

NOT PROTECTIVELY MARKED – POLICY



Arrest and Street Disposals Policy

Protective Marking Level: **Not Protectively Marked**

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Section A - Policy Detail

A.1 Arrest Policy

A.1.1 Introduction

This is a new policy aimed at providing Police Officers and other members of the wider police family, guidance in the correct use of current legislation and their powers of discretion to arrest persons suspected of committing offences. This policy is also aimed at providing guidance, for on the street disposal options.

This policy takes into account relevant legislation and an individual's human rights.

This policy is intended for all Police Officers and if required in the future, Police Community Support Officers (PCSO), those members of staff who perform the role of Warrants Officer, and any other members of the wider police family who might be given powers of arrest.

A.1.2 Policy

This policy provides clear guidance to City of London Police Officers and Civilian staff, with regard to procedures to be followed and documentation to be completed, when exercising their powers under the relevant legislation, to arrest a person suspected of committing an offence, to issue a Penalty Notice for Disorder (PND) or to give a suspect 'Street Bail' for the offence that they have allegedly committed.

Officers and warranted staff, have the use of legislation which provides a power of arrest and the General Arrest Powers, contained in the Serious and Organised Crime and Police Act 2005. Using these powers, Officers and Warranted staff can arrest any person committing an indictable offence or summary offence if the persons details, such as name and address can not be verified at the time. When making an arrest using the powers contained in SOCPA Act 2005, officers must be able to justify why they have made the arrest. These justifications are clearly laid out in the General Arrest powers of SOCPA Act 2005.

However there are on occasions, when the power to make or not make an arrest are affected by other policies, decisions made by senior officers and the use of discretion by the individual officer. These are detailed below.

- Positive Arrest Policy. There are some policies in force that have a positive arrest policy, such as the Domestic Violence policy. This is where the officer will have to make an arrest to comply with that policy, if the officer decides not to make an arrest, this needs to be justified.
- Public Order Situations. There are on occasions in public order situations, where the senior officer present, decides that no arrests will be made for low level crime matters (the decision will be recorded by the senior officer). The reasoning for this is that on public order situations, there are only a finite amount of resources and to make arrests would deplete those resources and allow the public order situation to become worse.

NOT PROTECTIVELY MARKED – POLICY

- On occasions in the public order arena, an officer may be directed to make an arrest, even though they might not have witnessed the offence. This occurs when an offence has been witnessed by an Evidence Gathering Team, and to allow them to make the arrest, would detract from their main role of gathering evidence, for the commander of the event.
- Discretion. All officers have the power of discretion, whether to make or not make an arrest. The officer will have to justify in written form why they have not made an arrest, when there is evidence of an offence and the suspect has been identified at the time.
- Armed Officers. There are occasions when it is impracticable for officers who are on close protection duties to effect an arrest. By effecting an arrest, the safety of the principal could be jeopardised. For officers engaged on Armed Response Vehicles, it might be impractical for them to make arrests. The reasons for this might be due to the fact of cross contamination issues when carrying out armed stops on suspected offenders, or when to do so might seriously reduce their response capability to a firearms incident.
- Arrest and De-arrest. When an Officer makes an arrest, and then the circumstances change for the arrested person, such as the persons name could not be verified, and then the person is able to provide correct details, which are verifiable or a breach of the peace is in progress, the person is removed from the area and the breach of the peace stops, the grounds for the arrest cease. The person is de-arrested. The person may then be dealt with by means of process or no further action taken. Officers have a responsibility to record all the details of the arrest/de-arrest in either an IRB/Pocket note book, pass the details to the custody officer to create a custody record for monitoring purposes.

When dealing with street disposal options, Officers have recourse to the powers contained in Sections 30A,B,C and D of the Police and Criminal Evidence Act 1984. The rules for issuing Penalty Notices to suspects will be complied with, as will the guidelines for issuing 'Street Bail' for an offence.

This list is not exhaustive, it can be amended and varied in light of changes to existing policies and changes in legislation.

This policy falls within the Freedom of Information act and as such, aims to reassure all members of the community that any persons, who are arrested, will be treated in accordance with current legislation and CoLP Policy.

All City of London Police Officers and Staff must:

- Comply with the Police and Criminal Evidence Act 1984 and the associated Codes of Practice as well as Human Rights legislation and other relevant legislation, when making an arrest, issuing Penalty Notice for Disorder or issuing Street Bail.
- Ensure all relevant paperwork and processes are executed diligently and expeditiously.

