regularly reviewed to ensure its application is still appropriate.

6. Police Scotland should ensure that the rationale for the search rate on young people is intelligence-led and that particular groups, such as young people, are not being subjected to excessive levels of searching.

7. Police Scotland should ensure that those to be searched on a non-statutory basis are aware of their right to decline.

8. Police Scotland should assess the best value implications and relative priority of the stop and search tactic against other policing activities.

9. Police Scotland should ensure the recorded details of individuals searched and information about those who do not consent to non-statutory search, are also captured in the stop and search database.

10. Police Scotland should provide the SPA with their rationale for the significant changes in the volume of stop and search activity across local authority areas in Scotland since police reform and their assessment of the impact this has had on outcomes.

11. The SPA should commission research, in conjunction with others, to establish the short and long term impact of stop and search on different groups and communities. In particular, this should cover the short and long term impact of stop and search activity on young people.

12. The SPA should publish comprehensive stop and search data on a regular basis.

Appendix 4 - Fields recorded on the national database and PDA

Descriptor	Mandatory field on PDA stop and search form	Mandatory field on national stop and search database
Name of person searched	Yes	Yes – but option to select details withheld for negative search only
Age	Yes	Yes – but option to select age unknown
Date of birth	Yes	Yes – for positive searches only (proposed change with ICT for DOB to be mandatory for all legislative searches and auto-calculation of age from this field)
Home address	Yes	No – no fixed abode can be selected for all search types and address unknown for negative searches
Gender	Yes	Yes
Place of birth	Yes	No
Your perceived ethnicity of the person searched	Ethnicity is one field that does not state self-defined or officer defined	
Self-defined ethnicity		
Occupation	No	No facility to record
Person declined to provide nominal details (consensual searches)	No	No
Signature of person refusing to participate in a voluntary search	No	No
Description of person searched	No	No facility to record
Details of vehicle involved (if applicable)	No	No facility to record
Date of search	Yes	Yes
Time of search	Yes	Yes
Locus	Yes	Yes
Beat number	Yes	No facility to record
Whether locus is a public or private place	No	No facility to record
Shoulder / registered number of officer searching	Yes	Yes
Shoulder / registered number of officer corroborating search	Yes	Yes
Grounds for search / suspicion	Yes (but default text is recognised as valid input)	No facility to record
Search power used (whether legislative or consensual)	Yes	Yes
Result (whether positive or negative)	Yes	Yes
Description of item(s) recovered (positive searches)	Yes (for Alcohol, Weapons and Drugs only)	No facility to input description but drop down provided
Location of any item(s) recovered (positive searches)	No	No facility to record
Time caution administered (positive searches)	No	No facility to record
Outcome of search (arrest, fixed penalty notice, report, no further action)	No	No facility to record
Reasons for arrest (if applicable)	No	No facility to record
Wording of charge (positive searches)	No	No facility to record
Caution and charge reply (positive searches)	No	No facility to record
Details of officer administering caution and charge	No	No facility to record
Details of officer corroborating caution and charge	No	No facility to record
Verbal request made for PNC, CHS or other checks	No	No facility to record
Incident reference number (if applicable)	No	No
Fixed penalty notice number (if applicable)	No	No facility to record
Crime reference number (if applicable)	No	No
Stop and Search reference number from the database	N/A	N/A

Appendix 5 - Information recorded in notebooks

Descriptor	Police Scotland[140]		
	Yes	No	Sometimes
Name of person searched	53	0	0
Age	45	8	0
Date of birth	53	0	0
Home address	52	1	0
Gender	9	40	4
Your perceived ethnicity of the person searched	13	34	2
Self-defined ethnicity	10	41	2
Occupation	50	3	0
Person declined to provide nominal details (consensual searches)	37	14	1
Signature of person refusing to participate in a voluntary search	10	40	2
Description of person searched	16	32	4
Details of vehicle involved (if applicable)	51	2	0
Date of search	53	0	0
Time of search	53	0	0
Locus	51	0	2
Beat number	3	48	2
Whether locus is a public or private place	15	36	1
Shoulder / registered number of officer searching	45	7	1
Shoulder / registered number of officer corroborating search	48	5	0
Grounds for search / suspicion	50	2	1
Search power used (whether legislative or consensual)	48	3	2
Result (whether positive or negative)	53	0	0
Description of item(s) recovered (positive searches)	51	2	0
Location of any item(s) recovered (positive searches)	53	0	0
Time caution administered (positive searches)	49	4	0
Outcome of search (arrest, fixed penalty notice, report, no further action)	48	5	0
Reasons for arrest (if applicable)	48	4	1
Wording of charge (positive searches)	40	10	2
Caution and charge reply (positive searches)	51	2	0
Details of officer administering caution and charge	46	7	0
Details of officer corroborating caution and charge	46	7	0
Verbal request made for PNC, CHS or other database checks	30	22	1
Incident reference number (if applicable)	8	39	2
Fixed penalty notice number (if applicable)	38	15	0
Crime reference number (if applicable)	25	27	1
Stop and search reference number from the database	23	29	1

