



**HERTFORDSHIRE  
CONSTABULARY**

**Standard Operating Procedure Title: Stop & Search.**

<b>Procedure Status</b>	Revised
<b>Owning Department</b>	Crime Reduction & Community Safety
<b>Procedure Author</b>	Det Chief Inspector Christopher Treadwell 2221
<b>Last Review</b>	October 2020
<b>Next Review Due</b>	October 2022
<b>Procedure Objective</b>	To provide clear guidance for officers and police staff when dealing with tactical issues which require the use of 'Stop & Search' powers and Stop and Search authorities given under Section 60 of The Criminal Justice & Public Order Act 1994

**Approved By:**  
T/D/Supt Matt Phillips (CR & CS)

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## Background / Introduction

### 1.1 Stop Statement:

*“Hertfordshire Constabulary recognises the impact of the use of stop and search on individuals and our communities. We are constantly striving to improve how we conduct searches by responding to feedback and maximising learning opportunities for our staff, including supervisory reviews and independent public scrutiny to ensure they are conducted in line with the Police & Criminal Evidence Act, Code A and the Code of Ethics - with respect, proportionality and necessity.*

*Stop and Search is not only a tactical method of crime prevention, it can also support the detection of crime. It is a valuable tool for gathering intelligence which, when developed, helps to mitigate threat and risk within our communities from all crime types, including serious violence and weapon enabled crime.*

*Hertfordshire Constabulary has force wide objectives for crime reduction yet there are no stop and search targets set across the organisation for any staff or departments actively engaged in stop and search. Our only goal is to improve the quality of a stop and search, measured through supervision, outcomes, scrutiny and engagement with individuals and our communities.*

*We expect to see the majority of stop and searches being intelligence led and focussed mainly on acquisitive and high harm offences in line with the Force Control Strategy rather than low level drug possession.*

*This SOP aims to provide guidance and reassurance to officers and supervisors involved in the operational delivery of Stop and Search so that they have the confidence to apply the power with the ultimate aim of preventing crime, catching criminals and keeping people safe.”*

T/ Det Supt Matt Phillips

October 2020

Hertfordshire Constabulary is committed to using the full range of ‘Stop & Search’ powers provided by law in the prevention of crime and apprehension of offenders.

Stop & Search powers are used to look for items such as drugs, weapons, stolen property and articles used to commit crime. It is an essential Policing activity in preventing crime, serious harm and keeping Hertfordshire safe.

Accurate recording provides us with an understanding of where, when and to whom searches are being conducted. Correct use of the power, transparent recording and publication of the data along with robust internal and external scrutiny improves our legitimacy in the use of the power to protect our community. This is essential to enable us to identify any disproportionality in the application of the power towards any specific or set of protected characteristics, seek to understand reasons and, where necessary, act.

In the course of their duties, officers are empowered and positively encouraged to engage with any member of the public. There is no expectation that this activity should be curtailed.

Stop and Search powers must not be used indiscriminately but should be targeted in line with intelligence led policing principles. There will however be occasions when it is appropriate for officers to act upon their own initiative even though their reasonable grounds are not supported by intelligence.

## 2. Roles and Responsibilities

### 2.1 Police Officers

Police officers will utilise their powers to search in line with the guidance provided by Code A (Stop and Search) of the Police and Criminal Evidence Act, 1984 (PACE).

It is important that all Stop & Searches are recorded, whatever the outcome. The expectation is that the search will be exclusively recorded using the mobile data solution, TuServ. However, should this application not be available or appropriate officers will use the paper form. Paper forms are only to be used in exceptional circumstances which will require the agreement and authority of duty Bronze Commander (Chief Inspector).

If a person is arrested as a result of a 'Stop & Search' the arresting officer is personally responsible for ensuring that a copy of the search record is included within the custody record (see Custody Sergeant below for further detail).

All searches will be carried out with courtesy, consideration and respect for the person concerned. Every reasonable effort will be made to minimise any embarrassment that a person being searched may experience. Maintaining the person's dignity is critically important.

