POLICE PROFICIENCY
CRIMINAL LAW LECTURE

PREPARED BY:
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LEARNING GOAL

- To reinforce the importance of understanding the elements of crime.
BY THE END OF THIS LESSON YOU SHOULD BE ABLE TO:

- Correctly analyze/assess components of offences.
- Identify the various penalties attached to each offence.
- Refamiliarize yourself with the various authorities/powers that are afforded to you as a police officer.
A person is guilty of fraudulent breach of trust if he dishonestly appropriates a thing the ownership of which is vested in him as a trustee for any other person.

**CASE LAWS**


2. RALPH JAN WARD VS ATTORNEY GENERAL

MARIA CECILIA GONZALEZ-GRAVES, WAYNE CECIL GRAVES (A Minor, by Wayne Ricardo Graves his Father and Next Friend) Second Appellant

VS

GINA MARIE GONZALEZ-ROLLE First Respondent, STANLEY OSWALD ISAACS Second Respondent & DAKE GONZALEZ Third Respondent
UNLAWFUL ASSEMBLY SECTION 79 OF THE PENAL CODE CHAPTER 84

3 or more persons

Intent to carry-out a common purpose

Assemble in such a manner to cause persons in the neighbourhood of such assembly to fear,

Provoke other persons to disturb the peace tumultuously

Disturb the peace tumultuously
• **SUBSECTION (2)**
  
  - Lawfully assembled
  - Conduct themselves for a common purpose
  - That would have made their assembling unlawful if they had assembled in that manner for that purpose

• **SUBSECTION (3)**
  
  - An assembly of three or more persons
  - For the purpose of protecting the house
  - Against persons threatening to break and enter such house
  - To commit any crime therein is not unlawful
Any Magistrate

Any Justice of the Peace

Any Commissioned Officer in Her Majesty’s military or Naval Service

May make or cause to be made a proclamation in the Queen’s name, commanding the rioters or persons so assembled to disperse peaceably.
“Our Sovereign Lady the Queen chargeth and commandeth all persons, being assembled, immediately to disperse themselves, and peaceably to depart to their habitations, or to their lawful business, upon the pains contained in the Penal Code for preventing tumults and riotous assemblies.”

“GOD SAVE THE QUEEN”.

PROCLAMATION
CONSPIRACY
SECTION 89 OF THE PENAL CODE
CHAPTER 84

2 or more persons agrees

Or act together with a common purpose

In committing or abetting an offence, whether with or without any previous concert or deliberation,

Each of them is the case may be.

Guilty of conspiracy to commit or abet that offence as
Person “A” is in Jamaica and contacts Person “B” and instructs him to collect a package from the airport. Person “B” does as he is instructed but is stopped however by Police who searches him and discovers that the package contains counterfeit American Currencies.
CASE LAWS


LISTON PERPALL, RENARDO PERPALL & DESMOND HIGGS VS
THE COMMISSIONER OF POLICE

(2) COMMONWEALTH OF THE BAHAMAS IN THE COURT OF APPEAL MCCrimApp & CAIS No. 36 of 2015

(8, 27 May 2015; 24 July 2015)

DARRYL ELMER BARTLETT VS
THE COMMISSIONER OF POLICE
SECTION 104 (1) OF THE PENAL CODE CHAPTER 84 (ARREST WITHOUT WARRANT)

Any peace officer and all persons whom he shall call to his assistance may arrest and take persons into custody without a warrant in the following cases —

- (A) Persons seen committing an offence
- (B) Drunken or disorderly persons
- (C) Persons loitering at night
- (D) Persons charged by others if charge appears well founded
- (E) Persons charged with assaults recently committed
SUBSECTION (2)

Offenders to be promptly taken to court, unless released on bail.

