LPG1.4.01
Arrest and Detention

Student Notes

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Learning Outcomes

When you have successfully completed this module, you will be able to:

1. Explain the meaning of the term ‘arrest’ and the purpose of an arrest
2. Define the terms ‘summary’, ‘triable either way’ and ‘indictable’
3. Outline Constable Only Powers of Arrest Without Warrant (Section 24 PACE)
4. Outline Other Persons Powers of Arrest Without Warrant (Section 24A PACE)
5. Outline How to Arrest Lawfully (Section 28 PACE)
6. Explain the Use of Force Under Section 117 PACE, Section 3 Criminal Law Act 1967 and Common Law
7. State the Reasons and Procedures for De-Arresting and Further Arrest Whilst in Custody (Section 30 and 31 PACE)
8. Explain Powers and Limitations to Search a Person on Arrest (Section 32 PACE)
9. Explain Procedures and Safety Implications Regarding Transportation of Detained Persons
10. Outline the Evidence and Information Required by a Custody Officer in Relation to an Arrest (PACE Codes of Practice Code C)
11. Outline Powers and Duties in Relation to Searching of detained persons (Section 54 PACE)
12. Define Designated and Non-Designated Police Stations and Outline their Use
13. Explain the Role and Responsibilities of the Custody Officer and the Custody Record (PACE Codes of Practice Code C)
14. Outline the Statutory Rights Of a Person Under Arrest and the Role of an Appropriate Adult (PACE Codes of Practice Code C)
15. Outline the Seizure, Retention, Recording and Disposal of Detained Persons’ Property
Key to Graphics

The pencil indicates an exercise or knowledge check for you to complete.

The microscope tells you when there is a topic that may require a closer look or further research or reading.

The exclamation mark highlights an area that you need to pay close attention to.
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Introduction

There is an NCALT e-learning package available that links to this topic which you may wish to complete. It is called 'Powers of Arrest'.

There are three ways in which a person may be brought before a criminal court. The three ways are:

- by summons
- by arrest on warrant
- by arrest without a warrant

None of these three methods is better than any other one. Each has a use in the appropriate circumstances. Remember that arrest should not be a form of punishment; it is merely one of the ways to bring a person before the court.

You already know about summonses and warrants. Basically, a summons is a document that tells the accused to attend the court at some date in the future. A warrant, on the other hand, is a court order that tells the police officer to actually go and arrest the person.

When there is no warrant, officers must be sure that they have a power to arrest the person without such a warrant.

Common Law

The common law of this country, which is the oldest form of law, gave the power of arrest ‘to any person’ for many offences. Later, with the creation of statute law, which includes powers of arrest for certain offences, the common law powers were largely replaced.

There are however, still a few common law powers of arrest without warrant in common usage, for example an offence of outraging public
decency. The common law power that you will deal with on a more regular basis relates to ‘breaches of the peace’. This is covered in a later session.

**Statute Law**

A power of arrest, which is given in an Act of Parliament, is called a statutory power of arrest. The Police and Criminal Evidence Act 1984 provides both the police and any other person the power to arrest. These powers fall into two groups:

- ‘indictable offences’ – under the Police and Criminal Evidence Act (PACE) 1984 (offences triable at Crown Court), which we will look at in this session.
- powers contained in other Acts – The powers of arrest which were contained in numerous Acts have mostly been abolished, although they will still specify that it is an offence under that Act. These are preserved powers of arrest and they are mostly contained within Schedule 2 of PACE 1984. Ones that you are most likely to deal with are in relation to bail and some in relation to drink driving. These will be covered later in your training.

**Police Only Powers of Arrest without warrant – Section 24 PACE**

The lawful arrest of a person under Section 24 PACE requires two elements:

- A person’s involvement or suspected involvement or attempted involvement in the commission of a criminal offence

and

- Reasonable grounds for believing that the person’s arrest is
necessary.

The Act states:

(1) A constable may arrest without warrant –
   • Anyone who is about to commit an offence
   • Anyone who is in the act of committing an offence
   • Anyone whom he has reasonable grounds for suspecting to be
     about to commit an offence
   • Anyone whom he has reasonable grounds for suspecting to be
     committing an offence.

(2) If a constable has reasonable grounds for suspecting that an
    offence has been committed, he may arrest without warrant, anyone
    whom he has reasonable grounds to suspect of being guilty of it.

(3) If an offence has been committed, a constable may arrest
    without a warrant –
    • Anyone who is guilty of the offence
    • Anyone whom he has reasonable grounds for suspecting
      to be guilty of it.

However, the power of arrest at 1, 2 or 3 above, is only exercisable if
the constable has reasonable grounds for believing that it is
necessary to arrest the person because one or more of the reasons
supporting the need for arrest is satisfied. We shall look at those
reasons in a moment, but firstly we need to understand what we
mean by the term ‘reasonable grounds’.

**Reasonable grounds for suspecting**

‘Reasonable grounds for suspecting’ is an area of legislation that is
difficult to define because there can never be a hard and fast
definition of reasonable grounds that will apply to every situation.
Reasonable grounds for suspicion will depend on the circumstances in each case but there must be some objective basis for that suspicion based on facts, information, and/or intelligence.

If you suspect someone on a hunch or a feeling that you cannot explain, you would not have reasonable grounds. A hunch may be the starting point that justifies you keeping people under observation, or speaking to them or to passers-by in order to establish whether or not there are reasonable grounds to arrest.

Reasonable means that your grounds must be based on objective facts that another person could evaluate; for example:

- Their behaviour, in addition to
- The time or place where a person is, and/or
- Any property they are carrying, and/or
- Information from witnesses or intelligence.

Deciding if you have reasonable grounds is similar to many investigation processes in the police. Police officers often start with little information, accumulate more information, assess that information and come to a decision. You must go through this process when deciding whether to arrest or not and sometimes you will need to do so quickly; the skill is in accurately identifying the point where you must make a decision.

Would an independent person come to the same conclusion if they viewed the facts objectively

A good test of whether you have reasonable grounds to suspect is whether an independent person would come to the same conclusion as you if they looked objectively at all the facts. An example is that you see a person snatch a woman’s handbag and run off. You suspect that the bag is stolen even without speaking to the woman; you could arrest the suspect on these grounds alone.
It would be for the court to consider whether a police officer’s actions were reasonable when taking the above facts into account.

**Reasonable grounds for believing**

You will notice that the legislation uses these words when it talks about the power to arrest in that it is exercisable only if the constable has *reasonable grounds for believing* that it is necessary to arrest the person because one or more of the 10 reasons specified in the Act exist. Again, there can never be a hard and fast definition here and your grounds for believing will depend on the circumstances in each case. However, your grounds to ‘believe’ something is a stronger level of reasonable grounds in comparison to simply suspecting something and it would need to be supported by stronger objective facts.

**The Reasons**

The reasons are stated in PACE under Section 24(5)(a) to (f) as follows:

(a) to enable the name of the person in question to be ascertained (in the case where the constable does not know, and cannot readily ascertain the person’s name, or has reasonable grounds for doubting whether a name given by the person as their name is their real name)

(b) Correspondingly; as regards to ascertaining the person’s address

(c) prevent the person in question:

(i) causing physical injury to himself or any other person

(ii) suffering physical injury
(iii) causing loss of or damage to property

(iv) committing an offence against public decency (Subsection (6) states that this only applies where members of the public going about their normal business cannot reasonably be expected to avoid the person in question), or

(v) causing an unlawful obstruction of the highway

(d) to protect a child or other vulnerable person from the person in question

(e) to allow the prompt and effective investigation of the offence or of the conduct of the person in question

(f) to prevent any prosecution for the offence from being hindered by the disappearance of the person in question.

In applying the above criteria the arresting officer has to be satisfied that at least one of the reasons supporting the need for arrest is satisfied. In considering the individual circumstances, the constable must take into account:

- the situation of the victim
- the nature of the offence, the circumstances of the offender and
- the needs of the investigation process.

Let us now look at each area in more detail.

