



Ministry
of Defence Police

Freedom of Information Manager

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Our Ref: eCase: FOI 2020/12152

RFI: 306/20

Date: 15 December 2020

[REDACTED]
[REDACTED]
Dear [REDACTED]

FREEDOM OF INFORMATION ACT 2000: MINISTRY OF DEFENCE POLICE: STOP AND SEARCH.

We refer to your email dated 3 November 2020 to the Ministry of Defence Police which was acknowledged on the same date.

We are treating your email as a request for information in accordance with the Freedom of Information Act 2000 (FOIA 2000).

In your email you requested the following information:

“Copies of training materials used to train officers on the use of stop-and-search powers since 27th September 2016.

Where possible, an indication of when these training materials were in use.

Names of any individuals or companies external to the force brought into provide training on the use of stop and search, along with dates they provided this training and number of officers who received it.

By ‘training materials’ I am referring to material such as:

Powerpoint presentations or other slide shows

Videos

Written handouts

Reading lists

(Not an exhaustive list)”

A search for information has now been completed by the Ministry of Defence Police and I can confirm that we do hold information in scope of your request.

Please see the attached documents which are informed by, and supplement, the Authorised Professional Practice for Stop & Search that is published by the College of Policing (see link

provided below). All officers are referred to the Authorised Professional Practice as part of Stop & Search training.

The Ministry of Defence Police have not used external training providers to deliver Stop & Search training.

In relation to some of your request we are applying a Section 21 exemption, as some of the information you have requested is accessible by other means, please see the links below:

<https://www.college.police.uk/News/College-news/Pages/Stop-and-search-APP.aspx>

<https://www.app.college.police.uk/app-content/stop-and-search/?s>

If you have any queries regarding the content of this letter, please contact this office in the first instance.

If you wish to complain about the handling of your request, or the content of this response, you can request an independent internal review by contacting the Information Rights Compliance team, Ground Floor, MOD Main Building, Whitehall, SW1A 2HB (e-mail CIO-FOI-IR@mod.gov.uk).

Please note that any request for an internal review should be made within 40 working days of the date of this response.

If you remain dissatisfied following an internal review, you may raise your complaint directly to the Information Commissioner under the provisions of Section 50 of the Freedom of Information Act. Please note that the Information Commissioner will not normally investigate your case until the MOD internal review process has been completed. The Information Commissioner can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF. Further details of the role and powers of the Information Commissioner can be found on the Commissioner's website at <https://ico.org.uk/>.

Yours sincerely

MDP Secretariat and Freedom of Information Office

Police Officer

You are on patrol at MOD Wethersford when you see a person outside the fence around the emergency gate, gate 6.

They are in possession of a holdall / rucksack and appear to acting suspiciously.

Deal with the situations that you see.

Role Actor

You are a member of the local WAG's '*Wethersford Against Genocide Society*'

Your intention is to breach the security of the establishment by cutting a hole in emergency gate 6 and spray painting the front door of the establishment HQ.

You are in possession of a holdall / rucksack and a pair of bolt-cutters and a can of spray paint.

When you see the police officers approaching, act suspiciously and as if you are about to cut the fence.

When you know they have seen you quickly put the bolt-cutters either in your bag or in your pocket.

When asked by the Police Officers what you are doing tell them your intention.

Use your own personal details and be completely cooperative.



Ministry of Defence Police
Operational Capability Centre

Stop & Search

England & Wales



Diploma in MOD Policing
Lesson Plan

Lesson Title: Stop and Search	Duration: 90 minutes
Unit 2 - Operational Policing Level 1	Target Group: New Entrants
Aim: To enable students to understand and conduct stop and search safely and in accordance with relevant legislation and codes of practice	
Objectives: By the end of this session students will be able to: -	
1	Explain the power to Stop and Search as defined by Section 1 PACE 1984
2	Explain the meaning of 'any place to which the public have access', 'stolen articles', 'prohibited articles' and 'reasonable grounds for suspicion' as it applies to the act
3	Explain how prejudice and bias can affect the judgement of what is 'reasonable grounds for suspicion'
4	Explain the meaning of 'detain' as it applies to the act
5	Explain the essential information that must be given to a person before detaining in order to search
6	Outline the impact of Section 3 Criminal Law Act 1967 and Section 117 PACE 1984 in respect of the lawful use of force when conducting a search
7	Explain the requirements placed on a constable when conducting a search of an unattended vehicle
8	Explain the requirements placed on a constable after conducting a search of a person or an unattended vehicle and the information that must be included on a search form
9	Explain the meaning an encounter under code A of the code of practice
10	Summarise the requirements placed on a constable in relation to the recording of encounters not governed by statutory powers
11	Describe the factors to consider when conducting a search
12	Conduct a safe, thorough and systematic search
Time	Content – including teaching methods, visual aids & resources needed
2 min	<p><u>Resources</u></p> <ul style="list-style-type: none"> • PowerPoint • Classroom • Flipchart and pens • Stop and Search Video <p>Area to be risk assessed and a copy of that risk assessment must be in the classroom, prior to session commencing.</p> <p><u>Maslow</u></p> <p>Students needs or issues to be addressed. Comfort breaks, fire procedures, Health & Safety etc if needed.</p>

