

Multiple searches of a 16-year-old

Three strip searches and one alleged pat down search of a 16-year-old in a two-week period, raising issues about:

- *Appropriate adult attendance for strip searches of young people.*
- *Record keeping.*
- *Suspicion that a person may be concealing drugs internally.*
- *Actions taken during a strip search.*
- *Where a strip search can be carried out.*
- *Contacting a parent or guardian when a young person is taken to hospital before going to a police station.*

This case is relevant if you work in:

Custody and detention



Stop and search



Overview of incident

A police force was carrying out an operation targeting a drugs gang. The order for the operation specifically mentioned four men who were members of the gang. It also mentioned five women and another man who gang members were using to sell drugs. The team working on this operation was briefed daily at the beginning of each shift and debriefed at the end of the shift. These were two-way briefings where information was shared but they were not recorded in any way.

PC A and PC B were on patrol in an unmarked police car as part of the ongoing operation. Shortly after 2.30am, PC A called the force control room on his radio and advised them that he was following a car and needed a marked police vehicle to help stop it. It is unclear what prompted the car to be stopped. Although there had been intelligence about the car and its registered owner, this had been treated as having little merit. The car was not flagged up by Automatic Number Plate Recognition (ANPR) and as noted above, there is no record of operational briefings.

The car stopped and was found to contain four people: Ms C, the driver of the car; Child D, a young male; Ms E, another passenger and Mr F a man who was suspected of being a member of the gang being targeted.

PC B placed handcuffs on Child D immediately. PC B then held on to the handcuffs, stating that this was because she was aware they could have been used as a weapon. There are conflicting accounts of whether Child D was arrested or not. Child D states that PC B falsely accused him of assaulting her and arrested him. The force control room had been advised to expect an adult male being brought into custody. PC B denies arresting and subsequently de-arresting Child D.

College of Policing Personal Safety Manual

The College of Policing's Personal Safety Manual states that the application of handcuffs is a use of force and the manipulation of a person by holding the handcuffs is a technique to gain compliance by inflicting pain. An officer must be able to justify these actions when asked to do so.

Child D and Mr F were taken to the police station to be searched under section of the 23 Misuse of Drugs Act 1971. There is no search record for either of the women or the car that they had been in.

PC A carried out strip searches of each of the men separately with assistance from PC G. Both PC A and PC G describe the men as being asked to squat during the search. No drugs were found.

Authorised Professional Practice (APP) on Detention and Custody

"Detainees should not be asked to squat during a strip search."

Find out more online:

<https://www.app.college.police.uk/app-content/detention-and-custody-2/control-restraint-and-searches/>

Child D stated that he was not asked his name, address or age until after the search. Officers say that he was asked but refused to give it. Having assumed that he was an adult, no appropriate adult was contacted. PC A did not record the fact that he had strip searched a 16-year-old without an appropriate adult or submit an intelligence report about this.

PC B waited outside the room where the search was conducted with PC H . Evidence suggests that PC B filled in the forms in relation to the searches however there is no record of them having been submitted to the police system for recording searches. In the intelligence report on the incident that PC B submitted, she stated that all the occupants of the car were searched and did not mention that strip searches of the two males were carried out. This suggested that all the searches were pat down searches.

PACE Code A

PACE Code A Section 4 requires the officer carrying out a search to make a record of it either on the spot or as soon as practicable after the search is completed.

Find out more online:

<https://www.gov.uk/government/publications/pace-code-a-2015>

Two days later, PC I and PC B were on patrol in an unmarked car. Shortly after midday, they saw the same car that had been stopped previously in a car park. The car again contained Ms C, Mr F and Child D.

In addition to previous intelligence reports a fourth report had been created shortly before 3am that day. Ms C and Mr F had been in the car in the same car park and there had been a strong smell of cannabis from the car. Both occupants had been taken to the police station and strip searched but no drugs had been found. Additionally, there was intelligence relating to an address near where the car was parked that it was believed drugs were being dealt from that address. Mr F, Ms C and Child D were mentioned in these reports.

PC I recognised Mr F as a suspected member of the gang. He saw Mr F put his hands between his legs and suspected he was trying to conceal something. He placed handcuffs on Mr F.

Child D said that when he tried to get out of the car PC B kicked the door shut so he remained in the car until a marked vehicle arrived. While he was in the car, Child D said that PC B recognised him and called him by name. She said to him “strip search again” and when he asked why she replied “because you know why”.