**Name of the person (s24 (5) (a))**

To enable the name of the person in question to be ascertained in the case where the constable does not know and cannot readily ascertain, the person’s name or has reasonable grounds for doubting whether a name given by the person as their name is their real name.
If you cannot be sure that you have the person’s correct name, the prompt and effective investigation of the offence might be hindered together with any prosecution for that offence. This will lead you to consider the reasons listed at (5) (e) and (f) which would ultimately become the reason that you will give the person for the arrest being necessary.

To ascertain address where you do not know or readily ascertain, or believe to be false

**Address (s24 (5) (b))**

To enable the address of the person to be ascertained, do not know, cannot readily ascertain address or reasonable grounds for believing it to be false.

Again, for the prompt and effective investigation of an offence or to prevent any prosecution for the offence being hindered you will need to ascertain a satisfactory address of the person in question. Without an address that is satisfactory for the service of a summons you will need to consider the reasons at (5) (e) and (f) as a possible reason for leading to an arrest being necessary under those circumstances.

An address is satisfactory if:

- the accused will be at the address long enough for it to be possible to serve a summons, or
- some other specified person will accept service of the summons on their behalf.

The address for the service of a summons does not have to be the person’s home address.

**Causing physical injury to themselves or any other person (s24 (5) (c) (i))**

This applies to the accused, or to a victim or anyone else who is at risk from physical injury if the accused is not arrested.
Suffering physical injury (s24 (5) (c) (ii))

Here the Act uses the word ‘suffering’ as opposed to ‘causing’ which suggests that it is a less deliberate act that results in an injury. An example here is the arrest of a drunken person who is wandering in and out of traffic. They do not intend to cause themselves physical injury, nor are they trying to do so, but the likelihood of them suffering physical injury is apparent. The injury here is restricted to the person in question, i.e. the suspect only.

Causing the loss of or damage to property (s24 (5) (c) (iii))

The property concerned could belong to anyone. This includes a victim, a suspect, or a police officer.

Committing an offence against public decency (s24 (5) (c) (iv))

There must be a likelihood of members of the public being present as victims or witnesses and being unable to avoid the suspect’s behaviour. You can only use this reason if members of the public going about their normal business cannot reasonably be expected to avoid the person in question. An example could be a person stood at a bus stop, or near a school play ground deliberately exposing their genitals.

Causing an unlawful obstruction of the highway (s24 (5) (c) (v))

This refers to unnecessary, dangerous or wilful obstruction of the highway where an arrest is necessary to remove that obstruction. An example could be a person peacefully sitting protesting about
speeding traffic by sitting down in the middle of the road to ensure that traffic slowed down or stopped. It could include the situation where a vehicle is causing an obstruction and the driver refuses to move it. However, before making an arrest you should always ask yourself the question, ‘does arresting this person actually prevent the condition?’ If the answer is ‘no’ because, for example, the obstruction still remains, then arresting the person may not be the most suitable option.

To protect a child or other vulnerable person from the person in question s24 (5) (c) (d))

Examples of this include where the suspect would be left in charge of a child who might then be exposed to harm or danger, for example in cases of drunkenness, minor assault or drug abuse. ‘Vulnerable person’ is not defined, but could include people with sight and hearing impairment, people who experience mental ill health and other disabilities.

To allow the prompt and effective investigation of the offence or conduct of the person in question (s24 (5) (e))

Examples here of the arrest being necessary to allow the prompt and effective investigation of the offence have been taken from Code G of the Codes of Practice. They are not exhaustive and may include cases such as:

1. Where there are grounds to believe that the person:
   - Has made false statements
   - Has made statements that cannot be readily verified
   - Has presented false evidence
• May steal or destroy evidence
• May make contact with co-suspects or conspirators
• May intimidate or threaten or make contact with witnesses;
• Where it is necessary to obtain evidence by questioning

or

(2) When considering arrest in connection with an indictable offence, there is an operational need to:
• Enter and search any premises occupied or controlled by a person
• Search the person
• Prevent contact with others
• take fingerprints, footwear impressions, samples or photographs of the suspect,

(3) Ensuring compliance with statutory drug testing requirements.

Remember, in all cases, the specific circumstances must be looked at on an individual basis.

To prevent any prosecution for the offence from being hindered by the disappearance of the person in question (s24 (5) (f))

This may arise if there are reasonable grounds for believing that:
• if the person is not arrested he or she will fail to attend court

Street bail after arrest would be insufficient to deter the suspect from
trying to evade prosecution.

A Constables story

There is a lot of information to remember in recalling the 10 reasons, one or more of which must exist, before you can arrest a person using your powers under Section 24 PACE 1984.

We know that people learn in different ways to each other therefore it may help you to explore different approaches to your learning and studying.

Below is an example of how the ‘reasons’ for arrest have been transferred into an amusing ‘story’. It uses shops and characters to try to help you remember each individual arrest reason. It is intended to be a light hearted example to show you how you can be creative with new ways of learning.

You might decide to change the shops to a street in your own town so that you can remember it more easily, or change the characters, maybe even create a story of your own. You may prefer to use a mnemonic or another method altogether. The important point is that you explore and share other ways of learning throughout your studies until you find a method that works well for you.
A constables story – A stroll along the High Street
In each case assume that the actions of the character constitute an offence.

C Comet

Your first job is at Comet. The store detective has detained a woman stealing a camcorder. When you arrive the suspect is shouting “I am a secret agent, I am telling you nothing! I have no name!” You arrest her to ascertain her name. (Name not known, doubted or cannot be ascertained).

O O2 telephone shop

Next door ET is busy smashing up telephones frustrated that he can’t get them to work. He wants to phone home but doesn’t know where he lives. You arrest him to ascertain his address. (Address not known, doubted or cannot be ascertained).

N Next

Rab C Nesbitt is making a disturbance in the men’s section because they don’t sell string vests. He is so drunk that he has fallen into the window display. You arrest him to prevent him suffering physical injury.

S Starbucks coffee shop

Bart Simpson thinks it’s fun to stand by the main window, drop his shorts and show his genitals to the customers inside. You arrest him to stop him committing an offence against public decency.

T Toys R Us

It’s the wolf and he has stolen an outfit from the fancy dress section to dress up as grandma to find and eat Little Red Riding Hood. You arrest him to protect Little Red Riding Hood. (To protect a child or
other vulnerable person).

**A  Asda**

Oh dear; Bugs Bunny is running around the store hotly pursued by Elma Fudd with his shotgun. He spots him by the carrots and shouts “the rabbit, the rabbit!” He fires a shot but misses. You arrest him to prevent him causing injury to himself or any other person.

**B  Bus Stop**

Dr. Who is sat in the road in a space designated as a bus-stop. He is waiting for his Tardis to land and refuses to move. You arrest him to prevent him causing an unlawful obstruction of the highway.

**L  Library**

Freddie Kruger is busy seeing how sharp his scissor hands are by ripping through the pages of the library books. You arrest him to prevent loss of or damage to property.

**E  Enterprise car hire**

Rodney and Dell Boy are trying to hire a flash car on a dodgy credit card. You arrest them to investigate further. (To allow the prompt and effective investigation of the offence or of the conduct of the person in question).

**S  Staples**

The invisible woman has been swapping all the price tags on items so that she can buy things at a lower price. She reveals herself at the cash out. You arrest her to stop her disappearing. (To prevent prosecution being hindered by the disappearance of the person).
Once you can remember the 10 reasons, look at each situation again. How many reasons can you apply to each situation? To help get you started, if you look at the first example with the secret agent in Comet, you can apply the following reasons making the arrest necessary:

Section 24(5) (a) – name (b) – address leading to (e) to allow prompt and effective investigation and (f) to prevent the prosecution for the offence from being hindered.

**Attempts**

The power of arrest relates to ‘any offence’. This covers indictable offences, those triable either way and summary offences. You can attempt to commit any offence except one which is triable summarily, i.e. offences that can only be heard in the magistrates’ court, for example dropping litter or being drunk in a public place. There is no offence of attempting to commit a summary offence, unless specified by statute, for example drink driving or taking a conveyance. You will learn more about attempt offences later in your studies.

