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Policing

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Investigation:

Other Policing Incidents

Version 2.4

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Authorised Professional Practice

These notes are aimed at learners completing their Initial training to meet the learning outcomes specified on the National Policing Curriculum. The primary source of content is the Authorised Professional Practice (APP) and the supporting evidence based research of “what works” in policing.

APP can be found at: <http://www.app.college.police.uk/>

1. Introduction

These notes are for Pre-Join, Police Officers, PCSOs and IL4SC Phase 1 and 2.

This chapter provides an overview of other policing incidents such as Civil Trespass, Civil Disputes and Breach of the Peace. This chapter will also provide an introduction to Sudden Death, your initial actions and individual responsibilities at the scene of any apparent death whether suspicious or not.

2. Initial actions

2.1 First aid or confirmation of death

In this section we will look at the procedures involved in the investigation of sudden deaths.

‘Sudden death’ is a police term for any death which involves some form of police action. It may not be sudden at all, in that the deceased may have been ill for some time, but because of circumstances, such as an elderly person living alone who has not been seen by a doctor for a considerable period, some enquiry is necessary. There are some occasions where the circumstances suggest that perhaps the death was not as natural or accidental as it first appears.

As the first officer at the scene, one of your primary objectives, when called to an apparent sudden death, is the protection of life. This means doing all you can to keep a person alive and not assuming death, if there is the slightest doubt you should call an ambulance. Only a doctor and, in some areas a qualified paramedic are eligible to state that a person is dead. You do not have the power to pronounce that life is extinct; you should call your control room and request that they call a doctor to the scene. Your force will have a local doctor on standby to deal with this situation.

After confirming death the doctor will indicate whether they are prepared to issue a death certificate stating the cause of death. In cases when a doctor issues a death certificate, the police involvement with the death has officially ended. In some cases the doctor may never have treated the deceased, or may not be able to tell the cause of death with any degree of certainty. In such cases you will need to inform your control room, so that supervisory officers and/or the coroner’s officer can be made aware of the situation and kept informed.

2.2 Investigation

If you are the first responder to a sudden death, you must note all the circumstances of the scene. You must determine whether or not the death was suspicious, check the body for signs of bruising, have a look around the room, and check if there are any signs of a struggle. Are there any open windows? Signs of a forced entry? It is important to record all the details in your notebook, the position the body was in, describe the body in detail and any contact you have had with it. If there is any indication that it is a suspicious death, you will need to obtain help by contacting your supervisor. While waiting for help from your supervisor, and probably the CID and Scenes of Crime Officers (SOCOs), your action should be to preserve the possible crime scene.

It should be remembered that it is very difficult to gather evidence from a sudden death crime scene if this death had initially been treated as non-suspicious. In this circumstance the scene may have been contaminated and possible evidence lost. Therefore you should be cautious about assuming a death is non-suspicious if there is any possibility that it could actually be as the result of a crime. You should contact your supervisor if you are at all unsure of the circumstances of a sudden death.

2.3 Suicide

It is not a criminal offence for a person to commit suicide. However, such deaths need to be investigated thoroughly due to the possibility of a disguised homicide or an assisted suicide.

Your initial action is the same as for any sudden death, it is important to bear in mind the following four actions:

- the method used to commit suicide may present a danger to others, for example electricity or gas
- look for and, if possible, take possession of the means used and make note where seizure is not possible
- when the death has occurred by hanging, take care to preserve the knot in the noose when the victim is removed
- take possession of any letter left by the deceased, unopened if sealed

All items retrieved should be handed to your supervising officer, as they may be required as evidence in a coroner's court.

2.4 Sudden death of a child

Sudden Unexpected Death in Infancy (SUDI) also referred to as Sudden Infant Death Syndrome (SIDS) is the unexpected and unexplained death of an apparently well baby.

