



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

JUSTICE SUB-COMMITTEE ON POLICING

Thursday 19 February 2015

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JUSTICE SUB-COMMITTEE ON POLICING
3rd Meeting 2015, Session 4

CONVENER

*Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP)

COMMITTEE MEMBERS

*John Finnie (Highlands and Islands) (Ind)

*Alison McInnes (North East Scotland) (LD)

*Margaret Mitchell (Central Scotland) (Con)

*Elaine Murray (Dumfriesshire) (Lab)

*Kevin Stewart (Aberdeen Central) (SNP)

*attended

THE FOLLOWING ALSO ATTENDED:

Roderick Campbell (North East Fife) (SNP)

Vic Emery (Scottish Police Authority)

Deputy Chief Constable Rose Fitzpatrick (Police Scotland)

Hugh Henry (Renfrewshire South) (Lab)

Chief Constable Sir Stephen House (Police Scotland)

Assistant Chief Constable Wayne Mawson (Police Scotland)

Calum Steele (Scottish Police Federation)

CLERK TO THE COMMITTEE

Joanne Clinton

LOCATION

The Mary Fairfax Somerville Room (CR2)

Scottish Parliament

Justice Sub-Committee on Policing

Thursday 19 February 2015

[The Convener opened the meeting at 13:00]

Stop and Search

The Convener (Christine Grahame): Good afternoon and welcome to the Justice Sub-Committee on Policing's third meeting in 2015. Time is tight and we have exactly one hour, because we cannot sit as a committee while Parliament sits, and Parliament is sitting at 2 o'clock, so I am looking for—and this is the day when it might happen—short questions and succinct answers, so that we can get through lots of stuff.

Please switch off mobile phones and other electronic devices completely, as they interfere with the broadcasting equipment even when switched to silent. I welcome Roddy Campbell to the meeting; he has been with us before.

The only item is an evidence session on the latest developments in relation to stop and search. I thank all the witnesses for making themselves available at pretty short notice. They are Chief Constable Sir Stephen House; Deputy Chief Constable Rose Fitzpatrick; Assistant Chief Constable Wayne Mawson; Vic Emery, chair of the Scottish Police Authority; John Foley, chief executive of the Scottish Police Authority; and Calum Steele, general secretary of the Scottish Police Federation.

Believe it or not, the members are ready with their questions, so I go straight to Alison McInnes.

Alison McInnes (North East Scotland) (LD): We are here to talk about a broken promise. In response to my question last June about how a child could possibly give informed consent to being searched, Assistant Chief Constable Mawson said:

"You are absolutely right. I am going to make a strong statement: from here on in, we should not search young children who are under the age of consent. That must stop ... because the current position is ... indefensible."—*[Official Report, Justice Sub-Committee on Policing, 19 June 2014; c 460.]*

You followed that up with a memo to all staff, so it is fair to deduce that you did not intend to mislead the Parliament about your intentions. Can you tell us what went wrong? Were your instructions countermanded or did officers on the beat not heed them?

Assistant Chief Constable Wayne Mawson (Police Scotland): Thank you for the opportunity to respond. I made that announcement to the committee on 19 June last year, and it was followed up not only by a force memo but by electronic briefings to all staff and a piece on the intranet. We went externally with letters to the stop and search expert reference group, and we also informed Her Majesty's inspectorate of constabulary for Scotland.

We have identified that 130 stop searches are showing as consensual on the database from the date when the policy came into place—23 June—until 31 December 2014. We have identified some categories that those searches fall into. Some involved an intervention or seizure for alcohol or tobacco and not a search. Those activities should not have been recorded as stop and searches; instead, they should have been recorded as incidents on our command and control system. That is clearly a training issue. Some of the stop searches are showing as consensual, although it is clear that a legislative power was available but was not used. That is a training issue, and individual officers' practices have been addressed.

Some of the 130 searches were carried out in the presence of a parent, guardian or other responsible person. Some searches were for officer safety reasons only—for example, when an under-12 has been arrested or detained and patted down before being put in a police vehicle. Those incidents are not stop and searches; they have been entered in error. That is another training issue that has been addressed with individual officers.

A small number of the searches—18—do not fit into any of those categories. Those searches fit into two broad themes. The first involves officers being on patrol or arriving at an incident and searching a group of youths. When the group's details are taken, it may transpire that one or more of the group is under 12. I think that it is ethically right for officers in that situation to do as they have done and record that on the database as a consensual search, because that is what they did.

The second broad theme among the 18 consensual searches is about an officer's judgment based on the circumstances of the situation that they find themselves in. Some of the situations relate to vandalism-type calls or antisocial behaviour.

I can give the committee two examples from the 18 cases. The first involves an 11-year-old boy. A member of the public made a call about youths throwing eggs at his window and shining a green laser pen at his home—and at passing cars—from a nearby play park. Youths were traced in the area and agreed to be searched for eggs or a laser

pen, neither of which were found to be in their possession.

I will mention one other example to give an idea of the type of situation that arises. This case also involves an 11-year-old boy. The male was searched because the Salvation Army reported that a group of males had thrown eggs at its windows and smashed its fire-alarm box. The male in question was located near to the locus, along with other male youths who were between the ages of 12 and 14. Two of them matched the description passed on by the Salvation Army. That is why that male was searched.

I am sure that members can appreciate that, when an officer arrives on the scene and is dealing with a fairly fast-moving incident, it is sometimes difficult to judge whether somebody is just under 12 or is over 12.