**PAW**

It is important to re-endorse the fact that the power to arrest a person under Section 24 PACE 1984 is only exercisable if the constable has reasonable grounds for believing that it is necessary because of one or more of the 10 reasons we have just discussed. It remains an operational decision at the discretion of the arresting officer as to:

- what action he or she may take at the point of contact with the individual
- what necessary criteria applies (if any) to the individual, and
• whether to arrest, report for summons, grant street bail, issue a fixed penalty notice or take any other action that is open to the officer.

Therefore, every effort should be made, where practicable, to deal with the matter without the need for arrest. This means that you should be able to explain that your first course of action was to try and proceed without the need to arrest by:

• **Persuading**
• **Advising** and even
• **Warning**

the offender of the consequences of their actions first.

Any arrest for such an offence where process for summons or other means of disposal could have been used could lead the case being open to question and could even be found to be unlawful thereby rendering the officer liable to criminal or civil action and disciplinary procedures.

**Information to be given on arrest**

When a person is arrested they must be told:

• that they are under arrest
• the grounds for the arrest, i.e. the offence for which they have been arrested, and
• the reason(s) for the arrest being necessary, for example:

“I am arresting you for dropping litter. I am unable to deal with this by way of a summons because you have refused to give me your name and address making arrest necessary to prevent the prosecution being hindered because I have reasonable grounds to believe you will fail
As you can see, reasons 24(5) (a) (b) in relation to name and address became the catalyst to making the arrest necessary for the reasons listed at 24(5) (e) and (f). The same reasons would be recorded in your notes of arrest, any subsequent statement and presented to the custody officer on arrival at the police station, all of which will be dealt with later in your training.

The person must be given the above information promptly and in simple non-technical language so that they can understand the essential legal and factual grounds for their arrest in accordance with the Human Rights Act 1998, Schedule 1, Article 5(2).

Release (De-arrest) (Section 30(7) PACE)

There are some occasions after a person has been arrested when you might release them before arriving at the station. If the arrest reason under which the accused person is arrested no longer applies, then the person should be released and dealt with by summons, fixed penalty notice if applicable, or warned regarding their future conduct.

Section 30(7) and 30(7A) and (8) of PACE provides that:

'A person arrested by a constable at a place other than a police station shall be released without bail if a constable is satisfied at the time before the person reaches a police station that there are no grounds for keeping him or her under arrest releasing him/her on bail. The constable must record the fact that this has happened'.

An example could be that you report a person for the offence of dropping litter. They refuse to give you their name and address, leading to the arrest being necessary to enable you to obtain both. En-route to the police station the offender changes their mind and provides their name and address to the satisfaction of the constable.
He or she should then be de-arrested and released.

**Requirement to record**

A record must be made of the actions and everything that was said about the offence. He may then be reported for summons or issued with a fixed penalty notice depending on your own police force policy.

The custody officer should be informed of both the arrest and de-arrest of the person.

**Further Arrest**

There will be times when you arrest a suspect for one offence and then find out they have committed another one as well. In such cases you must inform them that they are also under arrest for the other offence as well.

For example, you arrest a shoplifter who you take back to the police station. There you find that they are wanted on warrant for criminal damage. You must, as soon as is practicable, arrest them for the criminal damage, even though they are still under arrest for the shoplifting.

You must always record such matters in the appropriate notebook and, if you are already in the police station, explain fully to the custody officer what you propose to do and obtain his or her consent before seeing your suspect.

**Powers of Arrest – Persons Other Than Constables – Section 24A PACE**

This section of your notes is about the powers of arrest that apply to a person other than a constable under Section 24A of the Police and
Criminal Evidence Act 1984.

**Persons other than Constables powers – s24A PACE**

1. A person other than a constable may arrest without warrant:
   - Anyone who is in the act of committing an indictable offence
   - Anyone whom he or she has reasonable grounds for suspecting to be committing an indictable offence.

2. Where an indictable offence has been committed, a person other than a constable may arrest without warrant:
   - Anyone who is guilty of the offence
   - Anyone whom he or she has reasonable grounds for suspecting to be guilty of it.

The power to arrest at 1 or 2 above is only exercisable if certain reasons exist and we shall look at those in a moment.

**Indictable Offences**

You will remember that under certain conditions, a constable can arrest for **any** offence, but a person other than a constable is restricted to arresting for offences that are **indictable**. These are offences that are triable at the Crown Court and include those that are triable either way, i.e. at Magistrate’s Court or at Crown Court. But how would a member of the public know which are indictable offences and which are triable summarily only?

Well the truthful answer is that it is very unlikely that they would know, but indictable offences tend to be the more serious offences, with a few exceptions.
Examples of indictable offences are:

- Murder and manslaughter
- Rape
- Serious assaults
- Possession and supply offences of unlawful drugs
- Criminal damage
- Theft, robbery, burglary and deception offences
- Making off without payment
- Possession of an offensive weapon
- Going equipped
- Aggravated vehicle taking
- Exposure
- Causing death by dangerous/careless driving

Examples of offences that are triable summarily only are:

- Taking a motor vehicle without the owners consent (TWOC)
- Litter
- Drunk and disorderly
- Sections 5, 4 and 4A of the Public Order Act 1986
- Common assault
- Assault police
- Obstruct police
- Careless and inconsiderate driving
- Driving whilst disqualified

**Past and Present**

The powers of arrest in relation to preventing crime by arresting a person who is ‘about’ to commit an offence is restricted to constables; other persons can only arrest for offences that have been committed (past) or are in the act of being committed (present).

The power of arrest under Section 24A is only exercisable if:

- the person making the arrest has reasonable grounds for
believing that for any of the reasons mentioned in subsection (4) it is necessary to arrest the person in question, and

- it appears to the person making the arrest that it is not reasonably practicable for a constable to make it instead.

Notice that it uses the words ‘reasonable grounds for believing’ in relation to the arrest being necessary, which is a higher level than ‘reasonable grounds for suspecting’. The person must have reasonable grounds to believe that the arrest is necessary to prevent one of the four reasons, and that it appears to the arresting person that it is not reasonably practicable for a constable to make the arrest instead of them. When you look at the four reasons they all suggest a sense of immediacy that makes it necessary for the arrest. Examples of why it may not be reasonably practicable for a constable to make the arrest are that a constable is not available, the constable has been injured or they are busy at the scene dealing with equally urgent matters.

**Reasons**

The reasons in question are detailed at Section 24A(4)(a) to (d) PACE:

(a) causing physical injury to themselves or any other person
(b) suffering physical injury
(c) causing loss of or damage to property, or
(d) making off before a constable can assume responsibility for him or her.

The first three reasons have the same meaning as those contained in the ten reasons for the powers of arrest for a constable. The last one is self explanatory, but there must be a reasonable belief that the arrest is necessary to prevent the person making off.
Assuming responsibility following a citizen’s arrest

When you assume responsibility of a person arrested by another person who is not a constable, you must comply with the PACE Codes of Practice and inform that person that they are under arrest, the grounds for the arrest, including the reason and the offence for which they have been arrested. It is best practice that you do so, even if the arresting person may have already communicated this information.

The person must be told as soon as practicable and in simple non-technical language that they can understand in accordance with the Human Rights Act 1989, Schedule 1, Article 5(2). This information should be recorded in your notes of arrest and any subsequent statement as well as informing the custody officer on arrival at the police station.

How to Arrest

Most of you will have seen an arrest made in one of the fictional police programmes on TV. These are usually made to look very exciting. In fact, most of our arrests are made with little fuss. Even so, to be arrested will be a shock to a person, especially those who have never been arrested before. It is an aspect of practical police duty that needs great care.

If you arrest people, or detain them for the purpose of exercising a power of search, you will be depriving them of their liberty. This may have serious consequences if you are not acting according to law.

Even though your action is lawful, remember this extract from the Statement of our Common Purpose and Values:

We must be compassionate, courteous and patient, acting without
fear or favour or prejudice to the rights of others. We need to be professional, calm and restrained in the face of violence and apply only that force which is necessary to accomplish our lawful duty.

**Procedure**

People have a right to know that they are dealing with a police officer. If you are working in plain clothes you must always identify yourself and show your warrant card when dealing with the public. Even when in uniform, you should still explain who you are and, if asked, produce your warrant card.

