

Meeting	SPA Policing Performance Committee
Date	26 August 2020
Location	Video Conference
Title of Paper	Stop and Search - Report on Variances in Searches on Younger People
Presented By	ACC Steve Johnson, Local Policing West
Recommendation to Members	For Discussion
Appendix Attached	No

PURPOSE

The purpose of this paper is to provide the SPA Policing Performance Committee members with an overview of governance, assurance and analysis of stop and search activity involving children and young people.

Members are invited to discuss the content of this paper.

1. BACKGROUND

- 1.1 Stop and search remains a valuable policing tactic which helps prevent, investigate and detect crime. Scottish Ministers established an Independent Advisory Group on Stop and Search (IAGSS) to work with Police Scotland and other interested bodies to advise Ministers on the use of Stop and Search in Scotland and develop a Code of Practice (the Code) to underpin the use of the tactic.
- 1.2 The Code was implemented in Scotland on 11 May 2017 under the Criminal Justice (Scotland) Act 2016 (CJSA 2016). The Code, which puts individuals' rights at the centre of any decision to stop and search a person, introduced significant changes to the way Police Scotland's officers and staff use, record, monitor and analyse stop and search activity.
- 1.3 In April 2018 the Police Scotland Performance Framework included measures to ensure the application and delivery of stop and search was carried out in compliance with the Code.
- 1.4 The Code provides the statistical indicators to inform these measures. Police Scotland publicly publish Stop & Search Management Information on a quarterly basis, to Local Authority level, which aligns to the recognised indicators within the Code and Performance Framework.

2. CODE OF PRACTICE GOVERNANCE AND ASSURANCE

- 2.1 The primary aims of Stop and Search in Scotland are to promote public safety and to help prevent and detect crime. We use accurate and up to date intelligence and information to ensure our officers are well informed of local crime patterns and risks. We recognise that stopping and searching members of the public is an intrusion into their personal liberty and therefore all Stop and Search activity must be appropriate as defined in the Code of Practice. All searches must be:-
 - Lawful: in accordance with any legal duties imposed on officers, in particular under the Human Rights Act 1998 and the Equality Act 2010, as well as any requirements of the Statute(s) under which the search is being conducted;
 - Necessary: the search is required to locate harmful items or confirm the possession of illegal items; and
 - Proportionate: both in the decision to carry out a stop and search and in the way in which a stop and search is

conducted. In every case, officers must balance the rights of the person against the perceived benefit of the search.

- 2.2 Officers will carry out Stop and Search in line with Police Scotland's values of fairness, integrity and respect and officers are fully accountable for their actions. The decision to search must always be based on reasonable grounds. The grounds can be formed from a number of different factors, including intelligence, information, officers' own observations and from general engagement with anyone they encounter.

Local supervision of stop search activity has given Divisional supervisors ownership of their officers' submissions with the opportunity to monitor the quality and support officers with advice and guidance where required.

With overall compliance rates as measured under the Code reaching over 88% for the year 2019-20, this indicates both officers and supervisors understand the application of the recording criteria. The remaining 12% are recording (administrative) errors, which are discussed with officers and supervisors for learning and once amended meet Code compliance.

- 2.3 This operating model has been endorsed by the Governance, Audit and Assurance Unit of Police Scotland and the SPA as appropriate and proportionate to the level of risk presented to the organisation.

The four main elements of Governance and Assurance are;

- **Local Supervision**
Supervisors carry out 100% review of all stop search records submitted by officers and provide that first tier of assurance, guidance and review to support officers.
- **Database Quality Checks**
Database Quality Checks have replaced the 100% review of records by the NSSU. This process tests the local assurance model and provides confidence levels for the organisation on compliance with business rules and overall compliance with the Code of Practice.
- **Dip Sampling of Records**
Dip sampling of a calculated number of records, combined with the Database Quality Checks (QC) confirm that processes are proportionate and support the view that supervisors

understand the application of recording criteria and the QC helps identify records that require amendment.

- **Quality Assurance Processes**

Quality Assurance will only be undertaken at a local level as part of a wider self-assessment conducted by divisions or at a national level by NSSU if required. To date there has been no need to use this level of review.

- 2.4 Divisional assurance updates have now been embedded in line with quarterly reporting to the SPA through the Performance Framework. This approach encourages continuous improvement in supervision and recording practice, which will continue to be monitored through local and national assurance processes.
- 2.5 The Police Scotland Mainstreaming and Assurance Group meets bi-annually and is chaired by ACC Johnson. This Group provides strategic engagement with members including representation from academia, the SPA and Scottish Government.

3. ANALYSIS OF STOP AND SEARCH ACTIVITY INVOLVING CHILDREN AND YOUNG PEOPLE

- 3.1 Divisional Senior Management and Analysts have access to internal monthly management information reports. These reports provide statistical data and comparison on Sub Division / Divisional and Force activity. The monthly reports provide indicators of search categories, including protected characteristics, which Divisions monitor and review to understand the reasons for activity and can take action to address any identified issues.
- 3.2 Analysis and comparison with 2018-19 and 2019-20 data does highlight potential disproportionality. Where necessary Divisions provide context and rationale that supports operational activity and action taken if required. It is also right to highlight that the means by which levels of proportionality are calculated have used 8 & 9 year old census data, which is acknowledged not to be an accurate reflection of current community populations.
- 3.3 Statistical data for 2018-19 provides the searching of children aged 12-15 years were not disproportionate. A total of 1978 children were stopped and searched with 491 recovering an illicit or harmful item. The overall positive rate was 24.8%.

