

Government: Parliamentary Democracy		
1	Parliament	<ul style="list-style-type: none"> <li>The UK is a parliamentary democracy.</li> <li>Laws are made by passing Acts of Parliament.</li> <li>These laws are referred to as statutes or legislation.</li> </ul>
2	House of Commons	<ul style="list-style-type: none"> <li>This is made up of elected representatives of the people.</li> <li>There are 650 MPs- Members of Parliament.</li> <li>Each MP gets elected in a General Election.</li> <li>Each MP represents their constituency- an area of the country that elected them.</li> </ul>
3	House of Lords	<ul style="list-style-type: none"> <li>Members are referred to as peers-there are 800</li> <li>Traditionally a peer was a nobleman eg Duke or a Baron-they have an hereditary position-they passed their peerage on to the next generation.</li> <li>Today there are only 92 hereditary peers.</li> <li>There are 26 Church of England bishops and archbishops.</li> <li>The rest of the members are life peers-cannot pass peerages on to their children.</li> <li>The Lords double check new laws.</li> </ul>
4	The Monarch	<ul style="list-style-type: none"> <li>In the UK the <b>Queen plays</b> a constitutional <b>role</b> in opening and dissolving Parliament and approving Bills before they become <b>law</b>.</li> </ul>

Key words		
1	Government	<ul style="list-style-type: none"> <li>Government run the country.</li> <li>It is formed by the political party that has a majority of the 650 MPs.</li> <li>The Prime Minister is the leader of the majority party.</li> <li>Proposals for new laws come from Government.</li> </ul>
2	A Bill	A proposal for a new law is a Bill.
3	Green Paper	This is an initial report to trigger public discussion of the subject. It includes questions for interested individuals and organisations to respond to.
4	White Paper	After a consultation, the government publishes the White Paper. This sets out detailed plans for legislation. It includes a draft version of the Bill to put before Parliament.

Government processes of law making		
1	<b>First reading</b>	The government introduces the Bill into the Commons (sometimes the Lords).. This is a formal announcement of the Bill. It is followed by a vote.
2	<b>Second reading:</b>	The main principles of the Bill are considered and debated in the House of Commons and a vote is taken. If the Government has the support of a majority of MPs they win the vote and the Bill goes to the next stage.
3	<b>The committee stage</b>	The Bill is looked at in detail.. This is done by a small committee of MPs from different parties. They report back to the House of Commons and may propose amendments/changes to the Bill.
4	<b>The Report Stage</b>	This gives MPs the opportunity to look at the committee's report and will debate and vote on amendments. Some major Bills may hold debates over several days.
5	<b>Third Reading</b>	The third reading is the final chance for the commons to debate the Bill's contents. No further amendments are allowed-the House votes to pass or reject the Bill.
6	<b>The Lords</b>	The Bill goes to the House of Lords. It goes through the same stages as the Commons. If the Lords amend the Bill, it goes back to the House of Commons so MPs can decide to accept or reject their amendments. The House of Commons will have the final say as they are elected representatives of the people.
7	<b>Royal Assent</b>	Once passed by both houses it is signed by the Monarch. This is their agreement to turn the Bill into an Act of Parliament/a law. The new law then comes into force straight away.

Part of LO1: Understand the CJS- also see other ACs and LO2 and LO3 to complete the Unit revision

**The judicial processes of law making: 1) Judicial precedent**

1	<b>Definition</b>	<ul style="list-style-type: none"> <li>This is where the past decisions of judges create laws for future judges to follow.</li> <li>This is based on the principle of standing by a decision; in Latin-"stare decisis".</li> </ul>
2	<b>Unit 3 Topic 1.1 link:</b>	<ul style="list-style-type: none"> <li>Where the point of law in a case today is the same as a previous case, the judge should follow the decision made in the previous case.</li> <li>This creates certainty, consistency and fairness in the legal system.</li> </ul>
2	<b>Common law</b>	<ul style="list-style-type: none"> <li>Many laws have been created using this system.</li> <li>This has created a single set of laws common to the whole country-known as "common law."</li> </ul>
3	<b>The court hierarchy:</b>	The legal system has a hierarchy of courts. Decisions made in a higher court creates an original or binding precedent for all lower courts-this must be followed by the courts in similar cases.
4	<b>Exceptions to precedent:</b>	There are 2 situations where precedent does not need to be followed; A) Distinguishing B) Overruling
5	<b>Distinguishing</b>	A precedent from an earlier case is only binding on a present case if the legal principle involved is the same and if the facts are similar in both cases. Distinguishing means the judge finds the facts in the present case are different from the previous one and will allow them to reach a different decision and not follow precedent.
6	<b>Overruling</b>	This is where a court higher up the hierarchy states that a legal decision in an earlier case is wrong and overturns it. Eg. The Supreme Court can overrule a lower court's decision when it hears an appeal.

