

Appendix 9-1: Sample Questions for Probable Cause and Preliminary Hearings

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The following is reprinted with permission from CRIMINAL PRACTICE INSTITUTE: PRACTICE MANUAL, Chapter 2 Appendix C (Public Defender Service for the District of Columbia, 2011 Edition). The sample questions were created for probable cause hearings in criminal cases, but they may be useful for such hearings in juvenile cases.

The following questions are very basic and include only some aspects of certain offenses. The questions are not designed to replace the specific, detailed questioning of witnesses necessary to elicit the unique facts in a particular case.

I. Identification

A. Questions about the Event Itself

1. Get a detailed narrative of what happened, including where the witness was coming from, what the witness was doing prior to the incident, and where the witness was going.
2. Who was the witness with?
3. What was the witness paying attention to just before the witness noticed the perpetrator for the first time?
4. From which direction did the perpetrator approach (front, rear, side, don't know)?
5. What was the exact location of the confrontation? (Get this in words and try to have the witness draw a diagram of the scene.)
6. Exactly what happened? Was there more than one person involved? (Get the exact and relative roles of the persons involved.)
7. If there was more than one perpetrator, find out which one is supposed to be the defendant. (Where was the defendant at all times, in absolute terms and in relation to the other perpetrators and witnesses?)
8. Which perpetrator made contact with the witness?
9. When did the witness first notice the perpetrator(s)? How far away were they? What drew the witness's attention to the perpetrator(s)?
10. Was anything taken from the witness? What was done with it after it was taken?
11. In which direction or to where did the perpetrator(s) flee? For how long after the incident did the witness keep the perpetrator(s) in sight?

B. Opportunity to Observe

Witness's state of mind

1. What had the witness been doing prior to the incident?

2. Had the witness been drinking or using any drugs?
3. Where was the witness going at the time of the incident?
4. How much sleep had the witness had the night before?
5. Was the witness tired? Preoccupied?
6. Was the witness frightened?
7. Was the witness focusing on a weapon during the incident, or on another individual?

Physical conditions of observation

1. What was the distance between the witness and the perpetrator when the witness first noticed the perpetrator?
2. What was the distance between the two of them during the majority of the incident?
3. What was the duration of the incident? (If it was a long time, split it up into parts. The witness may not have had a good opportunity to view during some of the segments or may have been focusing on one particular item or person.)
4. What was the angle of observation between the witness and the perpetrator?
5. What is the witness's hearing like? Vision?
6. How long did the incident take? (Note: Time is **very** important. Most witnesses will say that an event took minutes when it actually took seconds. Demonstrate how long a minute is—the time may be cut considerably.)
7. What were the weather conditions like? (Sunny, rainy, overcast, stars out, etc.)
8. What were the lighting conditions? Were there streetlights, house lights, car lights, etc.? Was any of the lighting filtered or obstructed? Get exact locations of all lights. Were the streetlights high or low intensity? Were there any lights available that were not turned on?
9. Were there any physical barriers or obstructions between the witness and the perpetrator, e.g., cars, trees, or other witnesses?

C. Reporting the Incident

Police

1. How was the incident reported to the police? (Call made? Flagging down a car?)
2. Who reported the incident?
3. How soon after the event was it reported?
4. With whom was the incident discussed?
5. Exactly what did the witness say in giving the report?
6. Did the person to whom the report was made make any statements or say anything?
7. Were there other witnesses who talked to the police?
8. Were there other witnesses who did not talk to the police?
9. Did the police read back to the witness what had been written down? Did the witness change anything or adopt it?
10. Did the witness forget to tell the police anything that the witness is now telling you?
11. What was the initial description the witness gave to the police?
12. Did the witness make a written statement?

13. Was the witness under the influence of any drugs or alcohol when speaking with the police?
14. Has the witness spoken with anyone else about the incident?

Prosecutor

1. Has the witness been to the grand jury? Did the witness testify or only meet with a prosecutor? What questions were asked by the prosecutor and the grand jurors?
2. What was the witness's testimony?
3. Did the prosecutor take notes of the meeting?
4. Who else has met with the prosecutor?
5. Is there anything the witness told the grand jury or the prosecutor that the witness has not told you?
6. Is there anything the witness told you that the witness did not tell the grand jury or the prosecutor?

