

ANTIGUA AND BARBUDA



INTERVIEWING OF ACCUSED FOR SERIOUS CRIMES BILL, 2015

NO. OF 2015

NO..... OF 2015

*Interviewing of Accused
for Serious Crimes Bill
2015*

ANTIGUA AND BARBUDA

INTRVIEWING OF ACCUSED FOR SERIOUS CRIMES BILL, 2015

ARRANGEMENT OF SECTIONS

1. Short title and Commencement
2. Interpretation
3. Application
4. Custodial Interview
5. Procedure for custodial interview
6. Recordings required if a statement provided
7. Presumption of admissibility
8. Rebuttal of presumption of admissibility
9. Exception
10. Recorded Interview to be made available to the accused
11. Effect of failure of accused to mention facts when interviewed
12. Effect of charge for a matter otherwise than a serious crime
13. Amendment of schedules
14. Regulations
 - First Schedule
 - Second Schedule

ANTIGUA & BARBUDA

INTERVIEWING OF ACCUSED FOR SERIOUS CRIMES BILL, 2015

NO. OF 2015

AN ACT to provide for the creation of video and audio recording of the custodial interview by law enforcement officers of a person accused of a serious crime.

ENACTED by the Parliament of Antigua and Barbuda as follows-

1. Short title and Commencement

This Bill may be cited as The Interviewing of Accused for Serious Crimes Bill, 2015.

2. Interpretation

In this Act—

“**accused**” means a person reasonably suspected of having committed a serious crime and who is under arrest for the serious crime;

“**authorising officer**” means a law enforcement officer of the status of Police Inspector or higher;

“**court**” means a court of competent jurisdiction;

“**custodial interview**” means an interview which occurs while a person is under arrest in a place of detention, involving a law enforcement officer’s questioning under caution that is reasonably likely to elicit incriminating responses beginning with a law enforcement officer’s advice of the person’s constitutional rights and ending when the interview has completely finished;

“**defendant**” in relation to any criminal proceedings, means any person charged with a serious crime to which the proceedings relate (whether or not convicted);

“**electronic recording**” means an audio, video or digital recording that is an authentic, accurate, unaltered record of a custodial interview;

“**law enforcement agency**” means the Royal Police force of Antigua and Barbuda, The Customs Department, The Immigration Department, the financial intelligence

unit of the Office of National Drug and Money Laundering Control Policy or other investigatory agency in Antigua and Barbuda of a similar standing;

“legal advisor” means a person who is admitted and entitled to practise law as a barrister, solicitor or an attorney-at-law in Antigua and Barbuda;

“Minister” means the Minister responsible for legal affairs;

“place of detention” includes a jail, police station, a holding cell, or other place where a person is held in connection with juvenile or criminal charges and where the recording equipment is located;

“remote communication” means communicating from a different location from that where the custodial interview takes place;

“serious crime” means an offence listed in the First Schedule;

“statement” means any communication made by an accused whether oral, written, electronically recorded or by sign language.

“written statement” means any statement made in writing and signed by the accused in relation to his arrest for a serious crime.

3. Application

This Act shall apply to the interviewing of persons reasonably suspected or accused of having committed a serious crime, and if the provisions of this Act conflicts with any other law, or the exercise of any power conferred by or under this Act is inconsistent with the exercise of a power conferred by or under any other law, the terms of this Act shall prevail.

4. Custodial Interview

(1) An authorizing officer shall conduct a custodial interview of a person accused of a serious crime.

(2) The custodial interview conducted under subsection (1) shall be electronically recorded.

(3) Notwithstanding subsection (2) an authorizing officer may, in accordance with subparagraph 3.2 of the guidance set out in the Second Schedule, authorize the interviewing officer not to electronically record the custodial interview.