

# **HM Inspectorate of Constabulary in Scotland**

## **Audit & Assurance Review of Stop and Search: Phase 1**

### **Terms of Reference**

(Version 1)

October 2014

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# HM Inspectorate of Constabulary in Scotland

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HM Inspectorate of Constabulary for Scotland (HMICS) is established under the Police and Fire Reform (Scotland) Act 2012<sup>1</sup> and has wide ranging powers to look into the '*state, effectiveness and efficiency*' of both the Police Service of Scotland (Police Scotland) and the Scottish Police Authority.

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 enable us 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.<sup>2</sup>

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

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<sup>1</sup> Police and Fire Reform (Scotland) Act 2012, Chapter 11.

<sup>2</sup> HMICS Corporate Strategy 2014-17.

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# Our review

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## Aim

1. The aim of this audit and assurance review is 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 will also examine the impact of the performance framework and targets in relation to stop and search activity.**

## Background

2. The use of stop and search powers in Scotland have been subject to significant public debate. Concerns have been raised by the Scottish Police Authority (SPA), Scottish Parliament Justice Sub-Committee on Policing and staff associations regarding the validity of stop and search data and ethical recording. The SPA recently made recommendations to Police Scotland in their report on Stop and Search<sup>3</sup> including a request to review operational practice in relation to any perceived pressure on police officers to reach a volume of stop and searches; publishing stop and search data and the recording of the details of those searched including those who do not consent to a search.
3. Searches in Scotland can be statutory or non-statutory with the majority undertaken on a non-statutory basis (70%)<sup>4</sup>. Although statutory searches are lower in proportion they generate higher levels of positive searches<sup>5</sup> (28%) compared to non-statutory searches (16%)<sup>6</sup>. It is not possible to say what proportion of those stopped and searched lead to prosecution. HMICS has highlighted a potential anomaly over statutory seizures of alcohol from young people and the fact that these are routinely recorded by officers as consensual stop searches<sup>7</sup>. This practice has the potential to significantly increase the number of consensual searches recorded and will be examined as part of this review.
4. Stop and search has historically been used as a police tactic across Scotland, although approaches varied across legacy force areas. In 2010 Strathclyde Police accounted for the majority of recorded searches (83%) albeit the geographic area represents less than half of the population of Scotland (43%)<sup>8</sup>. In 2013 over 619,000 stop searches were undertaken by Police Scotland, a reduction of 3% compared to those recorded in 2012. Notwithstanding that figure, some areas have seen significant increases in stop and search in 2013; for example Fife Division has seen an over 400% increase over the same time period, albeit that this may be partly attributed to legacy recording procedures.
5. There are currently no targets within Police Scotland on the actual number of searches that should be undertaken in each division. Police Scotland are also clear

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<sup>3</sup> Scottish Police Authority (May 2014) Scrutiny Review of Police Scotland's Stop and Search Policy and Practice

<sup>4</sup> Police Scotland Data year end 2013/14

<sup>5</sup> Police Scotland state that a positive search is 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'

<sup>6</sup> Police Scotland Data year end 2013/14

<sup>7</sup> Scottish Parliament Justice Committee (19 August 2014) Official Report of Meeting

<sup>8</sup> Murray, K. (2014) Stop and search in Scotland: An evaluation of police practice, SCCJR Report 01/2014

that there are no targets for individual officers. There is a target on the positive rate which increased from 15% in 2013/14 to 20% in 2014/15. We will be interested in the target setting process and how performance is delivered in practice by front-line officers.

6. Stop and Search statistics have been widely reported and commented on by both Police Scotland and a range of stakeholders. They have been used to provide comparisons between Scotland and other jurisdictions and have formed the basis for informed debate on the ongoing legitimacy of stop and search. Given the public concerns raised around the accuracy and ethical recording of stop search activity, it is essential that any published statistics are accurate and can be relied upon. This requires Police Scotland to have accessible guidance for officers in terms of recording stop and search activity and robust supervision, audit and governance processes. Our audit and assurance review is therefore targeted specifically at these areas.
7. Police Scotland has publicly responded to concerns around stop and search and has made commitments to both the SPA<sup>9</sup> and the Justice Sub-Committee on Policing<sup>10</sup> in terms of driving improvement. We will be interested in how these commitments have been take forward.
8. In May 2014, Police Scotland set up a National Stop and Search Unit with responsibility for promoting new measures to monitor the use of stop and search and improve the guidance for police officers. The unit will also focus on the provision of robust data and ensure consistency of briefings to officers across the country<sup>11</sup>.
9. Police Scotland has implemented a pilot site for stop and search in Fife division. The aim of the pilot is 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. The pilot has three themes, improving the data set, improving accountability and improving confidence<sup>12</sup>.
10. The pilot will be independently evaluated by academics with consultation on-going with the Scottish Institute for Policing Research (SIPR). It is anticipated that the findings from the evaluation will be reported to Police Scotland in March 2015. We will be interested in the pilot and the extent that it is contributing to improved national processes around recording and audit.
11. In May 2014, Police Scotland also made changes to their stop and search database. The database captures stop and search data inputted by officers from their notebook. Searches recorded through a personal data assistant (PDA) are not included in this element of the database. As part of the first data quality review in August 2014, Police Scotland discovered that the ICT changes to the database (excluding the PDA data) had resulted in 20,086 positive search records (recorded by 4,134 officers) not being fully captured by the database. This was discussed at the SPA Board on 27 August 2014<sup>13</sup>. In order to ensure the validity of stop and search data, Police

