



**POLICE**  
**SCOTLAND**  
Keeping people safe

## **Stop and Search**

### **Update Report for the Cabinet Secretary for Justice**

Chief Constable Sir Stephen House  
March 2015

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## **1 Purpose**

- 1.1. Police Scotland is committed to using stop and search in 21<sup>st</sup> century Scotland to prevent and detect crime and keep people safe, by balancing individual rights and public safety. In order to do this effectively, Police Scotland recognises that stop and search must be undertaken within a public consensus, in a manner which reflects the force values of fairness, integrity and respect, has consideration of equalities and human rights at its core and meets the needs of Scotland's local communities.
- 1.2. The purpose of this report is to update the Cabinet Secretary for Justice in relation to the practice of non-statutory or consensual stop and search and whether it should be completely ended.
- 1.3. This report will seek to make recommendations to promote and inform further consideration, in order that the future use of stop and search, and in particular consensual stop and search, by Police Scotland may be improved.

## **2 Background**

- 2.1. Over recent months the use of consensual stop and search has been the subject of significant discussion. Concerns have been raised in relation to the use of consensual stop and search, especially in relation to children and young people and their ability to give informed consent. In June 2014 Police Scotland responded to those concerns and changed its policy to ensure clear guidance is provided to officers that consensual stop and search is no longer to be employed in respect of children under 12 years of age.
- 2.2. It has become clear that there is a need to examine the current and future use of consensual stop and search as a whole, and consider if significant change is required to both policy and practice.
- 2.3. Concern has also been expressed that any such change may result in gaps and risks emerging which are not yet covered by available legislation, potentially exposing children and young people, and broader communities, to risk of harm which the current use of consensual stop and search may have prevented. Additionally concerns have been raised about the potential for the relationship between the public and the police in Scotland to become more distant should the practice of stop and search become solely legislative. Any changes to current policy or practice will need to address any consequent risks that emerge.
- 2.4. The Chief Constable acknowledges that the use of consensual stop and search has raised concerns and recognises the need for an open, engaging and consultative review of its use in Scotland. To support this review Police Scotland has established a Stop and Search Short Life Working Group (SLWG). The work undertaken by Police Scotland, since the First Minister's remarks in the Scottish Parliament on the 5<sup>th</sup> February 2015 on consensual stop and search, has begun to examine its future use in Scotland, sets out a range of developments being taken forward and proposes a number of recommendations for the consideration of Scottish Ministers.
- 2.5. In Scotland, a stop and search may be described as any encounter between a Police Officer and a person, which results in that person being searched, where the search was either conducted on a consensual basis, where the person is asked if they would provide consent for a police officer to search them, or where the person was searched under one of the following legislative powers:
  - Section 23(2) of the Misuse of Drugs Act, 1971 (Drugs);
  - Section 60(1) of the Civic Government (Scotland) Act 1982 (Stolen Property);
  - Section 48(1) of the Criminal Law (Consolidation) (Scotland) Act 1995 (Offensive Weapon);

- Section 50 of the Criminal Law (Consolidation) (Scotland) Act 1995 (Bladed Weapon);
- Section 47 of the Firearms Act, 1968 (Firearms);
- Section 43 of the Terrorism Act 2000 (Terrorism);
- Section 47A of the Terrorism Act 2000 (Terrorism); and
- Section 11A of the Fireworks Act 2003 (Fireworks)

**3 Public Safety and Fairness**

- 3.1. Police Scotland recognises that stop and search policy and practice must seek to strike a balance between public safety and fairness, and that the duties of police officers in Scotland must be conducted, and be seen to be conducted, in a manner which is lawful, proportionate, justified and in line with the needs of the local communities Police Scotland serves.
- 3.2. In terms of public safety, Police Scotland seeks to ensure that stop and search practice is clearly linked to the detection and prevention of crime and safeguarding vulnerable people in terms of their health and wellbeing. This is particularly important in relation to children and young people, for example, who may be in possession of alcohol or cigarettes. In such circumstances consensual searches and the consequent potential for follow-up activities may make a positive contribution to the safeguarding and wellbeing of that child, and help deliver on Police Scotland's commitment to Getting It Right for Every Child (GIRFEC) and the strategies that stem from that policy, such as Early and Effective Intervention. Any amendment to current practice must take account of this.
- 3.3. In terms of fairness, Police Scotland seeks to ensure that the intrusion of stop and search is balanced proportionately with the need to keep people safe. Police Scotland recognises that the use of stop and search is intrusive, can have an impact upon people's privacy and must be used with care, taking individual circumstances and equalities and human rights considerations into account. The use of stop and search must reflect Police Scotland's core values of fairness, integrity and respect. There must be an understanding throughout the organisation that there is a requirement to balance the needs of the individual and the needs of the broader community. This is a complex issue as the subject of the search may be the very person whom that activity is seeking to keep safe and as a result the balance which must be struck is between the safety of, and fairness to, the very same person.

#### **4 Current Evidence Base**

- 4.1. There is currently limited research on the police use of stop and search in Scotland. The following research, however, is available:
- Bleetman, A., Perry, C.H., Crawford, R. and Swann, I. (1997) 'Effect of Strathclyde Police initiative "Operation Blade" on accident and emergency attendances due to assault';
  - Reid Howie Associates (2002) 'Police Stop and Search among White and Minority Ethnic Young People in Scotland';
  - Murray, K. (2014a), 'Stop and search in Scotland: An evaluation of police practice';
  - Murray, K. (2014b), 'Non-statutory stop and search in Scotland';
  - Blake Stevenson (2014) 'Stop and search in Scotland: Primary Research' (commissioned on behalf of the Scottish Police Authority);
  - Scottish Police Authority (2014) 'Scrutiny Review – Police Scotland's Stop and Search Policy and Practice';
  - McVie, S. (2015) 'Police stop and search in Scotland – A brief review of evidence' (unpublished); and
  - Murray, K (2015) 'The Proactive Turn: Stop and Search in Scotland'.
- 4.2. Examination of the available research reveals conclusions that where used appropriately stop and search can contribute toward positive outcomes and is likely to be met with public support. Although more research is required to determine any correlation to the detection and prevention of criminal offences and anti-social behaviour there is general acceptance that stop and search can be a useful policing tool which, in combination with other policing methods, can play a part in helping deter individuals from carrying weapons, drugs and alcohol.
- 4.3. It can also provide the opportunity to engage positively with people and influence behaviours to promote safety and wellbeing of people at risk from harm.
- 4.4. The research also acknowledges:
- That public opinion on fairness is key to policing by consent;
  - The importance of the validity of police stop and search records;
  - The effect an actual or perceived target may have on officers' use of consensual stop and search;
  - That use must be balanced with Human Rights; and crucially
  - That further work is required to determine any correlation between the use of stop and search and reductions in crimes of violence and disorder.
- 4.5. The nature of policing is such that many methods are often utilised in parallel in the work done to keep people safe. Where a local community is experiencing problems in relation to violence, for example, preventative work may be done with the licensed trade, the local authority and other partners. To support this, officers may be deployed and the use of stop and search may form part of the approach adopted. Where a positive outcome is realised it may prove difficult subsequently to understand in detail which area of the work contributed which proportion of the positive result. It may have been the preventative work with the licensed trade or the deployment of the police officers. It may have been the use of stop and search or simply the deterrent effect of the enhanced police presence.

