



**BECOMING A POLICE STATION
REPRESENTATIVE: THE PSRAS
ACCREDITATION SCHEME AND BEYOND**

*Thomas Wilson*¹

Introduction

This report will explain the role of the Police Station Representative and outline the accreditation process by which one becomes a representative. It will do so from my own perspective, as a law student currently undertaking the Police Station Representative Accreditation Scheme (PSRAS) during the final year of an LLB. For these purposes, the terms interviewee, client and suspect will often be used interchangeably. Their meanings commonly overlap in practice, but it is worth noting that an interviewee will not always be a suspect or a client.

The Role of the Police Station Representative

Within a police station, a Police Station Representative (PSR) plays a similar role to that of a solicitor,² and is considered a solicitor for the purposes of The Police and Criminal Evidence Act 1984 (PACE) Codes of Practice. The role mainly involves providing legal advice to clients that are at a police station, either after having been arrested, or having attended the station for a prearranged interview. When a client arrives at the police station for the purposes of a prearranged interview it is called a voluntary attendance (VA). This term can be misleading. Although an interviewee's consent is required for a VA, their refusal can in some circumstances lead to them being arrested. An interviewee may also be arrested during a VA if new information comes to light that causes the police to suspect that they have

¹ Thomas is currently in the final year of his law degree.

² Although there are some restrictions and limitations that apply to PSRs but not Solicitors. See Ed Cape, Matthew Hardcastle and Sandra Paul, *Defending Suspects at Police Stations* (First published 1993, 8th edition, LAG Education and Service Trust Limited 2020) 18

committed an offence.³ Both types of interview take place under caution (meaning that the interviewee must be given the following warning):

“You do not have to say anything. But, it may harm your defence if you do not mention when questioned something which you later rely on in court. Anything you do say may be given in evidence.”

This warning substantively affects the admissibility of an interviewee’s comments in court.⁴ It is important that a PSR ensures that their client fully understands it. Although the role of the PSR is generally to promote their client’s legal interests at the police station, the advice given in terms of interview strategy is typically the most important aspect of that role. The wording of the caution cuts right to the heart of why that is. In a police interview, each word matters. And if a client is silent, this matters too.

Many clients during a police interview are nervous, distracted⁵ or frustrated, and unsurprisingly, they tend to have very little knowledge of the relevant law. Added to this, although there are safeguards to accommodate people that are particularly vulnerable,⁶ interviewees often vary in terms of their level of education, understanding and eloquence. During an interview, they are routinely sat in a small windowless room with several microphones and cameras trained on them. They are then questioned (sometimes relentlessly)⁷ by trained police officers. A client will not always be able to respond to such pressure by clearly and unambiguously explaining their account of events accurately.

Statements made by a client in interview can lead to devastating consequences for the client, especially if the statement is construed as being incriminating. This is so, regardless of whether a statement was made inadvertently, or whether the client actually committed any offence. Evidence gathered in interview can often determine whether a prosecution will be pursued or dropped in the first place. Many miscarriages of justice have been based on unreliable evidence collected at this stage of the investigative process.⁸ Safeguards have been developed with the aim of ensuring fairness (most notably PACE and the PACE Codes of Practice). Although these provisions are extensive, their correct operation in practice is complex and sometimes ambiguous; there are times when a police officer and a PSR may

³ If the arrest is necessary and voluntary attendance ceased to be a practicable alternative. Also, it requires that it was not reasonably practicable to arrest the person before the interview. The Police and Criminal Evidence Act 1984 (PACE), Code G Note 2G

⁴PACE Code C para 10.1

⁵ Many interviewees may be suffering from drug or alcohol withdrawal. Some interviewees may have other concerns, such as arranging childcare.

⁶ PACE Code C Annex E

⁷ *R v Paris Abdullahi and Miller* (1993) 97 Cr. App. R. 99

⁸ *ibid*

disagree over their correct application. For all these reasons and more, an interviewee should avail themselves of their right to legal representation at the police station⁹ and that is why the PSR is so important.

Broadly speaking, the advice that a PSR gives to a client on interview strategy can be grouped into three categories, in which the client is advised to answer all, some or none of the questions put to them. The latter of these approaches is known as a 'no comment interview'. It is common for an interviewee to actually respond 'no comment' when they do not intend to answer. A client is entitled to just simply stay silent, though this may draw out the interview while the interviewer awaits each response. In any case, a police officer will typically continue to ask all their pre-prepared questions, even if it is obvious that a client has no intention of answering. Although this can be frustrating for the client, the continued questioning is likely to be important evidentially, especially if the case does go to trial. There are ways in which a skilled questioner may try to elicit a response from the client (despite their resolution to stay silent). In these circumstances it can be very important that a PSR prepares a client appropriately beforehand.

