Introduction

The shooting of Mark Duggan

The ‘riots’ in the summer of 2011, which have been billed as ‘the worst ‘riots’ in modern British history’, were triggered by the police shooting of Mark Duggan in Tottenham, North London. The police failed to officially tell Mark Duggan’s family that Mark had died - an omission for which it later apologised. Rioting broke out in Tottenham on Saturday 6 August after the family had gone to the local police station for answers. It spread the next day across the capital, and by the Monday to most of London's 32 boroughs and areas outside the capital. Immediately after the shooting the Independent Police Complaints Commission said Duggan had fired at police, which turned out to be untrue.

A key question to consider is why so many people, most of whom did not know Mark Duggan, felt so strongly about his death that they took the streets and rioted? What was it about this incident that connected with them?

Reading the ‘riots’

What caused the ‘riots’ was the subject of an investigation conducted by The Guardian newspaper and London School of Economics called Reading ‘riots’.

Interviews were conducted with 270 people who rioted in London, Birmingham, Liverpool, Nottingham, Manchester and Salford.

According to the study:

- The rioters were mainly young and male. Just under half of those interviewed were students.
- Rioters identified a range of political grievances. At the heart of their complaints was a pervasive sense of injustice. For some this was economic: the lack of money, jobs or opportunity. For others it was more broadly social: how they felt they were treated compared with others. Many mentioned the increase in student tuition fees and the scrapping of the education maintenance allowance.

- Although rioters expressed a mix of opinions about the disorder, many said they felt like they were participating in explicitly anti-police ‘riots’. They cited “policing” as the most significant cause of the ‘riots’. Anger over the police shooting of Mark Duggan, which triggered initial disturbances in Tottenham, was repeatedly mentioned – even outside London.

- The most common complaints related to people's everyday experience of policing, with many expressing deep frustration at the way people in their communities were subjected to stop and search.

- An independent panel set up by the government in the aftermath of the ‘riots’ identified stop and search as a possible "motivation factor" for black and Asian rioters.

  - The panel noted: "Where young law-abiding people are repeatedly targeted there is a very real danger that stop and search will have a corrosive effect on their relationship with the police".

  - Of those interviewed in the Reading the ‘riots’ study, 73% said they had been stopped and searched in the previous 12 months. They were more than eight times more likely to have been stopped and searched in the previous year than the general population in London.

- On the basis of the Reading the ‘riots’ study, The Guardian described the ‘riots’ as ‘a sort of revenge’ against the police, noting that: ‘Rioters interviewed for our study say they sought retribution for what they saw as police abuse of power in their communities’.
Theresa May

The Home Secretary, Theresa May dismissed many of the findings of the *Reading the ‘riots’* study, describing those who were involved in the trouble as an "unruly mob" who were "thieving, pure and simple". She also told the LSE to ‘Stop excusing greedy rioters looking for instant gratification’, maintaining that all ‘the ‘riots’ really came down to was money.

Earlier ‘riots’

The summer of 2011 was not the first time that police actions had triggered ‘riots’ in England. Strong parallels have been drawn between the ‘riots’ that followed the death of Mark Duggan and those that took place on Broadwater Farm Estate in 1986 following the death of Cynthia Jarrett. Both sets of events took place in Tottenham (Mark Duggan grew up on Broadwater Farm Estate), but the similarities went beyond geography.

On October 5 1986 Floyd Jarrett was stopped by police as he was driving through Tottenham, north London, and arrested for suspected theft of a motor vehicle, after he had allegedly given officers a false name (Institute of Race Relations, 1987). The police proceeded to search Floyd Jarrett’s family home for stolen goods. During the search an officer brushed past Cynthia Jarrett, Floyd’s mother, pushing her out of the way. She fell, breaking a small table. The police continued the search whilst Patricia Jarrett called for an ambulance. The officers left the house, but returned when they realised that Mrs Jarrett was seriously ill and one of the officers gave her mouth-to-mouth resuscitation. Mrs Jarrett was dead on arrival at hospital.

The following day, relatives led a peaceful march to Tottenham police station, but a later public meeting turned violent and quickly escalated. On the evening of 6 October, PC Keith Blakelock, who was protecting firefighters tackling a blaze, was killed by a ‘mob’ on the Broadwater Farm estate. Winston Silcott, Engin Raghip and Mark Braithwaite were quickly charged with the police officer’s murder (along with three youths who were later acquitted) and on 20 March 1987 they were found guilty. On 25 November 1991, after years of pressure from campaigners, Silcott’s conviction was quashed by the Court of Appeal, swiftly followed by those of Raghip and Braithwaite. PC Blakelock’s murder remains unsolved.
An independent Inquiry was held into the death of Cynthia Jarrett and its aftermath, led by Lord Gifford QC. The inquiry concluded that there were sufficient grounds to support charges against the officers for abuse of authority, discreditable conduct, racially discriminatory behaviour and neglect of duty. The Inquiry criticised the police and the council, and urged stronger police-community relations.

By highlighting the need for improved police-community relations, the Gifford report echoed the conclusions of the earlier Scarman report. Lord Scarman was appointed to head a public inquiry into the causes of the Brixton ‘riots’ in 1981. Scarman was heavily critical of the heavy-handed approach to policing in Brixton and highlighted the role of operation ‘Swamp 81’, which involved more than 120 officers patrolling the area with the instruction to stop and search anyone that looked ‘suspicious’. Over four days, 943 people were stopped and 118 were arrested, more than half of whom were black. Scarman (1981: 45) considered the whole operation to have been a serious mistake, describing the disturbances as ‘essentially an outburst of anger and resentment by young black people against the police’ – a reaction he attributed to policing priorities and practices that lacked local support and impacted disproportionately on minority ethnic communities.

**Main teaching**

1. **What are the police for?**

   A contrast is often drawn between a police force and a police service. The notion of a police force emphasises the crime-fighting role of the police and the various ways in which the police can legally use force or violence to enforce the law (e.g. to overpower suspects who resist arrest). A police force tends to be more aggressive and militaristic in its response to situations. ‘Zero tolerance’ policing draws on the idea of the police as a police force.

   The notion of a police service emphasises the range of activities that the police are involved in beyond law enforcement and crime fighting e.g. responding to calls for help from the public, resolving disputes, giving directions, patrolling the beat, finding missing persons, attending traffic accidents. A police service tends to focus more on prevention and seeks to work cooperatively with the public. ‘Community policing’ is consistent with the idea of a police service.
In discussing the quotes given below consider the role the police play in terms of enforcing the law and the role the police play in protecting the public. In some situations it may not be possible to protect the public without enforcing the law.

