

- May arrest for refusal under s17D

vii) **Road Traffic Act** s16 empowers police to stop vehicle, rickshaw, bicycle on a road
A PO may, w/i 4 months of an offence, demand certain details of the driver/registered owner of a vehicle (s6J RTA)

- Must tell the PO the name, add & driving licence no of the driver at the time of the alleged offence (*Secretary for Justice v Richard Laker*)

viii) **Dangerous Drugs Ordinance**: s32(1g) empowers police to stop & search –

- If article liable to seizure may be in personal custody
- If a person is found w/i a place where an article liable to seizure is found

Searching

Common law empowers police to search an AP on reasonable suspicion he has a weapon/evidence material to the offence for which he was arrested (*Lindley v Rennie* – Unlawful search)

See above: s34(1) & (2) PPO; s33 PPO

B) Search Warrants

Search of premises w/ a warrant

i) Police

Allows a magistrate to issue a warrant to enter, search for, & usually seize property from premises, on the understanding that there is reasonable cause to suspect that there is likely to be on those premises a thing of value to the investigation of an offence committed about to be committed (s36(7) PPO)

Reasonable cause to issue a warrant does not require the court to find a *prima facie* case vs the accused (*Shauhan Ma Hareira v Chung Fook Kam*)

- But a magistrate must usually receive evidence on oath in the form of a sworn statement of belief from the officer seeking the warrant

A decision to issue a warrant, or to deny an application for issue, may be the subj of IR (May not – *Re Racial Communications Ltd/May '96* – *Apple Daily Ltd v Comm of the ICAC* (No 2))

The warrant should be – (*Re Ip and Willis; Baker v Campbell*)

- Addressed to the appropriate person in control of the premises, &
- State the offence alleged which requires the search

Police empowered by a warrant to break into premises where necessary

- If a person has control of the things searched looks likely to hamper the search => The warrant may also allow police to detain persons for a period reasonably necessary to allow them to conduct the search

The items seized should be described w/ reasonable particularity in the warrant (*Baker v Campbell*)

- But where evidence of further crimes of a similar nature is discovered during a lawful search => that evidence may also be seized (*Chie Fashions (West Wales) Ltd v Jones*)

ii) ICAC

Allows ICAC officers to make an application for a warrant to search for evidence of bribery offence (s17 PPO)

Except: Counsel's chambers & solicitor's offices may not be the subj premises of such a warrant unless the staff of those officers are suspected of bribery offences (s17(2) PPO)

- BUT not for warrants issued under s16B & 16C ICAC Ord & s38 PPO

s16B & 16C ICAC Ord allows ICAC officers to seek warrants permitting them to search for & seize materials relating to the investigation of bribery/corruption offences

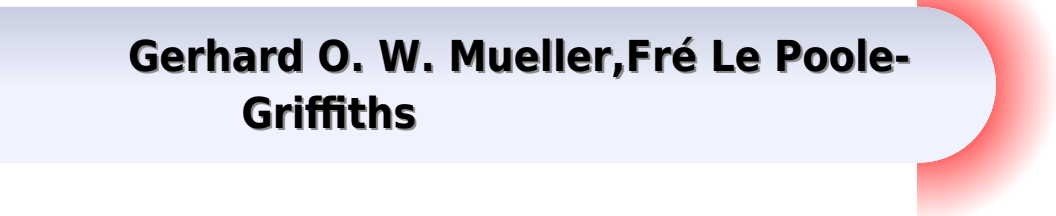
- The ICAC are generally not permitted to seek a warrant under s16B to investigate offences not related to bribery/corruption unless evidence of such offence has arisen in the course of a bribery/corruption investigation (s18 ICAC Ord)
- Other offences => s38 PPO

Other relevant provisions relating to searches –

- Seizure of materials used in preparation for crime (s18B & 184 CPD)
- Seizure of evidence relating to sexual offences specified in Part VII CO (s152 CO)
- Seizure of evidence relating to the offence of keeping a vice establishment (s153 CO)
- Search & seizure of stolen gds (s28(1) Theft Ord)

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**Gerhard O. W. Mueller,Fré Le Poole-
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