As mentioned above, even innocent people can incriminate themselves. A suspect's entitlement to stay silent is not synonymous with their guilt. However, the decision to stay silent at interview can be a risky strategy. The Criminal Justice and Public Order Act 1994 s.34 (CJPOA 1994) sets out the circumstances in which a jury is explicitly permitted to draw negative inferences from an accused's silence under caution. This provision (alongside CJPOA 1994 ss. 36,37)¹⁰ introduces a significant risk to any client who fails to answer certain questions. If the client gives an account at trial that was not mentioned in interview, this can severely undermine the client's credibility in the eyes of the jury and therefore devastate their prospects of acquittal. Naturally it is important that a PSR is alive to these possibilities and advises a client accordingly. It is also worth noting that a client still does technically have the right to remain silent, and in some circumstances, this remains the best course of action.¹¹

A client's account of events may amount to a denial of any criminality or raise a defence against the alleged offence. In these circumstances the client may be best advised to cooperate fully with the interview. However, if there is a risk that such a client when questioned might inadvertently incriminate themselves, then a PSR may suggest a prepared

⁹ PACE s. 58

¹⁰ The effects of a suspect's refusal to account for objects, substances or marks, and the effects of a suspect's refusal to account for their presence at a particular place, respectively.

¹¹ *Cape, Hardcastle and Paul* (n 1) 184

statement. This is where the PSR will write down the client's account, aiming to cover (in outline) everything that seems likely to be asked in the interview. The PSR then reads this out in the interview, and the client offers no comment. The aim of this strategy is to raise any defences at an early stage whilst minimising the risk of the client accidentally incriminating themselves. Naturally it is often difficult and sometimes impossible to guess what will come up in the course of an investigation. If the statement does not cover everything that the client relies upon in court, then negative inferences can still be drawn.¹²

A PSR must abide by the Solicitor's Regulatory Authority Standards and Regulations. Their primary duty is to act in the best interests of each client (unless this would breach their professional obligations).¹³ This can potentially create conflicts of interest, either between a client's instructions and the PSR's obligations, or between obligations to different clients. Importantly, a PSR may not knowingly or recklessly help their client mislead the court (or be complicit in allowing the court to be misled, albeit through the police interview).¹⁴ If a client informs a PSR that they did commit the offence and intend to lie to the police, a PSR should warn them of the negative consequences that may flow from lying to the police. If the client insists on lying, a PSR is obliged to withdraw from representing that client. There are circumstances in which a client may choose to lie mid interview. This can put the PSR in an awkward situation, where they may be obliged to withdraw but are unable to do so immediately, as it would likely communicate to the officers which statement was a lie and thus breach the PSR's obligation of confidentiality.

Whilst a PSR may advise a client, it is ultimately for the client to decide what to do. It is important that a PRS does not put undue pressure on a client to take any particular course of action. In addition to advising a client in respect of interview, the PSR must also promote their client's other legal interests at the station. This can include, inter alia, ensuring that any search, seizure of property, arrest or ongoing detention is lawful. A PSR may also need to advise a client of their rights in terms of identification procedures and the provision of fingerprints and personal samples.

The Police Station Representative Accreditation Scheme

There are currently three steps involved in training to be accredited as a police station

¹² i.e. *R v Lewis* [2003] EWCA Crim 223

¹³ Cape, Hardcastle and Paul (n 1) 4

¹⁴ Cape, Hardcastle and Paul (n 1) 171, Solicitors Regulation Authority Code of Conduct para 1.4

representative: a written exam, a two-part portfolio, and a critical incidents test.

The written exam covers various substantive and procedural aspects of the criminal law and police station procedure, as well as testing the applicant's understanding of the role of a PSR. Part A of the portfolio requires the completion of four case studies, two of which are based on interviews conducted by the supervising solicitor that the applicant has observed, and two of which are based on interviews that the applicant has conducted themselves under supervision. After the successful completion of the written interview and part A of the portfolio, an applicant can apply to the Legal Aid Agency to officially become a 'probationary representative'. They may then undertake part B of the portfolio, which involves reporting on five interviews that the applicant has conducted alone. (Although part A must be completed prior to part B being commenced, both parts of the portfolio are assessed at the same time, after part B is complete).¹⁵ The final hurdle to qualifying as a PSR is the Critical Incidents Test, which takes the form of a role play in which parts of a recorded interview are played and the applicant is assessed on the advice that they give at set pauses in the recording. These tests are designed to test an applicant's knowledge, skills and standard of performance. The SRA have published guidance outlining what an applicant is expected to demonstrate to qualify.¹⁶ Providing that an applicant successfully completes all these stages within the relevant time limits, they will qualify as an accredited police station representative.

A prospective PSR can only qualify if they are trained by a supervising solicitor. My training has mainly been overseen by Louise King, a qualified legal executive advocate and PSR with Walker Lohve Ltd. who has been defending suspects in the police station for sixteen years. I have been very lucky to learn from someone with such a breadth of experience within the police station. Although this article has already touched on some of the knowledge and skills required to advise clients effectively, this area is so broad that it is far beyond the scope of this article to explain fully or even in outline. It potentially covers all areas of substantive criminal law, as well as a great deal of procedural law and the rules of evidence. Even then, this is only part of the story, as the adviser must also navigate police tactics, gather information, assess the client's prospects in any given course of action and ethically guide the client, whilst aiming to avoid numerous pitfalls.¹⁷

¹⁵ <https://www.cardiff.ac.uk/__data/assets/word_doc/0010/1381699/PSRAS_information.docx> accessed 6 January 2022

¹⁶ <<https://www.sra.org.uk/globalassets/documents/solicitors/accreditation/criminal-litigation-psq-standards.pdf?version=4a1ace>> accessed 6 January 2022

¹⁷ See negative inferences above.