- 4.6. Police Scotland believes that enhanced information and analysis will improve the effectiveness of tactics which are deployed and as a result Police Scotland continues to develop new and enhanced analytical products. Work continues to broaden the availability and use of analytical products developed by Police Scotland including Multi Member Ward and Data Zone Trackers.
- 4.7. The Multi Member Ward Tracker brings together information from various sources and provides a trending analysis over a 24 week period of Violence, Disorder and Anti Social Behaviour at police divisional, local area command and multi-member ward levels. The Datazone Tracker provides additional information at a more detailed, neighbourhood level.
- 4.8. These products support local deployment models and allow policing plans to focus on outcomes, to maximise effectiveness and ensure that policing activity, including consensual stop and search, is more closely aligned to the problem. This will in turn ensure that the tactics deployed are appropriate to the needs of the local community whilst assisting with local governance and scrutiny, ensuring and demonstrating that stop and search activity continues to be utilised in ways which are proportionate to the threat, risk or harm from crime and disorder.

## **5 Current Legislative Framework**

### **Legislative Stop and Search**

- 5.1. A legislative stop and search can be described as being conducted by a police officer in the execution of his or her duty to prevent and detect crime under Section 20(1)(a) of the Police and Fire Reform (Scotland) Act 2012, using powers laid down in other specific statutes. In order to carry out the stop and search the officer must have reasonable suspicion that the person is in possession of an item to which the relevant legislation applies.

### **Consensual stop and search**

- 5.2. Consensual stop and search in Scotland is lawful and is conducted by a police officer in the execution of his or her duty with the consent of the individual being searched. Put simply, where a police officer wishes to stop and search a person on a consensual basis he or she must ask for permission to search a person and that person may verbally agree or refuse to give his or her consent. Scots law has long recognised the principle of consensual stop and search and has developed tests, administered by prosecutors and the courts, to ensure that any evidence flowing from a consensual stop and search is based on informed consent, underpinned by the principle of fairness.
- 5.3. Oversight, challenge or scrutiny of the police use of consensual stop and search is currently provided by a number of bodies including the Courts, the Police Investigations and Review Commissioner, the Scottish Police Authority (SPA), Scottish Ministers, Her Majesty's Inspectorate of Constabulary in Scotland (HMICS) and the Equalities and Human Rights Commission. Individuals who have been subject of a stop and search may contact the Chief Constable, local and / or national elected representatives directly or make a complaint about the police should they feel the circumstances warrant it.
- 5.4. There are items with the potential for causing significant, immediate and/or longer term harm where there are currently no powers of stop and search provided by legislation, for example:
- Cigarettes or alcohol in the possession of a person under the age of 18, where the cigarettes or alcohol are carried or concealed e.g. under clothing or in school bags
  - Persons in possession of new psychoactive substances (NPS)
- 5.5. Currently, consensual stop and search may be utilised in situations where young people are believed to be at risk through being in possession of harmful substances such as alcohol, cigarettes or NPS. Should this practice be modified or ended completely gaps may appear in Police Scotland's ability to keep people, particularly young people, safe.
- 5.6. The initial examination carried out to date has revealed gaps which may emerge and it is clear that this area is complex and will require more detailed examination. This work will also need to consider how any emerging gaps may be addressed. As a result of discussions held at the Short Life Working Group (SLWG), Scottish Government (SG) convened a meeting that included representation from SG policy and legal officials, Crown Office and Procurator Fiscal Service (COPFS) and Police Scotland to examine the policy and legislative impact of any changes to the practice of consensual stop and search.

### **Intervention and Seizure**

- 5.7. Developments to ICT systems and training programmes are under way to allow police officers to record interventions and seizures, separately from stop and search

activity. These will occur when, for example, a police officer removes alcohol, cigarettes or any other harmful substances from a child or young person, such as NPS, without a search having been required. An example of this activity might be an encounter with a child where alcohol is clearly on display or where the child simply surrenders the alcohol when asked.

- 5.8. In the absence of any other means of recording, the practice to date has often been for police officers in Scotland to record such interactions as stop and search. Whilst this has been done in good faith and with the desire to ensure that such activity is recorded, it has led to an inflated picture of the stop and search activity which has been undertaken. This will mean that the introduction of the ability to record interventions and seizures separately will cause a drop in the overall volume of recorded stop and search.
- 5.9. Improvements are currently being made to the Police Scotland National Stop and Search Database which will introduce the recording of interventions and seizures in addition to stop and search. These improvements are scheduled for delivery in summer 2015 and will provide a more accurate record of the activity which is being conducted by police officers in Scotland. This will allow more accurate reporting which in turn will promote greater transparency and accountability.

**6 Developments in Stop and Search in Scotland**

- 6.1. Given the recent profile of stop and search in Scotland, a range of work has already been undertaken in this area. This includes:
- 6.2. The SPA Scrutiny Review – Police Scotland’s Stop and Search Policy and Practice (May 2014), concluded that, if appropriately used, intelligence-led stop and search can play a part in helping detect and prevent criminal and antisocial behaviour. Equally, inappropriate application of stop and search practices has the potential to cause a loss of confidence within the community which could undermine the principle of policing by consent and damage the ability of the police to work in partnership with the community to tackle crime. The review made recommendations in relation to the recording of consensual stop and searches, staff training, and public knowledge of a person’s rights in connection with consensual stop and search. Police Scotland has welcomed the SPA’s recommendations and this report will detail work which is currently being undertaken to secure progress against them.
- 6.3. A Police Scotland pilot project was launched in Fife in July 2014 with the aim of driving forward improvements to stop and search practices in line with the SPA Scrutiny Review. Transparency and public expectation are key elements of the pilot and emerging good practice is already shaping Police Scotland’s policy and practice in respect of stop and search. The Scottish Institute of Policing Research (SIPR) is conducting an independent evaluation of the Fife Pilot with a report due in May 2015.
- 6.4. Police Scotland conducted an internal audit of stop and search recording in late 2014, including scrutiny of database records and officer notebooks. This identified the need to reinforce what information must be recorded and the need for consistency between what is recorded in notebooks and on the stop and search database. The audit, in conjunction with the Fife Pilot, has identified good practice and areas for improvement which will inform future guidance on stop and search and has informed the development of the enhanced stop and search database.
- 6.5. HMICS has carried out a review of Police Scotland’s guidance, processes and systems for recording stop and search. HMICS considered the outcome of the Police Scotland internal audit and the Fife Pilot and combined this with its work to make an initial assessment of the accuracy or otherwise of stop and search data. The review also examined the extent to which the performance framework for stop and search has driven operational behaviours, along with recording issues around the seizure of alcohol and consensual searches, with a view to securing future improvement. Police Scotland will continue to work closely with HMICS in respect of the recommendations contained within the report.