Lesson Title: Stop & Search

8 mins	<p><u>Gestalt</u></p> <p>Trainer to inform the students of the aim and objectives / learning outcomes for the session and explain that the session will be run using a mixture of discussion, boardblasts and practical role-plays.</p>
8 min	<p><u>Introduction</u></p> <p>Tell the students the Aim and the Learning Outcomes who you are and why they need to know about stop and search powers</p> <p><u>Review</u></p> <p>Review from last presentation concerning how to Search Individuals and Vehicles</p>
8 min	<p><u>Plenary Discussion</u> LO1 SFJ LO U2 5.1 Discuss the definition of Section 1 stop and search 117 of PACE 1984:</p> <p>‘A Police Constable may detain in order to search any person, vehicle or anything which is in or on a vehicle, in any place to which the public has access, if he or she has reasonable grounds for suspecting that stolen or prohibited articles, or bladed or sharply pointed articles or prohibited fireworks will be found.</p> <p>Discuss / Explain the following terms from the definition: -</p> <p>Police Constable</p> <p>Any constable may exercise this power, whether in uniform or not.</p> <p>Detained LO4 This act gives a constable power to detain a person or vehicle so that a search may be made for ‘stolen, prohibited, bladed or sharply pointed articles, or prohibited fireworks’</p> <p>Any place to which the public have access – any place LO2 includes common land, a highway, street, public car park and may include a shop, cinema, church etc, but they must ne open to the public, or any section of the public at the time and the public must have ready access. ‘Public’ is self-explanatory, a ‘section of the public’ means a ‘part of the public’, provided all members of the public who fit the criteria are allowed in.</p> <p>Stolen articles</p> <p>Does not define ‘stolen articles’, however, a scope of offences relating to stolen goods can be found in the Theft Act 1968, which includes the proceeds of stolen goods.</p>

Lesson Title: Stop & Search

8 min

Prohibited articles

an article is prohibited for the purpose of this part of the act if is: an offensive weapon, made or adapted for use in the course of or in connection with an offence, intended by the person having it with him for such use by him or by some other person. Offences to which the subsection applies are: burglary, theft. Offences under s 12 of the Theft Act 1968 (taking motor vehicle or other conveyance without authority), fraud, criminal damage, firearms, air weapons and crossbows.

You may need to carry out an overview of offensive weapons i.e.

Made for causing injury

Adapted for causing injury

or

Intended for causing injury.

(This will be covered in more detail later in the course)

8 min

Reasonable grounds for suspecting

The principles surrounding reasonable grounds is the same in this legislation as it is in other areas for example s 24 PACE 1984 – power of arrest without warrant for constables. Things that you should consider to ascertain if you have sufficient reasonable grounds, are summarised in the mnemonic 'SHACKS'

Seen

Heard

Actions

Conversations

Knowledge

Smell

LO3

Reasonable suspicion can never be on personal factors alone, generalisations or stereotyping images of certain groups or categories of people as more likely to be involved in criminal activity.

There must be an objective basis for the suspicion, based on facts, information and or intelligence which are relevant to the likelihood of finding stolen or prohibited articles etc....You must have suspicion before a search is made.

(Prejudice and Bias)

Lesson Title: Stop & Search

8 min	<p>Procedure before search</p> <p>LO5</p> <p>If you are detaining someone for the purpose of a search you must inform them of their detention as soon as it begins. Before any search of a detained person or attended vehicle takes place you must take reasonable steps to give the person to be searched or in charge of the vehicle the following information:</p> <ul style="list-style-type: none"> • Your name • If not in uniform warrant card • Legal search power you intend to use • Entitlement to a copy of the search <p>Explanation of the object/ purpose, grounds for suspecting or nature of the power and the fact that an authorisation has been given.</p> <p>Does not matter which order the information is given as long as the information has been clearly given to the person searched, or owner or person in charge of the vehicle. The mnemonic GO-WISELY is designed to help you remember this essential information.</p>
8 min	<p>Get the students to complete this as a knowledge check. Hand out the blank sheets with the mnemonic letters.</p> <p>GO-WISELY</p> <p>Grounds for search</p> <p>Object and purpose of search</p> <p>Warrant card</p> <p>Identity of officer</p> <p>Station to which attached</p> <p>Entitlement to a copy of the search record</p> <p>Legal power used</p> <p>You are detained for the purpose of a search</p>
5 min	<p>Use of Force</p> <p>LO6</p> <p>All stop and searches must be carried out with courtesy, consideration and respect for the person concerned. The co-operation of the person to be searched must be sought in every case, even if the person initially objects to the search.</p>

Lesson Title:

5 min	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 if necessary to conduct a search or to detain a person or vehicle for the purpose of a search.
5 min	<p>Unattended vehicles LO7</p> <p>Force may be used to enter unattended vehicles in order to search but should only be used if unavoidable. After searching an unattended vehicle, or anything in or on it, you must leave a notice in or on the vehicle that it has been searched. The vehicle must also if practicable be left secured. Bear in mind you should exercise caution and bear in mind your personal safety and that of others while searching.</p>
5 min	<p>Procedure after search LO8</p> <p>Once you have completed a search you must make a record of the search at the time of it immediately to the person being searched or the person in charge of the vehicle.</p> <p>You must do this unless there are exceptional circumstances which would make this wholly impracticable i.e. serious public disorder or the searching officer presence is urgently required elsewhere.</p> <p>If no record is made then the person searched must be informed that they may apply for a copy of the record within 3 months and notified which station they should apply. Other information that should be given to the person searched: -</p> <ul style="list-style-type: none"> • The Police Powers of the stop and search and the rights of the public in such situations. • A note of the person's self-defined ethnic background • The registration of the vehicle if it was searched • The object or grounds of the search or authorisation • The identities of officers involved (Terrorism just collar numbers) • If more than one officer searching then identity of all officers engaged
2 min	<p>If person searched refuses or declines to provide details the officer should record a description of the person</p> <p>Encounters LO9</p> <p>An encounter is a request from an officer for someone to account for themselves in a public place.</p>

Lesson Title:

5 min

Factors to consider**LO11**

Searching covers a range of sections, from requiring people to turn their bags or pockets out, to physically searing their clothing yourself.

