

## **CLC Peace Constable Training – NOTES**

Peace Constables need to be completely apart from the Statutory system but if we adopt similar principles of safety and care that they have developed over the years, it will both save us a lot of “re-inventing the wheel” as well as avoid criticism from the statutory brigade as much as possible.

The subjects being covered are divided into two categories,

- 1/. Those topics we need to train and make sure Peace Constables become proficient in.
- 2/. Those topics that Peace Constables don't necessarily need to know verbatim but just need to be made aware of (e.g. safe custody etc. - although they will not be custody officers they may well make an arrest (or, even be arrested or be called upon to help someone arrested); in those circumstances it will be very useful to have some knowledge of the custody procedures.

**There is a LOT of information covered in this course but this is just the BASIC stuff we can draw from. You don't need to know it all now. Don't panic! We aim to equip you with sufficient knowledge to act as a Peace Constables with a view to additional training updates and some specialist topics later, by meeting up again or perhaps some via Zoom**

- For the initial training to be effective it needs to be delivered in person and subject to direct trainee participation, so there will be some hands-on practical exercises.
- Candidates need to invest emotionally in the training and therefore should be committed to the training regime.
- The CLC (Common Law Court) will cover all training costs from donations and fund raising, the only costs we would ask the candidate to cover is that of travel to and from the training venue; although contributions from candidates will be very welcomed.

Following course graduation, a graduation certificate will be issued to each graduate Peace Constable; the Peace Constables will be provided with a basic uniform comprising of cargo style trousers, polo shirt with CLC Logo, Jacket with CLC Logo, plus a Peace Constable photo ID card. (Uniform items subject to availability all sizes ordered and arriving daily)

# Training:

## **Day One**

### **Role of the Peace Constable**

- In medieval law, a constable was a high functionary under the French and English kings. The importance and dignity of this position was second only to that of the monarch. The constable led the royal armies and was cognizant of all military matters, exercising both civil and military jurisdiction. It was also his duty to **conserve the peace of the nation.**

- In English law, a constable was a public civil officer whose general duty was to **maintain the peace** within his district, although he was frequently charged with additional obligations. "High," "petty," and "special" constables formerly existed.
- Today, the police have since mostly **assumed the functions of officers**; however, they have become increasingly influenced by **corporate entities**. The term of office and removal therefrom are, these days, usually governed by **statutory constitutions, rules and statutes**. A basis for removal may reside in neglect of duty defined by those rules rather than any neglect of duty towards the people. We now even see **various privately funded police**, patrolling in **uniforms and marked vehicles, paid to do the bidding of a small group of wealthy residents**; as such they are acting as paid employees of the few in **total contrast to their original function** as a protector of the people.
- Modern 'policing' by officers has resulted in government and even private directives, diverting the focus of a constable's service to the people in favour of **serving the few with inequitable control**.
- A true constable has the status of peace officer, an individual designated **by the people to maintain the peace and arrest individuals guilty or suspected of crime**. The constable must yield to the superior authority of a **sheriff and the Common Law Court**.
- **Service of process**—the delivering of a summons which informs an individual that he or she is a defendant in a lawsuit— this is an important function of a constable. Common Law confers the power to serve process. The constable executes the process of the Common Law Court.
- **Attachment**—the seizure of a debtor's property pursuant to a Common Law Court order—is another function of a constable. It is the constable's duty to assume custody of and carefully preserve the property to be seized. In most instances, the constable is expected to sell the property and collect and distribute the sale proceeds.
- Miscellaneous duties assigned to constables include the custody of juries, attendance at criminal Court sessions, and the service of writs—Court orders requiring the performance of a specified act or giving authority to have it done.
- The Current situation with policing and regulatory bodies in the UK is now so corrupted and working against the very people it was created to serve, and who pay for it from taxes, that providing an alternative is now essential.
- Such a system should be by the people for the people.
- But we still need to bear in mind the need for compliance with Best Practice guidelines to avoid arrest and charges of various natures being brought against the public and Peace Constables by the current establishment.