That gives a flavour of why 130 searches show as consensual on the database.

Alison McInnes: Whether those were consensual stop and searches or what you are now calling interventions is to some extent immaterial, because they all constitute interactions with young children under the age of consent. A very public commitment was made and repeated to the Scottish Police Authority, yet it is not clear what actions you took to ensure that the promise was honoured in the months that followed. You referred to training issues and such things.

When the figures were released to the public a couple of weeks ago, you had not identified that any of the searches were inappropriately allocated, so at no time in the six months since you made the commitment had you looked at the issues. It was only once there was a public outcry about the figures that the searches were suddenly looked at and reallocated. Can you explain that?

Assistant Chief Constable Mawson: We knew that there were inaccuracies in the data; we were working to fix them and we were still checking the figures. To some extent, we did caveat the information that was released to the BBC, but I think with hindsight that we should have been more explicit.

Alison McInnes: I turn to the chief constable. Frankly, Police Scotland's response over the past week has been incoherent. You have set great store by intelligence-led policing based on such data, but in the past few days you have looked at the figures and you now tell us that most of the 350 searches were wrongly accounted for and that we are really talking about only 18 searches. That is barely credible. I am trying to understand whether that is incompetence or whether you have a disregard for the SPA's authority. Chief constable, do you find it a nuisance to have to

account to the SPA and to the Parliament for the force's actions?

Chief Constable Sir Stephen House (Police Scotland): I take very seriously my duty to account to the SPA and to Parliament. That is one reason why we are all here to try to clarify the situation and it is why we met the SPA last Friday to talk it through recent developments. I take that responsibility very seriously. We are here to answer questions and to try—I hope—to explain the situation.

The situation is complicated. Stop and search has the illusion of being an easy thing to understand, but it is actually quite complicated. That can be seen from the fact that we still need to talk to some of our officers—who are well trained and extremely well motivated—about what the issues are and explain those to them. Wayne Mawson talked about the number of training issues that we have identified and are dealing with.

Alison McInnes: You say that you take your responsibility and your accountability to the SPA seriously. However, last week you met the SPA and within hours you wrote to it to correct the evidence that you gave it.

Chief Constable House: I am not entirely sure when the letter was sent, but I thought that it was sent the following week—in other words, at the start of this week. I think that it was sent on Monday, so I do not think that it was sent “within hours”.

When someone makes a mistake, I do not see anything wrong with acknowledging that they have made a mistake and apologising for the mistake to the body that they are accountable to. That is exactly what I did.

Alison McInnes: The code of ethics for policing in Scotland sets out what the public can expect from Police Scotland. It encompasses the organisation's values of integrity, fairness and respect, which should be at the core of everything that you do. The preamble to the code says:

“How we deliver policing has a direct impact on our communities and will influence the trust and confidence people have in us. **How** we deliver is as important as **what** we deliver.”

Chief constable, you must acknowledge that the level of trust in Police Scotland is ebbing fast. In its handling of this sorry mess, the force has failed to meet its own high standards. What will you do now to improve attitudes at the top of the organisation and restore trust?

Chief Constable House: I am afraid that I do not accept your premise that confidence is ebbing fast. Our confidence levels remain high—they are in the 80s—so we have not seen a drop over this

issue. Of course we do not want the sort of headlines that we have had, but part of the reason for coming here today is to address those headlines and set the record straight. Where we made a mistake, we acknowledge that. I have already said that we acknowledge that I made a mistake in the language that I used. I should not have used that language.

We mean it when we talk about integrity, fairness and respect. To go back to the practicalities of stop and search, we emphasise to all officers—I am confident in saying that officers understand this—that how they go about things is as important as what they do and that they should treat the public with integrity, fairness and respect. That is evidenced by the very low number of complaints arising from the stop and searches that we do. Many parts of Scotland are now much safer than they were five years ago because of the effective use of stop and search, which has been done with the community's consent, to reduce violent gang crime.

Alison McInnes: It is important that there is complete transparency with the body to which you are accountable—the Scottish Police Authority—not after the fact but as you go through. Time and again, however, issues are being picked up after the fact. I seek a commitment from you that you will change your practices and be much more open and transparent with the Police Authority and the Parliament on policy matters.

Chief Constable House: I am sorry, but I just do not think that the circumstances that you have described show an organisation that is trying to hide things. I made a mistake when I spoke to the Police Authority last Friday and we wrote a letter—it is a public letter and members have copies of it—acknowledging that I made a mistake. I made a mistake when I was in a meeting with the Police Authority talking to it about stop and search. If I was hiding things, we would not have such meetings. Wayne Mawson made a mistake in terms of making the commitment, but he came to the committee to make the commitment.

Alison McInnes: I must stop you there. I have one final question.

The Convener: I will let you finish this, Alison, but then I will let other members in. You can come back in later.

Alison McInnes: The SPA expressed surprise that it had not been told at any time in the past six months that there was any concern whatsoever about the stop and search figures. The SPA was as surprised as the public were when the figures came out. That is not being open and honest with the SPA.

The Convener: Mr Emery, is that the case?

Vic Emery (Scottish Police Authority): We first heard about the figures on the evening of 3 February, when we were advised that the BBC would be running a story the next day.

The Convener: Fine.

Alison McInnes: Convener—

The Convener: Bear with me, Alison. Other members want to come in, and 13 minutes have gone already.

