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# PRACTICE ADVICE ON STOP AND SEARCH

## 2006

Produced on behalf of the  
Association of Chief Police Officers  
by the National Centre for Policing Excellence



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## PRACTICE ADVICE ON STOP AND SEARCH

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# PREFACE

Stop and search, when used with the support and confidence of communities, is a valuable tool in tackling criminality and terrorism. It places particular pressures on the Police Service to address the needs and concerns of communities about the way in which officers use these powers. Research undertaken on the use of the powers clearly establishes that the quality of an individual encounter between an officer and a member of the public determines if it is a success in the eyes of the public. This practice advice will assist forces, authorities and communities to move the stop and search debate forward. It will also support those styles of policing that produce useful community intelligence, leading to the identification of suspects and detection of offences.

The powers under section 44 Terrorism Act 2000 and section 60 Criminal Justice and Public Order Act 1994 do not require reasonable suspicion to determine who to stop and search. They require carefully judged decisions in respect of granting authority to use the powers. Those who are using the powers must do so with tact and sensitivity.

Stop and search activity in general raises concerns over the disproportionality of its use among black and minority ethnic groups. This may be accentuated by its use in relation to terrorism, especially when countering the threat from international groups.

This practice advice covers all aspects of stop and search activity, giving guidance to all ranks of the Police Service from strategic leads to practitioners. It also discusses the role of police authorities in monitoring this type of activity as it assists them to ensure the accountability of the police.

Toolkits are provided for forces to use to assist them to manage stop and search activity if they choose. The practice advice provides clear advice on the rationale and processes for obtaining authorities, the appropriate use of the powers and community impact factors.

The recent thematic inspection by Her Majesty's Inspectorate of Constabulary (HMIC) supports the challenges forces face in implementing and monitoring the policies and practices contained within advice such as this. All forces should be mindful of this and ensure that implementation and ongoing monitoring is supported with appropriate supervision and that structures are in place to make improvements in this area.



# Section 1

## PROCEDURES AND SUPERVISION

**T**his section sets out the processes involved in stop and encounter and stop and search, covering how they should be conducted and recorded. It also details appropriate levels of supervision.

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## 1.1 STOP AND ACCOUNT

This is when a police officer stops a member of the public in a public place and asks them to account for themselves but does not search them. The person can be asked to account for their actions, behaviour, presence in an area or possession of an item. The purpose of the stop is to enable the officer to be satisfied about the person's presence in the area and of their actions or behaviour. Such an encounter must not be used to establish grounds to search a person.

## 1.2 STOP AND SEARCH

The main intention of stop and search is to allow officers to allay or confirm suspicion about people, without exercising their power of arrest. Searches must be based on reasonable grounds for suspicion that the person has a particular article in their possession. Exceptions to this are when officers are:

- Authorised under section 44 Terrorism Act 2000;
- Authorised under section 60 Criminal Justice and Public Order Act 1994.

A record of all these searches must be made by the officer. The officer must have a statutory power to carry out a search and cannot conduct a search solely on the grounds that the person consents to the search. Persons entering private premises such as a football ground may find that consent to search is a condition of entry, but that is a matter for the owner of the premises.

## 1.3 THE PROCESS OF STOP AND SEARCH

Encounters between police officers and the public range from general conversation to arrest and detention. The continuum of activity is:

1. Conversational encounter;
2. Stop and account;
3. Stop and search;
4. Arrest.

The patrolling officer may join the continuum at any stage or may progress from one to four. It is only at stages three and four where a power exists to detain a person. If the purpose of the encounter is fulfilled at any of the stages, it is inappropriate and unlawful to progress to a higher one. All encounters, except for one, require the officer to justify them taking place. Reasonable suspicion is required for three and four.

## 1.4 CONDUCT OF THE ENCOUNTER

Encounters with the public that are poorly conducted by the police tend to attract criticism and complaints. Officer confidence in the use of their powers improves the quality of the encounter. Examples of poor conduct are where there is inadequate or no explanation of the reason for the stop, or the officer has an overbearing attitude and lack of respect for the individual. It is essential that people who are stopped by the police are treated politely and fairly, and are given the reason for the stop.

Community consultation shows that there is widespread support for the use of these powers, provided that they are conducted properly and accompanied by adequate explanations as to why they are being used.

The quality of the encounter depends not only on results but also on the way that the person stopped perceives the encounter to have taken place.

## 1.5 CHILDREN, YOUNG PEOPLE AND OTHER VULNERABLE PEOPLE

Stopping and searching young or vulnerable persons can be particularly intimidating for them. Officers must clearly communicate the grounds for the search using simple and easy to understand language, and check that the person has understood the grounds before continuing with the search.

## 1.6 POWER TO DETAIN FOR THE PURPOSE OF SEARCH

A person can be detained for the purpose of a search and reasonable force can be used if required. Before carrying out the search, officers may question the person to confirm or eliminate reasonable suspicion for grounds for the search. The detention must take place at or near the place where the person was first stopped; the time of detention should be kept to a minimum, and they should be informed of the grounds for the search.

If a more thorough search is required, for example, removing items of clothing this must take place out of public view. This could be in a police vehicle, or at a police station if there is one nearby. As soon as the grounds for search cease to exist, the person must be released. The officer conducting the process cannot use the responses given by the person, or their failure to respond, as retrospective grounds for the reasonable suspicion.

### 1.6.1 DETENTION AT A POLICE STATION

Should the search involve exposing intimate parts of the person's body, it must take place at a police station or other suitable location. In either case, the location must be within reasonable travelling distance, either on foot or in a vehicle. It must also be out of public view and must not be in a police vehicle. This does not allow for an intimate search to take place.

Taking a person to a police station for this purpose does not constitute a detention in custody and does not require the associated procedures to take place. The location within the police station where the search is conducted should be appropriate for the purpose and, ideally, have been identified within local police policy.

## 1.7 RECORDING

All encounters must be recorded. PACE Code A makes clear that conversations or exchanges with members of the public do not constitute an encounter. Making a record of an encounter is not just about completing a form. It is an opportunity to develop good quality community intelligence while ensuring that the officer is accountable for his or her actions. It is the quality of the encounter, not the quantity conducted that is important. If an officer asks a person to account for their presence or behaviour, there must be a reason for them to do so and that reason is part of the information that must be recorded. Apart from the reason for the stop, the person's personal details must be recorded. The relevant form must be completed, a copy given to the person stopped and the original submitted through a supervisor. This should then be made available to the local intelligence unit.

Accurate completion of forms is required for gathering useful intelligence from the encounters. In a sample of search records made in 2004, sixty-five per cent were found to be invalid because incorrect details had been recorded.

All police forces should ensure that there is adequate provision for the collection of data on stop and account and stop and search activity, and that it is entered onto a database as soon as possible after the stop takes place. Without this provision, the value of the data as potential intelligence will almost certainly be lost. The process will then become a record-keeping exercise with little operational value.

## 1.8 SUPERVISION

Supervision is required at all levels of the Police Service. Senior management must provide a strategy that develops the effective use of these powers. They must also provide an adequate structure to ensure that the information can be properly used. The value of the work carried out by patrol officers must not be lost because of inefficient systems that are not supporting them.

**While recording the use of stops by individual officers is important, simply counting the number conducted is not appropriate as a performance indicator.**

The use of stops should be evaluated by their relevance, legality and quality and how they link to current intelligence and briefings. It is not correct to say that an officer is effective based solely on their carrying out a large number of stops. It is not appropriate to set target figures for the number of stops to be undertaken.

The role of the patrol supervisor, especially the sergeant, is critical in this type of policing activity. The role is not simply to check the forms that officers submit but includes proactive and intrusive supervision to ensure that good quality encounters are taking place.

Supervision of activity can take place through a number of methods that should be used in combination.

### Forms

Forms must be completed for all stops. They must be filled in accurately and submitted in a timely manner and it is the role of the supervisor to ensure that this is done.

Monitoring these forms will give valuable information regarding the following:

- To what extent the powers are used and by whom;
- Revealing patterns of types of person stopped;
- Quality of stops conducted;
- Geographical relationship between stops and problem areas;
- Relationship between stops and arrests.

### Active supervision

Supervisors should be aware of the way in which officers conduct themselves when on patrol. This relates to how they carry out stops, the manner in which they speak to people and how that activity relates to briefings and intelligence.

### Briefing and deployment

The efficient use of resources results from officers being deployed in accordance with current intelligence and following an appropriate patrol strategy. Such deployment requires effective briefing after which the supervisor should check that the plan is being followed. Stops activity should primarily coincide with the intelligence picture.

