

## AC1.1 Evaluate the effectiveness of the roles of personnel involved in criminal investigations

**Scenes of crime officers:** work for the British police to gather, collect and process forensic evidence e.g. photographing evidence, recovering physical or biological evidence

**Forensics Scientists and Specialist:** duties depend on area of expertise. Some specialists spend their entire day in a lab, while others spend their days visiting crime scenes in search of evidence. Most specialize in a single area of forensic investigation, such as analysing fingerprints or photographing crime scenes.

**Police:** Usually first on a crime scene, with a vital role to safeguard the public and secure the crime scene in order to conserve evidence.

**Crown Prosecution Service:** The Crown Prosecution Service (CPS) prosecutes criminal cases that have been investigated by the police and other investigative organisations in England and Wales. The CPS is independent, making decisions independently of the police and government

**Pathologist:** A Forensic Pathologist is primarily involved identifying the cause of death and reconstructing the circumstances by which the death occurred.

**Other Agencies: National Crime Agency** (investigate serious and organised crime) **HMRC** (investigate fraud and tax evasion)



## AC1.4 Examine the rights of individuals in criminal investigations

**Stop and Account:** the police have powers to stop and ask you to account for your presence in a public space, your actions or your possession of a particular item

**Stop and Search:** police have 19 different powers of stop and search e.g. for drugs, firearms and stolen goods

**Police power of arrest:** under section 24 of the police and criminal evidence act 1984, police may lawfully arrest you as a suspect without a warrant from court if; you have been or are suspected to have been involved or if the officer has reasonable ground to believe the arrest is necessary.

**At the police station:** you will be handed over to the custody officer (ranked sergeant or above). You will be searched and held in a cell. You possessions will be looked after.

**Rights when being questioned:** The rights to silence- You don't have to answer the police's questions, but this might harm you later on. Right to legal advice- You have the right to free legal advice, including the right to have a solicitor present during questioning.

**Fingerprints, photographs and samples:** The police have the right to take photographs of you, as well as fingerprints and a DNA sample. They don't need your permission to do this, and can use reasonable force if necessary. The police need your permission and the authority of a senior police officer to take blood or urine samples (except when taking them in connection with drink or drug driving)

**How long you can be held without charge:** Police can hold you in custody for up to 24 hours. After that, they have to either charge you with a crime or release you. Serious crimes can be held for 36 hours. After this, the police can detain you for a further 96 hours with the approval of a magistrate. If arrested for a terrorist offence, this can be extended to 14 days

**Rights of appeal:** If you are convicted for an offence, you have certain rights of appeal. These depend on two factors: The type of court- magistrates or crown. Whether you are appealing against the conviction or the sentence. If you were tried in a magistrates court you can automatically appeal for your sentence and your conviction (if you pleaded not guilty). If you were tried in a Crown court, you have no automatic right to appeal (a judge decides whether to allow it)

**Rights of the victim:**

**When reporting a crime:** When you report a crime, the police must give you written confirmation, a crime reference number and contact details for the officer dealing with your case. They must also: Tell you what will happen next and how often they will update you.

**During the investigation:** The police must give you updates and tell you when the suspect is arrested or charged, set free or released on bail, or given a caution. If the police drop the charge, they must also tell you. If you disagree then you can ask for a review

**Rights during court proceedings:** CPS must tell you when and where the trial will be. If you have to give evidence, a Witness Care Officer will support you before and during the trial. If the defendant is convicted, you may be able to read your Victim Personal Statement to the court.

**Rights of vulnerable victims:** You are also entitled to extra support if you are the victim of a serious crime (wounding, attempted murder, domestic abuse, sexual offences, kidnapping, hate crime, human trafficking or terrorism). Vulnerable victims are entitled to receive information more quickly, to be given specialist advice

**Rights of witnesses:** The Witness Charter sets out standards of care for witnesses that should be provided by the police, the Crown Prosecution Service, court staff, the Witness Service and defence lawyers. These standards include the following: Witnesses will have a main point of contact throughout the process who will keep them informed of the progress of the case. Measures to ensure that the court is a safe environment and that prosecution and defence witnesses wait in separate areas. Information about the court process in advance of giving evidence so witnesses know what to expect. Prosecution witnesses will be informed of any appeal against conviction or sentence.

