

Identify and Critically Discuss Problems Associated With Police Interviews and The Success With Which PACE Has Addressed These Issues

Plan

- Interviews can take place outside the police station ≡ not subject to most safeguards in PACE & police may conduct unofficial interviews ≡ the scenic route (P255)
- Role of police (don't use innocent until proven guilty) don't find evidence to prove innocence ≡ find facts to prove guilt ≡ possible miscarriage of justice (John Baldwin, Royal Com., Gudjonsson's research) (P247)
- Pressure on police ≡ secure convictions not facts ≡ pressure to confess ≡ possible miscarriage of justice (P247)
- PACE safeguards for suspect (reasons why might not work) (P248)
- Codes of practice ≡ to deal with certain situations (P248)
- Code C- caution ≡ usually on arrest (right to silence) (P248)
- Tape recording (P249)
- Right to inform someone of your arrest (36hrs. delay possible) (P249)
- Free legal advisor (case of R 'v' Samuel (1988) and R 'v' Alladice (1988)) (P.249/250)
- Appropriate adult ≡ who is? ≡ who needs one? (P252)
- Treatment of suspects ≡ adequate breaks/light/heat/ventilation (P252)

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sleep/food/refreshments

- Record Of Interview (P253)
- Exclusion of evidence (case of R 'v' Latif and Shahzad) (P253)

Identify And Critically Discuss Problems Associated With Which PACE Has Addressed These Issues

Interviews can take place outside the police station, which means that they are not subject to some of the safeguards in PACE, 1984. Therefore police may conduct 'unofficial interviews' on the way to the station. This practice is called 'taking the scenic route'. The R.R.C.J. found that 30% of suspects report being questioned unofficially, before being correctly interviewed. However, even though these interviews are improper, evidence gained may still be admissible.

Police not only interrogate the suspect out of the police station. The Royal Commission questioned the standard of police interviews in 1993, and John Baldwin suggested that the police don't try to find evidence to prove innocence, just to 'prove' guilt. With this assumption of guilt the police only try to find facts which will incriminate the suspect. He also found that interviews were often "rambling and repetitious," and that suspects were worn down into confessing to a crime (which they may not have committed) due to the "bullying and harassment" of the police. In many cases this can lead to a miscarriage of justice.

Another study by G. H. Gudjonsson, a psychologist found four main reasons as to why suspects confess. He said the first group were a minority who confess to crimes that they have not committed, and that this "disturbed desire for publicity is to relieve feelings of guilt or because they just can't distinguish between fantasy and reality." The second group confess in the hope that the police will stop searching for the perpetrator who they are trying to protect. This is usually a spouse, relative or close friend. The third group confess due to pressure. They assume the questioning will be terminated if they give the police what they want (a confession). A related reason is the pressure and intensity of the interview can temporarily persuade the suspect that they are in fact guilty; this too is only a minority group.

The pressure on police for convictions can also lead to possible miscarriages of justice. Investigations turn from finding facts to securing convictions.

There are however several safeguards as legislated in PACE, 1984, which protect the individual. For example, under Code C, a person must be cautioned both on arrest and before being questioned. Before the abolition of the right to silence in 1994, the caution was, "You do not have to say anything unless you wish to do so but anything you do say may be given in evidence." It then changed to, "You do not have to say anything unless you wish to do so but it may harm your defence if you do not mention when questioned something which you later rely on in court, anything you do say may be given in evidence."

Tape recording is another safeguard. In PACE, 1984, it says that all interviews must be recorded to ensure the police don't fabricate confessions or make threats to the suspect. However, this has not been as successful as was first thought, because in many cases the police were found to be questioning before the official interview.

Pilot schemes are currently being carried out using video cameras to film interviews. However, at a cost of £100,000,000 to establish this, nationwide use is unlikely.

Under section 56 in PACE, 1984, you are entitled to have someone informed of your arrest, such as a close friend or relative. Whoever the suspect chooses must be told why and where they are. If the arrest is for a serious arrestable offence, this process can be delayed for up to 36 hours.

Suspects also have the right to a legal advisor. All suspects are entitled to do so in private. If they cannot afford one, one is provided for them free of charge. In R 'v' Samuel, 1988 the suspect was kept for six hours and denied legal advice. Two days later his mother sent him a lawyer who had to then wait 3 hours to see him. During this time the suspect confessed. The Court of Appeal ruled his confession to be inadmissible in court as he was refused legal representation.

Another safeguard usually for minors is having an appropriate adult present when being questioned. An appropriate adult is anyone over the age of

18, usually a parent or social worker. People with mental disabilities are also entitled to an appropriate adult.

The treatment of suspects whilst in custody is also very important. The interview room must be lit and heated correctly, and they must be given adequate breaks for food, sleep and refreshments.

After the interview it is important to make a record to be kept on file. However, in 1993 Baldwin checked a number of these files and found that half were either faulty or misleading.

The final safeguard I will look at (and probably one of the most important) is the exclusion of evidence. The courts can decide whether or not to dismiss evidence which has been improperly obtained. For example, In K 'v' Conale, 1990, the court refused evidence because interviews were not written up correctly.

In conclusion, I believe that although PACE, 1984 provides many helpful safeguards, much more could be done to help protect the suspect.

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