**7 Experience in England and Wales**

- 7.1. Significant work has been conducted in England and Wales over a number of years in relation to the use of stop and search and there is potential for Police Scotland to learn from the experience obtained there.
- 7.2. It is important to acknowledge that in England and Wales police stop and search can only take place within the parameters of statutory legislation and there is no provision for the police to engage in any consensual search. England and Wales have a Statutory Code of Practice under the Police and Criminal Evidence Act 1984 which governs the use, by police officers, of their statutory powers to search a person.

**Her Majesty's Inspectorate of Constabulary's (HMIC) Report (2013) – Stop and Search Powers: Are the police using them effectively and fairly?**

- 7.3. Police services across England and Wales have been subject to scrutiny in relation to their stop and search policy and practice following the publication of Her Majesty's Inspectorate of Constabulary's (HMIC) report in 2013: Stop and Search Powers: Are the police using them effectively and fairly? HMIC found that few forces in England and Wales could demonstrate that the use of stop and search powers was based on an understanding of what works best to cut crime; and rarely was it targeted at priority crimes in their areas. Recommendations for English and Welsh forces included:
- New guidance and training being issued to officers;
  - Improved monitoring of officers' use of stop and search powers, targeting those powers to catch criminals, prevent crime and increase public trust;
  - More public involvement; and
  - Better use of technology to record and monitor stop and search activity.
- 7.4. Experience to date in England and Wales indicates that simply placing stop on search on a purely statutory basis does not remove the need for appropriate training, governance and oversight to ensure compliance with requirements of the legislation. Information outlined in the HMIC Report in respect of this includes:
- The ways in which officers decided they had reasonable grounds for suspicion varied widely. Using a scale where zero was no suspicion whatsoever, and ten was concrete knowledge, some officers said they considered that reasonable suspicion existed at two whilst some answered as high as eight.
  - Nationally, HMIC found that 27% of the records reviewed did not have reasonable grounds for suspicion recorded.
  - A quarter of people who responded to the HMIC public survey in England and Wales believed stop and search powers were used too often on certain groups. This figure increased to 42% among black and minority ethnic respondents.
- 7.5. Subsequently, the Home Secretary announced in April 2014 The Best Use of Stop and Search Scheme for England and Wales, aimed at improving transparency, increasing community involvement and emphasising intelligence led policing, correlated to a more outcome-focussed approach.

**8 Consideration of a Scottish Code of Practice**

- 8.1. A code of practice may prove valuable in enhancing governance of how police officers use stop and search in Scotland. The introduction of such a code, particularly a statutory code, is, however, a complex area which needs to be examined carefully and to be the subject of appropriate consultation, legal and policy consideration. The implications it may have for the manner in which police officers in Scotland interact with the public are not yet adequately understood and this is an area which also requires further work.
- 8.2. Initial examination has not revealed any existing legislative power in Scotland to issue a statutory code of practice for a non-statutory power, in this case consensual stop and search. Furthermore, statutory codes of practice provide guidance on the exercise of powers within the defined legal parameters of already existing statutory functions. Therefore, it is currently unclear how a statutory code of practice might apply to consensual stop and search, bearing in mind the parameters of common law powers are of necessity imprecise. This means that defining the scope of circumstances where a code of practice would apply under common law (consensual stop and search) will require careful consideration. Account would need to be taken as to the appropriateness of a code of practice covering all statutory stop and search powers, given that some areas are reserved (e.g. Misuse of Drugs Act 1971) and some are covered by existing codes (e.g. Terrorism Act 2000).
- 8.3. Consideration would also need to be given to the Lord Advocate's views on whether or not a code of practice should be issued, and any subsequent direction in relation to the terms of a code, as well as the Chief Constable's responsibility for the direction and control of Police Scotland officers under any code. Adequate measurement and reporting of the compliance with a code of practice would also need to be explored.
- 8.4. An alternative approach which should also be considered would be for Police Scotland, in consultation with the SPA, HMICS, the SLWG and other key stakeholders, to develop and publish clear guidance on the police use of stop and search in Scotland. The production of any such guidance would not require any legislative basis and would not provide statutory force. It would, however, provide a transparent and accessible statement as to how Police Scotland would expect its officers to conduct stop and search and clear information to the public as to their rights.
- 8.5. The potential benefits of a code of practice are recognised here but due to the complexities associated with this area, further detailed consideration will be required and a recommendation to progress this is made later in this report.

**9 Consultation and Engagement**

9.1. Since February 2015 Police Scotland has embarked upon a process of consultation and engagement to gather early views on the use of stop and search in Scotland. Whilst the timescales associated with the production of this update report have limited the extent of this process, its production and the information contained within has, none the less, been informed by the invaluable feedback provided by key stakeholders. This process of consultation and engagement elicited 130 responses which were considered in the course of this report. A summary of that work is as follows:

9.2. A Stop and Search Short Life Working Group (SLWG), which has met on three occasions since 26<sup>th</sup> February 2015, has been established by Police Scotland, chaired by DCC Rose Fitzpatrick. The terms of reference, set following discussions at the first meeting, included the aim of identifying and considering issues relating to the future use of stop and search in Scotland. A question set, the content of which was influenced by feedback from the group, was utilised to consult and engage on options around the future development of stop and search in Scotland, including any potential changes to the existing legislative framework. Participants in the SLWG include:

- SPA;
- Scottish Government (Justice and Health officials);
- HMICS;
- Crown Office and Procurator Fiscal Service;
- Scottish Humans Rights Commission;
- Equality and Human Rights Commission;
- Children in Scotland;
- Scottish Community Safety Network;
- Scottish Institute for Policing Research;
- Victim Support Scotland;
- Scottish Children's Reporter Administration;
- Scotland's Commissioner for Children and Young People;
- Police Scotland National Independent Strategic Advisory Group;
- Scottish Police Federation; and
- Association of Scottish Police Superintendents.

The members of the SLWG provided 16 responses to the question set from either an individual perspective or on behalf of the organisation they represent. This complemented the invaluable input they have provided since the SLWG was established.

9.3. Specific engagement has taken place with the Scottish Human Rights Commission and COSLA to ensure that their views inform this work as these organisations have not yet been able to attend the SLWG meetings.

9.4. Recognising the value of the SLWG, it is intended that it should continue and consideration will be given to reassessing the membership to include broader representation at the next meeting of the group.

9.5. The question set and associated guidance was also shared to seek the views of key stakeholders across the country in relation to Police Scotland's use of stop and search. The stakeholders consulted in this way included those represented on the Short Life Working Group, the Children and Young Persons Reference Group, NISAG and the Police Scotland Diversity Staff Associations.

9.6. Police Scotland Divisional Commanders were asked to consult with key local stakeholders. 114 responses to the questions set were received from these stakeholders including local and national elected members, local council executives, local scrutiny panels and community planning groups. Responses were received

from 27 of the 32 local authorities and the feedback was considered centrally to ensure consistency of approach.