Any such person arrested as aforesaid shall be taken, as soon as reasonably may be, before a magistrate to be dealt with according to law; unless he be released on bail, approved by the Commissioner of Police or other authorised member of the police force, under the provisions of the Police Act, or on bail otherwise lawfully authorised.
SECTION 107 OF THE PENAL CODE CHAPTER 84

- **Use of force for prevention of or defence against crime.**

- **SUBSECTION (4)**
  - (A) Treason
  - (B) Piracy
  - (C) Murder
  - (D) Manslaughter, (Except Manslaughter by negligence)
  - (E) Robbery
  - (F) Burglary
  - (G) House-Breaking
  - (H) Arson of a dwelling-house or vessel
  - (I) Rape
  - (J) Forcible unnatural crime
  - (K) Dangerous or grievous harm
ASSAULT SECTION 133 OF THE PENAL CODE CHAPTER 84

Whoever unlawfully assaults any person shall be liable to a fine of one hundred and fifty dollars, or to imprisonment for three months.

INDECENT ASSAULT SECTION 134 (1)

Whoever commits an indecent assault upon any person, whether male or female, shall be liable to imprisonment for six months.
SECTION 135 (2)

- Whoever negligently and unlawfully causes harm to any person shall be liable to **imprisonment for three months**.
WHOEVER IS CONVICTED OF —

(1) any of the undermentioned offences, where the value of the property alleged to have been stolen or obtained does not in the opinion of the court exceed the sum of five hundred dollars, namely, any of the offences following —

- Stealing by reason of employment or service

- Stealing from or in any dwelling-house, shop, manufactory, warehouse, dock, wharf or quay adjacent to any harbor etc;
• Stealing from the person
• Stealing any cattle
• Committing a fraudulent breach of trust

**SUBSECTION (2)**
Any attempt to commit any of the offences herein referred to; or

**SUBSECTION (3)**
Any abetment, or conspiracy for the commission of any of the said offences, shall, if the offender had not been previously convicted of a similar offence, be liable to **imprisonment for three months, or to a fine of five hundred dollars, or to both.**
Whoever causes the death of another person by any unlawful harm is guilty of manslaughter. If the harm was **negligently caused**, he is guilty only of manslaughter by negligence.

**MURDER**

SECTION 290 OF THE PENAL CODE CHAPTER 84

Whoever intentionally causes the death of another person by any unlawful harm is guilty of murder, unless his crime is reduced to manslaughter by reason of such extreme provocation, or other matter of partial excuse, as in this Title hereafter mentioned.
Where a woman by any **wilful act or omission** causes the death of her child, being a child **under the age of twelve months**.

Balance of her mind was disturbed (Postpartum Depression or Lactation consequent upon the birth of the child).

POWERS TO ENTER DOMESTIC PREMISES

A police officer may, without warrant enter any premises for the purpose of giving assistance to anyone present thereon

(1) If he has reasonable grounds to suspect that a protection order is being violated;

OR

(2) If upon the invitation of a person resident at the premises he has reasonable grounds to suspect that a person therein has suffered, or is in imminent danger of suffering, physical injury at the hands of some other person therein.
SUBSECTION 2

Nothing in this Act shall be construed as limiting the powers conferred by any other law upon a court or a police officer except where it is provided in this Act that the provision herein is notwithstanding anything to the contrary in that other law.

SUBSECTION 3

Where a police officer exercises a power of entry upon private premises in accordance with the foregoing provisions of this section, he shall as soon as practicable thereafter submit a written report to the officer in charge of the police station to which he is assigned.
SECTION 2 BAIL AMENDMENT ACT 2016

- INSERTION OF NEW SECTION 12(A) & 12(B) INTO THE BAIL ACT CHAPTER 103

- 12 (A)- OFFENCE OF VIOLATING CONDITIONS OF BAIL

Any person who, having been released on bail in criminal proceedings and who breaches any conditions of bail commits an offence.
12 (B) PENALTY FOR VIOLATING CONDITIONS OF BAIL

(1) An offence under section 12 (A) is punishable on summary conviction to a fine not exceeding $50,000.00 or to a term of imprisonment not exceeding 5 years or to both such fine and term of imprisonment.
12 (B) PENALTY FOR VIOLATING CONDITIONS OF BAIL

(2) In criminal proceedings for an offence under section 12 (A), a document purporting to be a copy of the part of the prescribed record which relates to the granting of bail of the accused person, and duly certified to be a true copy of that part of the record, shall be evidence of the conditions of bail.
If any person acting under a warrant of arrest, or any peace officer having other authority to arrest, has reason to believe that the person to be arrested has entered into or is within any place, the person residing in or being in charge of such place shall, on demand of such person acting as aforesaid or such peace officer, allow him free ingress thereto and afford all reasonable facilities for a search therein.
SUBSECTION 2

- If ingress to such place cannot be obtained under the provisions of subsection (1) of this section.

