

## **Law Essay**

### **Part 'A' Law Essay- Describe the powers the Police have to stop and search and arrest individuals**

Stop and search and arrest powers allow the police to combat street crime and anti-social behaviour, and prevent more serious crimes occurring. A Police officer can stop and search and arrest an individual, when they are not in uniform; however if they are not wearing uniform they must show you their identity card. Under CODE A (part of a simplified version of the Police and Criminal Evidence Act 1984, that puts 'stop and search' into understandable language) the Police must not stop an individual because of their age, race, gender, sexual orientation, disability, religion or faith, the way they look or dress, the language they speak, or because they have committed a crime in the past. The Police have to treat individuals fairly and with respect. If an individual is unhappy with how the Police treated them, they can complain. If they feel they were treated differently because of their race, age, sexuality, gender, disability, religion or faith, they can complain of unlawful discrimination. Advice can be obtained from, or complaints can be made to: a Police station, local police authority, a Citizen's Advice Bureau, local Race Equality Council, the Independent Police Complaints Commission, the Commission for Racial Equality, or a solicitor. If people have difficulty understanding English, or if they are deaf, then the police have to take reasonable steps to ensure that they understand their rights.

A 'stop' is when a Police officer stops an individual and asks them to account for themselves. That is, if they ask the individual to tell them: what they are doing, why they are in an area, where they are going, or what they are carrying. Due to the Stephen Lawrence Report where the Police were said to be 'institutionally racist', the officer must fill in a form saying why they were stopped and the individual must be given a copy (Police and Criminal Evidence Act 1984- PACE, Section 3).

A 'stop and search' is when a Police officer stops an individual and searches them, their clothes and anything they are carrying. Only a Police officer can search someone. The Police can only stop and search a person if they have reasonable grounds for suspecting that they are in possession of: stolen goods, offensive items, prohibited articles, or items intended to cause criminal damage (PACE 1984, Section 1). The last part of PACE 1984, Section 1, 'items intended to cause criminal damage' was added only in 2003 by the Criminal Justice Act, this significantly increased the Police powers. The Police used to have to ask a person if they could search them, they can now just carry out a search without permission, this also greatly increases the Police powers. There are times however when Police officers can search anyone within a certain area, for example: when there is evidence that serious violence could take place there (Criminal Justice and Public Order Act 1994- CJPOA), where a terrorist threat has been identified (Terrorism Act 2000), or at a major sporting event e.g. a football match (Sporting Events Act 1985). However the Police have to explain this to the individual and have to be searching for items which could be used in connection with violence or terrorism. Before someone is searched, the Police officer has to tell them: that they must wait to be searched, what law they are using and the individuals rights, their name, the station they work at, why they chose the individual, what they are looking for, and that you have a right to be given a form straightaway showing details of the stop and search (PACE 1984, Section 2 & 3).

When stopped or searched the officer has to fill in a form and give it to the individual straightaway (PACE 1984, Section 3) unless, for example, they are called away to an

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emergency. In this case a copy can be obtained from a Police station anytime within 12 months. The officer must write down: the name or a description of the individual (only if they are searched); their self-defined ethnic background, when and where they were stopped or searched, why they were stopped or searched, if they are taking any action, the names and/or numbers of the officers, and if the individual was searched- what they were looking for and anything they found.

The Police can stop and search an individual in a public place, regardless of payment, and if they are in a private garden which the Police believe not to be theirs they can also carry out a 'stop and search' (PACE 1984, Section 1) If a person is in a public place, the Police can only make them take off their coat or jacket and their gloves (outer-clothing), unless they have been stopped in relation to terrorism or where the officer believes they are using clothes to hide their identity (CJPOA 1994). The Police officer can ask an individual to take off more than this or anything they wear for religious reasons, such as a face scarf, veil or turban, but they must take them somewhere out of public view e.g. the station. This does not mean that the individual is being arrested. In this case, the Police officer who searches someone must be the same sex as them for obvious reasons.

The Police can stop a vehicle at any time and ask an individual to show their driving documents, such as their licence. The Police can search a vehicle if they have reasonable grounds to think it contains: stolen goods, offensive items, prohibited articles, or items intended to cause criminal damage (PACE 1984, Section 1). They can search a vehicle at anytime, even if the individual is not there but must leave a notice saying what they have done. If the search causes damage to the car, the owner can ask for compensation but only if the Police did not find anything to connect them to a crime.

The Police can arrest anyone who they have reasonable grounds for suspecting that has committed, is committing, or is about to commit an arrestable offence (PACE 1984, Section 24). An arrestable offence is any offence where the sentence is fixed, the sentence is 5 years or more, or any offence which Parliament says is an arrestable offence. The Police can arrest individuals for any other offence (non-arrestable) if: the suspects name cannot be discovered, there are 'reasonable grounds' for suspecting that the name and address are false, or if it is necessary to protect that person from physical injury, damage to property, obstructing the highway, or to protect a child, elderly or vulnerable person (PACE 1984, Section 25). They can also arrest someone due to failure of a bail condition (PACE 1984, Section 46a), or for collective and aggravated trespass, breach of the peace, and with a warrant from the Magistrates Court (CJPOA 1994). Police have to give the reason why the suspect is being arrested (PACE 1984, Section 28), and they have to treat the suspect humanely and with respect. The Police can use 'reasonable force' to arrest an individual (PACE 1984, Section 117), and must ensure that the suspect is taken to the police station as soon as possible (PACE 1984, Section 30). If the Police act in a way which does not comply with the law or the codes of practice, an individual has the right to complain and can attempt to sue the police.