

Police Stop and Search in Scotland – A brief review of evidence

This paper aims to provide a brief overview of evidence available in Scotland in respect of the use of police stop and search, to identify key gaps in the evidence base and to suggest how these might be filled through further research and analysis. It is by no means exhaustive and one clear conclusion from this review is that further work needs to be done to establish the effectiveness of police stop and search in Scotland and to understand how any changes to the use of this practice might impact on individuals and communities. A very brief review of evidence from other jurisdictions on the challenges of stop and search is also provided as context, especially in the absence of such research in Scotland. The paper concludes with some potential positive steps forward.

Summary

- There has been surprisingly little research on stop and search in Scotland, so there are many gaps in the evidence base about its use and effectiveness.
- There is no evidence of racial discrimination in the use of stop and search (as there is in England and Wales), but there is evidence of disproportionate targeting of the tactic on young men from deprived communities.
- Recent attention on stop and search has been driven primarily by evidence of a dramatic increase in its use during the last decade, making it four times more prevalent than in England and Wales.
- Around three quarters of stop searches in Scotland are based on ‘consensual’ grounds, i.e. they are conducted without legal authority or reasonable suspicion.
- There is concern that the unregulated use of stop and search has the potential to erode police-public relations, especially within deprived communities, and there is some evidence to show that repeated targeting of individuals increases their involvement in criminality and their sense of social exclusion.
- Levels of crime and rates of conviction amongst young men in Scotland have fallen significantly in recent decades; however, it is not known how much impact stop and search had on these trends (similar declines have occurred in England and Wales where stop search rates have declined over the same period).
- There is no evidence to show that an increase in the use of stop and search had a clear downward impact on trends in crime generally, or violence specifically, within Scottish local authorities.
- There is no evidence about the impact of stop and search on people’s perception of crime rates or their fear of crime – despite a widespread drop in crime nationally, most people still think crime rates in their local area have stayed the same.
- Satisfaction with and levels of trust in the police in Scotland are generally high; however, those who have been stopped and searched tend to be more dissatisfied than those who are merely stopped and questioned.
- The extent to which stop and search fits into the current model of youth justice (which is focused on diversion) is uncertain and there are some concerns that stop and search activity may be continuing to draw people unnecessarily into the system.
- Evidence from other jurisdictions shows that police legitimacy and trust amongst the public relies on both ‘procedural’ and ‘distributive’ fairness, which means it is not

just individual encounters that matter but how the police operationally target stops and searches nationally.

- The net effect of police contact on public confidence tends to be negative, and excessive use of stop and search can have an extreme negative effect on perceptions and attitudes to the police.
- International studies suggest there is a positive short term effect of increased stop and search to tackle a specific problem, but no evidence of a long term beneficial effect in prolonging high levels, or indeed continuing to increase indefinitely, rates of stop and search.
- Police officer training to improve communication skills has been identified as a key area for improving stop and search encounters and building trust between children and the police.
- Justifying the use of consensual stop and search (especially for young people) and ensuring individuals are clear about the reasons for being stopped are key issues that have brought stop and search under the spotlight of human rights legislation.
- The use of non-statutory stop and search raises a number of legal, procedural and ethical issues which need careful consideration by a wide range of stakeholders who must be reliant on a strong and robust evidence base and availability of reliable data.

Scottish evidence on stop and search

There has been surprisingly little empirical research in Scotland on the use of police stop and search, especially given the recent high profile debate on the topic. A small-scale, short-term study by Reid Howie Associates (2002) was commissioned by the then Scottish Executive to coincide with the Stephen Lawrence Inquiry in Scotland. It identified stop and search as a key tactic which had increased during the Operation Blade and Spotlight campaigns of the 1990s, but found there to be no racial discrimination in the use of stop and search in Scotland. Nevertheless, there was some evidence of adverse effects on young people in particular areas who experienced it on an everyday basis and felt harassed by the police. While finding that the tactic was commonly justified on the grounds of both detection and deterrence, this study did not determine how effective the tactic was in reducing or preventing crime.