2. Stephen Lawrence

The Inquiry into the death of Stephen Lawrence noted (Macpherson, 1999: 45.7):

In the words of David Muir, representing senior Black Church Leaders, “the experience of black people over the last 30 years has been that we have been over policed and to a large extent under protected”. That theme was heard wherever we went. It was echoed by a simple but eloquent and clearly heartfelt plea which occurred and reoccurred with frequency and force at every location: “Please treat us with respect”.

Eighteen-year-old Stephen Lawrence was fatally stabbed on April 22 1993 as he waited at a bus stop in Eltham, south-east London, with his friend Duwayne Brooks in what the Inquest into his death later described as ‘a completely unprovoked racist attack by five white youths’.

Five suspects were quickly identified on the basis of information that members of the public provided to the investigating team. A day after the murder, for example, a letter giving the name of the suspects was left in a telephone box. The police failed to act effectively on the information that was provided and though five men (Neil and Jamie Acourt, David Norris, Gary Dobson and Luke Knight) were arrested the Crown Prosecution Service dropped the case on the grounds that there was insufficient evidence.

In September 1994 Stephen's parents, Doreen and Neville Lawrence, launched a private prosecution against three of the men who had been arrested (a private prosecution is the same as a standard criminal trial but not brought by the CPS). The case against the three defendants collapsed when the judge ruled that Duwayne Brook’s evidence was inadmissible. All three defendants were acquitted.
On February 14 1997 the *Daily Mail* named the five men it said killed Stephen Lawrence on its front page and invited them to sue if the accusation was false.

In July 1997 the Home Secretary Jack Straw announced there would be a judicial inquiry into the killing. The Inquiry began in March 1998 and was chaired by Sir William Macpherson, a retired High Court judge. The Inquiry’s report was published in February 1999. Its key finding was that the ‘flawed’ investigation into Stephen’s murder ‘was marred by a combination of professional incompetence, institutional racism and a failure of leadership by senior officers’ (Macpherson, 1999: 46.1).

In April 2005 the Government dropped the legal principle of ‘double jeopardy’ that prevented suspects from being tried twice for the same crime.

Following the discovery of new forensic evidence after a police case review, it was announced in May 2011 that Gary Dobson and David Norris were to face trial over the murder of Stephen Lawrence. The Court of Appeal decided there was sufficient new and substantial evidence to allow Dobson’s acquittal to be quashed (he was one of the three named in the private prosecution). On January 3 2011 Dobson and Norris were both found guilty of the murder of Stephen Lawrence. During the trial, the court heard that microscopic evidence found on clothing belonging to the accused linked them to the murder. The jury took two-and-a-half days to reach its decision. Both men received life sentences; Dobson was jailed for a minimum of 15 years and two months, Norris for 14 years and three months.

Although stop and search was not the focus of the Lawrence Inquiry it came to feature prominently in its deliberations and conclusions, illustrating the theme of over-policing. The Inquiry held a series of public meetings up and down the country and was struck by ‘inescapable evidence’ of a lack of trust between the police and minority ethnic communities, who ‘clearly felt themselves to be discriminated against by the police and others’ (Macpherson, 1999: 45.6). If there was one area of complaint that was universal, the Inquiry reported, it was the use of stop and search. The Inquiry concluded that institutional racism was apparent in the disproportionate use of stop and search against black people (1999: 6:45):
Despite a series of reforms to deal with the failings highlighted by the Lawrence Inquiry, the disproportionate use of stop and search against people from black and minority ethnic groups remains. According to the most robust recent analysis (Miller, 201: 968):

The blunt reality, more than a decade after Macpherson and several years after the reforms were implemented, is that aggregate-measured levels of disproportionality for grounds-based searches have not improved. Moreover compared to the later 1990s, the situation has become worse for black and Asian people. The relative chances of people in these groups being searched, compared to whites have apparently increased.

The latest figures show that black people are stopped and searched at approximately seven times the rate of whites, while Asian people are stopped and searched at around twice the rate of whites (Ministry of Justice, 2011). There are some 'exceptional' stop and search powers where levels of disproportionality are much higher: under section 60 of the Criminal justice and Public Order Act, for example, black people are stopped and searched at more than 20 times the rate of whites, while Asian people are stopped and searched at more than four times the rate of whites. Details about 'exceptional powers and Section 60 are provided in lesson two.
What are the police for?

In his famous study, *The Policeman in the Community* (London: Tavistock, p. 127), Michael Banton noted that:

The policeman on patrol is primarily a ‘peace officer’ rather than a law officer. Relatively little of his time is spent enforcing the law in the sense of arresting offenders; far more is spent ‘keeping the peace…the most striking thing about patrol work is the high proportion of cases in which policemen do not enforce the law.

Following the summer ‘riots’, Steven Kavanagh, the Metropolitan Police Deputy Assistant Commissioner denied that the force had been soft on rioters, saying:

The Met is not namby pamby. The Met does not wish to use baton rounds but if it gets put into a position that it needs to protect the people and the property and the lives of Londoners, [then] we will do so”.

Note, baton rounds are also known as plastic or rubber bullets.


http://www.guardian.co.uk/uk/2011/aug/09/london-'riots'-police-debate-tactics
The police visited the house more or less every day – always the two liaison officers, John Bevan and Linda Holden. They were both pleasant and sympathetic on the surface, at least at first, though Bevan also had a cheery complacency about him that was a little irritating. Very quickly, however, there was an edge of hard curiosity to their questions. They would come up to the living room and ask us, ‘Who are those people downstairs? What are their names?’ I thought that this was quite uncalled for – obviously anyone in our house would be either friends or family, or vouched for by them. But Bevan and Holden seemed suspicious and unnerved by them, and acted as though some of these people might just be involved in the murder, as though some family members might be the key to solving the case. It was ludicrous. The way in which black friends and family come together to mourn seemed alien to them.

And the people in our house were all black. The people who killed my son were white. Why should the police be so interested in who was in the house? The officers kept coming regularly, but they were never happy with the people around us who were supporting us, and they were not telling us what was happening with the investigation, or even what was being investigated. They did enquire about Stephen’s friends, wanting to know what the people in the house had to do with them. It was as if they had watched too much television, where the murderer is often someone close to the victim, whereas this had been an obvious racist killing by complete strangers. And the bizarre thing was that they constantly wanted information from us, but we were never given any by them.

