

## Caselaw Bailiffs and Police

If a police officer arrests a debtor to benefit an enforcement agent acting unlawfully, the officer commits an offence under section **26(4) of the Criminal Justice and Courts Act 2015**.

If a police officer fails to arrest an enforcement agent committing an offence, the officer commits an offence under **section 26(5) of the Criminal Justice and Courts Act 2015**.

There must be very good reasons for arresting a debtor on the grounds of preventing a breach of the peace; only a serious and imminent threat justifies arrest, **Foulkes v Chief Constable of Merseyside Police [1998]3 All ER 705**

A debtor can fully use reasonable force in removing a bailiff who has refused to leave, the bailiff resisting is the person guilty of a breach of the peace, **Green v Bartram [1830]4 C&P 308** and if police are present, the bailiff is the person that police should arrest, **Foulkes v Chief Constable of Merseyside Police [1998]3 All ER 705**

By common law, police officers owe to the general public a duty to enforce the criminal law, **1968 CA Lord Denning re: Commissioner of Police of the Metropolis, Ex parte Blackburn [1968]2 QB 118**

A bailiff may not encourage a third party to allow the bailiff access to a property (i.e. Workmen inside a house or a police officer); access by this means renders everything that follows invalid, **Nash v Lucas [1867]2 QB 590**

If a police officer is in attendance and assists the bailiff to gain entry or persuades the debtor to open the door then any levy the bailiff makes is void and the debtor can sue for damages. **Skidmore v Booth [1834]6 C&P 777**

If a police officer arrests a debtor after throwing a bailiff off the premises who had committed, and the bailiff was there illegally: **Green v Bartram [1830]4 C&P 308**.

A police officer must arrest a bailiff for breach of the peace if he places the debtor in fear of violence or harm if that offence is made in the presence of that officer, **R v Howel1 (Errol) [1982] 1 QB 427**.

A police officer must apprehend and arrest the party that is threatening violence, **Redmond-Bate v Department of Public Prosecutions, The Times July 28 1999, Lord Justice Sedley**

If a bailiff causes a disturbance but does not make a threat, it is unreasonable for the police to arrest him. **Bibby v Constable of Essex [2000] Court of Appeal April 2000**

When a government department publishes "guidelines" on how it should operate, then those guidelines must be followed unless contrary legislation is provided. Demonstrated in **paragraph 29 and onwards in the judicial review R v South Western Magistrate's Court [2013] EWHC 64(admin)**

The courts must never appear to approve of an unlawful action against a debtor no matter how unsympathetic his record, **R v Purdy [1974] 1 QB 288, 1 QB 292F**