## Module III: Schedule 7

##### Slide 2

### Aim of the session:

To explore what powers police have at borders, and what rights individuals who find themselves subjected to them have.

* What is Schedule 7?
* What is the procedure?
* What rights do people have?

### What is Schedule 7 of the Terrorism Act 2000?

##### Slide 3-4

###### Exercise 1: What do you know about Schedule 7?

**Activity:** ask question to the floor and invite discussion

**Discussion points:**

* What is it?
* Has anyone experienced it?
* The National Police Chiefs Council (NPCC), in their Schedule 7 guidance, state the rationale behind the existence of the law as follows:
	+ “Terrorists need to travel in order to plan, prepare and commit their crimes. Schedule 7 legislation is used by Police officers to determine whether a person appears to be (or has been) concerned in terrorism. When an encounter extends beyond a short period of time this process is commonly known as an examination. Our overriding priority is to keep the public safe by working together with all our communities to defeat terrorism.”[[1]](#footnote-1)
* The Home Office describes the necessity of Schedule 7 in the following way:
	+ “Schedule 7 forms a key part of the UK’s border security arrangements. Individuals engaged in terrorist-related activity travel to plan, finance, train for and commit their attacks. Examining people at ports and airports is necessary to protect public safety. Recent attempts to attack flights show that aviation remains a high priority target for terrorists.”[[2]](#footnote-2)
* In summary, Schedule 7 gives police and immigration officials the power to:
	+ Interrogate, search, and detain individuals at airports, seaports, international train ports, and land borders.
	+ Take your fingerprints, photos, and DNA.

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### How does Schedule 7 function?

* As put by the Home Office:
	+ “Schedule 7 is a national security port and border power. It enables an examining officer to stop, search, question and detain a person travelling through a port/airport or the border area.”[[3]](#footnote-3)
	+ An ‘examining officer’ is defined as a “constable, an immigration officer and a customs officer”.[[4]](#footnote-4)
* Under this provision, officials do not need any reasonable cause or suspicion to stop you. The NPCC point out that the reason behind this, and the purpose of being stopped, is to ascertain and determine “whether a person is involved in the commission, preparation or instigation of acts of terrorism.”[[5]](#footnote-5)
* Being stopped does not mean you are suspected of being involved in anything and does not mean you are under arrest.
* However, what an individual says whilst being stopped, or what is found by officials who stop them, can be used to incriminate them or others.

### Success rates

##### Slide 8

* The way that data is recorded regarding Schedule 7 makes it difficult to accurately assess how many people have been affected. While the differences between “screening”, “examination” and “detention” will be explained below, it appears that initial screenings are not always recorded; meaning that people who may have been “stopped” under the legislation may not be included in the official figures but may feel personally affected by it, particularly if they are regularly stopped when travelling.
* Out of the 325 million passengers that transited ports in 2018, there were 11,891 Schedule 7 “stops” (note the use of the word “stops”, rather than “examination”) and 1,836 detentions.[[6]](#footnote-6)
* There have been numerous controversies surrounding the lack of reasonable cause or suspicion, primarily around the perceived ineffectiveness of Schedule 7:
* CAGE found that, of the 419,000 people stopped under Schedule 7 since 2009, only 30 were convicted.[[7]](#footnote-7)
* Even more recently, CAGE found that only 3 convictions were secured in the year ending March 2019 out of the 11,000 people stopped; overall, the conviction rate for Schedule 7 stops from 2010 to 2019 is 0.007%.[[8]](#footnote-8)
* CAGE states that the “number stopped for initial ‘screening’ are not published…our conservative estimate of the number of people stopped since 2001, including those screened, is well over 500,000 and potentially close to one million.”[[9]](#footnote-9) This is an important point because, when taken together with Choudhury and Fenwick’s report for the EHRC which showed that the experience of being stopped in this manner is “often more stressful than a stop in the street,”[[10]](#footnote-10) it suggests a lot more people than reported are being negatively impacted by this piece of legislation.