They asked for the names of Stephen’s best friends, and wanted to know about Duwayne Brooks. Once, while we were still prostrate with shock and sorrow, DC Holden held up a pair of thick gloves in a plastic bag and asked if they belonged to Stephen. There was something about the way she showed them to us – a blank innocent look, as though to say here is something meaningful and I’m going to catch you out. The gloves did not belong to Stephen, but Neville immediately saw where this was leading. He said that they had nothing to do with Stephen and that his son was not a burglar, that he was not out that night looking to break into houses. Neville is very polite and easy going, but he was stirred to slow anger by this and let it show…

…During the previous ten days, Imran’s [the Lawrence’s solicitor] attempts to get information in writing from the police had run into a stone wall. They resented him even
asking, acting as though we were seeking confidential information that could ruin the case. All we wanted was to know if they were doing something and following up information we knew they were receiving. And above all we wanted to know why they had not arrested any of the young men as suspects in our son’s murder.

What they were doing, as we knew from conversations that we had with Stephen’s friends, was questioning *them*, as though [page 93] these young black men held the key to the mystery of his killing. It was if they were building a picture against us, against Stephen. The questions they asked his friends about him were unbelievable – what gang did he belong to, for example, when anyone who had the slightest knowledge of Stephen would know that he had never been near a gang in his life.
Neville Lawrence


My life was torn apart by the senseless murder of my son over 18 years ago. Unfortunately no one was brought before a court at that time as they should have been.

The loss itself, together with the lack of justice, have meant that I have not been able to rest all this time. I'm therefore full of joy and relief that today finally two of my son’s killers have been convicted for his murder.

They will be sent to prison and forced to face the consequences of their actions – consequences which my family and I have been living with all these years.

I would like to thank the police and prosecutors for their faultless preparation and delivery of the case.

I would like to thank the judge for the work he has put in to ensure that the suspects had a fair trial. I thank the jury for their careful attention to my son’s case day after day and the verdicts they have delivered.

Something has happened over the last seven weeks – I have watched justice being done. As for me, I'm not sure where I will go from here. I will let this good news sink in for some time.

However, I'm also conscious of the fact that there were five or six attackers that night. I do not think I'll be able to rest until they are all brought to justice.
Television news clips

www.bbc.co.uk/news/uk-16393926


Newspaper articles

The Telegraph (2011) 'Tottenham riot reminds north London of Broadwater Farm riot in 1985', The Telegraph, August 7 2011

www.guardian.co.uk/uk/2011/aug/08/mark-duggan-profile-tottenham-shooting

www.guardian.co.uk/commentisfree/2011/aug/07/tottenham-riot-broadwater-farm

Paul Lewis (2011) 'Tottenham riots: a peaceful protest, then suddenly all hell broke loose', The Guardian, August 8 2011.
www.guardian.co.uk/uk/2011/aug/07/tottenham-riots-peaceful-protest


www.guardian.co.uk/uk/2012/feb/29/police-apologise-mark-duggan-death
Raekha Prasad (2011) ‘English riots were “a sort of revenge” against the police’, The Guardian, December 5 2011.  
www.guardian.co.uk/uk/2011/dec/05/riots-revenge-against-police

www.guardian.co.uk/uk/2011/dec/05/anger-police-fuelled-riots-study


References and further reading


Introduction

In democratic societies the power of the state is checked by the freedoms and rights afforded to citizens. According to the legal principle of parsimony the state should be minimally interventionist unless there is clear evidence that more intrusive practices are required (Braithwaite and Pettit, 1990). In other words, police powers are balanced by protections that are put in place to guard the rights of the individual (see below - Are the police free to do what they want?).

Main teaching

1. What happens when the police do not exercise their powers according to the law?

   a) Mustapha Osman v Director of Public prosecutions, [www.rjerrard.co.uk/law/cases/osman.htm](http://www.rjerrard.co.uk/law/cases/osman.htm)

   Two police officers attempted to search Mustapha Osman under Section 60(4)(5) of the Criminal Justice and Public Order Act 1994. During the attempted search Osman assaulted the officers and was initially sentenced to 21 days detention in a Young Offender Institution.

   This conviction was subsequently quashed on appeal as the search was judged to be illegal on the grounds that the officers had failed to inform Osman of their names and the station, to which they were attached.

   The Police and Criminal Evidence Act requires that officers identify themselves and the station they are attached to before carrying out a search. The failure to comply with this requirement meant the search was unlawful.
In 2004 Ken Hinds had arranged to meet his son, then aged 12, at Seven Sisters train station in north London. While waiting in the ticket hall, he saw a group of police arresting a young black man and stood where he could observe from a distance in case he was needed as a witness.

When officers tried to move him on, Hinds insisted he was within his legal rights to remain, but was then threatened with arrest and marched across the station in handcuffs. Hinds was taken to a north London police station and held for four hours and charged with threatening and abusive behaviour.

Hinds was acquitted after magistrates questioned why witness statements by the two police officers involved were worded identically in several passages. It later became evident that one officer had been emailed his colleagues' version, which he had partly copied. Two internal British Transport Police investigations concluded that the officers had merely been incompetent in exchanging their accounts and failed to consider the allegation that they had been dishonest.

Bhatt Murphy solicitors took the case up on behalf of Ken Hinds. Faced with a high court claim for false imprisonment and malicious prosecution, the British Transport Police settled out of court in 2009, paying £22,000 in compensation and issuing an apology, albeit without admitting liability.

2. Stop and search

In England and Wales the police do not have general powers to stop and search citizens apart from those that are enshrined in law. Various legal powers of stop and search have been granted to the police in by Acts of Parliament such as The Misuse of Drugs Act 1971 and The Firearms Act 1968.

use (Sanders and Young, 2007). As well as granting a new national stop and search power for stolen goods or articles that it is illegal to possess, PACE introduced a series of safeguards governing the use of such powers. These safeguards are specified in PACE Code A (Home Office, 2010). Breaches of this code of practice constitute a disciplinary offence and are admissible as evidence in criminal or civil proceedings (Reiner, 2010).

Code A of PACE outlines the principles governing the use of stop and search, emphasising that such powers must be used fairly, responsibly, with respect and without unlawful discrimination. It also reminds officers that the Equality Act 2010 makes it unlawful for them to discriminate on the grounds of the ‘protected characteristics’ including race and religion when using their powers.

The code of practice is rooted in the notion of ‘reasonable suspicion’, which requires – in most cases – that police officers must have ‘reasonable grounds’ to suspect that a person is in possession of stolen or prohibited articles before proceeding with a stop and search. What constitutes ‘reasonable grounds’ will depend on the circumstances, but there must be an objective basis for suspicion based on ‘facts, information, and/or intelligence’ (Home Office 2010: 2.2). According to the human rights group Liberty, this means there must be some basis for the officer’s belief, related to you personally, which can be considered and evaluated by an objective third person (www.yourrights.org.uk/yourrights/the-rights-of-suspects/stop-and-search/reasonable-grounds-for-suspicion.html). Mere suspicion based on hunch or instinct might justify observation but cannot justify a search.