A more recent study by Kath Murray (2014) found that police stop search rates grew exponentially from 2005 to 2010, particularly in certain police force areas (such as Strathclyde and Lothian and Borders), so much so that rates were estimated to be 4 times higher than those in England and Wales by 2010. Published figures suggest this gap between countries in stop and search continued into the next decade, with the rate being estimated at 7 times higher in Scotland by 2012/13. A key reason for the massive gap between stop rates North and South of the border was the use of 'non-statutory' stop and search in Scotland, i.e. stops carried out without legal authority or reasonable suspicion, which constitutes approximately 75% of all stops in Scotland. These are not allowed in England and Wales.

Murray noted broadly that the justification for the use of this tactic in Scotland differed according to those forces that used it reactively for detecting crime (tending to have lower rates) and those that used it proactively for deterrence purposes (where rates were highest). Generally speaking, detection rates were highest in those areas which had lower

rates of stop and search (especially of non-statutory search) overall; and there was little evidence of a significantly increased detection rate with an increase in stop searches (as such practices were not proportionate to the risk of offending). Murray did not look at the impact that increasing stop searches had on the crime rates at that time. However, she did find that the practice was highly targeted at young men from more deprived communities, although not – as Reid Howie also found – at minority ethnic groups. Murray warned that the unregulated use of stop and search had the potential to erode police-public relations, thereby reducing public confidence in the police and damaging the ability of the police to work in partnership with the community to tackle crime. Driven by such a concern, a review by the Scottish Police Authority reinforced Murray's research findings around the disproportionate and excessive targeting of certain groups of young people (SPA 2014).

Evidence from other recent research (Matthews 2014) has shown that the rate of conviction amongst young men in Scotland reduced significantly during the period that stop and search was increasing, which does not suggest a specific or increasing problem amongst this demographic group, although it could also be argued that this was due to a deterrent effect caused. Further research on the reasons behind the fall in youth convictions would be needed to establish whether this was the case. It is worth noting, however, similar large falls in the number of young people coming into youth justice system and receiving convictions have been observed in England and Wales, where stop and search rates have been falling and the use of non-statutory searches are prohibited by law (Youth Justice Board/Ministry of Justice 2014).

The impact of policing practices on young people was reviewed by McAra and McVie (2005, 2007) in the Edinburgh Study of Youth Transitions and Crime. This longitudinal study found that certain young people repeatedly came to the attention of the police in terms of stop searches, police warnings and charges, and tended to be treated as 'usual suspects'. Such practices were more common amongst boys from low socio-economic status, deprived local communities and single parent backgrounds. Moreover, previous police contact was a key factor in predicting future police contact, even when other factors such as their offending behaviour was taken into account. However, quasi-experimental analysis using matched groups showed that police informal warnings that did not result in referral to the children's hearing system (so called diversionary practices) resulted in a reduction in subsequent offending compared to similarly behaved children who were not warned in this way; whereas children who were dealt with formally and propelled furthest into the youth justice system were more likely to maintain their involvement in serious offending. They conclude that there is a serious risk of criminalisation amongst those young people (generally the most vulnerable and deprived in our communities) who are repeatedly recycled around youth justice services with little or no support or effective intervention.

There is evidence of a significant fall in the overall number of crimes and offences recorded in Scotland in recent decades. The extent and time-scale of the drop depends on what particular crime or offence category is observed; however, there have been sustained falls in crimes of dishonesty from 1991/2 and in non-sexual crimes of violence from 2002/3 (Humphreys, Francis and McVie, 2014). While a primary aim of stop and search practices in the 1990s was to reduce crimes of violence (especially knife related crime), no research was carried out at the time to determine the impact of this policy. Measuring the specific impact of stop and search practices on rates of violence, as distinct from other interventions

(including the wider work of the Violence Reduction Unit and many other educational, health-based and prevention-focused initiatives) and demographic change occurring in Scotland (including a gradual reduction in the population of young people), would be a complex piece of work and necessitate data that is not readily accessible. In addition, stop search in recent years has been more focused on alcohol and drugs in some areas than weapons, although both might also impact on rates of violence.