### What is the process of a Schedule 7 stop?

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1. Screening
	* Involves simple questions regarding your identity and the reason for travelling
2. Examination (can take up to an hour)
	* You may be made to undergo this process following screening
	* Those examining you must inform you that this is happening and give you an information leaflet
3. Detention (total time held, including examination, cannot exceed 6 hours)
	* If it is felt necessary to question you for longer than an hour, they will extend to the third phase of detention.
	* They must give you a “Notice of Detention”

### How long can you be detained?

* The NPCC say, in their Schedule 7 guidance, that “you may be formally detained within one hour and be required to remain for up to 6 hours overall.”[[11]](#footnote-11)

### What can be taken/asked of you under Schedule 7?

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* You may be asked for your passport, but this is only to identify you. Similarly, any other documents or information requested by the officer must be presented to them.[[12]](#footnote-12)
* You do not have the right to remain silent and are required to respond to all questions.
* You may be required to hand over DNA, fingerprints and photographs. These are all placed on the UK National DNA database.
	+ This is regardless of the outcome of the stop and interrogation
	+ Puts their information on the same database of convicted terrorists.
	+ The data of many innocent individuals is being retained.
* You do not have the right to information security.
	+ All electronic material such as phones, tablets and laptops can be seized, replicated and examined without a warrant.
* You may be required to hand over all passwords and encryption keys.

### What cannot be taken/asked of you under Schedule 7?

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* You do not have to answer questions about the behaviour of other people, as this exceeds the Schedule 7 questioning powers.
* MI5 may also wish to talk to you; however, you can politely refuse to engage with them. You are not legally obliged to answer them as their examination is not done under Schedule 7.
* Your DNA, fingerprints, or intimate samples cannot be taken without your permission. However, should you refuse, a Superintendent can authorise your fingerprints or non-intimate samples be taken without your consent at a police station if they are satisfied that doing so is necessary.
* When and if you are searched, you have the right to be searched by a person of the same gender.

### Your right to representation

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* The NPCC say that as long as you have not been formally detained, you can “request legal advice at your own expense.”[[13]](#footnote-13) However, they point out, “your examination may be delayed pending consultation with a solicitor unless doing so will prejudice the purpose of the examination.”[[14]](#footnote-14)
* You have the right to request a solicitor represent you and consult with them as soon as is reasonably practical, at any time in private.
* Some legal professionals will be able to offer you legal support even while you are being questioned.
	+ It is a good idea, therefore, to memorise the number of at least one solicitor and your next of kin in case you are without your phone.
* You may also be able to notify someone of your *examination*, but as the NPCC point out, this is down to the discretion of your examining officer. However, if you are subsequently *detained* you will have the right to have someone informed of your detention.[[15]](#footnote-15)

### Consequences of non-cooperation

##### Slide 16

* The NPCC say that “an officer has the power to detain you, using reasonable force if necessary. You commit an offence if you wilfully fail to comply with a request made by an officer under this legislation. This could result in a prison sentence, a fine or both.”[[16]](#footnote-16)

### How to handle the situation

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* Politely cooperate. You may be quizzed on almost every aspect of your life, so don’t be too alarmed if this does happen. Keep in mind that you are neither suspected of involvement in a crime, nor under arrest, so remain calm and courteous throughout the stages.
* Take the steps of making sure you are aware of your rights. In 2014, a group of students at Cambridge University found that 88% of its sample of 788 people stopped under Schedule 7 during a period of four months were Muslim.[[17]](#footnote-17) What this statistic suggests is that it would be wise for Muslims to read up on their rights and obligations under Schedule 7.
* Keep a detailed account of the events. For example, it is advised to note down all the details of the officials who have detained you, such as their warrant numbers and what police force to which they belong.
* Note down the types of questions they asked, as well as the responses you gave.
* It is important to stay calm and courteous during all stages.
	+ Being stopped is not indicative of wrongdoing, and you aren’t suspected of committing a crime.
	+ You are likely to be quizzed on almost every aspect of your life, so be prepared for this and stay focused.

