



**School of Law**

**Assessment Cover Sheet and Academic Integrity Statement**

**Module: LAW4011M**

**Title: Criminal Law and the Justice System 1**

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1.a.)

## Legislation Search

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Title

Police and Criminal Evidence Act 1984

Provision Number

Section

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11.b.)

### Police and Criminal Evidence Act 1984 c. 60

#### s. 24 Arrest without warrant: constables

#### Journal Articles

Journal Articles

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Pt III s. 24

☐ Arrest - legality (Case Comment)

Abstract • Full Text

Arch. News 2005, 1, 2 Police powers and duties; Reasonableness; Voluntary attendance; Wrongful arrest.

☐ Finance Act notes: criminal investigations and HMRC powers - sections 82-87 and Schedule 22 (Legislative Comment)

Abstract • Full Text

B.T.R. 2007, 5, 562-570 Criminal investigations; HMRC; Investigatory powers; Powers of arrest; Powers of entry; Search and seizure; Search warrants; Tax administration.

<sup>1</sup> "Westlaw UK" (Westlaw UK, 30<sup>th</sup> November 2023) <<https://uk.westlaw.com/>> accessed 30<sup>th</sup> November 2023

2.) The Police and Criminal Evidence Act 1984 is described in its long title as:

“An Act to make further provision in relation to the powers and duties of the police, persons in police detention, criminal evidence, police discipline and complaints against the police; to provide for arrangements for obtaining the views of the community on policing and for a rank of deputy chief constable; to amend the law relating to the Police Federations and Police Forces and Police Cadets in Scotland; and for connected purposes.”<sup>2</sup>

This Act is regarded throughout the situation with Dan Smith’s arrest, search, and detainment.

When arresting a person, an officer can only arrest when they see someone about to, are in the act of committing an offence or have committed an offence. They can also arrest a person when they have reasonable grounds (this is objective<sup>3</sup>) of the prior to do so.<sup>4</sup> In the case in which Dan Smith is involved, who we are told is around the scene where a customer punched Vince (breaking his nose and causing him to hit the back of his head), the police have been telephoned. Upon arrival, they take Vince’s friend William to search for the attacker, identified by William as a man outside Lendal Cellars. This man is Dan Smith. The police constables arrest Dan Smith, likely to prevent the prosecution from being hindered by his disappearance<sup>5</sup>. There are reasonable grounds seen in the form of an informant, as police may rely upon an informant, although caution is required.<sup>6</sup> The constables then approach the suspect and state: “You are under arrest on suspicion of violence contrary to the Offences against the Person Act. You punched a man on Stonegate a few minutes ago”. This is done as an arrest is not lawful unless Dan is informed of the ground for arrest at the time of, or as soon as practicably possible after, arrest<sup>7</sup>. A few issues may be seen here, the first of which comes with the name of the offence. “Violence” is not a specific offence; however, officers do not need to identify a specific offence during arrest.<sup>8</sup> Thus the next issue comes in the form of the statute mentioned, which is not the full name of the statute, rather it should be Offences against the Person Act 1861. Officers, however, do not have to identify precise legal power such as statute during arrest either.<sup>9</sup> The officers also follow Code C and G of the PACE Codes of Practice (which are statutory provisions required to be

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<sup>2</sup> *Police and Criminal Evidence Act 1984*

<sup>3</sup> Government UK, 'PACE Code A' (Gov.UK, 2023) <<https://www.gov.uk/government/publications/pace-code-a-2023>> accessed 30 November 2023

<sup>4</sup> *PACE 1984*, s 24.

<sup>5</sup> *Ibid*

<sup>6</sup> *James v Chief Constable South Wales* [1991] 6 CL 80

<sup>7</sup> *PACE 1984*, s 28

<sup>8</sup> *Coudrat v HM Revenue* [2005] EWCA Civ 616

<sup>9</sup> *Rutherford v Independent Police Complaints* [2010] EWHC 2881

followed under Section 66 of PACE 1984<sup>10</sup>) when they inform Dan when and where the offence was committed,<sup>11</sup> thus the final issue comes in the form of the lack of the caution seen in Code C of the PACE Codes of Practice:

“You do not have to say anything. 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.”<sup>12</sup>

However, failure to caution does not make an arrest unlawful, and may only exclude evidence,<sup>13</sup> thus the arrest is seen as lawful.

