

Minute of Scottish Police Authority Board Meeting

Meeting	Scottish Police Authority Board PUBLIC Meeting 026	Date/Venue	Friday 13 th February, Glasgow
Meeting Called By	Vic Emery, Chair	Start Time	10:00
Reference Meeting No	SPABM-130215	End Time	12:00

Members Present		In Attendance	
Name	Title	Name	Title
Vic Emery (Chair)	Chair, Scottish Police Authority	Sir Stephen House (SSH)	Chief Constable, Police Service of Scotland (PSoS)
Graham Houston (GH)	Authority Member	Deputy Chief Constable Rose Fitzpatrick (DCCRF)	Deputy Chief Constable (PSoS)
David Hume (DH)	Authority Member	ACC Nelson Telfer (ACCNT)	Assistant Chief Constable, PSoS)
Douglas Yates (DY)	Authority Member	John Foley (JF)	Chief Executive Officer, Scottish Police Authority
Brian Barbour (BB)	Authority Member	Eleanor Walker (EW)	Head of Business Services, Scottish Police authority
Ian Ross (IR)	Authority Member		
Moi Ali (MA)	Authority Member		
Paul Rooney (PR)	Authority Member		
Lisa Tennant (LT)	Authority Member		

AGENDA

PUBLIC SESSION
1. Chair's Opening Remarks <ul style="list-style-type: none"> - Apologies: Jeane Freeman, Morag McLaughlin, Iain Whyte - Declarations of Interest - Matters Arising
2. Data Released to Media Showing Continued Stopping & Searching of Children Under 12.
3. Options and Alternatives to Replace Non-Statutory/Consensual Stop and Search Tactics.
ANY OTHER BUSINESS

ITEM 1. CHAIR'S OPENING REMARKS: (Vic Emery)

The Chair welcomed attendees to the 26th meeting of the Scottish Police Authority and noted Apologies from Jeane Freeman, Morag McLaughlin, Iain Whyte.

ITEM 2. Data Released to Media Showing Continued Stopping & Searching of Children Under 12.

The Chair welcomed attendees to the Special Board Meeting of the Scottish Police Authority and advised the forum that the meeting had been called for two primary purposes – both related to the use, by Police Scotland, of the Stop & Search tactic and in particular the use of non-statutory - or what is sometimes described as consensual - Stop and Search.

The Chair stated that Police Scotland had, the previous week, released information to the media which appeared to indicate that a considerable number of children under 12 had continued to be stopped and searched on a consensual basis even after very clear commitments were made to both Parliament and the Scottish Police Authority last year that this practice would end.

The Chair also stated that the SPA had been given no prior sight of the performance data relating to Stop and Search before it was publicly released and that as a result, the SPA Chief Executive John Foley wrote to DCC Rose Fitzpatrick on Wednesday, 11th February requesting an explanation and made clear that the SPA would be exploring the issue further at their next Public Board Meeting.

The Chair outlined that it was his expectation that that both the SPA, and the wider public at large, would expect to have a clearer understanding of the facts of this matter as a result of the discussions at the Board Meeting today.

The Chair further updated Members that the Chief Constable also publicly announced last week that Police Scotland was now considering whether the practice of non-statutory Stop & Search should be replaced and stated he welcomed the commitment to consult with the SPA and HMICS on the way forward in this regard.

The Chair also advised Members that given this would be a very fundamental change in prevailing police practice, the second agenda item today would allow for the beginning of engagement between Police Scotland and the SPA on this important matter, and would allow an initial examination of the options, alternatives and implications of ending the use of non-statutory Stop and Search as a whole.

The Chair thanked Members, Police Scotland representatives, and observers for making time at short notice to attend the Board Meeting today.

The Chair invited the Chief Constable and DCC Fitzpatrick to set out Police Scotland's factual position on the matter and suggested it would be helpful if initial questions posed by the SPA in the letter issued last Wednesday were addressed – namely whether the information released to the media and carried in widespread reporting was accurate and if so to explain why the commitment to end such searches had not been fulfilled and when did Police Scotland expect to be in a position to fulfil the commitment.

SSH informed Members of his intention to give some introductory words and indicated he would then ask ACCNT to initially talk about the under consensual issue.

SSH stated that it was clear Stop and Search was an emotive subject but emphasised that Stop and Search was an important and effective tactic but recognised that as a tactic, it was one that continued to polarise opinion. SSH further explained that there were relatively few people who argued against legislative Stop and Search and the debate was primarily around consensual Stop and Search. Due to this, SSH acknowledged that further discussion was required and welcomed today as the start of that wider discussion.

SSH advised that in speaking to the Scottish Police Federation, he had expressed his view that Scotland needed a consensus view on Stop and Search moving forward and he supported a meeting like today as a useful forum in identifying what that consensus might be and where it may lie. SSH reiterated Police Scotland's commitment to reaching a consensus on this matter.

SSH advised that ACC Nelson Telfer would provide the detail behind the figures quoted in the media but reiterated again the need for a wider discussion and to reach a consensus on Stop and Search. For instance, should Police Scotland do it at all or should it be deployed within prescribed limits or should the status Quo remain.

SSH stated that he believed that the journey Police Scotland has had in the use of this tactic has moved so far that we need to look at the next stage. SSH acknowledged that there was a need to look at balancing the rights of individuals whilst making sure that communities are policed in a way that keeps them safe and protects the health and well-being of young people, especially in relation to alcohol and other harmful products.

SSH posed that in considering this, we need to be mindful that in achieving that balance we meet society's expectations whilst at the same time ensuring the appropriate and proportionate powers are in place which allow the police to continue to protect people and communities and prevent crime across Scotland.

SSH advised that the consideration of measures to replace the consensual elements of Stop and Search was been taken against a backdrop of a record drop in crime, in particularly violent crime, across the whole country.

SSH reminded the Board of Police Scotland's commitment to use police powers proportionately and the use of a broader range of Stop and Search measures piloted in the last few months in Fife with the pilot expected to be concluded at the end of March.

