



MINISTRY OF HOME AFFAIRS

Judges' Rules
and
Administrative Directions
to the Police

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From : The Permanent Secretary, Ministry of Home Affairs.

To : The Commissioner of Police.

15th January, 1965

New Judges' Rules and Administrative Directions to the Police

I am directed by the Minister of Home Affairs to inform you that new Rules have been made by Her Majesty's Judges for Trinidad and Tobago with regard to interrogation and the taking of statements by the police. These Rules supersede the Rules previously made by the Judges of the Queen's Bench Division in England which have hitherto been applied in Trinidad and Tobago. They are reproduced in Appendix A to this Circular.

2. The new Rules differ in certain important respects from the old. It will be observed, in particular, that two forms of caution are prescribed according to the stage which an investigation has reached. One is to be given when an officer has evidence which would afford reasonable grounds for suspecting that a person has committed an offence. After this caution questioning may continue, but a record must be kept of the time and place at which such questioning began and ended, and of the persons present. The second form of caution is to be given as soon as a person is charged with or informed that he may be prosecuted for an offence. Thereafter questions relating to the offence can be put only in exceptional cases, where they are necessary for the purpose of preventing or minimising harm or loss to any person or to the public or for clearing up an ambiguity in a previous answer or statement.

3. As is made clear by the Judges, the Rules are concerned with the admissibility in evidence against a person of answers, oral or written, given by that person to questions asked by police officers and of statements made by that person. In giving evidence as to the circumstances in which any statement was made or taken down in writing, officers must be absolutely frank in describing to the court exactly what occurred, and it will then be for the Judge to decide whether or not the statement tendered should be admitted in evidence.

4. The Rules, which have been made by the Judges as a guide to police officers conducting investigations, should constantly be borne in mind, as should the general principles which the Judges have set out before the Rules. But in addition to complying with the Rules, interrogating officers should always try to be fair to the person who is being questioned, and scrupulously avoid any method which could be regarded as in any way unfair or oppressive.

5. In Appendix B there is a statement of guidance for interrogating officers about various procedural points which may arise in the course of interrogation and the taking of statements.

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*Permanent Secretary,
Ministry of Home Affairs*

APPENDIX A

JUDGES' RULES

These Rules do not affect the principles

- (a) That citizens have a duty to help a police officer to discover and apprehend offenders;
- (b) That police officers, otherwise than by arrest, cannot compel any person against his will to come to or remain in any police station;
- (c) That every person at any stage of an investigation should be able to communicate and to consult privately with a barrister or a solicitor. This is so even if he is in custody provided that in such a case no unreasonable delay or hindrance is caused to the processes of investigation or the administration of justice by his doing so;
- (d) That when a police officer who is making enquiries of any person about an offence has enough evidence to prefer a charge against that person for the offence, he should without delay cause that person to be charged or informed that he may be prosecuted for the offence;
- (e) That it is a fundamental condition of the admissibility in evidence against any person, equally of any oral answer given by that person to a question put by a police officer and of any statement made by that person, that it shall have been voluntary, in the sense that it has not been obtained from him by fear of prejudice or hope of advantage, exercised or held out by a person in authority, or by oppression.

The principle set out in paragraph (e) above is overriding and applicable in all cases. Within that principle the following Rules are put forward as a guide to police officers conducting investigations. Non-conformity with these Rules may render answers and statements liable to be excluded from evidence in subsequent criminal proceedings.

RULES

I. When a police officer is trying to discover whether or by whom, an offence has been committed he is entitled to question any person, whether suspected or not, from whom he thinks that

useful information may be obtained. Subject to Rule II hereunder, he is so entitled whether or not the person in question has been taken into custody so long as he has not been charged with the offence or informed that he may be prosecuted for it.

II. As soon as a police officer has evidence which would afford reasonable grounds for suspecting that a person has committed an offence, he shall caution that person or cause him to be cautioned before putting to him any questions, or further questions, relating to that offence.

The caution shall be in the following terms :—

“You are not obliged to say anything unless you wish to do so but what you say may be put into writing and given in evidence.”

When after being cautioned a person is being questioned, or elects to make a statement, a record shall be kept of the time and place at which any such questioning or statement began and ended and of the persons present.

