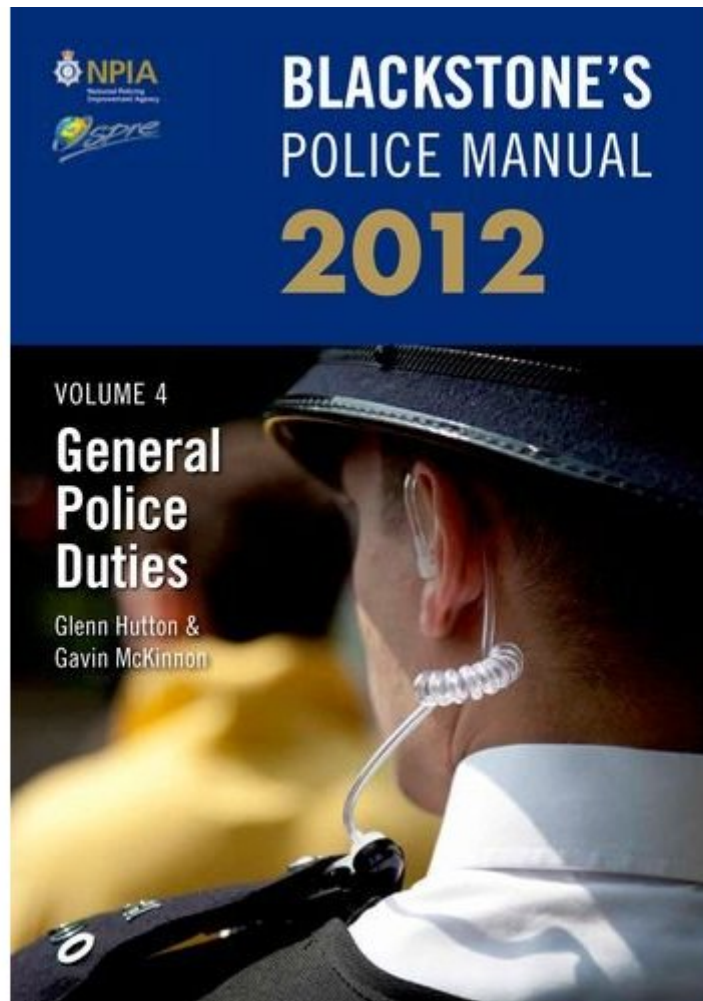


# Blackstone's Police Manual 2012

## Volume 4- General Police Duties

Glenn Hutton and Gavin McKinnon  
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**BOOK REVIEW BY SALLY RAMAGE, EDITOR, THE  
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The praiseworthy efficiency of the authors and publisher of this police examination textbook is obvious at a time when most other publishers have difficulty in meeting their advertised publication dates.

## **The 2012 syllabus**

The authors needed to absorb the new coalition government's laws as well as the very substantial Crime and Security Act 2010; the Bribery Act 2010; Equality Act 2010 and the Policing and Crime Act 2009.

## **Written in consultation with UK police**

The reader is reminded that Blackstone's Police Manuals are written in consultation with the UK police forces and endorsed by the National Police Improvement Agency ('NPIA') for the 2012 examinations for police promotion. Whatever is in these Manuals is in the syllabus for examination.

## **False economy**

Officers should not cut corners and make do without the new volumes prepared for the 2012 examinations- Part One of the Objective Structured Performance Related Examination ('OSPRE'). It is a false economy to do without these four volumes and the four related Question and Answers textbooks because these are written only for your forthcoming examinations. Officers often find themselves having to make instant decisions and therefore focussed textbooks as these give officers the security they need, rather than undergraduate texts that enjoy the academic whys, wherefores and but-ifs.

## **Content of Volume 4**

There are nineteen chapters to the *2012 Blackstone's General Police Duties* and these cover the topics of police legislation; services; jurisdiction; inspections; strategies; powers; misconduct; unsatisfactory performance; powers of arrest; stop and search; entry, search and seizure; communications and information offences; terrorism; guns; disputes; alcohol related licences; and equality. The table of statutes gives an indication of the extensiveness with which officers must be aware of certain statutes.