SSH also explained that there needs to be a recognition that there are significant differences in the proportionate use of legislative and consensual Stop and Search across Scotland. In general terms, the West of Scotland conduct a far greater proportion of consensual Stop and Search than in other parts of Scotland but the proportion of Stop and Search are legislatively based. SSH stated that that in itself can open up to questions as to how that meets the different needs of local communities and this another issue that needs debate.

SSH stated that he believed that if Police Scotland and SPA work together with the assistance of HMICS and other interested parties, then progress could be made on the wider matters affecting stop and search. SSH explained that DCC Rose Fitzpatrick would address the details looking forward.

SSH hoped that the engagement over the next few weeks before reporting back to the Cabinet Secretary for Justice, assuming the debate is allowed to be open and not partisan will be an effective debate. SSH reiterated that as Police Scotland look to ensure that the balance is right between keeping people safe, especially young and vulnerable people, and the rights of the individual, we need to retain focus on always ensuring appropriate policing is assisted by supportive legislation.

SSH commented that from a personal view point and in the current climate, the process is more important than the end result. He confirmed that he wanted to get to a point where there is a clearly defined set of guidance that may be legislative or not, and captures what the Scottish public feel in general on what is appropriate on consensual Stop and Search.

SSH concluded by reiterating that it was important that everyone is provided the opportunity to provide input but we get to position that gives police officers and citizens clarity about their respective roles, respective responsibilities and their respected rights but it is critical that a general consensus of support is reached for a Stop and Search policy that effectively balances individual human rights and freedoms with Police Scotland's ability as an organisation to keep people safe.

SSH handed over to ACCNT. ACCNT introduced himself and explained he was the acting ACC for the West region and had the responsibility of National Lead for Stop and Search. ACCNT informed Members he intended to report in 3 parts; (1) to discuss the issue of Consensual Stop and Searches of under 12s and the measures that had been put in place; (2) the Freedom of Information request and (3) the analysis of the 356 search records.

ACCNT confirmed that Police Scotland made the commitment on the 19th June 2014, whilst giving evidence at the Justice Sub-Committee, that they would cease the practice of Consensual Stop and Search on under 12 year olds. As a result of that commitment, a number of measures were put in

place not only to ensure compliance but to ensure that keeping children safe was at the centre of any engagement activity with Police Scotland and young people in the public domain.

ACCNT reported that these measures included a change to Police Scotland Force Policy in relation to Stop and Search of children under 12 and this reflected the commitment made on the 19th June 2015 and policy guidance was issued to all officers which aligned to the Force values. ACCNT informed Members that monitoring measures for all searches of people under 12 were also put in place and this was coordinated by the National Stop and Search Unit.

ACCNT further advised that 89 hours of practical training was provided to officers to train how to search people correctly and Members were informed the realigned approach was further highlighted in briefings and the force intranet which every staff member and officer has access to.

ACCNT advised that these actions clearly highlighted the end of consensual Stop and Search for young people under 12s and assured Members there was no doubt in relation to the policy circulated. ACCNT then informed Members the statement made at the Justice Sub-Committee explained the rationale behind the change in that policy and the report presented at the Justice Sub-Committee stated that [quote] *'it is not practical to expect a child to understand what providing his or her consent for a search really means, we already have safeguards in place around our dealing with young people and children such as the use of appropriate adults, therefore we must take cognisance of this in relation to Stop and Search'*.

ACCNT reported to Members that the policy was put in place and communicated across the organisation and as a result the process of weekly audit was initiated and undertaken by the National Stop and Search Unit who scrutinised the figures. If a consensual Stop and Search on an under 12 was identified, a memo was sent to every officer who conducted and recorded that Consensual Stop and Search in the database and this was copied into their Area and Divisional Commander. ACCNT clarified that the first part of the memo that was sent out in such cases highlighted the policy in relation to Stop and Search of under 12s and also highlighted the details of the Consensual Stop and Search and requested work be done to confirm the rationale for the Search and also requested an email response by return to the National Stop and Search Unit.

ACCNT also informed Members the audit process revealed some complications and due to ICT issues, the data had to be updated on manual spreadsheets and retained by the National Stop and Search Unit. The current ICT application was limited on the ability to create, edit, audit or delete records and ICT improvements were identified. As a result the National Stop and Search Unit did not have suitable access to the database.

ACCNT advised that the process of weekly audits was stopped on the 21st August 2014 when it became part of a much larger work stream in relation to 2 further matters. These matters related to 20,086 records that were subject to ICT corrupted and had to undergo manual recovery and also the HMICS Audit of Stop and Search which had commenced that same period.

ACCNT informed Members that during the initial audit when weekly audits were carried out (23rd June – 21st August 2014) the Stop and Search Unit were able to identify 48 consensual Stop and Search of under 12 that had been recorded. The review of records highlighted that only 4 of these were contrary to force policy and carried out in good faith but could have been recorded better and that the majority related to key input errors.

ACCNT explained further detail around the larger work stream and the recording of Stop and Search and the ability to conduct meaningful analysis of the activity. ACCNT advised that this was being progressed in conjunction with the HMICS review and the was to take the learning from these activities and consider the most appropriate way forward to update the database and develop the ICT tool that would improve the recording and management processes. ACCNT also referenced that this would be further supported by the learning from the Fife pilot and the intention to roll out good practice supported by a realigned guidance and training package as part of a more comprehensive provision to officers.

As a result of these recent events, the decision was made to include all under 12 searches as part of the wider anomalies records that had been identified and re-commence weekly reporting as part of the realigned process. ACCNT stated that early learning indicated that the majority of under 12 consensual Stop and Searches were key errors and genuine mistakes. The issue of the National Stop

and Search Unit not having access to the database was not sustainable and restricted the ability to effectively review records. A number of records were created that indicated a need for guidance and training and this has been an ongoing piece of work and the 20086 records that were corrupted led to over 4000 emails being sent to officers to clarify the issues.

