



Jersey

R&O - 68/2003

TERRORISM (AUDIO RECORDING OF INTERVIEWS) (JERSEY) ORDER 2003

Arrangement

Article

- 1 Requirement for audio recording of interview
- 2 Code of practice on audio recording of interview
- 3 Citation and commencement

SCHEDULE

CODE OF PRACTICE ON AUDIO RECORDING OF INTERVIEWS



Jersey

TERRORISM (AUDIO RECORDING OF INTERVIEWS) (JERSEY) ORDER 2003

*Made**31st July 2003**Coming into force**1st September 2003*

THE HOME AFFAIRS COMMITTEE, in pursuance of paragraphs 3 and 4 of Schedule 9 to the Terrorism (Jersey) Law 2002¹ and having published a draft code of practice in connection with the audio recording of interviews and considered any representations made to it about the draft, orders as follows –

1 Requirement for audio recording of interview

Any interview by an officer of the Force of a person detained under Article 37 of or Schedule 8 to the Terrorism (Jersey) Law 2002² which takes place in a police station shall be audio recorded in accordance with the code of practice brought into operation under Article 2 of this Order.

2 Code of practice on audio recording of interview

The code of practice set out in the Schedule to this Order shall come into operation forthwith.

3 Citation and commencement

This Order may be cited as the Terrorism (Audio Recording of Interviews) (Jersey) Order 2003 and shall come into force on 1st September 2003.

A.H. HARRIS

Deputy Greffier of the States.

SCHEDULE

(Article 2)

CODE OF PRACTICE ON AUDIO RECORDING OF INTERVIEWS**CODE OF PRACTICE FOR THE AUDIO RECORDING OF INTERVIEWS UNDER
THE TERRORISM (JERSEY) LAW 2002****Foreword**

Paragraph 3(1) of Schedule 9 to the Terrorism (Jersey) Law 2002 requires that a code of practice is issued by the Home Affairs Committee to regulate practice in respect of the audio recording of police interviews with persons detained under Article 37 of and Schedule 8 to that Law.

Under paragraph 4(5) of Schedule 9 to that Law the code is admissible in evidence in criminal and civil proceedings and shall be taken into account by any court or tribunal in any case in which it appears to the court or tribunal to be relevant.

CONTENTS

- Section 1 General
- Section 2 Recording and Sealing of Master Tapes
- Section 3 Interviews to be Audio Recorded
- Section 4 The Interview
- (a) commencement of interview
 - (b) interviews under Article 37
 - (c) interviews of those detained at a police station under Schedule 8 to the Law
 - (d) interviews with the deaf or with those who do not understand English
 - (e) objections and complaints by the detained person
 - (f) changing tapes
 - (g) taking a break during interview
 - (h) failure of recording equipment
 - (i) removing tapes from the recorder
 - (j) conclusion of interview
- Section 5 Interview Records of Interviews under Sections 3.5, 4.13 and 4.16
- Section 6 After the Interview under Section 4
- Section 7 Tape Security
- Section 8 Tape Destruction
- Annex
-

CODE OF PRACTICE UNDER PARAGRAPH 3(1) OF SCHEDULE 9 TO THE TERRORISM (JERSEY) LAW 2002 GOVERNING THE AUDIO RECORDING OF POLICE INTERVIEWS IN A POLICE STATION OF PERSONS DETAINED UNDER ARTICLE 37 OF OR SCHEDULE 8 TO THE TERRORISM (JERSEY) LAW 2002

Commencement - Transitional Arrangements

This code applies to an interview, or any part of an interview, carried out after this code comes into operation.

Section 1 General

1.1 This code of practice applies to the audio recording of police interviews in a police station of persons detained under Article 37 of or Schedule 8 to the Terrorism (Jersey) Law 2002 (“the Law”).

1.2 The code must be readily available at all police stations for consultation by police officers, arrested or detained persons, members of the public, appropriate adults, advocates and solicitors.

