



HM INSPECTORATE OF CONSTABULARY IN SCOTLAND

Audit and Assurance Review of Stop and Search: Phase 2

February 2017





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HM Inspectorate 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 the Police Service of Scotland (Police Scotland) and the Scottish Police Authority (SPA).¹

We have a statutory duty to inquire into the arrangements made by the Chief Constable and the SPA to 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 SPA 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 SPA 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 SPA and the Chief Constable must also consider what we have found and take such measures, if any, as they think fit.
- Where our report identifies that the SPA or Police Scotland is not efficient or effective (or best value not secured), or will, unless remedial measures are taken, cease to be efficient or effective, Scottish Ministers may direct the SPA to take such measures as may be required. The SPA must comply with any direction given.
- 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 SPA 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) 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 Chapter 11, Police and Fire Reform (Scotland) Act 2012.

² HMICS, [Corporate Strategy 2014-17](#) (2014).



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Our review

The aim of our audit and assurance review was to **follow-up on recommendations made within our *Audit and Assurance Review of Stop and Search: Phase 1 report*³ and undertake an independent audit of stop and search data.**

The results of our review aim to provide the public and key stakeholders with an update on progress made by Police Scotland and the SPA on recommendations contained in our Phase 1 report. It is essential that the public has confidence in published statistical information which is used to set policing practice and this review seeks to provide independent assurance to Police Scotland, the SPA and the public to inform their assessment of the accuracy of stop and search data.

Our final report was published on 31 March 2015 and contained 23 recommendations for improvement which were fully accepted by Police Scotland and the SPA. The Terms of Reference⁴ for our Phase 2 review were published on 4 November 2016.

Part 1 of this report provides an update on progress against the recommendations contained in our Phase 1 report. Part 2 describes the Police Scotland stop and search scrutiny and audit processes, our assessment of these and the results of our independent audit of a sample of search and seizure records submitted on the national stop and search database. Our Phase 2 inspection methodology is detailed at **Appendix 4**.

Whilst we originally stated in our Phase 1 report that we would return to undertake a statistically significant audit of both positive and negative searches once Police Scotland had sufficient opportunity to consider our recommendations and implement improvements, we found this was not required. Having mapped and observed the extent of Police Scotland's scrutiny and audit processes, we were able to take a more proportionate approach and instead reviewed a random selection of 600 stop search and seizure records in order to validate the review and audit processes conducted by the National Stop and Search Unit (NSSU). This has allowed us to test the accuracy of stop and search data held on the national database.⁵ Our work also involved an assessment of the internal and external reporting and governance of Police Scotland's audit results.

At the time of our Phase 1 report, the majority of searches recorded in Scotland were conducted on a non-statutory basis (70%).⁶ We recommended that there should be a general presumption amongst officers toward the use of statutory stop and search, combined with improvements in recording practices, training and audit and supervision, which should give communities across Scotland more confidence in the use of stop and search and allow a more informed view on the future need for non-statutory (consensual) stop and search. The Police Scotland National Stop and Search Database Management Information Report for the period April to September 2016⁷ shows that almost 96% of all stop and searches were conducted using legislative powers compared to 4% non-statutory searches.

Police Scotland previously recorded all seizures and confiscations of alcohol as a positive stop and search even when no physical search of a person had taken place. These are now recorded

³ HMICS, [Audit and Assurance Review of Stop and Search: Phase 1](#) (March 2015).

⁴ HMICS, [Audit and Assurance Review of Stop and Search: Phase 2 - Terms of Reference](#) (November 2016).

⁵ The national stop and search database is where stop and search data entered through the national stop and search application is captured. In this report the term national database is used to cover both the stop and search application (the user interface where officers input data) and the national database where the information from the application is captured.

⁶ Paragraph 7, HMICS, *Audit and Assurance Review of Stop and Search: Phase 1* (March 2015).

⁷ Police Scotland, [National Database Management Information Report \(April- September 2016\)](#).



separately along with a breakdown of the type of items seized and the seizure outcomes⁸ which provides a more accurate baseline of stop and search activity.

HMICS 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. An Independent Advisory Group on Stop and Search (IAGSS) in Scotland was subsequently established and published its report on the 3 September 2015. This contained 10 recommendations including that there should be a statutory Code of Practice covering stop and search of the person in Scotland and a further recommendation that 'consensual' or non-statutory stop and search should end when this Code comes into effect.

The Criminal Justice (Scotland) Act 2016 makes provision for the making of a Code. On 11 January 2017 the Stop and Search Code of Practice Appointed Day (Scotland) Regulations 2017⁹ were laid before Parliament. Subject to parliamentary approval, the Code of Practice will come into effect on 11 May 2017 at which time non-statutory search will become unlawful. This Code¹⁰ will establish clearly understood principles and safeguards for the public and provide clear and transparent guidance for officers.

Since our Phase 1 report was published, Police Scotland and the SPA have made significant progress against all of our 23 recommendations and extensive evidence has been provided by Police Scotland to allow all of these to be discharged. HMICS considers that Police Scotland has delivered substantial improvements in the way it conducts, records and monitors all stop and search activities. It should be commended for the way in which it has engaged widely with stakeholders in driving these improvements. HMICS acknowledges the executive commitment and leadership from the DCC Local Policing in this regard. **Appendix 2** provides a full list of our Phase 1 recommendations and their status.

In October 2016 Police Scotland published the third version of its Stop and Search Improvement Plan¹¹ which documents the further activity required to deliver the necessary training and business change to prepare the organisation for the implementation of the Code of Practice. It aims to achieve greater transparency and community involvement in the use of stop and search powers and to support a more intelligence-led approach. Although the Code of Practice will bring further substantial change, the groundwork has already been done by Police Scotland and the SPA to ensure the necessary shift in policy, practice and culture.

HMICS wishes to thank the National Stop and Search Improvement Delivery Team (NSSIDT) and National Stop and Search Unit in the Safer Communities Division, the Police Scotland Analysis and Performance Unit and the Scottish Police Authority for their support and cooperation during our review. In particular the professionalism and enthusiasm of the Chief Inspector, NSSIDT and his team has been widely commented on by the range of stakeholders involved with stop and search.

Our review was led by Katie Chisholm and was supported by Stephen Mackay. HMICS is also grateful to David Smith and Keith Paterson, Scottish Government Justice and Analytical Services who provided statistical support.

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HM Chief Inspector of Constabulary in Scotland

February 2017

⁸ Police Scotland, [National Database Management Information Report \(April- Sept 2016\)](#).

⁹ http://www.legislation.gov.uk/sdsi/2017/9780111034323/pdfs/sdsi_9780111034323_en.pdf.

¹⁰ [Code of Practice on the Exercise by Constables of Powers of Stop and Search of the Person in Scotland](#).

¹¹ Police Scotland, [Stop and Search Improvement Plan 2016/17 - Code Phase III](#) (Version 2.0 - October 2016).

Key findings

- Police Scotland has made substantial improvements in the use and recording of stop and search activity in Scotland. All 23 recommendations made in our Phase 1 report are now fully discharged.
- Police Scotland has introduced an effective but labour intensive audit regime. This has been necessary to provide initial assurances over data accuracy although Police Scotland should consider moving to a more proportionate approach once satisfied there is compliance with the Code of Practice.
- Our independent audit of 600 randomly selected stop and search/seizure records found that the National Stop and Search Unit had correctly assessed 584 records (97.3%)¹² in accordance with the defined rules and, where required, appropriate amendments had been made to the national database.
- HMICS now has confidence in the accuracy and integrity of stop and search data held by Police Scotland.
- The volume of recorded stop searches has significantly decreased. Figures for the period April to September 2016 (21,553) show a 67% reduction compared to the same period in 2015 (65,326).^{13 14} Although it is difficult to accurately attribute the reason for this decrease it is likely to be a combination of improved recording and scrutiny of stop search activity, the removal of performance targets and the more accurate recording of seizures.
- Police Scotland policy is now a presumption toward statutory stop and search with the majority of searches (96%)¹⁵ conducted using legislative powers.
- In accordance with Police Scotland policy, there have been no non-statutory¹⁶ searches recorded of children under 12 between 1 June 2015 and 30 September 2016 and only 16 statutory searches.¹⁷
- Bespoke online stop and search training has been delivered to officers and a national training programme has been developed and is currently being rolled out across the country to prepare officers for the implementation of the statutory Code of Practice.
- Police Scotland has built strong working relationships with key organisations representing children and young people and has obtained the views and opinions of young people through its Youth Advisory Panel to help shape policy and procedure around stop and search.

¹² Based on a confidence interval of +/- 1.68% this means that we can be very sure (95% certain) that the true value lies between 95.65% and 99.01%.

¹³ Police Scotland, National Stop and Search Database: Internal Report (April-September 2016).

¹⁴ The enhanced national database was introduced on 1 in June 2015 which brought significant changes in the process of data capture and the methodology for recording data items. No direct comparison can therefore be made with historic data captured prior to 1 June 2015 and has been included for information only.

¹⁵ Police Scotland, [National Database Management Information Report \(April - September 2016\)](#).

¹⁶ Non-statutory (consensual) search does not require the officer to have reasonable suspicion and can be carried out as long as the person to be searched provides verbal consent.

¹⁷ Police Scotland, [National Database Management Information Report \(June 2015- March 2016\)](#) and [National Database Management Information Report \(April-September 2016\)](#).

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- Although Section 61 of Crime and Punishment (Scotland) Act 1997 contains a power of arrest should any child refuse to hand over alcohol, between 1 June 2015 and 30 September 2016 there have been no such arrests. This situation will require to be monitored closely once non-statutory search has come to an end.
 - The Code of Practice requires senior management with area or force-wide responsibilities to monitor the broader use of stop and search powers and where necessary, to take appropriate action. Briefing packages are being prepared for Senior Management Teams and local authority scrutiny and engagement bodies. HMICS is encouraged by these developments and the commitment from Police Scotland to support the effective local scrutiny of stop and search.
 - Significant national developments have been driven by the work of the Independent Advisory Group on Stop and Search leading to new legislation and a statutory Code of Practice which, subject to parliamentary approval, will bring non-statutory stop and search to an end.
 - Police Scotland and the SPA have liaised with academics to identify good practice and improve data analysis and the use of stop and search in a local context. HMICS welcomes the commitment from Police Scotland and the SPA to both commission and apply academic research to identify best practice.



Background and developments in stop and search

1. Since October 2013, the use of stop and search powers in Scotland has been the subject of significant public debate.
2. In 2014, the Scottish Police Authority (SPA) undertook a review of stop and search. The SPA report¹⁸ contained 10 recommendations for Police Scotland and two for the SPA, designed to address issues and concerns raised around the use and recording of stop and search activity in Scotland.
3. In May 2014, the Police Scotland National Stop and Search Unit (NSSU) was created and a stop and search pilot was run in Fife Division between July 2014 and January 2015. This aimed to improve data recording practices, accountability and community confidence in the use of stop and search.
4. On 31 March 2015, HMICS published its Audit and Assurance Review of Stop and Search: Phase 1 report¹⁹ which contained 23 recommendations. The results of our review aimed 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 sought to provide a strategic overview of stop and search in Scotland and inform the debate on the future direction of the tactic.
5. Also on 31 March 2015, Police Scotland provided an update report²⁰ to the Cabinet Secretary for Justice following a review of its use of non-statutory stop and search. This report detailed developments which were underway to help deliver significant improvements in the police use of stop and search in Scotland and contained 18 recommendations along with options for the future use of non-statutory search.
6. On the same date, Scottish Ministers announced that an Independent Advisory Group on Stop and Search (IAGSS) in Scotland, chaired by John Scott QC, would be established with a remit to advise Ministers on the long term policy which should be in place for stop and search.²¹
7. In June 2015, SIPR published its independent evaluation²² of the Fife Division stop and search pilot which contained 19 recommendations to improve the use of the tactic and to consider the wider use of identified good practice across Scotland. This included the systematic recording of all stop searches, compliance recording checks, engagement with external stakeholders, the issuing of advice slips and the stop and search aide memoires, and enhanced staff training.
8. The IAGSS report²³ published on 3 September 2015 made 10 recommendations including that there should be a statutory Code of Practice covering stop and search of the person in Scotland and that non-statutory stop and search should end when the Code of Practice comes into effect. In addition, the report contained a draft Code of Practice for consideration.
9. In December 2015, Police Scotland submitted its Stop and Search Improvement Progress report²⁴ to the Cabinet Secretary for Justice to provide an update on the 18

¹⁸ SPA, [Scrutiny Review - Police Scotland's Stop and Search Policy and Practice](#) (May 2014).

