



Home Office

BUILDING A SAFE, JUST
AND TOLERANT SOCIETY

POLICE AND CRIMINAL EVIDENCE ACT 1984 - CODE A

Code of Practice for the exercise by police
officers of statutory powers of stop and search
and recording of police/public encounters

Consultation Draft

March 2002

INTRODUCTION

This draft Code of Practice, under Section 66 of the Police and Criminal Evidence Act 1984, is being published in accordance with the provisions outlined in Section 67 of that Act.

The last PACE Code of Practice (A) for the exercise by police officers of statutory powers of stop and search came into force on 1 March 1999. Since then there have been a variety of legislative changes which have amended the powers of stop and search available to police officers. There has also been a very wide-ranging public debate around the use of the powers, and in particular the question of whether the powers have been exercised by officers in a way which discriminates against members of minority ethnic communities. This debate was brought into focus by the report of the Stephen Lawrence Inquiry, published in 1999, which highlighted the importance of the use of stop and search powers in the context of police/community relations, and which made a number of recommendations in this area designed to ensure they were exercised in a way which would be as effective as possible in reducing crime, but would also promote trust and confidence in policing amongst minority ethnic communities. It is clear that in order to achieve these objectives, stop and search powers must be used in a way that is fair, reasonable, and non-discriminatory. Furthermore research evidence shows that there is a clear link between fairness and effectiveness. In other words, when the powers are used in a way which is likely to increase trust and confidence, then their use is more likely to reduce crime.

This draft Code reflects the work which has been done in response to the Lawrence Inquiry Report, and a range of other issues and concerns which have been expressed regarding stop and search powers. It has been prepared in collaboration with senior police officers, staff associations, police authorities, and a number of independent advisers drawn from a range of diverse organisations and communities. Many of these were drawn from the Lawrence Steering Group, which oversees the implementation of the Home Secretary's Action Plan in response to the Lawrence Inquiry Report, and which has agreed this draft for consultation. The work has included a series of pilots of the relevant Lawrence Inquiry Report recommendations run by the Home Office in 1999/00, which were subsequently fully evaluated with the results published, and a nationwide consultation exercise run by police authorities in Spring 2001.

A copy of this draft Code has been published on the Home Office website at www.homeoffice.gov.uk in both pdf and Word format.

Comments on the draft Code should be sent to the address below by 19 April 2002:

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Following the consultation we may want to publish the results and include responses received. If you do not wish your response to be published, please say so.

SUMMARY OF THE CODE

General

The opening section sets out the purpose of the Code, explains where it should be made available and lists the powers of stop and search to which it is not applicable.

Principles governing Stop and Search

This section outlines the fundamental principles which should govern the use of stop and search powers by police officers. It explains that the primary purpose of the powers is to enable officers to allay or confirm suspicions about individuals without using their powers of arrest. As such, if they are used fairly and in a non-discriminatory fashion they make an effective contribution to the prevention and detection of crime.

1.5 also makes it clear that officers should not search a person where there is no legal power to do so, even if their consent has apparently been given (a so-called “voluntary” search), except when they have given their consent as a condition of entry into sports grounds or other premises.

Explanation of powers to stop and search

Section 2 describes the main powers of stop and search, and the authorisations required for special temporary provisions extending the scope of the powers to be introduced.

2.2-2.5 discuss the concept of “reasonable grounds for suspicion” and emphasises the importance of basing such grounds on a range of factors, most crucially up-to-date and accurate intelligence and information. 2.9-2.11 emphasise that reasonable grounds can cease to exist after a person has been detained in order to carry out a search, in which case the search cannot be carried out. In addition it makes clear that an officer cannot detain a person in order to find grounds and that grounds cannot be found retrospectively after a person has been detained.

2.12-2.18 explain the circumstances in which an authorisation under Section 60 of the Criminal Justice and Public Order Act 1994 can be given, which gives officers the power to stop and search without reasonable grounds for suspicion, and the procedure which must be followed in order to bring the authorisation into force. It also explains the amendment made to Section 60 by the Anti-terrorism, Crime, and Security Act 2001, which allows an authorisation to be made under certain circumstances to give officers a power to remove face coverings. Sections 2.19-2.26 explain the nature of similar authorisations which can be given under Section 44 of the Terrorism Act 2000. 2.27-2.29 explain the powers available to officers to search people found on premises which are being searched.