1.3 In this code reference to a ‘police station’ includes any place which is designated by the Home Affairs Committee (“the Committee”) under paragraph 1(1) of Schedule 9 to the Law as a place at which persons may be detained under Article 37.

1.4 The notes for guidance included are not provisions of this code. They form guidance to police officers and others about its application and interpretation.

1.5 Nothing in this code shall be taken as detracting in any way from the legal responsibilities of interviewing officers in conducting an interview with a detained person.

1.6 In this code “appropriate adult” means:

- (i) in the case of a juvenile:
 - (a) his parent or guardian (where they are not involved in the case); or, if he is in care, the authority having care of him. The term ‘in care’ is used in this code to cover all cases in which a juvenile is ‘looked after’ by the Health and Social Services Committee pursuant to the Children (Jersey) Law 1969;
 - (b) a social worker; or
 - (c) failing either of the above, another responsible adult aged 18 or over who is not a police officer or employed by the police.
- (ii) in the case of a person who is mentally disordered:
 - (a) a relative, guardian or other person responsible for his care or custody;
 - (b) someone who has experience of dealing with mentally disordered people but who is not a police officer or employed by the police; or
 - (c) failing either of the above, some other responsible adult aged 18 or over who is not a police officer or employed by the police. (*See Note 1A*).

'Mental disorder' means mental illness, arrested or incomplete development of mind, psychopathic disorder and any other disorder or disability of mind.

1.7 If anyone appears to be under the age of 17 then he shall be treated as a juvenile for the purposes of this code.

1.8 Only officers who have been trained for the purpose can carry out tape-recorded interviews under this code.

Notes for Guidance

1A *In the case of people who are mentally disordered, it may in certain circumstances be more satisfactory for all concerned if the appropriate adult is someone who has experience or training in their care rather than a relative lacking such qualifications. But if the person himself prefers a relative to a better-qualified stranger or objects to a particular person as the appropriate adult, his wishes should if practicable be respected.*

1B *It is important to bear in mind that, although juveniles or people who are mentally disordered are often capable of providing reliable evidence, they may, without knowing or wishing to do so, be particularly prone in certain circumstances to provide information which is unreliable, misleading or self incriminating. Special care should therefore always be exercised in questioning such a person, and the appropriate adult should always be involved, if there is any doubt about a person's age, mental state or capacity. Because of the risk of unreliable evidence it is also important to obtain corroboration of any facts admitted wherever possible.*

Section 2 Recording and Sealing of Master Tapes

2.1 The audio recording of interviews shall be carried out openly so as to instill confidence in the integrity of the tape as an impartial and accurate record of the interview. (*See Note 2A*).

2.2 One tape, referred to in this code as the master tape, will be sealed before it leaves the presence of the detained person. A second tape will be used as a working copy. The master tape is either one of the tapes used in the twin or triple deck tape-recorder or the only tape used in single deck machines. The working copy is either the second tape used in a twin or triple deck machine or a copy of the master tape made by a single deck machine. (*See Note 2B*).

Notes for Guidance

2A. *Interviewing officers will wish to ensure that, as far as possible, audio recording arrangements are unobtrusive. It must be clear to the detained person, however, that there is no opportunity to interfere with the recording equipment or the tapes.*

2B. *The purpose of sealing the master tape before it leaves the presence of the detained person is to establish his confidence that the integrity of the tape is preserved. Where a single deck machine is used the working copy of the master tape must be made in the presence of the suspect without the master tape having left his sight. The working copy shall be used for making further copies where the need arises. The recorder will be capable of recording voices and will have a time coding or other security device.*

Section 3 Interviews To Be Audio Recorded

When audio recording is required

3.1 Subject to paragraph 3.5 below, audio recording shall be used for any police interview in a police station of a person detained under Article 37 of or Schedule 8 to the Law.

3.2 Audio recording shall also be used in an interview with a person suspected on reasonable grounds of an offence under Article 3 of the Official Secrets (Jersey) Law 1952.