ACCNT advised that the sheer scale and complexity of the task should not be underestimated and the pressing need to progress the work on the ICT solution for recording stop search activity.

ACCNT advised on the events relating to the Freedom of Information (FOI) request and confirmed that there was a lengthy timeline of the FOI initial request made by the applicant on the 1st July 2014 to the BBC news release of the 356 records on the 4th February 2015. ACCNT added that early in the process internal concerns were raised regarding the quality of the data relating to Stop and Search and the appropriateness of releasing it in to the public domain. ACCNT added that the concerns were be largely attributed to a clunky version of the Stop and Search database that easily allowed for operator input error and restricted the ability to carry out an effective audit process.

ACCNT confirmed that numerous exchanges did take place between Police Scotland, the applicant and the Information Commissioner and the release of the information was originally refused on the grounds of disclosure. Concerns about the data were also sighted as substantially prejudicing the conduct of public affairs. ACCNT further explained that however upon appeal and despite these concerns the Information Commissioner instructed the release of the data.

ACCNT went on to provide further detail and analysis of the 356 perceived under 12 consensual Stop and Searches and stated the situation is not what the numbers suggest and the inference that Police Scotland as an organisation had broken the commitment was distorted.

ACCNT explained that a review of the 356 records of under 12s Stop and Search was carried out. It was initially identified that 205 records were consensual and 151 were legislative and from the 356 records, it was also further identified that a total of 67 records both relating to consensual and legislative Stop and Searches were actually for over 12s and were mis-recorded. From the remaining 289 records relating to under 12s Stop and Searches in the system, 49 records were incorrectly inputted as consensual due to data input error. ACCNT further explained that from that 14 records were originally inputted as legislative when they should have been consensual. Therefore, taken that adjustment into consideration, out of the total of 289 records, there were 130 consensual records and 159 legislative records.

ACCNT further explained that a further review of the 130 records was conducted and the National Stop and Search Unit confirmed that a number of those records fit into categories that would justify or otherwise indicate that they were recorded wrong. ACCNT proceeded to provide examples of how the incidences were recorded wrong and conceded that there were clear trailing issues that would need to be addressed with officers to avoid the errors being made again.

ACCNT also explained that there were 27 records, out of the 130, that evidenced that Stop and Searches had been carried out with either the parent or guardian being present and a further 7 records were considered invalid and should have been deleted because a search never took place. ACCNT stated that these records were still subject to further review with the individual officers. ACCNT further advised that there were 10 searches made for safety reasons and should not have been recorded as a Stop and Search.

ACCNT concluded that the review revealed that there was actual total of 18 'other' consensual searches of under 12 year olds and conceded that in his view, those incidents could have been dealt with better and acknowledged that they were bordering on being a contravention of force policy. ACCNT went on and provided examples of the 18 records and also explained that the 130 consensual searches relates to .05% of the total 244 thousand searches done in the relevant period. Therefore the 18 Stop and Searches equates to 0.0073% of the total for the specified period. ACCNT reaffirmed the position that there remains a commitment from Police Scotland to stop consensually searching under 12s and that commitment has been made in good faith. ACCNT stated that there the small number of cases (18) as highlighted where officers, for good reasons and acting in good faith, contravened the force policy and carried out a stop search was an issue needed to be dealt with through guidance and training.

ACCNT further explained that as an organisation, Police Scotland have and are currently putting in place additional measures to eradicate the risk of errors in the future. For example, Police Scotland have recently realigned the governance structure and that will provide greater scrutiny in relation to Stop and Search activities including establishing a multi-agency working group that will be initiated and will determine the way forward. Further, and critical to overall success, an ICT sub group has been established that will lead to sustainable fix to identified issues relating to the database.

With respect to the policy in relation to consensual Stop and Search of under 12s, ACCNT confirmed that the policy had been re-emphasised through various mediums such as the intranet, officer e-briefs and re-circulation of the policy memo. Divisional Commanders and Department Heads will deliver the message locally to ensure clear understanding and weekly audits are once again in place to scrutinise records. ACCNT also advised that additional training and guidance is under development and the resource requirement to support this is currently being considered. ACCNT stated that the learning from the Fife pilot will be at the heart of the next steps of improvement and includes the aspect of positive engagement between the police, children and young people as well as ensuring that children and young people understand their rights. From an external point of view, ACCNT advised that the Professional Expert Reference Group and the Children & Young Person Reference Group will be reconvened and work will continue with Young Scot to promote 'Know Your Rights' as well as progress the building of positive relationships.

In conclusion, ACCNT restated that this was a critical area of policing business as it significantly contributes to safety and wellbeing of not only children and young people but also of communities and Police Scotland are absolutely determined that to move forward from here in a positive fashion and uphold our mantra of keeping people safe.

The Chair thanked ACCNT for a detailed brief and referred directly to Members for questions and comment.

DY asked what assurances Members would receive that the National Stop and Search Unit would in future be able to produce robust statistics that would provide SPA with the ability to have assurances that the Unit was carrying out the role in was intended for and given the data integrity issues, why was the information released into the public domain without an accompanying 'health warning' and without the SPA having been provided with the information beforehand.

SSH responded but added that he would ask ACCNT to answer the questions in detail however he wished to make clear that the information was released under the rules of the Information Act and under the explicit instructions of the Information Commission of Scotland. SSH informed Members Police Scotland challenged whether the information should be released given the uncertainty of the accuracy of the data and advised that Police Scotland had requested more time to review the data to ensure its accuracy. SSH advised that this request was refused and the Information Commission of Scotland stated that the data should be released at that time. SSH further confirmed that the information was not put out voluntarily by Police Scotland and that it was put out under legislative expectations.

GH asked given the apparent concerns in relation to the robustness of the Stop and Search data, why was not brought to the attention of the SPA before the data was released. DCCRF confirmed there was clear learning from this experience and Police Scotland did accept there was more work to be done in terms of their internal processes and Polices Scotland's relationship with the Scottish Police Authority in terms of the information that is released into the public domain including Freedom of Information (FOI) requests. DCCRF further stated that she believed there was particular circumstances surrounding this particular FOI request and requested ACCNT to explain the detail of these circumstances.

