



Prifysgol Cymru
Y Drindod Dewi Sant
University of Wales
Trinity Saint David

Criminal Justice: An Introduction.



Objectives: By the end of this lesson you will be able to:

Criminal Justice

1. **Explain** the purpose of the criminal justice system and the police roles within it.
2. **Identify** legislation and processes that support it.

Conducting Investigations

3. **Identify** best practice when conducting an investigation

The Purpose of the Criminal Justice System (CJS)

According to www.cjsonline.gov.uk the purpose of the CJS is 'to deliver justice for all, by convicting & punishing the guilty & helping them to stop offending, while protecting the innocent'



Alternatively, the **Working Together to Cut Crime & Deliver Justice (2007)**, **Criminal Justice Strategic Plan** states that, 'the central purpose of the CJS is to deliver an efficient, effective, accountable & fair justice process for the public.'



QTS – what do you think the purpose of the CJS is?

Reference: <https://www.crimeandjustice.org.uk/resources/purpose-criminal-justice-system>

Garside (2008)

If you examine the definitions presented here, undeniably there are elements of commonality.

The purpose of the CJS is to provide fair, effective justice that represents value for money.

Reference: University of Plymouth

Functions and Aims of the criminal justice system

http://compass.port.ac.uk/UoP/file/ca5197e4-09f7-4d83-844b-323d9d240078/1/criminal_justice_IMSLRN.zip/page_03.htm

Each agency that works within the criminal justice system has its own specific aims but there are certain goals that run across the whole system. These are:

- Public Protection - preventing and deterring crime through incapacitation and

rehabilitation

- Justice and the Rule of Law - involves ensuring the proper treatment of defendants, successfully prosecuting those who have committed a crime and acquitting those who are innocent
- Public Order - achieved through the maintenance of law and social order
- Punishment - the sentencing of offenders in accordance with specific principles
- Denunciation - registering social disapproval of certain behaviours
- Victim services - through the provision of appropriate advice and assistance to victims of crime
- Public confidence - ensuring that the criminal justice system is perceived as dealing effectively and fairly with the threat to the public posed by offenders

The Police Role within the CJS

According to the CPS,
'The police are
responsible for the
investigation of crime,
collection of evidence
& the arrest or
detention of suspected
offenders.'

The Policing Vision
2025 states that the
policing mission is: *'To
make communities
safer by upholding the
law fairly & firmly;
preventing crime &
antisocial behaviour;
keeping the peace;
protecting & reassuring
communities;
investigating crime &
bringing offenders to
justice.'*

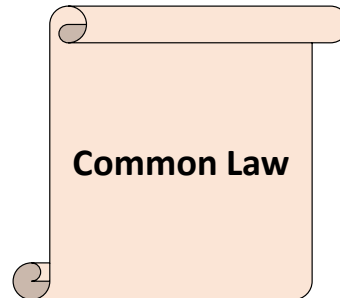


QTS – what do you think the Police role is within the CJS?

Reference: Policing Vision 2025

Discuss these statements with the students, making links back to the 'Understanding the role of a constable' session.

The Law in England and Wales



Common Law : The law that has been created over the centuries by judicial decisions and not by legislation from Parliament. (*Source : PNLDB*) *These decisions were passed by word of mouth*

Examples of **Common Law** offences are :-

- Murder/Manslaughter
- Breach of the Peace
- Perverting the course of justice
- Contempt of court
- False imprisonment/Kidnapping
- Refuse to assist a constable
- Misconduct in a public office
- Bribery and corruption – public offices
- Keeping a disorderly house

The Law in England and Wales



Statute Law
Acts of Parliament
(Primary Legislation)
Making Laws
Case Law



Statute Law : Law enable by Acts of Parliament through legislation e.g. Theft Act 1968 and Police And Criminal Evidence Act 1984. (Source PNLDB)

Acts of Parliament are prime statute law. Acts of parliament are divided into sections that may contain definitions, offences, powers of arrest and interpretations of words and expressions used. An act is a complex document that often requires technical details such as fines and penalties.

DISCUSS SOME ACTS

Case Law helps establish the precise meaning of legislation. **Precedent** : A case which establishes certain legal principles to a set of facts arriving at a certain conclusion and which is to be followed by subsequent cases containing similar facts. The decision made under these circumstances by one court will bind those of a lower court. (e.g. Case Law : R v Turnbull). (Source PNLDB) **LINK TO NEXT SLIDE**

Case Law

Sets Judicial Precedent:

The decision of one case where circumstances are similar is binding on others. E.g

R v Turnbull (1976) 3 All ER 549



Stated Cases are the 'benchmark' by which all other SIMILAR cases are tried

Put simply, they are guidelines as to 'best practice' for legal practitioners

- based on a question of law not a question of fact
- form a significant part of the case i.e. the reason or ground on which it is based
- the decision must be made in a court higher in the court structure
- there must be no material difference between the fact of the cases, in this case, R v Turnbull, 1976, the case involved two persons putting signs on a bank stating the night safe was not working and to deposit the money through the door into the bag. They would then steal the money. He was seen by the bank manger and an off duty officer. Turnbull was found guilty and he appealed. The case was upheld. An example of this would be decision that was made about identification evidence in the case.

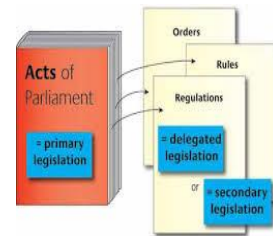


Secondary Legislation

Secondary legislation is usually concerned with detailed changes to the law made under powers from an existing Act of Parliament



Statutory instruments form the majority of secondary legislation but it can also include Rules, Regulations or Codes of Practice



QTS – has anyone heard of the term ‘secondary legislation?’ What do you think it means?

Secondary Instruments

Most Acts of Parliament include provisions giving powers to Ministers to make delegated (or secondary) legislation & most delegated legislation takes the form of statutory instruments

In order to reduce pressure on parliamentary time, Acts of Parliament often give government ministers or other authorities the power to regulate administrative details (Ministerial Regulations)

Statutory Instruments (SIs) are normally drafted by the legal department of the ministry concerned & may be subject, when in draft, to consultations with interested parties