The officer conducting the search will consider, as far as practicable, religious or cultural issues or disabilities and how the intrusive nature of the search may impact upon that person. For further information regarding religious and cultural issues, officers should refer to Equality and Inclusions leads who can be found via the force intranet.

Transsexual and transgender people should be treated as they present themselves (either male or female) and their wishes taken into consideration. Local policy and best practice is that all searches should be conducted by the same sex as the person identifies.

Further guidance on interacting with Transgender, Transsexual and Transvestite persons can be found at the Human Resources/HR Policies and Procedures section.

The co-operation of the person to be searched will be sought in every case, even if the person initially objects to being searched. A forcible search will only be made once the police officer has established that the person continues to be unwilling to co-operate. Reasonable force may be used, if necessary, to conduct a search or to detain a person or vehicle for the purposes of the search. **If any form of force is used then it is mandatory that a Use of Force form will completed, without exception.**

### 2.2 Sergeants / Supervisors

The importance of supervision cannot be understated, as it is a key component in ensuring not only that the legal requirements of Stop and Search are met, but that issues such as data quality are addressed, allowing for effective analysis and governance.

Supervisors have a responsibility to be intrusive in their supervision of this power.

Sergeants / Supervisors will;

- Ensure compliance with PACE Code A
- Quality Assure the content of their officer's Stop Searches submitted on TuServ. Where necessary return those where the information has not been accurately recorded or requires further information prior to resubmission.

Stop Search forms completed incorrectly must not be authorised. Feedback to the submitting officer is to be given via the notes tab on TuServ.

- Please note if a Supervisor has identified concerns regarding a Stop Search then a review of Body Worn Video (BWV) is **mandatory**. The reviewing of BWV is to be recorded within the notes section on Stop Search form on TuServ.
- If appropriate to do so then consideration for performance management may be necessary for officers that persistently fall below the expected standards for Stop and Search

### 2.3 Custody Sergeants

If a person is arrested as a result of a Stop & Search procedure, it remains the personal responsibility of the arresting officer to ensure a copy of the search record is included within the custody record.

The custody officer retains overall accountability for the accuracy of the record and it is expected that where an arrest follows a stop and search, the custody officer should request a copy of the stop and search record be provided.

### 2.4 Chief Inspectors:

- 1) Chief Inspectors are asked to deliver a Stop & Search PowerPoint presentation personally to their teams on training days and / or in shift briefings alongside the Stop & Search bulletin to provide additional context, as and when required to do so.
- 2) Daily scan of stop and search in Daily Tasking Meetings (DTM) using TuServ to review grounds given, address quality concerns, assess whether the activity of stop and search is in accordance with your patrol plan and identify any potential intelligence opportunities. In the absence of the CSP Chief Inspector this responsibility will fall to their Deputy in charge of the DTM. This will include providing feedback to the searching officer via their line management if concerns are identified.
- 3) Monthly checks of the Inspector S&S Reviews. CSP Chief Inspectors need to check once a month that their Inspectors have conducted their S&S reviews for their CSP and recording this on LPC SharePoint. The LPC Stop and Search Chief Inspector (SPOC) that sits on the Coercive Powers Board is expected to check all CSP's are complying with the dip sample process, not just exclusively their own CSP.

### 2.5 Intervention & SNT Inspectors:

- 1) As part of the Stop & Search quality assurance process, Inspectors need to satisfy themselves that their teams are completing searches to the required standard . Intervention Inspectors will need to complete five (**5**) dip sample reviews from each CSP they cover e.g. five from Watford and five from 3 Rivers. SNT Inspectors will complete five from their own CSP, this will include OP Scorpion Officers search forms. The reviews need to be from the previous month.
- 2) If data quality or performance issues (learning opportunity) are identified e.g. the grounds were not satisfactory or there were items found but no arrest made for example, please raise this with your Sergeants to take further action.