The officers then searched Dan to ensure he did not have anything that may pose a threat to them. Officers may do this to search someone such that they have reasonable grounds to believe they’re a danger to themselves or others. The police also have the power to search the arrested person for anything which might allow them to escape lawful custody, anything they believe may be evidence and they can enter and search the premises where the person was arrested or before he was arrested for evidence such that the offence is indictable<sup>14</sup>, which in the case of Dan, it is not at the time, rather it is triable either way<sup>15</sup> (seen at the time as Assault occasioning Actual Bodily Harm<sup>16</sup>). The police cannot, however, remove clothing in public other than coats, jackets, or gloves.<sup>17</sup> Should Dan have been the recipient of a stop and search endeavour by the police instead (which must occur only if the officer has reasonable grounds that they will find “stolen or prohibited articles”) this must have occurred in a public place and would not be lawful in a private area or garden unless there were reasonable grounds to assume that Dan was in the area without permission<sup>18</sup>.

Dan is then taken to York Police Station and detention is authorised. He is authorised detention for Assault Occasioning Actual Bodily Harm contrary to section 47 of the Offences against the Person Act 1861<sup>19</sup>. Dan was cautioned at this point and detained. He is informed

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<sup>10</sup> PACE 1984, s 66

<sup>11</sup> Government UK, 'Police and Criminal Evidence Act 1984 (PACE) codes of practice' (Gov.UK, 2023) <<https://www.gov.uk/guidance/police-and-criminal-evidence-act-1984-pace-codes-of-practice>> accessed 30 November 2023

<sup>12</sup> Government UK, 'PACE Code C 2019' (Gov.UK, 2023) <<https://www.gov.uk/government/publications/pace-code-c-2019>> accessed 30 November 2023

<sup>13</sup> *Miller* [2007] EWCA Crim 1891

<sup>14</sup> PACE 1984, s 32

<sup>15</sup> David Ormerod and David Perry, 'Chapter B2.29', Blackstone's criminal practice 2024 (Oxford University Press 2023)

<sup>16</sup> *Offences against the Person Act 1861*, s 47

<sup>17</sup> PACE 1984, s 32

<sup>18</sup> PACE 1984, s 1

<sup>19</sup> *Offences against the Person Act 1861*, s 47

of his right to a solicitor and his right to have somebody informed of his arrest.<sup>20</sup> Dan then requested to see the Duty Solicitor to which he is entitled under Code C of the PACE Codes of Practice.<sup>21</sup>

The police were then contacted by the hospital and were informed that Vince had died from a brain haemorrhage that the hospital had negligently failed to diagnose, resulting in his death. Dan's detention is as such extended by a Superintendent to 36 hours, which is valid such that the Superintendent arrests Dan with an indictable offence or wishes to obtain evidence by questioning him<sup>22</sup>, although he must inform Dan of the grounds for such<sup>23</sup>, with a magistrate's court extending this detention to 72 hours, and then to 96 hours, which is also valid if Dan is suspected of a serious crime. Still, they must apply for this<sup>24</sup>, which may be the case as Vince has now died, most likely prompting the start of an attempted conviction against Dan under Unlawful Act Manslaughter<sup>25</sup>.

3.) The CPS decides which cases are prosecuted while presenting them in court and advises the police during the early stages of investigations.<sup>26</sup> They may not charge murder as there was no intent to kill or cause grievous bodily harm which is the mens rea (guilty mind) for the crime.<sup>27</sup>

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<sup>20</sup> Government UK, 'PACE Code C 2019' (Gov.UK, 2023) <<https://www.gov.uk/government/publications/pace-code-c-2019>> accessed 30 November 2023

<sup>21</sup> Ibid

<sup>22</sup> PACE 1984, s 42(1)

<sup>23</sup> PACE 1984 s 42(5)(a)

<sup>24</sup> Government UK, 'Being arrested: your rights' (Gov.UK, 2023) <<https://www.gov.uk/arrested-your-rights/how-long-you-can-be-held-in-custody>> accessed 30 November 2023