You can search clothing in a public place, but only outer clothing.

Under S1 PACE 1984 there is no power to require people to remove clothing other than outer coat, jacket or gloves in public place.

Hats and shoes are NOT classed as outer clothing under this legislation.

The mnemonic JOG can help: -

Jacket

Outer coat

Gloves

There is nothing to prevent an officer asking the person voluntarily to remove more than outer coat, jacket or gloves in public, if they are willing to do so, but must be careful to make it clear to the person being searched that they are under no obligation to comply.

A search of persons clothing which cannot be removed must be restricted to superficial examination of outer garments. This does not prevent you from placing your hand inside the pockets of the outer clothing or feeling the inside of collars, socks and shoes if this is reasonably necessary in the circumstances.

Searches involving exposure of intimate parts of the body must not be conducted as a routine extension of a less thorough search. Exposure of intimate parts of the body can only be carried out at a near by police station or another nearby location which is out of public view. They cannot be carried out in a police vehicle.

LO10

You should always seek the co-operation of the person to be searched. The person may voluntarily produce the article you are searching for, but be aware that even when done so voluntarily this would still be regarded as a search under PACE and will required to be recorded. There is no such thing as a voluntary search, all searches are recordable. You must not search a person even with their consent where no power to search exists in the first instance.

If they refuse to allow a search, this would be an undesirable situation and you should do your best to persuade the person.

You can use force to search but only if it has been established that the person is unwilling to co-operative or resists.

Disproportionate use of force may amount to a violation of Article 3 of the European Convention of Human Rights.

Lesson Title: Stop & Search

10 min

Practical: -**LO 12**

See Scenario for Practical document in Resource folder.

3 min

Re-visit Aim & Outcomes

Trainer to re-visit the session and ensure that all outcomes have be met.

End of Session



Ministry of Defence Police
Operational Capability Centre

Stop and Search

England & Wales



Diploma in MOD Policing
Student Notes

Introduction

Stop and search is possibly one of the most controversial powers that the police in this country possess.

A look at the following circumstances may help to understand why we have these powers.

A bottle of vodka is stolen from the Spar store in the married quarters estate adjacent to the establishment.

The offender is seen by a member of staff and runs off.

The police are called and the sales assistant gives the police officers a description of the offender.

The description is of a white male, 1.9 metres tall, wearing blue jeans and a grey sweatshirt. If the police see someone matching this description, what options are open to them?

Without the stop and search powers of Section 1 of the Police and Criminal Evidence Act (PACE) 1984, police officers would not have been able to search the person, and may have had to resort to the more intrusive action of making an arrest.

If the person had no involvement in the offence, what might their perception of the police be?

The introduction of stop and search powers allows police officers to avoid unnecessary arrests by, as in the above scenario, searching the person for the stolen property and eliminating that person from the investigation at an early stage.

There are nearly 20 different pieces of legislation which give the police powers to stop and search vehicles and/or members of the public without the need to make an arrest.

They range from searching for controlled drugs (Misuse of Drugs Act 1971), searching for anything which may constitute evidence that he/she is a terrorist' (Terrorism Act 2000) to searching for evidence of wildlife offences (Wildlife and Countryside Act 1981).

Principles governing stop and search

Code A of PACE Codes of Practice governs the exercise by officers of statutory powers to stop and search a person or vehicle without first making an arrest. You should familiarise yourself with Code A and the notes for guidance.

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

The Equality Act 2010 makes it unlawful for officers to discriminate because of one of the 9 'protected characteristics' which are sex, race (including 'colour', 'nationality', and 'ethnic or national origins') religion, age, disability, sexual orientation, marriage or civil partnership, pregnancy and maternity and gender reassignment when using their powers.

The intrusion on the liberty of the person stopped or searched must be brief and detention for the purposes of a search must take place at or near the location of the stop. This is explained in full later.

If these fundamental principles are not observed, the use of powers to stop and search may be drawn into question. Failure to use the powers in the proper manner reduces their effectiveness. Stop and search can play an important role in the detection and prevention of crime, and using the powers fairly makes them more effective.

The primary purpose of stop and search is to enable officers to allay or confirm suspicions about individuals without exercising their power to arrest. Officers may be required to justify to their supervisory officer (s) or to a court, the use or authorisation of such powers, in relation to both individual searches and the overall pattern of their activity in this regard.

Any misuse of the powers is likely to be harmful to policing and lead to mistrust of the police.

Officers must also be able to explain their actions to the member of the public searched. The misuse of these powers can lead to disciplinary action.

What does this mean for you?

The work of the modern police service is demanding, but the power to conduct stops and searches effectively is vital and supports the Human Rights agenda by minimising the impact upon individuals.

These notes concentrate on the key areas of legislation only in relation to Section 1 PACE 1984.

It considers the aspect of searching individuals using Section 1 PACE 1984 and other powers in a much wider context, for example, community sensitivities, human rights, health and safety, risk assessment, securing evidence and the general practicalities and considerations when conducting a search.

Stop Search Legislation - Section 1 Police and Criminal Evidence Act (PACE) 1984

In broad terms, Section 1 PACE provides that:

'A police constable may: -

- **detain** in order to
- **search** any **person, vehicle** or
- anything which is in or on a vehicle,
- in any **place to which the public has access,**
- if he or she has **reasonable grounds for suspecting** that
- **stolen or prohibited articles,** or
- **bladed or sharply pointed articles** or
- **prohibited fireworks** will be found

Any such article found during a search may be 'seized'.