If you are investigating an offence, all those who are present are free to leave unless they are placed under arrest. If a power of arrest applies to the circumstances and you decide that a suspect is not free to leave, you must immediately make that clear by arresting that person.

**Considerations before making an arrest**

Before deciding to arrest somebody you should first of all establish that you have the power to arrest.

Secondly, you should establish through effective investigation that you have the grounds to arrest the person for the offence.

Lastly, you should always consider whether or not that arresting the person is the best course of action. You could for instance report the person for summons.

Remember Human Rights principles. Questions to ask yourselves at all times:

- Are my actions lawful?
- Are my actions necessary and justifiable?
- Are my actions proportionate?
• Are my actions non-discriminatory?

Requirement to make an arrest lawful

You must always inform the person that they are under arrest or as soon as is practicable. This is so even where it is perfectly obvious that you have arrested them.

You must also tell the person the grounds for the arrest. ‘I am arresting you on suspicion of stealing this watch’.

Failure to do either of these things can make the arrest unlawful.

It is not necessary to use technical or precise language, nor need any reference be made to the power of arrest relied on.

The fundamental principle is that people have the right to know that they have been arrested and why.

A person who is arrested, or further arrested, must also be cautioned unless: it is impracticable to do so by reason of their condition or behaviour at the time; or they have already been cautioned immediately prior to arrest. (Code C 10.4)

Sometimes you may not be able to tell a person they are under arrest, the reason for their arrest or to caution them because they are violently struggling or are so under the influence of drink or drugs to understand. In these cases they should be informed as soon as practicable.
Corporate Manslaughter and Corporate Homicide Act 2007

The Corporate Manslaughter and Corporate Homicide Act 2007 came into effect on 6 April 2008 with the exception of the provisions under Section 2(1)(d) and 2(2) of the Act in relation to persons in custody. These provisions came into effect on 1 September 2011. The Act is now fully in force.

This means that, from 1 September 2011 onwards, an organisation (including the police service) can be convicted of a corporate manslaughter offence if the way in which its activities were managed or organised amounted to a gross breach of the duty of care owed to the deceased by virtue of that person being held in custody.

The Act is applicable to deaths of persons owed a duty of care by virtue of:

- being detained at a custodial institution
- being detained in a custody area at a court, police station or customs premises
- being detained at a removal centre or short-term holding facility
- being transported in a vehicle
- being held in any premises in pursuance of prison escort arrangements or immigration escort arrangements
- living in secure accommodation in which the person has been placed, or if the person is a detained patient.

The custody provisions of the Act do not create additional duties of care to those custody providers already owe to detainees.
The Ministry of Justice have published a circular which provides guidance on the custody provisions of the Act (Ministry of Justice Circular 2011/07: Corporate Manslaughter and Corporate Homicide Act 2007) which can be accessed in full here:


Further guidance can also be found here:


**Use of Force**

In most cases an arrest will be accompanied by some degree of physical restraint.

However, words alone may be sufficient if the circumstances make it plain that the person is no longer free to leave. There is little point, for instance, in laying hands on an elderly shoplifter detained behind closed doors in the store manager’s office. This does not mean you should not be diligent in ensuring the detainee does not escape.

**Reasonable Force**

On other occasions, a more forceful approach may be called for, for example, if you suspect the person may become violent, try to escape or interfere with evidence. Normally, even the slightest degree of physical contact with another person can amount to an assault. However, when carrying out a lawful arrest, you are permitted to use force if required by virtue of Section 117 of PACE.
This states that you may use reasonable force, if necessary, in the exercise of your power of arrest under provisions of PACE. Provided your actions are reasonable, this provision will enable you to ensure your own safety and the security of the detainee.

These reasonable response options may be adopted to suit specific circumstances:

- verbal communication skills
- primary control skills - use of empty hand skills (escort position, pressure points, arm locks, wristlocks, use of handcuffs and restraints using a baton)
- defensive tactics - blocks, strikes, takedowns with empty hands, batons or rigid handcuffs (takedowns only) or use of incapacitants, all followed by control techniques
- deadly force - any action likely to cause serious injury or death. Use of empty hands, batons, firearms or by any other means.

Your presence, including the way you approach the scene, your manner, appearance and professionalism, and your ability to communicate effectively (both verbally and non-verbally) is extremely important when embarking on any reasonable response option.

**The security of the detainee is your responsibility.**

You will find that you have far less trouble with detainee if you treat them with consideration at all stages of the arrest. If you know they have previous convictions, you should not refer to this.

**Arrest on Warrant**

There are occasions when you will arrest under authority of a warrant.
issued by a court.

You need to remember the following points.

- If the warrant is to arrest a person for either an offence (such as assault) or for failing to appear at court or on a commitment warrant you do not need to have the warrant with you when you make the arrest.

- If you have the warrant with you, ensure that the accused person fully understands both the fact that they are being arrested and the grounds for the arrest. Show the person the warrant, explain what it is and read the relevant parts to them.

Search upon arrest – Section 32 PACE

You will learn of a number of occasions when police may search under powers granted by statute law.

The power we will discuss here is the power under Section 32, Police and Criminal Evidence Act 1984 which gives the power to search a person and to enter and search premises, subject to certain conditions. The power to enter and search premises under Section 32 PACE is covered in LPG1.4(8) – Powers of Entry.

Searching Persons

Section 32 PACE 1984 gives you, a police constable power to search a person who has been arrested and where certain criteria exist. It applies only to an arrest that has been made in a place other than a police station. If a person is arrested at a police station, then that person will only be searched under the directions of the custody officer.

Always consider searching the detainee before placing them in a police vehicle. You must be guided by your own police force policy
relating to searching a person who is not the same gender as yourself.

It is also good practice to search the police vehicle before placing a person inside and after removing the person. This will help you attribute any property that the detainee may discard while inside the vehicle.

In order to carry out such a search, you will need to comply with the terms of Section 32 of PACE. Be sure you know them thoroughly. They are as follows:

A constable may search a person who has been arrested at a place other than a police station if the constable has reasonable grounds for believing the arrested person may:

- present a danger to themselves or others
- have concealed on them anything which they might use to assist themselves to escape from lawful custody
- have concealed on them anything which might be evidence relating to an offence.

The following mnemonic may help - DIE

Danger
Implement to escape
Evidence of any offence
When searching in public, the extent of the search is limited by PACE to the removal of outer coat, jacket or gloves. Officers often remember this important point by the mnemonic JOG:

- **J**acket
- **O**uter coat
- **G**loves

The only exceptions where more than ‘JOG’ may be required to be removed are:

- Section 47A, Terrorism Act 2000 empowers a constable to require removal of a person’s headgear and footwear
- Section 60AA, Criminal Justice and Public Order Act 1994 empowers a constable to require removal of any item worn to conceal identity

Key points to remember if, on reasonable grounds it is considered necessary to conduct a search involving more than the removal of outer coat, jacket, gloves (plus the above exceptions of headgear, footwear or any other item concealing identity).

1. Must be done out of public view
2. May only be made by an officer of the same sex as the person searched. Where the sex of the detainee is in doubt, the gender of the detainee should be established and recorded
3. May not be made in the presence of anyone of the opposite sex unless the person being searched specifically requests it

If the article is small, it will take a thorough search to find it or be sure it is not there. This is difficult in the street.

Keep good observation on the accused since, if they have had time to dispose of property unobserved, the search may prove fruitless.
Any property that you obtain in such a search must be handed to the custody officer immediately on arrival at the police station.

Seizure of Property

If you are searching any premises under the statutory power given by Section 32 PACE or with the consent of the occupier, you may seize:

- anything which you have reasonable grounds for believing is evidence of an offence or has been obtained in consequence of the commission of an offence (Section 19(2) and 19(3) PACE).

Items may be seized only where this is necessary to prevent their concealment, alteration, loss or damage or destruction. No item may be seized which is subject to legal proceedings.

Transportation of Detained Persons

Detainees will normally be taken to the police station in a police van. If this is not available, other suitable police transport may be used.

