

## **Task 1**

There are four different types of law, criminal, civil, common and statute. In this first task I will explain briefly each one:

### **Criminal Law:**

This is the kind of law that the police enforce. Murder, assault, robbery and rape are all included within the boundaries of criminal law. A good way in which to summarise which offences come under criminal law is 'an offence which is seen as being against everybody, even though it is not'. For example if a car is stolen, then the theft is against the individual, but it threatens all car owners because they might have their car stolen. Because the view is taken that everybody is threatened by the crime, criminal law is dealt with by the public services and not by private lawyers or investigators.

### **Civil Law:**

Civil law has many different areas enclosed in it. Examples that come under this law are legal rights, such as a right to an education or to a trade union membership and divorce problems, such as how the furniture is split between the couple and who receives custody of the children. The best way to describe it is that it looks at actions that are not crimes.

In civil law it is up to the individuals to sort out their own problems by going to court themselves, or with a lawyer. Where in criminal law the state makes sure that justice is done whether the defendant wants to go to court or not.

### **Common Law and Precedent:**

Common law is based on feeling about right and wrong, which we all have. It is common law that tells us that people are more important than things. So a crime committed against a person is looked upon far worse than a crime committed against property.

Precedent means 'what has gone before'. So if a judge is trying a murder case, he or she will try to look up similar cases that have gone before, to see how they were dealt with and what sentence was given. It is very important when carrying out common law.

**Statuate law:**

A statute law is a law that is made by the government. In England all laws are mainly made by parliament. These laws are written down from start to finish, and therefore different to common laws which are not written down. All new laws are statute laws even though some are based on common laws, which have gone before.

This is because as times change the old common laws start to form holes in which new age crimes can slip through. A good example of this is the data protection act of 1998; this statute law was based on the common law idea that everybody has a right to privacy. This new statute law had to be brought out because of the problems caused by information technology, and the fact that individuals personal details like bank numbers and health records could be passed for computer to computer.



## **Task 2 and 3**

In this section of the assignment I am going to write a letter to each of the three accused individuals, explaining to them why discipline is so important in their particular service and what happens when it breaks down. I will then explain to each of them what court their trial will be held in and what will happen at their trial. In Bill and Fred's letter I will also explain to them the roles of the different people within their court hearing.

Dear Bill,

I am writing this letter to you as your legal advisor explaining why you need a great level of discipline in the fire service. I am then going to go on to talk about your court case for the offence that has been put upon you.

In the fire service you have to have one of the greatest discipline levels compared to the other services, for the reason that being just a minute late to a fire or an accident could mean the difference between life and death.

Regulation plays a big part of the discipline within a fire service; this is because you have to be able to follow strict guidelines and laws within the fire service in order to accomplish tasks. Without strict regulation individuals within the fire service many feel that it is acceptable to miss a call out, or not to put the hose away properly. Which could both relate in serious loss of life.

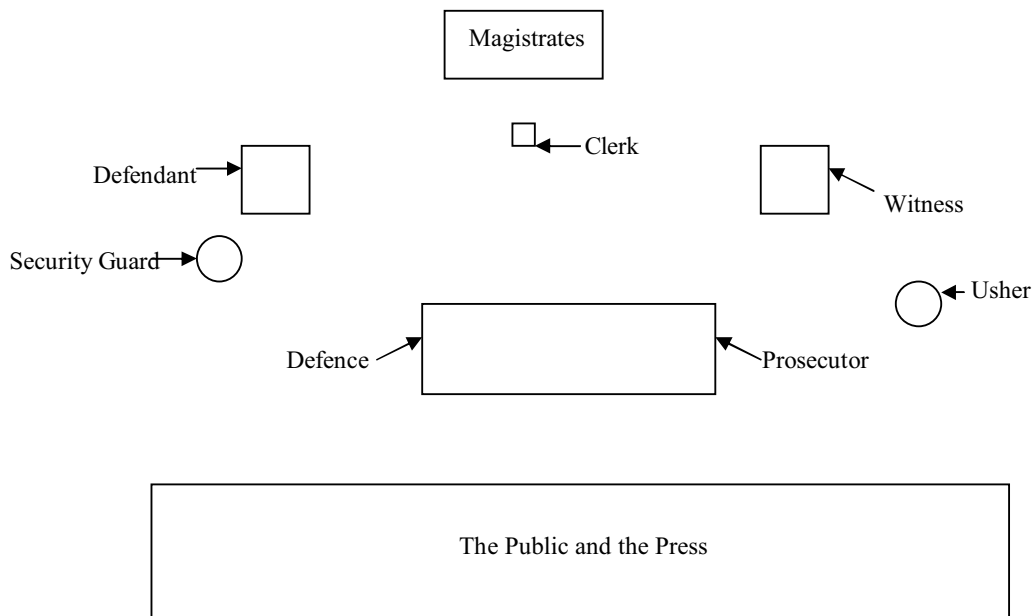
Obedience goes along side regulation, as you need to be able to follow officer's orders and guidelines without asking questions. If obedience is not one of the qualities of the firemen and women then the reaction times would increase due to questions being asked, this could result in a serious loss of life.