3.3 The whole of each interview shall be audio recorded, including the taking and reading back of any statement.

When audio recording is not required

3.4 Audio recording is *not* required for people being examined under Schedule 8 to the Law unless they are detained at a police station.

3.5 An officer of the Force not below the rank of inspector who is not involved with the investigation (the authorizing officer) may authorize the interviewing officer not to audio record the interview where it is not reasonably practicable to do so because of failure of the equipment or the non-availability of a suitable interview room or recorder, and the authorizing officer considers on reasonable grounds that the interview should not be delayed until the failure has been rectified or a suitable room or recorder becomes available. In such cases the interview shall be recorded verbatim in writing. In all cases the authorizing officer shall make a note in specific terms of the reasons for not audio recording. (*See Note 3A*).

Notes for Guidance

3A *A decision not to audio record an interview for any reason may be the subject of comment if a case comes to court. The authorizing officer should therefore be prepared to justify his decision in each case.*

Section 4 The Interview

(a) Commencement of interview

4.1 When the detained person is brought into the interview room the interviewing officer (the police officer conducting the interview or any of such officers, if there are more than one) shall, without delay, but in the sight of the detained person, load the recorder with previously unused tapes and set it to record. The tapes must be unwrapped or otherwise opened in the presence of the detained person. (*See Note 4A*).

- 4.2 (i) The interviewing officer shall then tell the detained person formally about the audio recording. He shall state:
- (a) that the interview is being audio recorded;
 - (b) the date, time of commencement and place of the interview;
 - (c) his name (or his warrant or other identification numbers) and rank and the name (or warrant or other identification numbers) and rank of any other police officer present;
 - (d) the name of the detained person and any other person present (eg legal representative); and
 - (e) that the detained person will be given a notice about what will happen to the tapes.
-

- (ii) When the interviewing officer identifies himself and his rank in accordance with sub-paragraph 4.2 (i)(c) above, any other police officer present shall then also state his name (or warrant or other identification number) and rank.
- (iii) When the interviewing officer states the name of the detained person and any other person present, in accordance with sub-paragraph 4.2(i)(d) above, he shall invite each such person to identify himself for the purpose of the tape. (*See Note 4B*).
- (iv) Any person entering the interview room after the interview has commenced shall be invited by the interviewing officer to identify himself for the purpose of the tape and state the reason for which he has entered the interview room.

(b) Interviews under Article 37

4.3 Unless in accordance with paragraph 8 of Schedule 9 to the Law access to facilities to consult a legal representative has been delayed (the reasons for which should be communicated to the detained person and recorded as soon as is reasonably practicable), the interviewing officer shall remind the detained person of his right to be afforded facilities to consult a legal representative. Immediately prior to the commencement or re-commencement of any interview at a police station, the interviewing officer should remind the detained person of his entitlement to be afforded facilities to consult a legal representative and that the interview can be delayed for this purpose.

4.4 The interviewing officer shall then advise the detained person in the following terms:

‘you are not obliged to say anything unless you wish to do so but anything you do say may be taken down and given in evidence’

Further cautions may be appropriate during the course of the interview where, for example, fresh evidence suggests further offences may have been committed.

4.5 Minor deviations from the form of words set out in the above paragraphs do not constitute a breach of this code provided that the sense is preserved.

(c) Interviews of those detained at a police station under Schedule 8 to the Law

4.8 The interviewing officer shall inform the detained person that he is *not* under arrest or caution but that he is being detained under the provisions of Schedule 8 to the Law. He will explain that this in itself does not mean that the interviewer suspects that the detained person is or has been concerned in the commission, preparation or instigation of acts of terrorism and that the purpose of the questioning is to enable the interviewer to determine whether the detained person appears to be such a person.

4.9 The interviewer shall advise the detained person that, in accordance with paragraph 3 of Schedule 8 to the Law, he has a duty to give the interviewer all the information in his possession which the interviewer requests in connection with his determining whether the person is or has been concerned in the commission, preparation or instigation of acts of terrorism.