- 9.7. Views have also been sought on an ongoing basis in the course of partnership events such as the SPA/COSLA Partners in Scrutiny Event which took place on 20<sup>th</sup> March 2015 and was attended by representatives of the majority of local authorities.

**Engagement with Children and Young People**

- 9.8. It is important that the views of young people are captured in respect of stop and search in order that they may inform the work being undertaken. A summary of Police Scotland's engagement to date with children and young people is as follows:
- 9.9. The Police Scotland Children and Young Persons Reference Group (CYPRG), since its inception in May 2014, has been advising on the police use of stop and search, and a number of other subjects, including the provision of advice to the Fife pilot. The group is convened when it is assessed there would be value in having the input from young people and/ or representatives of young people to inform Police Scotland's decisions. Technology is often utilised in securing this advice which allows information to be considered across the country, ensuring the advice considered is representative.
- 9.10. The CYPRG's membership includes:
- Scottish Youth Parliament;
  - Children in Scotland;
  - Youthlink Scotland;
  - Young Scot (including the Youth Advisory Panel & Youth Volunteers Coordinator);
  - Education Scotland;
  - University of Edinburgh / Scottish Centre for Crime and Justice Research; and
  - Glasgow Caledonian University / SIPR.
- 9.11. Young Scot coordinates the activities of the Police Scotland Youth Advisory Panel. This group was formed in November 2014 and membership is drawn from young people aged between 12 and 25 years from across Scotland. The group provides Police Scotland with comment in relation to policy and practice as they relate to young people. In addition to considering the Stop and Search question set, the group is also assisting with the development of the first Police Scotland Youth Engagement Strategy, a key output from the CYPRG.
- 9.12. The Police Scotland Youth Volunteers considered a number of questions directly related to the effectiveness of stop and search and its use in relation to young people. This consultation took place in March 2015 and resulted in 51 young people, from various backgrounds and geographical areas, being asked a set of questions concerning the use of stop and search and its effectiveness in preventing, detecting and reducing the fear of crime and contributing to the safety of communities. Their views were also sought in relation to the values and principles which should underpin the use of stop and search and the potential impact in the event that changes are made to the current practice. Their feedback indicated a belief that the proportionate use of stop and search is important as is effective communication, especially in relation to the reasons for any search. Feedback also indicated that stop and search is of benefit in preventing and detecting crime and that the engagement with the police, if conducted positively, is reassuring. The Police Scotland Youth Volunteers will be assisting with probationer training around the police use of stop and search.
- 9.13. Consideration has also been given to research carried out in East Dunbartonshire in late 2014 into the views of 659 young adults on stop and search policy and practice. Over 74% agreed that consensual stop and search by police officers should be carried out, over 50% agreed it was a positive method of policing in their local community, but over half of those searched were unclear as to why they had been searched.

- 9.14. The Police Scotland Fife Pilot facilitated further engagement with young people in the community by interacting with them in schools, colleges and universities. This was undertaken via a planned programme of visits by community police officers with the support of the Education Service and relevant colleges and universities. The Education Service was also represented on a local working group created to support the Fife Pilot.
- 9.15. The programme was an opportunity to engage and assess the perceptions of young people in relation to police use of stop and search. This engagement enabled education regarding the use of this tactic, the rights of young people and the dangers of carrying illegal items. A total of 888 persons were engaged with in the course of this element of the Fife Pilot.
- 9.16. All 20 Fife secondary schools, as well as local colleges and St Andrews University were visited at least twice throughout the six month pilot. Police Scotland staff held one to one discussions and group workshops with teenagers who had, and had not, been stopped and searched. Elements of the feedback from children from the secondary schools were also fundamental in composing the wording of the parent/guardian advisory letters used in the pilot.
- 9.17. In the course of the Fife Pilot public awareness and understanding of stop and search has been raised. Advice slips have been provided to those engaged in a stop and search and letters have been sent to the parents / guardians of young people stopped and searched. During the period of the pilot 489 letters were sent out to parents / guardians. It was anticipated that this would elicit significant response but only three responses were received. Two of these were seeking additional information and in the third the parent offered thanks for the information provided which would allow her to take action in terms of her teenage son's use of alcohol. These letters continue to be sent out in Fife. Quality assurance was provided by lay advisory groups. Local community groups, schools, colleges and universities were also engaged and traditional and social media were employed to assist with communication.
- 9.18. The National Stop and Search Unit together with staff from the Fife Pilot facilitated an event in Glenrothes in November 2014. Around 80 representatives of local and national stakeholders attended and discussed issues associated with stop and search. Children and young people, some of whom had been subject to stop and search, were key representatives at the event with one young person providing an extremely informative speech on the experience.
- 9.19. Significant feedback was gathered in the course of the pilot which has been considered in the production of this report and is currently being independently evaluated by SIPR. Recognising that the results of independent evaluation are still to be shared some results from the survey completed in the course of the pilot are as follows:
- 79.49% of respondents indicated that, when they were stopped, the officer explained why he/she wanted to conduct the search
  - 92.31% of the respondents felt they were treated with respect
  - 65% of the respondents, when asked to rate their overall satisfaction, with the stop and search they experienced were either very satisfied, satisfied or neither satisfied or dissatisfied.

### **Key Themes Identified Through Consultation and Engagement**

- 9.20. The range of consultation and engagement undertaken to date in relation to Police Scotland's use of stop and search has produced diverse and varied comment. It is recognised that there would be benefit in further consultation and engagement to inform this ongoing work.
- 9.21. The views as to the use of consensual stop and search remain divided. The following highlights the main issues raised:
- In terms of **Transparency and Fairness**; issues about its use lacking legal safeguards such as the need for reasonable suspicion and concern that individuals may be unaware of their right to refuse and what the implications of refusal might be;
  - In terms of **Children and Young People**; issues about the extent of its use, especially in relation to children and young people and the potential for alienating young people; and
  - In terms of **Improved Evidence Base**; a desire to ensure that the use of stop and search can be clearly linked to outcomes and the value of further research and wider consultation.
- 9.22. This report has not tried to replicate all of the feedback provided due to the volume of material, but instead has grouped the feedback under the following key themes:

### **Consultation and Engagement Theme 1: Transparency and Fairness**

- 9.23. The feedback provided can be summarised as follows:
- 9.24. A number of respondents expressed the view that consensual stop and search has a role to play in Scotland and should not be removed without careful consideration.
- 9.25. Comments provided by some respondents indicated a belief that consensual stop and search should be ended completely, whilst other comments indicated a belief that consensual stop and search should be ended for people under a particular age such as 18 or 16 years.
- 9.26. Comments indicated views that the application of stop and search methods must reflect proportionality, necessity and justification to ensure police activity is targeted at the needs and demands of local communities, and not driven by a desire for volume i.e. large numbers of stop and search.
- 9.27. Comment indicated that when considering whether or not consensual stop and search is lawful in Scotland, both the Scotland Act 1998 and the European Convention on Human Rights must be considered, and in particular Article 8, the respect for private and family life.
- 9.28. Respondents stated that particular care must be taken to avoid disproportionality in respect of children, young people and ethnic minorities which carries the risk of alienating these groups and having an adverse effect on police and community relations.
- 9.29. Feedback also indicated that stop and search policy and practice should be open, transparent, clearly defined, intelligence-led and for a specific purpose. Police officers must demonstrate accountability and act within the law. In the application of consensual stop and search police officers must balance decisions to search with the rights of the individual.
- 9.30. Views were expressed that the public must be made more aware of their rights in relation to stop and search, their right to refuse a consensual stop and search without consequence and their right to be treated with respect and dignity.