### Team culture

Individual teams develop their own identities and cultures. These teams can be small or large groups of officers working together, whole police stations or police forces. Attitudes and cultures can develop from tradition, strong individuals, local community culture and many other factors which result in powers being applied in different ways. Supervisors should be aware of this and work to achieve a proportionate and objective attitude amongst their staff. A positive influence from the chief officer team, delivering the correct messages, can be extremely beneficial. Team supervisors can mould the way in which their team works, overcoming any negative effects from strong personalities. Scrutiny is required to ensure that the most productive effect is achieved.

## 1.9 INTELLIGENCE-LED USE OF POWERS

An effective database of up-to-date and accurate information resulting from stops activity, as recommended in 1.7 Recording, can be incorporated into the intelligence-led approach to policing.

Use of the National Intelligence Model (NIM) leading to effective officer briefing is essential in using these powers. Using accurate intelligence as the grounds for stopping people, either to account for themselves or to search them, tends to lead to more productive outcomes when using these powers and minimises the need for individual officers to apply discretion. Stops involving a high level of officer discretion, for example, stopping a person based on suspicious circumstances that are immediately present will continue to take place. High discretion encounters, however, must take place for unbiased reasons in order to avoid arbitrary and disproportionate use of these powers.

## 1.10 STOPS INVOLVING MOTOR VEHICLES

Stopping motor vehicles differs from other stops. If the purpose of the stop is for suspected road traffic offences, there is no requirement to record it under PACE Code A. If a passenger in the vehicle is asked to account for themselves or is searched, a stops form must be completed for that person. If the officer asks the driver to account for his or her presence or decides to search the driver and/or the vehicle, this is still a recordable stop. If one of the following forms is issued, this negates the requirement to complete a stops form:

- HO/RT1;
- Vehicle Defect Rectification Scheme (VDRS);
- Fixed Penalty Notice;
- Section 6 Breath Test.

If, in any circumstances, a passenger in the vehicle is asked to account for themselves or is searched, a separate stops form must be completed for that person.

If an unattended vehicle is searched, a search form must be completed and left with the vehicle.

### 1.10.1 HO/RT1

The form HO/RT1 is given to drivers and requires them to produce their driving documents at a police station. The need for HO/RT1 use is, however, decreasing with the advent of databases accessible through DVLA, which contain details of insurance and test certificates.

When these forms are used, this should be as part of an investigation into the legality and integrity of a vehicle, its driver and owner. Indiscriminate use of these forms can lead to bureaucratic blockages in the system resulting in low enforcement rates of those who fail to comply. Experience shows that HO/RT1s become an ineffective tool when issued in large numbers, and not managed properly at the police station.

### MANAGEMENT ISSUES

- A clear written policy should exist, be communicated to all staff and reviewed annually.
- The use of stop and search must be supervised monitoring recording, patterns and correct use of the powers.
- The quality of stops and not quantity is an appropriate performance measure.
- Linking tasking and briefing meetings using the National Intelligence Model for an intelligence-led approach to stops activity.
- All officers must be adequately trained in stop and search.



# Section 2

## COMMUNITY IMPACT AND CONSULTATION

**T**his section deals with the impact on communities and suggests how consultation should take place with them, and includes the use of Community Impact Assessments. It also provides information on consultation regarding anti-terrorist activity.

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## 2.1 CONSULTATION

There are three main benefits of community consultation:

- Increasing confidence in the police through a greater understanding of why the power is needed and the reasons for its use;
- Reassuring the public;
- Increasing the flow of information and intelligence from the community to the police.

Although it is not possible to consult with community members on an individual basis, the police should consult the representatives of relevant community groups who have some influence among them. Consultation can be carried out in a number of ways including the use of existing community consultation groups which forces use to discuss policing issues. Forces should be prepared to use various consultative mechanisms. Care should be taken to identify all sections of the community, including those with whom communication is difficult or non-existent, to avoid the danger of failing to consult those who are more directly affected by stop and search. Full use of the media should be made whenever possible to inform and reassure the community, but use of the media must not be seen to absolve the force from consulting the community. Forces may also wish to consider working with groups such as:

- Crime and Disorder Reduction Partnerships (CDRPs);
- Local Criminal Justice Boards (LCJBs);
- Local Strategic Partnerships (LSPs).

The purpose of partnership working in these circumstances is to present a united approach to the community. There must also be a balance between the need to consult and operational integrity.

Young people should be included in the consultation process, as they are often omitted from dialogue between the police and the community and their opinions and concerns are not heard.

Any signs and notices used for stop and search should be produced in clear and accessible language to ensure that they can be understood by all sections of the community, including children and young people.

The use of Community Impact Assessments (CIAs) should be considered in relation to this type of policing activity, particularly where a specific operation or other targeted use of the powers is to take place. See [2.5 Community Impact Assessment](#). If any help or guidance is needed with the CIA, the National Community Tension Team (NCTT) should be contacted at [nctt@acpo.pnn.police.uk](mailto:nctt@acpo.pnn.police.uk)

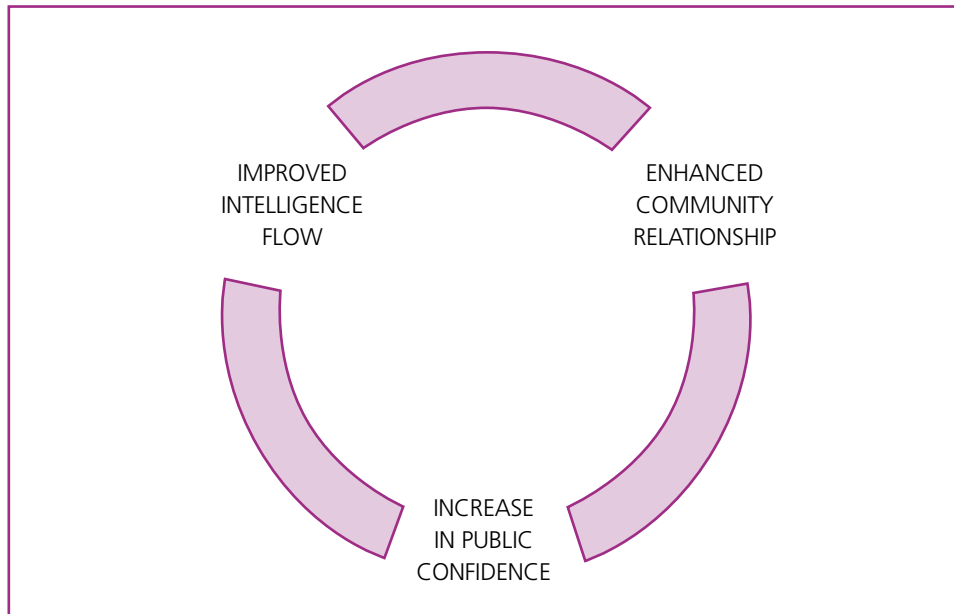
Independent Advisory Groups can be an effective method of monitoring the use of stop and search, commenting on how it is used and the impact on the community.

The requirements of the Human Rights Act 1998 and Race Relations (Amendment) Act 2000 should be included, along with consideration of other diversity issues.

## 2.2 DEVELOPING COMMUNITY INTELLIGENCE

The opportunities for the flow of intelligence can be increased by improving the relationship between the police and the local community, and this in turn will lead to an increase in public confidence.

Figure 1 The Intelligence Cycle



There are several ways in which the police can work together with the community to strengthen the relationship with them. These include:

- Community consultation;
- Education through schools and colleges;
- Multilingual leaflets;
- Community education.

For further advice and help see: <http://www.communityengagement.police.uk>

Consultation should be with relevant people, and not with individuals who purport to be representative but in fact are not.

It is essential that the police are open and honest in the consultation process while being mindful of the need for discretion in certain areas so as not to prejudice investigations. The need to not disclose certain information will be better understood and not cause concerns about why this is being done where there is a high level of confidence in the police.

Improving the profile of the police through well-conducted stop and search encounters should assist communities to gain trust in the police and open up channels for communication.

Neighbourhood policing is essential in accessing the channels for community intelligence. These include developing and maintaining good links with members of the community and gaining their trust so that they feel able to impart valuable information. Community beat managers can obtain useful feedback on the use of the powers which can be communicated in staff briefings.

## 2.3 ISSUES RELATING TO TERRORISM

Reasonable suspicion is not required under section 44 of the Terrorism Act to carry out stop and search. This has the potential to increase tensions within communities. Ongoing community consultation is, therefore, essential to minimise those tensions and improve police and community relations.

There is a danger that the nature of section 44 powers to stop and search may remove a significant aspect of accountability, namely the requirement for an officer to record their justification for exercising the power. Forces must, therefore, ensure that the use of section 44 is proportionate to the risk, particularly in the light of the most recent information and intelligence and current threat level. Use of section 44 must also be justifiable and only authorised where there is sufficient information, intelligence and threat to support this measure.

