

About to be interviewed by the police?

When you are about to be interviewed by the police, it is an advantage to know what you should do, and more importantly, you need to know what you must not do.

In Victoria, and indeed like many other common law jurisdictions, you may be charged with a criminal offence by way of a Summons or a Warrant. Either way, it is important to know that with a few exceptions, you are entitled to remain silent. The exceptions are usually that you have to provide the police or the appropriate authority with your name and address. For example, in the case of a traffic accident, you need to provide your name and address, details of the driver and other details like your insurer's details.

With the exceptions in mind, it is advisable not to participate in any record of interviews with the police whether verbally, in writing, recording or video taped. This is so even if you want to clear your name as if you are charged, all of your dealings with the police may be used in court as evidence. Often, the use of such evidence would be against your interest.

In addition, when you are in an interview room most of the time you are not your normal self. This is because you are in a foreign environment with 2 strangers (police officers) and often with microphones and cameras recording your every movement. The interview room is often small and about less than half the size of a normal bedroom with poor ventilation and without any windows. You would feel nervous and hence may say the wrong thing that may haunt you further in the proceedings.

Andrew Mallard's case is an important reminder to all citizens in Australia. Mr. Mallard suffered 12 years in prison for crimes he did not do. Mr. Mallard participated in police recorded interviews where he theorised about how a certain robbery and consequent murder took place in a jewellery store in Perth. Those interviews were considered confessions and were admitted as evidence against Mr. Mallard. Mr. Mallard's cause was not assisted by the fact that certain important evidence were not disclosed to Mr. Mallard's defence team by either the WA police or by the DPP.

Mr. Mallard is now free, fully exonerated, and compensated. However, it took a brilliant journalist, a dedicated team of lawyers (working on a pro bono basis), a committed politician (former lawyer), a supporting family, and the High Court of Australia to "right the wrong". Two important questions that you may ask yourself when you are about to be interviewed by the police are that will you be that unlucky to be charged and if you are charged, will you be lucky to have the right people and institution to fight for you? So whenever you are asked to participate in an interview with the police, think of Mr. Mallard and you will know why competent lawyers always advise their clients not to make a statement or participate in an interview unless the law requires you to do so.

Contact a competent lawyer if you are going to be questioned by the police.