D. Description of the Perpetrator

1. Age
2. Height (relative to witness or another object)
3. Weight
4. Skin color and complexion
5. Nose (shape)
6. Mouth (shape, especially lips)
7. Teeth—color, missing, crooked, straight, crowded, gaps, unusual shape, noticeable crowns
8. Eyes (color, shape, and positioning)
9. Shape of face (broad, narrow, type of forehead, etc.)
10. Glasses?
11. Facial hair (type, style, color, amount)
12. Hair (style, amount, color)
13. Clothing description (style, color, distinguishing features)
 - a. Coat
 - b. Hat
 - c. Pants
 - d. Shirt
 - e. Shoes
 - f. Any other articles?
14. Any distinguishing or unusual features?
15. Was the perpetrator carrying any object? (Get full descriptions of any weapons: style, type, color, size, where the item came from.)
16. Was there anything distinctive about the perpetrator's voice, the way the perpetrator walked, or any unusual mannerisms?
17. Does the description that the witness gave to you differ in any way from that which the witness gave to the police? Did the witness add anything or leave anything out?

E. Evaluation of the Witness—Background

1. Has the witness ever been a victim of a crime before?
2. Has the witness ever been a witness to a crime before?
3. How articulate is the witness?
4. How certain or sure does the witness appear to be?
5. How anxious is the witness to pursue this case?

F. Making an Identification

1. How was the identification made—show-up, photo array, line-up, caught on the scene, second sighting?
2. What did the police say to the witness before the identification? Did the witness overhear anything being said?
3. What did the police say during the identification?
4. What did the witness say in making the identification? (Exact words.)
5. What did the police say after the identification?
6. Did the police write down what the witness said?
7. Were there any other witnesses around during the identification? How close were they to this witness?
8. Were there other identifications made?
9. What did any other witness say about an identification?
10. Was the witness asked to identify anyone but was unable to do so? (Get full details.)
11. On what did the witness base the identification—clothes, face, relative size, body build?
12. How soon after the incident was the identification made?
13. Did the person the witness identified appear to be different in any way from the perpetrator? (Was there different facial hair? Different clothes?)
14. If there was more than one perpetrator, how was each one identified? (Brought out together in a show-up? Pictures together in one photo array? Together in a line-up?)
15. How certain is the witness of this identification? Did police ask this? What was witness's response?
16. Is the witness more certain now than at the time of the original identification? Have there been multiple identifications that now make the person more certain?
17. If there is more than one person, is the witness more certain of one than the other?

G. Show-up Identification

1. Was the witness taken to the suspect, or was the suspect transported to the witness?
2. Was this show-up at the scene of the crime or at another location?
3. Where was the witness at the time of the identification? (Actual position on a diagram or in detailed words, and relative to the perpetrator.) Could the suspect see the witness? Could the suspect hear the witness?
4. What was said by the police before, during, and after the identification?
5. What did the witness tell the police at all stages (before, during, and after the identification)?

6. What description had the witness given to the police? What description did the police have from other witnesses?
7. Were there police around the suspect when the suspect was brought back? Was the suspect handcuffed? In a police car?
8. Who else was present during the identification? Could other witnesses hear what this witness said? Could this witness hear what other witnesses said?
9. Did the suspect have to do anything during the show-up (e.g., say anything, put on or take off an article of clothing)?
10. What were the viewing conditions at the time of the show-up in terms of lighting, distance from the subject, and general opportunity to observe the person being shown?
11. Note: Ask all the questions in Making an Identification, above.

H. Second Sighting

1. Did the witness ever see the suspect again on the street? (When? Where? Under what circumstances?)
2. What did the witness do after seeing the suspect again?
3. Was anyone else present?
4. What was the witness paying attention to just before seeing the person again?
5. What was the lighting?
6. Was anything said to or by the suspect?
7. Note: Ask all the questions in Making an Identification, above.

