

Evidence, Investigations and Police Intelligence Review Notes

Interviewing

5WH – who, what, where, why how

PEACE Model – Planning and Preparation, Engage and Explain, Account, Closure, Evaluation

Conversation Management - Uses PEACE Model, ideal for suspects not willing to give knowledge

Cognitive Interviewing

- Facilitating recall of event from eye witness memory, reconstruction, ideal for witnesses, victims
- Five principles of memory retrieval
 - Context recreation, focused concentration, varied retrieval, extensive retrieval, multiple representations

Identification Evidence

Detection v Evidentiary Phases

- Evidence of ID from photographs, considered poor and its intrusion into the evidentiary phase is only tolerated when used in the detection phase
 - o Photographs ONLY USED IN DETECTION PHASE

Positive v Circumstantial ID Evidence

- Positive as direct evidence: “he’s the one who...”
- Positive as circumstantial evidence: “he’s the one at the scene...”
- Circumstantial identification evidence: “he sort of looks like...” – not enough!

Common Law Identification

- Matter of weight rather than matter of admissibility
- Court make a judgement on quality/admissibility of the ID evidence gathered
- Alexander v The Queen: variables of identification, human perception, mind to respond to suggestions.
 - “No ID parade was held, although no valid reason has been advanced for failing to arrange such a parade”
- Reg v Russell: affected by fallibility of human perception, two dimensional, “rogues gallery”, “displacement” effect
- Regina v Carusi: “Christie discretion” – prejudicial value outweighs probative value

S.114 & S.115 Evidence Act Identification – scenarios “most likely include”

- Matter of admissibility
- S.114: Exclusion of visual identification evidence:
 - o Visual identification evidence does not include picture identification evidence
 - o Visual identification evidence is not admissible unless:
 - ID parade included defendant was held
 - It was not reasonable to hold it

- S.115: Exclusion of evidence of identification by pictures
 - o Picture identification evidence is not admissible if the pictures examined suggest the person is in custody (mugshots)

Search & Seizure

LEPRA S.21 – without a warrant, stop/search/detain if suspects on reasonable grounds

- Something unlawfully obtained
- Used in a relevant offence (firearm/weapon)
- Dangerous article in public place
- Prohibited drug or plant

And may seize and detain

LEPRA S.36 (1) – without a warrant, stop/search/detain a vehicle

- Something unlawfully obtained
- Used in relevant offence
- Dangerous article in public place
- Prohibited drug or plant
- Pose serious risk to public safety

LEPRA S.36 (2) – without warrant, stop/search/detain a class of vehicles on a road, road related area, public place, school

- Used in indictable offence
- Serious risk to public safety

And may seize and detain

Search and Seizure after arrest:

LEPRA S.23 – power to carry out search and arrest

- Arrested or present at the arrest may search for
 - o Anything presenting a danger
 - o Assisting in escape
 - o With respect to offence committed
 - o To provide evidence
 - o Used in commission of offence

LEPRA S.24 – power to carry out search of a person in custody