

**CUMBRIA POLICE AUTHORITY**

**Communities Equality and Diversity Committee**

**11 January 2010**

**Agenda Item No 11**

**Report by the Chief Constable**

**1. USE OF STOP AND STOP/SEARCH POWERS WITHIN CUMBRIA**

**BACKGROUND:**

The Authority been regularly updated in relation to the impact/success of 'stops' on criminality within Cumbria. Included with this report is data on the use of powers for the period from April 2009 to September 2009 inclusive, as well as commentary on the use of the tactics in Cumbria.

However, and in conjunction with the appointment of a new Police Authority 'Champion' for Stop and Search, this paper also seeks to remind members of the issues relating to this area of work and the duties of the Police Authority in this regard.

**RECOMMENDATION :**

1. Members are invited to discuss their current overview arrangements in relation to stop and search.
2. Members to note the position in relation to a Stop and Search Policy
3. Members are invited to note the current position and continue to monitor the use of these powers within the force.

**HISTORY**

Prior to the Police and Criminal Evidence Act 1984, there were no formalized arrangements which allowed police officers to search members of the public, without exercising their powers of arrest. Individual forces employed different tactics, including the use of the Vagrancy Act 1824, which gave powers of search 'on suspicion'. Use of these powers, which became known as 'the Sus Laws', is now recognized as being responsible for unrest amongst sections of the population and a contributory factor in race riots that occurred. The Scarman Report of 1981 abolished these powers and laid the foundations of PACE.

Clearly the use of arrest, when an alternative and less intrusive power is available, should not be supported, especially when this might remove the

grounds for any continuing suspicion. The PACE Act formalized searching procedures and the records required. Unfortunately, the legislation has yet to incorporate all search powers into one statute, and there continue to be a myriad of Acts that include a power of search. The most commonly used are as follows;

- Drugs Act
- Firearms Act
- PACE Act (stolen or prohibited articles)
- Criminal Justice and Public Order Act (articles for use in violence)
- Terrorism Act

In most cases, officers exercising a power of stop and search must have reasonable suspicion (that could be clearly explained to a third party) to justify the use of this power. Indeed, this reasonable suspicion should be at the same level as that required for an arrest.

However, the powers of stop and search under the latter two Acts, listed above, are 'preventative' and can be undertaken without suspicion. However, such searches can only be made when appropriate authorizations have been put in place, the first by an officer of Inspector rank or above, and the second by an officer from ACPO.

The Criminal Justice Act 1991 provided for the annual publication of 'Statistics on Race and the Criminal Justice System'. Such Section 95 data, as it is now known, includes details on stop and search, and provides an overview of its use and allows a comparison between forces. Such figures routinely show that the power is used proportionally more against the BME communities than white communities. There continues to be distrust within these communities over the police use of stop and search, with a belief that the 'disproportionate' use of the power amounts to discrimination.

(It is unfortunate that the collation and analysis of Section 95 data result in it being published around 12 months after the end of the period in question. This often results in media coverage and national debates concerning figures which are somewhat out of date and do not relate to the more up to date figures produced by individual police forces and circulated internally).

Following the murder of Stephen Lawrence in 1993, the subsequent enquiry into that incident (the Macpherson Report) published in 1999 made four recommendations around stop and search.

- That powers of stop and search remained unchanged
- That a record should be made when the police stop a person and ask them 'to account for their actions, behaviour, presence in an area or possession of anything' (PACE was amended in 2005 to include this recording requirement of 'stop and account')

- That records of all stops should be monitored and analysed by police forces and police authorities
- That police authorities be given the duty to undertake publicity campaigns to ensure the public are aware of their rights in relation to stop and search provisions (Know Your Rights Campaign was launched as a consequence).

### **RECENT AND IMPEDING CHANGES**

In 2008, the Flanagan Report paved the way for reduced recording requirements in relation to stop and account and, since January 2009, officers are now only required to record the ethnicity of persons encountered in these circumstances. Flanagan's recommendation was also linked to the use of mobile data, and sought to allow forces to significantly reduce bureaucracy by the use of technical solutions to this process.

Such advances are now being extended to stop and search and the Crime and Security Bill, announced for the current parliamentary timetable, includes provisions for reducing the recording requirements for the use of this power.

### **POLICE AUTHORITY RESPONSIBILITIES**

The Association of Police Authorities has published the attached document "Asking the Right Questions" which details advice over their stop and search responsibilities. As well as the above recommendations from the Macpherson Report, the APA lists the following as grounds for individual police authorities monitoring the use of the powers.

- Efficient and effective policing services (ensuring trust, confidence and satisfaction in local policing)
- Race Relations Amendment Act 2000 (duty to eliminate unlawful racial discrimination and promote good race relations)

A checklist for Police Authority action is included in this publication at Section B and provides a useful tool to gauge ongoing actions and arrangements against requirements.

A 'gap analysis' of this checklist immediately identifies the need for an updated force policy on stop and search which has been agreed / approved by the Authority. Work on such a policy is already underway and should be available for consideration at the next meeting of the Communities, Equality and Diversity Committee.

**BASELINE FIGURES:**

Data routinely reported to the Authority over use of stop and search in Cumbria, and the associated levels of potential 'disproportionality', are based on the most recent, reliable population figures. Census data from 2001 have more recently been updated with information provided to the Cumbria County Council by the Office of National Statistics. These 'mid-term estimates' are the ones shown on the attached table. Whilst it is accepted that these figures will still not accurately reflect the true increases in population levels of our BME communities, the more important issue to note, in respect of Cumbria, is that the 'visitor' population of the County is not included, and the levels of disproportionality shown reflect all searches made, against resident, and not actual, population.

**DETAIL:**

Details of the statistics on the use of the powers between April and September 2009 are listed at Appendix 1.

The first table reveals the overall use of the power across the County. Compared to the same period last year, the actual number has risen to 5182 searches, representing an increase of 30%. The biggest proportion of these searches was conducted in North Cumbria where the search rate per 1000 population is approximately twice that in the South and West BCUs.

The subsequent tables relate the use of stop and search to the resident ethnic minority populations of Cumbria, in order to assess the presence of 'disproportionality'.

The 'index' for the use of the powers across the County within 'All Minority Ethnic Groups' continues to reveal apparent disproportionality, albeit at a much reduced level to the same period last year. The updated population counts have had a positive effect in this regard. The concerns referred to, however, are only reflected in the figures for North and South Cumbria. The index for West Cumbria reveals figures below what might be expected for proportional searches of the resident population.

An issue is highlighted when considering the figures for our Black population in South Cumbria, where the number of searches were twice what might be expected. However, the actual number of searches was 8, and there is clearly a danger of relying on such small numbers to assume statistical significance. No issues are identified from the figures in relation to searches for the 'Other Minority Groups' category.

As has previously been reported, the biggest contributory factor to the perceived levels of disproportionality in Cumbria is the usage of the power of stop and

search in relation to the Asian Population. In turn, this is only apparent in the data for North and South Cumbria.

Members have previously been informed about the connections between Cumbria and past terrorist attacks within the United Kingdom. As a result, since the thwarted terrorist attacks in London and Glasgow in the summer of 2007, the Constabulary has made use of powers under S44 of the Terrorism Act, to authorize the stop and search of persons who fit our target profile for this issue. This has led to an increase in the number of checks and more detail on this matter can be provided upon request.

Analysis of the Section 44 data reveals that virtually all the stops of the Asian population in Cumbria are conducted under this legislation. Similarly, the same figures reveal the bulk of these stops are in North and South Cumbria on the motorway network. This, therefore, provides one explanation for the apparent disproportionality reflected in the data.

However, since 6<sup>th</sup> July 2009, the necessary authorization for such Section 44 searches has not been renewed. If the above explanation is a true reason for previous disproportionality, it is anticipated that future figures will show a decrease in numbers.

#### Stop and Search and Arrest

One measure of the success of stop and search is the percentage that leads to arrest. Such statistics are included in the Section 95 data and reveal that the national average for this indicator in 2007/8 was 11%.

Cumbria's measure in this regard has remained at 11% for the last three years suggesting a level of success in line with the national picture. Indeed, percentages for our 'family of forces' reveal very similar figures.

However, it is worth noting that Force's averages do vary from Leicestershire at 6% through to Cheshire at 24%.