Effective community consultation on the use of the power will help to maintain accountability and transparency. Keeping the community informed not only acts as reassurance but can also lead to a flow of community intelligence. Care should be taken when informing communities as to the location and extent of a section 44 authorisation, as public safety is paramount. It may be considered beneficial, however, to make use of posters and signs explaining that section 44 is in use, as a useful addition to a visible police presence. When producing such posters, the wording and language used must not increase public anxiety as their purpose is to alert not alarm. They should be understandable to all sections of the community using ethnic minority languages. Typefaces should be selected to help people with sight impairment or dyslexia.

Where operational reasons prevent consultation with the community prior to a section 44 authorisation, the consultation should take place as soon as possible. Forces should also inform the community of why the authorisation is in place.

In order to combat the threat of terrorism, the police must have good quality intelligence, and a valuable source of this will be local communities. It is essential that community members feel able to share information with the police and are seen and treated as equal partners in the fight against terrorism. Communities should be made to feel valued and respected.

## 2.4 ISSUES RELATING TO SECTION 60 CJOA 1994

The use of this power is also likely to have a significant impact on communities and the considerations relating to terrorism and the need for consultation equally apply to the use of section 60. Attention should, therefore, be paid to the issues raised, see [2.3 Issues Relating to Terrorism](#).

## 2.5 COMMUNITY IMPACT ASSESSMENT

Community impact assessments need to be tailored for the purposes for which they are drawn up. In this case, the assessment is to assist the chief officer to decide whether or not to authorise the power to stop and search under section 44 Terrorism Act, section 60 Criminal Justice and Public Order Act or other times when its use might be sensitive. Use of the power has the potential to cause positive and negative impact on communities. Should the negative impact be assessed as profound, the chief officer could decide not to authorise, however, the police can take actions to minimise negative impacts and the assessment should include policing options. The chief officer is then in a position to assess the positive impact, the negative impact and the actions possible to limit negative impact. With this information in mind, a decision can be reached.

The assessment follows a simple structure:

### **Information and Intelligence**

A brief outline should be set out of what is known by the person carrying out the assessment. Those who must decide whether to authorise the power need to know the basis on which the assessment has been carried out. There will often be good reasons for the impact assessor not to have all of the available intelligence, and the person who might authorise the power should know the gaps.

### **Brief Outline of Who Might Be Affected and How**

The assessor considers the potential impact of use of the power on the range of groups who might be affected. It must be recognised that the impact will be positive for some people, as they may feel safer seeing police officers and staff engaged in protection duties. Others may feel uncomfortable with a high level of policing activity.

### **Legislation Assessment**

Specific account is taken of the requirements of the Race Relations Act 1976 (as amended) and the Human Rights Act 1998.

### **Risk Assessment**

Model

Using the overview built up in the previous sections of the document, specific risks are identified and scored. The PPPLEM model is one model for doing this:

- Physical risks;
- Political;
- Police and community;
- Legal;
- Economic;
- Moral.

This model encourages a broad range of thought to ensure that as many aspects of risk as possible are considered.

#### Identifying the Risks

Risk assessments should not identify more than ten specific risks and should be carried out at two levels. The initial assessment will inform the Community Impact Assessment at a strategic level, this being particularly relevant to authorisations for section 44. Further local assessments should then be carried out in relation to the tactical deployment of the power. Certain parts of a stop and search operation may have specific risks, eg, deployment of firearms officers in support. A further fully detailed impact assessment should be carried out for that part of the operation.

#### Scoring the Risks

The risk assessment process should identify a limited number of more likely risks. It should also identify risks that would have critical impact.

Each risk should be assessed for the likelihood of its happening and the impact of it, should it happen. Each element is marked out of five and then multiplied together. Those with the highest rating, usually marked above eleven, have specific risk management options identified within the document. In addition, those that are marked critical (ie, a rating of five on the impact scale) should also be subject to specific mention in the options part of the assessment.

## Policing Options

Having identified risks and scored them, the community impact assessment should then identify policing options to address the risks.

The usual menu of options includes:

- Consult communities before authorising the power;
- Consult after authorising but before implementation;
- Consult during and after implementation;
- Communication strategy including local press, leaflets and posters;
- Briefing officers about explaining the use of the power;
- Measures to reduce embarrassment to those stopped and searched, eg, by carrying out the activity in private if that is requested by the person being stopped and searched, and deploying women officers to assist with searching women;
- Engaging significant individuals from the community to oversee the policy and practice of the operation.

## Conclusion

The document should conclude by stating whether, in the opinion of the assessor, the authorisation could be given without causing a profound community impact. The options to limit a harmful impact will, of course, be a vital part of the assessor's advice.

The Chief Officer is then in a position to decide whether the benefits of carrying out the operation outweigh the risk of harm. It is likely that only the chief officer will have all of the information about the threat intelligence and the potential impact on the local community to make this decision.

For a full description of how to complete these assessments, together with an example case study, see the National Operation Rainbow website, available through force special branch.

### MANAGEMENT ISSUES

- Make a summary of stops records available to local communities.
- Be able to explain the reasons for any disproportionality that may exist.
- Give feedback to communities following extensive use of these powers, for example, use of section 44 and section 60.
- To ensure ongoing community consultation and participation in stop and search issues.
- To identify all appropriate groups and means of contact with them in order to ensure that the consultation process is as comprehensive as possible.

# Section 3

## SECTION 60 CRIMINAL JUSTICE AND PUBLIC ORDER ACT 1994

**T**his section sets out the processes and procedures for the authorisation and use of this power.

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### 3.1 INTRODUCTION TO THE POWER

Section 60 Criminal Justice and Public Order Act (CJPOA) 1994 provides police officers with the power to stop and search individuals for offensive weapons or dangerous instruments, where an authorisation has been granted. Authorisation is necessary as it is an intrusive power that does not require any reasonable suspicion that an individual actually possesses such items. The decision to authorise use of section 60 must, therefore, be an informed and justifiable decision which should be intelligence-led.

An authorisation can also be made under section 60AA CJPOA 1994 which provides officers with the power to require a person to remove any item which the officer reasonably believes is being worn wholly or mainly for the purposes of concealing their identity. Under the same power, an officer is also able to seize any item which they reasonably believe any person intends to wear for that purpose.

### 3.2 THE AUTHORISATION PROCESS

Section 60 CJPOA 1994 can only be used after authorisation has been made in accordance with section 60(1) of the Act. This must be based on a reasonable belief that:

- Incidents involving serious violence may take place and it is expedient to use these powers to prevent their occurrence; or
- Persons are carrying dangerous instruments or offensive weapons without good reason.

Section 60AA CJPOA 1994 can be authorised where there is a reasonable belief that:

- Activities may take place in the officer's police area that are likely to involve the commission of offences, and it is expedient to use these powers to prevent or control these activities;
- Someone is wearing an item wholly or mainly for the purpose of concealing their identity.

An authorisation can be made for section 60 or section 60AA.

The grounds for authorising the use of section 60 should be based on the information or intelligence that is used to support the views that give rise to the reasonable belief. There should be a clear identifiable audit trail between the information and the authorisation.

In some circumstances the decision to authorise the use of section 60 may be based on intelligence that gives explicit information about incidents involving serious violence or, in the case of 60AA, involving the commission of offences. An example of specific intelligence in relation to section 60 could include the time, date and location of a planned fight between rival football supporters, the details of the supporters who will be participating and it is known that members of the group possess weapons. Similarly there would have to be information regarding the commissioning of offences for section 60AA.

Where specific intelligence does not exist, general intelligence could form the basis for the authorising officer's reasonable belief. General intelligence is frequently based on historic information and includes details of former violent incidents, profiles of previous suspects and details of possible events and venues which may be the scene or catalysts for incidents involving serious violence. This may include football matches, large demonstrations, music concerts and other types of events which typically include a large-scale gathering of people which, combined with other factors, indicate a likelihood of violence or the commission of offences.

The authorisation should be made by an officer of the rank of inspector or above. All authorisations must be made in writing and signed by the officer who has sanctioned the use of section 60. The authorisation must include the following information:

- The grounds on which it was given;
- The exact location covered by the authorisation;
- The time period over which the power can be exercised.

If an inspector gives an authorisation, he or she must inform a superintendent or higher rank as soon as practicable. This officer can then extend the authorisation for a further twenty-four hour period if the continued use of the powers is considered necessary.

The authorisation must not be for a longer period than appears reasonably necessary. In order that the powers are used proportionately, whenever possible, a specific time period should be determined. It is not appropriate to use blocks of twenty-four hours.

Section 60 is a unique power intended to prevent serious violence or the commission of offences and must only be applied where its use can be justified.

The justification can be evidenced in accordance with the Human Rights Act 1998 by using the aide-memoire: PLAN.

**P**roportionate – is the use of the power a proportionate response?

**L**egal – does the available information and intelligence establish appropriate grounds?

**A**ccountable – are decision making and other processes documented and auditable?

**N**ecessary – is the use of the power necessary in the circumstances?

Consideration must be given to the effect an authorisation will have on community confidence. See [2 Community Impact and Consultation](#).

