

Twelve Month Review of the Code of Practice for Stop and Search in Scotland

Quantitative Report

June 2019

Twelve Month Review of the Code of Practice for Stop and Search in Scotland: Quantitative Report

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All analysis and interpretation contained in this report is my responsibility.

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Executive Summary

Section 1: Introduction

- In 2015, the Scottish Cabinet Secretary for Justice established an Independent Advisory Group on Stop and Search (IAGSS) to review of the police use of the tactic in Scotland.
- The IAGSS made several recommendations to the Cabinet Secretary about reforming stop and search and introducing a Code of Practice, which were accepted in full.
- New legislation governing the use of stop and search was introduced in Section 65 of the Criminal Justice (Scotland) Act 2016 and a Code of Practice (CoP) for Stop and Search came into force on 11th May 2017.
- The Cabinet Secretary requested that research be carried out into Police Scotland's use of stop and search after the CoP had been in place for twelve months.
- This report presents the findings of a quantitative study which evaluates change in the use of police searches and alcohol seizures in the twelve months before and after the introduction of the CoP.
- As recommended by the Independent Advisory Group, this report aimed to examine general changes in the use of searches and seizures and to focus on four specific aspects of the new legislation and the CoP:
 - potential gaps in the legislation around young people and alcohol;
 - other potential gaps in the legislation;
 - any increase in the use of Section 60 Criminal Justice and Public Order Act 1994;
 - use of search involving individuals with protected characteristics.
- A qualitative study was also carried out, by Ipsos Mori Scotland, to examine the views and experiences of police officers, young people and practitioner groups after the CoP had been in place for twelve months.

Section 2: Changes following implementation of the Code

- There was a significant reduction in the number of searches and seizures conducted in Scotland in the twelve months after the introduction of the Stop and Search CoP in May 2017, although this reduction continued a longer term falling trend in encounters that started in 2015 following a critical report by Her Majesty's Inspector of Constabulary in Scotland (HMICS).
- There was a far greater proportionate reduction in police use of seizures (for alcohol) than searches over the two years studied in this report, which is surprising given the concerns expressed by policing representatives during the public consultation about the lack of a legal power to search for alcohol.
- The decline in searches following the introduction of the CoP coincided with an increase in positive outcomes, which suggests that they are being used more effectively and with a greater standard of evidence in terms of reasonable suspicion.

- Positive search outcomes increased across all search types, although they continue to be lowest for searches conducted on suspicion of possession of an offensive weapon.
- The number of searches and seizures was highest in the West Command Area during the twelve months before and after the introduction of the CoP, but there was a greater proportionate decline in both types of encounter within the West compared to the East and North Command Areas.
- The number of searches in the West Command Area was lower in the twelve months following the introduction of the CoP, while the number was higher in the North and the East Command Areas.
- Patterns over time revealed substantial geographical variation in changing use and success of stop and search, suggesting that the new legislation and policy around stop and search may have been interpreted and adopted differently across Divisions.
- Around one in twenty searches involved a strip search (almost always for drugs), and these had a higher than average detection rate.
- Women were more likely than men to be subject to a strip search, but detection rates were significantly lower for women who were strip searched.
- In the majority of searches a receipt was issued by officers; the most common reason for non-issue of a receipt was that the individual being searched either refused to accept it or left the locus before the receipt could be issued.
- There was a small reduction over time in the issuance of receipts, but some evidence of an increase in receipts being issued retrospectively.
- Although individuals have the right to obtain a copy of the record of their search encounter within 6 months, there were only 11 such requests in the twelve months following the introduction of the CoP.

Section 3: Identifying legislative gaps around young people and alcohol

- The police have a power to ask a young person who is carrying or holding alcohol to surrender it; however, there is no specific legislative power to search a person for alcohol, even if officers suspect them of concealing it.
- Around two thirds of alcohol seizures were conducted using Local Authority alcohol byelaws and a quarter were conducted under powers of surrender, but very few involved officers confiscating alcohol from adults suspected of supplying minors.
- Evidence suggests that alcohol consumption amongst young people in Scotland has been on a long-term decline and, in line with this, there was a slight fall in alcohol-related incidents involving young people in the twelve months after the CoP was introduced, based on indicative police incident and NHS hospital admissions data.
- Trends in police recorded alcohol-related incidents involving young people varied across Divisions, but most showed either no change or a decreasing trend during the post-CoP period.
- Alcohol seizures declined for all age groups, including young people aged under 18, although they declined least amongst this age group.

- The largest reductions in alcohol seizures occurred in the West of Scotland – especially Greater Glasgow - where there is a long history of alcohol related problems amongst young people.
- The extent of the decline in seizures across Scotland was not consistent with the much shallower decline in alcohol-related incidents recorded by the police, so it is not fully explained by a change in policing demand.
- The findings were not conclusive in terms of identifying whether a statutory power to search for alcohol is required in Scotland; however, there is no indication that existing powers are being used to indirectly search for alcohol.

Section 4: Other potential gaps in the legislation

- There was very little difference in the relative distribution of statutes used to conduct searches during the twelve months before and after introduction of the Code of Practice.
- Officers used the 2016 Criminal Justice (Scotland) Act to search 139 people during removal or transportation to another place; and they conducted 34 searches as part of an intervention under Sections 20 and 32 of the Police and Fire Reform (Scotland) Act 2012 to protect life.
- It was not possible from the analysis conducted in this report to say whether further legislation is required; however, the use of Sections 20 and/or 32 of the 2012 Act to justify searches does create a slight ambiguity in terms of the wording of Section 65 of the 2016 Act.

Section 5: Change in the use of Section 60 authorisations

- Prior to the introduction of the CoP, concern was expressed that phasing out consensual search may result in an increase in the use of so-called ‘no suspicion’ searches by Police Scotland under Section 60 of the Criminal Justice and Public Order Act 1994.
- There have been only three authorisations under Section 60 since the CoP was introduced, all for football matches, and only one resulted in any searches being undertaken.
- The limited use of Section 60 authorisations in Scotland demonstrates that, unlike in England and Wales, it has not been used to widen the scope for police use of search.

Section 6: Searches and seizures for people with protected characteristics

- Rates of search reduced across all ages and, while young people in their mid to late teens continued to be the most likely group to experience a search, the degree of disproportionality in terms of targeting these groups significantly declined in the twelve months following the introduction of the CoP.
- Rates of seizure (mainly involving alcohol) also declined significantly across all age groups; however, seizure rates declined less for young people under the age of 18 than for older people.
- Search rates declined for males (across all age groups) and females (across some age groups) in the twelve months following the introduction of the CoP,

although search rates for females were more affected by the introduction of recording for searches under warrant than males.

- Reductions in seizure rates were very similar for males and females across all age groups, suggesting that changes in practice affected both sexes fairly evenly.
- Searches and seizures predominantly involved White people both before and after the introduction of the CoP, and the overall profile of searches largely matched the population profile for Scotland.
- Non-recording of ethnic group during searches increased in the period following the introduction of the CoP, although there was evidence that Police Scotland had taken steps to rectify the situation following publication of the six month review.
- The rate of searches declined within all ethnic groups, but the reductions were greater for encounters involving people who self-defined as Non-White than White.
- There was a significant increase in positive detection rates for all age groups after the introduction of the CoP, although these continued to be lowest for those aged under 18 which suggests that the threshold of reasonable suspicion is applied more stringently amongst adults than young people.
- Positive detection rates increased for both sexes, but searches of males were more likely to result in a positive outcome than those involving females in the year after the CoP was introduced.
- Detection rates also improved amongst all ethnic groups, especially those from Mixed or Other ethnic groups, although numbers in these groups were small.
- Overall, the introduction of the CoP coincided with an increase in positive outcomes for groups with protected characteristics, although there continues to be inequality between some groups in terms of who is searched and how successful those searches are.

Section 7: Predicting positive search outcomes

- Regression analysis was used to examine the impact of three different aspects of searches on the odds of a positive outcome: the protected characteristics of the person who was searched; the factors relating to the search itself; and the time period of the search.
- The results showed that, even when a range of other factors were taken into account, the likelihood of a positive outcome was higher for men than women and lower for people aged under 18 than adults, but there was little difference according to ethnic group.
- The success of searches was also influenced by the time of day and the day of the week when they were conducted, with evidence that searches conducted during busy periods of activity were more likely to be productive than those conducted during less demanding periods.
- Successful detection was greater for searches conducted for stolen property than for drugs, while searches conducted for offensive weapons or other reasons were far less likely to be successful.

- Even taking account of other factors, there were considerable differences in the likelihood of a successful outcome based on the Division in which the search took place, with least successful outcomes in Greater Glasgow, the North East and Dumfries & Galloway.
- There was compelling evidence that the introduction of the CoP resulted in an improvement in positive outcomes, as searches conducted in the twelve months following the introduction of the Code of Practice had greater odds of resulting in a positive detection than those in the previous year.

Section 8: Conclusions

- Overall, the introduction of the 2016 Act and the CoP has been successful in terms of improving the effectiveness and proportionality of stop and search in Scotland.
- Searching in Scotland is now being conducted with a greater standard of evidence in terms of reasonable suspicion.
- There is no strong evidence to support the introduction of a power to search young people for alcohol; although, powers to deal with large, spontaneous gatherings of young people where alcohol use causes concern for public safety could be considered.
- Some further legislative amendments to reassure officers of their powers to search where there is a concern for protection of life may also be necessary.
- There remain some issues about the use of stop and search that should be subject to ongoing monitoring conducted through normal scrutiny channels.

1. Introduction

1.1 Background to the Code of Practice

Despite controversy over the use of police stop and search in many jurisdictions, including England, there was very little consideration given to the use of the tactic in Scotland until relatively recently. Concerns about the use of stop and search in Scotland were first raised by a doctoral study carried out by Dr Kath Murray from the University of Edinburgh. She identified a number of worrying aspects including: few guidelines and very little transparency or accountability over the use of search as a tactic; exceptionally high search rates compared to other jurisdictions; and highly disproportionate rates of search amongst children and young people (Murray 2014). Murray's research also raised legal and ethical issues about the extensive use of 'non-statutory' searches being conducted in Scotland which were based on 'consent' rather than any legislative powers.

Following a period of significant media and political debate on the topic of stop and search, Her Majesty's Inspectorate of Constabulary in Scotland conducted an audit which concluded that a widespread review of stop and search was necessary and recommended that a police Code of Practice be introduced (HMICS 2015). In response, the then Cabinet Secretary for Justice, Michael Matheson MSP, established an Independent Advisory Group on Stop and Search (IAGSS) to determine what legislative and governance changes were necessary to ensure that stop and search was conducted in a fair, effective and proportionate manner. He also asked the IAGSS to consider the need for a Code of Practice.

Taking into account a public consultation exercise and an extensive review of the evidence, the IAGSS reported its findings to the Cabinet Secretary in August 2015. It recommended that the abolition of non-statutory search and the introduction of a statutory Code of Practice to provide guidance on the use of stop and search. The IAGSS also recommended that data on stop and search should be published on a regular basis by Police Scotland and that all of the changes to stop and search should be subject to a detailed implementation and training plan. The IAGSS were unable to make recommendations on the introduction of new legislation to cover searching of young people for alcohol (for which there is currently no statutory power) and recommended that further consultation be conducted on this subject.

All of the IAGSS recommendations were accepted by the Cabinet Secretary and new legislative provisions governing the use of stop and search were introduced in Section 65 of the Criminal Justice (Scotland) Act 2016. The Act included provision for a Code of Practice for Stop and Search in Scotland, which came into force on 11th May 2017.

1.2 Reviewing the Code of Practice

The Cabinet Secretary for Justice requested that the implementation of the Code of Practice be reviewed after twelve months, as it was felt that this length of time would allow the Code to become embedded in policing practice and achieve the level of change within Police Scotland that was expected. However, an interim review was

also requested for the six month stage to provide an early indication of whether the Code of Practice was achieving its aims and if there were any issues with the practical implementation of the Code, such as gaps in legislative provision around searches and seizures that needed further consideration. The six month review was also viewed as an opportunity to identify specific issues that could be examined within the wider scope of the twelve month review. A six month interim report was published in February 2018. Covering the period from 1st June to 30th November 2017, it set out preliminary findings based primarily on analysis of statistical data from the Police Scotland stop and search database as well as some more narrative evidence from a police 'call for evidence' (see McVie 2018).

The six month review found that the introduction of the Code had not made a tremendous impact on policing practice, as organisational change had already started long before May 2017. Nevertheless, there had been a substantial reduction in encounters during the first six months of implementation, most especially in the West of Scotland where searches and seizures were highest. As a result, the rate of positive search outcomes had increased, which indicated that searches were being applied more effectively and with a greater degree of reasonable suspicion. Police had not resorted to using other legislative powers as a means to continue searching suspect populations and, while there was still some disproportionality in the use of search amongst some groups (e.g. young people), this had greatly reduced. Alcohol seizures had reduced much more than expected, especially in the West of Scotland, which was surprising given calls by the police and other groups that a power of search for alcohol should be introduced. The six month review set out 11 recommendations for further investigation in the twelve month review.

The twelve month review was separated into two research studies. The first was an update of the six month review, focusing on the available statistical data; while the second was a qualitative study involving interviews and focus groups with police officers, young people and a range of other practitioners. The IAGSS determined that this mixed methods research exercise would provide all the evidence necessary to make any further recommendations to the Cabinet Secretary for Justice about the legislative powers of search and the CoP in Scotland.

This report sets out the findings from the quantitative research. The findings from the qualitative study is published in a separate report (Ipsos Mori Scotland 2019). In addition, Police Scotland has published its own review into the operationalisation of the CoP which sets out findings from the NSSU database and feedback from officers (Police Scotland 2019). To fully understand the impact of the implementation of the new Code of Practice, the findings of this report should be read in conjunction with the qualitative study and the Police Scotland report.

1.3 Evidence used in the review

Like the six month review, the quantitative research conducted for the twelve month review was mainly based on analysis of statistical data provided by Police Scotland from the NSSU Stop and Search Database which holds a record of all searches and seizures conducted in Scotland. In order to provide some wider context around alcohol-related problems that may have had an impact on the number of seizures in

Scotland, data was also provided by Police Scotland from the Storm Unity Database on the recording of alcohol-related incidents and detections; and from the Information Services Division (ISD) of NHS National Services Scotland on the number of hospital admissions involving young people. All analyses were subject to statistical testing and, unless otherwise stated, any differences reported in this review are significant at the 95% confidence level.

The twelve month review covered the period from 1st June 2016 to 31st May 2018 i.e. a full twelve months before and after the implementation of the Code of Practice so that comparisons can be made between the two periods. In addition, for the sake of understanding patterns of continuous change, monthly analysis for the year prior to the introduction of the Code and the year after is provided, where appropriate.

1.4 Scope of the twelve month review and report structure

This report begins by setting out some of the key changes that occurred as a result of the introduction of the Code of Practice. This includes changes in the number and rate of stop and searches and the use of seizures to recover alcohol and other illicit substances, changes in the positive detection rate for searches, and variation over time in the use of searches across different geographical areas (including police Command Areas and Divisions). It also provides a descriptive analysis of some new data that have been collected since the introduction of the code on strip searches and the issue of receipts following searches.

The remainder of the report focuses on four key areas of concern about the Code of Practice and associated legislation that were raised during the IAGSS consultation phase by police representatives and other stakeholder groups. Some stakeholders questioned whether the new legislative provisions and the Code of Practice adequately ensured that policing practice would not be unduly restricted in its efforts to keep people safe in Scotland. There were concerns that, in the absence of non-statutory search, police officers might start to increase their reliance on other forms of legislation. In particular, concerns were also raised about the lack of a specific power of search for alcohol and the impact this may have on criminalising young people for alcohol possession. And, having observed significant disproportionality in the use of stop and search, especially against young white males (Murray 2014), stakeholders also expressed a need to ensure that the tactic was not used unfairly against those with protected characteristics. Taking account of these concerns, the scope of the twelve month review covers four main areas, as detailed below.

i. Identify potential gaps in the legislation around young people and alcohol

The lack of a police power to search young people for alcohol was one of the most contentious issues in the public consultation on Stop and Search conducted in 2015. In particular, policing representatives were concerned that the abolition of consensual searching would leave them powerless to search young people in the event that they were suspected of carrying concealed alcohol, thus placing the young person or others at risk. They argued that existing powers to seize alcohol from young people under Section 61 of the Crime and Punishment (Scotland) Act 1997 were insufficient to deal with the extent of the problem in Scotland. Others, however, argued that there was no strong evidence to suggest that an additional power to

search young people for alcohol was necessary and that such a power may result in disproportionately high search rates amongst young people, which could damage relationships between young people and the police (see Murray and McVie 2016). It was also noted that the power to search for alcohol is not available for officers in England and Wales (although it is available to PCSOs).

The IAGSS report stated that there was insufficient evidence to support the creation of a new legislative power to search children for alcohol at that time, but recommended that the situation be reviewed after the Code of Practice had been in place for a period of time. The six month interim review found that the number of seizures of alcohol had declined substantially, across all age groups, especially in the West of Scotland where alcohol related problems were perceived to be most acute. It was not possible to determine the reason for this, so a recommendation was made that this be investigated in more detail during the twelve month review. Section 3 of this report provides information on the number and nature of incidents dealt with by police that involve young people and alcohol and further considers whether there is any evidence to suggest that the lack of a power to search for alcohol is problematic. The review also looks at the wider context of alcohol related concerns, including trends in alcohol use and hospital admissions for young people under the influence of alcohol.

ii. Identify other potential gaps in the legislation or lack of clarity in the Code of Practice

The wording of Section 65 of the Criminal Justice (Scotland) Act 2016 states that officers may only search a person who is not in custody “*in accordance with a power of search conferred in express terms by an enactment, or under the authority of a warrant expressly conferring a power of search*”. In response to the IAGSS consultation, some police officers expressed concern that there was no explicit power of search in situations where police officers believed intervention was necessary to preserve life. As a result, paragraph 3.4 of the Code was added to make it clear that officers must take all steps necessary to protect life. The six month review found that only a small number of searches were conducted on the basis of protecting life, and recommended that this be examined in more detail by the qualitative study in the twelve month review.

Section 4 of this report examines whether the legislation has left any significant gaps or ambiguities in the powers of police officers to stop and search. In particular, it looks again at the number of searches that were considered justifiable by police officers but which were not explicitly covered by Section 65 of the Criminal Justice (Scotland) Act 2016. This includes interventions carried out on the basis of Sections 20 and 32 of the Police and Fire Reform (Scotland) Act 2012 to protect life. Lack of clarity in the Code of Practice is considered within the qualitative research.

iii. Identify any increase in the use of Section 60 Criminal Justice and Public Order Act 1994

Some stakeholders expressed concern that the phasing out of non-statutory searches may lead to increased use of so-called ‘no suspicion’ searches by Police Scotland under Section 60 of the Criminal Justice and Public Order Act 1994. The

six month review found that there had been no increase in the use of Section 60; however, the twelve month review examined again whether there was any increase in the number of authorisations for, or change in the profile of, searches conducted under Section 60. This is reported in Section 5 of the report.

iv. Examine use of search involving individuals with protected characteristics

Concern was expressed during the public consultation on stop and search about the disproportionate searching of children and young people, and on the mechanisms of policing engagement which can have a negative effect on young people and their attitudes towards the police. Section 7 of the new CoP specifically addressed the issue of searches involving children and young people, and Police Scotland provided training for all officers aimed at improving methods of engagement with young people. The training also examined the issue of unconscious bias when dealing with any individuals with protected characteristics. The six month review found that there was still some disproportionate searching of young people, and that positive outcomes were lower amongst this group; however, it found no particular disproportionality in terms of search or seizure by sex or ethnic group.

Section 6 of the twelve month review provides an update on the impact of the CoP by examining any changes in the profile of searches and whether rates of search appeared to be disproportionately high and detection rates disproportionately low in respect of any group with protected characteristics, especially children and young people. In addition, Section 7 offers a more detailed analysis of whether certain protected characteristics – and other factors relating to the nature of the search itself - were significantly associated with a positive search, and whether the introduction of the CoP made any additional difference to improving search outcomes in Scotland.

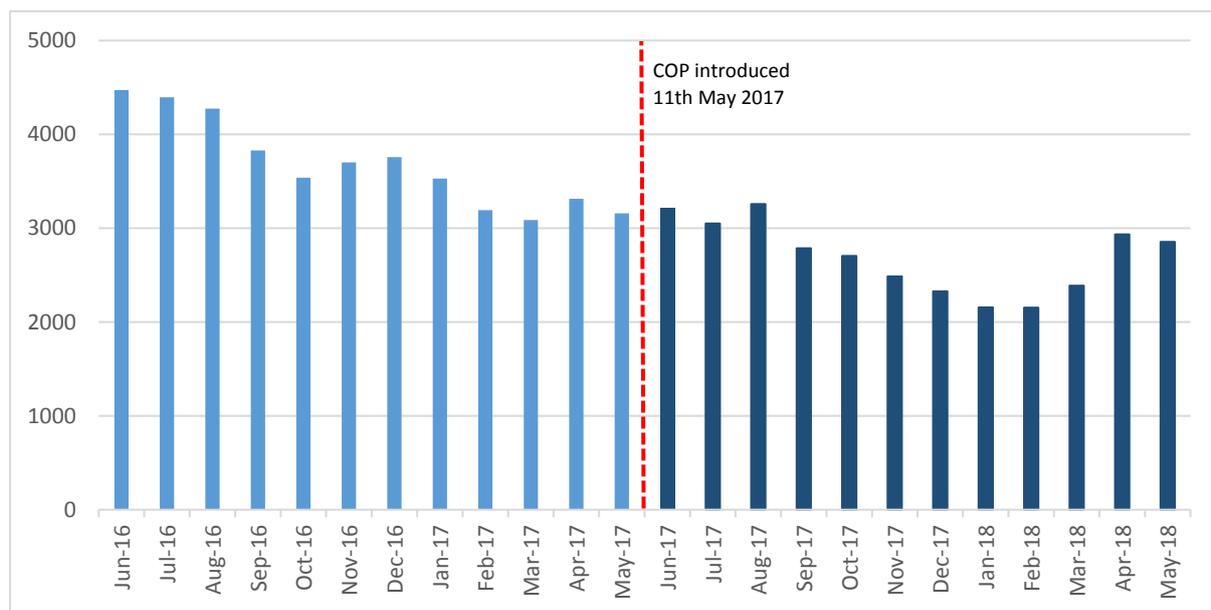
Section 8 of this report draws the key conclusions from the review findings and offers some points for consideration by the IAGSS in drawing up its final report to the Cabinet Secretary for Justice.

2 Changes following implementation of the Code

2.1 Change in police use of search and seizure

During the twelve month period following the introduction of the new Code of Practice (CoP) on Stop and Search (June 2017 to May 2018), there were 32,307 encounters involving either a search or a seizure in Scotland. This compares to 44,249 during the equivalent twelve month period of the previous year and represents a 27% reduction in the use of these police tactics. The number of searches and seizures did not drop as a direct consequence of the introduction of the Code of Practice on 11th May 2017. Rather, this reduction reflects an ongoing steady decline which can be traced back to the publication of a critical HMICS report in March 2015. Figure 2.1 shows the decline in recorded searches and seizures between June 2016 and May 2018, and highlights the year before the introduction of the CoP and the year after. From the start to the end of this two year period, the number of encounters decreased by 36%; however, the difference between its highest level (in June 2016) and lowest level (in February 2018) represents a reduction of 52%.

Figure 2.1: Number of searches and seizures carried out in Scotland, June 2016 to May 2018



The number of searches and seizures conducted during the twelve months following the introduction of the CoP is clearly smaller in comparison to the equivalent twelve months of the previous year. In addition, there are distinctively different trends, with a more ongoing decline after the introduction of the COP than is evident in the 12 months before. There is some evidence of a seasonal trend in both periods, with higher numbers in the spring and summer months, although there was no similarity in seasonal trend over the winter months. Interestingly, however, the sharp rise in encounters during April and May 2018 brought them back in line with the number in April and May 2017, which may be an early indicator that usage of these tactics is starting to 'level out'.

There was a distinct reduction in all types of searches and seizures following implementation of the CoP. Table 2.1 shows the breakdown of policing encounters by number and percentage in the twelve months after the CoP came into force compared with the equivalent twelve months of the previous year. Statutory searches reduced by 19% overall, although they increased in terms of the relative share of all encounters by 9%. This is partly due to the phasing out of consensual searches following the introduction of the CoP (although the number of consensual searches had already diminished to tiny numbers during the year prior to the CoP). However, it is mainly due to a 63% decline in seizures, which fell as a proportion of all encounters from 16% to 8%. As the analysis compares the same time period in each year, this difference is not accounted for by any seasonal variation and, instead, suggests that police use of seizure reduced at a far greater rate than the use of stop and search.

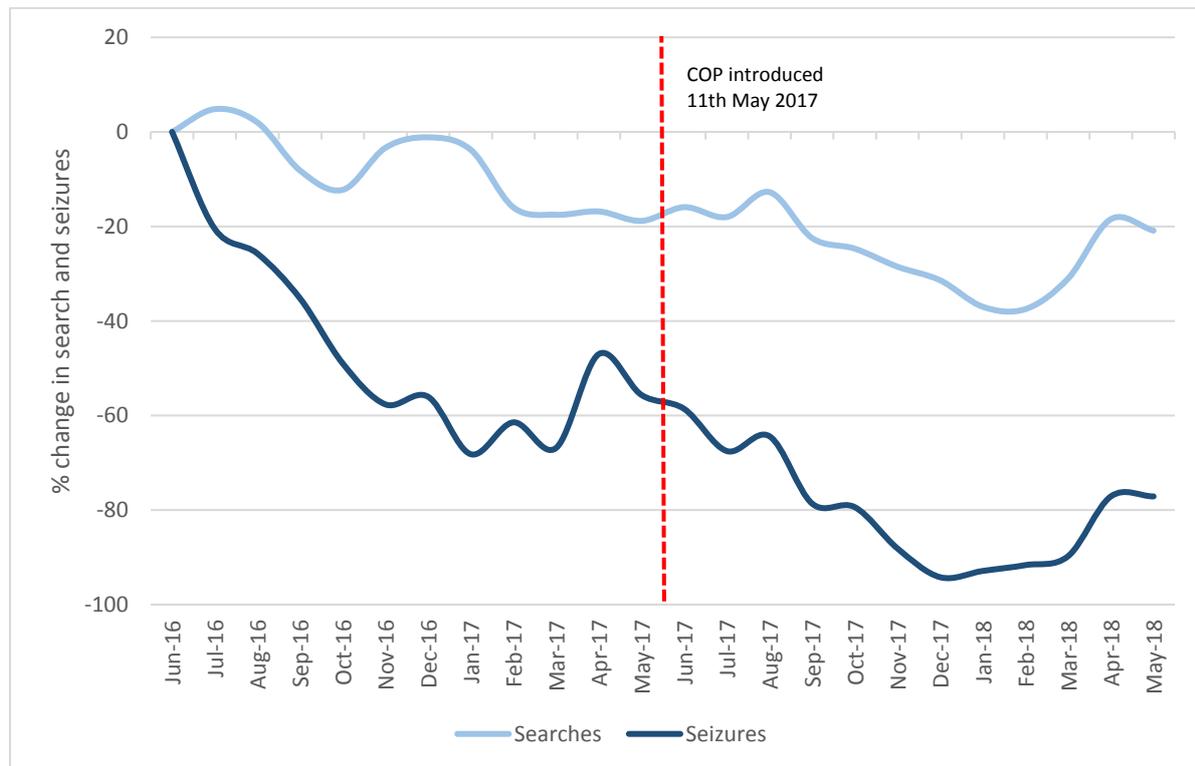
Table 2.1: Number of searches and seizures pre and post-implementation of the CoP

	June 2016 to May 2017		June 2017 to May 2018		% Change in N	Difference in % share
	N	% share	N	% share		
Statutory searches	36,627	83%	29,773	92%	-19%	+9%
Consensual searches	707	2%	0	-	-100%	-2%
Seizures	6,915	16%	2,534	8%	-63%	-8%

Note: Column percentages may not total 100% due to rounding.