In these cases your actions as a first responder are critical for the success of the investigation. There are a number of actions which you should take, these include:

- you should contact your supervisory officer and request that they attend as soon as possible
- the parents or carers may be traumatized so remember to deal with them with compassion and respect
- you need to secure any potential evidence but ensure you explain why you are doing so to the parents or carers
- you should stop anyone from washing bottles, utensils, stripping any bedding or turning on a washing machine, there may be vital evidence which could be destroyed

Further information on this topic can be found in the following student notes: 05. Public Protection – Child Abuse.

2.5 Work related deaths

There may be an occasion when you are sent to a death which has occurred at a place of work e.g. a factory or at a site where work was being carried out e.g. on a house being renovated.

Like any other types of death, you have to treat it as an unexpected or unexplained death and ensure that the scene is preserved as best as you can. Often this may be difficult as external factors such as the attendance of other emergency services may have changed or had an influence on the scene.

If you are the first officer on the scene of a possible work place related death, **you should contact your supervising officer**. The Health and Safety Executive will be responsible for investigating the circumstances of the fatality and work with the Coroner to determine cause of death.

It is important that you make notes of what you found on arrival at the scene as you may be asked to give evidence in any subsequent Coroners Court or Health and Safety Executive prosecution in the future.

2.6 Property of the deceased

Whenever you respond to a sudden death, you must safeguard the deceased's property; this includes the deceased's personal property and in some cases the premises where they were found. It is important to ensure the deceased's property is safeguarded accurately as legal battles have occurred in the past. Relatives may believe there is a large sum of money or valuables in the house, when these are not found it is easy to blame people who have been in the house after the death, including you.

When you arrive at the scene you may have to take possession of personal property of the deceased, this includes when a person dies away from home or when they die in their home and there are no relatives present. If relatives are present when you arrive you can hand over responsibility for the property to them.

If you are removing valuables for safe keeping, try to make sure you have a witness and write all the details in your notebook. Valuable items of property such as cash and jewellery should be taken to the police station for safe keeping. These items should be recorded in the property register at your police station and stored until returned to relatives. Each force's procedure on returning valuable items of property to relatives can differ, please check your own force's policy.

Often you will be leaving an empty property therefore it is important to ensure it is secure and locked. If you've done any damage to the property, because you've had to gain entry, you should contact the control room to arrange for repairs. You should contact your supervisor who will decide who should stay with the property until it is secure.

2.7 Identification of the deceased

When you respond to a sudden death, even if the death is reported by a close relative; spouse, children sibling, you will still need to have the deceased person 'formally identified' to you.

In many cases the relatives or friends of the deceased may be present and in such cases whilst you may find the process of identification relatively simple, it can also be an emotional time for them. As such, you should never forget that you are speaking of and dealing with a loved one and you will have to show a great deal of sensitivity.

If there are no relatives at the scene your actions will be different. You will need to:

- find out the victim's identity

- check mail and diaries to help identify the victim and their next of kin
- look for a suicide note

It is important to remember to be considerate and sympathetic when asking questions. If there are no next of kin at the scene you must also remember to get in contact with them as soon as possible, it is better to hear the news from an officer who has been trained than a local reporter or neighbour.

2.8 The Sudden Death form

Each force will have a sudden death form which you will need to complete, they may differ slightly but the information needed to complete them will be similar.

The essential details you need for the report are:

- name, address, date of birth and place of birth of the deceased
- any known medical history
- who found the body, as well as where and when they found it
- who pronounced the person deceased, at what time and where
- if relatives/friends have been traced
- the last person to see the deceased alive and where they were seen
- who identified the deceased, where they identified them, their address and relationship to the deceased
- next of kin
- where the body was removed to
- personal property
- evidential property
- circumstances of death
- if the SOCO has photographed and examined the scene
- if the police are treating the death as suspicious
- other agencies involved

You should make yourself familiar with the layout and the specific requirements of your own forces sudden death form.

