

# Legal Manual

A practitioners' guide to stop & search  
powers and case law



**Y·STOP!**

**Y-STOP**  
a **Release** initiative  
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# Police and Criminal Evidence Act 1984, Section. 1

*(To be read in conjunction with Pace Code A,  
page 9)*

## Vehicles and persons:

A police officer can only exercise the power to search a person or vehicle if they have reasonable grounds for suspecting that they will find stolen or prohibited articles.

If this criterion is satisfied then the police officer may search:

- Any person or vehicle;
- Anything which is in or on a vehicle
- And may detain a person or vehicle for the purpose of such a search.

If a person is in a garden or yard used for the purposes of a dwelling, a police officer may only search them if they have reasonable grounds for believing:

- That they do not reside in the dwelling; and
- That they are not in the garden or yard with the express or implied permission of a person who resides in the dwelling.

For a police officer to search a vehicle in a garden or yard they must have reasonable grounds for believing:

- That the person in charge of the vehicle does not reside in the dwelling; and
- That the vehicle is not in the place in question with the express or implied permission of a person who resides in the dwelling.

If a police officer finds an article that they have reasonable grounds for suspecting to be a prohibited or stolen article then they may seize it.

A **prohibited article** would be:

- An offensive weapon; or
- Something in connection with crimes of burglary, theft, fraud, damaging or destroying property or a firework. ( This could be crimes that have been committed or are going to be committed)

An **offensive weapon** means any article:

- Made or adapted for use for causing injury to persons; or
- Intended by the person having it with them for such use by themselves or by some other person.

A police officer can detain a person or vehicle without conducting a search if it appears to them:

- That no search is required; or
- That a search is impracticable.

Unless the police officer is searching an unattended vehicle they must take reasonable steps before commencing the search to bring to the attention of the appropriate person:

- if the police officer is not in uniform, documentary evidence that they are a police officer

Whether the officer is in uniform or not:

- the police officer's name;
- and the name of the police station to which they are attached;
- the object of the proposed search;
- the police officer's grounds for proposing to make it;

# Y-STOP

- If a police officer who conducted a search of a person made a record of it, the person who was searched is entitled to a copy of the record if they ask for one within 12 months of the date on which the search was made.

The police officer shall not commence the search until they have performed this duty.

If a police officer searches an unattended vehicle they must leave a notice containing;

- stating that they have searched it;
- giving the name of the police station to which they are attached;
- stating that an application for compensation for any damage caused by the search may be made to that police station;
- The police officer shall leave the notice inside the vehicle if it is not reasonable to do so without damaging the vehicle.

## Please Note:

- A police officer not in uniform cannot stop a vehicle.
- Appropriate person means the person in charge of the vehicle.
- A person or vehicle may be detained such time as is reasonably required to permit a search to be carried out either at the place where the person or vehicle was first detained or nearby
- The police officer cannot require a person to remove any clothing in public other than an outer coat, jacket or gloves.

The only time a police officer is allowed to carry out a search **without** making a record of it in writing is;

- Whilst being employed by statutory undertakers, (which allows him to stop, detain and search any vehicle before it leaves a goods area included in the premises of the statutory undertakers ); or
- Under s27(2) of the Aviation Security Act 1982; or

- If it is Impracticable to make it on the spot, they must make it as soon as practicable after the stop.

The record of a search of a person or a vehicle shall state;

- the object of the search;
- the grounds for making it;
- the date and time when it was made;
- the place where it was made;
- whether anything, and if so what, was found;
- whether any, and if so what, injury to a person or damage to property appears to the police officer to have resulted from the search ;
- And it should also identify the police officer making it.

## Please Note:

- The written notice should include name of the person searched if the police officer knows it.
- A person cannot be detained by the police officer to find out their name.
- If the police officer does not know the name a description of the person shall be included within the notice.

## Road Checks

Road checks by police officers are for the purpose of ascertaining whether a vehicle is carrying a person who has committed;

- An offence other than a road traffic offence; or
- A person who is a witness to such an offence; or
- A person intending to commit such an offence; or
- A person who is unlawfully at large.



There may only be such a road check if a police officer of the rank of superintendent or above authorises it in writing.

An officer may only authorise a road check if they have reasonable grounds:

- for believing that the offence is an indictable offence ; and
- for suspecting that the person is, or is about to be, in the locality in which vehicles would be stopped if the road check were authorised;

An officer below the rank of superintendent may authorise such a road check if it appears to him that it is required as a matter of urgency for one of the purposes specified;

- An offence other than a road traffic offence or;
- A person who is a witness to such an offence;
- A person intending to commit such an offence; or
- A person who is unlawfully at large.

If an officer below the rank of superintendent authorises a road check;

- A written notice must be made by the officer of the time at which they authorised it; and
- An officer of the rank of superintendent or above to be informed that it has been given as soon as is practicable to do so.

If this officer decides that the checks should not continue then they shall record in writing;

- That a road check took place; and
- The purpose for which it took place.

Where a vehicle is stopped in a road check, the person in charge of the vehicle when it was stopped is entitled to obtain a written statement of the purpose of the road check if they apply for it within 12 months of when the vehicle was stopped.

## **Police and Criminal Evidence Act 1984,** **Code A**

### **Principles governing stop and search under s.1**

- Powers must be used fairly, responsibly, with respect for people being searched and without unlawful discrimination.
- Duty to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation and to advance equality of opportunity.
- The intrusion on the liberty must be brief.
- Detention for the purposes of a search must take place at or near location.
- An officer must not search a person, even with his or her consent, where no power to search is applicable. Even where a person is prepared to submit to a search voluntarily, the person must not be searched unless the necessary legal power exists (only exception is persons entering sports grounds).

### **Searches requiring reasonable grounds for suspicion under s.2.2**

Reasonable Suspicion requires:

- Objective basis for suspicion based on facts and/or accurate and current intelligence;
- Facts must be relevant to the likelihood of finding an article of a certain kind;
- Reasonable suspicion may exist without specific information or intelligence and on the basis of the behavior of a person.

Reasonable Suspicion cannot be based on:

- Physical appearance, unless it matches a description of the suspect;
- Known previous convictions;

- Any other personal factors.

SEE:

**Coalter (Adrian Robert) v HM Advocate** [2013]  
H CJAC 115; 2013 G.W.D. 32-635

**HM Advocate v PB** [2013] H CJ 71; 2013  
S.L.T. 810; 2013 S.C.L. 592

## Please Note:

- A police officer may have reasonable grounds to suspect that a person is in innocent possession of a stolen or prohibited article. In that case the officer may stop and search the person even though there would be no power of arrest.
- Before carrying out a search the officer may ask questions about the person's behaviour or circumstances. The original reasons for searching may be confirmed or, because of a satisfactory explanation, eliminated.
- In the absence of any other lawful power to detain, the person is free to leave at will and must be so informed.
- Reasonable grounds for suspicion cannot be provided retrospectively by such questioning during a person's detention or by refusal to answer any questions put.
- If an officer is detaining someone for the purpose of a search, they should inform the person as soon as detention begins.
- An officer cannot stop or detain a person in order to find grounds for a search.