ACCNT stated he shared the view there were learning opportunities for all parties involved and suggested the communication should have been better in the time before the release of the data.

SSH stated that Police Scotland should have informed the Scottish Police Authority about the issues surrounding the data accuracy. SSH further stated that he believed both Police Scotland and the SPA had learned over the past 6 months that there was a need for better collaborative working in relation to Freedom of Information Act requests as had Police Scotland been able to provide the SPA with the required assurances then in his view, the journey would have been far easier than it had been. SSH also confirmed that a significant amount of work had been put in to establishing the extent of the data inaccuracies in the figures but reiterated that it was not Police Scotland decision

to published the information and he believed that it was not suitable for public consumption at that point. SSH also commented that he believed the discussion that had taken place at this Board Meeting vindicated the point that the information, which was accurately reported by the BBC, was not itself 100% accurate and therefore further interpretation was needed and therefore the data should not have been released but Police Scotland had no choice.

The Chair asked DY if he was content with the response to his questions. DY advised he understood the responses provided and acknowledged that mistakes had been made and that this was obviously the case.

BB stated that he welcomed Police Scotland's approach to reach a consensus in future of consensual Stop and Search and the recognition that different parts of the country will have differing views on the subject. BB also commented that he would look forward to the SPA Officers supporting the local engagement to ensure the local views were heard.

BB questioned whether the weekly quality assurance checks by the National Stop and Search Unit had continued to take place after the 21st August 2014 and why ACC Mawson's commitment that no under 12s would be consensually searched had not been fulfilled. BB also asked when it first came to the attention of Police Scotland that the practice was continuing and at that point, did it not occur to Police Scotland that the SPA should have been informed that the practice was continuing, particular since it was subject being discussed at the October Board Meeting and why did this not happen.

ACCNT confirmed that the consensual searches of children under 12 was stopped on the 12th August 2014 but he was unable to explain why ACC Mawson had made his comments on the 30th October however added that the ICT fix for the database integrated the under 12s and the priority became on the 20,086 corrupted files and the work to ensure that the data that had been collected was relevant and recovered. ACCNT further informed Members that through the initial audit at the time, it had been identified that there were only 4 consensual Stop and Searches relating to under 12s that could be determined as contravening the Force Policy. ACCNT advised that when balanced in terms of risk, the actual risk lay with the 20,086 corrupt files and therefore an assessment was made at that time that to integrate the under 12s records into the wider work which would allow the matter to be dealt with through emphasising the fact that Force policy was there and those individual officers who had contravened Force Policy were individually engaged with and the corrective advice was passed on.

DCCRF clarified that Police Scotland did not stop checking records on the 21st August 2014 but that at that date, the checks became part of a much bigger piece of work and the way in which this was reported to the SPA by ACC Mawson at the Board Meeting on the 30th October may have been because the weekly checks were continuing. DCCRF clarified that while ACC Mawson was not present to clarify his intention, she believed he expressed the view that weekly audits were continuing as this was being done as part of the bigger ongoing review work.

BB stated he still believed the weekly checks would have determined that children under 12 years old were being searched even if the data subsequently turned out to be wrong and this wider issue would have been appropriate for the SPA to be involved with as well as the governance of the wider programme. DCCRF conceded that more regular and effective reporting would be part of the way forward and she would look to discuss this planned approach at Agenda Item 2 of the meeting.

MA asked if the weekly audits had been reinstated and, if they had, sought clarity on when this happened. MA also asked what information was gained from the weekly audits about who was being searched and asked if that information was being or intended to be shared with the SPA. ACCNT confirmed the weekly audits were reintroduced 2 weeks previously and the National Stop and Search Unit continued to carry them out. ACCNT assured Members there had not been anything identified in these weekly audits over the past 2 week period that had been brought to his attention in terms of consensual Stop and Searches that contravened the Force Policy. ACCNT advised the communication with the SPA was work in progress and a SPA representative had been identified to sit on the Working Group and that work at the Working Group would afford the opportunity to progress towards better communications between Police Scotland and the SPA in terms of Stop and Search.

The Chair asked if Police Scotland were content with their internal communications and sought clarity on how the information from weekly reviews would be passed out to senior officers. ACCNT informed Members this was part of the new governance structure which took forward the scrutiny and as part of this and weekly reports would be presented to him from the National Stop and Search Unit.

DH asked if thought had been given to external validation of the process of disaggregating the statistics to identify the 18 searches that were against Force Policy and if any thought had been given to the future validation of the data to be collected and what steps would be taken to ensure the integrity of future Stop and Search data.

ACCNT clarified the current issues in relation to the integrity of the data could be attributed to both the current state of the Stop and Search database and human error. ACCNT advised there were a number of measures to be put in place in an attempt to eradicate both the searching of children under 12 years and to eradicate the ability for officers to input their Stop and Search Data incorrectly. ACCNT further informed Members that an HMICS audit was currently underway and as part of that audit, a number of the records would be included in that with the report being presented at the end of March 2015. ACCNT assured Members learning would be taken from this external audit.

DH stated he would have found it helpful to have been provided with some indication of what involvement there had been from external auditors in relation to the movement of the figures from 289 to 18 searches. DH reiterated his view that external validation of data was important for future auditing work.

SSH accepted the need for audits to take place however suggested that external audit would not be suitable to review this work given there was a need to examine what the cause was behind the Stop and Search, what the policing circumstances were and an assessment of officer judgement would be involved. SSH agreed there was certainly a role for the HMICS and he was content to agree to ask the HMICS to review that process.

IR observed there was, in his view, a clear urgency to conclude and implement the recommendations that come from the various reviews and scrutiny work. IR questioned how effective front line officer understanding of the policy was and asked what the key drivers were for the review into the data. IR also sought an assurance the current governance was in place to ensure any issues in relation to data input were identified and addressed at the earliest opportunity.

