

Failure to recognise a victim

Stop and search of a 16-year-old young man, raising issues about:

- *Developing reasonable grounds for a search.*
- *Using reasonable force during a stop.*
- *Communicating with someone during a stop.*
- *Dealing with a person who has been injured.*
- *Identifying an appropriate adult.*
- *Recognising a matter as a complaint, and making a timely referral to the IPCC/IOPC.*
- *Responding to Crown Prosecution Service (CPS) letters with notices of discontinuance.*

This case is relevant if you work in:

Custody and detention	
Stop and search	

Professional standards	
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Overview of incident

Child A was in a city centre at around 6.30pm with two younger cousins. One of the cousins stepped in to intervene in a fight that broke out, in which an unknown older man tried to attack him. Child A, a 16 year-old-black young man, had stepped in to protect him and in doing so, was punched in the face, injuring his lip.

The unknown older man had continued to attack Child A and his cousin, forcing them to flee into a nearby betting shop where a shop worker let them take shelter and supplied tissue for Child A to tend to his injured lip.

Child A and his cousin left the shop around ten minutes later and could see that the police had arrived and were arguing with a group of adult men.

PC B and PC C were dispatched to the scene.

Child A walked over to the group, and PC C came over to him. At first, Child A thought PC C was going to help him because he was injured. However, he tried to search him, grabbing him by his arms, and patting him down. Child A resisted the search by pushing the officer's arms away and telling him to get off.

PC C stated he had at first taken Child A from the crowd to get an account. Later in the interview, he claimed that he had taken Child A away from the crowd to carry out a search because he had a cut lip and had been disruptive.

It is alleged that PC C failed to give grounds for the search, or to give his name, collar number, or details of the station he was attached to.

One of the men in the group, Mr D, challenged PC C, and told him to leave Child A alone. PC C responded by moving away from Child A to search Mr D. PC C reportedly informed Mr D that he was being searched under section 1 of the *Police and Criminal Evidence Act (PACE)*, but Child A did not hear the officer give any grounds.

Officers then took hold of Mr D's arms while he was being searched. Child A reportedly told the officer: "He hasn't done anything wrong. What is your purpose here? Have you just come here to cause trouble?"

The search of Mr D was completed and no weapons or illegal items were found.

PC C was about to complete an electronic record of the stop and search, but when he looked up he saw an incident between PC B and Child A and was not able to complete the forms. He did not try to complete the electronic record later.

PACE Code A 2015

"A record must be made of the search, electronically or on paper, unless there are exceptional circumstances which makes this wholly impracticable. In which case, the officer must make the record as soon as practicable after the search is completed."

Find out more online:

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

Child A told investigators that PC B had tried to intimidate him by moving into his space while talking to him. Child A was told to leave the area and reportedly replied, "I haven't done anything wrong, I am the victim here." Although he had been told to leave the area, he felt the action had been oppressive. He asked why he should leave, as he was the victim and had been beaten up. It is claimed that he asked why the officer was not trying to help and seemed only interested in searching people. Child A felt intimidated and frustrated because the officers had not offered to help him. He accepts he told the officer close to him to, "f*** off".

Despite the fact that Child A had a clear and visible injury to his lip, which he was dabbing with a piece of tissue to try and stop the bleeding, the officer did not try to investigate what had happened.

PC B warned Child A that if he swore again he would be arrested because there had been members of the public nearby. Child A reportedly responded, "I don't give a s*** what you say, I am not going away."

PC B then made the decision to arrest Child A for breach of the peace, taking hold of him by both arms. Child A struggled to break free from PC B and during the struggle Child A's arm connected with PC B's face. PC B then pulled Child A toward the rear of the police marked

vehicle while pushing him against the boot of the vehicle for stability. PC B stated that Child A lashed out again, this time connecting with the left side of his face.

The level of force used by PC B could well have escalated the situation or promoted a further disturbance.

PC B did not immediately inform Child A that he had been placed under arrest. He claimed that he had been about to do this when Child A pulled away from him.

PC B and PC C then took Child A to the floor and handcuffed him to the front, for their own protection, and to prevent him from escaping.

Child A was then arrested for assaulting a police constable and cautioned. He was taken to the local police station, accompanied by the two officers.

On arrival at the station Child A reportedly asked one of the officers why he had been searched and arrested, because he had been the victim of the fight. They reportedly said that it was because he had been bleeding.

Child A was unhappy with the way he was being treated and the custody sergeant had told him to be quiet. This made Child A unresponsive when asked questions. He eventually gave the custody sergeant the information he requested.

The custody sergeant did not ask Child A about the injury to his lip, but did ask if he wanted to see a custody nurse.

The custody sergeant tasked PC B and PC C to obtain an appropriate adult for Child A.

Authorised Professional Practice (APP) on custody and detention

“Detention can be very stressful so it is important that an appropriate adult attends as soon as is practicable in order to minimise the amount of time the child or young person spends in detention. Youth Justice Board (2014) Case Management Guidance requires attendance within two hours of the initial request being placed. In order to use time and resources to best effect, [Youth Offending Teams] YOTs should consider the location and travelling time of the appropriate adult requested, as well as the availability and arrival time of the solicitor and arrangements for those jointly arrested.