Under PACE 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 obviously trying to hide something, this clearly constitutes conduct that might reasonably lead the officer to suspect that stolen or prohibited articles are being carried.

Sanders and Young (2007: 67) note that the requirement of ‘reasonable suspicion’ is ‘aimed at inhibiting the police from stopping and searching indiscriminately – or, indeed, in inappropriately discriminatory ways – without unduly fettering their ability to

The power must be used fairly, responsibly, with respect for people being searched and without unlawful discrimination. This would include discrimination on grounds of race, colour, ethnic origin, nationality or national origin. Accordingly, reasonable grounds for suspicion cannot be based solely on attitudes or prejudices towards certain types of people, such as membership of a group within which offenders of a certain kind are relatively common - for example, young football fans. Nor can it be based solely on your skin colour, age, hairstyle, mode of dress or previous convictions.

PACE has been described as ‘the single most significant landmark in the modern development of police powers’ (Reiner, 2010: 212). By proving a statutory codification and rationalisation of police powers, alongside safeguards governing their use, PACE plays an important symbolic and practical function. There are some areas, such as the handling of suspects, where much of what PACE calls for has become routine practice, though generally: ‘assimilation of the PACE rules into police culture and working practices has been uneven and incomplete. Much is ritualistic and presentational and affects little of substance’ (Reiner, 2010: 215).

Various problems have been identified with the regulatory framework governing the use of stop and search. Reasonable suspicion remains a vague and elusive concept (Sanders and Young, 2007), which is variously interpreted by officers and is often not met in practice (Bottomley et al. 1991; Quinton et al., 2000). Until 2005 ‘voluntary’ or ‘consent’ stops were permitted under PACE and were not subject to the requirements governing reasonable suspicion and recording, which meant that the safeguards could effectively be circumvented (Quinton and Olagundoye 2004).

As well as making requirements of front-line officers in their use of stop and search, PACE makes provision for the monitoring and supervision of these powers. Code A requires that supervising officers must monitor the use of stop and search and should consider whether there is any evidence that these powers are being exercised on the basis of stereotyped images or inappropriate generalisations. Supervising officers are required to satisfy themselves that the practice of officers under their supervision is fully in accordance with the Code. They 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.
Senior officers with area or force-wide responsibilities are required to monitor the broader use of stop and search powers and take action where necessary. As laid down in Code A, 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.

Finally, in order to promote public confidence in the use of the powers, forces in consultation with police authorities are required to 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.

3. What is reasonable suspicion – see text box below

4. Stop and search powers that do not require ‘reasonable suspicion’

There are also several stop and search powers that can be used without reasonable suspicion.

a) Section 60 of the Criminal Justice and Public Order Act 1994

Section 60 provides the police with an exceptional stop and search power to tackle the threat of imminent violence. Having originally been introduced to help deal with football-related violence the use of this power has increased markedly as it has become a key component in the police’s response to knife crime.

Section 60 search powers do not require individual suspicion, but can be applied to anybody within a specified area. According to the original Act a police officer of the rank of superintendent or above may authorise the use of the section 60 powers if s/he ‘reasonably believes’ that: (a) incidents involving serious violence may take place in any locality in his or her area; and (b) it is expedient to do so to prevent their occurrence. As they were originally framed, these powers could be exercised at any place covered by the authorisation for a specified period not exceeding 24 hours.
Section 60 powers were extended by the Knives Act 1997 and the Crime and Disorder Act 1998 to cover situations where senior officers believe that persons are carrying “dangerous instruments or offensive weapons” and to allow officers to remove or seize items hiding a persons’ identity, whether or not weapons are found. These amendments also permitted the initial 24 hour period to be extended for a further 24 hours, and reduced the rank of the authorising officer to Inspector or above.

For more on Section 60 see:  


b) Section 44 and 47A of the Terrorism Act 2000

Section 44 enabled the police and Home Secretary to define any area in the country as well as a time period wherein they could stop and search any vehicle or person without reasonable suspicion that an offence has been committed. In 2009, more than 100,000 searches were conducted under this power, but did not result in a single arrest for terrorism offences (www.guardian.co.uk/uk/2010/oct/28/terrorism-police-stop-search-arrests). Approximately 500 arrests were made for other offences. Following a judgment by the European Court of Human Rights that it was illegal, Section 44 has been treated as repealed. Section 44 has been replaced with a new section 47A. These powers are more tightly circumscribed and are rarely used.

For more on Section 44 and Section 47A see:  

c) Schedule 7 of the Terrorism Act 2000

Allows police officers to stop and question travellers at UK ports and airports without needing reasonable suspicion that the person is engaged in any acts of terrorism. Officers may physically detain the person for up to nine hours; search them and their belongings; strip and search them; take their DNA and fingerprints; and question them on their social, political and religious views.

The person detained is not under arrest, but is obliged to co-operate even before their lawyer arrives or risk being arrested for "obstruction'.

For more on Schedule 7 see:

www.guardian.co.uk/commentisfree/libertycentral/2011/may/26/terrorism-act-schedule-7

5. Stop and Search Quiz


a) What are the police entitled to search for?

Under PACE the power to stop and search enables an officer to search for stolen or 'prohibited articles' or knives – with the exclusion of short-bladed penknives.

PACE defines two categories of prohibited article:

- An offensive weapon.
• An article made or adapted for use in connection with one of a list of offences including burglary, theft, taking a conveyance without authority (or being carried in one), obtaining property by deception and criminal damage.

Virtually any article could come within this second definition but there would have to be some evidence of the use of the article or the intention of the person making, adapting or carrying it, otherwise an officer would not have reasonable grounds to search.

The police also have power to stop and search for specific items under a number of other statutes. Most particularly, the Misuse of Drugs Act 1971 enables a constable to stop and search you for ‘controlled drugs’.

b) Are the police entitled to carry out a stop and search anywhere?

Under PACE, the police may use stop and search in most public and some private places as follows:

• A place to which, at the time of the proposed stop and search, the public - or any section of the public - has access as a matter of legal right or because there is permission.

• Any place - other than a dwelling - to which people have ready access at the time of the proposed stop and search.

These categories can include private property such as front gardens and car parks. Whether you have ‘ready access’ might depend on whether a gate or door is locked, or whether a plot of land is fenced.

A police officer may not search you if you are on land that is used for the purpose of a dwelling, without having reasonable grounds for believing that you do not reside in the dwelling and are not in the place with the permission of a person who does reside in the dwelling.
Note: the search must be carried out at or near the place where the person or vehicle was first detained.

c) **Can a police officer detain you to conduct a search?**

A police officer who has reasonable grounds for suspicion can stop and detain you in order to conduct the search.