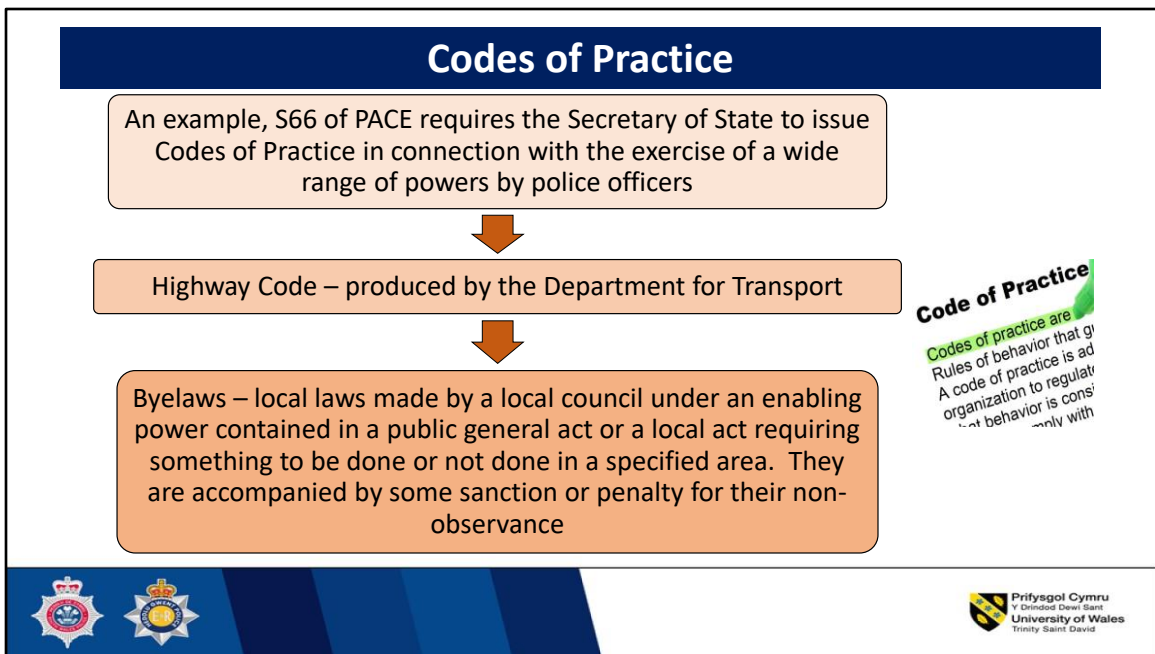
Between 2000 – 4000 SIs are issued each year



A statutory instrument makes it possible for details of an Act to be revised without having to be subjected to parliamentary procedures every time. Importantly they are as much part of the law of England and Wales as in the main body of the act.

Statutory Instruments, also known as SIs, are a form of legislation which allow the provisions of an Act of Parliament to be subsequently brought into force or altered without Parliament having to pass a new Act. They are also referred to as secondary, delegated or subordinate legislation.

An example of the road vehicles construction and use, amendment no 2 regulations 2001. The home secretary, using powers given to him by s41 of the RTA 1988, introduced a number of detailed provisions regarding seat belts in road vehicles. Also other examples, PACE and BYLAWS.



A code of practice is issued to provide guidance on how the relevant legislation should be implemented. An example of this is PACE.

Failure to comply with the codes shall not render a police officer liable to any criminal or civil proceedings, however - any failure by police officers to comply with them will almost certainly result in the Crown Prosecution Service declining to institute or continue proceedings. Where the case results in a court hearing, it may be lost through evidence being disallowed and the officer himself subjected to reprimand by the court and even disciplinary proceedings.

The Codes of Practice apply to all persons who are involved in investigating offences and charging offenders, such as HM Revenue and Customs and DSS Investigators. The Codes also extend to private investigators and security staff in industry.

Similarly, The Highway Code is a set of information, advice, guides and mandatory rules for all road users in the United Kingdom. Its objective is to promote road safety. The Highway Code applies to drivers of animals, pedestrians, cyclists, motorcyclists and drivers.

Byelaws- local laws made by a local council under an enabling power contained in a

public general act or a local act requiring something to be done – or not done – in a specified area. They are accompanied by some sanction or penalty for their non-observance.

Terminology..... Prosecution Vs Defence



The Police
The Crown
Prosecution Service
(CPS)

The Defendant, Legal
representatives(s) –
solicitor or barrister

The Probation
Service/ Social
Services

The Prison Service



The Prosecution:

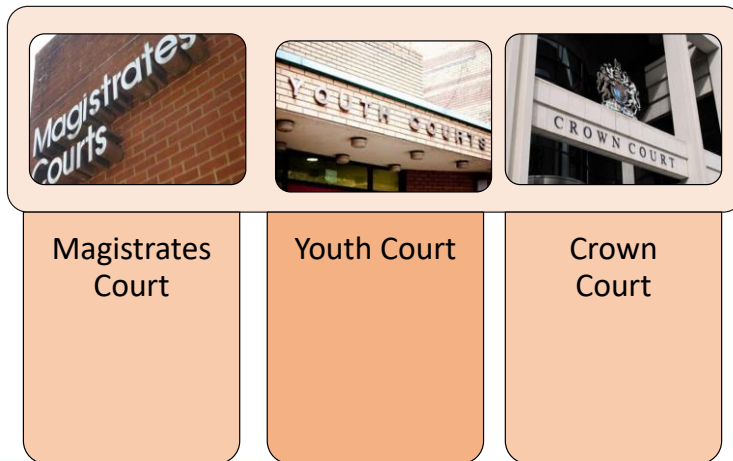
- Our role is that of independent evidence gatherers. Investigate/Interview get advice from CPS then prepare file.
- CPS – presentation from lawyer later in course.

The Defence:

- **The defendant** may represent themselves in any court case and they have the right to cross examine the witnesses just as a solicitor would.
- **Legal representatives** usually a solicitor in Magistrates Court or a barrister in Crown Court.
- The purpose of the **Probation Service and Social Services** is to provide the court with information to assist in the reaching of decisions about bail and sentence. They obtain reports on the personal circumstances of the defendant, home, pay, family, employment etc. They also are involved in the arranging and supervising of community service if this type of sentence is passed by the court.
- The **Prison Service & Private Security Firms (like Group4)** main role is security of persons already in custody. If a person who has been remanded in custody

needs to be brought before a court then this is the responsibility of the prison service.

The Criminal Courts



Criminal courts : All criminal courts work on the assumption that you are innocent until proven guilty. This has to be proved beyond all reasonable doubt. Which is a very high burden of proof. All these courts can deal and refer cases a higher court on appeal and deal with human rights abuses if needed.

- **Magistrates Court** : 95% of cases are dealt with in the Magistrates' Courts. The court has a history dating back 600 years. Cases are usually heard by a panel of 3 lay magistrates, (Justices of the Peace), supported by a legally qualified Court Clerk, (the Clerk to the Justices). The magistrates are collectively called a **Bench**. Lay magistrates are appointed by the Crown, they come from all walks of life and are unpaid and usually unqualified – although they do receive training – **must retire at 70**. In addition there are **District Judges**, (previously known as *Stipendary Magistrates*). These are qualified barristers or solicitors of at least 7 years experience and 2 years as a Deputy District Judge. District Judges will sit alone and will deal with more complex cases.

Magistrates hear the cases and **decide upon points of law and fact in the cases**. Magistrates courts hear the less serious cases (in the eyes of the law not the eyes of the victim).

Restrictions on the sentences they can pass at **Mags - 6 mths for one case or 12**



mths total imprisonment up to £5000 fines

- **Youth Court**- Usually same building as Mags court but sit on different days. No press allowed or if they are allowed in special cases then ID of youths cannot be disclosed (speak about some cases where youths u18 can end up in Mags or Crown Court - charged jointly with adult or Murder cases where must go to Crown - Jamie BULGER). NOT OPEN TO THE PUBLIC. J.P's who preside over youth courts receive special training. They hear cases involving persons **10 - 17years** If triable either way offence or believe more severe sentence needed - hear case, commit to CC for sentence.
- **Crown Court**- Deals with: - **a)** more serious cases, **b)** cases that are indictable only, **c)** persons committed for sentence from Mags. Court for sentencing, **d)** appeals from the lower courts, inc. Youth in relation to sentence and conviction. Presided over by Circuit Judge or part time judge known as recorder. The Judge deals with the points of law whilst the jury of 12 decide on the facts of the case presented to them.