4.10 He shall also advise the detained person that if he deliberately fails to comply with the interviewer’s request he may be guilty of an offence under paragraph 15(1) of Schedule 8 to the Law.

4.11 The interviewer shall inform the detained person that he may, if he wishes, at public expense, inform a relative or someone close to him, or known to him, or someone who is likely to take an interest in his welfare that he is being questioned and where he is. The interviewer

shall also advise the detained person that he can, if he wishes, also have access to facilities to consult a legal representative, either in person, in writing or by telephone and that the interview can be delayed for this purpose.

(d) Interviews with the deaf or with those who do not understand English

4.12 If a person appears to be deaf or there is doubt about his hearing or speaking ability, he must not be interviewed in the absence of an interpreter unless he agrees in writing to be interviewed without one or unless an officer of the rank of chief inspector or above considers that delaying the interview would be likely:

- (a) to lead to interference with or harm to evidence connected with an offence or interference with or physical harm to other people;
- (b) to lead to the alerting of other people suspected of having committed an offence but not yet arrested for it; or
- (c) to hinder the recovery of property obtained in consequence of the commission of an offence.

Questioning in these circumstances may not continue once sufficient information to avert the immediate risk has been obtained. A record shall be made of the grounds for any decision to interview a person under this paragraph.

4.13 If the detained person is deaf, or there is doubt about his hearing ability, the interviewing officer shall take a verbatim contemporaneous note of the interview, in addition to audio recording it in accordance with the provisions of this code. (*See Note 4C*).

4.14 Except where an officer of the rank of chief inspector or above believes that (a), (b) or (c) in paragraph 4.12 above applies, a person must not be interviewed in the absence of a person capable of acting as interpreter if:

- (a) he has difficulty in understanding English;
- (b) the interviewing officer cannot understand the person's own language; and
- (c) the person wishes an interpreter to be present.

4.15 Where paragraph 4.3 applies and the person concerned cannot communicate with the legal representative, whether because of language, hearing or speech difficulties, the interpreter must be called. The interpreter may be a police officer except where interpretation is needed for the purposes of obtaining legal advice.

(e) Objections and complaints by the detained person

4.16 If the detained person raises objections to the interview being audio recorded either at the outset or during the interview or during a break in the interview, the interviewing officer shall remind him (see sub-paragraph 4.2 (i)(a) above) that the interview is being audio recorded and that his objections are being recorded on tape. When any objections have been recorded or the detained person has refused to have his objections recorded, the interviewing officer may turn off the recorder. In this eventuality the interviewing officer shall say that he is turning off the recorder and give his reasons for doing so and then turn it off. He shall then make a verbatim written record of the interview. If, however, the interviewing officer reasonably considers that he should proceed to put questions to the detained person with the recorder still on, he may do so. In that event, the detained person's attention shall be drawn to the fact that the recorder is still operating. (*See Note 4D*).

4.17 If in the course of an interview a complaint is made by the person being questioned, or on his behalf, about his detention, treatment and questioning or if the complaint is that the provisions of this code have not been observed, then the interviewing officer shall record it in the interview record and inform the custody officer, or those carrying out the functions of a custody officer, who is then responsible for dealing with the complaint in accordance with recognised procedures. (*See Note 4E*).

4.18 If the detained person indicates that he wishes to tell a police officer about matters not directly connected with the matter about which he is being interviewed and that he is unwilling for these matters to be audio recorded, he shall be given the opportunity to tell a police officer about these matters after the conclusion of the interview. Consideration should be given as to whether a separate caution is appropriate in those circumstances.

(f) Changing tapes

4.19 When the recorder indicates that the tapes have only a short time left to run, the interviewing officer shall tell the detained person that the tapes are coming to an end and round off that part of the interview. If the officer wishes to continue the interview but does not already have a second set of tapes, he shall obtain a set. The detained person shall not be left unattended in the interview room. The interviewing officer shall remove the tapes from the recorder and insert the new tapes which shall be unwrapped or otherwise opened in the detained person's presence. The recorder shall then be set to record on the new tapes. When more than one set of tapes has been used, care must be taken to ensure there is no confusion between the sets of tapes. This must be done by marking each set of tapes with the same identification number immediately it is removed from the recorder.