This differential change in the use of search and seizure is confirmed by the indexed trends in Figure 2.2. This chart shows that the percentage change in seizures declined far more steeply than that for searches during the year prior to the introduction of the CoP and, despite an initial increase in seizures immediately prior to the CoP introduction (which is most likely a seasonal effect) they continued to decline more steeply afterwards. Indeed, the number of seizures declined by 90% between June 2016 and its lowest point in December 2017, although it showed signs of increasing again in the early months of 2018 (which could, again, be a seasonal effect). This compares with a 38% drop in searches between June 2016 and its lowest point in February 2018, although there are also signs of some increase in subsequent months.

Figure 2.2: Indexed trends in police use of search and seizure, June 2016 to May 2018



The trend in seizures will be discussed further in section 3 in relation to the use of search and seizure as a policing tactic for dealing with underage drinking; however, it is clear from Figure 2.2 that the police use of search and seizure changed before and after implementation of the CoP but it did not change consistently for both tactics.

2.2 Change in positive detection rate for stop and search

Despite the decline in the overall number of searches, the success rate in terms of positive detection increased in the year following the introduction of the CoP. Table 2.2 shows that in the 12 months prior to the introduction of the CoP there were 37,325 searches, of which 11,689 (31%) were positive. In the year after the CoP was introduced, there were 29,768 searches, of which 11,236 (38%) were positive. This represents a statistically significant increase of 7% in positive outcomes following the introduction of the CoP, which suggests that officers were applying a higher threshold of reasonable suspicion when using stop and search. However, given the very large reduction in the total number of searches, it is important to examine the absolute change in the number of positive searches. Taking statutory and voluntary searches together, Table 2.1 shows that there were 7,561 fewer searches (a decline of 20%) following the introduction of the CoP, but Table 2.2 shows that there were only 453 fewer positive searches (a decline of only 4%). This indicates a net reduction in searches resulting in the recovery of an illegal or dangerous item.

There was an increase in the positive search rate across all search types, as shown in Table 2.2. Searches for stolen property saw the largest increase in positive detection rate (9%). There was a shallower increase in the rate of positive searches

for drugs (6%) and, especially, for offensive weapons (4%). Indeed, the rate of positive searches remained lowest for weapon searches, with only 26% of such searches resulting in an item being recovered. A new category for recording searches of people carried out in accordance with a warrant was added to the Police Scotland database following the introduction of the CoP, and these had a higher than average positive rate.

Table 2.2: Number and percentage of positive police searches pre and post-implementation of the CoP

	June 2016 to May 2017		June 2017 to May 2018		Difference in % of positive searches
	N	% of all searches	N	% of all searches	
All searches	11,689	31%	11,236	38%	+7%
<i>Searches by type:</i>					
Drugs	10,252	32%	9,293	38%	+6%
Stolen property	895	35%	1,011	44%	+9%
Offensive weapons	422	22%	380	26%	+4%
Warrant	13	28%	456	41%	+13%
Other reason	107	21%	96	28%	+7%

Note: There were seven searches on the Stop and Search Database relating to terrorism for which no outcome was published.

2.3 Geographical change in the use of search and seizure

2.3.1 Overall change by Command Area

Prior research (Murray 2014; McVie and Murray, 2017) demonstrated that the use of search and seizure in Scotland varied significantly by geographic area, and this was also found in the six month review of the CoP (McVie 2018). Police Scotland consists of three large Command Areas: East, North and West. Table 2.3 shows the change in the number of searches and seizures during the twelve months before and after the implementation of the CoP within these three Command Areas. It also shows the percentage change in the total number of searches and seizures, and the shift in the relative share of all encounters within each of the three areas. Table 2.3 shows that the very large reduction in searches and seizures at a national level was predominantly driven by falling numbers in the West Command Area, which is evident in terms of change in absolute numbers and relative share of all encounters.

It is clear from Table 2.3 that the majority of all searches took place in the West Command Area. However, there was a 41% decline in searches in the West during the twelve months after the introduction of the CoP. This contrasts sharply with an 8% increase in searches in the North and a 23% rise in the East. As a consequence, the relative share of all searches in Scotland shifted away from a predominance in the West, although almost half (45%) of all searches still occurred in this Command Area following the introduction of the CoP.

The number of seizures conducted in the West Command area declined significantly, by 68%, in the year following the introduction of the CoP. There were also reductions in the use of seizures in the North (-12%) and the East (-26%) Command

Areas, albeit to a far lesser extent. Again there was a shift in the relative share of all seizures, with a net loss in the West Command Area and net gains in the North and East. Nevertheless, unlike searches, the vast majority (79%) of all seizures continued to take place in the West.

Table 2.3: Number of searches and seizures pre and post-implementation of the CoP by Command Area

	June 2016 to May 2017		June 2017 to May 2018		% Change in N	Difference in % share
	N	% share	N	% share		
<i>Searches</i>						
North	8,488	23%	9,201	31%	+8%	+8%
East	5,727	15%	7,032	24%	+23%	+9%
West	23,119	62%	13,540	45%	-41%	-17%
<i>Seizures</i>						
North	221	3%	194	8%	-12%	+5%
East	467	7%	345	14%	-26%	+7%
West	6,227	90%	1,995	79%	-68%	-11%

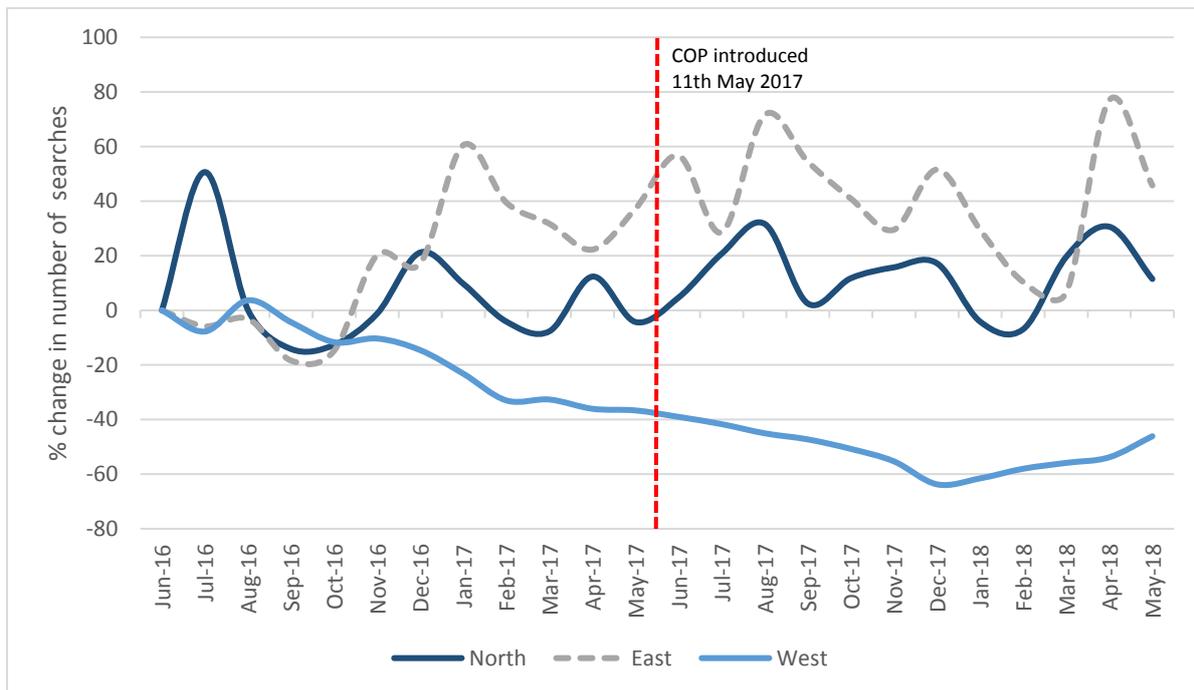
Note: Column percentages within searches and seizures may not total 100% due to rounding.

2.3.2 Monthly change by Command Area

The overall figures tell only a partial story and do not account for change over time. Figures 2.3 and 2.4 show how the number of searches and seizures changed on a month by month basis prior to and after the introduction of the CoP in each of the three Command Areas. These figures are presented as indexed trends, fixed at zero in June 2016, so they show the percentage change in overall encounters from this time point onwards.

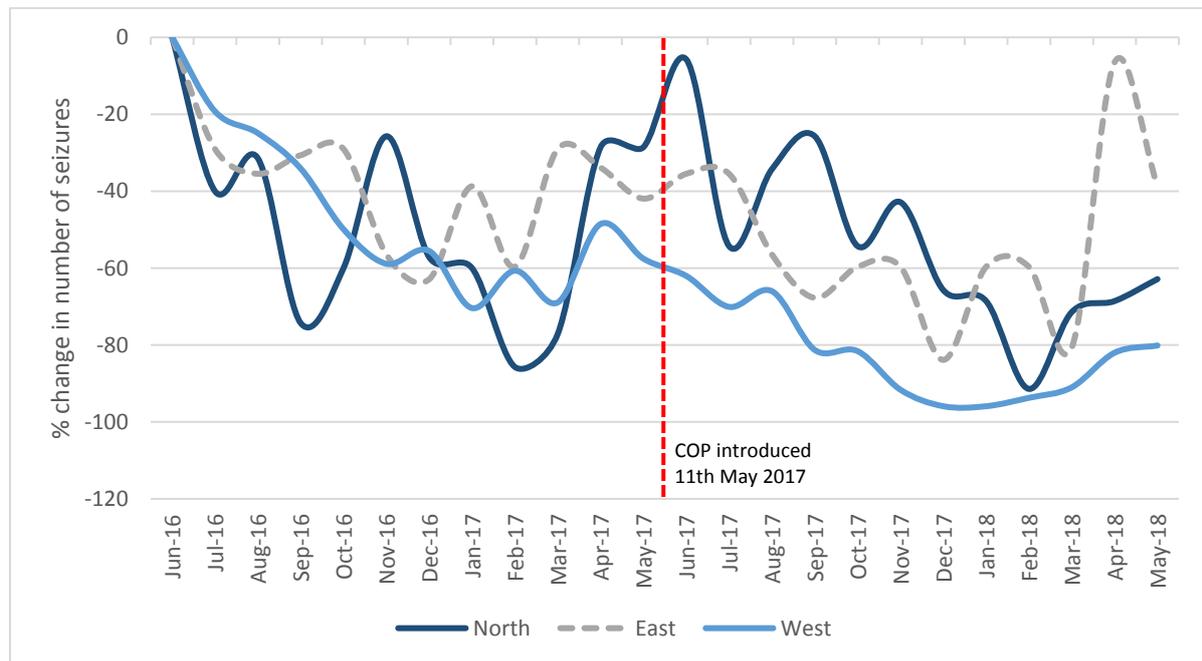
Figure 2.3 shows that there was a steady and consistent fall in the number of searches in the West Command Area from around August 2016 to December 2017, although in the early months of 2018 numbers started to rise again (the trend line suggests more of a gradual increase than a seasonal effect). Clearly, therefore, the decline in the number of encounters in the West Command Area started well before the introduction of the CoP. In the North and East Command Areas, the indexed trends showed far greater month to month fluctuation (which is partly a result of smaller absolute numbers of searches). The trend in searches in the North Command Area varied from month to month, but it showed no consistent rise or fall over time. Whereas, in the East Command Area there was a slight upward trend in searches between October 2016 and January 2017, but no consistent pattern beyond that. Therefore, Figure 2.3 does not suggest that the higher number of encounters in the North and East in the twelve month period following the introduction of the CoP was due to a marked upward trend from May 2017. Furthermore, it does not show any distinct seasonal trend in numbers of searches in any of the three Command Areas.

Figure 2.3: Indexed trends in searches by Command Area, June 2016 to May 2018



The trend in seizures is shown in Figure 2.4. The number of seizures was much smaller, so the trends are subject to an even greater degree of fluctuation than for searches. Nevertheless, Figure 2.4 shows a gradual decline in seizures that started well before the introduction of the CoP within all three Areas. Between June 2016 and March 2017, seizures fell by between 63% and 85% across the Command Areas. There appeared to be a slight increase in the number of seizures just prior to the introduction of the CoP, which may well have been a seasonal effect; however, there was another distinct period of decline in numbers across all three Command Areas after the CoP was introduced. There does appear to have been some increase in seizures in the early months of 2018, with a very large spike in the East in April 2018. However, the overall pattern of decline in the number of seizures over the two years is starkly different to the changing pattern of searches, shown in Figure 2.3.

Figure 2.4: Indexed trends in seizures by Command Area, June 2016 to May 2018

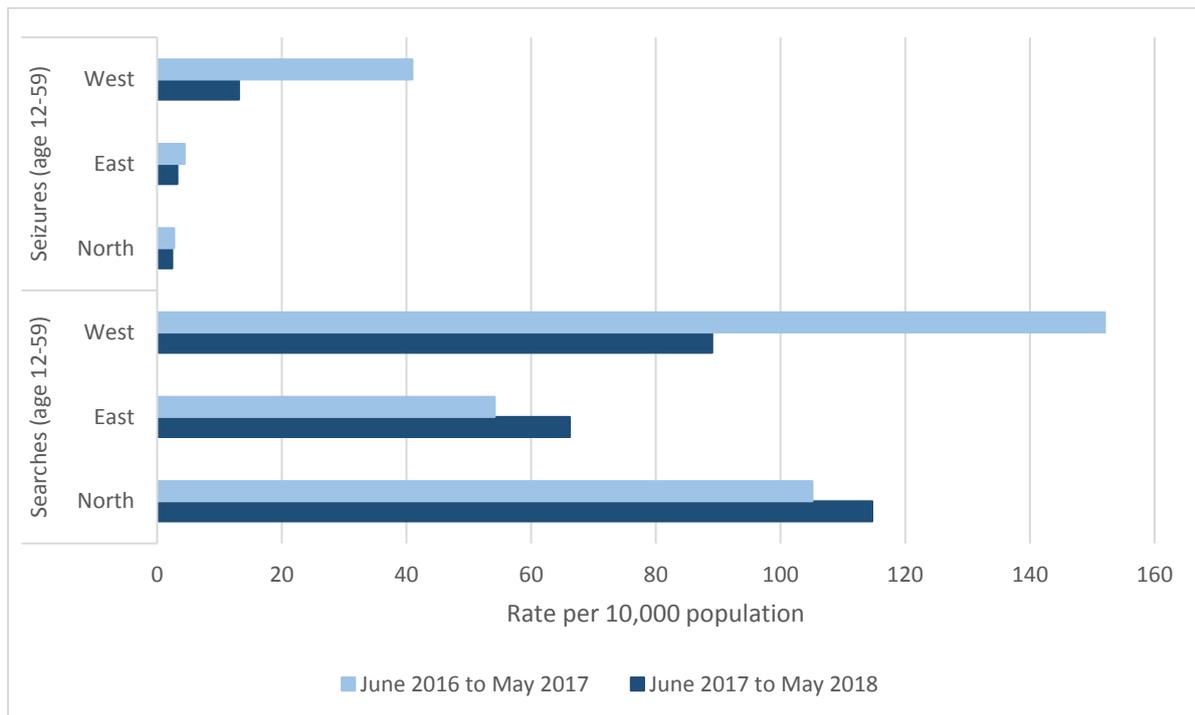


Looking at the total number of searches and seizures in each Command Area makes an assumption that the level of demand for policing is similar in each area; however, this is unlikely to be the case. There are many factors that can impact on the level of demand for policing, but one of the most common factors is the population size which varies from area to area. In order to compare Command Areas on a like-for-like basis, the rate per capita of search and seizure was calculated using mid-year population estimates from the National Records of Scotland. The rates were calculated per 10,000 people aged 12 to 59, since the vast majority (over 97%) of all searches and seizures involved people within this age range.

Figure 2.5 shows the difference between the search and seizure rates in each Command Area in the twelve months prior to the introduction of the CoP and the equivalent period after the CoP was introduced. Overall, search rates per capita were far higher than seizure rates across all three Command Areas. Prior to the introduction of the CoP, the West Command Area had a far higher rate of search and, especially, seizure than the North and East. Following implementation of the CoP, the seizure rate in the West Command Area reduced dramatically from 40.9 to 13.1 per 10,000 people aged 12-59, although it continued to be four times higher than that in the East (3.2) and five times higher than in the North (2.4). Seizure rates declined only marginally in the East and North.

The rate of search in the West Command Area also declined substantially, from 152.0 to 89.1 per 10,000 people aged 12 to 59; whereas it increased from 54.2 to 66.2 in the East and from 105.1 to 114.7 in the North. Taking population size into account, therefore, the rate of search actually became smaller in the West than the North Command Area following the introduction of the CoP.

Figure 2.5: Rates of search and seizure per capita pre and post-implementation of the CoP by Command Area



Note: Rates per capita based on Mid Year Population Estimates for 2016 (June 2016 to May 2017) and 2017 (June 2017 to May 2018) for people age 12-59.

2.3.3 Overall change by Division

Within the three Command Areas there are a 13 Police Divisions. Table 2.4 shows the change in number of searches by Division. There was substantial change at a Divisional level, but no clear pattern of change within Command Areas which suggests that change in the use of search as a tactic was influenced predominantly by factors at a local level.

The Division with the largest number of searches during both periods was Greater Glasgow. Nevertheless, there was a 59% reduction in searches in this Division in the twelve months following the introduction of the CoP compared with the previous year. The relative share of all searches attributable to Greater Glasgow reduced from 39% to 20%, which represented the greatest overall change. There were fairly sizable reductions in the number of searches in each of the other West Divisions, with the exception of Dumfries & Galloway which increased by 69% over this period. Nevertheless, the relative share of the other West Divisions did not change substantially.

In the North Command Area, there was a 19% increase in searches within the North East (increasing its relative share of all searches by 6%) and a 7% increase in the Highlands and Islands, but a 7% decline in Tayside. Whereas, in the East Command Areas there were large increases in Edinburgh (32%) and the Lothians & Scottish Borders (62%) but only a minimal increase in Fife (6%), and a small decline in the Forth Valley (-5%). Overall, the relative share of all Northern and Eastern Divisions

increased over this period, largely due to the large reduction in searches in Greater Glasgow.

Table 2.4: Number of searches pre and post-implementation of the CoP by Police Division

	June 2016 to May 2017		June 2017 to May 2018		% Change in N	Difference in % share
	N	% share	N	% share		
<i>West Command Area:</i>						
Greater Glasgow	14,606	39%	5,919	20%	-59%	-21%
Renfrewshire & Inverclyde	2,219	6%	1,630	6%	-27%	0%
Argyll & West Dunbartonshire	1,593	4%	1,364	5%	-14%	+1%
Lanarkshire	2,283	6%	1,750	6%	-23%	-1%
Ayrshire	1,613	4%	1,520	5%	-6%	+1%
Dumfries & Galloway	805	2%	1,357	5%	+69%	+2%
<i>North Command Area:</i>						
North East	3,852	10%	4,567	15%	+19%	+6%
Tayside	2,268	6%	2,112	7%	-7%	+1%
Highlands & Islands	2,368	6%	2,522	9%	+7%	+2%
<i>East Command Area:</i>						
Edinburgh	1,854	5%	2,445	8%	+32%	+3%
Forth Valley	1,546	4%	1,466	5%	-5%	+1%
Lothians & Scottish Borders	1,169	3%	1,896	6%	+62%	+3%
Fife	1,158	3%	1,225	4%	+6%	+1%

Note: Column percentages and % change may not total 100% due to rounding.

Turning to seizures, Table 2.5 shows that the numbers were much smaller but the percentage changes were much larger. The North East Division was the only one to see an increase in the number of seizures in the twelve months after the introduction of the CoP, rising by 39%. Seizures in all of the other Divisions fell, ranging from a 15% drop in the Lothians & Scottish Borders to a substantial 76% drop in Greater Glasgow, which resulted in a 21% fall in relative share of all seizures. The most substantial declines occurred in the Divisions of the West Command Area, but it is clear that this was a pattern that was replicated across the country.

Table 2.5: Number of seizures pre and post-implementation of the CoP by Police Division

	June 2016 to May 2017		June 2017 to May 2018		% Change in N	Difference in % share
	N	% share	N	% share		
<i>West Command Area:</i>						
Greater Glasgow	4,217	61%	1,019	40%	-76%	-21%
Renfrewshire & Inverclyde	438	6%	228	9%	-48%	0%
Argyll & West Dunbartonshire	174	3%	108	4%	-38%	+1%
Lanarkshire	859	12%	308	12%	-64%	-1%
Ayrshire	498	7%	310	12%	-38%	+1%
Dumfries & Galloway	41	1%	22	1%	-46%	+2%
<i>North Command Area:</i>						
North East	77	1%	107	4%	+39%	+6%
Tayside	48	1%	28	1%	-42%	+1%
Highlands & Islands	96	1%	59	2%	-39%	+2%
<i>East Command Area:</i>						
Edinburgh	88	1%	63	3%	-28%	+3%
Forth Valley	93	1%	43	2%	-54%	+1%
Lothians & Scottish Borders	185	3%	158	6%	-15%	+3%
Fife	101	2%	81	3%	-20%	+1%

Note: Column percentages and % change may not total 100% due to rounding.

2.3.4 Monthly change by Division

It is not possible to look in detail at change in the number of seizures by Division on a month by month basis as the numbers are too small. However, focusing on the number of searches there is evidence of considerable geographical variation in shifting police practice as a result of the implementation of the CoP. Looking at indexed trends from June 2016, three Divisions recorded a lower number of searches in the twelve months prior to the CoP being introduced than in the twelve months after. Figure 2.6, below, shows that in the months following the introduction of the CoP (represented by the dotted vertical line), the number of searches and seizures in the North East, Lothians & Scottish Borders, and Dumfries & Galloway were consistently higher in the period following the introduction of the CoP than in the previous year. It is worth noting that the change seems to have been precipitated in the month or so immediately prior to the implementation of the CoP and to have been sustained in the period afterwards.

On the contrary, five Divisions – all in the West Command Area - displayed a large and significant decline in the number of searches, which started well before the implementation of the CoP and continued after it. Figure 2.7 shows that the number of searches in Greater Glasgow, Ayrshire, Lanarkshire, Argyll & West Dunbartonshire, and Renfrewshire & Inverclyde all declined significantly during the twelve months preceding the introduction of the CoP, albeit at different rates and times, and with a certain degree of month to month fluctuation.

Figure 2.6: Divisions showing an increase in search following implementation of the CoP

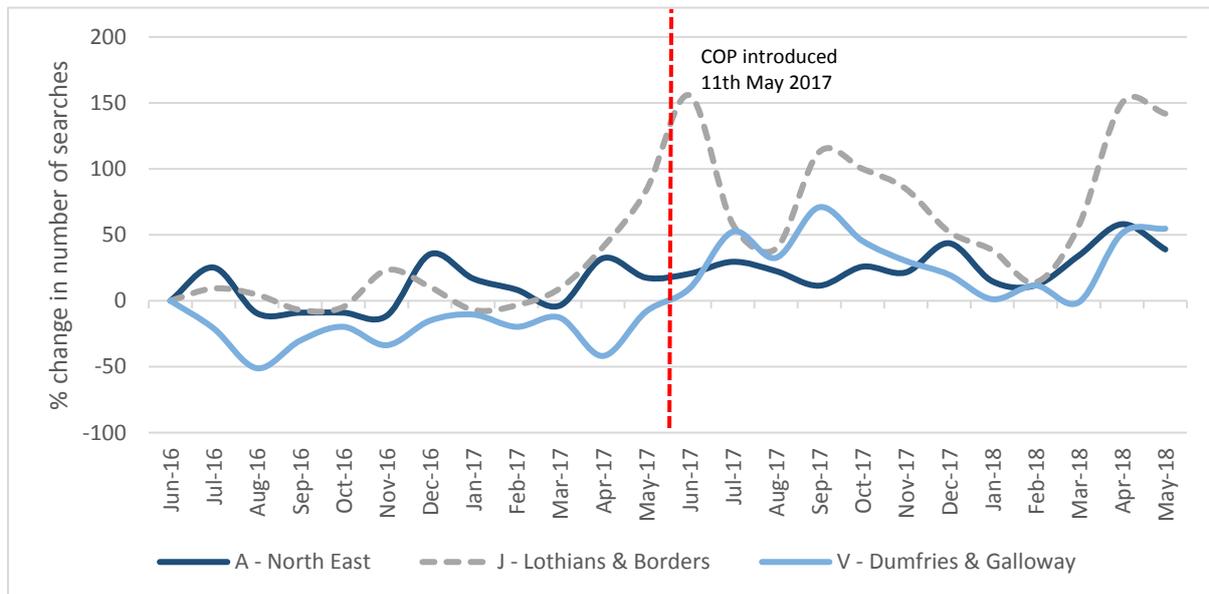
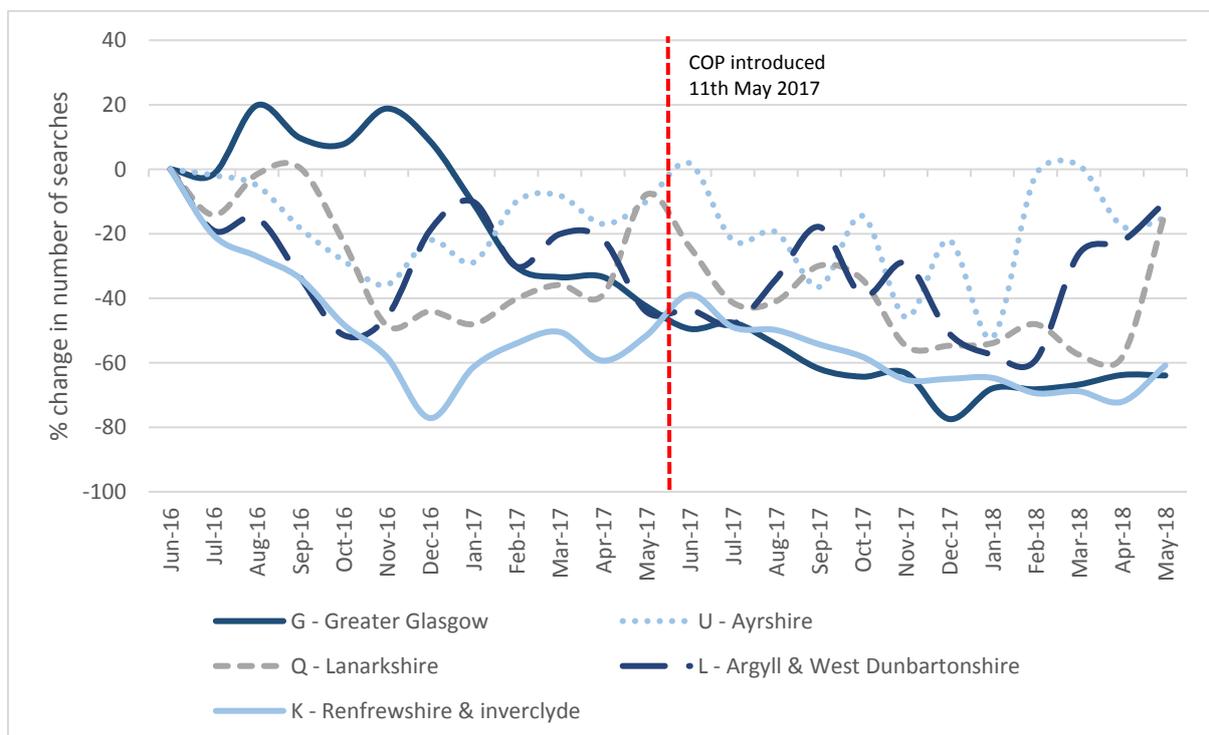


Figure 2.7: Divisions showing an ongoing decline in searches pre- and post-implementation of the CoP

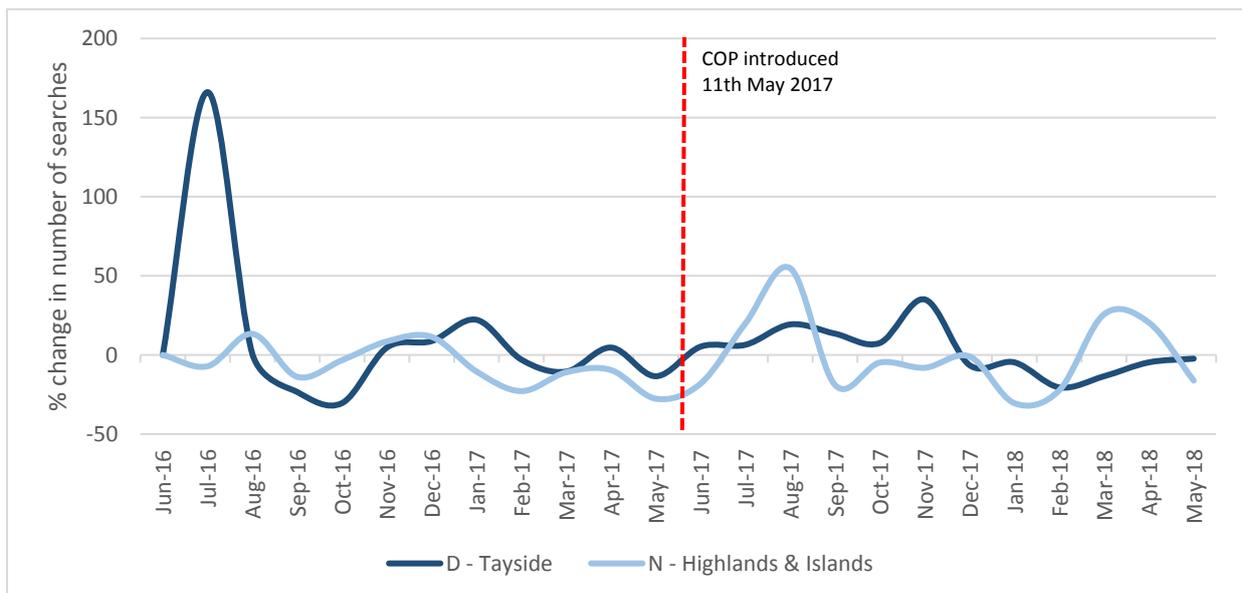


Renfrewshire & Inverclyde showed the greatest decline in encounters during the pre-CoP period, falling by 77%, although this was closely followed by Lanarkshire and Argyll & West Dunbartonshire which fell by 48% and 46%, respectively. The number of searches in Ayrshire fell by around a third. In all four of these Divisions, the number of searches and seizures did increase again in the months immediately prior

to the introduction of the CoP. This is consistent with anecdotal reports of an increase in confidence in using stop and search following the roll out of the national training programme by Police Scotland. Following the introduction of the CoP in May 2017, there was a further reduction in the number of encounters in all four Divisions until the end of 2017. In three of the four Divisions, the number of encounters increased again in the early months of 2018. It is difficult to say whether this is indicative of greater confidence in using stop and search or just an emerging seasonal trend.

