**CRIMINAL JUSTICE PROCESS**

How a crime is investigated.

When a crime is reported:

-pick up the phone and call the police.

-police investigates what hapens.

-apprehend (zadržať)

-charge the suspect (obviniť)

Guilty of

Charged with obvinený z

They write CRIME REPORT:

Includes statements from victims, witnesses,

Search for evidence.

The end/result of investigation – identify a suspect and than arrest him.

There is questining

ARREST

Summoned

To summoned someone

A summons =predvolanie na súd

When investigation is complied:

POLICE -will charge the suspect (obviniť)

-may release him

-summon the suspect

-may give him a caution (warning)

Once charged:

Bailed (is a sum of money – to be at liberty

Remanded in custody (poslať do vyšetrovacej väzby

CPS: Crown prosecution servis – it is a public service, which is responsible for prosecuting the people in E, W.

-the case is reffered (sent) to CPS

HEAD is DIRECTOR OF PUBLIC PROSECUTION (DPP)

42 areas – each area is headed by CHIEF CROWN PROSECUTOR

Their task is to REVIEW the prosecution fill and statements (witnesses, victims).

They decide - continue or discontinue the prosecution

-correct charge?

-the right person prosecuted for the right offence?

2 TESTS:

1.EVIDENTIAL TEST – whe the test is positive – enough evidence to be used in court liable?

2.PUBLIC INTEREST TEST – is it in public interest? Depends on the serioussnes of the offence.

Situations when the PROSECUTION is needed:

CONVICTION – significant sentence

Weapon (used)

Victim-child/public servant

If the offence was planned, aggravated offence (when criminals use weapon, explosives, bombs) priťažujúce okolnosti

**POLICE POWERS:**

-to STOP (you) and to SEARCH + ARREST

1984 PACE (Police Act on Criminal Evidence)

-the idea is to prosecute and detect criminals

-there must be a BALANCE between prevention an detection of crime

-on the other hand we have a protection of individual liberty.

POWER TO STOP & SEARCH:

is usually done in public places:

there must be a reasonable ground:

-stollen goods (they stop you and search)

-PROHIBITED ARTICLES (if you have some prohibited articles, such as weapons, drogs)

POLICE OFFICER:

-must give his/her(their) name

-police station from where he is

-reason why he is stoping you

-hot in uniform (PLAIN COATH OFFICER).

When he is not weared in a uniform, he can´t stop a car.

TIMELINE:

1.CRIME comitted

2. POLICE contacted

3.CRIME reported

4.They will start INVESTIGATION

5. Questining of witnesses, interviewing witnesses and victims

6. SUSPECT ARREST

7.SUSPECT INTERVIEW

8.The police makes a decision to charge the suspect.

9.CPS-to make a review/to review

He will appeal at the

10.Magistrates Court for appearence

11.and defines PLEADS

12.Court –case heard

13.if the defendant is guilty – CONVICTION SENTENCE

POLICE POWERS

to ENTER & SEARCH PREMISES (areas, priestory)

-search warrant (house where you live) to enter the house =issued by Magistrate

-NO WARRANT 1.when they arrest a person under warrant

2.when they arrest a person for arrestable offence

3.when it is an escaped prisoner

4.to save a life/injury damage

5.to prevent breach of the peace

+CONSENT – IDENTIFY:

Police officer must say their name, station,

-produce search warrant

-or inform you about reason, rights.

-CONSENT: +warrant

-FORCE and ENTRY –when the occupier is absent

-person refused entry

-when the premisses are unoccupied

-if it is imposible to comunicate with the person/suspect

**ARREST** (samost.ot.)

-it is an apprehension of a person suspected of crime act.

-is performed by P.O. or by private person – this is called the citizen´s arrest.

-with ARREST WARRANT/or without A.W. issued by Magistrate

-NO WARRANT is needed for arrestable offences

=an offence where the suspect may be arrested without a warrant.

=an offence that carries sentence of 5yrs imprisoner e.g. theft, serious assault, burglary, criminal damage.

=sentence is fixed by law: murder carries in life imprisoner

=less than 5yrs: taking a car without consent, making off without payment, drog possesion.

+NON-ARRESTABLE OFFENCES: all others

**ARREST**

It may be performed against the person who is:

-person in the act of committing arrestable offence

-or suspected of committed A.O.

-or individual has committed A.O.

-or person/individual suspected of hearing committed A.O.?

-or in a case of breach of peace

KEY FACTOR is A.O.!!!

Must have been committed ---------------- otherwise the innocent person can sue the person who had arrest him wrongly in a civil court for FALSE IMPRISSONMENT (ASSAULT)

You could be sued for the false imprisonment.

(another remedy is an action for habeas corpus)

EXTRA POWERS of P.O. – ARREST:

-may arrest a person who´s adress and name is not known/or is false /fólz/

-or if they believe that it´s neceseary to prevent injury/damage.