Kevin Stewart (Aberdeen Central) (SNP): There seems to be a fair mix-up on the statistics. ACC Mawson mentioned training. We had a situation whereby eight forces became one. Those forces used different methods of and systems for recording and had different training methods. How far advanced are we in ensuring uniformity across the country?

Assistant Chief Constable Mawson: You are absolutely right that the journey has been complex, with different information technology systems and different training systems in the legacy forces. In recent months, we have introduced a training policy at Tulliallan for all new probationers. That training lasts a full eight hours and goes into the practical implications as well as the theory of managing stop and search. That is a positive step in the right direction.

Kevin Stewart: I ask Calum Steele how his members are coping with the changes that have been made to recording and training.

Calum Steele (Scottish Police Federation): Thank you, convener. The general change to—

The Convener: I am the convener. On you go.

13:15

Calum Steele: I am speaking through you, convener.

The change to the Police Service of Scotland has presented significant challenges in bringing together a standard recording approach. However, the general tack on policing interactions with the public largely continues as it should have done pre amalgamation. That being said, in a new force under a new chief constable, the policy direction and influence can clearly have a bearing on how police officers undertake their day-to-day activities.

The fundamental premise is that the service has gone through massive change and has by and large delivered an exceptional service to the public during that period. I cannot think that many other organisations would manage to deliver what the Police Service of Scotland has done in the time that it has been able to do it. Of course there are things in the background that are far from being as seamless as we want them to be. Things possibly

being lost in translation about how issues are to be recorded and the loss of local practice to the understanding of the new corporate approach have certainly not helped.

The change to the single service has created some difficulties but, generally, the service that is delivered to the public continues to be first class.

Kevin Stewart: I was a member of a police board for a fairly long time and it was often difficult for us to compare our statistics with other boards'. It was always a case of comparing apples with pears because of the different recording systems and methods that were used throughout the country. Will the implementation of i6 ensure that we get that absolutely right and that we get a true statistical picture of what is going on? That question is for the chief constable.

Chief Constable House: The clue is in the title: i6 covers six systems. However, stop and search is not one of the systems that it covers. That is dealt with on a pretty swiftly constructed stand-alone database that we have acknowledged is "clunky"—I think that that is the word that we used at the Police Authority meeting. It is not as slick as it needs to be and does not help the officers as much as it should when they fill it in. Hence, we have had data errors on the ages of people whom officers have stopped and searched.

It is at the top of the priority list for our information and communication technology people to improve the database on stop and search to make it easier to use and interrogate so that we can keep a check on what is going on and keep the Police Authority and the committee informed.

Kevin Stewart: Will you tell us how you are going to implement that change and make sure that the system is fit for purpose? Is a project plan in place already and how quickly can it be implemented to ensure effectiveness?

Deputy Chief Constable Rose Fitzpatrick (Police Scotland): We have had early discussions with the i6 team about the way forward, but we have always been clear that although we are making amendments and improvements to the current ICT arrangements and the stand-alone database, we also want to take into account two things. The first is the results, emerging findings and then academic evaluation of the Fife pilot that we have been doing, which will have a significant impact on our future processes. The second is the results of HMICS's independent review, which we expect to get later this month. Both of those will tell us how we need to shape the ICT for the future, because we need to build a system that reflects the way that we will undertake stop and search.

Those two things come together, but I add to them the work that is done in the short-life working

group to identify issues and options for stop and search for the future. We will want to build a database that enables us to do stop and search in the way that we have achieved consensus on for the future.

We have a project plan on the current stand-alone database and we have agreed with the i6 team that we will build the business requirement for the new database.

Kevin Stewart: I have a final question. We heard today from the First Minister at First Minister's question time that she feels that the current situation is unsatisfactory, and now we have heard about interactions with children under 12. I have a great fear that we may end up in a situation where something is not done because a child is under 12, and there may then be a child protection issue and something goes very wrong indeed. My fear is mainly about the reaction of front-line police officers who perhaps feel under pressure. Can I hear from Mr Steele and then from the chief constable their thoughts on that?

Calum Steele: The issue of approaches to under-12s is enormously emotive and clearly we are all aware of that. However, I do not think that Parliament or the public are genuinely in a position in which they could say that under no circumstances will a police officer ever search someone under the age of 12, with consent.

The issue of informed consent is, of course, more complicated, but it is the duty of a police officer, as laid down by statute in the Police and Fire Reform (Scotland) Act 2012 and as established originally in the Police (Scotland) Act 1967,

"to prevent and detect crime ... to maintain order ... to protect life and property"

and

"to take such lawful measures".

That duty is not vested through the office of the chief constable; it is vested in individual police officers.

On occasion, stepping out of policy does not necessarily mean that a police officer is stepping outside the law. Although ACC Mawson, for reasons that he explained reasonably articulately a few moments ago, assured Parliament that there would be no searching of under-12s, the simple reality is that, on occasion, that such a search is an entirely justifiable approach to take.

I was doing some research—I am sure that that does not come as a surprise—on relevant examples, and one that struck me as being particularly pertinent in relation to youngsters and their exposure to crime does not come from the central belt, as would be expected. It is the case of

a young man who is currently serving a lengthy period of imprisonment. I picked it up from a report in the *Inverness Courier*. Stephen Stewart, who now goes by the name of Stephen Ross, was sentenced to life imprisonment for stabbing two strangers in 2011. The case was reported extensively in the *Inverness Courier*. One of the articles stated that Stephen started his “career” of offending at the age of 10.

