

scottish JUSTICE matters

SPECIAL ISSUE ON ARTS AND JUSTICE

Edited by
Sarah Armstrong and Kirsten Sams

Theatre • Music • Writing
Sculpture • Film • Architecture

ALSO

Richard Sparks and Kirstin Anderson
on Inspiring Change

Angela Bartie and Alistair Fraser
on the Easterhouse Project

Kath Murray
on Stop and Search in Scotland



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scottish justice matters

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Kath Murray

FOLLOWING the merger of Scottish police forces into a single force in April 2013, the use of stop and search in Scotland has attracted increasing media and political attention. For example, questions have been raised in relation to the scale of stop and search and the apparent expansion of Strathclyde-styled, target driven policing.

In some quarters, the subtext has been read as the centralisation of power within Scottish policing and a lack of challenge to the new governance arrangements. Put differently, stop and search, together with post-reform policing of the sauna sex-trade in Edinburgh, and target-driven traffic policing, has been appropriated to express a sense of unease at the unfolding ‘Strathclydification’ of Scottish policing.

Yet outwith more recent concerns, the extensive use of stop and search in the years prior to reform, and the curious lack of political or academic attention is also of particular interest. The following snapshot from 2010/2011 provides insight into the size of the matter.

Stop and Search Rates per 1000 people (2010, 2010/2011)	
England and Wales 2010/2011	24
Scotland 2010	86
New York City 2010 (stop and frisk)	72
London 2010/2011	76
City of Glasgow 2010	285
16 year old males resident in Glasgow:	3,695

Sources: Legacy Scottish Police Force data (Strathclyde, Lothian and Borders, Tayside, Northern, Fife, Grampian); Home Office ‘Stops and searches tables: Police Powers and Procedures England and Wales 2010/11’; NYCLU (online) <http://www.nyclu.org/content/stop-and-frisk-data>.

Note: Calculations based on all available stop search powers (some variation between jurisdictions).

The absence of stop and search

The data show that by 2010, the rate of stop and search in Glasgow had outstripped that in London and New York City almost fourfold. Nonetheless, it seems reasonable to suggest that most observers of Scottish policing at this time would have struggled to describe the tactic as significant or contentious. Whereas the use of stop and search in England and Wales was deemed “crucial to modern policing [and] a flashpoint in community police-relations” (Delsol and Shiner, 2006; 242), the tactic appeared to be understood as a straightforward policing tool in Scotland, a “non-issue” (senior officer, research interview, 2011), or an “English” practice (Reid Howie, 2002; ii).

Missing data: Police accountability and the Stephen Lawrence Inquiry

How then, might we make sense of this disjuncture between the extensive use of stop and search in Scotland and the absence of debate or interest? Perhaps the most straightforward explanation is that data on stop and search are not routinely published, that outwith those populations being searched by the police, no-one really knew. Whereas stop and search data were made public in England and Wales, police search activity across Scotland remained out of public view.

Looking back, this divergence in rudimentary accountability between the two jurisdictions can, in part, be traced to respective political decision-making in relation to the Macpherson (1999) report on the Stephen Lawrence Inquiry; to the implementation of the Stephen Lawrence recommendations on stop and search in England and Wales;

and conversely, to a failure to implement the recommendations in Scotland.

Whilst Scottish police forces were required to record stop searches from 2005 onwards under the Race Relations (Amendment) Act 2000, a failure to fully implement the Stephen Lawrence recommendations on stop and search would arguably carry important implications for police accountability and the direction of stop and search thereafter. Scottish police forces and authorities would not be required to publish stop and search data (recommendation 62), thereby curtailing both basic accountability and wider debate. Nor was the recommendation that a copy of the search record be given to the person stopped implemented (recommendation 61). As a result, a person who had been searched by the police would not be given evidence to document the encounter, or to substantiate repeat search encounters. Nor were Scottish police authorities required to publicise people's rights in relation to stop and search (recommendation 63).

In short, a gulf would develop between the two jurisdictions in terms of baseline accountability: between the standard of information provided in England and Wales, and that provided in Scotland. Which raises the salient question as to why the Stephen Lawrence recommendations were not implemented in Scotland.

