

6.1 Attending a record of interview

What is a record of interview?

Police conduct a record of interview when they are formally questioning a suspect about an offence they are alleged to have committed. These records of interview are normally conducted at a police station where there are proper facilities, including sound and/or video recording equipment. Sometimes the record of interview includes a visit to the alleged crime scene or other locations associated with the offence.

Why do records of interview concern me as a JP?

As you may be asked to attend an interview, it's important to understand what the law requires of you.

If the suspect is an adult, they have the right to have a friend present at the interview – with the term ‘friend’ being understood in its ordinary, everyday sense. In this situation you are under no obligation to attend as you have no role to play as a JP. You are free to attend independent of your JP role if you wish.

If the suspect is a child, the police may ask you to act as the required support person at the interview if there is no other suitable person available. In this situation, you are under an obligation to comply.

The *Police Powers and Responsibilities Act 2000* (the Act) sets out the procedures to be adopted by the police when questioning suspects. The Act defines ‘Support person’ for a child, who in summary is:

- a parent or guardian of the child
- a lawyer acting for the child
- a person acting for the child who is employed by an agency whose primary purpose is to provide legal services
- an adult relative or friend of the child who is acceptable to the child
- for an Aboriginal or Torres Strait Islander child where no one already mentioned is available – a person whose name is included in the list of support persons and interpreters
- a JP who is not a member of the Queensland Police Service.

How do I conduct myself at a record of interview?

There is a defined role for you as a support person at the interview of a juvenile suspect, which the police officer will inform you of in an approved form at the time.


Ensure you read the information in full so you understand the nature of the role during the interview. You can ask the police officer questions or seek an explanation of anything relevant to your role as a support person before the interview starts.

Before the interview

When you arrive at the police station:

1. In addition to the information about your role as a support person, the police officer will also supply you with:
 - the name and age of the suspect
 - why they are being questioned
 - how long they have been in custody
 - if the police officer has contacted any of the categories of support persons listed in the Act and what was the outcome
 - if the suspect has asked for a solicitor.

2. Under the Act, the police officer must allow you to talk to the suspect in private, without being overheard, before the interview. At this time you should:
 - Introduce yourself and explain you are a JP, asked to be present as an independent support person whose role is to ensure correct procedures are followed.
 - Warn the suspect they should not make any admissions to you, as you may be required to give evidence in court if the suspect does confide in you.
 - Emphasise it would be in their interests to have legal representation.
 - Be clear you are not there to give legal advice but they are entitled to ask you questions or request to speak to you in private at any time during the interview.

 **Note:** You can tell the suspect they are under no obligation to answer the questions but they may answer some or all of the questions if they desire.

- Ask the suspect if they have been offered any other support persons and, if not, if they would like any of them to be present.
 - If the suspect asks for one of the other support persons to be present, let the police officer know. You may leave when this person arrives.
 - If the suspect does not want any of the other support persons to be present, ask if they want you to be present as their support person during the interview. You may only attend with the child's consent.
- Find out when they last had food and drink and whether they require anything, including access to toilet facilities.
- Determine if the suspect has been treated correctly, and that no threats were made before your arrival. It is your responsibility to ensure the interests of the suspect are looked after. If you are in doubt as to their mental or physical wellbeing, ask the police officer to arrange appropriate assistance for the child.
- If the suspect requires the services of an interpreter, you should ensure an interpreter is made available. Speak to the police officer so the necessary arrangements can be made.
- Remind the suspect they may terminate the interview at any time.

During the interview

1. Your primary role during the interview is to ensure the rights of the suspect are protected. You do this by checking the correct procedure is followed.

The police officer will caution the suspect and it will be recorded electronically. This caution should substantially comply with the following:

- Do you understand you are not under arrest?
 - Do you understand you are free to leave at any time unless you are arrested?
 - Before I ask you any questions, I must tell you that you have the right to remain silent.
 - This means you do not have to say anything, or answer any questions, or make any statement, unless you wish to do so.
 - However, if you do say something or make any statement, it may later be used as evidence. Do you understand this warning?
2. If during the interview, the child asks how they should answer a question, you must explain you are unable to answer this for them and they should have a legal representative present.
 3. Do not intervene unnecessarily. The police officer has the right to exclude you if they believe you are unreasonably interfering. However, do ensure the suspect understands the questions and is not having language problems.

