



The Safer Detention Unit

POLICE FAQ sheet

The Safer Detention Unit (SDU) has a wide range of uses for the police sector. Here are some examples:

1. Using the SDU as a 'pre-custody' short term holding solution. Where the SDU is placed into police yards outside the custody suite, prisoners can be transferred from police vehicles into the SDU pending entering the custody suite. This is more humane and a better use of police resources. Vehicles can be released back to patrol and response. Placing the prisoner into the CCTV controlled SDU protects officers and staff and would allow for the earlier removal of restraints.
2. Use of the SDU in non-designated police stations. PACE still allows for prisoners to be taken to non-designated police stations where their detention is likely to be less than 6 hours. With the centralisation of custody facilities low level crime prisoners are being taken long distances for basic investigations to be undertaken. The SDU could easily be located in a local police station to allow for the safe processing of prisoners closer to the officers patrol or neighbourhood. Studies indicate this could increase officer visibility by 79%.
3. Major retail centres and football clubs could install the SDU on their sites to allow police officers to manage over 80% of detentions locally. This will ensure that officers, staff and suspects remain safe during the investigation process. In 80% of cases the matter could be dealt with on site allowing officers to return to patrol earlier.
4. Existing police stations could install the SDU in custody suites to hold short term prisoners such as bail returnees, drink drive suspects and low level crime prisoners. This would increase capacity and leave full size cells available for the most serious, most violent or most vulnerable prisoners.

Do you need to take an arrested person to a police station directly?

Answer is No!

The Police and Criminal Evidence Act covers police powers around detention. While most officers are taught to take a person to the custody suite immediately following arrest this is not strictly the case. The power to arrest should be used as almost a last resort but where evidence exists of a crime then arrest is necessary to protect the officer and also to allow for the investigation to continue. The detention of the suspect is required so that further investigation can be made, and the suspect is not free to leave at this stage.



Police and Criminal Evidence Act 1984

Section 30 (1A) of PACE.

Subsection 10 states that police can delay taking a person to a police station if the presence of that person elsewhere is necessary to carry out the investigation i.e. a shop or football stadium with the SDU in it.

(10) Nothing in subsection (1A) or in section 30A prevents a constable delaying taking a person to a police station or releasing him on bail if the condition in subsection (10A) is satisfied.

(10A) The condition is that the presence of the person at a place (other than a police station) is necessary in order to carry out such investigations as it is reasonable to carry out immediately.

In this case a constable carrying out an investigation prior to arrest does not have to take a person immediately to a police station.

Once the constable decides that they have sufficient grounds for an arrest in normal circumstances they should take the person to a police station unless they release the individual on bail (Street Bail in this case) **or**;

“the person’s presence is necessary in order to carry out such investigations as is reasonable to carry out immediately. (7A)

In this case at a store, retail centre or football stadium where the SDU is situated. In most of these cases all the evidence is on site. Witness, CCTV and officers’ personal observations and questions asked. Therefore, why take the suspects miles away to a place of detention where they will be held for over 12 hours simply for the paperwork to be done.

The law states that arrest and further detention should always be a last resort. If the officer is considering a range of immediately available options, it could be considered unfair to take an individual on a journey to a central police station custody suite for simple processing.

The officer should consider the proportionality of the outcome of the matter against arrest and detention. If the eventual outcome would be Caution, Conditional Cautions, Penalty Notices for disorder or theft, etc., it would be disproportionate to take the suspect a distance to the police station simply to conduct an administrative procedure or because ‘that’s how we have always done it’.



The PACE Codes of Practice further state:

Code – G

1.2 The exercise of the power of arrest represents an obvious and significant interference with the Right to Liberty and Security under Article 5 of the European Convention on Human Rights set out in Part I of Schedule 1 to the Human Rights Act 1998.

Code G 1.3 The use of the power must be fully justified and officers exercising the power should **consider if the necessary objectives can be met by other, less intrusive means**. Absence of justification for exercising the power of arrest may lead to challenges should the case proceed to court. It could also lead to civil claims against police for unlawful arrest and false imprisonment.

Can an SDU manage risks?

The SDU is a risk management tool. It is a place of safety for all concerned. It is a secure room within a room. It is fully monitored with use of the integrated CCTV and audio recording and monitoring equipment.