**S.2.12 Searches authorised under section 60 of the Criminal Justice and Public Order Act 1994 (see below)**

**s.2.15 Powers to require the removal of face coverings s60AA**

For a police officer to demand the removal of disguises there must be:

- Reasonable belief that someone is wearing an item wholly or mainly for the purpose of concealing identity; and
- An authorisation given under S.60 or S.60AA Public Order Act.

## Please note:

- The period authorised must be no longer than reasonably necessary to prevent, or seek to prevent the commission of offences, and may not exceed 24 hours.
- The officer may demand the removal of disguises.
- The officer may seize such items where they believe that a person intends to wear them for this purpose.
- There is no power to stop and search for disguises.

## S.2.18 Searches under Schedule 5 to the Terrorism Prevention and Investigation Measures Act 2011

A constable may detain an individual to be searched under Schedule 5 TPIM where:

- A TPIM notice is being served on the individual to ascertain whether there is anything on them that contravenes measures specified in the notice; or
- A warrant to search the individual has been issued by a magistrate in England and Wales, a sheriff in Scotland or a lay magistrate in Northern Ireland who is satisfied that a search is necessary for the purpose of determining whether an individual is complying with measures specified in their TPIM notice; or

- To ascertain whether an individual in respect of whom a TPIM notice is in force is in possession of anything that could be used to threaten or harm any person.

**Please note:**

Above powers do not require the constable to have reasonable grounds to suspect that the individual:

- Is contravening any of the measures specified in the TPIM notice
- Has anything on them which: contravenes measures specified in the TPIM notice, is not complying with measures or could be used to threaten or harm any person.
- The search must be carried out within 28 days of the issue of the warrant.
- Anything found may be seized if there are reasonable grounds for believing that it is evidence of any offence for use at a trial, or to prevent it being concealed, lost, damaged, altered, or destroyed.

## S.2.27 Power to search a person during search of premises

Powers to search premises can also authorise the search of a person who is found on the premises during the course of these searches:

- A S.139B Criminal Justice Act search permits a constable to enter school premises and search the premises and any person on those premises for any bladed or pointed article or offensive weapon;
- Under a S.23(3) of the Misuse of Drugs Act warrant to search premises for drugs or documents – only if the warrant specifically authorises the search of persons found on the premises;

- A search warrant or order under P.1, 3 or 11 of Schedule 5 to the Terrorism Act to search premises and any person found there for material *likely to be of substantial value to a terrorist investigation*.

## S.3 Conduct of searches

- All stops and searches must be carried out with courtesy, consideration and respect.
- Co-operation must be sought.
- A forcible search may be made only if it has been established that the person is unwilling to co-operate or resists. Reasonable force may be used as a last resort.
- Length of time must be kept to a minimum.
- Can only require a person to remove outer clothing in public. If there are reasonable grounds for considering it necessary to conduct a more thorough search this must be done out of public view.
- A search of intimate parts of the body must only be conducted in a nearby location out of public view – not in a police van. Intimate searches must not be conducted simply because nothing is found on the initial search.

## S3.8 Steps to be taken prior to a search

Before any search of a person or vehicle the officer must take reasonable steps to give the person to be searched or in charge of the vehicle the following information:

- That they are being detained for the purpose of a search;
- The officer's name and the name of the police station they are attached to;
- The legal search power which is being exercised;
- A clear explanation of the object of the search in terms of the articles for which there is a power to

search;

- For a s.60 stop: the nature of the power and authorisation;
- Where a TPIM notice is in force: that the notice is in force and the nature of the power being exercised;
- Where Reasonable Suspicion is required the grounds for suspicion must be explained;
- That they are entitled to a copy of the record of the search, or a receipt explaining how they can obtain a copy.

**Please Note:**

- If the officer conducting the search is not in uniform they must show their warrant card.
- Searches under s.60 CJPOA can only be undertaken by an officer in uniform.
- People should be given information about individual's rights, if they do not appear to understand this reasonable steps must be taken to bring this information to their attention.
- The officer is not obliged to give their name if they reasonably believe it might put them in danger or if it is linked to the investigation of terrorism.

## S.4 Records

If the search **does not** result in being arrested and taken to a police station, a **record must be made** of it, electronically or on paper, unless there are exceptional circumstances which make this wholly impracticable.

If a record is made the person searched **must** be asked if they want a copy and if they do, they must be given it immediately (or given a receipt explaining how to get a copy).

If the search **does** result in an arrest then the officer who carried out the search is responsible for ensuring that a record of the search is made as part of their custody record and they are asked if they want a copy as soon as is practicable.

The record of a search must include:

- The self-defined ethnicity;
- Date, time and place of search;
- Object of the search;
- Grounds for suspicion;
- For a s.60 search: the nature of the power;
- For a TPIM search: that there is a notice, the nature of power of that notice and the date of warrant
- Identity of the officer, unless they reasonably believe it might put them in danger or if it is linked to the investigation of terrorism.

**Please note:**

- There is no requirement to record the name, address or date of birth of the person searched and no obligation for the person searched to provide this information.
- The record of the grounds for making a search must explain the reason for suspecting the person concerned with reference to their behaviour or the circumstances.
- After searching an unattended vehicle an officer must leave a notice in or on it recording the fact that it has been searched. The vehicle must be left secure if practicable.





## Police and Criminal Evidence Act 1984,

### Code A.

#### Main changes to current legislation (came into effect 27<sup>th</sup> October 2013)

The main changes to the stop and search rules in Code A are:

- The removal of references to stop and search powers under the Terrorism Act 2000 and the introduction of amended terrorism stop and search powers in the Protection of Freedoms Act 2012 and an associated statutory code of practice.
- Powers under the Terrorism Prevention and Investigation Measures Act 2011 ('TPIMS Act') which are outside the scope of the terrorism stop and search code but which are subject to Sections 2 and 3 of PACE have been added.
- Code A is extended to include the powers to search persons without them being arrested introduced by the Terrorism Prevention and Investigation Measure Act 2011 (TPIMS).
- Annex F (on gender and searching) has been deleted and superseded by Annex L in Code C. It gives guidance in establishing whether the person concerned should be treated as being male or female for the purposes of these searches and procedures.