¹⁹ HMICS, [Audit and Assurance Review of Stop and Search: Phase 1](#) (March 2015).

²⁰ Police Scotland, [Stop and Search Update Report for the Cabinet Secretary](#) (March 2015).

²¹ <http://www.gov.scot/About/Review/stopandsearch/>.

²² [The Fife Division \(Police Scotland\) Stop and Search Pilot Evaluation](#) (June 2015).

²³ [The Report of the Advisory Group on Stop and Search](#) (August 2015).

²⁴ Police Scotland, [Stop and Search Improvement Progress Report](#) (December 2015).



recommendations set out in the Police Scotland Update Report on Stop and Search (31 March 2015).

10. On 13 January 2016, the Criminal Justice (Scotland) Act 2016 received Royal Assent. This made several changes to the law regarding stop and search including the requirement for a statutory Code of Practice. Significantly it also made provision for ending the use of non-statutory stop and search in Scotland once the Code of Practice is in place.
11. Between 21 March and 15 July 2016, the Scottish Government undertook two separate public consultations. The first was on a draft Code of Practice to underpin the use of police powers of stop and search in Scotland.²⁵ Following feedback during the consultation period the Scottish Government, in conjunction with the IAGSS, further amended the Code and added specific guidance on the stop and search of children and vulnerable adults. The second consultation related to whether the police should have legal powers to stop and search children and young people for alcohol, or people suspected of supplying children with alcohol.²⁶
12. On 11 January 2017, the Stop and Search Code of Practice Appointed Day (Scotland) Regulations 2017²⁷ were laid before Parliament. Subject to parliamentary approval, the Code of Practice will come into effect on 11 May 2017 at which time non-statutory search will become unlawful.
13. On 19 January 2017, a supplementary report by the IAGSS to the Cabinet Secretary for Justice was published.²⁸ This report examines the responses, and the analysis of responses, to the two Scottish Government consultations mentioned at paragraph 11, as well as exploring the conclusions reached by the group and its recommendations for further work following the implementation of the Code of Practice.
14. On 26 January 2017, the Justice Sub Committee on Policing took evidence on the Stop and Search Code of Practice (Appointed Day)(Scotland) Regulations 2017(draft) from John Scott, QC, Chair of the IAGSS, Pauline McIntyre, Parliamentary and Policy Officer, Children and Young People's Commissioner Scotland, Assistant Chief Constable Mark Williams, strategic lead for Stop and Search, Police Scotland and Calum Steele, General Secretary, Scottish Police Federation. The official report can be found on the Scottish Parliament website.²⁹
15. On 7 February 2017, the Justice Committee took evidence from the Cabinet Secretary for Justice on the Stop and Search Code of Practice (Appointed Day)(Scotland) Regulations 2017(draft) who recommended that these be approved by the Committee. The motion was agreed without debate or dissent. A full plenary vote in the Scottish Parliament will take place on a date yet to be determined. The official report can be found on the Scottish Parliament website.³⁰

²⁵ <https://consult.scotland.gov.uk/organised-crime-and-police-powers-unit/stop-and-search/>.

²⁶ <https://consult.scotland.gov.uk/organised-crime-and-police-powers-unit/under18search/>.

²⁷ <http://www.legislation.gov.uk/sdsi/2017/9780111034323>.

²⁸ [Supplementary Report by the Advisory Group on Stop and Search](#) (January 2017).

²⁹ <http://www.parliament.scot/parliamentarybusiness/report.aspx?r=10756&mode=pdf>.

³⁰ <http://www.parliament.scot/parliamentarybusiness/report.aspx?r=10785&mode=pdf>.



What has changed?

16. HMICS acknowledges the progress made by Police Scotland in the delivery of substantial improvements in the use and recording of stop and search activity across Scotland. All 23 recommendations made in our Phase 1 report are now fully discharged.
17. In our Phase 1 report, we stated that we did not have confidence in the stop and search data held by Police Scotland. This was due to a lack of guidance on what should be recorded as a stop and search or how it should be counted, a lack of data validation and quality control processes, and the absence of routine audit mechanisms or guidance for supervisors in relation to their quality assurance role. Following our Phase 2 review, this is no longer the case. Having reviewed documentary evidence, mapped and observed the Police Scotland stop and search scrutiny and audit processes, and conducted an independent audit of 600 randomly selected stop search and seizure records, we are now confident in the accuracy and integrity of the data held on the national database.
18. At the time of our Phase 1 review, published figures for 2013-14³¹ indicated that 640,699 stop searches had been conducted by Police Scotland, the majority of which (70%) were non-statutory searches.³² In these cases, officers are not required to have reasonable suspicion and can search an individual as long as the person provides verbal consent. We recommended a move toward statutory stop and search, and the removal of Police Scotland's stop and search performance indicator along with the target of 20% positive searches as we were concerned these were driving negative behaviours and affecting the recording and accuracy of stop and search data.
19. In March 2015, Police Scotland policy changed to a presumption toward statutory stop and search. Targets for stop and search were discontinued and are no longer included in the performance framework. However, data is now published on the Police Scotland website which provides greater transparency, allows for external scrutiny and helps inform communities about crime and disorder trends.
20. The volume of stop searches has significantly decreased. Published figures for the six month period April to September 2016³³ show that 21,553 stop searches were recorded, a reduction of 67% compared to the same period in 2015.³⁴ 20,665 (96%) of these were carried out using legislative powers and 31.1% resulted in a positive outcome.³⁵ Although difficult to quantify, we believe that a significant part of this reduction can be attributed to greater scrutiny and the separate recording of seizures rather than a significant reduction in stop and search activity.
21. There is no academic evidence which demonstrates a direct correlation between an increase or decrease in the volume of stop and search and an increase or decrease in violence, however, evidence suggests that some level of stop and search activity, as opposed to no activity, particularly if used at hotspot locations, might produce a localised crime reduction effect.³⁶ The Business Intelligence Products (see paragraph 91) rolled out across Scotland are supporting local policing divisions by ensuring they have the best evidence to identify where officers should be deployed. Recently published figures³⁷ show that non-sexual crimes

³¹ Police Scotland, [Management Information Year End 2013/14](#).

³² As highlighted in our Phase 1 report, we did not have confidence in the quality of the published stop and search data and caveat the use of these statistics accordingly. They have been included here to provide context.

³³ Police Scotland, [National Database Management Information Report \(April-September 2016\)](#).

³⁴ Police Scotland, National Database: Internal Report (April-September 2016).

³⁵ A positive stop and search is when an item is recovered where possession of same implies criminality on the part of the individual being searched or any other; or potentially compromises the safety of that individual or any other.

³⁶ Home Office, [Do initiatives involving substantial increases in stop and search reduce crime? Assessing the impact of Operation Blunt 2 \(March 2016\)](#).

³⁷ Justice Analytical Services, Scottish Government, [Monthly Safer Communities and Justice Brief January 2017](#)

of violence recorded by the police rose by 7% in 2015-16 but these are still at the second lowest level in 42 years. The number of offensive weapons crimes recorded by police decreased by 5% between 2014-15 and 2015-16 to 3,111, the lowest level since 1984. Police Scotland management information³⁸ shows that there has been an increase in certain areas of violent crime over recent months although still remaining low over the 5 year average. Violence prevention remains a priority for Police Scotland and is closely monitored to allow appropriate action to be taken. The NSSIDT has been working closely with particular divisions who have experienced a recent increase in violent crime. Analysis carried out in these local divisions failed to identify any causal factor aligned to stop and search volumes. Through this analysis other approaches were recognised including engagement with the liquor licence trade and housing suppliers due to the local profile of the violent crime. Police Scotland continues to work with academics both around stop and search and violent crime with a view to instigating research to look in detail at the causes of violence and the policing tactics that will contribute to addressing it, along with research to provide an understanding of what stop and search contributes to this.

22. Seizures and confiscations of alcohol were previously recorded as positive stop and searches, even though no physical search had taken place, which artificially increased the number of stop and searches recorded. Seizures are now recorded separately which provides a more accurate baseline of stop and search activity in Scotland. Published figures show that there were 13,584 seizures during the period June 2015 to March 2016 and 5,401 seizures during the period April to September 2016.³⁹
23. We recommended the development of a statutory Code of Practice to establish clear principles and safeguards for the public. A Code of Practice, produced by the Scottish Government in conjunction with the IAGSS, has been laid before the Scottish Parliament. Subject to parliamentary approval, this will come into effect in May 2017 at which time consensual search will cease.
24. On 1 June 2015, Police Scotland launched an enhanced national stop and search database which has improved both data collection and data quality. Definitive guidance has been issued for officers on what constitutes a stop and search, a seizure, a refusal, and a positive stop and search, along with how these should be recorded and counted.
25. During our Phase 1 review we found that, despite a Police Scotland policy that children aged under 12 should not be the subject of consensual search, 83 consensual searches had been carried out between 23 June and 31 December 2014. During our Phase 2 review we were able to confirm that between 1 June 2015 and 30 September 2016, a total of 16 searches of children under 12 were recorded. All were conducted using legislative powers and in accordance with force policy.
26. Formal training on legislative stop and search was previously only provided to officers during their probationary training and no formal training was provided to officers on non-statutory stop and search. Since our report, bespoke online training has been delivered to officers and a national training programme has been developed and is currently being rolled out across the country to prepare officers for the implementation of the statutory Code of Practice.

³⁸ Police Scotland Briefing Paper - Overview of Current National Violence Position Including Increase in Possession of Offensive Weapons and Bladed/Pointed Articles (January 2017).

³⁹ Police Scotland, [National Database Management Information Report \(June 2015- March 2016\)](#) and [National Database Management Information Report \(April- September 2016\)](#).

Monitoring and governance

National Stop and Search Unit (NSSU)

27. In May 2014, in response to political and public concerns on the targeting, effectiveness and transparency of stop and search, Police Scotland set up the NSSU to monitor stop and search activity, review practices and procedure, and ensure a consistency of approach to this policing tactic. A paper submitted to the SPA Board⁴⁰ intimated that the NSSU would also develop processes to enhance the analysis of data available, produce additional analytical products, develop improved guidance and, whilst working with key stakeholders, recognise the role stop and search has along with other policing tactics whilst designing improved outcome focused strategies to tackle violence and disorder. Our Phase 1 report (Recommendation 8) highlighted that, in order to achieve these aims, there were many interdependencies with other business areas. We encouraged Police Scotland to define the roles and responsibilities of the NSSU and all other internal business areas that impact on the end to end process of stop and search including the quality of published data. A clear stop and search governance structure (page 12, figure 1) is now in place with relevant groups set up, each with clear aims and objectives, to ensure that the appropriate skills, knowledge and experience are available to deliver on the range of improvements required.

Police Scotland Stop and Search Improvement Plan

28. In order to progress all recommendations contained in the SPA, HMICS, Police Scotland, SIPR and IAGSS reports (paragraphs 2,4,5,7 and 8), and to identify and disseminate good practice to promote continuous improvement, Police Scotland developed a Stop and Search Improvement Plan in consultation with a wide range of stakeholders. The plan identified six high level priority themes – research and evaluation, non-statutory searching, engagement with children and young people, organisational change, accountability and public information, and database and supporting technologies – through which progress has been managed against set timescales and stated outcomes.

29. The first version of the Stop and Search Improvement Plan,⁴¹ published in June 2015, supported a three month Testing Phase (June to August 2015) during which additional training was delivered and the enhanced national database launched. At this time the NSSU commenced a 100% review of all stop search and seizure records which has led to improvements to stop and search policy, practice and recording. Police Scotland also introduced a presumption toward the use of statutory powers of search and seizure although non-statutory search and seizure is still lawful until the Code of Practice comes into effect. Non-statutory stop and search of children aged under 12 is not permitted without the informed consent of a parent, guardian or responsible adult unless exceptional circumstances can be demonstrated and justified.⁴²

30. The second version of the Improvement Plan⁴³ covering the Interim Consensual Phase (September 2015 to March 2016) was published in October 2015. This built on the learning from the testing phase and incorporated the 10 recommendations made in the IAGSS report including the recommendation that non-statutory stop and search would end when the statutory Code of Practice comes into effect.