ACCNT assured Members that the appropriate internal communications were in place to ensure officer understanding and the indications were that the vast majority of officers understood the Force Policy in relation to Stop and Search. ACCNT confirmed the governance arrangements were very important and the overarching strategic group would be supported by a number of subgroups and this work would be both internal and external and would include the SPA who would sit on the Working group along with a Scottish Government representative. ACCNT further assured Members that he was confident that within the short to medium term a robust governance process would be in place that would move the work forward in a positive direction.

IR sought clarity on whether this review would have taken place had it not been for the recent press coverage. ACCNT reported there had always been some debate around Police Scotland's Stop and Search activity in relation to what was deemed an 'intervention' and what was a 'Stop and Search' and for a number of months this debate has gone on internally in relation to how Police Scotland could move forward with Stop and Search activity. ACCNT reported that the consideration of the work of the governance structure of Stop and Search activity had been ongoing for a considerable time and had been discussed at Executive level, Commander Meetings and at levels below that also.

PR sought clarity on when the first of the 18 searches that were contrary to the Force Policy were carried out and when the last search was undertaken. ACCNT replied that he did not have the exact dates of the searches however was able to inform Members that 12 of the searches were in relation to 11 year olds, 2 searches on 10 year olds, 2 searches on 9 year olds and 2 searches on 8 year olds. ACCNT reported that the information had been taken between the dates of 23rd June 2014 and the end of 2015. ACCNT confirmed that the crime references he had suggested of some of the searches took place in September and November.

PR sought clarify on what was done with the information when it became apparent the searches on under 12s had been carried out and asked how and when it was escalated to senior officers including those at ACC Mawson's level. ACCNT requested that Members be mindful of the context of the 4 searches that had been identified as being out with Force Policy and the majority figures demonstrated that compliance of the Stop and Search Policy was generally very good. PR asked why the management team of Police Scotland had decided engagement was not necessary with the SPA on this matter.

SSH informed Members he believed he and his colleagues had already acknowledged earlier in the meeting that they conceded that SPA should have been told earlier about the FOI request for information and Police Scotland had made a mistake in this regard. SSH gave his assurance that Police Scotland would try and not repeat this mistake. SSH then informed Members work was being done on the communications function to try and keep a similar mistake from occurring in the future. SSH was clear to emphasise that Consensual Stop and Search of under 12 year olds is not illegal and that it was perfectly lawful at this moment in time to carry out such searches if an officer believed it to be appropriate.

SSH further commented that it was a legislative policy decision but that Police Scotland believed that in terms of proportionality, the force should be moving away from consensual Stop and Search of under 12s and he would rather see that it did not take place at all but he reiterated that officers had legislative safeguarding as well as common sense to fall back on in terms of the decision to consensually Stop and Search. SSH then urged Members to remember a relatively small number of Stop and Searches had been carried out out with Force Policy and the vast majority of errors being due to data entry errors and circumstances when the individual who had been searched had been identified as being under 12 after the search had taken place.

SSH also stated he believed this to be an entirely understandable from a practical policing point of view given that officers may turn up at an incident to be faced youths running around and to contain the situation, the officer would prioritise the minimising of any dangers and the collection of any evidence before probably asking their ages. SS advised that he actually applauded the ethics of an officer who accurately recorded the correct details in the database even if the person who had been searched was younger than 12 years old.

SSH further commented that he believed the response taken was proportionate given the matter was one of policy and not one of legislation and for Members understanding, there were perfectly valid reasons why, at times, officers step outside of policy and what was entirely appropriate in such instances was that the officer involved would be held to account and asked why they stepped outside of policy. SSH reiterated that it was his belief that this was what had happened in these circumstances.

PR commented that Police Scotland were aware of data entries in relation to Stop and Searches that appeared to have been carried out on individuals under 12 years old and this was not brought to the attention of the SPA and that therefore did not fit with the public commitment given by Police Scotland to move away from such searches. PR then asked the Chief Constable if he believed it was appropriate for that information to have been brought to the SPA and if it was the case, why the information was not brought forward to the SPA Members at an earlier opportunity. SSH reaffirmed his earlier statement that Police Scotland should have brought this information forward to the SPA and apologised again for the mistake in not doing so and assured Members work was ongoing to ensure it did not happen again.

PR asked if any learning could be gained from the feedback provided when officers were questioned as to why they carried out the searches in question. ACCNT advised a number of the incidents involved officers arriving at an incident with a number of youths and the officers proceeded to search all the people present and thereafter had discovered after the event someone was under the age of 12. ACCNF provided some examples of where this has occurred.

LT thanked ACCNT for the verbal report which she believed was very detailed but asked for clarity on where the SPA was referenced in the recommendations and commitments going forward. ACCNT clarified that the SPA were to be involved with the Working Group that would take the governance processes forward. LT asked for further information on the assurances that would be provided to Members in relation to the communication and asked if Police Scotland were seeking to improve the comms. ACCNT confirmed that communications would be a standing item on the Working Group

agenda given the clear identification of the need for improvement in this area. LT questioned how the SPA could be assured of data integrity in other areas and what work was being done by Police Scotland to ensure the integrity of data. ACCNT explained the need to separate this Stop and Search database from other database recording crime statistics as the other databases were much more robust in terms of the integrity of the data. ACCNT also advised that the Stop and Search database was never intended as a performance tool given there were no targets in place in relation to Stop and Search. ACCNT explained that the database was intended to be used as a recording tool to measure activity and to inform Police Scotland how and where Stop and Search was taking place.

LT asked the Chief Constable if he was assured of the data integrity across other systems used within the force. SSH replied that he was not able to provide Members with an 100% assurance and every organisation in both Public and Private Sector faced challenges with data integrity however he could assure Members work was being done and investment taking place to make the information as robust as possible. SSH reminded Members that work was being still ongoing at present to merge legacy systems into one system and good progress was being made on this integration work albeit a huge challenge. SSH informed Members the Stop and Search database was put in place quickly and having seen it in use personally, he could see why it could be described as a clunky system. SSH further commented on the ethical debates that had taken place in relation to how the data should be collected and if the database should allow users to enter consensual stops of under 12s. SSH reiterated that Police Scotland had been caught out by the 'clunkiness' of the database and ICT and something needed to be done about that as a priority.

