

# ***2011 BLACKSTONE'S POLICE MANUAL VOLUME 1 – CRIME***

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## **Book review by Sally Ramage**

### **Introduction**

Volume 1 of Blackstone's Police Manual 2011 consists of 17 chapters of criminal law: 'state of mind'; 'criminal conduct'; 'incomplete offences and police investigations'; 'general defences'; 'homicide'; 'misuse of drugs'; 'firearms and gun crime'; 'non-fatal offences against the person'; 'miscellaneous offences against the person'; 'sexual offences'; 'control of sex offences'; 'child protection'; 'theft and related offences'; 'fraud'; 'criminal damage'; 'offences against the administration of justice and public interest'; and 'offences arising from immigration, asylum and people exploitation'.

### **Well-ordered book**

As one would expect from anything police-related, this is a well-ordered with a good index and comprehensive table of statutes; table of secondary legislation; table of codes of practice; table of Home Office Circulars; table of International Treaties and Conventions and table of European law.

### **Good source of knowledge**

Although principally crafted for the police OSPRE rules and syllabus for police promotion examinations, these manuals are excellent for all those who want to keep up with the latest English criminal law.

### **Crime**

Crime is a very emotive subject; a 'whipping boy' for politicians of all hues; and a statistical nightmare and so it is good to see a clearly written, instructive interpretation of the law as Parliament intended and so, before launching into the criminal law, it is fitting to remind ourselves of the reason for such laws.

### **Criminal law and morals**

There is a relationship between criminal law and morals. Judea-Christian moral values, liberal democracy and a shared tradition of the common law, provide the common ground. English law is formulated as principles applicable to English society. Christian moral values are the values still generally adhered to within society in the United Kingdom and English law is based on Roman law and Biblical laws (see *The Holy Bible, Book of Leviticus*). As society changes, so the laws to protect society change- within the constraints of European law and International Conventions and Treaties. So both law and morality dictate behaviour

accepted as right or wrong within society. This relationship between morals and criminal law has always been especially close.

### ***Actus non facit reum nisi sit rea***

The common law's assumption that the criminal is responsible for his *acts* (see **1.2**) derives directly from the Christian view of man as a being endowed with *free will* (see **1.1**). The Latin proverb '*Actus non facit reum nisi sit rea*' was a principle of moral theology long before it was adopted by the law and personal responsibility is the basis of Western moral and legal systems.

### **Punishment**

Legal sanctions are usually imposed collectively in the name of society, after a formal judicial process which assesses responsibility. Moral sanction, however, is a personal matter of one's own conscience. Western society inflicts pain on a person by way of a monetary fine and/or deprivation of liberty, but with a moral justification. Therefore in practice, all serious crimes are also moral offences.

### **The reasonable man**

The law is concerned with the conduct of the reasonable man who has foresight of consequences, established by evidence. The criminal law is concerned with the general good of the community; however the one criticism of English criminal law is that it lacks the comprehensiveness of a moral code because criminal offences are drafted to meet particular social exigencies. It is also drawn from the application of abstractions of social data. An example is the treatment of homosexuals over hundreds of years.

### **Homosexual offences**

Homosexual conduct was rejected in the Bible as per the following sections:

*Genesis* XIX 4-8

*Leviticus* XVIII 22

*Leviticus* XX 13

*Deuteronomy* XXIII 17

1 *Kings* XIV 22-24

1 *Kings* XXII 46

2 *Kings* XIII 7

*Judges* X 12

*Romans* I 26-7

1 *Corinthians* VI 9-10

1 *Timothy* I 9-10

*Revelations* XXI 18

*Jude* 7

2 *Peter* XI 6-8

*Ephesians* V 12

The case in 1727 of *R v Curl*<sup>1</sup> was one about obscene literature. The court said that:

*'[T]his was an offence at common law as it tends to corrupt the morals of the King's subjects...'*

In 1742, Margaret Clap was charged with '*keeping a sodomitical house off Holborn*'.<sup>2</sup>

In the 1957 Wolfenden Committee's Report on Homosexual Offences and Prostitution<sup>3</sup> stated that:

*'The function of the criminal law is to preserve order and decency, to protect the citizen from what is offensive and injurious and to provide sufficient safeguards against exploitation and corruption of others, particularly those who are specially vulnerable because they are young, weak in body or mind, inexperienced, or in a state of special, physical, official or economic dependence'.*

Today, the homosexual offence on the statute book is the offence of 'sexual activity in a public toilet' as per the 2003 Sexual Offences Act, section 71.

The 2009 Policing and Crime Act 2009 includes provisions for the improvement of police accountability and effectiveness; a new offence of paying for sex with someone who is controlled for gain; new powers to close brothels<sup>4</sup>; modification of the law on soliciting; reclassification of lap-dancing clubs as 'sex establishments' rather than 'entertainment' venues; increase of police powers to deal with young people drinking alcohol in public; introduction of a new mandatory code of practice for selling alcohol; amendment of the criminal asset recovery scheme established under the Proceeds of Crime Act 2002 and new arrangements for airport security and policing.<sup>5</sup>

### **Lap dancing venues today**

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<sup>1</sup> 2 Stra. 788 (1727) pp.789-90. Note that today; this offence no longer exists but the offence of causing a person to engage in sexual activity without consent does- in the Sexual Offences Act 2003, covering forcing a person to perform a sexual act on himself or with an animal. And this offence carries a maximum sentence of ten years imprisonment, or by s 4(4), life imprisonment.

<sup>2</sup> See *Select Trials of the Old Bailey*, Vol III, 37.

<sup>3</sup> *Report of the Committee on Homosexual Offences and Prostitution*, London, HMSO, Cmd. 247, September 1957, para.13.

<sup>4</sup> Brothel offences today are in the Sexual Offences Act 1956. See **1.10.2.4**.

<sup>5</sup> See **1.10.12.3**. The Keynote in this Police Manual Volume 1 states that the Policing and Crime Act 2009 inserted a new section 53A into the Sexual Offences Act 2003 and this new section creates an offence which is committed if someone pays or promises payment for the sexual services of a prostitute who has been subject to exploitative conduct of a kind likely to induce or encourage the provision of sexual services for which the payer has made or promised payment. The person responsible for the exploitative conduct must have been acting for or in the expectation of gain for himself/herself or another person, other than the payer or prostitute.

As regards the controversial subject of lap dancing venues, the Policing and Crime Act 2009 has addressed this topic. In the courts, in 2007, residents took legal action. In December 2007 Durham residents challenged a decision to grant a licence for a lap dancing club in the city. They appealed against the decision made by Durham City Council in August 2007 on the basis that the lap dancing club would fail to promote public safety, would add to the already high levels of nuisance and disorder in a certain area, and would harm children both morally and psychologically. The lap dancing club, Vimax Leisure, then applied for judicial review, but out of time and so technically, it was not heard.

However, in June 2010, an Oxford church group lost a similar case against Thirst Lodge in Oxford, England. The local authority has issued a one-year licence and the Lap dancing Thirst Lodge will again to go through the process after one year.

### **Conclusion**

The objective of this review was to illustrate how useful and interesting this volume of Blackstone's Police Manual is and to whet the appetite of its prospective reader.