31. The third version of the Improvement Plan⁴⁴ covering the Code of Practice was published in October 2016. This builds on progress made during the Testing and Interim Consensual

⁴⁰ SPA Board Paper, Scottish Police Authority and Police Scotland's response to Stop and Search Scrutiny Enquiry 30 October 2014.

⁴¹ Police Scotland, [Stop and Search Improvement Plan \(Testing Phase 1\)](#) (June 2015).

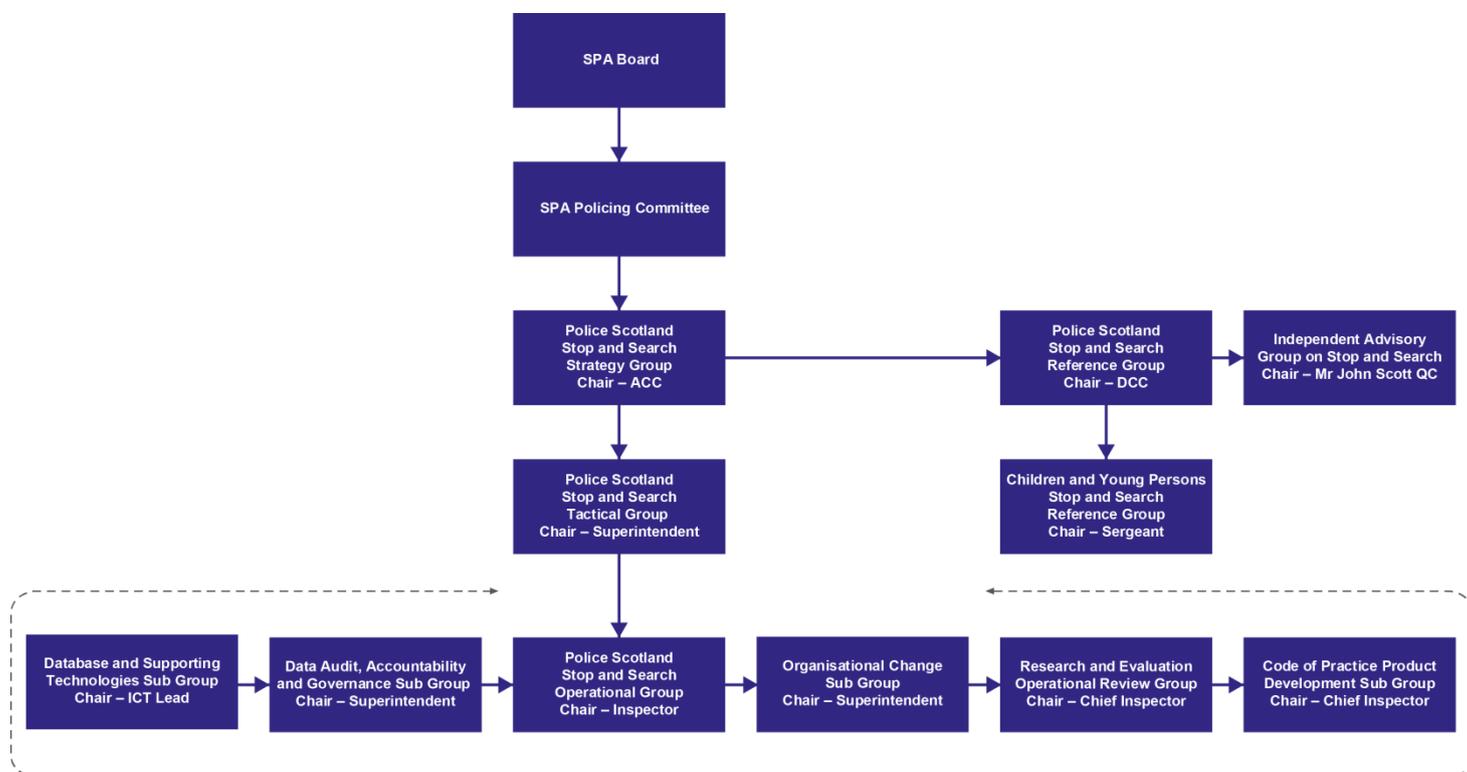
⁴² Page 3, Police Scotland, [Stop and Search Policy](#) (Version 3.0).

⁴³ Police Scotland, [Stop and Search Improvement Plan \(Interim Consensual Phase II\)\(October 2015\)](#).

⁴⁴ Police Scotland, [Stop and Search Improvement Plan \(Code of Practice\), Version 2 \(October 2016\)](#).

Phases and aims to achieve greater transparency and community involvement in the use of stop and search powers, and to support a more intelligence-led approach to deliver improved outcomes in relation to crime and disorder and community wellbeing.

National Stop and Search Governance Structure figure 1



32. The National Stop and Search Improvement Delivery Team (NSSIDT) was created to support the delivery of the Improvement Plans through continued engagement with internal and external stakeholders. The NSSU is part of the NSSIDT.
33. The Stop and Search Tactical Group, chaired by a Superintendent, and the Stop and Search Strategy Group, chaired by an Assistant Chief Constable, monitor the progress of the Improvement Plans and provide support to other stop and search groups as required.
34. A number of sub groups have been formed to support the work of the NSSIDT and the specific work streams within the Improvement Plan:
 - Database and Supporting Technologies Group
 - Data Audit, Accountability and Governance Group
 - Organisational Change Group
 - Research and Evaluation Operational Review Group
 - Code of Practice Product Development Sub Group
35. The Stop and Search Reference Group,⁴⁵ chaired by a Deputy Chief Constable, provides advice and informed comment on the Police Scotland Improvement Plan and supports the work of the IAGSS.
36. Police Scotland has built strong working relationships with key organisations representing children and young people through the Children and Young Persons Stop and Search

⁴⁵ This Group was previously known as the Stop and Search Short Life Working Group which was established in early 2015 in recognition of the important work of the Police Scotland Expert Reference Group set up in early 2014 primarily to support the development of the Fife Stop and Search Pilot.



Reference Group, and has obtained the views and opinions of young people through its Youth Advisory Panel to help shape policy and procedure around stop and search.

37. The SPA supports delivery of the improvement plan through membership of the Stop and Search Strategy Group, the Stop and Search Tactical Group, the Research and Evaluation Operational Review Group, and ongoing liaison with the NSSIDT/NSSU. Progress continues to be formally monitored through the SPA Audit and Risk Committee whilst the SPA Policing Committee is responsible for considering the actual impact and evidence of these improvements. In addition, an SPA Board member sits on the IAGSS.
38. In January 2016, HMICS met with members of the NSSIDT to assess progress against all recommendations contained in our Phase 1 report. Police Scotland provided an update report⁴⁶ along with detailed supporting documentary evidence and reference material to enable all recommendations to be discharged with the exception of Recommendations 20 and 23.
39. On 5 September 2016, we met with the Divisional Commander, Safer Communities Division, and members of the NSSIDT and NSSU to discuss our Phase 2 review. Police Scotland provided an update report⁴⁷ on progress made against the remaining two recommendations (20 and 23) along with supporting documentary evidence. Inputs were also provided on the 100% review and audit of all search, seizure and refusal records, which has been ongoing since the enhanced national database was launched, and other supplementary processes that have been put in place to improve the accuracy and integrity of stop and search data.
40. On 10 October 2016, along with members of the IAGSS, we attended a briefing event, organised by the NSSIDT, on the Code of Practice training which had been developed and is currently being rolled out. The aim of this training is to provide officers with the necessary skills to support changes to culture and working practice. It should ensure officers are confident in their use of stop and search, in line with the Code of Practice, and make the successful transition to using stop and search based solely on reasonable grounds and statutory powers.⁴⁸
41. The Code of Practice training covers the importance of engagement with members of the public, the recognition of unconscious bias in decision-making, considerations when dealing with children and young people, the application of the legal test contained in the Code, behaviour detection techniques when establishing reasonable grounds for search, and guidance on how to record the reasonable grounds for suspicion. Prior to this classroom based training, they are also required to complete mandatory e-learning modules.

⁴⁶ Police Scotland Response to HMICS Assurance Review of Stop and Search Recommendations (January 2016).

⁴⁷ Police Scotland Response to HMICS Assurance Review of Stop and Search Recommendations (September 2016).

⁴⁸ Police Scotland Stop and Search Training Slides (October 2016).



Part 1 – Progress against our Stop and Search Phase 1 recommendations

Accuracy of stop and search data

42. This section of our Phase 1 Report included Recommendations 1 to 14.
43. It is essential that the public has confidence in published statistical information which is used to inform policing practice and to hold Police Scotland to account. Our Phase 1 review identified that a more consistent approach to recording, supervision and audit of stop and search activity in Scotland was required in order to establish a baseline which would inform future policy and practice.

Guidance and counting rules for stop and search

44. Recommendation 1 of our Phase 1 report highlighted a lack of definitive guidance and counting rules for officers on stop and search. A Stop and Search Standard Operating Procedure (SOP),⁴⁹ which is kept under continuous review and updated to incorporate new recording and counting rules, has been developed and, along with the Police Scotland Stop and Search Policy,⁵⁰ is accessible to the public on the Police Scotland website. The SOP provides clear definitions for a:
- statutory stop and search
 - non-statutory stop and search
 - refusal to be searched
 - seizure
 - positive stop and search
 - recordable stop and search – which is defined as any unplanned stop and search where the officer has, in the course of their duties, used statutory powers or gained the consent of the individual being searched.
45. The Stop and Search Recording and Counting Rules⁵¹ support the SOP and also provide guidance to supervisors on the audit and governance rules.
46. A bespoke online training package was rolled out which was mandatory for officers up to and including the rank of Inspector. This training provided information on all aspects of stop and search, including non-statutory searching, and the requirement to obtain consent. To support this, further information and advice was communicated to front line officers by e-brief, Police Scotland television (PStv) and on the dedicated stop and search intranet page on the lead up to, and following, the introduction of the national database.
47. On 1 June 2015, the enhanced national database was launched. At the same time, the NSSU commenced a 100% review and audit of all search and seizure records submitted, using clearly defined business rules (**Appendix 3**). This allows the impact of training and the supporting communications plan to be monitored, and where required, further guidance issued to address any knowledge gaps.
48. In accordance with Recommendation 2 of our Phase 1 report, officers are now required to record their grounds for suspicion for every statutory search and the circumstances leading to every non-statutory search, seizure or refusal. The grounds for suspicion and circumstances are mandatory fields which cannot be bypassed when submitting the record. Officers issued with Personal Data Assistants (PDAs) no longer submit an electronic stop

⁴⁹ [Police Scotland Stop and Search Standard Operating Procedure.](#)

⁵⁰ [Police Scotland Stop and Search Policy.](#)

⁵¹ Police Scotland Stop and Search Recording and Counting Rules Guidance Document v 1.01.

and search form to a separate PDA database and instead must record details of the stop and search/seizure at the time of the encounter using the PDA notebook facility and record it on the national database on their return to a police office.

49. A Police Scotland Data Audit and Accountability Governance Sub Group (DAAGG) was established along with the development of a Data Audit and Governance Plan to support the delivery of appropriate rules, processes and products around stop and search data management including data capture, storage and reporting. In addition, the Police Scotland Analysis and Performance Unit (APU) established a Product Development Sub Group (recently changed to the Code of Practice Product Group) aimed at identifying the appropriate methods of reporting stop and search activity.⁵²
50. Recommendations 3 and 4 of our Phase 1 report highlighted a need for Police Scotland to accurately record and publicly report on items recovered as a result of a positive stop and search encounter. This would provide greater transparency and better inform local communities about local crime and disorder trends, and to develop and publicly record on disposal categories which effectively capture the outcomes of stop and search activity. The national database has significantly improved data quality and data capture and, in recognition of improved data integrity and provide greater transparency, Police Scotland now publishes quarterly national database management information reports on the Police Scotland website. These reports provide statistical information at a national and local authority level (see paragraph 90).
51. Monthly internal management information reports on stop and search are circulated to divisional Senior Management Teams (SMTs) and a Business Intelligence Toolkit (see paragraph 91) has been rolled out.
52. To ensure consistency, it is important that officers are issued with definitive guidance about what information should be recorded in their notebook/PDA (Recommendation 5). Previously, seizures of items, even where no physical search of the person had taken place, were recorded as positive stop and searches. As highlighted at paragraph 44, officers have now been provided with a clear definition of a seizure and these are recorded separately from statutory and non-statutory stop and searches. The Stop and Search SOP details, as follows, the information which officers should record in their police notebook/Personal Digital Assistant (PDA):
 - Details of corroborating officer (unless a single officer conducts a seizure)
 - Time
 - Date
 - Locus (nearest address, private place or street)
 - Name
 - Age
 - Gender
 - Date of Birth
 - Address
 - Self-defined ethnicity
 - Type of search
 - The legislation used if a statutory search/seizure is conducted
 - The grounds that led to the statutory search/seizure
 - For non-statutory searches/seizures it must be noted that consent was requested and granted
 - The circumstances surrounding the non-statutory stop and search/seizure
 - The outcome of the stop and search/seizure

⁵² SPA Audit and Risk Committee Paper, Police Scotland's Improvement Progress Report on the SPA Scrutiny Review – Police Scotland's Stop and Search Policy and Practice, May 2014.