MA sought clarity on the difference between an 'intervention' and a 'Stop and Search'. MA advised the forum she understood the clear need for the police to be involved in safeguarding children and young people when it came to safeguarding against alcohol and tobacco but added if interventions were taking place that were not classified as such it still raised the same issue about collecting the data and the governance surround the data collection. ACCNT explained that if an officer was to come across a group of youths who were overtly drinking from cans of beer or cider, officers are empowered to seize the alcohol. If the alcohol was seized but no search of the individuals took place, this would be classed as an intervention. ACCNT clarified a Stop and Search would have occurred if the officer had put their hands into the pockets of the individual concerned and recovered articles from their person that were hidden on them and not on show overtly. MA followed up on what would occur if a group of young people appeared to be drinking yet then concealed the alcohol and asked if a search could then take place. ACCNT confirmed a search could not take place as there was no policing power to search for alcohol.

DY suggested this matter was probably a dark day for Police Scotland and asked if there were any other issues related to Stop and Search that Police Scotland colleagues would like, at this time, to make the SPA aware of. SSH disagreed with DY that it was a 'dark day' for Police Scotland and stated that he regarded this debate as a positive thing. SSH further stated he wanted clarity from local communities about what the people really wanted from Stop and Search and debates like this would assist in establishing that. SSH acknowledged that as an organisation some mistakes had been made on data collection and gathering and communications with the SPA should have been better. SSH informed Members he took full responsibility for these mistakes and also stated he believed the policy was the correct policy but he did not believe Stop and Search should routinely be used on children.

SSH did remind the forum that this was the current policy and noting illegal was occurring and officers who stepped outside of the policy with valid justification are not necessarily in the wrong but to assure Members that any officer who did operate outside of the policy would receive corrective advise. The Chief Constable further advised that he found this to be a positive session which could have been more positive had Police Scotland informed the SPA at an earlier stage. SSH stated that he was not able to assure Members that there would be no further issues in relation to Stop and Search because it was an emotive and complicated issue which polarised opinion but Police Scotland were committed to taking steps to reduce the risk and assure the integrity of the data being collected.

No further questions or comments were received from the Members.

The Chair thanked Police Scotland for providing Members with detailed brief and stated that SPA now had a better understanding of the scale of non-compliance with regards to the Stop and Search statistics and welcomed the acknowledgement from both the Chief Constable and Deputy Chief

Constable Fitzpatrick that the information should have been shared with the SPA earlier than it had been and the acknowledgement that this was a mistake. The Chair advised that he hoped no similar incidents would take place in the future.

The Chair summarised that human error had led to data being recorded incorrectly linked with an ICT system which was not user friendly or fit-for-purpose. However, upon review of the records and when all of the errors were identified, the number of under 12s consensual Stop and Searches were revealed to be 18 and not 356 as reported in the media however it may be argued that 18 searches was still 18 too many particularly in light of the commitment made. The Chair acknowledged that the Board understood the officer difficulties and challenges faced in exercising the Stop and Search tactic and that was evidenced in the examples given. However, the Chair also stated that it was recognised that there was a shared knowledge of the problems and issues with the Stop and Search data around Police Scotland's senior managers and, as a result, it was also known that there was a problem on delivering the commitment given by ACC Wayne Mawson. Therefore, it would have been better and more appropriate that these issues been shared with the SPA earlier and certainly before any information was released under a Freedom of Information request.

The Chair closed Item 2 of the agenda by commenting that the issue had raised questions of faith and trust in the quality of information received and as a result, the SPA would be asking HMICS to carry out some independent validations and review in order to provide SPA with assurances going forward.

The Chair closed Item (2) of the agenda.

ITEM NO 3. Options and Alternatives to Replace Non-Statutory/Consensual Stop & Search Tactics.

The Chair informed the forum that Police Scotland made an announcement the previous week that they had taken a decision to review measures to replace the consensual element of the stop & search tactics against the backdrop of a record drop in crime, the ongoing commitment to using police powers proportionately, and the conclusion of a six month Stop and Search pilot in Fife. The Chair continued that Members had noted the exchanges in the Scottish Parliament last Thursday and that following consultation with the SPA and HMICS, there was an expectation that that review will have progressed sufficiently to provide an update to the Cabinet Secretary for Justice by the end of March. Taking that into account, the Chair invited Police Scotland to take the opportunity at this meeting to publically set out the evidence that had informed their thinking and what had led Police Scotland to promote this review at this time as well as advise what early consideration had been given to practical alternatives and options to replace consensual Stop and Search, and what assessment Police Scotland had made so far on the various impacts and implications of such a change including legal, operational, financial, equalities, and on community impacts.

The Chair stated he would then provide Members with the opportunity to ask questions but stated his desire was to conclude today's session by agreeing a timeline of activity and engagement was required in order to deliver an informed and considered future direction by the end of March.

DCCRF informed Members she believed a number of the factors that led Police Scotland to undertake a review of the Stop and Search had already been brought to the surface in the earlier discussions and she proposed to summarise them and highlight factors that had not been part of the earlier conversations.

DCCRF advised it was clear the need had arisen out of public concern and much of the opinion about Stop and Search was polarised with this being an issue that had continued to be discussed with the SPA especially during and as a result of the SPA scrutiny work into Stop and Search and the resulting recommendations. DCCRF also highlighted the HMICS review as a factor which had been very helpful to Police Scotland in terms of data quality.

DCCRF informed Members Stop and Search continued to be an important part of what police Scotland does and they would continue to focus on its use at the right time and in the right place and with the right people, within the circumstances and intention to keep people safe. DCCRF stated that the matter was not just about policing but also about the health and wellbeing for young people in Scotland. DCCRF reminded Members the Chief Constable raised the issue of an option to

seek statutory powers to search for alcohol during discussions at the Board meeting on the 30th October.