**The judicial processes of law making: Statutory interpretation**

1	<b>Definition</b>	Judges can make laws by the way they interpret the statutes or Acts of Parliament. A statute is a written law. Judges need to interpret the meaning of words and apply them to the cases they are judging.
2	<b>Interpretation rules</b>	<ul style="list-style-type: none"> <li>The literal rule</li> <li>The golden rule</li> <li>The mischief rule</li> </ul>
3	<b>The literal rule</b>	Judges should use the everyday meaning of the words in a statute BUT-words can have several meanings. Eg. R v Maginnis (1987)-case involving illegal drugs-different meanings were found for the word supply.
4	<b>The golden rule</b>	The literal rule can sometimes lead to an absurd result. The golden rule can be applied to avoid this happening. E.g. Under the Official Secrets Act (1920) it was an offence to obstruct Her Majesty's Forces in the vicinity of (near to) a prohibited place, such as a naval base. In the case Adler v George (1964) Adler stated he had not broken the law because he was not <u>literally</u> in the vicinity of a prohibited place but was <u>actually</u> in it. The court chose to apply the golden rule to avoid an absurd result and Adler was convicted.
5	<b>The mischief rule</b>	The mischief rule allows the court to enforce what the statute was intended to achieve, rather than what the words actually say. Eg Licensing Act (1872) makes it an offence to be drunk in charge of a carriage on the highway. In Corkery v Carpenter (1951), Corkery was found guilty even though he had been in charge of a bicycle

Part of LO1: Understand the CJS- also see other ACs and LO2 and LO3 to complete the Unit revision

**Identify the main parts of the CJS**

1	<b>Law creation and administration:</b>	passing of criminal law by Parliament and running of the justice system by Government departments.
2	<b>Law enforcement:</b>	Eg the police
2	<b>The Courts:</b>	Including prosecution and defence-decide the outcome of criminal cases.
3	<b>Punishment of convicted offenders:</b>	By the prisons and probation service.

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**Describe the organisation and role of the agencies involved in criminal justice**

1	Law Creation	Parliament passes Acts- legislation of statute law. Judges create law - by setting judicial precedents for other courts to follow and by interpreting the meaning of statutes (statutory interpretation.)
2	Police	Their role is to enforce criminal law. They investigate crimes. They arrest, detain and question suspects. In minor cases they issue cautions or give fixed penalty notices. In most cases they will send files to the CPS to let them decide whether or not to prosecute. There are 43 regional police forces in England and Wales.
3	HM Courts and Tribunals Service	This is responsible for the administration of the courts and tribunals in England and Wales. When a suspect is charged they go before the magistrate's court to plead guilty or not guilty. Pre-trial issues such as bail and legal aid are decided. Guilty plea will lead to a sentencing hearing. Not guilty plea will lead to a trial being arranged. <b><u>Magistrate's Court:</u></b> This deals with less serious offences- about 95% of all cases. <b><u>Crown Court:</u></b> Deals with serious offences-triable by judge and jury. The prosecution (CPS) and defence lawyers will present a case for and against the defendant. Evidence is testimonial (witness statements) physical (weapons, stolen goods) or both. The jury (Crown Court) or magistrates will decide the verdict. If guilty, the judge or magistrates will decide the punishment. This could be a custodial sentence (prison) or a community sentence eg fine or a discharge. It will be based on the statute and the Sentencing Guidelines produced by the Sentencing Council. Offenders <b>can appeal</b> against their conviction and/or sentence.
4	HM Prison and Probation Service	This carries out sentences given to offenders by the courts. <b><u>HM Prison Service:</u></b> supervises offenders in custody. <b><u>The National Probation Service:</u></b> Supervises offenders who are serving their sentences in the community, including prisoners who have been released on licence to serve part of their sentence outside prison. Rehabilitation is also provided to help offenders lead a crime-free life.