- 9.31. A number of those consulted asserted that officers of Police Scotland should be trained to ensure they are fully equipped to apply stop and search activity proportionately and record it accurately, observing the rights, and meeting the expectations, of the individual.
- 9.32. In summary, therefore, it is clear from this feedback that there is a desire to ensure that any future use of consensual stop and search is proportionate, to ensure that the public are aware of their rights and that there is greater transparency.

**Current Developments on the Theme of Transparency and Fairness**

- 9.33. Police Scotland is progressing the SPA's recommendations to ensure better alignment of stop and search methods with more focussed outcomes, that the rationale for stop and search of young people is intelligence-led and that operational practice is reviewed in light of perceived pressure on individual officers to produce high volumes of searches. 14 Local Community Impact Assessments and an Equality Impact Assessment are being carried out by Police Scotland and human rights considerations will include local engagement with representative groups. This will help identify any disproportionality in respect of any particular group, will inform improvements to staff training and will be regularly monitored.
- 9.34. Police Scotland's review of stop and search has led to work on the development of clearer definitions of legislative and consensual stop and search. Improved definitions are also being produced to bring clarity as to what constitutes a positive stop and search as opposed to an intervention and seizure. These definitions will be supported by clear business rules which will inform future guidance and ensure that activity is recorded more accurately.
- 9.35. Police Scotland continues its work to ensure that policing methods are aligned to tackle local priorities. The Police Scotland Geographic Temporal Alignment Tool (GTAT) provides a retrospective check to assess how closely stop and search activity has been aligned to the problems an area has been experiencing, in terms of time of day, day of the week and location. The development of business intelligence tools such as GTAT or any future iteration, along with Multi Member Ward and Datazone Trackers, which are now available, will allow policing methods to be more focused on emerging trends of violence and disorder. In terms of proportionality, this will allow a reduction of the use of the tactic in areas which are showing downward trends in violence and/or disorder.
- 9.36. In 2014-15 Police Scotland has had a target to achieve a 20% positive detection rate for stop and search. This target will be removed from April 2015. This is intended to assist in the removal of any perception amongst frontline officers that there is a desire for them to achieve high volume stop and search results rather than a clearly defined outcome, for each specific stop and search, which keeps people safe.
- 9.37. Police Scotland is working to achieve the SPA's recommendation to ensure those to be searched on a consensual basis are aware of their rights. In the course of the Fife Pilot officers have been issued with an aide memoire to ensure that those engaged for consensual searches are informed of their right to refuse. The pilot has introduced a leaflet informing people as to the reasons they have been searched. Parents/guardians of young people who have been subject to stop and search, and have provided their details, have been sent a letter informing them of the reasons. The independent evaluation of the Fife Pilot will be completed in the near future and good practice developed in the course of the pilot continues in Fife. There are areas of obvious good practice which have already been identified in the course of the pilot which will be rolled out nationally prior to the completion of the independent evaluation.

- 9.38. Police Scotland will continue to emphasise to officers the presumption that where a legislative power of search exists this will be utilised in preference to consensual stop and search. In support of this Police Scotland National Stop and Search Unit is reviewing and amending the stop and search toolkit which will reinforce the message to frontline officers. Instructions in this regard have already been circulated to frontline officers which will be reinforced in the course of ongoing training and through amendments to recording practices and the stop and search database.
- 9.39. Work is being done to build on previous engagements with Young Scot to progress the 'Know Your Rights' campaign with the aim of raising public awareness in relation to consensual stop and search. This will be complemented with an internal communication plan which is delivering information and training to officers. Police Scotland will work with the SPA, national and local partners to promote enhanced understanding of people's rights and clearly explain police powers.
- 9.40. Police Scotland is working to address the SPA's recommendation to ensure the consistent application of stop and search, by reinforcing training for officers and ensuring officer understanding is tested and regularly assessed. A review is under way of training for probationary constables, special constables and transferees to help reinforce stop and search practices and reflect the improvements which are being made. Probationary constables now receive eight hours of training, including practical elements, in relation to stop and search. The Fife Pilot has developed and tested new ways of working which, once formally evaluated, will highlight good practice which will shape future officer training and inform the ongoing review of stop and search. Opportunities to incorporate regular stop and search refresher training and assessment as a component of the annual officer safety training are being explored. The Police Scotland National Stop and Search Unit will continue its work in partnership with the Police Scotland Children and Young Persons Reference Group to develop specific training in connection with the stop and search of young people.
- 9.41. There are opportunities to enhance Police Scotland's transparency and proactively publish stop and search data on a quarterly basis. Further work, including continued engagement with the Scottish Information Commissioner, will be required to agree a format and frequency of publication, but this could be provided, for example, in greater detail, as part of the Police Scotland Management Information which is already subject to quarterly publication. Police Scotland is about to publish detailed stop and search data covering the period 1<sup>st</sup> April 2013 to 22<sup>nd</sup> March 2015 and the remaining data up to the end of March 2015 will be published in May.

### **Transparency and Fairness Recommendations**

In addition to the work already under way Police Scotland also proposes the following for consideration:

**1) Police Scotland, in consultation with the SPA, to produce guidance for members of the public as to the police use of stop and search, their rights, including specifically the right to refuse a consensual search, and the consequences or, more importantly, the absence of consequences should they refuse. Police Scotland to work with the SPA, national and local partners to publicise that public guidance.**

**2) Police Scotland, in consultation with the SPA, to develop processes for monitoring and review of the Police Scotland National Stop and Search Database to ensure compliance with equality and human rights considerations and effective accountability.**

**3) Police Scotland to monitor the ongoing use of stop and search to assess any impact caused by the move to a presumption of the use of statutory searches in preference to consensual stop and search. This may involve engagement with police services in England and Wales to secure the benefits of their experience and learning from an environment which only uses statutory stop and search.**

**4) Scottish Government, Police Scotland and the SPA to work together to develop an appropriate, public facing statement, by the end of August 2015, to cover all stop and search practice in Scotland, which takes into account the implications it may have for the manner in which police officers in Scotland interact with the public. Particular consideration to be given to the complex legal and policy issues associated with the development of any code of practice with or without statutory force.**

**5) Police Scotland, in consultation with the Scottish Police Authority (SPA), to examine the SIPR evaluation of the Fife Pilot with a view to establishing and rolling out identified good practice across Police Scotland in relation to the theme of Transparency and Fairness.**