A suggested authorisation form is attached at [Appendix 3](#). The form encourages accountability, justification and consideration of community impact in the authorisation process.

### 3.3 BRIEFING AND TASKING

It is important that officers are properly briefed before being tasked to use the powers. They must be provided with information and intelligence that form the basis upon which the authorisation was made. All officers who will be working in the geographical area covered by the authorisation must be made aware of the section 60 authorisation and the area that is covered. Officers should be given a map or diagram which shows the exact area covered. The briefing must provide officers with the start and end times of the authorisation and any extensions to its duration. They must be reminded that although there is no need for reasonable suspicion to search someone, they must do it with tact and sensitivity.

### 3.4 PRACTICAL APPLICATION OF THE POWERS

The power conveyed by section 60 of the CJPOA 1994 must be used in partnership with the Human Rights Act 1998. Any police activity which infringes the rights of an individual under the Act must be proportionate, legal and necessary. It must only be used to stop and search an individual in order to prevent or deter serious violence and the carrying of dangerous instruments or offensive weapons. It cannot be used to stop and search an individual for any other criminal offence, eg, possession of drugs, which is covered by another search power.

Officers must also be aware that under a section 60AA authorisation, there is no power to stop and search individuals to search for items used to conceal identity. Officers may only seize such items which they see being worn or carried, and reasonably believe are intended to be used to conceal someone's identity. The section 60AA powers may also be used when a section 60 authorisation is in place.

An officer should base their decision to stop and search under section 60 on the information contained within the briefing they have received. The purpose of the search under the legislation is to search for dangerous instruments or offensive weapons. It should not be used instead of normal powers of stop and search in dealing with routine crime issues.

The following grounds are **not** acceptable.

- Generalisations and stereotyping factors alone (eg, based only on someone's race or previous conviction).
- Personal prejudice.

### 3.5 MONITORING

Forces should adopt an administrative system to enable all section 60 authorisations to be logged. The system should be used as a performance management tool to enable analysis of the use of authorisations, including quality assurance, to ensure that the power is being used in a correct and proportionate manner. It should also highlight any training issues relating to the use of the power. Existing good practice suggests that there should be ownership of this issue, with responsibility being taken by an individual or department.

#### MANAGEMENT ISSUES

- Authorisations must only be made where the appropriate grounds exist.
- Grounds for the authorisation must be recorded in writing.
- The length of time for which the authorisation is in place must be proportionate to the problem being addressed.
- Consider informing communities of the use of section 60.

# Section 4

## SECTIONS 43 AND 44

### TERRORISM ACT 2000

**T**his section sets out the powers under the Terrorism Act 2000, their authorisation and use. It recommends how they should be used in consultation with local communities and emphasises the need for tact and sensitivity when using the powers.

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## 4.1 TERRORISM

The Act defines terrorism as being:

The use or threat of a specified action where the use or threat is designed to influence the government or to intimidate the public or a section of the public, and the use or threat is made for the purpose of advancing a political, religious or ideological cause. The action is a specified action if it involves serious violence against a person; involves serious damage to property; endangers a person's life, other than the person committing the action; creates a serious risk to the health or safety of the public or a section of the public; or is designed seriously to interfere with or disrupt an electronic system.

## 4.2 SEARCHES BASED ON REASONABLE SUSPICION UNDER SECTION 43

An officer may stop and search someone under section 43 of this Act, providing they reasonably suspect that the person is a terrorist. The person may be searched to discover whether or not they have in their possession anything which may constitute evidence that they are a terrorist. A search under this section must be carried out by someone of the same sex. Officers should be given adequate training and briefing in the use of this power so that they can make appropriate use of it when they have not been specifically briefed and tasked in the use of section 44. Section 41 provides that 'a constable may arrest a person whom he reasonably suspects to be a terrorist.' For the full text see the Terrorism Act 2000.

**Note:**

- Based on reasonable suspicion that the person is a terrorist, the purpose of the search is to discover evidence that the person is a terrorist;
- No authorisation is required, and the power is always available where the threshold of reasonable suspicion is met.

Searches conducted using powers under PACE may be restricted to a part of the body or clothing, depending on what is suspected of being carried. Searches carried out under the Terrorism Act 2000, however, are not restricted in this way. The unrestricted nature does not extend to an intimate search.

A full definition of reasonable suspicion can be found in paragraphs 2.2–2.11 of PACE Code A.

## 4.3 SEARCHES AUTHORISED UNDER SECTION 44

An authorisation may be given by an officer who is at least the rank of Assistant Chief Constable (ACC) (or equivalent). The authorisation will be for a specified area or place and must be considered to be expedient for the prevention of acts of terrorism. The period of authorisation will not exceed twenty-eight days and must be confirmed by the Secretary of State within forty-eight hours (section 46).

An authorisation under section 44 permits any constable in uniform in an area or at a place specified in the authorisation to stop and search a vehicle or pedestrian as follows:

- The vehicle;
- The driver of the vehicle;
- A passenger in the vehicle;
- Anything in or on the vehicle or carried by the driver or passenger;
- The pedestrian;
- Anything carried by him or her.

The area in which the authorisation is granted includes internal waters that are adjacent to it or such an area of those internal waters that are specified in the authorisation.

These powers also apply to Police Community Support Officers (PCSOs) where the powers have been conferred by a chief officer of their force.

Section 45 then gives the powers to conduct the search for the purpose of looking for articles of a kind which could be used in connection with terrorism whether or not the constable has any grounds for suspecting the presence of those articles.

A constable may detain a person or vehicle for such time as is reasonably required to permit the search to be carried out at or near the place where the person or vehicle is stopped.

A constable exercising the power conferred by an authorisation may not require a person to remove any clothing in public except for headgear, footwear, an outer coat, a jacket or gloves.

**Note:** Officers should be aware of the cultural sensitivities surrounding the removal of headgear.

There is a power to seize and retain that which is discovered in the course of the search where the officer reasonably suspects that it is intended for use in connection with terrorism.

The power is only to stop and search. This means that there is no power to detain for the purpose of questioning or to ask questions to allay the need for search.

A record of the stop should be given as required by PACE Code A.

### Offences

Where an officer exercises powers conferred by an authorisation under section 44, a person commits an offence under section 47 if he or she:

- Fails to stop a vehicle when required to do so by a constable;
- Fails to stop when required to do so by a constable;
- Wilfully obstructs a constable.

There is no power of arrest for failure to comply with the above powers, although statutory power of arrest under section 24 PACE may apply where the necessity criteria have been met. For the full text see the Terrorism Act 2000.

**Note:**

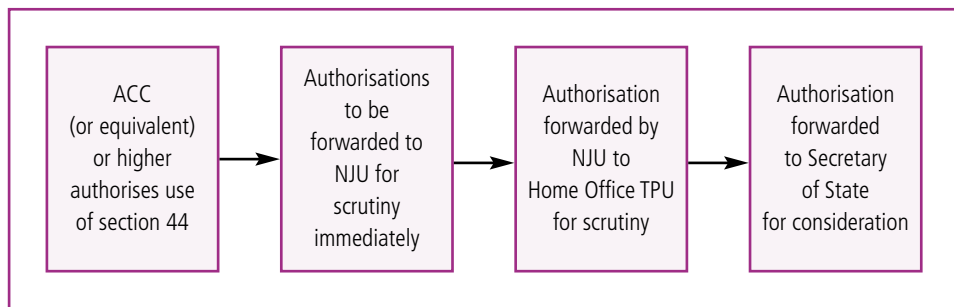
- The purpose of the search is to discover articles of a kind which could be used in connection with terrorism;
- No grounds are required for suspecting the presence of such articles;
- This Act allows an additional requirement to that within PACE to remove headgear and footwear;
- There is no power to detain a person for the purpose of questioning them; the power is only to detain for the purpose of a search.

## 4.4 AUTHORISATION PROCESS

An authorisation takes immediate effect, but must be confirmed by the Secretary of State within forty-eight hours. If the authorisation is not confirmed, the power will cease to have effect at the end of the forty-eight hour period or at a time specified by the Secretary of State. Even in cases of expired authorisations, a copy must be forwarded to the National Joint Unit (NJU) and subsequently the Terrorism and Protection Unit (TPU) at the Home Office.

The process for granting the authority to implement section 44 Terrorism Act 2000 is shown in Figure 2 Section 44 Authorisation Process.