- It shall be lawful in any case for a person acting under a warrant.

- A warrant may issue but cannot be obtained without affording the person to be arrested an opportunity to escape.

- For a peace officer to enter such place and search therein and, in order to effect an entrance into such place,
To break open any outer or inner door or window in any house or place,

Whether that of the person to be arrested or of any other person, or otherwise effect entry into such house or place, if,

After notification of his authority and purpose and demand of admittance duly made,

Or there is no person present to whom he can make such demand, he cannot otherwise obtain admittance.
Notwithstanding section 18 or any other law, a police officer of at least the rank of inspector may make an *ex parte* application to a magistrate,

To have any person arrested for any offence specified under the First Schedule to the Bail Act detained for a **further period not exceeding forty-eight hours** where the inquiry into that offence is incomplete and where the police officer —
SECTION 3 (1)

Whoever engages in or conspires to engage in, or attempts to engage in, or assist or otherwise facilitates another person to engage in “trafficking in persons” shall

(a) on summary conviction —

(i) be sentenced to not less than three years nor more than five years imprisonment;

(ii) be subject to forfeiture of property under section 7; and

(iii) be ordered to pay full restitution to the victim under section 6;
(b) on conviction on information —

(i) be sentenced to life imprisonment or to a term not less than five years;

(ii) be subject to forfeiture of property under section 7; and

(iii) be ordered to pay full restitution to the victim under section 6.
SECTION 4 (1)

UNLAWFUL WITHHOLDING OF IDENTIFICATION PAPERS.

- A person who, for the purpose of committing or facilitating an offence under subsection (1) of section 3 conceals, removes, withholds or destroys any —

  - Travel document that belongs to another person;

    Or

  - Document that establishes or purports to establish another person's identity or immigration status, is liable on —
(i) Summary conviction to imprisonment for a term of three years;

(ii) Conviction on information for imprisonment for a term of ten years.

CASE LAW

COMMONWEALTH OF THE BAHAMAS IN THE COURT OF APPEAL SCCrApp & CAIS No. 179 of 2014


CHEVANESE SASHA GAYE HALL VS

THE ATTORNEY-GENERAL
SECTION 13
WITNESS PROTECTION

• Victims who are witnesses or potential witnesses should be considered for entry into the Witness Protection programme established under the Justice Protection Act if it is determined that an offence involving a crime of violence directed at the witness or potential witness is likely to be committed.
SECTION 19
OFFENCE OF THREATENING, OBSTRUCTING, ETC.,
CONSTABLE

Any person who threatens, assaults, or obstructs a constable acting in the execution of his duty under this Act commits an offence and is liable on summary conviction to a fine of ten thousand dollars or to imprisonment for a period of six months or to both such fine and imprisonment.
The Governor-General, acting in accordance with the advice of the **Judicial and Legal Service** Commission, may appoint, from time to time, a person to be coroner at any place or district on any Out Island which is not included in the district of a commissioner or which, although included therein, is shown to the satisfaction of the Governor-General to be at such a distance from the residence of such commissioner as to render it difficult to perform his duties as *ex officio* coroner of the district.
SECTION 5 (3)

Whenever a justice of the peace becomes cognizant of a death calling for inquiry or inquest

Opinion that the coroner is unable to act by reason of his being at too great a distance from where the body is lying,

Justice of the peace shall forthwith hold an inquiry or inquest; and every such justice so acting shall for the purpose of

Every such inquiry or inquest be vested with all the powers of a coroner and shall be entitled to the same rate of remuneration as a deputy coroner under section 61 of this Act and shall be subject to the provisions of such section.
SECTION 9

CORONER MAY INQUIRE INTO THE DEATH OF A PERSON BROUGHT INTO HIS DISTRICT.