**Please remember - this is not about hitting the target but missing the point – the aim here is to ensure quality, provide feedback where necessary and demonstrate to the public that we are intrusive and take Stop and Search seriously.**

### 2.6 Chief Officers

Please see Section 60 CJPOA section below

### 2.7 Station Reception Officers (SROs)

Anybody who has been Stopped & Searched is entitled to a copy of the search record for up to 3 months from the date of the search (except searches conducted under S60 CJPOA where the entitlement will extend to 12 months from the date of the search) and are informed of this by the searching officer at the time.

Should the person attend a police station to request a record, SROs can provide them with a printed copy by the following process:

- ICT Service Portal
- Scroll down to the icon marked "Stop & Search Receipt"

- Enter the Stop Search Reference Number
- Print off the Record

**To comply with GDPR, staff must be satisfied as to the identity of the person requesting the copy of the search record. This should be done by checking photo identification such as a passport, Driving Licence or other formal identification card.**

### 3 Section 60

#### **Guidance on the use of S60 Powers:**

The 1994 Act currently provides for an officer of at least the rank of Inspector to give a Section 60 authorisation, forces in the Scheme will raise the level of authorisation to a Senior Officer.

*However, Best Use of Stop and Search defines a Senior Officer at the rank of Assistant Chief Constable and Force Policy is that all Section 60's must be authorised by an officer of this rank.*

Although the word "necessary" does not appear in section 60(1), the effect of Article 8 of ECHR is that necessity remains relevant to each decision as to whether an authorisation is justified. Any authorisation made under Section 60 must be made only when the officer believes it is necessary. This applies to all forces using this power regardless of whether they are participating in the Scheme or not.

Informed by intelligence, senior officers in participatory forces must have a higher degree of certainty by reasonably believing that incidents involving serious violence will take place rather than it being a possibility.

The law provides for initial authorisations to be made for up to 24 hours (extendable for a further 24 hours). Forces participating in the Scheme will limit the maximum duration of the initial authorisation to 15 hours. For an extension up to 24 hours, an officer of senior rank will authorise any additional extensions.

Participating forces must communicate with the public in the areas where a Section 60 authorisation is to be put in place in advance (where practicable) and afterwards. The public need to be informed of the purpose and outcomes of each Section 60 operation.

### 4 Community Engagement

Communities are more likely to have increased confidence in Stop & Search powers if they are used properly and we can demonstrate that they are effective. Senior officers from the Local Policing Command (LPC) and Community Safety Partnership (CSPs) should engage with their communities and raise awareness of the powers and their effectiveness.

Communities should be provided with opportunities to feedback their experiences of Stop & Search and discuss their concerns about crime in their area. This could be done at events such as surgeries and public meetings or on the feedback links provided on the Constabulary website.

The Constabulary is always seeking to make use of available technology. Through an innovative feedback platform (ECHO) the Constabulary will be issuing front line staff with a QR code and a contact number to give to those subjected to a Stop Search. This will allow for the individuals to provide immediate feedback which will be analysed and used to inform training and improve services to the public.

When powers are authorised that do not require specific suspicion to search an individual, such as Section 60 Criminal Justice and Public Order Act 1994, there is a duty placed on senior officers to inform the community at the earliest opportunity that an authority has been issued giving the reasons why, the exact location and duration.

## 5 Carrying out Searches

All persons involved in any stop search are to immediately activate their body worn video. This video is to be retained in accordance with current Body Worn Video SOP / Policy / APP.

Officers completing search records using the TuServ application are expected to complete all mandatory fields and also any other fields they are able to within the search form.

Officers are expected to make all efforts to encourage persons subject to a search to provide personal information including self-described ethnicity information, making use of the aide memoire .

### 5.1

Officers' actions and grounds for search will be influenced through the use of intelligence following daily briefings. It is expected that the majority of Stop & Search activity would be carried out in locations where an up to date intelligence picture would support the use of the power.

