

Cleveland Police - Procedures Document

Title: Stop and Search

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1.0 Procedure Summary

All stop and search activity conducted by Cleveland officers will be carried out in accordance with the Police and Criminal Evidence Act 1984 and associated Codes of Practice (Code A), and Home Office and Centrex stop and search guidance.

2.0 Scope

To inform and offer guidance to all officers, police staff and the nominated member of the Police Authority in the use and effectiveness of stop and search powers.

3.0 Procedure

The Police and Criminal Evidence Act 1984, Codes of Practice (Code A), outlines the procedures to be followed in relation to the use of stop and search powers.

The Home Office Stop and Search Manual 2005 is a comprehensive guide to the practice of stop and search.

Centrex Practice Advice on Stop and Search 2006, provides clear advice on the rationale and processes for obtaining authorities, the appropriate use of the powers and community impact factors.

Practice Advice on Stop and Search in relation to the Terrorism Act (2007), focuses on the use of stop and search powers under sections 43 and 44 of the Terrorism Act. It gives clear advice on the rationale and processes involved in obtaining authorisations, appropriate use of the powers and community impact factors.

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

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

4. Arrest.

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

All encounters must be used fairly, responsibly, with respect for the people being stopped or searched and without unlawful discrimination. It is essential that people who are stopped by the police are treated politely and fairly, and are given a reason for the stop.

Stop and search powers play an important role in the detection and prevention of crime. However, the quality of the encounter depends not only on results but also on the way that the person stopped perceives the encounter to have taken place.

Use of the National Intelligence Model (NIM) leading to effective officer briefing is essential in using these powers. Using accurate intelligence as the grounds for stopping people, either to account for themselves or to search them, tends to lead to more productive outcomes when using these powers and minimises the need for individual officers to apply discretion.

There is no power to stop or detain a person in order to find grounds for a search.

There is continuing pressure on officers and supervisors to improve performance. However, stop and search powers should be used as an **effective tactic** and not be used to bolster performance indicator figures.

The misuse of the power can lead to disciplinary or civil action.

Stop and account

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

Stop and Search

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

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

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

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

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

Recording

PACE Code A makes clear that conversations or exchanges with members of the public do not constitute an encounter, i.e. seeking general information, witnesses or questioning people to establish background to incidents which have required officers to intervene to keep the peace or resolve a dispute.

Stop and search encounters must be recorded in accordance with PACE Code A.

Making a record of an encounter is not just about completing a form. It is an opportunity to develop good quality community intelligence while ensuring that the officer is accountable for his or her actions from the reason for the stop or search.

There is no power to require the person questioned/searched to provide personal details. If a person refuses to give their self-defined ethnic background, a form must still be completed, which includes a description of the person's ethnic background.

Accurate completion of forms is required for gathering useful intelligence and to fulfil our statutory requirements.

The relevant form must be completed, a copy offered to the person stopped and the original submitted through a supervisor.

The timely submission and processing of accurately completed forms is essential to prevent potential intelligence being lost and the process becoming a record-keeping exercise with little operational value.

All supervisors will ensure that stop and search forms are quality assured and processed on a continual basis and not saved to be processed as a batch. Stop and search forms will be submitted and scanned into the system prior to the end of a tour of duty or if this is not possible within 24 hours.

All references to officers in this section include special constables and police staff designated as Police Community Support Officers under section 38 of the Police Reform Act 2002

Supervision

Supervision is required at all levels of the Police Service. This includes the use of the stop and search powers as an effective, non discriminatory tactic.

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

The National Intelligence and Briefing Model should be used to ensure effective stop and search activity, linking this to crime trends and patterns.

The role of the patrol supervisor, especially the sergeant, is critical in this type of policing activity.

The role is not simply to check the forms that officers submit but includes proactive and intrusive supervision to ensure that good quality encounters are taking place.

Supervisors should ensure that the relevant form is completed when the powers are used. Ensuring that the form is filled in accurately and submitted in a timely manner.

Supervisors should also monitor the forms to provide a picture regarding:

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

Any form that is used when not required, e.g. where a person is first arrested then searched, should be rejected by the supervisor. The supervisor will also provide guidance to the submitting officer.

Supervisors are expected to be active in the supervision of officers when on patrol. They should be able to demonstrate excellence and assess and monitor the way in which officers carry out stop/searches, the manner in which they speak to people and how that activity relates to effective briefings and the intelligence picture.

Supervisors will ensure that all officers receive appropriate training in the use of these powers.

Performance Measures

Supervisors and managers will focus on the **quality** and not the quantity of stop/searches. The number of stop and searches will not be used as a performance indicator.

Training

Probationary training and any refresher training will not be confined to the legal aspects of the Stop and Stop/Search statutory powers. It will also include training in using and explaining forms for recording searches, and examine the impact that the exercise of the power may have on the wider community and in particular ethnic minority groups. This training will reflect the importance placed by the public on the attitude and behaviour of officers conducting the stop or search, and being given a good reason for the stop. The Centrex training package will be used for this purpose.

The method for delivery of the refresher training, when the need is identified, will be a local decision. It is strongly recommended that this is done via interactive training.

In relation to PCSO's, this will focus on 'stop and account' only, pending decisions about the extent to which they are granted further powers than at the time of implementation.

4.0 Forms to carry out procedure

Statutory Power or Street Encounter form.

5.0 Responsibilities

All officers and relevant police staff should ensure that stop and search powers are effectively used and managed to:

- Detect and reduce crime.
- Reduce the fear of crime.
- Promote trust and confidence in the police.
- Increase trust and confidence within the community.

Practice Oriented Package

The aim of this package is to create a model to examine the factors that could affect the level of disproportionality at street patrol, supervisory and management levels.

It is not expected that the work that flows from the package will be an empirical or scientific study of the causes of disproportionality, but is aimed at emphasising good and bad practice leading to a better understanding of the causes of disproportionality that can be fed back to communities through relevant forums.

The process will involve three key areas:

Police Authority

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

ACPO officer with the Crime and Operations portfolio

- The ACPO officer with the Crime and Operations portfolio will be the nominated stop and search champion with a main priority to raise the profile of the stop and search policy at an operational level.
- This officer will ensure quarterly reviews of all stops and search data, are conducted at district level, to check accuracy, disproportionality and

ethical standards.

They should introduce an element of behavioural training into training packages.

BCU Commander

BCU commanders will ensure that:

- quarterly reviews are conducted to evaluate the use of the National Intelligence and Briefing Model in targeting stop and search activities.
- the review includes a check of the custody system to ensure compliance and integrity.
- remedial action is taken in respect of examples of unsatisfactory practice.
- data on stop and search, especially any disproportionality, and examples of unsatisfactory practice, is a standing item on the monthly performance review for district Inspectors.

6.0 Other Policy References