

Strip Search Legal Safegaurds

Draft Recommendations

23rd October 2024

Introduction

1. In light of the government's manifesto commitment to introduce new "*legal safeguards around strip-searching children*," JUSTICE held a roundtable in October 2024 attended by a range of experts, including lawyers, psychologists, and organisation's working in the field of youth and racial justice. The purpose of this roundtable was to identify the most effective way to strengthen policing standards and reduce the disproportionate and lasting impact strip searches have on children.
2. This document provides an initial overview of the core recommendations arising out of the roundtable. Their aim is to establish a safeguarding-based approach that law enforcement bodies can adopt when conducting strip searches on children. They primarily concern changes to PACE Codes A, C, H and I. We recognise that for changes to the PACE Codes to be effective, non-legislative changes may also be required. We are continuing to consult with other relevant stakeholders, including representatives from the police, to develop a set of comprehensive legislative and non-legislative reforms.

Treating children as children

3. **Recommendation 1:** To avoid pre-emptively criminalising children, the PACE Codes should use the term "child" rather than "juvenile" when referring to individuals under the age of 18.
4. **Recommendation 2:** We agree with the previous government's proposal that anyone reasonably suspected to be under 18 should be treated as such for the purpose of the PACE Codes, absent clear evidence to dispel that suspicion. However, we consider that the Codes should emphasise the risk of adultification bias, defined as "a form of racial prejudice in which children of minority groups, particularly Black children, are viewed as being more mature or older than they really are."¹

¹ [Police Race Action Plan Progress Report](#) (2024) p.12.

5. **Recommendation 3:** Whilst individuals between the ages of 18-25 should not be treated as children for the purposes of the PACE Codes, there is significant evidence that individuals do not reach psychological or neurological maturity until their mid- 20s.² To reflect this, notes in the PACE Codes concerning vulnerability, see for instance PACE Code C Note 1G, should highlight that those under 25, but over 18, may still be vulnerable by virtue of their age.

Threshold and authorisation

6. **Recommendation 4:** Whether conducted in custody, or under stop and search powers, a strip search of a child (or vulnerable adult) involving the exposure of intimate parts ("EIP searches") should take place only if it has been authorised by a senior officer and is necessary and proportionate to prevent serious harm to the child (or vulnerable person) or others. We consider that authorisation should be required from an officer of the rank of superintendent or above.
7. **Recommendation 4A:** The identity of the superintendent, the requesting officer, and the reasons why the search was considered necessary and proportionate should be recorded in the search/custody record and signed by the authorising superintendent.
8. **Recommendation 4B:** Where practicable this record must be made and signed in advance of the search taking place. Where this does not happen, the record must include an explanation as to why this was the case.
9. **Recommendation 4C:** The relevant Codes should make clear that for an authorisation to be justified, there must be reasonable objective grounds for believing the search to be necessary and proportionate which are relevant to preventing serious harm to the child (or vulnerable person) or others.
10. **Recommendation 4D:** The relevant Codes should contain guidance on the quality of the evidence required to justify an authorisation. This could take the form of a non-exhaustive list of markers of good quality evidence.

Presence of an appropriate adult

² For overview of research in this area see for instance Justice Committee, Seventh Report of Session 2016-17, [*The treatment of young adults in the criminal justice system*](#), HC 169. Note, also that this is already reflected elsewhere in the criminal justice system. For instance, "age and/or the lack of maturity (which may be applicable to offenders aged 18-25)" is a mitigating factor in sentencing. See here Sentencing Council, [*Causing grievous bodily harm with intent to do grievous bodily harm/wounding with intent to do GBH*](#).

11. **Recommendation 5:** Unless the child decides and the appropriate adult agrees, EIP searches of children should always require the presence of an appropriate adult. Currently, EIP searches of children can also take place in the absence of an appropriate adult in “*cases of urgency, where there is a risk of serious harm to the child or others.*”³ As set out above, we consider that EIP searches of children should only ever be permissible in these circumstances. “Urgency” should not be grounds for circumventing any of the safeguards attaching to EIP searches of children.

