

Date: 07/10/2020

Our Reference: FOIA-2020-109

RE: Freedom of Information Act 2000 Request

I write in response to your Freedom of Information Act 2000 (or 'FoIA 2000') request dated 11/09/2020, and was amended on 23/09/2020 to:

"what instructions have the College produced for officers on the use of handcuffs on persons stopped for a search (without being arrested)?"

When a request for information is made under FoIA 2000, a public authority has a general duty under section 1(1) of the Act to inform an applicant whether the requested information is held. There is then a general obligation to communicate that information to the applicant. If a public authority decides that the information should not be disclosed because an exemption applies, it must, under section 17(1) cite the appropriate section or exemption of the Act and provide an explanation for relying upon it.

It is important to note that a freedom of information request is not a private transaction. Both the request itself and any information disclosed are considered suitable for open publication, that is, once access to information is granted to one person under the legislation, it is then considered public information and must be communicated to any individual should a request be received. In light of this, our responses and disclosures are published on our external website at a later date. This should be borne in mind where a request is made for personal data of named individuals.

Decision

After conducting careful searches for any information relevant to your request I can confirm that there is some information held.

Officers receive extensive training, in force, on the stop and search procedures both in their initial training and their refresher and development training. Officers are also given extensive training in the national decision model which enables them to develop the professional judgement necessary to make effective policing decisions. Officers must have objective reasonable grounds to suspect before a search can be made as officers cannot detain a person in order to find grounds for a search.

The relevant section below is taken from the Personal Safety Manual (Handcuffing module), with wording from ACPO, and specifically relates to your request:

2.1.2 *“Any intentional application of force to the person of another is an assault. The use of handcuffs amounts to such an assault and is unlawful unless it can be justified. Justification is achieved through establishing not only a legal right to use handcuffs, but also good objective grounds for doing so in order to show that what the officer did was a reasonable, necessary and proportionate use of force”.*

2.1.3 *“Legal powers to use reasonable force are derived from various sources: Section 3 Criminal Law Act 1967, Section 117 Police and Criminal Evidence Act 1984, Common Law (Breach of the Peace) and Common Law (Self Defence) and section 76 Criminal Justice and Immigration Act 2008”.*

2.1.4 *“Officers should be familiar and comfortable with the circumstances in which handcuffs may be used. Moreover, they should be able to justify the use to supervisory officers, and appropriate Authorities including the Courts. In the same way officers should be prepared to justify the period of time the handcuffs were applied before their eventual removal”.*

2.1.5 *“In considering what action is reasonable, an officer should apply the principles of the Conflict Management Model, especially the Impact Factors. Factors such as age and gender, respective size and apparent strength and fitness may or may not support the justification of using handcuffs, taking into account all the accompanying circumstances at the time. There must always be an objective basis for the decision to apply handcuffs”.*

2.1.6 *“The physical condition of a person is another consideration in deciding whether or not handcuffs should be applied or their application continued. For example, where a person has a condition that may be aggravated when handcuffed, this might make their use unreasonable. When handcuffs are used, the condition of the person should be monitored to ensure that there is no particular risk of injury or death”.*

2.1.7 *“The following advice and guidance is provided to help clarify these guidelines”:*

2.1.7(i) *“In establishing an objective basis for believing that a person may escape or attempt to escape, an officer may react to whatever the person says or does, but need not wait for a physical act. The officer should take into account the seriousness of the offence for which the person has been detained. Depending on the circumstances, this can induce a level of desperation so that an attempt to escape could reasonably be expected. Previous indications of the person’s likelihood to escape can also be considered to establish reasonable grounds to handcuff”.*

2.1.7(ii) *“In establishing an objective basis for believing that a person should be handcuffed because violence is likely to be used against the officer or a member of the public, the officer need not wait for a physical act from the person. The officer should take into account the actions of the person prior to detention. If violence had already been displayed in the circumstances that led to the detention, regardless of whether or not the detention was for an offence involving violence this could constitute adequate objective grounds for handcuffing. Verbal and non-verbal indications from a person of a possible likelihood of violence can provide grounds for making an objective decision. When a person is known or*

is believed to be likely to use violence, based on previous experiences of such (perhaps particularly at the point of detention or while in custody), this would also assist an officer to develop an objective basis for a decision to use handcuffs”.

I trust this letter answers your questions. Your rights are provided in **Appendix A**.

Yours sincerely,

James Rose | Legal Advisor
Information Management and Legal Team
College of Policing

Email: FOI@college.pnn.police.uk

Website: www.college.police.uk

Appendix A

Rights

If you are dissatisfied with the handling procedures or the decision of the College of Policing made under the Freedom of Information Act 2000 (the Act) regarding access to information you can request that the decision is reviewed internally.

Internal review requests should be made in writing, within **forty (40) working days** from the date of the refusal notice, and addressed to: FOI team, Central House, Beckwith Knowle, Otley Road, Harrogate, North Yorkshire, HG3 1UF or email: FOI@college.pnn.police.uk

In all possible circumstances the College of Policing will aim to respond to your request for internal review within **20 working days**.

The Information Commissioner

If, after lodging an internal review request with the College of Policing you are still dissatisfied with the decision you may make application to the Information Commissioner for a decision on whether the request for information has been dealt with in accordance with the requirements of the Act.

For information on how to make application to the Information Commissioner please visit their website at <https://ico.org.uk/for-the-public/official-information/>.

Alternatively, write to:

Information Commissioner's Office

Wycliffe House

Water Lane

Wilmslow

Cheshire

SK9 5AF

Phone: 0303 123 1113