2.9 The Coroner's Office

A Coroner is appointed by the Secretary of State; they investigate the circumstances of a death. A Coroner must have a minimum of five years' experience, either as a lawyer or a doctor of medicine. It is the coroner's office who looks into the circumstances of deaths where a doctor is unable to issue a death certificate, deaths which are unresolved or suspicious. They will have jurisdiction over the body until the circumstances have been investigated.

The coroner's officer, who may be a police officer or a civilian, helps the coroner with the investigation into the cause of death. The Sudden Death form which contains all the relevant details is passed on to the coroner's officer as soon as possible to make any necessary arrangements.

3. Informing the bereaved of a death

3.1 Preparation

It is important to realise that your attitude and actions have a profound effect upon those with whom you come into contact, particularly at such stressful times as bereavement, and any insensitivity may make it more difficult for them to come to terms with their loss. How the news of someone's death was delivered and who told them is something they might never forget.

You should obtain as much information as you can about circumstances of the death, no matter how unpleasant the details. The bereaved will almost always prefer to know the full circumstances before reading about them in the press or hearing about it in a court.

Details of the mortuary or location of the deceased will also be needed.

An incomplete or inaccurate message will only cause more distress; the better informed you are, the more able you will be to answer questions and offer support. Do not volunteer disturbing details, but be prepared to disclose them if the bereaved seek more information. Consider whether the death was expected; in cases of road traffic collisions and many suicides it will be a great shock.

You cannot assume that certain relatives are closer than others or will be more profoundly affected by the message.

Information about the circumstances of those who are told may also be valuable to you. If they are elderly, unwell or alone, it may be appropriate to contact a neighbour, friend or doctor to accompany you or to deliver the message, even though you must be present to ensure that correct information is given.

It is important to consider what might help you when you have to attend this type of incident, an understanding of how people might react when told that their relative or friend has died.

According to Dr Elisabeth Kübler-Ross who pioneered methods in the support and counselling of personal trauma, grief and grieving associated with death and dying; there are five stages of grief:

1. **Denial:** is a conscious or unconscious refusal to accept reality relating to the situation concerned, and is a natural defence mechanism. Some people can become locked in this stage when dealing with a traumatic change that can be ignored.
2. **Anger:** can manifest in different ways. People dealing with emotional upset can be angry with themselves, and/or with others, especially those close to them. Knowing this will help keep you detached and non-judgemental when experiencing the anger of someone who is very upset.
3. **Bargaining:** traditionally the bargaining stage for people facing death can involve attempting to bargain with whatever God the person believes in. Bargaining rarely provides a sustainable solution, especially if it's a matter of life or death.
4. **Depression:** also referred to as preparatory grieving. In a way it's the dress rehearsal or the practice run for the 'aftermath' although this stage means different things depending on whom it involves. It's a sort of acceptance with emotional attachment. It's natural to feel sadness and regret, fear, uncertainty, etc. It shows that the person has at least begun to accept the reality.
5. **Acceptance:** this stage definitely varies according to the person's situation, although broadly it is an indication that there is some emotional detachment and objectivity.

It should be noted that not everyone's experience will mirror these stages. However, it may be of benefit to be aware of these stages to enable you to understand how the reactions of relatives or friends may vary.

3.2 Delivering the message

The first simple rule is that such news must be passed in person, never by telephone. Wherever possible, it should be done in private with both of you sitting down. Be prepared to obtain medical aid, especially when elderly people are involved.

The most appropriate place to deliver a death message may be at the bereaved person's home, although the circumstances may prevent this and a quiet, private place should be found. Asking people to make a journey or leaving them in a side room will lead to feelings of isolation and should be avoided. Do not leave the bereaved on their own unless they specifically request it.

The bereaved can suffer shock and may not hear all that is said, so it may be necessary to repeat yourself. Other reactions may include disbelief, denial, anger, hysteria, physical collapse and suppression of feelings.