The detention may only last for as long as is reasonably required to permit a search to be carried out at the place of detention or nearby.

If you are lawfully detained for a search, but no search in fact takes place (for instance because the grounds for suspicion are eliminated), the detention in the first place is not unlawful.

d) **Can a police officer use force in carrying out a search?**

An officer may use reasonable force, if necessary, in the detention and conduct of the search, but force can only be necessary if you are first given the opportunity to cooperate and refuse.

According to PACE Code A:

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 (section 3.1).

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 (section 3.2).

e) **Can a police officer ask you questions to establish reasonable suspicion?**

For search powers that require reasonable suspicion an officer must have reasonable suspicion before they conduct the search.
Before doing the search an officer can ask you questions to confirm or eliminate that suspicion. If their suspicion is eliminated by the questioning or any other circumstances, you are free to leave and you must be told this. The police have no powers to stop you in order to find grounds that would justify a search.

If reasonable grounds for suspicion emerge during an ordinary encounter between you and the police (i.e. one that does not involve detention) then the officer may search you, even though no grounds existed when the encounter began.

If an officer does not have reasonable grounds for a search and asks you to account for actions, behaviour, presence in an area or possession of anything, you are not legally obliged to answer and may walk on. Some officers may consider such action to be suspicious, however, and to provide grounds for a search.

f) **Do you have to give your personal details if you are stopped and searched?**

The police have a legal requirement to record certain information about stop searches, including the:

- Date and time of the stop and search
- Location of the stop and search
- Why they stopped you, the grounds
- What they were looking for
- The names of the officers conducting the search and others present

Police officers may also ask for your name, address and date of birth although there is no requirement that they record this information. You do not have to give this information if you do not want to unless the police officer says they are reporting you for an offence.

If you are stopped and searched officers should also ask you to define your ethnic background by choosing from a list of categories that is provided. You are not obliged to provide this information if you do not want to, but the officer is required to record this on the form.
The ethnicity question is asked for monitoring purposes. The Ministry of Justice is obliged to collate and publish information about how many stops and searches are conducted of people from different ethnic groups. This information shows whether people from some groups (e.g. black people) are stopped at a greater rate than others. Such figures help community representatives in their efforts to ensure that the police are using their powers fairly and properly.

**g) Does a police officer have to provide you with any information before conducting a search?**

Prior to conducting a search under any power to search before or without arrest, an officer must take reasonable steps to bring the following to your attention:

- If s/he is not in uniform, proof that he or she is a constable, which Code A says must be by showing a warrant card.

- Information on police powers to stop and search and the individual’s rights in these circumstances.

- The officer's name and police station.

- The object of the proposed search.

- The officer's grounds for proposing to search.

- The availability of a search record and how to obtain one if one is not made at the time of the search.

The search should not be started until this information has been provided and this information must be given even if not requested.
h) Do you have a right to a written record of the search?

Under PACE an officer who has carried out a search under any power without or before making an arrest, must make a written record on the spot, unless there are exceptional circumstances that make this wholly impracticable. If a record cannot be made at the time it must be made as soon as practicable afterwards, unless there are very good reasons for not being able to do so, for example, an inability to obtain information owing to large numbers involved.

Code A requires the search record to include the object of the search, the grounds for making it, the date, time and place and the identity of the officer carrying out the stop and search. The record should also include the ethnicity of the person stopped and searched. This information makes it possible to establish whether some ethnic groups are stopped and searched at a greater rate than others.

It used to be the case that the record should include name of the person stopped, whether any injury or damage was caused as a result of the search and whether anything was found as a consequence of the search, but the police are no longer required to record this information.

You should be given a copy of the record immediately. If this is not possible you can obtain a copy of the record from the station for a period of up to twelve months (unless a record was exceptionally not made in the circumstances described above).

You are entitled to a record even if the police only detain you in order to do a search but do not perform a search because the grounds for the search are eliminated.

i) Do you have a right to a written record if the police stop you and ask you to account for your behaviour, belongings or presence in a place?

It used to be that police officers were required to provide a written record of stops where they ask you to account for your actions, behaviour, presence in an area or possession of anything even if the stop did not proceed to a search, but this is no longer the case.
Can the police require you to remove articles of clothing when they stop and search you?

The police have limited powers when it comes to removing suspects’ clothing as part of a search. Under PACE and most individual search powers an officer may request, but cannot force you to remove any clothing in public other than an outer coat, jacket or gloves. This is the case even if the street is empty.

According to PACE a search in public of a person’s clothing which has not been removed must be restricted to superficial examination of outer garments. Nonetheless, Code A does permit the police to put their hands in the pockets of outer clothing and feel around inside collars, socks and shoes if this is reasonably necessary in the circumstances. Similarly, subject to the restriction on removal of headgear (see below), they can search your hair in public.

Specific provisions are made for the removal of face coverings. According to Note 4 of PACE Code A:

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.

The Criminal Justice and Public Order Act 1994 provides a specific power to demand the removal of ‘disguises’. According to PACE, 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 60AA of the Criminal Justice and Public Order Act.

Where a Section 60 authorisation is in place, the police may require you to remove any item which they reasonably believe you are wearing wholly or mainly for the purpose of concealing your identity. They can seize such items and any you were intending to wear for that purpose. This clearly includes removal of head and face coverings. Where the covering is worn for religious reasons the police are required
to be sensitive about the removal and it should not take place in public and, if possible, not in the presence of anyone of the opposite sex.

If something more than a superficial examination of outer garments is required Code A specifies certain requirements. 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 and nearby to where the stop search was carried out (e.g. in a police van or police station).

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.

According to Section 3.7 of PACE Code A:

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).

k) Can the police require you to remove articles of clothing when they stop and search you?

The police may seize anything for which they have a power to search e.g. stolen or prohibited items, drugs etc. They may also seize any other item if it is not practicable to determine what it is at the time of search or if it is attached to an item which they have power to seize.
Are the police free to do what they want?
http://web.mit.edu/gtmarx/www/dempol.html

According to Gary T. Marx, Emeritus Professor at the Massachusetts Institute of Technology (MIT):

Police in a democratic society:

1. are subject to the rule of law embodying values respectful of human dignity, rather than the wishes of a powerful leader or party
2. can intervene in the life of citizens only under limited and carefully controlled circumstances and
3. are publicly accountable.
What is reasonable suspicion?


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. It must rely on intelligence or information about, or some specific behaviour by, the person concerned. For example, unless the police have a description of a suspect, a person’s physical appearance (including any of the ‘protected characteristics’ set out in the Equality Act 2010 (see paragraph 1.1), or the fact that the person is known to have a previous conviction, cannot be used alone or in combination with each other, or in combination with any other factor, 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.

