

The use of Schedule 7 Terrorism Act 2000
In the case of Ms Lauren Southern

A Note by Max Hill Q.C.
Independent Reviewer of Terrorism Legislation

October 2018.

1. On 12th March 2018, Ms Lauren Southern, a Canadian citizen, arrived at the Coquelles border crossing in France, which is technically part of the United Kingdom by virtue of what are known as juxtaposed control arrangements. Therefore, the provisions of Schedule 7 to the Terrorism Act 2000 apply, as do the powers which can be exercised by the UK Border Force.
2. Ms Southern had previously travelled to this country in February, when she attended a demonstration in Luton on 24th February. There is no record to suggest that she was stopped under Schedule 7 powers whilst entering or leaving the UK on this occasion.
3. On 12th March, Ms Southern arrived at Coquelles in the early hours of the morning, at or around 3am. She was initially stopped by Border Force, a procedure which is not governed by the Terrorism Act 2000 and therefore outside my remit. This resulted in a delay whilst information was sought by Border Force officers from colleagues on the UK mainland.
4. During the above delay, CT Policing officers from Kent Police stationed at Coquelles decided to use their Schedule 7 powers to detain and question Ms Southern. This was a lawful process, conducted within the terms of the Schedule 7 Code of Practice, which entailed the completion of an examination record by CTP officers. Detention under Schedule 7 took place from 4.35-6.55am. On request, the examination record was made available to me for review.
5. However, the Schedule 7 procedure in this case was not concluded. This is because Border Force enquiries (see above), which had been continuing meanwhile, culminated in a decision to refuse permission for Ms Southern to enter the UK. This was a decision which did not emanate from the temporary Schedule 7 stop, nor was it taken by or involved CTP officers.
6. Once the Border Force decision was reached and was communicated to CTP, the Schedule 7 process was abandoned. This was logical, because the Border Force decision meant that Ms Southern was no longer entering the UK by virtue of refusal.
7. I decided to look into these events because it was suggested at the time that Ms Southern was forbidden to enter this country by the use or abuse of Schedule 7. On

enquiry, however, and having been shown the documents relating to the events of 12th March, I have concluded that this suggestion was groundless, albeit very possibly caused by a genuine confusion as to what had occurred and which statutory or other powers were actually used.

8. This case nonetheless highlights the need for precision in the use of separate powers at our borders. Both I and my predecessor in successive Annual Reports have drawn attention to the distinction between the legal regimes operated by different officers or forces at our borders (see paragraph 5.18 of the Terrorism Acts in 2016). I have written on this topic in greater length in paragraph 8.18 of my Annual Report on the Terrorism Acts in 2017, due for publication imminently.
9. This is thrown into relief by the current draft provisions of the Counter Terrorism and Border Security Bill 2018 Part II, which create a new set of powers for use at our borders in respect of “hostile activity for, on behalf of, or otherwise in the interests of, a State other than the United Kingdom.” These draft clauses bear a close resemblance to the content of Schedule 7, because they are indeed based upon Schedule 7. Thus, officers relying upon the powers must ensure that they are operating under the correct regime. Bearing in mind that Counter Terrorism Police officers who currently operate Schedule 7 will also operate the Part II border security powers making the distinction between the two all the more important.
10. However, I repeat that on the issue engaged on Ms Southern’s case, on enquiry I have not found any misuse or abuse of lawful powers.

MAX HILL Q.C.
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