Two other areas of discipline that individuals within the fire service need to have are both restraint and conformity. Restraint is needed because you need to know what to do in different situations and be able to step away for a minute to assess what you are going to do and not just run in. If restraint was not followed by persons within the fire service it could result in the individual being hurt themselves and not accomplishing the task that they set out to do which is to save other people's lives.

Conformity is a definite quality that is needed because you have to cooperate and work as part of the fire service team and not try to do things your own way. The reason for this is that working, as part of a team is more effective than on your own and a lot more can be accomplished.

In the second part of this letter I am going to explain to you in which court your trial will take place and then go on to write about the different people that will be present at the court.

So first of all, your court hearing will take place in a Magistrates court. This is because the crime that you have committed is not to a high enough level to be held in a crown court. The court set up will look something like this.



First of all the public and press are settled at the back of the room in the viewers box. Your trial will start by you being lead in by the security guard then you will be put into the defendant box to the right of the magistrates, followed by your defending solicitor. Next the prosecuting solicitor will enter and seat himself next to your lawyer. The magistrates will enter; there could be 1 magistrate or three depending on what happens. One magistrate is called a stipendiary how is paid for his or her job and has a better understanding of law. If there are three magistrates then this is called a lay bench that consists of three unqualified

individuals that haven't a great understanding of law, so they have to be advised by a clerk. Lay bench magistrates are not paid.

From then the court proceedings will be quite straightforward. Initially the usher will lead the first witness to the witness box where he or she will ask them to place their right hand on a holy book and reciting an oath to say that you will tell the truth in court. Then the prosecuting lawyer will ask the witness questions followed by the defence lawyer. After all of the witnesses have been questioned the court will then adjourn for the magistrates to form the punishment. If it is a lay bench then the clerk, who has a greater understanding of law, will accompany them to help them come to the right decision. When the court re-adjourns the magistrates will give their punishment, which could be anything for a small fine to six months in prison. So now that you have wrote this letter I hope that you feel more secure about what will happen at your trial.

I wish you the best of luck

Yours sincerely JOSH BENTHAM



**Dear Ben,**

I am your legal advisor writing to you to explain what will happen at your court hearing, but first of all I am going to clarify why discipline is so important in the police service.

The police are the first and foremost line of defence for the general public against crime and threatening individuals. So discipline has got to be at the greatest level of all of the emergency services, else the results could be devastating.

Regulation is needed in the police service because not only do they have to do everything in their power to protect and serve the public, they also have to stay within the boundaries of law achieving it. So they need to have a very high level of regulation to make sure they know where the boundaries are and not overstep them. Results of individuals in the police service not having enough regulation could mean that for example they could use unruly force when trying to arrest someone for drunk and disorderly behaviour.

Obedience is another main factor of discipline that is closely linked with regulation and is as importantly needed by a member of the fire service. Obedience is needed to make sure that those in the police service can listen and follow orders very closely without asking questions. A result of a lack of obedience could mean that on a call out a police constable could feel that he or she doesn't need to listen to instructions and will then try to tackle the problem alone.

Conformity is needed in the police service because in some situations working in a team can produce much better results, than trying to take on the task yourself. An example of the break up of conformity within the police, would be if there was a planned drug raid and one of the officers decided to go an hour early because he felt he could tackle it by himself, and because of this the suspects got away then that could mean six months work could have been lost.

Ben I am afraid to explain to you that your court case could turn out a little worse than expected. This is because it is bordering between going to a magistrate court and a crown court. Then again you have pleaded guilty so this could go in your favour.

I will explain how your trial will work. First of all it will be taken to a crown court where although you have pleaded guilty the evidence will still have to be gone through. After the magistrates have heard the trial they will make a decision on whether they have enough authority to sentence you, seeing their maximum penalty they can give is 6 months in prison. If they come to the decision that exceeds their maximum penalty, then your trial will be taken to a crown court where it will be heard again and a judge will sentence you.