I. Photo Identification

1. Was this the first identification?
2. Were there any identifications or failures to identify at the scene?
3. Where were the photos shown?
4. Were the pictures loose or in a book? What kind of photos were they?
5. Did the police say anything to the witness about the pictures (e.g., that the pictures were all of known rapists, that they suspected someone in the pictures or book, etc.)?
6. How did the police handle the pictures? Did they let the witness look through the pictures on his or her own? Did they sit there with the witness? Did they show the witness the pictures one at a time? How did they lay the pictures out—in a row, in a stack, in two rows? In what order?
7. How many pictures were there?
8. Were all the pictures the same? Same size, same color?
9. What did the police say before showing the pictures?
10. Did the police say anything while showing the pictures?
11. Did the police say anything after the viewing? After the identification?
12. What exactly did the witness do? Did the witness look through all of them and then pick out one? Did the witness stop at one picture and make an identification? After identifying one picture, did the witness go through the pictures again or finish going through them? Did the witness ever turn the pictures over and see the back? Was anything on the back?

13. Was the witness aware of any dates on the pictures?
14. Did the witness write anything on any picture?
15. What exactly did the witness say in picking a picture?
16. Was more than one picture picked?
17. How sure is the witness that the identification is correct?
18. Did the picture differ in any way from the witness's memory of the perpetrator?
19. Did the police write anything down at any time?
20. Where in the stack or book was the person whom the witness identified?
21. What drew the witness to the identified picture?
22. How long did the showing take? Who else was present? If there were other witnesses present, did they view the photos together or separately?
23. What other identifications were made?
24. Note: Ask all the questions in Making an Identification, above.

J. Line-up Identification

1. Did the witness go to the line-up? Did the witness identify anyone there?
2. What was the witness told before going to the line-up? Was the witness shown photos before the line-up?
3. How did the witness get to the line-up? (Picked up by the police? With other witnesses?)
4. What was the witness told by the police outside the line-up room?
5. Did the witness ask the police any questions?
6. Did the witness talk to other witnesses while waiting outside the line-up room?
7. How many people were in the line-up room?
8. In what position in the line-up was the suspect standing?
9. Did the witness identify the suspect in the presence of other witnesses?
10. What exactly did the witness say in making the identification?
11. What did the police say to the witness outside the line-up room?
12. What did the witness say to other witnesses, or what did the witnesses say to him or her?
13. What did the witness tell the police? (Especially find out the witness's degree of certainty about the identification.)
14. How sure is the witness of the identification?
15. On what basis was the identification made? (Face, clothes, relative body build?)
16. Was there anyone else in the line-up who resembled the person whom the witness identified?
17. Was there anything different between the person the witness identified and the perpetrator?
18. Did the witness look down the line and then identify someone or did the witness just center on one person?
19. Had the witness ever made another identification in this case? When and how? (Get full details.)
20. Had the witness been shown any pictures recently? (When, how many, by whom, what other witnesses, what was said?)

21. Did the witness ask anyone in the line to do anything, say something, turn a particular way?
22. Note: Ask all the questions in Making an Identification, above.

II. Alibi Witness

1. Was the defendant with you on [date]?
2. How do you recall that specific day?
3. How do you recall the specific time?
4. When did the defendant arrive?
5. When did you first see the defendant?
6. Where did you first see the defendant (address, exact place, etc.)?
7. Was the defendant alone or with someone else?
8. Who was the defendant with?
9. Where does that person live?
10. Did anyone else see you and the defendant together?
11. Who?
12. Where does that person live?
13. How long was defendant with you?
14. How do you know it was this long?
15. What exactly did defendant do or say? (As specific and detailed as possible.)
16. Did defendant ever leave your presence during this period of time?
 - a. When?
 - b. How many times?
 - c. How long was defendant gone each time?
 - d. When did defendant return?
17. When did defendant finally leave?
18. How do you know?
19. Who, if anyone, left with defendant?
20. Where did defendant go?
21. How do you know?
22. How did the defendant act during the period of time the defendant was with you? (As specific as possible.)
 - a. Intoxicated? Drugged?
 - b. Nervous?
 - c. Excited? Calm?
 - d. Normal?
 - e. Angry? Happy? Sad?
23. What is your relationship with the defendant?
 - a. Close friend? Casual friend? Know to speak of?
 - b. Relative by blood? Relative by marriage?
 - c. Employer?
24. How long have you known the defendant?
25. When was the last time you saw the defendant before [date in question]?
26. Where? What was the defendant doing, etc.?
27. Have you seen the defendant since [date in question]?