Notifying parents/guardians

12. **Recommendation 7:** Whether conducted in custody, or under stop and search powers, there should be a requirement on officers to take all reasonable steps to notify parents or guardians prior to a EIP search or, where this is not possible, following a search unless doing so would put the child at risk.
13. **Recommendation 7A:** Where it is not possible to contact the child’s parent or guardian prior to a search, a record must be made of this, and the steps taken to identify and contact the child’s parent or guardian.
14. **Recommendation 7B:** The relevant PACE Codes should include guidance on the circumstances in which notifying a parent or guardian may put the child at risk of harm.
15. **Recommendation 7C:** Where it is decided that notifying a parent or guardian would put the child at risk of harm, this decision and the reasons for it must be recorded. This information should be included in any safeguarding referral made following an EIP search.

Recognising traumatic impact

16. **Recommendation 8:** We agree with the previous government’s proposal that officers conducting or authorising searches involving EIP be required to have regard to the “*potentially traumatic and lasting impact on the juvenile or vulnerable adult, and to their safeguarding needs.*”⁴ However, this should apply to all searches involving more than outer clothing, not just EIP searches.

³ [PACE Code C](#), Annex A, para 11(c).

⁴ [Draft revised PACE Code 2024 A](#), para 3.7E; See also similar wording in [Draft revised PACE Code 2024 C](#), para 10B, [Draft Revised PACE Code 2024 H](#), para 11B, [Draft Revised PACE Code 2024](#), para 11B.

17. **Recommendation 8A:** The traumatic impact of strip searches on children is not homogenous. To supplement the above, the relevant PACE Codes should include a note to the effect that having due regard to the potentially traumatic and lasting impact of a strip search on a child or vulnerable person requires consideration of their specific circumstances and characteristics. In particular, officers conducting or authorising a search must consider whether the child (or vulnerable person) has other protected characteristics, such as gender, race, religion, or disability, may make them more likely to experience the search as traumatic

Promoting agency and preserving dignity

18. **Recommendation 9:** We agree with the previous government's proposal to require officers to conduct searches with "*particular regard to the dignity, rights and welfare of the juvenile, taking in account their preference in respect of matters such as the presence of a parent or guardian.*"⁵ This should apply to all searches involving the removal of more than outer clothing, not just EIP searches.
19. **Recommendation 10:** Additional guidance should be provided on other matters a child may have a preference in relation to. This should include, at a minimum:
- (a) For EIP searches, officers should consider the child's preference as to whether their appropriate adult faces away during the search. We understand that this is already normal practice in many cases.
 - (b) For searches that involve the removal of more than outer clothing, but which would not ordinarily be considered an EIP search, officers should consider whether the child would prefer that the search be conducted in the presence of an appropriate adult.
 - (c) For all strip searches, officers should give particular regard to the child's preference regarding the location of the search.
20. **Recommendation 11:** Officers should be required to ask the child whether they have any preference in relation to the search (including the matters in Recommendation 10). Any preferences expressed by the child should be recorded; if no preferences are expressed this

⁵ [Draft revised PACE Code 2024 A](#), para 3.7F(a); See also similar wording in [Draft revised PACE Code 2024 C](#), para 11A, [Draft Revised PACE Code 2024 H](#), Note A6(a), [Draft Revised PACE Code 2024](#), Note A6(a).

should also be recorded. Where preferences are not accommodated this should be recorded along with the reasons why. In EIP searches, this should be recorded as part of recording agreement/non-agreement (see Recommendation 12 below).