NOT PROTECTIVELY MARKED – POLICY

NOT PROTECTIVELY MARKED – POLICY

NOT PROTECTIVELY MARKED – POLICY

Section B - Supporting Information

B.1 Current Procedure

B.1.1 Is this a revision of a current policy?

At present there is no Arrest and Street Disposal policy.

B.1.2 If 'No' to above, how is this policy area currently managed?

There are no current specific guidelines in relation to this policy. Arrests were made in compliance with relevant legislation and the Codes of Practice and CoLP policies which may have had an arrest statement contained within them.

In relation to Street Bail, this power has been available to front line police officers for a number of years, at present there is no means available for issuing street bail to suspects.

Penalty Notices for Disorder are not currently issued on the street, they are only issued to those persons who have been brought into custody.

B.2 Requirement for Policy

B.2.1 Need

This policy will ensure that all arrests made by CoLP officers and staff, comply with the relevant legislation and powers, and adhere to policies which have arrest statements within them. It will clarify and formalise procedures which have been used in the past, so as to develop a best practice for officers. The application of this policy will be monitored to ensure adherence to the policy and to measure its impact on all areas of the community.

B.2.2 Benefits

To ensure that all members of the City of London Police use the correct legislation to make arrests, issue Penalty Notices for Disorder, or to use Street Bail on a suspect. Be aware of the impact of making an arrest or issuing a Penalty Notice on an individual and also the community. This policy will raise the professionalism of officers when making arrests, issuing penalty notices and giving street bail, whilst ensuring that those persons arrested understand why they have been arrested, given a penalty notice or street bail.

B.2.3 Risks

Although the risk of not having this policy is very low, by having this policy it will minimise risk to both police officers and those persons arrested.

B.2.4 Resource & Training Implications

The force, and all officers within it, have an obligation to ensure that the correct legislation/power is used to effect an arrest. As such this policy will be implemented with immediate effect. There are training implications for all police and staff to be fully educated as to the correct use of legislation and powers and the necessity for compliance with the policy, which will benefit all officers. There is also an ongoing training need for all officers

NOT PROTECTIVELY MARKED – POLICY

when new legislation is introduced which either augments or affects the current legislation.

B.3 Related Documents

- Serious and Organised Crime and Police Act 2005.
- Police and Criminal Evidence Act 1984.
- All legislation which gives a power of Arrest, which are not catered for in SOCPA.
- Use of Force Policy.

B.4 Attached Standard Operating Procedures

Penalty Notice For Disorder

Street Bail

NOT PROTECTIVELY MARKED – POLICY

Section C - Equality Impact Assessment

THE EQUALITY IMPACT ASSESSMENT IS THE RESPONSIBILITY OF THE POLICY DEVELOPER. THE RACE & DIVERSITY UNIT WILL HELP TO COORDINATE THE CONSULTATION PROCESS BUT ARE NOT RESPONSIBLE FOR COMPLETION OF THIS PART OF THE TEMPLATE.

C.1 Aims and Affects of the Policy

C.1.1 What are the aims and projected outcomes of this Policy?

- To ensure Police officers and Police staff are exercising their powers fairly, correctly and ethically.
- To ensure compliance with all relevant legislation.
- Increase public reassurance and increase transparency and accountability.
- Arrested persons and members of the public will have confidence in the way police arrest suspected offenders, whilst upholding the human rights of the offenders.

C.1.2 Which individuals and organisations are likely to have an interest in or are likely to be affected by the Policy?

All police officers.

Race and Diversity Unit.

Professional Standards Unit.

Any person likely to be arrested by City of London Police officers.

Law Society.

Confidence and Equality Board.

Independent Advisory Group.

C.2 Considering the Evidence

C.2.1 What relevant quantitative and qualitative data has been considered?

C.2.1.1 AGE

At present data is collected in form of Crimsec 15 this concerns arrests for notifiable offences and is broken down by gender, age, ethnicity (both self defined and officer perception).

Data for penalty notices is collected when those notices are issued in custody. At present there is no means for collecting data for penalty notices issued on the street – this is currently being reviewed.

Street bail will have to be monitored through custody records and the data will be collected from the Crimsec 15 database.

NOT PROTECTIVELY MARKED – POLICY

C.2.1.2 DISABILITY

At present no specific data is collected within this area.