#### Stop and Account

Appendix 2 contains figures for stop and account, and reveals a downward trend of recording, since a peak in 2007/8.

This is actually a national phenomenon, and has been extenuated since January 2009, when the reduced recording requirements were introduced. It is believed that officers may have perceived a reduced importance of the process.

In Cumbria, there is also a complication of ensuring that stop and accounts, undertaken as part of a successful strategy to combat anti-social behaviour

caused by young people, are included in the overall figures. Steps have now been taken to address this issue, and future figures should reflect a significant increase.

**CONCLUSION:**

The use of stop and search powers by the police remains a subject that causes no public disquiet in Cumbria, and it continues to be a valuable tactic to prevent and detect crime. Indeed, during the past quarter, no issues have been identified from the Public Complaints Data.

The effect of the use of this power on criminality remains significant. The result is that officers continue to target offenders effectively, with use of the powers leading to the recovery of illicit substances, weapons, stolen property, and the arrest of individuals. It has led to the confiscation of criminal assets, such as money destined for the purchase of drugs. It acts as a deterrent to offenders, helping us to keep Cumbria a safe place to live and work, and it contributes to the national efforts to counter terrorist activity.

**C Mackey**  
**Chief Constable**

**Human Rights Implications:**

These are implicit in the body of the report.

**Race Equality / Diversity Implications:**

These are implicit in the body of the report.

**Risk Management Implications:**

None identified

**CUMBRIA STOP ONLY FIGURES**

	Apr-Jun 06	Jul-Sep 06	Oct-Dec 06	Jan-Mar 07	2006/07 Year Total
North	476	908	1434	1012	<b>3830</b>
South	2404	2450	2821	3629	<b>11304</b>
West	620	536	1216	1192	<b>3564</b>
<b>TOTAL</b>	<b>3500</b>	<b>3894</b>	<b>5471</b>	<b>5833</b>	<b>18698</b>

	Apr-Jun 07	Jul-Sep 07	Oct-Dec 07	Jan-Mar 08	2007/08 Year Total
North	1053	1240	737	831	<b>3861</b>
South	3514	3489	3059	2984	<b>13046</b>
West	1096	1090	1079	864	<b>4129</b>
<b>TOTAL</b>	<b>5663</b>	<b>5819</b>	<b>4875</b>	<b>4679</b>	<b>21036</b>

	Apr-Jun 08	Jul-Sep 08	Oct-Dec 08	Jan-Mar 09	2008/09 Year Total
North	841	1001	1100	744	<b>3686</b>
South	2578	1883	1820	1298	<b>7579</b>
West	480	446	223	296	<b>1445</b>
<b>TOTAL</b>	<b>3899</b>	<b>3330</b>	<b>3143</b>	<b>2338</b>	<b>12710</b>

	Apr-Jun 09	Jul-Sep 09
North	1134	1224
South	938	1080
West	309	230
<b>TOTAL</b>	<b>2381</b>	<b>2534</b>

**Stop Search Figures (April 2009 - September 2009)**

**White (April 2009 - September 2009)**

Area	Searches	Population	Per 1000 Population
<b>The Constabulary</b>	<b>5182</b>	<b>486700</b>	<b>10.6</b>
North	2434	152300	16.0
South	1318	172500	7.6
West	1430	161900	8.8

**All Minority Ethnic Groups (April 2009 - September 2009)**

Area	Searches	Population	Per 1000 Population	Index	Difference
<b>The Constabulary</b>	<b>129</b>	<b>10300</b>	<b>12.5</b>	<b>1.2</b>	<b>No Difference</b>
North	67	3200	20.9	1.3	Significantly Higher
South	49	4100	12.0	1.6	Significantly Higher
West	13	3000	4.3	0.5	Significantly Lower

**Black (April 2009 - September 2009)**

Area	Searches	Population	Per 1000 Population	Index	Difference
<b>The Constabulary</b>	<b>18</b>	<b>1500</b>	<b>12.0</b>	<b>1.1</b>	<b>No Difference</b>
North	10	500	20.0	1.3	No Difference
South	8	500	16.0	2.1	Significantly Higher
West	0	500	0.0	0.0	Significantly Lower

**Asian (April 2009 - September 2009)**

Area	Searches	Population	Per 1000 Population	Index	Difference
<b>The Constabulary</b>	<b>92</b>	<b>3700</b>	<b>24.9</b>	<b>2.3</b>	<b>Significantly Higher</b>
North	43	1000	43.0	2.7	Significantly Higher
South	37	1400	26.4	3.5	Significantly Higher
West	12	1300	9.2	1.0	No Difference

**Other Minority Groups (Including Mixed race) (April 2009 - September 2009)**

Area	Searches	Population	Per 1000 Population	Index	Difference
<b>The Constabulary</b>	<b>19</b>	<b>5100</b>	<b>3.7</b>	<b>0.3</b>	<b>Significantly Lower</b>
North	14	1700	8.2	0.5	Significantly Lower
South	4	2200	1.8	0.2	Significantly Lower
West	1	1200	0.8	0.1	Significantly Lower



# **Stop and Search**

## **Asking the Right Questions**

**An APA Guide  
for Police Authorities**

# Stop and Search

## Asking the Right Questions

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## Section A. Overview

### 1. Introduction

Increasing trust and confidence in policing amongst minority ethnic communities is a priority for all police authorities.

However, research shows that minority ethnic communities have less confidence in the police than their white counterparts. This should be of considerable concern to all police authorities when placed against the findings that minority ethnic groups tend to have *more confidence than white people in other aspects of the criminal justice system, namely the courts, judiciary, magistracy, CPS and probation.*<sup>1</sup>

Stop and search, in particular, has long been a contentious issue. It is generally regarded as a useful police tactic in detecting certain types of crime. However, perceived unfairness in the use of stop and search, particularly amongst minority ethnic communities and young people, undermines trust and confidence in policing.

Figures for 2001/2 show that nationally<sup>2</sup>:

- Black people are eight times more likely to be stopped and searched than white people
- Asian people are three times more likely to be stopped and searched than white people.

Police authorities have a critical role to play in:

- rigorously scrutinising the use of stop and search and ensuring that their forces take action to address any racial or other discrimination in the use of stop and search;
- demonstrating to communities that the force is held to account for its use of stop and search; and
- raising communities awareness of their rights when stopped and searched.

### 2. Why should authorities monitor stop and search?

There are four compelling reasons why police authorities should make particular efforts to monitor and closely scrutinise the use of stop and search powers by their forces.

#### ➤ ***Ensuring efficient and effective policing services***

The fundamental statutory duty of every police authority is to ensure an efficient and effective police service. Trust, confidence and satisfaction in local policing is fundamental to policing by consent and to the delivery of efficient and effective policing. Each authority will want to ensure that all its communities have that trust, confidence and satisfaction in order to fulfil its statutory duty.

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<sup>1</sup> *British crime Survey 2000*

<sup>2</sup> *Race and the Criminal Justice System (Home Office 2002)*

### ➤ **Race Relations (Amendment) Act 2000**

Every police authority has a duty under the Act to:

- Eliminate unlawful racial discrimination;
- Promote equality of opportunity; and
- Promote good race relations between people of different racial groups

The authority must also satisfy itself that the force is fulfilling these same duties under the Act. Accordingly, authorities need to monitor police policies and practices, such as stop and search, to identify any differential impact and, with the chief officer, ensure that rigorous steps are taken to address any unjustified discrimination.

### ➤ **Lawrence Report Recommendations**

**Recommendation 62** states that records of stops and searches should be “monitored and analysed by police authorities..... and the information and analysis published”

**Recommendation 63** states that “police authorities should... undertake publicity campaigns to ensure that the public is aware of stop and search provisions and the right to receive a record in all circumstances”.

### ➤ **PACE Code of Practice A- Exercise by Police Officers of Statutory Powers of Stop and Search**

The new PACE Code A (effective from 1 April 2003) states that police authorities and forces must make arrangements for comprehensive statistical records of the use of stop and search to be scrutinised by representatives of the community and to explain the use of powers at a local level.