**6) Police Scotland, in consultation with the SPA to proactively publish stop and search data on a quarterly basis.**

**Consultation and Engagement Theme 2: Children and Young People**

- 9.42. The feedback provided can be summarised as follows:
- 9.43. The use of stop and search involving children and young people is perceived by some of those who responded as disproportionate and, it was felt, can suggest a preconceived suspicion of criminality, creating a risk of adversarial interaction between the police and young people and negative future engagement with criminal justice processes and agencies.
- 9.44. The feedback provided also indicates that police stop and search activity, when justified and properly directed, can have a positive impact on the community. Feedback also indicated the view that a lack of focus risks alienating young people and that treatment centred around dignity and respect is important.
- 9.45. The views of some respondents indicated that there is a need for the police to be able to carry out appropriate intervention with children and young people in the interests of their health and wellbeing, taking account of local conditions and needs.
- 9.46. Some responses asserted that the removal of consensual and the introduction of solely legislative stop and search practices could be more oppressive to young people and there must be careful consideration to identify the associated risks of making such a change.
- 9.47. A number of those consulted responded that careful consideration must be given to the ability of children, young people of different ages and vulnerable adults to understand consensual and statutory stop and search and provide informed consent in respect of the former.
- 9.48. In summary, it is clear from this feedback that there is a desire to ensure that the use of stop and search in relation to children and young people is proportionate, respectful, not perceived as adversarial and that children and young people are capable of giving truly informed consent. That this continues to be a highly complex issue is evidenced by the fact that some consultation responses proposed retaining consensual stop and search, whilst some proposed ending it for young people under a particular age, such as 18 or 16, whilst others proposed that it should be ended for everyone.

**Current Developments on the Theme of Children and Young People**

- 9.49. Police Scotland has changed its policy to ensure clear guidance is provided to officers that consensual stop and search is no longer to be employed in respect of children under 12 years of age. Weekly checks are now being conducted by the National Stop and Search Unit and shared with the SPA and Scottish Government in all instances where a stop and search of a child under the age of 12 is recorded. Where officers have acted out with policy appropriate follow up action is taken.
- 9.50. Police Scotland is currently working to address the SPA's recommendation to ensure the consistent application of stop and search by reinforcing training and knowledge checks for officers. This has a particular focus on children and young people and what constitutes consent. This training will aim to ensure that the rationale for searches of young people is appropriate, justified and in line with Police Scotland's core values of integrity, fairness and respect. This is, and will continue to be, supported and reinforced by ongoing internal communications for all police officers.

- 9.51. The Fife Pilot has tested new working practices. For example, engaging with schools to educate young people on policing methods and their rights and following up stop and search contact with letters to parents / guardians to explain the procedure. Once the findings of the independent evaluation of the Fife Pilot are available (May 2015), Police Scotland's stop and search guidance will be updated to ensure the adoption of identified good practice across the country. This will shape future training which and will include the involvement of young people (Police Scotland Youth Volunteers) in practical training.
- 9.52. The Police Scotland National Stop and Search database is being amended to record interventions and seizures separately, which do not constitute a stop and search but which may previously have been recorded as such. This will more effectively equip officers to make appropriate referrals and explore options of enhancing information sharing with other agencies such as Health, Social Work and Education. This will be of value in progressing Police Scotland's public commitment to GIRFEC. Early and Effective Intervention and more efficient information sharing through a Whole Systems Approach is key to ensuring that any child or young person receives the support they need without delay.
- 9.53. An Equality Impact Assessment, including local engagement, is being conducted which will take account of human rights considerations, will inform future action to ensure equality is at the forefront of Police Scotland's activity. This will inform staff training and be regularly monitored.
- 9.54. The Police Scotland National Stop and Search Unit is working in partnership with the Police Scotland Children and Young Persons Reference Group to ensure young people have an active role in shaping stop and search policy, practice and training.

#### **Children and Young People Recommendations**

In addition to the work already under way Police Scotland also proposes the following for consideration:

**7) Police Scotland, in consultation with the SPA, to explore ways in which Scotland's children and young people may be better engaged and consulted to ensure their views are captured in the ongoing development of stop and search policy and practice (and wider policing methods), ensuring that they continue to be treated with respect and that they are aware of their rights.**

**8) Police Scotland, in consultation with the SPA, to examine the SIPR evaluation of the Fife Pilot with a view to establishing and rolling out identified good practice across Police Scotland in relation to the theme of Children and Young People.**

**Consultation and Engagement Theme 3: Improved Evidence Base**

- 9.55. The feedback provided can be summarised as follows:
- 9.56. Some respondents asserted that stop and search can deliver positive outcomes, primarily in terms of preventing, detecting and reducing the fear of crime. Feedback indicated views that, to a lesser extent, its use allows for early and effective intervention for safeguarding the health and wellbeing of children, young and vulnerable people. Other methods, however, may be capable of achieving similar positive outcomes.
- 9.57. Some feedback indicated views that there is an absence of clear evidence to specifically link stop and search to crime levels and health and wellbeing outcomes and recognition that there is a need to consider how to demonstrate the correlation between stop and search and crime levels. Feedback also indicated that there is a need to demonstrate the value of the tactic as an effective intervention for the health and wellbeing of individuals in comparison with alternative safeguarding activity.
- 9.58. Some respondents felt that more detailed research and wider consultation is required on the subject of stop and search to inform and shape decision making on the future role of stop and search in Scotland.
- 9.59. A number of those consulted felt that police stop and search data must be accurate and that it must be clear that data is being used appropriately to address local priorities. Improvement to data capture is required to inform the future use of stop and search and discussions on whether sufficient legislative powers already exist and where risks might emerge if the use of consensual stop and search is ended completely.
- 9.60. In summary, therefore, it is clear from this feedback that there is a desire to ensure that the use of stop and search can be linked to outcomes and impact upon crime levels. Feedback also indicates that more research and wider consultation would be of benefit and that data should be used to assist in tackling local priorities.

**Current Developments on the Theme of Improved Evidence Base**

- 9.61. Police Scotland is working to address the SPA's recommendation to establish clearer understanding of where stop and search is used as a preventative tactic and where it used as a means of detection. Work is being progressed to define appropriate measures of outcomes and the rationale for detection targets set, including plans for the current 20% positive detection rate target to end on 31 March 2015. The SPA recommendation (for the SPA) to commission research in conjunction with others to establish the short and long term impact of stop and search on different communities, with a particular focus on young people, will provide valuable context.

- 9.62. Alcohol and other harmful substances are often contributory factors in crime and disorder. Early intervention to remove such substances, appropriate to the circumstances, can reduce the potential impact on the safety and wellbeing of individuals and communities. The improvements to the Police Scotland National Stop and Search Database will result in an improvement to recording practices and will rollout in summer 2015. This will record data more accurately, be easier to use and will contain prompts and safeguards designed to avoid data input errors. The improved data will add value to the existing evidence base, providing additional opportunities to improve stop and search activity. In addition to recording stop and search, the enhanced database will also record interventions and seizures and refusals. These changes will allow a more informed debate on the future of consensual stop and search in Scotland based on more detailed and accurate recording.
- 9.63. The ongoing development and roll out of analytical products and business intelligence tools will ensure that stop and search activity is in line with crime, disorder and local priorities and increasingly outcome focussed. The academic evaluation of the Fife Pilot will inform the manner in which Police Scotland progresses the development of a reliable evidence base to inform future stop and search policy and practice.
- 9.64. Police Scotland is also working with the Scottish Institute for Policing Research to determine how best to expand the available academic evidence base and a workshop organised by SIPR is due to take place in spring 2015.