A high level review of the relationship between stop search and police recorded crime and offences over the period from 2005 to 2010 for the 17 local authorities that make up the legacy Strathclyde and Lothian and Borders police force areas (for which there is the most consistent data) reveals that it varies widely across geographical areas. For example, Figure 1 shows that the City of Edinburgh saw a modest rise in the number of stop searches which coincided with a fall in recorded crimes and offences; whereas the city of Glasgow saw a very pronounced rise in stop searches with little if any apparent impact on recorded crimes and offences overall. Of course, it is very difficult to distinguish the extent to which increased stop and search actually led to a sustained level of recorded crimes and offences due to increased detection. However, if this is the case, the tactic does not appear to have the same effect in all local authorities.

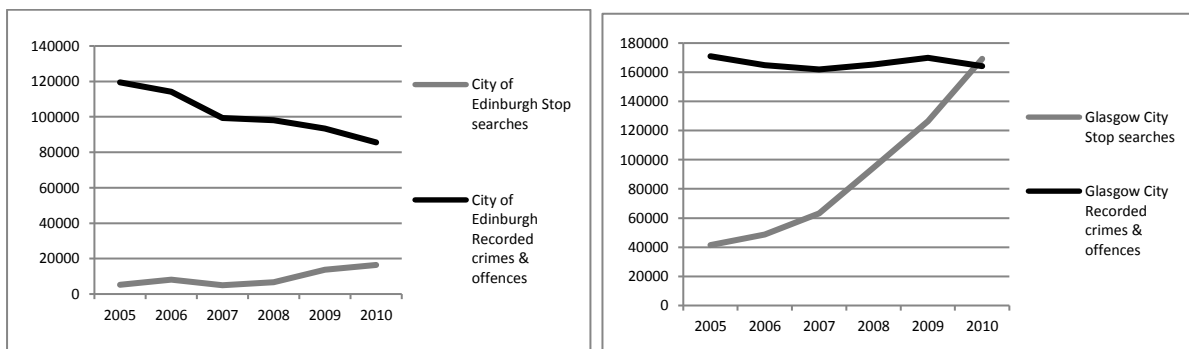


Figure 1: Change in the rate of stop searches and recorded crimes and offences in the Cities of Edinburgh and Glasgow

The left chart in Figure 2, below, shows that the percentage change in the number of stop searches over the period from 2005 to 2010 across the 17 local authorities varied hugely, from very small increases in areas such as Renfrewshire and the Scottish Borders to very large increases (well over 1000%) in West Lothian, East Dunbartonshire and Midlothian. Of course the percentage increase is partly determined by the raw number of stop searches taking place in 2005, which was very low in many local authorities; however, the sheer extent of both the change and difference in practice over this sample of local authority areas is clear.

The chart on the right shows the percentage change in the number of recorded crimes and offences over the same period (which fell by 16% overall across Scotland). If there was a straightforward linear relationship between stop and search and recorded crime, you would expect to see a large fall in crime at the top of the chart which would get smaller as you move towards the bottom. However, it is very apparent that the relationship between stop searches and crime rates is not consistent or linear. West Lothian did show a very dramatic increase in stop searches and a large proportionate reduction in recorded crimes and offences; however, the Scottish Borders saw an even greater percentage fall in recorded

crimes and offences despite a negligible increase in stop searches. Moreover, in some local authority areas (such as East Lothian and Renfrewshire) the rise in stop searches was associated with an increase in recorded crimes and offences. Clearly there is much research still to be done to disentangle this complex relationship.