## **3. What should authorities do?**

Research has shown that stop and search is most effective when used by the police service in a focused and highly intelligence-led way. Also critical is the manner in which officers carry out stops and stop/searches – people expect to be treated fairly and with respect and to be given a credible reason for being stopped. Police authorities will therefore wish to ensure that they address both these elements in holding the force to account for how stop and search powers are used in their area.

Surveys undertaken by the APA Stop and Search Sub-Group suggest that few authorities currently monitor stop and search data other than through the existing best value performance indicators. Authorities will wish to consider:

- how and at what level they can most effectively exercise oversight and scrutiny on stop and search issues, including what should be dealt with by the full authority and what issues can best be tackled by more detailed work at committee/panel/working group level;
- how they are going to involve local communities in this work

**Section B** provides a checklist of eight key areas for police authorities to address with their forces and local communities. **Section C** provides explanatory and guidance note information to help authorities understand and tackle the issues identified in the checklist.

**Further Advice**

For any further help or advice please contact:

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**APA Secretariat  
March 2003**

## Section B - Checklist for Police Authority Action

Issue	Key Questions for Authorities	Guidance Notes
<b>Local Stop and Search Policy</b>	<p>Has the force policy on stop and search been agreed/approved by the police authority?</p> <p>Has this been updated to reflect:</p> <ul style="list-style-type: none"> <li>➤ the new PACE Code A requirements;</li> <li>➤ the Race Relations (Amendment) Act 2000; and</li> <li>➤ the Human Rights Act 1998</li> </ul>	<p>See Note 1</p> <p>See Note 2</p> <p>See Note 3</p> <p>See Note 4</p>
<b>Force and Authority Race Equality Schemes</b>	<ul style="list-style-type: none"> <li>➤ Is Stop and Search a high priority within the Authority and Force's RES? If not, what is the justification for this?</li> <li>➤ How do the authority and force propose to involve communities, including those most affected by stop and search in assessing the differential impact of stop and search policies?</li> </ul>	See Note 3
<b>Training</b>	<ul style="list-style-type: none"> <li>➤ Is the authority satisfied that the force has put in place appropriate arrangements for training officers?</li> </ul>	See Note 5
<b>Supervision</b>	<ul style="list-style-type: none"> <li>➤ Is the authority satisfied that the force has in place arrangements to ensure officers use of stop and search is properly supervised and monitored at all levels?</li> </ul>	Note 6
<b>Force Monitoring and data collection</b>	<ul style="list-style-type: none"> <li>➤ Is the authority satisfied that the force has in place robust systems for collecting, analysing and monitoring data on stop and search to individual officer level?</li> </ul>	Note 7
<b>Authority Monitoring and Scrutiny</b>	<ul style="list-style-type: none"> <li>➤ Does the authority have in place effective arrangements for rigorous scrutiny and oversight of stop and search?</li> </ul>	Note 8
<b>Involving Communities</b>	<ul style="list-style-type: none"> <li>➤ How is the authority going to involve local communities in monitoring stop and search data?</li> <li>➤ How will this be built into the authority's wider consultation/community engagement strategy</li> <li>➤ What will the authority do with the feedback received from communities?</li> </ul>	Note 9
<b>Raising Awareness</b>	<ul style="list-style-type: none"> <li>➤ What is the authority doing on an ongoing basis to raise communities' awareness of their rights when stopped and searched?</li> <li>➤ Is the authority making use of the APA publicity material?</li> </ul>	Note 10

## Section C - Explanatory and Background Notes

### Note 1 – Stop and Search Policy

Every force should have a clear and published policy and strategy on the use of stop and search in its area which should have been **approved** by the police authority. This should now be reviewed and revised in the light of the new Code A.

#### **Key Questions for Members**

Is the force policy compliant with:

- PACE Code of Practice A – see note 2;
- ACPO good practice guidelines – see note 3;
- Human Rights – see note 4; and
- the authority's/force's duty to promote equality and eliminate discrimination
- best practice from research; and
- the nature and style of local policing

Does it include policy on:

- Stops and searches under Section 1 PACE 1984
- Authorisations under Section 60 Criminal Justice and Police Act 1994
- Authorisations under the sections 44 and 45 Terrorism Act 2000.

Does it set out clearly expectations of:

- ACPO team
- BCU commanders
- Frontline supervisors

Does it make clear that:

- officers will be supported where they use the power lawfully and proportionately
- misuse or abuse of stop and search powers will be challenged and subject to disciplinary action, as appropriate

### **Note 2 — New PACE Code A – Code of Practice for the exercise by Police Officers of Statutory powers of Stop and Search**

The use of stop and search powers is governed by a code of practice made under the Police and Criminal Evidence Act 1984 - PACE Code A. The Code has been revised and updated in the light of the Lawrence Report Recommendations and subsequent Home Office research and will come into effect on 1 April 2003. A copy can be found at **Section E** of this guidance.

The new Code A contains a number of significant changes:

- it abolishes so-called "voluntary" searches - *paragraph 1.5*;

- it tightens the rules about the “reasonable suspicion” which an officer must have before carrying out a search and makes clear that a person’s age, race, appearance etc cannot alone constitute reasonable suspicion -*paragraph 2.2.*
- Officers must now give the person searched an explanation of the grounds for their reasonable suspicion - *paragraph 3.8*
- it encourages stop and search to be used in a focused, intelligence-led way – *paragraphs 2.4 to 2.5*
- Officers must complete a search record and give it to the person **at the time** unless there are exceptional reasons which make this wholly impractical (it has been common practice to complete records sometime later) - *paragraph 4.1;*
- The search record must include the self-defined ethnicity of the person searched in accordance with the 16+1 national census categories – *paragraph 4.3*
- **police authorities**, with their forces, must make arrangements for members of the community to scrutinise stop and search data and explain the use of the powers to local communities – *paragraph 5* **See Note 9 below.**

### **Note 3 — Race Relations (Amendment) Act 2000**

Under the Race Relations (Amendment) Act 2000 every authority and force has a statutory duty to eliminate unlawful racial discrimination; promote equality of opportunity; and promote good race relations between people of different racial groups. In addition, both authorities and forces must have in place and regularly review a published race equality scheme.

Police authorities also have a responsibility to ensure that the force meets the general and specific duties. Accordingly, there is an obligation on authorities to monitor and scrutinise police policies and practices — such as stop and search — to identify any differential impact and, with the chief officer, ensure that steps are taken in a rigorous and focused way to address any unjustified discrimination.

Both national and local statistics show that in most police areas, there is clear disproportionality (see Note 8) in the use of stop and search in relation to black and minority ethnic communities. As stop and search therefore has a differential impact, it should therefore feature as a high priority for action in most force and authority Race Equality Schemes.

### **Note 4 – Stop and Search and Human Rights**

Police authorities and forces are bound by the Human Rights Act 1998. Every police authority must ensure that everything it does, that is, all its policies, practices and procedures are compatible with the Act. It also means that police authorities need to be satisfied that the policies, practices and procedures of their forces are human rights compliant.

Under the Human Rights Act, it is **unlawful** for a public authority to act incompatibly with the Convention rights. That means police authorities and forces have:

- a **duty not to infringe** human rights; and
- an **obligation to protect** those rights, in certain circumstances.

An individual who considers that his or her Human Rights have been interfered with by a police authority or police force can take the authority/force to court specifically for

breaching their rights or raise in the courts the breach of their rights as part of any other proceedings e.g. a criminal trial, judicial review, civil proceedings.

Stop and Search is an intrusive power – it deprives someone of their liberty. In accordance with the Human Rights Act 1998, in exercising stop and search powers officers must comply with human rights principles i.e.

**Legality:** actions must be based on clear and publicly available legal authority. 'Action' includes a failure to 'act'.

**Necessity:** Actions must be 'necessary' in a democratic society. Officers must be able to justify any infringement of rights.

**Proportionality:** action taken must be proportionate to the act/problem which the officer is seeking to stop/prevent/mitigate.

**Accountability:** the reasoning behind the action must be demonstrated

**Best information:** any decision must be made against the best information reasonably available at the time.

Stop and search should be undertaken only in a way which complies with the law, including PACE Code A, and when it is the least intrusive option to achieve the purpose. Dignity must always be respected and all actions must be fully accountable - reasoned and recorded.

### **Key Questions for Members**

➤ How is the force ensuring that both policies and officer practices on stop and search are Human Rights compliant?