The words in bold are the important words in the definition.

We will look at each word, but not necessarily in the order that they appear. It is important to understand who and what we can stop and search and what gives us the grounds to be able to do so before we move onto looking at where we can conduct a search and the procedures involved in carrying out such a search.

Police constable

Any constable can exercise this power, whether in uniform or not. However, if in non uniform the officer must show their warrant card. Non uniformed constables can search vehicles provided they are already stopped. If it is necessary to stop a vehicle, then a constable in uniform must do this, as the power to stop motor vehicles does not extend to non uniformed officers.

Detain

The Act gives a constable power to detain a person or vehicle so that a search may be made for 'stolen, prohibited, bladed or sharply pointed articles, or prohibited fireworks'. When we talk about stop and search, the word 'stop' is in relation to detaining a person.

The concept of 'detaining' someone under stop and search legislation can cause difficulties. This is probably because the word 'detain' is used in other areas of police work, for example, a custody officer authorising a prisoner's detention, and because detaining someone is very close to arresting them.

The major difference between detaining a person and arresting them is that detain powers allow an officer to 'hold' people to carry out a procedure. In this case, the procedure you are carrying out is a search. When people are arrested they are detained to allow the investigation of an offence.

The use of the word 'hold' here is not used in the physical sense, although the Act does give you the power to use reasonable force where necessary in order to conduct a search and even with a compliant person you will probably take hold of them during the search. 'Hold' can simply mean that for the time you are engaged with that person for the purpose of a stop and search, they are no longer at liberty to go on their way about their own business.

When considering stopping and detaining a person for a search you must have reasonable grounds to suspect they are carrying stolen or prohibited articles, bladed or sharply pointed articles or prohibited fireworks before you detain them. There is no power to detain a person in order to find grounds for a search (discussed later).

In certain circumstances you may have reasonable grounds to detain someone intending to search them, but when you speak to them they provide an innocent explanation. In this case, the initial detention would have been lawful. If you continued to detain them after the explanation had been provided, the continued detention would be unlawful. If your detention for searching is not lawful and reasonable, you may also breach Article 5 of the European Convention on Human Rights – the right to liberty and security.

The intrusion on the liberty of the person stopped or searched must be brief, and the length of time for which a person or vehicle can be detained must be reasonable and not extend beyond the time taken for the search.

A search of a person in a public place should be completed as soon as possible. If you detain someone for the purposes of a search, you should inform them of their detention as soon as it begins.

Who and what can be detained for the purpose of a search?

A person or a vehicle may be detained for the purpose of a Section 1 search, provided that you have reasonable grounds to suspect that stolen or prohibited articles, bladed or sharply pointed articles and prohibited fireworks will be found and that the person or the vehicle is in a place defined by the Act.

Vehicles

The powers are wide ranging, and apply not only to vehicles, but also to vessels, aircraft and hovercraft. Parliament considered it unnecessary to provide a specific definition, stating that “one would know a vehicle when one saw it”. It is defined by the Oxford English Dictionary as:

‘a means of conveyance, usually with wheels, for transporting people, goods, etc; a car, cart, truck, carriage, sledge, etc; any means of carriage or transport.’

Reasonable grounds for suspecting

Before we look at what items we can search for and how to conduct a search, you need to understand reasonable grounds for suspecting.

Demonstrating ‘reasonable grounds for suspecting’ is the area of legislation that requires the most significant attention, partly because there can never be a hard and fast definition of reasonable grounds that will apply to every situation.

The principles surrounding reasonable grounds is the same in this legislation as it is in other areas, for example, Section 24 PACE 1984 – power of arrest without warrant for constables.

However, research has produced strong evidence to suggest that in many cases grounds for stopping and searching have not been reasonable and that this area still causes difficulty for officers.

Reasonable grounds for suspicion depend on the circumstances in each case.

There must be an objective basis for that suspicion, based on facts, information, and or intelligence which are relevant to the likelihood of finding **stolen or prohibited articles or bladed or sharply pointed articles as well as prohibited fireworks**, (explained later).

It must be emphasised you must have this suspicion before a search can be made.

Searches are not lawful if they are made in order to obtain your reasonable grounds for suspecting you will find such an item.

Reasonable suspicion can never be supported on the basis of personal factors alone, without reliable supporting intelligence or information or some specific behaviour by the person concerned.

For example, a person's race, age, appearance, or the fact that the person is known to have a previous conviction cannot be used alone or in combination with each other as the reason for searching that person.

Reasonable suspicion cannot be based on generalisations or stereotyping images of certain groups or categories of people as more likely to be involved in criminal activity.

For example a particular item or style of clothing may lead you to assume that a person is a follower of a particular religion or belief, this cannot be considered as reasonable grounds for suspicion and should never be considered as a reason to stop or stop and search an individual.

Reasonable suspicion can sometimes exist without specific information or intelligence and on the basis of some level of generalisation stemming from the behaviour of a person.

For example, if an officer encountered someone on the street at night who is obviously trying to hide an article, the officer may, depending on the other surrounding circumstances, base such suspicion on the fact that the person may be trying to hide a stolen or prohibited item.

However, reasonable suspicion should normally be linked to the accurate and current intelligence or information, such as information describing an article being carried, a suspected offender, or a person who has been seen carrying a type of article known to have been stolen recently from premises in the area.