Figure 2 Section 44 Authorisation Process



*Home Office Circular (038/2004) Authorisations of Stop and Search Powers under Section 44 of the Terrorism Act 2000*, gives comprehensive guidance notes on the completion of the authorisation request form, see <http://www.circulars.homeoffice.gov.uk>

The application must be made on the appropriate form and provide comprehensive information about the threat. It must also give the grounds for requesting the authorisation so that the minister can make an informed decision. Applications that are incomplete, incorrect or fail to make a satisfactory case will be rejected. Particular attention should be given to setting out:

- The reasons why the use of section 44 has been authorised;
- Full descriptions and justification of the geographical area which is subject to the powers, including a map where possible;
- Full information regarding the operational use of the powers, including training, briefing and statistical returns.

The powers to stop and search under section 45 then follow from the authorisation. The correct authorisation process must be followed for these powers to be used. As reasonable suspicion is not required, the power may be seen by the public and the media as controversial or extreme. Its use must be managed in such a way as to ensure that the relationship with the community is not damaged. A consultation process must be used by forces to enable a united approach with the local community to tackle terrorism, see [2 Community Impact and Consultation](#).

### 4.4.1 ESTABLISHING APPROPRIATE GROUNDS

The only grounds on which an authorisation can be given are where the person giving it considers it expedient for the prevention of acts of terrorism. Prior to making an application for authorisation, forces must objectively examine the information and intelligence and the national threat assessment. Forces should review sites and locations in their policing area which could present a target to terrorists and consider this information along with national and local intelligence.

Section 44 is a unique power designed to combat a heightened threat and must only be applied where it can be justified. This justification can be evidenced by using the aide-memoire PLAN.

**P**roportionate – is the use of the power a proportionate response?

**L**egal – does the available information and intelligence establish appropriate legal grounds?

**A**ccountable – are decision making and other processes documented and auditable?

**N**ecessary – is the use of the power necessary in the circumstances?

Other policing tactics, such as having a higher visible police presence at key locations, can deter terrorists and reassure the public, and may be more appropriate in some circumstances. The use of stop and search will always form part of a wider range of counter-terrorism tactics.

Senior officers must keep a full audit trail of the authorisation process, including the rationale behind their decision making. It should be possible to show a direct link from the original intelligence, through the briefing and tasking to the use of the power, and the reasons officers give to individuals for stopping them.

Community consultation is essential when seeking to exercise these powers, excluding exceptional and urgent cases when consultation will have to occur as soon as possible after the authorisation has been granted, see [2 Community Impact and Consultation](#).

## 4.5 BRIEFING AND TASKING

The correct use of these powers is essential and officers should be adequately informed about current information and intelligence, how the powers should be used and who should use them. They should also be reminded that the other powers under PACE and other reasonable suspicion powers may be appropriate to use. These powers must also be used fairly and proportionately in order to ensure confidence in the use of counter-terrorism measures.

### 4.5.1 BRIEFING

Officers should be fully briefed and aware of the difference between section 43 and section 44, and the circumstances in which it is appropriate to use the power to stop and search. Officers should use the information provided in the briefing to influence their decision to stop and search an individual. A thorough understanding of all the issues involved will help officers to use the powers in a proportionate and effective manner.

Where an authorisation under section 44 is in place, all officers should be aware of its existence and the geographical area it covers, but the power should only be used by those that have been specifically briefed to do so.

Briefing officers should clearly identify the purpose of the particular section 44 operation within the briefing. The briefing should make officers aware of all relevant current information and intelligence. With the high level of media coverage given to terrorist threats, officers should be warned against basing their operational decisions on information taken from media broadcasts.

The content of the briefing should include the current threat assessment, information, intelligence and relevant locations, especially if the authorisation relates to a wide designated area. If there are a number of potentially vulnerable sites within an authorisation area, it may be of benefit to identify locations requiring particular attention based on a vulnerability assessment of each location.

As part of a structured anti-terrorist strategy, section 44 powers help to deter terrorist activity by creating a hostile environment for would-be terrorists to operate in. Briefing and tasking in respect of selecting persons to be stopped and searched under section 44 will depend on the nature of the intelligence or information available. For example:

1. Where intelligence or information is less specific and more general.

Officers may be tasked to conduct stop and search activity on a more random basis, with a wide range of people being stopped. This may, for example, be appropriate for target hardening purposes around key sites and locations.

2. Where there is more specific information or intelligence to describe the person or persons that may be involved in terrorism.

It may be appropriate for officers to be tasked to conduct stop and search activity in a more targeted way where intelligence or information suggests that terrorist activity is likely to be carried out by a particular group, and that members of that group are likely to fit a certain description. This does not mean that the information or intelligence is sufficient to identify specific individuals.

A description may include ethnicity but only as one of a number of factors. For example, there may be information about non-personal factors such as behaviour, clothing, time of day, location, and items carried which should also be taken into account when deciding on a person to stop and search. It should be stressed that personal factors such as race or age cannot be used alone, or in combination, as the reason for stopping someone. This is in line with PACE Code A.

Individuals and groups should not be stereotyped as likely to be involved in terrorism because of their ethnicity or faith. Officers who exercise this power should be reminded regularly about the dangers of stereotyping.

Officers must be mindful that terrorists may change their behaviour and appearance to match that of local communities to avoid arousing suspicions and enable them to operate more easily. Where descriptions are available, these may be subject to change and can become outdated quickly.

Where the powers are used in a more targeted way, consideration must be given to the potential community impact. It will also be important to consult and inform relevant communities in circumstances where this is considered appropriate.

In instances where information or intelligence might indicate more targeted stop and search activity, it is still important to consider conducting additional activity that is more random, such as target-hardening operations around key sites or locations in an authorised area, particularly where information or intelligence may be incomplete.

Even where officers are drafted in at short notice, they should be briefed prior to deployment.

Officers should be directed in briefings to use their powers in consideration of the following points which are relevant to both powers.

- Authorisation – is an authorisation under section 44 in place, and what are its geographical limits?
- Person – does the person they propose to stop and search fit any description provided by information or intelligence?
- Location – is the place where they propose to use the power attractive to terrorists in accordance with the briefings they have received, eg, critical transport routes?
- Time – is it a significant period of the day, eg, is the location particularly crowded?

- Behaviour – is the person acting in a way which gives rise to concern?
- Clothing – could the clothing conceal a weapon or other terrorist paraphernalia?
- Carried items – could an item being carried conceal a weapon or any terrorist paraphernalia? This can include maps, plans, photographs and financial information.

**Note:** Terrorists come from all ethnic groups and all walks of life. Actions define a terrorist not ethnicity, race or religion.

The briefing should include a reminder that while officers are at the front line of the defence against those seeking to commit atrocities against the public, they must use the powers with respect for the individual. It is important not to alienate people the police are trying to protect. The powers are of concern to some groups and sections of society whose support, where possible, should be gained in the fight against terrorism. Officers should be clear on how to use the powers during an operation, how this relates to the intelligence and how the operation supports a counter-terrorism strategy. This will assist officers in providing consistent and accurate information to members of the public about how and why the powers are being used. Officers should be provided with a form of words that they can use when explaining the use of these powers.

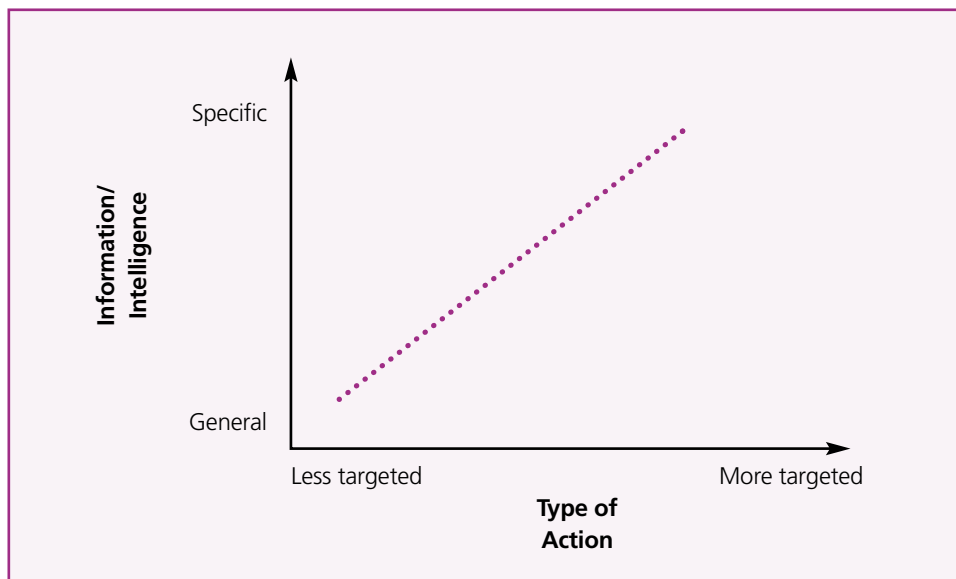
#### 4.5.2 TASKING

Officers using powers under a section 44 authorisation must be briefed in its use before being tasked to use it. There may be exceptional circumstances, however, where it is impractical to do this and steps must be taken to rectify this as soon as possible.