## AC1.2 Assess the usefulness of investigative techniques in criminal investigations

**Profiling Techniques: Top-down approaches e.g. typological** start with pre-established typology's and deciding which the offender best fits into. **Bottom-up approaches e.g. clinical, geographical, investigative psychology** are evidence based, profilers work up from evidence collected at the crime scene to develop ideas about likely characteristics, motivations and social background of the offender

**Interviews: Eye Witness Testimony** accounts are given by witnesses to a crime and are generally accepted as accurate accounts of the crime. Police can interview **experts and specialists** for information and advice on different aspects of their investigation

**Surveillance: CCTV** is used by police in criminal investigations as it can given 24 hour coverage of a location, provide a visual record of a crime and help to identify a perpetrator. **Covert Surveillance** is planned in advance by police and those being monitored are NOT aware that they are being monitored e.g. GPS tracking devices, intercepting mail, phone tapping, static surveillance such as unmarked police vehicles, Covert Human Intelligence Sources

**Forensics:** Scientific techniques used to assist in investigating crime. Forensic evidence includes. Blood, semen, skin flakes, hair, fingerprints, shoeprints, weapons, clothing fibres. This can be analysed and used to identify perpetrators

**Intelligence Databases:** a storage space for information about crime/criminal that has been obtained from many sources but collated into one area that is accessible by selected people e.g. police officers. Examples include the Police National Computer and CRIMINT.

## AC1.3 Explain how evidence is processed

**Physical evidence** includes blood, semen, saliva, skin flakes, hair, finger prints, bite marks, shoeprints, tyre marks. Physical evidence must be collected, transferred and stored correctly to preserve it. This include use of protective equipment e.g. gloves, overshoes, hazmat suit

**Testimonial Evidence** include written or spoken statements given to the court by a witness, to support either the defence or prosecution

**Inadmissible Testimonial Evidence** is evidence that is not considered when reaching a verdict and includes Hearsay evidence: repeating a rumour they have heard. Forced confession: where violence or threats have been used to extract a confession. Entrapment: where police have tried to trick the defendant into committing or confessing to a crime.





## AC2.1 Explain the requirements of the Crown Prosecution Service for prosecuting suspects

**The Charging Role:** Advise the police in their investigations about lines of inquiry and about what evidence might be required to build a case. Independently assesses the evidence submitted by the police and decides whether to prosecute, and if so, what charges should be brought. In order to make their decision about whether to prosecute, the CPS applies tests that are laid down in the Code for Crown Prosecutors.

**The Full Code Test:** Is there enough evidence to get a realistic conviction against a suspect? Is the evidence admissible? E.g could it be ruled out as hearsay? Is the evidence reliable? E.g are witnesses truthful? Is the evidence credible? (believable).

**The Public Interest Test:** Is a prosecution in the public interest? How serious is the offence? What is the suspects level of culpability. E.g what was their level of involvement, was the offence planned, did they benefit? Any previous convictions? What harm has the victim suffered?

**The Threshold Test:** In some cases, a suspect may still be charged even if the evidence requirements of the Full Code Test cannot be met. In these cases the Threshold test must be applied. 5 conditions, all of which must be met before a suspect can be charged: There must be reasonable grounds to believe the person has committed the offence. There must be reasonable grounds to believe further evidence can be obtained that will provide a realistic prospect of conviction. The crime is serious enough to justify charging the suspect immediately. There must be substantial grounds to object to bail – e.g. a suspect who is likely to interfere with witnesses. It must be in the public interest to charge the suspect

## AC2.2 Describe trial processes

**Offences:** There are 3 types of criminal offence in terms of their seriousness and where they can be tried;

- **Indictable** serious crimes such as murder, treason, rape, robbery and GBH. These must be tried in a crown court
- **Summary** less serious cases such as many motoring offences and assaults without injury. These are usually tried in a magistrates' court
- **Triable either way** theft, fraud, burglary, handling stolen goods, assault (ABH) and criminal damage. These can be tried in either a magistrates or a crown court.