If the detainee is not violent and the police station is no great distance away, they may be taken there on foot, except when they are handcuffed.

Public transport must not be used.

Before you put a detainee in a vehicle, you must search it in their presence. This is to ensure that there is nothing there that they may use to escape or injure someone. It also avoids the risk of mistakenly connecting property with this detainee.

On arrival at the police station, you must again search the vehicle in their presence in case the person has left any property or evidence in the vehicle.
Drunken Detainees

Special care must be taken of drunken detainees. If necessary, they should be placed on the floor of the vehicle in the ‘recovery position’ so that they do not inhale their own vomit. If they are unconscious, they must be taken to hospital by ambulance. Once the detainee arrives at the police station and is taken to the custody office, they become the responsibility of the custody officer. If he/she (the custody officer) deems the drunken person as being too drunk to detain, then arrangements will be made to remove that person to hospital. This is the custody officer’s duty and will be their decision, not yours as the arresting officer.

If you are asked to conduct a check on a drunken detainee in police detention you should always follow the 4Rs and note the person’s response:

- **R** - Rouse the detainee: can they be woken?
- **R** - Response to questions: can they give appropriate answers to questions such as, 'what is your name' or 'where do you live'?
- **R** - Response to commands: can they respond appropriately to commands such as, ‘raise your left arm’ or ‘now the other arm’?
- **R** - Remember to take into account that another medical condition may be present, for example diabetes, epilepsy, head injury, stroke, drug intoxication or overdose.

The fact that the person has been checked and their response to the 4Rs must be recorded on the custody record. Writing 'checked all correct' or similar is not acceptable for any detainee. You must
always note what you observed and notify the custody officer at once if you cannot get a response from the person. For more information - see Annex H of Code C of the Codes of Practice.

**Female Detainees**

Female detainees must be accompanied by a female police officer, if they are available. If there is not one available, at least two male officers must act as escort. The same of course, applies to male detainees and female officers.

Remember, once you have arrested a person, you are responsible for their safe custody until they have been dealt with by the custody officer at the police station.

**Powers of Detention for Police Community Support Officers**

During your duties you will be working with the wider police family. It is therefore important to have a broad understanding of the powers of detention in relation to police community support officers (PCSOs) as you may be called upon to assist them with such a detention.

You should already be aware that the chief officers of all police forces in England and Wales can designate PCSOs with certain powers, according to the needs of that particular police force. Those who have been designated with the powers of detention can require the name and address of a person who they have reason to believe has committed a relevant offence, or who is acting in an antisocial manner. Relevant offence here relates to a number of disorder type offences for which a fixed penalty notice can be issued.

If a person fails to comply with the requirement, or gives a name and address which the PCSO believes to be false, the PCSO (if designated
with the power of detention) may detain that person for up to 30 minutes until the arrival of a constable. Alternatively, a person may choose if asked by the PCSO, to accompany him/her to the police station. A PCSO may use reasonable force to detain a person and to prevent a detained person from making off during detention. It is a summary offence to fail to give a community support officer a name and address when required to do so, or to make off during detention.

**Giving Evidence to the Custody Officer**

The custody officer has certain responsibilities in respect of detained persons and one of the decisions that must be made is whether to authorise a person’s detention. The custody officer will need answers to the following questions:

- What time was the person arrested, for what offence(s) and the reason(s) for that persons arrest?
- Why was the arrest **necessary**?
- What time did they arrive at the station?
- Why is the person here?
- Was he/she lawfully arrested?
- Why is further detention necessary?
- On what authority is the detention to be made?
- What procedures will have to be considered for this person while in custody?
- What special needs does this person have?

When an arrested person is brought before the custody officer you or someone designated on your behalf will relate the circumstances of the arrest and the custody officer can decide whether to authorise detention or not.
Note: The codes of practice do not require the arresting officer to be present at the point at which an arrested person is brought before the custody officer. Some police forces are therefore making greater use of designated detention officers, who can relay the circumstances of a person's arrest on an officer's behalf, thereby enabling officers to remain on patrol for longer periods without the need to travel to and from the police station. Your own police force will have a policy on this and further guidance will be provided by your tutor constable. An example of what you might say to the custody officer is:

“At 3.30 pm today I went to Tesco’s supermarket in High Street. In the manager’s officer I saw this man, who gave his name as Patrick Armstrong, along with the store detective. The store detective said to me, I saw him enter the store, take two bottles of whisky off the shelf in the off-licence department and leave the store without paying. I arrested him on suspicion of theft and cautioned him, He made no reply. I informed him that the arrest was necessary to allow the prompt and effective investigation of the offence and searched him, nothing was found during the search.”

Statutory Rights of a Person under Arrest at a Police Station or Other Premises

The custody officer must inform a person under arrest at a police station of the right to:

- have someone informed of their arrest
- consult privately with a solicitor free of charge (in person or by telephone)
• consult the Codes of Practice.

The person must be informed that these rights need not be exercised immediately. They are continuing rights which may be exercised at any stage during the period in custody. When the custody officer has completed these actions, the person should be given a notice setting out these rights and asked to sign the custody record.

A solicitor or appropriate adult must be permitted to consult a detainee’s custody record as soon as practicable after their arrival at the station and at any other time whilst the person is detained. Arrangements for this access must be agreed with the custody officer and may not unreasonably interfere with the custody officer’s duties. (Code C 2.4)

Rights to have a person informed

A person has the right to have one person known to them or who is likely to take an interest in his welfare informed at public expense as soon as practicable, of his whereabouts.

This means:

• that he has been arrested and
• where he is detained.

If the first person named cannot be contacted, the detained person may choose up to two others. Should these other persons be unavailable, the custody officer or the person in charge of the investigation has the discretion to allow further attempts to contact named persons until the information has been conveyed. A person ‘interested in his welfare’ could include a member of the clergy, employer or social worker.
Where an enquiry as to the whereabouts of a detained person is made by a friend, relative or person with an interest in his welfare, this information shall be given if the detained person agrees.

When requested by a person in custody, the custody officer will permit the supply of writing materials, posting of letters and speaking on the telephone for a reasonable length of time. The costs can be at public expense at the discretion of the custody officer.

A custody officer should inform a person before any letter or message is sent, that the contents may be read, or in the case of use of a telephone, that the conversation may be monitored, and in either case that the contents may be given in evidence. A custody officer may not read any letter or message if it is a communication with the detained person’s solicitor.

If a custody officer considers the use of the telephone is being abused, the call can be terminated.

Personal visits to the detained person are permitted at the discretion of the custody officer.

Where a person cannot contact a friend or does not know of anyone to contact for advice or support (other than legal advice), a custody officer should consider the assistance made available by many local voluntary bodies such as the Citizens’ Advice Bureau.

The action(s) of a custody officer or of others (including yourself) in respect of the right to notify a person must be recorded on the custody record.

**Right to legal advice**

All persons, including juveniles, in police detention must be informed that they may at any time consult and communicate privately with a solicitor in person, in writing or by telephone and that independent

**If a juvenile, then**
appropriate adult should consider need for legal advice from solicitor

legal advice is available free of charge.

In the case of a juvenile, an appropriate adult should consider whether legal advice from a solicitor is required. If the juvenile indicates that they do not want legal advice, the appropriate adult has the right to ask for a solicitor to attend if this would be in the best interests of the person. However, the detained person cannot be forced to see the solicitor if they do not want to.

At the time a person is informed of this right they should also be given a document (leaflet) explaining the legal advice that may be obtained.

A poster advertising the right to have legal advice must be prominently displayed in the charging area of every police station.

Once a person has asked to consult a solicitor he cannot be interviewed or continue to be interviewed until the consultation has taken place. No police officer shall at any time do or say anything with the intention of dissuading a person in detention from obtaining legal advice.

The action(s) taken by a custody officer in respect of the right to consult a solicitor in the interviewing of a person in circumstances described above must be recorded on the custody record.