In Greater Glasgow, the number of searches remained fairly consistent between June and November 2016, but declined significantly afterwards and continued to do so until reaching its lowest point in December 2017, representing a 77% fall in searches since June 2016. If there was an increase in confidence amongst officers in the West that was attributable to the Police Scotland training programme, it did not appear to be evident amongst those working in Greater Glasgow. Like some other West Divisions, there was a slight increase in encounters in the early months of 2018; however, the rate of change was far slower than in Ayrshire, Argyll & West Dunbartonshire, and Lanarkshire.

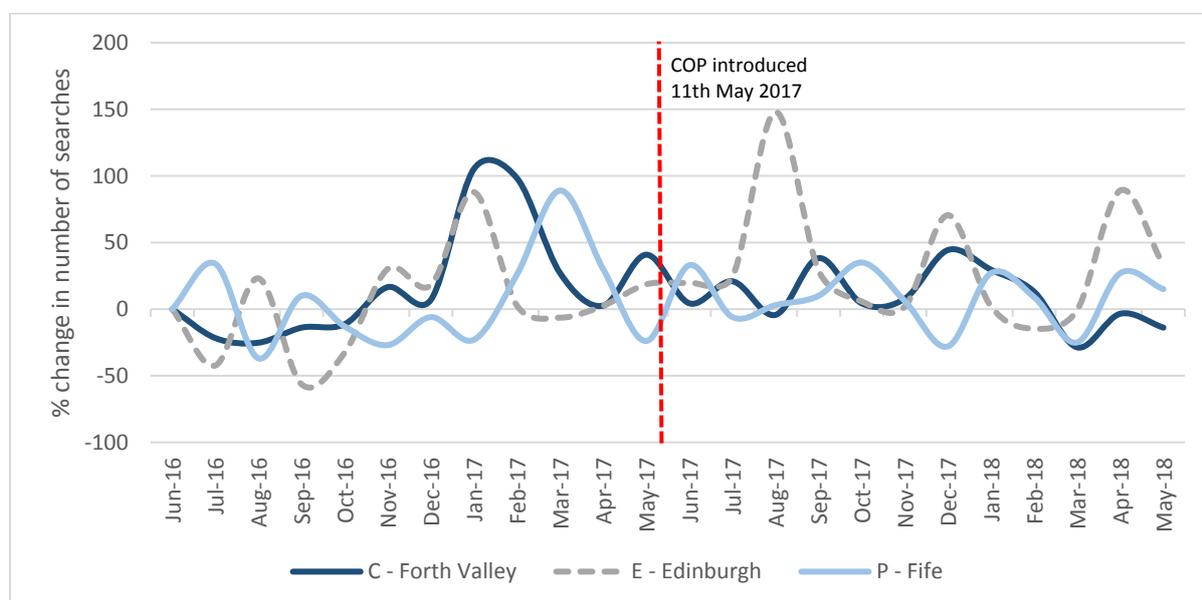
Figure 2.8: Divisions showing a stable pattern in searches pre and post-implementation of the CoP



Within the other Police Scotland Divisions, it was more difficult to identify distinctive trends in the number of searches conducted in the period before and after the introduction of the CoP. Figure 2.8 shows that in Tayside and the Highlands and Islands (both Northern Divisions) the trend in encounters was fairly stable over time with relatively small fluctuations in activity. The two exceptions to this were a large spike in July 2016 in Tayside which is explained by an increase in searches during the T in the Park music festival in Kinross, and a spike in the Highlands and Islands in August 2017 which coincides with the Groove Loch Ness concert in Inverness. However, there is no clear evidence of a direct effect of the introduction of the CoP in these two Divisions.

In the remaining three East Divisions - Fife, Forth Valley and Edinburgh - there was no clear observable pattern of change before or after the introduction of the CoP. Figure 2.9 suggests that each of the three Divisions had a fairly stable pattern of searches and seizures which was interspersed with some large peaks in activity. There is no consistent seasonal trend evident, which suggests that the peaks are probably attributable to local initiatives or activities. For example, the large spike in Edinburgh in August 2017 is almost certainly attributable to the Edinburgh International Festival during which there is a high policing presence. It is notable that there was not such a large spike during the equivalent period of the previous year, however. As with Figure 2.8, there is no obvious evidence that the introduction of the CoP had any direct effect on policing practice in these three Divisions. Or at least any impact of the new legislation was most likely to have been set in motion well before the actual implementation period.

Figure 2.9: Divisions showing no consistent trend in searches pre or post-implementation of the CoP



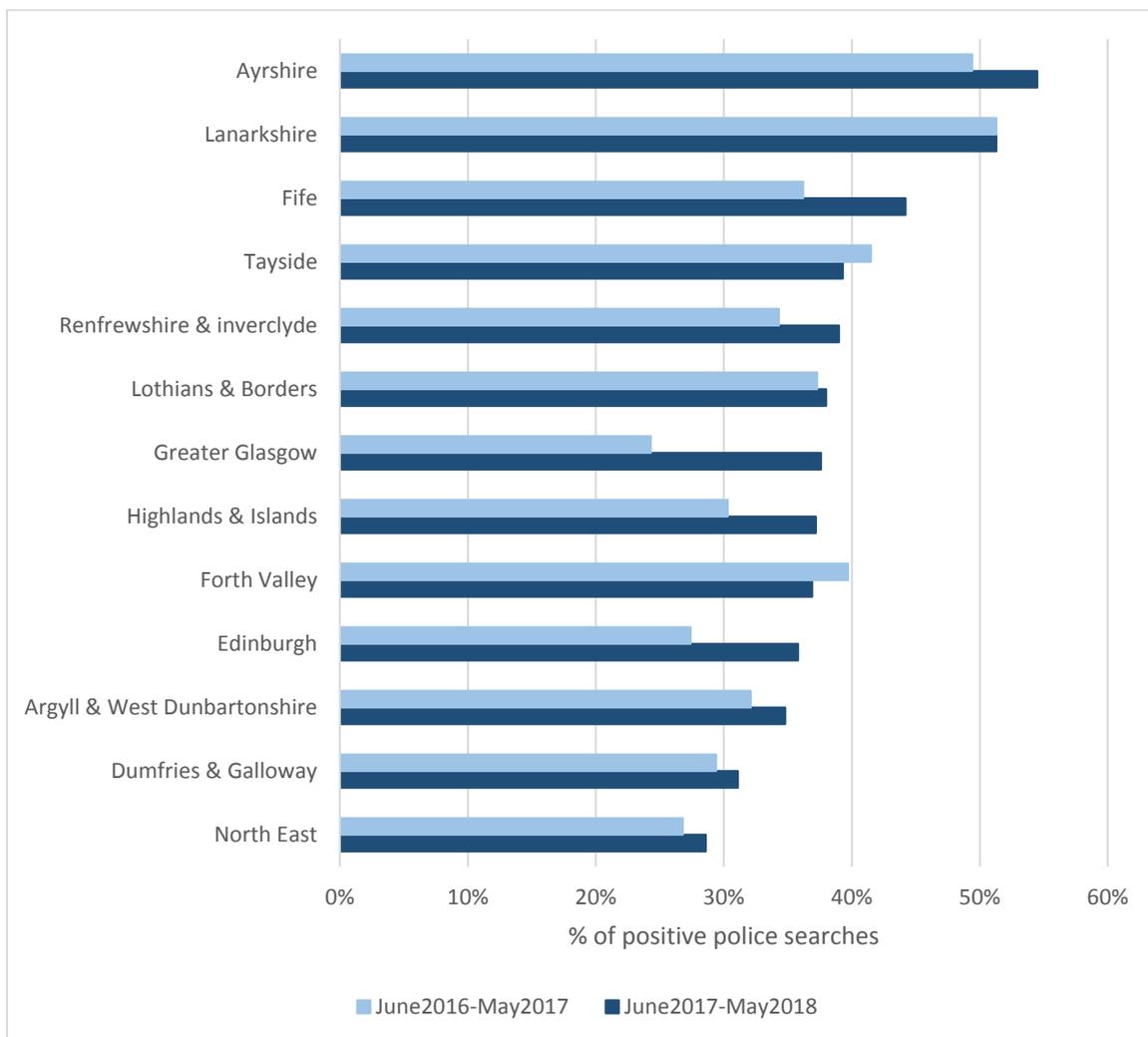
2.3.5 Change in positive detection by Division

Section 2.2 noted that the overall reduction in the number of police searches in the period following the implementation of the CoP coincided with an increase in the positive detection rate (regardless of the reason for the search) compared to the equivalent twelve month period of the previous year. Given that there was such a large degree of change and variation in use of search at a Divisional level, it is helpful to examine how the likelihood of a positive outcome changed within Police Divisions. Figure 2.10 shows the percentage of searches which resulted in a positive outcome for each Division, and for Scotland as a whole, in the pre- and post-CoP periods.

There was fairly wide variation in successful outcomes across Divisions both before and after the CoP was introduced; although it is notable that the degree of variation reduced in the post-CoP period. For example, the gap between the Divisions with

the largest and smallest detection rates declined from 27% in the pre-CoP period to 22% in the post-CoP period. Some Divisions showed little or no change in positive outcome between the two periods; for example, Lanarkshire, Lothian & Borders, Tayside, Dumfries & Galloway and North East saw very minor changes in outcome (2% or less). Whereas others had experienced a large increase in positive search outcomes, such as Greater Glasgow, Edinburgh, Fife and the Highlands and Islands. Only two Divisions - Tayside and Forth Valley - had experienced a decline in the positive search rate.

Figure 2.10: Percentage of positive police searches pre- and post-implementation of the CoP, by Division



There appeared to be no consistent relationship between trends in searches and change in positive detection rates across Divisions. Four of the Divisions that had a large reduction in search rates (Greater Glasgow, Ayrshire, Argyll & West Dunbartonshire, and Renfrewshire & Inverclyde) all witnessed a significant increase in positive search rates. However, Lanarkshire, which also had a large decline in searches, saw no change in the rate of positive detections (although this Division did have the highest detection rate overall in the pre-CoP period). The three Divisions that experienced an increase in search rates after the introduction of the CoP (North East, Lothians & Scottish Borders, and Dumfries & Galloway) witnessed little or no

change in the positive detection rate. Meanwhile, amongst those Divisions that had no change in the use of search pre or post-CoP, one (Tayside) saw a slight decline in positive detection rates and the other (Highlands and Islands) increased its positive search rates. Equally, amongst those Divisions with no consistent trend in searches before or after the CoP, two (Edinburgh and Fife) had a large increase in detection rates, while the other (Forth Valley) had a slight decline.

Based on these results, it is likely that whatever influenced the pattern of stability or change in the rate of positive outcomes for searches across different Scottish Divisions, it cannot simply be explained by changes in the number of searches carried out. It is likely that other factors, including proportionate use of stop and search and the application of reasonable suspicion, played a key role in the changing pattern of successful searches.

2.4 New information on stop and search

2.4.1 Strip and intimate searches

Since the introduction of the CoP, information about the use of strip searches and intimate searches has been recorded on the NSSU Stop and Search Database. According to Annex C of the CoP: “A strip search is a search involving the removal of more than outer coat, jacket, gloves, headgear or footwear”. It is permitted only in circumstances where the officer has reasonable suspicion that a person has concealed an article (such as drugs or a weapon) under their clothing, and it should be conducted in a relatively private place so that the person detained cannot be seen by others. Annex C further states: “An intimate search consists of the physical examination of a detainee’s body orifices other than the mouth”. Intimate searches are clearly much more intrusive than a strip search. They can be conducted only on issue of a warrant by a Sheriff and must be carried out by an authorised health care professional. The use of strip and intimate searches was not recorded by Police Scotland prior to the introduction of the CoP, so activity can only be reported for the period from June 2017 to May 2018.

There were 1,537 strip searches conducted across Scotland during the twelve months following the introduction of the CoP (an average of 128 per month).¹ This represents 5% of all searches carried out during the twelve months following the introduction of the CoP. Of these, 66% were conducted inside a police station and 34% were conducted out of public view somewhere other than a police station. The vast majority of strip searches (69%) were conducted for drugs, while 30% were conducted during the execution of a Warrant (very few were carried out for other reasons). Almost half (49%) of all strip searches resulted in an item being found compared with 37% of non-strip searches.

Looking at protected characteristics, the majority of strip searches involved a person aged 18 or over, with only 4% (54 in total) involving a young person under the age of 18. The positive search rate for strip searches of young people (49%) was not

¹ Note that the NSSU Stop and Search Database does not include the number of strip or intimate searches carried out following arrest which is considerably higher.

significantly different to that for adults (48%). There was no significant difference between ethnic groups in terms of whether a strip search was carried out or not.

There were some sex differences in relation to strip searches. Searches involving women were significantly more likely to involve a strip search than those involving men (8% of all searches versus 5%, respectively). In terms of the location of the search, males were most likely to be searched inside a police station (70%), while females were almost equally likely to be searched somewhere other than a police station (52%) or in a police station (48%). The vast majority of strip searches for both men and women were conducted in relation to drugs; however, females were more likely to be strip searched under Warrant (44% compared to 26% for males). Since drug searches under Warrant are typically conducted at the locus, this largely explains why women were less likely to be searched at a police station.

Notably, 42% of strip searches amongst women resulted in a positive detection, which was significantly lower than the positive detection rate for men (50%). Standard drug searches involving men were also more likely to be positive than those involving women, although the extent of the difference was lower (35% versus 37%, respectively).

There were no intimate searches recorded on the NSSU Stop and Search Database during this twelve month period.

2.4.2 *Issue of receipts*

The NSSU database also records whether receipts were issued by police officers following a search. In section 6 of the CoP, it is stipulated that:

“The person who has been searched should be given a receipt (see Note 12). The receipt should include the following information:-

- *police powers of stop and search;*
- *the right of a person searched to obtain a copy of the record of the search;*
- *the right of a person searched to complain, including how to go about making a complaint⁹.*

While officers are obliged to offer a receipt following a search, which includes placing it with the detainee’s property in the event that the individual is subsequently taken into custody, the individual may refuse to accept the receipt. In these circumstances, the advice offered during stop and search training is that the officer should record in their notebook that the receipt has been offered and refused. The CoP also makes it clear that where the officer conducting the search is called to an urgent incident, it may be impracticable to provide a receipt. In this event, the individual should be informed that they can obtain a copy of their search record by calling at any police station (although, only if they have provided their details). Receipts are not issued for seizures.

In the twelve months following the introduction of the CoP, 25,444 receipts were issued following a search. This represents 86% of all statutory searches conducted during this period. In the remaining 4,329 encounters (14%), no receipt was issued. In the vast majority of these encounters (98%) the individual being searched either

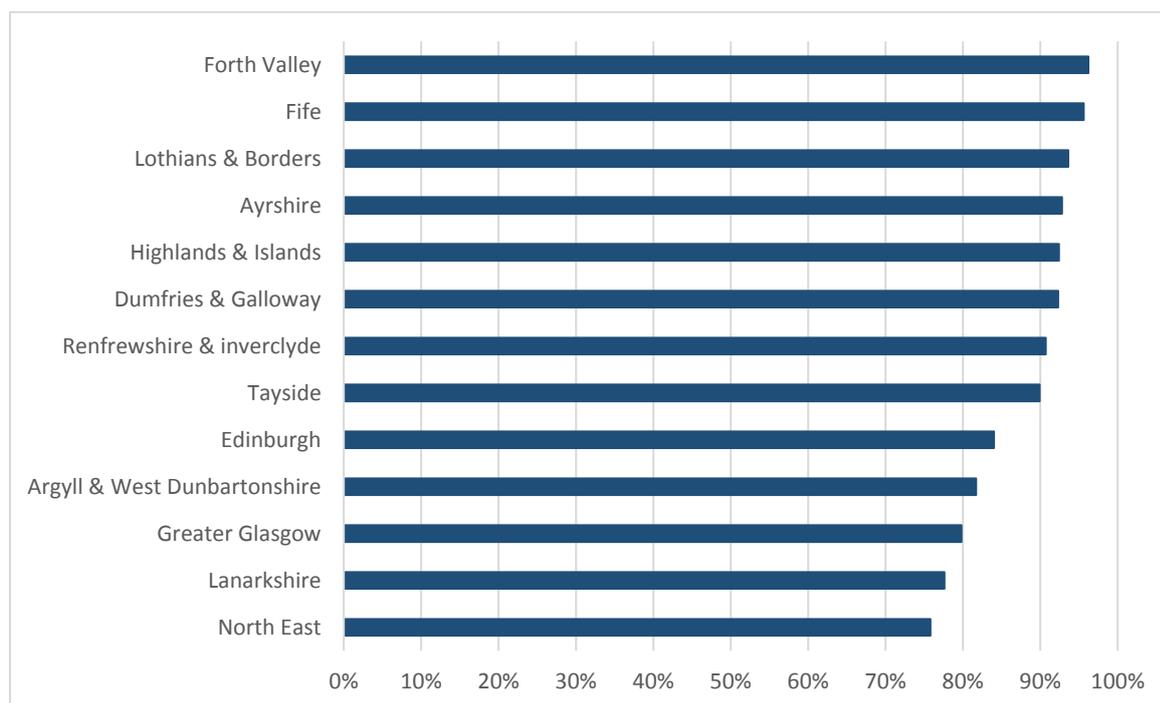
refused to accept the receipt or left the locus before the receipt could be issued. It was rare for an officer to either forget or fail to issue a receipt (this occurred in only 58 encounters, which represents only 1% of those involving non-issue of a receipt). There was a slight drop in the proportion of searches where a receipt was issued over time, from 87% in June 2017 to 82% in May 2018, which suggests some decline in tolerance for accepting a receipt amongst those being searched. However, there was an increase in the number of receipts that were issued retrospectively towards the end of the review period which suggests that Police Scotland were making efforts to rectify this situation.

There was some variation in the likelihood of a receipt being issued by time of the day (this was slightly less likely between midnight and 6am compared to other times of the day); and by day of the week (they were slightly less likely to be issued on a Friday or Saturday compared to other days of the week). Searches conducted under Warrant or for other reasons were more likely to result in a receipt being issued than for searches involving drugs, stolen property or weapons. Negative searches were more likely to result in non-issuance of a receipt than positive searches. Searches involving men were less likely to result in a receipt being issued, as were searches involving young people under age 18. There was no significant ethnic disparity in the issuance of receipts, however.

Looking at geographical variation, searches in the East Command Area were more likely to result in a receipt being issued (91%) than in the North and West Command Areas (both 84%). There was also considerable variation across Divisions. As shown in Figure 2.11, at least 90% of searches resulted in a receipt being issued in Forth Valley, Fife, Lothians & Scottish Borders, Ayrshire, Highlands and Islands, Dumfries & Galloway, Renfrewshire & Inverclyde, and Tayside; whereas less than 80% of searches in Lanarkshire, Greater Glasgow and the North East resulted in a receipt being issued.

Looking at the reason for non-issue of receipts by Police Division, there was very little geographical variation. As noted above, the overwhelming reason for non-issue of a receipt was that the individual either refused to accept it or left the scene before it could be issued. This explained 97-100% of non-issuance of receipts across most of the Police Divisions. The figure was lowest in the Lothians & Scottish Borders (93%) and Fife (89%), although the number of encounters where a receipt was not issued in these Divisions was very small so these differences could be an artefact due to tiny numbers.

Figure 2.11: Percentage of searches resulting in a receipt being issued by police Division, post-implementation of the CoP



It is expected that officers explain to any person being searched that they are entitled to obtain a copy of the record of the encounter within 6 months of the date of the search, although this only applies if the individual has chosen to give their name, address and date of birth, which they are not obliged to do if the search is negative. Information on the number of people who choose to obtain a copy of their record is not published on the Stop and Search Database; however, data provided by the NSSU showed that there were only 11 such requests in the twelve months following the introduction of the CoP. This included ten individual requests and one request made by a solicitor on behalf of their client. Individuals making requests included both men and women across a range of ages (from 20 to 70) and from across a variety of Police Divisions.

2.5 Summary of Section 2

There was a significant reduction in the number of searches and seizures conducted within Scotland following the introduction of the Stop and Search Code of Practice (CoP) in May 2017. However, trend data shows that this reduction was part of an ongoing decline in encounters that started well before the introduction of CoP and continued afterwards until early 2018, at which point numbers started to increase again. The data suggests, therefore, that the impact of the CoP on policing practice began long before its actual implementation and also continued afterwards. It is almost certain that the criticism targeted at Police Scotland about the over-use of stop and search as a tactic by HMICS and the media in 2015, followed by an intense period of political and public scrutiny and the decision to abolish consensual searching and introduce a CoP, influenced the large scale reduction in encounters well before the CoP finally came into force.

There was a far greater proportionate reduction in police use of seizures compared to searches over the two years studied in this report. The number of seizures of alcohol and tobacco products fell by around two thirds in the twelve months following the introduction of the CoP compared to the preceding year. This was around three times larger than the percentage reduction in statutory searches, although the absolute number of searches continued to be far greater. The period of decline was very similar for both searches and seizures, however; and both started to rise again from around March 2018. The large decline in seizures was surprising, especially given the concerns expressed by policing representatives and other organisations in the public consultation period about the lack of a legal power to search for alcohol.

The decline in searches coincided with an increase in the relative productivity of search encounters, which suggests that they are being used more effectively and with a greater standard of evidence in terms of reasonable suspicion. In the twelve months following implementation of the CoP, the success rate was 38% compared with 31% in the equivalent period of the preceding year. Positive detections had increased across all search types, although it was proportionately greater for searches conducted as part of the issuance of a warrant and for stolen property, and lowest for searches to find offensive weapons. Despite a 20% decline in the overall number of searches, the number of encounters in which an item was recovered had fallen by only 4%.

There was considerable geographical variation in the changing use of search and seizure across Scotland. The number of searches and seizures was highest in the West Command Area during the twelve months prior to the introduction of the CoP, and this continued to be the case in the twelve months after. However, there was a far higher proportionate decline in both searches and, especially, seizures in the West compared to the East and North Command Areas. There was greater geographical similarity in the changing use of seizures, which declined across all three Command Areas and within all but one of the thirteen Police Scotland Divisions (albeit to different extents).

Trends in the use of stop and search were considerably different, however. Overall, the number of searches in the West Command Area declined in the twelve months following the introduction of the CoP, while the number increased in the North and the East Command Areas. Searches within all Divisions in the West had declined with the exception of Dumfries & Galloway which showed a substantial increase. Similarly, in the North and East, most Divisions had increased the number of searches but two (Tayside and Forth Valley) had reduced. Patterns over time revealed substantial variation between Divisions in changing use and success of stop and search. This suggests that the new legislation and policy around stop and search may have been interpreted and adopted differently across Divisions; however, there was little evidence that the introduction of the CoP in May 2017 had a direct effect on policing practice.

New information provided on the Stop and Search Database about strip searches revealed an average of 128 per month, representing around one in twenty searches overall. Strip searches had a higher detection rate than average, at 49%, which

suggests that a higher threshold of reasonable suspicion is used when deciding to conduct a strip search. The vast majority of these involved people aged 18 or older, and there was no difference in positive detection rate between those under 18 and those aged 18 or over. There was also no significant difference in the use of strip search by ethnic group. Strip searches for both men and women were overwhelmingly for drugs; although, there were some sex differences. Women were more likely to be strip searched than men, especially through the execution of a Warrant, but detection rates were lower for women. No intimate searches were recorded in Scotland in the twelve months after the introduction of the CoP.

Receipts were issued after 86% of recorded searches. By far the most common reason given for non-issue of a receipt was that the individual being searched either refused to accept the receipt or left the locus before the receipt could be issued. It was rare for an officer to forget or fail to issue a receipt. Whether a receipt was issued or not varied according to a range of factors, including time of the day, day of the week, reason for the search and the characteristics of the individual being searched. There was also some Divisional variation in the likelihood of a receipt being issued, although very little overall difference in the reasons for non-issue of receipts. There was a small reduction over time in the issuance of receipts, and some evidence of an increase in receipts being issued retrospectively. Finally, although individuals have the right to obtain a copy of the record of their search encounter within 6 months, there were only 11 such requests in the twelve months following the introduction of the CoP.