I know that police officers, by and large—in fact, almost universally—have no desire to stop large groups of youths for the purpose of searching them. That is an absolute reality. However, I think that it is wrong simply to say that it can never be done. That does not deal with the reality of public expectation or with the fact that police officers have the duty to act in accordance with the obligations that are placed upon them in law.

I was unaware of the examples that have been cited when I wrote a piece for *The Times* about children throwing eggs and shining laser pens. I just do not believe that the public is going to accept that the police will turn up and, in effect, do nothing because of an individual's age.

The Convener: I would like clarification. If it is a search for weapons, drugs or firearms, it is a statutory search.

Calum Steele: Indeed.

The Convener: Such searches do not require any kind of consent, so we are not talking about those situations. On reasonable suspicion, police can do a statutory search for those items.

Calum Steele: Absolutely.

The Convener: Just to make it clear, that is very different from any other search, when there is no statutory back-up and it is a so-called consensual search. You are confusing the issue for us.

Calum Steele: I assure you, convener, that I am not confusing the issue.

The Convener: Not for you—but perhaps for everybody else.

Calum Steele: I am not confusing the issue; the issue relates to whether, for example, there should be a power to search for eggs. Carrying eggs is not unlawful—

The Convener: I was not talking about eggs.

Calum Steele: Neither is carrying laser pens or spray paint unlawful.

The Convener: It was when you mentioned violence. I just want to make it clear that the statutory search is there; we understand that. We are talking about searches where there is no authority under statute.

Calum Steele: Indeed. In the—thankfully small—number of occasions when police officers have undertaken searches of people under 12, the police officers are not stepping outside the law.

The legality of consensual stop and search has been established by the courts, but let there be no doubt that the issue of stopping and searching children under the age of 12 is really difficult. When police officers are dealing with children of any age, but particularly those under 12, the intention by and large is to deal with those individuals under the getting it right for every child agenda and to ensure that children are protected. I do not believe that it would be acceptable for police officers were society to form the view that simply because the police get called to gatherings of youths, they should seek to take those youths home—assuming that their parents are there—and engage in a merry-go-round that might easily and quickly be resolved through a courteous exchange at the time.

Chief Constable House: I agree with much of what Calum Steele has said. To go back to my point, I emphasise that stop and search is a judgment call for operational officers. It is their decision. It is they who exercise the power, not the chief constable, and it is entirely appropriate that that is the case.

We do not want a situation in which officers are doing wholesale consensual searches of under 12s. To that end, we have put in place a policy to say, “We don’t want you to do consensual searches of under 12s.” It is policy; it is not law. Wayne Mawson explained that there have been a number of occasions when officers have stepped outside of policy; they have not stepped in to illegality, though. We ask them to explain why they have done that and if the explanation is a fair one, so be it. We are holding them to account for that because they have substantial powers. One could easily argue that those powers are magnified when they are dealing with someone under 12.

The question then arises whether children under 12 can give true consent, which is precisely why we have called for a debate on stop and search—in particular, on consensual stop and search. I would like to give my operational officers a clear mandate from the Scottish public, that is signed up to by all parties and everybody who has an interest in this, so that the officers know where they are and can be clear about it. We can issue the training materials to help them to do that and we can then monitor that effectively to ensure that the officers stay either within the policy that is set, or within the legislation that may be enacted on stop and search.

Elaine Murray (Dumfriesshire) (Lab): My question is for Sir Stephen House. On 4 February, the figure for stop and searches of under-12s was

356. Within a couple of weeks, that reduced first to 289, then to 130. After that, 112 more mistakes were identified and the figure came down to 18. If a witness in a police investigation changed their evidence as quickly and as often as that, they would be considered to be unreliable, would they not?

Chief Constable House: In direct response to the question whether they would be considered unreliable, we would certainly be interested in why the story was changing. We are trying to explain why the story has changed.

Elaine Murray: In a draft briefing that we received yesterday from Inspector Mark Nicol—I am not sure whether it was supposed to have gone out—he stated that

“20,086 records were corrupted and data was lost.”

How much can we rely on the data that you are giving now, or indeed on any data from Police Scotland? Quite frankly, it looks like a right mess.

The Convener: ACC Mawson, I think that you are nominated. It is rather like “University Challenge”. I nominate ACC Mawson to answer that.

Assistant Chief Constable Mawson: I would like to address the specific question of the 20,086 records. Between May and July last year, a computer programmer pressed the wrong button, which lost the results data from those records. The records had been properly put on the system by the officers as a result of their having stopped and searched people, but we lost the outcomes due to a computer programming error. We have been working really hard to recover the data. I have personally overseen the sending out of several thousand emails to officers and we have done follow-up audits. We have been working hard with HMICS on oversight everything that we do, to ensure that it is done properly. I am pleased to say that the vast majority of the results are now back on the system.

13:30

Elaine Murray: The update briefing that we got from Chief Inspector Gerry Findlay just yesterday identified 112 mistakes in the categorisation of various crimes. That does not make it sound as if the system is working particularly well. The mistakes included things that should have been recorded as interventions, and searches in which legislative powers were available, but were not used, being miscategorised. Is that because you have had such a loss—nearly 1,000—of civilian staff? Were they the experienced and trained people who could have made sure that those mistakes were not made?

