



Offensive weapons, knives and disabling substances

Version : 15.0

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Executive summary

In certain circumstances it is unlawful for persons to have in their possession, or threaten to use, knives, offensive weapons or disabling substances.

Police must be aware of these key, critical points when investigating offensive weapons, knives and disabling substances:

- The legislative definition of the term 'offensive weapon' includes four overlapping classes of article.
- Search and seizure powers along with constables' duties and obligations with exercising those powers are contained in the Search and Surveillance Act 2012.
- Apply the [Tactical Options Framework](#) for safe practice when dealing with possession of offensive weapons, knives and disabling substances.



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Overview

This section contains the following topics:

- [Introduction](#)
- [Health and safety duties](#)
 - [Maximising safety and minimising risk](#)
 - [Health and safety should be an everyday conversation](#)
- [Relevant law](#)
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Introduction

This Police Manual chapter explains:

- legislation relating to offensive weapons, knives and disabling substances
- your powers and procedures when dealing with offensive weapons and related items.

Health and safety duties

Maximising safety and minimising risk

Maximising safety and eliminating or minimising risk at work is the responsibility of all Police employees and persons engaged by Police to provide a service including contractors and their employees, trainees, interns and volunteers. It is delivered through meeting the obligations under the [Health and Safety at Work Act 2015](#) and Police safety policies.

A key enabler is the application of the [TENR-Operational threat assessment](#) in the workplace.

The expectation of the Commissioner and the Act is that persons in the workplace will take reasonable care to ensure that their acts or omissions do not adversely affect the health and safety of other persons, comply as far as they are reasonably able to with any reasonable instruction that is given in order to comply with the [Health and Safety at Work Act 2015](#) or regulations under that Act. They will co-operate with any reasonable policy or procedure relating to health or safety at the workplace that has been notified to them and take immediate action to stop any perceived or potential breach of the act or if impractical, immediately report the matter to a supervisor.

Health and safety should be an everyday conversation

Relevant Police instructions include:

- [Hazard management](#)
- [Health and safety](#)
- [Wellness and safety](#)
- this chapter in relation to the safe execution of powers and investigation procedures when dealing with offensive weapons and related items.

Relevant law

Relevant law includes:

- [Arms Act 1983](#)
- [Crimes Act 1961](#)
- [Summary Offences Act 1981](#)
- [Search and Surveillance Act 2012](#).

Additional information

Additional relevant information is contained in these chapters of the Police Manual:

- [Arms](#)
- [Assaults and injuries to the person](#)

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- [Attempts](#)
- [Arrest and detention](#)
- [Crime scene examination](#)
- [Part 1 - Initial response to homicide or serious crime](#); 'Homicide and serious crime investigations' chapter
- [New Zealand Bill of Rights](#)
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- [Search](#).



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Definitions

This section contains the following topics:

- [Disabling substance](#)
- [Intention to commit an offence](#)
- [Knives](#)
- [Offensive weapon](#)
- [Public place](#)
- [Made or altered](#)
- [Cause bodily injury](#)
- [Any article](#)

This table details definitions of terms under section [202A](#) of the Crimes Act 1961 or as indicated.

Term	Definition
Disabling substance	'Disabling substance' means any substance produced for the purpose of disabling, or any anaesthetising or other substance intended by any person possessing it for disabling any person.
Intention to commit an offence	<p>A 'prima facie intention to commit an offence involving bodily injury' means that the circumstances indicated, "at first appearance" or "on the face of it", that the person had an intention to:</p> <ul style="list-style-type: none"> • use the weapon to cause bodily injury, or • threaten or cause the fear of violence. <p>Note: This definition of intention also applies when deciding whether or not an article is an offensive weapon for the purposes of section 202A(1) - <i>Vereulen v Police</i>, 1989, High Court - Auckland, AP180/89.</p>
Knives	The ordinary meaning applies.
Offensive weapon	<p>'Offensive weapon' possessed in a public place means any article made or altered for use for causing bodily injury, or intended by the person having it with them for such use.</p> <p>'Offensive weapon' possessed in any place means any article capable of being used for causing bodily injury'.</p> <p>Note: The term 'offensive weapon' includes four overlapping classes of article as follows:</p> <ul style="list-style-type: none"> • an article that is made for use for causing bodily injury (e.g. knuckleduster, cosh; possession must be in public place) (s202A(1) and(4)(a)) • an article altered for use for causing bodily injury (e.g. broken bottle, fork that has been bent so that it can be used as a knuckleduster; possession must be in public place) (s202A(1) and(4)(a)) • an article that has another use, but is intended for use to cause bodily injury by the person possessing it (e.g. baseball bat; possession must be in public place) (s202A(1) and(4)(a)) • an article capable of being used for causing bodily injury (must be in circumstances that prima facie show an intention to use it to commit an offence involving bodily injury or the threat or fear of violence, e.g. knife, baseball bat, bottle, handbag; possession may be in any place) (s202A(2) and(4)(b)).