21. **Recommendation 12:** Before conducting a search of a child involving the exposure of intimate parts, the officer conducting the search should inform the child of the power under which the search is being conducted, their rights and entitlements under the Code, and ask whether they have any preferences in relation to the search, and whether or not they agree to the search.
22. **Recommendation 12A:** The information provided by both the officer and the child should be recorded, and the record signed by the child and their appropriate adult.
23. **Recommendation 12B:** The officer conducting the search should make clear that they are able to conduct the search whether or not the child agrees, and that the purpose is to ensure the child understands what is about to happen to them, the safeguards that apply, and to give them the opportunity to have any preferences and objections formally recorded.

Exceptions for urgent cases

24. **Recommendation 6:** As set out above, we do not consider that urgency should be a reason to disapply safeguards relating to the strip searching of children. We have heard that in practice “urgency” is far too often a proxy for “convenience.” However, if a distinction is to be made between urgent and non-urgent cases, a case should only be considered urgent where there is a real and immediate threat to life.
25. **Recommendation 6A:** Where such a case arises, a search in the absence of any of the safeguards should only be permissible where necessary and proportionate to address the real and immediate threat to life. This would require both subjective belief on behalf of the officer(s) involved, and objective reasonable grounds.
26. **Recommendation 6B:** Where, exceptionally, a search of a child takes place in an urgent case in the absence of one or more safeguards, an officer of at least the rank of superintendent must be notified. A record must be made of the identity of the officer who conducted the search, the officer notified, and the reasons the search was considered necessary and proportionate to address a real and immediate threat to life.

Recording and reporting requirements

27. **Recommendation 13:** Where an EIP search of a child is conducted, the police officer conducting that search should be required to record the following:

- (i) the reason the search was considered necessary.
- (ii) the identity and rank of the officer who conducted and authorised the search.
- (iii) the officer-perceived age, sex and ethnicity of the child.
- (iv) if an appropriate adult was present, their identity and relationship to the child.
- (v) if absent, the reason why a search was considered necessary in their absence.
- (vi) any preferences expressed by the child.
- (vii) whether these preferences were accommodated and if not, why not.
- (viii) whether or not the child agreed to the search and the reasons given.
- (ix) the outcome of the search.
- (x) any safeguarding referrals or support provided following the search.
- (xi) the offence for which the child was arrested (if conducted under Code C, H, or I).
- (xii) the status or outcome of the investigation (if conducted under Code C, H, or I).

28. **Recommendation 14:** Where any other more thorough search of a child is conducted, the officer conducting the search should be required to record the following information:

- (i) the reason the search was considered necessary.
- (ii) the identity and rank of the officer who conducted the search.
- (iii) the officer-perceived age, sex and ethnicity of the child.
- (iv) any preferences expressed by the child.
- (vi) whether these preferences were accommodated and if not, why not.
- (viii) the outcome of the search.
- (ix) the offence for which the child was arrested (if conducted under Code C, H, or I).
- (x) the status or outcome of the investigation (if conducted under Code C, H, or I).

29. **Recommendation 15:** To ensure greater accountability, proper recording of information, and appropriate safeguarding, forces should be required to share records made of EIP searches with relevant agencies outside of the police. In the case of searches conducted in custody, this information could be included in the report the police are already required to send to the Youth Justice Service. In the case of searches conducted as part of a stop and search, this could be included in a MERLIN report (in the case of a search conducted by the Metropolitan police) or equivalent.

Monitoring and Scrutiny

30. **Recommendation 16:** Annual data requirements should include mandatory reporting on the strip searching of children carried out both in custody and under stop and search powers. This should distinguish between EIP searches, and other more thorough searches, and include the age, sex and ethnicity of the child, whether an appropriate adult was present, the location of the search, whether a safeguarding referral was made, the outcome of the search, and where relevant the offence for which the child was arrested. This data should be published annually by the Home Office.
31. **Recommendation 17:** Scrutiny of the use of strip search powers on children both in custody and during stop and search should be built into PEEL inspections of police forces conducted by HMICSFR. Search and custody records made in relation to strip searches of children should be subject to dip- sampling.
32. **Recommendation 18:** Search/custody records made in relation to strip searches of children should be share with, and subject to scrutiny by local community scrutiny panels.

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