

DrugScope response to Home Office consultation on police powers of stop and search – September 2013

About DrugScope

DrugScope is the UK's leading independent centre of expertise on drugs and drug use, and the national membership organisation for the drug and alcohol field, with around 450 members. DrugScope also incorporates the London Drug and Alcohol Network (LDAN).

DrugScope is a member of the Criminal Justice Alliance, and is involved in the Bradley Group, an independent forum advocating for the recommendations of Lord Bradley's report on diversion of people with mental health problems and learning disabilities within the criminal justice system. We were also a partner in the national Safer Future Communities initiative, led by Clinks with funding from the Home Office, to support voluntary and community sector organisations to prepare for and work with Police and Crime Commissioners. DrugScope's Chief Executive is a member of the Criminal Justice Council, the Association of Chief Police Officers (ACPO) Drugs Committee, and the Advisory Council on the Misuse of Drugs (ACMD).

Given the nature of our membership and expertise, our response is primarily focused on stop and searches relating to drugs.

Background facts and figures

- In 2011-12, over one million stop and searches by the police were recorded.¹
- Just under half of these (48%) were conducted for the purpose of finding drugs. The review of stop and search published earlier this year by Her Majesty's Inspectorate of Constabulary (HMIC) found that "the vast majority of searches for drugs were for low level possession."²
- A minority of drug stop and searches result in arrest. In 2011-12, of more than 570,000 stop and searches for drugs, just under 43,000 arrests were made.³
- Analysis published by Release and the London School of Economics (LSE) has highlighted that black people are stopped and searched for drugs at 6.3 times the rate of white people, while Asian people are stopped and searched for drugs at 2.5 times the rate of white people.⁴
- The HMIC review found that more than a quarter (27%) of stop and searches "did not have reasonable grounds for suspicion recorded."

¹ <https://www.gov.uk/government/publications/police-powers-and-procedures-in-england-and-wales-201112/police-powers-and-procedures-in-england-and-wales-2011-12#stops-and-searches>

² <http://www.hmic.gov.uk/media/stop-and-search-powers-20130709.pdf>

³ <https://www.gov.uk/government/publications/police-powers-and-procedures-in-england-and-wales-201112/police-powers-and-procedures-in-england-and-wales-2011-12#stops-and-searches>

⁴ <http://www.release.org.uk/sites/release.org.uk/files/pdf/publications/Release%20-%20Race%20Disparity%20Report%20final%20version.pdf>

Question 1

To what extent do you agree or disagree that the use of police powers of stop and search is effective in preventing and detecting crime and anti-social behaviour?

1. Home Office statistics indicate that, as it is currently used, stop and search is not effective in detecting crime. As the consultation document highlights, of the just under 1.2 million stop and searches conducted in 2011-12, around 9% resulted in an arrest. For drug stop and searches, this figure reduces to around 7%.
2. As set out above, HMIC's recent review of stop and search powers found that the majority of searches conducted for drugs – which, in themselves, make up around half of all stop and searches carried out – were for “low level possession.” The review points out that, given the budget restrictions imposed by the Government and the need, currently, for police forces to “do more with fewer resources”, it is “extremely surprising” that stop and search does not appear to be more clearly aimed at preventing or detecting crimes that are a priority for police forces, including “serious acquisitive and violent crime”. Considering the driving forces behind the current approach, Release and LSE highlight that “anecdotally, there is evidence that police performance continues to be measured on the basis of targets ... this means that there is an incentive to police low level easily detected crimes, such as the possession of cannabis, in order to hit targets.” While stop and searches for low level drug possession may produce ‘quick wins’ for police officers, there are clear questions about the current use of these powers to address the concerns of local communities and the impact upon community safety.
3. In their response to this consultation, the Criminal Justice Alliance, of which DrugScope is a member, highlights evidence indicating the limited impact of stop and search in deterring crime. Alongside this, it is worth pointing to the growing body of research on procedural justice, and “the importance of police officers acting fairly in order to improve public compliance with the law and build cooperation with the police – important factors in the long-term reduction of crime.”⁵ Conversely, as Release and LSE have highlighted, behaviour such as the disproportionate and repeated targeting of black and minority ethnic (BME) communities in stop and search has a damaging impact on community relations, and on “cooperation between the police, individuals and communities”.