3 Identifying legislative gaps around young people and alcohol

3.1 Introduction

This section of the report examines existing evidence around policing young people and alcohol related incidents. Existing police powers in respect of alcohol and young people fall under two pieces of legislation. Under sections 201-203 of the Local Government (Scotland) Act 1973, local authorities in Scotland can prohibit the consumption of alcohol in designated public places, which means that police officers can confiscate alcohol from anyone (of any age) seen to breaching the specific conditions of the byelaws. Furthermore, under Section 61 of the Crime and Punishment (Scotland) Act 1997, police officers have a power of seizure with regards to alcohol (as well as tobacco products and other substances such as gas or butane). This allows officers to ask children and young people to hand over any alcohol where it is known or suspected that they are in possession of it in a public place. The 1997 Act also gives police officers the power to confiscate alcohol from those aged 18 or over who are suspected of supplying it to minors. However, the police have no specific legislative power to search a young person for alcohol, even if officers suspect them of concealing it and they have refused to surrender the alcohol. The only exception to this is at designated sporting events where the police have a search power in accordance with Section 21 of the Criminal Law (Consolidation) (Scotland) Act 1995, which enables officers to search any person suspected of committing or attempting to commit an offence (which would include possessing alcohol within the relevant area of a sporting venue).

Prior to the abolition of consensual search in May 2017, it was common for officers to use this type of search to identify and remove alcohol from those aged under 18. The expectation amongst members of the IAGSS was that seizure would be increasingly used to deal with alcohol related incidents following the introduction of the CoP. However, many policing representatives were concerned that this would be insufficient to deal with alcohol related problems involving children and young people, especially in certain parts of the West of Scotland where this has historically been a significant problem leading to violence and disorder. Of particular concern was the possibility that there may be an increase in the use of arrests to deal with young people who refused to hand over their alcohol to officers.

During the twelve month review period, seizures predominantly involved the confiscation of alcohol (95%), with far fewer encounters involving the confiscation of tobacco products (4%) or other substances, such as gas or butane (2%). Prior to the introduction of the CoP, the legislative basis for seizure of items was not routinely recorded. Looking at the data for the twelve months following the CoP, only 25% were conducted under Section 61(1) of the Crime and Punishment (Scotland) Act 1997 which enables officers to confiscate alcohol from young people under the age of 18. A further 2% of seizures were conducted under Section 61(2) of the 1997 Act, which enables officers to confiscate alcohol from those aged 18 or over who are suspected of supplying minors with alcohol. However, the majority (67%) of seizures

were conducted using Local Authority alcohol byelaws. This section will focus only on those seizures that involved the recovery of alcohol.

3.2 Evidence about the problem of young people and alcohol

Before examining the use of alcohol seizures in Scotland pre- and post-introduction of the CoP, it is important to consider whether there are any possible underlying reasons why there might have been a change in police practice. For example, if alcohol seizures in Scotland have increased or decreased significantly, this may be due to an underlying increase or decrease in problems caused by young people's drinking behaviour. For this reason, some contextual data was collected about problematic alcohol use amongst young people before and after the implementation of the CoP. It is important to note that the information presented here cannot be used to provide evidence of any causal association between these trends and police use of seizures; however, it provides valuable context within which to consider the findings of the review.

Alcohol consumption amongst young people has been monitored by the Scottish Schools Adolescent Lifestyle and Substance Use Survey (SALSUS) since 1990. The survey, which is completed in Scottish schools amongst young people aged 13 and 15, shows that the proportion of pupils who report ever having an alcoholic drink has been steadily decreasing since 2004 (Scottish Government 2016). Findings from the most recent survey, conducted in 2015, show that prevalence of alcohol consumption was at its lowest level since the survey began. The percentage of teenagers who reported drinking in the last week fell substantially between 2010 and 2013, and then remained stable in 2015. Overall, SALSUS suggests that problematic drinking amongst young people in Scotland has been on a long-term decline in Scotland. However, there are no SALSUS data available for the periods immediately before and after the introduction of the CoP.

Two sources of additional information were examined to identify whether there were indications that patterns of problematic alcohol consumption may have changed since the implementation of the CoP. These were hospital admissions data and police incident data. Where possible, data were analysed for young people aged under 18 and for people of all ages, in order to ascertain whether any trends noted for young people were typical of the population as a whole. Both data sources have limitations and caution must be used when interpreting the findings (as explained below); however, they were the only relevant sources available for this twelve month review period.

3.2.1 Alcohol-related hospital admissions for young people

Data on hospital admissions as a result of excessive alcohol consumption were provided by Information Services Division (ISD), which is part of NHS National Services Scotland. These data include general acute inpatient and day case stays for people with an alcohol-related diagnosis across the whole of Scotland, but excludes people presenting to Accident and Emergency who were not admitted as an alcohol-related inpatient or day case.² Data were provided for the same two year

² The data provided by ISD were derived from data collected on discharges from non-obstetric and non-psychiatric hospitals (SMR01) in Scotland. A hospital stay (also described as a continuous inpatient stay or CIS),

period as the stop and search data (i.e. June 2016 to May 2018), although the data from April 2017 to May 2018 were only 99% complete at the time of data collection as not all hospital admissions data had been submitted to ISD. Therefore caution is needed when drawing inference from these data as they could increase slightly when the final figures are complete.

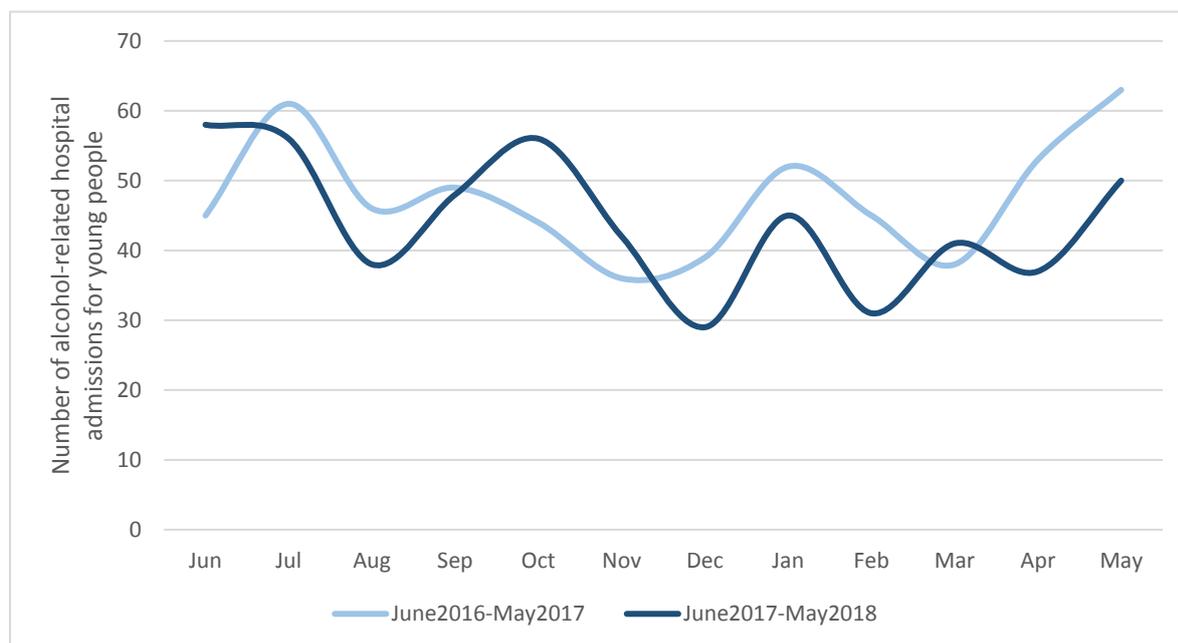
Data were provided for young people aged under 18 and for people of all ages (reported below). Given the nature of these data, it might reasonably be concluded that they would have represented serious incidents involving young people's use of alcohol and were, therefore, incidents that could (in certain circumstances) have drawn the young person to the attention of the police.

In total, there were 531 alcohol-related hospital admissions for young people recorded in the twelve months after the introduction of the CoP, which was down from 571 recorded in the previous year. This represents a 7% reduction in such cases, although this was not statistically significant. Bearing in mind that the figure for the post-CoP period may be an underestimate of the actual number of incidents, it is not possible to identify any substantial change in general acute inpatient and day case stays for young people with an alcohol-related diagnosis.

Figure 3.1 shows the number of cases recorded month by month for the pre- and post-implementation periods. There were some slight differences between equivalent months but, due to the small numbers in each month, none of these differences were statistically significant. Moreover, both years showed similar patterns in terms of seasonal variation (especially around the summer and winter months).

is defined as an unbroken period of time that a patient spends as an inpatient or day-case. During a stay a patient may have numerous episodes as they change consultant, significant facility, speciality and/or hospital. Stays are counted at the point of discharge, when all diagnostic information regarding the full stay is available. However, the demographic information (NHS Board) is taken from the first episode of the stay, thus most closely corresponding to the circumstances of the patient at the point of entering the hospital.

Figure 3.1: Alcohol-related hospital stays for young people aged under 18 in Scotland

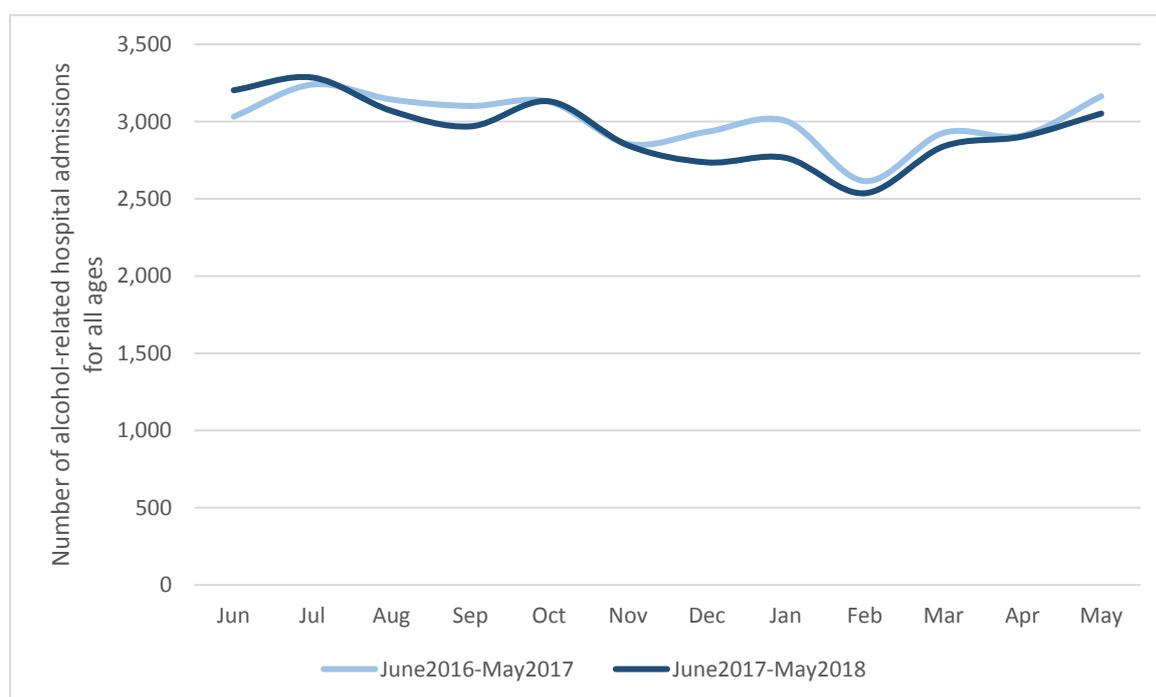


3.2.2 Alcohol-related hospital admissions for all ages

The analysis described in section 3.2.1 was repeated for people of all ages (note that the same qualifications regarding the data apply). Overall, the number of alcohol-related admissions declined by 2% in the twelve months following the introduction of the CoP. Although this figure is lower than the figure of 7% for young people, it was statistically significant. Moreover, the proportion of all hospital stays that was accounted for by young people remained totally stable at just over 1%. The monthly trends show a much clearer seasonal pattern (mainly due to the much larger numbers), with higher numbers in the spring and summer months and lower in the winter months, as shown in Figure 3.2.

For most months, there were no significant differences in the number of alcohol-related hospital admissions between the two periods. Alcohol admissions were significantly higher in the post-CoP period in June, and significantly lower in December and January; however, Figure 3.2 shows no systematic difference. These data suggest that the small reduction in alcohol-related hospital admissions amongst young people was broadly in line with (or only slightly greater than) the general trend for the population as a whole.

Figure 3.2: Alcohol-related hospital stays for people of all ages in Scotland



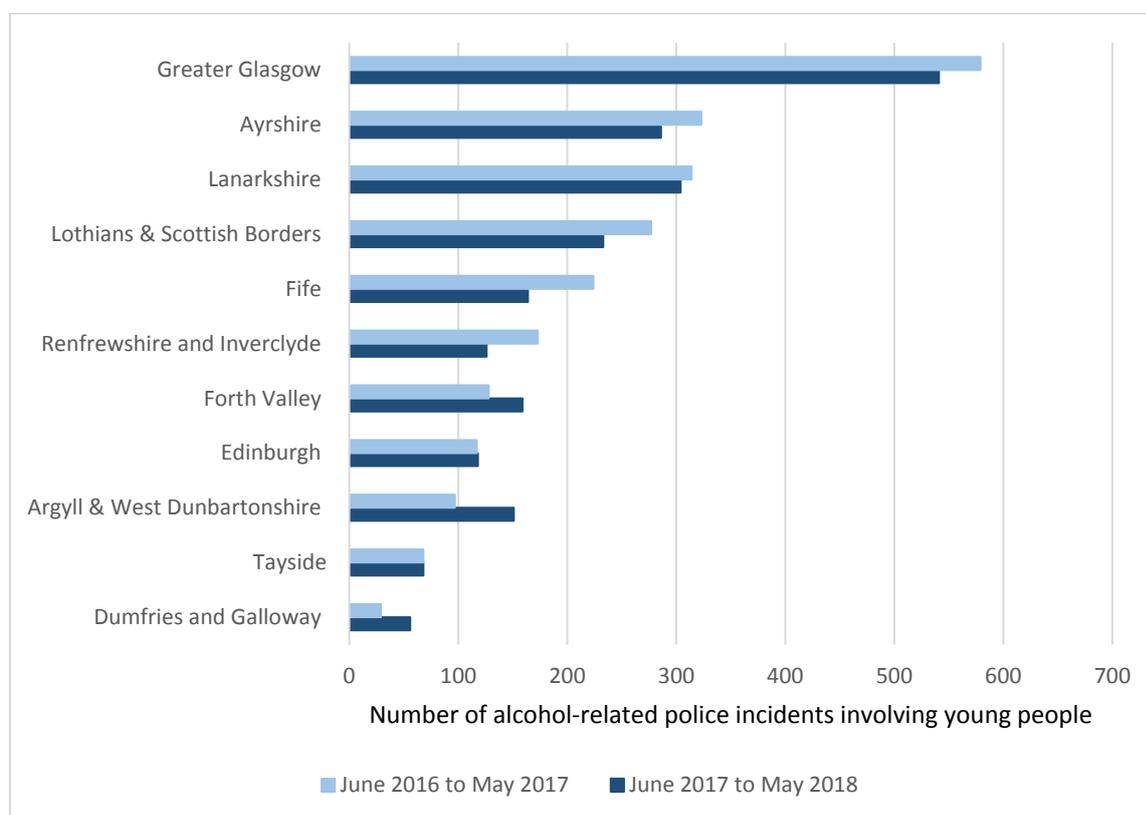
3.2.3 Police recorded incidents involving alcohol and young people

Data were provided by Police Scotland from STORM Unity, the command and control system used for recording incidents reported to the police. On this system, recorded incidents involving alcohol can be identified using a qualifier code, thus providing useful information about the level of policing demand that is driven by alcohol related issues. A further qualifier code can be used to identify whether one or more young person under the age of 18 was involved in the incident. In combination, these two codes were used to identify the number of police recorded incidents involving alcohol and young people.

Before presenting the results of the analysis, there are two important qualifications that must be borne in mind when using these data. First, the recording of the alcohol qualifier code is not mandatory and it is not always possible at the time of the initial call for the police to be certain that the incident involves alcohol. Therefore, these data are treated by Police Scotland as management information and are only indicative of the number of policing incidents that are alcohol related. Second, data were not available for the full CoP Review period for all 13 Police Scotland divisions. Data for the North East Division were not available on STORM Unity until March 2017 and so there is partial missing information for the pre-CoP period. Similarly, data for the Highlands & Islands Division did not become available on STORM Unity until February 2018 so there is no information for the pre-CoP period and only partial information for the post-CoP period. For this reason, the data for North East and Highlands & Islands Divisions are not included in the analysis in this section of the report. In addition, Tayside Division only started using Storm Unity in mid-June 2016, so there is some partial missing information; however, this was considered minimal enough to include Tayside in the analysis.

During the twelve months prior to the CoP, there were 2,329 alcohol-related incidents involving young people recorded across 11 Divisions. In the twelve months following the introduction of the CoP this fell to 2,206 (a reduction of 123). This represents a 5% fall in alcohol-related incidents recorded by the police, although this was not statistically significant.³ The data were not provided on a month by month basis, so it is not possible to examine similarity in seasonal trends; however, they were provided by Division. Figure 3.3 shows that the highest number of alcohol-related incidents involving young people was recorded in Greater Glasgow. Ayrshire and Lanarkshire also had a high number of incidents, although other West Divisions (such as Renfrewshire & Inverclyde, and Argyll & West Dunbartonshire) were much lower, and Dumfries & Galloway was by far the smallest. Even so, Divisions in the West Command Area accounted for around two-thirds of all police recorded incidents of alcohol-related problems involving young people.

Figure 3.3: Number of alcohol-related incidents involving young people, pre- and post-implementation of the CoP



Over the review period, two Divisions recorded a significant fall in alcohol-related incidents involving young people: Fife and Renfrewshire & Inverclyde both fell by 27%. A further two Divisions recorded a significant rise in alcohol-related youth incidents: Argyll & West Dunbartonshire rose by 56% and Dumfries & Galloway rose by 93%; however, these reflected very small numbers in absolute terms (as shown in Figure 3.3). Looking at all the other Divisions, there was no significant change in numbers following the introduction of the CoP.

³ The p value for this difference was 0.068, which is just above the threshold for a 95% confidence interval.

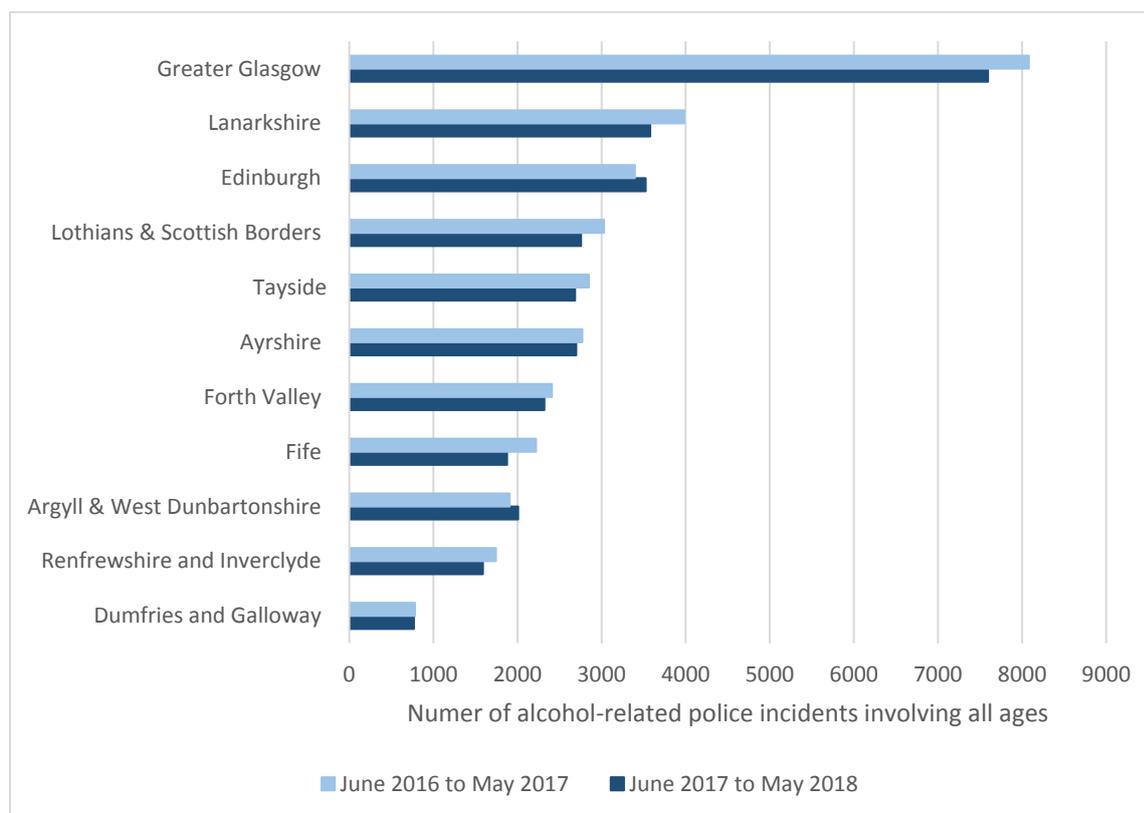
3.2.4 Police recorded incidents involving alcohol and people of all ages

Looking at the same data from the STORM Unity System without the youth qualifier, a total of 31,403 alcohol-related incidents were recorded in twelve months following the introduction of the CoP across the 11 Police Scotland Divisions. This compares to 33,177 in the equivalent period of the previous year, representing a decrease in alcohol-related incidents of 5% - identical to that for young people, although it was statistically significant due to the much larger numbers. As a relative share of all recorded incidents involving alcohol, the percentage that involved a young person was exactly 7% over both time periods. This is lower than expected given the proportion of those aged under 18 in the general population (19%); although it is broadly in line with the proportion of the population aged 12 to 17 (6%) who might be considered the most 'problematic' group with regards to drinking alcohol.

Similar to the pattern for young people, there was considerable variation *between* Divisions in the overall number of alcohol related incidents. Figure 3.4 shows that there were around 10 times more alcohol-related incidents recorded in Greater Glasgow than in Dumfries & Galloway during both time periods. However, there was a high degree of consistency *within* Divisions in terms of the number of alcohol-related incidents recorded and in the relative ordering of Divisions at each time period. Interestingly, the ordering of Divisions (in the 12 months following the CoP) was not quite the same for the youth sub-sample as for the total dataset. Divisions in the West of Scotland featured more prominently for young people than they did for the population as a whole.

Two Divisions had a small (but non-significant) increase in the number of alcohol-related incidents between the pre-CoP and the post-CoP periods: Argyll & West Dunbartonshire Division increased by 5% and Edinburgh Division increased by 4%. A further three Divisions (Forth Valley, Ayrshire and Dumfries & Galloway) had a small (but non-significant) reduction in alcohol-related incidents. The remaining six Divisions all had a significant reduction in recorded alcohol-related incidents. This included Fife, which had a 16% reduction in alcohol-related incidents, and Lanarkshire, which had a 10% reduction. Greater Glasgow had a smaller, but still significant, 6% reduction in recorded alcohol-related incidents.

Figure 3.4: Total number of alcohol-related incidents recorded by Police Scotland, pre- and post-implementation of the CoP



Police Scotland was able to provide data for the same 11 Divisions on the number of incidents involving drinking alcohol in a public place that were recorded by the Contact, Command and Control Division.⁴ These incidents included a mixture of cases reported by members of the public and those detected through police proactivity. There were far fewer public drinking incidents compared to alcohol-related incidents in general; however, there was a greater proportionate decline in the former during the twelve months following the introduction of the CoP.

Overall, the number of public drinking incidents fell from 2,772 in the pre-CoP period to 1,903 in the post-CoP period, a significant reduction of 31%. Like alcohol-related incidents generally, there was a large degree of variation across Divisions in recorded incidents of public drinking. For example, during the pre-CoP period, there were 1,098 incidents recorded in Greater Glasgow compared with only 21 in Dumfries & Galloway. In terms of change over time, the number of public drinking incidents declined in all but two Divisions (Edinburgh and Dumfries & Galloway had a small, but non-significant, increase). Four Divisions (Forth Valley, Lothians & Scottish Borders, Fife and Argyll & West Dunbartonshire) had a small, but non-significant, decrease; and the remaining five Divisions had a significant decrease in recorded drinking in public incidents. Certain Divisions in the West showed the largest reduction in public drinking. For example, there were larger than average

⁴ These figures were provided by Police Scotland and should be treated as management information only.

reductions in Renfrewshire & Inverclyde (-44%), Greater Glasgow (-43%) and Lanarkshire (-34%).

Data were also provided for the 11 Divisions on the number of public drinking incidents that were classified as 'detected'.⁵ This includes incidents where a Fixed Penalty Notice was issued for drinking in a public place under a local government byelaw or alcohol-related incidents in which a crime was recorded and a suspect was identified. There were 11,988 incidents detected in the pre-CoP period compared with 5,850 in the post-CoP period. Again, this represented a large and significant 51% fall in the number of detected public drinking incidents in the period following the introduction of the CoP. The largest proportionate reduction was in Tayside (-83%), although this represented a very small number of incidents overall. The largest absolute reduction was in Greater Glasgow (-65%), which represented around 60% of all drinking in public detections during the pre-CoP period but only 43% in the post-CoP period. There were also large and significant reductions in public drinking detections in Argyll & West Dunbartonshire (-44%), Lanarkshire (-35%), Renfrewshire & Inverclyde (-26%) and Ayrshire (-15%). However, there was no significant change in any of the other Divisions.

3.2.5 Underlying behavioural explanation for a change in alcohol seizures?

Looking at these contextual data altogether, there is evidence of a very small (although non-statistically significant) decline in alcohol-related problems involving people under the age of 18, both in terms of hospital admissions and incidents recorded by the police, in the twelve month period following the introduction of the CoP. These trends appeared to be broadly in line with the trends for the population as a whole, and followed similar seasonal patterns, which suggests that there was no unusual shift in the behaviours of young people over this period. So, based on these data, there does not appear to be any underlying behavioural explanation for a change in the police use of alcohol seizures amongst young people.

At the level of police Divisions, the picture was more mixed in relation to police recorded alcohol-related incidents. Two areas showed a significant increase in incidents, while two showed a significant decrease, but the majority saw no significant change between periods. Unfortunately, the number of hospital admissions was too small to release the data at sub-national level, so it is unclear whether the same mixed picture is present. Therefore, it is difficult to say with any certainty whether there are underlying changes at a sub-Divisional level that may have influenced changing practice in relation to police use of seizure. In addition, Police Scotland was unable to provide data on arrests of young people, which could have highlighted whether this had increased in the wake of the CoP as a result of the loss of consensual search. The relationship between the trends presented in this section and the Divisional use of seizures will be examined in more detail below.

Police Scotland did highlight very large reductions in public drinking incidents and detected public drinking incidents over the period; however, it was unable to provide the data by age category, so it is impossible to tell if there was any significant change

⁵ These figures were provided by Police Scotland and should be treated as management information only.

in young people’s involvement in these activities. Moreover, it is possible that these large changes may have occurred as a result of changes in policing practice rather than behavioural change.

3.3 Change in the use of seizure by age

3.3.1 Overall change by age

In the twelve months following the introduction of the CoP, there were 2,401 alcohol seizures in Scotland. This represents a 63% decrease from the previous year, during which there were 6,559 alcohol seizures. Table 3.1 shows that police seizures were not used exclusively for young people. In fact, in the twelve months before the introduction of the CoP, only a quarter (26%) of all seizures involved people under the age of 18. Indeed, more than half of all alcohol confiscations involved people aged 25 or over. During the twelve months following the introduction of the CoP, there was a large reduction in the number of seizures amongst all age groups; however, the scale of the reduction was not equal across age groups. Seizures involving young people under the age of 18 fell by 49%; however, there were far greater percentage reductions in the number of seizures for people in all other age groups (ranging from 66% to 81%). As a result, in the year following implementation of the CoP, the relative share of all seizures for young people aged under 18 increased to more than a third, making it 10% higher than the previous year, while the relative share of all other groups declined.

