

## **Investigative interviewing suspect guide**

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## Executive summary

Key things to note in this guide:

- All interviews must be undertaken in accordance with New Zealand Police values and relevant legislation and guidance.
- Every suspect is different.
- Be flexible and use techniques that are appropriate for the interviewee, situation and circumstance.
- Interviews have 5 phases - Planning and preparation, Engage and explain, Account, Closure and Evaluation.
- Always plan and prepare for interviews, no matter what type of interview is being considered.
- Consider early whether suspects require special consideration and if so, follow the additional procedures in [Investigative interviewing - suspects requiring special consideration](#).
- All children and young persons must be treated with special consideration due to their age and specific legal requirements.
- It is paramount you consider the suspect's well-being and investigative needs in decision making relating to interviews.
- All suspects must understand the caution and their rights and be allowed to exercise them.
- It is the suspect's right to request a lawyer, consult with them in person and/or on the phone, and have one present while being interviewed.
- If a suspect refuses to answer questions, explain why you want to interview them and outline the allegations so they have a fair opportunity to provide an explanation.
- Always act professionally when challenging the suspect.
- Where there is more than one offender for an offence, consider using a consistent interview structure for all offenders and compare notes when planning and preparing.
- Obtain the Prison Manager's agreement to interview a suspect in Corrections custody and arrange a venue. The Corrections' Chief Executive or their delegate must approve a prisoner's removal from a prison for interview.
- Video recording the suspect's interview is the best recording method and preferred by the courts.
- Only make a written statement when it's impractical to video or audio record the interview, or the suspect refuses to go on video or audio but consents to a written statement.
- Suspect video interviews should be disclosed like any other Police document, but - there is no requirement to create a transcript for the purpose of disclosure.

# Overview

## Introduction

In the interests of fairness, all suspects should be given an opportunity to be interviewed. They have a right to be made aware of any allegations against them and given a reasonable opportunity to provide an explanation.

Investigators must attempt to gain as much information as possible to establish the truth of the matter under investigation. Interviewing the suspect may provide valuable information not obtained, or available, from other sources.

## Purpose

These guidelines:

- outline skills necessary for conducting ethical investigative interviews that encourage suspects to give complete, accurate and reliable information
- outline procedures for:
  - [planning](#), [engaging with suspects and explaining](#), [conducting](#), [closing](#) and [evaluating](#) suspect interviews
  - ensuring suspects are cautioned and receive appropriate advice about their rights under the [New Zealand Bill of Rights Act 1990](#) and the [Chief Justice's Practice Note on Police Questioning](#)
  - managing interviews involving [co-offenders and multiple offences](#)
  - introducing [fingerprint and DNA evidence](#) during interviews
- outline the use of the [conversation management](#) interviewing model
- provide guidance on [dealing with lawyers](#) during suspect interviews
- ensuring compliance with legislative requirements relating to [interview records](#), particularly video records, and their [transcription](#) and use in court processes.

The way interviews are conducted can ultimately determine whether a person's right to a fair trial is afforded.

All interviews must be undertaken in accordance with New Zealand Police values and relevant legislation and guidance.

It is essential that interviewing Police employees are familiar with and act within the terms of the:

- [Chief Justice's Practice Note on Police Questioning](#) ('the Practice Note')
- [New Zealand Bill of Rights Act 1990](#)
- Crimes Act 1961, Section [316](#)
- [Evidence Act 2006](#)
- [Oranga Tamariki Act 1989](#)
- [Crimes of Torture Act 1989](#)

## Interviewers should be flexible

Every suspect is different. These guidelines are generally not a prescriptive format that must be rigidly followed (other than mandatory legal requirements), nor should they imply that all other techniques are unacceptable. You should be flexible, using techniques as and when you see fit depending on the interviewee, situation and circumstance.

There are some aspects that must be complied with for legal or other procedural reasons, e.g. the specific legislative requirements for children and young people. See 'Children and young people as suspects' in the [Investigative interviewing - suspects requiring special consideration](#) chapter.

Merely following the guidelines will not make a good interview or interviewer. Interviewing is a skilled task requiring training, practice and judgement. As the interviewer, you may decide that in the interests of justice or to promote the suspect's well-being, the interview requires procedures different to those described.

Any decisions of this kind should be made in consultation with your supervisor and, where appropriate, the prosecuting agency.

## Related information

See also:

- ‘[Hate crimes and hate incidents investigations](#)’ chapter for information about recognising, recording and dealing appropriately with **hate crime**, **hate incidents** and **hate speech** within the context of scene attendance, investigations, applying proportionality and using discretion
- [Investigative Interviewing - suspects requiring special consideration](#)
- [Investigative interviewing witness guide](#)
- [Investigative interviewing - witnesses requiring special consideration](#)
- [Investigative Interviewing Doctrine](#)
- the [Investigative Interviewing Unit’s intranet site](#) (Home>Policing Resources>Criminal investigation>National Criminal Investigations Group> Services> Investigative Interviewing Unit) for information on:
  - interview training
  - interview unit technology, transcription software and interview room set-up information.

## Further advice

For advice on investigative interviewing, or to provide feedback on these guidelines, contact the National Criminal Investigations Group at Police National Headquarters, at [interviewing@police.govt.nz](mailto:interviewing@police.govt.nz).

## Forms

All investigative interviewing forms are located on Police Forms under ‘Investigative Interviewing’.

## Acknowledgement

Much of this guide was developed with the assistance of materials from the National Policing Improvement Agency (NPIA) in England. The Investigative Interviewing Unit gratefully acknowledges the generosity of NPIA in allowing the New Zealand Police to use its materials.

Other material comes from:

- Milne, R. & Bull, R. (1999). Investigative Interviewing: Psychology and practice. Wiley: West Sussex.
- Shepherd, E. (2007). Investigative Interviewing: The conversation management approach. Oxford University Press: Oxford.

## Interviewing principles

### Who is a suspect?

The Criminal Investigations (Bodily Samples) Act 1995 section [2](#) provides a definition of a suspect:

'suspect', in relation to an offence, means any person whom it is believed has or may have committed that offence, whether or not:

- a. That person has been charged with that offence; or
- b. There is good cause to suspect that person of having committed that offence.

Suspects are also witnesses to the offence who can potentially provide a detailed account that could be invaluable to your investigation.

### Ten principles of investigative interviewing

Approach all suspect interviews with these ten principles in mind.

1	Interviewing is at the heart of investigation.
2	The aim of an interview is to discover the truth.
3	Information must be complete, accurate and reliable.
4	Keep an open mind.
5	Act fairly.
6	Questioning can be persistent.
7	Some witnesses require <a href="#">special consideration</a> .
8	Suspects must be interviewed in accordance with the law.
9	Care must be taken to identify <a href="#">suspects who require special consideration</a> .
10	Be sensitive to cultural backgrounds and religious beliefs.

### PEACE interviewing framework

Conduct suspect interviews using the PEACE interviewing framework.