Decisions about operational activity must reflect current information and intelligence, and there will be a range of activities to be undertaken depending on the nature of that information and intelligence. It is essential that officers understand the purpose of their patrol activities and how they will use their powers in relation to the section 44 authorisation.

Figure 3 Targeting of Activity illustrates the relationship between the available information and intelligence, and the targeting of activity. The intelligence can refer to people, locations, or methods, or a combination of all three. As the intelligence becomes more specific, so the action under section 44 becomes more targeted. Conversely, where the information is less specific, the activity becomes more random within the authorised area. The specific or random nature of the activity can apply to locations or people, depending on what information is known.

Figure 3 Targeting of Activity



A useful tactic that can be employed under section 44 authorisations is to stop all persons at a particular location. This will, however, be governed by the physical layout of the location, how many people are present and how many police officers are available for the task. A location, or part thereof, will be identified and officers deployed to search everyone at or passing through that location. An example of this could be to select one entrance to a building. By necessity, the search activity may only last for a short period of time before moving to a new location. This activity can be supplemented by handing out leaflets explaining the police action.

Special care is needed when policing public order events at locations that may have a counter-terrorist dimension. The use of stop and search may be appropriate to minimise the terrorist threat. It must be absolutely clear, however, to all those employed on these types of duties that stop and search powers cannot form part of the tactics to control demonstrators. Only public order powers can be used for this purpose.

It is not appropriate under any circumstances to use the powers under the Act to stop and search persons for matters that do not relate to terrorism. Officers should be aware of, and prepared to use, other powers where necessary.

Officers must remember that not all stop and searches under section 44 will yield terrorist paraphernalia. The number of arrests arising from the use of section 44 powers must not, therefore, be seen as the measure of its success.

#### 4.6 PRACTICAL APPLICATION OF THE POWERS

The power conveyed by section 44 of the Terrorism Act 2000 must be used in accordance with the Human Rights Act 1998. Any police activity which infringes the rights of an individual under the Human Rights Act 1998 must be proportionate, legal and necessary. People must be treated with sensitivity, respect and dignity.

The purpose of a search under the legislation is to look for items of a kind that could be used in connection with terrorism.

Officers should use the intelligence provided in the briefing to influence their decision to stop and search an individual. They must do this using the factors listed in [4.5.1 Briefing](#).

Officers should ensure the quality of stop and search encounters. Those who are stopped and searched must be informed of the reasons for this and treated respectfully. A measure of the quality of an encounter is how the person stopped feels after that encounter. This is significantly influenced by their perception of whether they have been treated with dignity and respect.

#### 4.7 HOW TO SEARCH PERSONS

When making a stop under section 44, an officer must:

- Identify themselves by name or warrant number;
- Explain why the person or vehicle has been stopped;
- Reassure the individual that the stop is a routine part of counter-terrorist policing;
- Remain polite at all times and treat the person with respect and dignity;
- Complete a record of the stop and search on the appropriate form stating the reason for the stop, ie, under section 44 Terrorism Act 2000;
- Provide the person stopped a copy of the completed form.

**Note:** It is the quality not quantity of encounters that matters.

#### 4.7.1 PUBLIC AND PERSONAL SAFETY IMPLICATIONS

The probability of stopping a terrorist en route to carry out an attack and in possession of a live device is low. There are, however, significant safety precautions to be taken should such a situation occur. If it is thought that the person is in possession of such a device, the individual should not be approached unless by appropriately deployed officers. Current advice on officer and public safety issues must be contained within briefings. This can be found on the National Operation Rainbow website which is usually available through force special branch.

#### 4.8 DATA SHARING

Forces must make arrangements, in consultation with police authorities, for records to be scrutinised by representatives of the community. This will give transparency to their operations, but in some cases operational and security issues may need to be considered with this requirement. Community confidence can be improved if the figures on using the powers are given in context, rather than as a national picture. This decision needs to be balanced against the operational security risks of highlighting particularly vulnerable areas where the powers are used.

Information on the individual's rights to access data held about them can be obtained from the Information Commissioner's website at <http://www.ico.gov.uk>

#### 4.9 USING INFORMATION

The Police Service should make use of information obtained as a result of stop and search. The data recorded by officers during encounters may have intelligence value, but only if it is collected and recorded in usable form.

#### MANAGEMENT ISSUES

- All officers are aware of the difference between section 43 and 44 of the Act.
- All officers receive training in respect of the use of sections 43 and 44.
- Ensure that full consideration is given to the authorisation process in the light of all the available information and intelligence, and that the application is completed in full.
- Ensure consultation with the community.
- Give appropriately developed briefings to officers tasked to act in respect of an authorisation.
- Ensure that the most current information on officer and public safety is given to officers.
- Consider the requirements of the Human Rights Act 1998, European Convention on Human Rights and relevant disability and discrimination legislation.
- Supervise the use of the powers to ensure that they are being used appropriately.



# Section 5

## SCHEDULE 7 TERRORISM ACT 2000 (PORT AND BORDER CONTROLS)

**T**his section sets out the powers and procedures that are applicable at ports and airports in relation to the Terrorism Act 2000.

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Schedule 7 of the Terrorism Act 2000 (as amended by the Anti-Terrorism Crime and Security Act 2001), sets out the basis for conducting port and border controls and defines an examining officer as a police, immigration or designated customs officer. It enables an examining officer to examine and/or detain a person who is 'at a port or in the border area, and [where] the examining officer believes that the person's presence at the port or in the area is connected with his entering or leaving Great Britain or Northern Ireland or their travelling by air within Great Britain (GB) or within Northern Ireland (NI), to determine whether they are or have been, concerned in the commission, preparation or instigation of acts of terrorism.

## 5.1 SEARCH POWERS UNDER SCHEDULE 7

The Schedule authorises examining officers to:

- Stop a person or vehicle;
- Search an aircraft or ship and search anything on a ship or aircraft;
- Search a person and search anything which they have with them, or which belongs to them, and which is on a ship or an aircraft;
- Search a vehicle and search anything in or on a vehicle;
- Search anything that has been/is about to be carried on a vehicle, ship or aircraft;
- Detain a person if the examining officer suspects that the person is or has been concerned in the commission, preparation or instigation of an act of terrorism;
- Examine any goods which have arrived in or are about to leave GB or NI on a vehicle or craft to see if they have been used in the commission, preparation or instigation of acts of terrorism.

When searching a person, this must be carried out by a person of the same sex.

The examining officer does not require reasonable grounds for suspicion in order to exercise these powers.

An examining officer at a port also has the power to board a ship or aircraft, or to enter a vehicle to determine whether to exercise the power to search goods.

The powers provided under Schedule 7 should also be carried out in accordance with the *Home Office (2001) Code of Practice for examining officers under the Terrorism Act 2000*.

## 5.2 POWERS OF DETENTION

An examining officer may detain a person for the purposes of determining whether they have been involved in the commission, preparation or instigation of acts of terrorism. They can be detained for a maximum period of nine hours.

Examining officers are also able to retain property which:

- Is any document the person has with them and is of a kind specified by the officer;
- Has been searched or found on a search;
- Has been examined for the purpose of determining whether it has been used in the commission, preparation or instigation of acts of terrorism.

### 5.3 PRACTICAL APPLICATION OF SCHEDULE 7

As the power to stop and search under Schedule 7 does not require reasonable suspicion, it is essential that the power is used in a proportionate and justified manner. Officers must take care to stop people only in appropriate circumstances. The power must not be used to stop and question people for any other purpose than those under the Terrorism Act 2000.

All persons stopped and questioned by examining officers must be treated in a respectful and courteous manner, particularly as many people will be innocent of any unlawful activity. When exercising the power, officers should minimise the embarrassment or offence that a stop could cause to travellers. Where possible, any intrusive questioning should take place out of public view.

Although officers make judgements to stop people based on their demeanour, inappropriate dress or items carried, the powers must not be exercised in a way which unfairly discriminates against anyone on the grounds of race, colour, religion, creed, gender or sexual orientation. Ethnic origin may be taken into account in deciding whether to stop someone, but it can only be considered in conjunction with other factors, such as:

- Known and suspected sources of terrorism;
- Any information on the origins and/or possible location of terrorist groups;
- The possible nature of any current or future terrorist activity;
- The means of travel and documentation that a group of individuals could use;
- Local circumstances, such as movements, trends at individual ports or parts of the border area.

When making a stop under Schedule 7, the examining officer must:

- Identify themselves, a warrant or collar number will suffice;
- Explain why the person has been stopped;
- Remain polite and treat the person stopped with respect and dignity.

If necessary, the officer may reassure the individual that the stop is part of routine counter-terrorist policing.