Describe the relationships between different agencies and the extent of cooperation that exists.

1	<b>POLICE</b>	<b>The Courts:</b> Give evidence as prosecution witnesses Protect vulnerable witnesses, Hold defendants in police cells, Transport defendants to and from court.	<b>HM Prison and Probation Services</b> Police arrest prisoners recalled to prison for breaching terms of their licence. Police cooperate with prison and probation services in managing the list of child sex offenders living in their area.	
		<b>CPS</b> Provide evidence for prosecution. Charge offenders in line with CPS instructions.	<b>Voluntary Organisations</b> Refer victims and witnesses to Victim Support, refuges and witness service.	
2	<b>THE CPS</b>	<b>The Police:</b> Advise on lines of enquiry and evidence collection to build a case. Instruct the police on charging suspects.	<b>The Courts</b> Prepare and present the prosecution case against offenders-preparing appeals against unduly lenient sentences.	
3	<b>GOVERNMENT DEPARTMENTS</b>	<b>The Courts, Prison Service and Probations service</b> Through HM Courts and Tribunals Service and HM Prison and Probation Service. The Ministry of Justice is the department responsible.	<b>The Police</b> Where the Home Office is the department responsible eg for setting national policing priorities. Government Departments provide funding for these parts of the justice system out of general taxation.	
4	<b>HM COURTS and TRIBUNALS SERVICE</b>	<b>The Courts and Judges</b> Supervising the efficient running of the courts system;funding the individual courts.	<b>HM Prison Service</b> Holding prisoners attending court, pending their transfer or return to prison Arrange video recordings and live links for prisoners giving evidence from prison.	
5	<b>The NATIONAL PROBATION SERVICE</b>	<b>HM Prison Service and the Parole Board</b> Supervise prisoners released on licence.	<b>The Courts</b> Preparing pre-sentence reports on offenders; supervising offenders who have been given a community sentence by the court; supervising drug testing under the court's orders.	
6	<b>HM PRISON SERVICE</b>	<b>The Courts</b> Carrying out custodial sentences that the court has imposed on offenders; supervising defendants who have been remanded into custody (refused bail) by the court. Facilitating visits from defence lawyers to their clients in prison.	<b>The Police</b> Facilitating interviews with prisoners involved in ongoing police investigations.	<b>The National Probation Service</b> Liaising when a prisoner is to be released from prison on licence.

**Models of Criminal Justice**

1	Key Idea	<p>HERBERT PACKER: Described two sets of values which shape the way the criminal justice systems work.</p> <p>He sums these up in two opposed models of criminal justice.</p>
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Crime Control Model			Due process model		
1	Key idea	The goal is the suppression of crime as it is a threat to people's freedom. It prioritises catching and punishing offenders, deterring and preventing them from committing further crime.	1	Key idea	The power of the state is the greatest threat to the individual's freedom and so the goal of the due process model is to protect the accused from oppression by the state and its agents.
2	Presumption of guilt:	The model starts by trusting the police to identify those who are guilty through their investigations and interrogations. Police should be free of legal technicalities that prevent them from investigating crime.	2	Presumption of innocence:	The model believes the accused to be innocent until proven guilty after a fair trial.
3	Conveyor belt	Once the probably guilty are identified, there is a conveyor belt approach to the justice system. It speedily prosecutes, convicts and punishes offenders	3	Lack of faith in the police:	This model does not believe that the police are competent and honest on all occasions. Suspects' and defendants' rights need to be safeguarded by a set of due process rules.  All investigations and trials should abide by these rules. Eg the rules of arrest, questioning, legal representation, admissibility and disclosure of evidence, cross-examination of witnesses, no secret trials...
4	Key idea	If a few innocent people are convicted by mistake this is a price worth paying for convicting a large number of guilty people.	4	Obstacle Course	There is no conveyor belt here but a type of obstacle course that protects the rights of the accused. The prosecution will need to overcome these obstacles in order to secure a conviction.
5	Key idea	It emphasises the rights of society and victims to be protected from crime –rather than the rights of suspects.	5	Free on technicalities	Sometimes the guilty may go free on a technicality eg where the prosecution have used illegally obtained evidence. The model does argue that this is a lesser evil than convicting the innocent.
6	Key idea	What sort of legal technicalities might supporters of the crime control model want to remove so the police can investigate more effectively?	6	Key idea	The model emphasises the rights of the accused individual rather than those of the victim or society.