<sup>25</sup> Sentencing Council, 'Unlawful Act Manslaughter' (Sentencing Council, 1 November 2018) <<https://www.sentencingcouncil.org.uk/offences/crown-court/item/unlawful-act-manslaughter/>> accessed 5 December 2023

<sup>26</sup> CPS, 'The Crown Prosecution Service' (CPS, 2023) <<https://www.cps.gov.uk>> accessed 8 December 2023

<sup>27</sup> CPS, 'Homicide: Murder, manslaughter, infanticide and causing or allowing the death or serious injury of a child or vulnerable adult' (CPS, 2023) <<https://www.cps.gov.uk/legal-guidance/homicide-murder-manslaughter-infanticide-and-causing-or-allowing-death-or-serious>> accessed 8 December 2023

4.)

### **Form of Indictment**

*(Criminal Procedure Rules, Part 10)<sup>28</sup>*

### **INDICTMENT**

IN THE CROWN COURT AT YORK

THE KING v. DAN SMITH

charged as follows: -

### **STATEMENT OF OFFENCE**

Manslaughter

### **PARTICULARS**

Dan Smith, on or about the day of 29<sup>th</sup> November 2023, unlawfully killed Vince.

**Date** 4<sup>th</sup> November 2023

John Derry

**Crown Court officer**

5.a.) - D must do an unlawful (criminal) act.<sup>29</sup>

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<sup>28</sup>The Criminal Procedure Rules 2020, SI 2020/759

<sup>29</sup> *R v Franklin* (1883) 15 Cox CC 163

- The act must be seen to cause some harm, albeit not serious harm, by the reasonable man (objective test).
- The act must cause the death.
- D must have mens rea for the unlawful act.<sup>30 31</sup>

5.b.) In *Lowe* [1973], the courts found that for constructive manslaughter, there must be an intentional unlawful act and omission is insufficient<sup>32</sup>.

Dan has punched Vince, which has led to his later death in hospital after he hit his head on the back of a bar, which caused a brain haemorrhage. Is Dan liable for Constructive (unlawful act) Manslaughter where there must be an intentional unlawful act, and omission is insufficient<sup>33</sup>?

Firstly, when determining whether Dan could be liable for Constructive Manslaughter, we must determine whether he acted intentionally where Intention is when Dan decides to bring something about, in so far as he is able to.<sup>34</sup>

We are told by the case narrative that a customer (most likely Dan), had become aggressive and punched Vince once, resulting in him banging his head against the bar, which caused his brain haemorrhage. Vince had previously bumped into Dan, which prompted this anger-filled reaction in revenge. This clearly shows that Dan has the intention to attack Vince, as he punched him in reaction to his accidental bumping and caused his injury. Furthermore, we are told by the courts that Dan's anger is not a defence to this as he cannot close his mind to risk<sup>35</sup>, and loss of control is not a defence to any other crime than murder<sup>36</sup> - alongside the fact that it cannot be claimed in an act of revenge<sup>37</sup>. There is overall, no defence to, and no doubt about Dan Smith's intention and mens rea (guilty mind) as such.

We must next determine whether Dan had committed an unlawful act before Vince's death where an unlawful act must be a criminal act<sup>38</sup>.

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<sup>30</sup> *Church* [1966] 1 QB 59 / *Newbury* [1977] AC 500

<sup>31</sup> *Lowe* [1973] 2 WLR 481

<sup>32</sup> *Lowe* [1973] 2 WLR 481

<sup>33</sup> *Ibid*

<sup>34</sup> *Hyam* [1975] A.C. 55 (at 74) / *Cunliffe v Goodman* [1950] 2 KB 237

<sup>35</sup> *Parker* [1977] 1 W.L.R 600 CA

<sup>36</sup> *R v Hussain & Hussain* [2010] EWCA Crim 94

<sup>37</sup> *Coroners and Justice Act* 2009, s 54

<sup>38</sup> *Franklin* (1883) 15 Cox CC 163

We are once again told by the case narrative a description of Dan's initial act. Whether it is unlawful is first determined by whether the act is seen as criminal. This act is told to be a punch by Dan towards Vince after the accidental spill of Vince's beer down Dan's chest. Vince receives a broken nose as such. This is a battery, which is a common law offence defined in case law ("Intentional touching without consent or lawful excuse"<sup>39</sup>) to begin, as Vince would be the recipient of an infliction of violence and may also be assaulted should he apprehend this beforehand<sup>40</sup>. However, expanding further due to Vince's broken nose - which would be more than trifling of an injury and thus ABH (Actual Bodily Harm) - this could be found to be Assault occasioning ABH<sup>41,42</sup>, once more a criminal act under statute. There is no doubt as to the fact that Dan has committed a criminal act, which is not an omission and thus not insufficient either.