The examining officer may ask a person they stop and question to:

- Give any information in his or her possession which the officer requests;
- Provide the examining officer with either a valid passport which includes a photograph or another document which satisfactorily establishes his or her identity;
- Declare and provide any documents in their possession, as specified by the officer.

If they deliberately fail to comply with any of these duties, they could be prosecuted under paragraph 18 (1) of Schedule 7 of the Terrorism Act 2000.

The person stopped must comply with these requests. They commit a summary offence if they wilfully fail to comply with a duty imposed under Schedule 7, or wilfully obstruct or seek to frustrate a search or examination under the schedule. Officers must give the person concerned a reasonable opportunity to produce the documents and should be aware that passengers travelling to NI or within the Common Travel Area may not be carrying a passport.

Where an examining officer has decided to detain a person, the officer must inform the person that they are not under arrest or caution but that they are being detained under the provisions of Schedule 7. The officer must explain that the purpose of the questioning is to enable the officer to determine whether the detained person appears to be a person of interest under section 41 Terrorism Act 2000 and that the detention does not mean that the officer suspects the detainee of being involved in terrorist activity.

## 5.4 RECORDING OF EXAMINATIONS

The Schedule 7 Code of Practice requires that if an examination lasts in excess of one hour, the officer must serve an explanatory notice of examination on the person. Notwithstanding this, the following procedures are considered good practice by ACPO and the National Coordinator Ports Policing.

If an examining officer exercises powers under the Terrorism Act 2000 in a port or border area, a Schedule 7 examination should be recorded where the person or vehicle is removed from the travelling flow and questioned at length for one or more of the following reasons:

- More than brief screening questions;
- Database checks that are more than basic checks, such as a passport check on an automatic passport reader;
- A search of the person, anything that they have with them or that belongs to them and that is on a ship or aircraft or that the examining officer believes has been, or is about to be, on a ship or aircraft.

Records of examinations that last under an hour should also be kept at a port or police station in the border area for reference purposes in the event of a complaint or query.

### MANAGEMENT ISSUES

- Ensure that stops are not based on grounds of race, creed, colour, religion, gender or sexual orientation.
- Monitor use of the powers to ensure that they are employed in a balanced and moderate manner.

# Section 6

## MANAGEMENT AND ACCOUNTABILITY

**T**his section sets out the structures that, if implemented, should ensure proper management of issues relating to stop and search. This provides an analytical tool and monitoring processes to enable managers to develop accountability for activities around this sensitive area of policing.

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## 6.1 PRACTICE ORIENTED PACKAGE

The Home Office Stop and Search Action Team have been working with a number of forces to develop the Practice Oriented Package (POP). The aim of this work was to create a model to examine the factors that could affect the level of disproportionality at street patrol and supervisory and management levels in Basic Command Units (BCU). The model has been designed with a strong operational bias to ensure that its findings will be relevant to the activities of patrol officers and their supervisors and managers. The National Intelligence Model (NIM) is used to ensure effective stop and search activity, linking this to crime trends and patterns.

It is intended to help bring about changes, where they are recognised as required, without the need for additional resources or cost. The work is not intended to be an empirical or scientific study of the causes of disproportionality, but is aimed at emphasising good and bad practice leading to a better understanding of the causes of disproportionality. This then enables a better understanding of the issues involved and can be fed back to communities through relevant forums.

The work was carried out over two years with nine forces and the following is a summary of the recommendations from the work.

### **Police Authority**

- A member of each authority should be nominated to champion all stop and search activity in the force.
- Police authorities should conduct a review and examine the ways in which community consultation and engagement could be improved in relation to stop and search activity.

### **Force/Chief Officer**

- A chief officer should be nominated to champion stop and search in each force with a main priority to raise the profile of the stop and search policy at an operational level.
- Police forces should conduct half yearly reviews of all stops and search data, at divisional level, to check accuracy, disproportionality and ethical standards.
- They should introduce an element of behavioural training into training packages.

### **BCU Commander/Operational level**

- BCU Commanders should conduct a review to evaluate the use of tasking and coordination and intelligence in targeting stop and search activities.

Further information regarding POP, including the recommendations and toolkit, will be available from September 2006 and linked to the Home Office website at <http://www.homeoffice.gov.uk>

## 6.2 SECTION 95 DATA

Section 95 of the Criminal Justice Act 1991 requires the Secretary of State to publish such information as is considered expedient to enable those involved in the Criminal Justice System to become aware of the financial implications of their decisions or to avoid discrimination on grounds of race, sex or any other improper grounds. Police forces are required to submit annual data regarding their stop and search activity to the Home Office which is then published.

This information helps the Home Office to address the concerns of ordinary citizens. It also helps the police, prison and probation officers, the courts and immigration officials to do their jobs as well as possible. Section 95 records stop and search under a range of legislation (including PACE), hence these statistics remain important in providing an overall picture of stop and search incidents.

## 6.3 RESPONSIBILITIES OF POLICE AUTHORITIES

Police authorities have responsibilities in relation to stop and search activity within the context of its broader duty to provide an efficient and effective Police Service. Through community consultation and engagement, improvements will be made in gaining trust, confidence and satisfaction in local policing. This is key to policing by cooperation and delivering efficient and effective policing. Each police authority should ensure that all its communities have that trust, confidence and satisfaction so it can meet its statutory duties.

There is also a responsibility to eliminate racial discrimination in the provision of our services and to foster good race relations between communities and the police. This is a requirement of the Race Relations Act 1976 as amended, section 71, which provides a duty to eliminate unlawful racial discrimination and promote equality of opportunity and good relations between persons of different racial groups.

### 6.3.1 RECOMMENDATIONS OF THE STEPHEN LAWRENCE INQUIRY REPORT

Recommendation 63 of the Stephen Lawrence Inquiry Report states that police authorities be given the duty to undertake publicity campaigns to ensure that the public is aware of stop and search provisions and the right to receive a record in all circumstances.

These recommendations extend to all stop and search activity including that under the Criminal Justice and Public Order Act 1994 and the Terrorism Act 2000.

Following the recommendations from the Stephen Lawrence Inquiry Report, all police authorities should have effective monitoring arrangements. In particular, police authorities should consider:

- How, and at what level they can most effectively monitor stop and search issues, including what should be dealt with by the full authority, and what issues can best be tackled in more detail at committee, panel or working-group level;
- The extent to which force stop and search policies impact on black and minority ethnic (BME) communities;
- How they are going to involve local communities in this work.

In 2001 the Race Relations Act was amended to give public authorities a new statutory duty to promote race equality. Under Schedule 1A of the Act, police authorities are required to:

- Eliminate unlawful racial discrimination;
- Promote equality of opportunity between persons of different racial groups;
- Promote good relations between persons of different racial groups.

This means that police authorities should oversee force policies and training arrangements. They also have a responsibility to uphold accountability and must, therefore, work with the police to ensure that they are made accountable to the local community when using these powers. This should include access to local stop and search data for local police authorities to monitor the use of the powers to protect the wider community from inappropriate use. Police authorities should be made aware of the potential sensitivities of such data, particularly in respect of the Terrorism Act 2000, see [4.8 Data Sharing](#).

Police authorities have a responsibility to ensure that the views and expectations of the local community are reflected in locally provided policing services. They should consult and engage with the community to meet these aims. Their existing contacts and consultative structures should form the basis for this. A tripartite relationship should exist between the police authority, the police and the community.

There are examples of good practice in various parts of the country including the provision of awareness sessions in schools and colleges, and police authority funded analysts, who assess stop and search data.

## MANAGEMENT ISSUES

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- Implementation of the Practice Oriented Package (POP) will enable a better understanding of disproportionality and enable more accurate use of stop and search.
- Section 95 data should be put into a local context for the local community.
- Any disproportionate use of the powers by individuals or groups of officers should be identified and dealt with appropriately.
- Each police force should work with its police authority on these issues.
- There should be a strategic lead for stop and search with effective monitoring processes in place.