When delivering the news it should be done with compassion, tact and without the use of jargon. The bereaved are likely to want to know if death was instant, if there was any suffering and whether the victim was aware of what was happening. They will also want to know that everything was done to try to save the deceased person's life. If you do not know the answers, tell them why, and if you can find out what they want to know, take the trouble to contact them the next day. Impersonal remarks or ill-informed opinions merely increase distress.

3.3 Practical advice and support

Bereaved people will look to police officers for advice and help, your force may have information which they distribute to relatives who have become bereaved in these circumstances. Alternatively there are many local and national organisations that help families deal with sudden bereavement. You should find out which organisations are available in your local community. Your tutor will have this information for your force.

Before leaving, make sure the bereaved have your name, number, station, telephone number and the details of other officers involved.

3.4 Helping yourself

When informing people of a serious injury or death, or dealing with the report of a sudden death police officers often find themselves having to deal with not only the horror of the incident and the reactions of those involved, but also their own emotions.

Dealing with the trauma and suppressing your responses can cause stress. This can lead to physical and emotional problems if not spotted in time. Acknowledging this possibility, recognizing the symptoms of stress and devising strategies for coping will help you personally and may also enable you to support others more effectively.

In order to manage stress it is important to:

- Seek support, speak to someone and let them know how you are feeling.
- Connect with people, a good support network of colleagues, friends and family can help, often the activities we do with friends/family help us relax.
- Make time for socializing, exercise or relaxation. Exercise is a great stress reliever.
- Avoid unhealthy habits; don't rely on alcohol, smoking or caffeine as your ways of coping with stress. In the long term these won't solve problems, in fact they may create new ones.

4. Civil disputes

A considerable amount of police time is spent dealing with disputes. It is an area that demands high levels of communication and negotiation skills on the part of police officers. Disputes can generally be divided into two main areas:

Civil disputes: Incidents in which there is a disagreement between people, but where no crime is involved, for example an argument over a disputed debt or between neighbours. Civil disputes cover a range of issues including non-payment of debts, personal injury, and breach of contract, housing disputes and bankruptcy.

Domestic disputes: A breakdown or problem within the home which results in the police being asked to attend.

4.1 Police action at civil disputes

Disputes arise because the parties have reached a stage where their differences cannot be reconciled.

The police may be called because:

- the dispute is causing a nuisance
- the dispute is escalating and it is feared that it may result in violence or damage; and

- it is hoped that the police can resolve the problem.

People involved in the dispute will usually be upset, nervous or angry, and may be beyond the point of being able to hear reason or accept any responsibility.

Both parties may expect you to support their position or be able to offer an immediate solution, however unreasonable this is.

It is important that you:

- stay calm and demonstrate patience
- show that you are interested and ready to help
- are firm and fair – appreciate that both sides have a view which is important to them, recognise that they may be feeling frustrated due to circumstances etc.
- separate the two parties, if necessary, by standing between them or moving them into different rooms
- actively listen to and acknowledge the viewpoint of both parties (empathise not sympathise)
- give factual and impartial advice to each party, together or separately, whilst remaining neutral
- do not promise any solution which you cannot deliver
- do not threaten action that you do not intend to take
- make a detailed notebook entry of what has occurred

The role of the police at the scene of a dispute can range from giving advice to arresting one or more of the parties in order to restore the peace. It is important to listen impartially to both parties.

It may be helpful if you are able to advise people to contact other agencies that may be able to assist, such as the Local Authority and relevant advice agencies, such as the local Citizens Advice Bureau.

Factors which could influence your response to a dispute may include:

Circumstances	Did it take place in public or in private? Are there any witnesses?
Nature	Have any offences been committed? Is discretion appropriate?
Individuals	Are any vulnerable and in need of protection? Is there any record of similar incidents in the past?
Threat or risk	Is the safest course of action to intervene? Might it lead to an escalation of the incident? Do you need assistance?
Time	What time of day or night is it? Might this affect the attitude of the participants to the gravity of the incident?