Assistant Chief Constable Mawson: No. I do not think that at all. I will just clarify the figures for the record. There were 356 searches—that is the figure that the BBC used—and 69 of those were searches of over-12s, so they should not have been on the database. That left 289, of which 130 were consensual, which is the crux of the matter and the reason why I have gone into great detail about how they are showing as consensual on the system. The other 289 were statutory.

Elaine Murray: That adds up to a bit more than 356.

Assistant Chief Constable Mawson: Sixty-nine were searches of over 12s.

Elaine Murray: You had 130 consensual searches of which 112 had been misrecorded.

Assistant Chief Constable Mawson: I apologise. It is obviously 189 legislative, not 289.

Elaine Murray: I would like clarification of one other thing. Are there targets for stop and search?

Assistant Chief Constable Mawson: There are absolutely no targets for volume of stop and searches, and there never have been in Police Scotland. That was a clear direction from the chief constable right from the outset. There are no individual targets for volume of stop and searches either. The only target that we have for stop and search in Police Scotland is on the positive rate: how do we monitor that we are in the right place at the right time and targeting the right people for the right reasons? That is why we have that target, but it is the only one.

Elaine Murray: Is it acceptable that four out of five people who were stopped and searched had nothing on them?

Assistant Chief Constable Mawson: The positive rate at the moment is 21 per cent. That is actually a good success story, in my opinion. You will recall that, just a few years ago, the positive rate was down at 13 per cent. At the end of the first year of Police Scotland, we had increased that to 19 per cent, and so far this year we are up at 21 per cent.

John Finnie (Highlands and Islands) (Ind): I have a question for the chief constable about the advent of Police Scotland, when you took over. Am I correct in saying that the statutory police duties did not change on day 1 for Police Scotland and that the lawful authority to undertake stop and search did not change that day, but that rather, just like your decision to deploy armed officers on the streets of Highland villages, it was practices that changed on the first day of Police Scotland?

Chief Constable House: You are quite correct to say that there was no change in legislation. I am not certain that there were changes in practice,

either. Officers were certainly not asked to change the way they go about stop and search. I go back to what Calum Steele said: it is for an individual officer to decide when and where they do a stop and search on the street and how they carry it out. I do not think that there was much of a change in that. What we said was that we are able, now that we are a single service, to monitor stop and search across the country, and that we want to ensure that it is being applied appropriately in the right areas. The figure that seems not to register with people is that in every year that we have existed—which is just about coming up for two—stop and search numbers across Scotland have declined. They have not gone up.

John Finnie: What has not declined is public concern. Chief Constable House may grimace, but that is the reality. It is the case that, in the previous eight component parts of what is now Police Scotland and in the central services, there were no issues around stop and search, before the advent of Police Scotland.

Chief Constable House: That is an interesting observation. I cannot speak for the seven other forces, but I would agree with you that, in Strathclyde, where the vast majority of the stop and searches were done, there was no real concern about the level of stop and search in the west in the five years that I was there. Why is there concern now? I do not agree that there is a growing public concern about stop and search. There is absolutely justified interest from a large number of people, including members of the committee and journalists, about balancing proper application of police powers with the freedom of the individual, and we are also trying to get to a clear answer on that.

I do not think that it is about anything more than the fact that, now that we are a single service, people pay a huge amount of attention to us in a way that did not happen so much when there were eight forces. I also point out that there was no national database on stop and search before Police Scotland came along. There is now, which allows us to monitor levels of stop and search and allows us to get relatively quickly from numbers that are up in the hundreds of thousands down to individual officers who have carried out stop and search, so that we can send them an email to say, "You have carried out a consensual stop and search on an under-12-year-old. That is outside policy. Can you explain why?" That is quite an impressive development as far as human rights are concerned.

John Finnie: What did change on the first day of Police Scotland was that police officers swore an oath to uphold human rights: the change to the oath is a terribly important thing to acknowledge. Do you understand that people were concerned

when levels of stop and search were greater than they are in the Metropolitan Police and, indeed, in New York?

Chief Constable House: I would understand concern that was based on that as a bald fact, but you simply cannot compare the three jurisdictions. I know very little about policing in New York; the simple fact is that a lot of the stop and searches on our databases are to do with alcohol. We do not believe that the Metropolitan Police records such stop and searches in the same way, so its figures really are not comparable.

I will give you another statistic. If you take the number of stop and searches that have been carried out so far this financial year in Scotland and divide it by the number of police officers whose names appear on the database—which I think is about 12,000—you come out with the average officer in an average week carrying out 0.8 per cent of a stop and search.

John Finnie: There are a lot of statistics that we could bandy about. You said that under-12s would not be subjected to wholesale stopping and searching. Is that correct?

Chief Constable House: We do not think that it is desirable that a large number of under-12s should be subjected to consensual stop and search. That is why the policy was put in place.

John Finnie: By inference, however, there is wholesale stop and search of children over the age of 12 in some areas.

Chief Constable House: I do not think that "wholesale" is the correct word.

John Finnie: What word would you use, Chief Constable?

Chief Constable House: I have already apologised once for misspeaking. Maybe I will need to check my vocabulary more regularly, so thank you for raising that right now.

Going back to what Calum Steele said, the reality of the situation is that officers make individual decisions about stop and search. Whether that involves coming across a group of people throwing eggs at a Salvation Army centre, or one individual, officers will carry out the searches, and each time they come up against an individual they will have a decision to make based on exactly what John Finnie cited—the human rights aspect—and on other aspects of the oath that they have taken, on whether it is proportionate to stop and search that person. That is one of the things that they have to think about.