We must now discuss whether this criminal act would be seen by a reasonable person as to subject Vince to some harm, albeit no serious harm,<sup>43</sup> thus making it a dangerous act which would be liable for constructive manslaughter.

The case narrative tells us that Dan Smith had punched Vince once. When examining this from an objective standpoint, and as such as the reasonable person, (which is seen to be someone of prudent nature<sup>44</sup>, as required by Church [1966] and Newbury [1977]<sup>45</sup>), it is without a doubt that a punch would be likely to subject Vince to some harm. Furthermore, we are told by Dawson (1985) that the harm itself need not be serious<sup>46</sup> to subject Vince to some harm. As such it is further clear that Dan Smith's punch would be seen by a reasonable person as to subject Vince to some harm, albeit not serious harm. No reasonable person could find that a punch would result in no harm to the victim.

In conclusion, we can determine that Dan Smith committed a criminal act, which would be seen by a reasonable person as to subject Vince to some harm, albeit not serious harm. From this, it can be determined that Dan had committed an unlawful and dangerous act in regard to constructive manslaughter.

From the case narrative, we can conclude that Dan has committed an intentional unlawful and dangerous (criminal) act, and not an omission, which would be seen by the reasonable person to subject Vince to some harm, albeit not serious harm and as such would most likely

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<sup>39</sup> *Faulkner v Talbot* [1981] 3 All ER 468

<sup>40</sup> *Nelson* [2013] EWCA Crim 30

<sup>41</sup> *Donovan* [1934] 2 KB 498 / *Miller* [1954] 2 QB 282 (at 292)

<sup>42</sup> *Offences against the Person Act* 1861, s 47

<sup>43</sup> *Church* [1966] 1 QB 59 / *Newbury* [1977] AC 500

<sup>44</sup> *Vaughan v Menlove* (1837) 132 ER 490

<sup>45</sup> *Church* [1966] 1 QB 59 / *Newbury* [1977] AC 500

<sup>46</sup> *Dawson* (1985) 81 Cr App R 150



be liable for constructive manslaughter if Vince had died at the scene. However, as Vince did not die at the scene, the events which occurred after Dan's initial attack must be considered to determine if he is responsible for Vince's death, and no intervening act caused it, to fully determine if he would be liable with no break in causation by examining both factual and legal causation in respect to the events of which occurred.

When discussing the events leading up to Vince's death, it is vital to discuss the concept of factual causation. Factual causation is the idea that "but for" a person's actions, the death would have not occurred<sup>47</sup>. Furthermore, within this concept, contribution suffices. Dan's act needs not to be the sole or even main cause of Vince's death, contribution is enough<sup>48</sup>. In this case, the question lies in whether "but for" Dan Smith's actions, would Vince's death have occurred?

When addressing Dan's case, it must be determined that but for Dan's act, would Vince have died. Dan's initial assault kickstarted the chain of events which led to his death, but for Vince hitting his head, he would have not got a brain haemorrhage. The question now lies as to whether there was legal causation in that there was no novus actus interveniens ("an act or event that breaks the causal connection between a civil wrong or crime committed by the defendant and subsequent happenings and therefore relieves the defendant from responsibility for these happenings"<sup>49</sup>) which would have prevented Dan from being liable as this new act would be the operating cause of death.

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<sup>47</sup> *White* [1910] 2 KB 124 CA

<sup>48</sup> *Pagett* (1983) 76 Cr. App. R. 279 CA (at 288)

<sup>49</sup> Jonathan Law, 'Novus Actus Interveniens', A dictionary of law (Oxford University Press, Incorporated 2022)

We are told by the case narrative that Vince was taken to the hospital after the attack. He was then misdiagnosed as a result of negligence, where a correct diagnosis for the brain haemorrhage, he had would have saved his life. Has this failure to diagnose negligently resulted in a break in causation?