Current legislation and associated case law does not explicitly prohibit officers from carrying out a search based on the smell of cannabis alone. However, if an officer conducts such a search then it is their individual responsibility to set out and accurately record the justification for the search based on the specific circumstances they face.

College of Policing July 2020 - Updated Stop Search APP provides clear guidance. It provides constructive information to help inform an officer's approach and encourages them to consider multiple factors in their decision making.

Where officers develop grounds that are based on more than the smell of cannabis alone, they are more likely to conduct productive searches.

Searches should be done in a targeted, fair, respectful and transparent manner and the person's dignity maintained throughout. Officers conducting searches must ensure those being searched fully understand the reasons why. Explanations of why searches are being conducted in a particular location may include things such as the problem profile for the area or recent crime trends. When people understand the reasons why they are being searched they are more likely to be co-operative, negating the need to use force. Research supports the fact that where a search is conducted well there is neither a positive nor a negative impact on the individual and/or community. Where a search is not conducted correctly there is significant and detrimental impact.

In certain cases, for example poor eyesight or literacy, the officer should offer to read any notice provided to a person subject to a Stop & Search. Consideration can also be given to using translating facilities such as The Big Word when appropriate.

### 5.2 Search powers

The following enactments provide police officers with a power to search and are the powers to which this policy applies. A search record will be completed on every occasion that any of these powers are used:

- Police and Criminal Evidence Act 1984 (PACE) Section 1;
- Misuse of Drugs Act 1971 Section 23;
- Firearms Act 1968 Section 47;
- Criminal Justice and Public Order Act 1994 Section 60;
- Proceeds of Crime Act 2002 Section 289;
- Sporting Events (Control of Alcohol) Act 1985 Section 7;
- Customs and Excise Management Act 1979 Section 163 and 164;
- Poaching Prevention Act 1862 Section 2;
- Deer Act 1991 Section 12;
- Conservation of Seals Act 1970 Section 4;
- Protection of Badgers Act 1992 Section 11;
- Wildlife and Countryside Act 1981 Section 19;
- Aviation Security Act 1982 Section 27(1).
- Psychoactive Substances Act 2016 (as of May 2016)

It is important that before any searches are undertaken the officer must ensure they have reasonable suspicion to Stop & Search that person. This information is recorded on the stops form under the 'Grounds' section.

### 5.3 Voluntary stops

Where a power to search exists and a police officer has reasonable grounds to conduct a search under such power, the search will be conducted as a statutorily authorised search regardless of whether the subject has volunteered to be searched. This means that even though the person is co-operative and willing to be searched the full procedures must still be followed and the search recorded.

An officer must not search a person, even with his or her consent where no power to search is applicable.

### 5.4 Stop and account

Following changes to legislation in March 2011, there is no requirement for officers to record a stop and account encounter. However, a person who is asked to account for themselves should be given information as to why they have been stopped (e.g. in a crime hotspot and being asked to account for their presence) and, if requested, given information about how they can report their dissatisfaction about their treatment. A person who has not been detained for the purposes of a search cannot be detained simply for the purpose of asking them to account for themselves.

Separate powers under S163 of the Road Traffic Act apply when stopping motor vehicles, the details of which are not included in the scope of this SOP.

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

The police officer will take reasonable steps to give the person to be searched or in charge of the vehicle to be searched, the following information from the mnemonic GOWISELY:

- Grounds for the search (reason for suspicion)
- Object of the search (i.e. what is being looked for)
- Warrant number, (if not in uniform)
- Identification (officer's name except in terrorism cases when the force number only will be given. Police officers not in uniform will show their warrant cards)
- Station to which the officer is attached
- Entitlement to copy of search within 3 months or 12 months in the case of Section 60
- Legal Power being exercised
- You are detained for the purpose of a search (person searched must be informed of this)

### 5.6 Conducting a search

#### **General Search**

This is a stop search that takes place in a public place and involves a superficial search that may require the removal of outer coat, jacket and gloves. This is to be conducted by an officer of the same sex to which the person searched identifies.

