(1) In the presence of means that the criminal act must have taken place in the physical presence of (under the observation of) the protective force officer. Knowledge of the existence of a criminal violation obtained in any other way (e.g., information from other persons) is not sufficient to permit an arrest under this part of the Act.

(2) Reasonable grounds to believe means that, at the moment of arrest, either the facts and circumstances within the knowledge of the protective force officer, or of which the protective force officer had reasonably trustworthy information, were sufficient to cause a prudent person to believe that the suspect had committed or was committing the offense.

(c) Misdemeanor Arrest. A protective force officer is authorized to make an arrest for any misdemeanor listed in paragraph (a)(1)(ii) or (a)(2)(ii) of this section if the offense is committed in the presence of the protective force officer.

(d) Other Authority. The Act does not provide authority to arrest for violations of state criminal statutes or for violations of federal criminal statutes other than those listed in paragraph (a) of this section. Therefore, arrests for violations of such other criminal statutes shall be made by other peace officers (e.g., U.S. Marshals or Federal Bureau of Investigation (FBI) agents for federal offenses; LLEA officers for state or local offenses) unless:

(1) The protective force officer can make a citizen’s arrest for the criminal offense under the law of the state,

(2) The protective force officer is an authorized state peace officer or otherwise deputized by the particular state to make arrests for state criminal offenses, or

(3) The protective force officer has been deputized by the U.S. Marshals Service or other federal law enforcement agency to make arrests for the criminal offense.

(e) In those locations which are within the “special maritime and territorial jurisdiction of the United States,” as defined in 18 U.S.C. 7, the Assimilative Crimes Act (18 U.S.C. 13) adopts the law of the state for any crime under state law not specifically prohibited by Federal statute and provides for federal enforcement of that state law. The local DOE Office of Chief Counsel, in coordination with contractor legal counsel, as appropriate, shall provide guidance in this matter.

§ 1047.5 Exercise of arrest authority—general guidelines.

(a) In making an arrest, the protective force officer should announce his or her authority (e.g., “Security Officer”) and that the person is under arrest prior to taking the person into custody. If the circumstances are such that making such announcements would be useless or dangerous to the officer or others, the protective force officer may dispense with these announcements.

(b) The protective force officer at the time and place of arrest may search any arrested person for weapons and criminal evidence and the area into which the arrested person might reach for a weapon or to destroy evidence. Guidance on the proper conduct and limitations in scope of search and seizure of evidence shall be obtained from the local DOE Office of Chief Counsel, in coordination with contractor legal counsel, as appropriate.

(c) After the arrest is effected, the arrested person shall be advised of his or her constitutional right against self-incrimination (Miranda warnings). If the circumstances are such that making such advisement is dangerous to the officer or others, this requirement may be postponed until the immediate danger has passed.

(d) Custody of the person arrested should be transferred to other federal law enforcement personnel (i.e., U.S. Marshals or FBI agents) or to LLEA personnel, as appropriate, as soon as practicable. The arrested person should not be questioned or required to sign written statements unless:

(1) Questioning is necessary for security or safety reasons (e.g., questioning to locate a bomb), or

(2) Questioning is authorized by other federal law enforcement personnel or LLEA officers responsible for investigating the crime.