- **Where a person is in a vehicle and both are searched, and the object and grounds of the search are the same, only one record need be completed.**
- **There is no national requirement for an officer who requests a person in a public place to account for themselves, i.e. their actions, behaviour, presence / possession of anything, to make any record of the encounter or to give a receipt.**

- Both codes A and B are amended in line with Section 48 of the Violent Crime Reduction Act

2006 which reduced the threshold for searching individuals on school premises for weapons from having a reasonable belief to having a reasonable suspicion.

### Section 23 of the Misuse of Drugs Act 1971 ('MDA')

Where a constable has reasonable grounds to suspect that any person is in possession of a controlled drug, he has power to search and detain that person, stop and detain any vehicle or vessel where he expects to find the drug and seize and detain anything found that appears to be evidence of an offence under the MDA 1971.

Also, section 23 allows a Justice of the Peace to authorise a search warrant if he is satisfied by evidence on oath that there are reasonable grounds for suspecting that controlled drugs are in the possession of a person on any premises, or that there are documents relating to drugs offences on any premises.

It is an offence to intentionally obstruct a person in the exercise of either of the above powers.

This section also authorises a constable to enter the premises of a person carrying on business as a producer or supplier of any controlled drugs and to demand the production of, and to inspect, any books or documents relating to dealings in any such drugs and to inspect stocks of any such drugs. This section could impact on pharmacies, for example. There is no requirement under this section that the constable has reasonable grounds to suspect that anything improper is occurring; it simply enables checks to be carried out. Those affected should always ask the constable under what lawful authority he purports to be acting, why he is undertaking an inspection of the premises, and make sure that a record is made of the constable's details and what is said at the time of the search.



# Police and Criminal Evidence Act 1984 – CODE A

## s.1 Principles governing stop and search

Powers to stop and search must be used fairly, responsibly, with respect for people being searched and without unlawful discrimination.

When police forces are carrying out their functions they also have a duty to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation to take steps to foster good relations.

The intrusion on the liberty of the person stopped must be brief and detention for the purposes of a search must take place at or near the location of the stop.

An officer must not search a person, even with his or her consent, where no power to search is applicable. Even where a person is prepared to submit to a search voluntarily, the person must not be searched unless the necessary legal power exists (only exception is persons entering sports grounds).

## s.2.2 Searches requiring reasonable grounds for suspicion

There must be an **objective** basis for that suspicion based on **facts**, information, and/or **accurate and current intelligence** which are relevant to the likelihood of finding an article of a certain kind.

Reasonable suspicion **may exist** without specific information or intelligence and on the basis of the **behaviour** of a person.

i.e. someone obviously trying to hide something but always on the other surrounding circumstances.

**Unless there is a description** of a suspect: simply someone's physical appearance (i.e. based on generalisations or stereotypical images) or the fact that the person is known to have a previous conviction, **cannot** be used alone or in combination with any factor as the reason to search.

Reasonable suspicion can **never** be supported on the basis of personal factors. It must rely on intelligence or information about, or some specific behaviour by, the person concerned

A police officer may have reasonable grounds to suspect that a person is in **innocent possession** of a stolen or prohibited article or other item for which the officer is empowered to search. In that case the officer **may stop and search** the person **even though there would be no power of arrest**.

**Before** carrying out a search the officer **may ask questions about the person's behaviour or presence in circumstances**. The original reasons for searching may be **confirmed** or, because of a satisfactory explanation, be **eliminated**.

If cease to be reasonable grounds - **no search may take place**.

In the **absence of any other lawful power to detain**, the person is **free to leave at will** and must be so informed.

Reasonable grounds for suspicion **cannot be provided retrospectively** by such questioning during a person's detention or by refusal to answer any questions put.

**NO power to stop or detain a person in order to find grounds for a search.**

If an officer is detaining someone for the purpose of a search, he or she should **inform the person as soon as detention begins**.

## S2.12 Searches authorised under section 60 of the Criminal Justice and Public Order Act 1994 (see below)

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### s.2.15 Powers to require the removal of face coverings s60AA

Section 60AA of the Criminal Justice and Public Order Act 1994 (can only be used if an authorisation given under section 60 or under section 60AA, - see below)

Period authorised - no longer than reasonably necessary to prevent, or seek to prevent the commission of offences. It **may not** exceed 24 hours.



May demand the removal of disguises. Must **reasonably believe** that someone is wearing an item wholly or mainly for the **purpose of concealing identity**.

Also power to **seize such items** where the officer **believes that a person intends to wear** them for this purpose

**NO** power to stop and search for disguises.

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## S2.18 Searches under Schedule 5 to the Terrorism Prevention and Investigation Measures Act 2011

Para 3 of Schedule 5 to the TPIM Act 2011 allows a constable to **detain an individual to be searched** IF:

- **Notice** is being, or has just been, served on the individual for the purpose of ascertaining whether there is anything on the individual that **contravenes measures specified**
- In accordance with a **warrant** to search the individual to **determine if complying** with measures specified (**within 28 days** of the issue and only **one** occasion within reasonable hours unless frustrate purpose of search)
- To ascertain if in **possession** of anything that could be **used to threaten or harm any person**.

Above powers **DO NOT** require the constable to have reasonable grounds to suspect that the individual:

- Is contravening any of the measures specified
- Has on them anything which: contravenes measures in the notice/ is not complying with measures/ could be used to threaten or harm any person

**Anything found may be seized** and retained if there are **reasonable grounds** for believing that it is or it contains evidence of any offence for use at a trial for that offence (or to prevent it being concealed, lost, damaged etc)

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## S. 2.27 Power to search a person during search of premises

Powers to search premises **also authorise the search of a person, not under arrest, who is found** on the premises during the course of these searches :

- A constable may enter **school premises** and search the premises and any person on those premises for any **bladed or pointed article or offensive weapon** with reasonable grounds to suspect
- under a **warrant** (s 23(3) of the Misuse of Drugs Act 1971) to search premises for drugs or documents – **ONLY IF** the **warrant specifically authorises** the search of persons found if reasonable grounds
- under a search **warrant or order** (paragraph 1, 3 or 11 of Schedule 5 to the Terrorism Act 2000) to search premises and any person found there for material likely to be of **substantial value to a terrorist investigation**

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## S3 Conduct of searches

Co-operation **must** be sought

A **forcible** search may be made only if it has been established that the person is **unwilling to co-operate or resists**. **Reasonable force** may be used as a last resort

Length of time kept to a **minimum**

No power to require a person to remove any clothing in public other than an outer clothing unless **reasonable grounds it is considered necessary** to conduct a more thorough search (e.g. by requiring a person to take off a T-shirt), this **must be done out of public view**,

Exposure of intimate parts of the body **must not be conducted as a routine extension** of a less thorough search, simply because nothing is found in the course



of the initial search. ONLY at a nearby police station or other nearby location which is out of public view (but not a police vehicle). It must not be an intimate search under stop and search powers.