#### **Search involving more than the removal of outer coat, jacket gloves**

This search involves the removal of more than outer coat, Jacket and gloves (i.e. headgear, footwear, t-shirt) or clothing worn on religious grounds (i.e. burkha, turban), but does not reveal intimate parts of the body. This must be conducted out of public view by an officer of the same sex.

The record of the search must include (in the additional Information section):

- What clothing was removed
- Which parts of the body were exposed
- Whether the search was out of public view
- The sex of the officers present

When an officer completes this type of search they must inform the Crime Reduction and Community Safety Department via email, before the completion of their tour of duty. Before conducting a search on a child aged 17 years or under, that involves the removal of more than outer coat jacket and gloves, authority must be sought from a supervisor (Sergeant or above).

### **Search involving the exposure of intimate body parts**

On occasion it may be necessary to conduct a more thorough search that can involve the exposure of intimate body parts. This must be based on reasonable grounds and not because nothing was found during a less thorough initial search.

This search must be authorised by a supervisor (Sergeant or above) and conducted on police premises, unless there are extenuating circumstances, which must be recorded.

The record of the search must include (in the additional Information section):

- Name and warrant number of the patrol supervisor giving authorisation.
- The justification as to why the search involved the exposure of intimate body parts
- What clothing was removed
- Which parts of the body were exposed
- The location of the search
- The sex of the officers present

Before searching a child aged 17 Years or under authority must be sought from a supervisor (Sergeant or above). You will also need to inform an appropriate adult. This adult will need to be present at the location of the intimate search prior to any search taking place. The young person in agreement with the appropriate can be searched without the appropriate adult in the same room, but this will then need to be confirmed in writing by the appropriate adult.

***This search requires authorisation from a patrol supervisor (Sergeant or above - not custody sergeant) before the search takes place. The supervisor must ensure that the reasons for the search are lawful, proportionate, necessary and fair before giving their authorisation.***

The officer conducting the search must record the name and warrant number of the patrol supervisor giving authorisation. This information should be recorded in the additional information field within the stop and search form.

This search must be conducted on a police premises, unless there are extenuating circumstances, which must be recorded. The person must not be taken to police premises without authorisation from the patrol supervisor. PACE Code A 3.7 provides guidance on the conduct of searching at police stations, which must be done in accordance with paragraph 11 of Annex A to Code C.

The patrol supervisor, authorising the search, is responsible for reviewing the stop and search form on the STOPS database and must add additional comments to support their rationale for authorising the search. They must then tick the box to confirm that the form has been checked and authorised.

Where a patrol supervisor has authorised a search involving the exposure of intimate body parts, they must inform the Crime Reduction and Community Safety department via email, before the completion of their tour of duty. If an item is seen within a body orifice then consideration should be given to arresting the person searched and taking them in to custody with a view to seeking authorisation for an intimate search.

### **Intimate search**

This is a search which applies to a person under arrest and in custody. It involves the removal of items secreted within a body orifice and requires authorisation from a Superintendent or above and will require an Force Medical Examiner to be present.

## **5.7 Actions to be taken after a search**

When a mobile data solution is used to record the stop, no copy of the search record is available to be handed to the person searched. The electronic form does have a function which allows a copy to be e-mailed to the person or the reference number sent to them in a text. If they do not wish to give an e-mail address or mobile telephone number then they must be given a record with the unique reference number relating to the search (which can be found on the electronic form) and told that they can take the reference number to a police station with proof of personal

identification to receive a printed copy of the search record. This entitlement lasts for three months from the date of the search.

Grounds for every stop and search should relate to the person stopped and should not be a cut and paste, however it is recognised that where a group is stopped and grounds are identical then it should be recorded that the individual was part of a group.

Where available, officers should ensure that all stop and search records include any relevant references such as ISR's, Athena and BWV references.