John Finnie: Is it possible that there is a perception among front-line officers that they are under pressure to deliver targets?

Chief Constable House: It is possible that they are under that perception, so I am grateful for this opportunity to say to them—yet again, as I have on numerous occasions internally and externally—and to a number of people in this room, that there are no targets for volume of stop and search. You have heard from Wayne Mawson that there is one target—for trying to get a higher percentage of positive stop searches. We repeatedly tell our officers that we are interested in them stopping and searching people within policy and within the law, and that stop and searches should be aimed at the right person, in the right place and at the right time.

John Finnie: If four out of five searches are unsuccessful, that does not suggest that searches are intelligence led.

Chief Constable House: I do not necessarily agree with that observation. Looking back on your police experience, Mr Finnie, you will remember that stop and search can be used as an aid to police officers in the prevention of crime. We have seen in the past five years across Scotland a huge reduction in violent crime and a significant reduction in the carrying of weapons, and the feedback that we get from some parts of Scotland is that the reason why the weapons count is down so much is that people understand that they are at risk of being stopped and searched for weapons. If they are found to be carrying weapons, they will be dealt with firmly, under the protocols that have been agreed with the Crown.

John Finnie: Is not that part of the problem? An awful lot of good work is going on but it has been lost because you have become the story. Whether it is about your initial turf war with Mr Emery or the mishandling of the traffic wardens issue, the counters, the armed police situation or—let me be generous by describing it this way—the current muddle, you have become the story, and that is counterproductive.

Chief Constable House: I would certainly be happy not to be on the front pages of national newspapers in relation to these things, but I am not going to let that deflect me from the fact that the officers and staff in the organisation are doing a fantastic job. Crime is down, public confidence is high—

John Finnie: Are you doing a fantastic job, chief constable?

Chief Constable House: I try my best. All that I ask of any of my staff is to try their best.

John Finnie: Is how you are conducting yourself in any way impacting on the efficiency or effectiveness of Police Scotland?

Chief Constable House: I do not believe that it is. If you look at the figures and the feedback that we get—

John Finnie: We always come back to the figures, do we not? With a lot of things, it is about presentation.

Chief Constable House: I understand that, but it is also about public confidence, and the way to measure that is to ask the public. Public confidence remains high.

John Finnie: Have you asked your senior officers whether they have confidence in you? Some of them are quoted in the press today saying that that is not the case.

Chief Constable House: There are many views on policing and many views on how to go about stop and search. We are trying to lay out clearly that what we want from you, the Parliament, the Scottish Police Authority and a wide range of other people we are going to consult is a strong mandate from Scotland saying, “This is what we want the stop-and-search regime to look like”, so that I can say to my officers, “We’ve got the backing of everybody here. Go out and do the best job you can.”

John Finnie: It is not simply a case of people either supporting the police or not. I support the police, but I want them to go about their duties in a proportionate way. You say that there are no statistics, but you continually refer to statistics and use the term “wholesale”, and that is not the sort of policing arrangements that people in Scotland want to see. Of course they want their communities to be protected, but Highland villages are not the Bronx and they are not London.

Chief Constable House: Yes, and we are not doing huge numbers of stop and searches in Highland villages. I am sorry, but I go back to the figure of the average officer carrying out 0.8 per cent of a stop and search. Officers are not carrying out huge numbers of stop and searches in areas where it is not appropriate, and if they were, we would be asking them, “Why are you carrying out so many stop and searches in this quiet area?” That is one of the things that we monitor.

The Convener: Can I pick you up on something? It might break the consensus between you and Calum Steele. You said that stop and search is not target driven, but Calum Steele’s letter to every MSP states:

“Regrettably the Police Service of Scotland has to carry much of the responsibility for the hostility toward the subject of stop and search. The numbers driven target approach to this area of policing was ill conceived and resulted in attention being directed towards meaningless numbers rather than the sensible objective of crime prevention and detection.”

Discuss.

Chief Constable House: The discussion on that is simply that there are no targets in relation to volume stop and search. There is only one target in relation to stop and search, and that is the positive one. On the other hand, we do consult the Scottish public—I think that, this year, we consulted 41,000 people—and ask them, “What are your priorities for policing?”

The Convener: I hear that. I want to bring in Margaret Mitchell but, given what Calum Steele wrote, you cannot both be right.

Chief Constable House: Well, we have different opinions.

The Convener: Calum Steele is saying that it is target driven, but you are saying that it is not.

Chief Constable House: Excuse me, convener. I was going to go on to say that, having talked to 41,000 members of the Scottish public and asked, “What are your priorities?”, I think it is defensible then to say, “If these are your priorities, we will set some performance targets around them.” We have a number of targets in relation to what the public think are priorities, but in relation to stop and search there is only the one target, which is the positive one.

The Convener: I am looking at Mr Steele. You are blaming Police Scotland, but it is saying that there is not a problem.

Calum Steele: The chief constable and I have spoken about this at considerable length, and I believe him when he tells me that there are no individual targets, but I have officers and office bearers from all over Scotland telling me something different. A massive selection of officials from the Scottish Police Federation are sitting in the public gallery today, along with some officers who are here in their off-duty time, and they have experience either directly or indirectly of being contacted by members who have been told that they have volume targets.