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<sup>9</sup> SPA Special Board Meeting 30<sup>th</sup> May 2014

<sup>10</sup> Scottish Parliament Justice sub-committee Policing (20 March 2014 and correspondence to committee 18<sup>th</sup> April 2014)

<sup>11</sup> Police Scotland website 30 May 2014 <http://www.scotland.police.uk/whats-happening/news/2014/may/national-stop-and-search-unit-created>

<sup>12</sup> Police Scotland (19 June 2014) Stop and Search Briefing Paper for Justice Committee and SPA

<sup>13</sup> SPA Board Meeting Minutes 27 August 2014

Scotland initiated a process to recover the data directly from the reporting officer and has initiated an audit of records affected by the IT error in two distinct stages:

- Stage 1 - An initial review of data returned by officers for the 20,086 not fully captured by the database to identify any data anomalies. Each of the anomalies will thereafter be subject to internal audit by the National Stop and Search Unit.
  - Stage 2 - An internal audit of a random sample of approximately 2,800 records from within the dataset of 20,086 records affected by the IT anomaly, but excluding any data anomalies audited under Phase 1. This will provide a statistically significant sample of data at a divisional level with confidence intervals of  $\pm 5\%$  divisionally and  $\pm 2\%$  nationally.
12. HMICS has been working with Police Scotland to aid them in developing an audit methodology that would comply with the methods we would employ in undertaking an independent audit. This includes a statistically significant sample and a transparent audit method that can be replicated and validated. We will continue to support Police Scotland in building capacity and developing a sustainable method to audit stop and search data as part of a wider assurance framework.
13. Given the range of research and scrutiny undertaken recently in relation to stop and search<sup>14</sup>, it is important that HMICS direct resources to those areas where we can add most value. The recording of stop and search has been subject of challenge. It is essential that communities in Scotland know whether they should have confidence in recorded stop and search data. Accurate data on stop and search is important not only for the public but also for Police Scotland to accurately measure the impact of the tactic and whether it is the best use of police resource to tackle the issues faced by our communities.
14. In recognition of the need to have accurate stop and search statistics that can be relied upon, Police Scotland decided not published the full suite of stop search data within the Management Reports for Quarter 1 and Quarter 2 of 2014/15. This approach is intended to allow Police Scotland sufficient time to implement improvements and audit stop and search data, with a view to publishing accurate statistics in the Quarter 3 report. HMICS supports this approach and considers our review will inform the overall assessment of the validity of the published stop search data.

## Assurance Review – Terms of reference

15. HMICS has not inspected stop and search activity in the past. In our *Scrutiny Plan 2014-15*<sup>15</sup>, we committed to follow on from the Scottish Police Authority scrutiny of stop and search and focus on the end to end process for recording stop and search and the associated procedures to monitor, audit and govern stop and search. We also committed to investigate the impact of the performance framework and targets in relation to stop and search activity.

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<sup>14</sup> Murray, K. (2014) 'Stop and search in Scotland: An evaluation of police practice', SCCJR Report 01/2014  
SPA Report (2014) Scrutiny Review into Police Scotland's Stop and Search Policy and Practice Part I: Desktop Review and Data Analysis, HMIC (2013) *Stop and Search Powers: Are the police using them effectively and fairly?* Available online at <http://www.hmic.gov.uk/media/stop-and-search-powers-20130709.pdf>

SPA (2014) Scrutiny Review: Police Scotland's Stop and Search Police and Practice

<sup>15</sup> HMICS Scrutiny Plan (2014)