- The stop and search/refusal/seizure reference number must also be recorded in the officer's notebook/PDA

53. The Code of Practice will bring non-statutory stop and search to an end. Seizures, although not covered by the Code, will continue to be recorded on the national database and data published in the management information reports. In terms of statutory stop and search, the Code will require officers to record additional information:

- Details of the constable conducting the search (including the police station to which they are attached)
- Details of the corroborating constable
- Time of search
- Date of search
- Locus of search (nearest address, private place or street)
- Name of person searched if provided (there is no requirement for a person to provide their name if nothing is found, but it should be recorded if provided)
- Age of person searched (if provided)
- Constable's estimate of the age of the person searched (if not provided and the constable estimates the person's age to be under 18 years)
- Gender of person searched
- Date of birth of person searched (if provided)
- Address of person searched (if provided)
- Self-defined ethnicity and national origin of person searched (if provided)
- Whether the search was a standard search (i.e. a search which is not a strip or an intimate search), a strip search⁵³ within a police station, a strip search outwith a police station, or an intimate search⁵⁴
- The legislation used
- The grounds on which the search is based, including the grounds for reasonable suspicion
- The outcome of the stop and search
- Details of any item(s) recovered
- In the case of a search conducted pursuant to the power under section 60 of the Criminal Justice and Public Order Act 1994,⁵⁵ the nature of the power, the authorisation and the fact that it has been given.

54. During our Phase 1 review, it became apparent that officers did not recognise the importance of asking individuals who were the subject of stop and search their ethnicity and instead were determining this themselves from the person's place of birth. We recommended that Police Scotland emphasise the rationale for recording the self-defined ethnicity of those who are stopped and searched and provide guidance (Recommendation 6). The Stop and Search SOP now includes a section on equality and human rights considerations which emphasises the duties placed on public authorities by the Equalities Act 2010 and the requirement to minimise, and eliminate where possible, discrimination, harassment, victimisation of protected groups through the legal, fair and proportionate application of police powers and procedures. Police Scotland engaged with relevant stakeholders through the Equalities Group and agreement was reached that anything other than self-defined ethnicity should be recorded as unknown. This has been included in the SOP and a full list of ethnicity descriptions, aligned to the Scottish Census Survey, has been included in the stop and search aide memoire issued to all officers.

55. Monitoring of stop and search activity is ongoing through the Equalities Group and published management information reports. These contain data at a national level on searches by ethnicity, age and gender, including positive conversion rates; and refusals (non-statutory

⁵³ A strip search is a search involving the removal of more than outer coat, jacket, gloves, headgear or footwear.

⁵⁴ An intimate search consists of the physical examination of a detainee's body orifices other than the mouth.

⁵⁵ <http://www.legislation.gov.uk/ukpga/1994/33/section/60>.

search only) by ethnicity. This provides greater transparency over the use stop and search data and creates opportunities for external scrutiny.

56. We recommended that Police Scotland introduce processes for the proportionate supervision of stop and search activity which would 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 7). Significant validation checks have now been included in the enhanced national database including mandatory fields designed to ensure that the required information is recorded and to prevent incorrect data input. The NSSU 100% review of all search and seizure records (see paragraphs 105 to 113), and audit of those which appear to be incorrectly recorded or contain insufficient information, allows for advice to officers to improve the quality and integrity of data whilst identifying learning and training needs. In addition, supervisors can now review officers' search records on the national database by entering the record reference number. Monthly divisional notebook quality assurance checks are also used to ensure that policy and procedures are being followed.

Data entry and validation

57. During our Phase 1 review, we found a number of issues relating to data entry and validation. A drop down menu used to indicate whether the search had either been conducted on a statutory or a 'consensual' basis immediately defaulted to consensual and could therefore easily be selected in error. We recommended that this default selection be removed and that officers should be required to specifically select the legislative power used from a predefined list (Recommendation 9). Officers were also able to select a box stating nominal details withheld⁵⁶. Enhancements to the database have rectified these issues with officers now required to select the appropriate search type and confirm this based on the search definition, and also provide nominal details for legislative searches. This supports the identification of individuals who are the subject of repeated stop and search and has led to the production of Multiple Interaction Reports (see paragraphs 86 and 92) which assist in the development of referral thresholds to partner agencies.
58. We identified during Phase 1 that the Information and Communications Technology (ICT) Department had developed the original stop and search database in a short timescale and that limited testing had impacted on the quality of the application. We recommended that Police Scotland review its business and governance arrangements for the development, testing and acceptance of its ICT systems (Recommendation 10). In view of this recommendation extending beyond stop and search, we agreed to discharge this in January 2016 and carried it forward into our wider scrutiny of the Police Scotland Contact, Command and Control Integration and Remodelling Project (C3IR).⁵⁷
59. Our Phase 1 report recommended that all opportunities be identified to improve data validation on both the national database and PDAs to maximise data integrity (Recommendation 11). The 100% review and audit of records allows data to be checked against all submissions, and the creation of Business Objects⁵⁸ reports supports automated checks on data integrity including potential data anomalies around age and duplicate records. The stop and search functionality on the PDAs is no longer utilised and instead all records now are created on the national database.

Quality control and national standards

60. This section of our Phase 1 report included Recommendations 12 and 13.
61. Compliance with the Freedom of Information (Scotland) Act 2002 and Data Protection Act 1998 relies on effective records management. The Public Records Act 2011 places an

⁵⁶ Nominal relates to the name of the individual.

⁵⁷ HMICS, [Independent Assurance Review Police Scotland – Call Handling - Update Report \(January 2017\)](#).

⁵⁸ Business Objects is a program used to run pre-defined reports to extract data from key databases and systems.

obligation on public authorities to prepare and implement a records management plan. Our Phase 1 review found that data cleansing was not included in the stop and search database and internal management reports contained obvious data errors such as missing age and date of birth fields. There were no logic checks which would prevent duplicate records and the NSSU had only recently been given access to Business Objects reports for quality control. In addition, there was no documentation to outline the frequency of the data control process, how it would be administered, how frequently checks would be made or how errors would be rectified. We recommended that proportionate quality control procedures be developed, detailing how the process would be administered, what regular checks would be implemented and how data errors would be rectified and reported (Recommendation 12).

62. Since our report, business rules and conventions⁵⁹ derived from the Stop and Search SOP and counting rules have been developed and refined to ensure a consistent process is followed during the 100% review and audit process (see paragraphs 105 to 113). This process assists in identifying learning and subsequent provision of guidance to improve the quality of submissions. This approach allows Police Scotland to identify common errors and address organisational training needs. The NSSU is now able to amend, create and delete database entries as required to maintain the accuracy of data held.
63. A Privacy Impact Assessment (PIA)⁶⁰ on the recording of stop and search activity was undertaken to identify risks and inform the quality control measures adopted by Police Scotland. This process identified five risks relating to consent, excessive information, data quality/validation, data retention and security. These have all now been mitigated by the introduction of new weeding and retention timescales for stop and search data, the requirement for officers to obtain consent to process personal data (non-statutory searches only) and the cessation of recording telephone numbers. Quality control is routine business for the NSSU and a monthly management report is distributed to senior officers.
64. A set of business rules⁶¹ has also been developed which provides a clear basis for the disclosure of data from the national database and highlights the responsibilities of NSSU staff. Officers seeking information from the national database must complete a data request form which is then submitted to the NSSU for consideration. The request is assessed by an officer of the rank of Inspector or above who must be satisfied that at least one of the following rules applies and that the request is lawful, proportionate and justifiable:
 - prevention/detection of crime or the apprehension of offenders
 - missing person enquiries
 - protect life and property
 - complaints about the police
 - integrity matters.⁶²
65. Although Police Scotland is not a producer of official statistics and therefore not legally bound by the Code of Practice for Official Statistics,⁶³ we recommended in Phase 1 that this Code be used to develop proportionate internal guidance for publicly reported stop and search data (Recommendation 13). The NSSU and APU have considered its content and, where possible, adhere to its principles and protocols. This includes:
 - engagement with key stakeholders and academics through stop and search groups where data requirements are discussed which has assisted the establishment of a clear mechanism for reporting stop and search activity both internally and externally

⁵⁹ Police Scotland Stop and Search Database 100% Review and Audit, Rules and Conventions Version 8.0 (14/11/16).

⁶⁰ Police Scotland Stop and Search Privacy Impact Assessment Version 1.0 (October 2015).

⁶¹ Police Scotland National Stop and Search Database, Data Request Business Rules, Version 1.0 (28/03/16).

⁶² This may include for example actions that are unethical, unprofessional, inappropriate or dishonest.

⁶³ [UK Statistics Authority, Code of Practice for Official Statistics \(January 2009\).](#)

- the use of trained statisticians rather than individual departments to obtain and produce stop and search statistical data to ensure impartiality and objectivity
- the use of trained statisticians to ensure the integrity of the end-to-end process of obtaining, producing and publishing stop and search data
- the introduction of the enhanced national database combined with the audit and review processes to provide quality assurance of the data set from which the statistical data is taken and produced
- the confidential treatment of all stop and search personal data by the APU throughout the collection to publication process
- provision of commentary alongside the statistical data to aid interpretation.

Officer training

66. This section of our Phase 1 report included Recommendation 14.
67. Our review highlighted a need for a training needs analysis to be carried out in relation to stop and search and consideration of techniques which would improve officer confidence in the application of their legislative stop and search powers (Recommendation 14).
68. All new recruits now receive stop and search training on their probationer training course which includes classroom based training, practical training and an input from youth organisations to promote the consideration of the rights of children and young people.
69. As highlighted at paragraph 46, a bespoke online training package was rolled out in June 2015 along with additional guidance including e-briefings, flowcharts, an aide memoire, and access to a 'frequently asked questions' page on the intranet.
70. A Training Needs Analysis (TNA) was commissioned to consider the necessary operational changes arising from the introduction of the Code of Practice and the Criminal Justice (Scotland) Act 2016 and identified areas where officers would require additional knowledge, skills and changes to working practices. This was considered by various internal groups and shared with the Police Scotland Stop and Search Reference Group. Consultation, benchmarking and learning from other UK forces, a review of stop and search training provided by the College of Policing, and consideration of findings within HMIC England and Wales reports⁶⁴ have all complemented the learning from Scotland and the new training package described at paragraphs 40 and 41.
71. The national training programme commenced in October 2016 and is due for completion in March 2017, ahead of implementation of the Code. Police Scotland intends to conduct a survey of officers from May to August 2017 to assess the effectiveness of the training in its application in the operational environment. The Training Quality Assurance Unit will manage this survey and a formal report will be produced for review in October 2017. It will be shared with the SPA Policing Committee.
72. The NSSU 100% review allows for the identification of records containing insufficient information to demonstrate the grounds for the search. Following the rollout of the national training, if an officer subsequently submits a record with inadequate information and the shortcoming is significant, they will be sent an audit form for completion. In other instances, the NSSU will make direct contact with the officer concerned to provide guidance and support. This process is intended to support individual learning and improve operational practice amongst officers.

⁶⁴ HMIC, [Stop and Search Powers: Are the police using them effectively and fairly?](#) (2013) and HMIC, [Best Use of Stop and Search \(BUSS\) Scheme](#) (September 2016).