There was an increase of 379 searches in 2019-20, but this did not affect overall levels of proportionality. A total of 2357 children were

stopped and searched with 517 recovering illicit or harmful items. The overall positive rate was 21.9%. Despite the increase in the number recorded and reduction in the positive rate, the number of searches that led to an item being recovered increased.

Statistically, the levels of search for 2019-20 equate to an average of 15 children being searched per month across 13 Divisions, which is an average of one child searched every 2 days.

These searches saw the removal of illicit and harmful items including drugs and weapons from children across communities of Scotland. The searches and engagement also identified vulnerability and officers were then able to make the necessary referrals to partner agencies. Whilst identifying offending behaviour, officers' actions also protected children from harm and the potential of becoming a victim or perpetrator of crime both now and in the future.

These referrals through the vulnerable person database (VPD) support GIRFEC and SHANARRI indicators and provide information to partner agencies to consider the wider needs of the child. It is important to understand the root causes of the child's behaviour that has led to the encounter with the police. This can also be the case for searches that were negative, but officers identify vulnerability and make the necessary referral. This allows the appropriate partner to investigate and where necessary take necessary steps to ensure the right support is in place for safeguarding.

- 3.4 Searches of 16-17 year old children for 2018-19 and 2019-20 do indicate as disproportionate from internal analytical reports. A total of 2830 children were stopped and searched with 931 recovering an illicit or harmful item. The overall positive rate was 32.9%.

There was an increase of 366 searches in 2019-20, but this did not affect overall levels of proportionality. A total of 3196 children were stopped and searched with 996 recovering an illicit or harmful item. The overall positive rate was 31.2%.

Whilst disproportionate from a statistical perspective, the levels of search for 2019-20 equate to an average of 20 children being searched per month across 13 Divisions, which is an average of less than one search of a child per day across Divisions.

Despite the increase in the number recorded and reduction in the positive rate, the number of searches that recovered an illicit or

harmful item increased. These searches saw the removal of drugs and weapons from children across communities of Scotland and allowed officers to identify vulnerability and make the necessary referrals to partner agencies to ensure safeguarding.

Whilst identifying offending behaviour, officer's actions also protected children from harm and the potential of becoming a victim or perpetrator of crime both now and in the future.

It is important to understand the root causes of the child's behaviour that has led to them becoming involved with the police. This can also be the case for searches that were negative and officers have identified vulnerability and made a referral. These referrals through the vulnerable person database (VPD) support GIRFEC and SHANARRI indicators and provide information to partner agencies to consider the wider needs of the child.

- 3.5 The strip searching of children is a challenging area of policing and subject to additional levels of scrutiny and authorisation under the Code. Whilst small in number, they are carried out with the upmost regard for an individual's dignity and the need to protect children and young people from potential harm and potential exploitation. The decision to search must be authorised by an officer of or above the rank of Inspector.
- 3.6 The definition of a strip search is specific under the Code. It defines a strip search as the removal of more than an outer coat, jacket, gloves, headgear or footwear. This is a low threshold, which instigates the additional level of authorisation to protect and safeguard not just children and young people, but anyone subject to a strip search. However, recording of a strip search without the person being stripped of all clothing is a reality and dependent on the circumstances and nature of the reason for the search. For example a person caught shop lifting by staff and refusing to surrender items that are suspected to be concealed under clothing would require a strip search to be recorded, but not require the removal of all clothing.

In contrast a person detained for a drugs search and suspected of concealing drugs on their person, will likely require a strip search (removal of clothing) by the nature of the drug size and ease with which it can be hidden.

- 3.7 Statistical data for 2018-19 provides the strip searching of children aged 12-15 years totalled 5 (4 males, 1 female). Of those searched,

2 (male) led to the recovery of an illicit or harmful item. The combined positive rate was 40%.

There was an increase of 2 searches (6 males, 1 female) in 2019-20. Of the 6 males searched, 5 led to the recovering an illicit or harmful item. The combined positive rate was 71.4%.

- 3.8 Statistical data for 2018-19 provides the strip searching of children aged 16-17 years of age totalled 41 (35 males, 6 females). Of those males searched, 15 led to the recovery of an illicit or harmful item. Of the 6 females searched 2 led to the recovery of an illicit or harmful item. The combined positive rate was 41.5%.

There was an increase of 24 searches in 2019-20 (57 males, 8 females). Of 57 males searched 33 led to the recovery of an illicit or harmful item. Of the 8 females searched, 5 led to the recovery of an illicit or harmful item. The combined positive rate was 56.9%.