## **NOTE 5 – Force Training**

The authority will need to satisfy itself that officers at all levels are being trained in the new PACE Code A. In investigating this area, the any committee will wish to liaise with any other committee of the authority which leads on HR/training issues.

Centrex has developed a national training programme on stop and search which has been supplied to all forces for officers to be trained in the new PACE Code A. The package provides a one-day training course for officers and has been developed in a holistic way to support and enhance other areas of policing such as diversity and human rights.

Probationer Constables will receive a 2 day training course but forces will be responsible for training all other officers. A copy of the National Centrex Stop and Search training package has been provided to all authorities in CD-Rom format. This involves distance learning material plus a one day class-room based course but it will be for forces to decide to what extent they make use of the package.

The authority will want to satisfy itself that the force has provided appropriate training to all officers in accordance with the standards recommended by Centrex. Where this is not the case, the authority will want to be satisfied that there are good reasons for the

force not implementing the national training package and that training of an equal standard has been provided.

### ***Key Questions for Members***

- What training is being provided to officers on the new PACE Code A?
- Is this based on the national package produced by Centrex? If not, why not and is training of an equivalent standard being put in place?
- When will the training be completed? Will the training be evaluated? How/when will it be re-visited?
- If the force is only using the distance learning part of the package, how is the force going to monitor whether the training has been done and how effective it has been?
- If the full Centrex package is not being delivered, what are the reasons for this and how can the chief officer assure the authority that all officers have received proper and appropriate training?

## **NOTE 6 — Force Supervision**

Following the Lawrence Inquiry Report the Home Office undertook an extensive programme of research into stop and search (see **Section D** for details of the reports). Key findings included:

### Officer Practice

- Poor management of encounters by police officers
- Inadequate explanation by officers to those stopped and searched.
- No reasonable grounds for suspicion
- Generalisations and stereotyping
- Non-recording of searches.
- Inaccurate or out of date intelligence/Failure to use good intelligence
- Performance culture – a focus on quantity rather than quality

### Public Views and Experiences

- 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.
- Concerns about officers' attitudes. Some were seen as patronising, arrogant, aggressive or intimidating.

Supervisors, particularly front-line supervisors, have a crucial role to perform in

- Checking the legality of officers use of stop and search;
- Monitoring disproportionality and challenging inappropriate use of powers; and
- Identifying and encouraging good practice.

### ***Key Questions for Members***

- How is how the force is monitoring use of stop and search at officer level and the effectiveness of the supervisory arrangements in place?
- To what extent are supervisors challenging inappropriate behaviour?
- What support is being given to supervisors to help them tackle the sorts of issues outlined in the Home Office research findings?

## **Note 7– Information collected by forces on use of stops and stop/search**

All forces should have in place a database or similar resource holding records of stops and searches to meet various requirements including:

- Inclusion of data on stop and search in chief officers annual reports as required by PACE
- Supply of data to the Home Office for publication under Section 95 of the Criminal Justice and Police Act 1994
- Data on the Stop and Search Best Value Performance Indicators
- Management information for frontline supervisors and for force senior management
- Information for police authority monitoring and oversight.

The new PACE Code requirements for authorities and forces to involve local communities in scrutiny and monitoring of stop and search data, mean there is a need for authorities and forces to consider what information can and should be made available.

As well as information required to meet the above needs, other types of information which could usefully be collected include:

- Details of officer carrying out search
- Details of location to pin point on a map
- Details of Supervisor who checked the input form
- Details of actions taken by supervisor:-
  - No Further Action as stop/search compliant with codes of practice and the Law
  - Advice to Officer on form completion
  - Verbal Warning to officer
  - Training need identified
  - referred to professional standards department
  - referred to divisional commander
- A built in indicator to flag disproportionality
- Details of Stops as a result of preplanned Policing Operations

### ***Key Questions for Members***

- Is the force considering reviewing what data is collected and held on stop and search in the light of the changes?
- What information should authorities and forces share with local communities and can force systems provide this?

## **Note 8 – Authority Monitoring and Scrutiny**

Authorities will wish to discuss and agree with the force what regular monitoring and scrutiny will be undertaken and what information is required at full authority level and what information should be subject to more detailed examination at committee/working party level.

Authorities are already required to monitor and publish force performance against the following best value performance indicators and to compare the performance of their force both nationally and with their most similar families:

- Number of PACE stop/searches of white persons per 1000 population and % leading to arrest (BVPI 138)
- Number of PACE stop/searches of minority ethnic persons per 1000 population and % leading to arrest (BVPI 139)

However, these indicators give only a limited picture of the use of stop and search. **The Lawrence Report and Home Office research both strongly recommend that authorities should monitor more comprehensively and rigorously the use of stop and search in their areas.**

### **Key Questions for Members**

#### **Force Activities**

- What information is available about patterns of stop and search at force and BCU level? Does this include
  - trends over time; and
  - comparisons with national and most similar forces/BCUs figures
- What is the extent of disproportionality in the use of stop and search at force and BCU level? How does this compare with other forces/BCUs
- To what extent is stop and search being used in an intelligence-led and focused eg
  - is it producing arrests linked to tackling local crime problems and priorities
  - are grounds for search and grounds for arrest linked
  - are searches/arrests leading to charges/convictions
  - does the geographical pattern of stop and searches reflect local crime patterns
- What information is available about the extent to which stop and search forms are being completed by officers at the time and a record provided to the individual immediately? Members may wish to dip-sample completed stop/search forms (anonymised)

#### **Public Experiences**

- What information is available information (eg from the BCS, local surveys, consultative events) about communities' views/satisfaction with police use of stop and search.
- What information is available about the experiences of local people who have been subject to stop and search, including the manner in which officers conduct such encounters?
- What is the number and nature of complaints arising from stop and search activity? Is appropriate training or other action being taken to avoid recurrences?

The information and data held by forces will vary and authorities will therefore wish to discuss with their forces what information can be provided. It may be that some of this information might be sought on a "one-off" basis to undertake some in-depth scrutiny of the local picture and to establish a clear baseline for future monitoring. Authorities

through their own consultative and community engagement mechanisms may wish to gather information on public experiences and satisfaction.

### **Disproportionality and Discrimination**

Various reasons have been put forward to explain disproportionality:

- racial stereo-typing/ethnic bias in officer decision-making on the street about who to stop and search
- targeting of stops and searches on areas which have high concentrations of people from minority ethnic backgrounds
- populations available for stops and searches include larger proportions of people from minority ethnic backgrounds than resident populations
- under recording of stops and searches by officers for members of the white population

All or any of these reasons may contribute to levels of disproportionality. However, the Lawrence Report was critical of police service attempts to rationalise disproportionality

***“nobody in the minority ethnic community believes that the complex arguments which are sometimes used to explain the figures for stop and search are valid..... attempts to justify the disparities through the identification of other factors, whilst not being seen to vigorously address the discrimination which is evident, simply aggravates the climate of district.”***

The key issue for police authorities and forces is to recognise that the perception and experience of black and minority ethnic communities is that discrimination is a major factor in disproportionality. Authorities and forces need to work together to ensure that where discrimination in the use of stop and search is identified this is tackled rigorously.

## **Note 9 - Involving Local Communities**

In accordance with PACE Code A (section 5), the authority needs to ensure with the force that steps are taken to provide information to, and involve local communities, in scrutiny of the force’s use of stop and search

The authority should:

- Actively seek the views of local communities on stop and search and their experiences and feedback those views to the police.
- Where possible, inform communities and gather their views about planned operations using searches (e.g. use of s60 powers).
- Ensure that Stop and search figures are regularly reported to all consultative groups, Independent Advisory Groups (or any local equivalents) and other community fora.
- involve community members in monitoring the use of stop and search. For example the authority could co-opt members of communities to sit on any authority committee/panel/working group for this purpose. Co-optees could include

- members of RECs
  - representatives of minority communities
  - young people
  - local BPA and GPA members
- Build in questions about the use of stop and search/experiences into any survey's undertaken by the authority or force to establish satisfaction levels in relation to stop and search and police public interactions more generally

## **Note 10 — Raising Communities Awareness of their Rights**

Recommendation 63 of the Lawrence Report said that:

***“Police Authorities be given the duty to undertake publicity campaigns to ensure that the public is aware of “stop and search” provisions and the right to receive a record in all circumstances”***

Authorities will wish to:

- have in place and regularly review arrangements for producing and disseminating publicity material within the local area about an individual's rights when subject to stop and search.
- monitor the effectiveness of the material which is available and seek the views of local people on further steps which can be taken to spread awareness Focused on key groups targeted by the police.
- seek to raise awareness in other ways, for example, feature items in local newspapers or through the local media
- use targeted strategies to penetrate into the key audience – black hairdressers, fast food outlets, clubs/pubs etc – places where young people tend to go.