Medical negligence will only break causation where it is palpably wrong and is independent of the original act and thus becomes grossly negligent by nature. The question lies in whether the doctors in the case narrative have been so palpably wrong, wherein Dan's act wouldn't have played a significant contribution<sup>50</sup>, and independent of the original act where the original wound wouldn't be an operating and substantial cause and be part of a historical setting<sup>51</sup>. A brain haemorrhage is not a visible wound<sup>52</sup>, and may have been easily misdiagnosed in a pressurising situation, thus perhaps not as palpably wrong in such a scenario. Furthermore, the act of the misdiagnosis is not so independent of a cause for Vince's death, as the haemorrhage itself would have not occurred but for Dan's initial attack. As such, there has been no novus actus interveniens, and thus no break in causation.

In conclusion, if Dan was found to be the person who had committed the initial act, with this being in question as we are told by the case narrative that this identification itself is based upon witness reports only due to poor CCTV quality, as a result of Dan's potential liability for constructive manslaughter from his initial attack, and the result of a lack of break in causation - where the death of Vince would not have occurred but for Dan's actions, it is clear that Dan would be most likely convicted of constructive manslaughter.

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<sup>50</sup> *Cheshire* [1991] 1 WLR 844

<sup>51</sup> *Smith* [1959] 2 QB 35

<sup>52</sup> NHS, 'Subarachnoid haemorrhage' (*Subarachnoid haemorrhage*, 2 December 2021)

<<https://www.nhs.uk/conditions/subarachnoid-haemorrhage/diagnosis/>> accessed 16 December 2023

6.) The Crown Prosecution Service Full Code Test is a test applied by a prosecutor used to determine whether an offender is to be charged with an offence, both stages of the Full Code Test must be passed before a prosecution is started or continued<sup>53</sup>. Two tests are used: The evidential test and the Public Interest Test.

**Evidential test<sup>54</sup>:**

- There must be a realistic prospect of conviction.
- There must be an assessment of what the defence will be.
- Conviction must have a greater probability than not.
- Evidence must be admissible, reliable & credible.
- Evidence must be obtainable by investigation.

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<sup>53</sup> CPS, 'The Code for Crown Prosecutors' (*The Code for Crown Prosecutors*, 26 October 2018)  
<<https://www.cps.gov.uk/publication/code-crown-prosecutors>> accessed 18 December 2023

<sup>54</sup> Ibid

## **Public Interest Test<sup>55</sup>:**

Multiple factors can lead to the conviction being in the public interest, and thus passing the public interest test.

- **Culpability:**
  - Premeditation, degree of involvement, previous convictions, bail, age and maturity, coercion, illness, and disability all can either increase or decrease a defendant's culpability. Capacity is a significant factor in determining whether someone is culpable.
- **Circumstances towards Victim:**
  - The circumstances surrounding a victim's vulnerability, including factors such as trust and characteristics (race, ethnicity etc.) can lead to the public interest test being passed.
- **D's age and maturity:**
  - Age and maturity play an impact on public interest, with those under 18 being more at risk. The UN Convention on the Rights of the Child<sup>56</sup> is considered here.
- **Impact on community**
  - The impact upon the community is considered in the public interest, with the Community Impact Statement ("a short document illustrating the concerns and priorities of a specific community over a set time period"<sup>57</sup>) assessing community prevalence of crime. Furthermore, the proportionality of the prosecution is factored in, with the cost against penalty being assessed. Finally, it is determined whether sources of information need protecting. All of this is assessed in relation to public interest.

All of these factors in the Public Interest Test play a role in allowing a prosecutor to determine whether to pursue the case.

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<sup>55</sup> CPS, 'The Code for Crown Prosecutors' (*The Code for Crown Prosecutors*, 26 October 2018) <<https://www.cps.gov.uk/publication/code-crown-prosecutors>> accessed 18 December 2023

<sup>56</sup> Convention on the Rights of the Child (adopted 20 November 1989) 44/25 (UNGA), art 49.