When Mr F was taken from the car a bag containing 0.9g of cannabis was found on his seat. He was arrested for possession of cannabis by PC I. Child D and Ms C were detained for the purposes of a drug search under section 23 of the Misuse of Drugs Act 1971.

On arrival at the police station, there was some discussion about the fact that Child D would need an appropriate adult as PC I knew that he was under 18 years old. PC I raised concerns with the custody sergeant that on previous occasions when members of the gang had been arrested they had up to 80 or 90 wraps of crack cocaine and heroin wrapped in clingfilm in their anal passage. He stated that if there was the usual two to four hour wait for an appropriate adult to attend, there was a risk that Child D might take any drugs he had on him or any drugs secreted internally may be absorbed.

Authorised Professional Practice (APP) on Detention and custody

“If officers know or suspect that a detainee has swallowed or packed drugs, either for the purpose of trafficking or to avoid imminent arrest or detention by the police, they must treat the person as being in need of urgent medical attention and transfer them straight to hospital. Leakage from a package can prove fatal. If a package is swallowed to avoid detection, it is likely to have been prepared hastily and there is an imminent risk that it may come open or burst inside the person. If this happens, death can quickly follow, particularly when the person has swallowed crack cocaine.”

Find out more online:

<https://www.app.college.police.uk/app-content/detention-and-custody-2/detainee-care/alcohol-and-drugs/>

PACE Code C, Annex A

PACE Code C, Annex A provides for a strip search where it is reasonably considered that a detainee may have concealed an article they would not be allowed to keep. It also provides for an intimate search which consists of an examination of body orifices other than the mouth,

which has to be authorised by an officer of the rank of inspector or above, if it is suspected that they might have concealed a Class A drug which they intended to supply to another or export and the officer has reasonable grounds that an intimate search is the only means of removing those items.

Find out more online:

<https://www.gov.uk/government/publications/pace-code-c-2017>

Previous arrest records held by the police force for members of the gang being targeted were reviewed as part of the investigation. They showed only three previous reports of this. All were from several years earlier and not relating to any of the individuals currently targeted by the team.

PC I said that he came away from this conversation understanding that he had been told that if there was a concern for welfare, the strip search could be done without an appropriate adult. PS J, the custody sergeant at that time, could not remember any advice given but said that the only circumstances in which such a strip search should be completed were if it was absolutely urgent due to the risk of serious harm being caused to that individual.

PACE Code C, Annex A

“except in cases of urgency, where there is risk of serious harm to the detainee or others, whenever a strip search involves exposure of intimate body parts, there must be at least two people present other than the detainee, and if the search is of a juvenile or mentally disordered or otherwise mentally vulnerable person, one of the people must be the appropriate adult. Except in urgent cases as above, a search of a juvenile may take place in the absence of the appropriate adult only if the juvenile signifies in the presence of the appropriate adult that they do not want the adult to be present during the search and the adult agrees.”

Find out more online:

<https://www.gov.uk/government/publications/pace-code-c-2017>

Child D alleged that he was left naked during his strip search. PS K stated that this was not the case and that his top half and bottom half were searched separately. PC I did not remember the search specifically but also stated that he would always search the top half and bottom half separately.

Again, on this occasion, it is suggested that PC B filled in the search forms.

Five days after the second search, shortly before midnight PC A and PC B stopped Child D and Miss L walking along the road. Child D stated that PC A gave him a pat down search. Child D stated that he believed he was stopped and searched because he was black. PC A denied that a search took place.

Child D was not given any documentation for this search but he saw PC B make a note in her pocket book. The intelligence report submitted by PC B does not mention any search taking place. PC B's three pocket books covering the period under investigation had not been submitted to the force's record centre. One of the pocket books was recovered from her home and had pages missing from it. The other pocket books were never found.

Six days later, shortly before 4pm, PC I and PC M were in an unmarked transit van. PC I saw Child D and as he had previously had contact with him, he stopped the van to talk to him. PC M was in the first year of his career and was three days into a two week attachment to the team. He had little knowledge of the gang and did not know Child D.

PC I stated that he could smell cannabis and decided to carry out a search of Child D under Section 23 of the Misuse of Drugs Act 1971. Nothing was found during a search of his outer clothes and pockets. PC I decided to call for assistance from PC A and PC B to take Child D to the police station for a more thorough strip search. PC I explained to PC M that he might have been concealing drugs internally and that was why he wanted to do a strip search.