There is clearly a disconnect between the messaging that is being delivered on the ground and the messages being delivered by the chief constable, but I have not found the chief constable to be untruthful any time I have dealt with him. In fact, I think that he and I would consider that our relationship is frank enough that, if one thought that the other was being disingenuous, we would tell them.

The Convener: I do not think that I am any further forward in knowing what the fact is. You are telling me that police officers are saying that they are being told to meet numbers, and the chief constable is telling me that they are not.

13:45

Chief Constable House: All that I can say is what I have said repeatedly. There is no stop-and-search target, as far as we are concerned. I acknowledge what Calum Steele said. I am sure that there are officers in the organisation who feel that they are under pressure to do volume stop and search, but I am happy again to take the opportunity to say to them and to the committee that they are not. There is no target in relation to volume stop and search. We will put the message out yet again.

I acknowledge Calum Steele’s concerns. I think that he will agree that we have a mechanism in which he can bring to us the specifics of where he has found what he has found so that we can seek out why it is happening, which individual officer is feeling that and why they feel it. However, there is no target for volume stop and search.

The Convener: Apparently, there are officers in the public gallery, so we would not have too far to go to find out. I may have to come back to that matter.

Margaret Mitchell has waited for a long time, so I will let her in.

Margaret Mitchell (Central Scotland) (Con): Thank you, convener.

This is rather breathtaking, chief constable. We have here Calum Steele, who is quite happy to write an open letter that states quite clearly that

“the hostility toward ... stop and search”

was due to the

“numbers driven target approach to this area”,

which was

“ill conceived and resulted in attention being directed towards meaningless numbers rather than the sensible objective of crime prevention”.

You are the chief constable. The responsibility for communicating with the rank and file from the top down rests with you. It is clear that there has been a huge communication problem.

Chief Constable House: I accept your comments. It is my responsibility to communicate. I do that through a monthly video message to the organisation. We regularly meet large numbers of officers to talk to them about the matter. I am quite certain that Rose Fitzpatrick will tell you that it is constantly discussed at her divisional commanders meetings to re-emphasise the point.

I think that our communication is getting through. So far this year, the stop-and-search volume is down 32 per cent compared with last year, which was the first year of Police Scotland. In Police Scotland’s first year, I think that the figure was down 6 per cent on that for the combined

eight forces. Therefore, the stop-and-search numbers are coming down, and they are coming down very strongly this year.

As violent crime is still reducing and public confidence in the police remains high, we think that we are getting to the proportionate level of stop and search. We want to use the powers that we have proportionately when using them is necessary. Therefore, a continuing reduction in stop-and-search volumes is welcome as long as violent crime and other crimes that can be combated with stop and search continue to reduce as well. At the moment, they are doing so.

Margaret Mitchell: I accept all that, but there is a fundamental point here. Your upbeat message on communication was repeated the last time DCC Rose Fitzpatrick came here, and I tackled her on that very subject, having been out in Dumfries and Galloway and heard from the rank and file there that they are simply not communicated with. They were never consulted on corroboration, so there is a fundamental problem.

May I continue with the communication problems? I give you the opportunity to put on the record the communication problem that seems to have transpired between the Scottish Information Commissioner and you about what you considered to be having to release information that you did not think was fit for purpose.

Chief Constable House: Following the evidence that I gave to the SPA board last Friday, I wrote the following Monday, I think, to provide the authority with clarification and to apologise for any misinterpretation that I had given concerning discussions with the Scottish Information Commissioner.

It is worthy of note that the letter that I sent to Vic Emery on that Monday—I think that the committee has a copy of its content—was agreed with the Scottish Information Commissioner's office. Any misinterpretation on my part was not intended and I could have and clearly should have expressed myself better on that occasion, but the assurances that I gave at that time remain. I said in the letter:

“our decision to release the data to the applicant was on the basis of an assessment that, despite our concerns about its accuracy or reliability, there was a risk that we would have been the subject of an adverse decision notice if the appeal process continued.”

That was pretty much in line with earlier legal advice that we received, so that was the approach that we took.

I can only repeat the assurances that the “decision to release the data to the applicant was on the basis of an assessment that, despite our concerns about its

accuracy ... there was a risk that we would have been the subject of an adverse decision”

by the Scottish Information Commissioner. We did not want to be in a situation in which the commissioner had to use her full force to tell the organisation that it had to release the information.

As Wayne Mawson mentioned, we wrote to the journalist when we released the data and pointed out that there were inaccuracies. We should have been clearer what they were.

Margaret Mitchell: In any successful organisation, it is crucial to establish effective lines of communication, and I suggest that Police Scotland has not done that so far. I hope that, if we get nothing else out of this evidence-taking session, you will go back and reflect seriously on that, chief constable.

I will cover one other small aspect. You and DCC Rose Fitzpatrick refer to the Police Authority and, interestingly, HMICS as partners. Is that an accurate description of your relationship?

Chief Constable House: No. We are accountable to the Police Authority and HMIC is our inspecting body.

Margaret Mitchell: I am pleased to hear that, because the impression that I get is that the accountability is after the event—after some crucial decisions have been made. Mr Emery might like to comment and perhaps he can contradict that impression.

Vic Emery: The last time that I sat before the committee, I said that good accountability is not about knowing about stuff after the event but about being involved proactively. Our relationship with Police Scotland has always been based on an open book—that is, transparency—and, latterly, we have wanted to be more actively advised of what initiatives are taking place so that we can more helpful in moving some of them along.