III.—(a) Where a person is charged with or informed that he may be prosecuted for an offence he shall be cautioned in the following terms :—

“Do you wish to say anything? You are not obliged to say anything unless you wish to do so but whatever you say will be taken down in writing and may be given in evidence.”

(b) It is only in exceptional cases that questions relating to the offence should be put to the accused person after he has been charged or informed that he may be prosecuted. Such questions may be put where they are necessary for the purpose of preventing or minimising harm or loss to some other person or to the public or for clearing up an ambiguity in a previous answer or statement.

Any questions put and answers given relating to the offence must be contemporaneously recorded in full and the record signed by that person or if he refuses by the interrogating officer.

(c) When such a person is being questioned, or elects to make a statement, a record shall be kept of the time and place at which any questioning or statement began and ended and of the persons present.

IV. Nothing in Rules II and III shall render any statement inadmissible in evidence merely because no caution was given, provided that it is made before there is time to caution the person making it, but in any such case he should be cautioned as soon as possible.

V. All written statements made after caution shall be taken in the following manner :—

(a) If a person says that he wants to make a statement he shall be told that it is intended to make a written record of what he says. He shall always be asked whether he wishes to write down himself what he wants to say; if he says that he cannot write or that he would like someone to write it for him, a police officer may offer to write the statement for him. If he accepts the offer the police officer shall, before starting, ask the person making the statement to sign, or make his mark to, the following :—

“I, wish to make a statement. I want someone to write down what I say. I have been told that I need not say anything unless I wish to do so and that whatever I say may be given in evidence.”

(b) Any person writing his own statement shall be allowed to do so without any prompting as distinct from indicating to him what matters are material.

(c) The person making the statement, if he is going to write it himself, shall be asked to write out and sign before writing what he wants to say, the following :—

“I make this statement of my own free will. I have been told that I need not say anything unless I wish to do so and that whatever I say may be given in evidence.”

(d) Whenever a police officer writes the statement, he shall take down the exact words spoken by the person making the statement, without putting any questions other than such as may be needed to make the statement coherent, intelligible and relevant to the material matters : he shall not prompt him.

APPENDIX B

ADMINISTRATIVE DIRECTIONS ON INTERROGATION AND THE TAKING OF STATEMENTS

- (e) When the writing of a statement by a police officer is finished the person making it shall be asked to read it and to make any corrections, alterations or additions he wishes. When he has finished reading it he shall be asked to write and sign or make his mark on the following Certificate at the end of the statement :—

“I have read the above statement and I have been told that I can correct, alter or add anything I wish. This statement is true. I have made it of my own free will.”

- (f) If the person who has made a statement, having read it, refuses to write the above-mentioned Certificate at the end of it or to sign it, the senior police officer present shall record on the statement itself and in the presence of the person making it, what has happened. If the person making the statement cannot read, or refuses to read it, the officer who has taken it down shall read it over to him and ask him whether he would like to correct, alter or add anything and to put his signature or make his mark at the end. The police officer shall then certify on the statement itself what he has done.

VI. If at any time after a person has been charged with, or has been informed that he may be prosecuted for an offence a police officer wishes to bring to the notice of that person any written statement made by another person who in respect of the same offence has also been charged or informed that he may be prosecuted, he shall hand to that person a true copy of such written statement, but nothing shall be said or done to invite any reply or comment. If that person says that he would like to make a statement in reply, or starts to say something, he shall at once be cautioned or further cautioned as prescribed by Rule III (a).

VII. Persons other than police officers charged with the duty of investigating offences or charging offenders shall, so far as may be practicable, comply with these Rules.

N.B.—The Judges have directed that these Rules shall come into effect on the 1st day of February, 1965.

1. Procedure generally

(a) When possible statements of persons under caution should be written on the forms provided for the purpose. Police officers' notebooks should be used for taking statements only when no forms are available.

(b) When a person is being questioned or elects to make a statement, a record should be kept of the time or times at which during the questioning or making of a statement there were intervals or refreshment was taken. The nature of the refreshment should be noted. In no circumstances should alcoholic drink be given.

(c) In writing down a statement, the words used should not be translated into “official” vocabulary; this may give a misleading impression of the genuineness of the statement.

(d) Care should be taken to avoid any suggestion that the person's answers can only be used in evidence against him, as this may prevent an innocent person making a statement which might help to clear him of the charge.

