

Table of Contents

ARREST	3
R v Rondo (2001)	4
DPP v Carr (2002)	4
Tasers	Error! Bookmark not defined.
Detention for the purpose of questioning	Error! Bookmark not defined.
Admissibility of Confessions	Error! Bookmark not defined.
Right to Silence	Error! Bookmark not defined.
DRUGS	Error! Bookmark not defined.
Supply	Error! Bookmark not defined.
Possession	Error! Bookmark not defined.
Deemed Supply	Error! Bookmark not defined.
Without Arrest	Error! Bookmark not defined.
POLICE SEARCH POWERS	Error! Bookmark not defined.
With consent/no arrest	Error! Bookmark not defined.
With arrest	Error! Bookmark not defined.
BAIL	Error! Bookmark not defined.
DOLI INCAPAX	Error! Bookmark not defined.
DRUG DETECTION DOGS	Error! Bookmark not defined.
ATTEMPTED ACTS	Error! Bookmark not defined.
OFFENSIVE CONDUCT	Error! Bookmark not defined.
.....	Error! Bookmark not defined.
RIOT/AFFRAY	Error! Bookmark not defined.
RIOT	Error! Bookmark not defined.
AFFRAY	Error! Bookmark not defined.
CONSORTING	Error! Bookmark not defined.
Move on powers	Error! Bookmark not defined.
General	Error! Bookmark not defined.
Intoxication	Error! Bookmark not defined.
.....	Error! Bookmark not defined.
Impossible Attempts	Error! Bookmark not defined.
Assembly	Error! Bookmark not defined.
MENS REA	Error! Bookmark not defined.

STRICT LIABILITY Error! Bookmark not defined.
ABSOLUTE LIABILITY Error! Bookmark not defined.
Coincidence between AR and MR Error! Bookmark not defined.
ACTUS REUS Error! Bookmark not defined.

ARREST

- Reasonable Grounds Test (RONDO, s99(1)(a) LEPR)
- Reasonably Necessary Test (CARR, s99(1)(b)(i-ix) LEPR)
 - Reasonable Force Consideration (s230 and s231 LEPR)
 - Improper Conduct Consideration (Lake v Dobson, Carr)

The right to arrest is outlined as a two-part step in **s99 LEPR**. The first step is laid out under **s99(1)(a)** and is the 'reasonable grounds test'.

Step 1: Reasonable Grounds Test

The Police officer must suspect on Reasonable Grounds that the person is committing or has committed an offence. As per **Rondo**, reasonable grounds means 'Less than a reasonable belief, but more than a possibility'.

Once the RG Test has been satisfied, the second step for a right to arrest is outlined in **S99(1)(b)**. This is the 'reasonably necessary test'

Step 2: Reasonably Necessary Test

As per **Carr**, the Police Officer must be satisfied that the arrest is reasonably necessary for any 1+ reasons listed in **s99(1)(b)(i)-(ix)**.

(i)	To stop the person committing or repeating the offence or committing another offence
(ii)	To stop the person fleeing from a police officer or from the location of the offence
(iii)	To enable inquiries to be made to establish the person's identity if it cannot be readily established, or if the police officer suspects on reasonable grounds that identify information provided is false
(iv)	To ensure that the person appears before a court in relation to the offence
(v)	To obtain property in the possession of the person that is connected with the offence
(vi)	To preserve evidence of the offence or prevent fabrication of evidence
(vii)	To prevent harassment of, or interference with, any person who may give evidence in relation to the offence
(viii)	To protect the safety or welfare of any person (including the person arrested)
(ix)	Because of the nature and seriousness of the offence

Consider whether the force used for the arrest was reasonable:

Step 3: Reasonable Force (Tasers; Ali Alkan, Bugmy, Curti)

S230 LEPR: Power to use force	It is lawful for a PO in relation to an individual or a thing, and anyone helping PO, to use force as reasonably necessary
S231 LEPR: Power to use force for arrest	A PO who exercises power to arrest may use such force as reasonably necessary to make the arrest and prevent the escape of the person after arrest

Consider If the arrest was used as a last resort. If not - then it was improper. This triggers step 4: Improper conduct.

Step 4: Improper Conduct

Although the officer satisfied steps 1 and 2, they did not satisfy the *Claw* principle of arrest as a last resort. As *Samuels JA* emphasised in *Lake v Dobson* (1991), arrest, for the majority of people... should be reserved for situations where it is clearly necessary. In this situation, the power of arrest was not exercised lawfully and properly.

Justification:

DPP V Carr (2002) → Arrest should be used as a last resort, and not be used for minor offences and in circumstances where the D's name and address are known (a summons will suffice).

DPP v Carr (2002)

Arrest can be lawful but improper, therefore inadmissible under s138 Evidence Act.

Key Statement

'If power of arrest is used inappropriately for a minor offense, and the offender reacts by committing an offence such as resist arrest/ assault police, evidence of these latter offences may be excluded in the exercise of the courts discretion.'

Facts

- Police vehicle hit by rocks, and Constable Robins approached Carr and friend to ask who did it
- Carr, believing he was a subject (he wasn't) became angry and started swearing
- CR announced he would arrest Carr for offensive language
- Carr pushed CR and ran away → subsequently crash tackled to the ground, taken into custody and charged with intimidation to police

Held

1. **Arrest was improper under s138 Evidence Act for the following reasons:**
 - a. Carr was a long term resident, no question as to his identify and place of residence;
 - b. CR was aware it was open to him to proceed by way of summons or field CAN
 - c. Chose to arrest because it was 'far quicker' than issuing field CAN (yet book was in his car)
2. **Arrest was lawful:** done with integrity and in good faith. But did not satisfy statutory test of proper.

R v Rondo (2001)

1. Suspicion is less than a reasonable belief, but more than a possibility – with regard given to:
 - a) the **subjective** mind of the officer at the time of the suspicion **and then**
 - b) whether that information afforded **objective** reasonable grounds for the suspicion that the officer formed.
2. Where a vehicle is stopped unlawfully, it becomes a matter for the Court's consideration whether evidence obtained as a consequence revealing a criminal offence should be admitted (s138 Evidence Act).

Facts

- Young man driving fancy car, so police stopped him assuming it was stolen
- As they walked towards the car they saw the driver putting something in glovebox. They searched the car and found marijuana.

Held

1. **Police pulling appellant over was unlawful as there was no reasonable suspicion**
 - a. Pulling someone over because they have a nice car is not sufficient to give rise to reasonable

suspicion (could have been parents car).

2. Evidence collected **could, however, be submitted**

- If stopping was not lawful, then subsequent search is assumed illegal and police cannot enjoy fruits of their own illegal conduct

However, held that just because police unlawfully stop a vehicle, this does not stop them from investigating any other offences that have been