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Public place	'Public place' means a place that, at any material time, is open to or is being used by the public, whether free or on payment of a charge, and whether any owner or occupier of the place is lawfully entitled to exclude or eject any person from that place. Public place includes any aircraft, hovercraft, ship or ferry or other vessel, train, or vehicle carrying or available to carry passengers for reward. (section 2 of the Summary Offences Act 1981)
Made or altered	Refers to any object that has been especially created or changed, e.g. a branch that has been whittled down to form an arrow, a softball bat enhanced with nails.
Cause bodily injury	Means to be responsible for the physical injuring or maiming of someone.
Any article	In this context any tangible thing that is either made for, or used to cause bodily injury.



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Offences

Table of offences

Offence	A person is liable to...	Category
<p>Possessing a knife in a public place. Section 13A(1) - Summary Offences Act 1981</p> <p>Notes:</p> <ul style="list-style-type: none">• A charge under this Act may be more appropriate when dealing with young first offenders than under section 202A of the Crimes Act 1961.• The Court may order that the knife be forfeited to the Crown s13A(2).• No requirement to prove any criminal intent, simple possession of knife is sufficient.• No requirement to prove in any particular case that the knife is an offensive weapon.	<ul style="list-style-type: none">• imprisonment for a term not exceeding 3 months, or• a fine not exceeding \$2,000.	Category 2 offence
<p>Possession of a knife, an offensive weapon or a disabling substance in a public place. Section 202A(4)(a) - Crimes Act 1961</p> <p>Note: You must prove that person had possession without lawful authority or reasonable excuse.</p>	<ul style="list-style-type: none">• imprisonment for a term not exceeding 3 years.	Category 3 offence
<p>Possession of an offensive weapon or a disabling substance in any place with prima facie intention to use it to commit an offence. Section 202A(4)(b) - Crimes Act 1961</p> <p>Notes:</p> <ul style="list-style-type: none">• Offensive weapon for an offence under section 202A(4)(b) includes a knife.• It is a defence if the person charged proves that they did not intend to use the offensive weapon or disabling substance to commit an offence involving bodily injury or the threat or fear of violence.	<ul style="list-style-type: none">• imprisonment for a term not exceeding 3 years.	Category 3 offence



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Powers

This section contains the following topics:

- [To search and seize](#)
- [Warrantless searches of people for knives, offensive weapons and disabling substances](#)
- [Stopping and searching vehicles for knives, offensive weapons and disabling substances](#)
 - [Searching vehicles](#)
 - [Stopping vehicles](#)
- [Duties and obligations](#)
- [To arrest](#)
- [Sentence for second conviction](#)

To search and seize

The [Search and Surveillance Act 2012](#) provides constables with powers to stop and search vehicles, search people and seize knives, offensive weapons and disabling substances.

Warrantless searches of people for knives, offensive weapons and disabling substances

You may search a person without a warrant if you have reasonable grounds to suspect the person is committing an offence against section [202A\(4\)\(a\)](#) of the Crimes Act 1961 (which relates to possession of knives, offensive weapons, and disabling substances in **public places**).
([s27](#) Search and Surveillance Act 2012)

Note: The warrantless search power under section [27](#) does not permit a search of a person on suspicion of an offence against section [202A\(4\)\(b\)](#) (possession of knives, offensive weapons and disabling substances in **any place**).

Stopping and searching vehicles for knives, offensive weapons and disabling substances

Searching vehicles

If you have reasonable grounds to...	you may...
<p>suspect that:</p> <ul style="list-style-type: none"> • a person travelling in a vehicle (or who has alighted from it) is committing an offence in a public place against section 202A(4)(a) of the Crimes Act 1961, and • the vehicle contains a knife, offensive weapon, or disabling substance <p>(s28 Search and Surveillance Act 2012)</p>	<p>without a warrant:</p> <ul style="list-style-type: none"> • search the vehicle.

Note: The warrantless search power under section [28](#) does not permit a search of a vehicle on suspicion of an offence against section [202A\(4\)\(b\)](#) (possession of knives, offensive weapons and disabling substances in **any place**).

Stopping vehicles

Section [121\(1\)](#) of the Search and Surveillance Act 2012 authorises the stopping of a vehicle to conduct a search under section [28](#) of the Search and Surveillance Act 2012.