Table 3.1: Number of alcohol seizures pre and post-implementation of the CoP by age band

	June 2016 to May 2017		June 2017 to May 2018		% Change in N	Difference in % share
	N	% share	N	% share		
Under 18	1,688	26%	858	36%	-49%	+10%
18-24	1,178	18%	374	16%	-68%	-2%
25-39	1,899	29%	638	27%	-66%	-2%
40-59	1,627	25%	496	21%	-70%	-4%
60 or over	161	3%	31	1%	-81%	-2%

Note: Column percentages may not total 100% due to rounding.

Information on the powers used to seize alcohol was not collected in the pre-CoP period; however, it was possible to examine this after the introduction of the CoP. The majority (68%) of those aged under 18 were subject to Section 61(1) confiscation powers, with only 25% being subject to Local Authority byelaws that prohibit drinking in specified areas. Amongst those aged 18 or over, 96% had alcohol confiscated under Local Authority byelaws, while the remaining 4% had alcohol removed under Section 61(2) on suspicion of supplying alcohol to minors.

The raw number of searches by age band does not take into account differences in population size; therefore, it is important to examine rate of seizure per capita to determine who is most likely to experience this tactic. Table 3.2 shows the rate of seizure per 10,000 population for each of the five age bands. These figures show how much greater the use of seizure was for people under the age of 18 compared to all other age groups. Young people were at least twice as likely to have alcohol confiscated from them than people in the next nearest age band in the year prior to

the introduction of the CoP, and this increased to more than three times after the CoP was implemented. Even though the rate of alcohol seizure amongst young people halved in the year following the implementation of the CoP, it was a far lower percentage decline than for all other age bands.

Table 3.2: Rate per capita of alcohol seizures pre and post-implementation of the CoP by age band

Age group	June 2016 to May 2017 Rate per 10,000	June 2017 to May 2018 Rate per 10,000	% change in Rate
Under 18	50.7	25.6	-49%
18-24	24.0	7.5	-69%
25-39	18.0	6.0	-67%
40-59	10.8	3.3	-70%
60 or over	1.5	0.3	-80%

Note: Rates per capita are based on mid-year population estimates for 2016 (pre-CoP) and 2017 (post-CoP).

So how does the changing age profile of those who were subject to alcohol seizures fit with the data presented in sections 3.2.2 and 3.2.3 on the overall trend in alcohol-related policing demand? The police data indicated that there was a modest but significant decrease in all alcohol-related incidents of around 5%. The percentage decline in alcohol related-incidents involving young people was also around 5%; however, this was not found to be statistically significant. Therefore, the extent of the reduction in alcohol related seizures would appear to be far greater than the overall fall in policing demand; and the extent of the reduction in seizures amongst those aged under 18 appears to be disproportionately small given that the overall change in incidents involving people of this age group was no different to that for older people.

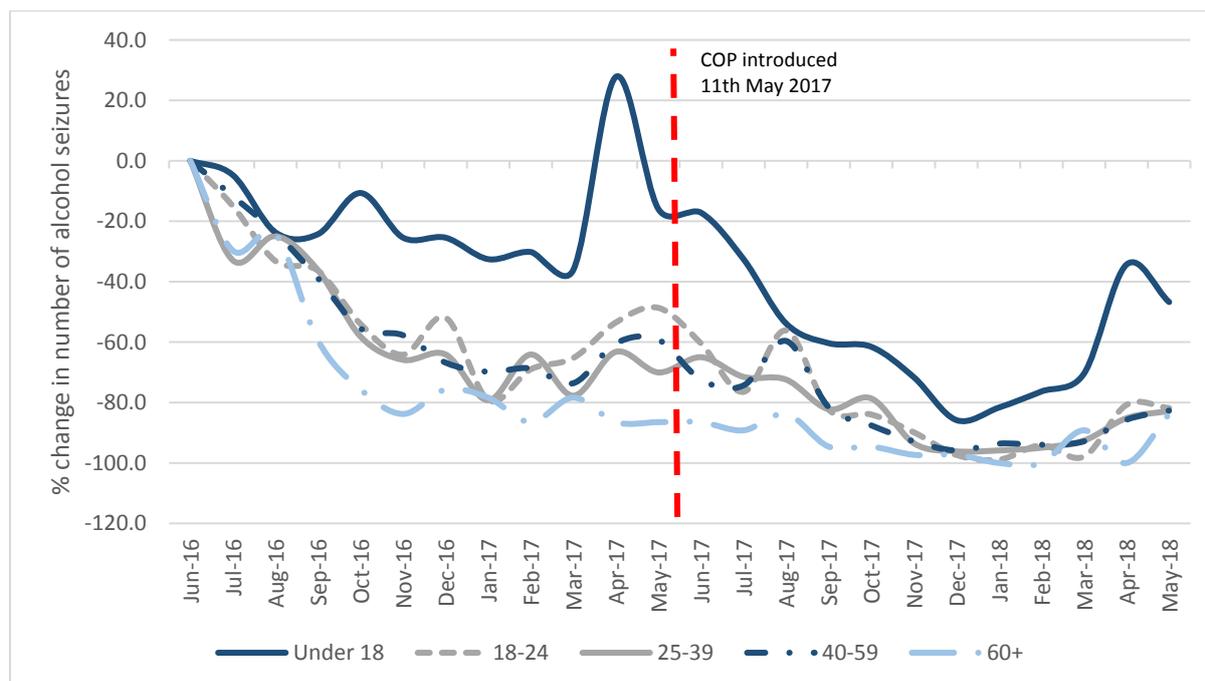
3.3.2 Monthly change by age

To get the full picture, it is important to examine the data in more detail, including change in the use of seizures over time for people of different ages and by different areas of geography. Figure 3.5 shows the percentage change in alcohol seizures within each age band on a month by month basis. This reveals a significant decline in the use of seizures for all age groups during the year prior to the introduction of the CoP; however, the decline for those aged under 18 was less steep than that for other age groups and there was a sharp spike in use during April 2017 which was not evident for other age groups. On further investigation, this spike reflects a large increase in the use of seizures within several Divisions in the West Command Area, including Greater Glasgow, North and South Lanarkshire, North Ayrshire and East Renfrewshire (as confirmed in Figure 3.6). Data from the Met Office for that period indicates that it was a warm, sunny April with lower than average rainfall across the UK.⁶ These conditions are often associated with an increase in public drinking by young people, especially when they coincide with a public holiday (such as Easter), which may well explain this deviation from the downward trend. Evidence for such a seasonal trend is supported by the fact that there was a similar, albeit smaller, spike in seizures amongst those aged under 18 in April 2018.

⁶ <https://www.metoffice.gov.uk/news/releases/2017/statistics-for-april-2017>

Following the introduction of the CoP in May 2017, the number of alcohol seizures continued to decline for all age groups, but the decline was steepest for those under the age of 18. Indeed by December 2017, the scale of the decline in alcohol seizures was so large that it had diminished to tiny numbers within all five age bands, and was only slightly higher amongst the under 18s than the other four age bands. Interestingly, however, the rate of alcohol seizures did start to increase again in early 2018, most especially amongst young people, over and above the possible Easter seasonal effect.

Figure 3.5: Percentage change in alcohol seizures, June 2016 to May 2018



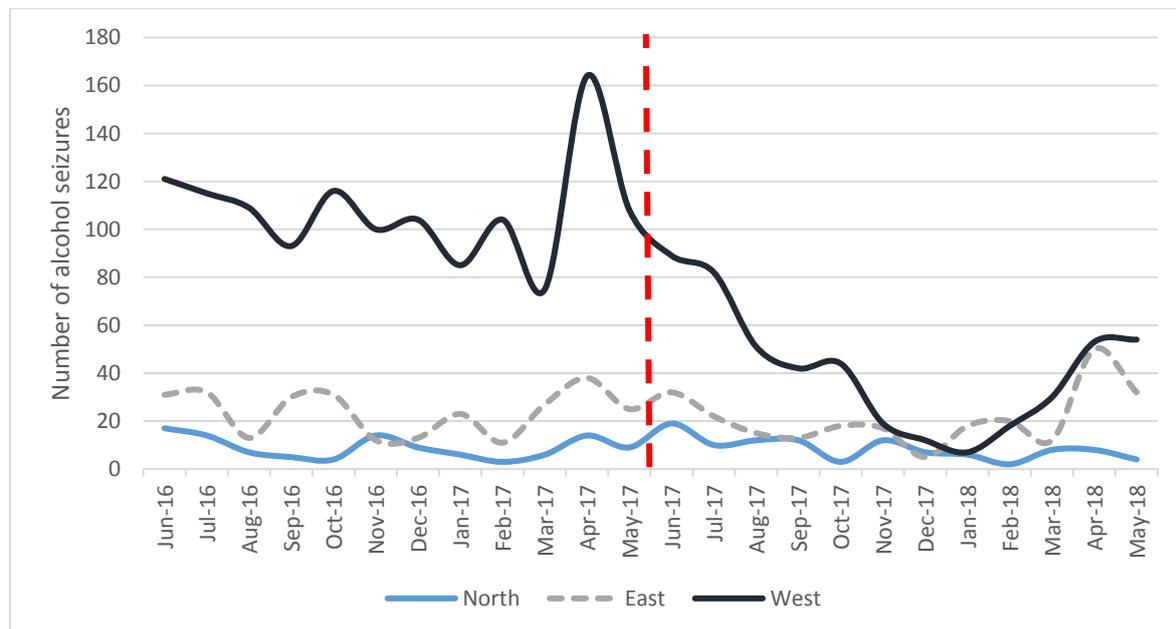
Unfortunately, it was not possible to analyse change in the monthly number of alcohol seizures involving young people by Division due to the small numbers. However, when they were clustered into Command Areas, Figure 3.6 clearly shows that the striking decline in alcohol seizures amongst young people was almost entirely due to a change in policing activity in the West of Scotland. In fact, there was an astonishing 97% reduction in the use of seizures in the Greater Glasgow Division, from 495 in June 2016 to only 17 in January 2018, before it started to increase again.

The data presented here suggests that the trend in alcohol seizures for young people in the West Command Area – especially Greater Glasgow – reduced dramatically following the introduction of the CoP. This trend in seizures bears little or no relation to the data presented in section 3.2.3 which showed that alcohol-related incidents involving young people were highest in the West of Scotland, especially in Greater Glasgow, Ayrshire and Lanarkshire. Moreover, in the twelve month period following the introduction of the CoP, only one West Division recorded a significant fall in alcohol-related incidents involving young people (Renfrewshire & Inverclyde, which already had relatively low numbers compared to other Divisions). In all the other Divisions in the West Command Area – including Greater Glasgow - there was either

no significant change or an increase in alcohol-related problems involving young people.

The dramatic reduction in alcohol seizures amongst people under the age of 18 contrasts sharply with this overarching picture of high and consistent alcohol-related demand for policing in the West of Scotland. So, either the findings here on the decline in seizures of alcohol amongst young people in the West of Scotland – especially Greater Glasgow - is indicative of a real and sustained decline in the use of the tactic for this age group that cannot be explained by seasonal trends or it reflects a reduction in the recording of seizure activity.

Figure 3.6: Change in the number of alcohol seizures amongst people aged under 18, by Command Area



3.4 Change in the recovery of alcohol through statutory search

Consensual searches were commonly used by police officers in the past to remove alcohol from individuals; however, following the controversy around the use of consensual searches (which had no statutory power) and criticism by HMICS (2015), the number of consensual searches declined significantly. During the twelve months from June 2016 to May 2017 (prior to the introduction of the CoP) there were only 707 consensual searches, of which only 51 (7%) resulted in the recovery of alcohol. During the same period, there were 36,627 statutory searches of which only 205 (0.6%) involved the recovery of alcohol.

Following implementation of the CoP in May 2017 consensual searches were abolished; however, there is no indication of a change in the efficacy of statutory searches to recover alcohol. Of the 29,773 searches conducted in the year following the CoP, only 138 (0.5%) resulted in the recovery of alcohol. These findings are not conclusive in terms of identifying whether a statutory power to search for alcohol is

required in Scotland; however, there is certainly no indication that statutory searching is being used as a mechanism to indirectly search for alcohol.

3.6 Summary of section 3

The police have no legislative power to search a young person for alcohol in a public place. Officers can ask children and young people to hand over alcohol where it is known or suspected that they are in possession of it in a public place; however, if they refuse to do so the only legal option available to an officer is to use the power of arrest, which is not usually considered in the young person's best interests. With the abolition of consensual searches, it was expected that there would be an increase in seizures to deal with alcohol related incidents. This section of the report explored the emerging trends. There was also some concern that there may be an increase in the use of arrests to deal with young people who refused to hand over alcohol. It was not possible to determine if this was the case.

Background data was examined to see if there had been any alcohol-related behavioural changes amongst young people that might explain emergent trends in the use of alcohol seizures by Police Scotland. The Scottish Schools Adolescent Lifestyle and Substance Use Survey shows a long-term reduction in teenage drinking since 2004. Looking just at the period before and after the introduction of the CoP, alcohol-related hospital admissions for young people fell by 7% and police recorded alcohol-related incidents involving young people fell by 5%. These small proportionate reductions in public service demand were not statistically significant and both were in line with wider population trends. Therefore, there did not appear to be any underlying behavioural explanation for a dramatic change in the police use of alcohol seizures amongst young people. Police Scotland also reported a 31% reduction in the number of public drinking incidents and a 51% fall in the number of detected public drinking incidents; however, these data could not be broken down by age. There was considerable variation by Division, with most alcohol-related incidents involving young people taking place in the West, especially compared to the wider population.

These apparently small behavioural changes contrasted sharply with the 49% reduction in police use of alcohol seizures from young people during the twelve months after the introduction of the CoP. There were even greater reductions in alcohol seizures amongst older age groups, even though the contextual data suggested that trends in alcohol related problems amongst young people were in line with the wider population. Taking population size into account, young people were at least twice as likely to have alcohol confiscated from them than people in the next nearest age band prior to the introduction of the CoP, but this increased to three times more likely in the twelve months afterwards. Around two thirds of alcohol seizures amongst young people involved use of Section 61 confiscation powers; whereas, almost all of the older people had alcohol confiscated under Local Authority alcohol byelaws.

Looking at the change in alcohol seizures on a monthly basis, there was a significant decline for all age groups during the year prior to the introduction of the CoP; however, the decline for those aged under 18 was less steep than that for other age

groups. A sharp spike in seizures during April 2017 in several Divisions in the West Command Area appeared to be due to a particularly warm spell of weather coinciding with the Easter holidays, which shows how affected such data can be due to seasonality. Following the introduction of the CoP, the number of alcohol seizures continued to decline for all age groups, but the decline was steepest for those under the age of 18. This striking post-CoP decline in alcohol seizures amongst young people was almost entirely due to a change in policing activity in the West of Scotland. In particular, there was an astonishing 97% reduction in the use of seizures in the Greater Glasgow Division, which cannot be explained by behavioural change or seasonal trends. Possible explanations for these changes include a real and sustained decline in the seizure of alcohol from young people in Greater Glasgow (which seems unlikely) or a change in the recording of such seizure activity.

Despite the abolition of consensual searches, there was no indication of a change in the efficacy of statutory searches to recover alcohol (which remained low). The findings in this report are not conclusive in terms of identifying whether a statutory power to search for alcohol is required in Scotland; however, there is certainly no indication that statutory searching is being used as a mechanism to indirectly search for alcohol.

4 Other potential gaps in the legislation

4.1 Introduction

This section of the report examines the possibility that the introduction of the new legislation resulted in gaps around stop and search. Section 65 of the Criminal Justice (Scotland) Act 2016 provides that it is unlawful for a constable to search a person who is not in police custody unless they are doing so in accordance with either a power of search conferred in express terms by a statute or under a search warrant. Legislation was introduced through the 2016 Act allowing officers to search individuals on grounds that were not based on an offence having been committed. For example, under section 66 of the Act, a person who is not in police custody, but who is being transported by the police under warrant or court order, or where officers believe it is necessary to do so for their care and protection, may be searched. In addition, Section 67 of the Act enables officers to search an individual entering an organised event as a condition of entry in order to ensure the health, safety and security of people at that event.

Police officers have expressed concern that the new legislation does not go far enough as it does not give officers specific power to search during situations in which action may be considered necessary to preserve life. As a result, paragraph 3.4 of the CoP was added to make it clear that officers must take all steps necessary to protect life, as legislated for under Sections 20 and 32 of the Police and Fire Reform (Scotland) Act 2012. In order to assess whether the current legislation has left any significant gaps or ambiguities in the power of police officers to stop and search, the review examined the statutes under which searches were conducted and looked at the number that were considered justifiable by police officers but which were not explicitly covered by statutes expressly conferring power of search. This review also considered other issues specifically raised by officers when recording a search about gaps in legislative provision.

4.2 Legal statutes used for stop and search

Section 65 of the Criminal Justice (Scotland) Act 2016 provides that it is unlawful for a constable to search a person who is not in police custody unless they are doing so in accordance with either a power of search conferred in express terms by a statute or under a search warrant. Table 4.1 shows the legal statutes under which all statutory searches were conducted during the twelve months prior to and after introduction of the CoP. Although there was a fall in the number of searches overall, there was very little change in the relative distribution of searches according to statute. During both periods, the vast majority of searches were conducted under the Misuse of Drugs Act 1971. Although the number of searches conducted under the 1971 Act was 20% lower in the post-CoP period, the relative share of all searches fell by only 2%. Section 60(1) of the Civic Government (Scotland) Act 1982, used to search for stolen property, accounted for less than 10% of all searches in both periods. Only 5% of all searches involved use of the Criminal Law (Consolidation) Act 1995 to find offensive or bladed weapons. The remaining statutes were used

very infrequently, although there was a 64% increase in the use of Section 47(1) of the Firearms Act 1968 to search for firearms in the post-CoP period.

Following implementation of the CoP, two new codes were added to the national Stop and Search Database. The first records searches conducted under Section 66 of the Criminal Justice (Scotland) Act 2016 where a person was being removed or transported but not in police custody. A total of 139 searches were conducted under this legislation following the implementation of the CoP, as shown in Table 4.1. The second new code records encounters where police officers intervened on the basis of Sections 20 and/or 32 of the Police and Fire Reform (Scotland) Act 2012 to protect life, and undertook a search as part of this intervention. There were only 34 recorded searches in which officers intervened to protect life on the basis of Sections 20 and/or 32 of the 2012 Act during the twelve months after the CoP was introduced. While these numbers are small, they do reflect some of the most serious and distressing incidents dealt with by officers in the line of duty.

Table 4.1: Number of searches by legal statute used to justify search

Statute	June 2016 to May 2017		June 2017 to May 2018	
	N	% of all searches	N	% of all searches
Sec 23(2), 23(3) or 23A Misuse of Drugs Act 1971	32,070	88%	25,622	86%
Sec 60(1) Civic Govt (Scotland) Act 1982 (Stolen property)	2,508	7%	2,297	8%
Sec 48(1), 49B or 50 Criminal Law (Consolidation) Act 1995 (Offensive or bladed weapons)	1,841	5%	1,470	5%
Sec 11A Fireworks Act 2003	106	0.3%	56	0.2%
Sec 47(1) Firearms Act 1968	64	0.2%	105	0.4%
Sec 66 Criminal Justice (Scotland) Act 2016 (Removal of person)	-	-	139	0.5%
Sec 20 & 32 Police and Fire Reform (Scotland) Act 2012 (Protection of life)	-	-	34	0.1%
Other statute	36	0.1%	50	0.2%

Note: Column percentages may not total 100% due to rounding.

4.4 Summary of section 4

Section 65 of the Criminal Justice (Scotland) Act 2016 specified that officers may only conduct searches “*in accordance with a power of search conferred in express terms by an enactment, or under the authority of a warrant expressly conferring a power of search*”. Policing representatives were concerned that the current legislation may have left gaps or ambiguities, such as in situations where a search may be considered necessary to preserve life. An examination of the statutes recorded for searches found very little difference in the relative distribution of statutes used to search during the twelve months before and after introduction of the Code of Practice. There was a relatively large increase in the use of Firearms Act 1968 to search for firearms (although numbers were small). In addition, officers had used the

2016 Criminal Justice (Scotland) Act to search 139 people during removal or transportation to another place; and they had conducted 34 searches as part of an intervention on the basis of Sections 20 and/or 32 of the Police and Fire Reform (Scotland) Act 2012 to protect life.

5 Change in the use of Section 60 authorisations

During the deliberations of the IAGSS as it developed the CoP, concern was expressed that after phasing out consensual search there may be an increase in the use of so-called 'no suspicion' searches by Police Scotland under Section 60 of the Criminal Justice and Public Order Act 1994. This concern was mainly founded on the basis of extensive use of Section 60 authorisations in England and Wales, resulting in Home Office criticism and intervention (HMIC 2016).

Data provided by the National Stop and Search Unit showed there were three authorisations under Section 60 since the implementation of the CoP. The first was for the Scotland versus England World Cup qualification football match at Hampden Park in Glasgow on 10th June 2017; although, no section 60 searches were recorded for this event. Two further Section 60 authorisations were made in relation to Scottish Premier Football League matches in Edinburgh involving Hearts FC v Hibernian FC on 9th May 2018 and Hibernian FC v Rangers FC on 13th May 2018. No searches were recorded during the Hearts v Hibernian match, while two searches were conducted at the Hibernian v Rangers game. The searches involved young people under the age of 18 and were conducted on grounds of public order, but neither resulted in a positive detection.

The limited use of Section 60 authorisations provides strong evidence that there has been no increase in the use of this power as a way of creating wider opportunities for search under the CoP. This contrasts substantially with evidence about policing practice in England and Wales (HMIC 2016).

6 Searches and seizures for people with protected characteristics

6.1 Introduction

In recent years, a series of reports (Murray 2014, 2015; Murray and McVie 2016; McVie and Murray 2017) have highlighted a high degree of disproportionality in the use of stop and search amongst children and young people in Scotland. These reports also found that rates of stop and search were higher amongst men than women, and there were some ethnic disparities (although the lack of accurate population data on minority ethnic groups means that no definitive conclusions can be drawn about ethnic bias in the use of searches). During the public consultation on stop and search, there was significant concern about the approach to searching children and young people and how this might impact on their attitudes to, and cooperation with, the police. As a result, Section 7 of the CoP specifically addressed the issue of searches involving children and young people, and Police Scotland provided training for all officers aimed at improving methods of engagement with young people. The training also examined the issue of unconscious bias when dealing with any individuals with other protected characteristics.

This section of the report examines any change in the profile of searches in the twelve months following the introduction of the CoP and whether rates of search appear to be disproportionately higher and detection rates disproportionately lower in respect of any group with protected characteristics, but most especially children and young people. One limitation of the data presented in this section of the report should be noted. It is known that some people are subject to multiple searches; however, the data provided by Police Scotland did not provide an indicator of multiple searches. Therefore, some individuals will be counted more than once in the analysis presented in this section. Provided numbers of people who are searched on multiple occasions are small, this should have a relatively small effect on the analysis presented here. However, it is highly possible that there is a bias in terms of the types of people likely to experience multiple searches and that this is based, in part, on their protected characteristics. This means that some of the differences between groups presented in this section may appear larger than they actually are (this is discussed specifically in relation to the analysis by ethnic group).

6.2 Change in search and seizure rates by age, sex and ethnicity

6.2.1 Age

Rates per capita were calculated using the number of searches and seizures across different age groups in order to determine differences in the extent to which these tactics are applied taking account of population size. Figure 6.1 compares the rate of search per 10,000 people for different age groups in the twelve months before and after the CoP was introduced. During both time points, those aged between 16 and 19 were most likely within the population to be searched. In the year after the CoP was introduced, the rate of search fell for all age groups, with the largest reduction being in the youngest age groups. The search rate fell by 31% for those aged under

16 and by 36% for 16-17 year olds, compared to a 15-22% fall across all other age groups. The extent of the decline in searches amongst 16-17 year olds was such that it was surpassed by the 18-19 year olds as the most searched age group. So, while there was still a disproportionate use of search amongst younger people after the introduction of the CoP, the evidence suggests that the extent of this had reduced significantly.

Figure 6.1: Search rate per capita by age group pre- and post-implementation of the CoP

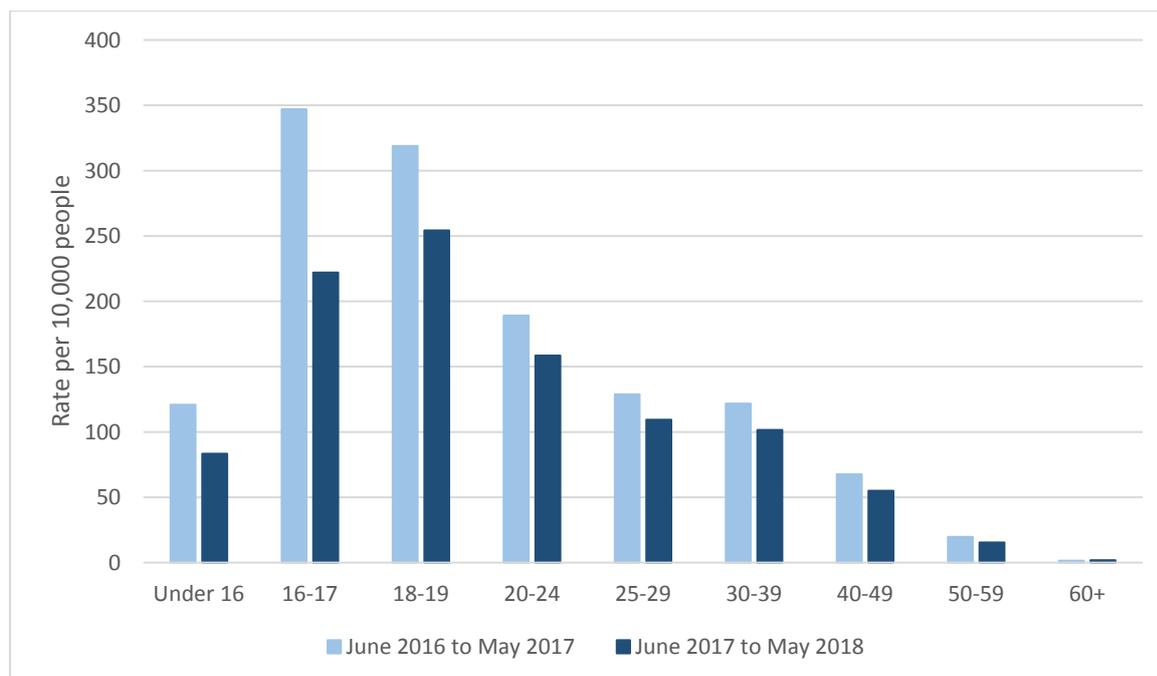
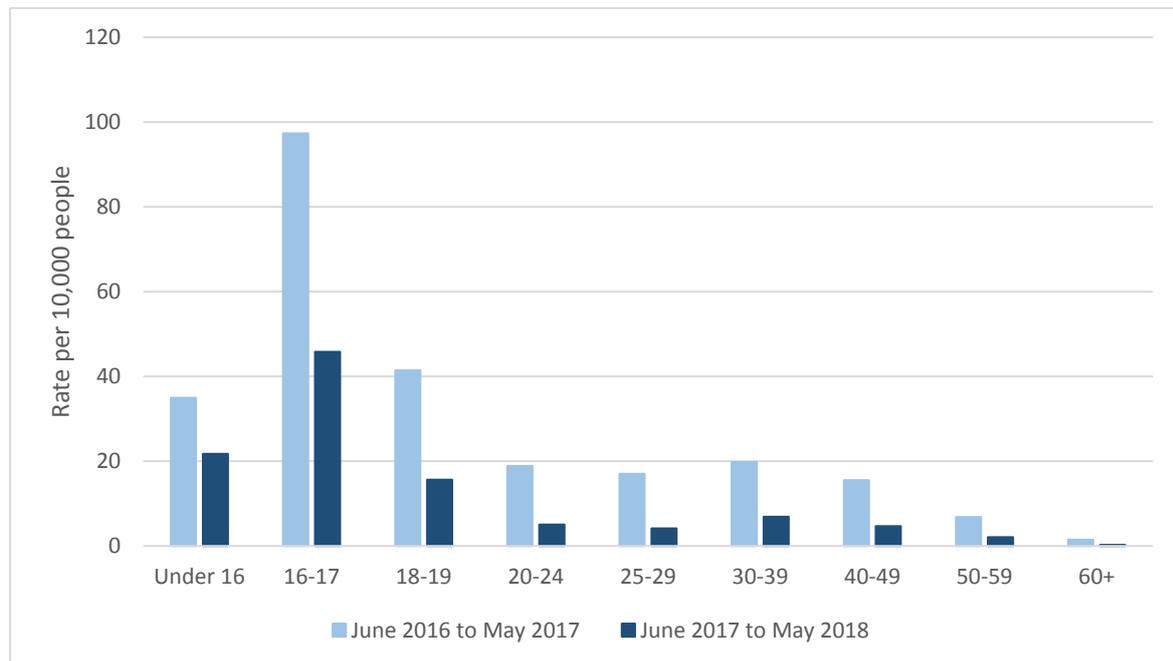


Figure 6.2 compares the seizure rates by age group pre- and post-implementation of the CoP. Rates of seizure were much lower than search rates overall, and they declined to a much greater extent after the introduction of the CoP (as noted in Section 2). Unlike the search rates, however, the decline in the rate of seizures was proportionately much greater for people in the older age groups than it was for younger people (as discussed in relation to alcohol seizures in section 3.3). Seizure rates fell by 38% for young people under 16 and by 53% for those aged 16-17. This compared with a decline in seizure rates of between 62-81% for all other age groups. The lower rate of decline in seizure rates amongst younger people is most likely explained by the degree of importance placed by Police Scotland on reducing harm caused by under-age drinking. However, as noted in Section 4, the overall reduction in alcohol-related incidents involving people under the age of 18 was no greater than that for older people. Nevertheless, it is clear from Figure 6.2 that the overall age profile of seizure rates did not change substantially.