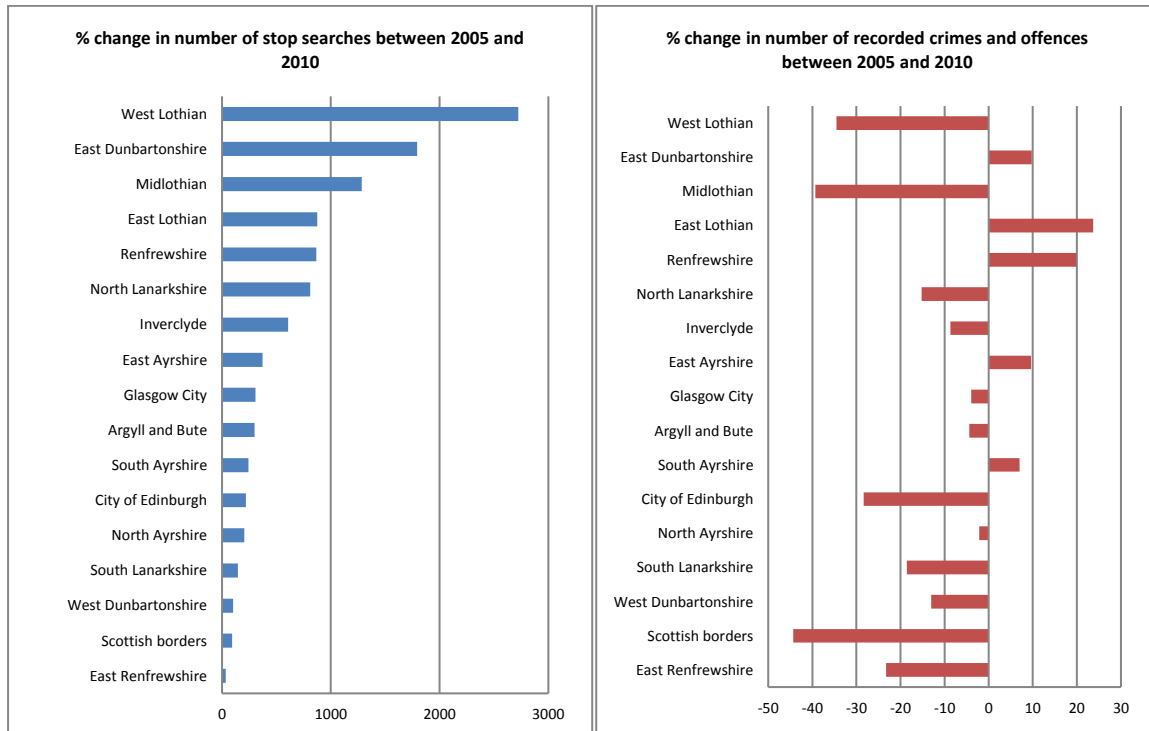


Figure 2: % change in the number of stop searches (left) and the number of recorded crimes and offences (right) between 2005-2010, by Local Authority

One of the primary justifications for stop and search has been that it has contributed to the very large reduction in violent crime in Scotland, which has fallen by 54% in the last decade alone. Therefore, it is prudent to examine whether there is a correlation between the change in the number of stop searches between 2005 and 2010, and a % change in the number of recorded crimes of non-sexual violence. Figure 3 indicates that, like overall crimes and offences, the relationship is a weak one. Most local authorities have seen a decline in violent crime; however, those that have seen the largest relative decline are not necessarily those that have had a large increase in stop and search. Indeed Argyll and Bute and West Dunbartonshire which saw very little increase in stops and searches had the largest relative drops in violent crime; while East Lothian which had a moderate increase in stop and search saw the greatest increase in recorded crimes of violence over this period. These findings do not prove that stop and search has had no impact on crimes of violence, but the causal effect is not direct or linear and much more analysis would have to be done in terms of identifying other crime prevention and community safety activities that may have had a more significant and direct impact on levels of violence in Scottish communities.