**Therefore, Knowledge of statutory legislation as well as Common Law will allow the Peace Constables to avoid falling foul of the establishment whilst operating lawfully under Common Law.**

**For this very reason we feel it is essential to cover both common law and statutory law throughout this training where we have identified both may have a tendency to interact with each other.**

**We will be giving a general overview to supply you all with the tools necessary to be an effective Peace Constable.**

**Later additional training and/or written hand-outs will allow time to go into greater detail, especially informing you of the statute laws you may encounter.**

**For now we will just cover the main topics you are most likely to encounter.**

## **Statutory laws**

**Made up of SUMMARY OFFENCES and INDICTABLE OFFENCES**

### **WHAT IS A SUMMARY OFFENCE IN ENGLAND AND WALES?**

#### **Summary offence**

An offence **within the scope of a summary court**

A summary offence is a crime in some common law jurisdictions that can be proceeded against summarily, **without the right to a jury trial and/or indictment.**

**A summary only offence** is an offence that is usually tried in the **Magistrates' Court**. There is an exception to this rule when a person is tried for a summary only offence for which they **could receive a prison sentence** or **disqualification from driving**, which is **linked to an indictable only** offence. In these circumstances, both cases may be heard in the Crown Court.

Summary offences also have a role to play in sentencing youth offenders under the age of 18. Children and young people will be tried summarily unless specific circumstances apply, which mean they should be tried in the Crown Court. These include if:

- they have been charged with homicide, a violent or sexual offence for which an adult could receive a 10-year sentence or more, or a firearms offence; or
- they are being tried alongside a person over the age of 17, and it is in the interests of justice that their cases should be heard together.

#### **Examples of summary only offences include:**

- Shoplifting (Section 22A(1) of the Magistrates' Courts Act 1980)
- Common assault (Section 39 Criminal Justice Act 1988)
- Driving without insurance (Section 143 of the Road Traffic Act 1988)
- Criminal damage, where the damage is worth less than **£5000** (Section 22 of the Magistrates' Court Act 1980)

### **WHAT IS AN INDICTABLE OFFENCE IN ENGLAND AND WALES?**

1. (of an offence) rendering the person who commits it liable to be charged with a **serious crime that warrants a trial by jury.**  
"company law contains a total of 138 indictable offences"

"but many more indictable offenders are tried and convicted"

Indictable only offences can only be heard in the Crown Court. **These are the most serious types of offences.**

If you are charged with a criminal offence, you will first appear in the Magistrates' Court. After that, if you are charged with an indictable offence, it will be **'sent' or 'escalated' to the Crown Court.**

The law governing this process is set out at Section 51 of the Crime and Disorder Act 1988

**The Magistrate** will ask you if you intend to plead guilty in the Crown Court. The procedure then depends on your plea. If you indicate that you will plead guilty, the next step is that you will have to confirm your plea to the Crown Court. The Crown Court can then proceed to consider what sentence to give to you. If you tell the Magistrates' Court that you intend to plead not guilty, or if you elect to remain silent, the Crown Court will list the case for a case management hearing. This is a hearing that determines the next steps in your case.

For common law offences such as murder and manslaughter, there is no statute to which to refer. However, a criminal defence solicitor will be able to advise whether the offence is indictable only. In general, indictable offences tend to be offences that can result in a custodial sentence, because the Crown Court has greater sentencing powers than the Magistrates' Court.

#### **EXAMPLES OF INDICTABLE OFFENCES**

- Murder (common law)
- Manslaughter (common law)
- Kidnapping (common law)
- Rape (Section 1 Sexual Offences Act)
- Robbery (Section 8(1) of the Theft Act 1968 Act)
- Administering Poison or Wounding with the Intent to Murder (Section 11 Offences against the Person Act 1861)

#### **IS THEFT AN INDICTABLE OFFENCE?**

Theft is not an indictable offence. Theft is an **either way offence**. This means that if you are charged with theft, you will have the **option to elect whether your case is heard in the Magistrates' Court or the Crown Court.** The exception to this is low value shoplifting, which is a summary only offence.

#### **IS ASSAULT AN INDICTABLE OFFENCE?**

Common assault is not an indictable offence; it is a summary only offence. This means that it must be brought in the Magistrates' Court. In addition, the charge of common assault must be laid **within 6 months** of the incident from which the charge arises.

**ABH** - Assault occasioning actual bodily harm, which is set out at Section 47 of the Offences Against the Person Act 1861, is an **either way offence**.

Definition: Assault occasioning Actual Bodily Harm (**ABH**) – s. 47 OAPA 1861. The offence is committed when a person intentionally or recklessly assaults another, thereby causing Actual Bodily Harm. Any injury that interferes with the health or comfort of a victim can be

defined as ABH, such as bruises, scratches or bite marks. A maximum penalty of 3 years in prison if found guilty of ABH

**GBH** - Meanwhile, the more serious offences of GBH - assault occasioning grievous bodily harm, under Section 20 of the Offences Against the Person Act 1861, and grievous bodily harm with intent under Section 18 of the Offences Against the Person Act 1861, **are indictable only offences**.