Figure 6.2: Rate of seizure by age group before and after implementation of the CoP⁷



6.2.2 Sex

The number of searches and seizures amongst males in the population has always been significantly higher than that for females and this picture did not change markedly following the introduction of the CoP. In the twelve months before the CoP was introduced, males accounted for 89% of all searches and 82% of all seizures; whereas, after the introduction of the CoP the equivalent figures were 87% of all searches and 78% of all seizures. There was a greater proportionate decline in the number of both searches and seizures amongst males than females in the year after the introduction of the CoP. The rate of search per 10,000 men (aged 12 or over) in Scotland fell from 162 to 124, while the equivalent figures for women fell from 18 to 16. This represented a 24% fall in the rate of search for men but only 10% for women. Similarly, the rate of seizure per 10,000 men fell from 28 to 9 after the CoP was introduced, while it fell for women from 5 to 2 per 10,000 women. This represented a 66% decline in the seizure rate for men and a 56% reduction for women.

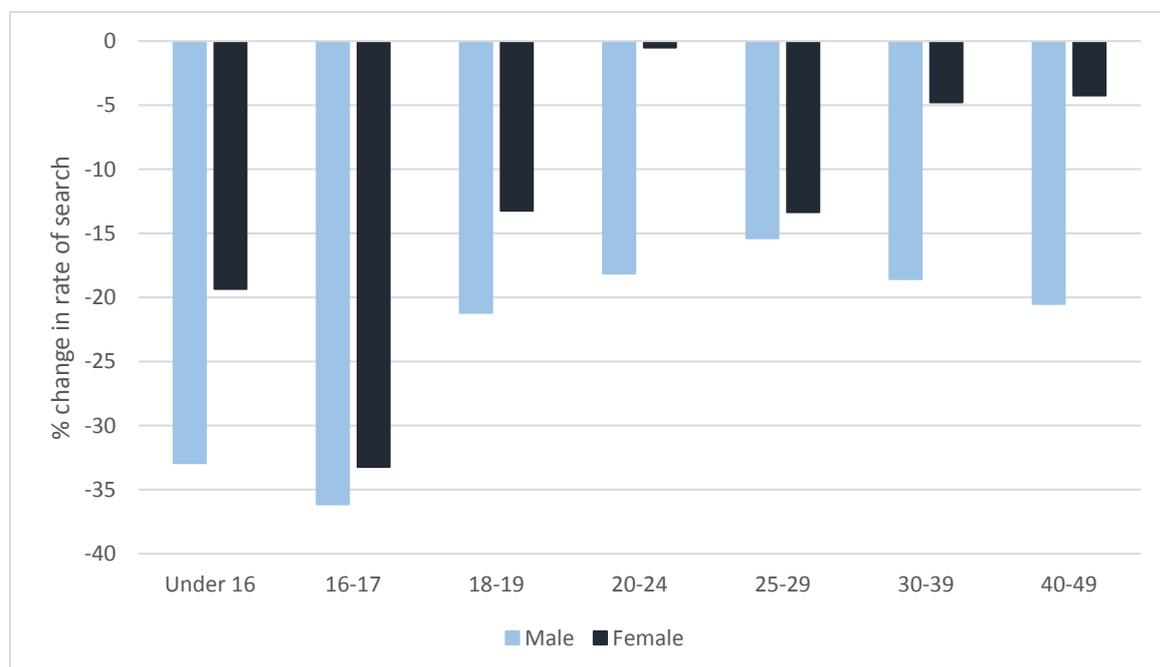
The age patterns of search and seizure rates for males and females were broadly similar to those observed in Figures 6.1 and 6.2. To identify where there were key differences, Figure 6.3 shows the percentage difference in search rate per capita for the twelve months before and after the introduction of the CoP, by sex and for different age groups. It is clear that the rate of search declined far more for men than for women across most age groups. The main differences were a greater decline in search rates amongst boys under the age of 16 compared to girls, and larger declines amongst men aged 30 or over compared to women. In some age groups,

⁷ It is not possible to determine how much of the change in rate of seizure for young people is due to a reduction in the use of Section 61 as opposed to a reduction in the use of Local Authority Byelaws as that information was not recorded on the Stop and Search Database prior to the introduction of the CoP.

especially age 20-24 and age 30 or over, the rate of search for women declined very little. The largest fall in search rates for both men and women was in the 16-17 age category, and the level of decline within this age group was very similar.

The main factor explaining the lower level of decline amongst women was the inclusion on the NSSU database of searches conducted as part of a warrant (introduced by the 2016 Act). Including these searches in the overall numbers had the biggest impact on searches amongst women aged 30 or over, mainly because the number of searches amongst this group was already very small. Whereas, the introduction of searches under warrant for men did not have the same effect because the overall number of searches for men was so much larger.

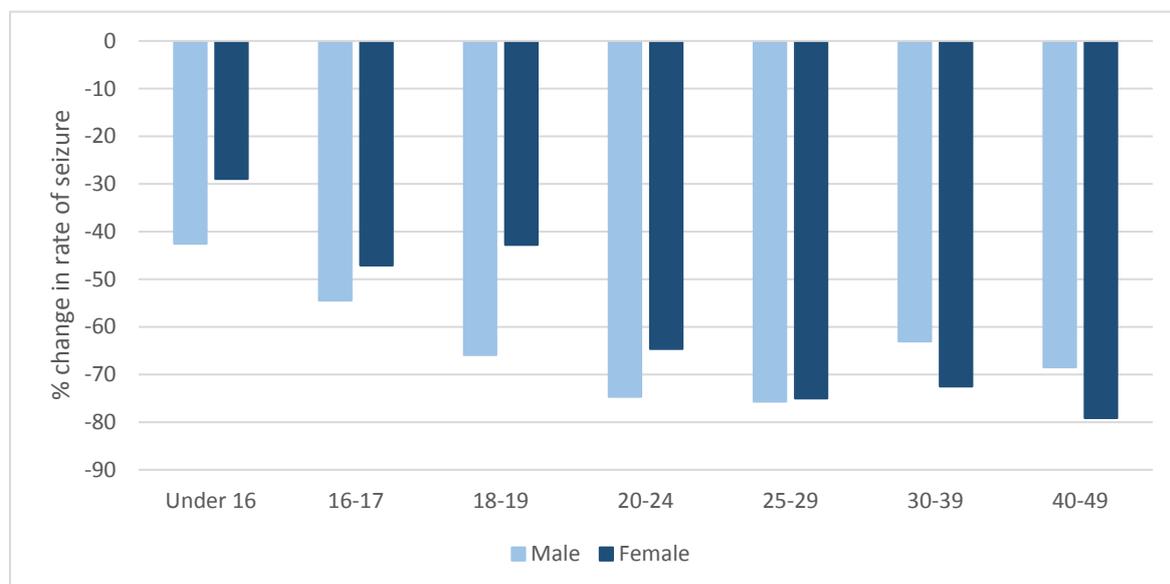
Figure 6.3: Percentage difference in rate of statutory search by age and sex pre- and post-implementation of the CoP



Note: Rates for age 50 and above are excluded due to small numbers.

The percentage difference in seizure rates before and after the introduction of the CoP is shown for males and females by age group in Figure 6.4. Again, caution should be taken in interpreting the figures as some of the numbers are very small (especially for women); however, this chart shows that the rate of seizure declined fairly consistently for both men and women across all age groups. There is some variation in terms of the extent of the difference by age but, overall, Figure 6.4 suggests that the reduction in seizures affected both sexes more or less equally.

Figure 6.4: Percentage difference in rate of seizures by age and sex pre- and post-implementation of the CoP



Note: Rates for age 50 and above are excluded due to small numbers.

6.2.3 Ethnicity

As noted in previous research (Murray 2014; McVie and Murray 2017), the vast majority of searches and seizures in Scotland involve people who self-define as belonging to a White ethnic group. The analysis conducted for this report confirmed that this continued to be the case, as shown in Table 6.1. In the year prior to the introduction of the CoP, 92% of all encounters involved people self-defining as White, of which the majority (84% overall) described themselves as White Scottish. There was a small reduction in this proportion in the twelve months after the introduction of the CoP, with 88% of all encounters involving White people (78% being White Scottish). The most common other self-defined White ethnicities in the year following the introduction of the CoP were White English (3%) and White British (4%). The non-White ethnic groups shown in Table 6.1 made up a small proportion of all encounters in both periods, and there was little change over time.

Table 6.1: Number of encounters by ethnic group, pre and post-implementation of the CoP

Self-defined ethnic group	June 2016 to May 2017		June 2017 to May 2018		Difference in % share
	N	% share	N	% share	
White Scottish	37,022	84%	25,160	78%	-6%
White British	1,060	2%	1,168	4%	+2%
White English	907	2%	887	3%	+1%
White Polish	544	1%	474	2%	+1%
White Other	927	2%	732	2%	0%
Asian (Pakistani/Bangladeshi /Chinese/Indian)	1,032	2%	641	2%	0%
African/Caribbean/Black	639	1%	374	1%	0%
Mixed or Other ethnic group	1,065	2%	398	1%	-1%
Ethnicity unknown	1,053	2%	2,473	8%	+6%

Note: Column percentages may not total 100% due to rounding.

In the year following the introduction of the CoP there was a large increase in the proportion of encounters for whom the person's ethnic status was recorded as 'unknown' (from 2% of all searches and seizures prior to the CoP to 8% afterwards). This was also identified during the six month review (see McVie 2018) and discussions with Police Scotland at that time indicated that this was mainly due to a change in policing policy requiring police officers not to 'guess' the ethnicity of some individuals when the information had not been specifically requested. According to the NSSU, this was most commonly the case with individuals whom officers believed to be 'White Scottish'. There was no evidence that individuals had become more likely to refuse this information. It is notable that in the period since the publication of the six month review report, the proportion of encounters with an ethnicity defined as unknown has reduced considerably (from 7% in January 2018 to 3% in May 2018), suggesting that recording practice has been improved in light of the six month review.

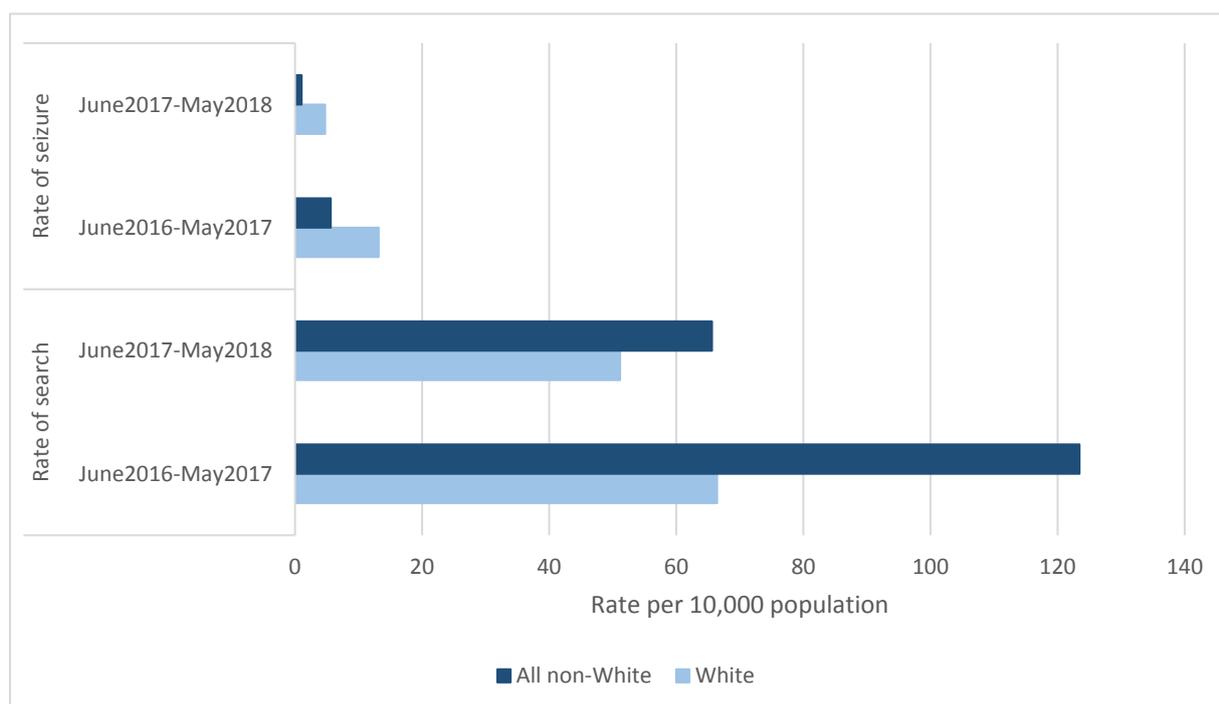
When encounters in which the ethnicity of the individual is unknown are excluded from the analysis, the relative share of all searches and seizures across ethnic groups (as shown in Table 6.1) is broadly in line with the profile of the Scottish population as measured by the 2011 Census (National Records of Scotland 2013). Encounters involving people from a White ethnic group increased slightly from 94% in the year preceding the introduction of the CoP to 95% in the year after, which is broadly in line with the Census estimate of 96% of the Scottish population. The breakdown of non-White ethnic groups is also broadly in line with Census estimates. This is not suggestive of ethnic bias in the use of search and seizure at a national level (the numbers, especially for seizures, are too small to reliably report at sub-national level). However, this statement only holds true if the overall ethnic profile of the Scottish population has not changed over time (more up to date population estimates are not available) and if the profile of those encounters where ethnicity was unknown was broadly similar to those that were known (it is not possible to establish this).

Examining the total number of searches across ethnic groups is useful in terms of determining the overarching profile of encounters across the population, but rates per capita provide a better indication of whether there is disparity in the use of the tactic between ethnic groups. Rates per capita were calculated using population data from the 2011 Census; however, **caution is required in calculating and interpreting population-based rates for ethnic groups for three key reasons** (see McVie and Murray 2017, McVie 2018a and 2018b). Firstly, the absolute number of searches involving non-White people is far smaller than that for White people and so the degree of error around rates for non-White people is likely to be greater (which means they could appear to be over-inflated). Secondly, the 2011 Census is the only source of national population data for ethnicity but this is highly rounded and may be significantly out of date, which is also a potential source of error. And thirdly, the stop and search database does not identify whether individuals were subject to multiple searches and, therefore, rates may appear greater than they actually are. This is likely to be especially problematic if multiple searches are more common

amongst non-White than White people, as suggested by other UK research evidence (for example, see Medina Ariza 2014).

Bearing in mind the caveats set out above, Figure 6.5 shows the rates of search and seizure per 10,000 people for those who self-defined as White or non-White only (as figures are not considered reliable for specific ethnic groups). Note that this chart can most reliably be used to show the change in search rates *within* ethnic groups across the two periods studied, but no reliable conclusions can be drawn about differences in rates *between* ethnic groups. The rates of seizure were far smaller than the rates of search, for both White and non-White people, although the data appears to show that seizures were greater amongst White people across both time periods. The rates of search for non-White people appeared to be almost twice that of those for White people in the period prior to the introduction of the CoP; however, the gap closed considerably in the twelve months after the CoP was introduced. The far larger proportionate decline in searches amongst non-White people could be due to a reduction in the total number of searches or a reduction in the number of multiple searches of specific individuals.

Figure 6.5: Difference in rate per capita of search and seizure pre- and post-implementation of the CoP, by ethnic group



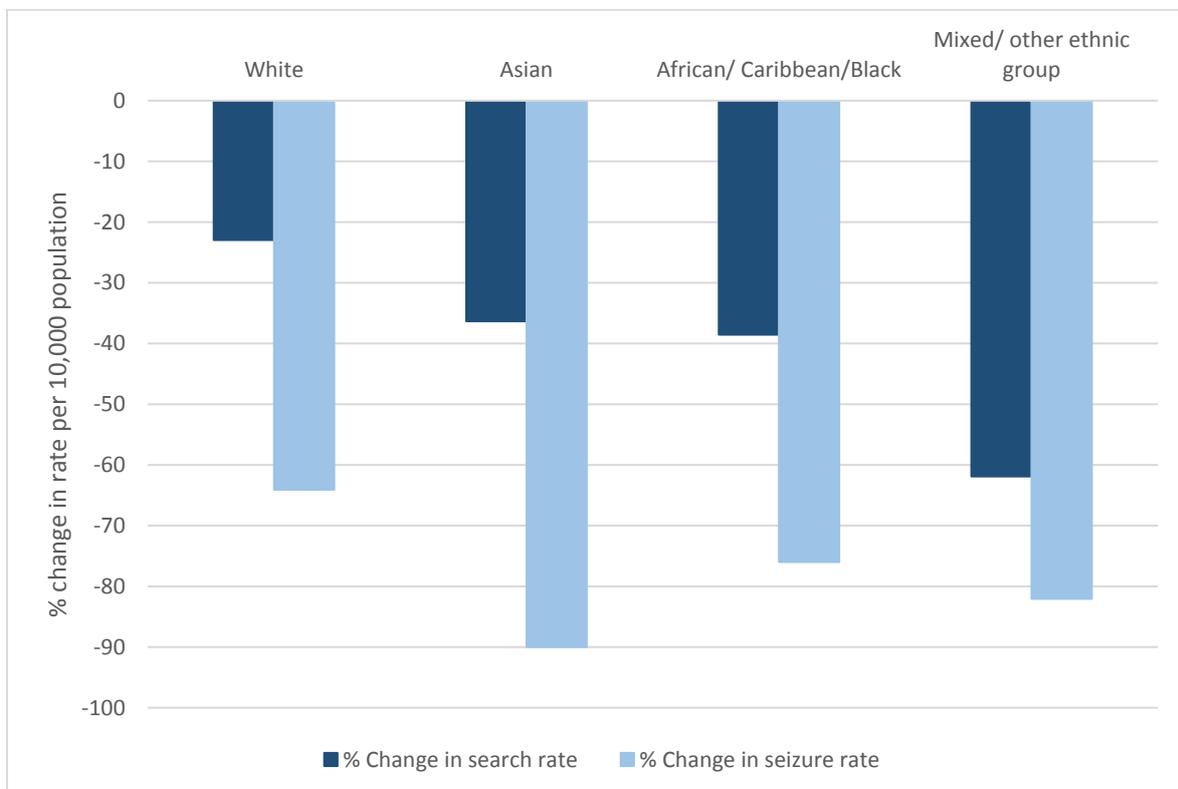
Rates per capita can be more reliably used to compare change *within* specific ethnic groups. Figure 6.6 shows the percentage change in the rate of search and seizure in the twelve months before and after the introduction of the CoP for the four main ethnic groups included in the Scottish Census (African has been grouped together with Caribbean and Black due to small numbers). It shows large percentage declines in seizure rates across all ethnic groups, but especially amongst the non-White groups. Note, however, that the total number of seizures amongst non-White groups was far smaller than for White people (i.e. less than 2% of all seizures in the

year before the introduction of the CoP involved non-White people, and this fell to less than 1% in the year after).

There were also large percentage declines in search rates across all ethnic groups, but again especially amongst non-White groups. Figure 6.6 shows that rates of search amongst White people fell by 23%, whereas search rates fell by 36% amongst those self-defining as Asian and by 39% for those self-defining as Black, Caribbean or African. The largest proportionate decline in search rates was amongst Mixed or Other ethnic groups, which fell by 62%. Like seizures, the number of searches involving non-White people were far smaller than for White people (i.e. 7% of all searches in the year before the introduction of the CoP involved non-White people, falling to 5% in the year after).

Overall, these findings indicate a greater than expected reduction in both searches and seizures involving those from non-White backgrounds. This suggests that the changes implemented by Police Scotland in the year following the introduction of the CoP have had a greater positive impact on non-White people compared to White people. As noted above, this may be in terms of a reduction in the total number of searches or it could be due to a reduction in multiple searches of specific individuals. The numbers involved are very small, however, so it is worth reiterating that caution is needed in interpreting these figures.

Figure 6.6: Percentage change in rate of search and seizure pre- and post-implementation of the CoP, by ethnic group



6.3 Change in positive detections by age, sex and ethnicity

The rates per capita, as set out in the previous section, provide valuable information about the extent to which search and seizure are used for different groups of the population. However, it is difficult to establish anything about disproportionality and fairness without having underlying information about the level of demand on policing caused by different groups. An equally important factor is to examine the extent to which searches result in a positive detection in order to identify whether certain groups are being searched on the basis of lower levels of suspicion compared to others. As noted in Section 2.2, the overall detection rate in the twelve month period after the CoP was introduced was 38%, an increase of 7% from the equivalent period of the previous year. This section of the report examines whether there was any significant change in the detection rate by age, sex and ethnicity following the introduction of the CoP

6.3.1 Age

The change in the detection rate by age group is presented in Figure 6.7, which shows a higher positive detection rate for all age groups following the introduction of the CoP. Overall, there was a 21% increase in detection rates; however, there was a greater proportionate increase for some age groups than others. The lowest percentage increase in detection rates was amongst those aged 18-19 (19%), 20-29 (16%) and 30-39 (14%), while the highest percentage increase was for those aged 16-17 (39%) and 50-59 (32%). There was also a slightly larger than average increase in positive searches amongst young people under the age of 16 of 23%.

Figure 6.7: Percentage of searches resulting in a positive outcome pre- and post-implementation of the CoP, by age group

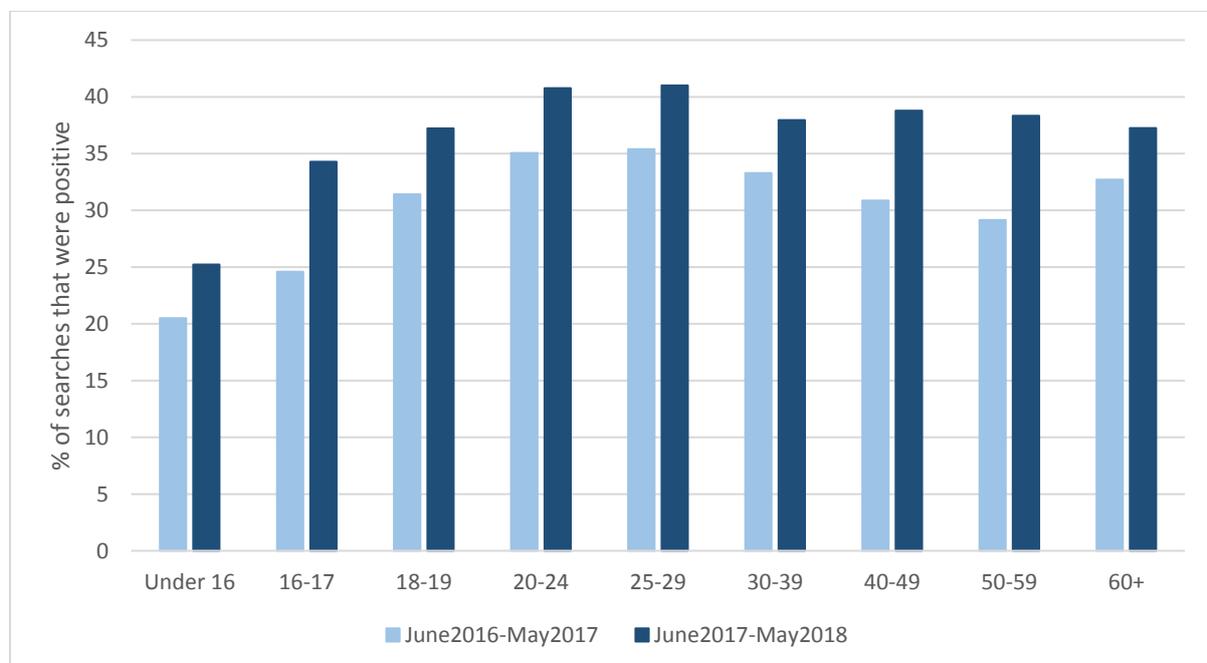


Figure 6.7 suggests that the overall reduction in number of searches since the introduction of the CoP has resulted in more positive outcomes across all age groups. Moreover, there has been a sizeable improvement in positive outcomes

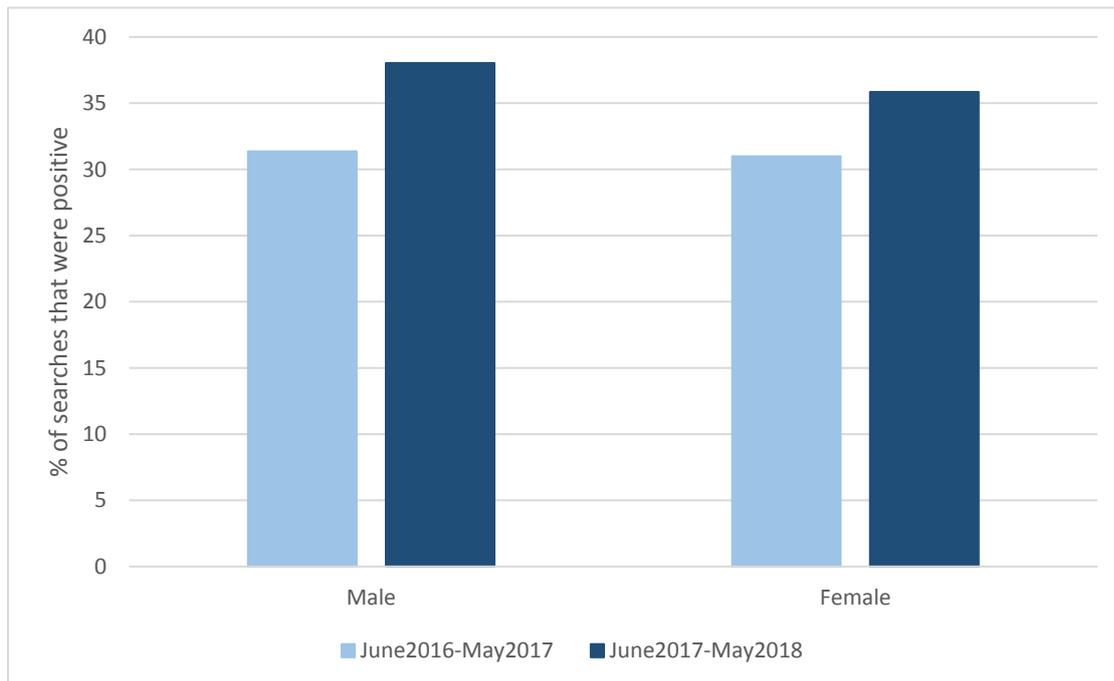
amongst those in the youngest age groups, especially in the 16-17 year old age group. For those aged 18 or over, there is far greater equality in the rate of positive search, which is above 35% for all ages. This suggests that the requirement for reasonable suspicion is being applied more stringently and evenly amongst adults. However, the positive search rate for those aged under 18 remains lowest overall, most especially for those aged under 16 which is still noticeably lower than for all other age groups (i.e. 13% below the average positive rate). This suggests that the threshold of suspicion used when searching children and young people continues to be lower than that applied to adults, so there is still room for improvement in increasing the positive search rate amongst this age group.