DCCRF further stated that Stop and Search was an important part of the police framework that had led to crime falling in the past year with violent crime being down 8.8%, and over 650 fewer victims of violent crime last year with that decline continuing this year. DCCRF also reported that according to Police Scotland management figures, possession of an offensive weapon was also down last year.

DCCRF advised that the use of Stop and Search was part of the overall reason that disorder was reduced last year by over 64,000 calls and anti-social behaviour reduced by over 53,000 calls with these reductions continuing into the present year. Just under one third of 2014's Stop and Searches were for alcohol and approximately 40% of those were related to alcohol and under 18s which present the evidence that this is a big issue for society.

DCCRF informed Members that the Fife pilot scheme concluded in January 2015 and the academic review of that was due to be reported back at the end of March. DCCRF further informed Members that a shift was seen in the Fife Pilot of the ration of consensual to legislative Stop and Searches with the balance shifting slightly towards legislative and not consensual. DCCRF reported there had been no complaints from the public in relation to Stop and Search during the Pilot scheme.

DCCRF also reported that according to Police Scotland management statistics, the public confidence in policing was sitting at the highest level ever which was very important to Police Scotland as confidence in policing was critical in the ability to keep people safe. DCCRF stated it would be important to include this as part of the debate that consensus would allow public confidence levels to be maintained.

DCCRF stated that the Board had previously indicated they were welcoming of a review and it was her intention to convene a short life working group which would be separate to the day to day business and governance working group which would be led by Police Scotland and attended by an SPA officer and work with various relevant stakeholder groups to progress the required actions. DCCRF confirmed that the membership of the group would be reviewed to ensure all the relevant groups were included.

DCCRF explained the first task of the working group would be to establish a time line for the work to be done and also to establish Terms of Reference for the group which would allow the range of issues to be tackled with the biggest issue being the lack of powers to search under 18 year olds for alcohol and the gap that existed in this respect. DCCRF further explained that there was a clear need to address this gap. DCCRF also explained that the interdependencies would be identified by this working group and how it would impact on the rest of the criminal justice system and the broader legal implications. DCCRF advised Members there was an awareness of the interdependencies between ICT and Comms and particularly around the GIFREC (Getting it Right for Every Child) agenda and the broader policy and legislative work around keeping young people safe.

DCCRF advised that the options were complex and many options existed. DCCRF then highlighted some of the possible options which could include; to stop consensual Stop and Search altogether for any age, to stop consensual Stop and Search for under 18s as well as under 12s, retain consensual Stop and Search for those between 12-18, replace consensual Stop and Search of under 18s with legislation. DCCRF explained there were questions in relation to searches for tobacco and psycho-active substances and that these are the areas that the working group would focus on.

DCCRF continued that the impacts of the options would be assessed by the working group at an early stage with a Community Equality Impact Assessment to be completed and acknowledged that the work of the group needed to take account of the views of communities and communities of interest and the relevant participation of expert reference groups. In relation to Police Scotland's ability to impact on the Public's view of what the priorities should be, DCCRF reported Police Scotland had been working on developing their consultation strategy.

DCCRF reiterated that learning would be taken from the Fife Pilot and reminded the forum the academic study was due to report on this at the end of March. DCCRF stated that the study would exam what effect a move from consensual searches to legislative searches would have on the relationships with the public and cautioned Members that the impact of changes was a big issue for

Police Scotland and one that would be put at the centre of the Terms of Reference when they were established.

DCCRF concluded her brief by highlighting to Members the need to identify any gaps that would exist and establish ways in which those gaps could be addressed. DCCRF highlighted to Members that there was a short amount of time to carry out significant pieces of work but there was a clear need to reach a position where clarity for the public was provided as well as clarity for officers. DCCRF said a position needed to be reached where Police Scotland remained accountable for what they did.

The Chair thanked DCC Fitzpatrick for her brief and referred to Members for questions or comments.

BB reminded the forum that the SPA Scrutiny Review could find no robust evidence of a clear link between the reduction in violent crime and Stop and Search volumes and noted the Scottish Commissioner for Children and Young People held a similar view which he believed was reinforced by the continued fall in violent crime despite a significant reduction in Stop and Search rates. BB also stated that the SPA Review acknowledged young people in particular and alcohol were a fundamental issue and the removal of alcohol definitely protected young people and the wider community. BB stated he very much welcomed the assurance being provided from Police Scotland that the gaps around alcohol and knives would be addressed as part of the review and welcomed the recommendations that would come from that.

DY stated that he believed Stop and Search was a tactic deployed to keep young people safe and he was pleased to hear the short life working group planned to involve both the Scottish Police Federation and the Association of Police Superintendents however he sought an assurance that there were plans to include Equalities Groups and Local Authorities in the work. DCCRF confirmed a representative from the Children Commissioner; Children in Scotland and the Scottish Human Rights Commission would be consulted and involved in the working group's activity. DCCRF informed Members of a developing relationship with COSLA which enabled Police Scotland to work with them about how effectively the Local Authority engagement could take place given the short timescale.

IR welcomed the comments and proposals from DCCRF especially the wider engagement plan and echoed the suggestion that Local Authorities should be included in the expert reference groups. IR also requested work should be done to provide Members with a fuller understanding of the risks involved in any gaps that may result from changes being made. IR stated there needed to be a connection made between the controls, monitoring and governance and requested improved communications particularly with the SPA and linked with that, to identify ways that there can be improved data sharing with the SPA. DCCRF thanked Members for their feedback and assured them their comments would be considered as part of the working discussions.

DH asked how and when the work from the Working Group would be reported back to SPA Members both formally and informally. DCCRF suggested that would be built into the timeline but offered reassurance that it would be reported back to Members appropriately. The Chair reinforced the importance reporting back to the SPA in the first instance.