The APA has produced a range of publicity material which authorities can use for this purpose together with guidance on distribution and dissemination of publicity material – see separate APA Guide for Police Authorities on Publicity and Raising Awareness.

## Section D - Further Useful Information

- The Stephen Lawrence Inquiry Report (*February 1999*)
- Ethnic Minorities' experience of crime and Policing: findings from the British Crime Survey (*Home Office Research Findings 146, 2001*)
- ACPO Guidelines on Stop and Search (*ACPO 2001*)
- Race and the Criminal Justice System – a publication under section 95 of the Criminal Justice Act 1991 (*Home Office November 2002*)
- Arrests for Notifiable Offences and the Operation of Certain Police Powers Under Pace (*Home Office Statistical Bulletin 12/02*)
- PACE Review - Report of the Joint Home Office/Cabinet Review of the Police and Criminal Evidence Act 1984 (*Home Office 2002*)
- Police Stops and Searches: Lesson from a Programme of Research (*Home Office Briefing Note September 2000*)
- The Impact of Stops and Searches on Crime and the Community (*Home Office Police Research Series Paper 127*)
- Upping the Pace? (*Home Office Police Research Series Paper 128*)
- The Views of the Public on Stops and Searches (*Home Office Police Research Series Paper 129*)
- Police Stops, Decision Making and Practice (*Home Office Police Research Series Paper 130*)
- Profiling Populations Available for Stops and Searches (*Home Office Police Research Series Paper 131*)
- Managing the use and Impact of Searches: A review of force interventions (*Home Office Police Research Series Paper 132*)

## **Section E**

### **POLICE AND CRIMINAL EVIDENCE ACT 1984 CODE A**

#### **CODE OF PRACTICE FOR THE EXERCISE BY POLICE OFFICERS OF STATUTORY POWERS OF STOP AND SEARCH Commencement - Transitional Arrangements**

This code applies to any search by a police officer which commences after midnight on 31st March 2003.

#### **General**

This code of practice must be readily available at all police stations for consultation by police officers, detained persons and members of the public.

The notes for guidance included are not provisions of this code, but are guidance to police officers and others about its application and interpretation. Provisions in the annexes to the code are provisions of this code.

This code governs the exercise by police officers of statutory powers to search a person or a vehicle without first making an arrest. The main stop and search powers to which this code applies are set out in Annex A, but that list should not be regarded as definitive . [See Note 1]

This code does not apply to;

(a) the powers of stop and search under;

(i) Aviation Security Act 1982, section 27(2);  
(ii) Police and Criminal Evidence Act 1984, section 6(1) (which relates specifically to powers of constables employed by statutory undertakers on the premises of the statutory undertakers).

(b) searches carried out for the purposes of examination under Schedule 7 to the Terrorism Act 2000 and to which the Code of Practice issued under paragraph 6 of Schedule 14 to the Terrorism Act 2000 applies.

#### **1 Principles governing stop and search**

1.1 Powers to stop and search must be used fairly, responsibly, with respect for people being searched and without unlawful discrimination. The Race Relations (Amendment) Act 2000 makes it unlawful for police officers to discriminate on the grounds of race, colour, ethnic origin, nationality or national origins when using their powers.

1.2 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.

1.3 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.

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

1.5 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, and the search must be in accordance with the relevant power and the provisions of this Code. The only exception, where an officer does not require a specific power, applies to searches of persons entering sports grounds or other premises carried out with their consent given as a condition of entry.

## **2 Explanation of powers to stop and search**

2.1 This code applies to powers of stop and search as follows:

(a) powers which require reasonable grounds for suspicion, before they may be exercised; that articles unlawfully obtained or possessed are being carried, or under Section 43 of the Terrorism Act 2000 that a person is a terrorist;

(b) authorised under section 60 of the Criminal Justice and Public Order Act 1994, based upon a reasonable belief that incidents involving serious violence may take place or that people are carrying dangerous instruments or offensive weapons within any locality in the police area;

(c) authorised under section 44(1) and (2) of the Terrorism Act 2000 based upon a consideration that the exercise of one or both powers is expedient for the prevention of acts of terrorism;

(d) powers to search a person who has not been arrested in the exercise of a power to search premises (see Code B paragraph 1.3a).

### **Searches requiring reasonable grounds for suspicion**

2.2 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 an article of a certain kind or, in the case of searches under section 43 of the Terrorism Act 2000, to the likelihood that the person is a terrorist. 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 stereotypical images of certain groups or categories of people as more likely to be involved in criminal activity.

2.3 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 encounters someone on the street at night who is obviously trying to hide something, the officer may (depending on the other surrounding circumstances) base such suspicion on the fact that this kind of behaviour is often linked to stolen or prohibited articles being carried. Similarly, for the purposes of section 43 of the Terrorism Act 2000, suspicion that a person is a terrorist may arise from the person's behaviour at or near a location which has been identified as a potential target for terrorists.

2.4 However, reasonable suspicion should normally be linked to 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 intelligence or information are more likely to be effective. Targeting searches in a particular area at specified crime problems increases their effectiveness and minimises inconvenience to law-abiding members of the public. It also helps in justifying the use of searches both to those who are searched and to the general public. This does not however prevent stop and search powers being exercised in other locations where such powers may be exercised and reasonable suspicion exists.

2.5 Searches are more likely to be effective, legitimate, and secure public confidence when reasonable suspicion is based on a range of factors. The overall use of these powers is more likely to be effective when up to date and accurate intelligence or information is communicated to officers and they are well-informed about local crime patterns.

2.6 Where there is reliable information or intelligence that members of a group or gang habitually carry knives unlawfully or weapons or controlled drugs, and wear a distinctive item of clothing or other means of identification to indicate their membership of the group or gang, that distinctive item of clothing or other means of identification may provide reasonable grounds to stop and search a person. [See Note 9]

2.7 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 he or she is empowered to search. In that case the officer may stop and search the person even though there would be no power of arrest.

2.8 Under section 43(1) of the Terrorism Act 2000 a constable may stop and search a person whom the officer reasonably suspects to be a terrorist to discover whether the person is in possession of anything which may constitute evidence that the person is a terrorist. These searches may only be carried out by an officer of the same sex as the person searched.

2.9 An officer who has reasonable grounds for suspicion may detain the person concerned in order to carry out a search. Before carrying out a search the officer may ask questions about the person's behaviour or presence in circumstances which gave rise to the suspicion. As a result of questioning the detained person, the reasonable grounds for suspicion necessary to detain that person may be confirmed or, because

of a satisfactory explanation, be eliminated. [See Notes 2 and 3] Questioning may also reveal reasonable grounds to suspect the possession of a different kind of unlawful article from that originally suspected. Reasonable grounds for suspicion however cannot be provided retrospectively by such questioning during a person's detention or by refusal to answer any questions put.

2.10 If, as a result of questioning before a search, or other circumstances which come to the attention of the officer, there cease to be reasonable grounds for suspecting that an article is being carried of a kind for which there is a power to stop and search, no search may take place. [See Note 3] In the absence of any other lawful power to detain, the person is free to leave at will and must be so informed.

2.11 There is no power to stop or detain a person in order to find grounds for a search. Police officers have many encounters with members of the public which do not involve detaining people against their will. If reasonable grounds for suspicion emerge during such an encounter, the officer may search the person, even though no grounds existed when the encounter began. If an officer is detaining someone for the purpose of a search, he or she should inform the person as soon as detention begins.

### **Searches authorised under section 60 of the Criminal Justice and Public Order Act 1994**

2.12 Authority for a constable in uniform to stop and search under section 60 of the Criminal Justice and Public Order Act 1994 may be given if the authorising officer reasonably believes;

(a) that incidents involving serious violence may take place in any locality in the officer's police area, and it is expedient to use these powers to prevent their occurrence, or

(b) that persons are carrying dangerous instruments or offensive weapons without good reason in any locality in the officer's police area.