Whenever legal advice is requested, the custody officer must act without delay to secure the provision of such advice to the person concerned. If on being informed or reminded of the right to legal advice, the person declines to speak to a solicitor in person, the officer shall point out that the right to legal advice includes the right to speak with a solicitor on the telephone and ask if they wish to do so. If the person continues to waive the right to legal advice the officer shall ask them the reasons for doing so and any reasons shall
be recorded on the custody record or the interview record as appropriate. Once it is clear that a person does not wish to speak to a solicitor either in person or on the telephone he should cease to be asked for his reasons.

**Delay in giving statutory rights**

The detainee’s rights to have a person informed and to consult with a solicitor can be delayed, but only with the appropriate authority. This only relates to offences which are indictable offences, and then only for specific reasons and up to 36 hours from the ‘relevant time’ (the relevant time is usually the time the person arrived at the relevant police station or the time 24 hours after the time of that person’s arrest, whichever is greater).

The detained person has the right to be provided with written materials or make a telephone call to one person for a reasonable length of time. One or both of these rights can be denied or delayed if the person is detained in connection with an indictable offence or certain offences under the Terrorism Act. The reasons are the same as those given below in relation to interviews without legal advice.

The appropriate levels of authority are:

(a) The detainee’s right to have a person informed can only be delayed on the authority of an officer of or above the rank of inspector.

(b) The detainee’s right to consult with a solicitor can only be delayed on the authority of an officer of or above the rank of superintendent.

A superintendent or above may also allow interview without legal advice where he or she has reasonable grounds for believing that delay might:
• lead to interference with, or harm to, evidence connected with an offence
• lead to interference with, or physical harm to, other people
• lead to serious loss of, or damage to property
• lead to alerting other people suspected of having committed an offence but not yet arrested for it
• hinder the recovery of property obtained in the commission of an offence.

An inspector or above may also authorise the interview of a suspect without legal representation in certain limited circumstances.

The action(s) of a custody officer in respect of the right to legal advice must be recorded on the custody record.

Welfare and treatment of Detained Persons – Code C PACE

A person under arrest should be taken to a ‘designated police station’ (see section 30 PACE 1984).

Designated Police Station

This is a station which a chief officer of police has decided can provide suitable accommodation for the purpose of detaining arrested persons. One or more custody officers of at least the rank of Sergeant must be appointed at each designated police station. The prime responsibility of this officer is to ensure compliance with the Police and Criminal Evidence Act and its Codes of Practice in relation to the detention and treatment of detainees.

A person under arrest may be taken to a non-designated police station if you are working in a locality not covered by a designated
police station and it appears that it will not be necessary to keep the person in police detention for more than six hours.

Detained persons should be taken to a Designated Police Station

Such a person may also be taken to a non-designated police station, if you have no other police officer available to assist you and it is necessary to prevent injury to the person, yourself or anyone else.

In the circumstances outlined above, a police officer not involved in that investigation must perform the duties of the custody officer. If an officer involved in taking the detainee to that police station has to act as a custody officer, an inspector or above at a designated police station must be informed.

Role and Responsibility of the Custody Officer

All designated police stations will have at least one officer of at least the rank of Sergeant nominated to be the custody officer. This officer is responsible for the care and treatment of all persons in detention and he or she must perform the specific functions contained in the Codes of Practice as soon as is practicable. All activities in relation to a detained person must be accurately recorded in the custody record.

The custody officer has a duty to:

(a) ask the detainee if at this time, they:
    (i) would like legal advice
    (ii) want someone informed of their detention

(b) ask the detainee to sign the custody record to confirm their decisions in respect of (a)

(c) determine whether the detainee:
    (i) is or might be in need of medical treatment or attention
(ii) requires

- an appropriate adult
- help to check documentation
- an interpreter

(d) record the decision in respect of (c) (Code C 3.5)

**Risk assessment**

‘When determining these needs the custody officer is responsible for initiating an assessment to consider whether the detainee is likely to present specific risks to custody staff or themselves. Such assessments should always include a check on the Police National Computer, to be carried out as soon as practicable, to identify any risks highlighted in relation to the detainee. Although such assessments are primarily the custody officer’s responsibility, it may be necessary for them to consult and involve others, e.g. arresting officers or an appropriate health care professional. Reasons for delaying the initiation or completion of the assessment must be recorded.’ (Code C 3.6)

All persons in custody must be dealt with expeditiously and released as soon as the need for detention has ceased to apply.

Where there is sufficient evidence, the person should be charged and only detained for a sufficient length of time to allow this action to be carried out. The person should then be released on bail unless bail cannot be granted (see Section 37 PACE 1984)

If the custody officer decides that there is insufficient evidence to charge the person, then he must be released, unless the custody officer has reasonable grounds for believing that he should be detained because it is necessary to:
• secure or preserve evidence relating to the offence for which that person is under arrest, or
• to obtain such evidence by questioning that person.

The person should be informed of the grounds for detention, an entry made on the custody record to this effect and a note made of any reply.

This information can be delayed if, at the time the written record is made, a person is:
• incapable of understanding what is being said
• violent or likely to become violent, or
• in urgent need of medical attention.

This information should however, be given as soon as practicable.

The Custody Record

When a person is brought before the custody officer a custody record will be opened, usually in an electronic format. The custody record is used as a diary of events to record everything that occurs whilst the arrested person is in detention.

Entries in the custody record must detail:
• the reason, date and time of the arrest
• personal details concerning identification of the person under arrest
• the name of the arresting officer
• the time the person arrived at the police station.

The identity of officers or police staff need not be recorded or disclosed:
(a) in the case of enquiries linked to the investigation of terrorism; or
(b) if the officer or police staff reasonably believe recording or disclosing their name might put them in danger.

In these cases they shall use their warrant or other identification numbers and the name of their police station. (Code C 2.6A and Note of Guidance 2A)

**Searching Detained Persons – Section 54**

**PACE**

Section 54 and Code of Practice C4 deal with the searching of detained persons.

The custody officer is responsible for:

a) ascertaining what property a detainee:
   i. has with them when they come to the police station whether on:
      • arrest or re-detention on answering bail;
      • commitment to prison custody on the order or sentence of a court;
      • lodgement at the police station with a view to their production in court from prison custody;
      • transfer from detention at another police station or hospital;
      • detention order under s135 or s136 of the Mental Health Act 1983
   ii. might have acquired for an unlawful or harmful purpose while in custody
b) the safekeeping of any property taken from a detainee which remains at the police station.

Section 54(6) of PACE provides the power for a detainee to be searched.

It states:
Subject to subsection (7) (Intimate body search) a person may be searched if the custody officer considers it necessary to enable him/her to carry out his/her duty in relation to the above and to the extent that the custody officer considers necessary for that purpose.

**Seizure of Property from a Detained Person**
Section 54(3) and 54(4) allows the custody officer to seize and retain property in possession of a detainee.

**Clothes and personal effects**
Clothes and personal effects may only be seized if the custody officer:

a) believes that the person from whom they were seized may use them:

i. to cause physical injury to himself or any other persons;
ii. to damage property;
iii. to interfere with evidence; or
iv. to assist him/her to escape; or

b) has reasonable grounds for believing that they may be evidence relating to an offence

Where anything is seized, the person from whom it is seized must be
told the reason for the seizure unless he/she is:
   a) violent or likely to become violent; or
   b) incapable of understanding what is said to him/her

**Documentation**

It is a matter for the custody officer to determine whether a record should be made of the property a detained person has with him/her or had taken from them on arrest.

Any record made is not required to be kept as part of the custody record, but the custody record should be endorsed as to where such a record exists.

Whenever a record is made the detainee shall be allowed to check and sign the record of property as correct. Any refusal to sign shall be recorded.

If a detainee is not allowed to keep any article of clothing or personal effects the reason must be recorded.

Your police force may have a policy in relation to detainee property records. You should check with your supervisor or the custody officer.

**Disposal of Detained Persons Property**

When a person is released from detention, all property he/she had in their possession when they came into detention at the police station, must be returned to him/her unless:

The custody officer has reasonable grounds to believe that it is necessary to retain the property because it is:

- evidence of an offence
• in possession of the detainee unlawfully
• necessary to make further enquiries regarding the property.

Where property is retained the detainee should be told of the reason and a record made.
The detainee should sign the property record as having received the property back. Any refusal to sign should be recorded.