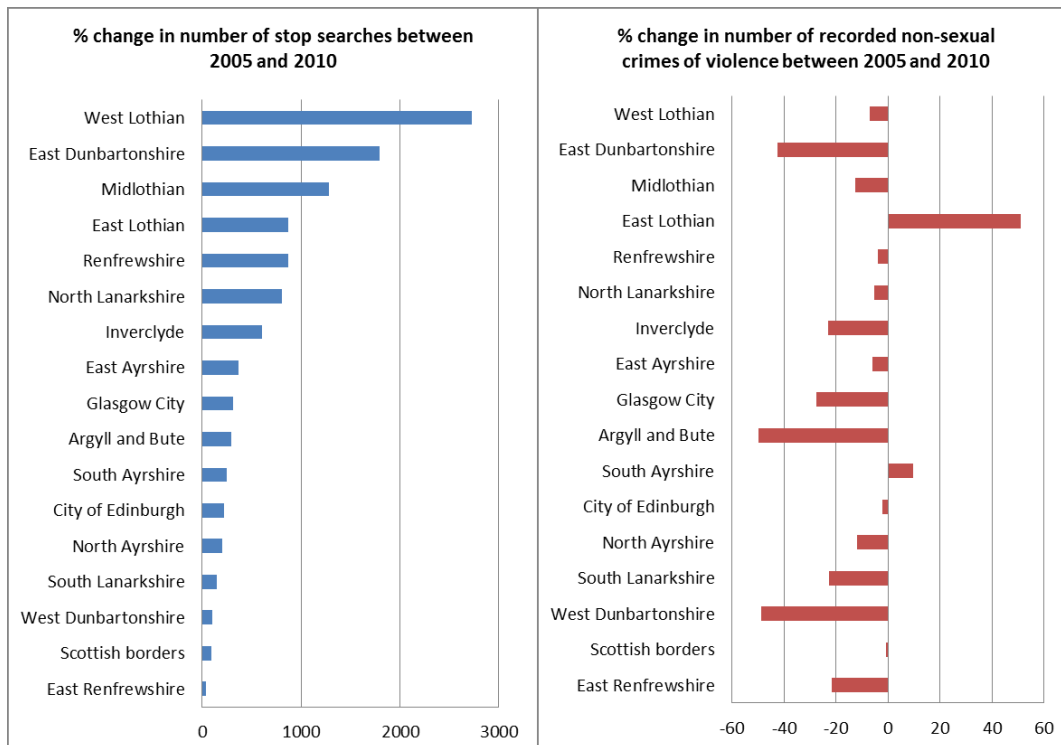


Figure 3: % change in the number of stop searches (left) and the number of recorded non-sexual crimes of violence (right) between 2005-2010, by Local Authority

There have been no widespread surveys of the public's attitude to stop and search in Scotland and there is no evidence at all about the impact that stop and search has on the public's fear of crime in general. Public perceptions of crime, and the factors that drive these, are notoriously difficult to determine and are not driven in any simple way by changes in crime rates themselves. For example, despite large falls in crime nationally in recent years as evidenced by both recorded crime and the Scottish Crime and Justice Survey (SCJS), 65% of the Scottish public estimated that crime rates in their local area had stayed the same and 20% thought that crime had gone up in their local area (Scottish Government 2014). The same survey indicates that the majority of adults in Scotland feel either very (38%) or fairly (34%) safe walking alone in their local area after dark and they do not display high levels of concern about becoming victims of crime. Where concerns are expressed, these tend to be highest for crimes such as identify theft, credit card/banking fraud, car crime and housebreaking, and less so about street based crimes. Therefore, the extent to which increased stop and search would reduce concerns about crime is debatable.

A major gap in the research base is the experiences and perceptions of those people who are stopped and searched (especially those who are stopped repeatedly). The Scottish Crime and Justice Survey – a national random survey of Scottish households - has included a bank of questions on police stops in recent waves of the survey. Analysis of the 2010/11 SCJS (the most recent for which data have been released) found the following key highlights:

- 40% (n=1198) had ever being stopped and questioned (while on foot or travelling on a bicycle, motorcycle or in a car) and 24% (n=285) had been stopped and questioned in the last year
- Only 9% (n=28) had been stopped and searched while on foot or on a bicycle in the last year.

- This is a very small number and cannot be used to draw robust conclusions about the experiences of those who are commonly searched, who are unlikely to participate in this type of national survey; nevertheless, the findings show some interesting differences in perception and attitudes.
- 54% said they had been given a reason for being stopped and searched (43% had not).
- 31% felt the police were as interested in what they had to say as they expected (65% said they were less interested than expected).
- Satisfaction rates amongst those who were stopped and questioned only were high (over 80% very or fairly satisfied on politeness, fairness and overall satisfaction); but 57% of those stopped and searched said they were treated very/ fairly politely and very/quite fairly, and 41% said they were fairly satisfied with the way the police handled the situation (no one said they were very satisfied).
- Two thirds of those stopped and searched said it had not changed their view of the police, but 25% said it had made them see the police in a less favourable light. This compares with only 8% of those who were stopped and questioned only.
- Most of those stopped and searched said it made them feel annoyed (61%), angry (57%) and embarrassed (31%); this was far higher than those who were only questioned (16%, 9% and 9% respectively).