Reasonable suspicion may also exist without specific information or intelligence and on the basis of 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…

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.

*Note: ‘protected characteristics’ include age, disability, gender reassignment, race, religion or belief, sex and sexual orientation, marriage and civil partnership, pregnancy and maternity when using their powers.
References


Introduction

*Discuss what the police are trying to achieve when they stop and search somebody.*

Stop and search is an investigative power, the primary purpose of which is to enable officers to allay or confirm suspicions about individuals without exercising their power of arrest (PACE Code A, Section 1.4).

Section 3.1 of PACE Code A requires that:

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.

*Discuss what makes for a good outcome for the person subject to a stop and search.*

The precise answer to this question will depend on the perceptions of the person being stopped and searched, but we might suppose that the best outcome is for the stop and search to be carried out quickly and politely so as to minimise the impact on the person stopped and searched.

Main teaching

1. Read what the Metropolitan Police Service says about our civic duties and about what to do if you are stopped and searched? Discuss this advice in small groups.

   This is an extension of the previous discussion.

2. Read through the extract from the Stop Search play and consider the following questions:
a. Should Callie have been stopped and searched?

According to PACE Code A 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. There is no indication in Callie’s case that the police have such information and the reference to a crack house ‘three or four streets away’ is vague.

On the other hand, PACE Code A also says that reasonable suspicion may exist without specific information or intelligence and on the basis of 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. On this basis, Callie’s disposing of a package may be thought to be suspicious. Given that he appears to have disposed of the package, however, it is not clear why his person is being searched.

PACE Code A says that a police officer may not search you if you are on land that is used for the purpose of a dwelling, without having reasonable grounds for believing that you do not reside in the dwelling and are not in the place with the permission of a person who does reside in the dwelling. If, as Callie, says he lives at the property then this would rule the search out. The officers could have checked Callie’s claim that he lived at the property with his sister who was in the house.

b. What do you think the police officers were trying to achieve by stopping and searching Callie?

The reason given by the officers was to check whether the package Callie disposed of was drugs, but the grounds for this search are questionable at best. The fact that the same officers have stopped and searched Callie before (without finding anything) raises the possibility that they are harassing Callie. Later in the play Greg says to his dad:
I am a tryer... I don’t know why they annoy me so much. I was thinking about it. I don’t know why. They’re all f***ing irritating. That one upsets me. Takes the piss without even saying anything. He just threw it. I couldn’t see what it was.

Here we get the sense of a young, inexperienced officer desperately trying to exercise his authority.

c. Did the police officers treat Callie fairly?

There are various factors to consider here: the pushing of Callie up against the wall and the way the officers spoke to him. Driving Callie away from the place that the initial stop took place is a clear breach of PACE, which requires that 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’ (Section 1.2).

d. How would you describe the way Callie spoke to the officers?

e. What was Callie trying to achieve?

f. Why do you think Callie reacted in the way he did?

g. Was the outcome of this interaction a good one for Callie?

h. What could Callie have done differently to ensure a better outcome for himself?

Callie is clearly frustrated at the attention he is receiving from the police and displays defiance in various ways. While Callie’s behaviour may be considered understandable - especially when we remember he is 13 years old - it arguably contributes to a conflictual dynamic that does not end well for him. Participants should discuss whether Callie should have been more compliant. What are the likely advantages and disadvantages of such an approach?

3. Role play stop and search encounters

Working in threes participants should alternate between the roles of police officer, person stopped and searched and observer. The police officer and person stopped and searched should alternate between being polite/respectful and sarcastic/disrespectful. After each role play participants should feedback to each other how they experienced the interaction and the observer should offer his or her observations.
4. Complaints, private prosecution and civil action

For people who are dissatisfied with the way they have been treated by the police there are several means of redress, including making a complaint, taking out a civil action or pursuing criminal action against the police (see www.yourrights.org.uk/yourrights/how-to-enforce-your-rights/the-police/index.html).

The complaints system is over-seen by the Independent Police Complaints Commission (IPCC). Complaints can be made directly to the IPCC or the relevant police service. There are certain categories of complaint that must be referred to the IPCC, including allegations of serious assault, ‘hate’ crime or corruption; cases involving serious injury; allegations of serious offences; and cases involving deaths in custody etc. In other situations the police have discretion to refer the matter to the IPCC or address it locally.

In certain cases involving, for example, serious injury cases the IPCC will supervise the investigation (‘supervised’ investigation) or the police will deal with the case on their own (‘local investigation’ not to be confused with ‘local resolution’ above). In the most serious cases, the IPCC will conduct a completely independent investigation or will manage a police investigation (‘managed’ investigations).

For details about how to make a complaint see www.ipcc.gov.uk/en/Pages/forms.aspx.

Only a small proportion of complaints about stop and search are upheld – partly because searches usually occur away from the police station, often in the absence of independent witnesses. Complaints are investigated, however, and as part of an investigation the officers concerned are required to give an account of their actions to more senior officers. This may prompt the officer to reflect on his or her practice and may mean that concerns are identified even if the complaint is not upheld.

The IPCC can refer cases to the Crown Prosecution Service for criminal investigation. Individuals can also bring a private prosecution or civil action against the police, though this is often difficult and time consuming and requires strong evidence if there is to be any prospect of success. For more details see http://www.yourrights.org.uk/yourrights/how-to-enforce-your-rights/the-police/index.html. Anybody considering legal action against the police should get advice from a solicitor or other adviser.
What are my responsibilities?
Everyone has a civic duty to help police officers prevent crime and catch offenders. The fact that the police may have stopped someone does not mean they are guilty of an offence.
Apart from the inconvenience, people may feel irritated that they’ve been stopped when they haven’t done anything wrong – that’s completely understandable. However, the stop or stop and search will be much quicker if a person co-operates with police officers.
Don’t forget that the stop or stop and search must be carried out according to strict rules – the police have responsibility to ensure that people’s rights are protected. Everyone should expect to be treated fairly and responsibility. In almost all cases, an individual should be given a record of the stop or stop and search at the time it happens. The police use these powers to help make the local community safer by disrupting crime – public co-operation is an essential part of that.

What should I do if I am stopped or/and searched?
Everyone has a civic duty to help police officers prevent crime and catch offenders. The fact that the police may have stopped someone does not mean they are guilty of an offence.
Apart from the inconvenience, people may feel irritated that they’ve been stopped when they haven’t done anything wrong – that’s completely understandable. However, the stop or stop and search will be much quicker if a person co-operates with police officers.
It’s up to you whether you provide your name and address. You don't have to, but the best advice is that you should co-operate with the police.
Don’t forget that the stop or stop and search must be carried out according to strict rules – the police have responsibility to ensure that people’s rights are protected. Everyone should expect to be treated fairly and responsibility. In almost all cases, an individual should be given a record of the stop or stop and search at the time it happens. The police use these powers to help make the local community safer by disrupting crime – public co-operation is an essential part of that.
How should I react?