**Improved Evidence Base Recommendations**

In addition to the work already under way Police Scotland also proposes the following for consideration:

**9) Scottish Government, in consultation with Police Scotland and the SPA, to explore further opportunities to consult and engage with key stakeholders to expand and widen understanding of views and perspectives on the use of stop and search in Scotland.**

**10) The SPA, in consultation with Police Scotland, to commission academic research to improve the understanding of the use of stop and search, the scope of its impact, both positive and negative, with a view to incorporating the learning to inform future policy and practice.**

**11) Police Scotland, in consultation with the SPA, to explore methods to identify and assess links between the use of stop and search and positive outcomes.**

**12) Police Scotland, in consultation with the SPA, to examine the SIPR evaluation of the Fife Pilot with a view to establishing and rolling out identified good practice across Police Scotland in relation to the theme of Improved Evidence Base.**

**10 Governance, Scrutiny and Accountability**

- 10.1. Governance, scrutiny and accountability are critical to ensuring that the desired improvements to stop and search practice in Scotland are realised and that the journey of improvement continues. There is a clear need to ensure that any commitments made by Police Scotland through this update report, future consultation, engagement and further developments are driven, managed and successfully delivered.
- 10.2. The Police Scotland Stop and Search Tactical Delivery Group provides organisational governance of the ongoing work in relation to stop and search. This group has broad representation including police staff associations, the SPA, HMICS and Scottish Government and is responsible for ensuring that improvements to police policy and practice in relation to stop and search are realised.
- 10.3. Currently the Police Scotland National Stop and Search Unit scrutinises all stop and search activity in relation to those aged under 12. Findings are detailed in a weekly report to the Police Scotland Executive, the SPA and Scottish Government to promote transparency.
- 10.4. Police Scotland also recognises the need for continuing external scrutiny of progress being made, and the delivery of improvements, through the role of the SPA in holding the Chief Constable to account for the policing of Scotland.
- 10.5. Accountability to the SPA is achieved in a number of ways including the attendance of the Chief Constable and other members of the force executive at regular and special board meetings. There is also regular scrutiny through the SPA Audit and Risk Committee and scrutiny of Police Scotland's performance through established reporting processes. The SPA Scrutiny Review – Police Scotland's Stop and Search Policy and Practice (May 2014) provided a number of recommendations which Police Scotland is addressing, ensuring regular updates are provided to the SPA as to progress.
- 10.6. Work is under way to ensure that the national reporting arrangements are balanced by reporting at a local level. To this end, reporting on the police use of stop and search will form a key element of local divisional commanders' reporting to the 32 local authority scrutiny boards. This will ensure that the police use of stop and search is scrutinised by those who understand the local context in detail. Templates will be provided to divisional commanders to ensure that local reporting is consistent across Scotland, provides appropriate context and reflects local needs.
- 10.7. Additional safeguards will be provided through the Police Scotland Equality Impact Assessment and the consideration of human rights which will inform operational policy and practice. Local divisional commanders will maintain Community Impact Assessments to ensure continued monitoring is also conducted at a local level throughout Scotland. This will promote the development of effective monitoring processes which will help ensure a consistent focus on outcomes and allow Police Scotland to be held accountable for stop and search activity.

**Governance, Scrutiny and Accountability Recommendations**

In order to ensure that robust oversight and scrutiny is maintained in this important area of work Police Scotland proposes that:

**13) The Police Scotland Stop and Search Tactical Delivery Group to ensure continuing organisational governance in relation to the ongoing improvement activity.**

**14) The SPA considers inviting HMICS to conduct a scrutiny exercise at an appropriate time in the future to assess progress against the range of work and recommendations contained within this report.**

**15) The Police Scotland National Stop and Search Unit to develop improved audit processes with regular reporting to the SPA and Scottish Government to continue.**

**16) Police Scotland, in consultation with the SPA, to report at an appropriate time during 2015, on work undertaken in respect of violence prevention and the related reporting of police use of stop and search to the SPA and Scottish Government.**

**17) Police Scotland, in consultation with the SPA, to develop mechanisms for reporting of the police use of stop and search to the 32 local authority scrutiny boards.**

**18) Police Scotland, in consultation with the SPA, to provide Scottish Government with an update report as to the improvements secured and an up to date assessment of the police use of stop and search, realised as a result of the developments and recommendations outlined in this report, by 31<sup>st</sup> December 2015.**

**11 Options for the Future**

11.1 Feedback gathered as a result of the recent consultation and engagement has identified a number of options for consideration as to the future of the police use of stop and search in Scotland, which are outlined below:

- Retain the use of consensual stop and search,
  - Incorporating the improvements currently being undertaken by Police Scotland, as detailed in this report;
- End consensual stop and search completely,
  - With no associated legislative change, accepting any gaps which may emerge;
  - Introducing legislation in the future to mitigate gaps which may emerge; or
  - Only once legislation has been introduced to mitigate any gaps which may emerge;
- End consensual stop and search for a defined age group,
  - With no associated legislative change, accepting any gaps which may emerge;
  - Introducing legislation in the future to mitigate gaps which may emerge; or
  - Only once legislation has been introduced to mitigate any gaps which may emerge;
- Introduce a statutory Code of Practice and / or published guidance, in support of whichever of the options set out above is decided upon.

In the process of consultation and engagement a clear theme emerged that the decision in respect of the above options should only be taken once the improvement work outlined in this report has been given time to take effect and the relevant data is available. This will allow time for additional academic research to be published and any wider consultation and engagement considered necessary to be undertaken to inform that decision further.