## **Crime and Disorder Act 1998**

The Crime and Disorder Act 1998 provides for preventing crime and disorder; creates certain racially-aggravated offences; abolishes the rebuttable presumption that a child is *doli incapax* and makes provision for a child's failure to give evidence at his trial; abolishes the death penalty for treason and piracy; makes changes to the criminal justice system; makes further provision for dealing with offenders; makes further provision with respect to remands and committals for trial and the release and recall of prisoners.

## **Criminal Justice and Public Order Act 1994**

The Criminal Justice and Public Order Act 1994 relates to criminal justice and employment in the prison service; extends the criminal law and powers for preventing crime and enforces that law; and amends the Video Recordings Act 1984.

## **Licensing Act 2003**

The Licensing Act 2003 regulates the sale and supply of alcohol, the provision of entertainment and the provision of late night refreshment and offences relating to alcohol. Also, section 55 of the Crime and Security Act 2010 amends the Licensing Act 2003 by conferring new powers on licensing authorities to restrict the sale and supply of alcohol in their areas, but extends only to England and Wales. Also, the Crime and Security Act 2010 amends the 2003 Licensing Act by inserting five new sections (ss.172A-172E) into Part 9 of that Act.

Section 172A (1) of the Crime and Security Act 2010 empowers licensing authorities (mostly local authorities in whose area the premises at which the sale and supply of alcohol takes place) to make an order under this section if they consider it necessary for the promotion of the licensing objectives. The licensing objectives of s.4 (2) of the 2003 Licensing Act are the prevention of crime and disorder; public safety; the prevention of public nuisance; and the protection of children from harm.

Section 172A(2) of the Crime and Security Act 2010 provides that an order has the effect that any premises licence, club premises certificate or temporary event notice shall not have effect to the extent that it would authorise the sale or supply of alcohol between the hours of 03.00 and 06.00. The order applies to pubs, bars and nightclubs and also to non-profit clubs such as sports, political and working men's clubs, supermarkets and convenience stores and temporary events such as those organised by charities and voluntary groups. Section 172A(4) of the Crime and Security Act 2010 provides that an order may have effect every day or on particular days of the week or year, in relation to the whole or part of the licensing authority's area or for a limited or unlimited period. An order may therefore be made that only applies to Friday and Saturday nights. Or one may be made that has effect only for six months rather than an indefinite period.

Section 172B(1) of the Crime and Security Act 2010 sets out procedural requirements that a licensing authority must advertise an order it proposes to make in a prescribed manner, and that a licensing authority must hold a hearing to consider any relevant representations unless the authority and each person who made such representations agree that a hearing is unnecessary.

Section 172E of the Crime and Security Act 2010 provides for exceptions from the effect of an early morning alcohol restriction order in cases or circumstances prescribed by the Secretary of State in regulations. These may be defined by reference to particular kinds of premises or particular days. Section 172E (3) of the Crime and Security Act 2010 ensures that an order made under s.172A is subject to an order made under s.172 of the 2003 Act. Section 172 enables the Secretary of State, with the approval of both Houses of Parliament, to make a licensing hours order for a specified period to mark an occasion of exceptional international, national or local significance. An order under this section has the effect of relaxing the opening hours for premises licences and club premises certificates.

Section 55(3) of the Crime and Security Act 2010 amends s. 7(2) of the 2003 Licensing Act. This section of the Licensing Act 2003 identifies the functions of a licensing authority which cannot be delegated to a licensing committee of the authority. This

amendment adds the power to make, vary or revoke an order under s.172A as a function which cannot be so delegated.

These measures in the Crime and Security Act 2010 aim to stop alcohol misuse. Alcohol misuse in England and Wales is a significant problem, and one which carries a huge economic and social cost. In Scotland, alcohol misuse claims many hundreds of lives every year—twice as many today as 15 years ago—and its effects are felt the most by the poorest communities. It has become a major health, economic and social challenge, and damages families and communities across the country.