Authorised Professional Practice (APP) on stop and search

The smell of cannabis as sole ground for a search

Section 23(2) of the MDA and PACE Code A make no reference to whether the smell of cannabis alone provides reasonable grounds, and there are no stated cases on this issue. As a consequence, it is difficult for the College to provide further clarity, except to say that it is the responsibility of individual officers to ensure that searches based only on the smell of cannabis can be justified and are carried out in accordance with PACE Code A.

PACE Code A states that reasonable grounds for suspicion must relate to the likelihood that the object in question will be found. It also says that, in the absence of specific intelligence or information, reasonable grounds may exist on the basis of someone's behaviour, and that searches are more likely to be effective and legitimate when their grounds are based on multiple objective factors. This would suggest it is not good practice for an officer to base his or her grounds for search on a single factor, such as the smell of cannabis alone or an indication from a drugs dog. College research, carried out in two forces, has also concluded that behavioural factors should play a more prominent role than the smell of cannabis in officers' decisions to search for cannabis.

Guidance for practitioners conducting and supervising searches

To help an officer decide if their grounds for a cannabis search are reasonable, they should ask themselves the following questions:

- **Attribution** – can the smell of cannabis be attributed to a specific person?
 - If there is a group of people together – either in an area or vehicle – can I attribute the smell and/or suspicion to particular members of the group?
 - Could the smell have come from somewhere or someone else, ie, a previous occupant of the area/vehicle?
- **Likelihood** – how likely is it that I will find the cannabis I can smell on this specific person?
- **Genuine suspicion** – taking everything into account, do I have a genuine suspicion that I will find cannabis on this person and is there an objective basis for that suspicion based on facts, information and/or intelligence?
- **Reasonable person** – how would my grounds sound to a reasonable person? Would they reach the same conclusion as me, as required by PACE Code A?

- **What else** might indicate that the person is or is not currently in possession of cannabis – for example, their behaviour?

Find out more online:

<https://www.app.college.police.uk/app-content/stop-and-search/legal/legal-basis/>

PC I stated that when PC A and PC B arrived, he heard Child D say he was happy for the search to take place in the van so he moved the van to a nearby car park to conduct the search.

PACE Code A

“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).”

Find out more online:

<https://www.gov.uk/government/publications/pace-code-a-2015>

PC I stated that Child D was given the opportunity to provide the details of an appropriate adult but declined to do so. He said that Child D just wanted to get the search done there and then. Child D said he felt like PC B was playing mind games with him and may have been trying to get him to go in the van so she didn't have to do paperwork.

PC I and PC M searched Child D. During the search, cannabis fell from the waistband of Child D's boxer shorts. It was estimated to be worth £5 - £10. Child D again stated that at one point during the search he was left fully naked. The officers denied this.

After the cannabis had been found, the side door of the van was opened. Child D grabbed the bag with the cannabis in and put it in his mouth. PC I grabbed his jaw to try to stop him swallowing the cannabis but did not have him under control. PC B went to the side of the van, behind Child D and reached over his shoulder. Two of the officers describe Child D trying to bite PC B. Child D denies this. PC B then punched Child D in the face. She later said that this was a pre-emptive strike to stop any further attempts at biting.

After being punched, Child D showed that he had swallowed the cannabis. PC I arrested him under suspicion of the possession of cannabis and for assaulting a police officer. He then put Child D into handcuffs in a rear stack position. As Child D was getting out of the van he kicked out at PC B. PC A pushed him into the side of the van, which he says was to calm Child D down while waiting for colleagues to get out of the van. PC B then drove Child D to the hospital before returning to the police station with PC A.

On arrival at hospital Child D was found to have a suspected fractured cheekbone and a swollen nose and right side of jaw. PC I and PC M stayed with Child D at hospital until they were replaced by PC N and PC O around 7.30pm. On arrival at hospital the handcuffs were changed to a front stack position and were kept on throughout Child D's time in hospital. They were removed around 10pm when he arrived at police custody. The justification given for leaving the handcuffs on was to prevent escape and prevent any further offences of assault.

While Child D was in hospital, no attempts were made to contact his mother and he did not request that contact was made with her. The first contact from the police to Child D's mother was shortly before midnight, approximately eight hours after his arrest, once he had arrived at

the police station. By this time it was too late for Child D's mother to travel to the police station and it was not until around 9am the next day that he met with a solicitor.

At the time these searches took place, the police force was changing from paper search records to an electronic system. There was a transitional period where both types of record were accepted but after a cut off date, paper forms were rejected. In the new electronic system, supervisors were required to review and validate each electronic search record. In several instances, both the electronic and paper search records on this case were incorrectly filled out. For example, there was information missing or under the reasons for the stop the legislative power used is recorded rather than reasonable grounds for the search. It was not clear who had filled in the electronic records as the name of the completing officer could be changed. All of the electronic search records had been validated by PS P.