Definition: Assault occasioning Grievous Bodily Harm (**GBH**) Section 20 Assault involves grievous (or really serious) bodily harm or a wound. Grievous bodily harm is the most serious form of non-fatal assault and can be committed in two ways affecting the level of severity of offence – the difference being whether the crime was committed intentionally or recklessly. A maximum sentence of life imprisonment if found guilty of GBH: The average sentence for GBH in the UK is 16 years' imprisonment.

## ABH

- Injuries that are less severe than in GBH cases, but must still be of provable detriment to the victim's health
- The offence can be committed recklessly or intentionally, much like GBH. The intention need only be to apply unlawful force
- Sentences can range from community orders to up to 3 years' imprisonment

## GBH

- Any injuries caused by the assault will be regarded as severely detrimental to a victim's health
- The law distinguishes between intentional GBH and reckless GBH, with the former being a more serious offence
- Sentence ranges for GBH are broad. Ranging from community orders to life imprisonment, the sentence will depend on the level of injuries and the final charge

### IS ROBBERY AN INDICTABLE OFFENCE?

**Robbery**, which is set out at Section 8(1) of the Theft Act 1968 Act, is an **indictable only offence**. This means that it can only be tried in the Crown Court.

Definition: Section 8(1) of the 1968 Act defines **robbery** as follows: "A person is guilty of **robbery** if he steals, and immediately before or at the time of doing so, and in order to do so, he uses force on any person or puts or seeks to put any person in fear of being then and there subjected to force."

**By contrast, burglary**, which is set out at Section 9 of the Theft Act 1968, is an either way offence unless it involves violence or the threat of violence or the intention to commit an indictable offence, in which case it is triable only on indictment. This set out at Section 28 of Schedule 1 of the Theft Act 1968.

Definition: Burglary consists of entering a building or part of a building as a trespasser intent to commit theft, grievous bodily harm or criminal damage; or, having entered as a trespasser, stealing or inflicting/attempting to inflict grievous bodily harm

## **WHAT IS AN EITHER WAY OFFENCE IN ENGLAND AND WALES?**

An **either way offence** is an offence which, depending on the circumstances, may be heard either in the **Magistrates' Court or in the Crown Court**. The decision is made in part by the Magistrate and in part by you, the defendant.

It works like this:

- Firstly, the court must decide whether it feels that its sentencing powers are adequate to give the defendant an appropriate sentence if they are convicted. Magistrates' Courts can only order imprisonment for up to 6 months for each offence that a person stands accused of, and for no more than a total of 12 months for a combination of more than one offence. They can also order community sentences, bans, and fines.
- Secondly, the court must consider whether there are any unusual legal, procedural, or factual complexities to the case that would make it unsuitable to be heard in the Magistrates' Court. For example, if experts need to be called and cross-examined, this suggests that the matter should be heard in the Crown Court.
- If the court decides that, on the facts of the case, either it is too complex for the Magistrates' Court, or it goes beyond the sentencing powers of the Magistrates' Court, they must send the case to be heard in the Crown Court. Where neither of these factors apply, the choice then lies with the defendant, who must elect whether their case is heard in the Crown Court or in the Magistrates' Court.

## **SHOULD YOU ELECT FOR A TRIAL BY JURY?**

If a defendant is charged with an either way offence, deciding which court your case is heard in is a matter of considerable strategic significance to the case. This is something that should be discussed with a criminal defence solicitor.

There are several factors to take into consideration. The judges in Crown Courts are legal professionals, whereas many cases in Magistrates' Courts are heard by Magistrates, who are volunteers that are not actually legally trained. This means that lawyers will often advise that legally complex cases are better off heard in the Crown Court.

Another important and difficult call to make is whether a jury of ordinary men and women will make a fairer decision than a Magistrate would. This depends a great deal on perception of whether a jury would be sympathetic towards the defendant, and the case that they intend to put forward. Whilst they could face a harsher sentence in the Crown Court, the conviction rate in the Magistrates' Court is much higher than the Crown Court. This suggests that juries are more prone to doubt whether to convict a defendant, compared with the District Judges and Magistrates who preside in Magistrates' courts, who are more likely to doubt the credibility of the defendant's case.

## **Organisational Structure of Peace Constables**

There needs to be some form of supervisory structure in order to command respect and show a disciplined approach. However this should not be too regimental like the military 'obedience' structure but more of a managerial structure with respect for the supervisory person above.