### **Policing and Crime Act 2009**

For the purposes of general police duties, the Policing and Crime Act 2009 deals with prostitution, sex offenders, sex establishments; the abuse of alcohol; proceeds of crime; borders; extradition; and criminal records. The Policing and Crime Act 2009 amends the Aviation Security Act 1988; the Safeguarding Vulnerable Groups Act 2006 and the Police and Criminal Evidence Act 1984. It deals with powers and duties of the police, persons in police detention, criminal evidence, police discipline and complaints against the police; arrangements for obtaining the views of the community on policing and for a rank of deputy chief constable; the Police Federations and Police Forces and Police Cadets in Scotland.

### **Police and Criminal Evidence Act 1984- Codes of Practice**

With regard to the Police and Criminal Evidence Act 1984 ('PACE'), Codes of Practices A, B and D were amended as at 6 March 2011 to take account of the Equality Act 2010.

With regard to terrorism, recent amendments made to Code A means that 'stop and search' of persons suspected of terrorism must not take place unless a senior police officer reasonably suspects that a search is necessary to prevent terrorist acts. Before March 2011, reasonable suspicion relied on intelligence or information about, or behaviour by, the suspect and even before the Equality Act 2010, a person's age, race, appearance or previous convictions could not be used as a reason for a search, except when a witness described a

suspect. Reasonable grounds suggest an objective test; this is lower than the standard sufficient to prove a prima facie case.

### **Police response**

In the course of their duties, constables act for various reasons, eg, information received, radio messages, telephone calls, or perhaps the word of an informer; are valid reasons.

### **Police must act only to the extent of their powers**

In *Chapman v Director of Public Prosecutions* (1988) 89 Cr.App.R. 190, it was held that a constable who suspects a person of committing an offence to which only a limited power of arrest applies cannot later defend himself on the footing that the facts might have fallen into a more serious offence category. The judge said that reasonable suspicion was the source from which the constable's power of summary arrest flows. In this case, a constable had received a message that a colleague police officer had been assaulted by five youths who had run away. The constable arrested these young men and it was found that these arrests were unlawful because he had not been given details of any injury that his colleague suffered by the attack and therefore he did not have any reasonable grounds for suspecting the arrestable offence of assault causing actual bodily harm. The Court concluded there had been no known injuries; it was not an arrestable offence. The officer had exercised his powers under s. 26 (6) PACE 1984 and entered a flat to do arrest someone, in the course of which he was assaulted in the execution of his duty. The Court said they were not holding that the officer did not believe he had reasonable suspicion, they were saying the conviction could not stand because there was no finding that he did. The Court found that the officer believed that a fellow officer had suffered an assault. The Court concluded this was a common assault, (no known injuries), which is not an arrestable offence. The officer had purportedly exercised his powers under s.26 (6) Pace Act and entered a flat to do so: in the course of which he was assaulted in the execution of his duty. The Court said they were not holding that the officer did not believe he had reasonable suspicion, they were saying the conviction could not stand because there was no finding that he did. The Court found that the officer believed that a fellow officer had suffered an assault. The Court concluded this was a common assault, (no known injuries), which is not an arrestable offence. The officer had purportedly exercised his

powers under s.26 (6) PACE Act and entered a flat to do so: in the course of which he was assaulted in the execution of his duty. The Court said they were not holding that the officer did not believe he had reasonable suspicion, they were saying the conviction could not stand because there was no finding that he did.

### **Code A amended to avoid lengthy stop and search recording procedures**

The Courts have allowed reasonable scope for the term 'reasonable suspicion' whilst setting limits. Furthermore, since 1 January 2009, Code A had been amended to remove lengthy stop and account recording procedures, requiring police to only record a subject's ethnicity and to issue them with a receipt. Powers to hold a suspect at a police station have been reduced to 14 days rather than 28 days, as was the case.