There are a range of responses which are appropriate to a variety of disputes, for example:

Negotiation	An impartial person may be able to identify the cause of a dispute and mediate between parties.
Conciliation	Following successful negotiation, a compromise or resolution may be reached.
Advisory	Advice on an appropriate course of action means of resolution or referral to a source of expert assistance.
Warning	An informal warning or formal caution may be appropriate if an offence has been committed.
Protection	Removal of vulnerable people to a place of safety may be necessary.

Prosecution	An offender may be arrested to remove the threat of further disorder or violence and to facilitate prosecution, providing there are reasonable grounds to suspect someone of an offence and you can apply one or more of the arrest conditions.
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The most common types of disputes you are likely to deal with are what are often classed as 'neighbour disputes'; where you may be advising the complainant that the other party may not be breaking the law and that they are the person who is most likely to be committing an offence.

Example:

Person X parks outside a neighbour's house (person Y) in a terrace where there are no restrictions or permits, because someone else has parked outside their house. Person Y takes exception to this and demands that person X move out of 'their space'. Person X refuses to move, but offers to move once a space is free outside their own house. Person Y will not accept this and decides to involve the police. Person X is not breaking the law, and is perfectly entitled to park where they have. Person Y is making threats about 'slashing' person X's tyres if they don't move. It is not unusual for this kind of incident to occur. People are territorial about the road outside their house and view this as part of their space.

Ensure that you know your own force's local policies and procedures regarding the appropriate action.

4.2 Roles of the local authority and relevant advice agencies

There are a range of potential support options available in dealing with civil disputes the appropriateness of which largely depends on the nature of the dispute.

Environmental health department: In cases where neighbours may be breaching public health or pollution laws, the local authority environmental health department could be approached. An environmental health officer will usually contact the neighbour and may attempt to resolve the matter informally. If the officer thinks that a nuisance exists, a notice may be served on the neighbour, requiring abatement of the nuisance. This means they are required to stop, or deal with, the nuisance.

The Environmental Health Department can also carry out enforcement action to repair leaks and can obtain warrants for forced entry in certain circumstances to undertake necessary work.

Building control department: The local authority building control department can be approached in cases where one neighbour has refused to cooperate with a joint maintenance responsibility, such as a roof repair. After an inspection, the building control department may serve a notice on all owners responsible for that part of the property, requiring them to put it in order within a certain time period. Some local authorities will only carry out an inspection if the property is thought to pose a danger. The procedure followed will vary between authorities.

Planning department: The local authority planning department has the power to investigate if there has been a breach of planning control. The authority can issue an enforcement notice if the neighbour has carried out building work without permission or is using the land for an unauthorised purpose.

Local councillors: If a neighbour dispute is serious or longstanding it may be helpful to contact a local councillor (or other similar role in Scotland and Wales). It may also be possible to give details of the dispute to the councillors sitting on a committee relevant to the dispute, for example the planning committee in a case of breach of planning regulations.

Citizens Advice Bureau (CAB)

The CAB can help with civil disputes in terms of help and advice with mediation with individual parties, landlords, companies, credit agencies etc. so that people are able to resolve their legal, money and other problems. They can provide guidance, for example, on completing court paperwork and advice on how to take civil action; such as suing for damages etc.

Trading Standards

If a dispute is in connection with the standard of a product, or service received, the trading standards institute is approached via the CAB.

5. Civil trespass

You have all seen the sign 'Trespassers will be prosecuted'. What you have perhaps not realised is that in most cases this sign has no meaning in Law. This is because trespass, which in simple terms means being on someone else's property without permission, is not generally a criminal offence.

However, trespass may be a criminal offence in particular places or in certain circumstances. You will learn more about this later in your training.

Trespass is a matter with which Police are frequently called on to deal. The parties are usually angry, and Police must act with firmness, be impartial, use tact and have a sound knowledge of the subject.

5.1 What is trespass?

Trespass is an unlawful entry by one person on land in the possession of another. Trespass is not a criminal offence except in certain specified places or where it is accompanied by other acts which make it so.