It is clear that something has gone wrong in this case, and we will pick that up in the next little while. As you have heard, Rose Fitzpatrick is organising a short-life working group. We are participating in that at the strategic and detail levels. I have asked HMIC to review the data so that it can give me an independent view of the situation.

The Convener: If Roderick Campbell and Hugh Henry will excuse me, I will allow supplementary questions from Kevin Stewart, Alison McInnes and Elaine Murray. Members of the committee are here on behalf of the Parliament to scrutinise.

Kevin Stewart: My question is for you, Mr Emery, and it concerns the upgrading of the IT that seems to be required to ensure that recording is carried out properly from now on. It also

concerns the Fife pilot on stop and search that is going on. How does the SPA intend to monitor to ensure that best practice comes out of the Fife pilot and that the statistics that are recorded on any new IT system are absolutely spot-on right?

Vic Emery: The two things are different. The Fife pilot is to inform us with regard to stop and search. A piece of complementary work is also going on with HMIC on that same subject. You are right that we need to get visibility of the IT solution for bringing the eight disparate forces' information systems together so that we have a reliable system in the future. You might or might not know that we have an ICT forum where we discuss at regular intervals the governance of all the IT programmes on which Police Scotland is working at the moment. There are quite a few of them. Our assurance is gained through that scrutiny group.

Kevin Stewart: How often does that group meet and report to the board as a whole to say what is working and what is not?

Vic Emery: It meets every quarter and board members sit on it. It is a governance body, not a working body. The police have their own internal mechanisms for progressing the programmes, but the governance body meets every quarter and all of the ICT programmes are reported to us.

Kevin Stewart: Okay. We might have to come back to that, convener.

The Convener: We will.

Alison McInnes: I have a couple of clarifications and then a question.

The only caveat that Police Scotland put in releasing the figures to the BBC was that the BBC was to disregard any entries outwith the age range of one to 90—so you did caveat it. You were very clear about what the caveat was. It was only after there was significant concern within the community that the figures were looked at again.

I must also draw up the chief constable on his constant referral to the idea that stop and search reduces crime. The SPA's own report found no causal link to the reduction of crime, and the rates of crime are reducing elsewhere where stop and search is not applied.

Chief Constable House: Can I—

The Convener: I will let you answer those points, too, but we will have the question first.

Alison McInnes: In your discussion with John Finnie, chief constable, you said that there had been no real change, but there has been a massive increase in stop and search around Scotland. You said that it was only down to individual officers, but perhaps it is worth considering—and you could explain to the committee—what happens in your campaign

against violence action weekends. That is clearly a direction to officers to use a particular style of policing. Will you talk a bit about that?

Chief Constable House: The only thing I will come back on straight away is that you said that there has been a massive increase in stop and search—there has not. Stop and search has come down year on year since the eight forces were created.

Alison McInnes: I—

The Convener: Let the chief constable answer first.

Chief Constable House: Wayne Mawson can probably answer your question about the weekends in more detail. On those weekends, officers are taken from administrative support duties and put into places that are suffering spates of crime or particular problems with disorder. I am sure that stop and search is one of the tactics that those officers use, but it is not the only one. We have used violent crime weekend campaigns against domestic abuse offenders to try to reduce the rate of domestic abuse. Stop and search probably does not play much of a part in those weekends.

Where we are looking at gang activity in a particular part of Scotland, or where we are looking at a spate of housebreakings, as we have dealt with in the east, the officers might feel that stop and search is appropriate to carry out, either through the legislation available or on a consensual basis, if the officers think that there is something going on in relation to one of those crime trends. I will not seek to take that power away from officers.

We may provide officers with information materials on the crime trends, where the crime is taking place and when it is taking place, if they are not familiar with the area. We do not say to them, "Now you have to go out and stop and search hundreds of people." I come back to the point that we do not have a volume target on stop and search. The figure is coming down this year by 32 per cent compared with last year, and it has come down in both years of Police Scotland's existence.

Alison McInnes: Within the legacy forces, it has increased significantly in places such as Grampian and Dumfries and Galloway. You are able to say that there is an overall reduction only because there was a spike in Strathclyde in the last year of the legacy force.

Chief Constable House: Has it increased, or is it being counted better? I am not sure that we know the answer to that.

Elaine Murray: I have a brief question for the SPA. The issue of stop and search, particularly of under-12s, has been a concern in the Parliament

for some months; it was raised in June. Why did it take the SPA until 13 February to call the police to account on it?

Vic Emery: Wayne Mawson raised it with you in June 2014. We started a review of stop and search back in June 2013, I think it was. We launched it in August 2013.

The Convener: I think that you mean 2014.

Vic Emery: No, 2013. The findings and recommendations of the review were discussed at a public board meeting in October 2014, which was only three months ago. At that time we were told that stop and search of individuals aged 11 and under would stop. There is a pilot in Fife being launched to look at that. HMIC is also producing its own report on stop and search, and it is due to deliver its findings in March 2015.

The Convener: That will be your last sentence, because I do not want to stop you mid-flow. We have to stop right on 2 o'clock because Parliament will be sitting—it starts early today.

I thank the witnesses for their evidence. I am sure that, if members have supplementary questions, we can return to this issue. I understand that the report comes out at the end of March, and we will certainly look at it then. I ask the other members who came to excuse us; we had to get through that in one hour.

Meeting closed at 14:00.

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