This scenario is designed to give you and your group some idea of the dilemmas faced by solicitors and clients at the police station. Consider using a checklist for interview. A suggested police station checklist can be found on the Online Resource Centre.

Do not discuss your instructions with anyone prior to the exercise. Do not attempt to elicit information from any other participants. You may of course speak with your other solicitor/trainee.

The story thus far:

It is a Wednesday evening (6/4/). You received a call from Alton Police Station at 2210 hours. Peter West is requesting a solicitor. You have not previously acted for this individual. The custody officer tells you he has been arrested on suspicion of having raped a 14-year-old girl. It is alleged that he has had sexual intercourse with Sandra Bailey, the daughter of his ‘common law wife’ on the previous Friday evening (1/4/). The police are intending to interview him shortly.

Depending on whether you have already had sight of the custody record in this matter your first task will be to arrive at the police station, speak with the custody officer and consult the custody record.

Your next task will be to speak with the investigating officers and to extract as much information as you can about the current state of the investigation and what evidence the police have against your client, Peter West. This is an important exchange. You must be sharp and in control. Will you ask what evidence they have against Peter? Get as much information as you can from the officer/s, as it will help the process of informed advice later on. Remember: the officers are under very limited obligation as to what they need to disclose.

You must now undertake a sharply focused interview with Peter West armed with the information (if any) you have elicited from the investigating officers. How will you go about interviewing Peter? Consider, will he be frightened or confused? Elicit the necessary facts from Peter using a combination of open and closed questioning techniques. Get his version of events before putting to him the evidence you have obtained thus far.

Quickly elicit the usual background details i.e. name, address, occupation etc. Your client will appear nervous and a small cut below his right eye is visible (assume it is there even though no theatrical makeup may have been applied!). Try to allay Peter’s fears and concerns.

In the course of your interview with Peter, ask him about his relationship with Brenda, his common law wife. He has been briefed as to how he should reply. You must also ask him how Sandra, the alleged victim, behaves in the house
(i.e. is she sexually provocative)? Can he think why she would want to fabricate such an allegation as she has done? Ask him to think of any occasion when his conduct vis à vis Sandra might have been called into question? Can he offer any explanation for this? Remember: he might be concerned about the nature of the samples that have been taken. Can you explain why they have been taken and for what purposes. Should the police charge Peter and be reluctant to grant him bail back to his present accommodation, find out if he has an alternative address he could go to.

You will need to give Peter West advice about what to do in interview. Consider what his options are. What is the best strategy for him and why? What advice do you need to give him? Be sure to keep a written record of your advice.

The interview - the investigating officers will begin the interview by introducing themselves "on tape". They will get you to introduce yourselves and will deal with preliminary matters. Before they start asking questions read out one of the following beforehand.

"Before you begin to question Peter West officers, I would like to explain my role. It is to protect my client’s basic legal rights. I shall continue to advice my client throughout the interview.

I shall intervene in the interview if my client requests or requires legal advice; or your questioning or behaviour is inappropriate; or you make statements which are not based on matters that have been made known to me.

Continue by saying: ** "After receiving legal advice my client has decided:

either

1. to exercise the right to silence because… (consider giving reason)
   For example: "you haven't disclosed the nature of your case" or "my client is distressed and in no condition to respond to matters put to him" or "my client is vulnerable/mentally ill and cannot be expected to explain himself in these circumstances" or "your method of interrogation is so hostile that my client would not have a proper opportunity to explain his position" etc or whatever is appropriate). "Please respect that decision".

   or

2. to answer questions which you may raise that are relevant to my client’s arrest.

   or

3. to put forward a prepared statement which I will read out.
   Thereafter he will exercise his right to remain silent.
** Peter will either choose to answer questions or to remain silent at this point. It depends on the advice you have given him and the strategy you and he have decided to follow.

The interrogation will then take its course in an unscripted manner. You must be alert. Remember you must object to any questions which are inappropriate, unclear, ambiguous oppressive, irrelevant, threatening or are not questions at all.

At any stage in the interview you could say any number of the following:

- "I must advise my client to answer no further questions".
- "I must advise my client not to answer that question because: "your question is inappropriate/manipulative/abusive" or "you are putting words into my clients mouth" or "your questioning does not appear to be relevant to the matter for which my client has been arrested" or "you have not disclosed material to me justifying such an assertion" or "that is not a question from which any inference might be drawn" etc.

The tape recorded interview should not be rushed - maximum time 30-40 minutes. If you are taken by surprise at any point during the interview, ask for the interview to be suspended so that you can consult with your client in private. Once you have done this come back and resume the interview.

At the conclusion of the interview, Peter will be escorted back to his cell. Allow the investigating officers a few minutes with their custody officer/CPS lawyer. You must now speak with the custody officer (a fellow student or your tutor) who will decide what should now happen to Peter. Be sure you understand what the options are. You might want to make representations that there is insufficient evidence to charge Peter and that he should be released immediately and unconditionally. If he is charged you need to ascertain whether the custody officer objects to your client being granted bail either conditionally or unconditionally. The custody officer's grounds for refusing bail are that he has substantial grounds for believing that the:

a) suspect might abscond;
b) suspect might cause injury to others or damage property;
c) suspect might interfere with the administration of justice or with the investigation of offences.

Relevant factors for the custody officer to bear in mind would be any previous bail record, the serious nature of the offence and the strength of the evidence against the suspect and his community ties.

Can pre-charge bail be granted subject to conditions? Yes, if the case is to be referred to the CPS pending a decision to charge. Remember, this investigation is in its relatively early stages.
Remember you should be keeping notes throughout and should behave in a professional manner from the first to last. The observer/s in your group will be asked to check the quality of your note taking! Please participate in the focused feedback at the conclusion of the role-play.