When discussed the structure of Peace Constables was suggested to relate to localities, areas and nationwide?

Suggested are units of 10 constables with one 'supervisory' role per group of 10. Then the 'supervisory' constables could liaise with 'regional' constables and finally with national constables.

If using a kind of rank structure we must be careful not to use statutory terminology – I am mindful we need the word Constable included in every 'rank'.

For example:

**UK Police Ranks**

Constable

Sergeant

**Inspector**

Chief Inspector

**Superintendent**

Chief Superintendent

Deputy Chief Constable

**Chief Constable**

**CLC Peace Constable Ranks?**

**Constable**

Constable Supervisor (Local - Advisor to 10 Constables)

**Constable Inspector** (Area - Advisor to Constable Supervisors)

**Constable Superintendent** (Regional Advisor to Constable Supervisors)

**(Panel of CLC and Peace Constable Experts)**

Alternative nomenclature could be found (should always refer to **constable** though)

**NOTE about the need for rank structure – (Based on Military reasoning)**

For thousands of years, military forces worldwide have maintained a strict rank to keep order under the stress of battle. Even when guns are quiet, a clear-cut military hierarchy is essential to make things run efficiently, similar to the purpose of rank in businesses. The rank structure of an organized military is one of its defining characteristics and serves a number of purposes.

**1. Maintaining Order**

**2. Levels of Responsibility**

The division of responsibility ensures that the most experienced people take on the most complicated roles and that all members contribute to the overall mission according to their qualifications and experience.

**3. Continuation of Command**

Managers are required to advise the less experienced, but also keep continuity. If a Peace Constable is dealing with a long term matter and is unavailable, a supervisor can step in and reallocate to another with a briefing to get them up to speed.

**4. Performance Evaluation**

As greater levels of responsibility are taken on, promotions to higher level advisor is sometimes required. Monitoring performance can ensure suitable applicants and allocation of posts accordingly.

## 5. The Prestige of Rank

While the main purpose of rank is to give authority by lawful means, it also accomplishes the same task psychologically. Because higher ranks are difficult to achieve, earning one of these promotions comes with a certain amount of prestige. This tends to encourage enthusiasm and a dedication to the cause.

### Important Statute Laws

Having outlined the various types of statutory offences, there is a need to decide the main areas CL Peace Constables will be concentrating on and align this with the relevant statutory laws for comparison.

In the current climate it would appear that the most prominent situations which Peace Constables may attend or become involved with would be such things as:

#### **Covid 19 Protests**

#### **Lock-down Breaches**

- Shops – masks – social distancing
- Travel
- Gatherings

#### **Freedom rallies and marches**

#### **5G demonstrations**

#### **Conferences and public meetings**

Mostly it seems from recent events it will be public order offences, possibly resulting in assault, injuries and damage to property and Health and Safety concerns.

Inevitably further lock-downs, travel restrictions and regional restrictions will come into force based on the Governments continued lying and changing plans.

Further restrictions may lead to more serious offences being committed, so we should be prepared for this with a basic understanding of the offences that are likely to be witnessed.

#### **Relevant legislation for such events is primarily:**

- Police and Criminal Evidence Act – Section 3
- Public Order Act Offences
- Prevention of Crime Act Offences
- Offences Against the Person Act Offences
- Resist Police and Designated Persons Offences
- Counter Terrorism Act – Police Powers

- Rules of Evidence (Video presentation actual events)
- Use of Video Capture – Evidencing & Chain of Custody
- 5 Part Statement rules – Evidencing, Chain of Custody & Composition

It is not feasible to teach each of these acts as a separate subject on a course such as this due to time constraints, so it is proposed that a small amount of “homework” is set for immediately after the course.

This will be to have a look at the above legislation which we will make available to see where it might apply in the type of area, event or situation nearest you.

**It is not necessary to learn all of this**, just to grasp the basics so that you will get to learn how situations should be handled and, very importantly, identify if the **statute police applying law correctly** or not.

Either way, if you recognise the elements you will be well placed to step in early and use your negotiation skills to defuse most situations before they get to the stage of contravening both legislation and common law.

Crime prevention by negotiation is far more desirable than having to deal with an offender after a crime has been committed. Conflict management techniques are always a preferred resolution.

**The Peace Constables main objective** is as a deterrent, a uniformed presence on the streets and at public events.

Remember the original “bobby on the beat”? He/she knew all the locals by name and dealt with the majority of incidents with advice or a warning.

The “bobby” was the local knowledge base but the public were the “eyes and ears” who reported incidents to the Bobby when they saw him/her.