(g) Taking a break during interview

4.20 When a break is to be taken during the course of an interview and the interview room is to be vacated by the detained person, the fact that a break is to be taken, the reason for it and the time shall be audio recorded. The tapes shall then be removed from the recorder and the procedures for the conclusion of an interview set out below shall be followed.

4.21 When a break is to be a short one and both the detained person and the interviewing officer are to remain in the interview room the fact that a break is to be taken, the reason for it and the time shall be audio recorded. The recorder may be turned off: there is, however, no need to remove the tape and when the interview is recommenced the recording shall be continued on the same tape. The time at which the interview recommences shall be audio recorded.

4.22 When there is a break in questioning *under caution* the interviewing officer must ensure that the person being questioned is reminded of his right to be afforded facilities to consult a legal representative and also that he is aware that he remains under caution. If there is any doubt the caution must be given again in full when the interview resumes. (*See Notes 4F and 4G*).

(h) Failure of recording equipment

4.23 If there is a failure of equipment which can be rectified quickly, for example by inserting new tapes, the procedures set out in paragraph 4.19 shall be followed, and when the recording is resumed the interviewing officer shall explain what has happened and audio record the time the interview recommences. If, however, it is not possible to continue recording on that particular recorder and no replacement recorder or other suitably equipped interview room is readily available, the interview may continue without being audio recorded. In such circumstances the authorization procedures in paragraph 3.5 above shall be followed. (*See Note 4H*).

(i) Removing tapes from the recorder

4.24 Where tapes are removed from the recorder in the course of an interview, they shall be retained and the procedures set out in paragraph 4.26 below followed.

(j) Conclusion of interview

4.25 At the conclusion of the interview, the detained person shall be offered the opportunity to clarify anything he has said and to add anything he may wish.

4.26 At the conclusion of the interview, including the taking and reading back of any written statement, the time shall be recorded and the recorder switched off. The master tape, as selected by the detained person, shall be sealed with a master tape label and treated as an exhibit. The interviewing officer shall sign the label (a warrant or other identification number may be used) and ask the detained person and any other third party present to sign it also. If the detained person or third party refuses to sign the label, an officer not below the rank of inspector, who is not involved with the investigation, or if one is not available, the custody officer shall be called into the interview room and asked to sign it. (*See Note 4I*).

4.27 The detained person or an appropriate adult or an interpreter shall be handed a notice at the end of the first interview which explains:

the use which will be made of the tape-recording;

the arrangements for access to the tape;

that a copy of the tape shall be supplied upon request as soon as practicable if the detained person is charged or informed that he will be prosecuted;

the period of retention of the tape;

the arrangements for the destruction of the tape. (*See Note 4J and the Annex*).

Notes for Guidance

4A *The interviewing officer should attempt to estimate the likely length of the interview and ensure the appropriate number of unused tapes, and labels with which to seal the master tapes are available in the interview room.*

4B *It is necessary, for the purpose of voice identification in the recording, for the interviewing officer to ask the detained person and any other persons present to identify themselves.*

4C *Paragraph 4.13 is intended to give the deaf equivalent rights of first hand access to the full interview record.*

4D *The interviewing officer should bear in mind that his decision to continue recording against the wishes of the detained person may be the subject of comment if the case comes to court. He may wish to consider, however, reminding the interviewee that audio-recording is an added safeguard in the interview process and, where appropriate, seek a view from the interviewee's legal representative before switching off the tape recorder.*

4E *Where the custody officer is called immediately to deal with the complaint, wherever possible the tape recorder should be left to run until the custody officer has entered the interview room and spoken to the person being interviewed. Continuation or termination of*

the interview should be at the discretion of the interviewing officer pending the instigation of recognized complaints. Where the complaint concerns a matter not connected with this code or with the detained person's detention, treatment or questioning, the decision to continue with the interview is at the discretion of the interviewing officer. Where the interviewing officer decides to continue with the interview the person being interviewed shall be told that the complaint will be brought to the attention of the custody officer at the conclusion of the interview. When the interview is concluded the interviewing officer must, as soon as practicable, inform the custody officer of the existence and nature of the complaint made.