Conduct of searches

Section 3 sets out the way in which searches should be conducted and the steps which officers must take prior to carrying them out. 3.1-3.2 emphasise the need for the search to be conducted with courtesy and consideration, and that the co-operation of the person being searched must always be sought. 3.4-3.7 outline where the search should take place and the additional conditions governing more thorough

searches in this context. 3.8.-3.11 outline the information which an officer must give to the person being searched prior to the search being carried out.

Recording Requirements

4.1-4.10 set out the requirement for a record to be made of each search, and the information which must be included in that record. It states that a record must be made of the search at the time unless there are exceptional circumstances which make this wholly impracticable. 4.2 obliges the officer to make all records made at the time of the search immediately available to the person who has been searched. The list of the information which must be included in 4.3 includes ethnic background classified by self-definition.

Recording of encounters not governed by statutory powers (4.11-4.18)

4.11-4.18 outline the recording requirements relating to encounters between police officers and members of the public which do not take place under any statutory powers and do not lead to an arrest or a search. This section has been added to the draft Code following the decision of the Home Secretary to accept Recommendation 61 of the Stephen Lawrence Inquiry Report, which was that all “stops” as well as “stops and searches” by police officers should be recorded.

4.11 and 4.12 define the type of encounters which should be recorded. 4.13 lists some occasions in which the requirement is waived, as a record which includes the reason for the stop, the outcome and the self-defined ethnic identity of the person stopped will already be made as part of the procedure involved in this type of encounter. 4.16 lists the information which must form part of the record. 4.18 states that if there is a dispute about the nature of the encounter and whether it should be recorded, a record should be made.

Examination of some hypothetical examples may help to clarify exactly what types of encounters fall under the provisions of this section.

Officers looking for someone asks neighbour if they are at the right address.
No record necessary.

Person in vehicle stopped and asked by officers where he is going, and why.
Record should be made.

Person approached by officer and asked whether he saw an incident which took place at same time in the same area the previous night.
No record necessary.

Officers stop a group of people fighting outside a pub.
No record necessary.

Officers ask the people involved about how it started.
No record necessary.

Two people asked why they are in that particular pub at that time.
Record should be made.

Officers investigating a robbery at a shop ask the owner and those in the shop what happened.
No record necessary.

One of them asks for a record of the encounter.
Record should be made.

Officers ask a person working across the street if he saw anything.

No record necessary.

Officers ask him where he has been for the last two hours, and whether he has been in the shop.

Record should be made.

An officer approaches a known contact and asks whether he knows anything about a series of recent incidents which have taken place locally.

No record necessary.

Monitoring and supervising the use of stop and search powers

Section 5 describes the obligations on supervising officers to monitor the use of stop and search powers. Monitoring procedures should include the checking of records and the examination of them to assess whether any patterns emerge which would give cause for concern. Such monitoring should take place at both local and force level. 5.4 places a duty on forces to involve members of the community in the scrutiny of these records, and to promote understanding of the use of the powers more generally.

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 making an arrest, and also recording requirements related to certain encounters between police officers and members of the public which do not take place under statutory powers. 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, or ethnic origin 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 2.4).

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 acting warily or 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 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 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 also provides a power to demand the removal of face coverings. The officer exercising the power must reasonably believe that someone is wearing the face covering wholly or mainly for the purpose of concealing identity. There is also a power to seize face coverings where the officer believes that a person intends to wear them for this purpose. There is no power to stop and search for face coverings. An officer may seize any face covering 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 face coverings and to seize them under section 60AA of the Criminal Justice and Public Order Act 1994 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 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 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 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.

2.29 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 s23(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.

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. 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 van). 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) 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;
- (b) the legal search power which is being exercised; and
- (c) 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 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 written 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 or (if it is withheld) a description; [See *Note 19*]
- (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 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.

Recording of encounters not governed by statutory powers

4.11 When an officer requests a person in a public place to account for themselves, i.e. their actions, behaviour, presence in an area or possession of anything, a record of the encounter must be completed at the time and a copy given to the person who has been questioned. This does not apply under the exceptional circumstances outlined in 4.1.

4.12 This requirement does not apply to general conversations such as when giving directions to a place, or when seeking witnesses. It also does not include occasions on which an officer is seeking general information or questioning people to establish background to incidents which have required officers to intervene to keep the peace or resolve a dispute.

4.13 When stopping a person in a vehicle, a separate record need not be completed when an HORT/1 form, a Vehicle Defect Rectification Scheme Notice, or an Endorsable Fixed Penalty ticket is issued. It also does not apply when a specimen of breath is required under Section 6 of the Road Traffic Act 1988.