The removal, in the most part, of the beat bobby has resulted in an information vacuum; the local information previously invaluable to any investigations has been lost. The public find it difficult or impossible to report a crime and even harder to get any action taken

By being a uniformed first-hand point of contact, it is envisaged that Peace Constables will not only deter a vast amount of petty local crimes but also be a source of information from their own observations as well as those of the public who will have someone local to talk to about their concerns.

### **Witnessing an offence or incident**

If you witness an offence or incident you will be require to write a Witness Statement

Over the years Witness Statements have evolved from the narrative, storytelling form to a set 5 part system which is much simpler to understand and more organised and standardised

There is good reason this system developed this way so it is sensible for Peace Constables to adopt the same simple system.

## Witness Statements

### 5 Part Statement rules – Evidencing, Chain of Custody & Composition

- 5 Part Statement structure is important as it is recognised by the criminal courts as the go to structure
- the benefits are that it is much easier to understand and to glean information from than a narrative style statement
- the sections are specific to description, event etc. so it would be a good system to adopt for Common Law statements too.

Outline of what a 5 part statement is:

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## What is a witness?

- A person who can give evidence of what they perceived through their own senses
- Direct Evidence
- Hearsay Evidence

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## 5 Part Statement Structure

Aims  
To introduce students to Statement Writing.

Objectives

- Explain the difference between Direct and Hearsay Evidence.
- Explain the meaning of the MCA Declaration .
- Describe the components that make up a statement.
- Outline the characteristics that should be included when describing people.
- Outline the procedure when Identifying exhibits.
- State the elements contained in the mnemonic

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## 5 Part Statement Structure

- Introduction
- Scene Setting
- What Happened
- Descriptions
- **ADVOKATE**

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## Scene Setting

- **People** (not suspects)  
Who were you with?  
Who else was involved?  
How do you know them?
- **Places**  
• Where did it happen?  
• If more than one place, how do they relate to another?

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## ADVOKATE

- A**mount of time under observation
- D**istance from incident / persons
- V**isibility
- O**bscured view?
- K**nown to you?
- A**ny reason to remember?
- T**ime elapsed since incident and identification
- E**rrors or material discrepancies

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### EMPHASISING ABOVE, REFER TO DETAILED FIVE PART STATEMENT LAYOUT NOTES

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#### But there may come a time where further action is required of a Peace Constable

It may be that you will be called upon to assist a police officer with a statutory arrest.

It may be that you will have to step in to prevent a police officer making a statutory arrest.

It may be that you will be called upon to make an arrest to protect life or property.

Alternatively, you may be a witness to an offence, or be called upon by a member of the public for advice or assistance. In such circumstances you will need to be aware of arrest procedures.

## Peace Constables power of arrest and detention

A Peace Constables power of arrest, like a normal citizen's power of arrest, is very similar to that of a statutory Police Officer – although a very slight difference it is a very important difference that could lead to allegation of unlawful arrest if done incorrectly.

We will cover arrest procedures tomorrow.

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## Day Two

### Peace Constables power of arrest and detention

A Peace Constables power of arrest, like a normal citizen's power of arrest, is very similar to that of a statutory Police Officer – although a very slight difference it is a very important difference that could lead to allegation of unlawful arrest if done incorrectly.

**Firstly**, a Police Officer (Statutory – corporate police system) can arrest without a warrant under Section 1 of the Magistrates Court Act 1980 if a person **has committed an offence, is in the act of committing an offence, is about to commit an offence** or if there are **reasonable grounds for suspecting** one of these occurrences (even if **no offence** is actually committed).

However, whether a Police Officer is arresting with a warrant or without, they have to have **reasonable grounds** for suspecting it is **necessary to arrest**.

### **Consider Conflict management techniques as a resolution**

Although a warning is not expressly required in law, officers should, if practicable, consider issuing one.

A warning can point out an individual's offending behaviour and explain why, if they do not stop, their arrest may be necessary.

Such a warning might, if heeded, avoid the need to arrest, or if ignored, support the need to arrest.

It may also help to prove the person's awareness or intent to commit a crime, or help to rebut a defence that they were acting reasonably if this was not the case.

**Reasonable grounds** for arrest consist of the following:

- to enable the name and address of a suspect to be ascertained,
- to prevent physical injury, loss or damage to property,
- causing an offence against public decency,

- obstruction of the highway,
- preventing effective investigation of an offence,
- to protect a vulnerable person
- to prevent any prosecution being hindered by the disappearance of any person in question.

