Handout 4 Criminal procedure

## **Terminology**

1. Which law governs this area of law? (*Try to think about a general title*)
2. Why is the word **police officer** more appropriate than policeman?
3. Provide a sentence with the expression “**criminal proceedings”**. In which context would you use “**criminal procedure”**?
4. If you see some people commit a crime, you need to \_\_\_\_\_\_\_\_\_\_\_\_\_ it to the police.
5. Which activities can the police undertake to collect evidence? Provide at least 3.
6. “A **reasonable suspicion** is more than a hunch.” Explain.
7. Why are **investigatory powers** of the police strictly regulated in most countries?
8. The place where a crime has been committed is known as \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
9. He was **Mirandized**. Explain the etymology of the word *to Mirandize (mirandize)*.
10. He was **cautioned** by the police. The expression **police caution** can have two meanings. Explain them.
11. “To **lay an information**, a complainant must set out the allegations in a prescribed form.” *In terms of grammar, do you find any element incorrect? If so, do you have any explanation for this?*
12. The authorities may call in the army to **apprehend** alleged offenders. *Explain the meaning of “apprehend” and provide a synonym*.
13. Label the following examples of evidence: *instagram posts containing threats; a gun; an expert witness*
    1. Testimonial evidence
    2. Documentary evidence
    3. Real evidence
14. Although the prosecution claimed that she had stolen over $222,000,000 from the Filipino treasury, its case rested largely upon **circumstantial evidence**. *Explain what is meant by circumstantial evidence.*
15. Which document is issued to ask a witness to appear in court?
16. Graham Watson confirmed this statement to the police and confirmed it again \_\_\_\_\_\_\_\_\_\_ **oath** at the trial.
17. If somebody does not want to **take an oath**, they can **affirm**. *What could be the motivation for affirming rather than swearing an oath?*
18. What is the difference between an **eye witness** and a **hearsay witness**?
19. Is a child a **competent witness**?
20. What does a **district attorney** do?
21. He was \_\_\_\_\_\_\_\_\_\_\_\_\_ (ALLEGATION)  selling heroin to an addict.
22. What is the role of the **grand jury** in the US?
23. What happens during an **arraignment**?
24. What would you call a formal charging document presented to the court?
25. The suspect is now out **on bail**. *Explain.*
26. Provide 2 examples of **bail conditions**.
27. The Essex police opposed bail, and Martin was **remanded in custody**. *Explain what happened to Martin.*
28. The hearing was \_\_\_\_\_\_\_\_\_\_\_\_\_\_ until 13 May.
29. Who can apply for **legal aid**?
30. Explain what a **summary trial** is. It is usually contrasted with a trial on \_\_\_\_\_\_\_\_\_\_\_\_\_\_ .
31. Who is a **magistrate**?
32. What kind of conduct would lead to a **contempt of court**? What sanctions could be imposed?
33. The court can **adjudicate** on this dispute. *Provide a synonym for “adjudicate”*.
34. If the judge has **discretion**, it means that ….
35. The Court of Appeal **quashed** his conviction. *Explain what happened to his conviction.*
36. What is the opposite of the **adversarial system**?
37. A \_\_\_\_\_\_\_\_\_\_\_\_ of proceedings is a ruling by the court that halts further legal process in a trial.
38. Who is a **counsel** in a trial?

## **Video: Silk 2**

1. Why is it advisable for barristers to see their clients in the presence of a solicitor?
2. What was Martha’s strategy for the aggravated burglary trial? “The big question is whether….”
3. Gary Rush: “From where I’m standing, you look a bit lightweight, frankly.” – What did he mean by this comment?
4. What is the advantage of pleading guilty at an early stage of a trial?
5. In your opinion, how well did the solicitor do his job?
6. Explain the phrase “she will lose her baby into care”.
7. Martha and Clive were co-defending. What do you know about the 2 co-defendants?
8. Why was there no proper trial in the drugs mule case?
9. Why was Martha cross with Clive?