Question 3

To what extent do you agree that the arrest rate following stop and search events is a useful measure of the power's effectiveness?

4. HMIC's review of stop and search powers notes that focusing on the arrest rate following stop and search “fails to take into account several important things”, including that the power to stop and search “was introduced in order to reduce the number of unnecessary arrests ... so the prevention of an unnecessary arrest would be a successful outcome.” Nevertheless, it highlights that if the proportion of searches being made without stolen/prohibited items or drugs being found is high, “this could indicate that searches are being made with insufficient grounds for suspicion”. A low arrest rate, therefore, is an indication that the power is not being used effectively. As we have

⁵ <http://www.hmic.gov.uk/media/stop-and-search-powers-20130709.pdf>

highlighted, the arrest rate for drug stop and searches is around 7%.

5. The consultation document suggests that the effectiveness of stop and search may lie not only in the arrest rate, but also in “deter[ring] criminals from committing offences, meaning that the power has a preventative quality”, as well as in “increas[ing] policing visibility, thereby addressing the fear of crime through reassurance.” We have addressed the question of deterrence above. In relation to the potential for the visibility of stop and search to address the fear of crime, it is clear that different communities will have very different experiences of this. HMIC’s review of stop and search found that 55% of those they surveyed agreed that the use of stop and search powers in their area made them feel safer; however, as they also explain, “for others, particularly black and minority ethnic people, it can become a symbol of their perception that there is a culture of unlawful discrimination within the police.” Rather than providing reassurance, therefore, it can have quite the opposite effect. Release and LSE note that “for individuals who have been frequently stopped and searched, or who have had a negative encounter with the police, they are unlikely to seek the assistance of the police whether as victims of a crime or witnesses to one.”

Question 5

To what extent do you agree or disagree that the ‘with reasonable grounds’ stop and search powers, described in the paragraphs above, are used by police in a way which effectively balances public protection with individual freedoms?

6. HMIC found that more than a quarter – 27% – of the records it reviewed did not have reasonable ground for suspicion recorded. While it explains that this does not necessarily mean that “all those searches were unlawful and carried out without the required grounds ... in some cases it was clear that there were no reasonable grounds; for example, in one case the officer recorded the grounds by using just one word: ‘speeding’.” This provides a clear indication that, at present, stop and search powers are not always used in such a way that balances public protection with individual freedoms.
7. We would highlight, once again, the proportion of stop and searches that are conducted for the purpose of finding drugs, and the proportion of these searches that are for low level possession. There is, as we have suggested earlier, a real question as to whether focusing police efforts on stopping and searching people for drug possession has a positive impact on community safety and protects the public. As HMIC suggests, bringing stop and search powers into line with police force of priorities of addressing serious acquisitive and violent crime would seem a more effective use of resources.

Question 7

To what extent do you agree that it is right that the police are under a national requirement to record the information set out above in respect of each stop and search?

8. A national requirement for this information to be recorded for each stop and search is essential to ensuring that police forces are able to monitor how stop and search is being used. However, we would highlight the difficulties in doing this caused by the removal of the requirement to record whether anything is found during the search which, as the HMIC report notes, would help with monitoring how effectively the power is being used. Additionally, as the Criminal Justice Alliance highlight in their response to this

consultation, the removal of the requirement to record names means that individuals may be repeatedly stopped and searched without this being noted.

Question 8

In your view, should Government require police forces to record stop and search events in a certain way (for example, using particular technology) or are individual forces better placed to make this decision? Please give reasons.