Searches based on accurate and current legislation or information are more likely to be effective. They are also more likely to be effective, legitimate and secure public confidence when reasonable suspicion is based on a range of factors. Things that you should be considering to ascertain if you have sufficient reasonable grounds, are summarised in the mnemonic 'SHACKS': -

- S** **Seen** - What have you seen, including actions/behaviour?
- H** **Heard** - What have you heard, conversation, alarms, breaking glass etc?
- A** **Actions** - Including what you did, what the person did in response and so on
Did their actions increase or decrease your grounds to search?
- C** **Conversation** - What did you say to them? What did they say to you? Did their reply increase or decrease your grounds to search?
- K** **Knowledge** - What is already known about the individual in terms of intelligence rather than previous convictions? What is the time / location? Is the area a crime hot spot? Has the person been seen or pointed out by a witness?
- S** **Smell** - Any smells that might give rise to the suspicion that drugs may be present?

Note: The above is also used when considering 'reasonable grounds for suspicion' in relation to making an arrest, therefore the last letter 'S' in relation to 'smell' has been included. However, the power to search a person on suspicion of controlled drugs is under the Misuse of Drugs Act 1971 and not Section 1 PACE 1984.

Any one of these may start to give you the reasonable grounds for suspicion. One factor could be enough, but often you will need a combination of circumstances to provide reasonable grounds.

Reasonable grounds can also be based on reliable information or intelligence. An example specifically mentioned in Code A is information that members of a particular group or gang habitually carry weapons. If the gang also wears distinctive clothing or insignia, that distinctive item of clothing or other means of identification may provide you with the reasonable grounds.

What should be remembered is that everything should be considered in context of the nature and article suspected of being carried or located in or on a vehicle.

If you suspect someone on a hunch you cannot explain, you would not have reasonable grounds. A hunch may be the starting point that justifies you keeping people under observation, or speaking to them or to passers-by in order to establish whether or not there are reasonable grounds to search. A good test is to ask yourself is; would an objective third person come to the same conclusion if they looked at all the facts so far?

Nothing in the Codes of Practice affect your freedom to speak to or question a person in the ordinary course of your daily police duties without detaining the person or exercising any element of compulsion. All citizens have a duty to help the police to prevent crime and discover offenders, but this is a civic duty rather than a legal one.

When you are trying to discover whether, or by whom an offence has been committed, you can talk to and question anyone who may be able to offer useful information (subject to certain restrictions in Code C Codes of Practice). If reasonable grounds for suspicion emerge during such an encounter, you can detain and search the person, but you cannot detain a person in order to find grounds for the search.

A person's unwillingness to reply doesn't alter this entitlement to ask questions, nor do they commit an offence if they decide to not answer your questions. Their refusal to answer your questions cannot, on its own, form the basis of your reasonable grounds, you would need other factors. Remember, if you do not have a power of arrest, or a power to detain the person in order to search them with sufficient reasonable grounds, the person is free to leave at will and cannot be compelled to remain with you by force or otherwise.

What items can be searched for?

Section 1 PACE 1984 allows you to search a person or vehicle, or anything in or on a vehicle if you have reasonable grounds to suspect that stolen or prohibited articles, bladed or sharply pointed articles, or prohibited fireworks will be found.

Stolen articles

The Act does not define 'stolen articles.' A scope of offences relating to stolen goods can be found in the Theft Act 1968, which includes the proceeds of stolen goods.

Prohibited articles

An article is prohibited for the purposes of this Part of this Act if it is: -

- (a) an offensive weapon; or
- (b) an article: -
 - (i) made or adapted for use in the course of or in connection with an offence to which this sub-paragraph applies; or
 - (ii) Intended by the person having it with him for such use by him or by some other person

The offences to which the subsection above applies are: -

- (a) burglary
- (b) theft
- (c) offences under section 12 of the Theft Act 1968 (taking motor vehicle or other conveyance without authority)
- (d) fraud (contrary to section 1 of the Fraud Act 2006); and
- (e) offences under section 1 of the Criminal Damage Act 1971 (destroying or damaging property).

Any other articles:

- a) made or adapted for use in the course of or in connection with an offence of: -
 - Burglary
 - Theft
 - Taking motor vehicles or other conveyances without authority
 - Fraud contrary to Section 1 Fraud Act 2006or
- b) intended by the person having it with him, for such use by him or by some other person.

These articles are often referred to as articles used for 'Going Equipped' and can cover a wide variety of things such as duplicate keys, a screwdriver or crowbar to gain entry to premises or vehicles, through to false identification to gain access to a person's home with a view to committing a burglary or theft.

Offences under Section 1 of the Criminal Damage Act 1971

This means any article: -

- a) made or adapted for use in the course of, or in connection with, an offence of criminal damage, or
- b) intended by the possessor for such use by him or some other person.

Examples of reasonable suspicion regarding such articles might be that:

- a spray paint can is being carried with intent to cause graffiti, or
- an etching tool is in the possession of someone who intends to deface a window, or
- a person is holding a brick with the intent to smash a window.

Although Section 1 of PACE 1984 defines the types of Prohibited Articles for which a person or vehicle may be searched, it does not make it an offence to possess such articles.

The offences of possession are mainly covered by other Acts and Sections which will be covered during your training.

Prohibited fireworks

- You may search a person or vehicle for any firework which a person possesses in contravention of a prohibition imposed by the Fireworks Regulations 2004.

You will cover this area in more detail later in your studies, but examples of some of the offences that can be committed are:
- possession of an adult firework (any firework except for a cap, cracker snap, novelty matches, party poppers, serpents, throw-downs and sparklers) by a person under 18 years in a public place
- possession of a Category 4 firework; these are fireworks that are incomplete and / or which are not intended for sale to the general public
- use of an adult firework between the hours of 11pm and 7am (with the exception of 5 November, 31 December, Chinese New Year and Diwali).

