

Black Lives Matter

Police Power

Police get their power from

1. The [Police Act](#)
2. The Common Law – powers evolve, expand, or are limited through court precedent

Police have the Common Law power to:

- Maintain the peace
- Prevent crime
- Protect life and property

The Police sometimes act in a way that may be outside the scope of their power by effecting unlawful arrests. Some of these actions may lead to court cases in which courts can determine whether the action was within the scope of lawful police powers. When considering whether a police action is justified, the courts will consider...

1. Does the police action at issue fall within the general scope of a statutory or common law police duty?
2. Does the action involve a justifiable exercise of police powers associated with that duty?

In *Fleming v Ontario*, [2019 SCC 45](#), the Supreme Court of Canada (SCC) determined that pre-emptively arresting someone who had not committed a crime in order to prevent a breach in the peace by another party was not justified, even though preventing breaches of the peace falls within the scope of police duties. Arresting an individual is an extreme interference to someone's rights, it is therefore important to maintain a high level of protection. This case is considered a victory against police over reach.

See [Fleming v Ontario: Limiting Police Powers of Preventative Arrest](#) by Alison Imrie · October 25, 2019 for more analysis.

Street Checks

In response to Black Lives Matters protests around the world and concerns about police “street checks” disproportionately targeting Black and Indigenous peoples, the Provincial Government announced a commission tasked

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with reviewing the *Police Act*. However, when the Premier called for the election in the Fall of 2020, the commission (along with all other commissions) was dissolved. It is unclear when/if that commission will be restarted.

See [BC's Police Act Needs Urgent Reform, but the Election Halted It](#) by Jen St. Denis 14 Oct 2020.

See also [Unpacking the public dialogue on discriminatory street checks in British Columbia](#) Posted on August 30, 2018 and [What is a Street Check?](#) Posted on September 7, 2018 by Dylan Mazur.

Further Resources on Black Lives Matter

The Courthouse Libraries have a comprehensive list of resources on the Black Lives Matter movement in Canada. See [Black Lives Matters: Resources on Social & Legal Issues](#).

Clicklaw has also provided a list of public legal information resources and services. See [Legal Info and Help: Black Lives Matter](#).

[What does 'defund the police' really mean? Experts say confusion harming progress](#) By Sean Boynton Global News
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