9. The HMIC review highlights that, currently, each police force is using its own form to record stop and search information; in some police force areas, more than one version of the form was being used, and in others, the stop and search record formed part of a “larger, multi-purpose” document, which in some instances had meant that searches either weren’t recorded, or weren’t carried out in the first place.
10. A requirement to record stop and search in a certain way would help to ensure a more consistent approach across police force areas and could help to improve the collection of data for monitoring purposes. The HMIC review also notes the role of technology in reducing unnecessary bureaucracy for officers; more widespread use could enable the recording of a wider range of information during stop and searches, including those fields highlighted above that it is currently not mandatory to record, without increasing the administrative burden placed on individual officers.

Question 9

To what extent do you agree or disagree with the following statement: “I am confident that the police use stop and search powers fairly to prevent and detect crime and anti-social behaviour?”

11. As we have highlighted elsewhere in this response, the HMIC review points to a concerning proportion of stop and searches carried out without clearly recorded reasonable grounds for suspicion. Available statistics also point to the significant proportion of stop and searches conducted for finding drugs, often focused on low level possession, with Release and LSE suggesting that this may be in order to meet targets. Both of these issues raise questions about the ‘fair’ use of stop and search powers to prevent and detect crime.
12. Release and LSE’s recent report highlights the significant racial disparity that exists in the use of stop and search powers in relation to drugs. Their analysis shows that black people are stopped and searched for drugs at 6.3 times the rate of white people, while Asian people are stopped and searched for drugs at 2.5 times the rate of white people. Those identifying as mixed race are stopped and searched for drugs at twice the rate of white people. As the report explains, “this is driving ethnic disparities throughout the criminal justice system in England and Wales.” The disproportionate targeting of those from BME communities in stop and search has long been identified as problematic; the continuing existence of disproportionality must raise serious concerns about ‘fairness’ in the police use of these powers.

Question 10

What would give you greater confidence in the police's use of stop and search powers?

Please give reasons.

13. There is a clear need for significant changes to the current use of stop and search powers to increase confidence in them. Robust action is needed to address the disproportionate targeting of BME communities; compliance with legislation, including with the requirement for 'reasonable grounds' for suspicion, must be improved; powers should be used with courtesy and respect; and stop and search practices should be brought into line with police force priorities, with efforts focused on serious acquisitive and violent crime, rather than low level drug possession.

14. As the HMIC review concludes, leadership, thorough training of officers/workforce development, robust monitoring of practices and clear, accessible channels for complaints are all essential to improving the use of stop and search powers. Police and Crime Commissioners (PCCs) are clearly crucial here: it is worth noting, however, that analysis conducted by StopWatch has found that just seven out of the 42 PCCs (including MOPAC) mention stop and search in their Police and Crime Plans. The PCCs that do not mention stop and search include "25 in policing areas with stop and search disproportionality rates ranging between 1.5 and 5 for various BME groups."⁶ There is, we would suggest, an important role for the Home Office to play in supporting PCCs to take account of their responsibilities in relation to stop and search, and to develop fair and effective practices, including through engagement with local communities.

15. With specific reference to drug stop and searches, we would also highlight Release and LSE's argument that "the only genuine reform that would have immediate benefits is the removal of stop and search powers for drug possession." Given the significant amount of police time and resources currently expended on policing low level possession through stop and search,⁷ and the role this plays in driving racial disparity in the criminal justice system, there are, we would suggest, compelling reasons for serious consideration of this proposal.

For further information about this response, please contact Gemma Lousley, Policy and Engagement Officer, on 0207 234 9735, or at gemmal@drugscope.org.uk

⁶ <http://www.stop-watch.org/news-comment/story/police-and-crime-commissioners-out-of-touch-on-stop-and-search>

⁷ May et al (2002) put the annual cost of policing cannabis at somewhere between £38 million and £350 million. See <http://www.jrf.org.uk/sites/files/jrf/1859353878.pdf>