Step	Action
1	<b><a href="#">Planning and preparation:</a></b> Review available information and establish interview objectives.
2	<b><a href="#">Engage and explain:</a></b> Develop rapport and explain interview processes and procedures.
3	<b><a href="#">Account, probe and challenge:</a></b> Using an appropriate interview model gain an account of events, probe for more information and challenge any inconsistencies.
4	<b><a href="#">Closure:</a></b> Conclude the interview and address any concerns.
5	<b><a href="#">Evaluation:</a></b> Evaluate how the information obtained impacts on the investigation and the performance of the interviewer.



# Planning and preparation

## Planning and preparation process

Consider these areas in your planning and preparation for suspect interviews:

- Interview objectives
- Investigatively important topics
- Suspect profile: identity factors
- Suspect profile: current state
- Legal requirements
- Interview structure
- Practical arrangements including safety
- Interviewing people in Department of Corrections custody.

## Interview objectives

- Examine all available evidence - witness statements, scene examination, exhibits and other supporting documents.
- Take relevant extracts from witness statements/reports to assist in your written plan.
- Set the objectives for the interview (include covering identified [investigatively important topics](#), e.g. obtain an account for the suspect's movements between 9am and 12.30pm last night or for blood found on their clothes).
- For complex cases involving multiple witnesses and events, a timeline can assist with the interview planning.

## Investigatively important topics

- Identify possible offences committed.
- Consider ingredients and probable defences and decide how to cover these during the interview.
- Understand the strength of the evidence and consider how to introduce physical evidence and statements/descriptions from witnesses.
- Know the established facts and areas needing to be explored.
- Know the geographical area of the offence. It is an advantage to physically examine the scene.
- Establish possible challenges, how and when to introduce these.
- Decide what allegations to outline to the suspect if they invoke their right to silence.

## Suspect profile: identity factors

Consider:

- age and maturity
- race (if Māori, include Iwi and Hapu), culture, religion and first language
- gender and sexuality if relevant
- any physical, mental or psychological condition, or other characteristic that may require special consideration (see 'Interviewing suspects with physical, mental or psychological conditions in the guide for [suspects requiring special consideration](#)'). (Be aware of the requirements under s28 and 29 Evidence Act 2006)
- any welfare issues that may arise or special needs? For example, is an interpreter required? (see 'Different linguistic, cultural or religious background' in the guide for suspects requiring special consideration)
- suspect's relationship to the victim and domestic circumstances
- current or previous contact with public services, e.g. previous Police contact, CYF, health professionals
- employment and routines.

Also:

- conduct a full NIA check including criminal history and records.
- contact M.O. Section to get details about their *modus operandi* if necessary.
- consider consultation with other experts as required, e.g. Criminal Profiling Unit, Cyber Crime, DNA.

## Children and young persons

The vulnerability of children and young persons entitles them to special protection during any investigation relating to the commission or possible commission of an offence by that child or young person. ([s208\(h\)](#) CYPFA- youth justice principles).

Age is a factor in planning, and all children and young persons must be treated as requiring special consideration because of specific statutory requirements (see - 'Children and young persons as suspects' in the guide for [suspects requiring special consideration](#)).

## Suspect profile: current state

Speak to other officers who have had contact with the suspect, including that day, and consider:

- the suspect's emotional state, e.g. trauma, distress, shock, depression
- physical state, e.g. injuries, intoxication, tiredness (delay the interview if appropriate)
- authority to search person/property for potential evidence and if/when a search should be conducted.

## Legal requirements

Consider your legal obligations.

The way interviews are conducted can ultimately determine whether a person's right to a fair trial is afforded.

All interviews must be undertaken in accordance with New Zealand Police values and relevant legislation and guidance.

It is essential that interviewing Police employees are familiar with and act within the terms of the:

- [Chief Justice's Practice Note on Police Questioning](#) ('the Practice Note')
- [New Zealand Bill of Rights Act 1990](#)
- Crimes Act 1961, Section [316](#)
- [Evidence Act 2006](#)
- [Oranga Tamariki Act 1989](#)
- [Crimes of Torture Act 1989](#)

If there is sufficient evidence to charge the suspect you are interviewing or if you are questioning a person in custody, you must:

- caution and advise the suspect of their rights; and
- not ask questions that amount to cross-examination, in the sense that certain facts are not accepted by Police and you are attempting to whittle down or to differentiate the answers already given (*R v Weaver and Hammon* [1956] NZLR 590).

Note that a person may be regarded as having been detained if there is a physical deprivation of their liberty, there are restraints on their movement or they have a reasonably held belief that they are not free to leave.

See the '[New Zealand Bill of Rights](#)' chapter for further information.

You must fairly inform the suspect what they are being interviewed about and the type of charge they may face (i.e. the degree of jeopardy they are under). This means you cannot minimise the seriousness of the charges they may face.

Consider your specific legal obligations for children and young persons (set out in the [Youth justice](#) chapter and in [Investigative interviewing - suspects requiring special consideration](#)).

## Interview structure

- Decide what interview model to use - this will usually be the [conversation management](#) model.
- Work out the interview's parameters and produce a [written plan](#) to use during the interview as a guide to your structure.
- Consider your opening question and [investigatively important topics](#) to be covered including possible offences, ingredients and probable defences.
- Consider what exhibits to produce, how and when.
- Establish possible challenges and decide how and when to introduce these.
- Decide what evidence you may use to outline the allegations against a suspect if they invoke their right to silence to allow a fair opportunity to provide an explanation.

## Contingencies for suspect reaction

Consider contingencies for the suspect's reaction, including what to do if they:

- are fully co-operative
- give you a dishonest account
- change from dishonest to truthful during interview
- refuse to be interviewed
- invoke right to silence during interview.

## Practical arrangements

- Decide:
  - when and where the interview will take place (e.g. [is the suspect in prison](#))
  - who should be present
  - the interview's pace, likely duration and need for breaks.
- Examine the interview room and arrange seating (usually in the 'ten to two' position).
- Check equipment. Ensure the microphone is positioned directly between you and the suspect. Have pen and paper for drawing sketch plans if required.
- Prepare presentation and mode of presentation of exhibits as required during interview.
- Decide whether to monitor the interview and make arrangements accordingly.
- Consider what is likely to happen after the interview (e.g. arrest, medical examination, photographs, fingerprints, DNA requests, returned home).

## Written interview plans

A written interview plan is preferable when practical. A plan:

- summarises the objective(s) and provides a framework on which to base questioning
- helps you:
  - keep track of what's been covered and what remains to be dealt with
  - identify areas where the suspect's account conflicts with what is already known or has been suggested in other accounts
  - identify new information while keeping track of the interview's objective
- gives you confidence and flexibility to conduct a professional and effective interview.

A proficient interviewer has the ability to be flexible and adapt as necessary. You may need to change or add to the plan during interview as the suspect introduces new information requiring clarification or challenging. Be flexible, adopt a neutral stance and keep an open mind throughout.