There is also a question as to how stop and search fits within the broader framework of youth justice provision in Scotland. There has been a landmark shift in direction in recent years, with the widespread adoption of GIRFEC and the national roll out of the Whole System Approach (WSA) to youth justice. WSA is based on a strong commitment to welfare principles and promotes maximum diversion away from formal measures for all young people, but particularly those aged 16-17 (and increasingly those up to age 21). The WSA recognises that the more young people can be dealt with through non-criminal justice services, the less likely it is that they will end up in the criminal justice system. The police act as the main gatekeepers to this system, and it is to their credit that the number of young people being referred on to formal measures has fallen dramatically. However, early findings from an ongoing evaluation of the WSA suggests some concerns in relation to the number of young people who are drawn into the criminal justice system for the possession of very small amounts of cannabis, as a result of stop and search activity. This evaluation is due to report to Scottish Government by the end of March 2015.

It is worth noting before moving on to consider evidence from other jurisdictions that, overall, levels of satisfaction with the police in Scotland are high, and historically Scottish police have enjoyed a higher level of trust and confidence than other countries, including England and Wales. In 2000 the International Crime Victim Survey (ICVS), a comparative study of 16 cities and 9 countries, found that 79% of Scottish respondents gave a positive assessment of the way the police dealt with preventing and controlling crime in their area. This compared to 73% of respondents in England and Wales and 61% on average across Western Europe. Between 2008/9 and 2012/13, the Scottish Crime and Justice Survey (SCJS) showed an increase in public confidence about the ability of local police to undertake specific aspects of their work (Scottish Government 2014). When asked for their overall opinion on how the police were performing in their local area, 61% of Scots thought the police were doing a good or excellent job in their area. This compares to 62% of respondents in England and Wales according to the 2011/12 Crime Survey for England and

Wales (ONS 2012), which suggests that the gap in public opinion North and South of the border seen previously has closed in recent years.

Evidence from other jurisdictions

Most of the research on stop and search in other jurisdictions (primarily the US and England/Wales) has been conducted with a view to either examining the disproportionate searching of minority ethnic groups (Bowling and Phillips 2007, Delsol and Shiner 2006) or testing procedural justice theory i.e. that procedural fairness increases police legitimacy and encourages cooperation between the police and the public, which ultimately makes policing more effective (Bradford 2012, forthcoming). The latter body of research has drawn a distinction between 'procedural fairness' (based on due process, neutrality, transparency and an evidence based approach) and 'distributive fairness' (based on equality, proportionality and lack of discrimination). For the most part, the public care most about being treated fairly and respectfully by the police (and the wider criminal justice system), and being given a plausible and reasonable justification for the stop; however, in the case of stop and search, procedural and distributive fairness are closely connected. Stopping and searching the same people repeatedly has a multiplicative effect on their levels of trust and perceptions of the police, such that no amount of fairness in an individual encounter will be perceived positively (Bowling and Philips 2007). This means that it matters not just how the police interact with an individual on the street, but also how the police operationally target stops and searches more broadly within the population.

The net effect of police contact on public confidence tends to be negative. In other words, levels of trust, legitimacy and support for the police tend to be lower amongst those who have had police contact, and evidence shows this is especially the case with police initiated contacts. There is also a strong asymmetry effect in that excessive use of stop and search can have an extreme negative effect on perceptions of and attitudes to the police, whereas a very good experience does not have the same level of effect in the positive direction (the ratio of the effect is in the region of 14:1 according to Skogan, 2006). Excessive use of stop and search at the individual level has been found to be associated with social exclusion and can have the effect of increasing criminality and disorder (both in terms of escalating the immediate incident and the longer term effect on the individual).

There is very little evidence as to the effectiveness of stop and search, in comparison to other policing methods, in driving down crime, apprehending offenders or deterring potential crimes. A study by Miller et al (2000) found that searches reduced the number of 'disruptable crimes' by just 0.2% and searches were largely ineffective in undermining drug markets or reducing drug related crime. However, the type of research required to demonstrate the effectiveness of stop and search (including experimental conditions) is rarely conducted; and there is some evidence that stop and search is effective when targeted at highly specific operations, such as those focused on high levels of knife crime (The Police Foundation, 2013). The National Policing Improvement Agency Next Steps initiative, which focuses on reducing disproportionality in stop and search, has placed greater emphasis on maximising the quality of arrests derived from searches and on targeting prolific offenders than on increasing the number of stop searches or introducing targets. In other words, there is evidence of a positive short term effect of increased stop and search to tackle a specific problem, but no evidence of a long term beneficial effect in

prolonging high levels, or indeed continuing to increase indefinitely, rates of stop and search.