Articles with a blade or point

In addition to stolen or prohibited articles, you may also search for bladed or sharply pointed articles covered by Section 139 of the Criminal Justice Act 1988.

This includes anything with a blade or a point, from a knife, screwdriver and chisel to an umbrella with the pointed end sharpened.

Where can the search take place?

A constable may exercise the power to stop and search for stolen, or prohibited articles or bladed or sharply pointed articles as well as prohibited fireworks:

- a) in any place to which at the time when they propose to exercise the power, the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission;

or

- b) in any other place to which people have ready access at the time when they propose to exercise the power but which is not a dwelling.

There are several areas to clarify here.

Any place

'Any place' includes common land, a highway, street, public car park and may include a shop, cinema, church, etc. but they must be open to the public, or any section of the public at the time, and the public must have ready access. i.e. the public in general have access to those premises.

Public or any section of the public

'The public' is self-explanatory. A 'section of the public' means a 'part of the public', even though limited by such factors as numbers, age or sex. Providing all members of the public who fit the criteria are allowed in, 'section of the public' will apply.

Examples include spectators at football matches where any member of the public can buy a ticket to watch the game until all the tickets are sold, but it is limited to a section of the public because there are a maximum number of people allowed to gain entry, and each person will be required to have a ticket for the event.

Similarly, a disco for people under 20 is limited to any member of the public providing they are younger than 20. Those at the disco are a section of the public. A women's action group meeting open to all women would also fall into this category.

Members of private clubs are **not** a section of the public. If the women's action group meeting were only open to members of an association or society, then the meeting would no longer hold a 'section of the public'.

Access on payment or otherwise

So long as the public or a section of the public is allowed to be at a particular place the power exists, whether or not payment is required for them to be there, and whether or not they have actually paid

As of right or by virtue of expressed or implied permission

There are many places where the public have a right to be – most streets, for example. There are also many places to which the public have access, but do not have a right to be. Where there is no right to be in a particular place, the public must have permission to gain access. This permission can be expressed or implied.

'Expressed permission' is permission which has been directly given, for example in the bar of a hotel where a sign says 'bar open to the public'. 'Implied permission' means no direct permission is given but everything about the premises implies that the public have permission to be there. An example is a shop during opening hours. The doors are open and the customers are served by the staff. No sign gives specific permission for the public to enter, but the obvious implication is that they are allowed to be there. This section never applies to dwellings.

People have ready access

Even in situations which are not covered by the definitions above you may still have a power where 'people have ready access' to a particular place. For example, a street on an industrial estate is not a right of way, and there are signs displayed informing the public they do not have permission to be there. However, if there are no physical obstructions or barriers preventing people entering the street you could still use your powers. This section applies if a place is physically accessible to the public. Whether or not people have permission to be there is irrelevant. Again, the important exception to this is dwellings. You cannot use the 'ready access' test to justify entering dwellings.

Dwelling

You can never carry out a Section 1 PACE search in a dwelling. Under this Act you can search people in the gardens or yards attached to dwellings, but only in certain closely defined circumstances. You must have reasonable grounds for believing that:

- the person to be searched, or person in charge of the vehicle, does not reside in the dwelling, and
- the person or vehicle is not at that place with the express or implied permission of a person who resides in the dwelling.

Notice that the Act uses the word '**believing**' and not suspecting as we have previously discussed.

Reasonable grounds to believe will require a much stronger level of objective facts than 'suspecting'.

An example could be that you have completed an address check on the individual found in the garden of a dwelling and found that they do not live there, they do not have a key for the house and are saying that they are accidentally locked out; the occupants are away and a neighbour is telling you that they have never seen this person as a family friend or visitor to the address before.

To what extent can I search a person?

Searching covers a range of actions, from requiring people to turn their bags or pockets out, to physically searching their clothing yourself. There are some important distinctions in how far you can search clothing.

You can search clothing in a public place, but only outer clothing. Under Section 1 PACE 1984 there is no power to require people to remove clothing other than an outer coat, jacket or gloves in public place. Hats and shoes are not classed as outer clothing under this legislation.

An easy way to remember what items you can remove in public is by the mnemonic '**JOG**':

Jacket

Outer coat

Gloves

There is nothing to prevent you asking the person voluntarily to remove more than outer coat, jacket or gloves in public, if they are willing to do so, but you must be careful to make it clear to the person being searched that they are under no obligation to comply.

Other legislation provides powers to remove headgear, facial coverings and footwear in public.

'Power to Search'. Subject to the restrictions on removal of headgear, a person's hair may also be searched in public.

A search in public of a person's clothing which cannot be removed must be restricted to superficial examination of outer garments.

This does not, however, prevent you from placing your hand inside the pockets of the outer clothing, or feeling round the inside of collars, socks and shoes if this is reasonably necessary in the circumstances to look for the object of the search or to remove and examine any item reasonably suspected to be the object of the search.

You may have reasonable grounds where you need to require someone to remove more than an outer coat, jacket or gloves. This can be done, but only out of public view.

You can use police vehicles for this if no intimate parts of the person's body are going to be exposed.

You can do the search at a police station, but wherever you do the search it must always be 'at or nearby' the place where the person was originally detained.

Searches involving 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.

Searches involving exposure of intimate parts of the body can only be carried out at a near by police station or another nearby location which is out of public view (for example, a private office if you were in a nightclub or a store), but they cannot be carried out in a police vehicle.

