



Objectives:

1. **Outline** factors to consider prior to making an arrest
2. **State** information to be given to an individual when making a lawful arrest
3. **Identify** when use of force can be used in making a lawful arrest
4. **Outline** instances when it may be necessary to further arrest or de-arrest an individual
5. **Describe** what information should be recorded in electronic pocket note book (EPNB) following arrest of an individual.

Deciding to Make an Arrest



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From a police perspective, making an arrest is virtually an everyday occurrence. However, from the perspective of a member of the public, it can be a distressing experience.

There are many reasons for making an arrest and it does not always follow that when a police officer makes an arrest, the person will later appear in court. For example, an officer may arrest a person for their own safety under the Mental Health Act or to prevent a breach of the peace, where a person may later be released when the breach of the peace has been averted.

However, in the majority of cases, an arrest will be made with a view to taking a person to the formal environment of a police station, for the purposes of investigating an offence the person is suspected of committing.

Whilst there will be circumstances where an arrest will be the most suitable course of action, arrest is just one type of action and officers should always reflect on whether an arrest is the most appropriate solution.

Prior to Making an Arrest

Officers should consider information about:

- the event – what has happened?
- the individuals involved
- whether there are any physical or mental ill health which requires medical attention
- any offence
- the needs of the investigative process




A risk assessment prior to arrest would include information:-

- about the **event** - what is known or believed to have happened.
- about the **individuals** involved
- Victim:** the **situation of the victim** – information regarding a victim's physical or mental health
- Suspect:** any information about previous encounters with the police (including any PNC and PND checks) or the suspects **physical or mental health**. Also consideration could be given as to whether there has been a change of circumstance - this may indicate that an individual is at higher risk of causing harm to themselves or harm to another, or the potential for hidden health issues e.g. cancer, autism, mental health that may not be apparent, pacemakers, previous stroke etc. look out for medical bracelets, badges or some will have a tattoo. **Give Handout regarding OCG**
- Offence:** are there any concerns regarding linked to the location of the incident - the location may put you, the suspect, or members of the public at higher risk.

The situation and the individuals involved should be continually dynamically risk assessed. An officer should also identify where an individual is in need of medical help.

Planned Arrests

When a suspect has been identified, you will need to prepare an arrest plan which should include the timing of the arrest. You must consider:

Whether at the time of the arrest the suspect will pose a serious risk to the safety of the victim, witnesses or the general public, e.g. if they are at home in the early morning there will be less risk of harm to the public.

The likelihood that the suspect will commit further or more serious offences: you should, arrest before they do.

The likelihood that the suspect will destroy, conceal or falsify evidence to obstruct the investigation.

In developing an arrest strategy you will need to consider the:

- Circumstances of the offence
- Authority for search

- Nominated officer in charge of the arrest team
- Nominated officer in charge of the search team
- Other relevant staff involved in the arrest
- Communication methods
- Method of entry
- Items to be searched for
- Methods of recovery.

Speak to your supervisor if you are involved in a planned arrest.

Making A Lawful Arrest

Information to be given:

That they are under arrest (even if it is obvious)

The grounds for the arrest

(offence for which they have been arrested)

AND

The Necessity for the arrest

Caution - 'When Questioned'



As previous explained:

Under **Sec 28 PACE & Code G (Codes of Practice)** an arrest is not lawful unless at the time, or as soon as practicable (the officer) informs the person they are under arrest.

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

In addition to the Human Rights issue, it is important that these things are considered by officers as Forces pay out a considerable amount of money as a result of claims made by individuals for unlawful arrest. These claims arise in most cases due to officers failing to consider whether the arrest they make is actually necessary.

Remember to give the 'when' questioned caution if it was not given just prior to the arrest taking place.

Use of Force

- S117 PACE
- Common Law
- S3 Criminal Law Act 1967
- S76 Criminal Justice & Immigration Act 2008








Even the slightest degree of physical contact with another person can amount to an assault. Officers, when carrying out a lawful arrest, are permitted to use force if required under Section 117 of PACE.

Section 117 of the Police and Criminal Evidence Act 1984 provides that a constable can use **reasonable force**, if necessary, in the exercise of any power under this Act
(Police power only)

Common Law recognises that there may be circumstances in which one person may inflict violence on another, without committing a crime. It recognises as one of these circumstances, the right of a person to protect himself / herself from attack and to act in defence of others and if necessary to inflict violence on another in doing so. If no more force is used than is reasonable to repel the attack, such force is not unlawful. If you have an honestly held belief that you or another, are in imminent danger, then you may use such force as is reasonable and necessary to avert that danger.