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You must also comply with the obligations set out in section [131](#) of the Search and Surveillance Act 2012

Note: You must be satisfied that you have the grounds to search the vehicle, i.e. reasonable grounds to suspect.

Duties and obligations

When you exercise a power under sections [27](#) or [28](#) of the Search and Surveillance Act 2012, you must comply with the duties and obligations imposed by:

- [Part 4](#) of the Act, including:
 - section [125](#) obligations when searching a person - identify yourself by name, state the search is pursuant to the search and Surveillance Act 2012, state the reason for the search (reasonable grounds to suspect person in possession of offensive weapon, knife or disabling substance), show ID if not in uniform.
 - section [121](#)(3) (at request of any person affected by the stopping power identify yourself, state the Search and Surveillance Act 2012 and reason for the search, and produce identification if not in uniform)
 - section [131](#) obligations when searching a vehicle – identify yourself by name, state the reason for the search (reasonable grounds to suspect there is an offensive weapon, knife or disabling substance in the vehicle), state your intention to enter and search the vehicle pursuant to the Search and Surveillance Act 2012, show ID if not in uniform
- the reporting requirements of sections [169](#) and [170](#) (reporting of exercise of powers to the Commissioner and Commissioner’s obligation to report search powers in annual report).

To arrest

You can arrest under:

- section [315](#)(2)(a) of the Crimes Act 1961, or
- section [39](#)(1) of the Summary Offences Act 1981.

Sentence for second conviction

If a person is convicted twice within two years of a crime against section [202A](#), (possession of a knife, offensive weapon or disabling substance) then section [202BA](#) of the Crimes Act 1961 requires the Court to impose a sentence of imprisonment, unless there are special circumstances relating to the offence or the offender satisfying the Court that a sentence of imprisonment should not be imposed on the offender.

The second conviction must be for an offence committed after the first conviction. An offender convicted for two offences under section [202A](#) at the same hearing would not qualify.



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Dealing with possession of offensive weapons etc in a public place

This section contains the following topics:

- [Initial action](#)
- [Action at the scene](#)
- [Evidence](#)
- [Related chapters](#)

Initial action

When you are dispatched to respond to a person in a public place who is in possession of an offensive weapon, follow these steps.

Step	Action
1	Obtain all the available information from the Communication Centre (Comms), including: <ul style="list-style-type: none"> • the location and the time the person was seen • the informant's name • the informant's present location • a description of the knife, weapon or disabling substance • a description of the suspect(s) • whether the offender(s) is known to the informant and if so, their name and whether they are likely to be violent • where, on the person, the informant saw the weapon • how many suspects were involved, their current location or where they may be headed, and the mode and direction of travel • the details of any vehicle owned or used by the offender.
2	On the way to the scene plan the action you will take based on the information received. See: Tactical Options Framework .
3	Plan the action you will take and how to protect yourself. Consider: <ul style="list-style-type: none"> • what kind of weapon the suspect might be carrying • where the suspect is likely to be carrying or concealing a weapon • what the suspect's body language indicates about state of mind and intentions • how the suspect might use the weapon • what tactical options you have available to deploy • the Tactical Options Framework.

Action at the scene for searching person

Follow these steps when dealing with a person at the scene.

Step	Action
1	Park safely.
2	Locate the informant and obtain the facts. Record all available information. Give the Communications Centre a SITREP and maintain communication.
3	Assess the information and decide whether the ingredients for an offence against section 202A(4)(a) of the Crimes Act 1961 are present. Consider whether: <ul style="list-style-type: none"> • the person suspected of committing the offence is in a public place • the item described meets the definition of an offensive weapon: <ul style="list-style-type: none"> - the weapon was made or altered for use to cause bodily injury - the person is carrying the weapon with the intent to cause bodily injury?
4	Apply TENR .



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5	Detain the suspect and explain section 125 of the Search and Surveillance Act 2012: <ul style="list-style-type: none"> • identify yourself by name • state the reason for the search • state the search is taking place under the Search and Surveillance Act 2012 • if not in uniform, produce identification. 	
6	As a result of the detention explain: <ul style="list-style-type: none"> • the suspect's rights under section 23 of the New Zealand Bill of Rights Act 1990 • that an opportunity to consult and instruct a lawyer will be given after the search is completed. 	
7	If. . . the suspect refuses to be searched or refuses to remain for the search Use AWOCA ('Ask Why Options Confirm Action' is the five-step tactical communications process that underpins the Tactical Options Framework (TOF).- see ' Use of force ' chapter) to gain compliance. there is more than one suspect	then. . . consider arresting them for obstruction. separate them from other witnesses and each other.
8	Search the suspect using section 27 of the Search and Surveillance Act 2012 and: <ul style="list-style-type: none"> • any item the suspect is wearing or carrying • any item in the suspects physical possession or immediate control. 	
9	If an item (offensive weapon) is located, seek an explanation to negate any defences. Did they have: <ul style="list-style-type: none"> • lawful authority • reasonable excuse. 	
10	Seize: <ul style="list-style-type: none"> • any offensive weapon found • any other unlawful item located during the search. <p>If you decide no offence has been committed or you issue the person with a warning, you can still seize the item under section 125(j) of the Search and Surveillance Act 2012.</p>	
11	Decide whether to arrest the person under section 315(2)(b) of the Crimes Act 1961.	
12	Give the suspect an opportunity under the New Zealand Bill of Rights Act 1990 to contact a lawyer.	