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### S3.8 Steps to be taken prior to a search

**Before** any search of a detained person or attended vehicle takes place the officer must take **reasonable steps**, if not in uniform to show their **warrant card** to the person to be searched or in charge of the vehicle to be searched and whether or not in uniform, to give that person the following information:

- (a) that they are being **detained for the purposes of a search**;
- (b) the officer's **name** (except if linked to the investigation of terrorism, or if reasonably believes that might put them in danger) and the name of the **police station** to which the officer is attached;
- (c) the legal search power which is being exercised, and
- (d) a **clear** explanation of:
  - (i) the **object** of the search in terms of the article or articles for which there is a power to search; and
  - (ii) in the case of:
    - the power under section 60 of the Criminal Justice and Public Order Act 1994 the **nature** of the power, and **authorisation** and the fact that it has been given;
    - the **powers** under Schedule 5 to the TPIM Act 2011:  
The **fact** that a TPIM **notice is in force** or that a TPIM notice is being served;  
And the **nature of the power being exercised**.
    - the grounds for that suspicion.
- (e) that they are **entitled to a copy** of the record of the search if one is made if they ask within 3 months from the date of the search and:
  - (i) if they are **not arrested** and taken to a police station as a result of the search and it is **practicable** to make the **record on the spot**, that immediately after the search is

completed they will be given, if they request, either:

- a **copy** of the record, or
- a **receipt** which explains how they can obtain a copy of the full record or access to an electronic copy of the record, or
- (ii) if they are **arrested** and taken to a police station as a result of the search, that the record will be made at the station as part of their custody record and they will be given, if they request, a **copy of their custody record** which includes a record of the search as soon as practicable whilst they are at the station.

Searches under s 60 CJPOA **only** undertaken by officer in uniform.

Person should also be given **information** about police powers and **individual's rights**.

If person does not appear to understand, take **reasonable steps** to bring information regarding the person's rights and any relevant provisions of this Code to his or her attention

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### S4 Records

If search does NOT result in being arrested and taken to a police station, a **record must be made** of it, electronically or on paper, **unless** there are **exceptional circumstances** which make this wholly impracticable

If made person **must be asked if they want a copy** and if they do, they must be given immediately (copy of receipt)

#### If DOES result in arrest:

the officer carrying out the search is responsible for ensuring that a record of the search is made as part of their custody record and ask if want a copy given as soon as practicable.

Record must always include:

- note of the self defined ethnicity
- date, time and place of search
- object of the search
- **if s60** - nature of the power



- if **TPIM** – fact of notice, nature of power, date of warrant (fact copy provided and endorsed and statement if anything found)
- For any other powers: grounds for that suspicion.
- identity of the officer (unless linked to terrorism investigation)

NO requirement to record the name, address and date of birth of the person searched and no obligation to provide.

If a person is in a vehicle and both are searched, and the object and grounds of the search are the same, only one record need be completed.

Record of the grounds for making a search must, **explain the reason** for suspecting the person concerned, i.e. reference to the person's behaviour / circumstances.

After searching an **unattended vehicle**, an officer **must** leave a notice in or on it recording the fact that it has been searched. Vehicle must be left secure if practicable. Note must include the name of the police station.

There is **NO** national requirement for an officer who requests a person in a public place **to account for themselves**, i.e. their actions, behaviour, presence / possession of anything, to make any record of the encounter or to give a receipt.

## Criminal Justice and Public Order Act 1994, Section. 60

*(To be read in conjunction with Pace Code A, page 9)*

If a police officer **of or above the rank of inspector** reasonably believes:

That incidents involving serious violence may take place in any locality in his police area, and that it is useful to give an authorisation to prevent their occurrence,

Or

That persons are carrying dangerous instruments or offensive weapons in any locality in his police area without good reason,

He may give an authorisation for uniformed constables;

1. To stop any pedestrian and search him or anything carried by him for offensive weapons or dangerous instruments, or
2. To stop any vehicle and search the vehicle, its driver and any passenger for offensive weapons or dangerous instruments

(Within the locality not exceeding 24 hours)

### Please Note:

- A constable may stop any person or vehicle and make any search he thinks fit whether or not he has any grounds for suspecting that the person or vehicle is carrying weapons or articles of that kind.
- If the officer finds any weapons or articles of that kind he may seize it.
- If the person is required to stop but does not then he shall be liable to a prison sentence not exceeding one month or a fine.
- A person who is searched by a constable shall be entitled to obtain a written statement that he/she was searched if he applies for such a statement not later than the end of the period of twelve months from the day on which he was searched. The same applies to vehicle drivers whose vehicles were stopped.

If a police officer **of or above the rank of inspector** reasonably believes:

- that incidents involving serious violence may take place in any locality in his police area, and
- that it is useful to give an authorisation to prevent their occurrence, or



- that persons are carrying dangerous instruments or offensive weapons in any locality in his police area without good reason

He may give an authorisation for uniformed constables;

1. 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;
2. To seize any item which the constable reasonably believes any person intends to wear wholly or mainly for that purpose

**Please Note:**

- If an inspector gives an authorisation he must, as soon as it is practicable to do so, cause an officer of or above the rank of superintendent to be informed. This officer may direct that the authorisation shall be extended for a further 24 hours, if it is considered necessary to prevent or deal with further such activity.
- That direction must be given in writing unless it is not practicable to do so, in which case it must be recorded in writing as soon as practicable afterwards.
- The powers must not be used to stop and search persons and vehicles for reasons unconnected with the purpose of the authorisation.
- Officers must take care not to discriminate unlawfully.
- The driver of a vehicle which is stopped under section 60 and any person who is searched under section 60 are entitled to a written statement to that effect if they apply within twelve months from the day the vehicle was stopped or the person was searched.

## Terrorism related powers to stop and search

The stop and search powers under the Terrorism Act S.44-47 were found to be inconsistent with human rights obligations and were amended by S.59-62 of the Protections of Freedoms Act. This amendment introduced S.47A Terrorism Act.

### Terrorism Act 2000, Section. 47A

S.47A gives powers to stop and search in locations authorised by a senior police officer if they reasonably **suspects that an act of terrorism will take place**; and reasonably consider that:

- the authorisation is necessary to prevent such an act;
- the specified area or place is no greater than is necessary to prevent such an act; and
- the duration of the authorisation is no longer than is necessary to prevent such an act.

A police officer in uniform may only use this power to search for the purpose of discovering whether:

- there is any evidence that the vehicle is being used for the purposes of terrorism; or
- that the person is a terrorist as defined by S.40(1)(b).

However, the power conferred by a S.47A authorisation may be exercised whether or not the constable reasonably suspects that there is such evidence.

An officer conducting a search under this section is authorised to stop a vehicle in the specified area or place and to search:

- the vehicle;



# Y-STOP

- the driver of the vehicle;
- a passenger in the vehicle
- anything in or on the vehicle or carried by the driver or a passenger.