C.2.1.3 GENDER

At present data is collected in form of Crimsec 15 this concerns arrests for notifiable offences and is broken down by gender, age ,ethnicity (both self defined and officer perception).

Data for penalty notices is collected when those notices are issued in custody. At present there is no means for collecting data for penalty notices issued on the street – this is currently being reviewed.

Street bail will have to be monitored through custody records and the data will be collected from the Crimsec 15 database.

C.2.1.4 RACE

At present data is collected in form of Crimsec 15 this concerns arrests for notifiable offences and is broken down by gender, age ,ethnicity (both self defined and officer perception).

Data for penalty notices is collected when those notices are issued in custody. At present there is no means for collecting data for penalty notices issued on the street – this is currently being reviewed.

Street bail will have to be monitored through custody records and the data will be collected from the Crimsec 15 database.

C.2.1.5 RELIGION / BELIEF

At present no specific data is collected within this area.

C.2.1.6 SEXUAL ORIENTATION

At present no specific data is collected within this area.

C.2.2 What gaps in data / information were identified?

Although data is collected which reflects Age, Ethnicity and Gender, data from the other strands is not collected.

C.2.3 What consideration has been given to commissioning research?

At present no consideration has been given to commissioning research on the areas that are not covered, however the force has a project mandate to address the issues of data collection.

NOT PROTECTIVELY MARKED – POLICY

C.3 Assess likely impact

C.3.1 From the analysis of data and information has any potential for differential / adverse impact been identified?

C.3.1.1 AGE

Data collected via the Crimsec15, which is analysed by the Management Information Unit (MIU). See the attached appendix. The data in this area is limited due to the the 21+ age range parameter, which makes it difficult to identify potential issues. Consideration should be given to creating an age range of 20 – 40 years, which would allow a clearer analysis to take place.

C.3.1.2 DISABILITY

Data on this area is limited and is only recorded on arrest notes/custody record when relevant.

C.3.1.3 GENDER

Data collected on the Crimsec15 relating to gender is limited to male/female, it does not record any persons who are transgender. The data shows that Males are disproportionately higher than females, although this is also reflected in national statistics within the Criminal Justice System. The data is collected on the NSPIS Custody System. See appendix.

C.3.1.4 RACE

Data collected on the Crimsec15 relating to Race is limited to self defined ethnicity and officer perception of race using identification codes. Race data is collected on the NSPIS Custody System. Where a person does not state their ethnicity or are not in a position to provide the details, either through drink/drugs or other reasons, then their ethnicity is shown as 'not recorded'. See appendix.

C.3.1.5 RELIGION / BELIEF

Data is not collected on religion and or belief.

C.3.1.6 SEXUAL ORIENTATION

Details of a persons sexual orientation are not collected.

C.3.2 If yes, explain any impact that is intentional to specifically address the needs of a particular group and why it is justifiable in order to achieve the overall aims of the Policy. Provide examples

Any differential impact is not intentional. The data that is collected shows a disproportionality of Males being arrested and also a disproportionate amount of people from the black ethnic group, although this data is comparable to national criminal justice system figures. All persons are arrested in line with the current legislation and the decision to arrest is based on the information at the time of arrest, and not on a persons ethnic/gender or other background. All people who are arrested are treated in accordance with there individual needs, and where appropriate those needs are met.

NOT PROTECTIVELY MARKED – POLICY

C.3.3 Are there any other factors that might help to explain differential / adverse impact?

As mentioned above, offenders are arrested on information at the time of arrest and not based on any person's membership of any of the 6 strands of diversity.

C.4 Consider alternatives

C.4.1 Summarise what changes have been made to the Policy to remove or reduce the potential for differential / adverse impact

This policy follows PACE and all other relevant legislation. As such this policy will be reviewed when changes occur to PACE or other legislation which might affect the powers of arrest. Evidence gained from the NSPIS custody system will have to be monitored and reviewed, in order to identify any emerging trends.

C.4.2 Summarise any changes to the Policy to remove or reduce the potential for differential / adverse impact that were considered but not implemented, and explain this decision

None

C.4.3 If potential for differential / adverse impact remains, explain why implementation is justifiable in order to meet the wider Policy aims

None

C.5 Consult formally

C.5.1 Has the Policy been subject to consultation?

C.5.1.1 Yes.

C.5.1.2 If yes, state which individuals (roles, not names) and organisations were consulted, what form the consultation took and the results of that consultation

C.5.1.3 AGE

Support networks of a variety of ages.