Officers should record and monitor the time when the appropriate adult is notified of the arrival of a child in custody and their arrival at the station to ensure children and young people in custody are dealt with as quickly as possible.”

Find out more online:

<https://www.app.college.police.uk/app-content/detention-and-custody-2/detainee-care/children-and-young-persons/#appropriate-adults>

Child A had lost his mobile phone during the incident and was unable to provide a phone number for anyone who could act as an appropriate adult.

Officers visited the home address he provided, but were unable to make contact with anyone. Neither officer contacted social services to ask if they could provide an appropriate adult.

While Child A was in custody, his cousin, Mr E, went to the police station where he was detained to offer to act as his appropriate adult. Mr E said he spoke to two members of staff and offered his services. He says he expressed concerns about Child A's vulnerability, and told staff that Child A's mother had died and he had no contact with his father. Mr E said that he was told that Child A was not in custody and, in any case, unless Child A requested that Mr E act as an appropriate adult, Mr E would not be allowed to carry out the role.

The custody log shows that Child A gave the name and address of a person who could act as an appropriate adult but there are no details of this person being contacted. Sometime later, someone else was identified as an appropriate adult, and sat in on Child A's interview with officers.

Child A spent a total of 19 hours and 20 minutes in police custody.

PC B seized the CCTV footage of the incident on the same night it took place. Neither of the officers were wearing body-worn video, and there was no in-car CCTV.

A few weeks later, police received a formal complaint/letter of claim from solicitors representing Child A. They stated they were pursuing a claim arising from the actions of the officers involved in the stop and search. This claim was for:

- compensation for assault
- wrongful arrest
- unlawful detention
- malicious prosecution

The letter was at first mistakenly identified as a civil claim and forwarded to the force's legal department, before being forwarded to the professional standards department (PSD) a couple of months later.

The PSD did not review the matter for a further 15 days, at which point they referred it to the IPCC, 94 days after the initial letter was received.

On reviewing CCTV footage of the incident, a senior crown prosecutor determined that the CCTV evidence did not support the account given by PC B. Instead, it showed the officer taking hold of Child A in an aggressive manner and using excessive force.

The Crown Prosecution Service (CPS) sent proposed discontinuance notices, to PC F the officer who interviewed Child A following his arrest, and PC F's supervisor, DS G and asked for someone from the force to make contact. The CPS advised that if no contact was made by a specified date the case would be discontinued. As no contact was made by the date specified, the CPS withdrew the case.

The email from the CPS also raised concerns about the case and in part about the integrity of the evidence.

When interviewed, DS G said she had no knowledge of the information held in the proposed discontinuance letter because she had not read it. DS G confirmed that she had deleted the emails without knowing, opening or reading the content of them.

PC F confirmed that he had read the contents of the email but did not action it as he did not agree with the decisions of the CPS prosecutor.

Type of investigation

IPCC independent investigation.

Outcomes for officers and staff

PC B

1. PC B, the officer who stopped and restrained Child A, was found to have a case to answer for misconduct, in relation to:
 - failing to deal with Child A as a potential victim
 - failing to provide grounds for the initial arrest
 - using excessive force during arrest
 - the length of time Child A spent in custody
2. None of the allegations were found to be proved.

PC C

3. PC C the officer who searched Child A and Mr D was found to have a case to answer for misconduct in relation to:
 - his search of Child A and Mr D without complying with the requirements of PACE.
 - having insufficient grounds for the searches.
 - failing to record the search of Mr D retrospectively.
 - the length of time Child A spent in custody, including his failure to contact social services as required by the custody sergeant.
4. The allegation that PC C failed to record the search of the unknown Asian male was proven, however no further action was taken.
5. None of the other allegations were proven.

PC F

6. PC F the officer who interviewed Child A following his arrest was found to have a case to answer for misconduct for failing to deal/respond in appropriate manner to the memo from the CPS.
7. PC F received management action.

DS G

8. DS G, the supervisor of PC F, the officer who interviewed Child A following his arrest, was found to have a case to answer for misconduct for failing to take action to respond to the notice of proposed discontinuance letter sent from the CPS.
9. The force agreed to deal with the officer outside of the formal disciplinary process by way of management action and provision of additional training.

Questions to consider

Questions for policy makers and managers

1. Does your force's training on stop and search include guidance on the legal framework and good practice on stopping and searching young people?
2. Where someone is arrested and taken into custody following a stop and search, what steps does your force take to ensure that stop and search records are completed?
3. How does your force ensure that complaints are identified, and referrals made, to the IOPC without delay?
4. Does your force routinely equip officers with body-worn video and require them to record all stop and search encounters?

Questions for police officers and police staff

5. What method do you use to identify victims and their vulnerability and how would you change your approach after reading about this case?
6. Based on the information provided, would you have searched both men?
7. What action would you have taken to try and de-escalate the situation?
8. Would you have taken any action if you saw the man had an injury to his lip?