- 3.9 All individuals subject of a search are issued with a receipt. The receipt provides information on the date, time and locus of the search, the power used and officers' details. The receipt also provides details of their rights and how to contact the police if they wish to make a complaint. It provides information on how to request a copy of the stop search record, however Individuals are not required to accept the receipt.

The total number of receipts issued to 12-15 year olds for 2018-19 totalled 1675 (84.7%). A total of 303 refused the receipt. The total number of receipts issued to 12-15 year olds for 2019-20 totalled 1882 (79.8%). A total of 475 refused the receipt.

The total number of receipts issued to 16-17 year olds for 2018-19 totalled 2347 (82.9%). A total of 483 refused the receipt. The total number of receipts issued to 16-17 year olds for 2019-20 totalled 2619 (81.9%). A total of 577 refused the receipt.

The overall percentage of receipts issued are provided for Divisions to monitor on a monthly basis and to ensure officers are issuing receipts and recording refusals, as required on the National Stop Search Database.

- 3.10 Complaints about the Police (CAPS) relating to Stop and Search from children and young people account for a very small proportion of total CAPS. There were 58 CAPS received relating to stop and search for 2018-19. Of those, one was reported by a 16 year old female, which after time was abandoned due to refusal to engage.

Overall CAPS for 2019-20 reduced to 37. Of the 37, 3 were received from young persons - 2 from 15 year olds and 1 from a 16 year old. Both 15 year olds withdrew the complaints as a misunderstanding and the other withdrew the complaint of their own volition.

- 3.11 Further evidence of positive engagement and safeguarding is the recording of specific stop and search powers (Section 66 Criminal Justice (Scotland) Act 2016). Officers utilise the powers to ensure the care and welfare of not only children and young people, but all people being transported by the police, who are not under arrest. Examples of this would include returning missing children and young people home, or to looked after accommodation; or transporting vulnerable people home or to hospital if required. In comparing 2018-19 and 2019-20 data, the number of searches carried out under this legislation increased significantly. In 2018-19 the number recorded was 144. Only 24 were positive. For 2019-20 the number recorded increased to 310 (increase of 156). Only 27 were positive.

The purpose of this legislation is to safeguard the individual, officers and wider public from an item(s) that could cause harm; not to investigate or detect offending behaviour. Where vulnerability is identified officers can submit a referral using VPD and allow appropriate partners to better understand the reasons for the child or young person's behaviours and provide the required support.

- 3.12 We recognise that any search can have a significant impact on children and young people. The Code provides officers a dedicated section on how best to communicate with children and consider the reasons for what can be challenging behaviour. Effective engagement is key to ensuring approaches and how officers speak or act are appropriate. This would include considering a child's background, past experience with the police, disability, potential exploitation and establishing potential vulnerability. To do this can be challenging in what can be potentially confrontational and life threatening circumstances against the need to safeguard and act to achieve a lawful objective, but overall protect the individual, the officers and wider public from harm.
- 3.13 The public reporting of data on a quarterly basis provides transparency in the use of the tactic and supports its fundamental purpose of preventing, investigating and detecting crime. The tactic also safeguards children and young people and promotes onward referral to support agencies who can better understand their needs

and provide the necessary support. This can stretch across all partners including health, education and social work.

- 3.14 At this time CYP leads for Police Scotland are developing a CYP engagement programme. This will include an assessment of how young people have been impacted by COVID-19 as well as questions on our use of legal tactics including Stop & Search. In addition we will be carrying out a specific programme of engagement with Care Experienced young people which will also include their perceptions of Policing tactics. This will inform our Corporate Parenting Plan for 2021-2024.

4. FINANCIAL IMPLICATIONS

- 4.1 There are no identified financial implications as a result of this report.

5. PERSONNEL IMPLICATIONS

- 5.1 There are no personnel implications associated with this report.

6. LEGAL IMPLICATIONS

- 6.1 There are no identified legal implications associated with this report.

7. REPUTATIONAL IMPLICATIONS

- 7.1 There are potential reputational implications associated with this paper. Stop and Search continues to attract media attention and in providing publicly available management information reports we are open and transparent in reporting our use of the tactic.
- 7.2 Children and young people can be viewed as vulnerable and the need to assure the public our use of the tactic is Code compliant and captures the vulnerability and offending behaviours are equally important outcomes.

8. SOCIAL IMPLICATIONS

- 8.1 There are currently no social implications, however, a requirement of the Code is the public reporting of stop search data which is key to providing the opportunity for public scrutiny and to allow communities to see activity that can impact on local policing priorities. This information is made available on a quarterly basis and is provided in formats accessible to the public and academics.

9. COMMUNITY IMPACT

9.1 This report has highlighted the positive impact brought about by the introduction of the Code through improved governance, transparency and reporting of stop search data ensuring the use of the tactic is lawful, necessary, justified and proportionate.

10. EQUALITIES IMPLICATIONS

10.1 The NSSU completed an EQHRIA for the introduction of the Code, which continues to be reviewed and updated in line with changes in policy and procedures. This ongoing review will continue in line with future relevant changes.

11. ENVIRONMENT IMPLICATIONS

11.1 There are no environmental implications associated with this paper.

RECOMMENDATIONS

Members are invited to discuss the content of this paper.