An officer conducting a search under this section is authorised to stop a pedestrian in the specified area or place and to search:

- the pedestrian;
- anything carried by the pedestrian.

An officer may seize and retain anything which they:

- discover in the course of a search under such an authorisation; and
- reasonably suspect may constitute evidence that the vehicle is being used for the purposes of terrorism or that the person is a terrorist as defined by S.40(1)(b)

## Please note:

- Section 47A powers should only be authorised where other powers or measures are insufficient to deal with the threat.
- Powers to stop and search must be used fairly, responsibly, and in accordance with the Equality Act 2010.
- A constable exercising the power conferred by a section 47A authorisation may not require a person to remove any clothing in public except for headgear, footwear, an outer coat, a jacket or gloves. Officers should be aware of the cultural sensitivities that may be involved in the removal of headgear.
- Officers should avoid any form of profiling when deciding who to stop under S47A powers as this could amount to unlawful discrimination. Protected characteristics include: age, disability, gender reassignment, race, religion or belief, sex, sexual orientation, marriage or civil partnership, pregnancy or maternity.

- the term "terrorism" in the 2000 Act means the use or threat of action where the action used or threatened:

- involves serious violence against a person or serious damage to property;
- endangers a person's life, other than that of 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 seriously to disrupt an electronic system.

And:

- the use or threat is designed to influence the government or an international governmental organisation, or intimidate the public or a section of the public; and
- the use or threat is made for the purpose of advancing a political, religious, racial or ideological cause.

## Terrorism Act 2000, S. 43

A police officer may stop and search a person under section 43 if they **reasonably suspect that the person is a terrorist** or to discover whether they have in their possession anything which may constitute evidence that they are a terrorist. This power may be used at any time there is reasonable suspicion.

During a S.43 search an officer may search:

- Anything that person is carrying with them, such as a bag or container.
- If a vehicle has been stopped to conduct the search the officer may search the vehicle and anything found within it.
- The person being searched can be required to remove an outer coat, jacket or gloves.



- The officer cannot require a person to remove headgear or footwear in public. However if it is considered necessary an officer may place his or her hand inside the pockets of the outer clothing, or round the inside of collars, socks and shoes to look for the object of the search.

A person can only be required to remove more than an outer coat, jacket or gloves if the search takes place out of public view and is near the place where that person was stopped.

There is no requirement for S.43 searches to be made by an officer of the same sex as the person being searched. However, where an officer of the same sex is readily available they should carry out the search.

Any search involving the removal of more than an outer coat, jacket, gloves, headgear or footwear, or any other item concealing identity, should only be conducted by an officer of the same sex as the person searched and may not be made in the presence of anyone of the opposite sex unless the person being searched specifically requests it.

## Intimate Searches – non terrorism stop and search powers

### Strip Searches

A strip search must be authorised by an officer of at least the rank of inspector and only if they have reasonable grounds for believing that a person who has been arrested and is in police detention may have concealed on him anything which:

- (i) he could use to cause physical injury to himself or others; and
- (ii) he might so use while he is in police detention or in the custody of a court;

Or that such a person—

- (i) may have a Class A drug concealed on him; and
- (ii) was in possession of it with the appropriate criminal intent before his arrest

An officer may not authorise an intimate search of a person for anything unless he has reasonable grounds for believing that it cannot be found without his being intimately searched.

- A strip search is a search involving the removal of more than outer clothing. Outer clothing includes shoes and socks.
- All searches and procedures must be carried out with courtesy, consideration and respect for the person concerned.
- A police officer carrying out a strip search must be the same sex as the detainee.
- The search should take place in an area where the detainee cannot be seen by anyone who does not need to be present, nor by a member of the opposite sex unless an appropriate adult has been specifically requested by the detainee.
- Whenever a search involves exposure of intimate body parts there must be at least two people present other than the detainee. If the search is of a juvenile or mentally disordered or vulnerable person one of the people must be an appropriate adult. A search of a juvenile may only take place without an appropriate adult if the juvenile says that they do not want the adult present and the adult agrees
- The search must be conducted with regard to the sensitivity and vulnerability of the detainee and every reasonable effort shall be made to secure the detainee's co-operation and minimise embarrassment. Detainees who are searched





should not normally be required to remove all their clothes at the same time.

- If necessary to assist the search, the detainee may be required to hold their arms in the air or to stand with their legs apart and bend forward so a visual examination may be made of the genital and anal areas provided no physical contact is made with any body orifice.
- A strip search shall be conducted as quickly as possible, and the detainee should be allowed to dress as soon as the procedure is complete.

### **Religious coverings**

- An officer can only order the removal of a head or face covering where there is reason to believe that it is being worn wholly or mainly for the purpose of disguising identity. Coverings cannot be ordered to be removed simply because they disguise identity.
- Where there may be religious sensitivities about ordering the removal of such an item, the officer should permit the item to be removed out of public view.
- Where practicable, the item should be removed in the presence of an officer of the same sex as the person and out of sight of anyone of the opposite sex.

### **Transgender**

Police officers should show particular sensitivity when dealing with transgender individuals and transvestite persons.

In law, the gender (and accordingly the sex) of an individual is their gender as registered at birth unless they have been issued with a Gender Recognition Certificate (GRC), in which case the person's gender is

their acquired gender. Individuals who have a GRC must be treated as their acquired gender.

When establishing whether the person concerned should be treated as being male or female for the purposes of these searches and procedures, the following approach which is designed to minimise embarrassment and secure the person's co-operation should be followed:

The person must not be asked whether they have a GRC;

- If there is no doubt as to whether the person concerned should be treated as being male or female, they should be dealt with as being of that sex.
- If at any time (including during the search) there is doubt as to whether the person should be treated as being male or female:
  - (i) The person should be asked what gender they consider themselves to be. If they express a preference to be dealt with as a particular gender, they should be asked to indicate and confirm their preference by signing the custody record. Subject to (ii). below, the person should be treated according to their preference;
  - (ii) If there are grounds to doubt that the preference in i. accurately reflects the person's predominant lifestyle, for example, if they ask to be treated as a woman but documents and other information make it clear that they live predominantly as a man, or vice versa, they should be treated according to what appears to be their predominant lifestyle and not their stated preference;
  - (iii) If the person is unwilling to express a preference as in i. above, efforts should be made to determine their predominant lifestyle and they should be treated as such. For example, if they appear to live predominantly



as a woman, they should be treated as being female; or

- (iv) If none of the above apply the person should be dealt with according to what reasonably appears to have been their sex as registered at birth.