**Plea:** before a trial begins, the defendant will be read out the charge and asked to please guilty or not guilty:

- **Guilty** magistrates hear evidence of aggravating and mitigating factors. They then pass sentence immediately or adjourn the case for reports before sentencing at a later date. If the offence is too serious, it will be sent to the Crown Court for sentencing
- **Not Guilty** magistrate must make a decision about reports, legal aid and bail before the trial can go ahead.
- **Plea Bargaining** This is an agreement between the prosecutor and defendant, where the defendant agrees to plead guilty in return for some concession from the prosecutor.

**Legal Aid:** legal aid exists to enable individuals who could not afford to pay a lawyer, to have access to one

**Bail:** This is the temporary release of an accused person whilst they are awaiting trial. Everyone has the right to bail, 'innocent until proven guilty'

- **Unconditional Bail** the court imposes no conditions, except to attend court as required
- **Conditional Bail** the court imposes conditions that the offender must agree to. E.g. report to a police station every day, not contact certain persons, abide by a curfew. If a court refuses bail or the defendant breaches conditions, they may be remanded in custody until their trial.

**Courts:**

- **Magistrates** the majority of cases are first heard here, and over 95% decided. Local courts that deal with least serious offences. There are usually 3 magistrates (members of the community without legal qualifications - laypeople), who are assisted by a legally qualified clerk. Magistrates can impose fines of up to £5000 and custodial sentences of up to 6 months.
- **Crown** deals with indictable offences e.g. murder, rape. Will include a jury of 12 members of the public. A judge is present to ensure the trial is fair and protects the defendants human rights, as well as advising the jury on point of law, court procedures and their duties as jurors.

**Appeals:** If you are convicted of an offence, your right to appeal depends on: The type of court that convicted you - Magistrates court or Crown court and whether your appeal is against your conviction or just your sentence. If you are tried in a magistrates court you have an automatic right to appeal. If you are tried in a crown court, there are no automatic rights to appeal – you must seek 'leave to appeal' (permission) within 28 days.

## AC2.3 Understand rules in relation to the use of evidence in criminal cases



**Relevance and Admissibility:** How true is the evidence:

- **Credible** does the court believe that the witness was telling the truth? If so, were there any other prevailing conditions that may have made it impossible for the witness to see clearly.
- **Authentic** a document presented in evidence may be forged.
- **Accurate** is the evidence of an expert in fact supported by the rest of the scientific community? E.g. Professor Sir Roy Meadow and his cot death statistics.
- **Relevance** The law makes a distinction between two types of fact in a trial: Facts in issue- the matters in which are in dispute in a case and which the court have to decide about. Relevant facts- facts that are needed in order to prove or disprove the facts in issue.
- **Admissibility of Evidence** Not all evidence may be admissible in court. There are several types of evidence that may not be allowed by the judge or magistrates: Illegally obtained evidence- this is obtained by breaking the law or violating a person's human rights. This would include evidence obtained in an illegal search conducted without a warrant, and using torture or degrading treatments to obtain a confession. Improperly obtained evidence- includes the use of entrapment (deception).
- **The right to remain silent** The accused doesn't have to prove their innocence and so in theory doesn't have to provide any evidence. However, the Criminal Justice and Public Order Act 1994 allows the jury to draw inferences about a defendant's guilt if they remain silent in the following circumstances
- **Failure to answer police questions** when questioned under caution, failure to answer can be used as evidence to infer the defendant's guilt. So too can failing to account for a particular object or their presence in a particular place. Failure to testify in court- may be used to infer the defendant's guilt, unless they can give a reason for not doing so that the jury finds acceptable.
- **Evidence of bad character** The Criminal Justice Act 2003 defines bad character as 'evidence of or disposition towards misconduct'. Misconduct includes previous convictions and cautions as well as things such as racism, bullying and bad disciplinary record at work. Bad character evidence is only admitted under certain circumstances, such as when it shows that the defendant has a tendency to lie. Character evidence cannot be used in relation to non-defendants (such as victims, police officers, witnesses). Feminists have criticized the tendency in rape cases for defence lawyers to introduce evidence about the victim's sexual history