The Courts

Courts	Types of Cases	Features	Appeals go to
Youth	Defendants aged 10 to 17 years	Not usually open to the public	Crown Court
Magistrates'	Offences triable: - Summarily only - Offences triable either way	Usually open to the public	Crown Court or High Court
Crown	Offences triable: - Only on indictment - Either way referred from Magistrates' Court - Appeals from Magistrates' Court and Youth Court	Judge and jury	Court of Appeal (Criminal division)
Appeal	Appeals from Crown Courts	Criminal and Civil divisions	Supreme Court
Supreme	Appeals from Court of Appeals	Replaced the House of Lords in 2009	Final point of appeal

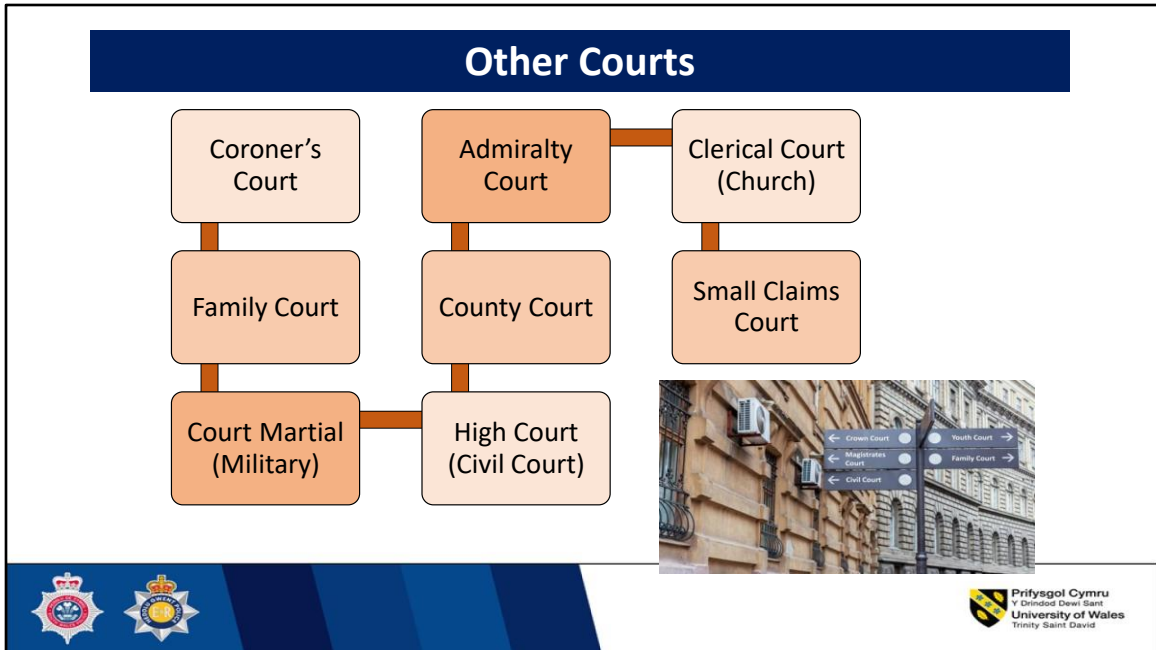


MAGISTRATES – 500 Petty Sessional areas in Eng & Wales each with a mags court presiding over it.

CROWN – 90 in Eng & Wales in 6 areas known as circuits – hence circuit judges

COURT OF APPEAL – Criminal Division – appeals from crown court/Civil division – appeals from high court/tribunals etc

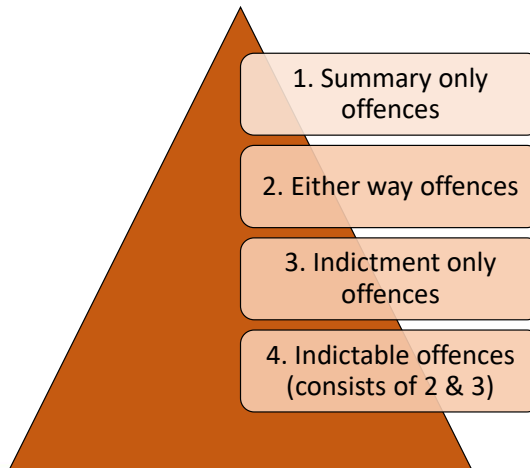
THE SUPREME COURT - is the final court of appeal in the UK for civil cases. It hears appeals in criminal cases from England, Wales and Northern Ireland.



Coroners Court : Coroners are independent judicial officers that are responsible for investigating violent, unnatural or sudden deaths where the cause of death is unknown. Such an investigation is known as an **inquest**. An inquest is not a trial. It is a limited inquiry into the facts surrounding a death. **It is not the role of the Coroner to apportion blame.**

Coroners are usually **lawyers but in some cases they may be doctors**. Whenever a death has been reported to the coroner no death certificate can be issued until the Coroner has finished his/her enquiries. Juries are used under specific circumstances e.g. death in prison/police custody or from an accident at work. All inquest are held in public. (Source: Home Office Coroners court website).

The Categories of Offence

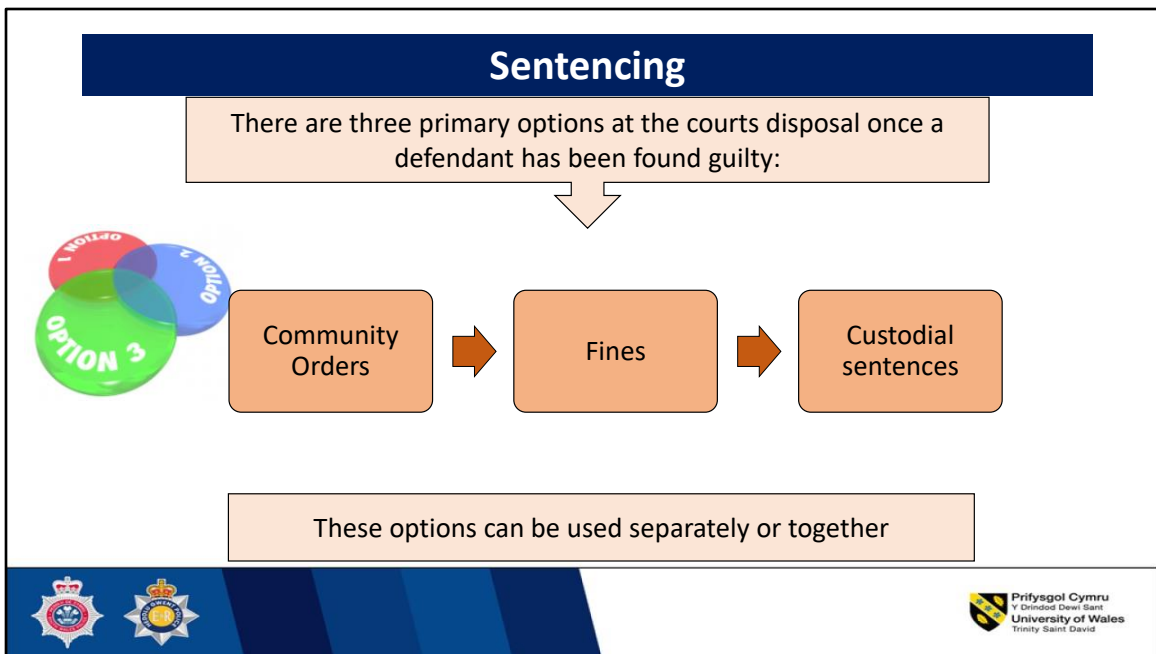


- **Summary only** - can only be tried in Mags court. Examples of such cases are: Harassment, Fail to Produce Driving Licence, Littering, Failing to Provide (Breath Test), s.5 and s.4 POA, Criminal damage where value of damage is less than £5,000 and **most** motoring offences.
- **Indictment only** - can only be heard in Crown court - these are the most serious offences. Examples of indictable only offences are: - murder, manslaughter, rape, robbery, death by dangerous driving, aggravated burglary, and wounding with intent. Notice the common thread with these offences - **they all involve some sort of violence against or towards the person.**
- **Either Way** - cases that can be heard in either **Mags court or crown court.** Initially the Mags will decide which is the most suitable court for the case in question. Even if the mags. decide that the case is suitable for them to hear the defendant can still elect to go before a jury at Crown Court. Examples of cases that are either way offences are: - theft, fraud, assault occasioning actual bodily harm, sexual assault.