Once a decision has been made about which gender an individual is to be treated as, each officer responsible for the search or procedure should be advised before the search starts of any doubts as to the person's gender and the person informed that the doubts have been disclosed. This is important so as to maintain the dignity of the person and any officers concerned.

## Guidance on use of sniffer dogs by the police

The UK does not have any laws or regulations on the police use of sniffer dogs. There is only guidance on their use which is contained Association of Chief Police Officers (ACPO) Police Dogs Manual of Guidance 2011. The ACPO Manual states: ***"people may not be funnelled or individuals requested to change their direction in order to facilitate the dogs' deployment as this may constitute a search."*** The dogs must instead walk through a crowd and then indicate people.

The police do not have a general power to require someone to submit to a dog sniff, but the police will treat attempted evasions of a police dog as reasonable grounds for a search. This is potentially unlawful as although someone acting in this way would be uncooperative they would be acting in line with their legal rights. However, it is not advisable to resist a search if attempted evasion is used as a ground to conduct one – a record should be kept of the search in order to challenge later.

Sniffer dogs are not infallible. They may fail to detect drugs on a person, and they may wrongly indicate a person who is not carrying drugs. However, the police will treat a positive indication by a dog as reasonable grounds for a search. This is yet to be challenged in a UK Court, but there is an argument that this is insufficient grounds and therefore unlawful.

The ACPO manual recognises the general legal and human rights framework:

### Human Rights

Respect for an individual's human rights should be borne in mind throughout the entire process of policing.

The decision making process of a police officer, regarding their use of police powers, should take account of the following:

- Does their objective relate to a legitimate aim in terms of the ECHR Articles?
- Is what they are doing proportionate?
- Do they have a lawful power?
- Is there a legal basis to their action?
- Is the proposed action relevant and necessary?
- Is there a reasonable relationship between the aim to be achieved and the means used?
- Is there a less intrusive alternative?
- Can the objective be achieved with less impact on the rights of the subject and any other(s) likely to be affected by the action?
- Is there a record of their decision and rationale?

### Policing

A record should be kept of all decisions made and actions taken which may affect someone's rights. The record should include the supporting rationale for the decision made/action taken.

## Case Law

### Osman v DPP; QBD, Div Ct (Sedley LJ, Collins J) 1 July 1999.

**Summary:** A failure by a police officer to give details of his or her name and police station as required by s 2 of the Police and Criminal Evidence Act to a person about to be searched under s 60(4) and (5) of the Criminal Justice and Public Order Act 1994 rendered the search unlawful.

### O'Hara v Chief Constable of the Royal Ulster Constabulary; House of Lords - 12 December 1996

**Summary:** The mere fact that a police constable had been instructed by a superior officer to arrest a person was not capable of amounting to "reasonable grounds for suspecting" that person of being involved in terrorism under the Prevention of Terrorism (Temporary Provisions) Act 1984. The constable must be given some basis for such an instruction, such as a report of an informer, from which he could reasonably form a genuine suspicion in his own mind.

### Coalter (Adrian Robert) v HM Advocate [2013] HCAJAC 115; 2013 G.W.D. 32-635

**Subject:** Criminal evidence

**Keywords:** Admissibility; Scotland; Search; Supply of drugs

**Summary:** Police officers had had reasonable grounds to suspect that accused persons were in possession of a controlled drug in terms of the [Misuse of Drugs Act 1971 s.23\(2\)](#) when the information they had received from police control in relation to the vehicle in which the accused were travelling was put together with their own knowledge.

**Abstract:** C and F (collectively X) appealed against conviction for being concerned in the supply of a controlled drug, contrary to the [Misuse of Drugs Act 1971 s.4\(3\)\(b\)](#). Police officers (P) had stopped the car in which X were travelling as it was thought to be exceeding the speed limit.

Neither of X were the registered keeper of the vehicle, and checks carried out on F, who was driving, revealed that he had a previous drugs conviction. X were allowed to continue on their way, whereupon P were informed by police control via radio that X's vehicle was believed to have been involved in the supply of drugs and that traffic units had been searching for it.

P again stopped the car and searched it, and found a quantity of cocaine in a package in the front passenger footwell. X submitted that the sheriff had erred in repelling, at a preliminary hearing, X's objection to the admissibility of the evidence of the search, arguing that P had not had reasonable grounds to suspect that they were then in possession of a controlled drug in terms of [s.23\(2\)](#) of the 1971 Act. C further submitted that the sheriff erred in directing the jury that, when assessing the credibility of a witness, they might consider whether the witness had a motive for not telling the truth.

#### Appeals refused

(1) While the case might be a relatively narrow one, when the information from police control was put together with what P had learned when checking details after the initial stop, P had reasonable grounds upon which to exercise the power under [s.23\(2\)](#) of the 1971 Act, *HM Advocate v B [2013] HCJ 71, 2013 S.L.T. 810* and *HM Advocate v McAughy*, High Court of Justiciary, 17 July 2013, unreported, distinguished.

(2) In the context of the sheriff's charge as a whole, the jury would have well appreciated that the reference to motive was part of a list of possible factors and would not have regarded it as implying that C's evidence fell to be placed under greater scrutiny as being evidence from someone with the obvious motive of wishing to escape conviction.

### R. v Mohammed (Taswir) [2013] EWCA Crim 901

**Subject:** Criminal procedure **Other related subjects:** Criminal evidence; Criminal law

**Keywords:** Admissibility; Cannabis; Exclusion; Possession with intent to supply; Prejudice

**Summary:** A conviction for possession of cannabis with intent to supply was unsafe where inadmissible evidence of contemporaneous dealing in heroin, which



was not the subject of a charge on the indictment, had been placed before the jury.

**Abstract:** The appellant (M) appealed against his conviction for possession of cannabis with intent to supply. Police had searched M's address, and found bags of measured quantities of cannabis, digital scales, a cannabis grinder and two deal lists with M's fingerprints on them. The deal lists consisted of names with numbers alongside them. Some entries were labelled "H", which had much higher figures alongside them.

During a search of the home of M's brother, a passport with M's name and £17,000 in cash was found. At trial an expert on the methods of drug dealing gave evidence that "H" was often an abbreviation for heroin, which was consistent with the higher values on the lists, and the high sum of money found. M's case was that: he had bagged the drugs so he knew how much he was smoking; he must have touched the deal lists accidentally, and that the cash was payment for helping his brother to sell his car.

M's applications under the [Police and Criminal Evidence Act 1984 s.78](#) to exclude the evidence of the cash, deal lists and expert opinion were refused as they were held to be relevant to dealing. No application was made to rule the evidence inadmissible. There had been no discussion of redacting the deal lists at trial. When summing up, the recorder said that the evidence might have been relevant for the supply of cannabis, but that the jury could not come to the conclusion that, because M dealt heroin, he was therefore guilty of the cannabis offence. The issue was whether the heroin evidence was relevant to the charge when there had been no count of supplying heroin on the indictment.

