



Home Office circular 012 / 2009

Photography and Counter-Terrorism legislation

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- **Addressed to:**
All Chief Officers of Police

This circular has been produced to clarify counter-terrorism legislation in relation to photography in a public place. Concerns have been raised that sections of the Terrorism Act 2000 are being used to stop people taking photographs - whether this is photographs of buildings or people - and that cameras are being confiscated during such searches.

Photography and Section 43 of the Terrorism Act 2000

Under section 43 of the Terrorism Act 2000 a police officer may stop and search a person they reasonably suspect to be a terrorist, to discover whether that person has in their possession anything which may constitute evidence that they are a terrorist. This power can be exercised at any time and in any location.

The definition of 'terrorist' is found in section 40 of the Terrorism Act 2000.

Important: Section 43 does not prohibit the taking of photographs, film or digital images in a public place and members of the public and the press should not be prevented from doing so in exercise of the powers conferred by section 43.

A police officer can only stop and search a person they reasonably suspect to be a terrorist under this power.

Viewing Images and Seizure

- Digital images can be viewed as part of a search under section 43 of the Terrorism Act 2000 to

discover whether the person has in their possession anything which may constitute evidence that they are a terrorist.

- When conducting a search under section 43, cameras, film and memory cards can be seized if the officer reasonably suspects that these may constitute evidence that the person is a terrorist.
- Officers do not have the power to delete images or destroy film.
- Once cameras or other devices are seized, to preserve evidence, officers should not normally attempt to examine them further.
- Seized cameras and other devices should be left in the state they were found in and forwarded to appropriately trained forensic staff for forensic examination.

Photography and Section 44 of the Terrorism Act 2000

Powers under section 44 of the Terrorism Act 2000 enable uniformed police officers to stop and search anyone within an authorised area for the purposes of searching for articles of a kind which could be used in connection with terrorism. The powers do not require a reasonable suspicion that such articles will be found.

Police officers can stop and search someone taking photographs within an authorised area just as they can stop and search any other member of the public in the proper exercise of their discretion, but the powers should be used proportionally and not specifically target photographers.

Important: Section 44 does not prohibit the taking of photographs, film or digital images in an authorised area and members of the public and the press should not be prevented from doing so in exercise of the powers conferred by section 44.

Viewing Images and Seizure

If a police officer already reasonably suspects the person to be a terrorist they should use section 43.

- Digital images may be viewed as part of a search under section 44 of the Terrorism Act 2000, provided that the viewing is to determine whether the images are of a kind which could be used in connection with terrorism.
- The camera, film or memory cards may be seized where a camera is found and the officer reasonably suspects it is intended to be used in connection with terrorism. For example - He or she reasonably suspects photographs are being taken for the purpose of reconnaissance or targeting for terrorist activity.
- Officers do not have the power to delete images or destroy film.
- Once cameras or other devices are seized, to preserve evidence, officers should not normally attempt to examine them further.
- Seized cameras and other devices should be left in the state they were found in and forwarded to appropriately trained forensic staff for forensic examination.

Photography and Section 58A of the Terrorism Act 2000

The offence concerns information about persons who are or have been at the front line of counter-terrorism operations, namely the police, the armed forces and members of the security and intelligence agencies.

Section 58A makes it an offence to publish, communicate, elicit or attempt to elicit information about any of such persons which is of a kind likely to be useful to a person committing or preparing an act of terrorism.

An officer making an arrest under section 58A must reasonably suspect that the information is of a kind likely to be useful to a person committing or preparing an act of terrorism. An example might be gathering

information about the person's house, car, routes to work and other movements.

Reasonable excuse under section 58A

It is a statutory defence for a person to prove that they had a reasonable excuse for eliciting, publishing or communicating the relevant information.

Important: Legitimate journalistic activity (such as covering a demonstration for a newspaper) is likely to constitute such an excuse. Similarly an innocent tourist or other sight-seer taking a photograph of a police officer is likely to have a reasonable excuse.

[back to top](#)