If heard in Mags and after hearing the evidence the bench decide on guilty verdict but that a more severe sentence than they can pass is required then they can commit the case to Crown Court for sentencing.



- **Indictable offences** - collective term for indictment only and either way offences. Term used extensively in legislation



QTS – what are your thoughts about these disposal options?
When do you think the courts would opt for these disposal methods?

Introduction to the Police and Criminal Evidence Act 1984



Why introduce P.A.C.E.



The 1981 Brixton riots, and the subsequent Scarman report were key factors in the passage of the Act. The Police and Criminal Evidence Act 1984 was brought in following recommendations set out by the Royal Commission on Criminal Procedure. The purpose of the Police and Criminal Evidence Act 1984 was to unify police powers under one code of practice and to balance carefully the rights of the individual against the powers of the police.

Brixton Riots: April 1981, Operation 'swamp' undertaken 5 days prior to tackle street crime. Plain clothes officers using 'Sus' laws. 943 stops in 4 days. Sus law allows any officer to arrest any person if suspect loitering with intent (Vagrancy Act 1824). Lots of tension with community, lots of distrust. It was the manner they strip searched black persons in the street drawing crowds. Friday 10th April Black man was seen running down street with an obvious stab wound to his back. Stopped by a team of plain clothes officers.. Controversy over what happened ..if helped or questioned, caused large group to gather. Over Saturday lot's of rumours in Brixton that man had died that police didn't help him. Mini cab stopped mid afternoon and riots erupted. Due to tensions and issues raised Lord SCARMAN was tasked with producing a report as to police activity and directly from this report PACE was developed and in turn the codes.

Birmingham 6: Began with earlier in year of 1974 a JAMES McDADE blew himself up planting a bomb in Coventry. His body was being taken back to Northern Ireland for the funeral.

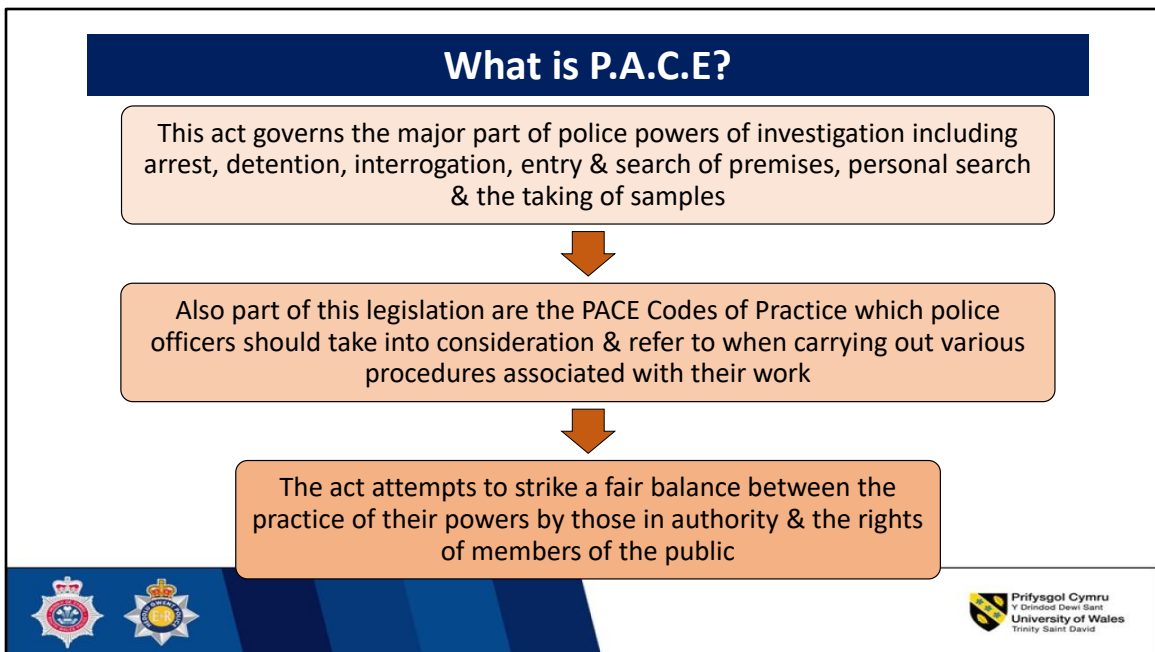
On 21st November 1974.. 2 bombs placed in City Pubs which exploded killing 21 people and injuring 167 people...first bombing in Britain since second world war. Police stopped all persons travelling to Belfast and questioned them. Under intense pressure to catch offenders. Stopped a group of 5 travelling back for funeral, had played cards on the train, asked them to come back to Police Station in Dover. Once there asked if they could examine their hands and conducted tests. 3 of the group tested positive for gelignite explosive. Pushed them into cells, punched and kicked them telling them to confess knocking them to ground and kicking them. Started in the evening and continued into the following morning. A 6th friend was arrested at his home due to links to them and had the same treatment. Driven to Birmingham had cuffs taken off and opened door telling saying over the radio he as trying to escape. One had a revolver held to his head and blanks fired. 4 of them signed confessions. In court they had a trial within a trial about whether the confessions were admissible as obtained under duress and it was deemed they were.

In 1987 an officer came forward admitting beatings had occurred. Also informed at time of trial a revolver could not fire blanks when it actually could. The chemical trace on hands could have come from playing cards or the soap used to clean dishes so totally discredited. Second appeal in 1987 held it was an unsafe conviction as proved beatings, police notes fabricated and chemical tests discredited. 16 years in jail.

Over a period of four days Stephen Miller was interviewed on 19 occasions for a total of 13 hours; he was denied access to a solicitor for the first two interviews. Miller, who had a mental age of 11, confessed to the killing after making 300 denials.[47] Miller also implicated the other men

The 1999 Macpherson Report, an investigation into the murder of Stephen Lawrence and the failure of the police to establish sufficient evidence for the prosecution of the charged suspects, found that recommendations of the 1981 Scarman Report had been ignored. The report concluded that the police force was "institutionally racist".[

Introduced when public confidence was at an all time low due to high profiles miscarriage of justices



GIVE handout and explain the different codes:

- Code A Deals with the exercise by police officers of statutory powers to search a person or a vehicle without first making an arrest. It also deals with the need for a police officer to make a record of a stop or encounter.
- Code B Deals with police powers to search premises and to seize and retain property found on premises and persons.
- Code C sets out the requirements for the detention, treatment and questioning of suspects not related to terrorism in police custody by police officers.
- Code D Concerns the main methods used by the police to identify people in connection with the investigation of offences and the keeping of accurate and reliable criminal records.
- Code E Deals with the audio recording of interviews with suspects in the police station.
- Code F Deals with the visual recording with sound of interviews with suspects. There is no statutory requirement on police officers to visually record interviews. However, the contents of this code should be considered if an interviewing officer decides to make a visual recording with sound of an interview with a suspect.
- Code G Deals with powers of arrest under section 24 the Police and Criminal Evidence Act 1984 as amended by section 110 of the Serious Organised Crime

and Police Act 2005.