73. The Code of Practice requires senior management with area or force-wide responsibilities to monitor the broader use of stop and search powers and where necessary, take appropriate action. It also requires the provision of comprehensive statistical records of stop and search at force and local authority level and for disproportionate use of the tactic to be addressed. Briefing packages are being prepared by the NSSIDT for senior management teams and local authority scrutiny and engagement bodies that will provide information and guidance to meet the expectations of the Code. HMICS is encouraged by these developments and the commitment from Police Scotland to support the effective local scrutiny of stop and search.

Non-Statutory search, seizure and confiscation

74. This section of our Phase 1 report included Recommendation 15.

75. At the time of our Phase 1 review, the majority of stop searches in Scotland were non-statutory (70%). The legitimacy and effectiveness of non-statutory search has been the subject of much debate within Scotland and academic research previously raised concerns over the lack of procedural protection inherent in non-statutory stop and search.⁶⁵ We recommended that Police Scotland consider a policy which raised a general presumption toward statutory stop and search where officers only revert to non-statutory search, supported by informed consent, where no legislative power exists (Recommendation 15). This policy was adopted by Police Scotland in June 2015⁶⁶ and communicated to staff during training, briefings, in guidance documents and on the dedicated stop and search pages of the Police Scotland intranet.

76. Until the statutory Code of Practice comes into effect and non-statutory stop has ceased, the following definitions⁶⁷ have been developed and adopted by Police Scotland to support stop and search procedural and recording frameworks:

- **‘Consensual’ (non-statutory) search** – one which is conducted by a police officer in the course of their duties with the consent of the individual being searched.
- **Statutory search** – one conducted by a police officer in the course of their duties where the individual is searched using a specific statutory provision.
- **Refusal** – when an individual does not provide their consent to be searched by an officer. This only relates to a non-statutory stop and search.
- **Seizure** – occurs when items are surrendered, or are removed from an individual by a police officer, for the purpose of safeguarding the health and wellbeing of that individual or any other, in circumstances where the stop and search tactic has not been utilised and no physical search of an individual has taken place.
- **Positive stop and search** – when an item is recovered the possession of which implies criminality on the part of the individual being searched or any other; or potentially compromises the safety of that individual or any other.
- **Recordable stop and search** – any unplanned stop and search where the officer has, in the course of their duties, used statutory powers or gained the consent of the individual being searched.

⁶⁵ Murray, K. (2014), 'Stop and search in Scotland: An evaluation of police practice.' SCCJR Report 01/2014.

⁶⁶ Police Scotland, [Stop and Search Policy](#).

⁶⁷ Police Scotland, [National Database Management Information Report \(April 2016 - September 2016\)](#).

77. A non-statutory search may only be conducted on a person 12 years or over⁶⁸ and the officer must communicate to the person, in a manner they understand, the following information:
- the reason for the search and that their consent is required for the search to be carried out (taking into account their ability to give their consent)
 - that they have the right to refuse
 - that their consent is required for their personal details to be obtained, and
 - that their details, if provided, will be held on a police database for up to three years for policing purposes.⁶⁹
78. Between 1 June 2015 and 30 September 2016, there have been 16 stop and searches recorded of children under the age of 12 years⁷⁰ all of which have complied with force policy and were conducted using legislative powers.

Searching for alcohol

79. This section of our Phase 1 report included Recommendations 16 to 18.
80. The power of search for alcohol only applies to designated sporting events. At the time of our review, most non-statutory searches were for alcohol or drugs. Some officers believed they had legislative powers to search for alcohol under local by-laws or under the Crime and Punishment (Scotland) Act 1997.
81. Section 61 of the Crime and Punishment (Scotland) Act 1997 provides the power, if reasonable suspicion exists, to require the surrender of alcohol from people under 18 years and from people aged 18 years or over if it is suspected that the alcohol has been consumed or is intended for consumption by people under 18 years. In addition, it creates an offence for a person under 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. This is supported by a statutory power of arrest without warrant. We recommended that Police Scotland 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 which would inform whether or not further legislation should be sought in the absence of non-statutory search (Recommendation 16).
82. Following consultation with the Police Scotland Legal Department, a paper was submitted to the IAGSS for consideration. The group took the informed view that Section 61 does not have an implied power of search and, following on from this, the Scottish Government undertook a public consultation on whether the police should have legal powers to stop and search children and young people for alcohol, or people suspected of supplying children with alcohol.⁷¹ On 4 November 2016, following a review of all responses, the Cabinet Secretary for Justice announced⁷² that there was currently insufficient evidence to support a new power and that more evidence would be gathered for 12 months following the implementation of the Code of Practice before the policy is reviewed again. Despite the existence of such a power under Section 61 of the Crime and Punishment (Scotland) Act 1997, between 1 June 2015 and 30 September 2016 there have been no arrests of any child for refusing to hand over alcohol. This situation will require to be monitored closely once the statutory Code of Practice comes into effect.

⁶⁸ Unless the informed consent of a parent, guardian or responsible adult has been obtained or exceptional circumstances can be demonstrated and justified (Police Scotland Stop and Search Policy).

⁶⁹ Police Scotland, [Stop and Search Standard Operating Procedure \(Section 6\)](#)

⁷⁰ Police Scotland National Database Management Information Reports (June 2015-March 2016) and (April 2016 to September 2016).

⁷¹ <https://consult.scotland.gov.uk/organised-crime-and-police-powers-unit/under18search/>.

⁷² <http://news.gov.scot/news/moving-forward-on-stop-and-search>.



83. In our Phase 1 report, we recommended that Police Scotland should record seizures of alcohol and other age restricted products separately on the national database where there is no search of the individual. This would allow them to be counted and reported independently from stop and search activity. In addition, Police Scotland should also ensure that offences under alcohol by-laws are not recorded as stop and search encounters (Recommendation 17). The launch of the enhanced national database created the ability to record seizures of items, where no search has taken place, separately from statutory and non-statutory stop searches and refusals. Seizures are broken down into four categories within the Stop and Search SOP: statutory;⁷³ non-statutory; alcohol by-law;⁷⁴ and protective.⁷⁵ The counting and reporting of seizures independently from stop and search activity now allows for further analysis and publication of data in terms of seizure by age and gender, along with a breakdown of the type of items seized and the seizure outcomes.⁷⁶ This has also significantly reduced the number of recorded statutory and non-statutory searches providing a more accurate baseline going forward.
84. We also encouraged Police Scotland to engage with the Stop and Search Reference Group and members of the Children and Young Persons Reference Group to consider implications that stop and search may have on young people (Recommendation 18). Full Equality⁷⁷ and Human Rights⁷⁸ Impact Assessments have been carried out in relation to the Stop and Search SOP which included extensive consultation with children and young people groups as well as youth leaders, education and other stakeholders with links to children. Equality monitoring has been developed which incorporates age, gender and ethnicity.
85. The move to a presumption toward statutory stop and search ensures that searches are based on legislative powers and reasonable grounds. The recording of reasonable grounds/circumstances on the national database coupled with the NSSU 100% review process allows for greater scrutiny to ensure that searches are justified and proportionate and that children and young people are not being unjustly targeted. The Police Scotland Youth Volunteers (PSYV) Programme⁷⁹ aims to strengthen the relationship with Police Scotland and young people and is open to all young people between the age of 13 and 18. The PSYV have assisted with practical exercises for probationary constables at the Police Scotland College and this has provided an opportunity for the volunteers to provide feedback regarding the impact of stop and search on children and young people.
86. Seizures of harmful substances and age restricted products are now captured on the national database and included in the published management information reports. This has supported the development of an evidence base around the use of New Psychoactive Substances (NPS) when recovered as a result of a search. Police Scotland has processes in place to identify vulnerable individuals based on the Getting it Right for Every Child (GIRFEC)⁸⁰ indicators and this is supported by a youth justice system based on the interests of the child using the Whole Systems Approach (WSA),⁸¹ the Scottish Government programme for addressing the needs of young people involved in offending. Multiple Interaction Reports allow for early identification of children and young people who have been searched on three or more occasions in the previous month or six or more occasions in the last three months and who may require a welfare referral to partner agencies.

⁷³ Section 7 Tobacco and Primary Medical Services (Scotland) Act 2010, Section 61 Crime and Punishment (Scotland) Act 1997 (alcohol).

⁷⁴ Seizures which are made in accordance with local by-laws relating to drinking alcohol in public places.

⁷⁵ Seizure without consent or statutory powers where the item is being seized for the current wellbeing of the individual e.g. butane, glue.

⁷⁶ Police Scotland, [National Database Management Information \(April 2016- September 2016\)](#).

⁷⁷ Police Scotland Equality Impact Assessment: Stop and Search Standard Operating Procedure.

⁷⁸ Police Scotland Human Rights Impact Assessment: Stop and Search Standard Operating Procedure.

⁷⁹ [Police Scotland Youth Volunteers Programme](#).

⁸⁰ <http://www.gov.scot/Topics/People/Young-People/gettingitright>.

⁸¹ <http://www.gov.scot/Topics/Justice/policies/young-offending/whole-system-approach>.

Code of Practice

87. This section of our Phase 1 report included Recommendation 19 that Police Scotland and the SPA should consult with the Scottish Government on the potential development of a statutory Code of Practice. As highlighted at paragraph 12, a Code of Practice has been laid before the Scottish Parliament. When approved, the Code will cover all situations in which constables stop and search a person without first making an arrest, unless the search is expressly excluded, either under the Code or by statute, or by virtue of the search being subject to a separate statutory Code or guidance as to its exercise. It will also set out the recording requirements.

Measuring the effectiveness of stop and search

88. This section of our Phase 1 report included Recommendations 20 to 23.

Alignment to local priorities

89. The Police Scotland Stop and Search Policy⁸² states that Stop and Search will be used as an “operational policing tactic in the prevention, investigation and detection of crime, with the intention of keeping people safe and to improve community wellbeing”. In order to demonstrate greater transparency around the use of stop and search and its alignment with local policing priorities, we recommended in our Phase 1 report that Police Scotland publish information on stop and search for local scrutiny and engagement bodies and local communities. This was to include evidence of how stop and search activity is aligned to local priorities and delivering positive outcomes (Recommendation 20).

90. The Stop and Search Management Information reports⁸³ now published on the Police Scotland website allow for scrutiny at both national and local level. The search and seizure data is broken down by:

- number of stop and searches by local authority
- number of positive stop and searches by local authority
- positive rate of stop and searches by local authority
- number of statutory and non-statutory searches by local authority
- percentage rates of statutory and non-statutory searches by local authority area
- positive percentage rates of statutory and non-statutory searches by local authority
- stop and search by reasons
- search outcomes (e.g. fixed penalty notice, crime report, recorded police warning)
- items found by search reason (which highlights differences between the original reason for the search and the actual item recovered)
- searches by ethnicity
- searches by age and gender
- positive stop and searches by age and gender
- refusals (non-statutory search only) by search reason
- total refusals and refusals by age and gender
- refusals by ethnicity
- total items seized
- seizure outcomes
- seizures by age and gender
- drugs found by local authority area
- weapons found by local authority area, and
- alcohol found by local authority area
- other items found by local authority area.

⁸² Police Scotland, [Stop and Search Policy 27 November 2015 Version 3.0.](#)

⁸³ [http://www.scotland.police.uk/about-us/police-scotland/stop-and-search/stop-and-search-data-publication/.](http://www.scotland.police.uk/about-us/police-scotland/stop-and-search/stop-and-search-data-publication/)



91. A Business Intelligence Toolkit (BIT), including Ward Tracker and GRIDview analytical products, has been rolled out across all divisions. Ward Tracker monitors levels of serious violent crime, minor violence, anti-social behaviour, vandalism and domestic incidents at multi-member ward level, and identifies areas in which community safety conditions have deteriorated. This helps senior management teams decide where resources can be most effectively deployed. Gridview is designed to improve the targeting, effectiveness and transparency of stop and search activity. It allows retrospective scrutiny of the use of this tactic to establish whether it has been used in the right place at the right time in alignment with local priorities.
92. Multiple Interaction Reports are produced on a monthly and quarterly basis. These are designed to identify individuals who have been the subject of repeated stop and search, and allow a review of the circumstances to ensure these interventions have been justified and whether there are underlying vulnerabilities which may require additional support. The monthly report highlights individuals who have been stopped and searched on five or more occasions the previous month, or three or more times if the person is under 16. The quarterly report highlights individuals who have been stopped and searched on nine or more occasions within the three month period, or on six or more occasions if the person is under 16.
93. As previously highlighted the NSSIDT has developed training for senior police managers to raise awareness and upskill them in relation to responsibilities within the Code of Practice. Inputs are also to be provided to local authority scrutiny and engagement bodies to highlight the requirement for them to ask local police commanders to account for the use of stop and search, and for police commanders to provide supporting information to demonstrate the proportionate and appropriate use of the tactic. This training will draw on the available analytical tools and provide national guidance to help evidence the link between stop and search activity and local priorities aimed at achieving positive outcomes.⁸⁴
94. An analytical report *Stop and search in Scotland: Using data to determine whether it is fair and effective*⁸⁵ was published in May 2016 which presents a range of methods and statistical tests for analysing stop and search data. The NSSIDT and the SPA have liaised with the authors of this report to identify good practice to improve data analysis and the use of stop and search in a local context. HMICS welcomes the commitment from Police Scotland and the SPA to both commission and apply academic research to identify best practice.

