

Serious Organised  
Crime  
& Police Act 2005  
(SOCAP)

Custody issues

Sections 110 & 111 and  
Schedule 7 of SOCAP  
come into force on  
**1 January 2006**

# Revised PACE Codes of Practice

1 January 2006

- Includes new Code G – Framework for arrest
- Based on necessity rather than seriousness of offence

# SOCAP

- Revises the framework of arrest powers in the Police & Criminal Evidence Act 1984 (PACE)
- Amends sections of PACE to substitute "indictable offence" for references to "arrestable offence" and "serious arrestable offence"

# Powers of arrest

- S.25 (general arrest conditions) is repealed
- The powers of arrest included in many offences such as Public Order Act and Road Traffic Act are repealed
- There are very few preserved powers (listed in Sch. 2 PACE)
- S.24 is amended
- The term "arrestable" no longer applies

# Police Power of Arrest

- A constable can arrest anyone
  - Who is about to commit or committing
  - Who there are reasonable grounds to suspect is about to commit or committing
  - Who there are reasonable grounds for suspecting to be guilty of
- an offence

# Police Power of Arrest

- The arrest can be made
- ONLY if the constable has reasonable grounds to
- believe that the arrest is necessary for one of the specified reasons

# PACE Code G

- A lawful arrest requires **two** elements:
  - A person's involvement or suspected involvement or attempted involvement in the commission of a criminal offence

**And**

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

– Code G paragraph 2.1

# Police Power of Arrest

- Reasonable grounds to believe that the arrest was necessary for one or more of 10 reasons

# Necessity Criteria

- Name not known/doubtful
- Address not known/doubtful
- To prevent the person in question—
  - causing physical injury to himself/others
  - suffering physical injury
  - causing loss of or damage to property
  - committing an offence against public decency (conditional)
  - causing highway obstruction
- to protect a child/vulnerable person from the person

# Necessity Criteria

- to allow the prompt and effective investigation of the offence or of the conduct of the person in question

# PACE Code G

Where there are grounds to believe that the person:

- May steal or destroy evidence
- May contact co-suspects/conspirators
- May intimidate/threaten/contact witnesses
- Has made false statements
- Has made statements which cannot be readily verified
- Has presented false evidence

Code G paragraph 2.9(e)(i)

# PACE Code G

If **INDICTABLE** offence there  
is an operational need to

- Search the person
- Enter and search any premises occupied & controlled by a person
- Prevent contact with others
- Take fingerprints, samples, photographs or footwear impressions of suspect

Code G paragraph 2.9(e)(ii)

- Ensure compliance with statutory drug testing requirements

Code G paragraph 2.9(e)(iii)

# Necessity Criteria

- to prevent any prosecution for the offence from being hindered by the disappearance of the person in question

# PACE Code G

This may arise if there are REASONABLE GROUNDS for BELIEVING that:

- If the person is not arrested he or she will fail to attend court
- Street bail after arrest would be insufficient to deter the suspect from trying to evade prosecution

Code G paragraph 2.9(f)

In considering the individual circumstances that may satisfy the criteria, must take into account:

- The situation of the victim
- The nature of the offence
- The circumstances of the offender
- The needs of the investigative process

## Code G para. 2.6

Extending the power of arrest to all offences provides a constable with the ability to use that power to deal with any situation.

However applying the necessity criteria requires the constable to examine and justify the reason or reasons why a person needs to be taken to a police station for the custody officer to decide whether the person should be placed in police detention.

Why do  
custody officers  
need to know this?

## Arresting officer MUST record

- Nature and circumstances of the offence leading to the arrest
- Reason(s) why arrest was necessary  
(ie one or more of the 10 reasons and the justification)

**AND**

This information MUST be recorded in the custody record which will serve as a record of arrest

# Other SOCAP issues

New s.24A Other person power of arrest

- Only for indictable offences
- Must have reasonable grounds to believe the arrest is necessary for a specified reason

**AND**

- Not reasonably practicable for a constable to arrest

# Any person – arrest reasons

- Causing physical injury to himself/others
- Suffering physical injury
- Causing loss of or damage to property
- Making off before a constable can assume responsibility

# Indictable offences

Change to “indictable” affects

- s.18 Searches
- s.42 Superintendent’s extension
- s.43/44 Warrant of further detention
- s.56 Right to have someone informed
- s.58 Access to legal advice

# Footwear impressions

From 1 January 2006

- Arrested for a recordable offence
- Detained at a police station

However:

- Systems need to be developed
- Trial at BOCU

Before it can be introduced across the MPS.

End of presentation

End of presentation