Also, when a Police Officer is arresting anyone they **must**:

- tell the person they are under arrest
- the reason for the arrest
- why the arrest is necessary
- give a caution.

**Police Officers also have to identify themselves if not in uniform to make the arrest lawful.**

The police also have the **power to search** an arrested person for anything that may help them to escape or for anything relating to the offence. Also, in order to prevent injury to the arrested person, themselves or the public. When conducting an arrest the police may use **reasonable force**. Once arrested the police must take the suspect to the police station as soon as possible.

Additional reasons that give power to the police to arrest include breach of the peace (common law power) as stated in S26 of PACE and a breach of bail conditions. A further example is aggravated trespass under the Criminal Justice and Public Order Act 1994. The Public Order Act 1986 also gives wide powers to the police to arrest for public demonstrations.

To summarise, a lawful arrest, as set out in **Code G of the police Codes of Practice**, requires two elements:

1. a person's involvement or suspected involvement or attempted involvement in an offence
2. reasonable grounds for believing that a person's arrest is necessary.

Police and Criminal Evidence Act – Section 24 (arrest) [also need to include section 17 searches which could lead to arrest]

Section 24 of PACE sets out the powers the police have to arrest suspects. These powers were amended by the Serious Organised Crime and Police Act 2005 (SOCPA); **Section 110** of SOCPA substituted a new Section 24 into PACE.

Section 17 of PACE sets out the powers the police have to ENTER AND SEARCH PREMISES to arrest suspects and seize evidence.

These new powers introduced by Serious Organised Crime and Police Act 2005 were intended for matters of really serious crimes such as terrorism. We have increasingly seen police attempt to use these powers during Covid and 5G demonstrations.

This is way over the top of what it was intended for; when using such OTT methods police and CPS are required to seek **permission from the home office** to charge someone – fortunately those people reported for offences under the Serious Organised Crime and Police Act 2005 have all had such charges refused by the Home Office.

This is a strong indication that police have over-reached their authority by using legislation intended for terrorist activities on peaceful; protesters. This is another good reason for peace Constables to step in and give appropriate advice and assistance at such events as peaceful demonstrations.

### **Who carries powers of arrest?**

Under s 24 of the Police and Criminal Evidence Act 1984 (PACE) – as amended by the Serious Organised Crime and Police Act 2005 (Section 110 of SOCPA substituted a new Section 24 into PACE.) – **powers of arrest without warrant** are held by the **police**, but **private citizens also have the right to perform what is known as a ‘citizen’s arrest’** when they feel the need to do so.

The powers of arrest are not something to be abused by the police or by a public citizen and are powers that should only be used responsibly.

### **Citizen’s arrest**

#### **Private Citizens may arrest:**

- anybody who is in the act of committing an indictable offence;
- anybody whom they have reasonable grounds for suspecting to be committing an indictable offence;
- where an indictable offence **has been committed**, anybody who is guilty of the offence, or **anyone whom they have reasonable grounds for suspecting is guilty** of it.

#### **A private citizen, therefore also Peace Constable, may only make an arrest if:**

- it is not reasonably practicable for a police constable to make the arrest instead; (according to the previously described criteria e.g. indictable offence, and
- they have reasonable grounds to believe it is necessary to arrest someone to stop them:
  - causing physical injury to themselves or any other person;
  - suffering physical injury;
  - causing loss of or damage to property;
  - making off before a police constable can assume responsibility for him/ her.

It is very important to make sure any potential arrest is lawful or we could make ourselves liable to be sued for unlawful arrest, so

To Recap:

### Police Officer powers of arrest

A constable may arrest without a warrant:

- anyone who is about to commit an offence;
- anyone who is in the act of committing an offence;
- anyone whom they have reasonable grounds for suspecting to be about to commit an offence;
- anyone whom they have reasonable grounds for suspecting to be committing an offence.
- anyone whom they have reasonable grounds for suspecting they have committed an offence

So, if a constable has reasonable grounds for **merely suspecting that an offence has been committed**, they may arrest without a warrant anyone whom they have **reasonable grounds to suspect of being guilty of it**.

Even if it turns out that NO OFFENCE, a statutory constable's arrest is still lawful provided they can show that they simply had **reasonable grounds for merely suspecting that an offence has been committed**.

If an **offence has been committed**, a constable may arrest without a warrant:

- anyone who is guilty of the offence;
- anyone whom they have reasonable grounds for suspecting to be guilty of the offence.