##### Slide 19

# Case Study: The aid worker who got stopped, then approached by MI5

In 2017, an aid worker was stopped under schedule 7 on three different occasions in the space of three months. This is (parts of) his testimony:

*“During the first stop, they started by asking me a lot of things about my personal life, where I studied, my school, my grades, really irrelevant questions. Then it started about how many times I’d gone abroad. They were very slow and subtle. […] Literally three weeks later, they stopped me again. This time was more vigorous and horrible. For five hours they took fingerprints and DNA, and when I said I didn’t want to give my fingerprints and DNA they said they would arrest me if I didn’t comply. So essentially, I had no rights. […]At the last stop, a few weeks later I was held for around 30 minutes then let go. Some months later I had another stop in which they claimed it was a Schedule 7 stop but it wasn’t a Schedule 7 stop, it was MI5. Now, every single time I return from a trip where I have been stopped under Schedule 7 when I left the UK, I’ve been stopped by MI5 when I get back. Literally the moment I step off the plane, the men in suits are at the bottom of the stairs, waiting for me.”*

### What to do if you need to complain

##### Slide 20

* Once you are released, you should contact your MP and organisations like CAGE to be assisted in lodging a complaint if you feel the officer(s) exceeded their powers in their dealings with you.
* CAGE has had specialist personnel and resourced committed to dealing with Schedule 7 related cases since its founding and can provide you with access to specialised lawyers and trusted charity and welfare organisations.
* They are thereby uniquely positioned to offer valuable insight, guidance and support and where necessary to direct you to the appropriate and relevant bodies, who will provide specialised services for you.
1. 2020. *Npcc.Police.Uk*. Accessed March 23. <https://www.npcc.police.uk/Schedule%207/Schedule%207%20Public%20Information%20Leaflet.pdf>. [↑](#footnote-ref-1)
2. 2020. *Assets.Publishing.Service.Gov.Uk*. Accessed March 23. <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/157896/consultation-document.pdf>. [↑](#footnote-ref-2)
3. Ibid [↑](#footnote-ref-3)
4. Ibid [↑](#footnote-ref-4)
5. 2020. *Npcc.Police.Uk*. Accessed March 23. <https://www.npcc.police.uk/Schedule%207/Schedule%207%20Public%20Information%20Leaflet.pdf>. [↑](#footnote-ref-5)
6. "Operation Of Police Powers Under The Terrorism Act 2000 And Subsequent Legislation". 2019. *Assets.Publishing.Service.Gov.Uk*. <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/783893/police-powers-terrorism-dec2018-hosb0519.pdf>. [↑](#footnote-ref-6)
7. "Schedule 7: Harassment At Borders Report Executive Summary - CAGE". 2019. *CAGE*. <https://www.cage.ngo/schedule-7-harassment-at-borders-report-executive-summary>. [↑](#footnote-ref-7)
8. Ibid [↑](#footnote-ref-8)
9. Ibid [↑](#footnote-ref-9)
10. Choudhury, T. and Fenwick,H. (2011),The impact ofcounter-terrorism measures on Muslim communities, Equality and Human Rights Commission, URL: <http://dro.dur.ac.uk/10715/1/10715.pdf> [↑](#footnote-ref-10)
11. Choudhury, T. and Fenwick,H. (2011),The impact ofcounter-terrorism measures on Muslim communities, Equality and Human Rights Commission, URL: <http://dro.dur.ac.uk/10715/1/10715.pdf> [↑](#footnote-ref-11)
12. 2020. *Npcc.Police.Uk*. Accessed March 23. <https://www.npcc.police.uk/Schedule%207/Schedule%207%20Public%20Information%20Leaflet.pdf>. [↑](#footnote-ref-12)
13. Ibid [↑](#footnote-ref-13)
14. Ibid [↑](#footnote-ref-14)
15. Ibid [↑](#footnote-ref-15)
16. Ibid [↑](#footnote-ref-16)
17. "Schedule 7". 2014. *Crim.Cam.Ac.Uk*. <https://www.crim.cam.ac.uk/global/docs/events/ebp-2014/115-tues-schedule-7-brandon-langley.pdf>. [↑](#footnote-ref-17)