

***BLACKSTONE'S POLICE MANUAL 2011***  
***VOLUME 2 - EVIDENCE AND PROCEDURE***

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**Book review by Sally Ramage**

**Evidence and procedure**

Volume 2 of this Blackstone series relates to evidence and procedure, these being four annually updated police manuals which are the only official study guides for OSPRE Part 1 of the Police Promotion Examinations. The volume contains therefore that law which relates to those examinations. Volume 1 relates to crime; Volume 2 to evidence and procedure; Volume 3 to road policing and Volume 4 to general police duties. All four manual have been written in consultation with police forces across England and Wales. Oxford University Press has successfully kept the contract to publish these examination books which are all endorsed by the National Policing Improvement Agency (NPIA).

**Criticism and suggestions to the publisher**

The four volumes are very heavy and bulky, being in A4 format, and the publisher might wish to explore the possibility of producing these A4 volumes out of India paper, very light, very white, and very strong. *The Holy Bible* and other lengthy books are often produced with India paper, which is very enjoyable to the touch and encourages one to handle the text more carefully. Oxford University Press might wish to consider producing *Blackstone's Police Manuals* from India paper and also *Police Law*, this popular text being over one thousand pages long.

**Content**

Having been in production for many years, the manual naturally boasts an extensive table of statutes, cases, and international laws. Part 1, on the criminal justice system, introduces the reader to the sources of law, the courts, how criminal proceedings are instituted, police bail, court procedure, witnesses and youth justice and Part II teaches about the law of evidence, namely, what constitutes evidence, exclusion of evidence and disclosure of evidence, whilst Part III on police station procedure, gives full explanations about the custody officer's duties, identification and interviews. There are appendices which helpfully contain the updated Police and Criminal Evidence Act 1984 Codes C (Code of Practice for the detention, treatment and questioning of persons by police officers), D (Code of practice for the

identification of persons by police officers), E (Code of practice on audio recording interviews with suspects), F (Code of practice on visual recording with sound, f interviews with suspects) and H (Code of practice for the detention, treatment and questioning of persons under section 41 and schedule 8 to the Terrorism Act 2000).

### **Caselaw**

*Evidence and Procedure* contains much caselaw, no doubt relevant, but I have not seen as much caselaw as I would have liked to have seen, noting the inclusion of *Al Khawaja & Tahery v UK* [2009] 49 EHRR 1; *B (Children), Re* [2008] UKHL 35; *Beckles v UK* [2003] 2 Cr App R 83; *James v Tower Bridge Magistrates Court* [2009] 1500 (Admin); *M v Leicester Constabulary* [2009] EWHC 3640 (Admin); *R (On the application of Ajaib) v Birmingham Magistrates' Court* [2009] EWHC 2127 (Admin); *R (On the application of Fergus) v Southampton Crown Court* [2009] EWHC 2206 (Admin); *R (On the application of M) v Leicestershire Constabulary and CPS* [2009] EWHC 6340 (Admin); *R v Athwall* [2009] EWCA Crim 789; *R v Horncastle* [2009] UKSC 14; *R v Malacki* [2009] EWCA Crim 365; *R v Nazir* [2009] EWCA Crim 319; *R v Powar* [2009] EWCA Crim 594; *R v Reed* [2009] EWCA Crim 2698; *R v Twomey* [2009] EWCA 1035; and *R v W and M* [2010] EWHC 661 (Admin).

### **Court procedure and witnesses**

This topic is explained in chapter 5 and here, the keynotes are especially useful. In respect of children who are witnesses, the keynote summarises the relevant points and states that by the 1999 Criminal Evidence Act, 'no witness under the age of 14 is to be sworn and those over 14 years of age are eligible to be sworn in 'if they understand the solemnity of a criminal trial and that by taking the oath, they are responsible for telling the truth', though not eligible to be sworn in, those children may give unsworn evidence as per section 56 (1)-(2) of the 1999 Criminal Evidence Act.

In the 2009 caselaw *R v Malicki*, the complainant to a charge of sexual assault was aged five, and the Appeal Court decided that she was not a competent witness because it was impossible to discern whether she was actually remembering the incident itself or was simply recalling her video evidence and her alleged assaulter's conviction was quashed.

In the *Barker* case which followed, the court decided that the age of a witness was not determinative on his or her ability to give truthful and accurate evidence. The court said that:

*'Like adults some children would provide truthful and accurate testimony, and some would not; however children were not miniature adults, but children, and to be treated and Judged for what they were, not what they would, in years ahead, grow to be. Accordingly, although due allowance had to be made in the trial process for the fact that they were children with, for example, a shorter attention span than most adults, none of the characteristics of childhood, and none of the special measures which applied to the evidence of children carried with them the implicit stigma that children should be deemed in advance to be somehow less reliable than adults.'*

### **Decision to charge**

In chapter 10, the authors have constructed a very useful table setting out in which cases the police may charge and exceptions; and those cases in which it is for the prosecution to decide to charge.

**Conclusion**

Evidence law is a difficult topic and this manual has managed to set out all the relevant law in digestible bites, keeping the officer up to date with recent cases. Whilst not needing to go into great depths on the subject, the authors have set out what needs to be learnt for the promotion examinations in a punchy, clear and straight-forward way and were not tempted to get into too deep a discourse, as in many academic writings on the legal subject of evidence and procedure. The manual consists of a systematic lay-out of material and information.

*ENDS+*