You have no power to conduct an intimate search under this part of the legislation. An 'intimate search' is a physical examination of a person's bodily orifices other than the mouth.

When taking a person to a place out of public view, the place should be located within a reasonable travelling distance using whatever mode of travel (on foot or by car) is appropriate.

Remember a street, even when empty at the time, does not count as 'out of public view'. If your search is to go beyond removing outer coat, jacket, gloves, headgear or footwear, then the person searching should be of the same sex as the person being searched.

There should be no one present who doesn't need to be there, and no person of the opposite sex present when you remove the clothing, unless the person being searched specifically requests it.

What should you consider when deciding how far a search is going to go?

How far you search must depend on what you suspect is being carried, and by whom. For example, you may see a person slip a knife into their pocket. Providing the person has not had a chance to move it, and you don't suspect they have anything else on them; the only place you could search is the pocket where you suspect the knife to be. At this stage you know exactly what you are looking for and where you suspect it is.

If, however, the person had been out of your sight, even for a short period, the knife could have been moved anywhere. The least intrusive action would be, if possible, to make a quick search of any area where it may have been possible to dispose of the knife. If the knife is not located, then your reasonable grounds to suspect that the item is still on the individual originally seen with the knife still remain. Under these circumstances you can now search the person wherever the knife could be concealed, but not places where it would be impossible to conceal it. Obviously, the smaller the item you are looking for and the less you know about where it is, the further you can search. It is all a question of what is reasonable in each individual situation.

You should always seek the co-operation of the person to be searched. The person may voluntarily produce the article you are searching for, but be aware that even when done so voluntarily this would still be regarded as a search under PACE and will be required to be recorded. There is no such thing as a voluntary search, all searches are recordable. You must not search a person even with their consent where no power to search exists in the first instance.

The other extreme would be a refusal to allow you to search. This is not a desirable situation, and you should do your best to persuade the person to co-operate. You can use force to search, but only if it has been established that the person is unwilling to co-operate or resists. The disproportionate use of force may amount to a violation of Article 3 of the European Convention of Human Rights, the Article preventing torture, inhuman or degrading treatment.

There is no specific power of arrest under Section 1 PACE for refusing to be searched or resisting a search. Whenever you search someone, compliant or resisting, there are many potential threats to your personal safety. Consider these before you start to search someone and be aware of your local search risk assessments.

All stops and searches must be carried out with courtesy, consideration and respect for the person concerned. This has a significant impact on public confidence in the police. Every reasonable effort must be made to minimise the embarrassment that a person being searched may experience.

Unattended vehicles

Force may be used to enter unattended vehicles in order to search but should only be used if unavoidable. After searching an unattended vehicle, or anything in or on it, you must leave a notice in or on the vehicle that it has been searched, (discussed later).

The vehicle must, if practicable, be left secure. If searching unattended vehicles you should exercise caution and bear in mind your personal safety and that of others.

Procedure before search

If you are detaining someone for the purpose of a search you must inform them of their detention as soon as it begins. Before any search of a detained person or attended vehicle takes place you must take reasonable steps to give the person to be searched or in charge of the vehicle the following information:

- your name and the name of the police station to which you are attached (in cases involving terrorism or other specific danger to you as an individual, you need only give your collar number)
- if in non uniform you must show your warrant card
- the legal search power you intend to use, for example, Section 1 PACE
- the fact that they are entitled to a copy of the record
- a clear explanation of:
 - * the object/purpose of the search in terms of the article being searched for, and
 - * your grounds for suspecting possession or in the case of powers which do not require reasonable suspicion, the nature of the power and the fact that an authorisation has been given.

This might seem to be a lot to remember. It does not matter in which order the information is given, so long as it is given clearly to the person who will be searched, or the owner or person in charge of the vehicle that will be searched, before the search begins. The mnemonic GO-WISELY is designed to help you to remember this essential information. You should learn this by heart.

GO-WISELY: -

Grounds for search

Object and purpose of search

Warrant card (if in plain clothes or requested)

Identify of officer

Station to which attached

Entitlement to a copy of the search record

Legal power used

You are detained for the purposes of a search

If, for any reason, the person does not appear to understand what is being said or there is any doubt about their ability to understand English, you must take reasonable steps to bring the necessary information to their attention. If the person has someone with them then the officer must try to establish whether that person can interpret or otherwise help them to give the required information.

Be aware that as a general rule any member of the public should be allowed to observe you carrying out stop and searches as long as the person who is being searched does not object. The dignity and privacy of the individual being searched is of paramount importance and must always be considered.

Procedure after search

Once you have completed a search you must make a record of the search at the time and give a copy of it immediately to the person being searched or the person in charge of the vehicle. You must do this unless there are exceptional circumstances which would make this wholly impracticable; for example in cases of serious public disorder or when the searching officer's presence is urgently required elsewhere.

If a record is not made at the time, you should inform the person searched of their entitlement to a copy of the record if application is made within 3 months, and to which police station they should apply.

When you give the copy of the search record the Code of Practice states that you should also give the person information on police powers of stop and search and the rights of the public in such situations.

The record must be made on the appropriate form provided for this purpose and must include the following information:

- a note of the person's self-defined ethnic background or (if declined) a description
- when a vehicle is searched, its registration number
- the object or purpose of and grounds for the search (or authorisation)
- the identities of officers involved. In cases involving terrorism or personal danger to yourself or family you are only required to identify yourself by number.

If the person refuses or declines to provide any of their details, the officer should record a description of the person.

Where a stop and search is conducted by more than one officer, the identity of all the officers engaged in the search must be recorded on the record.