## Duration of interview

You can interview someone under arrest as long as is necessary provided:

- the suspect's rights are met
- the suspect is treated fairly and ethically.

Be mindful of the requirement to bring them before a court as soon as possible ([s23](#) Bill of Rights Act 1990).

## Safety considerations

When we arrest or detain a person, we have a responsibility to protect that person and keep them safe from self-harm and/or suicide or harm from others while they are in Police custody. (See 'Care and suicide prevention' in the [Arrest and detention](#) chapter).

Suspects being interviewed may also pose a danger to your safety and others in the station, as well as to the security of Police property and information. Ensure that:

- a designated and secure interview room is used where available
- a second officer is present or nearby to ensure you can control the suspect
- the suspect is not left unattended and is accompanied to the toilet but allowed to use the facilities in private
- visitors, including legal advisers, are not left unattended while on Police premises, other than when in private consultation with

their client.

Take special care when video recording interviews to ensure the suspect is not left unattended near recording equipment.

**Note:** The more restrictive the security surrounding a suspect while on Police premises, the more likely a court will hold that the person was 'in custody' and therefore, should have been given their caution/rights.

## Health and safety duties

Maximising safety and eliminating or minimising risk at work is the responsibility of all Police employees and persons engaged by Police to provide a service including contractors and their employees, trainees, interns and volunteers. It is delivered through meeting the obligations under the [Health and Safety at Work Act 2015](#) and Police safety policies.

A key enabler is the application of the [TENR-Operational threat assessment](#) in the workplace.

The expectation of the Commissioner and the Act is that persons in the workplace will take reasonable care to ensure that their acts or omissions do not adversely affect the health and safety of other persons, comply as far as they are reasonably able to with any reasonable instruction that is given in order to comply with the [Health and Safety at Work Act 2015](#) or regulations under that Act. They will co-operate with any reasonable policy or procedure relating to health or safety at the workplace that has been notified to them and take immediate action to stop any perceived or potential breach of the act or if impractical, immediately report the matter to a supervisor.

### Health and safety should be an everyday conversation.

Relevant Police instructions include:

- [Hazard management](#)
- [Health and safety](#)
- [Wellness and safety](#)
- this 'Investigative interviewing suspect guide' in relation to safe interviewing procedures for suspects.

## Engage and explain

### Attitude

Your attitude to the suspect is a major contributing factor to how they respond. You should remain professional at all times:

- treat the suspect with dignity and respect
- keep an open mind
- be patient
- empathise with their position
- not be judgemental - your role is to find the truth of the matter under investigation.

### Manner and language

Always talk to a suspect in a manner and language they understand.

Some people may require special consideration due to English as a second language (see 'Different linguistic, cultural or religious background' in the guide for [suspects requiring special consideration](#)).

### Ensuring wellbeing of suspect

When first engaging with a suspect, consider whether your approach or request for interview is likely to cause the suspect to be distressed or have feelings of shame or fear.

In these circumstances, it is important to discuss with the suspect their mental wellbeing, and provide details of support services that are available to them.

This discussion should be repeated at key points of Police contact with the suspect, regardless of their apparent presentation.

### If suspect elects to speak to a lawyer

As soon as practicable after a suspect indicates they wish to speak to a lawyer, you must provide them with appropriate means to consult and instruct one.

Step	Action
1	If they don't have a lawyer or their lawyer is unavailable, give them the list of duty lawyers available. Ask them to select a lawyer.
2	Phone the lawyer and explain the current situation and reason for the interview.
3	Leave the suspect alone to speak to the lawyer in private.

### Informed consent to accompany

If a person is not arrested or detained ask them to accompany you to the Police station for interview. Gain informed consent by ensuring they understand they do not have to accompany you and are free to leave at any time.

### When you return to the station

Start video recording the interview as soon as you are prepared and commence speaking with the suspect.

### Off-record interviews

Do not conduct interviews off-record. Pre-interviews before a video interview are not encouraged. However, if this does take place, ensure that the conversation is carefully documented in your notebook and the suspect is given the opportunity to read and sign the notes you have made. Discussions that have taken place prior to a video interview should also be formally covered with the suspect during the video interview.

For further detail on notebook entries see '[The interview record: statements and notes](#)'.

## Procedures for commencing the suspect interview on video

Follow these steps to ensure transparency when engaging with the suspect.

Step	Take these actions with the suspect in the room
1	<p>Inform suspect you want to video interview them about the incident/offence.</p> <p>If they refuse to have the interview video recorded, explain the advantages including shortened interview length, increased accuracy and fairness. If they still refuse a video recorded interview give them the option of audio recording or <a href="#">making a written statement</a>.</p>
2	<ul style="list-style-type: none"> <li>- Enter the interview details in the interview room logbook.</li> <li>- Check recording equipment and commence video recording the interview. A minimum of two DVDs should be used to record the interview, designated as 'Master' and 'Working' copy. A third may be designated as the 'Lawyers' copy.</li> <li>- Explain that you are recording what is happening to keep an accurate record of what occurs.</li> <li>- Check everyone is visible in the recording and ask the suspect to speak clearly into the microphone.</li> </ul>
3	<ul style="list-style-type: none"> <li>- Write in your notebook:             <ul style="list-style-type: none"> <li>- any events not already recorded that took place before arriving at the station</li> <li>- rights given and anything said outside the interview room, especially significant statements relevant to the investigation</li> <li>- if the suspect was arrested or a search warrant executed, note how this happened</li> <li>- if the suspect is there by consent, note how consent was gained and that you explained that they are free to go at any time.</li> </ul> </li> <li>- Read your notes to the suspect and ask them to sign your notes as accurate. If they agree to the accuracy but refuse to sign, make a note of this.</li> </ul>
4	Commence the formal interview.

Use the [DVD/VID 185 Interview Reference Information](#) as a guide to assist with interview procedures.

## Account

Unless the suspect requires special consideration (see '[Investigative interviewing - suspects requiring special consideration](#)') conversation management is usually the most appropriate suspect interview model.

## Using conversation management model

Interview phase	Action
Free report	- Initiate a free report using an open <b>TEDS type</b> question. Ask the suspect to give an account of everything they know about the matter under investigation in as much detail as possible.
Identify and expand suspect topics	- Break down the suspect's account into relevant and manageable topics. - Systematically expand on each topic using probing <b>5Wh's + How</b> questions. - Avoid topic hopping as it is confusing to all. - If appropriate to the level of interview, with each topic summarise what the suspect has said using their own words and link to the next topic. Repeat this process until you have covered all their topics.
Identify and expand investigatively important topics	- Repeat the process for expanding suspect topics and cover all remaining <b>investigatively important topics</b> . - Ensure you have given the suspect an opportunity to provide their account of what happened before revealing the nature of evidence against them.

## Question types

This table outlines commonly used question types.