4.14 Officers must inform the person of their entitlement to a copy of a record of the encounter.

4.15 The provisions of 4.4 apply equally when the encounters described in 4.11 and 4.12 are recorded.

4.16 The following information must be included in the record

- (i) the name of the person, or (if it is withheld) a description;
- (ii) the date, time and place of the encounter;
- (iii) if the person is in a vehicle, the registration number;
- (iv) a note of the person's self-defined ethnic background or (if it is withheld) a description; [See *Note 19*]
- (v) the reason why the officer questioned that person; [See *Note 18*]
- (vi) the outcome of the encounter.

4.17 If the person questioned does not wish to provide personal details, there is no power to require him or her to do so. In these instances a form must still be completed.

4.18 A record of an encounter must always be made when a person requests it, regardless of whether the officer considers that the criteria set out in 4.11 have been met. If the form was requested when the officer does not believe the criteria were met, this should be recorded on the form.

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 supervised officers 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. This should include trends and patterns related to the encounters described in 4.11 and 4.12.

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 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 20*]

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 (although it does set out recording requirements related to certain encounters between officers and members of the public which are not governed by statutory powers, as outlined in 4.11-4.18). 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 co-operation 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 *Where there may be religious sensitivities about asking someone to remove a face covering using the powers in section 60AA of the Criminal Justice and Public Order Act 1994, for example in the case of a Muslim woman wearing a face covering for religious purposes, 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. In all cases, the officer must reasonably believe that the person is wearing the item in question wholly or mainly to conceal his or her identity.

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 authorisation 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 or a search is conducted by more than one officer the identity of all the officers engaged in the stop or search must be recorded on the record. Nothing prevents an officer who is present but not directly involved in stopping or 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 requirements under 4.3(iii) or 4.16(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 *The reason to be given in 4.17(v) should be a brief description of why the officer decided to question that particular individual. There is no need for this reason to be linked to any particular piece of legislation or suspicion that any specific offence has been committed.*

19 *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.*

20 *Arrangements for public scrutiny of records should take account of the right to confidentiality of those stopped or 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			
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	A public place, or anywhere in the case of reasonable suspicion of offences of carrying firearms with criminal intent or trespassing with firearms
3. Misuse of Drugs Act 1971, s23	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

(continued overleaf)

ANNEX A SUMMARY OF MAIN STOP AND SEARCH POWERS *continued*

POWER	OBJECT OF SEARCH	EXTENT OF SEARCH	WHERE EXERCISABLE
Unlawful articles general			
6. <i>(continued)</i> Police and Criminal Evidence Act 1984, 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)	HM Stores (in the form of goods and chattels belonging to British Nuclear Fuels plc)	Persons, vehicles and vessels	Anywhere where the constabulary 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 travelling 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
Evidence of game and wildlife offences			
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

continued overleaf

ANNEX A SUMMARY OF MAIN STOP AND SEARCH POWERS *continued*

POWER	OBJECT OF SEARCH	EXTENT OF SEARCH	WHERE EXERCISABLE
Evidence of game and wildlife offences <i>(continued)</i>			
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.
Other			
15. Terrorism Act 2000, s.43	<i>Evidence of liability to arrest under section 14 of the Act</i>	Persons	Anywhere
16. Terrorism Act 2000, s.44(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 authorised under subsection
17. 15. Terrorism Act 2000, s.44(2)	<i>Articles which could be used for a purpose connected with the commission, preparation or instigation of acts of terrorism</i>	Pedestrians	Anywhere within the area of locality authorised
18. Paragraphs 7 and 8 of Schedule 7 to the Terrorism Act 2000	<i>Anything relevant to determining if a person being examined falls within paragraph 2(1)(a) to (c) of Schedule 5</i>	Persons, vehicles, vessels etc.	Ports and airports
19. Section 60 Criminal Justice and Public Order Act 1994, as amended by s.8 of the Knives Act 1997	Offensive weapons or dangerous instruments to prevent incidents of serious violence or to deal with the carrying of such items	Persons and vehicles	Anywhere within a locality authorised under subsection (1)

ANNEX B

White

- A. White - British
- B. White - Irish
- C. Any other White background

Mixed

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

Asian / Asian - British

- H. Asian - Indian
- I. Asian - Pakistani
- J. Asian - Bangladeshi
- K. Any other Asian background

Black / Black - British

- L. Black - Caribbean
- M. Black African
- N. Any other Black background

Other

- O. Chinese
- P. Any other

Not Stated

W

- W1
- W2
- W9

M

- M1
- M2
- M3
- M9

A

- A1
- A2
- A3
- A9

B

- B1
- B2
- B9

O

- O1
- O9

NS