**HIV and AIDS Awareness**

As a police officer you may find yourself in situations where you believe yourself to be at risk of contracting the HIV virus. If you do not have accurate information about HIV and AIDS, you may suffer from unnecessary anxiety and may not act in the safest or most sensitive way. Bear in mind that there have been no recorded cases of occupational transmission to date.

The taking of simple safety precautions such as wearing of surgical rubber gloves, looking in pockets and bags before inserting hands, when conducting searches can minimise the risk.

**Persons at Risk**

Juveniles and people who experience mental ill health are classified as ‘persons at risk’.

If an officer has any suspicion or is told in good faith that a person of any age may be experiencing ill health, or is incapable of understanding the significance of questions put to him/her or his/her replies, then that person shall be treated as a vulnerable person.

Where the custody officer has any doubt as to the mental state or capacity of a person detained, an appropriate adult must be called.
A juvenile or someone who experiences mental ill health, whether suspected or not, must not be interviewed or asked to provide or sign a written statement in the absence of the appropriate adult, other than in an emergency when a superintendent or above may allow limited questioning.

Juveniles may only be interviewed at their places of education in exceptional circumstances and then only when the principal or nominee agrees.

Every effort should be made to notify both the parent(s) or other person responsible for the juvenile’s welfare and the appropriate adult (if this is a different person) that the police want to interview the juvenile, and reasonable time should be allowed to enable the appropriate adult to be present at the interview. Where awaiting the appropriate adult would cause unreasonable delay and unless the interviewee is suspected of an offence against the educational establishment, the principal or nominee can act as the appropriate adult for the purposes of the interview.

Where an appropriate adult is present at an interview he or she should be informed that he or she is not expected to act simply as an observer.

The purposes for his or her presence are:

- to advise the person being questioned and to observe whether or not the interview is being conducted properly and fairly, and
- to facilitate communication with the person being interviewed.

A juvenile should not be arrested at her/his place of education unless this is unavoidable. If arrested, the principal or nominee must be informed.
Notes for guidance: persons at risk

It is important to bear in mind that although mentally disordered and mentally vulnerable people are often capable of providing reliable evidence, they may, without knowing or wishing to do so, be particularly prone in certain circumstances to provide information which is unreliable, misleading or self-incriminating. Special care should therefore always be exercised in questioning such a person if there is any doubt about a person’s mental state or capacity. Due to the risk of unreliable evidence, it is important to obtain corroboration of any facts admitted whenever possible.

Note: The terms ‘mentally disordered’ and ‘mentally vulnerable’ are used to correctly reflect the wording used in legislation. Outside legislative use, the term ‘mental ill health’ is preferred. Refer to ACPO (2010) Guidance on Responding to People with Mental Ill Health or Learning Disabilities which can be found here:


Appropriate Adult

In the case of a juvenile, this means:

- his/her parent or guardian (in the case of a juvenile in care, a representative of the care authority or voluntary organisation)
- a social worker of a local authority, or
- failing either of the above, another responsible adult aged 18 or over who is not a police officer or police employee.

In the case of a person experiencing mental ill health:

- a relative, guardian or other person responsible for the person’s care or custody
• someone experienced in dealing with persons experiencing mental ill health, but who is not a police officer or employed by the police (such as an Approved Mental Health Professional as defined by the Mental Health Act 1983 or a specialist social worker), or

• failing either of the above, some other responsible adult aged 18 or over who is not a police officer or employed by the police.

Note that in the case of people who are vulnerable, it may be more satisfactory if the appropriate adult is someone experienced or trained in their care, rather than a relative lacking such qualifications. But if the detainee prefers a relative to a better qualified stranger or objects to a particular person, their wishes should, if practicable, be respected. (Code of Practice C Notes for Guidance 1D)
Knowledge Check

1. Outline the purpose of an arrest.
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2. State the constable only power of arrest without warrant.
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3. State the ‘other persons’ power of arrest without warrant.
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4. Outline the meaning of the terms ‘reasonable grounds to suspect’ and ‘reasonable grounds to believe’.
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5. What are the three considerations before making an arrest?
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6. What are the requirements under Section 28 PACE to make an arrest lawful?
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7. Summarise the underlying principles in relation to the use of force.
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8. What steps should be taken before resorting to the use of force?
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9. When should a detained person be released (de-arrested) under Section 30 (7) PACE?
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10. What is the procedure for arresting a detained person for other offences?
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11. State the limitations on searching a person immediately after arrest.

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12. Explain the procedures for transporting a detained person to a police station.

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13. What special precautions should be taken in relation to detained persons who are drunk?

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14. Detail the type of information required from an arresting officer when a detained person is brought into a police station.

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15. What are a detained person’s statutory rights upon reception at a police station?

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16. Who can authorise when a detained person’s rights can be delayed?

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17. Outline the relevance of the custody record.

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18. Explain the duties of a custody officer in relation to the searching of detained persons.

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19. Detail the grounds on which a custody officer may seize and retain a detainee’s property.

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20. Where and how should a detained person’s property be listed?

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21. Define a ‘designated police station’.

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22. When can a detained person be taken to a non-designated police station?

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23. Define ‘appropriate adult’ in relation to persons at risk.

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24. State the role of an appropriate adult.

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Knowledge Check Answers

1. Outline the purpose of an arrest.

An arrest is the taking or depriving of a person of his or her liberty in order that he or she will be available to answer on alleged or suspected crime or offence.

2. State the constable only power of arrest without warrant.

(1) A constable may arrest without warrant –
   - Anyone who is about to commit an offence
   - Anyone who is in the act of committing an offence
   - Anyone whom he has reasonable grounds for suspecting to be about to commit an offence
   - Anyone whom he has reasonable grounds for suspecting to be committing an offence.

(2) If a constable has reasonable grounds for suspecting that an offence has been committed, he may arrest without warrant, anyone whom he has reasonable grounds to suspect of being guilty of it.

(3) If an offence has been committed, a constable may arrest without a warrant –
   - Anyone who is guilty of the offence
   - Anyone whom he has reasonable grounds for suspecting to be guilty of it.

However, the power of arrest at 1, 2 or 3 above, is only exercisable if the constable has reasonable grounds for
believing that it is necessary to arrest the person because one or more of the reasons supporting the need for arrest is satisfied.

3. State the ‘other persons’ power of arrest without warrant.

(1) A person other than a constable may arrest without warrant:
   • Anyone who is in the act of committing an indictable offence
   • Anyone whom he or she has reasonable grounds for suspecting to be committing an indictable offence.

(2) Where an indictable offence has been committed, a person other than a constable may arrest without warrant:
   • Anyone who is guilty of the offence
   • Anyone whom he or she has reasonable grounds for suspecting to be guilty of it.

The power to arrest at 1 or 2 above is only exercisable if certain reasons exist and we shall look at those in a moment.

4. Outline the meaning of the terms ‘reasonable grounds to suspect’ and ‘reasonable grounds to believe’.

Reasonable grounds for suspicion will depend on the circumstances in each case but there must be some objective basis for that suspicion based on facts, information, and/or intelligence.

Reasonable means that your grounds must be based on objective facts that another person could evaluate; for example:
• Their behaviour, in addition to
• The time or place where a person is, and/or
• Any property they are carrying, and/or
• Information from witnesses or intelligence.

There can never be a hard and fast definition here and grounds for believing will depend on the circumstances in each case. However, grounds to 'believe' something is a stronger level of reasonable grounds in comparison to simply suspecting something and it would need to be supported by stronger objective facts.

5. What are the three considerations before making an arrest?

Before deciding to arrest somebody you should first of all establish that you have the power to arrest.

Secondly, you should establish through effective investigation that you have the grounds to arrest the person for the offence.

Lastly, you should always consider whether or not that arresting the person is the best course of action. You could for instance report the person for summons.

6. What are the requirements under Section 28 PACE to make an arrest lawful?

You must always inform the person that they are under arrest or as soon as is practicable. This is so even where it is perfectly obvious that you have arrested them.
You must also tell the person the grounds for the arrest. ‘I am arresting you on suspicion of stealing this watch’.