The extensive use of glass in the door and door frame reduces any claustrophobia, allows for casual monitoring and safe engagement between staff and detainee.

As with any detention or arrest a risk assessment would be completed on arrival at the SDU and reviewed throughout the detention process. If the prisoner is continually violent or the crime serious a person can be safely held in the SDU until suitable resources are gathered or transport arranged to take the subject to a police station.

The use of the SDU will reduce the time suspects spend in custody. It will allow for faster on site processing reducing stress on both detainees and staff.

Officers will be returned to patrol 79% quicker allowing them to provide additional reassurance to the public and detect or investigate further crimes.

The SDU is a ligature free room. It provides a safe and secure space to prevent suspects harming themselves or others.



Use in Private and Public Sector Environments

Shops and private businesses including security staff at football stadiums can hold people anywhere until they decide on their action. (So long as lawfully detained or arrested). This could be to investigate, question and then release with a store ban, or it could be to call the police.

They already hold suspects in this process but do so in offices where serious risks abound such as moveable furniture, potential weapons (office equipment) and lack of room to manage conflict should it arise. In addition suspects can make irrational decisions concerning fight or flight or engage in insulting behaviour which can escalate into conflict.

Security and loss prevention staff have the power under Section 24A of the Police and Criminal Evidence Act 1984 (and subsequent amendments) to arrest and detain someone for any indictable or either way offence until the arrival of police when they can be handed over to a Constable, in fact every citizen has this power.

The SDU makes a part of a standard office or security room that contains risks and is insecure, into a safe, secure and ligature free space for the safety and protection of the user and staff.

Compliance with Article 5 of the Human Rights Act 1998

Article 5 of the Human Rights Act 1998 covers the rights to liberty and security. Section 1 states the following:

- (1) Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:

Subsection 1(C) states:

- (c) the lawful arrest or **detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence** or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so.

Therefore, loss prevention officers, store detectives and security officers can 'detain' people prior to handing them to the competent legal authority being the police. As some stores have to wait a number of hours for police to arrive, they should ensure that risks are managed and that suspects are held in appropriate and secure conditions. The SDU provides such a safe and secure environment.



Supports Compliance with the Corporate Manslaughter and Corporate Homicide Act 2007 and proper consideration of Health and Safety law.

The Corporate Manslaughter and Corporate Homicide Act was given Royal assent on 26 July 2007. The offence came into force on 6 April 2008 and is called corporate manslaughter in England, Wales and Northern Ireland, and corporate homicide in Scotland.

Under the Act, health and safety legislation means "any statutory provision dealing with health and safety matters" so it will include transport (road, rail, river, sea, air) food safety and workplace safety as enforced by HSE and local authorities. It includes providing the appropriate resources to staff to undertake their jobs. If aggression and violence can be anticipated all reasonable measures should be undertaken to protect all persons in the process. This includes staff, suspects and the public.

Juries will be required to consider breaches of health and safety legislation in determining liability of companies and other corporate bodies for corporate manslaughter/homicide. Juries may also consider whether a company or organisation has taken account of any appropriate health and safety guidance and the extent to which the evidence shows that there were attitudes, policies, systems or accepted practices within the organisation that were likely to have encouraged any such serious management failure or have produced tolerance of it.

Any organisation that detains and holds individuals have a clear duty of care to the individual, staff and all other persons. This was made clear in the case of *Webley v St Georges NHS Trust v the Metropolitan Police*. Mr. Webley was detained by police and taken to hospital. He had a known history of mental illness and had tried to harm himself and escape a number of times when in the care of the police. He was handed over to St Georges Hospital and responsibility for his care passed to them. He escaped security from an insecure room and shortly after jumped down a stairwell and was seriously injured. Legal action was taken by the family and the judgement found the hospital guilty of a breach of their duty of care. The cost of the action exceeds £7 million with ongoing costs for the lifelong care of Mr. Webley.

Can someone be processed at a Safer Detention Unit or Short Term Holding Facility?

In the **DPP's Guidance on Charging 2013 – 5th Edition** police do not have to consult the CPS and can charge or dispose of immediately in the following circumstances:

- Any **SUMMARY ONLY** offence **irrespective of plea** - **except** where excluded in column B – including the offence of criminal damage where the total value of any property destroyed or damaged is less than £5000. Provided the Full Code (Evidential and Public Interest) Test is met.