- Code H Sets out the requirements for the detention, treatment and questioning of suspects related to terrorism in police custody by police officers.

Show CPS website for codes of practice.

Scenarios: The Codes of Practice



Trainer to describe the following scenario (see handout), and ask students to use their 'Code of Practice' handout to apply the necessary legislation in highlighted areas.

The individual in the picture enters a small shop, walks around and stops at the alcohol section. Thinking that he has not been seen, he selects a bottle of wine and secretes it inside his jacket. He then attempts to leave the store without paying for it.

As he does so, the member of staff behind the till shouts, 'Stop thief'. Whereupon, the individual runs out of the store.

The member of staff reports the matter via the 999 system and a description is circulated to officers in the area.

PC 122 and PC 143 are in the area and search for the individual.

A short time later they find an individual in the street, matching the description provided by the member of staff at the store.

Both stop to individual and speak to him.

Observing that this individual looks agitated, has an unusual bulge in his jacket and matches the description perfectly, the officers believe that the individual could be responsible for the theft.

PC 122 speaks to the male and decides to search him, using powers under Section 1 PACE.

This search is carried out in accordance with Code A (PACE).

Finding the stolen bottle of wine, the officer believe that the arrest of this individual is necessary. Therefore, he is arrested.

On arrest, this individual is further searched using powers under Section 32 of PACE.

Six packets of razers are found in the males' jacket pocket.

The male is then conveyed to custody, where his detention is authorised (Code C (PACE))

The officers then decide to search the home address of the suspect, as they believe that he has other stolen goods there. They obtain the authority of an Insp (Section 18 PACE) and travel to the property.

The officers then search the property, acting in accordance with Code B (PACE).

Returning to the station empty handed, the officers then interview the male about the offence (Code F).

The male disputes that he was at the store at all.

Hence an identification process is commenced (Code D (PACE))

And so on

Failing to adhere to P.A.C.E. and its Codes

Failure by a Police Officer to adhere to the codes of practice does not render them liable to criminal or civil proceedings

However, any evidence obtained by the police in relation to the investigation of any criminal offence where they have failed to adhere to PACE can be deemed inadmissible in court thus prejudicing the case against the defendant

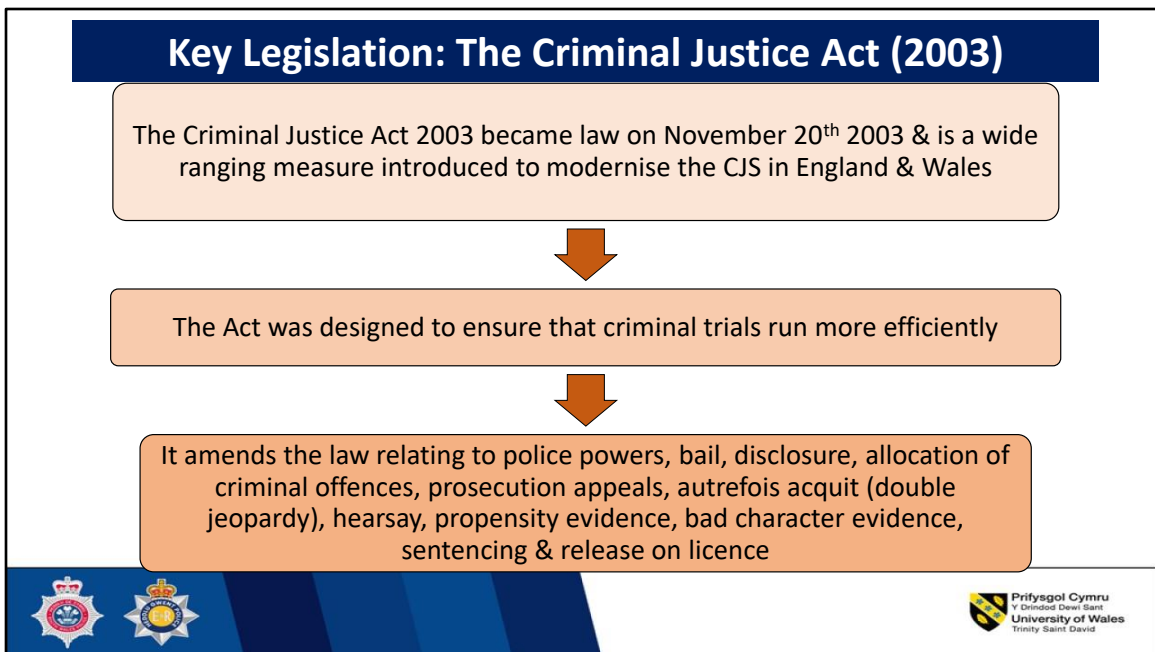
WARNING

Human Rights breach

Internal disciplinary



- Failure by a police officer to adhere to the codes of practice does not render them liable to criminal or civil proceedings
- However, any evidence obtained by the police in relation to the investigation of any criminal offence where they have failed to adhere to PACE, can be deemed inadmissible in court thus prejudicing the case against the defendant
- Further to this, incorrectly applying the correct elements of the necessity test and arresting an individual without good reason could result in a breach of the individuals' Human Rights
- Additionally, in such a situation an officer may be the subject of internal disciplinary proceedings.



In July 2002 the Government published a White Paper outlining its plans for the criminal justice system, from crime prevention through to the punishment and rehabilitation of offenders. Justice for All (Cm 5563) focused particularly on reforms to court procedure and sentencing, to make trials faster and to deliver clear, consistent and appropriate sentencing. On these issues the White Paper built on the proposals in two consultation documents: Review of the Criminal Courts of England and Wales by Sir Robin Auld (2001) and Making Punishment Work: report of a review of the sentencing framework of England and Wales (2001) by John Halliday.

This Act is intended to introduce reforms in these two areas. With regard to court procedure, the Act aims to improve the management of cases through the courts by involving the Crown Prosecution Service in charging decisions, by reforming the system for allocating cases to court, and by increasing magistrates' sentencing powers so that fewer cases have to go to the Crown Court. It will enable action to be taken to reduce breaches of bail by introducing a new presumption against bail in certain circumstances.

The Act is designed to ensure that criminal trials are run more efficiently and to reduce the scope for abuse of the system. It will reform the rules on advance disclosure of evidence and will allow for judge-alone trial in cases involving threats

and intimidation of juries, and paves the way for judge-alone trial in exceptionally long, complex serious fraud cases. It will ensure the wider involvement of the community as a whole by reforming rules on jury service. Rules on evidence will be changed to allow the use of previous convictions where relevant, and to allow the use of reported (hearsay) evidence where there is good reason why the original source cannot be present, or where the judge otherwise considers it would be appropriate. It will enable any witness to give evidence using live links. A right of appeal for the prosecution against judicial decisions to direct or order an acquittal before the jury has been asked to consider the evidence will be introduced to balance the defendant's right of appeal against both conviction and sentence. The Act will also make it possible in certain very serious cases for a retrial to take place despite an earlier acquittal if there is new and compelling evidence of an accused's guilt.