6.3.2 Sex

As noted in Section 6.2.2, there was a larger proportionate fall in the rate of search for men than for women in the year following the introduction of the CoP. Overall, searches involving women went from 11% of all encounters in the previous year to 13% in the year after the CoP was introduced. Figure 6.8 also shows that there was a bigger increase in the percentage of positive searches amongst men compared to women. The percentage of positive searches for men increased from 31% to 38%; while, the percentage for women increased from 31% to 36%. While this does not represent a very large difference between men and women in percentage terms, it is statistically significant. In other words, in the year following the introduction of the CoP searches involving men were significantly more likely to result in a positive detection than those involving women.

Looking at search results by reason, drug searches involving men were significantly more likely to be positive than those involving women during both time periods. Searches conducted under Warrant (which were predominantly for drugs) were also more likely to be positive for men than women. Whereas, searches for stolen property were significantly more likely to be positive for women than men. There was no sex difference in the outcome of weapon searches, which were least likely to be positive overall. The effect of sex on positive search rates will be discussed further in Section 7.3.

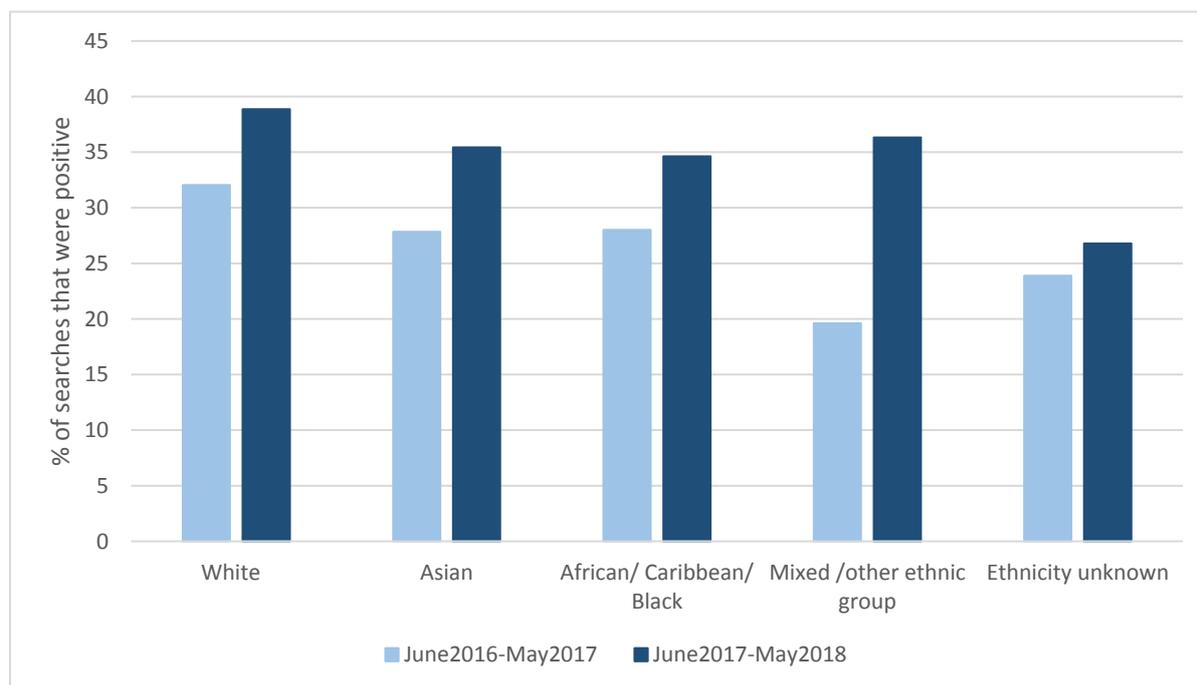
Figure 6.8: Percentage of searches resulting in a positive outcome pre- and post-implementation of the CoP, by sex



6.3.3 Ethnicity

The percentage of searches resulting in a positive outcome also increased across all ethnic groups, as illustrated in Figure 6.9. In the twelve months before the CoP was introduced, the positive detection rate was highest amongst those who self-defined as White (32%) and lowest for those self-defining as belonging to a Mixed or Other ethnic group (20%). In the year after the CoP was implemented, the positive detection rate continued to be highest for those who self-defined as White (39%); however, the gap in success rates between searches of those from a White ethnic group and those from people in any Other ethnic group was much reduced. For example, 35% of searches involving people who self-defined as belonging to any of the Asian or African/Caribbean/Black ethnic groups resulted in a positive detection, and the figure for those from Mixed/Other ethnic groups was slightly higher at 36%. Recall from Figure 6.6 that searches involving people from a Mixed/Other ethnic group saw the largest overall reduction across these two time periods, which suggests that police officers were using a far higher threshold of reasonable suspicion when searching people from these ethnic backgrounds after the CoP came into being (although bear in mind that numbers were small). There was a lower increase in detection rate amongst those for whom ethnicity was not known.

Figure 6.9: Percentage of searches resulting in a positive outcome pre- and post-implementation of the CoP, by ethnic group



6.5 Summary of section 6

A series of research reports have highlighted that stop and search in Scotland was being used disproportionately amongst certain groups, especially children and young people. This review examined whether the introduction of the CoP had resulted in any change in terms of the use of search for those of certain ages or other groups with protected characteristics. Only three variables were available for analysis in the Stop and Search Database: age, sex and ethnicity.

The analysis found that levels of search had reduced across all ages and, while young people in their mid to late teens continued to be the most likely group to experience a search, the degree of disproportionality in terms of targeting these groups had significantly declined in the twelve months following the introduction of the CoP. Rates of seizure (mainly involving alcohol) had also declined significantly across all age groups; however, seizure rates had declined less for young people under the age of 18 than for older people. This is most likely due to continued concern within Police Scotland about the danger of alcohol-related harm amongst young people in Scotland.

The total number of searches and seizures had declined for both males and females in the twelve months following the introduction of the CoP, although proportionately more so for males than females. Search rates had declined across all age groups for males, and for some age groups for females. The difference appears to be explained largely by the inclusion in the database, following the introduction of the CoP, of searches conducted under Warrant. This had a greater impact on the profile of female searches as it inflated already small numbers. Reductions in seizure rates were very similar for males and females across all age groups, suggesting that changes in practice affected both sexes more or less equally.

In terms of ethnicity, searches and seizures predominantly involved White people both before and after the introduction of the CoP, although the overall profile of searches more or less matched the population profile for Scotland. Non-recording of ethnic group during searches increased in the period following the introduction of the CoP. This was also identified in the six month review report, but there was evidence that Police Scotland had taken steps to rectify the situation. The rate per capita of searches had declined within all ethnic groups, and the reductions were greater for encounters involving people who self-defined as non-White than White. Overall search rates per capita appeared to be higher for non-White ethnic groups than for White people, although there are strong health warnings about drawing any conclusions from differences between ethnic groups due to the problems of using 2011 Census data to calculate comparable rates.

Differences in absolute levels of search are not necessarily problematic if the detection rates do not indicate biased decision making practices. In the twelve month review, there was a significant increase in the positive detection rates for all age groups after the introduction of the CoP, particularly for 16-17 year olds and those aged 50-59. Since the introduction of the CoP, there is far greater equity in the rate of positive search amongst those aged 18 or over; however, positive detection rates continue to be lowest for those aged under 18. This suggests that the threshold of reasonable suspicion is being applied more stringently and evenly amongst adults than young people, so there remains room for improvement in conducting searches amongst young people.

There was a significant increase in positive detection rates for both men and women; however, searches of males were more likely to result in a positive outcome than those involving females in the year following the introduction of the CoP (there was no sex difference in the previous year). This sex difference was mainly explained by searches for drugs (including under Warrant) which were significantly more likely to be positive for men. Detection rates also improved amongst all ethnic groups, especially those from Mixed or Other ethnic groups, although numbers in these groups were small.

Overall, these findings indicate that the reduction in the number of searches following the introduction of the CoP has coincided with an increase in positive outcomes, and this is true across all groups with protected characteristics. Nevertheless, there continue to be signs of inequality between some groups in terms of who is searched and how successful those searches are. It is impossible from the analysis conducted here to say whether there are good explanations for these inequalities.

7 Predicting positive search outcomes

7.1 Introduction

The analysis conducted so far has involved a simple descriptive examination of change in the relationship between positive outcome and protected characteristics (age, sex and ethnicity) since the introduction of the CoP. However, there are a range of other contextual factors that might have impacted on the success of searches, including when, where and why it took place. Therefore, it is important to examine what had the biggest influence on positive detection rates. This was done using regression analysis – a technique that enables the influence of multiple factors on an outcome (in this case a positive search) to be tested simultaneously. A specific aim of this analysis was to establish whether the introduction of the CoP had an effect on the positive detection rate which was over and above that of the other factors that are known to influence detection. The results of this analysis are presented below.

7.2 Factors included in the regression model

A set of potential 'explanatory variables' that were likely to have an influence on the outcome of the search were identified. Within the stop and search database there is a limited number of variables available and it is likely that certain factors influenced detection rates that cannot be accounted for here (this is a limitation of all regression models, and is certainly the case here). Nevertheless, three sets of factors were considered, as detailed below:⁸

1. The protected characteristics of the person who was searched:
 - Sex (reference category: Female)
 - Age group (reference category: 18-19 years)
 - Ethnic group (reference category: White)

2. Factors relating to the nature of the search itself:
 - Day of the week (reference category: Saturday)
 - Time of day (reference category: 6pm-midnight)
 - Reason for search (reference category: Drugs)
 - Division (reference category: Greater Glasgow)

3. The time period of the search:
 - Before or after the CoP was introduced (reference category: Before the CoP)

The results of a regression model are expressed in terms of odds ratios. An odds ratio greater than one suggests that there are increased odds of a positive search

⁸ Note that when regression analysis is conducted, it is essential to have a reference category against whom the other groups are compared (these are noted for each variable in the model). The choice of reference category does not skew the results of the analysis although it has implications for how the data should be interpreted.

due to the presence of a particular variable, while a value less than one suggests that there are decreased odds of a positive search in the presence of a particular variable. A value of one would suggest that the particular variable has no effect on whether or not the search would result in a positive outcome. As all variables are tested simultaneously, the odds for any one factor are interpreted as being true when all the other variables in the model are held constant at their reference values. Confidence intervals at the 95% level are included in the models to determine significant differences between the odds ratios for all categories compared to their reference category (e.g. differences between each of the age groups with those aged 18-19). In the figures below, odds ratios are represented as a red square and their 95% confidence intervals are represented by vertical black lines. Where differences have been tested across different reference categories (e.g. using an age group other than 18-19), the results will be noted, although the additional data are not presented here.

7.3 Results of the regression model

We start this section by looking at the effect of the protected characteristics on the odds of a successful search, when holding all other factors in the model constant. The results of the full regression model are reported in the Appendix.

7.3.1 *Effect of sex*

In the six month review of the CoP (McVie 2018), the regression model indicated that the odds of a positive search were not influenced by sex when all other factors were taken into account. However, as noted in sections 6.2.2 and 6.3.2 of this report, the rate of search declined to a greater extent for males than it did for females in the twelve months following the introduction of the CoP, and the percentage change in the likelihood of a positive search increased more for males than females over this period. The net effect of these changes is that the odds of a positive search is now greater for encounters involving men than those involving women. This is illustrated in Figure 7.1. The effect size, although significant, is small (Odds Ratio=1.08) and means that the odds of a positive search were on average 8% higher for men than they were for women.

Figure 7.1: Regression model predicting a positive search by sex, controlling for other factors



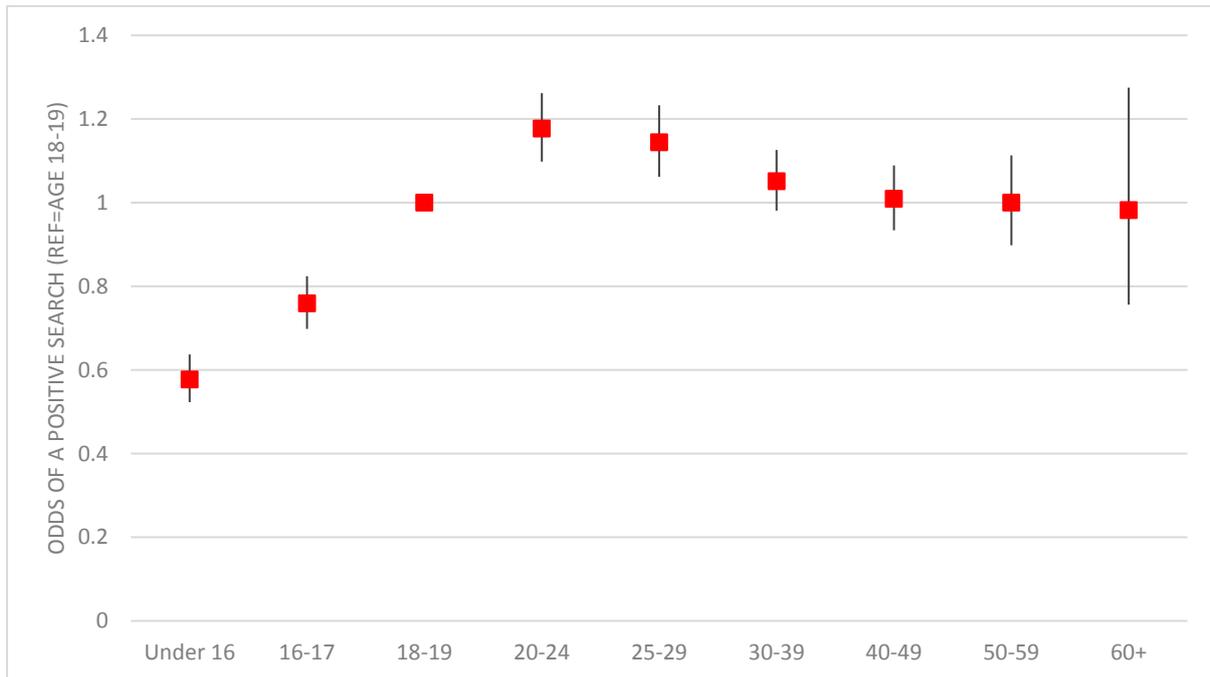
7.3.2 Effect of age

As part of the six month review, it was reported that searches involving younger people were significantly less likely to be positive than those of older age groups. In section 6.2.1 of this report, it was shown that even though the number of searches involving young people declined significantly following the introduction of the CoP, the rates of search for people aged 16 to 19 continued to be higher than for any other age group. Furthermore, it was noted in section 6.3.1 that, while positive search rates had increased for all age groups, they were still substantially lower for young people under the age of 18.

Even when controlling for a range of other factors about the search, Figure 7.2 shows that there is a strong and persistent age effect in terms of whether or not a search is successful. Searches involving people aged under 16 had by far the lowest odds of resulting in a positive outcome than those of all other age groups. Indeed, the odds of positive search involving a person under the age of 16 were on average 42% lower than they were for that of a person aged 18-19. Searches of young people aged 16-17 also had a lower odds of being successful than most other age groups, and were on average 24% less likely to be successful than that of a search involving an 18-19 year old. Those aged 20-29 were by far the most likely to have a positive search result compared to other age groups, while searches involving people aged 30 or over were no more likely to be successful than those for 18-19 year olds.

These findings suggest that, even though the number of searches has declined markedly for younger people and success rates have increased, the decision to search younger people (especially those aged under 18) may still apply a lower threshold of reasonable suspicion than for those who are older. It is impossible from the available data, however, to say whether there were other factors about these young people that made them appear to be more 'risky' than people of older ages.

Figure 7.2: Regression model predicting a positive search by age, controlling for other factors

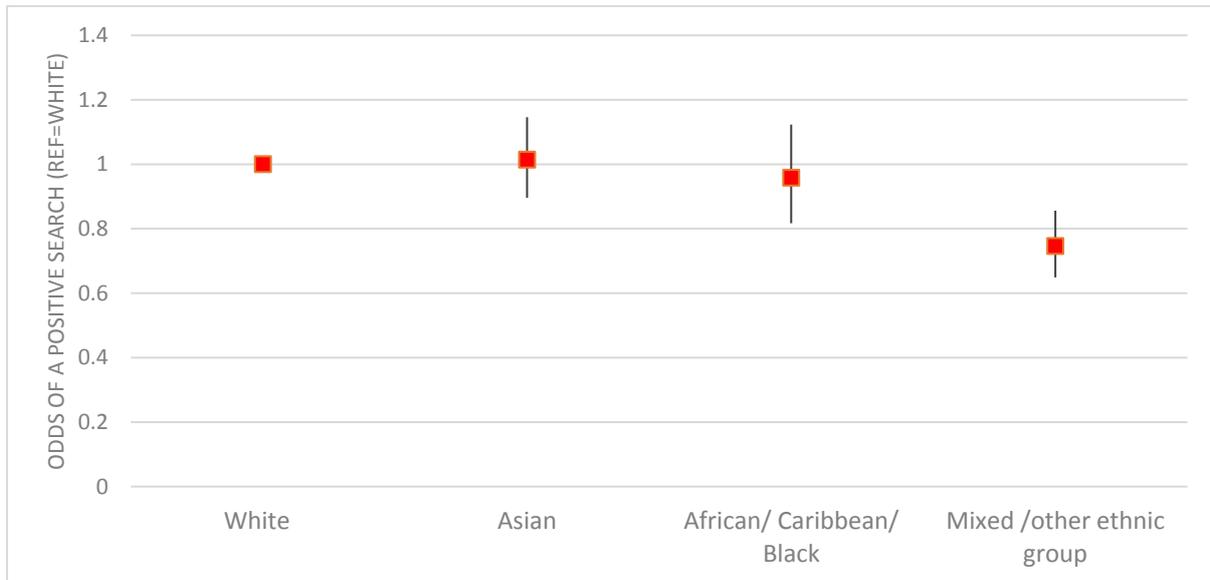


7.3.3 Effect of ethnicity

The six month review found that searches involving people from Other ethnic groups were less likely to result in a positive outcome than those of White people. Section 6.2.3 of this report found that searches had declined to a greater extent and positive detection rates had increased far more amongst all non-White ethnic groups compared to people who self-defined as White, although White people were still far more likely to be searched overall. Looking at the data for the twelve month review, Figure 7.3 shows that there was no significant difference in the odds of a positive detection between searches involving White people and those from Asian backgrounds or from Black, African or Caribbean backgrounds (which represented the largest number of non-White searches overall).

Searches involving people from Mixed or Other ethnic backgrounds did have lower odds of being successful, although it is worth noting that they represented only 2% of all searches. Figure 7.3 suggests that the odds of a search involving someone self-defining as belonging to a Mixed or Other ethnic background was on average 25% less likely to result in a positive outcome than one involving a White person, when taking all other factors into account. It is not possible from the available data to say whether there were other factors involved in these searches that reduced the threshold of suspicion or whether there was some other explanation for this difference.

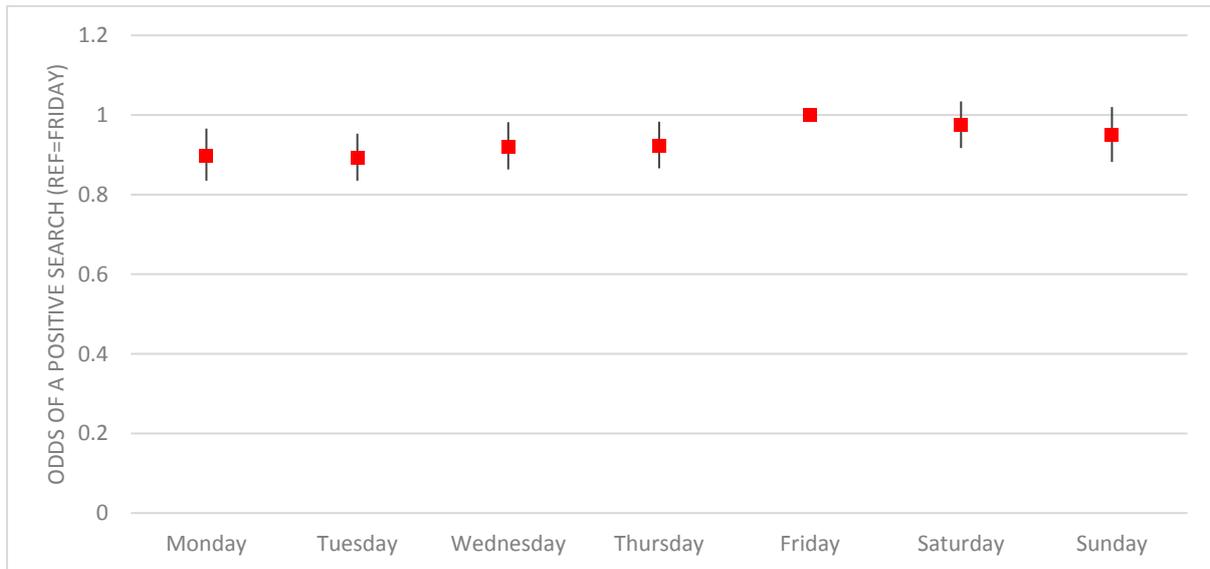
Figure 7.3: Regression model predicting a positive search by ethnicity, controlling for other factors



7.3.4 Effect of day of the week and time of day

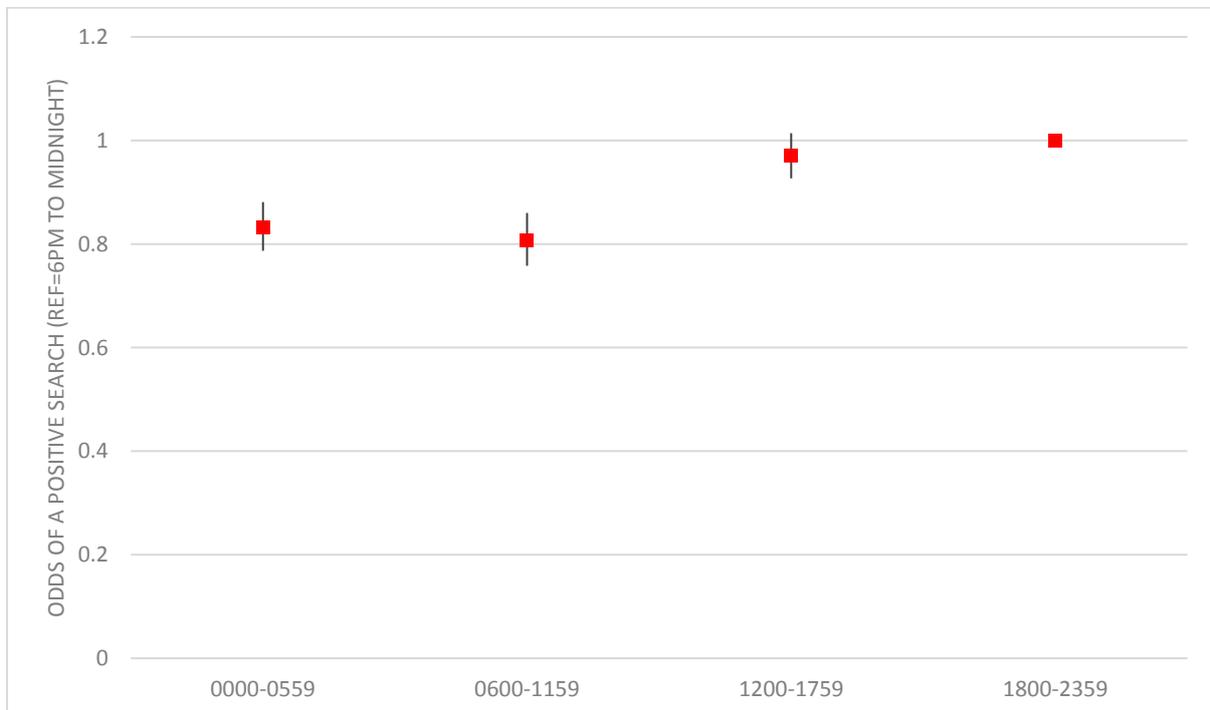
Turning now to factors relating to the search itself, the six month review report noted that there was some difference in the likelihood of a search being positive based on day of the week and time of the day in which it occurred. This was also true of the analysis of the twelve month data, although the findings were slightly different. Figure 7.4 shows that searches conducted on a Monday to Thursday had lower odds of resulting in a positive outcome than those that occurred on Friday to Sunday, although the differences were not extensive.

Figure 7.4: Regression model predicting a positive search by day of the week, controlling for other factors



Furthermore, searches that happened in the afternoon (12-6pm) and evening (6pm to midnight) had greater odds of resulting in a detection than those that occurred in the twelve hours between midnight and midday. This is illustrated in Figure 7.5.

Figure 7.5: Regression model predicting a positive search by time of day, controlling for other factors



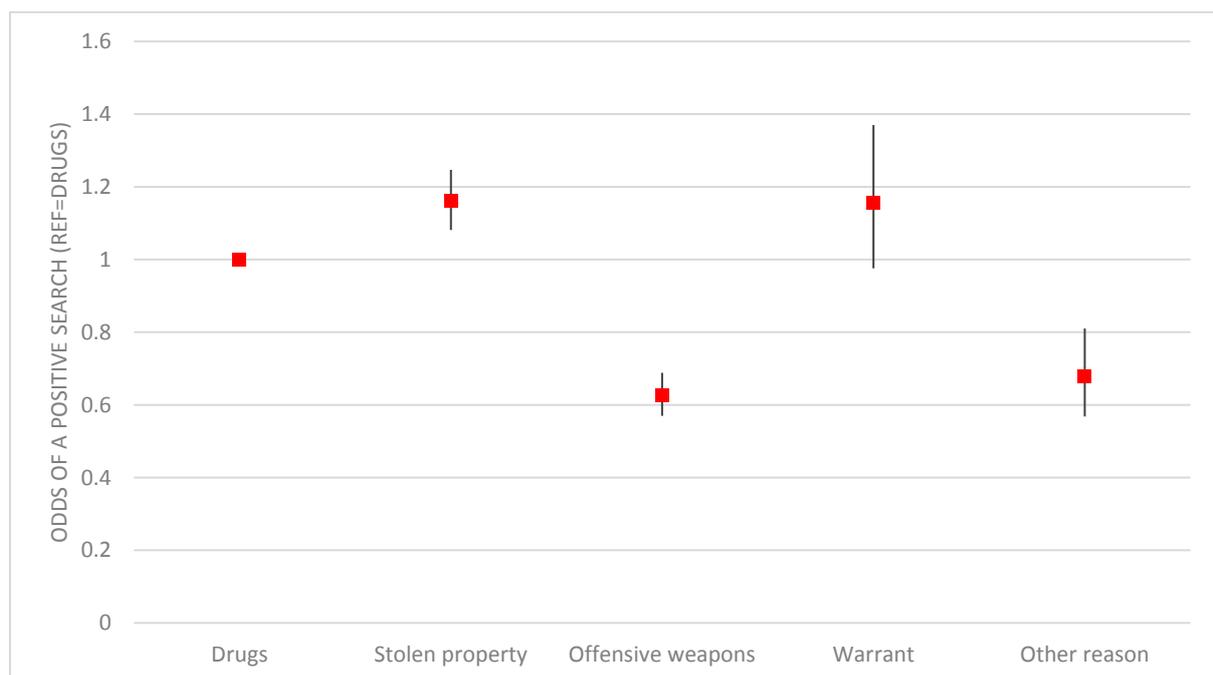
Since the vast majority of searches occur between midday and midnight, and at the weekends from Friday to Sunday, these findings suggest that officers are most successful in detecting items during periods that would typically be associated with more demanding periods during which criminal activity or anti-social behaviour may

be greater. Whereas at ‘quieter’ times of the day or on ‘less busy’ days of the week searches are generally less successful. It is possible that different thresholds of suspicion are applied depending on the capacity of officers to deal with situations based on levels of demand and this may have a resultant impact on productivity (as measured by positive detection).