I hope this letter has proved useful and I wish you all the best in court.

Yours sincerely JOSH BENTHAM



Dear Fred

I am your legal advisor and I am writing to you to explain how your court hearing will proceed, but I will start by explaining to you why a high level of discipline is needed in the royal marines. I will split up discipline into four sections, which are regulation, obedience, restraint and conformity.

Regulation is the main discipline in the royal marines, this is because there are many different strict laws and guidelines within the marines that have to be abided by and followed. If this discipline is not followed then it could cause a complete collapse of the whole marine system. An example of a lack of regulation in the royal marines would be if in a war situation if an individual took it upon himself to take on a task by himself.

Obedience that follows alongside regulation is also a very important part of discipline in the royal marines. This is because the service works by higher individuals giving orders to people below them. So that means if someone has a lack of obedience then they would feel that they don't have to take orders from the person above them, which would disrupt the whole system.

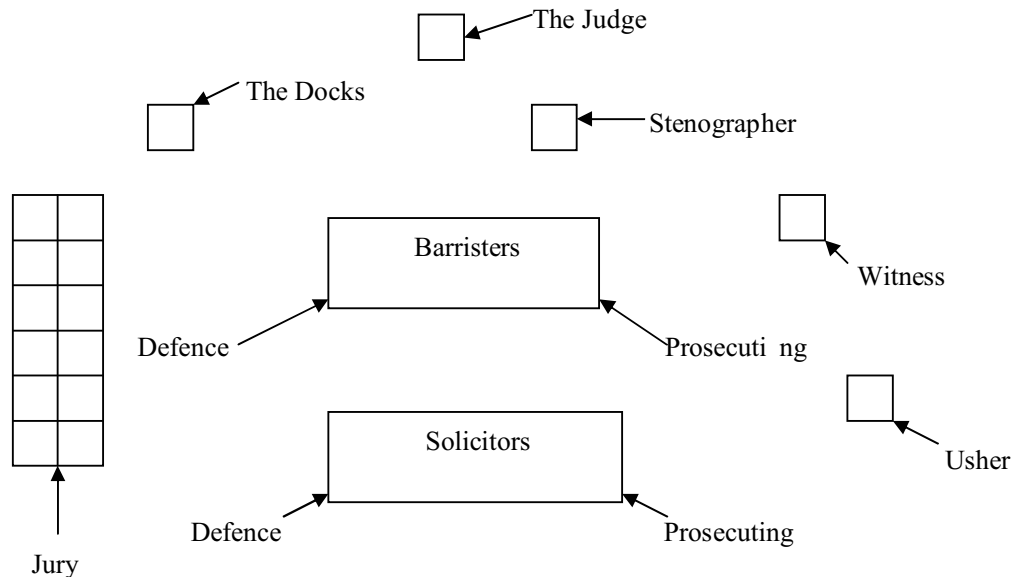
Restraint is a very difficult discipline to grasp especially in the royal marines, this is because they are trained to kill people but then they have to restrain themselves so that they only use it when it is needed. An example of the breakdown of restraint would be if a royal marine shot and killed someone by bad judgement and the individual was actually innocent.

Conformity is also needed in the royal marines because you need to be able to be at the right place at the right time and comply with all the orders.

I am now going to explain to you what will happen at your court trial. First of all, your case will be held in a crown court because the murder of the civilian is a serious case. I will now go through the procedures of what will happen.



I think that it might help if you see the lay out of the court that your trial will be held in to let you see visually what it will look like:



First of all you will be lead to the dock by a police officer. Then the barristers, who have degrees in law and additional training, and their solicitors, who do the paperwork for the barristers, both the defence and the prosecuting will enter and be seated.

The whole court will rise as the judge enters to take his seat; the judge has a very high understanding of law because to become a judge you need to have been a barrister first. The judge is there to make sure that the law is upheld and to direct the jury if necessary, but his most important job is that he or she will have to find the best possible punishment for the accused if they are found guilty.

From there the first witness will be lead in and shown to the witness box by the usher, were they will have to place there right hand upon a holy book and recite an oath that is to stop them from lying to the court. First the prosecuting barrister will be the first to question the witness about what happened followed by the defence lawyer. Once all of the witn esses have been seen then the court will adjourn for the judge to make his decision. When the court re-adjourns the judge will give his verdict which could mean that the accused will either be lead to the cells if guilty, or set free if innocent.

Yours Sincerely JOSH BENTHAM