## **12 Conclusion**

- 12.1. The use of stop and search in Scotland as a policing tactic to prevent and detect crime and anti-social behaviour has raised concerns, particularly in relation to the use of consensual stop and search. Police Scotland recognises and acknowledges this.
- 12.2. Our process of consultation and engagement has revealed that these concerns focus around three key themes:
- **Transparency and Fairness;**
  - **Children and Young People; and**
  - **Improved Evidence Base.**
- 12.3. The views of the Stop and Search Short Life Working Group and the initial consultation have been very useful and informative, albeit limited due to the timeframe available. Feedback from consultees suggests that a longer time period and further consultation would be welcomed and that the SLWG should continue its work.
- 12.4. This report has detailed the significant developments already under way to secure improvement of Police Scotland's use of stop and search. This work includes:
- The change of policy to ensure clear guidance that consensual stop and search is no longer to be employed in respect of children under 12;
  - The move to a presumption of using legislative powers in preference to consensual stop and search, where such powers exist;
  - The provision of clear definitions in relation to the police use of stop and search, including definitions of interventions and seizures;
  - The recording of interventions and seizures separately from stop and search figures;
  - The provision of enhanced training and education of police officers as to the use of stop and search and the engagement of young people in these processes;
  - The provision of enhanced information to the public to promote a greater understanding of their rights, and in particular, their right to refuse a consensual stop and search without consequence;
  - An improved database leading to more accurate data and enhanced reporting;
  - Greater accountability, governance, scrutiny and transparency of stop and search policy and practice; and
  - The adoption of good practice identified in the Fife Pilot across Scotland.
- 12.5. It is anticipated that these developments, combined with the proposed further academic research, consultation and engagement and the other recommendations contained within this report will substantially improve the police use of stop and search in Scotland. It is expected that these developments will also result in a significant decrease in the overall volume of consensual stop and search in Scotland.
- 12.6. There are risks associated with any complete cessation of consensual stop and search in Scotland at this time. It may result in gaps and risks emerging, as outlined earlier in this report, which are not yet covered by available legislation and could result in local communities being exposed to risk if Police Scotland's ability to keep people safe is reduced. These risks and gaps are not yet adequately understood and further work is required to develop this understanding.

- 12.7. In addition, a statutory code of practice may provide improved governance of stop and search in Scotland, but this is a complex issue and it is not yet clear how such a code of practice may operate, which areas it could cover and how it would be implemented and overseen. Importantly, the implications it may have for the manner in which police officers in Scotland interact with the public are not yet adequately understood. Further work is required to understand fully how such a code of practice may operate and the associated implications so that, should it be implemented, its full benefit may be realised.
- 12.8. When considering a purely legislative approach to stop and search in Scotland the degree to which this may over-formalise police interactions with members of the public and the effect that this may have on the overall relationship between police and the public must also form part of future considerations.
- 12.9. Police Scotland is committed to taking forward work, with Scottish Government and the SPA, to develop an appropriate public facing statement on stop and search practice in Scotland, which will also consider both the option of a statutory code of practice and published guidance on the use of stop and search with the aim of concluding that work in Autumn 2015.
- 12.10. It is clear that any significant changes to the use of consensual stop and search in Scotland will have wide ranging impact and will be of significant interest to a variety of stakeholders. Options for the future of stop and search in Scotland, such as those outlined in section 11 of this report, would therefore merit appropriate consultation.
- 12.11. This update report details the significant amount of improvement work being carried out in relation to the police use of stop and search in Scotland. The policy changes made and the clear definitions which have been developed are likely to result in a significant reduction in the police use of consensual stop and search. It is anticipated that the work currently being undertaken will result in the improved use of the consensual stop and search activity which remains. The work being done to improve the Police Scotland National Stop and Search Database will result in a more accurate baseline and, therefore, an improved understanding of the activity being undertaken by officers.
- 12.12. Recommendations to improve the police use of stop and search in Scotland have been made in this report, in the SPA Scrutiny Review and in the HMICS: Audit and Assurance Review of Stop and Search: Phase 1. It is already recognised that there will be benefit in creating a single improvement plan to coordinate the actions taken to address all these recommendations. This will be explored and consideration will also be given as to the most appropriate governance mechanism for this improvement plan.
- 12.13. It will only be once these changes have been given time to take effect and the additional knowledge has been obtained from improved data accuracy, research, consultation and engagement, that an informed decision about the long term future of stop and search in Scotland can be made in respect of the options laid out in section 11 of this report.

**13 Annex: Summary of Recommendations**

1) Police Scotland, in consultation with the SPA, to produce guidance for members of the public as to the police use of stop and search, their rights, including specifically the right to refuse a consensual search, and the consequences or, more importantly, the absence of consequences should they refuse. Police Scotland to work with the SPA, national and local partners to publicise that public guidance.

2) Police Scotland, in consultation with the SPA, to develop processes for monitoring and review of the Police Scotland National Stop and Search Database to ensure compliance with equality and human rights considerations and effective accountability.

3) Police Scotland to monitor the ongoing use of stop and search to assess any impact caused by the move to a presumption of the use of statutory searches in preference to consensual stop and search. This may involve engagement with police services in England and Wales to secure the benefits of their experience and learning from an environment which only uses statutory stop and search.

4) Scottish Government, Police Scotland and the SPA to work together to develop an appropriate, public facing statement, by the end of August 2015, to cover all stop and search practice in Scotland, which takes into account the implications it may have for the manner in which police officers in Scotland interact with the public. Particular consideration to be given to the complex legal and policy issues associated with the development of any code of practice with or without statutory force.

5) Police Scotland, in consultation with the Scottish Police Authority (SPA), to examine the SIPR evaluation of the Fife Pilot with a view to establishing and rolling out identified good practice across Police Scotland in relation to the theme of Transparency and Fairness.

6) Police Scotland, in consultation with the SPA to proactively publish stop and search data on a quarterly basis.

7) Police Scotland, in consultation with the SPA, to explore ways in which Scotland's children and young people may be better engaged and consulted to ensure their views are captured in the ongoing development of stop and search policy and practice (and wider policing methods), ensuring that they continue to be treated with respect and that they are aware of their rights.

8) Police Scotland, in consultation with the SPA, to examine the SIPR evaluation of the Fife Pilot with a view to establishing and rolling out identified good practice across Police Scotland in relation to the theme of Children and Young People.

9) Scottish Government, in consultation with Police Scotland and the SPA, to explore further opportunities to consult and engage with key stakeholders to expand and widen understanding of views and perspectives on the use of stop and search in Scotland.

10) The SPA, in consultation with Police Scotland, to commission academic research to improve the understanding of the use of stop and search, the scope of its impact, both positive and negative, with a view to incorporating the learning to inform future policy and practice.

11) Police Scotland, in consultation with the SPA, to explore methods to identify and assess links between the use of stop and search and positive outcomes.

12) Police Scotland, in consultation with the SPA, to examine the SIPR evaluation of the Fife Pilot with a view to establishing and rolling out identified good practice across Police Scotland in relation to the theme of Improved Evidence Base.

13) The Police Scotland Stop and Search Tactical Delivery Group to ensure continuing organisational governance in relation to the ongoing improvement activity.

14) The SPA considers inviting HMICS to conduct a scrutiny exercise at an appropriate time in the future to assess progress against the range of work and recommendations contained within this report.

15) The Police Scotland National Stop and Search Unit to develop improved audit processes with regular reporting to the SPA and Scottish Government to continue.

16) Police Scotland, in consultation with the SPA, to report at an appropriate time during 2015, on work undertaken in respect of violence prevention and the related reporting of police use of stop and search to the SPA and Scottish Government.

17) Police Scotland, in consultation with the SPA, to develop mechanisms for reporting of the police use of stop and search to the 32 local authority scrutiny boards.

18) Police Scotland, in consultation with the SPA, to provide Scottish Government with an update report as to the improvements secured and an up to date assessment of the police use of stop and search, realised as a result of the developments and recommendations outlined in this report, by 31<sup>st</sup> December 2015.