- When the dead body of any person is brought within any port or place within The Bahamas

- The coroner of the district where the body may be shall, if necessary, inquire concerning the death of the person in the same

- Although the death or the cause of death may have occurred beyond the limits of the district or beyond The Bahamas.
SECTION 4 OF THE SEXUAL OFFENCES ACT
CHAPTER 99

SEXUAL INTERCOURSE INCLUDES:

- Sexual connection occasioned by any degree of penetration of the vagina of any person or anus of any person, or by the stimulation of the vulva of any person or anus of any person, by or with

- (i) any part of the body of another person; or
- (ii) any object used by another person,
• Except where the penetration or stimulation is carried out for proper medical purposes;

AND

• (b) Sexual connection occasioned by the introduction of any part of the penis of any person into the mouth of another person.
SECTION 5A VOYEURISM.

(1) Any person who —

(a) surreptitiously observes including by mechanical or electronic means;

OR

(b) makes a visual recording of a person, in circumstances that give rise to a reasonable expectation of privacy, commits an offence if —
(1) The person is in a place which a person can reasonably be expected to be fully or partially nude

(2) To expose his or her genital organs or other intimate parts or to be engaged in explicit sexual activity

(3) For the purpose of observing or recording a person in such a state or engaged in such an activity

(4) The observation or recording is done for a sexual purpose.
SECTION 5D

(1) Any person who —

(a) indecently assaults any other person;

(b) does anything to any other person with the consent of that other person which, but for such consent, would be an indecent assault, such consent being obtained by false and fraudulent representation as to the nature and quality of the act, is guilty of an offence and liable to a term of imprisonment of three years.
SECTION 7 PROCURATION

- Any person who —

  (a) Whether by electronic means or otherwise

  (i) Eighteen years of age to have unlawful sexual intercourse, either in or outside The Bahamas, or with any other person;

  (ii) Procures or attempts to procure any person to become, either in or outside The Bahamas, a common prostitute;
(iii) Any person to leave The Bahamas with intent that he may become an inmate of or frequent a brothel elsewhere;

(iv) Any person to leave his usual place of abode in The Bahamas with intent that he may, for the purposes of prostitution, become an inmate of or frequent a brothel either in or outside The Bahamas;

(v) By threats or intimidation, procures or attempts to procure any person to have unlawful sexual intercourse either in or outside The Bahamas;
(vi) By false pretenses or false representations, procures any person to have any unlawful sexual intercourse either in or outside The Bahamas;
PROSTITUTION AND
DISCLOSURE OF AIDS.

Any person who knows that he is infected with a virus causing, or known to cause, acquired immune deficiency syndrome (commonly known as “AIDS”) and who has sexual intercourse with any other person, with the consent of that other person but without disclosing the fact of the infection to that other person,

- Guilty of an offence and liable to be detained for a term of five years in such place and under such conditions as may be specified by the court before which he is convicted
Any person who is guilty of an abduction of any unmarried person being of or above sixteen years of age and under eighteen years of age is guilty of an offence and liable to imprisonment for two years:
SECTION 26 (1) SEXUAL HARASSMENT

Any person who —

- (a) being a prospective employer importunes or solicits sexual favours from another person

- (i) In the terms or conditions on which he offers, to that person or any other person, employment or admission into any institution;

OR

- (ii) under a threat of rejection (whether implied or otherwise) of any application made by that person or any other person for employment or for admission into any institution, or of causing such rejection;
Any person who is guilty of the offence of sexual harassment is liable to a fine of five thousand dollars or to imprisonment for **two years or to both such fine and imprisonment.**
FIREARM AMENDMENT BILL 2011

SECTION 11

9A POSSESSION OF FIREARM & AMMUNITION WITH INTENT TO SUPPLY

• (2) A person who contravenes this section commits an offence and is liable —

• (a) On conviction on information to a term of imprisonment in the range of ten years to fifteen years;

• (b) On summary conviction to imprisonment to a term in the range of four years to seven years.
SECTION 2

- Fine of two hundred and fifty thousand dollars or to imprisonment for five years or to both.”