Be patient
The police are aware that being searched is an inconvenience, and that you’re probably in a hurry to get where you're going. They should make the search as brief as possible. But in the interest of public safety they must also be thorough.

Be calm
- Remember, you are not under arrest.
- Don't refuse to be stopped or/and searched.
- The process is not voluntary - the law gives police the authority to stop and search.
- Officers do not need your permission to go through your belongings - if you refuse, you can be searched by force.
- Try to stay calm and don’t be afraid to speak to the officer if you think your rights are being infringed.

What can I expect from the officer stopping or searching me?
The officer must be polite and respectful at all times. The Metropolitan Police are committed to continuously improving standards around the delivery of service to London’s communities.

All stops and stops and searches must be carried out with courtesy, consideration and respect.

We are aware that the process may take a little time but the process should be handled quickly and professionally.

The police officer will ask a few questions and then if necessary search you.

The search is not voluntary. If you do not cooperate the officer can use reasonable force to conduct the search.

Police officers, and police community support officers must use stop and search powers fairly, responsibly and without discrimination.
Callie Adeyemi is 13 years old and is not big for his age (average to small). He is very cheeky and often funny though he’s not particularly trying to be. Callie has been stopped and searched more than 30 times by the police.

Mark and Greg are two young, inexperienced police officers.

On the evening we join them, Callie has gone to the shop to by sweets. He and his sister Allana, aged 15, are going to watch a movie together – Alien versus Predator – while their mum and dad are out at dinner to celebrate their mum’s new job. On his way back from the shop, Callie sees two police officers – Mark and Greg - watching him. Mark is about to finish his shift and is due to meet his parents for dinner.

As Callie gets into the yard outside his house he throws his bag of sweets into the hedge. The two officers approach Callie:

GREG
What was that?

CALLIE
What?

GREG
I’m not in the mood for this. What’s in that package you just threw?

CALLIE
You’re the package expert. You love packages. You like all boys with packages? Or just me? You two stopped me yesterday, day before, last week, week before -

MARK
Why d’you run?
Mark pushes Callie against the wall.

CALLIE
I didn’t run. You don’t have to push me. I know the moves to this stupid game don’t worry. Not as well as you, I admit.

GREG
Last week. You ran.
CALLIE
This again.
MARK
Why d’you run?
Mark searches for the package Callie threw.

GREG
Only takes a minute. Tiny little inconvenience if you’re an innocent member. You’re a smart arse - it’s your civic duty to help the police. Think about that smart arse!

CALLIE
My duty? I’ve done bare tours of duty with this madness. You’re borin’ the arse off me. I’ll run whenever I can. Just forget it. This is long today man. This is my home... What would you do? ... Freaks in uniform stopping you like it’s a game, every day. After school, in front of teachers. Mums and dads on the street thinking you’re a criminal. What you expect me to do? Seriously? It’s embarrassin’ man. Is there anybody in there? You ever think about it, really?

GREG
Found it?

MARK
No.

GREG
Fixed penalty fine for littering.

CALLIE
How’s it littering? This is my house. That’s my garden.
Mark and Greg look disbelieving.

CALLIE
You should know. You’ve taken my address ’nough times. I’m goin’ inside now.
Mark prevents him entering his garden gate.

GREG
What was the package you just disposed of? Drugs? You know this is a drug hotspot? There’s a crack house three, four streets away. That where you been?

CALLIE
You’re actually crazy. You need a straight-jacket not a uniform. Why would I go there? Me and my sister run the best crack house right here. Can I go now?

GREG
Got to issue your fixed penalty for littering. Inside the car please. We’ll do the search obviously while we’re at it.

CALLIE
No way man. I’m home, this is my home. (Shouting) Larnie! Allana!
MARK
You are being detained for the purpose of a search. This way sir.

CALLIE
Why bother calling me sir when you’re messing with me. Don’t make you less of a dick. Larnie! I just threw my sweets, my Haribo. Just a joke. F***’s sake, how can you be so serious picking up a kid man?! I’ll find ‘em for you. Just Haribo.

GREG and Mark put Callie in the car
(To Mark):
I gotta go straight there. Bit late.

MARK
No worries. We’ll do him on the way.

GREG
Job’s a good’un.
Inside the vehicle as they pull away.

GREG
Was that fun? Wasting our time? We’re gettin paid right now. What you gettin? Redfield’s good for you right? That will be convenient? Will it sir?

CALLIE
F***’s sake man.

GREG
Name?

CALLIE
You know my name.

GREG
Can’t remember the name of every little -

CALLIE (Delivered at a fast writing pace)
Callie Adeyemi, A, D, E, Y, E, M, I, male, twenty-two, seven, ninety-eight, thirteen years, IC3, African-Caribbean British. B one and B two.
Unbidden and well-practised, Callie turns out his pockets, takes off his shoes, shows the inside of them. Puts his arms out for Greg to do rub-down search.

CALLIE: Now I’m done. You searched me. I’m mile away already, just let me go home.

MARK
Just a warning about the littering, right?

GREG (Nods)
Those forms even in the pack? Drop me on the bottom of West Road, will you? You know.

MARK: Where you havin’ your dinner?
GREG
Blake’s. Something’s up. Gonna tell me I’m adopted or something. (To Callie in the back)
You like English food? Proper traditional English food?

CALLIE
Just take me home. Let me out of here. F****** d***heads.

GREG
Down there’ll do me. (About Callie, so he can hear) Do you remember when he was a polite young man? Pleasure to stop?

MARK
What happened to that cute little chappie? They grow up so quickly don’t they?!

CALLIE
Nothing happened. This is nothing. You’re nothing. You don’t bother me. No matter how many times you fed’ bitches mess with me I’m still better than you. Cos I’m not an ugly bitch messing with kids.
Introduction

Lord Scarman was appointed to head a public inquiry into the causes of the Brixton ‘riots’ in 1981 (cross reference to lesson one). He concluded that the disturbances were ‘essentially an outburst of anger and resentment by young black people against the police’, which he attributed to the adoption of policing priorities and practices that did not command local support and impacted disproportionately on black and minority ethnic communities. Crucially, Scarman pointed to the ill-advised use of stop and search and the failure of formal liaison with impacted communities which contributed to the withdrawal of public ‘consent’. Scarman’s message was far from new and he drew explicitly on Sir Richard Mayne’s 1829 instructions to the New Metropolitan Police (Reiner, 2010). The issue of consent has been central to the history of policing and goes to the nub of police-community relations.