A record is required for each person or vehicle searched. However, if the person is in a vehicle and both are searched, only one record need be completed if the object and the grounds of the search are the same.

If more than one person in a vehicle is searched, separate records for each search of a person must be made. If only a vehicle is searched, his/her self-defined ethnic background must be recorded, unless the vehicle is unattended

You must record the grounds for making a search briefly, but informatively. In the case of Section 1 PACE searches, explain your reasons for suspecting the person concerned by referring to their behaviour and any other circumstances.

Where officers detain an individual with a view to performing a search, but the need to search is eliminated as a result of questioning the person detained, a search should not be carried out and a record is not required. If you search an unattended vehicle you must leave a notice in or on it recording the fact that it has been searched, and stating where to get compensation if it is damaged. It should also show the name of the police station to which you are attached and from which station to get a copy of the search record.

Some forces use electronic means to make their record of the search. When an officer makes a record electronically and is unable to produce a copy of the form at the time, the officer must explain how the person can obtain a full copy of the record of the stop and search and give the person a receipt which contains:

- a unique reference number and guidance on how to obtain a full copy of the stop or search
- the name of the officer who carried out the stop or search, and the power used to stop and search them.

Self-defined ethnic background

Code A details the procedure for monitoring the ethnicity of the person stopped or searched to the '16+1' system of self defined ethnic background. This is to provide more accurate statistics as to stop and search activities and make the results compatible with the 2001 census. The person should be asked to select one of the five main categories representing broad ethnic groups and then a more specific cultural background from within this group.

The ethnic classification should be coded for recording purposes using the coding system outlined next to this column. An additional 'not stated' box is available but should not be offered to the person explicitly. You should be aware and explain to members of the public, especially where concerns are raised, that this information is required to obtain a true picture of stop and search activity and to help improve ethnic monitoring, tackle discriminatory practice, and promote effective use of the powers.

If the person gives what appears to the officer to be an 'incorrect' answer, the officer should record the response that has been given, but also record their own perception of the ethnic background of every person stopped and this must be done by using the PNC/Phoenix classification system. If the 'not stated' category is used, the reason for this must be recorded on the form.

White W

White – British W1

White – Irish W2

Any other White background W9

Mixed M

White and Black Caribbean M1

White and Black African M2

White and Asian M3

Any other Mixed background M9

Asian A

Asian – Indian A1

Asian – Pakistani A2

Asian – Bangladeshi A3

Any other Asian background A9

Black B

Black – Caribbean B1

Black – African B2

Any other Black background B9

Other O

Chinese O1

Any other O9

Not Stated NS



Section 1 PACE Stop & Search History

The Brixton Riots 1981



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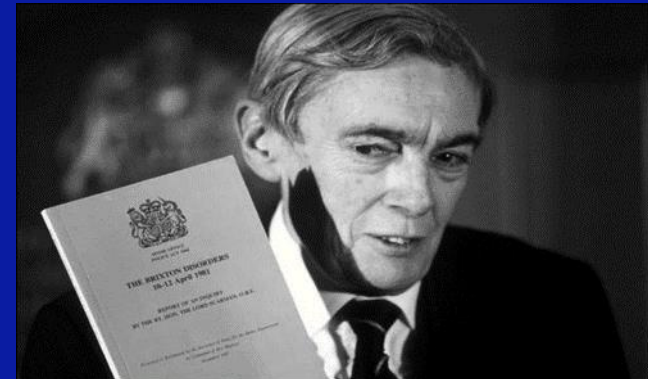


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The Brixton riots 1981

The Metropolitan Police used stop and search powers in operation 'SWAMP' in Brixton in 1981 to target street crime

Lord Scarman in his report was critical of the use of stops and searches in these types of operations





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Stop & Search Time Line

1981

**Civil
Disorder
Brixton
Riots**



1984

**PACE
Becomes
Act of
Parliament
Powers to
Stop &
Search
Introduced**

1993

**Stephen
Lawrence
Murdered
In Eltham
S.E. London**



1999

**Stephen
Lawrence
Inquiry
Report 70
Recommendations
4 Relating to
Stop & Search**



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Stop & Search

The Stephen Lawrence Inquiry Report 1999 made 70 recommendations, four of which relate directly to stops and searches

- Rec. 60: stop and search powers should remain
- Rec. 61: a record must be made of all stops and searches and a copy must be given to the person stopped
- Rec. 62: search records should be monitored and the information should be analysed and published
- Rec. 63: the Police Authorities have a duty to raise public awareness on stops and searches



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Stop & Search

Home Office Analysis of Statistics

Threats to public confidence:

- A disproportionate rate of stops and searches of those from minority ethnic backgrounds
- Poor management of encounters by police officers
- Inadequate explanation by officers to those stopped and searched



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Stop & Search

Home Office Analysis of Statistics

Threats to Legality:

- No reasonable grounds for suspicion
- Generalisations and stereotyping
- Non-recording of searches



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Stop & Search

Home Office Analysis of Statistics

Threats to effectiveness:

- Poor grounds for suspicion
- Inaccurate or out of date intelligence
- Failure to use good intelligence
- Performance Culture – quality vs quantity





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Stop & Search

Home Office Analysis of Statistics

- Those regularly stopped felt victimised by the police
- Experiences of being stopped tended to be negative. Black respondents were least likely to recall positive experiences
- Genuine explanations enhanced people's satisfaction



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Stop & Search

Public Views of Stops and Searches
There were concerns about officers' attitudes.

Some were seen as:

- Patronising
- Arrogant
- Aggressive
- Intimidating