2. Record of interrogation

Rule II and Rule III(c) demand that a record should be kept of the following matters :—

(a) when, after being cautioned in accordance with Rule II, the person is being questioned or elects to make a statement—of the time and place at which any such questioning began and ended and of the persons present;

(b) when, after being cautioned in accordance with Rule III(a) or (b) a person is being questioned or elects to make a statement—of the time and place at which any questioning and statement began and ended and of the persons present.

In addition to the records required by these Rules full records of the following matters should additionally be kept :—

- (a) of the time or times at which cautions were taken, and
(b) of the time when a charge was made and/or the person was arrested, and

(c) of the matters referred to in paragraph 1(b) above.

If two or more police officers are present when the questions are being put or the statement made, the records made should be countersigned by the other officers present.

3. *Comfort and refreshment*

Reasonable arrangements should be made for the comfort and refreshment of persons in attendance for questioning or from whom statements are being taken. Whenever practicable both the person being questioned or making a statement and the officers asking the questions or taking the statement should be seated.

4. *Interrogation of children and young persons*

As far as practicable children (whether suspected of an offence or not) should only be interviewed in the presence of a parent or guardian, or, in their absence, some person who is not a police officer and is of the same sex as the child. A child or young person should not be arrested, nor even interviewed, at school if such action can possibly be avoided. Where it is found essential to conduct the interview at school, this should be done only with the consent and in the presence, of the head teacher, or his nominee.

5. *Interrogation of foreigners*

In the case of a foreigner making a statement in his native language:

(a) The interpreter should take down the statement in the language in which it is made.

(b) An official English translation should be made in due course and be proved as an exhibit with the original statement.

(c) The foreigner should sign the statement at (a).

Apart from the question of apparent unfairness, to obtain the signature of a suspect to an English translation of what he said in a foreign language can have little or no value as evidence if the suspect disputes the accuracy of this record of his statement.

6. *Authentication of Statements of suspected or accused persons*

As far as practicable, and most especially in cases of serious crime, statements by persons under suspicion or charge should

be authenticated by a senior police officer or by some responsible member of the community who shall certify thereon whether the person who gives any such statement acknowledges that he gave it voluntarily.

7. *Supply to accused persons of written statement of charges*

(a) The following procedure should be adopted whenever a charge is preferred against a person arrested without warrant for any offence:

As soon as a charge has been accepted by the appropriate police officer the accused person should be given a written notice containing a copy of the entry in the charge sheet or book giving particulars of the offence with which he is charged. So far as possible the particulars of the charge should be stated in simple language so that the accused person may understand it, but they should also show clearly the precise offence in law with which he is charged. Where the offence charged is a statutory one, it should be sufficient for the latter purpose to quote the section of the statute which created the offence.

The written notice should include some statement on the lines of the caution given orally to the accused person in accordance with the Judges' Rules after a charge has been preferred. It is suggested that the form of notice should begin with the following words:—

"You are charged with the offence(s) shown below. You are not obliged to say anything unless you wish to do so, but whatever you say will be taken down in writing and may be given in evidence."

(b) Once the accused person has appeared before the court it is not necessary to serve him with a written notice of any further charges which may be preferred. If, however, the police decide, before he has appeared before a court, to modify the charge or to prefer further charges, it is desirable that the person concerned should be formally charged with the further offence and given a written copy of the charge as soon as it is possible to do so having regard to the particular circumstances of the case. If the accused person has then been released on bail, it may not always be practicable or reasonable to prefer the new charge at once, and in cases where he is due to surrender to his bail within forty-eight hours

or in other cases of difficulty it will be sufficient for him to be formally charged with the further offence and served with a written notice of the charge after he has surrendered to his bail and before he appears before the court.

8. *Facilities for defence*

(a) A person in custody should be allowed to speak on the telephone to his solicitor or counsel or to his friends provided that no hindrance is reasonably likely to be caused to the processes of investigation, or the administration of justice by his doing so.

He should be supplied on request with writing materials and his letters should be sent by post or otherwise with the least possible delay. Additionally, telegrams should be sent at once, at his own expense.

(b) Persons in custody should not only be informed orally of the rights and facilities available to them, but in addition notices describing them should be displayed at convenient and conspicuous places at police stations and the attention of persons in custody should be drawn to these notices.