

Out of Order: The Rise of Stop and Search in Civil Orders Legislation

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Abstract : The sharp rise of civil orders has led to an expansion of police powers, particularly in the realm of stop and search activities. The broad scope and objectives of these civil orders –addressing issues as varied as public safety, crime prevention, and counter-terrorism – has led to ‘mission-creep’, whereby orders were being imposed in a wider range of contexts than initially intended. The ever-widening purview of civil orders in practice necessitates proactive measures by law enforcement which often rely heavily on the utilisation of stop and search, leading to an expansion of stop and search practices and the regulation of public space. Civil liberties organisations, criminal justice and legal practitioners, activist groups, and researchers have argued that civil orders dilute and undermine foundational legal principles, pose a threat to our basic rights and freedoms, facilitate dangerous criminal justice net-widening, and disproportionately target young, working-class people of colour. Many of the provisions in these orders are potentially incompatible with the right to liberty and security. The conditions of an order (whether negative restrictions or positive obligations) tend to be extremely easy to breach –and in some cases, almost impossible for the person subject to the order not to breach. When the conditions of an order are breached, the result is criminal punishment – often in the form of imprisonment. This paper argues that civil orders set people up to fail, sending them down a path towards incarceration and the ultimate deprivation of liberty. The proclaimed intentions underpinning these civil orders – to tackle purportedly ‘undesirable’ behaviour (which in and of itself is not a crime) committed by ‘undesirable’ people – paves the way for justifying violent and racially disproportionate policing practices.

Keywords : civil orders, policing, stop and search, crime, civil liberties, criminal punishment, anti-social behaviour

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