Where there are no such considerations it is known as a civil trespass.

There can be no criminal proceedings for civil trespass. Therefore the familiar 'trespassers will be prosecuted' is an empty threat.

In spite of trespass not being an offence Police are regularly called upon to deal with such incidents and therefore you must be able to recognise whether or not a person is improperly on premises.

Civil Trespass is not a criminal offence and your power is confined to preventing a breach of the peace or other offence.

Let us, therefore, look at who is entitled to be on premises or land so that you will be in a better position to take action when called upon.

Lawful Owner/Occupier

In the following types of premises some examples are given of those who may be considered to be the lawful owner/occupier:

- Private dwellings (houses, flats, etc.)
 - The owner or occupier.
 - An occupier will also include a person renting the house or flat or part of it, as well as members of their family living with them or persons acting on their behalf.
- Shops, cinemas, and other commercial premises normally open to the public
 - The Owner, Manager or any employee acting on behalf of the Owner or Manager.

- Libraries, swimming pools, parks and other publicly owned places normally open to the public

Usually any employee of the Council, etc., responsible for maintaining the facility

- Business premises, schools and other non-residential premises not open to the public

The Owner, Head Teacher, Manager, Secretary, or other responsible employee. It is only at the request of such lawful occupier or representative that Police are entitled to act. Let us now look at the position of a person who is not such a lawful occupier when they enter premises or land.

5.2 Persons on premises or land

Many premises offer an open invitation to the public to enter. Shops and cinemas obviously depend on people entering or their business would fail, yet they are privately owned and the owner, manager or their representative can withdraw that invitation at any time.

If there are no locked gates or notices forbidding entry, there is an implied invitation for persons to enter the gateway of private premises for the purpose of carrying on business or for lawful visiting.

It does not mean the grounds are open for any purpose.

The lawful owner/occupier

The lawful owner/occupier has the right to exclude anyone from their premises who they do not wish to be there. Even those lawfully on premises can become trespassers if the invitation to remain is withdrawn.

People entering or remaining on premises against the lawful owners/occupier's wishes are trespassers unless they have a legal right to be on premises. Therefore, a tenant refusing to leave because the landlord wants to re-let the premises to get a higher rent, is not a trespasser.

Another type of legal right to enter and remain on premises applies to persons acting under authority of law, such as Court Bailiffs, Gas and Electricity Board Officers in certain emergencies, and of course, Police Officers, provided they are legally entitled to do so.

5.3 Police action at a civil trespass

The person in possession of land may use reasonable force to eject a trespasser from his land. A police officer is entitled to enter premises to prevent a breach of the peace and to remain there in order to do so.

If, however, the trespassers conduct at any time is such that they commit another offence such as criminal damage or assault then they should be dealt with according to the circumstances.

The Public Order Act 1986 does not apply in situations where all parties are in dwellings so you will have to use common law breach of the peace in such situations to deal with violent or disorderly behaviour which might otherwise have been dealt with under the Public Order Act 1986.

Do remember that you must consider releasing the prisoner arrested for breach of the peace if you believe that they will not cause further trouble because, for instance, the other party has left the scene.

It should be stressed, however, that it is not your aim to arrest trespassers. You should only arrest for an offence as a last resort and not as a means to an end.

The first thing to do is prevent a breach of the peace.

Before deciding on the action to take, first consider the possible feelings of the participants of a dispute involving trespass. Your task is to, as far as reasonably possible; achieve an acceptable solution to satisfy the needs of both parties.

Aim to send both people away having received, and feeling that they have received a good, fair and impartial service. You will need a systematic approach when dealing with trespass:

1. Establish lawful owner/occupier and if other person is a trespasser having done that, investigate the owner/occupier's complaint fully, listen carefully, find out what they want, their reasons and problems etc.
2. Investigate information from the complainant and listen carefully.
Find out why the person(s) are there and what problems they may have which led to the situation
3. Decide on the best course of action available.
Remember that you should decide on any course of action fairly.