The Act aims to provide a sentencing framework which is clearer and more flexible than the current one. The purposes of sentencing of adults are identified in statute for the first time, as punishment, crime reduction, reform and rehabilitation, public protection and reparation. The principles of sentencing are set out, including that any previous convictions, where they are recent and relevant, should be regarded as an aggravating factor which will increase the severity of the sentence. A new Sentencing Guidelines Council will be established. Sentences will be reformed, so that the various kinds of community order for adults will be replaced by a single community order with a range of possible requirements; custodial sentences of less than 12 months will be replaced by a new sentence, (described in the Halliday report as "custody plus"), which will always involve a period of at least 26 weeks post-release supervision in the community; and sentences over 12 months will be served in full, half in custody, half in the community, with supervision extended to the end of the sentence rather than the $\frac{3}{4}$ point as now. Serious violent and sexual offenders will be given new sentences which will ensure that they are kept in prison or under supervision for longer periods than currently. At the other end of the custodial scale, several "intermediate" sanctions will be introduced. These include intermittent custody and a reformed suspended sentence in which offenders have to complete a range of requirements imposed by the court. The intention is for the court to be able to provide each offender with a sentence that best meets the need of the particular case, at any level of seriousness, and for sentences to be more effectively managed by the correctional services who will need to work together closely in delivering the new sentences.

The Act also addresses a number of other areas. It contains a number of provisions on drug related offending, including extending to those aged 14 and above the provisions to test persons in police detention and at other points in the criminal justice system for specified Class A drugs. It establishes a new scheme under which the court, rather than the Home Secretary, will determine the minimum term to be served in prison by a person convicted of murder. It will establish a 5 year mandatory minimum custodial sentence for unauthorised possession of a prohibited firearm. It will increase the maximum penalty for causing death by dangerous driving from 10 to

14 years and retain the power of arrest for the possession of cannabis or cannabis resin following their proposed reclassification from Class B to Class C drugs. Finally, in relation to juveniles, the Act extends the use of parenting orders by making them available at an earlier stage and introduces individual support orders, requiring young people with anti-social behaviour orders to undertake education-related activities. In general the Act extends only to England and Wales.

The Act is in fourteen parts. Part 1 contains provisions on the Police and Criminal Evidence Act. Part 2 contains provisions on bail. Part 3 contains provisions on conditional cautions. Part 4 contains provisions on charging. Part 5 contains provisions on disclosure. Part 6 contains provisions on allocation and sending of offences. Part 7 contains provisions on trials on indictment without a jury. Part 8 contains provisions on live links. Part 9 contains provisions on prosecution appeals. Part 10 contains provisions enabling retrial for serious offences following acquittal (double jeopardy). Part 11 contains provisions on evidence of bad character (Chapter 1) and provisions on hearsay evidence (Chapter 2). Part 12 contains provisions on sentencing and is split into a number of Chapters. Chapter 1 contains general provisions about sentencing. Chapter 2 contains provisions on community orders for offenders aged 16 or over. Chapter 3 contains provisions on prison sentences of less than 12 months. Chapter 4 contains further provisions on orders under Chapters 2 and 3. Chapter 5 contains provisions on dangerous offenders. Chapter 6 contains provisions on release of prisoners on licence. Chapter 7 deals with the effect of life sentences. Chapter 8 contains other provisions about sentencing. Chapter 9 contains supplementary provisions. Part 13 contains miscellaneous provisions and Part 14 contains general provisions.

Key Legislation: The Criminal Procedure Rule (2015)

The Criminal Procedure Rules (CrimPR) govern the practice & procedure of the criminal courts.

The body responsible for making the rules is the Criminal Procedure Rule Committee (CPRC)

The CrimPR are divided into 10 sections that correspond with the main stages of a criminal case making up a total of 76 separate parts

The CPRC amends existing rules & adds new rules twice a year which usually come into force each April & October. Guidance in the form of Gateway Notices is given on the main changes. These came into force on 5th October 2015 but have since been amended

<https://www.cps.gov.uk/legal-guidance/criminal-procedure-rules>

<http://www.justice.gov.uk/courts/procedure-rules/criminal/rulesmenu-2015#Anchor2>



The second link on this slide provides access to the latest amendments to the Criminal Procedure Rules.

The students should be encouraged to conduct their own further enquiries into this area.

Information

The Criminal Procedure Rules (CrimPR) govern the practice and procedure of the criminal courts. The body responsible for making the rules is the Criminal Procedure Rule Committee (CPRC). The Committee consists of 18 members, which includes the DPP and is chaired by the Lord Chief Justice. The Committee consists of 18 members, which includes the DPP and is chaired by the Lord Chief Justice. The CrimPR are divided into ten sections that correspond with the main stages of a criminal case. They lay down an overriding objective that courts and everyone involved in a criminal case must pursue: to deal with cases justly. They also give courts explicit powers to actively manage the preparation of criminal cases to prevent unfair and avoidable delays and to promote certainty about what is happening for the benefit of everyone involved.

The CrimPR are supplemented by the Criminal Practice Direction 2013 (CPD), which contain the case progression forms and all other prescribed forms which the rules

require should be used.

The Criminal Procedure Rules:

The Rules are arranged in 10 principal subject divisions that correspond with the main stages of a criminal cases making up a total of 76 separate Parts.

Parts 1-5 cover general matters. The rules in this division include those covering the overriding objective and case management.

Parts 6-17 cover preliminary proceedings.

Parts 18-20 cover custody and bail.

Parts 21-26 cover disclosure of evidence and unused material.

Parts 27-36 cover evidence including hearsay, bad character and special measures.

Parts 37-41 cover the trial.

Parts 42-55 cover sentencing.

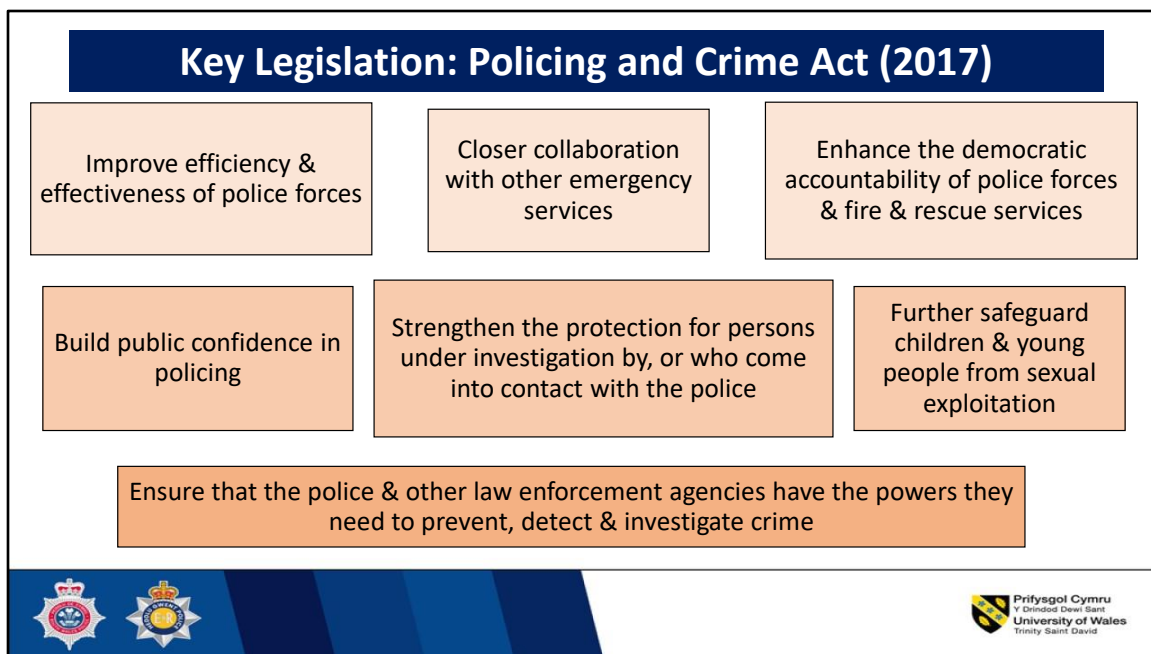
Parts 56-61 cover confiscation and related proceedings.