Open TEDS type questions	Probing 5 Wh's + How questions
Tell	What?
Explain	Where?
Describe	When?
Show	Who?
	Why?
	How?

## Breaks during interview

To ensure continuity in the recording of the interview:

- whenever a break is taken, state the time and reason for the break before leaving the interview room
- when recommencing the interview:
  - state the time and any relevant dialogue or events occurring during the break
  - ask the suspect to confirm your description of what happened during the break.

## Challenge

Regardless of the interview model used always challenge inconsistencies between the suspect's account and other information obtained from the investigation. This maximises the benefit of information obtained during the investigation.

Follow these steps to challenge evidence.

Step	Action
1	<p>Consider a short interview break to prepare your challenges - Let the suspect know what you are doing e.g. <i>"I just need to consider what you have said to me and look over the evidence."</i></p> <p>Structure the challenges so each is dealt with individually and generally, present the weaker challenges before the stronger ones, e.g:</p> <ul style="list-style-type: none"> <li>- Challenge 1: inconsistencies within the suspect's account</li> <li>- Challenge 2: inconsistencies between the suspect's account and witness information</li> <li>- Challenge 3: inconsistencies between the suspect's account and forensic information.</li> </ul>
2	<p>Before challenging the suspect, let them know that there are inconsistencies between the information you have and their account e.g. <i>"I have gone through what you said to me earlier and there are some things I don't understand..."</i></p> <p>Introduce each challenge by seeking an explanation:</p> <ul style="list-style-type: none"> <li>- <b>You said...</b> state the suspect's version of what is disputed</li> <li>- <b>We have...</b> state the evidence that contradicts their version of events</li> <li>- <b>Explain that...</b> ask them to explain inconsistencies between what they have said and the evidence.</li> </ul> <p>e.g. <i>"You said you know nothing about the burglary at 12 Parrot Street on the 12th of June because you've never been to that address. We found your fingerprints on the window sill at 12 Parrot Street. Explain that..."</i></p> <p>e.g. <i>"You said that tonight you never laid a hand on Jane. We've been told by the doctor that Jane has recent bruising to her ribs and eye. Explain that..."</i></p> <p><b>Note</b> - excessive use of the phrase 'Explain that' can appear overbearing. Vary your language when requesting a response from the suspect. Sometimes, the use of silence after stating the evidence Police have, can be effective.</p>
3	<ul style="list-style-type: none"> <li>- Challenge in a clear and focused way.</li> <li>- Present the challenges in a way the suspect can understand. Clear up any ambiguities.</li> <li>- Take care not to misrepresent the strength of the information.</li> <li>- Do not express opinions, as it is the information itself that is important.</li> <li>- Avoid putting suggestions to the suspect about what happened.</li> <li>- If there is no reply, use silence (pause) and then move to the next challenge.</li> <li>- Avoid reading out blocks from statements - paraphrase or summarise and ensure you are fairly representing the information.</li> </ul>
4	<p>You do not need to accept the first answer given but avoid repetitive questioning on the same point. However, re-phrasing the question and being robust at times in seeking an explanation is acceptable, especially when the information is strong.</p>

## Admissions and denials

A suspect's admission or denial provides valuable investigative information, so still obtain detail and explanations even though they admit to or deny allegations. A thorough investigation will support or refute any admission or denial.

A denial can be common ground for opening your interview at the station e.g. *"Mike, when I spoke to you earlier you said you don't even know John Brown so we need to find out why he's named you as assaulting him."*

## Remain professional

Always act professionally when challenging the suspect. Being too overbearing or cross examining the suspect may render the interview inadmissible. What might seem an acceptable risk to take in the heat of the moment may be viewed as unacceptable in the courtroom.

Think of the challenge stage as presenting information that is inconsistent with or contradicts what the suspect has said or not said. Do



not be frightened to challenge but remember you do not have to call somebody a liar to make them realise you do not believe them.

Without investigative information supporting your assertions, calling a suspect a liar or saying you don't believe them is opinion evidence and prejudicial and may affect the admissibility of your interview.

Put challenges calmly and clearly allowing the suspect every opportunity to understand what is being suggested and to provide an explanation.

## **Importance of listening**

During the interview, actively listen to the suspect and consider how their account relates to the information on file. By actively listening you will also increase the stress the suspect experiences if they are attempting to evade issues or lie.

## **Unrelated information**

If a suspect volunteers information unrelated to the offence for which they are being interviewed:

- continue with the interview and advise them their information will be discussed later
- take care not to imply or infer that the information they've given, or may give, could have a bearing on the present interview. There must be no suggestion, implied or otherwise, that any promise or inducement has been held out to the suspect.

Once the original interview has been completed, the suspect is free to give any information they wish. You do not need to video record any conversation about information unrelated to the offence in respect of which they have been interviewed.

## **Allegations of Police misconduct**

If during the interview, the suspect makes any allegation against you or another Police employee, do not stop the recording. Tell them they will be referred to a senior Police employee when the interview is over so their allegation can be formally recorded and, if necessary, investigated. Continue with the interview and report the allegation to your supervisor immediately after the interview has finished.

## Closure and evaluation

### Procedure for closing interviews

Step	Action
1	On camera, at the conclusion of the interview, offer the suspect the opportunity to: <ul style="list-style-type: none"><li>- play back the interview</li><li>- add, alter or correct anything</li><li>- ask any questions and have them answered appropriately.</li></ul>
2	If the interview is conducted immediately or soon after the offence, make sure you note their clothing and any injuries. Consider recording these with photographs, and getting them to stand during the interview to capture their state on camera.
3	Ask the suspect to read your notebook entries, bring to your attention any additional or incorrect information and endorse them as true and correct if they wish.
4	To conclude the interview: <ul style="list-style-type: none"><li>- explain what will happen next with the video record, i.e. it will be sealed and secured in the exhibit store until court</li><li>- state the end-time of the interview</li><li>- sign, seal and secure the master tape or DVD in the suspect's presence</li><li>- place the master copy in a secure video interview cabinet (usually located in the interview room) with a completed 'Electronic Interview History Report'</li><li>- write the end time for the interview in the logbook</li><li>- retain the working and lawyer's copy of the interview with the file.</li></ul>

### Evaluation

After the interview, complete an interview evaluation using the appropriate form. Do this as soon as practical after the interview, while the information is still fresh in your mind.

Consider:

- what information has been obtained
- how the account given fits in with other available evidence
- whether any action needs to be taken
- what further enquiries need to be made.

The time taken to complete the evaluation will depend on the amount and complexity of the information divulged during interview. The evaluation is not intended to be an additional administrative chore, rather it should be used as a tool that provides clarity to the investigative process.

### Self-evaluation

Being a reflective practitioner will improve your interviewing skills. Self-evaluate your own performance:

- what did you do well?
- what could you have done better?
- what areas can you develop?
- how will you acquire these skills?