2.13 An authorisation under section 60 may only be given by an officer of the rank of inspector or above, in writing, specifying the grounds on which it was given, the locality in which the powers may be exercised and the period of time for which they are in force. The period authorised shall be no longer than appears reasonably necessary to prevent, or seek to prevent incidents of serious violence, or to deal with the problem of carrying dangerous instruments or offensive weapons. It may not exceed 24 hours. [See Notes 10-13]

2.14 If an inspector gives an authorisation, he or she must, as soon as practicable, inform an officer of or above the rank of superintendent. This officer may direct that the authorisation shall be extended for a further 24 hours, if violence or the carrying of dangerous instruments or offensive weapons has occurred, or is suspected to have occurred, and the continued use of the powers is considered necessary to prevent or deal with further such activity. That direction must also be given in writing at the time or as soon as practicable afterwards. [See Note 12]

### **Powers to require removal of face coverings**

2.15 Section 60AA of the Criminal Justice and Public Order Act 1994 also provides a power to demand the removal of disguises. The officer exercising the power must reasonably believe that someone is wearing an item wholly or mainly for the purpose

of concealing identity. There is also a power to seize such items where the officer believes that a person intends to wear them for this purpose. There is no power to stop and search for disguises. An officer may seize any such item which is discovered when exercising a power of search for something else, or which is being carried, and which the officer reasonably believes is intended to be used for concealing anyone's identity. This power can only be used if an authorisation under section 60 or an authorisation under section 60AA is in force.

2.16 Authority for a constable in uniform to require the removal of disguises and to seize them under section 60AA may be given if the authorising officer reasonably believes that activities may take place in any locality in the officer's police area that are likely to involve the commission of offences and it is expedient to use these powers to prevent or control these activities.

2.17 An authorisation under section 60AA may only be given by an officer of the rank of inspector or above, in writing, specifying the grounds on which it was given, the locality in which the powers may be exercised and the period of time for which they are in force. The period authorised shall be no longer than appears reasonably necessary to prevent, or seek to prevent the commission of offences. It may not exceed 24 hours. [See Notes 10-13]

2.18 If an inspector gives an authorisation, he or she must, as soon as practicable, inform an officer of or above the rank of superintendent. This officer may direct that the authorisation shall be extended for a further 24 hours, if crimes have been committed, or is suspected to have been committed, and the continued use of the powers is considered necessary to prevent or deal with further such activity. This direction must also be given in writing at the time or as soon as practicable afterwards. [See Note 12]

### **Searches authorised under section 44 of the Terrorism Act 2000**

2.19 An officer of the rank of assistant chief constable (or equivalent) or above, may give authority for the following powers of stop and search under section 44 of the Terrorism Act 2000 to be exercised in the whole or part of his or her police area if the officer considers it is expedient for the prevention of acts of terrorism;

(a) under section 44(1) of the Terrorism Act 2000, to give a constable in uniform power to stop and search any vehicle, its driver, any passenger in the vehicle and anything in or on the vehicle or carried by the driver or any passenger; and

(b) under section 44(2) of the Terrorism Act 2000, to give a constable in uniform power to stop and search any pedestrian and anything carried by the pedestrian.

An authorisation under section 44(1) may be combined with one under section 44(2).

2.20 If an authorisation is given orally at first, it must be confirmed in writing by the officer who gave it as soon as reasonably practicable.

2.21 When giving an authorisation, the officer must specify the geographical area in which the power may be used, and the time and date that the authorisation ends (up to a maximum of 28 days from the time the authorisation was given). [See Notes 12 and 13]

2.22 The officer giving an authorisation under section 44(1) or (2) must cause the Secretary of State to be informed, as soon as reasonably practicable, that such an

authorisation has been given. An authorisation which is not confirmed by the Secretary of State within 48 hours of its having been given, shall have effect up until the end of that 48 hour period or the end of the period specified in the authorisation (whichever is the earlier). [See Note 14]

2.23 Following notification of the authorisation, the Secretary of State may:

(i) cancel the authorisation with immediate effect or with effect from such other time as he or she may direct;

(ii) confirm it but for a shorter period than that specified in the authorisation; or

(iii) confirm the authorisation as given.

2.24 When an authorisation under section 44 is given, a constable in uniform may exercise the powers;

(a) only for the purpose of searching for articles of a kind which could be used in connection with terrorism (see paragraph 2.25);

(b) whether or not there are any grounds for suspecting the presence of such articles.

2.25 The selection of persons stopped under section 44 of Terrorism Act 2000 should reflect an objective assessment of the threat posed by the various terrorist groups active in Great Britain. The powers must not be used to stop and search for reasons unconnected with terrorism. Officers must take particular care not to discriminate against members of minority ethnic groups in the exercise of these powers. There may be circumstances, however, where it is appropriate for officers to take account of a person's ethnic origin in selecting persons to be stopped in response to a specific terrorist threat (for example, some international terrorist groups are associated with particular ethnic identities). [See Notes 12 and 13]

2.26 The powers under sections 43 and 44 of the Terrorism Act 2000 allow a constable to search only for articles which could be used for terrorist purposes. However, this would not prevent a search being carried out under other powers if, in the course of exercising these powers, the officer formed reasonable grounds for suspicion.

### **Powers to search in the exercise of a power to search premises**

2.27 The following powers to search premises also authorise the search of a person, not under arrest, who is found on the premises during the course of the search:

(a) section 139B of the Criminal Justice Act 1988 under which 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; and

(b) under a warrant issued under section s.23(3) of the Misuse of Drugs Act 1971 to search premises for drugs or documents but only if the warrant specifically authorises the search of persons found on the premises.

2.28 Before the power under section 139B of the Criminal Justice Act 1988 may be exercised, the constable must have reasonable grounds to believe that an offence under section 139A of the Criminal Justice Act 1988 (having a bladed or pointed article or offensive weapon on school premises) has been or is being committed. A

warrant to search premises and persons found therein may be issued under section s.23(3) of the Misuse of Drugs Act 1971 if there are reasonable grounds to suspect that controlled drugs or certain documents are in the possession of a person on the premises.

2.29 The powers in paragraph 2.27(a) or (b) do not require prior specific grounds to suspect that the person to be searched is in possession of an item for which there is an existing power to search. However, it is still necessary to ensure that the selection and treatment of those searched under these powers is based upon objective factors connected with the search of the premises, and not upon personal prejudice.

### **3 Conduct of searches**

3.1 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. [See Note 4]

3.2 The co-operation of the person to be searched must be sought in every case, even if the person initially objects to the search. 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 purposes of a search.

3.3 The length of time for which a person or vehicle may be detained must be reasonable and kept to a minimum. Where the exercise of the power requires reasonable suspicion, the thoroughness and extent of a search must depend on what is suspected of being carried, and by whom. If the suspicion relates to a particular article which is seen to be slipped into a person's pocket, then, in the absence of other grounds for suspicion or an opportunity for the article to be moved elsewhere, the search must be confined to that pocket. In the case of a small article which can readily be concealed, such as a drug, and which might be concealed anywhere on the person, a more extensive search may be necessary. In the case of searches mentioned in paragraph 2.1(b), (c), and (d), which do not require reasonable grounds for suspicion, officers may make any reasonable search to look for items for which they are empowered to search. [See Note 5]

3.4 The search must be carried out at or near the place where the person or vehicle was first detained. [See Note 6]

3.5 There is no power to require a person to remove any clothing in public other than an outer coat, jacket or gloves except under section 45(3) of the Terrorism Act 2000 (which empowers a constable conducting a search under section 44(1) or 44(2) of that Act to require a person to remove headgear and footwear in public) and under section 60AA of the Criminal Justice and Public Order Act 1994 (which empowers a constable to require a person to remove any item worn to conceal identity). [See Notes 4 and 6] A search in public of a person's clothing which has not been removed must be restricted to superficial examination of outer garments. This does not, however, prevent an officer from placing his or her 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. For the same reasons, subject to the restrictions on the removal of headgear, a person's hair may also be searched in public (see paragraphs 3.1 and 3.3).