4F *In considering whether to caution again after a break in an interview, the interviewing officer should bear in mind that he may have to satisfy a court that the detained person understood he was still under caution when the interview resumed (or during the course of the interview itself).*

4G *The officer should bear in mind that it may be necessary to show to the court that nothing occurred during a break in an interview or between interviews which influenced the detained person's recorded evidence. The officer should consider, therefore, after a break in an interview or at the beginning of a subsequent interview summarising on tape the reason for the break and confirming this with the detained person.*

4H *If one of the tapes breaks during the interview it should be sealed as a master tape in the presence of the detained person and the interview resumed where it left off. The unbroken tape should be copied and the original sealed as a master tape in the detained person's presence, if necessary after the interview. If equipment for copying the unbroken tape is not readily available, both tapes should be sealed in the presence of the detained person and the interview begun again.*

4I *Where the detained person refuses to sign the label, they should be given an opportunity to place their reasons for so doing on record.*

4J *Only one notice is required to be served on the detained person, or an appropriate adult or an interpreter, and this should be carried out at the end of the first interview.*

Section 5 Interview Records of Interviews under Sections 3.5, 4.13 and 4.16

5.1 An accurate record must be made of each interview with a detained person, carried out at a police station under paragraphs 3.5, 4.13 or 4.16 above.

5.2 The record must state the place of the interview, the time it begins and ends, the time the record is made (if different), any breaks in the interview and the names (or warrant or other identification number) and duty station of such officers and all those present; and must be made on the forms provided for this purpose or in the officer's pocket book.

5.3 The record must be made during the course of the interview, unless in the investigating officer's view this would not be practicable or would interfere with the conduct of the interview, and must constitute either a verbatim record of what was said or, failing this, an account of the interview which adequately and accurately summarises it.

5.4 If an interview record is not made during the course of the interview it must be made as soon as practicable after its completion.

5.5 Written interview records must be timed and signed by the maker.

5.6 If an interview record is not completed in the course of the interview the reason must be recorded in the officer's pocket book.

5.7 Unless it is impracticable the person interviewed must be given the opportunity under tape recorded conditions to read the interview record and to sign it as correct or to indicate the respects in which he considers it inaccurate. If the person concerned cannot read or refuses to read the record or to sign it, the senior officer present shall read it to him and ask him whether he would like to sign it as correct (or make his mark) or to indicate the respects in which he considers it inaccurate. The police officer shall then certify on the interview record itself what has occurred. (*See Note 5A*).

5.8 If an appropriate adult or person's legal representative is present during the interview, he shall also be given the opportunity to read and sign the interview record (or any written statement taken down by a police officer).

5.9 A written record shall also be made of any comments made by a suspected person, including unsolicited comments which are outside the context of an interview but which might be relevant to the offence. Any such record must be timed and signed by the maker. Where practicable the person should be given the opportunity to read and sign it as correct or to indicate the respects in which he considers it inaccurate. (*See note 5B*).

5.10 Where an interview has been conducted under paragraph 3.5 or 4.16 and the detained person is someone to which paragraph 4.14 of the code refers, the interviewing officer shall ensure that the interpreter makes a note of the interview at the time in the language of the person being interviewed for use in the event of his being called to give evidence, and certifies its accuracy. He shall allow sufficient time for the interpreter to make a note of each question and answer after each has been put or given and interpreted. The person shall be given an opportunity to read it or have it read to him and sign it as correct or to indicate the respects in which he considers it inaccurate.

5.11 In the case of a person making a statement in a language other than English:

- (a) the interpreter shall take down the statement in the language in which it is made;
- (b) the person making the statement shall be invited to sign it; and
- (c) an official English translation shall be made in due course.