#### **Appeal allowed.**

The evidence was not admissible as to propensity and the prejudicial effect of allowing it to be admitted was obvious. The recorder's summing up could not cure the mischief. He had told the jury that they could consider the cash and lists as relevant if M's explanation was untrue and his behaviour was only explained by the fact that he was continuing to deal in cannabis and other drugs. That was how the case had been permitted to be put to the jury.

Although there had been powerful evidence against M, the jury had considered unfairly prejudicial evidence that was not directly admissible. It could not be said that an assessment of the admissibility of the contemporaneous heroin dealing, or the proper consideration of its evidence of propensity, would not have impacted upon the jury. The conviction was not safe.

#### **HM Advocate v B** **HM Advocate v W**

#### **Also known as:**

**HM Advocate v PB**[2013] H CJ 71; [2013 S.L.T. 810](#); [2013 S.C.L. 592](#)

**Subject:** Criminal evidence **Other related subjects:** Police

**Keywords:** Admissibility; Controlled drugs; Covert surveillance; Detention; Police interviews; Scotland; Search; Suspicion

**Summary:** The question whether information received by a constable would constitute reasonable grounds for suspicion that a person was in possession of a controlled drug in terms of the [Misuse of Drugs Act 1971 s.23\(2\)](#) depended on that information being matters of fact, and the necessary suspicion was an inference which could be drawn from these facts; someone else's suspicion, based on information which was not shared with the arresting or detaining officer would not do.

**Abstract:** B, indicted on three charges of contravening the [Misuse of Drugs Act 1971 s.4\(3\)\(b\)](#), lodged two minutes objecting to the admissibility of any evidence arising from a police surveillance operation and evidence of statements made during police interviews. A known associate of B had been observed by a team of undercover police officers (U) entering a vehicle carrying a package which was suspected to be controlled drugs.

He thereafter was observed to park next to B's van and converse with him through an open window. U believed that the package might have been passed to B and instructed uniformed officers (P) to detain him on the basis that there might be a controlled drug



within his vehicle. P detained B under s.23(2) of the 1971 Act and searched his van, finding a number of sealed packages resembling controlled drugs, which were ultimately revealed to be diazepam. B was subsequently detained under the [Criminal Procedure \(Scotland\) Act 1995 s.14](#). He was interviewed twice in relation to the finding of the diazepam in his van, and on a further occasion in relation to the finding of controlled drugs in his home and business premises. On neither occasion did B consult with a solicitor prior to the interview.

### **Minutes granted**

(1) The question whether information received by a constable would constitute reasonable grounds for suspicion that a person was in possession of a controlled drug in terms of s.23(2) depended on that information being matters of fact, and the necessary suspicion was an inference which could be drawn from these facts; someone else's suspicion, based on information which was not shared with the arresting or detaining officer would not do, and in the present case, the source of P's information was unknown to them, as was its context, thus B's s.23(2) detention and search were unlawful, and the evidence of the finding of controlled substances in B's vehicle was inadmissible. It followed, and was conceded by the Crown, that B's subsequent detention under s.14 of the 1995 Act was also unlawful.

(2) It was accepted by the Crown that by virtue of the unlawful s.14 detention, evidence of the first two police interviews was inadmissible but evidence of the third interview was also inadmissible as it was clear that the warrants to search B's home and business premises were obtained following, and as a result of, the discovery of controlled drugs in B's van. Opinion, that had it been necessary to make a decision on the challenge to the interviews' fairness, it would have been held that on each occasion that B waived his right to consult with a solicitor, the waiver was voluntary, informed and unequivocal.

## Case Studies

### Case Study 1

A, a young student, was walking to catch a bus one evening when he was stopped by police officers who demanded to search him on suspicion of drugs. The police did not comply with the legal requirements for a lawful search – namely identifying themselves and the police station they were from, explaining the basis for the search or providing A with a reason for their suspicion. When A questioned them, the police responded by handcuffing and assaulting him using CS spray. At the police station A felt he had no option but to accept a caution but instructed a solicitor when he felt unable to let the police wrongdoing go unchallenged and as he realised the caution could seriously limit his career options.

A's solicitor established that the police did not have a **lawful basis to offer A a caution** because when interviewed about the incident A made **no admission** of the offence and further **raised a valid defence** which he could have relied upon at trial had he been prosecuted – namely that the police had not been acting in the lawful execution of their duties when stopping and searching him. A commenced judicial review proceedings and the police quickly backed down, agreeing to expunge the police caution and remove all reference to the arrest from the Police National Computer.

Separately A's solicitor commenced civil proceedings under the Race Relations Act and in false imprisonment and assault seeking damages and also assisted A to make a formal complaint against the police, to ensure that the police officers were held accountable for their actions.

The Metropolitan Police quickly settled the claim for damages with A receiving in excess of £10,000. However A's complaint was not upheld by the Department of Professional Standards whose only criticism of their officers was that they had failed to make a better written record of their reasons for suspecting A. A appealed to the Independent Police Complaints Commission IPCC, who upheld his complaint and recommended disciplinary action against the police officers.

### Case Study 2

B, 19 year old male, was in the company of 2 friends whilst walking past a school in his local area. He and his friends were stopped by 4 officers on suspicion of robbery as the area was linked to recent criminal activity. No detail of any recent incident was given, nor was any description of a suspect provided.

The youths were all searched and nothing was found. B, however, was detained and conveyed to a local police station in order for a strip search to be carried out. Nothing was found.

B made a complaint against the police, arguing that there was no basis for his initial stop and search, as well as the subsequent strip search. The investigating officer found that there was no case to answer and rejected the complaints. B lodged an appeal against this decision with the IPCC who decided that, although there was insufficient justification for the strip search, there was no case to answer in relation to the initial decision to stop and search.

Solicitors instructed by B then sent a letter before action to the police threatening legal proceedings. Although B offered to settle the claim for £4,500, this offer was also rejected out of hand by the police. Lengthy correspondence ensued and B re-iterated his offer to settle the claim in the sum of £4,500 shortly before commencing court proceedings. When this offer was rejected again court proceedings were commenced.

It was only after proceedings in court were lodged that the police finally caved in, paying B the sum of £4,500, together with his reasonable legal costs.

### Case Study 3

Anna Gavenciakova – see report:

[http://www.bournemouthecho.co.uk/news/9282303.Boscombe\\_police\\_apologise\\_for\\_unlawful\\_detainment\\_of\\_woman/](http://www.bournemouthecho.co.uk/news/9282303.Boscombe_police_apologise_for_unlawful_detainment_of_woman/)

### Case Study 4

R, a 29 year old male, was followed by an unmarked police car as he drove to his mother's house one afternoon. On arrival, he was approached by three police officers in plain clothes and was told that the officers wished to search him as the housing estate he was in was "connected with drugs". Although R questioned the legal basis for the search, no justification was provided and he was told that if he





continued to argue he would be placed in handcuffs. An officer then searched him and his vehicle. R was placed in handcuffs in any event. The search was negative.

