

JUDGES RULES

Foreword

It is the responsibility of everyone to help in the prevention of crime.

The police are however charged by law, with the special duty to prevent crime and where one has been committed, to investigate and ensure that the persons responsible are brought before the Courts.

The difficulties the police may encounter in this process cannot however, be underestimated.

But it is nonetheless vital for the core values of society, including the rule of law and the proper administration of justice that, even in the face of these sometimes exasperating difficulties, basic rules of fairness and respect for the fundamental human rights of the individuals be observed.

The national Constitution of Belize provides the underpinning for these rules and rights.

Awareness of an sensitivity to these concerns should, no doubt, be part of the training and equipment of the police.

Their observance by the police certainly enhances the best practice standards which will contribute tremendously in the fight against crime: when these standards are observed and adhered to, it is not only uplifting for the police but it enlists the support and cooperation of all law-abiding persons into the ranks of the police in the fight against those who are bent on breaking the laws of the country.

It is hopes that these revised Rules while underlining respect for fundamental human rights in police investigation of crimes will also at the same time enlist the support and cooperation of the public in this vital task.

A.O. Conteh

Chief Justice

29th May, 2000

Pursuant to section 60 of the Supreme Court of Judicature Act - Chapter 82 of the Laws of Belize: "JUDGES' RULES: BEING GUIDELINES FOR THE INTERVIEWING OF PERSONS AND OBTAINING STATEMENTS FROM THEM WHILE IN POLICE CUSTODY."

Rule 1.1 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 of not, from whom he thinks that useful information may be obtained. The police office can do this whether or not the person has been taken into custody provided he has not been charged with the offence or informed that he may be prosecuted for it.

1.2: A person whom there are grounds to suspect of an offence must be cautioned before any questions about it (or further questions if it is his answers to previous questions that provide grounds for suspicion) are put to him for the purpose of obtaining evidence which may be given to a court in a prosecution. The person need not be cautioned if questions are put to him for other purposes, for example, to establish his identity, or the ownership of any vehicle or the need to search him in the exercise of powers of stop and search.

Rule 2: Whenever a police officer has arrested or detained a person he should promptly inform the person of the reasons for his arrest and detention, and in any case, he must do so no later than 48 hours after such arrest and detention.

Rule 3: Whenever a police officer has arrested or detained a person, he must immediately inform that person that he is entitled to speak privately with an instruct a lawyer or, if the person is a minor, to speak with his parents or guardians.

Rule 4: A person must be cautioned upon arrest for an offence unless(a) it is impracticable to do so by reason of his condition or behavior at the time, or(b) he has already been cautioned immediately prior to arrest in accordance with paragraph 1.2 above.

Rule 5: The caution shall be in the following terms: "You do not have to say anything unless you wish to do so, but what you say may be taken down in writing and given in evidence."

Rule 6: Whenever a police officer has made up his mind to charge a person with a crime, he should first caution that person before asking him any questions or any further questions as the case may be.

Rule 7.1: Whenever a person is formally charged with an offence, the following caution shall be given to him:

"Do you wish to say anything in answer to the charge? 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."

Care should be taken to avoid suggestion or impression that his answers can only be used in evidence against him, as this may prevent an innocent person from making a statement, which might assist to clear him of the charge.

7.2: If a person in custody wishes to volunteer any statement, the usual caution should be administered.

7.3 A person in custody making a voluntary statement must not be cross-examines on it, and no question should be put to him about it except for the purpose of clarifying ambiguity about what he has actually said. For instance, if he has mentioned an hour of the day without saying whether it was morning or evening, or has given a day of the week and a day of the month which do not agree, or has not made it clear to what individual or what place he intend to refer in some part of his statement, he may be questioned to clear up the point.

Rule 8.1 Any person in custody should not be questioned without the usual caution stated in Rule 5 above being administered first.

8.2 If a person in custody makes a statement before the usual caution is administered, the caution should be administered immediately thereafter before any further statement is taken from that person and the police officer shall certify on the statement the circumstances of its making.