**Disclosure of Evidence:**

- **Prosecution:** The prosecution has a duty to: Notify the accused of all the evidence they intend to rely on. Make available to the defence any unused material relevant to the case that they do not intend to present in court. Unused materials include anything that might undermine the prosecution's own case or assist the defence's case
- **Defence:** The defence must also disclose certain information. Including the nature of defence they intend to offer. They do not have to disclose unused material

**Hearsay Rule and Exceptions:** hearsay is any statement that has been made by someone out of court to a witness who is appearing in court, and which the witness wishes to rely on as evidence of a fact. There are exceptions e.g. all parties agree, the judge rules it is in the interests of justice, the witness themselves is unable to testify

## AC2.4 Assess key influences affecting the outcomes of criminal cases

**Evidence:** Before the case can even go to court, the police must provide enough evidence to the CPS. Once the case goes to court, the prosecution will present evidence and arguments against the defendant. The defence will challenge the prosecution case, cross-examining the prosecution witnesses on their evidence. By the end of the trial, the prosecution must have convinced the jury or magistrates that the accused is guilty beyond reasonable doubt. Otherwise the defendant must be acquitted.

**Witnesses:** Both parties are entitled to call witnesses to give evidence. This would normally have to be done in court, with two exceptions: Where witness evidence is agreed by both parties, it can be given in the form of a written statement. Vulnerable or intimidated witnesses may be allowed to give their evidence by a live video link or video recording rather than attending court. Or behind a screen in court to protect their identity. Can be called from both sides to give evidence, they are then usually cross-examined by the alternative side.

**Experts:** Expert witnesses are people with specialist knowledge that ordinary members of the public do not have. In complex cases that rely heavily on technical evidence, the testimony given by expert witnesses can be crucial in determining the outcome of the case. Jurors, who have little specialist knowledge, rely heavily on expert witnesses. A danger is assuming that the expert is always right, or misinterpreting what they say- this can lead to miscarriages of justice like in the case of Sally Clark.

**Barristers and Legal Teams:** Barristers and solicitors are both qualified lawyers. Work in higher level courts where they act as advocates speaking on behalf of clients (either the defence or the prosecution). Barristers will often be briefed on the case by a solicitor, who will prepare relevant papers and gather evidence for the barrister to use in court. The quality of the barristers can affect outcome of the case- a more eloquent, persuasive or charismatic barrister might sway a jury's decision.

### Judiciary:

- **Affecting the Verdict** The judge is an expert in the law and in legal procedure. In a trial, the judge has several key powers and responsibilities: To clarify the law for the jury and direct them on how it is to be applied in the case they are trying. To rule on the admissibility of evidence and on whether the line of questioning taken by the prosecution or 16 defence is permissible. To sum up the main issues and evidence in the case for the jury before they retire to consider their verdict. The judge also has the power to dismiss a case, order a retrial or even direct the jury to bring in a particular verdict. They jury does not have to follow their direction
- **Juryless Trial** Under the Criminal Justice Act 2003, a judge may sit without a Jury: Where there is a risk of jury tampering. In complex fraud cases, in which a jury might have difficulty understanding, or in attending court for months on end.
- **Judicial Bias** Bias may arise for several reasons: Class background- judges come mainly from the higher social classes. In 2019, 65% of senior judges were privately educated, and 75% had attended Cambridge or Oxford. Gender- 65% of judges are male.

**Politics:** Laws have two main sources: Common law- comes from precedent, in which courts follow rulings made by judges in previous cases. Statute law- made by Parliament passing Acts or statutes. The government proposes legislation, which Parliament then debate and sometimes amend. Parliament can therefore affect the criminal law and the outcome of cases in three ways:

- **Creating new offences-** for example, following a media-inspired moral panic, Parliament passed the Dangerous Dogs Act 1991, outlawing certain dog breeds.
- **Abolishing existing offences-** parliament can repeal or amend existing laws that previously made something a crime.
- **Changing the penalties-** for example, parliament abolished the death penalty for murder in 1965.