Notes for Guidance

5A *Where a suspect agrees to read the records of interviews and other comments and to sign them as correct, he should be asked to endorse the records with words such as 'I agree that this is a correct record of what was said' and add his signature. Where the suspect does not agree with the record, the officer should record details of any disagreements and then ask the suspect to read these details and then sign them to the effect that they accurately reflect his disagreement. Any refusal to sign when asked to do so shall be recorded.*

5B *Interviewing officers will wish to consider whether unsolicited relevant comments made during the course of interview should be brought into the interview to assist in establishing them as evidence.*

Section 6 After the Interview under Section 4

6.1 The interviewing officer shall make a written record of the fact that the interview has taken place, that it has been recorded on audio tape, its time, duration and date. The times during which the recorder has been operating and the identification number of the master tape will be included in the written record.

6.2 Where no further action, including arrest and/or criminal proceedings follow in respect of the person whose interview has been recorded the tapes must nevertheless be kept securely in accordance with section 7.

6.3 Subject as mentioned at paragraph 6.6, where criminal proceedings do follow or are under consideration, the interviewing officer shall prepare, or have prepared on his behalf, a full transcript of the interview or a summary of the interview, which shall be signed by the interviewing officer (*see Notes 6A, 6B and 6C*).

6.4 Any written statement of evidence prepared by the interviewing officer in relation to what took place at the interview shall refer to the fact that the interview was audio recorded and refer to the master tape as an exhibit to the statement.

6.5 Subject to paragraph 6.6, the full transcript of the interview or a summary of the interview shall be exhibited to any such written statement of evidence prepared by the interviewing officer under paragraph 6.4. If a full transcript or a summary of the interview, as the case may be, is prepared by a person other than the interviewing officer, the interviewing officer must check that the full transcript or summary of the interview is correct before he signs it, and his written statement must contain a reference to the fact that he has been shown the full transcript or summary of interview, checked it, found it to be correct and signed it.

6.6 The Chief Officer of the Force or, where applicable, the Attorney General may direct that, in circumstances which he shall specify, neither a full transcript of the interview or a summary of the interview will be required to be included in files submitted for the decision of the Chief Officer or, where applicable, the Attorney General. Accordingly, where the specified circumstances arise, paragraphs 6.3 and 6.5 shall not apply unless the Chief Officer or, where applicable, the Attorney General after receipt of the file directs that a full transcript of the interview be prepared or a summary of it be prepared in that individual case. (*See Note 6D*).

6.7 The court shall be made aware of any transcript of the audio-recorded interview which has been made.

Notes for Guidance

6A *Prior to preparing the summary of the interview or to checking a summary of interview which has been prepared on his behalf by another person, the interviewing officer may refresh his memory by listening to the working copy of the tape.*

6B *A person preparing a summary of interview on behalf of the interviewing officer should be a police officer, or other person who has received appropriate training in the preparation of summaries of interview. He should prepare the summary after listening to the tape and if necessary after consultation with the interviewing officer*

6C *The summary of interview should be prepared on the basis that it will be exhibited to the interviewing officer's statement of evidence and that it will be used for the following purposes:*

to enable the Chief Officer or the Attorney General to make informed decisions about the case on the basis of what was said at the interview;

for use pursuant to any rule of law permitting the admission of written statements as evidence in court;

where applicable, for use as a basis for the conduct of the case by the prosecution, the defence and the court without the necessity for the master tape to be played in court.

The summary should, therefore, comprise a balanced account of the interview, including points in mitigation and/or defence made by the detained person. Where an admission is made the question as well as the answer containing the admission should be recorded verbatim in the summary. Care should be taken to bring to the attention of the Chief Officer and/or the Attorney General, by means of a covering report, any material on the tape which might be regarded by a court as prejudicial or inadmissible.