**Failure to do either of these things can make the arrest unlawful.**

It is not necessary to use technical or precise language, nor need any reference be made to the power of arrest relied on.

7. Summarise the underlying principles in relation to the use of force.

When carrying out a lawful arrest, you are protected by Section 117 of PACE. This states reasonable force may be used, if necessary, in the exercise of the power of arrest under the provisions of PACE. Provided the arresting officer’s actions are reasonable, this provision will enable the safety of the officer and the security of the detainee to be ensured.

8. What steps should be taken before resorting to the use of force?

Every effort should be made, where practicable, to deal with the matter without the need for the use of force. This means that you should be able to explain that your first course of action was to try and proceed without the need to use force by:

- **Persuading**
- **Advising and even**
- **Warning**

the offender of the consequences of their actions first.
9. When should a detained person be de-arrested under Section 30 (7) PACE?

Section 30(7a) and (8) of PACE provides that:

‘A person arrested by a constable at a place other than a police station shall be released if a constable is satisfied before the person reaches a police station that there are no grounds for keeping him or her under arrest. The constable must record the fact that this has happened’.

10. What is the procedure for arresting a detained person for other offences?

There will be times when you arrest a suspect for one offence and then find out they have committed another one as well. In such cases you must inform them that they are also under arrest for the other offence as well.

You must always record such matters in the appropriate notebook and, if you are already in the police station, explain fully to the custody officer what you propose to do and obtain his or her consent before seeing your suspect.

11. State the limitations on searching a person immediately after arrest.

A constable may search a person who has been arrested at a place other than a police station if the constable has reasonable grounds for believing the arrested person may:

- present a danger to themselves or others
- have concealed on them anything which they might use to assist themselves to escape from lawful custody
• have concealed on them anything which might be evidence relating to an offence.

When searching in public, the extent of the search is limited to the removal of outer coat, jacket or gloves. Where on reasonable grounds it is considered necessary to conduct a more thorough search, this must be done out of public view. Any search involving the removal of outer coat, jacket, gloves, headgear or footwear, or any other item concealing identity may only be made by an officer of the same sex as the person searched and may not be made in the presence of anyone of the opposite sex unless the person being searched specifically requests it.

If a person is arrested at a police station, then that person will only be searched under the directions of the custody officer.

12. Explain the procedures for transporting a detained person to a police station.

Detainees will normally be taken to the police station in a police van. If this is not available, other suitable police transport may be used.

If the detainee is not violent and the police station is no great distance away, they may be taken there on foot, except when they are handcuffed.

**Public transport must not be used.**

13. What special precautions should be taken in relation to detained persons who are drunk?

If necessary, they should be placed on the floor of the vehicle in the ‘recovery position’ so that they do not inhale their own
vomit. If they are unconscious, they must be taken to hospital by ambulance. Once the detainee arrives at the police station and is taken to the custody office, they become the responsibility of the custody officer. If he/she (the custody officer) deems the drunken person as being too drunk to detain, then arrangements will be made to remove that person to hospital.

14. Detail the type of information required from an arresting officer when a detained person is brought into a police station.

The custody officer will need answers to the following questions:

• What time was the person arrested, for what offence(s) and the reason(s) for that person's arrest?
• What time did they arrive at the station?
• Why is the person here?
• Was he/she lawfully arrested?
• Why is further detention necessary?
• On what authority is the detention to be made?
• What procedures will have to be considered for this person while in custody?
• What special needs does this person have?

15. What are a detained person's statutory rights upon reception at a police station?

The custody officer must inform a person under arrest at a police station of the right to:

• have someone informed of their arrest
• consult privately with a solicitor free of charge (in person or by telephone)

• consult the Codes of Practice.

The person must be informed that these rights need not be exercised immediately. They are continuing rights which may be exercised at any stage during the period in custody.

16. Who can authorise when a detained person’s rights can be delayed?

The detainee’s rights to have a person informed and to consult with a solicitor can be delayed, but only with the appropriate authority. This only relates to offences which are indictable offences, and then only for specific reasons and up to 36 hours from the ‘relevant time’

The appropriate levels of authority are:

(a) The detainee’s right to have a person informed can only be delayed on the authority of an officer of or above the rank of inspector.

(b) The detainee’s right to consult with a solicitor can only be delayed on the authority of an officer of or above the rank of superintendent.

A superintendent or above may also allow interview without legal advice where he or she has reasonable grounds for believing that delay might:

• lead to interference with, or harm to, evidence connected with an offence

• lead to interference with, or physical harm to, other people

• lead to serious loss of, or damage to property
• lead to alerting other people suspected of having committed an offence but not yet arrested for it
• hinder the recovery of property obtained in the commission of an offence.

17. Outline the relevance of the custody record.

The custody record is used as a diary of events to record everything that occurs whilst the arrested person is in detention.

Entries in the custody record must detail:
• the reason, date and time of the arrest
• personal details concerning identification of the person under arrest
• the name of the arresting officer
• the time the person arrived at the police station.

18. Explain the duties of a custody officer in relation to the searching of detained persons.

The custody officer is responsible for:
a) ascertaining what property a detainee:
i. has with them when they come to the police station whether on:
   • arrest or re-detention on answering bail;
   • commitment to prison custody on the order or sentence of a court;
   • lodgement at the police station with a view to their production in court from prison custody;
   • transfer from detention at another police station or
hospital;

- detention order under s135 or s136 of the Mental Health Act 1983

  ii. might have acquired for an unlawful or harmful purpose while in custody

b) the safekeeping of any property taken from a detainee which remains at the police station.

Section 54(6) of PACE provides the power for a detainee to be searched.

It states:

Subject to subsection (7) (Intimate body search) a person may be searched if the custody officer considers it necessary to enable him/her to carry out his/her duty in relation to the above and to the extent that the custody officer considers necessary for that purpose.

19. Detail the grounds on which a custody officer may seize and retain a detainee’s property.

Section 54(3) and 54(4) allows the custody officer to seize and retain property in possession of a detainee.

Clothes and personal effects may only be seized if the custody officer:

a) believes that the person from whom they were seized may use them:

  i. to cause physical injury to himself or any other persons;
  ii. to damage property;
iii. to interfere with evidence; or
iv. to assist him/her to escape; or

b) has reasonable grounds for believing that they may be evidence relating to an offence

Where anything is seized, the person from whom it is seized must be told the reason for the seizure unless he/she is:
c) violent or likely to become violent; or
d) incapable of understanding what is said to him/her

20. Where and how should a detained person’s property be listed?

It is a matter for the custody officer to determine whether a record should be made of the property a detained person has with him/her or had taken from them on arrest. Any record made is not required to be kept as part of the custody record, but the custody record should be endorsed as to where such a record exists.

21. Define a ‘designated police station’.

This is a station which a chief officer of police has decided can provide suitable accommodation for the purpose of detaining arrested persons.

22. When can a detained person be taken to a non-designated police station?

A person under arrest may be taken to a non-designated police station if you are working in a locality not covered by a designated police station and it appears that it will not be necessary to keep the person in police detention for more
than six hours.

Such a person may also be taken to a non-designated police station, if you have no other police officer available to assist you and it is necessary to prevent injury to the person, yourself or anyone else.

23. Define ‘appropriate adult’ in relation to persons at risk.

In the case of a juvenile, this means:

- his/her parent or guardian (in the case of a juvenile in care, a representative of the care authority or voluntary organisation)
- a social worker of a local authority, or
- failing either of the above, another responsible adult aged 18 or over who is not a police officer or police employee.

In the case of a person mentally disordered or mentally vulnerable this means:

- a relative, guardian or other person responsible for the person’s care or custody
- someone experienced in dealing with people experiencing mental ill health, but who is not a police officer or employed by the police (such as an Approved Mental Health Professional as defined by the Mental Health Act 1983 or a specialist social worker), or
- failing either of the above, some other responsible adult aged 18 or over who is not a police officer or employed by the police.
24. State the role of an appropriate adult.

The purposes for his or her presence are:

- to advise the person being questioned and to observe whether or not the interview is being conducted properly and fairly, and
- to facilitate communication with the person being interviewed.