Main Teaching

1. There is a substantial and growing body of research that highlights the importance of procedural justice in supporting the legitimacy of the police and building consent. The notion of legitimacy concerns the extent to which members of the public believe that the police, the courts, the prisons and the legal system are entitled to make decisions that they should comply with (Tyler, 2006). To see the police as legitimate is to feel personally obliged to obey officers even if one disagrees with the specifics of the order and there is strong evidence that legitimacy is linked to the fairness of the procedures through which authority is exercised.

When power is exercised fairly it encourages the idea that citizens and the police are ‘on the same side’ (Tyler, 2006), while unfair treatment communicates division, social denigration, and exclusion, fostering an ‘us and them’ dynamic that saps trust and undermines legitimacy (Jackson and Sunshine, 2007).

Securing cooperation and compliance through a strong sense of legitimacy is not only ethically desirable, but is also more cost effective, and ultimately more durable than that secured through force. See Jackson and Bradford (2010) quote below.
2. Watch the film *Profiles of the Profiled* available at [http://vimeo.com/33752075](http://vimeo.com/33752075) and [http://www.youtube.com/watch?v=ac2kkf3VF6Y](http://www.youtube.com/watch?v=ac2kkf3VF6Y)

3. As part of the *Independent Inquiry into the Misuse of Drugs Act*, MORI was commissioned to carry out a nationally representative survey of 1,645 adults aged 16 to 59 years looking at police priorities (Pearson and Shiner, 2002). Respondents were asked to prioritise a list of offences and the results are given in the Table below, which shows the percentage of respondents that selected the relevant offence as a high priority for the police.

Ask each student to think about and choose three offences that they think should be a high priority. Working in small groups they should then debate what the priorities should be. At the end of the debate the whole class should come together and individuals should vote on what they think the highest priorities should be. The teacher should record the results and compare them to those from the adult survey below.

Table 1 Adult survey (percentages) – police priorities

<table>
<thead>
<tr>
<th>Offence</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sexual assaults on women</td>
<td>71</td>
</tr>
<tr>
<td>Drug dealers who sell heroin</td>
<td>66</td>
</tr>
<tr>
<td>Assault</td>
<td>32</td>
</tr>
<tr>
<td>Racial violence</td>
<td>32</td>
</tr>
<tr>
<td>Drink-driving</td>
<td>32</td>
</tr>
<tr>
<td>Burglary</td>
<td>22</td>
</tr>
<tr>
<td>Mugging</td>
<td>17</td>
</tr>
<tr>
<td>Drug Dealers who sell cannabis</td>
<td>8</td>
</tr>
<tr>
<td>Heroin users</td>
<td>8</td>
</tr>
<tr>
<td>Vehicle theft</td>
<td>4</td>
</tr>
<tr>
<td>Cannabis users</td>
<td>*</td>
</tr>
</tbody>
</table>

* =< 0.5%
Figure one shows how the police use stop and search. By far and away the most commonly searched for article is drugs, which accounts for approximately half of all searches. Although police officers do not have to record which drugs they are searching for, 69 per cent of drug offences recorded by the police are for cannabis possession (Flatley et al., 2010). It follows, that most drug searches are for small amounts of cannabis. With this in mind, how does the activity shown in Figure 1 compare with the priorities that students identified? Are there any surprises?

Figure 1 Searches under section 1 of the Police and Criminal Evidence Act 1984 and other legislation in England and Wales 2010/11 (percentages)

<table>
<thead>
<tr>
<th>Category</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Drugs</td>
<td>49</td>
</tr>
<tr>
<td>Stolen property</td>
<td>20</td>
</tr>
<tr>
<td>Going equipped</td>
<td>13</td>
</tr>
<tr>
<td>Offensive weapons</td>
<td>10</td>
</tr>
<tr>
<td>Criminal damage</td>
<td>2</td>
</tr>
<tr>
<td>Firearms</td>
<td>1</td>
</tr>
<tr>
<td>Other</td>
<td>5</td>
</tr>
</tbody>
</table>

Source: Police Powers and Procedures England and Wales 2010/11 - Stop and Search Tables

4. Discuss what the most important things you have learnt about policing from this and previous lessons. Work in small groups and feedback.

5. Discuss what you might do to influence policing (Small groups).

The aim of the discussion is to get students to think through and come up with possibilities for themselves. To prompt discussion you might suggest a number of possibilities including involvement in local police – community consultation groups (see your local police service website for details), meeting police officers or local officials, or
more creative possibilities including drama, film-making and dance (see *Stop and Search Yourself* at [http://www.youtube.com/watch?v=Xcx-92IB8C0](http://www.youtube.com/watch?v=Xcx-92IB8C0)).

**Lord Scarman on Policing by Consent**


…the primary duty of the police is to maintain “the Queen’s peace”, which has been described as the “normal state of society”, for in a civilised society, normality is a state of public tranquillity. Crime and public disorder are aberrations from “normality” which it is the duty of the police to endeavour first to prevent and then, if need be, to correct. It follows that the police officer’s first duty is to co-operate with others in maintaining “the normal state of society”. Since it is inevitable that there will be aberrations from normality, his second duty arises, which is, without endangering normality, to enforce the law. His priorities are clear: the maintenance of public tranquillity comes first. If law enforcement puts at risk public tranquillity, he will have to make a difficult decision. Inevitably there will be situations in which the public interest requires him to test the wisdom of law enforcement by its likely effect upon public order. Law enforcement, involving as it must, the possibility that force may have to be used, can cause acute friction and division in a community – particularly if the community is tense and the cause of the law-breaker not without support (para 45.7).

**Policing and Procedural Justice**


If people perceive the police to be procedurally fair and if they trust their motives in behaving the way that they do, all current evidence suggest they are not only more likely to actively cooperate by reporting crime, cooperating in investigations, providing witness evidence, even intervening in situations of low-level deviance and incivility. They are also more likely to defer to officer’s instructions and obey the laws that the police in many ways still embody. In the long run, the fight against crime might be more efficiently, more cost-effectively, and certainly more ethically served by treating the public with fairness, dignity, and respect than by instigating another ‘crack-down’ on crime.
Police priorities

Which three of the following do you think should be the highest priority for the police?

- Assault
- Drug Dealers who sell cannabis
- Burglary
- Sexual assaults on women
- Vehicle theft
- Heroin users
- Drink-driving
- Drug dealers who sell heroin
- Mugging
- Cannabis users
- Racial violence
References