Child D said that he thought the third stop was racially motivated. The investigation examined this, but this was not supported by the available evidence.

Type of investigation

IPCC independent investigation.

Action taken by this force

The force has reminded officers of the requirements of PACE in relation to strip searches, highlighting the areas of concern in this investigation.

Outcomes for officers and staff

PC A

1. PC A the officer who led the searches of Child D on the first and third occasion and was present at the fourth incident was found to have a case to answer in relation to:
 - Placing Mr F in handcuffs during the first incident
 - Detaining the occupants of the car during the first incident
 - Making Child D squat during the strip search on the first incident
 - Not ensuring a correct record of the search of Mr F during the first incident was created and submitted
 - Not ensuring a correct record of the search of Child D during the first incident was created and submitted
 - Not ensuring a correct record of the search of Child D during the third incident was created and submitted
 - Failing to ascertain the age of Child D before instigating and conducting a strip search of him without an appropriate adult during the first incident
 - Facilitating the strip search of Child D in a police vehicle without an appropriate adult during the final incident
2. PC A attended a misconduct hearing and was given a final written warning.

PC B

3. PC B the officer who was present at all four stops, completed search records and punched Child D was found to have a case to answer in relation to:
 - The creation of an intelligence report which may have inaccurately represented the first incident involving Child D
 - The creation of an intelligence report which may have inaccurately represented the third incident involving Child D
 - Failing to create a record of the strip search of Child D during the first incident
 - The alleged arrest and de-arrest of Child D during the first incident based on a false allegation of assault
 - Failure to account for two pocket books
 - The removing of a page from a third pocket book
 - Stating under misconduct caution that they did not know the search of Child D during the final incident was to be a strip search
 - Stating under misconduct caution that the searches of Child D during the first and second incidents were pat down searches
 - Stating that Child D attempted to bit them prior to striking him during the final incident
 - Placing Child D in handcuffs during the first incident
 - Holding on to handcuffs to manipulate Child D during the first incident
 - Pushing Child D into the car in order to physically dominate him during the first incident
 - Striking Child D in the police van during the final incident
 - Not reporting, challenging or taking action against the conduct of PC I when he strip searched Child D without an appropriate adult during the second incident
 - Not reporting, challenging or taking action against the conduct of PC A when he searched Child D without reasonable grounds and then failed to record the search during the third incident.
4. PC B resigned from the police force while consideration of the outcome was ongoing. She therefore did not attend any misconduct hearing.

PC I

5. PC I the officer who led the second and fourth searches was found to have a case to answer in relation to:
 - The strip searching of Child D without an appropriate adult during the second incident
 - Not ensuring a correct record of the strip search of Child D during the second incident was created and submitted
 - The strip search of Child D in an unmarked police van with no appropriate adult present during the final incident
6. PC I attended a misconduct hearing and received a final written warning.

PC M

7. PC M the new in service officer who was present at the fourth encounter with Child D and assisted with the search, was not found to have a case to answer because as a trainee he had relied on the judgment of a more experienced officer
8. PC M received further training.

PS P

9. PS P was found to have a case to answer for misconduct in relation to failing in his duty as supervisor to adequately scrutinise the submissions of his officers to ensure that there was sufficient justification for stop and search.
10. PS P received management action.

Questions to consider

Questions for policy makers and managers

1. What do you do to make sure that officers involved in operations targeting drugs gangs, where searches are likely to be needed, have a full understanding of their powers and responsibilities for searches?
2. What consideration is given when planning operations targeting drugs gangs to any action that might need to be taken if young people are involved?
3. What mechanisms do you have in place to ensure that officers submit records appropriately, including search records, pocket books and intel reports?
4. How do you ensure that supervisors are exercising appropriate oversight of their officers' work?
5. How do you ensure that information shared through verbal briefings and debriefs is captured?
6. What guidance do you give officers on what to do when a person has put an object in their mouth?

Questions for police officers and police staff

7. Would you have considered the possibility that the boy may have been a victim of exploitation by the gang? If so, what action would you have taken and when?
8. What would you do to facilitate support for a young person from appropriate adults, family members or agencies either during the search or after it?
9. What action would you take if you suspected a young person you had stopped had concealed drugs internally?
10. If a colleague supports you in completing paperwork that you are responsible for, how do you ensure that the paperwork is completed accurately and submitted?
11. Would you have taken any action to contact the boy's mother while he was in hospital?