

# ANSWERING POLICE QUESTIONS ABOUT A CLIENT

## Balancing client interests and disclosure

Last updated November 2011

**This fact sheet provides information about what to do when police request information from you about a client as part of an investigation**

### Do you have to answer police questions?

You don't have to answer in most cases.

- The *Crimes Act* 1900 requires you to answer questions about serious indictable offences that you know or believe have been committed, unless you have a reasonable excuse. However, because Legal Aid NSW is a legal practice you may not be required to talk to the police about a client. You should contact your supervisor and the Legal & Policy Branch for advice before answering any questions.
- You are not 'hindering an investigation' under the *Crimes Act* if you refuse to respond to police questioning.
- You may have to provide your name and address in some limited circumstances, for example where the police reasonably believe you have witnessed a serious crime and for some traffic offences.

### What if you want to answer police questions?

It depends on the type of information you want to give to the police.

- Under the *Legal Aid Commission Act* 1979 most information is confidential if it is about a client's legal aid application or any legal services provided to the client (even if you are not representing them). You are prohibited from releasing this information.

- Other information that might be relevant to a police investigation may be able to be disclosed with the approval of your Practice Director. This includes for example the whereabouts of a client at a particular time, and their actions or other observations when they were with you.

### What if you can't decide whether to answer police questions?

It is generally a matter for you to decide whether it is appropriate to answer police questions, where the disclosure of such information is not prohibited. Your decision will depend on the circumstances of the case, but ultimately it is a balancing exercise between the client's interests and the public interest in disclosure. Some factors you might want to consider are:

- The nature of the information, its relevance and sensitivity
- Whether you intend to continue acting for your client
- The public interest in assisting the police in their investigations
- Possible risks to the client, another person or to public health and safety

### For more information

This fact sheet only provides general information, and each case is different. If you have been approached by the police to answer questions you should consider how you might want to respond, and then discuss this with your supervisor and the Legal & Policy Branch.

To discuss your specific case, please contact the Legal & Policy Branch on 9219 5034 or at [legalpolicy@legalaid.nsw.gov.au](mailto:legalpolicy@legalaid.nsw.gov.au).

You should also read Fact Sheet #7 – [Reporting Criminal or Violent Behaviour](#).