28. Where? What was the defendant doing?
29. Are you aware that the defendant is charged with [offense]?
30. How did you learn this?
31. What exactly do you know about the offense?
32. Have you ever talked about the offense with the defendant? (If yes, details.)
33. Have you ever talked with police about the offense? (If yes, details as to when, where, what said, etc.)
34. Have you ever talked with the Assistant United States Attorney about this case? (If yes, details as to when, what said, etc.)
35. Have you testified before the grand jury about this case? (If yes, details as to when, what said, etc.)
36. Have you spoken to anyone else about the offense? (If yes, details as to when, what said, by whom, etc.)
37. Did you ever tell the police, the grand jury, or the prosecutor that the defendant was with you on [date of offense]?
38. Have you previously testified as an alibi witness for the defendant?
39. Have you ever been convicted of an offense? (When, where, disposition.)
40. Where do you now live? Phone number? Length of time?
41. Where did you live before that? Length of time?
42. Where do you work? (If unemployed, how long?)
43. What is your position?
44. How long have you been employed there?
45. Where did you work before that? How long? Position?

III. Self-defense

All the following questions should be asked of all witnesses (the complainant, eyewitnesses, complainant's friends and relatives, defendant's friends and relatives, police officers). They **must** be asked in cases where the defense may be self-defense—i.e., all homicides, ADWs, assaults, etc. These questions are not exhaustive, but merely guidelines. Additional questions should be asked and tailored to the particular fact situation involved. The investigator must try to elicit specific instances rather than general impressions, e.g., he's a bad guy, always fighting.

A. Evidence of Complainant's Aggressive or Bad Character to Show Propensity for Violence

1. Was the complainant a violent, aggressive person? Always getting into fights, arguments, altercations with people? Threatening people? (Specify details as to when, where, with whom, persons present, outcome, etc.)
2. Did the complainant associate with people with a reputation for assaultive behavior toward others? If so, who were these other people and where do they live?
3. Have you ever known the complainant to carry any type of weapon?
4. What kind of weapon?
5. Did the complainant always carry it? Frequently? Occasionally? (Specify.) Who would know the complainant carried a weapon?
6. Has the complainant ever used a weapon on anyone other than the defendant? (If yes, specify details as to when, where, on whom, injuries, persons present, outcome, etc.)

7. Do you know of the above from personal observation or from what others have told you? (If others, specify details as to who, when, where, etc.)
8. Was the complainant violent, aggressive when sober, or violent only when intoxicated or drinking?
9. Was the complainant known to drink to excess? Use narcotics?
10. Was the complainant ever charged, arrested, or tried for any assaultive behavior against anyone? (If so, details as to date, jurisdiction, result.) (Also find out the details of any non-violent charges.)

B. Defendant's Knowledge of Complainant's Violent, Aggressive, or Bad Character

1. Determine whether the defendant was aware of any of the above factors pertaining to the complainant. If the defendant was aware, obtain the specific details as to how the defendant knew, who told the defendant, when the defendant became aware, etc.
2. Had the complainant ever made threats against the defendant in the past?
 - a. To the defendant personally? (When, where, who was present, etc.)
 - b. To other people concerning the defendant? (When, where, who was present, etc.)
 - c. Did the defendant know of these threats? (How? When? Where? What was defendant's reaction?)
 - d. Was the defendant ever present when the complainant made threats to others?
3. Did the defendant know of the complainant's reputation for carrying a weapon?
 - a. Does the defendant know this from personal observation?
 - b. Does the defendant know this from other people?

C. Prior Relationship Between Defendant and Complainant

1. Have the defendant and the complainant had any difficulty with each other in the past?
 - a. When—day, date, time?
 - b. Where? (Precise place.)
 - c. Who else present? (Full names, addresses, telephone numbers.)
 - d. Cause of dispute or altercation?
 - e. Who spoke first and what exactly was said?
 - f. Any challenges or threats made? What and by whom and response?
 - g. Who committed first overt act? What was it? Response?
 - h. Did defendant attempt to withdraw?
 - i. Were any weapons involved? What type? Who had them? How used?
 - j. Anyone injured? Nature and what extent?
 - k. Why did the defendant do what he or she did?
2. Did the witness ever tell police and/or prosecutor any of the above? If so, what and when?

Note: These questions do not attempt to explore the details of the altercation giving rise to the instant offense, an area that of course must be covered in great detail. Specific questions concerning this area are suggested below.