Part 62 covers contempt of court.

Parts 63-75 cover appeals in the magistrates court, the Crown Court and the Court of Appeal.

Part 76 covers costs.

The CPRC amends existing rules and adds new rules twice a year, which usually come into force each April and October. Guidance in the form of Gateway Notices is given on the main changes



The purpose of the Act is to further improve the efficiency and effectiveness of police forces, including through closer collaboration with other emergency services; enhance the democratic accountability of police forces and fire and rescue services; build public confidence in policing; strengthen the protections for persons under investigation by, or who come into contact with, the police; ensure that the police and other law enforcement agencies have the powers they need to prevent, detect and investigate crime; and further safeguard children and young people from sexual exploitation.

The Act is in nine parts:

Part 1 places a duty on police, fire and rescue and ambulance services to collaborate, and enables PCCs to take on responsibility for the governance of fire and rescue services. Further, it enables PCCs and combined authority mayors with responsibility for both policing and fire to put in place a single chief officer for both services. This part also seeks to strengthen the current inspection powers under the Fire and Rescue Services Act 2004 in order to ensure an independent inspection regime for fire and rescue services in England.

Part 2 reforms the police complaints and disciplinary systems, including the governance of the IPCC, provides for a new system of "super-complaints" and confers new protections on police whistle-blowers. This part also aims to further

strengthen the independence of HMIC and to ensure that it is able to deliver end-to-end inspections of the police, including by inspecting contractors and third parties who carry out policing functions.

Part 3 enables chief officers of police to confer a wider range of policing powers on police civilian staff and volunteers (excluding those reserved for warranted police officers) and confers on the Home Secretary a power to specify police ranks in regulations. This part also updates the core purpose of the Police Federation for England and Wales and makes it subject to the Freedom of Information Act 2000 ("the FOI Act").

Part 4 contains a number of reforms to police powers, including in relation to: pre-charge bail to introduce a presumption in favour of release without bail and statutory time limits and judicial oversight of extensions of bail beyond three months; a new offence of breaching pre-charge bail conditions that relate to travel restrictions in terrorism cases; powers to enable the retention of DNA profiles and fingerprints of those convicted outside of England and Wales; the powers under sections 135 and 136 of the Mental Health Act 1983 ("the 1983 Act") in respect of persons experiencing a mental health crisis, including banning the use of police cells for the detention of under-18s and reducing the maximum period of detention; the extension of police powers to investigate offences committed on vessels operating at sea where UK courts have jurisdiction; amendments to the Police and Criminal Evidence Act 1984 ("PACE") to ensure that 17 year olds who are detained in police custody are treated as children for all purposes, and to enable greater use of video-link technology; and cross-border powers of arrest to enable a person who commits an offence in one UK jurisdiction to be arrested without warrant by an officer in another jurisdiction.

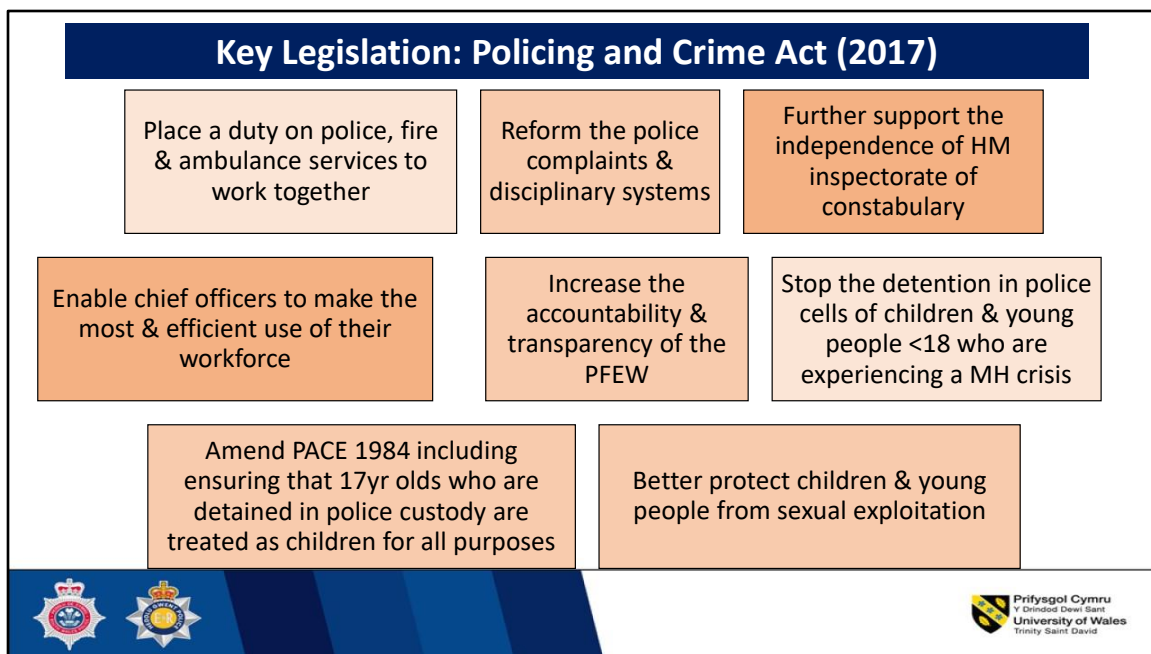
Part 5 makes further provision in respect of the term of office of Deputy PCCs to enable them to be eligible for appointment as an acting PCC in the event of the office of PCC falling vacant mid-term. This part also provides for changes to the names of police areas to be made by regulations.

Part 6 seeks to better protect the public by amending the Firearms Acts so as to close loopholes that can be exploited by criminals and terrorists and by ensuring that, through statutory guidance, there is a consistent approach by chief officers of police to the consideration of applications for firearm and shotgun certificates. This part also provides for the full cost recovery, through the levying of fees, of the Home Office's (and Scottish Government's) licensing functions in respect of companies trading in prohibited weapons, museums with firearms collections and shooting clubs. In addition, this part criminalises the possession of pyrotechnic articles at musical events.

Part 7 amends the Licensing Act 2003 ("the 2003 Act") to improve the effectiveness of the alcohol licensing regime in preventing crime and disorder, including provision for cumulative impact assessments and amendments to the late night levy.

Part 8 seeks to strengthen the enforcement regime for financial sanctions by increasing the maximum custodial sentence on conviction for breaching sanctions, expanding the range of enforcement options, including a new system of monetary penalties, and by providing for the immediate implementation of UN-mandated sanctions.