Action at the scene for stopping and searching vehicle

Follow these steps when dealing with the stop and search of a vehicle.

1	Record all available information. Give the Communications Centre a SITREP and maintain communication.
2	Assess the information and decide whether the ingredients for an offence against section 202A(4)(a) of the Crimes Act 1961 are present. Consider whether: <ul style="list-style-type: none"> • the person suspected of committing the offence is in a public place • the item described meets the definition of an offensive weapon: <ul style="list-style-type: none"> - the weapon was made or altered for use to cause bodily injury - the person is carrying the weapon with the intent to cause bodily injury?
3	Apply TENR

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4	<p>Stop the vehicle under section 121 of the Search and Surveillance Act 2012:</p> <ul style="list-style-type: none">• use flashing lights and/or siren• advise/update comms of vehicle details and location of stop. <p>You must on request from any person affected by the use of section 121:</p> <ul style="list-style-type: none">• identify yourself by name• state the search is taking place under the Search and Surveillance Act 2012• state the reason for the search• produce identification if not in uniform. <p>Ensure you have sufficient staff to deal with the number of occupants in the vehicle.</p>
5	<ul style="list-style-type: none">• Detain the occupants of the vehicle under section 118 of the Search and Surveillance Act 2012 for the purpose of determining any connection between the occupants and the reason for the search.• As they are detained they must be advised of their rights under the New Zealand Bill of Rights Act 1990 in accordance with the 'Chief Justice's Practice Note on Police Questioning' (See also the 'Rights caution' chapter in the Police Manual); and• that an opportunity to consult and instruct a lawyer will be given after the search is completed.
6	<p>Search the suspect following the procedure outlined for searching people in public places ensuring section 125 of the Search and Surveillance Act is complied with.</p> <p>Should you not locate the offensive weapon on the suspect, consider it could now be in the possession of another occupant or in the vehicle.</p> <p>To search another occupant of the vehicle you must satisfy section 119 of the Search and Surveillance act 2012 in that you must believe the offensive weapon is on that person.</p>
7	<p>Search any vehicle that:</p> <ul style="list-style-type: none">• the suspect is in, or• has just alighted from, and• you have reasonable grounds to suspect the vehicle contains a knife, offensive weapon or disabling substance. <p>Prior to searching the vehicle you must comply with section 131 of the Search and Surveillance Act 2012.</p> <p>You must:</p> <ul style="list-style-type: none">• identify yourself by name• state the search is taking place under the Search and Surveillance Act 2012• state the reason for the search• state your intention to enter and search the vehicle.
8	<p>Conduct a thorough search of the vehicle.</p> <p>If an item (offensive weapon) is located, seek an explanation to negate any defences. Did they have a:</p> <ul style="list-style-type: none">• lawful authority• reasonable excuse.



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9	<p>Seize:</p> <ul style="list-style-type: none"> any offensive weapon found any other unlawful item located during the search. <p>If you decide no offence has been committed or you issue the person with a warning, you can still seize the item under section 110(d) of the Search and Surveillance Act 2012.</p>
10	Decide whether to arrest the person under section 315 (2)(b) of the Crimes Act 1961.
11	As they are arrested they must be advised of their rights under the New Zealand Bill of Rights Act 1990 in accordance with the ' Chief Justice's Practice Note on Police Questioning ' (See also the ' Rights caution ' chapter in the Police Manual).

Evidence

Follow these steps.

Step	Action
1	Record everything about the suspect, including appearance, actions and statements.
2	Label and preserve the exhibit(s).

Related chapters

These Police manual chapters also support good investigation practice:

- [Crime scene examination](#)
- [Part 1 - Initial response to homicide or serious crime](#) of the 'Homicide and serious crime investigations' chapter
- [Search](#).