DH asked DCCRF to comment on the current arrangements for training and the benefits in relation to GIRFEC and the safeguarding of children and sought clarity on what benefits DCCRF could see from rolling the GIRFEC approach out. DCCRF informed Members that GIRFEC had been put into Police Scotland's Public Protection Agenda because it was part of the broader public protection work for Police Scotland and Public Protection Units existed across all of the local policing divisions with some dedicated and specialist resources. DCCRF informed Members an enhanced approach to child abuse investigation enquiries was being rolled out across all of the divisions. DCCRF further advised the GIRFEC agenda was more broadly incorporated in the training and there was a need to review how much of this training could be incorporated.

DH suggested the real potential he could see was with the extension beyond specialist resources and this was a good opportunity to take GIRFEC and safeguarding children into the skills and interactions that officers have with children. DCCRF informed Members that every parent or guardian was written to in the Fife Pilot when a young person had been involved in a Search (where details were given) and 489 letters were written out of a total of 691 interventions and the only feedback from parents or guardians were 3 positive replies. SSH informed Members he believed this was a good example of how Police Scotland could interact with parents and guardians to keep children safe.

DH clarified that he believed there was a need for a systematic assurance of an acute awareness of the GIRFAC principals of putting the child at the heart of all the decisions should be at the centre of the approach when dealing with young people.

PR stated he was pleased to note the maintenance of policing by consent and that he welcomed the commitment by the Chief Constable to listen to the public views on the issue of Stop and Search. PR wished to put on record any gaps that resulted from the review were **mitigated** against.

PR expressed his own personal uncertainty in relation an under 12 could understand and providing consent and but stated he would keep an open mind in this respect. PR sought an assurance the SPA would be kept fully informed with details of any searches that may raise public concern and an assurance that the technology would be sufficient to record the information and the IT would not be an issue when providing the SPA with future updates. DCCRF assured Members the governance process was now in place and a timeline for reporting back to the Members would be established as a priority. DCCRF assured Members the IT fixes had been carried out and a much more robust Stop and Search database now existed. DCCRF reminded Members the database was still based on the old system and was based on legacy arrangements. DCCRF also informed Members Police Scotland was working with what they had and any additional fixes would be considered as part of the ongoing review. PR questioned if there was a heightened awareness of where the failures had existed. DCCRF stated there was a heightened awareness and interventions would be put in place where and if necessary.

GH asked if there were any early indications at this stage of the outcomes from the Fife Pilot scheme. DCCRF reported the early indications indicated that internally there were benefits of specialist and enhanced training which was very positively received by officers. DCCRF indicated the interventions with the senior schools in Fife had also provided very positive feedback and had had a huge effect. DCCRF also stated that the involvement of parents and guardians directly in the Fife Pilot had proved to be a powerful as it enabled the parents to see for themselves the risks their children and young people were exposed to. DCCRF confirmed the survey feedback from individuals who had been stopped and searched allowed the feedback loop to be closed both with positive and negative feedback.

LT asked what evidence base would be put into the review process. DCCRF advised the reference group would have some academic input and some broader input and that she would welcome any input from SPA and stakeholders that could suggest suitable evidence to be used in the review. LT sought clarity on how it was proposed that Stop and Search would work with the prevention agenda and what work would be done going forward on putting that to the working group. DCCRF informed Members that the health and wellbeing approach of the under 18s was all about prevention and the involvement of parents, guardians teachers and members of the public worked towards the prevention agenda. LT suggested that to attempt and prevent Stop and Search being needed in the first place, a further step back was required to assess how the circumstances could be affected. LT asked if consideration had been given to working with NHS partners. DCCRF advised the review was intended to surface the views of the public in what they want Police Scotland to do to tackle the issue. DCCRF assured Members she would take the suggestion of NHS involvement away as a possible option for inclusion in the expert reference group.

DY sought an assurance that alternatives to consensual Stop and Search would be considered by the Working group. DCCRF assured Members this would be the case.

No further comments or questions were tabled by Members.

The Chair thanked all participants for a good discussion and the positive responses provided by Police Scotland. The Chair repeated that this matter has raised questions of trust in quality of information and the SPA would be asking HMICS to carry out some independent validation of this revised picture and provide SPA with assurances going forward.

The Chair also commented that today's discussions also highlighted the importance of thinking through the requirement for any legislation or legislative changes very carefully as in his view, rushed legislation was rarely successful in the long term. The Chair advised Members that caution should be applied about bringing about a legal policing tactic like consensual Stop and Search to an end before alternative options have been fully considered and put in place.

The Chair stated that if removing consensual Stop and Search would leave gaps, then we are obligated to both the public and officers to fill those gaps.

The Chair stated that he, on behalf of the Board, would now ask the Chief Executive John Foley to write to Police Scotland to confirm and lay out the SPA expectations of the review. **ACTION 001**

The Chair further advised that the SPA would expect this review to have involved meaningful and consultative engagement on the future of non-statutory Stop and Search with MSP's, Local Authorities, Community Representatives, Scottish Police Federation, Association of Scottish Police Superintendents, etc. and a progress update of the review to be brought forward to Members at the end up March to support the request of the First Minister and the Cabinet Secretary.

Finally the Chair reflected that what had not been mentioned today was the perception that there was a desire within Police Scotland to meet targets and that may have been an influencing factor and to address directly, the Chair suggested the review should also look at the future use of targets and the public perception in this regard.

SSH welcomed and supported all of the Chair's comments however wished to add that Stop and Search was down 32% this year from last year with the only clear measure being available to Police Scotland was the number of positive searches and that was solely there to reinforce to officers there is no interest in how many people are stopped but that the right people, in the right place and at the right time are stopped to recover the kind of weapons, firearms, alcohol and stolen property that had been discussed earlier in the meeting. SSH advised that there was no target setting around Stop and Search and the tactic was all about quality and not quantity.

The Chair assured the Chief Constable he was aware of this but that he would like the public misconceptions to be addressed as part of the review. SSH agreed.

Meeting concluded at 12:02

End.