Officers must always consider whether a person's arrest for an offence is lawful in accordance with section 24 of PACE and necessary under paragraph 2.9 of Code G of PACE

An arrest without warrant can only be made if the constable has reasonable grounds for **believing it is necessary to arrest someone** to:

- ascertain a suspect's name or address (ie, if the police officer doesn't know the person's name/address; can't readily find out their name/ address, or reasonably believes that the suspect has given a false name/address);
- prevent the suspect:
  - causing physical injury to themselves or any other person;
  - suffering physical injury;
  - causing loss of or damage to property;
  - committing an offence against public decency; or
  - causing an unlawful obstruction of the highway;
- prevent any prosecution for the offence from being hindered by the disappearance of the person in question.
- protect a child or other vulnerable person from the suspect;
- allow the prompt and effective investigation of the offence or of the conduct of the suspect.

**So, there is an IMPORTANT difference**

This is NOT the case for a private citizen and is a very subtle difference to the power of a police officer.

For a private citizen or Peace Constable to lawfully arrest and offence MUST have been committed

If a private citizen makes an arrest and later it is proven that no offence has occurred, then that arrest is unlawful!

Be very careful, we must be **absolutely sure an offence has been committed** before contemplating an arrest.

**My personal biggest issue with people being arrested, especially this past 12 months has been**

**“Is it absolutely necessary to arrest every individual suspected of committing a crime?”**

We have to remember what the reasons for arrest are and, as enjoyable as it is to see some people in a cell if only for a few hours, is it worth the hassle? I shall explain....

In many cases a police officer will KNOW the identity of the suspect and where they live, work or can be contacted (Not so much since the loss of the Bobby on the beat, but local police should have some of this knowledge still.)

If the identity of a suspect is known, there is no danger of harm or loss and the evidence is safe already, then to arrest someone only adds to the hassle and paperwork involved.

There is the opportunity to REPORT the suspect for later charge and summons.

Example: Many of you will know that I have been working with a team to privately prosecute a certain Minister and 3 of his advisors for crimes against humanity and defrauding the British public.

Until I came on the scene there was an application for an arrest warrant for the minister concerned – it was refused.

I then posited the idea that there was absolutely no need for an arrest warrant.

The facts were:

We know the identity of the suspected offender

We know the location of the suspected offender and where he can be contacted for summons

We know the full extent of the evidence; we have collated all evidence required so there is no need to secure evidence

In my opinion there was no immediate need to arrest which could have been construed as being done for sensationalism and publicity thus detracting from the actual crux of the case.

As we already knew the individuals and had the evidence secured we could go straight to reporting them by way of application direct to the criminal court. This is what we have now done.

Had we insisted on arrest we would only have had 24 hours maximum (36 with additional authorisation which I doubt we could have justified) to identify, interview and charge them.

By REPORTING for the offences we have eliminated any suggestion of wrongful arrest, breach of or mistake in any procedure. By reporting we could go straight to submission of indictment papers and witness statement and evidence.

**NOTE: Police Officers** are mere reporting agents when all said and done. They gather evidence and report it to CPS. CPS then decides if sufficient to prosecute and authorise a charge being laid at court.

There is absolutely no reason any member of the public cannot simply report an offence if they have evidence of the identity and the offence (e.g. video evidence) and don't need to gather any further evidence.

This too avoids any possible claims of injury or wrongful arrest.

It is not often reporting can be done in place of an arrest but when the opportunity arises it should be considered as a preferable option.

**Peace Constables will be primarily to keep the peace and protect the public.**

**Secondary to that will be gathering evidence of offences.**

**Concentrating on gathering best evidence** (Video, witnesses etc.) can often ensure a simpler and safer way to resolving matters.

**Arresting** a suspect should really be considered as a last resort when all else fails

## **USE OF FORCE**

Reasonable force only can be used during an arrest (Also applies to self-defence when under attack in any circumstance)

Under s 3 of the Criminal Law Act 1967 someone making a **LAWFUL** arrest may 'use as much 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 of persons unlawfully at large'.

"Reasonable" is open to interpretation but common sense should prevail here.

If you are arresting or assisting in the arrest of a 75 year old lady who is 4' 9" and 5 stone soaking wet it would be unreasonable to use a baton, punch, kick or employ any other use of force. In such circumstances, if absolutely necessary to arrest, simply assisting her to a vehicle by holding an arm gently might suffice

Conversely, if fronted by a drunken 17 stone body builder waving a carving knife at you, it might be reasonable to use a baton, cosh, spray or other implement to protect yourself. Actually, in these circumstances Peace Officers should, by now, have exhausted all verbal persuasion to keep the peace and either handed over to the statutory police or run away!

