

Guns in vehicles

Tim Ryan of Warners solicitors explores guns in vehicles and police stop and search procedure.....

I was recently asked to advise an estate where gamekeepers' vehicles were being routinely pulled over by the police at the roadside and searched, for no apparent reason other than that, some months before, a dead buzzard had been found in the area and the opinion of the Wildlife Crime Officer that "all gamekeepers are at it". Not surprisingly, my client took exception to this.

The police have wide powers to stop and search people and vehicles, most of which require "reasonable grounds to suspect an offence". For example, under the Police and Criminal Evidence Act 1984 (PACE), a constable may do so where he has reasonable grounds to suspect he will find stolen property, offensive weapons, or articles for use in connection with burglary, theft, fraud or criminal damage. Similar powers exist under other legislation, such as the Misuse of Drugs Act 1971 and the Wildlife and Countryside Act 1981. There must be an objective basis for suspicion based on facts, information and/or intelligence. It cannot be based on generalisations or stereotypical images of certain groups or categories of people as more likely to be involved in criminal activity.

Where guns are concerned, the power is somewhat wider. Under s.47 of the Firearms Act 1968, a constable may require any person he suspects of having a firearm, with or without ammunition, in a public place to hand it over for examination. He may also stop and search any person or vehicle in a public place where he suspects there is a firearm, or that a serious firearms offence is being committed or about to be committed elsewhere than in a public place. A stop and search can therefore be exercised by a constable provided only that he has reasonable cause to suspect there is a firearm (i.e. there need be no grounds to suspect an offence). "Public place" is defined to include "any highway and any other premises or place to which at the material time the public have or are permitted to have access, whether on payment or otherwise." The powers are there to allow the police to determine whether a firearms offence has been committed, and could arguably be used, for example, to check vehicles leaving a clay pigeon ground or shoot at the end of a day.

In exercising their powers of stop and search, the police must comply with the procedures and safeguards set out in PACE and its Codes of Practice. The search must be carried out at or near the place where the person or vehicle was first detained and the duration of any detention must be reasonable and kept to a minimum. Before the search takes place the officer must provide his name and that of his police station, the legal search power being used and a clear explanation of the object of the search and, where reasonable suspicion is required, the grounds for that suspicion. He is required to make a detailed record of the search, a copy of which must be supplied if requested within 3 months.

It goes without saying that the police must behave fairly, responsibly, courteously and with respect for people being searched, and they must not abuse their powers by, for example, repeated and fruitless stops of the same individuals to the extent that it becomes unreasonable. This was happening in the case of the gamekeepers I advised.

Often, it is some other event which brings a vehicle transporting guns to the attention of the police. One client of mine was involved in a road traffic accident while driving home after shooting. Another had his gun was stolen from the back of his 4x4 on a petrol station forecourt when he went inside to pay.

Whenever a gun or section 1 ammunition is in transit, the certificate holder is required to take reasonable precautions for its safe custody, and a failure to do so could result in revocation or prosecution. Suitable measures will depend to a large extent on the circumstances, but the Home Office Guide on Firearms Licensing Law sets out steps the police are likely to consider as according with the duty:

- Any firearms should be hidden, preferably in the locked boot or other secure load carrying area.
- Vehicles which have to be left unattended for any length of time should ideally have an immobiliser and/or alarm fitted.
- Where practicable, the bolt, magazine or other operating part should be separated from the firearm and either carried on the person or kept in a locked container, ideally secured to the vehicle or concealed elsewhere.
- Where possible, ammunition should be stored separately and this too should be concealed from view.
- Where possible, the vehicle should be parked within sight of the responsible person and in a position that would frustrate attempts to enter it unlawfully (e.g. with the boot close to a wall).
- In estates and hatchbacks, the lid or cover of the load carrying area should be in place, and if ammunition has to be stored inside, it should be in a locked container ideally secured to the vehicle.
- A vehicle regularly used to carry guns should be fitted with a device for securing the guns to the vehicle, such as a security case, cage, cable or clamp.

Whilst it is not an offence not to carry your certificate with you it is wise to do so, particularly anyone who shoots at night. If you are unable to produce it on demand a constable may seize and detain any firearm or ammunition, and you might be arrested on suspicion of unlawful possession as well. Strictly speaking, it should be the original certificate, but a good black and white photocopy is usually acceptable: in most cases a sensible police officer will exercise proper discretion and accept it. In this electronic age, the police should be able to verify gun details and identity over the airwaves via National Firearms Licensing Management System (NFLMS) in England and Wales, although gremlins or maintenance downtime may cause difficulty out of hours. BASC advises visitors to Scotland to carry their original certificate as Police Scotland does not have 24/7 access to NFLMS.

Thanks to Tim Ryan for allowing BASC to publish his article on www.basc.org.uk

BASC Firearms Department 2014 - In association with Warners solicitors

Tim Ryan of Warners Solicitors advises private clients on firearms licensing issues and related offences. Gamekeepers feature amongst his regular clients. Sources praise him for being professional and considerate in his client care. For any questions about the legalities of shooting please call Tim on 01732 770660 or email t.ryan@warners-solicitors.co.uk.

WARNERS
solicitors