4. Resolve the dispute

Work hard to bring about an agreement between them. Success will give you considerable satisfaction for having achieved a professional approach

5. Use Persuasion

Step five should only be necessary if all else has failed.

6. Try and persuade the trespasser to leave.

You may be able to do this by explaining that the lawful owner/occupier has a right to ask them to go.

7. Next you might warn the trespasser that even if they refuse to leave voluntarily they may lawfully be put out of the premises.

You might also point out that if they physically resist or become violent they may possibly be arrested for threatening behaviour or breach of the peace.

8. If all else fails, you can tell the lawful owner/occupier that they may remove the trespasser from their land or premises using no more force than is necessary for that purpose. Your job is to stand by to prevent any breach of the peace.

9. However, if the lawful owner/occupier is clearly physically incapable of removing the trespasser, you may assist but remember, you are then acting as a private citizen and not a Police Officer unless their conduct is violent or disorderly etc.

The lawful owner/occupier should make the first move towards ejection by taking hold of the trespasser's arm. This makes it clear that you are assisting rather than starting the ejection.

6. Breach of the peace

One of the fundamental duties of an officer is the preservation of 'the Queen's Peace', which can be described in terms of a normal state of peace and tranquillity which citizens are entitled to expect, in an ordered society.

6.1 What is a breach of the peace?

The law and powers in relation to this offence are established by case law. To be a breach of the peace, the conduct in question does not have to be disorderly. However, a breach of the peace can be committed in any place, public or private.

It is an offence in common law rather than statute, and as such there is no Act from which to obtain a legal definition.

There is a breach of the peace whenever and wherever:

- harm is actually done, or is likely to be done, to a person, whether by the conduct of the person against whom a breach of the peace is alleged or by someone whom it provokes;
or
- harm is actually done, or is likely to be done, to a person's property in his presence **or**
- a person is genuinely in fear of harm to himself or his property in his presence, as a result of an 'assault, affray, riot, unlawful assembly or other disturbance'

Example:

Assess all circumstances: Bibby v Chief Constable of Essex (2000)

In the case of Lesley Edward Bibby v Chief Constable of Essex Police [2000] 164 JP 297 police attended a dispute between a judgement debtor and a bailiff. The debtor was uncooperative and refused to let any goods be removed. The bailiff, who was a very large man, refused to leave the premises without goods or money to satisfy the debt.

Police attended the premises and owing to the manner of the bailiff and his refusal to leave the premises when directed to by the police, he was arrested for breach of the peace, handcuffed and taken to a police station. The bailiff was released without charge an hour later. The bailiff sued the police for assault and wrongful imprisonment.

It was held on appeal that the police officer, although reasonably believing that a breach of the peace was likely, could not justify the arrest of the bailiff. The officer should have considered the fact that the debtor was preventing the bailiff carrying out his lawful duties and it was the debtor whose conduct was likely to lead to violence. In addition to finding that the arrest was not justified, the appeal held that the use of handcuffs was unreasonable.

This was an important case as it requires persons arresting to consider, in addition to the likelihood of a breach of the peace, all the circumstances in order to assess whether the actions of an individual are lawful and reasonable.

Example:

Reasonable belief: Wragg v DPP (2005)

In the case of Shane Wragg v Director of Public Prosecutions [2005] EWHC 1389 (Admin), objective and reasonable grounds for belief that a breach of the peace will occur is again examined.

Officers attended a heated domestic argument and, based on the woman's fear of violence and Wragg's level of intoxication, they asked him to leave, believing that he was about to cause a breach of the peace. He refused and subsequently assaulted the police officers. At appeal, Wragg submitted that no damage or threats of violence had occurred so there was no likelihood that a breach of the peace would occur, hence the arrest was unlawful and the assaults were not therefore in the execution of the officers (lawful) duty.