## **Judges, Magistrates, Lawyers, Jurors**

1. *Are you paid?*
2. *Do you need any training / qualification?*
3. *Is it difficult to become a judge/magistrate/lawyer/juror?*
4. *What is your role in the court proceedings?*

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| **Judges** | **Lawyers** | **Juries** | **Magistrates** |
| To become a judge you must be legally qualified and must have previous experience in the courts. | To become a lawyer you only need to be legally qualified and qualified to appear in the courts. No experience is needed. | Juries don't need any qualifications – they are selected at random and it is seen as a public duty. This is the public's way of helping out in the legal system. | Magistrates are not qualified either but they do receive some training especially in the first three years after their appointment. |
| The role of the judge is to preside over the trial. He or she does this by making sure all parties follow procedures and rules. This is very important to the trial. This ensures that no party is treated unfairly. | The role of the lawyer is to prepare a case for their clients. The lawyer is there to act as an advocate (legal representative). The lawyer will assess the strength of the evidence when putting the case together. An important role of the lawyer is to advise their client on the chances of success. | Members of the jury listen to the evidence that they have heard or seen. Their role is not only important as it represents a 'trial by one´s peers', but can be difficult due to the amount of evidence or its nature such as forensic evidence. | The role of the Magistrates is to adjudicate in the case of a summary trial. Magistrates are expected to have a range of skills and qualities which enable them to effectively deal with criminal cases. |
| Judges must act impartially and without bias. Judges are appointed to a case in view of their qualification and experience which will help them deal with the case. | Lawyers come about when they are appointed by a client. Lawyers must also act responsibly towards the court. Their role means that they present their client's case and argue points of law and question witnesses. | Juries are there to decide on the question of whether the defendant is innocent or guilty. The burden of proof in criminal cases is 'beyond all reasonable doubt' – in other words 'can they be sure'. In civil cases the burden of proof is 'on the balance of probabilities' which is lower. | 97% of criminal cases are dealt with by  Magistrates' Courts. The remaining more serious cases are sent to the Crown Court. |
| Judges have the responsibility to direct and help the jury as to what the law is. The judge will also sum up the evidence for the jury towards the end of the trial. | Lawyers also make opening and closing speeches about their client's case. Defence lawyers will advise their clients about their rights of appeal. | Juries are not allowed to divulge information about their deliberations in the jury room. | Magistrates don't work with a jury. Magistrates decide the case themselves. Magistrates are helped by a legal adviser as to the law. |
| Judges receive a salary. | Lawyers are often self-employed (work for themselves) and are paid according to the amount of work they do.  They will be paid on a case basis. | Jurors receive expenses only.  They are not paid as such. | Lay Magistrates are unpaid volunteers. Magistrates receive expenses. |
| One criticism of judges is that they come from an elitist background. | Solicitors and Barristers come from a wider background, there are criticisms that Barristers also tend to come from an elitist background. | Juries are selected at random from the Electoral Roll so this tends to negate any problems over background. | Magistrates are more involved with the community but there can be criticisms that they are 'middle aged, middle class and middle minded'. |

*http://www.lawmentor.co.uk*

## **Glossary**

1. to suspend or delay the hearing of a case
2. a non-religious alternative to the oath sworn by someone about to give evidence in court or swearing a statement
3. the formal process of putting charges to the defendant in the Crown Court, which consists of three parts: (1) calling him to the bar by name, (2) putting the charges to him by reading from the indictment and (3) asking him whether he pleads guilty or not guilty.
4. a barrister
5. the document containing the formal charges against a defendant – a trial in the Crown Court cannot start without this
6. formal undertaking to pay the Crown a specified sum if an accused fails to surrender to custody
7. an objectively justifiable suspicion that is based on specific facts or circumstances and that justifies stopping and sometimes searching a person thought to be involved in criminal activity
8. a formal warning that is given by the police to a person who has admitted the offence
9. a solemn promise, often invoking a divine witness, regarding one's future action or behaviour
10. indirect evidence
11. an order to appear before a judge
12. a group of people in the US selected to sit on a jury that decide whether the prosecutor's evidence provides probable cause to issue an indictment
13. the provision of assistance to people who are unable to afford legal representation and access to the court system
14. the crime of being disobedient to or disrespectful toward a court of law
15. to settle judicially
16. to nullify by judicial action
17. a legal system where the judge is actively involved in the trial, examination of witnesses, etc.