<sup>57</sup> CPS, 'Community Impact Statements' (*Community Impact Statements*, 29 October 2019) <<https://www.cps.gov.uk/legal-guidance/community-impact-statements>> accessed 18 December 2023

## **Dan Smith – Full Code Test**

The evidence test must first be considered. There must be admissible, reliable, and credible evidence which is obtainable by investigation. When assessing the case narrative, there is very little evidence which may be considered reliable and credible. Vince's friends have made eyewitness accounts, however, these may not be reliable, as it could be easy to misidentify the attacker in the chaos of the pub. Furthermore, "the prevailing view, by far, is that eyewitness memory is unreliable"<sup>58</sup>. The only evidence remaining as to the attack is through poor quality CCTV footage which shows someone resembling Dan. While this may show someone of Dan's description, it is unreliable and thus not valid under the evidential test. As a result of a lack of reliable and credible evidence, there is likely no realistic prospect of conviction, with the defence being that there is no clear evidence; thus, acquittal is more probable than conviction. The question now lies in whether, should more evidence be gathered, it is in the public interest to prosecute Dan Smith via the Public Interest Test.

In Dan Smith's case, he most likely has not premeditated his act in punching Vince, and it is unsure whether he has previous convictions or bail. Furthermore, his age, maturity or potential disabilities are not mentioned. However, it is most likely that Dan is seen as having coherent thoughts as he has decided to come to the pub and through his ability to identify himself. With this in mind and the fact his degree of involvement is penultimate, he would most likely be seen as culpable in the Public Interest Test. If Dan had been suffering from a disability or some other factor which could have inhibited maturity, he may have had reduced culpability.

Not much is mentioned about Vince, and as such it is impossible to determine the characterises, he has. It is therefore not possible to determine whether these can be considered for the public interest. What can be found is that Vince most likely did not trust Dan as his friend, William, is unable to identify the name of the attacker, rather inferring his description. As such, circumstances towards Vince at the time of the attack will not play a role in the public interest.

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<sup>58</sup> John T. Wixted, Laura Mickes and Ronald P. Fisher, 'Rethinking the Reliability of Eyewitness Memory' (2018) 13 Perspectives on Psychological Science 324

The attack upon Vince would most likely be seen as having a relatively high impact on the community. Bar attacks would be likely high in York due to its high social environment and the levels of alcohol consumed as such, and thus it would be in the public interest to lower the levels of these attacks. There are no sources of information which would likely need protecting unless William was spotted by Dan Smith informing, and they believe a revenge attack will happen. Thus, it would be in the community's public interest to prosecute.

7.a.) This case was heard in the Court of Appeal (Criminal Division)

b.) Lord Justice Beldam

c.) Treatment “which falls short of the standard expected of the competent medical practitioner” is told by Professors Hart and Honore to be “only too frequent” for it to be considered abnormal in “the sense of extraordinary”. As such, while they could be found to be independent of the conduct of the defendant of the initial attack, it is unlikely they will be<sup>59</sup>.

d.) “The defendant’s acts need not be the sole cause or even the main cause of death, it being sufficient that his acts contributed significantly to the result.”<sup>60</sup>

e.) *Cheshire* [1991] 1 WLR 844, 851–852

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<sup>59</sup> *Cheshire* [1991] 1 WLR 844

<sup>60</sup> *Ibid*

8.)

**R. v Cheshire (David William)**

Journal Articles

## Journal Articles

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☐ **Causation**

Abstract

C.L.P. 1993, 46(1), 42-49 Criminal law

☐ **Breaking the chain**

Abstract

Pol. J. 1992, 65(1), 88-90 Criminal law

9.) a.) Gross Negligence Manslaughter - defined as a grossly negligent act or omission which causes death as a result. The negligence must have shown “such disregard for the life and safety of others as to amount to a crime.”<sup>61</sup>

b.) Liability of Gross Negligence Manslaughter from a potential intervening party would most likely be determined within the same trial depending on the facts. IRAC would help to clarify this through the assessment of the potential novus actus interveniens and discussing whether the chain of causation concerning Dan’s liability for constructive manslaughter is present, with a Gross Negligence Manslaughter conviction likely breaking this chain of causation and thus rendering Dan not liable, with the person committed the negligence liable.

