6. Confessions, the defendant’s silence, and improperly obtained evidence

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Chapter:
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The Concentrate Questions and Answers series offers the best preparation for tackling exam questions. Each book includes typical questions, bullet-pointed answer plans and suggested answers, author commentary and diagrams and flow charts. This chapter covers three areas: confessions, silence of the accused and judicial discretion to exclude improperly obtained prosecution evidence. It explains how the most persuasive, sometimes only, evidence available to the prosecution is a pre-trial confession. While confessions have long been accepted as evidence of guilt, they have also posed risks of unreliability and violation of individual autonomy. Defendants may not be making a true confession or may have been obtained as a result of pressure. Permissible inferences from a pre-trial failure to respond to questions has the crucial difference
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that such failure alone cannot found a conviction. English law has previously been unwilling to acknowledge the case for excluding evidence which involves the police acting improperly or even illegally.

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