C.5.1.4 DISABILITY

Policy circulated to the Disability Employees Network for comments.

NOT PROTECTIVELY MARKED – POLICY

C.5.1.5 GENDER

Policy circulated to Officers, Womens Network, Police Federation and Gay Support Network for comments.

C.5.1.6 RACE

Black Police Association for comments.

C.5.1.7 RELIGION / RACE

Christian Police Association for comments.

C.5.1.8 SEXUAL ORIENTATION

Gay Support Network for comments.

C.5.2 Has the Policy been reviewed and / or amended in light of the outcomes of consultation?

No.

C.5.3 Have the results of the consultation been fed back to the consultees?

Yes where relevant.

C.6 Summary of EIA and consultation process

C.6.1 Provide a statement outlining the findings of the Impact Assessment process.

Although disproportionality has been found, this is similar to that seen within national data for the criminal justice system. In general this policy is based on PACE and other relevant legislation. When making an arrest the officer has to base the arrest on the evidence that is present, this is then reviewed by the custody sergeant, to ensure that the arrest is proportionate, legal, accountable and necessary. Once arrested and documented at the custody suite, it is the responsibility of the custody sergeant and the duty Inspector, to ensure that the investigation is carried out diligently and expeditiously.

C.6.2 If the Policy has been identified as having a possibility to adversely impact upon diverse communities, outline the justification for the implementation of it

This policy is justified, so that it makes it safer for all our communities to have trust in the police service, and that all arrests are carried in accordance with PACE and other legislation.

C.7 Diversity Team Response

Unfortunately very limited feedback has been given as a result of the consultation. The data collected as a result of the crimesec 15 has been analysed and is attached to this policy as an appendix..

NOT PROTECTIVELY MARKED – POLICY

The data analysed has shown some disproportionality especially around gender and ethnicity as compared to the census data for London. This policy however is in place to ensure when people are arrested it is with appropriate evidence and each case is dealt with in a uniform manner where possible and there are appropriate steps in place to ensure the evidence is reviewed to ensure that arrest is legitimate.

NOT PROTECTIVELY MARKED – POLICY

Section D - Human Rights Review

D.1 Data Used to Assess this Policy

No data has been assessed.

D.2 Who is Policy Aimed At?

All police officers and staff, arrested offenders and other members of the public.

D.3 Which Human Rights are Protected?

All human rights are protected, however the application of this policy will impact on an individuals rights, particularly Article 3, 4, 5, and Article 8. This interference is driven by statutory legislation and any interference must be Proportionate, Lawful, Accountable and Necessary.

D.4 Who is Affected?

Any person arrested will have their human rights affected as a direct consequence of being arrested.

D.5 Which Human Rights are Affected?

The application of this policy will impact on the following rights:-

- Article 2 Right to Life
- Article 3 Prohibition of Ill Treatment
- Article 4 Prohibition of Slavery and Forced labour
- Article 5 Right to Liberty and Security
- Article 6 The Right to a Fair Trial
- Article 7 No Punishment without Law
- Article 8 The Right to Respect for Private and Family Life

D.6 Interference with Human Rights

D.6.1 Is Interference Legal?

Any interference with Human Rights is guided by by legislation and as a consequence any interference must be legal.

D.6.2 Is Interference Necessary?

Any interference with Human Rights is guided by legislation which must be adhered to. Any infringement of any Human Rights must be justified, which will ensure that any interference that does occur is necessary.

D.6.3 Legitimate Aims being Pursued

Any arrest must be lawful. There is strict guidance and legislation, which determines that any powers that are exercised which degenerate a persons human rights are lawful.

NOT PROTECTIVELY MARKED – POLICY

D.6.4 Is Interference Proportionate?

When an officer decides to utilise the powers of arrest that they have, they have to decide that the use of such powers is proportionate to the offence being committed. There is also in place, legislation which ensures that the use of a power is proportionate.

D.6.5 Is there a Breach or Is Policy Vulnerable to Challenge?

When arresting a person for an alleged offence, a police officer or member of staff uses the powers as set by acts of parliament. If these acts are varied, then powers will be exercised in line with the new legislation.

If Officers or staff use their power of discretion not to make an arrest or they follow the positive arrest protocol as laid out in the CoLP Domestic Violence policy (not set by parliament), then these actions could allow this policy to be challenged under Human Rights Legislation.

If you consider that there is a breach of a Convention right or that the policy is vulnerable to challenge, seek advice from the Policy Unit.