NOW

- Four to seven years or to both imprisonment and a fine of two hundred and fifty thousand dollars
Offence occurs within one mile of a school, such person shall be liable to a term of imprisonment within the range of six to seven years or to both imprisonment and a fine of two hundred and fifty thousand dollars.”
SECTION 62 (1) CHILD PROTECTION ACT
CHAPTER 132

- If any person who has attained the age of eighteen years
  - Has the custody, charge or care of any child assaults, ill-treats, neglects, abandons or exposes him,
- Or causes or permits him to be assaulted, ill-treated,
- Neglected, abandoned or exposed, in a manner likely to cause him unnecessary suffering or injury to health
• Summary conviction to a fine not exceeding five thousand dollars or imprisonment for two years or both,

• OR, UPON

• Conviction before the Supreme Court, to a fine not exceeding ten thousand dollars or imprisonment for five years or both.
SECTION 80 (1)

DUTY OF SOCIAL SERVICES OFFICER TO INVESTIGATE AND ACT.

• (a) Take the child and place him under emergency protection in a place of safety for a maximum period of forty-eight hours;

OR

• (b) Take such steps as are reasonable to ensure that the child's removal from any hospital, or other place, in which he is then being accommodated is prevented.
SECTION 109

AGE OF CRIMINAL RESPONSIBILITY

- Notwithstanding anything to the contrary in any law —
  - (a) It shall be conclusively presumed that no child under the age of ten years can be guilty of an offence;
  - (b) It shall not be presumed that a child aged ten or over is incapable of committing an offence.
ACQUISITION, POSSESSION OR USE OF PROCEEDS OF CRIMINAL CONDUCT.

(1) A person is guilty of an offence if, knowing, suspecting or having reasonable grounds to suspect that any property is, or in whole or in part directly or indirectly represents, another person’s proceeds of criminal conduct, he acquires or uses that property or has possession of it.
“A” is the friend of “B”

“A” committed the offence of Acquisition

“B” wires $150,000.00 to “A” account

“B” instructs “A” to transfer the funds to someone else’s account

“A” knows that “B” is a drug dealer
DISCLOSURE OF KNOWLEDGE OR SUSPICION OF MONEY LAUNDERING

(1) Where a person in good faith discloses to a police officer

(a) His suspicion or belief that another person is engaged in money laundering;

OR

(b) Any information or other matter on which that suspicion or belief is based, the disclosure shall not be treated as a breach of any restriction upon the disclosure of information imposed by statute or otherwise and shall not give rise to any civil liability.

NB (IN THE ILLUSTRATION “B” HAS COMMITTED THE OFFENCE OF MONEY LAUNDERING).
SECTION 45 (1)
A person guilty of an offence under section 40, 41 or 42 (money laundering) shall be liable

- (a) On summary conviction, to imprisonment for five years or a fine of $100,000 or both;
  AND
- (b) On conviction on information, to imprisonment for twenty years or an unlimited fine or both.
SOURCES

• PENAL CODE CHAPTER 84
  • SECTIONS
  • 48, 79, 80, 89, 104, 107, 133, 135 (2), 140 (1), 289, 290, 298,

• DOMESTIC VIOLENCE PROTECTION ORDERS ACT
  • CHAPTER 99A
  • SECTIONS
  • 16 (1),

• BAIL AMENDMENT ACT 2016
  • SECTION
  • 2
- SEXUAL OFFENCES ACT CHAPTER 99
  - SECTIONS
    - 4, 5D, 7, 8, 23, 25, 26, 48

- FIREARM AMENDMENT BILL 2011
  - SECTIONS
    - 11

- DANGEROUS DRUG AMENDMENT ACT 2011
  - SECTIONS
    - 2
• **CHILD PROTECTION ACT CHAPTER 132**
  • SECTIONS
  • 62 (1), 80 (1), 109

• **PROCEEDS OF CRIME ACT CHAPTER 93**
  • SECTIONS
  • 42, 43, 45 (1) (B)

• **CORONERS ACT CHAPTER 56**
  • SECTIONS
  • 3, 4,
CRIMINAL PROCEDURE CODE CHAPTER 91
- SECTION
  12, 19

TRAFFICKING IN PERSONS PREVENTION & SUPPRESSION ACT CHAPTER 106
- SECTIONS
  3, 4, 13, 19
QUESTIONS AND ANSWERS

○ Thank you very much for your time.