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<sup>61</sup> *R v Adomako* [1994] UKHL 6

## **Cases**

- Cheshire [1991] 1 WLR 844
- Church [1966] 1 QB 59
- Coudrat v HM Revenue [2005] EWCA Civ 616
- Cunliffe v Goodman [1950] 2 KB 237
- Dawson (1985) 81 Cr App R 150
- Donovan [1934] 2 KB 498
- Faulkner v Talbot [1981] 3 All ER 468
- Hyam [1975] A.C. 55 (at 74)
- James v Chief Constable South Wales [1991] 6 CL 80
- Lowe [1973] 2 WLR 481
- Miller [1954] 2 QB 282 (at 292)
- Miller [2007] EWCA Crim 1891
- Nelson [2013] EWCA Crim 30
- Newbury [1977] AC 500
- Pagett (1983) 76 Cr. App. R. 279 CA (at 288)
- Parker [1977] 1 W.L.R 600 CA
- R v Adomako [1994] UKHL 6
- R v Franklin (1883) 15 Cox CC 163
- R v Hussain & Hussain [2010] EWCA Crim 94
- Rutherford v Independent Police Complaints [2010] EWHC 2881
- Smith [1959] 2 QB 35
- Vaughan v Menlove (1837) 132 ER 490
- White [1910] 2 KB 124 CA

## **Legislation**

- Convention on the Rights of the Child (adopted 20 November 1989) 44/25 (UNGA), art 49.
- Coroners and Justice Act 2009
- Offences against the Person Act 1861
- Police and Criminal Evidence Act 1984



## Bibliography

- Government UK, 'Being arrested: your rights' (Gov.UK, 2023)  
<<https://www.gov.uk/arrested-your-rights/how-long-you-can-be-held-in-custody>>  
accessed 30 November 2023
- Ormerod D and Perry D, 'Chapter B2.29', Blackstone's criminal practice 2024  
(Oxford University Press 2023)
- CPS, 'Community Impact Statements' (*Community Impact Statements*, 29 October 2019) <<https://www.cps.gov.uk/legal-guidance/community-impact-statements>>  
accessed 18 December 2023
- CPS, 'Homicide: Murder, manslaughter, infanticide and causing or allowing the death or serious injury of a child or vulnerable adult' (CPS, 2023)  
<<https://www.cps.gov.uk/legal-guidance/homicide-murder-manslaughter-infanticide-and-causing-or-allowing-death-or-serious>> accessed 8 December 2023
- Law J, 'Novus Actus Interveniens', A dictionary of law (Oxford University Press, Incorporated 2022)
- Government UK, 'PACE Code A' (Gov.UK, 2023)  
<<https://www.gov.uk/government/publications/pace-code-a-2023>> accessed 30 November 2023
- Government UK, 'PACE Code C 2019' (Gov.UK, 2023)  
<<https://www.gov.uk/government/publications/pace-code-c-2019>> accessed 30 November 2023
- Government UK, 'Police and Criminal Evidence Act 1984 (PACE) codes of practice' (Gov.UK, 2023) <<https://www.gov.uk/guidance/police-and-criminal-evidence-act-1984-pace-codes-of-practice>> accessed 30 November 2023
- Wixted JT, Mickes L and Fisher RP, 'Rethinking the Reliability of Eyewitness Memory' (2018) 13 Perspectives on Psychological Science 324
- NHS, 'Subarachnoid haemorrhage' (*Subarachnoid haemorrhage*, 2 December 2021)  
<<https://www.nhs.uk/conditions/subarachnoid-haemorrhage/diagnosis/>> accessed 16 December 2023
- CPS, 'The Code for Crown Prosecutors' (*The Code for Crown Prosecutors*, 26 October 2018) <<https://www.cps.gov.uk/publication/code-crown-prosecutors>>  
accessed 18 December 2023
- CPS, 'The Crown Prosecution Service' (CPS, 2023) <<https://www.cps.gov.uk>>  
accessed 8 December 2023
- Sentencing Council, 'Unlawful Act Manslaughter' (Sentencing Council, 1 November 2018) <<https://www.sentencingcouncil.org.uk/offences/crown-court/item/unlawful-act-manslaughter/>> accessed 5 December 2023

- “Westlaw UK” (*Westlaw UK*, 30<sup>th</sup> November 2023) <<https://uk.westlaw.com/>>  
accessed 30<sup>th</sup> November 2023