The appeal was dismissed and the court concluded that it was reasonable, in the circumstances, for the police officers attending the scene of a heated domestic argument to believe that a breach of the peace was imminent, on the basis of:

- the woman's fear of violence
- the man's level of intoxication; and
- his refusal to leave

It was therefore held that the officers had been acting in the lawful execution of their duty and the assault convictions were upheld.

It is important, at this point, to emphasise that all the information should be recorded when making an arrest. In these instances the information considered by the court was the initial report of a heated argument; the woman's fears; the demeanour and level of intoxication of the accused; and his refusal to leave when requested. In addition to this a record of what was actually said and the circumstances of the assault would have been required.

6.2 'Binding Over' to keep the peace

'Binding over' to keep the peace is a power exercised by magistrates in England and Wales and is deemed to be a precautionary measure; adopted where there is a possibility of present or future danger. It is not a conviction or a punishment. It should not be used for an act which is past and which is not likely to be repeated. Magistrates can bind over any person; a defendant, witness or claimant, to be of good behaviour or to keep the peace

A person who is bound over, for example, can be required to adhere to the following conditions. They may be required to:

- return to court at a later date
- refrain from certain activities for a certain period; **or**
- to exercise control over a youth guilty of an offence

If the person does not fulfil the conditions, they can be arrested or other penalties may apply. The process of binding over requires the individual to enter into a recognisance, with or without sureties, to keep the peace or, alternatively, to be of good behaviour.

‘Entering into a recognizance’ means that a person undertakes to pay a sum of money fixed by the court if he fails to comply with the terms of the recognisance within the time specified by the court. A person becomes a surety if he agrees to pay a sum specified by the court if another person so fails to comply.

The Justices of the Peace Act 1361 permits justices to require a recognisance from ‘all of them that be not of good fame’ to ensure that they keep the peace towards the Queen and her people. Such a recognisance to keep the peace can only be taken where there is reason to fear violence or the threat of violence. There should be evidence that violence would be the natural consequence of any of the actions of the accused.

Example:

John is accused of assault; however, the witness withdraws their statement as they do not wish to go to court. John is bound over by the court to keep the peace for 12 months. His mother, Carol, becomes a surety by agreeing to pay the sum of £200 if John fails to comply.

The separate power of a criminal court to require an individual to enter into a recognisance to ‘be of good behaviour’ is derived from the common law; such a recognisance is more comprehensive than one to ‘keep the peace’ as it extends to good behaviour in general, rather than being limited to conduct which could cause someone to fear personal danger.

The power to bind over independently of any conviction is exercisable either:

- after an arrest without warrant for an actual or apprehended breach of the peace, **or**
- upon complaint

Before a person is bound over, the court will inform them of its intention to do so, and will hear him, the complainant and their witnesses. The court cannot impose a binding over if the person does not consent. In the event of a persistent refusal, or failure to find sureties, the individual may be committed to prison for a fixed term of up to six months or until they complies with the requirements of the court.

7. Revision Questions

- When called to an apparent sudden death, as the first officer at the scene what is one of your primary objectives?
- What's the difference between certifying death and issuing a death certificate?
- When dealing with valuables from a deceased, what are you advised to do?
- What experience must a Coroner have before they can perform in their role?
- What is the difference between a civil dispute and a domestic dispute?
- Why might the police be called to deal with a dispute?
- Which factors might influence your response to a dispute?
- What is civil trespass?
- What is meant by the common law offence of 'breach of the peace'?
- If someone is 'bound over' by a Magistrates' Court, to which conditions might they be required to adhere?

8. Key legislation

- Justices of the Peace Act 1361
- Breach of the Peace – Common Law
- Magistrates' Courts Act 1980

9. E-learning

In addition to these notes the following e-learning is available via the College of Policing Managed Learning Environment (MLE):

- The four chapters of the 'Sudden Death' e-learning cover investigations at the scene and considerations when delivering the death message.

The MLE is regularly updated with new learning programmes and materials.