7.3.5 Effect of reason for search

Compared to searches involving drugs (which represented the highest volume overall), searches for stolen property had higher odds of resulting in a positive detection, as shown in Figure 7.6. Searches conducted under a Warrant (which were also mainly drug searches) as just as likely to be successful as standard drugs searches. However, searches conducted on suspicion of possession of an offensive weapon or for some other reason had far lower odds of resulting in a positive outcome compared to searches for drugs, stolen property or under warrant, even when taking account of other factors that determine success. This suggests that a lower threshold of suspicion may be applied for weapon searches and for searches for other reasons, although it is not possible to know this for certain without having further contextual information about the nature of these searches.

Figure 7.6: Regression model predicting a positive search by reason for search, controlling for other factors

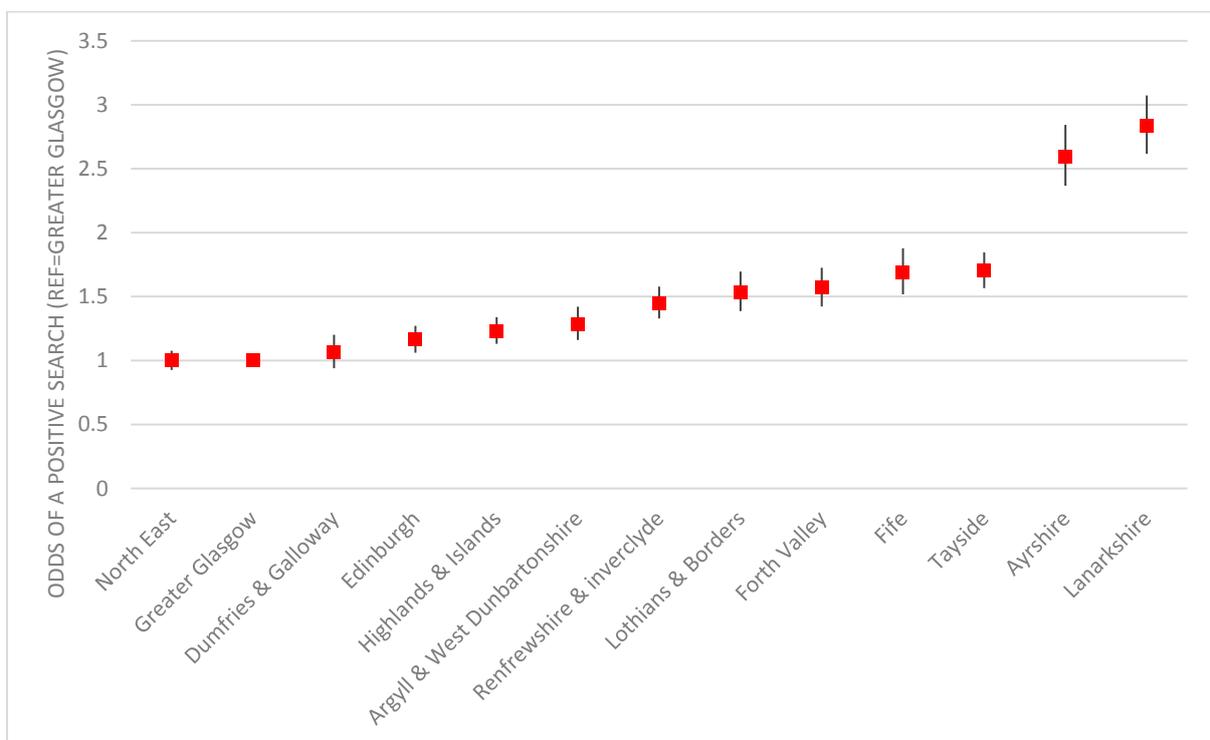


7.3.5 Effect of Police Division

Sections 2.3.2 and 2.3.3 of this report showed that there were considerable differences in search rates and positive detections across the thirteen Police Divisions. In the six month review, it was noted that there were also significant differences in terms of the success rates when controlling for a range of other factors. Replicating this analysis, Figure 7.7 shows the odds of a positive detection were considerably different depending on the Division in which they took place, all other factors considered.

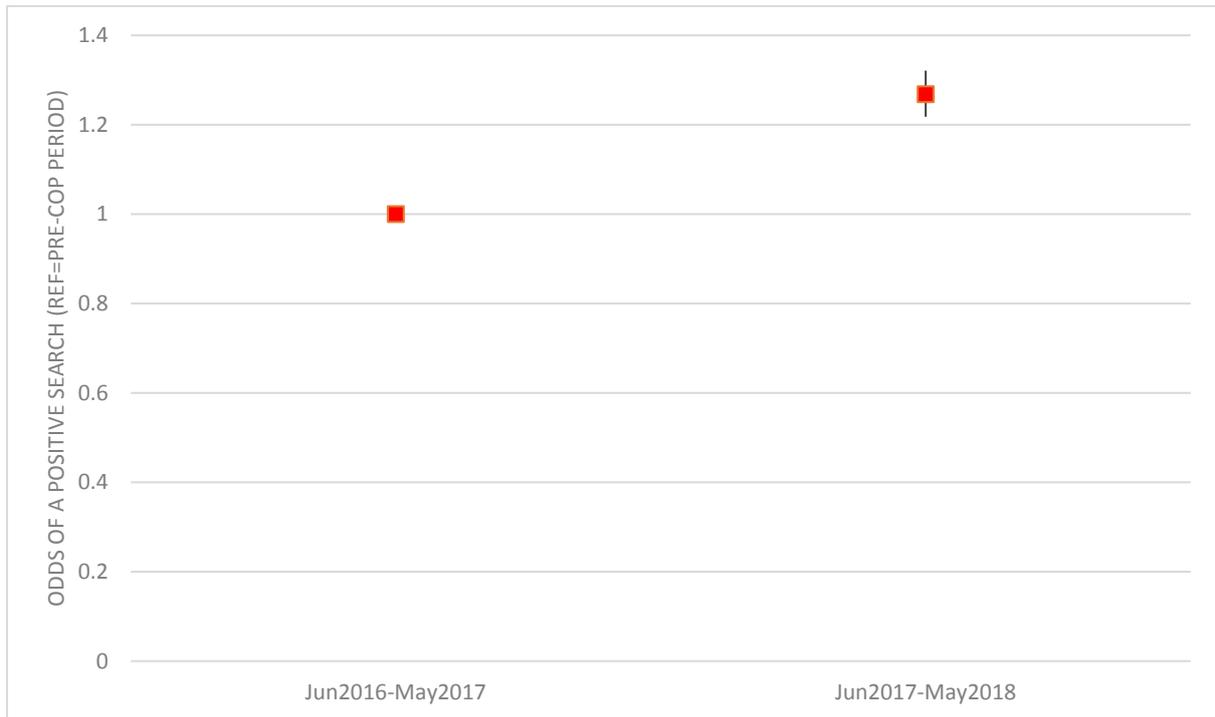
As in the six month review, searches in Lanarkshire and Ayrshire Divisions had by far the greatest odds of a positive outcome compared to all other Divisions. Whereas, Greater Glasgow, the North East and Dumfries & Galloway had the lowest odds of success. The odds of a positive outcome were lower in Greater Glasgow than all other Divisions, except for the North East and Dumfries & Galloway. There was no clear pattern according to Command Areas, which suggests that the reasons for these continued differences in success rate are more likely to be influenced by localised factors (i.e. within Division) relating to policing practice, performance or demand, or to contextual differences in the nature of crime-related problems for which there are no variables in the data.

Figure 7.7: Regression model predicting a positive search by police Division, controlling for other factors



Finally, Figure 7.8 reveals that searches conducted in the twelve month period following the introduction of the Code of Practice had significantly greater odds of resulting in a positive detection than those conducted in the previous year. Indeed, the odds of a positive detection were 27% higher on average after the CoP came into operation. This finding was highly significant, even when controlling for all the other factors that were found to impact on detection rate. In other words, it appears that the introduction of the CoP did have an impact on improving detection rates. The reasons for this could include greater application of the rules of suspicion or more careful use of engagement with individuals prior to proceeding to search (which was a strong focus of the training introduced by Police Scotland prior to the introduction of the CoP).

Figure 7.8: Regression model predicting a positive search by time period, controlling for other factors



7.4 Summary of section 7

Regression analysis was used to examine the impact of three different aspects of searches on the odds of a positive outcome: the protected characteristics of the person who was searched; the factors relating to the search itself; and the time period of the search. A key aim of this analysis was to establish whether the introduction of the CoP had an effect on positive outcomes which was over and above that of other factors that influence detection. The results showed that positive outcomes varied significantly by age, sex and, to some extent, ethnicity even when other factors were taken into account.

The success of searches was also influenced to some extent by the time of day and day of the week when they were conducted, with evidence that searches conducted during busy periods of activity were more likely to be productive than those conducted during less demanding periods. Successful detection was found to be greater in the case of searches conducted for stolen property than for drugs, but searches conducted for offensive weapons or other reasons were far less likely to be successful. Even taking account of these other factors, there were considerable differences in the likelihood of a successful outcome based on the Division in which the search took place. Ayrshire and Lanarkshire stood out as especially successful, with the odds of a search being more than twice as high as those conducted in the least successful Divisions, which were Greater Glasgow, the North East and Dumfries & Galloway. These continued geographical differences are most likely to be due to locally specific factors which may relate to operational policing and/or the nature of the problems faced by the police in these areas.

Finally, searches that were conducted in the twelve months following the introduction of the Code of Practice had on average 27% greater odds of resulting in a positive detection than those in the previous year. This is despite the fact that a range of other factors influencing a positive detection were taken into account. Therefore, there is strong evidence of a real, measurable improvement in the likelihood of a positive search during the period following the introduction of the CoP. However, it cannot be determined from the data available within the NSSU database what specific factors may have led to this improvement.

8. Conclusions

Following a period of significant consultation and scrutiny by an Independent Advisory Group on Stop and Search (IAGSS), a new Code of Practice (CoP) for Stop and Search in Scotland was introduced on the 11th of May 2017. The then Cabinet Secretary for Justice, Michael Matheson MSP, commissioned a twelve month review of the CoP to examine any practical issues with its implementation and to identify remaining gaps in legislative provision. The review was carried out through two research projects: a qualitative study undertaken by Ipsos Mori Scotland; and a quantitative study which is the focus of this report.

Overall, this report concluded that there was a significant reduction in the number of searches and seizures conducted within Scotland following the introduction of the Stop and Search Code of Practice (CoP). However, this reduction was part of an ongoing decline in encounters that started well before the introduction of CoP. It is almost certain that the criticism targeted at Police Scotland about the over-use of stop and search as a tactic by HMICS and the media in 2015, followed by an intense period of political and public scrutiny and the decision by the Cabinet Secretary for Justice to abolish consensual searching and introduce a CoP for stop and search, influenced the large scale reduction in encounters well before the CoP finally came into force.

This report also found a far greater proportionate reduction in police seizures of alcohol and tobacco products than searches over the two years studied in this review. The reduction in the number of seizures was around three times larger than the reduction in statutory searches, although the absolute number of searches continued to be far greater. The large decline in seizures mainly occurred in Divisions in the West of Scotland, especially Greater Glasgow. This is surprising given the historic problems of alcohol consumption and violence in western regions of Scotland, together with concerns expressed by policing representatives and other organisations in the public consultation period about the lack of a legal power to search for alcohol. This decline in the police use of seizures could not be explained by the analysis conducted for this report.

The decline in searches coincided with a significant increase in the success of search encounters. Analysis showed that this was at least partly a direct effect of the introduction of the CoP, which suggests that they are being used more effectively and with a greater standard of evidence in terms of reasonable suspicion. Positive detections increased across all search types, although searches for offensive weapons continue to be the least successful overall. Despite a large decline in the overall number of searches, the number of encounters in which an item was recovered had fallen by only a small amount, which is a further measure of the success of the CoP.

Analysis revealed considerable geographical variation in the use of search and seizure across Scotland. The number of searches and seizures was highest in the West Command Area during the twelve months prior to the introduction of the CoP, and this continued to be the case in the twelve months after. However, there was a far higher proportionate decline in both searches and, especially, seizures in the

West compared to the East and North Command Areas. Patterns over time revealed substantial variation between Divisions in changing use and success of stop and search. This suggests that the new legislation and policy around stop and search may have been interpreted and adopted differently across Divisions.

The CoP introduced a requirement for police officers to issue a receipt following a search, and there was evidence that officers do this in the vast majority of cases. The most common reason for non-issue of a receipt was because the individual being searched refused to accept it or left the locus before the receipt could be issued. There was some Divisional variation in the likelihood of a receipt being issued, although very little overall difference in the reasons for non-issue of receipts. During the twelve months following the introduction of the CoP it was clear that officers had taken increasing steps to issue receipts retrospectively when they were not issued at the time. Although individuals have the right to obtain a copy of the record of their search encounter within 6 months, there were only 11 such requests in the twelve months following the introduction of the CoP.

The primary focus of this review was to consider four main concerns that were identified by the Independent Advisory Group on Stop and Search during their consultation phase. The main conclusions of the quantitative study against each of these concerns is set out below:

i. Identify potential gaps in the legislation around young people and alcohol

The police in Scotland can request that a young person surrenders alcohol to them; however, they do not have a specific legislative power to search young people for alcohol. During public consultation, this was raised as a concern amongst policing representatives who believed the abolition of consensual searching would leave them powerless to search young people in the event that they were suspected of carrying concealed alcohol, thus placing the young person, or others, at risk. They argued that existing powers to seize alcohol from young people under Section 61 of the Crime and Punishment (Scotland) Act 1997, and other alcohol byelaws, were insufficient to deal with the extent of the problem in Scotland. There was also some concern that there may be an increase in the use of arrests to deal with young people who refused to hand over alcohol, thus criminalising many young people. Others, however, argued that there was no strong evidence to suggest that an additional power to search young people for alcohol was necessary and that such a power may result in disproportionately high search rates amongst young people, which could damage relationships between young people and the police (see Murray and McVie 2016).

Section 3 of this report noted a longstanding decline in alcohol use amongst young people in Scotland, according to the Scottish Schools Adolescent Lifestyle and Substance Use Survey (Scottish Government 2016). During the twelve months following the introduction of the CoP, indicative data from the Information Services Division of the NHS showed that alcohol-related hospital admissions for all ages fell by a small, but significant, 2%. The decline for young people aged under 18 was greater, at 7%, although this was not statistically significant due to the small numbers

involved. This represents a falling average of 48 to 44 admissions per month nationally. Similarly, Police Scotland management data showed that the number of alcohol-related incidents they recorded fell significantly, by 5%. The decline for young people aged under 18 was also 5%; although, again, this was insignificant due to small numbers. This represents a falling average of 194 to 184 per month nationally.

These indicative contextual data suggest that there was a small reduction in public service demand in relation to alcohol-related problems in Scotland in the twelve months following the introduction of the CoP, and that the trends amongst young people were broadly in line with wider population trends. These trends do not appear to provide any underlying behavioural explanation for a dramatic change in the police use of alcohol seizures amongst young people. Nevertheless, police use of alcohol seizures during the twelve months after the introduction of the CoP declined by 63% overall, and by 49% for incidents involving young people. The very large reduction in the use of seizures appears to be out of proportion to the much smaller reduction in alcohol-related police recorded incidents and hospital admissions, although other police incident data did suggest larger reductions in alcohol-related problems (albeit data were not available by age). In addition, the smaller proportionate reduction in seizures amongst young people does not reflect the wider trends, in which alcohol-related problems had reduced by a similar amount to, if not more than, the population as a whole. This may, however, reflect greater perceived risk of alcohol possession amongst young people on the part of the police.

The striking post-CoP decline in alcohol seizures amongst young people was almost entirely due to a change in policing activity in the West of Scotland. In particular, there was an astonishing 97% reduction in the use of seizures in the Greater Glasgow Division – an area in which youth alcohol consumption has been recognised as an issue of significant concern. Given that the number of alcohol-related incidents involving young people recorded by the police in the Greater Glasgow Division fell by only 7% following the introduction of the CoP, this large reduction in seizures cannot be explained by behavioural change or seasonal trends and suggests either a real change in policing activity that was not directly due to the introduction of the CoP or a reduction in the recording of alcohol seizures which started prior to the introduction of the CoP. It would be difficult to justify the introduction of a power of search for alcohol on the basis of these data.

It is clear that the use of alcohol seizures has a particular degree of seasonality, with sharp spikes of activity during warmer months, especially influenced by large events or social gatherings of young people. Evidence provided by Police Scotland suggests that the use and recording of alcohol seizures is manageable during routine street-based policing activities; however, it becomes more problematic during these large events both in terms of applying seizure legislation and recording activity. It is during these types of situation that a legislative power of search may be most beneficial to police officers. One option would be to create a power similar to that of Section 60 of the Criminal Justice and Public Order Act 1994, in which the power of search for alcohol would be context specific and require prior authorisation.

Arguments made prior to the introduction of the CoP that existing powers to seize alcohol from young people under Section 61 of the Crime and Punishment (Scotland) Act 1997, and other alcohol byelaws, would be insufficient to deal with the extent of the problem in Scotland appear to be largely unfounded. Unfortunately, it was impossible to determine whether there had been an increase in the use of arrests to deal with young people who refused to hand over alcohol as Police Scotland could not provide these data. It was clear, however, that statutory searching was not being used as a mechanism to indirectly search for alcohol.

ii. Identify other potential gaps in the legislation or lack of clarity in the Code of Practice

Section 65 of the Criminal Justice (Scotland) Act 2016 provides that officers may only search a person where there is an express power to do so. During the consultation period, concern was expressed about the lack of an explicit power of search in situations where no express power existed but police officers believed that a search intervention was necessary to preserve life. It is important to understand that the concern relates mainly to incidents which occur in a private place, and in circumstances where officers have no suspicion that an offence has been or will be committed. In an attempt to clarify the position, paragraph 3.4 of the Code stated that officers must take all steps necessary to protect life as stipulated under Sections 20 and 32 of the Police and Fire Reform (Scotland) Act 2012. However, some policing representatives felt that this reflected an ambiguity within the current legislation. In particular, there was concern that officers should have full reassurance to conduct searches in such extreme situations.

Section 4 of this report found that there was very little overall change in the relative distribution of statutes used to search during the twelve months before and after introduction of the CoP. A total of 34 searches were recorded as part of an intervention under Sections 20 and 32 of the Police and Fire Reform (Scotland) Act 2012 to protect life. Albeit a small number, these do represent extremely serious cases, and so this does reflect a potential issue that may need to be addressed through some further legislative change. It was not possible from this quantitative review to identify any other legislative gaps or lack of clarity in the Code of Practice (although some issues were raised in the qualitative study).

iii. Identify any increase in the use of Section 60 Criminal Justice and Public Order Act 1994

There was some concern that the abolition of non-statutory searches in Scotland could lead to an increase in the number of searches conducted under Section 60 of the Criminal Justice and Public Order Act 1994. Often known as 'no suspicion' or 'discriminatory' searches, police forces in England and Wales have come under significant criticism for conducting searches under Section 60 as it is seen as a way of widening the scope for searching while reducing the need for reasonable suspicion. Section 5 of this report found that there had been no increase in the number of Section 60 authorisations following the introduction of the CoP. There is, therefore, no evidence of attempts by Police Scotland to circumvent the CoP by creating wider opportunities for stop and search.

iv. Examine use of search involving individuals with protected characteristics

Finally, research conducted on stop and search in Scotland highlighted the disproportionate use of the tactic for dealing with children and young people (Murray 2014). This caused concern during the consultation period amongst young people themselves and amongst practitioner groups who work with young people because it is well known that negative forms of policing engagement can have a deleterious effect on young people's attitudes to and relationships with the police. In an effort to reduce unnecessary use of stop and search for children and young people, Section 7 of the new CoP provide specific guidance on the issue of searches involving children and young people, and Police Scotland rolled out a programme of face-to-face training for all officers (at Inspector level or below) aimed at improving methods of engagement with young people. The Police Scotland training also examined the issue of unconscious bias when dealing with any individuals with protected characteristics. A key aim of the quantitative review was to examine whether there were any issues relating to age, sex or ethnicity that may require further training or guidance for police officers.

Section 6 of this review provides strong evidence that the introduction of the CoP helped to reduce areas of disproportionality, and improve success rates, in terms of searches and protected characteristics. Levels of search had reduced across all age groups, all ethnic groups and for both men and women. Young people continued to be most likely to be searched, although the degree of disproportionality in terms of targeting this group declined significantly in the twelve months following the introduction of the CoP. Men continued to be more likely to be searched than women, although there was a larger rate of decline amongst men across all age groups. This was largely explained by the introduction of recording for searches conducted under Warrant, which made a greater impact on female searches as it inflated already small numbers.

Searches predominantly involved White people both before and after the introduction of the CoP, with the overall profile of searches more or less matching the population profile for Scotland. The number of searches had reduced across all ethnic groups, but the largest reductions involved people who self-defined as non-White than White. There was an increase in non-recording of ethnic group during searches following the introduction of the CoP, which was identified in the six month review report, but there was evidence that Police Scotland had taken steps to rectify the situation by issuing further guidance to officers.

There was a significant increase in positive detection rates for all age groups after the introduction of the CoP. For those aged 18 or over, the positive detection rate was virtually identical; however, positive detection rates continue to be lowest for those aged under 18. This indicates that the threshold of reasonable suspicion is still being applied less stringently and evenly amongst young people, so there remains room for improvement in conducting searches amongst this group. Searches involving females were significantly less likely to result in a positive outcome than those involving males – this was especially true for drug-related searches (including those conducted under Warrant). Strip searches (where were overwhelmingly conducted for drugs) were also significantly less positive amongst women compared

to men. Detection rates had improved across all ethnic groups, especially those from Mixed or Other ethnic groups, although numbers in these groups were small.

Overall, the reduction in the number of searches following the introduction of the CoP coincided with an increase in positive outcomes across all groups with protected characteristics. Nevertheless, there continue to be signs of inequality between some groups in terms of who is searched and how successful those searches are, which could benefit from some further guidance or training.

Concluding thoughts

Overall, this report suggests that the introduction of a CoP for stop and search was successful in terms of achieving a higher level of positive outcomes and a greater degree of proportionality in terms of searches by sex, age group and ethnic identity. The evidence suggests that searching in Scotland is now being conducted more effectively and with a greater standard of evidence in terms of reasonable suspicion. There remain some areas of concern, however, such as the greater use of strip searches for women and the significantly lower positive outcomes for searches involving young people. The apparent decline in alcohol seizures amongst young people in the West of Scotland – especially Greater Glasgow – may also be an issue of concern, unless it reflects a change in recording practice. In terms of recommendations for legislative change, this report found no strong evidence to support the introduction of a power to search young people for alcohol; although, there may be a case for giving Police Scotland powers to deal with large and spontaneous gatherings of young people where alcohol use causes concern for public safety. There may also be a need for some further legislative amendments to reassure officers of their powers to search where there is a concern for protection of life. It seems unlikely, however, that there is a need for a further widespread review of the use of stop and search in Scotland and that any ongoing monitoring should be conducted through normal scrutiny channels.

Appendix: Results of regression model

Variables entered into model	Logit coefficient	Standard Error	Wald	P value	Odds Ratio	Lower 95% CI	Upper 95% CI
Male (Reference=Female)	0.078	0.029	7.101	0.008	1.081	1.021	1.145
Under 16	-0.55	0.05	120.368	0	0.577	0.523	0.637
16-17	-0.276	0.042	42.431	0	0.759	0.698	0.824
18-19 (Reference)			346.182	0			
20-24	0.163	0.036	21.023	0	1.177	1.098	1.262
25-29	0.135	0.038	12.402	0	1.144	1.062	1.233
30-39	0.05	0.035	2.015	0.156	1.051	0.981	1.126
40-49	0.009	0.039	0.049	0.825	1.009	0.934	1.089
50-59	0	0.055	0	0.998	1	0.898	1.113
60+	-0.018	0.133	0.019	0.891	0.982	0.756	1.275
White (Reference)			101.644	0			
Asian	0.014	0.063	0.047	0.829	1.014	0.896	1.146
African/Caribbean/Black	-0.043	0.081	0.278	0.598	0.958	0.817	1.123
Mixed/Other ethnic group	-0.293	0.071	17.236	0	0.746	0.649	0.856
Ethnicity unknown	-0.447	0.048	85.561	0	0.639	0.581	0.703
Monday	-0.107	0.037	8.256	0.004	0.898	0.835	0.966
Tuesday	-0.115	0.034	11.545	0.001	0.892	0.835	0.953
Wednesday	-0.083	0.033	6.331	0.012	0.92	0.863	0.982
Thursday	-0.08	0.032	6.173	0.013	0.923	0.866	0.983
Friday (Reference)			18.03	0.006			
Saturday	-0.027	0.031	0.766	0.381	0.974	0.917	1.034
Sunday	-0.053	0.037	2.014	0.156	0.949	0.882	1.02
0000-0559	-0.183	0.029	40.177	0	0.833	0.787	0.881
0600-1159	-0.214	0.032	44.009	0	0.807	0.758	0.86
1200-1759	-0.031	0.023	1.804	0.179	0.97	0.927	1.014
1800-2359 (Reference)			75.412	0			
Drugs (Reference)			137.54	0			
Stolen Property	0.149	0.036	16.971	0	1.161	1.081	1.247
Offensive Weapons	-0.468	0.048	95.182	0	0.627	0.57	0.688
Warrant	0.145	0.087	2.805	0.094	1.156	0.976	1.37
Other Reason	-0.388	0.09	18.49	0	0.678	0.568	0.81
North East	-0.001	0.034	0.001	0.976	0.999	0.934	1.069
Tayside	0.531	0.04	180.455	0	1.701	1.574	1.838
Highlands & Islands	0.208	0.04	27.518	0	1.232	1.139	1.331
Forth Valley	0.45	0.047	93.486	0	1.568	1.431	1.718
Edinburgh	0.15	0.043	12.384	0	1.162	1.069	1.263
Lothians & Borders	0.428	0.049	77.804	0	1.535	1.395	1.688
Fife	0.524	0.052	101.507	0	1.689	1.525	1.87
Greater Glasgow (Reference)			1206.221	0			
Ayrshire	0.953	0.045	445.044	0	2.595	2.375	2.835
Lanarkshire	1.042	0.04	691.363	0	2.836	2.624	3.065

Argyll & West Dunbartonshire	0.251	0.048	27.11	0	1.285	1.169	1.413
Renfrewshire & Inverclyde	0.371	0.041	81.545	0	1.449	1.337	1.57
Dumfries & Galloway	0.061	0.059	1.061	0.303	1.063	0.947	1.193
Jun2017-May2018 (Reference=Jun2016- May2017)	0.238	0.021	131.511	0	1.268	1.218	1.321
Constant	-0.953	0.047	407.482	0	0.386		

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