R's mother then approached and was pushed away by one of the officers. R protested, whereupon he was taken to the floor immediately with significant force. R was then assaulted by officers as he was restrained on the ground before being arrested for a public order offence.

R was later charged with assaulting a police officer and with threatening behaviour. At trial, the officers' conduct was criticised by the magistrates who found that the officers exceeded their powers. Following his acquittal, R sought legal advice and proceedings were commenced against the police force concerned. The case was quickly settled with the police agreeing to pay compensation of £8,500.

### **Case Study 5**

B was in a public area when he was stopped by Metropolitan police who wanted to search him on grounds that they smelt cannabis. B immediately put his hand in his pocket and voluntarily gave up a small package of cannabis. B was not arrested at the scene but asked to accompany officers back to a police station so that his name and address could be established (he had given his correct name and address to police but police were not satisfied as had no ID to confirm this).

At the police station (after police had been able to establish that B was who he said he was) B was handcuffed, arrested for possession of cannabis and transported to another police station to be interviewed. Prior to interview B was dissuaded from having a solicitor represent him. In interview B admitted possession of cannabis and was offered a caution. He was not told the full implications of accepting a caution and was wrongly advised that the caution would only show on a CRB certificate for a period of three years. B accepted the caution but subsequently realised that the caution would need to be declared as part of his application for a green card visa to the United States and may result in a visa being refused.

B's solicitor brought a judicial review challenge to the decision to arrest and caution B. The arrest was unlawful because it was unnecessary – B had been wholly compliant with police. The caution was

unlawful because the police had failed without reasonable justification to follow published ACPO guidance on cannabis use for personal possession, in accordance with which, B should have been offered a cannabis warning (which would not have had the same visa implications).

The police conceded B's claim, expunged his caution and paid compensation for his unlawful arrest and detention. B was able to move forward with his life with a clear criminal record.

### **Case Study 6**

This male (16 years old) was stopped by police on the canal towpath in Camden. The arresting officer was in full uniform and travelling in a marked police vehicle.

In his statement the Officer stated that he saw the male run down the steps from the canal bridge down to the canal towpath. The Officer stated that he knew this male and that he believed the male only ran down the steps when he saw the police car approaching.

The Officer considered this to be reasonable grounds for a stop and search. The Officer exited the vehicle and ran down the steps after the youth. He told the male to stop and asked him to return back up the steps to street level. The male did so voluntarily.

The Officer advised the male that he was going to be searched. The Officer commenced the search there on the street. There were several other youths present when the search was being conducted. Some of these youths were friends of the male and were filming the incident using their camera phones.

A young female stepped forward and told the Officer that the male had sold drugs to her. In his statement the Officer stated that upon hearing this he decided that the best course of action would be to take the male to the police station to carry out a strip search. The Officer grabbed the male by the shoulders and spun him around so that he was facing away from the Officer. The Officer then pushed the male against the canal bridge wall and pulled the male's arms behind his back to handcuff.

At no point did the Police Officer inform the male as to what was going to happen.

The male started to struggle and pulled his arms away from the Officer. The Officer grabbed hold of the male and took him forcefully to the ground. Another Officer came to assist and the 2 police officers held the male down on the ground in order to handcuff him. The male continued to resist and as a result he received





several blows to his back and legs from the two police officers.

The male was arrested and subsequently charged with Obstructing a Constable in the Execution of their Duty.

The male pleaded not guilty and proceeded to trial at the Magistrates Court.

The trial was stopped by the District Judge at the conclusion on the prosecution case following an application of no case to answer by the defence. The Judge stated that as the Officer had used force against the male without informing him of the reasons for doing so beforehand, the Officer could not properly be considered to be acting in the execution of his duty.

The strip search of the male at the police station had a negative result.

court's reasoning was that the officers were entitled to use reasonable force in the execution of their duty. Carrying out a search was part of their duties.

The male was subject to a Suspended Sentence Order for an unrelated offence committed over 1 year previously. This was a 6 week custodial sentence suspended for 2 years.

As a result of being convicted for the public order offence, the Court activated the suspended sentence in full and the male went to prison. It was his first time in custody.

### **Case Study 7**

This male (19 years old) was in the company of friends on a local estate where one of the male's friends lived.

4 Uniformed Police Officers approached the group. Some of the males ran away but the male in question stayed where he was. He was advised by the police officers that he was going to be stopped and searched. The male enquired why he was to be searched. The officers advised that the male was loitering in an area known for drug dealing and that was the reason for the search.

The male was standing on a small wall which was approximately 1 foot high. The police officers told the male to come down off the wall. The male refused stating that there were no grounds to search him and if the police officers wanted to search him anyway then they could do so whilst he was stood on the wall.

The police officers grabbed the male's arms and pulled him down off the wall. The male became agitated and started shouting for help. 3 of the Officers grabbed hold of him and wrestled the male to the ground where he was handcuffed and arrested for a public order offence.

The male was taken to the police station where a full search was carried out. The search was negative.

The male was charged with a Section 4 Public Order Offence – Threatening Words and Behaviour. The police officers claimed that the male was shouting abuse and threats towards them causing them to be in fear of violence.

The male pleaded not guilty and proceeded to trial at the Magistrates Court. All 4 Officers attended and gave evidence against the male. He was convicted. The



## Y-Stop

A stop and search project by young people for young people.

Y-Stop is a collaboration between charities, lawyers, young people, youth workers, community groups and media organisations. It started in 2013 when we began visiting youth clubs, colleges and schools across London to better understand young people's experiences with the police and find out what we could do improve them.

We found out that stop and search is a disempowering, frightening and frustrating experience for young people across the UK. It has a serious impact on communities too; the suspicion, neglect and prejudice they regularly face destroys trust and confidence in the police.

Y-Stop is our solution. Through training and tools it increases young people's confidence and skills to deal with stop and search, reduces the risk of conflict and harm caused by contact with the police. It also improves relationships between young people and the police and increases awareness amongst communities about stop and search. Most importantly it supports young people to deal with these difficult situations in a positive manner.

The youth groups we have worked with have led the whole project, made every decision and designed all of our material as we wanted to create something they could really use. Thanks to the talented members of Fully Focused, Hackney Quest, Octavia Foundation's BASE, SE1 United, Skyway Blue Hut, Waltham Forest YIAG and Youth Futures for their hard work.

For more information on Y-Stop and our resources visit [www.y-stop.org](http://www.y-stop.org)

### Partners



**Y-STOP**  
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