## Unco-operative suspects

### Right to silence

While it is only fair to provide the suspect with an opportunity to answer any allegations, all suspects have the right to silence. This means that if they decide not to talk to you, you cannot compel them to be interviewed and any admissions gained after the refusal may be deemed inadmissible.

However, despite any initial refusal, it is your professional responsibility to explain why you want to interview them and outline the allegations against them so they have a fair opportunity to provide an explanation. If they provide a genuine explanation they may be eliminated from the enquiry.

### When suspects exercise their right to silence

Follow this procedure when preparing for interview and engaging a suspect who declines to be interviewed.

Step	Action
1	Always plan and prepare for the possibility of a suspect who exercises their right to silence by having a series of no more than three to five allegations, fully supported by information attained through your investigation. Be prepared to put each one individually to the suspect.
2	If they initially exercise their right to silence after they have been cautioned: <ul style="list-style-type: none"> <li>- explain why you want to conduct an interview (i.e. you have received a complaint) and describe the nature of the offence</li> <li>- tell them you have spoken to other people but before you make a decision about the investigation's outcome, you want to give them a chance to tell their side of the story so you can establish the truth.</li> </ul>
3	Inform them you will explain the allegations against them so they have a fair opportunity to provide an explanation but they do not have to respond - then: <ul style="list-style-type: none"> <li>- explain the allegations fairly</li> <li>- in your notebook record what you have said and any response to the allegations (verbal or non-verbal) as this may later be used as rebuttal evidence should they give evidence that is inconsistent with what was said at interview. If possible obtain the suspect's consent to record this on DVD.</li> </ul>
4	If the suspect decides to provide an explanation for the allegations, reassert their right not to say anything and confirm that they wish to waive their right to silence. If they wish to proceed, commence an interview using your chosen model.
5	Ask the suspect to read your notebook entries, bring to your attention any additional or incorrect information and endorse them as a true and correct record.

### Explaining the allegations to a suspect

Explaining the allegations to a suspect is not an attempt to circumvent the suspect's right to silence. You are pursuing the goal of establishing the truth and showing fairness to them.

State the allegations to the suspect so they have an opportunity to offer an explanation. Do not seek an explanation by stating 'explain that' or similar.

### Example of how to explain the allegations to the suspect

*"From our investigation we've located a witness who knows you and saw you at the rear of the Caltex Service Station on Main St, this morning at 3.00am. Pause*

*After we executed the search warrant at your home this morning a large amount of property which has been identified as being stolen from the Caltex Service Station was located in the vacant section next to your home. You were seen at the rear of the service station at 3.00am and at 8.30am property stolen was located next door to your home." Pause.*

**Note:** Unlike challenges, when explaining allegations, we do not seek an explanation in any way (e.g. by stating 'explain that'), as that may be seen as contravening a suspects right to silence.

# Co-offenders, multiple offences and gathering intelligence

## Consistent interview structure

Where there is more than one offender for an offence, consider when planning whether to use a consistent interview structure for all offenders.

If different officers are interviewing different suspects, make sure you compare notes when planning and preparing for the interview. Consistency is especially important with [investigatively important topics](#) and the [challenge phase](#) of the interview.

## Co-ordination during interviews

If interviews are occurring simultaneously, consider using an extra officer (e.g. a supervisor) to co-ordinate what is happening in each interview. Take breaks during the interview to compare what each suspect is saying to determine whether additional investigatively important topics need to be explored.

## Co-offenders' statements

The [Chief Justice's Practice Note on Police Questioning](#) (section 30(6) of the Evidence Act 2006) (point 4) states "*Whenever a person is questioned about statements made by others or about other evidence, the substance of the statements or the nature of the evidence must be fairly explained.*"

This includes co-offenders' statements.

Co-offender statements can provide additional investigatively important topics that need to be explored.

Information from co-offender statements may be used in the [challenge phase](#), as you would statements from witnesses. Given the complexity of co-offender evidence, careful consideration and planning is required.

## Multiple offences

Multiple offences can be dealt with on one record. In case the offences are heard separately by the courts, deal with each offence separately during the [account](#) phase. Leave a small gap on the recording, before introducing the next offence and reaffirm the [caution/rights](#). For interviews relating to serious crime, consider using a new DVD for each offence to simplify the process should severance be granted.

## Gathering intelligence from suspects

When gathering intelligence from suspects apply the same procedures as those used for [interviewing witnesses](#).

# Interviewing people in Department of Corrections custody

## Prisoner must consent to interview

All prisoners are treated as having greater vulnerability than other suspects - therefore you must comply with the requirements of the [Corrections Act 2004](#) and [Regulations](#) under that Act when interviewing a person in Department of Corrections' custody.

## When is a person in Corrections' custody?

A person is in the Department of Corrections' custody when they are:

- in prison
- in custody at court
- in Police custody under warrant of imprisonment where the Police station is acting as a temporary jail
- in Police custody having been remanded in custody and enroute to or from a Department of Corrections' prison.

You must comply with the requirements of the Corrections Act 2004 and regulations under that Act when interviewing a person in Department of Corrections' custody.

## Requirements when interviewing people in Corrections custody

You must comply with [r107](#) of the Corrections Regulations 2005 and follow these steps:

Interview phase	Action
Planning and preparation	<ul style="list-style-type: none"><li>- Contact the Prison Manager (or delegate) to gain agreement for an interview with the suspect, and arrange an appropriate time and room.</li><li>- If necessary, arrange for portable interviewing equipment so you can video record the interview.</li></ul>
Engage and explain	<ul style="list-style-type: none"><li>- On arrival at the prison, in the presence of a prison officer:</li><li>- explain to the suspect their <a href="#">caution/rights</a></li><li>- fairly inform them of the reason for the interview and request their consent to being interviewed</li><li>- if the suspect consents to interview, inform them they may choose to have the prison officer remain in sight during interview (if you prefer, you may also request that the prison officer remains in sight during interview)</li><li>- if neither you nor the suspect wants the prison officer present, arrange for the prison officer to be contactable by both the suspect and you at all times during interview</li><li>- inform the suspect that they may end the interview at any time.</li></ul>

## Restrictions on removing prisoners

You cannot remove a prisoner from a prison for interview without the authority of the Department of Corrections' Chief Executive or their delegate (section [62](#) Corrections Act 2004).

See 'Temporary release of Corrections prisoners into Police custody' in [Managing Corrections prisoners](#) for procedures when seeking temporary releases.

## Fingerprint and DNA evidence

### Avoid early reference to fingerprint and DNA evidence

Always remember when interviewing suspects, premature reference to fingerprint or DNA evidence before or during an interview may provide the suspect with an opportunity to fabricate a plausible explanation.

### Procedure when fingerprint and DNA evidence is involved

Follow the usual interviewing procedures with these variations, when suspect's fingerprint and DNA evidence is involved.