[140] The sample size for this exercise among Police Scotland Officers was very small (n=53 officers). This exercise was conducted to provide a general indication of what officers would record. Officers that use a PDA were excluded from this exercise as the stop and search form is electronic and prompts the officer on what to record

Appendix 6 - Police Scotland briefing note of under 12 audit

This briefing note was supplied by Police Scotland and is replicated below:

NATIONAL STOP SEARCH UNIT INITIAL REVIEW OF 356 RECORDS OF PERSONS SEARCHED UNDER 12

Using business object reporting tools, the National Stop Search Unit (NSSU) carried out the review of stop and searches recorded on the national stop search database for persons aged 11 and under between 23rd June and 31st December. The NSSU ascertained the total number of searches of persons under 12 was 356. This was against a total number of searches for the period 244,714 (0.15%).

The breakdown of the 356 searches is as follows:

Recorded originally as consensual (205)
The **205** consensual responses identified:

- **40** records were age or date of birth input errors and were therefore over 12.
- **49** records were search type input errors and should have been recorded as legislative.

This left **116** consensual records returned where officers stated that the age and type were correct.

Recorded originally as legislative (151)
The **151** legislative responses identified:

- **27** records were age or date of birth input errors and were therefore over 12.
- **14** records were search type input errors and should have been recorded as consensual.

This left **110** legislative records returned where officers stated that the age and type were correct.

The 14 records where officers stated they were consensual have been subject to review along with the aforementioned 116 consensual records stating that the age and type is correct, equalling 130 consensual.

SUMMARY

Of the total 356 searches recorded, the NSSU identified that 67 records related to children aged 12 or over, leaving a total of 289 records where the child was 11 or under.

49 records were incorrectly recorded as consensual due to input error; a further 14 records originally showing as legislative were in fact consensual.

In light of the foregoing of the 289 remaining records, 159 can be classed as legislative and 130 consensual.

(Workings of above for info only)
Consensual : 205 - 40 (age input error) – 49 (cons to leg) + 14 (Leg to Cons) = 130
Legislative : 151 - 27 (age input error) – 14 (Leg to Con) + 49 (Cons to Leg) = 159

NATIONAL STOP SEARCH UNIT REVIEW OF 130 CONSENSUAL STOP AND SEARCH RECORDS OF PERSONS AGED UNDER 12, THAT WERE RECORDED OUTWITH FORCE POLICY

The NSSU reviewed all of the **130** consensual stop searches. The records were assessed to fall in to **one or more of the** following categories that could or should have provided a rational for the recording or otherwise of the search:

- **45 searches involved various interventions for alcohol, tobacco and other items where there was not a power of search**
- **36 records were raised as consensual, where from the officers response, it was clear that a legislative power was available but was not used and could have or should have been used**
- **27 searches were carried out where either the parent or guardian were present or contacted**
- **7 records could have or should have been deleted because it was assessed that a search never took place**
- **10 searches were assessed to be for officer safety reasons only**
- **18 other consensual searches were assessed to be clearly in contravention of FM 122/14, where the rationale for the recording of the search did not apply to one or more of the above categories.**

From assessing each of the records against the above categories, there are a variety of reasons that allowed the NSSU to demonstrate where, following assessment the information available provided a rationale that the record could be deleted, or that reasons existed which provided potential justification for each search being recorded outwith policy.

As indicated there were a number of learning points recorded against 112 of the 130 consensual records as they were assessed to be in **one or more** of the categories described. For the remaining 18, there was a clear contravention of force policy and appropriate action has been taken for all records identified to be outwith policy.

The on-going learning review of these 130 records that were outwith policy, along with the 159 legislative searches of under 12s, will continue to inform the work of the Police Scotland Tactical Delivery Group on stop and search. At this early stage, the review of the 130 records has already contributed to the redesign of the database and related training.

The **130** consensual searches equates to **0.05%** of the 244,714 total searches recorded between the 23rd June and the 31st December 2014.

HM Inspectorate of Constabulary in Scotland
1st Floor, St Andrew's House
Regent Road
Edinburgh EH1 3DG

Tel: 0131 244 5614

Email: hmic@scotland.gsi.gov.uk

Web: www.hmics.org

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