

COMMISSION

PARIS - LONDRES

Responsable : ALAIN-CHRISTIAN MONKAM



Mercredi 12 décembre 2012

La garde à vue
en Grande-Bretagne
et en France

*The police station
detention*

Intervenants / Speakers:

Michael Jones

Président de la Criminal Law Solicitors
Association

*Chair of the Criminal Law Solicitors
Association*

Carbon de Seze, MCO

Co-responsable de la commission droit pénal
*Member of the Paris Bar Council, co-chair
of the commission of criminal law*

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Comparison Approach of
The Police Station Detention

Introduction

- ▣ Chair: Mr Alain-Christian Monkam, UK
solicitor and French avocat
- ▣ Speakers:
- ▣ Mr Michael Jones, Chair of the Criminal Law Solicitors Association
- ▣ Mr Carbon de Seze, Member of the *Conseil de l'Ordre* and co-chair of the criminal commission of the Bar of Paris

I- Introduction of the criminal justice system

- ▣ **In the UK**
- ▣ Magistrates Courts
- ▣ The Crown Court

- ▣ **In France**
- ▣ « *Tribunaux correctionnels* »
- ▣ « *Cour d'assise* »

II- The Main Laws

In the UK :

- ▣ The Police and Criminal Evidence Act 1984
- ▣ The Codes of Practice
- ▣ The Code of Practice for the detention, treatment and questioning of persons by Police Officers (and the notes for guidance it contains)

II- The Main Laws

In France:

- ▣ *LOI n° 2011-392 du 14 avril 2011 relative à la garde à vue*
- ▣ *Article 62-2 à 64-1 of the « Code de procédure pénale »*

III- Role of the UK solicitors and the French *avocats* at the police station

Arrival at the police station

In the UK:

- Defence Solicitors Call Centre
- LSC Call Centre
- CDS Direct

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Arrival at the police station

In France:

- “*Standard Extérieur Garde à Vue*” (call centre of the Bar of Paris)
- Direct call from the police station “*Commissariat*”

III- Role of the UK solicitors and the French *avocats* at the police station

Interview with the client

In the UK:

- Custody Record
- Risk Assessment
- Appropriate Adult for people aged 17
- No time limit of the interview
- Notice of the right to remain silent and the words of caution

III- Role of the UK solicitors and the French *avocats* at the police station

Interview with the client

In France:

- Time limit of 30 minutes
- Notice of the rights of the client (information of a close relation or the employer, consultation with a doctor, right to make statements or to remain silent, right to be assisted during the interviews)
- Information on the duration of the detention (48 hours - exceptions) and its possible outcomes
- Discussion about the case

III- Role of the UK solicitors and the French *avocats* at the police station

Relationships with the police

In the UK:

- Discussion with the police officer
- No obligation of disclosure
- The “worst disclosure”

III- Role of the UK solicitors and the French *avocats* at the police station

Relationships with the police

In France:

- Provision of the minutes of detention and notification of rights, medical note or certificate, previous interviews of the client by the police
- Possible discussion with the police officer
- Few or no disclosure

III- Role of the UK solicitors and the French *avocats* at the police station

Interview of the client by the police

In the UK:

- Words of caution
- Interview by 2 police officers
- No limit of interview
- Audio recording on DVD
- Intervention of the solicitors during the interview

III- Role of the UK solicitors and the French *avocats* at the police station

Interview of the client by the police

In France:

- Words of caution
- Interview by 1 police officer
- No limit of interview
- Record on written minutes (“procès-verbal”)
- Video recording for minor
- No intervention of the *avocat* during the interview
- Questions of the *avocat* at the end of the interview

III- Role of the UK solicitors and the French *avocats* at the police station

End of the detention

In the UK:

- Release without charge
- Release on bail
- The suspect is kept for next sitting of Magistrates Court

III- Role of the UK solicitors and the French *avocats* at the police station

End of the detention

In France:

- Release without charge
- Release with convocation to the tribunal
- The suspect is kept for “*défèrement devant le Procureur de la République*” (presentation to the prosecutor for charge)

CONCLUSIONS

- ▣ Questions of the audience ?