A key factor in whether a stop search goes well is whether the officer has received training in how to conduct a stop search. In most standard police officer training, the focus is on the legal requirements (such as what constitutes reasonable suspicion and under what circumstances is it justifiable to use reasonable force). However, there is little on the job training (i.e. personal instruction on what makes a good or bad stop) or continuous professional development. An All Party Parliamentary Group for Children (APPGC 2013/14) found that stop and search encounters were often characterised by poor and unconstructive communication coupled with a lack of mutual respect, and concluded that building good relationships between children and the police was “all about trust”. The APPGC also noted that while many officers worked hard to create positive relationships with young people, such approaches were not reflected across England, and training and professional development was needed to ensure that officers understood how to improve their practice to meet the needs of children and young people.

Another aspect of the literature touches on the human rights dimension (although there is not scope to cover it in detail here). In brief, stop and search has been found by the ECtHR to engage with Article 8 of the Convention, the right to privacy. Therefore its use has to be proportionate, and in accordance with the law; which must be accessible, foreseeable and precise. The Scottish Human Rights Commission (2014) has stated that the use of non-statutory stop and search is unlikely to prove be compatible with the Convention, and remains open to legal challenge. However, the Police Foundation (2013) found that, even within a statutory framework, police officers did not always clearly justify their use of the power, or at least not in ways that were convincing to the recipient. They note that “if young adults are treated as suspects they expect to know what it is they are being suspected of”. The absence of any explanation, or the lack of a reasonable or believable one, is a constant theme raised in research with young adults.

Concern about the potential misuse of stop and search in England and Wales led the Home Secretary to launch the Best Use of Stop and Search scheme in April 2014. The main aim of this scheme was to contribute to a significant reduction in the overall use of stop and search while also delivering better and more intelligence-led stop and search, and improving stop-to-arrest ratios.

Positive steps forward

The proposal to cease the practice of stop and search on non-statutory (or consensual) grounds in Scotland raises a number of legal, procedural and ethical issues which will need careful consideration by a range of stakeholders, including legal and human rights experts, and children’s organizations. A strong and robust evidence base on which to found any decisions will be critical. At present, the evidence base is patchy and the availability of data is insufficient to render proper examination of the key issues. Claims are made on both sides of the argument as to the efficacy of stop and search as a practice (whether in terms of deterring future crimes or detecting current ones); however, there is lack of basic information as to where stop and search occurs, who is involved, how frequently are the same people involved, in what context do they occur and so on (in short a police activity analysis). The link between stop and search and crime rates appears to be inconsistent

across local authority areas (and probably within); and needs to be examined in the context of a range of other factors, such as levels of deprivation and other risk factors which increase the vulnerability of individuals and communities. There is evidence of a beneficial effect of short term increase in stop and search to tackle specific problems, but little evidence that such an effect can be maintained indefinitely through continued high level use. There have been many changes to youth justice which are starting to show positive outcomes (particularly in terms of the number of young people entering the youth justice and adult criminal justice system); however, it is uncertain what role stop and search plays in the potential discriminatory treatment (and subsequent worse outcomes) of certain young people – ‘the usual suspects’.

Finally, the missing voice in this debate is that of the people who experience non-statutory stop and search – and especially the young people. We must find ways of drawing on the experiences of those who are subject to (repeated) stop and search in order to find ways of identifying more productive and positive police-public relations while at the same time ensuring the police are able to carry out essential detection and prevention work. Stop and search was not the predominant model for policing in many communities across Scotland prior to unification – and it is not the predominant model in many other countries. There must be good models of positive policing that can be drawn upon in terms of finding a new approach to policing that does not rely on widespread use of intrusive methods, whether consent is given or not.

Professor Susan McVie
University of Edinburgh
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