Public confidence

95. Our Phase 1 report recommended that Police Scotland should consider developing a framework for stop and search that aligns with national and local priorities and promotes a values-based approach to the treatment of those who are the subject of a search. In addition, it should consider placing public confidence at the centre of its approach and commit to ongoing measurement through an independent survey commissioned by the Scottish Police Authority (Recommendation 21). The NSSIDT has since worked closely with the Youth Advisory Panel, and the Children and Young Persons Reference Group to establish the views of children and young people. Part of this work involved a community survey through Young Scot members which sought opinions on stop and search and its impact on young people.

⁸⁴ Police Scotland, Response to HMICS Assurance Review of Stop and Search Recommendations (September 2016).

⁸⁵ Stop and search in Scotland: Using data to determine whether it is fair and effective', Susan McVie and Kath Murray (May 2016).

96. The SPA commissioned three pieces of research to establish the short and long term impact of stop and search on different groups and communities, in particular the impact on young people:
- **Blake Stevenson:**⁸⁶ Qualitative study based on fieldwork interviews among stakeholders and members of the public, in a small number of study areas (Glasgow East, Glasgow South, Edinburgh North, Edinburgh South and Dundee East).
 - **University of Edinburgh (SCCJR):**⁸⁷ Analysis of the results associated with a wider research programme called UPYC (Understanding and Preventing Youth Crime) which is an international project in the UK context, young people in Edinburgh, Glasgow, Birmingham and Sheffield completed questionnaire surveys on a range of crime and policing matters, including stop and search. Participants were aged 12 to 15 years.
 - **SIPR:** Jointly commissioned by Police Scotland and the SPA to include a bank of questions on stop and search in the 2015 Social Attitudes Survey administered by ScotCen. The results were subsequently published by the SPA.⁸⁸
97. The above research along with the findings from a study of the *Relationship between stop and search, community safety and procedural justice and police/youth relationships in Scotland*⁸⁹ have been considered by Police Scotland and also members of the IAGSS during the development of the Code of Practice.
98. Individuals who have been the subject of a stop and search are now offered an advice slip⁹⁰ which includes information on statutory and non-statutory search, details of the officer carrying out the search and the reason for the search. It provides a link to an online survey, designed to monitor the satisfaction level of members of the public who have been stopped and searched, and provides information on how to make a complaint should they be unhappy with the way in which they were treated by the police. Since the introduction of these advice slips, only 17 responses have been received.
99. Following implementation of the Code of Practice, officers will be required to issue the individual with a receipt⁹¹ which should include the following information:
- police powers of stop and search
 - the right of a person searched to obtain a copy of the record of the search
 - the right of a person searched to complain, including how to go about making a complaint.

Impact of the performance framework

100. Following the creation of Police Scotland in 2013, a national performance framework was introduced. During our Phase 1 review, we found that there had been a focus within Police Scotland on the volume of stop and searches along with the positive conversion rate. Although the values of the service and the importance of intelligence-led stop and searches had been communicated internally, there remained a perceived focus on key performance indicators within many divisions. We were concerned by the consistent messages from staff

⁸⁶ [A qualitative study of the impact of Stop and Search on individuals and communities in Scotland, Blake Stevenson \(April 2016\).](#)

⁸⁷ [Understanding and Preventing Youth Crime Survey \(UPYC\), Stop and Search in Glasgow and Edinburgh, Dr Kath Murray, University of Edinburgh \(June 2016\).](#)

⁸⁸ SPA, [ScotCen 2015 Social Attitudes Survey Stop and Search Module Results.](#)

⁸⁹ The Relationship between Stop and Search, Community Safety, Procedural Justice and Police-Youth Relationships in Scotland, *Deuchar, R. and Miller, J. (2016).*

⁹⁰ Police Scotland, Police Use of Stop and Search Advice Slip.

⁹¹ The right to obtain a copy of a record of the search will only apply where the person has provided their name, address and date of birth.



and staff associations that performance was driving negative behaviours and we recommended that the two performance measures relating to stop and search; (i) the volume of stop and searches conducted and (ii) the proportion of positive searches with a target of 20% be removed (Recommendation 22). This has since been done albeit the data is still collected and reported alongside additional stop and search information in order that stop and search activity can be aligned with local priorities.

101. The Code of Practice will introduce further recording, monitoring and supervision requirements which must be supported by the compilation of comprehensive statistical records of stops and searches at a national, divisional and local authority level in order that any apparent disproportionate use of the statutory powers of search by constables, or in relation to specific sections of the community, can be identified and reviewed to determine the reasons and, where appropriate, action can be taken.
102. An ICT update to the national database in May 2014, led to the loss of information relating to items found during stop and search activity. This resulted in 20,087 positive search records not being fully captured by the database and a process was put in place to recover the data directly from the reporting officers. Police Scotland undertook an internal audit of 2,800 records which highlighted a number of data anomalies including the misrecording of negative searches as positive searches, numerous duplicate records and further errors such name and age anomalies.
103. As part of our Phase 1 review, HMICS was provided with the results of this audit and we sought to validate the findings by undertaking a quality check on 10% of the returned forms. Our validation check found that there were inaccuracies in the data recording of the audit, and both under and over recording of the missing fields. In light of this we recommended that Police Scotland put in place a proportionate audit regime for stop and search, including positive and negative searches, including clear guidelines not only for those completing the audit but also for those analysing the results. Further to this, we recommended that the findings of all audits should be scrutinised by the SPA Audit and Risk Committee (Recommendation 23). An update on progress against Recommendation 23 along with the results of our independent audit of 600 search and seizure records, is provided in Part 2 of this report.



Part 2 – Review of Police Scotland’s stop and search scrutiny and audit processes

Methodology

104. Our Phase 2 review was undertaken in two stages:

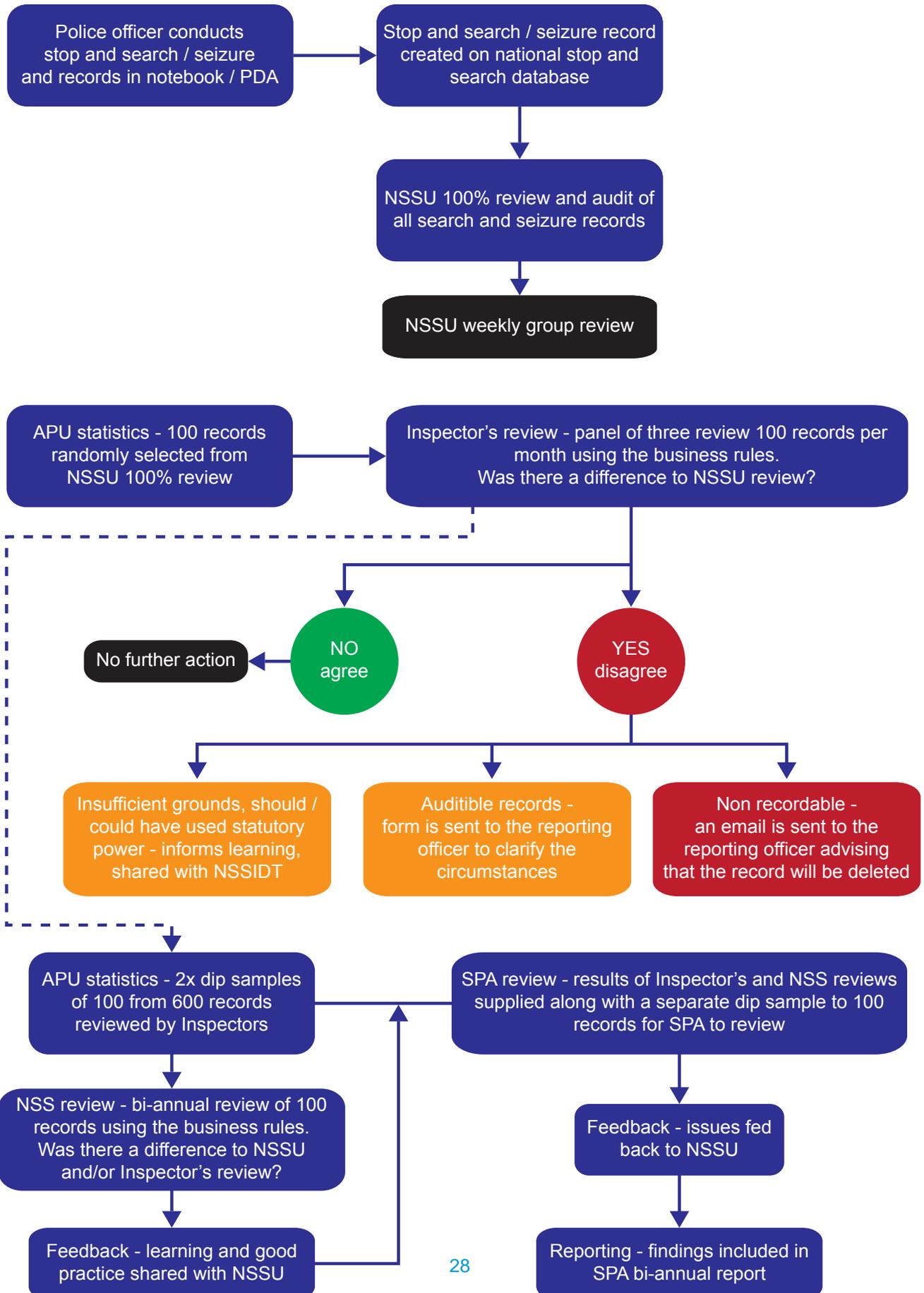
Stage 1

- Review of key documents including the policy, procedures and guidance issued by Police Scotland for the recording and counting of stop and search activity.
- Mapping of the scrutiny and audit processes of Police Scotland and the SPA, including observation of scrutiny activity by the NSSU and an assessment of the internal and external reporting and wider governance of audit results.

Stage 2

- Independent review of 600 randomly selected stop and search/seizure records to test the effectiveness of the NSSU 100% review and audit process, and the accuracy of stop and search data on the national database.
- A review of all search records of children under 12 years between 1 June 2015 and 30 September 2016.
- Review of supplementary scrutiny processes relating to duplicate records and notebook/PDA quality assurance checks.

Police Scotland's stop and search review and audit processes are shown in the following flowchart.





NSSU 100% review and audit of search and seizure records

105. Since the launch of the enhanced national database, the NSSU has undertaken a 100% review and subsequent audit of all stop and search, seizure and refusal records. On a weekly basis, raw search and seizure data is extracted from the national database by the APU and sent to the NSSU in the form of an Excel spreadsheet. The data is then transferred to the NSSU master spread sheet and each entry is reviewed using the national stop and search database business rules derived from the SOP (**Appendix 3**). A Red, Amber, Green (RAG) analysis is applied and the spread sheet updated accordingly:

- **Red:** the incident is not recordable as defined in the SOP and will be deleted.
- **Amber:** the record is lacking information, or appears to be incorrectly recorded, so an audit form will be sent to reporting officer to clarify the circumstances or the learning log updated to inform the work of the NSSIDT.
- **Green:** the incident has been recorded correctly so no further action is required.