16. Our intended outcomes from this Audit and Assurance Review are to:
- *provide the public and key stakeholders with robust information on which to base their assessment of the validity of stop and search data;*
  - *highlight to Police Scotland areas of good practice or areas for improvement in relation to the recording, supervision, audit and governance of stop and search activity;*
  - *assess the extent to which the performance framework and targets influence officer behaviour in relation to stop and search*
17. Our original intention for this review was to allow Police Scotland sufficient time to implement a series of improvements around the recording of stop and search activity and supplement our review with an independent audit of stop and search records between July and December 2014. This audit was intended to provide a statistically significant sample at a divisional level to demonstrate the accuracy or otherwise of the recording of stop and search.
18. However due to the ongoing improvement activity and the commitment from Police Scotland to conduct an internal audit of stop search recording, we believe that supplementing our current inspection with an independent audit at this time will be of limited benefit. We have therefore revised our approach to undertake our scrutiny of stop and search in two distinct phases.
- **Phase I** - We will postpone our independent audit and instead concentrate on the guidance, processes and systems for recording stop and search. We will consider the outcome of the Police Scotland internal audit and combine this with inspection fieldwork to make an initial assessment of the accuracy or otherwise of stop and search data. We will examine the extent to which performance drives operational behaviours. We will also examine recording issues around the seizure of alcohol and consensual searches and have regard to the ongoing Fife Pilot as a reference towards future improvement. The Phase I methodology is outlined below. This phase will be subject to a separate report, which we will publish and lay before parliament.
  - **Phase II** - We remain committed to undertaking an independent audit of stop and search recording and will schedule this audit to commence within six months of publishing our Phase I report. This will be subject to a separate Terms of Reference outlining our audit methodology to provide a statistically significant sample at both a national and divisional level. Phase II will be subject of a separate report, which we will publish and lay before parliament
19. Our revised approach will maximise the value of our scrutiny, reduce the burden on Police Scotland and allow the service sufficient time to implement its improvements and address any recommendations we may identify as part of our Phase I review.
20. It is anticipated that our audit in Phase II will be undertaken during summer 2015 and will provide independent assurance to Police Scotland and the SPA over the validity of the 2015/16 stop and search data.

## Phase I - Methodology

21. This initial review by HMICS will be undertaken through the various activities outlined below;

- **Review of key documents** including the policy, procedures and guidance issued by Police Scotland referring to the recording and counting of stop and search. This will include the Fife Pilot. Documents and public records will be reviewed and assurances provided by Police Scotland will be considered against actions taken to deliver against these assurances.
- **Review of performance data and associated documents** including the data validation processes for the stop and search data and the technical notes and protocols for producing the stop and search management data and the setting of targets.
- **Review of the 20,086 records** affected by the IT issues. This will include analysis of the full dataset of 20,086 records and will also involve logic checks and verifying the data validation used by Police Scotland.
- **Validation of the Police Scotland audit of data anomalies (Stage 1)** – Police Scotland estimates that approximately 1,800 records out of 20,086 have been identified by Police Scotland as requiring further investigation. We will review the reasons for these data anomalies and will validate the audit undertaken by Police Scotland to investigate the reasons for these.
- **Validation of the Police Scotland random audit of database entries (Stage 2)** Police Scotland will also undertake a random audit of approximately 2,800 records contained within the records affected by the IT error. We will review the full audit process and report on the findings of the audit. We will also review the evidence obtained to substantiate the database entry in a number of cases.
- **Qualitative information gathering to ascertain the impact of the performance framework and targets** on officers in relation to stop and search. We will conduct focus groups and interviews with a range of officers within a selection of divisions across Police Scotland, including the pilot in Fife Division. We will also consult with staff associations to gain their opinions of the current guidance, recording and performance framework for stop and search. We will explore opportunities for comparative analysis with British Transport Police in Scotland, who conduct stop search activities across numerous geographical locations in Scotland<sup>16</sup>.

## Phase I - Reporting timescales

22. We will produce a report outlining Phase I of our review. This will include our findings from the document review, Police Scotland audit and the findings of the focus groups and interviews. This will provide early indicative findings and will highlight good practice and areas for improvement. It should also allow us to make an informed assessment of the validity or otherwise of the stop and search data.

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<sup>16</sup> Subject to the agreement of British Transport Police and the British Transport Police Authority.

23. A team of two inspectors will undertake this initial phase from October to December 2014. We anticipate publishing the report of our findings in early 2015. The timing of the publication will be linked to the timescales for completion of the audit by Police Scotland. The report will be laid before the Scottish Parliament under section 79(3) of the Police and Fire Reform (Scotland) Act 2012. A copy of our report will be provided to the Scottish Police Authority, the Chief Constable and the Cabinet Secretary for Justice. Our report will also be made publicly available on the HMICS website.

## **Phase II – Next Steps**

24. Following the publication of the Phase I report it is our intention to revisit stop and search. We will use Phase II to follow-up on any recommendations made in the Phase I report and undertake our independent audit of stop and search data six months after the publication of the interim report. This will test the accuracy of stop and search data through an independent audit of records. We will examine a sample of data that is statistically robust, allowing us to report on statistically significant compliance rates at a Scotland-wide and Divisional level. The records will be examined in terms of the quality and fullness of information.
25. To ensure we capture the full range of stop and search information we will review entries of both positive and negative searches from notebooks and PDAs and trace these to entries within the national stop and search database. We will also do this process in reverse, reviewing entries from the database through to notebooks and PDAs. An assessment criteria will be used to assess the quality of the information recorded in notebooks and on the database and this will be applied consistently. If a particular issue becomes evident during the inspection we may boost this sample to investigate this further. A separate Terms of Reference will be produced and published for Phase II.
26. For further information about the stop and search audit, please contact Justine Menzies, Lead Inspector ([Justine.Menzies@scotland.gsi.gov.uk](mailto:Justine.Menzies@scotland.gsi.gov.uk)).

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