Interview phase	Action
Planning and preparation	<ul style="list-style-type: none"> <li>- Consider any reasonable explanations that may account for the presence of fingerprint or DNA evidence and ensure they are explored during the interview.</li> <li>- Giving the suspect an opportunity to provide a reasonable explanation for the fingerprint/DNA evidence is an <a href="#">investigatively important topic</a> you should cover.</li> <li>- Plan when and how you will introduce the fingerprint/DNA evidence, e.g. ask them if they have ever been to (address).</li> <li>- Generally, you should not mention that we have fingerprint or DNA evidence until the challenge phase.</li> </ul>
Engage and explain	<ul style="list-style-type: none"> <li>- Consider how much information to disclose to the suspect (you must fairly inform them of the crime they are being interviewed for).</li> <li>- If the suspect has been interviewed before and the sole purpose of this interview is to discuss new fingerprint/DNA evidence, ensure you fairly inform them of the interview's purpose, e.g. to discuss new forensic evidence not available at the initial interview.</li> </ul>
Account- suspect and investigatively important topics	The suspect may provide an explanation satisfying you that no criminal suspicion can be attached to the findings, e.g. they had lawful access at the material time or a legitimate reason for touching the object the evidence was found on.
Account - challenge	<p>If the suspect denies being present or touching objects, disclose the fingerprint/DNA evidence to them during the challenge phase and seek an explanation, e.g. <i>"You told me that you know nothing about the robbery at the Wainui Shell Service Station because you have never been there. We found your fingerprints on the counter of this station. Explain that..."</i></p> <p><b>Note:</b> Unless special exemptions exist, do not mention previous criminal history when introducing the evidence. Such history is not admissible evidence and may lead to the interview being inadmissible.</p>
Closure	<ul style="list-style-type: none"> <li>- If the suspect has provided a reasonable explanation and you are satisfied they have been eliminated from the investigation, thank them for their time and close the interview as usual.</li> <li>- If applicable follow 'intention to charge' <a href="#">DNA sampling procedures</a> with an imprisonable offence when an evidential (casework) sample is required. DNA procedures do not have to be recorded on video.</li> </ul>

## DNA Sampling

Follow guidance provided in [DNA Sampling](#) chapter.

# Lawyers

## Right to have lawyer present

It is the suspect's right to request a lawyer, consult with them in person and/or on the phone, and have one present while being interviewed.

Having a lawyer present does not negate the ability to have other support people as required present.

**Note** there are specific legislative requirements for **children and young people** in regards to being able to have a lawyer or nominated person, or both, present.

## Lawyer's role

Lawyers present at interview are solely there to represent their client and give their client advice. Do not let the lawyer:

- answer questions on behalf of their client
- 'put words in the mouth' of the suspect
- introduce irrelevant matters
- give you instructions or interfere with or obstruct the interview.

Do not be inhibited by the lawyer's presence.

Interview phase	Action
Planning and preparation	<ul style="list-style-type: none"> <li>- Introduce yourself to defence counsel and explain the offence(s) you wish to interview the suspect about and whether the suspect is currently under arrest.</li> <li>- Allow defence counsel to spend some time with their client and provide them with a room where they can do this in private if they have not had an opportunity to do this. This should not be in the interview room on camera.</li> <li>- Set up the interview room so defence counsel is visible on the camera throughout. Remember, you are interviewing the suspect not defence counsel, so arrange the seating to reflect this.</li> </ul>
Engage and explain	<p>Ask defence counsel to:</p> <ul style="list-style-type: none"> <li>- introduce themselves when the video recording has commenced and you are introducing those present</li> <li>- explain what their role is. If not already volunteered by counsel, clarify that they are:               <ul style="list-style-type: none"> <li>- there to provide advice to their client</li> <li>- not to answer questions on behalf of their client or to suggest answers to their client.</li> </ul> </li> </ul>
Account	<ul style="list-style-type: none"> <li>- Defence counsel may:               <ul style="list-style-type: none"> <li>- ask to take a break to speak to their client in private anytime during interview</li> <li>- interject if they consider the interview is oppressive or unfair.</li> </ul> </li> <li>- If there is a break in the interview, ask defence counsel to leave the room or stop the recording during the break. Any discussions defence counsel has with their client are privileged and therefore must not be recorded or monitored.</li> </ul>
Closure	Provide defence counsel with your details so that they can contact you in the future.

## If the lawyer behaves inappropriately during the interview

If defence counsel behaves inappropriately (e.g. answers questions on behalf of their client) to the extent that you believe their actions are obstructive and detrimental to your ability to gather accurate, reliable and complete information from the suspect:



Step	Action
1	Politely refer them back to their role as covered at the beginning of the interview. If appropriate, ask them if they would like to speak to their client in private.
2	If they continue to behave inappropriately warn them that if they continue you will have to stop the interview and they will be asked to leave.
3	<p>If inappropriate behaviour continues:</p> <ul style="list-style-type: none"> <li>- stop the interview, remove them from the interview room and inform a supervisor</li> <li>- provide the suspect with an opportunity to engage another lawyer.</li> </ul>

## If a lawyer arrives at the station

If a lawyer arrives at the station requesting to speak to the suspect, you must let the suspect know of their presence without delay.

If the suspect:

- wants to see the lawyer, facilitate that without delay
- does not want to see the lawyer, get the suspect to sign a note to that effect and give this to the lawyer, retaining a copy for the investigation file.

## Avoid entering into agreements with lawyers

You should not enter into an agreement with a lawyer not to talk to a suspect.

If lawyers request or demand that you not talk to their client without contacting them first and you agree, then you are obliged to contact the lawyer before any further interview of their client. If such a demand or request is made by a suspect's lawyer, you may inform the lawyer that you are not able to enter into undertakings that relate to how Police will further their enquiries in a particular case. You should advise the lawyer that any enquiries will be conducted in accordance with the law respecting the suspect's rights under the Bill of Rights.

## Privacy

A suspect is entitled to speak with their lawyer in private. If a suspect asks to speak to a lawyer during a video interview, do not turn the video unit off (unless it is anticipated there will be a significant delay), but state the time and reason for the break, then move the suspect to a private room and facilitate the call to their lawyer. Once the conversation is over, the suspect can be returned to the interview room for the interview to continue, if applicable.

# The interview record: statements and notes

## Treat suspect interview records as exhibits

As an exception to the hearsay rule, the record of any **statements** made by a suspect may be admissible as evidence during judicial proceedings.

Treat all records of suspect interviews as exhibits. The original copy of the interview record must be presented to the court for scrutiny during judicial proceedings. With a written statement, this means that the interviewer will read the statement to the court and the judge and/or jury may examine the statement itself.