Undertaking this act will ensure compliance with the legal requirements placed upon the police officer under the Codes of Practice.

The searching officer must also explain to the person that, if they are arrested and taken to a police station as a result of the search, that the record will be attached to their Custody Record at the station and they will be given, if they request, a copy of their custody record which includes a record of the search as soon as practicable whilst they are at the station.

Recording certain pieces of information when conducting a Stop & Search is a legal requirement. The Mobile Data solution has been designed to capture all the relevant information required to fulfil the legal obligation. Therefore, it is essential that all relevant sections are completed.

#### Submission of data

Completed stop search records must be reviewed by supervisor on TuServ prior to submission. Please defer submission until your supervisor has confirmed a review has been conducted, this will require the search to be saved not submitted (please see above).

An officer should use their discretion as to whether an intelligence report should be submitted separately with full details of the person stopped.

Robust external and internal scrutiny exists to closely examine Stop and Searches to ascertain if these searches are being conducted disproportionately, for example are they only being conducted on a particular group of people or people with a specific lifestyle.

## 6 Monitoring and Review

### 6.1

The use of Stop & Search powers will be overseen and reviewed by the Coercive Powers Board (CPB).

The CPB is chaired at Chief Supt level with membership including Local Policing Command (LPC), Office of Police and Crime Commissioner (OPCC), Thinking and Analysis and the chair from the Stop Search Scrutiny Panel.

The Constabulary's Thinking and Analysis Unit will also complete regular health checks and internal audits in relation to the use of Stop and Search.

### 6.2

The Constabulary's Stop Search activity is also scrutinised through the OPCC led Stop Search Scrutiny Panel).

The role of the Scrutiny Panel is replacing the more commonly used Independent Advisory Group (IAG) to hold the Constabulary to account over Stop and Search powers. The Panel produces an annual report which is available to the public. Meetings are held monthly and records of each meeting are made, which are also available to the public. These meetings are attended by a representative from Crime Reduction & Community Safety (CR & CS), normally at Chief Inspector level. LPC CSP Chief Inspectors are also expected to attend 1 Panel Meeting per year.

### 6.3

The Constabulary recognises the importance of Body Worn Video (BWV) as a means to ensure that search powers are being used appropriately. To ensure the quality of body worn video there have been several communications to all staff including the production of a training video entitled 'Film a Movie' which is available to all officers via the intranet.

Supervisors will be expected to regularly dip sample BWV footage of stop and searches to ensure that footage from BWV matches the details recorded on the stop and search form.

The Constabulary has ensured all officers are aware of the necessity to notify at the earliest practicable time that any person they are interacting with should be notified they are using BWV and a daily dip sampling process to reinforce this. This is a Spread Sheet on the SharePoint site for all CSPs which CIs are expected to check daily for lessons to be learnt and share findings via the force DMM meeting held daily. There is also a process in place for BWV to be shared and viewed by the external Stop Search Scrutiny Panel during meetings when requested.

### 6.4 Complaints will be reviewed by:

- a) Collated complaints data is sent to Crime Reduction and Community Safety Dept (CR & CS). Individual complaint details are redacted and forwarded to the Stop Search Scrutiny Panel (managed by the Office of the Police and Crime Commissioner) for them to review and recommend whether a Community Trigger should be activated. The result of that review will be recorded within the scrutiny panel minutes and the local CSP Chief Inspector will be notified of that recommendation regarding the trigger and its reasons. The OPCC Scrutiny Panel also have an option to refer any concerns relating to a stop search directly to the Professional Standards Department.
- b) The Crime Reduction & Community Safety Department will provide a quarterly update giving a brief review, to be made available on the Hertfordshire Constabulary website. This is through the newly established Stop Search Working Group (April 2020), who have responsibility to deliver improvements in Stop and Search across the organisation.

### 6.5

In line with Constabulary Policy this Standard Operating Procedure will be reviewed every 2 years and published on the Constabulary website.