There are new provisions for the identification of suspects in Code D. PACE Codes must not take account of the Equality Act 2010 (which act requires all government personnel to take account of the desire to reduce socio-economic inequalities; to reform and harmonise equality law (certain employers are now required to publish information about the differences in pay between male and female employees); to prohibit victimisation; and eliminate discrimination and other prohibited conduct).

### **Code D amended to require accurate following of technology procedures**

As less recording is allowed for Code A, at the same time, Code D has been amended to require detailed and accurate provisions as to procedures that must be followed, along with details of the u-mobile fingerprint technology and of enhanced powers to take DNA fingerprints. Note that it is Code G that deals with the statutory power of arrest by police officers to arrest persons suspected of involvement in a criminal offence (on pages 101-113, chapter 6). Chapter 12 on public disorder will be at the forefront of many officers' minds, due to the recent August riots, which began in Tottenham and spread to other parts of England.

## Penalty Notices in 2011

Chapter 6 of Volume 4, Blackstone's General Police Duties, deals with powers of arrest, and includes a list of offences, which attract

### Penalty of £80 for persons 16 or over or £40 for under 16s:

Section 80 of the Explosives Act 1875  
Section 5(2) of the Criminal Law Act 1967  
Section 91 of the Criminal Justice Act 1967  
Section 1 of the Theft Act 1968  
Section 1(1) of the Criminal Damage Act 1971  
Section 5(2) of the Misuse of Drugs Act 1971  
Section 5 of the Public Order Act 1986  
Section 141 of the Licensing Act 2003  
Section 146(1) of the Licensing Act 2003  
Section 149(3)-(4) of the Licensing Act 2003  
Section 151 of the Licensing Act 2003  
Section 127(2) of the Communications Act 2003  
Section 11 of the Fireworks Act 2003  
Section 49 of the Fire and Rescue Services Act 2004

### Part 11 Offences-

#### £50 fine for people 16 and over or £30 for people under 16

Section 12 of the Licensing Act 1872  
Section 55 of the British Transport Commission Act 1949  
Section 56 of the British Transport Act 1949  
Section 87 of the Environmental Protection Act 1990  
Section 12 of the Criminal Justice and Police Act 2001  
Section 149(1) of the Licensing Act 2003  
Section 150 of the Licensing Act 2003

There are on pages 115 and 116.

It is very interesting to note that in **1907** there were similar penalties, **only harsher** (Source MEPO2/4256) in Emsley, C. (2010) *Crime and Society in Twentieth Century England: 1750 to 1900*, London: Longman, at page 65 (ISBN: 978-1-4058-5863-2):



<b>Offence</b>	<b>Fine</b>
Defacing any wall or building with chalk	40 shillings
Wilfully breaking, destroying or damaging any building, wall Or fence, etc	40 shillings
Wilfully breaking, destroying or damaging any tree, shrub, or seat in any public walk, park or garden	40 shillings
Making a bonfire	40 shillings
Knocking on any door without lawful excuse	40 shillings
Riding behind carts, carriages, etc, without the driver's consent	5 shillings
Throwing stones at a railway train	£10 or 40 shillings or whipping according to age
Depositing the rind of any orange, banana, or other fruit in any street or public place	40 shillings
Throwing, placing or leaving any bottle, broken glass, nail or other sharp substance in such a position as to be likely to cause injury to passengers or animals, or damage to property	40 shillings
Place or throw any stones, dirt, wood, refuse or other material on any part of a tramway	£5

It is obvious from Emsley's table that police today have much more to cope with and of a more serious nature than one century ago, although police today are under tighter control and direction from the Home Office and Her Majesty's Inspectors of Constabulary ('HMIC'). Police today, however, have an armoury of 'legal weapons' at their disposal (see 4.6.12 at page 113). There is much to do and much to learn in these exciting times of change and the examinations should be tackled in this exciting spirit.  
ENDS+