-or in order to protect a child or unherable person (zranená osoba)

P.O. must inform you:

-that you are under arrest

-gives you a reason, inform you about rights,

-name, station

CITIZEN´S ARREST:

-anybody may arrest

-at present (is committing)

-at past (has committed)

P.O.´s arrest – P.O. has the power to arrest

P+p (citizen´s powers)

EXTRA POWERS – is about to committ

RIGHTS of DETAINEES:

-to consult a layer – privatly

-you have a right of scilence – means no statements

LOSS OF RIGHT OF SILENCE – later you cannot rely on information you didn´t say in your defence

As a failure to answer? s of police

-right to have someone inform about arrest

-right of independant legal advice – duty solicitor (if you can´t afford your own layer)

**BAIL.**

BAIL ACT 1976

-the idea is that you are allowed to be a liberty (no custody) = prezumpcia neviny

=presumption of innocence – a prson is innocent until proved guilty.

When is a bail granted?

-during invetigation by the police

-or once you have been already charged.

TASK: TO APPEAR ST A LATER DATE

-hear at Police station

-in court

Not willing to grant a BAIL:

-Magistrates Court – Magistrate decide hearing

BAILED BAIL MAY BE REFUSED:

You think the person fails to come (or doesn´t attend court)

You think the person committs other offences

You think the person will interferes witnesses

CUSTODY MAGISTRATE DECIDES on/about BAIL:

Bail depending on:

-nature/seriousness of case

-previous jumping of bail

-if he jumped the bail

-past record of defendant (záznam v registri)

Magistrates may impose a condition to bail:

-take your passport

-SURETY (ručiteľ) –who is prepared to pay for you

-RECOGNIZANS-kaucia, záväzok

E,W – first at liberty, pay after

US – first pay, then released (at liberty)

The bail will be refunded or forfeited. (kaucia vrátená, alebo prepadnutá)

**CRIMINAL JUSTICE PROCESS IN USA:**

-presumtion of innocence

-right of silence

ARREST – by P.O.

-by citizen´s arrest

-indentifies the crime and individual (suspect)

-location (where the individual may be found)

-permit to arrest

BOOKING

=personal records (name, where are you from, adress, fingerprints)

Police is searching in records: about backrounds of suspect.

Rights of detainees:

-right of scilence

-right

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+ all mentioned for E,W +

Right against self-incrimination = right to remain silent, right not to help the prosecution

POLICE – police investigation

PROSECUTION OFFICE

-charge the suspect E,W 36hours (more serious offences 96 hrs)

US –within 72 hrs. (speedy trial, California 48 hrs)

-release the suspect

FIRST APPEARANCE

-at Magistrates Court

-suspect is informed about his charges and about rights he has.

PRELIMINARY HEARING (predbežné konanie)

-GRAND JURY should be served or not?

-GRAND JURY HEARING 4 more serious offences (selonies)

RESPONSE from G.J.:

TRUE BILL – indict the suspect

NO BILL – no prosecution (pozri opäť GRAND JURY a PETIT JURY!!!!!!!)

INFORMATION:

Federal Government -may prosecute on the bases of information

INFO=means WRITTEN ACCUSIATION SIGNED BY A PUBLIC PROSECUTOR.

ARRAIGNMENT:

-pleading of defendee

-guilty plea x no trial – directly sentence

-not guilty plea – trial

-no contest x no trial

PLEA BARGAIN (dohoda o vine a treste)

-if defendant agrees to plead guilty – lower sentence

PROCESS (broader term)

PRE-TRIAL TRIAL POST-TRIAL

JURY TRIAL

BENCH TRIAL

PROSECUTOR (prosecution)

DEFENDANT (defence)

Prosecution – they want to obtain guilty verdict

-and conviction

Defendant -they want to disprove the evidence

-and not guilty verdict

**TRIAL.**

1.choosing a jury (VOIR DIRE – Judge questioning potential jurors)

2.opening statements – prosecution first

-defendant second

3.examination in chief=witness testimony

Prosecution – calls their witnesses 1.direct examination

2.cross examination

3.re-examination

Defence

4.closing arguments – prosecutor

-defendant – last chance to speak to jury.

5. Jury instruction – help with

? – points of law

6.Jury deliberation verdict

Jury for criminal case – guilty/not guilty

For civil case – in favour one party/or to the other party

POST-TRIAL

SENTENCING/PUNISHMENT

Minor offences – sentenced immediatly

Complex cases – PRE-SENTENCE REPORT (T./D. Given to the judge)

Judge makes a sentence.

Kind of punishment:

-death penalty

-imprisonment/life imprisonment

-fine, community service

-suspended prison sentence probation

Incarceration = US am. Uväzniť

PRISON – felony; state/federal government

JAIL – detention; county/municipal government