We do not need heroes, we need seasoned negotiators to take the heat out of any situation and keep a suspect calm, at which point you have already half won the battle!

So, reasonable force is subjective and appropriate to the situation at the time.

**During my career** I have been attacked with carving knives on three occasions, shot at twice, rammed with a car and run over with a transit van.

Among the results were three broken arms (not mine) and black eyes and concussion (not mine).

When a Judge in one case asked me, "How did you hit him, officer?"

I replied honestly with "As hard as I possibly could, your honour!"

This showed the court that the offender was so far out of control that a police officer had to use extreme measures to protect others. He got sent down for 18 months.

I would not advocate any of you getting anywhere near to this situation and hope such matters would be resolved way before this, but this indicates that, in extreme circumstances, levels of force for arrest and defence can be matched to the level of threat and remain lawful.

### **After Arrest**

#### **If absolutely necessary, once arrested, what do we do with the person in custody?**

The first priority at this time would be to hand custody over to the statutory police

### **De-arrest**

It is possible to de-arrest a suspect if the situation changes

Should further information come to light that indicates that a suspect is not responsible for the offence for which they were arrested, or the grounds for arrest otherwise cease to exist, officers **must release the person**. If the person is to be de-arrested at a police station, they must be brought before the custody officer.

Where a person has been arrested or detained solely to prevent a breach of the peace, the detainee must be released once the breach, or potential breach, has ended and is not likely to reoccur.

As Peace Officers, we should adopt a similar approach. I would recommend, though, that you ascertain a name and address where possible.

#### **What do we do with a detainee?**

Good question, you have caught your 'villain' now what?

Well, bearing in mind what we said about the reasons for arrest, you must have had good reason whether to protect life or property or to preserve evidence.

At present, the CLC or Peace Constable service does not have the facility to detain an offender after arrest so we have no choice but to pass the matter over to the statutory police to finalise.

If this was a developing incident one would hope that the police were already aware and either nearby or en route. If not, get them on the way ASAP.

Once a police officer is on the scene you can hand over to him, explaining the reasons for your actions.

The officer will be obliged to continue the detention.

### **Necessity to detain**

#### **The police custody officer needs to consider:**

- the grounds for detention
- whether to grant bail
- whether to authorise or refuse detention.

Only the arresting officer is responsible for determining the need to arrest ([section 24 of PACE](#) and [PACE Code G](#)).

The custody officer must, therefore, concern themselves solely with the issue of the necessity to detain in light of all the information they have received

#### **So, you will need to be able to explain:**

- The offence for which arrested
- Time, date and place of arrest
- Name of arresting constable
- Any other witnesses to the offence
- Any evidence to support the reason for arrest

**NOTE:** If you're under 17 the police should only arrest you at school if there's no other option, and they must inform your head teacher. The police must also contact your parents, guardian or carer as soon as possible after your arrival at the police station. This should apply equally to Peace Constables.

### **Service of Process**

One operation you may be required to carry out which is of great importance is Service of Process—the delivering of a summons, lawful document or court order e.g. from the common law court.

This is very simple to complete

1. Locate the address of the individual to be served
2. Attend the address and identify the individual to be served
3. Once you are happy with the ID or strongly suspect that they are the correct individual offer them the document(s). Simply state you have a document, letter or package addressed to them personally.
4. Usually they will take the item whether or not they are aware of the contents

5. In circumstances where they refuse to take it, simply touch the person with the document and let go – this is deemed lawful service – it is up to them if they then take it or not, you can leave.

### **Records of service to keep**

Make a written record (usually there is a receipt you need to complete and send back as proof of service)

Details should include time, date and place of service, the name of the individual you served and your name and Peace Constable details.

You may find it simpler or required to produce a short 5 part statement to evidence lawful service. Statement structure is exactly the same as previously described with similar content.

### **Pocket Note Book**

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### **Topics for hand-outs and further information to study**

- Witness Statements -5 Part Statement rules
- Police and Criminal Evidence Act – Section 3
- Public Order Act Offences
- Prevention of Crime Act Offences
- Offences Against the Person Act Offences
- Resist Police and Designated Persons Offences
- Counter Terrorism Act – Police Powers
- Rules of Evidence (Video presentation actual events)
- Use of Video Capture – Evidencing & Chain of Custody
- Police and Criminal Evidence Act – Codes of Practice, Code ‘G’
- Service of process—the delivering of a summons

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