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Dealing with possession of offensive weapons etc in any place

This section contains the following topics:

- [Initial action](#)
- [Action at the scene](#)
- [Evidence](#)
- [Related chapters](#)

Initial action

When you are dispatched by the Communications Centre (Comms) to a person in any place who is in possession of a weapon, follow these steps.

Step	Action
1	Obtain all the available information from the Communication Centre (Comms), including: <ul style="list-style-type: none">• the location and the time the person was seen• the informant's name• the informant's present location• a description of the knife, weapon or disabling substance• a description of the suspect(s)• whether the offender(s) is known to the informant and if so, their name and whether they are likely to be violent• where, on the person, the informant saw the weapon• how many suspects were involved, their current location or where they may be headed, and the mode and direction of travel• the details of any vehicle owned or used by the offender.
2	If the offence took place on private premises, the Communications Centre must telephone the premises in order to try to establish the situation.
3	Plan the action you will take and how to protect yourself. Consider: <ul style="list-style-type: none">• what kind of weapon the suspect might be carrying• where the suspect is likely to be carrying or concealing a weapon• what the suspect's body language indicates about their state of mind and intentions• how the suspect might use the weapon• what tactical options you have available to deploy• the Tactical Options Framework.
4	Apply TENR .

Action at the scene

Follow these steps.

Step	Action
1	Park safely.
2	Locate the informant and obtain the facts. Record all available information. Give the Communications Centre a SITREP and maintain communication.



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3	<p>Assess the information and decide whether the ingredients for an offence against section 202A(4)(b) are present. Consider whether either of these applies:</p> <ul style="list-style-type: none">• was the article (weapon) capable of causing bodily injury?• the possession of the article (weapon) in circumstances that, prima facie, showed an intention to use it to commit an offence involving bodily injury or the threat or fear of violence? <p>Note: The power to search a person under section 27 or the power to search a vehicle under section 28 of the Search and Surveillance Act 2012 relates only to the offence of possession in a public place. For a suspected 202A(4)(b) offences, you cannot search the suspect unless you have arrested them. For your powers of search, see the 'Search' chapter of the Police Manual.</p>
4	Apply TENR .
5	<p>Consider power of entry onto private premises.</p> <p>Consider use of:</p> <ul style="list-style-type: none">• section 14 Search and Surveillance Act 2012• section 8 Search and Surveillance Act 2012 (must comply with s131 Search and Surveillance Act 2012).
6	<p>Where you are determining whether an offence against section 202A(4)(b) has occurred, you may interview the suspect and seek an admission or explanation. Decide what course of action is most appropriate; that is, arrest, summons or warning.</p>



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7	<p>If . . .</p> <p>you arrest the suspect</p>	<p>then. . .</p> <ul style="list-style-type: none"> • explain the suspect's rights under the New Zealand Bill of Rights Act 1990 in accordance with the 'Chief Justice's Practice Note on Police Questioning' (See also the 'Rights caution' chapter in the Police Manual) • comply with obligations under section 125 of the Search and Surveillance Act 2012 <ul style="list-style-type: none"> - identify yourself by name - state the reason for the search - state the search is taking place under the Search and Surveillance act 2012 - if not in uniform produce identification • conduct a search <ul style="list-style-type: none"> - seize any weapon or disabling substance found pursuant to section 125(j) of the Search and Surveillance Act 2012 - ask the suspect to give an explanation - if you do not locate the offensive weapon on them, consider using section 83 of the Search and Surveillance Act 2012 to conduct a search of the place. (s 131 of the Search and Surveillance Act 2012 obligations must be advised). <p>If there are other occupants in the place they may be detained under section 118 of the Search and Surveillance Act 2012 for the purpose of determining any connection between the occupants and the reason for the search.</p> <p>As they are detained they must be advised of their rights under the New Zealand Bill of Rights Act 1990 in accordance with the 'Chief Justice's Practice Note on Police Questioning' (See also the 'Rights caution' chapter in the Police Manual).</p> <p>To search another occupant in the place you must satisfy section 119 of the Search and Surveillance act 2012 in that you must believe the offensive weapon is on that person.</p>
	<p>you do not arrest the suspect</p>	<ul style="list-style-type: none"> • recover any knife, offensive weapon or disabling substance used if you can do so without conducting a search. You may ask person to surrender it to you.

Evidence

Follow these steps.

Step	Action
1	Record everything about the suspect, including appearance, actions and statements.
2	Label and preserve the exhibit(s).

Related chapters

These Police manual chapters also support good investigation practice:

- [Crime scene examination](#)
- [Part 1 - Initial response to homicide or serious crime](#) of the 'Homicide and serious crime investigations' chapter

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- [Search.](#)