IV. Crimes against Persons

A. Where

1. Where did offense take place (address)?
2. Where at this address was the exact location of the offense?
3. Where exactly were the participants when the altercation began?
4. Where exactly were the participants immediately prior to the blow being struck?
5. Where exactly were the participants at the time of the (fatal) blow?
6. Where exactly was the witness during all of the above?
7. Where exactly were all other witnesses during all of above?
8. (Homicide case:) Where at this address was the exact place of death?

B. When

1. When did the altercation begin?
2. When did the defendant arrive on the scene?
3. When did the complainant arrive on the scene?
4. When did the witness being interviewed arrive on the scene?
5. When did the other witnesses arrive on the scene?
6. (Homicide case:) When was the fatal blow struck?
7. When was the offense reported?
8. (Homicide case:) When did the decedent die?

C. What

1. What was the cause of the altercation?
2. What exactly took place and what was said and done by the defendant and the complainant during the course of the altercation?
 - a. Who spoke first and what was said? Done?
 - b. Any challenge or threats made? What? By whom? Response?
 - c. Who committed the first physical act?
 - d. What was it?
 - e. What was the response?
 - f. Did defendant try to withdraw or wade in?
 - g. Did the complainant retreat?
3. Were any weapons involved?
 - a. Who had them?
 - b. Where were they?
 - c. What type?
 - d. Who used them?
 - e. Was the weapon used by defendant visible to the complainant?
 - f. Was the weapon used by complainant visible to the defendant?
 - g. Were any weapons recovered by the police on or near the decedent? By anyone? Turned over to police?
 - h. Did the police recover any weapon from the defendant?

4. What, in your opinion, caused defendant to do what he or she did?
5. (Homicide case:) What if anything did defendant say or do immediately after inflicting the fatal blow?
6. (Homicide case:) What if anything did decedent say or do immediately after receiving the fatal blow?
7. (Homicide case:) Did decedent say anything to police after the fatal blow was struck? What? Where? When?
8. (Homicide case:) Did the decedent say anything to anyone else after the fatal blow was struck? What? When? Where?
9. What, if anything, did the witness being interviewed tell the police? Prosecutor?
 - a. When?
 - b. Where?
 - c. To whom?
 - d. Sign statements?
 - e. Testify at preliminary hearing? Grand jury?
10. What did other witnesses tell the police? Prosecutor?
11. What did the witness being interviewed do during the entire incident?
12. What did the other witnesses do during the entire incident?

D. How

1. How did defendant, complainant, witness, and other witnesses arrive and leave?
2. How long did entire incident last?
3. How were the weapons used?
 - a. By defendant?
 - b. By complainant?
 - c. By anyone else?
4. How were the injuries inflicted on complainant/defendant?
 - a. Where?
 - b. How severe?
 - c. How many?
 - d. Where was person treated?
 - e. How did person get there?
5. How many times, if any, did the defendant tell the complainant to leave him or her alone? What was said? Did complainant hear it?
6. How far from complainant was defendant when incident began?
7. How far from decedent was defendant immediately before the (fatal) blow was struck?
8. How many times did the complainant tell the defendant to leave him or her alone? What was said? Did the defendant hear it?
9. How far from the complainant and the defendant was the witness during all of the above?
10. How many people participated in the altercation? Who? What did they do?

V. Crimes against Property

A. Where

1. Where did the offense take place (address)?
2. Where specifically did entry into the premises occur?
3. Where specifically did the taking occur?
4. Where specifically was the perpetrator during entire incident?
5. Where specifically were any witnesses during incident?
6. Where specifically were any occupants during incident?
7. What locations did police dust for fingerprints?
8. What items did police dust for fingerprints?
9. Where on the premises or items were prints lifted?
10. Where was the property stolen from or from where to where was it moved?

B. When

1. When did the offenses occur—date, time?
2. When did the perpetrator first arrive? Leave?
3. When was the offense discovered? By whom?
4. When was the offense reported? By whom?
5. When was the offense recovered—date, time?
6. When was property purchased? Where? Price paid? Is there a receipt? Estimate of value at time of taking? Basis of estimate?