4. If you believe any of the following is taking place, immediately suspend the interview:
 - The suspect is being subjected to overbearing or intimidating behaviour or questioning.
 - The suspect's mental or physical wellbeing is deteriorating. If necessary, request the police officer arrange appropriate medical help.
 - The suspect is being mistreated. Report this to the officer in charge of the police station (they are obligated to take certain actions once a complaint is made) and ensure the interview does not recommence at this time.
5. If you believe the suspect is not coping with the interview process, remind them they may have a legal representative present.

After the interview

1. Under the Act, the police officer is required to ask the suspect certain questions at the end of the interview.

This is to ensure both the questions and the answers are recorded. This precaution is intended to protect both the suspect and the police. The questions should substantially comply with the following:

 - Is there anything further you wish to say relating to this matter?
 - Did you take part in this interview of your own free will?
 - Have you answered all questions truthfully?
 - Do you have any complaints in relation to your treatment by the police?
 - Was any threat or promise made to you to induce you to make this record of interview?
 - Were you denied access to a support person or legal representation at any time?
 - Did the police explain your rights to you at the beginning of the interview?
 - Does anyone else present wish to say anything before the interview is concluded?
2. As the interview is recorded electronically, there is no requirement for you to certify the record at the time. The suspect will be supplied with a copy of the recording of the interview for their legal representative.
3. You may take notes throughout the interview and enter these into your logbook – these notes may be questioned if the matter is brought before a court at a later date.
4. Record all relevant information in your logbook as outlined in chapter 2.4.

Things to bear in mind

The police officer must not question the child unless:

- the child has been allowed to speak to a support person chosen by the child in circumstances in which the conversation cannot be overheard
- a support person is present while the child is being questioned.

Remember you are there to protect the interests of the suspect. At all times, you should emphasise the importance of legal representation. You are not permitted to give legal advice to the suspect under any circumstances.

Frequently ask questions

May I take notes during the interview?

Yes, you are permitted to take notes for your own records. You should also record the relevant details in your logbook of your attendance at the record of interview.

What if the taped record of interview is challenged?

If the validity of the taped record of interview is questioned during the trial of the accused, you may be called to give evidence as to its accuracy. The tape will be replayed for you at the court and you may refer to any of the notes that you took at the time of the interview.

Should I keep a record of the interviews I attend?

Yes. You should record all relevant information in your logbook as outlined in chapter 2.4.

Where can I get more information?

Queensland Police Service

www.police.qld.gov.au

Queensland legislation

www.legislation.qld.gov.au

6.1 Quick guide

Attending a record of interview

Follow these steps to attend a record of interview under the Act.

Your role is to help protect the suspect's rights by ensuring police follow the correct procedure.

Before the interview

The police officer will provide you with:

- ①
 - information about your role as a support person
 - the suspect's name, age and length of time in custody
 - why the suspect is being questioned
 - if they have contacted any of the support persons
 - if the suspect has asked for a solicitor.
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Speak to the suspect in private.

- ②
 - Introduce yourself.
 - Warn the suspect they should not make any admissions to you.
 - Explain you're there as an independent support person to ensure correct procedures are followed.
 - Ask if they have been offered or would like any of the support persons allowed under the Act.
 - Emphasise they should have legal representation.
 - Ask them when they last had access to food, drink and toilet facilities. If you are in any doubt, ask the police officer to arrange for assistance for the child.
 - Ensure an interpreter has been arranged, if needed.
 - Explain you cannot give legal advice but the suspect can ask you questions or ask to speak with you privately at any time. Remind them they may end the interview at any time.
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During the interview

- ① Check the police officer cautions the suspect, and the caution is recorded electronically.
 - ② Do not answer legal questions from the suspect and reinforce the need for legal representation.
 - ③ Ensure the suspect understands the questions but do not intervene unnecessarily.
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If you believe any of the following is taking place, immediately suspend the interview:

- ④
 - The suspect is being subjected to overbearing or intimidating behaviour or questioning.
 - The suspect's wellbeing is deteriorating. If necessary, request medical help.
 - The suspect is being mistreated. Report this to the officer in charge and do not recommence the interview.
 - ⑤ Reiterate the need for legal representation.
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After the interview

- ① The police officer asks set questions at the end of the interview e.g. Is there anything more you wish to say? Was any threat made to you before this interview?
 - ② As the interview is recorded electronically, there is no requirement for you to certify the record at the time. The suspect will be supplied with a copy of the recording of the interview for their legal representative.
 - ③ You may take notes throughout the interview and enter these into your logbook – these notes may be questioned if the matter is brought before a court at a later date.
 - ④ Record all relevant information in your logbook as outlined in chapter 2.4.
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