Part 9 contains miscellaneous and general provisions, including: to provide pardons for individuals, living or deceased, who were convicted of now repealed gay sex offences; an amendment to the Sexual Offences Act 2003 ("SOA") to provide that the offences in relation to child sexual exploitation cover the streaming or transmission of indecent images of children; introducing lifelong anonymity for victims of forced marriage; increases in the maximum sentence for more serious stalking and harassment offences; and a power to issue statutory guidance to local taxi and private hire vehicle licensing authorities in relation to the safeguarding of children and vulnerable individuals. This Part also contains provision to require arrested persons to state their nationality, for suspected foreign nationals to produce their nationality document(s) following arrest and for defendants in criminal proceedings to provide their name, date of birth and nationality to the court. It extends powers to seize cancelled British passports away from ports to invalid foreign passports and travel documents and restores littering powers for Scottish local authorities to issue litter abatement notices and street litter control notices.



The main provisions will:

place a duty on police, fire and ambulance services to work together and enable police and crime commissioners to take on responsibility for fire and rescue services where a local case is made

reform the police complaints and disciplinary systems to ensure that the public have confidence in their ability to hold the police to account, and that police officers will uphold the highest standards of integrity

further support the independence of HM Inspectorate of Constabulary and ensure that it is able to undertake end-to-end inspections of the police

enable chief officers to make the most efficient and effective use of their workforce by giving them the flexibility to confer a wider range of powers on police staff and volunteers (while for the first time specifying a core list of powers that may only be exercised by warranted police officers)

increase the accountability and transparency of the Police Federation for England and Wales by extending its core purpose to cover the public interest and making it subject to the Freedom of Information Act 2000

reform pre-charge bail to stop people remaining on bail for lengthy periods without independent judicial scrutiny of its continued necessity

stop the detention in police cells of children and young people under 18 who are experiencing a mental health crisis (and restrict the circumstances when adults can

be taken to police stations) by reforming police powers under sections 135 and 136 of the Mental Health Act 1983
amend the Police and Criminal Evidence Act 1984, including to ensure that 17-year-olds who are detained in police custody are treated as children for all purposes, and to increase the use of video link technology
amend the Firearms Acts, including to better protect the public by closing loopholes that can be exploited by criminals and terrorists
make it an offence to possess pyrotechnic articles at qualifying musical events
reform the late night levy to make it easier for licensing authorities to implement and put cumulative impact policies on a statutory footing
better protect children and young people from sexual exploitation by ensuring that relevant offences in the Sexual Offences Act 2003 cover the live streaming of images of child sex abuse
increase the maximum sentence from 5 to 10 years' imprisonment for those convicted of the most serious cases of stalking and harassment
confer an automatic pardon on deceased individuals convicted of certain consensual gay sexual offences which would not be offences today, and on those persons still living who have had the conviction disregarded under the provisions of the Protection of Freedoms Act 2012

PFEW – Police Federation of England & Wales

Key Legislation: Youth Justice & Criminal Evidence Act (1999)

This Act is in two main parts:

The first deals with a new sentencing disposal for the youth court

The second contains measures connected with giving evidence in criminal proceedings



The second part of the YYJCE Act will be dealt with in victims and witnesses.

Part I: Referrals to Youth Offender Panels

This introduces a new power for Magistrates in England & Wales to sentence young offenders by way of a referral to a youth offender panel focusing on:

Administration	Youth Offending Team	Monitoring of progress
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Part I - Referrals to Youth Offender Panels

14.

This introduces a new power for magistrates in England and Wales to sentence young offenders by way of a referral to a youth offender panel.

15.

It sets out the circumstances in which the new power will be available to the courts and the administrative arrangements for referral to a youth offender panel. It amends the Crime and Disorder Act 1998 to add to the functions of youth offending teams by giving them specific responsibilities for setting up youth offender panels and monitoring and recording the progress of young offenders subject to referral orders.

16.

It describes the arrangements for meetings between the panel and the young offender and for agreeing a contract between the panel and the young offender. The contract will set out a programme for the offender to follow.

17.

It describes the arrangements for monitoring the contract and the consequences for a young offender who fails to comply with the terms of the contract (and thus the referral order). It addresses the position of someone who is convicted of another offence during the referral period.

18.

It gives the Secretary of State the power to make regulations to extend the cases in which referral orders may be made and to issue regulations and guidance on such matters as the qualifying criteria for youth offender panel members and the possible components of the contract to be agreed with the young offender.

Key Legislation: Civil Evidence Act (1995)

An Act to provide for the admissibility of hearsay evidence, the proof of certain documentary evidence & the admissibility & proof of official actuarial tables in civil proceedings; & for connected purposes

The general rule is that everything is admissible if it is relevant to the facts. There are special rules however, concerning some sections of evidence

One of which is hearsay evidence, this is indirect evidence whether written or oral

S1 Civil Evidence Act 1995 states that all hearsay evidence is now admissible in civil proceedings



Students are encouraged to research this further

Evidence

Admissibility

The general rule is that everything is admissible if it is relevant to the facts. There are special rules, however, concerning some sections of evidence.

Hearsay Evidence – CPR 33

This is indirect evidence, whether written or oral. Section 1 Civil Evidence Act 1995 states that all hearsay evidence is now admissible in civil proceedings.

Definition: hearsay evidence is evidence made out of court, which is adduced in court to prove the truth of the matter stated.

There are three components:

1. Written or oral statement
2. Made on a previous occasion (out of court)
3. Adduced in court to show that the statement is true

Hearsay may be first hand or multiple:

- If you are going to rely on hearsay, you must give notice of intention to rely on hearsay evidence – s.2 CEA. This must

be couple with the reason the witness won't be at trial (CPR 33.2(1)).

- The effect of failure to serve notice is NOT that evidence is rendered inadmissible, but rather that it can have an effect on the weighting of the evidence, and any costs orders made in relation to it.

Witness Evidence – CPR 32

a) Witness Statements

A witness statement is a written statement which is signed by a person, and containing the evidence that the PERSON IS ALLOWED TO GIVE AT TRIAL (CPR 32.4).

A witness will generally not be allowed to give oral evidence at trial unless a witness statement has been exchanged with the other side beforehand (the idea being that it gives the other side notice of what evidence you will be using).

WITNESS SUMMARIES – if the witness is hostile and won't talk to you, but you intend to call them at trial, CPR 32.9 allows you to apply to court w/o notice for permission to serve a witness summary containing the evidence required].

b) Preparation of Witness Statements

See p.18 precedent materials

- CONTENT – work backwards – 1. What is your argument? 2. What is the legal basis? 3. What is the fact? 4. What must the witness prove to validate the fact?

- STYLE – first-person and using the words the witness would use.

- FORM – this is set out in CPR 32.8 (learn this properly – emphasis given in lecture) When a witness statement is drafted, it falls under litigation privilege as its only purpose is for litigation. This privilege is waived when it is given to the other side.

c) Exchange of Witness Statements

The parties must comply with court directions given for exchange of witness statements.

- CPR 32.10 – if a witness statement is not served within the specified time, the witness may not be called to give evidence unless the court gives permission.

- Provided the direction for exchange does not contain a penalty (or key date – CPR 29.5), you can try to agree an extension with the other side should you need one – CPR 2.11 and PD 29.6.5.

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