## Statement format - video, audio or written

The [Chief Justice's Practice Notes on Police Questioning](#) (point 5) states that:

*Any statement made by a person in custody or in respect of whom there is sufficient evidence to charge should preferably be recorded by video recording unless that is impractical or unless the person declines to be recorded by video. Where the statement is not recorded by video, it must be recorded permanently on audio tape or in writing. The person making the statement must be given an opportunity to review the tape or written statement or to have the written statement read over, and must be given an opportunity to correct any errors or add anything further. Where the statement is recorded in writing, the person must be asked if they wish to confirm the written record as correct by signing it.*

Video recording is always the preferred method of recording a suspect interview, **unless**:

1. The person declines to be recorded on video; or
2. It is impractical to conduct a video interview, for a reason such as:
  - i. the interview is to be conducted at a location without video interview capability, or
  - ii. interview equipment is unavailable due to other interviews, or
  - iii. equipment malfunction.

Where a video interview cannot proceed in these circumstances, the interviewer should offer the suspect the opportunity to either:

- record an audio interview, or
- make a written statement (either handwritten or typed).

## Procedure for taking audio statements

Step	Action
1	<p>The preferred method of recording an audio interview is with a standard video interview machine. The device can be adapted for audio interview by temporarily covering the camera lens.</p> <p>Alternatively, a Police iPhone may be used. Record the interview using the Voice Memos application (with location services turned on, unless inappropriate in the circumstances.)</p> <p>Other audio devices such as a dictaphone will not produce a file with the same integrity and should not be used.</p>
2	<p>State the date, time and location at the beginning of the interview.</p> <p>e.g. <i>"The time is 2.35 pm on Thursday 27 February 2020. We are at Christchurch Police Station."</i></p>
3	<p>Identify yourself and the suspect, and any other person present and their role.</p> <p>Explain on the recording why a video interview cannot proceed.</p>
4	<p>Use the same process as if the interview was being recorded on video, with any necessary adaptations (eg. explanation in the audio tape of any non-verbal communication from any party, or clear description of any exhibits referred to).</p> <p>Whenever a break is taken, state the time and reason for the break before pausing the recording, and confirm when recommencing the interview.</p>
5	<p>Before concluding the interview, offer the suspect the opportunity to play back the recording and add any further comments.</p> <p>Advise the suspect what will happen next with the audio recording to seal and secure it.</p> <p>Record details and timings of the interview in your notebook.</p>
6	<p>After the interview, use your Police iPhone to photograph any physical exhibits, documents or other material referred to in the interview.</p>
7	<p>If a standard video interview machine has been used:</p> <p>Secure the 'master' copy of the recording as an exhibit.</p> <p>Retain the copies of the recording for working and disclosure purposes.</p>
8	<p>If a Police iPhone has been used:</p> <p>Click on the relevant recording in the Voice memos application.</p> <p>Select 'Share'.</p> <p>Select 'OneDrive'.</p> <p>Select 'Upload to OneDrive'.</p> <p>The file will then be accessible via the OneDrive account on your desktop computer. Upload the original file to IMT, or create a working copy and save the original in a secure folder as an exhibit.</p>

## Procedure for preparing written statements

Step	Action
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1	<p>Either handwrite or type the statement using one side of the page only.</p> <p>If typing a statement, use the Suspect Statement template in MS Word forms.</p> <p>A written statement should only be recorded in your notebook if other formats are not available or impractical.</p>
2	<p>Put the date, time and location at the top of the front page.</p> <p>e.g. "27/02/2020; 2.35pm; Christchurch Police Station"</p>
3	<p>At the top of each page:</p> <ul style="list-style-type: none"> <li>- write the person's name followed by "states:" (e.g. "Joe Donald Bloggs states")</li> <li>- in the top right hand corner, record the page number and total number of pages used (add this at the end). For example: "page 2/6" (page 2 of a 6 page statement).</li> </ul>
4	<p>Using the <a href="#">conversation management model</a> record the statement as you go in paragraphs as appropriate using 'I said, He/She said' format, (I.S) (H.S) by writing the question in full, asking the suspect then noting in full the reply.</p> <p>e.g. "I.S. <i>What were you wearing yesterday?</i> H.S. <i>I dunno.</i>"</p> <ul style="list-style-type: none"> <li>- Record every word using the person's own words, phrases and expressions</li> <li>- Try to avoid inadmissible matters in the content such as references to previous convictions or matters not relevant to the enquiry</li> <li>- A separate interview should be conducted in relation to other offences if needed</li> <li>- Avoid correcting the person's grammar or vocabulary</li> <li>- If they use slang or colloquialisms, ask them to clarify the meaning. Write their explanation in the statement, so the intended meaning can be clearly understood.</li> </ul>
1st para-graph	<p>State the person's:</p> <ul style="list-style-type: none"> <li>- name</li> <li>- age and date of birth</li> <li>- residential address, telephone numbers, email address and social network address (e.g. Facebook)</li> <li>- occupation and business address, telephone numbers, email address</li> <li>- include domestic circumstances if appropriate.</li> </ul> <p>e.g. "My full name is Joe Donald Bloggs. I am 21 years old and was born on 30 March 1990. I live at 3 White Place, Invercargill. My home phone number is 03 123 4567 and mobile number is 021 123 4567. My email address is JBloggs@email.com. I am not working at the moment."</p> <p>This is required to be included in the body of suspect statement (unlike witness statements).</p>
2nd para-graph	<p>Include your own name and give the reason for the making of the statement.</p> <p>e.g. "I am making this statement to Constable White about a fight outside the hotel in Main Street."</p> <p>This is required to be included in the body of suspect statement (unlike witness statements).</p>

3rd para-graph	<p>If a suspect has been informed of the caution/rights include exactly what was said in the statement.</p> <p>e.g.:</p> <ul style="list-style-type: none"> <li>- I have been told by Constable White that I have the right to remain silent.</li> <li>- I do not have to make any statement.</li> <li>- Anything I say will be recorded and may be given in evidence in court.</li> <li>- I have the right to speak with a lawyer without delay and in private before deciding whether to answer any questions. Police have a list of lawyers I may speak to for free.</li> <li>- I.S. What is your understanding of the rights I just gave you?</li> <li>- H.S. Well, I can get a lawyer if I want, and I don't need to talk to you if I change my mind.</li> </ul> <p>If an admission is made during interview and the suspect has not been given their caution/rights:</p> <ul style="list-style-type: none"> <li>- provide caution and rights as appropriate</li> <li>- record this in full in the statement at the appropriate place.</li> </ul>
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## Endorsing the statement

Once you have recorded everything take these steps to endorse the statement.

Step	Action
1	<p>Ask the suspect to:</p> <ul style="list-style-type: none"> <li>- read the statement (if this is not possible, follow <a href="#">procedure for suspects not able to read</a>)</li> <li>- make and initial any corrections or additions and sign at the end of each page</li> <li>- write or type at the end of the statement:</li> </ul> <p><i>"I have read this statement. It is true and correct. I have nothing further to add"</i></p> <p>sign the statement with their full signature (if they refuse to sign, note this on the statement).</p>
2	<p>You endorse the statement by:</p> <ul style="list-style-type: none"> <li>- signing the bottom of each page and any corrections or additions made</li> <li>- writing or typing at the end of the statement: <ul style="list-style-type: none"> <li>- "Statement taken and witnessed by [officer's name]:"</li> </ul> </li> <li>- adding your signature, name, rank, QID and statement completion time.</li> </ul>

## Suspects not able to read and write

If you are unsure about a suspect's ability to read and write follow this procedure to complete a statement.