### The Media:

- **Moral Panic** this can affect sentencing and law creation. For example, the London 2011 riots and the Dangerous Dogs Act 1991
- **Trial by Media** High profile cases attract a great deal of media interest. This may make a fair trial impossible. Cheryl Thomas found that 1/5th of jurors serving on a high-profile case said they found it difficult to disregard pre-trial media coverage of the case.



## AC2.5 Discuss the use of laypeople in criminal cases

**Juries:** In most Crown Court trials, the verdict is normally decided by a jury of 12 laypeople. They hear the evidence and arguments put forward by the prosecution and defence. They then retire from the courtroom and decide whether they find the defendant guilty, not guilty or guilty of a less serious crime. If guilty- they must be convinced beyond reasonable doubt. The jury's decision is taken in secret and it is a criminal offence for anyone to question jurors about their verdict or how they reach it. Jurors cannot disclose their deliberations. Selected at random by a computer from the names on the electoral register. Those selected will receive a summons to attend court and it normally lasts around 2 weeks. To be eligible: Be 18-75. Be a citizen of the UK, Irish Republic or a British Commonwealth Country, Have resided in the UK, the Channel Islands or the Isle of Man for 5 years, Not be disqualified (on bail, received a prison sentence of 5+ years), Not exempt (medical grounds, have a holiday booked)

**Law Magistrates:** Unpaid, part-time volunteers who are members of their local community. Receive training, but they are not legally qualified- but assisted by a legally qualified clerk who advises them on law and procedure.



## AC3.1 Examine information for validity

**Evidence:** Before the evidence can be used in court, the CPS requires the evidence to be: Admissible, Reliable, Credible. This indicates that it may be valid, but it is not guaranteed. The defence can demonstrate inconsistencies or shortcomings during cross-examination.

**Trial Transcripts:** A complete and exact written record of every word spoken in court by the judge, lawyers, witnesses and defendant. Anyone can apply for a transcript of a court hearing, however, the court can refuse to provide one. For example, if the hearing was confidential.

**Media Reports:** Can be used for: Evidence that can be used in an appeal. E.g. a defendant might show irregularities in the proceedings or a biased summing up by the judge. Parole boards use them to consider a prisoners application to be released on parole. Recognised as highly valid sources of information. They are simply the words spoken in court as they were spoken. Therefore, there is no need for someone to remember the words

**Judgements:** Judgements made by courts are not always valid. This can be due to several reasons, such as unintentional bias and unconscious stereotyping and incorrect rulings by judges and coroners. Unbiased judgements is essential if defendants are to receive a fair trial, but research shows that unconscious biases can influence the judgement of jurors e.g. race, gender.

**Law Reports:** Reports of decisions made by courts. They are published on a regular basis- many of them weekly. Their purpose is to inform lawyers and judges about important judgements in the courts and to prevent two courts reaching differing decisions on identical facts.

## AC3.2 Draw conclusions from information

**Just Verdicts:** A just verdict is one that is deserved, lawful and proper. It is a verdict that does justice to the facts of the case, finding the guilty, guilty and the innocent not guilty. The jury does not always produce verdicts that are just e.g.

- **The Double Jeopardy Rule** This stopped prosecutors repeatedly prosecuting someone until they were found guilty. Certain cases, it becomes clear that a not guilty verdict was unjust this can happen due to the offender admitting that they had done it, or new evidence coming to light.
- **Jury Equity or Jury Nullification** Sometimes the law seems unjust- therefore the jury deliberately reject the evidence and decide to acquit the defendant. Juries sometimes do this when they believe the existing law or the punishment is unfair. If juries consistently refuse to convict defendants for particular crimes, this sends a signal to the law makers that the law needs changing.

**Unsafe Verdicts and Miscarriages of Justice:** This is where the innocence of the appellant (the person making the appeal), is proven. This is usually down to new evidence. If the court of appeal decides that a conviction is a miscarriage of justice, then there will not normally be a need for a re-trial.