6D *Where, in the interviewing officer's view, a significant interview occurs, for example, an admission is made, an explanation is provided, inferences may be drawn from a failure to answer questions or there are ambiguous answers, a full transcript will normally be provided. In cases of doubt early consultation with the relevant prosecuting authority is desirable.*

Section 7 Tape security

7.1 The officer in charge of each police station at which interviews with detained persons are recorded shall make arrangements for all master tapes to be kept securely and their movements accounted for on the same basis as any material which may be used for evidential purposes, in accordance with Force Standing Orders. (*See Note 7A*).

7.2 A police officer has no authority to break the seal on a master tape which is required for criminal proceedings. If it is necessary to gain access to the master tape the police shall request the Attorney General to seek the authority of the appropriate court for the seal to be broken, the tape copied, and resealed in the presence of an official appointee of the court. Where no court proceedings have been commenced, but are contemplated or are under consideration, the seal shall be broken, and the tape copied and resealed, in the presence of the Attorney General or his representative. In either case the detained person or his legal representative shall be informed and given a reasonable opportunity to be present. If the detained person or his legal representative is present he shall be invited to resealed and sign the master tape. If this offer is refused, or neither the detained person nor his legal representative is present, this shall be done by the official appointee of the court or representative of the Attorney General, as applicable.

7.3 Where no further action including criminal proceedings results, or is under consideration, or where criminal proceedings have been concluded, it is the responsibility of the Chief Officer of the Force to establish arrangements for the breaking of the seal on the master tape, where this becomes necessary.

Notes for Guidance

7A *This section is concerned with the security of the master tape which will have been sealed at the conclusion of the interview. Care should, however, be taken of working copies of tapes since their loss or destruction may lead unnecessarily to the need to have access to master tapes.*

Section 8 Tape Destruction

8.1 At the conclusion of criminal proceedings, or in the event of a direction not to prosecute, the contents of a working copy of the tape shall be completely erased. Such tapes shall not be reissued for the purpose of recording interviews.

8.2 Unless civil proceedings have been instigated, or it is clear that none will be, master tapes will be destroyed six years after the date of the interview.

ANNEX**STATES OF JERSEY POLICE FORCE****Audio Recording of Interview**

Notice to persons arrested under Article 37 of OR detained under Schedule 8 to the Terrorism (Jersey) Law 2002 whose interview has been audio recorded.

This notice explains how the audio recording will be used and how you or your legal representative can, if you wish, arrange to listen to it if you are prosecuted.

THE USE WHICH WILL BE MADE OF THE AUDIO RECORDING

The interview has been audio recorded using a single, twin or triple deck tape recorder. One of the tapes has been sealed in your presence and will be kept securely in case it is needed in court (this tape is known as the “master tape”). The other tape will be a working copy to which the police and you or your legal representative may listen if you wish. Both tapes are protected against tampering.

ARRANGEMENTS TO ACCESS THE TAPE

If you wish, you or your legal representative may listen to the audio recording by applying to the Chief Officer of the Force.

WHEN A COPY OF THE TAPE WILL BE SUPPLIED

If you are charged, or informed that you will be prosecuted, a copy of the tape shall be supplied upon request to you or your legal representative as soon as practicable. Your legal representative can obtain a copy of the tape by applying to the Chief Officer of the Force

RETENTION OF AUDIO TAPES

The master tape has been sealed and will be retained at least until you are acquitted or convicted, or the prosecutor decides not to proceed with the case. You should note that if no further action is taken against you including if criminal proceedings are not instigated against you, and if by the end of six years from the date of your interview a complaint has not been received, or civil proceedings have not been instigated and it is clear that none will be, the master tape of your interview will be destroyed.

DESTRUCTION OF AUDIO TAPES

You or your legal representative may be present to witness the destruction of the master tape. You will be notified of the date and time that the destruction of the master tape will take place.

Important Note

You are entitled to make a complaint about your treatment in police custody at any time.

¹ *Recueil des Lois, Volume 2002, pages 772 and 773.*

² *Recueil des Lois, Volume 2002, pages 685 and 761.*