

Appendix 1 Interview reference sheet

(s. 3 and 4)

Before interview considerations

Is the person affected by liquor or drugs? {PPRA s. 423; OPM 6.5.4}

If so, delay the questioning until you are satisfied the influence of the liquor or drug no longer affects the person's ability to understand his or her rights and decide whether or not to answer questions.

Is the person an Aborigine or Torres Strait Islander? {PPRA s. 420}

If you reasonably suspect the person is at a disadvantage in comparison with members of the Australian community generally, and the person has not arranged for another person to be present during the questioning, you must arrange for a support person to be present. {PRC s. 25(7); OPM 6.3.6}

If the person in custody has indicated he or she does not wish to telephone or speak to a friend, relative or lawyer or arrange for a person to be present during questioning, you must inform the person that he or she may have a support person present during questioning. {PRC s. 25(5), PPRA s.420} You must substantially comply with the following:

- **Is there any reason why you don't want to telephone or speak to a friend, relative or lawyer, and arrange for a person to be present during questioning?** {PRC s. 25(6)}
- **Do you understand that arrangements can be made for a support person to be present during questioning?** {PRC s. 25(6)}
- **Do you understand that you do not have to have a support person present during questioning? Do you want to have a support person present?** {PRC s. 25(6)} and
- **Do you want to have a support person present?**

Is the person a child (under 18 years of age)?

Any child suspect (under the age of 18 years) cannot be questioned unless a support person is present {Youth Justice Act s. 29}. The child is to be provided the opportunity to speak to the support person in circumstances in which the conversation will not be overheard. The child must be happy with the presence of the nominated support person. {PPRA s. 421}

Does the person have impaired capacity? {PPRA Schedule 6}

If so, obtain the services of a support person (i.e., a parent or other person), to provide or who is able to provide support necessary to help the person receiving the care by looking after or managing the persons interests. {PPRA s. 422; OPM 6.3.3}

If a support person is required to be present?

If a support person is required to be present (e.g., if the person has impaired capacity or the suspect is under 17 years of age) ensure that the support person has read and understood **Form 36: 'Information for Support Persons about Their Role'**.

Does the person need an interpreter? {PRC s.28; OPM 6.3.7; PPRA s. 433}

In deciding whether to arrange for the presence of an interpreter, you may ask a person any question, other than a question related to the person's involvement in the offence that may help you decide if the person needs an interpreter.

Is the person a visiting foreign national? {PRC s.29; PPRA s.434}

- **Before I ask you any questions, I must tell you that you have the right to telephone, or attempt to telephone, the embassy or consular office of the country of which you are a citizen.**
- **Do you want to telephone your embassy or consular office?**

Introduction

- **I am (name and rank) of (name of police station or police establishment). I wish to question you about (briefly describe offence).**

Voluntary attendance

Attends station by themselves {PRC s. 22(3)}

- **Did you come here of your own free will?**
- **Has any threat or promise been held out to you to get you to take part in this interview?** {PPRA s. 416}

Before you start the interview, you must ask these questions {PRC s. 22(4)}

- **Do you understand that you are not under arrest?**

- Do you understand that you are free to leave at any time unless you are arrested?

Refer to 'Cautioning of all persons questioned for indictable offences'

Under arrest {PPRA s. 365(2)}

- You are under arrest for (state nature of offence) and have been conveyed here today for the purpose of questioning and/or investigation about this offence.
- Do you understand what has occurred?
- Do you understand that you are not free to leave?

Refer to 'Cautioning of all persons questioned for indictable offences'

Cautioning of all persons questioned for indictable offences

Right to silence {PPRA s. 431; PRC s. 26(1)}

- Before I ask you any questions, I must tell you that you have the right to remain silent.
- This means that you do not have to say anything, or answer any question, or make any statement unless you wish to do so.
- However, if you do say something or make any statement, it may be used later as evidence. Do you understand?

Additionally for a child:

- Do you understand that if you do speak, that whatever you say will be recorded by this device?
- Do you understand that if you speak, whatever you say may be told to a court?

Right to communicate with friend, relative or lawyer {PPRA s. 418; PRC s. 23(1)}

- You have the right to telephone or speak to a friend or relative to inform that person where you are and to ask him or her to be present during questioning.
- You also have the right to telephone or speak to a lawyer of your choice to inform the lawyer where you are and to arrange or attempt to arrange for the lawyer to be present during questioning.
- If you want to telephone or speak to any of these people, questioning will be delayed for a reasonable time for that purpose.
- Is there anyone you wish to telephone or speak to?

Adoption of Events

- Do you agree I saw you earlier today at (state place) and had a conversation with you?
- Has any threat or promise been held out to you to get you to take part in this interview? {PPRA s. 416}

Further questioning

If either prior or during questioning the suspect does not want to answer questions:

- Would you please explain what you mean when you say you do not wish to answer any (further) questions? Is it that you do not wish to answer that question, particular questions or any further questions?
- Do you wish to answer any further questions regarding this complaint or (alibi, other events)?
- Are you prepared to provide personal details for the purpose of this interview?
- Are you prepared to have the details of the complaint outlined to you?
- Do you wish to make any comment concerning this complaint?
- Do you wish to provide your version of events?

Concluding questions

- Is there anything else at all that you wish to say in relation to this matter?
- Have you taken part in this interview of your own free will?
- Has any threat or promise been held out to you to get you to take part in the interview?
- Were you told of your right to remain silent at the start of/during this interview? {PPRA s. 431}
- Have you answered the questions truthfully here today?

- **Does anyone present wish to say anything before I conclude this interview?**
- **I will now terminate this interview. I make the time (state time). Do you agree with that time?**

NOTE: For further information refer to the PPRA, PRC, FRH or DERIE Manual.

This document can be located on the Operational Support homepage, Service Intranet.

Inquires can be forwarded to Operational Policy and Improvement phone 0439 834 936.

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