Rule 9.1 Where after being cautioned, a person wishes to write down his statement himself, he should always be permitted to do so, in which case he 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 understand that I need not say anything unless I wish to do so and that what I say may be given in evidence."

Any person writing his own statement shall be allowed to do so without any prompting.

9.2 After he has finished the statement, the person making it should be asked to sign it.

9.3 If a person says that he would like someone to write his statement for him, a police officer shall write the statement, but before starting he must ask the person 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 understand that I need not say anything unless I wish to do so and that what I say may be given in evidence."

When a police officer writes the statement he must take down the exact words spoken by the person making it and he must not edit or paraphrase it. Any questions that are necessary (for example to make it more intelligible) and the answers give must be recorded contemporaneously on the statement form.

9.4 When the writing of a statement by a police officer is finished, the person making the statement shall be asked to read it and to make corrections, alterations or additions he wishes. When he has finished reading 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 able to correct, alter or add anything I wish. This statement is true. I have made it of my own free will."

If the person making the statement cannot read, or refuses to read it, or to write the above-mentioned certificate at the end of it or to sign it, the senior police officer present 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 in the presence of the person what has occurred.

Rule 10: If at any time after a person has been charged with or informed that he may be prosecuted for an offence a police officer wishes to bring to the notice of that person any statement made by another person of the content of an interview with another person, he shall hand to that person a true copy of any such statement or bring to his attention the

content of the interview record, but shall say or do nothing to invite any reply. If the person charged wishes to make a statement in reply, the usual caution should be administered.

Rule 11: Where in making a statement a person uses Creole, he should be encouraged to give it in ordinary English. If he insists on giving it in Creole the police officer recording the statement should check with him the meaning of what he says in ordinary English and record it in ordinary English.

If the person making the statement in Creole does not understand ordinary English the police officer should record as accurately as possible in ordinary English what he understands the person making the statement to be saying, and later should state the circumstances when giving evidence.

Rule 12: Where the person making a statement makes it in a language other than English, the practice should be as follows -

(a) whenever it is practicable the statement should be written in the language spoken by the person making it;

(b) if it is not practicable to write the statement in the language spoken by the person making the statement, it should be written in the English language;

(c) after the completion of the statement it should be read back to the person making it in the language in which it was made; and the person making it should be invited to make any corrections he may wish and to sign it. Corrections should be written at the end of the statement;

(d) if the person who has made the statement refuses to sign it, the senior police officer present should record on the statement itself, and in the presence of the person making it, what happened, and should sign what he has written.

Rule 13: Where the person making a written statement makes it in a language other than English, the following shall apply:

(a) whenever it is practicable the statement itself, all corrections, additions, or alterations thereto, any permissible questions and the answers thereto and all declarations and the Certificates should be written in the language spoken by the person making the statement;

(b) if it is not practicable to write the same in the language spoken by the person making the statement, they should be written in the English language;

(c) when the statement is written by the person making it any permissible questions and the answers thereto should be written on the statement by the interpreter (whether he be a Police Officer or otherwise) and where a statement is not written by the person making it, the statement, any permissible questions and answers and all corrections, additions and alterations thereto should be written by the interpreter;

(d) after the completion of a statement written by the interpreter, if the person who has made it is unable or unwilling to read it, the interpreter should read it over to him in the language in which it was given; likewise all questions put and the answers thereto and all corrections additions and alterations;

(e) an interpreter present when a statement is given should certify on the statement itself what he has done, and where the statement is recorded in English, he should certify on the statement the reason why it was not recorded in the language in which it was spoken. He should sign any such certificate.

Rule 14: Whenever a police officer has arrested or detained a person, that person shall be brought before a court without unnecessary delay, and in any case not later than seventy-two hours after such arrest or detention.

Rule 15: 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.

Rule 16: Failures to comply substantially with the provisions of these rules may result in a statement made by an accused person or person who subsequently becomes an accused person not being admitted in evidence.

Rule 17: The rules of practice known as the "*Old Judges' Rules*" or by whatever name called intended to regulate matters provided for in these Rules shall no longer apply in Belize after the coming into effect of these Rules