3.6 Where on 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, for example, in a police van unless paragraph 3.7 applies, or police station if there is one nearby. [See Note 6] Any search involving the removal of more than an outer coat, jacket, gloves, headgear or footwear, or any other item concealing identity, may only be made 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. [See Notes 4, 7 and 8]

3.7 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 may be carried out only at a nearby police station or other nearby location which is out of public view (but not a police vehicle). These searches must be conducted in accordance with paragraph 11 of Annex A to Code C except that an intimate search mentioned in paragraph 11(f) of Annex A to Code C may not be authorised or carried out under any stop and search powers. The other provisions of Code C do not apply to the conduct and recording of searches of persons detained at police stations in the exercise of stop and search powers. [See Note 7]

### **Steps to be taken prior to a search**

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

(a) that they are being detained for the purposes of a search

(b) the officer's name (except in the case of enquiries linked to the investigation of terrorism, or otherwise where the officer reasonably believes that giving his or her name might put him or her in danger, in which case a warrant or other identification number shall be given) 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 purpose of the search in terms of the article or articles for which there is a power to search; and

(ii) in the case of powers requiring reasonable suspicion (see paragraph 2.1(a)), the grounds for that suspicion; or

(iii) in the case of powers which do not require reasonable suspicion (see paragraph 2.1(b), and (c)), the nature of the power and of any necessary authorisation and the fact that it has been given.

3.9 Officers not in uniform must show their warrant cards. Stops and searches under the powers mentioned in paragraphs 2.1(b), and (c) may be undertaken only by a constable in uniform.

3.10 Before the search takes place the officer must inform the person (or the owner or

person in charge of the vehicle that is to be searched) of his or her entitlement to a copy of the record of the search, including his entitlement to a record of the search if an application is made within 12 months, if it is wholly impracticable to make a record at the time. If a record is not made at the time the person should also be told how a copy can be obtained (see section 4). The person should also be given information about police powers to stop and search and the individual's rights in these circumstances.

3.11 If the person to be searched, or in charge of a vehicle to be searched, does not appear to understand what is being said, or there is any doubt about the person's ability to understand English, the officer must take reasonable steps to bring information regarding the person's rights and any relevant provisions of this Code to his or her attention. If the person is deaf or cannot understand English and is accompanied by someone, then the officer must try to establish whether that person can interpret or otherwise help the officer to give the required information.

#### **4 Recording requirements**

4.1 An officer who has carried out a search in the exercise of any power to which this Code applies, must make a record of it at the time, unless there are exceptional circumstances which would make this wholly impracticable (e.g. in situations involving public disorder or when the officer's presence is urgently required elsewhere). If a record is not made at the time, the officer must do so as soon as practicable afterwards. There may be situations in which it is not practicable to obtain the information necessary to complete a record, but the officer should make every reasonable effort to do so.

4.2 A copy of a record made at the time must be given immediately to the person who has been searched. The officer must ask for the name, address and date of birth of the person searched, but there is no obligation on a person to provide these details and no power of detention if the person is unwilling to do so.

4.3 The following information must always be included in the record of a search even if the person does not wish to provide any personal details:

- (i) the name of the person searched, or (if it is withheld) a description;
- (ii) a note of the person's self-defined ethnic background; [See Note 18]
- (iii) when a vehicle is searched, its registration number; [See Note 17]
- (iv) the date, time, and place that the person or vehicle was first detained;
- (v) the date, time and place the person or vehicle was searched (if different from (iv));
- (vi) the purpose of the search;
- (vii) the grounds for making it, or in the case of those searches mentioned in paragraph 2.1(b) and (c), the nature of the power and of any necessary authorisation and the fact that it has been given; [See Note 17]
- (viii) its outcome (e.g. arrest or no further action);
- (ix) a note of any injury or damage to property resulting from it;
- (x) subject to paragraph 3.8(a), the identity of the officer making the search. [See

Note 15]

4.4 Nothing in paragraph 4.3 (x) requires the names of police officers to be shown on the search record or any other record required to be made under this code in the case of enquiries linked to the investigation of terrorism or otherwise where an officer reasonably believes that recording names might endanger the officers. In such cases the record must show the officers' warrant or other identification number and duty station.

4.5 A record is required for each person and each vehicle searched. However, 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. 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, the name of the driver and his or her self-defined ethnic background must be recorded, unless the vehicle is unattended.

4.6 The record of the grounds for making a search must, briefly but informatively, explain the reason for suspecting the person concerned, by reference to the person's behaviour and/or other circumstances.

4.7 Where officers detain an individual with a view to performing a search, but the search is not carried out due to the grounds for suspicion being eliminated as a result of questioning the person detained, a record must still be made in accordance with the procedure outlined above.

4.8 After searching an unattended vehicle, or anything in or on it, an officer must leave a notice in it (or on it, if things on it have been searched without opening it) recording the fact that it has been searched.

4.9 The notice must include the name of the police station to which the officer concerned is attached and state where a copy of the record of the search may be obtained and where any application for compensation should be directed.

4.10 The vehicle must if practicable be left secure.

## **5 Monitoring and supervising the use of stop and search powers**

5.1 Supervising officers must monitor the use of stop and search powers and should consider in particular whether there is any evidence that they are being exercised on the basis of stereotyped images or inappropriate generalisations. Supervising officers should satisfy themselves that the practice of officers under their supervision in stopping, searching and recording is fully in accordance with this Code. Supervisors must also examine whether the records reveal any trends or patterns which give cause for concern, and if so take appropriate action to address this

5.2 Senior officers with area or force-wide responsibilities must also monitor the broader use of stop and search powers and, where necessary, take action at the relevant level.

5.3 Supervision and monitoring must be supported by the compilation of comprehensive statistical records of stops and searches at force, area and local level. Any apparently disproportionate use of the powers by particular officers or groups of officers or in relation to specific sections of the community should be identified and investigated.

5.4 In order to promote public confidence in the use of the powers, forces in consultation with police authorities must make arrangements for the records to be scrutinised by representatives of the community, and to explain the use of the powers at a local level. [See Note 19].

## **Notes for Guidance**

### **Officers exercising stop and search powers**

1 This code does not affect the ability of an officer to speak to or question a person in the ordinary course of the officer's duties without detaining the person or exercising any element of compulsion. It is not the purpose of the code to prohibit such encounters between the police and the community with the co-operation of the person concerned and neither does it affect the principle that all citizens have a duty to help police officers to prevent crime and discover offenders. This is a civic rather than a legal duty; but when a police officer is trying to discover whether, or by whom, an offence has been committed he or she may question any person from whom useful information might be obtained, subject to the restrictions imposed by Code C. A person's unwillingness to reply does not alter this entitlement, but in the absence of a power to arrest, or to detain in order to search, the person is free to leave at will and cannot be compelled to remain with the officer.

2 In some circumstances preparatory questioning may be unnecessary, but in general a brief conversation or exchange will be desirable not only as a means of avoiding unsuccessful searches, but to explain the grounds for the stop/search, to gain cooperation and reduce any tension there might be surrounding the stop/search.

3 Where a person is lawfully detained for the purpose of a search, but no search in the event takes place, the detention will not thereby have been rendered unlawful.

4 Many people customarily cover their heads or faces for religious reasons – for example, Muslim women, Sikh men, Sikh or Hindu women, or Rastafarian men or women. A police officer cannot order the removal of a head or face covering except where there is reason to believe that the item is being worn by the individual wholly or mainly for the purpose of disguising identity, not simply because it disguises 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.

5 A search of a person in public should be completed as soon as possible.

6 A person may be detained under a stop and search power at a place other than where the person was first detained, only if that place, be it a police station or elsewhere, is nearby. Such a place should be located within a reasonable travelling distance using whatever mode of travel (on foot or by car) is appropriate. This applies to all searches under stop and search powers, whether or not they involve the removal of clothing or exposure of intimate parts of the body (see paragraphs 3.6 and 3.7) or take place in or out of public view. It means, for example, that a search under the stop and search power in section 23 of the Misuse of Drugs Act 1971 which involves the compulsory removal of more than a person's outer coat, jacket or gloves cannot be carried out unless a place which is both nearby the place they were first detained and out of public view, is available. If a search involves exposure of intimate

parts of the body and a police station is not nearby, particular care must be taken to ensure that the location is suitable in that it enables the search to be conducted in accordance with the requirements of paragraph 11 of Annex A to Code C.