## StepAction

- 1 Ask the suspect to read out the first sentence or two to you. If they have difficulty, offer to read it to them or get a colleague to read it so there can be no allegation of distortion.
- 2 Sit beside the suspect so they can see where you are reading from.
- 3 Before endorsing the statement, write or type the following declaration:

- "This statement has been read to me. It is true and correct. I have nothing further to add".

Make a note about their reading ability in your notebook so you have a record if you are questioned in Court.

- 4 The person reading the statement endorses the statement: "I have read this statement to [suspect's name]. I have asked them if they wish to make any alterations, which I have made and initialled with [reader's initials]." The reader signs off the statement and writes the time.

Either the officer taking the statement or an independent person (may be another officer) may read the statement back to the suspect.

Ensure any independent person who has witnessed the process, also endorses the statement/notes as a correct record of the interview.

## Notebook statements and entries

You should only take statements in your notebook in exceptional circumstances, for example, when it is impractical to conduct a formal interview or when the offence is minor in nature.

In these circumstances record the entries as you would a written statement. There is no need to include an opening paragraph that outlines the suspect's contact details, rather, these should be recorded in full in notebook format before the statement commences.

## Notebook entries about the interview

Use your notebook to keep accurate records of all interactions with the suspect that are not recorded on video. You may later be required to satisfy the court of the fairness of the interview. For this reason you should also record the following details in your notebook near the time at which you conduct the interview:

- time and exact words used when the caution/rights were given
- times that the:
  - interview started and finished
  - refreshments were supplied
  - interview was suspended, with reasons
  - suspect was arrested (if applicable)
  - suspect requested a solicitor and when consulted (if applicable)
- people present
- details of any conversation prior to and after interview
- time and exact words of any admissions made by the suspect prior to and after the interview
- physical description of the suspect
- description of the suspect's behaviour.

The [Chief Justice's Practice Notes on Police Questioning](#)(2(c)) requires anything said by the suspect or person arrested or detained that is relevant to the offence to be recorded. If it is not recorded, and Police seek to give evidence of what was said, particularly if it is inculpatory, then that evidence may be held to be inadmissible or given very little evidential weight.

Caution needs to be taken in continuing a discussion regarding the offence that is not formally recorded on camera. Ensure accurate notes are taken of the conversation.

## Discussing other topics

Idle chat need not be recorded in your notes, but anything relevant to the offence needs to be recorded in some way.

You should record the fact that other topics were discussed with a suspect, and invite the suspect to sign a record of that fact (e.g. in your notebook). If the suspect refuses to sign, briefly record the general topics discussed as soon as possible.

If a video interview is subsequently conducted, record the fact that other topics were discussed as part of the introduction to that interview, using your notebook as a reference.

## Discussion in interview breaks

The same guidelines as above should be followed.

## Endorsement of your notes by the suspect

To ensure the accuracy and admissibility of your notes, invite the suspect to:

- read your notes (or read them to the suspect if this is not possible)
- make and initial any corrections or additions
- initial each page
- write at the end of the notebook: *"I have read these notes. They are true and correct."*
- sign the notes with their full signature.

If they refuse to read the notes, in the presence of an independent witness (this may be another Police employee), read them to the suspect and ask them if they agree they are true and correct. Record this and their response in your notebook.

If a video interview is then conducted, these notes will help to explain prior events.

# The interview record: Use in court processes

## Responsibilities

- O/C stations are responsible for ensuring the general security of video recording equipment.
- Interviewing officers are responsible for working copies while in their possession.
- Once stored in property and exhibits stores, the interview record will be logged and stored in the same way as any other exhibit.

## Disclosure

Video interviews should be disclosed as per any other police document. (See [Criminal disclosure](#) chapter for more information).

## Defence requests for transcripts

If a transcript has already been prepared for prosecution purposes, it should be disclosed after being checked for accuracy. If a transcript has not been prepared, there is no requirement to create one for the purpose of disclosure.

Where the prosecution does not require a transcript, but defence counsel wishes to have one, counsel are free to make their own arrangements for transcription from their copy of the interview.

## Transcription

### District Court judge-alone trials

Generally, a transcript of a video recorded interview should not be made. In the absence of a transcript the interviewing officer must prepare an evaluation of the interview.

### District Court jury /High Court jury and judge-alone trials

A transcript will be prepared when there is a definite indication that the case will proceed to jury trial or Judge-alone trial in the High Court jurisdiction. This will normally be after the trial call-over hearing. Interviews must then be submitted promptly for transcribing.

## Authorisation of transcripts

The O/C case completes Part A of the 'Request for Transcription' form (II-RT 03/14) (Police Forms>II>General) and forwards it to a supervisor (Inspector or above) to be authorised.

After the authorising officer signs Part B of the form, the interview is forwarded for typing. When the transcript is complete, the typist completes Part C and forwards it to the O/C case.

It is the O/C case's responsibility to ensure the transcription is accurate by checking the transcript closely against a copy of the interview.

## Other requests for transcripts

A request for a transcript will also be considered when:

- the O/C case in a serious crime investigation requires a file to be forwarded out of District for enquiries to be made, or
- the Crown Solicitor makes a specific request, or a judge orders one to be made, or
- the serious nature of the charge, the complexity of the matter investigated or the length, or particular circumstances indicate a transcript is necessary.

## Presentation of the video interview in court

### Master copy

The master copy is produced by the interviewing officer as an exhibit.

## Interviewing Officer formal statement

The interviewing officer's formal statement should include the following points:

- any relevant conversation not video recorded
- at a certain time, date and place, an interview with the suspect was recorded by means of two/three simultaneously recorded



video DVDs/tapes

- at the conclusion of the interview, one of the DVDs/tapes was designated the master copy
- the master copy was labelled, sealed and then exhibited.

The interviewing officer then identifies and produces the master copy as an exhibit. There is no requirement for the interviewing officer to give evidence as to any of the recorded conversation.

## Availability of working copy

The O/C case should have the working copy available during court proceedings for reference if required.

## Chain of evidence

Current procedures trace the movement of both the master and working copies. It will generally be unnecessary to describe any evidential chain, except where a dispute arises as to the integrity of the copy.

## Editing

The master copy will always remain in its original state and will be produced unaltered at committal and defended hearings.

Where an application under sections 78, 79 or 101 of the Criminal Procedure Act 2011 (relevant to a Judge-alone or jury trial respectively) results in an order that a video interview is edited prior to or during trial, Police will be guided and directed by the Crown Solicitor in charge of the case. Since the master copy will already be an exhibit of the court at this point, any editing will usually be from the working copy.

Any editing should be carried out by the [Photography Section](#) to ensure evidential integrity.

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