S3 Criminal Law Act 1967 states that a person may use such force as is reasonable in the circumstances in

- the prevention of crime, or
- in effecting or assisting in the lawful arrest of offenders or suspected offenders or
- in effecting or assisting in the lawful arrest of persons unlawfully at large.

(This power can be used by any person)

Section 76 of the Criminal Justice and Immigration Act 2008 expands on the common law and statutory defence of 'self-defence'. It includes special provision for householder cases - you must **genuinely** believe that the degree of force used is necessary given the circumstances of the case. This provision should ensure your own safety and the security of the detainee.

Article 2 ECHR "Everyone's right to life shall be protected by law. Deprivation of life shall not be regarded as inflicted in contravention of this article, when it results from

the use of force, which is no more than absolutely necessary:

- a) In defence of any person from unlawful violence.
- b) b) In order to affect a lawful arrest or to prevent the escape of a person lawfully detained.
- c) c) To quell a riot or insurrection.

An officer's presence, including the way they approach the scene, their manner, appearance, professionalism, and ability to communicate effectively (both verbally and non-verbally) is extremely important when determining whether reasonable force is necessary during an arrest.

The National Decision Model can assist to determine how best to respond to the suspect and risk assess the situation. Assessing whether there are reasons relating to an individual's culture, disability, mental ill health or physical illness which are causing an individual to behave in an unusual manner is important. The use of force to restrain the individual should be avoided if there is suspicion that an underlying medical condition or mental ill health may be causing the suspect to appear aggressive and medical advice should be sought.

Response options might include:

- Officers presence
- Verbal communication skills
- Primary control skills - Use of empty hand skills (escort position, pressure points, arm-locks, wrist-locks, use of handcuffs and restraints using a baton).
- Secondary control skills - Use of incapacitant.
- Defensive & offensive tactics - blocks, strikes, takedowns with empty hands, batons or rigid handcuffs (takedowns only)
- Deadly force - any action likely to cause serious injury or death use of unarmed skills, batons, firearms or by any other means

Further Arrest

Where a second offence is identified when already under arrest you **MUST** consider the necessity test- criteria

In such cases you must inform them that they are also under arrest for the other offence as well (Section 31 PACE)

This is to prevent a situation where the individual leaves the police station and is immediately rearrested for the other offence.



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 (Section 31 PACE). This is to prevent a situation where the individual leaves the police station and is immediately rearrested for the other offence

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 the suspect if you are responsible for interviewing them.

De-Arresting

'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 or releasing him/her on bail.

The constable must record the fact that this has happened'.

Sec 30(7) PACE 1984



If the arrest no longer becomes necessary, the officer must de-arrest and release the suspect and consider alternative methods of prosecution.

If an officer initially decided that an arrest was necessary because the suspect did not give his or her correct name or address but on the way to the police station the person supplied their name, and it checked out, the necessity for arrest is now not there and the person can be dealt with by an alternative method – eg: report for summons, fixed penalty notice if applicable, Persuade, advise or warn regarding their future conduct.

This can only take place before arrival at a police station.

The officer must make a note of the action taken and everything that has been said about the offence.

The type of record that has to be made is not specified by PACE, however

- a. a full E-PNB record should be made to document actions at all times and explaining
 - (i) that the person is no longer under arrest
 - (ii) why the circumstances for keeping them under arrest no longer exist.
- a. an intelligence report submitted (if appropriate)
- b. control room and other officers should be updated
- c. details should be taken of all persons – these people may be witnesses
- d. consideration should be given to any possible vulnerability and the age of the person (eg – should they be taken home)

After the Arrest

The following **must** be recorded in the E-PNB:

- Nature & circumstances of the offence leading up to arrest
- Reason/s why arrest was necessary
- That a 'when questioned' caution was given
- Anything said by the person at the time of arrest



In order to comply with PACE and Code G of the PACE Codes of Practice, this information should be recorded in relation to the making of an arrest: This information should be recorded at the time of the arrest unless impracticable to do so. If not made at the time, the recorded should be completed as soon as possible afterwards.

Any use of force must be accurately recorded. It must be accounted for and justified. Actions must be lawful, proportionate and necessary in the circumstances. For example, the use of handcuffs may not always be a necessary or proportionate response. Once a suspect is restrained, a further risk assessment should be carried out to establish the detainee's condition prior to transporting.

Any Questions?

