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## Police Powers



- **Your précis notes** – Ch. 4 of "OCR Law for AS" – **will be checked.**
- Ensure all mobiles are switched off.
- Feel free to ask questions – just raise your hand first.

## Someone has stolen my mobile.

- I want you to all empty your bags/pockets and you will remain here until I find my mobile and/or somebody confesses. If it takes a week, it will take a week.
- Does that seem reasonable?**

## Individual v Society

- Police powers are a balance between detection and individual freedom.
- Police need powers to search, detain and arrest people, to do their job.
- These powers do infringe the right of an individual.

## Police and Criminal Evidence Act 1984 (PACE)

- Prior to PACE there was no regulation of police activity across the UK.
- PACE sets out the rules for police activity in relation to:
  - Search
  - Arrest
  - Interview
  - Detention

## PACE 1984

- PACE is a statute – which is legally binding on the police.
- Accompanying Codes of Practice are *guidance only* (to be taken into account) and are **not** legally binding (s.67 PACE).

### **Stop and Search**

- **S.1** – police may stop and search people and vehicles in a public place.
- On what grounds can the police use this power?
- Police officer must give his name, station and the reason for the search – Osman v DPP (1999)

### **Tomlinson v DPP (1992)**

- A man is walking aimlessly through Soho in an area where drugs are often found.
- **Do you think this gives police grounds to stop and search him?**

### **Stereotyping...**

- Police must have "reasonable grounds" to stop & search.
- **Code A: Police cannot act simply on the basis of-**
- A person's race
- A person's age
- A person's appearance
- Previous convictions

### **Other Powers to Stop & Search...**

- Misuse of Drugs Act 1971... to search for controlled drugs;
- Terrorism Act 2000...reasonable suspicion of involvement with terrorism;
- S.60 CJPOA 1994...in anticipation of violence.

### **Activity....**

- In pairs, undertake the activity on page 41 of "OCR Law for AS" by J. Martin.

### **Search Warrants**

- Police can enter and search premises if they have a warrant to do so.
- Police can enter premises **without** a warrant:
- To arrest someone
- To recapture a prisoner
- After making an arrest
- To prevent breach of the peace

### **Powers of Arrest**

- Powers of arrest contained in s.24 PACE, as amended by s.110 SOCPA 2005.
- See fig. 4.2 on page 42 of "OCR Law for AS".
- **What is the "necessity test"?**

### **Arrests by Civilians...**

- ...may take place under S. 24A PACE.
- Indictable offences only;
- D must be in the act of committing offence or reasonable grounds for suspecting D to be committing the offence.

### **Code of Practice G**

A lawful arrest requires 2 elements:

- A person's involvement / suspected involvement / attempted involvement
- AND
- Reasonable grounds for believing that the person's arrest is necessary.

### **Manner of Arrest**

- **S.28** - D must be told s/he is under arrest and the reason for it.
- **S.30** - D must be taken to the police station as soon as practicable.
- See **Taylor v Chief Constable of Thames Valley Police (2004)**.

### **Activity...**

In pairs, undertake the activity on p.45 "OCR Law for AS" by J. Martin.

### **Powers of Detention**

- **S.41** - arrested person must be released within 24 hours (unless they have been charged).
- **S.42** - Can be extended by a further 12 hours if senior officer agrees.
- **S.43** - Can be further extended by Magistrates for up to 96 hours.

### Custody Officer

- Must ensure that the requirements of PACE have been complied with.
- Keeps a custody record.
- Records D's possessions.
- May search D.
- Ensures D is given rest, meals and has reviews in accordance with Code C.

### Defendant's Rights

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- **S.56** – right to have someone informed of the arrest.
- **S.58** – right to consult privately with free solicitor.
- Right to consult the Codes of Practice.
- **Are the police ever allowed to withhold these rights?**

### Interviewing Suspects

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- Aim of police is to gain confession.
- Must be tape-recorded (2 copies are made).
- Right to have solicitor present at interview.
- **When is an “appropriate adult” required to be present?**

### Right to Silence

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D must be cautioned -

- On arrest;
- Before interview.
  
- Look at the wording of the caution. Is D allowed to remain silent when questioned?
- **Should he remain silent?**

### Caution

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- D does not have to say anything, but by staying silent he runs the risk of the court assuming he has something to hide.
- **Can you think of any other reasons why a person may remain silent when being questioned by the police?**

### Searches, Fingerprints & Samples

- Fingerprints and non-intimate samples may be taken without D's consent.

Police may also carry out:

- Strip searches
- Intimate searches.
  
- Must be authorised by high-ranking police officer

### **Important Safeguards**

- **S.76** – Court shall not allow statements obtained through oppression to be used as evidence.
- **S.78** – Court may exclude prosecution evidence if it would have *“such an adverse effect on the fairness of proceedings that the court ought not to admit it”*.

### **Activity...**

Undertake the activity on p.52 of “OCR Law for AS” by J. Martin

Consider the issues from the standpoint of both the arrested person and the police.

### **To summarise...**

- D is entitled to decent treatment by the police.
- *Sleep, food and access to a solicitor* whilst detained are but a few basic rights.
- If the police abuse their powers, **s76, s78** can result in evidence being excluded at trial.

### **Complaints against the Police**

- Citizens who believe that the police have exceeded their powers can complain to the police authorities.
- Familiarise yourself with the work of the *Independent Police Complaints Commission (IPCC)*.

### **Break into Law Firms...**

...to undertake the intranet activities involving

- PCs Smith & Jones
- PC Parker

### **Exam practice...**

Plan, and then write, answers to the examination questions on p.55 of “OCR Law for AS”.