C. What

1. What exactly occurred during entire incident?
2. What exactly was said by perpetrator during entire incident?
3. What exactly was said by each of the witnesses during entire incident?
4. What property was taken by perpetrator?
 - a. Complete detailed description.
 - b. Unusual characteristics?
 - c. How was item identified?
5. What tools were used to gain entrance? How used? Marks left on premises? Any recovered?
6. What weapon, if any, did perpetrator use? (Describe weapon and use.)
7. What items, if any, did perpetrator leave at premises? Where are they now?
8. What information was reported to police?
9. What information was reported to insurance company? When? Where? What company? Result?
10. Was the complainant told by the insurance company that no recovery was possible unless a report was first made to the police?

D. How

1. How did the perpetrator arrive? Depart? (Mode of transportation.)
2. How did perpetrator gain entrance to premises where the property was? How did the perpetrator depart the house? (Detail each.)
 - a. Breaking?
 - b. Jimmying?
 - c. Picking locks?
 - d. Slipping locks?
 - e. Unlocked entrance?
 - f. Let in by occupant?
3. How was any property removed from the premises?
4. How was the property recovered?

E. Who

Answers to questions contained in General Identification section should be obtained, if applicable.

VI. Unauthorized Use of Motor Vehicle

A. Where

1. Where was car taken from? Address? Exact location at this address?
2. Where was the car's driver? Address?
3. Where was the car recovered? Address? Exact location at this address?

B. When

1. When was the car taken—date, time? Basis for estimate?
2. When was the car discovered missing—date, time? Basis for estimate?
3. When was the car reported missing—date, time?
4. When was the car driven after the theft—date, time? Duration?
5. When was the car recovered—date, time?
6. When was the defendant arrested—date, time? Statements? Others with defendant? Who was driving? Where in the car was defendant?

C. What

1. What kind of car—make, model, year, color, license plate number, manufacturer's number, mileage at time of taking and recovery, condition at time of taking and recovery.
2. What items, if any, were removed from the car by the user?
3. What items, if any, belonging to user were left in the car?
4. What portion of the car was dusted for prints?
5. From what portion of the car were prints lifted?

6. What prior relationship, if any, existed between the owner of vehicle and the defendant?
7. What police officers were involved in the case?

D. How

1. How was car taken?
 - a. Keys in car?
 - b. Car jumped?
 - c. Another key used?
 - d. Ignition locked/unlocked?
 - e. Windows/door jimmied/broken?
 - f. Slashed top?
 - g. Tools used? Describe how.
 - h. Permission to drive given to anyone?
2. How did participants arrive on scene? Depart?

E. Who

1. Who witnessed the removal? Recovery? (Details, names, addresses, and what seen.)
2. Who was in car at time of recovery? (Details, names, addresses, positions in car.)
3. Who reported vehicle stolen?
4. Who else participated in removal of vehicle? Use of vehicle?

VII. False Pretenses, Forgery, and Uttering

A. Where

1. Where did the offense take place (address)?
2. Where specifically did the exchange occur at this address?
3. Where specifically was the defendant during the entire incident?
4. Where specifically were all witnesses located during the entire incident?

B. When

1. When did offense occur—date, time?
2. When did the forger/utterer first arrive?
3. When did the forger/utterer leave?
4. When was the offense reported?
5. When was the property recovered?

C. What

1. What exactly occurred during the entire incident?
2. What exactly was said by forger/utterer during the entire incident?
3. What exactly was said by all witnesses to the incident?

4. What type of identification did forger/utterer use?
5. What type of instrument was used by forger/utterer (check, credit card, etc.)?
6. What property and/or money did forger/utterer get?
 - a. Complete detailed description?
 - b. When purchased?
 - c. Value (at time of purchase and at time of taking)?
 - d. How is item identified?
 - e. Any unusual characteristics?
 - f. Condition at time of purchase and time of recovery?
7. What names were on the instrument?
 - a. Payee?
 - b. Maker?
 - c. Endorser?
8. What exactly did forger/utterer write?
 - a. When?
 - b. Where?
 - c. In whose presence?

D. Who

1. Who else was with forger/utterer? (Detail everything they said and did during entire incident.)
2. Who reported incident?
3. Who responded (MPD, FBI, Secret Service)? Detail everything that transpired thereafter.

E. Photograph

Was photograph of forger/utterer taken when the instrument was passed? If so, where was camera, where was forger/utterer at the time of picture, where is picture now?

F. Handwriting Analysis

This is generally applicable if interviewing the arresting or investigating officer. Probe all the details surrounding the taking of a handwriting sample from the defendant: when, where, who was present, what was written, what was said by all, waiver obtained, etc.