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#### Links to Theories

1	<b>Crime Control Model (A) Right Realism</b>	<ul style="list-style-type: none"> <li>a) This is a right-wing conservative approach.</li> <li>b) It has connections with Right Realist theories of crime.</li> <li>c) Eg zero tolerance policing gives greater powers to the police to investigate and prevent crime.</li> </ul>
2	<b>Crime control model (B) Functionalism</b>	<ul style="list-style-type: none"> <li>a) This has links with Durkheim's functionalist theory.</li> <li>b) It supports the idea that punishment reinforces the moral boundaries of society.</li> <li>c) The main function of justice is to punish -society is able to express moral outrage towards the guilty. This strengthens social cohesion</li> </ul>
3	<b>Due process model (A) Left Realism</b>	<ul style="list-style-type: none"> <li>a) This model also has links to Left realism.</li> <li>b) This theory argues that military style policing of poor communities makes residents unwilling to assist police and causes confrontation.</li> <li>c) This view then states that the police should follow due process without discrimination if they want to fight crime-they need the community to cooperate.</li> </ul>
4	<b>Due Process model (B) Labelling</b>	<ul style="list-style-type: none"> <li>a) This liberal model aims to stop state agencies from oppressing people.</li> <li>b) It is connected to labelling theory.</li> <li>c) Eg the police may harass groups they negatively label as "typical criminals".</li> <li>d) The model offers a layer of protection from this-police have to follow the procedures within the law.</li> </ul>

#### How the two models describe the system of justice in England and Wales

1	<b>Key idea</b>	<p>We can see examples of each model by looking at;</p> <ul style="list-style-type: none"> <li>a) Rules governing the working of the justice system</li> <li>b) The way the system works in practice</li> </ul>
2	<b>Rules governing the working of the justice system</b>	<ul style="list-style-type: none"> <li>a) The rights of the individual during an investigation and trial are protected with due process rules eg illegally obtained evidence is inadmissible in court such as that gained through torture.</li> <li>b) However, judges can admit this evidence if they believe it will help establish the truth.</li> <li>c) This supports the crime control model as it may lead to a conviction.</li> </ul>
3	<b>Due Process and Crime Control in Practice</b>	<p>1) <b>The small number of appeals</b> against convictions may indicate that due process is followed.</p> <p>2) <b>Miscarriages of Justice:</b> However, there are issues with miscarriages of justice or incidences where members of the police or courts have breached the law.</p> <ul style="list-style-type: none"> <li>a) <b>Colin Stagg-</b> Murder of Rachel Nickell-Police used a honey trap to try to convict him.</li> <li>b) <b>Sally Clark</b> - wrongly convicted of the murder of her two baby sons, serving three years of a life sentence. Pathologist diagnosed the cause of death as a respiratory tract infection- he changed his diagnosis at trial to smothering. <b>Doctor</b> gave misleading evidence at trial. He claimed that two deaths were statistically rare and highly suspicious. He was later struck off.</li> <li>c) <b>The Birmingham Six-</b>Convicted for the murder of 21 people in the Birmingham pub bombings 1974. Released in 1991. <b>The West Midlands Serious Crime Squad</b></li> <li>d) Were found to have been involved in malpractice.</li> <li>e) <b>Barry George-</b> Convicted of the murder of BBC Crimewatch presenter Jill Dando in 2001 and later freed in 2008. He has been denied compensation.</li> </ul> <p>3) <b>Evidence of bias by magistrates</b></p> <ul style="list-style-type: none"> <li>a) <b>The case of Bingham Justices (1974):</b> When a defendant's evidence contradicted that of a police officer in a speeding case, the chairman of the magistrates said- "My principle in such cases has always been to believe the police officer."This is evidence of malpractice to secure a conviction (link with crime control model)</li> </ul>