

INTERVIEWS UNDER CAUTION? WRITTEN REPRESENTATIONS? NO COMMENT!

When should your client answer questions?

Are prepared statements ever ok?

Who's afraid of an adverse inference?

Why bother with written representation?

Criminal Justice and Public Order Act 1994, s.34(1) (2) and (4)

34—(1) Where, in any proceedings against a person for an offence, evidence is given that the accused—

- (a) at any time before he was charged with the offence, on being questioned under caution by a constable trying to discover whether or by whom the offence had been committed, failed to mention any fact relied on in his defence in those proceedings; or
- (b) on being charged with the offence or officially informed that he might be prosecuted for it, failed to mention any such fact; or

(2) Where this subsection applies—

- (b) a judge, in deciding whether to grant an application made by the accused under paragraph 2 of Schedule 3 to the Crime and Disorder Act 1998;
- (c) the court, in determining whether there is a case to answer; and
- (d) the court or jury, in determining whether the accused is guilty of the offence charged,

May draw such inferences from the failure as appear proper.....

(4) This section applies in relation to questioning by persons (other than constables) charged with the duty of investigating offences or charging offenders as it applies in relation to questioning by constables; and in subsection (1) above “officially informed” means informed by a constable or any such person.