NSSU weekly group review

106. An NSSU group review takes place each week which concentrates on the following categories of record to ensure agreement by the team and consistency of approach:

- Single officer searches
- Blank nominal
- High risk information⁹²
- Weapons searches in private places⁹³
- Records marked for deletion
- Records which have an incorrect search reason recorded
- Searches recorded as seizures
- Misuse of Section 21, Criminal Law (Consolidation)(Scotland) Act 1995⁹⁴
- Seizure recorded when a search conducted
- Seizure recorded when a statutory power exists
- Officer recorded non-statutory search but stated statutory in the grounds
- User quantities of New Psychoactive Substances (NPS)⁹⁵
- Post training non-statutory searches

107. Following the group review:

- records marked as red (non-recordable) are deleted
- records marked as amber are either amended on the database or an audit form is sent to the reporting officer seeking further clarification. The exception to this are records marked as amber due to insufficient information in the grounds /circumstances box or where a statutory power of search should/could have been used (see paragraph 108).

108. Prior to 1 April 2016, all non-statutory search records submitted with insufficient information in the grounds/circumstances box were the subject of a full audit by the NSSU.⁹⁶ In terms of

⁹² High risk information includes personal information or unsanitised intelligence which should not be included in the search/seizure record and requires to be deleted.

⁹³ The Criminal Law (Consolidation) (Scotland) Act 1995 provide a power of search where there is reasonable suspicion that a person is carrying an offensive weapon, or bladed or sharply pointed article, in **a public place**.

⁹⁴ Sections 19, Criminal Law (Consolidation)(Scotland) Act 1995 creates offences of being in possession of alcohol, allowing the possession of alcohol, or being drunk on vehicles going to or from a designated sporting event. Section 20 creates offences of being in possession of a controlled container, a controlled article or substance or alcohol in a relevant area of a designated sports ground, or of attempting to enter the ground while in possession. Section 21 of the Act provides the police with powers of search and entry.

⁹⁵ The Psychoactive Substances Act 2016 provides a power to search individuals suspected of producing, supplying or offering to supply new psychoactive substances but there is no power of search when possession alone is suspected.

⁹⁶ Since this date, and following a visit by HMICS, Police Scotland streamlined a number of scrutiny processes both for the notebook/PDA quality assurance and the 100% review. As part of this work the NSSU reduced the number of audit

statutory searches (or statutory seizures) Police Scotland has taken the view that a formal audit of such records should only be carried out once police officers have completed the national training and direction has been provided by the Code of Practice.⁹⁷ In the meantime, a learning log has been maintained to allow the NSSIDT to release regular guidance to officers in the form of power point slides, posters, e-briefing, aide memoire and advice slips, reminding them of the need to record their grounds for search. Police Scotland has also encouraged the use of the SHACKS mnemonic:

- **Seen** – what have you seen including actions and behaviours?
- **Heard** – have you heard anything including conversations?
- **Actions** – what you did/what the person did in response. Did their action increase/decrease your grounds to search?
- **Conversation** – what did you say to them? What did they say to you? Did the reply increase/decrease your grounds to search?
- **Knowledge** – what is already known about the individual? What is the time/location?
- **Smell** – any smells that might give rise to suspicion that drugs may be present?

109. Following completion of the national Code of Practice stop and search training (see paragraphs 40 and 41), any officer who submits a record with inadequate information will be sent an audit form and appropriate action will be taken. Where the lack of information is not significant, the NSSU will simply make direct contact with the officer concerned to provide guidance and support.

110. Four types of notices may also be sent to reporting officers for their information:

- ‘Deletion’ notice – sent to officers when the record is marked as red (non-recordable search)
- ‘Consensual’ notice – sent to officers who have conducted a non-statutory search to advise them that non-statutory search will no longer be permitted following the implementation of the Code of Practice.
- ‘Grounds sanitised’ notice – sent to officers when records have been found to contain sensitive information that is not appropriate to be retained on the national database (i.e. personal information or unsanitised intelligence).
- ‘Record amended’ notice – sent to officers when the NSSU amend a record following the group review.

111. A master spreadsheet is kept of all audit forms sent out. These forms must be completed as soon as possible and, in any case, within seven days of receipt. Divisional Single Points of Contact (SPOCs) are sent a weekly list of audit forms which are over 14 days old. On receipt of the completed audit forms the NSSU either amends the original stop and search record or creates a new record and deletes the original. This ensures that the national database contains accurate records and any errors are rectified.

112. Each month an internal national database management report is produced for the Chief Inspector, of the NSSIDT which includes details of the volume of searches, seizures, refusals and results of the 100% review and audit process for each of last six months, along with any particular trends. This report has been used as part of a wider plan to direct improvement work, and to extract learning and inform training and guidance. Should any emerging concerns be identified, a supportive visit to the relevant division is considered. The Chief Inspector is currently visiting senior management teams across the country to provide them

forms being sent out and introduced a ‘consensual receipt’ for all non-statutory searches.

⁹⁷ It should be noted that although a database entry may contain insufficient information, this does not mean that the search has been unlawful or that the database is inaccurate.

with an input on the Code of Practice. This also provides opportunities to discuss any issues highlighted in the monthly report.

113. The September 2016 report⁹⁸ shows that a total of 3,815 search and seizures were recorded of which 116 were non-statutory searches, 3,009 were statutory searches and 690 were seizures. 17.6% of all records were assessed as amber with 77.9% of these due to insufficient information contained in the grounds/circumstances box. It should be noted that there is no legal definition of what is deemed to be reasonable grounds for a stop and search and the ultimate test would be in a court of law. Internal business rules have therefore been developed and refined by Police Scotland to allow an objective and consistent assessment of records to address shortfalls in recording and to inform training. Following the roll out of the national training it is anticipated that the number of identified recording errors will decrease.

HMICS audit of search and seizure records

114. In order to validate the NSSU 100% review and audit process, we examined 600 randomly selected search and seizure records which were created on the national database between 1 August 2016 and 30 September 2016. The process for identification and selection of records is explained at **Appendix 4** but the sample included a representative sample from each division based proportionately on the volume of records created by that division.
115. We found 584 out of the 600 records (97.3%)⁹⁹ had been assessed correctly in accordance with the business rules and, where amendment was required, the appropriate action had been taken to update the national database.
116. We found that 16 records had been incorrectly assessed as detailed at the **Table 1**.

⁹⁸ Police Scotland, National Database Management Information for September 2016.

⁹⁹ Based on a confidence interval of +/- 1.68% this means that we can be very sure (95% certain) that the true value lies between 95.65% and 99.01%.



Table 1

Number of records	NSSU assessment	HMICS assessment	Any impact on national database?
12	Statutory search - correctly recorded.	Statutory search - insufficient information in the grounds / circumstances box.	No. As no audit is carried out of records assessed as a statutory search with insufficient information in the grounds / circumstances box, no other action would have been taken by the NSSU.
1	Statutory search - correctly recorded.	Statutory weapons search – unclear whether the person suspected of carrying a weapon was in a public place at the time of the suspected offence.	Yes. An audit form should have been sent to the reporting officer seeking clarification of the circumstances and the national database updated by the NSSU.
1	Statutory search - insufficient information in the grounds box.	Statutory search - correctly recorded.	No. As no audit is carried out of records assessed as a statutory search with insufficient information in the grounds / circumstances box, no other action would have been taken by the NSSU.
1	Seizure - correctly recorded.	Seizure - insufficient information in the grounds / circumstances box.	No. As no audit is carried out of records assessed as a seizure with insufficient information in the grounds / circumstances box, no other action would have been taken by the NSSU.
1	Non-statutory search - officer has shown grounds existed to use a statutory search.	Non-statutory search - insufficient information in the grounds / circumstances box.	No. Prior to 1 April 2016, an audit form would have been sent to the reporting officer seeking further clarification. Since this date, however, the NSSU has streamlined its scrutiny processes and a 'consensual' notice is now sent out instead which does not require a response. No other action would therefore have been taken.

Supplementary processes

117. A number of supplementary processes have been put in place to provide additional scrutiny to ensure the accuracy and integrity of the stop and search data. These include the identification of potential duplicate reports, divisional notebook/PDA quality assurance checks, and a review of all searches involving children under 12 years.¹⁰⁰

Under-12 searches

118. All search records of children under 12 are the subject of a full audit by the NSSU and a monthly report is sent to the force executive, the SPA and the Scottish Government. Audit forms are sent to reporting officers to confirm the age of the person searched along with the justification and grounds for the search. In addition, a weekly Business Objects Report (BOR) is run to identify all refusals to check that no child under 12 has been requested to undergo a

¹⁰⁰ The Police Scotland policy is that non-statutory searches of children under the age of 12 years are not permitted unless with the informed consent of a parent, guardian or responsible adult unless exceptional circumstances can be demonstrated and justified.

non-statutory search. During our fieldwork, we reviewed all 16 records of searches conducted of children under 12 between 1 June 2015 and 30 September 2016. We found these all to have been conducted using legislative powers, based on reasonable grounds for suspicion and in accordance with force policy.

Duplicate records

119. At present, due to ICT limitations, officers are unable to search the national database to check whether a search or seizure record has already been created by another officer. A BOR report has therefore been set up to identify potential duplicate records based on nominal details which includes officers' details and the time, date, locus and type of search. These records are reviewed and where duplicates are found one or more is deleted and a cross-reference made on the remaining record. A master spreadsheet of all duplicate records found is maintained and updated with the action taken. Where duplicate records are identified which are also listed on the audit master spreadsheet, the remarks column is updated with the reference number of the duplicate record. In this case, the duplicate is not edited or deleted and instead the audit process is allowed to take its course to prevent a situation where an audit form is returned and the record has already been deleted.
120. During our fieldwork, we reviewed the duplicates master spreadsheet for August and September 2016 and found this process to be working well. Those records which had been confirmed as duplicates had been deleted from the national database and the primary records updated with the required additional information.

Notebook/PDA quality assurance audit

121. Each month two local policing divisions are selected by the NSSU on a rotational basis and the divisional SPOC is provided with a proportionate sample of search and seizure records for audit. Frontline supervisors are then required to:
 - carry out notebook/PDA checks to ensure that all information being recorded complies with the notebook recording standards contained in the stop and search SOP
 - check that recordable stop searches/seizures have been submitted on the national database and the unique reference number recorded in the notebook/PDA
 - monitor the submission of non-statutory searches to ensure no grounds exist for the utilisation statutory powers
 - monitor the sufficiency of grounds for statutory searches and ensure adequate and consistent recording
 - monitor the circumstances leading to the non-statutory search and ensure adequate and consistent recording
 - review all searches of children under 12 years for compliance with the stop and search SOP and report all instances of consensual searching of children under 12 to the Chief Inspector (Service Delivery)
 - identify additional training needs
 - complete quality assurance compliance forms in relation to the randomly selected search and seizure records for monthly divisional quality assurance audits, and when requested to do so, provide electronic copies of notebook or PDA entries to the divisional stop and search SPOC.

122. The quality assurance compliance form, used to record whether or not a notebook/PDA stop and search/seizure record achieves the minimum recording standard required by the stop and search SOP, contains seven questions:

1. Is the search/seizure recorded in the officer's notebook/PDA?
2. Are there appropriate details recorded to identify the person searched or from whom an item is seized?
3. Are there appropriate details recorded to identify when the search/seizure took place?
4. Are there appropriate details recorded to identify where the search/seizure took place?
5. Are the grounds/circumstances leading to the search/seizure recorded in the notebook/PDA?
6. Are the grounds/circumstances justified in terms of the search/seizure made?
7. Are the grounds/circumstances lawful in terms of the search/seizure made?

123. During our fieldwork, we reviewed the returns from the notebook/PDA quality assurance audits for the period January to September 2016 and found that 460 notebook/PDA checks had been requested and 459 quality assurance compliance forms returned. The results show that a number of officers are failing to meet the minimum recording standards as required by the SOP particularly in respect of questions 4-7 above. The results have recently been included in the internal monthly management report and have been included in the six monthly report to the SPA. This will allow ongoing monitoring of compliance with the SOP, effectiveness of the national training and the identification of any particular trends.

Inspector's review

124. In September 2015, following the testing phase of the national database, an Inspector's monthly review of records to provide an element of independent scrutiny of the 100% review process. Each month the NSSU provides the APU with all the previous month's search and seizure records from the NSSU Master spread sheet.¹⁰¹ The APU then provides a sample of 100 records for review by a panel of 3 officers, led by an Inspector, who have not been involved in 100% review. A RAG assessment is applied by the Inspector using the national database business rules and any variations to the NSSU assessment are recorded on the 'External Audit' master spread sheet. The results are then discussed with the NSSU and remedial action taken if required.

