

# The 'Independent Person' at a Police Interview

[Prepared by Det Sgt Craig HINTZ - Logan District JAB - 1996. Acknowledgement LS 26 7/88]

As an independent person who is about to take part in an interview of a person who may be under a disability, you should read this information sheet and generally familiarise yourself with its contents. It should be noted that your role as an independent person is to ensure, as far as possible, that the person being interviewed is treated fairly, and that any statement he/she makes is made voluntarily. You should be, and remain at all times, impartial to the officer/s concerned as well as the person being interviewed.

## PRIOR TO COMMENCEMENT OF INTERVIEW

1. You should obtain information from the police as to identity of the person to be interviewed. If you feel that you cannot remain impartial and objective, you should not take part in the interview. Persons in an authority relationship with the subject are unacceptable (e.g. own school/teacher, person in charge of some establishment where person to be interviewed may be, employer, etc.).
2. If the subject is a CHILD - You should inquire whether his parents have been advised and why they are not present?
3. You should request from the police officers the reason as to the police belief that the person to be interviewed is under a disability, (i.e. aboriginal, Torres Strait Islander, immaturity, mental illness, feeble-mindedness, lack of education, cultural differences, inability to speak or understand English, child, etc.), or reason for the requirement of the presence of the independence person.
4. You should speak to the person to be interviewed in private and satisfy yourself that you can act impartially and that he is able to understand you, and what is about to take place.
5. You should inquire from the person to be interviewed whether he has any objection to you taking part in the interview, or whether he would prefer some other suitable independent person, or any other wish he may have.
6. As the independent person, you shouldn't be under a disability (i.e. deaf, under influence of liquor or drugs, illiterate etc.) and not connected in any way with the complaint or complainant.
7. What is the ability of the person to be interviewed to understand procedures and questions (i.e. what standard of education has he achieved, can he read, write, etc.).
8. You should inquire as to the procedure to be adopted, (i.e. record of interview typed or otherwise, hand written statement or other).
9. You should request information from police as to what offence/s is/are being investigated or other reason for requiring the interview.
10. You should satisfy yourself that the person to be interviewed knows his right to remain or leave the Police Station or office (if not in custody).

11. The person to be interviewed should not be interviewed when not in full possession of his faculties e.g. from tiredness, injury or the effects of drugs or alcohol. If you consider the person being interviewed is not in possession of his faculties advise the police officers concerned.

12. Explain to the person to be interviewed that if he makes any admissions to you concerning any offence/s, you may be called to give evidence in a court of law.

13. Explain to the person to be interviewed:

- (a) That you are there present to explain to him matters that he may not understand.
- (b) That if he wishes to consult with a solicitor to obtain legal advice, you will see that a solicitor is called on his behalf.
- (c) That he has the right to answer questions or remain silent when the interview commences.
- (d) That he is not obliged, unless he wishes, to take part in identification parades or line ups, examination of identification of documents or exhibits.

## DURING INTERVIEW

1. It is important that prior to or at any time during the interview, the person being interviewed is not overborne by means of any threats, intimidation, oppression, promises, inducements of any kind. If you feel that he may be overborne, you should privately advise the interviewing officer/s of your opinion.
2. If at anytime after the interview commences you feel that the person being interviewed needs any question, part of a question or word/s explained, you should notify the police with a view of having a suitable explanation made.
3. When the person being interviewed is warned "that he is not required to answer any question unless he wishes to ...", you should satisfy yourself that he fully understands his rights:-
  - (a) Not to take part in the interview.
  - (b) That he can answer all questions.
  - (c) That he may answer some questions and not others.
  - (d) That although he takes part in the interview he does not have to answer questions.
4. Although you may explain various matters to the person to be interviewed you are not to answer questions for him. All answers given and recorded must be his answers to the questions asked.
5. You should not unnecessarily interfere with or disrupt the interview. If you wish to raise any matter, you should indicate this to the officer conducting the interview.

## CONCLUSION

1. At the conclusion of the interview you should satisfy yourself that the interview was recorded correctly, by reading the record made and signing same, at the end, after initialing each page (if written).
2. You should also satisfy yourself that the record is read aloud by or to the person interviewed, if he agrees, and for him to make any additions or explanation. You should make sure that the person interviewed received a copy of the interview (if written).