Since starting the PSRAS I have shadowed Louise on several interviews at the police station, that have covered a wide range of alleged offences. I have also passed the written exam and, at the time of writing, I am working on Part A of the portfolio. One thing that has stood out from my observations is the difference between studying law and advising clients. Working face to face with someone whose life may be seriously affected by your advice is inherently different from answering the problem questions that become a staple of every law student's repertoire, and whilst an encyclopaedic knowledge of the relevant law is useful (and sometimes necessary) a client will rarely want to hear a detailed recitation of Halsbury's Laws of England and Wales. The speed at which a legal adviser must sift facts for relevant information and apply the relevant law is also something that is very different from law at university. A PSR may advise ten clients in a day. It can be daunting to watch the speed at which a seasoned PSR is able to discharge their myriad of obligations on a busy day at the police station.

Whatever a PSR's impression of a client, it is important that they are able to put the client at ease and establish trust. This is essential for the PSR to advise the client effectively. Active listening is a crucial part of being a PSR. Prior to an interview, a PSR will usually have an opportunity to consult with their client. This gives the client an opportunity to explain their version of events to the PSR in private, and for the PSR to advise them accordingly. Sometimes a client will reel off their story at nineteen to the dozen, with little regard for chronological order. It is generally preferable to avoid interrupting the client's story if possible, especially during parts of the story that seem important to the client. However, a PSR may need to ask a client to slow down, or to focus more on certain aspects of the event from time to time. Some clients can be preoccupied by irrelevant details and others can gloss over things that are vitally important. The PSR all the while will be frantically taking notes, sifting the information for relevant facts and looking out for any potential offences, defences or inconsistencies. They will then ask the client for clarification of anything that appears likely to come up at interview. A PSR must attempt to anticipate the approach the police are likely to take in respect of the interview, having regard to the client's account and the evidence that the police have so far disclosed.¹⁸

Most of my shadowing has taken place at Charles Cross Police Station in Plymouth. Deep within the station there is a small set of rooms (none of which have windows) in which PSR's

¹⁸ Sometimes, at this stage the police may not have disclosed all the evidence that they have to the legal advisor. This is known as phased disclosure and can make it difficult to effectively advise a client.

can fill out their paperwork, consult with their client and occasionally drink coffee. These rooms adjoin the station's custody suite, and from time-to-time various detainees can be heard venting their frustrations. This area of the station is only accessed through a series of corridors and heavily locked doors. Moving through the station, a PSR, at intervals, must wait at various intercoms to be buzzed through from one room to another. The initial consultation with a client usually takes place in a tiny room that is only a few feet wide. The PSR and client are typically locked in the room alone,¹⁹ and it can take some time for a police officer to answer the intercom (the only means by which the door can be unlocked). This feels strange at first, especially if the client is particularly agitated, but it becomes routine after a few days. Before any consultation in which I shadow Louise, we ask the client if they would be comfortable with me sitting in. So far, every one of the clients that we have asked has agreed, which is particularly surprising on occasions when the client is facing allegations that may be very personal or embarrassing. It is natural to feel slightly awkward at times when observing in consultations and interview, but in general the clients have been very encouraging.

One of the benefits of having the opportunity to observe and learn from a seasoned PSR with some years' experience is that I have been able to get a first-hand sense of how important this work is, not only to any given client in any given interview but also to the whole community. Many of a PSR's clients will lead very difficult lives and of the many new faces that a representative meets, some will sadly become regular clients over the years. A lot of clients become stuck in a vicious cycle, whether that be related to drugs, alcohol or homelessness. For some, their arrest may mark one of the worst days of their life, whereas others may remain entirely unfazed.²⁰ A PSR will often need to comfort people who are distraught or desperate, and they will often have to remain objective when faced with accounts of some of the darkest aspects of human behaviour. Needless to say, this requires a difficult balancing of empathy and resilience. The training to become accredited as a PSR is short, and the learning curve is steep; it requires a lot of study, flexibility,²¹ and a wide skill set. I am very grateful to Walker Lahive for the opportunity to become accredited, and to Louise for her mentorship, guidance, and encouragement. Although I feel like I have learned a lot already in my training, I am aware that I still have much ground to cover. Importantly, I believe that the process of developing as a legal representative does not end on the

¹⁹ In certain circumstances they may be joined by an appropriate adult or a PSR in training.

²⁰ One client did not even look up from eating his lunchtime pasty when he was further arrested for another offence.

²¹ When 'on call' a PSR may be asked to attend the police station at any time of the day or night.

attainment of any one particular qualification; it is an ongoing process, in which there should always be scope for improvement.