# APPENDIX 1

## ABBREVIATIONS AND ACRONYMS

### ABBREVIATIONS AND ACRONYMS

<b>ACC</b> . . . . .	Assistant Chief Constable
<b>BCU</b> . . . . .	Basic Command Unit
<b>BME</b> . . . . .	Black and Minority Ethnic [groups]
<b>CDRP</b> . . . . .	Crime and Disorder Reduction Partnership
<b>CIA</b> . . . . .	Community Impact Assessment
<b>CJPOA</b> . . . . .	Criminal Justice and Public Order Act 1994
<b>DVLA</b> . . . . .	Driver and Vehicle Licensing Authority
<b>HMIC</b> . . . . .	Her Majesty's Inspectorate of Constabulary
<b>LCJB</b> . . . . .	Local Criminal Justice Board
<b>LSP</b> . . . . .	Local Strategic Partnership
<b>NCTT</b> . . . . .	National Community Tension Team
<b>NIM</b> . . . . .	National Intelligence Model
<b>NJU</b> . . . . .	National Joint Unit (Metropolitan Police Service)
<b>PACE</b> . . . . .	Police and Criminal Evidence Act 1984
<b>PCSO</b> . . . . .	Police Community Support Officer
<b>POP</b> . . . . .	Practice Oriented Package
<b>TPU</b> . . . . .	Terrorism and Protection Unit (Home Office)
<b>VDRS</b> . . . . .	Vehicle Defect Rectification Scheme



# APPENDIX 2

## REFERENCES

### REFERENCES

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# **APPENDIX 3 SECTION 60 AUTHORISATION**



## ANYWHERE CONSTABULARY

### Authority to Exercise the Powers Under Section 60 Criminal Justice and Public Order Act 1994

In accordance with section 60 of the Criminal Justice and Public Order Act 1994, (and section 60AA as amended by section 94 of the Anti-terrorism and Crime and Security Act 2001) I hereby authorise constables in uniform to exercise the powers conferred under that section to prevent serious violence, or because dangerous instruments or offensive weapons are being carried, as follows:

Reference number.....
Issuing BCU.....

#### A – Grant of Authority Under S60

<b>1. Period of Authorisation</b>
<p>The powers may be exercised for the following period (<i>not exceeding 24 hours</i>);</p> <p>From (time) ..... (24hr clock) on .....(day) of .....(month) ..... (year)</p> <p>To (time) ..... (24hr clock) on .....(day) of .....(month) ..... (year)</p>
<b>2. Location/Geographical Area</b>
<p>The powers may be exercised within the following locality (describe boundary, e.g. by naming roads, streets etc.)</p> <p>.....</p> <p>.....</p> <p>.....A copy of street map or sketch plan <b>must</b> be attached</p>
<b>3. Grounds For Granting Authority</b>
<p>(a*) I reasonably believe that incidents of serious violence may take place in the area described above [describe the location in which the geographical area mentioned in section 2 lies] <b>AND</b> that it is expedient to give an authorisation to prevent their occurrence.</p> <p style="text-align: center;"><b>AND/OR</b> (delete as applicable)</p> <p>(b) I reasonably believe that persons are carrying dangerous instruments or offensive weapons without good reason in the locality listed above.</p> <p><b>Grounds for belief</b> (state incident/crime number or Int ref) .....</p> <p>In respect of the Human Rights Act 1998, explain why and how the authorisation is <b>Proportionate, Legal, Accountable and Necessary</b> .....</p> <p>.....</p> <p>.....</p>
<b>4. Details Of Authorising Officer</b>
<p>I therefore authorise any constable in uniform within that locality to exercise the powers under section 60 of the Criminal Justice and Public Order Act 1994;</p> <p>Name.....Rank*.....Stn/Branch.....</p> <p>Signature ..... Time ..... (24hr clock) on (date)...../...../.....</p>
<p><b>*Where authorising officer is below the rank of Superintendent:</b> I have informed the following senior officer of this authorisation decision: (Name)..... Rank (must be Superintendent or above) .....</p> <p>Stn/Branch.....informed at (time) ..... (24hr clock) on (date) ...../...../..... by</p> <p>(method) .....</p>

## B – Community Impact/Consultation

Has a Community Impact Assessment (CIA) been made prior to the authorisation? YES/NO (\*delete as applicable)

If NO, please give reasons why .....

.....

.....

If YES, please attach a copy of the CIA

Has there been community consultation prior to the authorisation? YES/NO (\*delete as applicable)

If NO, please give reasons why .....

.....

If YES, please provide a brief summary .....

.....

.....

## C – Extension Of The Period Of Authorisation

Because it appears to me to be expedient to do so, having regard to offences which have, or which I reasonably suspect to have, been committed in connection with any activity falling within the authorisation in Part A above; **in accordance with section 60(3) of the Criminal Justice and Public Order Act 1994, I direct that the authorisation given in Part A above shall continue in being for a further 24 hours;**

Name ..... Rank\* ..... Stn/Branch..... Signature .....

Time..... (24hr clock) Date ...../...../..... (\*Extension can only be authorised by the rank of Superintendent or above)

**The reason for this extension is:** (authorising officer to give a brief explanation of rationale for the decision)

.....

.....

**Officers informed of direction to extend the authority and the period specified above;**

Time..... (24hr clock) on (date)...../...../..... by..... (method e.g. officer briefing.)

Copy of original authority by fax/despatch/e-mail to BCUs included in locality? YES/NO (delete as applicable)

## D – Action Taken Upon Expiry Of Authority

**Officers reminded of date/time specified in Part A or B that the authority/extension expires;**

Time..... (24hr clock) on (date)...../...../..... by..... (method e.g. officer briefing.)

**Copy of original authorisation filed** [with Operation Order No. ....../.....]

Name..... Rank ..... Time ..... on (date)...../...../.....

Details of post authority community consultation/debrief.....

.....

.....

## E – Results

Number of Persons Searched	
Number of Vehicles searched	
Number of persons found carrying offensive weapons/dangerous instruments	
Number of arrests of persons found carrying offensive weapons/dangerous instruments	
Number of masks/coverings removed/seized	

## Section 60AA Criminal Justice and Public Order Act 1994 (as amended)

- (1) Where—
- (a) an authorisation under section 60 is for the time being in force in relation to any locality for any period, or
- (b) an authorisation under subsection (3) that the powers conferred by subsection (2) shall be exercisable at any place in a locality is in force for any period,
- those powers shall be exercisable at any place in that locality at any time in that period.
- (2) This subsection confers power on any constable in uniform—
- (a) to require any person to remove any item which the constable reasonably believes that person is wearing wholly or mainly for the purpose of concealing his identity;
- (b) to seize any item which the constable reasonably believes any person intends to wear wholly or mainly for that purpose.
- (3) If a police officer of or above the rank of inspector reasonably believes—
- (a) that activities may take place in any locality in his police area that are likely (if they take place) to involve the commission of offences, and
- (b) that it is expedient, in order to prevent or control the activities, to give an authorisation under this subsection,
- he may give an authorisation that the powers conferred by this section shall be exercisable at any place within that locality for a specified period not exceeding twenty-four hours.
- (4) If it appears to an officer of or above the rank of superintendent that it is expedient to do so, having regard to offences which—
- (a) have been committed in connection with the activities in respect of which the authorisation was given, or
- (b) are reasonably suspected to have been so committed,
- he may direct that the authorisation shall continue in force for a further twenty-four hours.
- (5) If an inspector gives an authorisation under subsection (3), he must, as soon as it is practicable to do so, cause an officer of or above the rank of superintendent to be informed.
- (6) Any authorisation under this section—
- (a) shall be in writing and signed by the officer giving it; and
- (b) shall specify—
- (i) the grounds on which it is given;
- (ii) the locality in which the powers conferred by this section are exercisable;
- (iii) the period during which those powers are exercisable;
- and a direction under subsection (4) shall also be given in writing or, where that is not practicable, recorded in writing as soon as it is practicable to do so.
- (7) A person who fails to remove an item worn by him when required to do so by a constable in the exercise of his power under this section shall be liable, on summary conviction, to imprisonment for a term not exceeding one month or to a fine not exceeding level 3 on the standard scale or both.
- (8) The preceding provisions of this section, so far as they relate to an authorisation by a member of the British Transport Police Force (including one who for the time being has the same powers and privileges as a member of a police force for a police area), shall have effect as if references to a locality or to a locality in his police area were references to any locality in or in the vicinity of any policed premises, or to the whole or any part of any such premises.
- (9) In this section 'British Transport Police Force' and 'policed premises' each has the same meaning as in section 60.

(10) The powers conferred by this section are in addition to, and not in derogation of, any power otherwise conferred.

(11) This section does not extend to Scotland.

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### Code A: Extracts Notes for Guidance 10 & 11-Authorising officers

**10** The powers under section 60 are separate from and additional to the normal stop and search power which require reasonable grounds to suspect an individual of carrying an offensive weapon (or other article). Their overall purpose is to prevent serious violence and the widespread carrying of weapons which might lead to persons being seriously injured by disarming potential offenders in circumstances where other powers would not be sufficient. They should not therefore be used to replace or circumvent the normal powers for dealing with routine crime problems. The purpose of the powers under section 60AA is to prevent those involved in intimidatory or violent protests using face coverings to disguise identity.

**11** Authorisations under section 60 require a reasonable belief on the part of the authorising officer. This must have an objective basis, for example: intelligence or relevant information such as a history of antagonism and violence between particular groups; previous incidents of violence at, or connected with, particular events or locations; a significant increase in knife-point robberies in a limited area; reports that individuals are regularly carrying weapons in a particular locality; or in the case of section 60AA previous incidents of crimes being committed while wearing face coverings to conceal identity