National Systems Support (NSS) biannual review

125. Every six months the NSSU collates the 600 records which have been subject of the Inspector's review. From these records the force statistician provides two random samples of 100 records. The NSS is provided with 100 records who follow the same process as the Inspector's review. The other 100 records are passed to the SPA (see paragraph 126). Any differences from the Inspector's review are discussed with the NSSU and remedial action taken where required.

SPA biannual review

126. Every six months the SPA is provided with a random sample of 100 records which have been the subject of the Inspector's review. These are assessed by a Performance Analyst within the SPA who considers these from the perspective of an 'independent person' and provides feedback to the NSSU.

¹⁰¹ Between September 2015 and March 2016 a BOR was run each month from which the random sample of 100 of the previous month's search and seizure records were selected for the Inspector's review. Any records deleted from the database as part of 100% review process the previous month were therefore not the subject of any independent scrutiny as part of the Inspector's, NSS or the SPA reviews. The selection process has now been changed to rectify this.



127. These additional layers of internal and external scrutiny add value and have led to the refinement of the business rules and identification of training needs which has assisted the NSSIDT in the development of guidance and the national training programme.

Reporting of audit results to the SPA

128. The SPA currently publishes a quarterly report, which provides longitudinal analysis of stop and search in Scotland. This is intended to inform its scrutiny of practice and patterns of stop and search activity to provide reassurance to stakeholders and drive best value.

129. On 23 March 2016, the SPA Chair published his review of governance in policing¹⁰² which made a number of recommendations for the improvement of governance arrangements for policing in Scotland. SPA performance standards are being developed which require Police Scotland to provide evidence of its effectiveness at keeping people safe, maintaining police confidence and delivering best value and efficiency. Although the SPA Audit and Risk Committee will continue to monitor the progress of recommendations contained in scrutiny reports, stop and search activity in Scotland will now be scrutinised on a six monthly basis by the new SPA Policing Committee.

130. A new process has been implemented whereby Police Scotland provides the SPA Performance Analyst with a six monthly summary and analysis of results from the NSSU 100% review, the Inspector's monthly review, the NSS biannual review and the notebook/PDA quality assurance checks along with a random sample of 100 records. Following analysis of the audit results and a review of the 100 records, the analyst will produce a 6 monthly report for consideration by the SPA Policing Committee to allow external scrutiny of the impact of the national Code of Practice training and compliance with the code. This report will also contain a six month longitudinal analysis of stop and search activity in Scotland in place of the quarterly report described at paragraph 128. This process provides the evidence required to allow the discharge of Recommendation 23 made in our Phase 1 report. The effectiveness of this process will be assessed as part of our SPA governance review later this year.

131. Police Scotland has introduced an effective but labour intensive audit regime. This has been necessary to provide initial assurances over data accuracy although Police Scotland should consider moving to a more proportionate approach once satisfied there is compliance with the Code of Practice.

¹⁰² SPA Chair, [Review of Governance in Policing](#) (March 2016).

Appendix 1 – Glossary of terms

ACC	Assistant Chief Constable
BOR	Business Objects Report
Code of Practice	Statutory Code of Practice for Stop and Search
DCC	Deputy Chief Constable
Division	Divisional Policing Areas of Police Scotland each led by a divisional commander
HMICS	Her Majesty's Inspectorate of Constabulary in Scotland
IAGSS	Independent Advisory Group on Stop and Search
ICT	Information and Communications Technology
LSE	Local Scrutiny and Engagement Committee
National Database	The national stop and search database is where stop and search data that is entered through the national stop and search application is captured. This term is used in the report to cover both the stop and search application (the user interface where officers input data) and the national database where the information from the application is captured.
Non Statutory (Consensual) Search	Non statutory search is defined in the Police Scotland SOP as a search which is conducted by a police officer in the course of their duties with the consent of the individual being searched.
NSSIDT	National Stop and Search Improvement Delivery Team
NSS	National Systems Support
NSSU	National Stop and Search Unit
SG	Scottish Government
SIPR	Scottish Institute for Policing Research
SMT	Senior Management Team
SOP	Standard Operating Procedure
SPA	Scottish Police Authority
SPOC	Single Point of Contact



Appendix 2 – HMICS Stop and Search Phase 1 Recommendations Status

Table 2

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.	Discharged
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.	Discharged
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.	Discharged
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 wellbeing of persons, localities and communities in Scotland.	Discharged
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.	Discharged
6	Police Scotland should emphasise the rationale for recording the self-defined ethnicity of those who are stopped and searched and provide guidance.	Discharged
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.	Discharged
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.	Discharged
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.	Discharged
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.	Discharged
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.	Discharged



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.	Discharged
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.	Discharged
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.	Discharged
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.	Discharged
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.	Discharged
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.	Discharged
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.	Discharged
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.	Discharged
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.	Discharged
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.	Discharged
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.	Discharged
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.	Discharged



Appendix 3 – Police Scotland National Stop and Search Database Business Rules

Table 3

CONSENSUAL GREEN	STATUTORY GREEN	SEIZURE GREEN
<ol style="list-style-type: none"> 1. No statutory power available, or; 2. Statutory power available with clear explanation that reasonable grounds could not be established, and ; 3. Sufficient information to confirm search was appropriate in the circumstances. 	<ol style="list-style-type: none"> 1. Reasonable grounds (Justification). 	<ol style="list-style-type: none"> 1. No statutory/consensual search carried out. 2. Seizures to safeguard well-being including alcohol, cigarettes.
CONSENSUAL AMBER	STATUTORY AMBER	SEIZURE AMBER
<ol style="list-style-type: none"> 1. Statutory power available & unclear why not used. 2. Appears to be a seizure rather than a search (need to clarify). 3. All other cases where insufficient detail in grounds/circumstances box to confirm search was appropriate in the circumstances. 4. Officer has shown grounds existed to use a statutory power. 5. Officer has stated that statutory power used. 6. High risk or inappropriate information entered in free text (i.e. personal information, unsanitised intelligence). 7. Search for user quantity of New Psychoactive Substances (NPS). 8. Officer has received face to face training. 	<ol style="list-style-type: none"> 1. Insufficient details in grounds /circumstances box. 2. Appears to be a seizure rather than a search. 3. Incorrect search reason recorded (i.e. stolen property search drugs found, recorded as drugs search). 4. Section 21 Criminal Law (Consolidation) (Scotland) Act 1995 search conducted, unclear if within the relevant area of a sports ground during the specified time. 5. High risk or inappropriate information entered in free text (i.e. personal information, unsanitised intelligence). 6. Statutory weapons search conducted, unclear if person suspected of a carrying weapon was in a public place at time of suspected offence. 7. Section 36 Psychoactive Substances Act 2016 search conducted, appears user quantity of New Psychoactive Substances. 	<ol style="list-style-type: none"> 1. Insufficient detail in grounds/circumstances box. 2. Officer has stated that search has been conducted. 3. High risk or inappropriate information entered in free text (i.e. personal information, unsanitised intelligence). 4. Seizure of New Psychoactive Substances. 5. Seizure of item for which a statutory power of search applies (i.e. drugs seized when a Section 23 Misuse of Drugs Search Act 1971 search would appear more appropriate).
CONSENSUAL RED	STATUTORY RED	SEIZURE RED
<ol style="list-style-type: none"> 1. Non recordable; Detained s.14 Criminal Procedure (Scotland) Act 1995, arrested, searched under warrant, officer safety search, for welfare of subject where consent has not been provided. 2. Recorded twice. 	<ol style="list-style-type: none"> 1. Non recordable; Detained s.14, arrested, searched under warrant, officer safety search, for welfare of subject where consent has not been provided. 2. Recorded twice. 	<ol style="list-style-type: none"> 1. Non recordable; Detained S.14, arrested, searched under warrant, officer safety search, for welfare of subject where consent has not been provided, not a valid seizure. 2. No seizure taken place. 3. Recorded twice.



Appendix 4 – Inspection Methodology

The aim of our audit and assurance review was to **follow-up on recommendations made within our *Audit and Assurance Review of Stop and Search: Phase 1* report¹⁰³ and undertake an independent audit of stop and search data.**

An information request was made to Police Scotland which included:

- policies, guidance and standard operating procedures
- briefings and training notes
- improvements plans
- ICT plans for development
- audit processes and the methodology
- records of compliance checks
- quality assurance and quality control processes
- stop and search governance structure
- audit processes and forms

Our inspection was undertaken in two stages:

Stage 1

- Review of key documents including the policy, procedures and guidance issued by Police Scotland referring to the recording and counting of stop and search activity.
- Mapping of the scrutiny and audit processes of Police Scotland and the SPA which included a document review, observation of scrutiny activity by the NSSU and an assessment of the internal and external reporting and governance of audit results.

Stage 2

- Independent review of 600 randomly selected stop and search/seizure records to test the effectiveness of the NSSU 100% review and audit process, and the accuracy of stop and search data on the database.
- Review of records of searches of children under 12 years between 1 June 2015 and 30 September 2016.
- Review of supplementary scrutiny processes relating to duplicate records and notebook/PDA quality assurance checks.
- Review of the progress against all recommendations contained in our Phase 1 report.
- Report preparation and publication.

Identification of Sample of Search and Seizure records

All statutory or non-statutory searches, seizures or refusals (non-statutory search only) must be recorded on the Police Scotland National Stop and Search Database.

The volume of search and seizure records created varies across Police Scotland and therefore the number of records selected from each Division for our review was based proportionately on the volume created by that Division (See Table 4).

When selecting our sample size, we considered the reliability of the results. The records included in our review and audit are only a sample of the total population so we cannot be certain that the results obtained are exactly those we would have obtained had we audited the entire population (the 'true' values). We can, however, predict the variation between the sample results and the 'true'

¹⁰³ HMICS, [Audit and Assurance Review of Stop and Search: Phase 1](#) (March 2015).



values from a knowledge of the size of the sample on which the results are based and the number of times that a particular result is obtained. The confidence with which we can make this prediction was chosen to be 95% (i.e. the chances are 95 in 100 that audits of records would result in values that fall within the specified range) with a Scotland-wide confidence interval of **+/- 1.68%**.

Table 4

Division	Sample Size
North East	40
Tayside	23
Highland and Islands	33
Forth Valley	13
Edinburgh	19
Lothians and Scottish Borders	16
Fife	13
Greater Glasgow	290
Ayrshire	29
Lanarkshire	51
Argyll and West Dunbartonshire	23
Renfrewshire and Inverclyde	41
Dumfries and Galloway	9
Total	600

Sample Selection

The Police Scotland Analysis and Performance Unit (APU) provided the original download of search and seizure records created on the national database between 1 August 2016 and 30 September 2016 (the population data). From this population data, the records to be reviewed were randomly selected by the Scottish Government Justice and Analytical Services Department, stratified by Police Scotland Division. Police Scotland was not informed which records had been selected in advance of the review but was, however, aware of the number of records to be reviewed and the dates between which the records would be selected (this was necessary so that we could obtain the population data from which to select our sample).

We chose to review records created over a 2 month time period which allowed sufficient time for the records to have been subject of the full NSSU 100% review and audit process and for any required action to be taken on the live database.

Recording our findings

Inspectors were provided with training on how to navigate the live national database and then had direct access to the system. They were also provided with the master excel spread sheets used by the NSSU to record every search and seizure record, along with any subsequent action taken in accordance with the Police Scotland national database 100% Review and Audit Business Rules and Conventions.¹⁰⁴

Inspectors assessed the content of the original record and applied a RAG grading to the record using the national database 100% Review and Audit Business Rules and Conventions document. This was logged on an Excel spread sheet and the HMICS grading was then compared with the grading applied to the record on the NSSU RAG master spread sheet to see whether there was any difference. The live database was then checked to confirm that, where required, the necessary follow-up action had been taken (i.e. records deleted, edited or a new record created and original deleted).

Any records for which the HMICS RAG grading differed from that of the NSSU were brought to their attention allowing any necessary corrective action to be taken.

¹⁰⁴ Police Scotland National Stop and Search Database 100% Review and Audit Rules and Conventions Version 8.0 (14/11/16).



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HMICS operates independently of Police Scotland, the Scottish Police Authority and the Scottish Government. Under the Police and Fire Reform (Scotland) Act 2012, our role is to review the state, effectiveness and efficiency of Police Scotland and the Scottish Police Authority. We support improvement in policing by carrying out inspections, making recommendations and highlighting effective practice.

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