7 A search in the street itself should be regarded as being in public for the purposes of paragraphs 3.6 and 3.7 above, even though it may be empty at the time a search begins. Although there is no power to require a person to do so, there is nothing to prevent an officer from asking a person voluntarily to remove more than an outer coat, jacket or gloves (and headgear or footwear under section 45(3) of the Terrorism Act 2000) in public.

8 Where there may be religious sensitivities about asking someone to remove headgear using a power under section 45(3) of the Terrorism Act 2000, the police officer should offer to carry out the search out of public view (for example, in a police van or police station if there is one nearby).

9 Other means of identification might include jewellery, insignias, tattoos or other features which are known to identify members of the particular gang or group.

### **Authorising officers**

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

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

12 It is for the authorising officer to determine the period of time during which the powers mentioned in paragraph 2.1 (b) and (c) may be exercised. The officer should set the minimum period he or she considers necessary to deal with the risk of violence, the carrying of knives or offensive weapons, or terrorism. A direction to extend the period authorised under the powers mentioned in paragraph 2.1(b) may be given only once. Thereafter further use of the powers requires a new authorisation. There is no provision to extend an authorisation of the powers mentioned in paragraph 2.1(c); further use of the powers requires a new authorisation.

13 It is for the authorising officer to determine the geographical area in which the use of the powers is to be authorised. In doing so the officer may wish to take into account factors such as the nature and venue of the anticipated incident, the number of people who may be in the immediate area of any possible incident, their access to surrounding areas and the anticipated level of violence. The officer should not set a geographical

area which is wider than that he or she believes necessary for the purpose of preventing anticipated violence, the carrying of knives or offensive weapons, acts of terrorism, or, in the case of section 60AA, the prevention of commission of offences. It is particularly important to ensure that constables exercising such powers are fully aware of where they may be used. If the area specified is smaller than the whole force area, the officer giving the authorization should specify either the streets which form the boundary of the area or a divisional boundary within the force area. If the power is to be used in response to a threat or incident that straddles police force areas, an officer from each of the forces concerned will need to give an authorisation.

14 An officer who has authorised the use of powers under section 44 of the Terrorism Act 2000 must take immediate steps to send a copy of the authorisation to the National Joint Unit, Metropolitan Police Special Branch, who will forward it to the Secretary of State. The Secretary of State should be informed of the reasons for the authorisation. The National Joint Unit will inform the force concerned, within 48 hours of the authorisation being made, whether the Secretary of State has confirmed or cancelled or altered the authorisation.

## **Recording**

15 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. Nothing prevents an officer who is present but not directly involved in searching from completing the record during the course of the encounter.

16 Where a vehicle has not been allocated a registration number (e.g. a rally car or a trials motorbike) that part of the requirement under 4.3(iii) does not apply.

17 It is important for monitoring purposes to specify whether the authority for exercising a stop and search power was given under section 60 of the Criminal Justice and Public Order Act 1994, or under section 44(1) or 44(2) of the Terrorism Act 2000.

18 Officers should record the self-defined ethnicity of every person stopped according to the categories used in the 2001 census question listed in Annex B. Respondents 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 in Annex B. An additional "Not stated" box is available but should not be offered to respondents explicitly. Officers 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 (e.g. a person who appears to be white states that they are black), the officer should record the response that has been given. Officers should 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.

19 Arrangements for public scrutiny of records should take account of the right to confidentiality of those stopped and searched. Anonymised forms and/or statistics generated from records should be the focus of the examinations by members of the public.

## ANNEX A SUMMARY OF MAIN STOP AND SEARCH POWERS

### Power Object of Search Extent of Search Where Exercisable Unlawful articles general

Power	Object of Search	Extent of Search	Where Exercisable
<b>Unlawful articles general</b>			
1. Public Stores Act 1875, s6	HM Stores stolen or unlawfully obtained	Persons, vehicles and vessels	Anywhere where the constabulary powers are exercisable
2. Firearms Act 1968, s47	Firearms	Persons and vehicles	Anywhere
3. Misuse of Drugs Act 1971	Controlled drugs	Persons and vehicles	Anywhere
4. Customs and Excise Management Act 1979, s163	Goods: (a) on which duty has not been paid; (b) being unlawfully removed, imported or exported; (c) otherwise liable to forfeiture to HM Customs and Excise	Vehicles and vessels only	Anywhere
5. Aviation Security Act 1982, s27(1)	Stolen or unlawfully obtained goods	Airport employees and vehicles carrying airport employees or aircraft or any vehicle in a cargo area whether or not carrying an employee	Any designated airport
6. Police and Criminal Evidence Act 1984, s1	Stolen goods; articles for use in certain Theft Act offences; offensive weapons, including bladed or sharply-pointed articles (except folding pocket knives with a bladed cutting edge not exceeding 3 inches)	Persons and vehicles	Where there is public access
Police and Criminal Evidence Act 1984,	HM Stores (in the form of goods and	Persons, vehicles and vessels	Anywhere where the constabulary

s6(3) (by a constable of the United Kingdom Atomic Energy Authority Constabulary in respect of property owned or controlled by British Nuclear Fuels plc)	chattels belonging to British Nuclear Fuels plc)		powers are exercisable
7. Sporting events (Control of Alcohol etc.) Act 1985, s7	Intoxicating liquor	Persons, coaches and trains	Designated sports grounds or coaches and trains traveling to or from a designated sporting event
8. Crossbows Act 1987, s4	Crossbows or parts of crossbows (except crossbows with a draw weight of less than 1.4 kilograms)	Persons and vehicles	Anywhere except dwellings
9. Criminal Justice Act 1988, s139B	Offensive weapons, bladed or sharply pointed article	Persons	School premises
<b>Evidence of game and wildlife offences</b>			
10. Poaching Prevention Act 1862, s2	Game or poaching equipment	Persons and vehicles	A public place
11. Deer Act 1991, s12	Evidence of offences under the Act	Persons and vehicles	Anywhere except dwellings
12. Conservation of Seals Act 1970, s4	Seals or hunting equipment	Vehicles only	Anywhere
13. Badgers Act 1992, s11	Evidence of offences under the Act	Persons and vehicles	Anywhere
14. Wildlife and Countryside Act 1981, s19	Evidence of wildlife offences	Persons and vehicles	Anywhere except dwellings

<b>Other</b>			
15. Terrorism Act 2000, s43	Evidence of liability to arrest under section 14 of the Act	Persons	Anywhere
16. Terrorism Act 2000, s44(1)	Articles which could be used for a purpose connected with the commission, preparation or instigation of acts of terrorism	Vehicles, driver and passengers	Anywhere within the area or locality authorized under subsection (1)
17. Terrorism Act 2000, s44(2)	Articles which could be used for a purpose connected with the commission, preparation or instigation of acts of terrorism	Pedestrians	Anywhere within the area of locality authorised
18. Paragraphs 7 and 8 of Schedule 7 to the Terrorism Act 2000	Anything relevant to determining if a person being examined falls within paragraph 2(1)(a) to (c) of Schedule 5	Persons, vehicles, vessels etc.	Port and airports
19. Section 60 Criminal Justice and Public Order Act 1994, <u>as amended by s8 of the Knives Act 1997</u>	Offensive weapons or dangerous instruments to prevent incidents of serious violence <u>or to deal with the carrying of such items</u>	Persons and vehicles	Anywhere within a locality authorized under subsection (1)

## **ANNEX B SELF-DEFINED ETHNIC CLASSIFICATION CATEGORIES**

### **White W**

- A. White – British W1
- B. White – Irish W2
- C. Any other White background W9

### **Mixed M**

- D. White and Black Caribbean M1
- E. White and Black African M2
- F. White and Asian M3
- G. Any other Mixed Background M9

### **Asian / Asian – British A**

- H. Asian – Indian A1
- I. Asian – Pakistani A2
- J. Asian – Bangladeshi A3
- K. Any other Asian background A9

### **Black / Black – British B**

- L. Black – Caribbean B1
- M. Black African B2
- N. Any other Black background B9

### **Other O**

- O. Chinese O1
- P. Any other O9

### **Not Stated NS**