The Stephen Lawrence Inquiry in Scotland

Whilst Williams and de Lima suggest that the Stephen Lawrence Inquiry brought race issues to Scotland for the first time (2006; 499), in the context of stop and search, the policy response seemed more reserved. In December 1999, the Scottish Executive established a Steering Group to oversee the implementation of the Stephen Lawrence recommendations, although as one representative recounted, "My recollection is that it never actually came to any newly hard directive conclusions. But there was a lot of airing of views within it" (research interview, 2011).

To be clear, Macpherson's recommendations on stop and search were not explicitly rejected. Nonetheless, the subsequent failure to actually implement the recommendations appeared to be premised on the twin understanding that first, the 'problem' of stop and search hinged exclusively on 'race', and second, that 'race' was not problematic in the context of Scottish policing. Both the Scottish Police Federation and Association of Inspectors refused to accept that institutional racism existed within the Scottish police service, whilst the Scottish Police Federation argued that implementing the recommendations would create a 'massive bureaucracy', (NAS HH41/3506). As one senior officer commented, "There was a sense... that 'This isn't about us, we don't have any ethnic minorities, we don't have the problems – we're all friends here'" (research interview, 2011).

The Association of Chief Police Officers in Scotland's Review Group suggested that the provision of basic accountability (maintaining records/publishing data) "would be a justifiable and valuable exercise if it were demonstrated and argued that these powers were being regularly abused, and to the detriment of a particular section of society". However, it continued that "there is nothing to suggest that this is the case in Scotland", and that the recommendation would only create "an additional bureaucracy... to little practical purpose" (NAS HH41/3406).

In short, both the problem and regulation of stop and search were understood to hinge on 'race': and given that 'race' was perceived as unproblematic, regulation was deemed unnecessary. Put differently, the principle of accounting for police powers was absent.

The politics of policing

The low-profile of stop and search may also be understood in terms of the more apolitical, or less contentious, character of Scottish policing, which plausibly lessened the impetus for scrutiny. Taking a broad brush approach, from the late 1960s onwards through to the dissolution of the eight legacy forces in 2013, Scottish policing did not follow the politicised trajectory of the police in England (Reiner, 2010). Scottish Chief Constables remained relatively quiet, compared to their more voluble English counterparts, whilst crime and policing did not take on the 'explicitly political dimensions' which were apparent in other parts of Britain (Gordon, 1980). Nor were the police in Scotland subject to the corruption and malpractice scandals that repeatedly arose in England. In other words, Scottish policing appeared to remain below the political parapet, less socially visible and less subject to critical scrutiny.

Out of sight, out of mind

It may be argued that the perceived absence of 'race' problems in Scotland, together with the quieter character of policing, lessened the impetus to publish data on the use of stop and search. It also seems reasonable to suggest that the direction of stop and search might have been debated or challenged at an earlier stage, had the data been made readily accessible. The scale of stop and search in Scotland is equally a story about social marginalization and young people without a political voice: it's about teenagers from deprived areas who don't make formal complaints and may be searched as a matter of routine. All of which suggests that we need a wider debate, informed by robust and accessible data, on the uses of stop and search in Scotland, and on how we want our communities to be policed.

Delsol, R. and Shiner, M. (2006) 'Regulating Stop and Search: A Challenge for Police and Community Relations in England and Wales', *Critical Criminology*, 14, pp.241-263.

Gordon, P. (1980) *Policing Scotland*, Scottish Council for Civil Liberties, Glasgow.

Macpherson, W. (1999) *The Stephen Lawrence Inquiry*, London, HMSO.

National Archives of Scotland, NAS HH41/3406 'Policing: Race Relations' (1999-2000).

Reid Howie Associates (2002) *Police Stop and Search among White and Minority Ethnic Young People in Scotland*, S.E.C.R. Unit, Edinburgh, Scottish Executive.

Reiner, R. (2010) *The Politics of the Police*, Oxford, Oxford University Press.

Williams and de Lima (2006) 'Devolution, multicultural citizenship and race equality: From laissez-faire to nationally responsible policies', *Critical Social Policy*, vol. 26 (3) pp.498-522.

Kath Murray is a PhD student at the University of Edinburgh, researching the development and uses of stop and search in Scotland. In January 2014, the SCCJR published '*Stop and Search in Scotland: An Evaluation*'.



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