- Any **anticipated guilty plea EITHER WAY** offence **suitable for sentence** in a **magistrates' court**. Any offence of retail theft (shoplifting) or attempted retail theft **irrespective of plea** provided it is suitable for sentence in the magistrates' court.
- The police may conclude any **summary or either way** offence where an Out of Court Disposal is considered

Guilty Plea may be anticipated when:

- the suspect has made a clear and unambiguous admission to the offence and has said nothing that could be used as a defence, **or**
- the suspect has made no admission but has not denied the offence or otherwise indicated it will be contested and the commission of the offence and identification of the offender can be established by reliable evidence or the suspect can be seen clearly committing the offence on a good quality visual recording.

CPS data indicates that 80.9% of offenders for minor crime admit guilt at the point of arrest and the guidelines were brought in to reduce the demand on the CPS.

Police Outcome Options in Investigations using the SDU

Community Resolution

- A Community Resolution is an alternative way of dealing with less serious crimes, allowing officers to use their professional judgement when dealing with offenders. It can be used for offences such as low level public order, criminal damage, theft, and minor assaults. A community resolution can be applied at the site of an arrest negating the need to take a person into a custody suite.
- Community Resolution will enable victims to have quick resolutions and closure to their crime, offenders will receive speedy justice and there will be reduced bureaucracy for police officers.

Cautions

- Cautions are given to anyone aged 10 or over for minor crimes. They can be given at the site of an arrest. According to Ministry of Justice guidelines, cautions are intended to deliver swift and effective justice, reducing the burden on the police and courts, while delivering a suitable deterrent effect. A simple caution is a formal notice, issued by a police officer, once someone has admitted an offence.



Conditional cautions

- A conditional caution is similar, but the person must also agree to stick to certain conditions which may include paying compensation to the victim or issuing an apology for the offence. Conditional Cautions are a statutory disposal introduced for adults by the Criminal Justice Act 2003 and for youths by the Crime and Disorder Act 1998 and are operated under Statutory Codes of Practice.
- The Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012 introduced changes to the Conditional Caution scheme. These came into effect on 8th April 2013 and include the removal of the requirement for a Prosecutor to authorise adult and youth Conditional Cautions. The police can now issue a Conditional Caution for any offence, excluding Indictable Only Offences and offences involving hate crime and domestic violence.

Issuance of a Penalty Notice for Disorder

- A PND can be issued in relation to approximately 22 criminal offences under the Criminal Justice and Police Act 2001. These include theft, criminal damage, anti-social behaviour¹ Fixed Penalty Notice and a number of offences relating to drunkenness and consumption of alcohol by persons under 18.

Section 30A of the Police and Criminal Evidence Act – Street Bail.

- Section 30A stipulates that a person can be released on bail following arrest at any time before he arrives at the police station (Sec 30A (2)) if, the constable is satisfied that releasing the person on bail is necessary and proportionate in all the circumstances (having regard, in particular, to any conditions of bail which would be imposed) (Sec 30A (1A)). Thus, following an initial investigation using the SDU a person could be released immediately on 'street bail'.

Postal Requisition

- A Postal Requisition is effectively a summons; a letter received in the post that requires a person to attend court on a given date and time to answer a charge or series of charges. If the person who receives the Postal Requisition subsequently fails to attend court on the date and time contained in the Requisition, then it is likely that a warrant will be issue for their arrest.

¹ Section 5 of the Public Order Act 1986 (c.64) 'Behaviour likely to cause harassment, alarm or distress'.



- A police officer can release a person under investigation from the site of the alleged crime once the investigation is complete and submit the case to the Crown Prosecution Service with recommendation for a postal requisition. This negates the need for a person to be taken into custody, so long as the evidence has been collected and admissions made.
- In practice when using the SDU this could be that there is witness evidence, CCTV evidence and admissions made on body worn camera or recorded in and officers notebook and signed by the suspect.
- There is no doubt that it is becoming more and more common for prosecutions to start with a Postal Requisition. Such cases can be relatively minor, but some cases which are considered serious can also commence this way.²

If the above outcomes cannot be achieved in a short space of time the officer still has the option of calling for transport and taking the suspect to a custody suite for further investigation.