



TIVERTON POLICE DEPARTMENT

SUBJECT: Interviews and Interrogations	GENERAL ORDER NO. 300.20 PAGES: 6
SECTION: 300- Law Enforcement Operations SUBSECTION: 00- General	AMENDS/SUPERSEDES: 4-4
PER ORDER OF: <i>Thomas Blakey</i> Thomas Blakey, Chief of Police	EFFECTIVE DATE: 12/02/2014 REVISED DATE: 12/02/2014 REVIEW DATE: 12/02/2017
CALEA: 1.2.3	
RIPAC: 2.4	

NOTE: This written directive is for the internal governance of the Tiverton Police Department, and is not intended and should not be interpreted to establish a higher standard of care in any civil or criminal action than would otherwise be applicable under existing law.

INDEX WORDS: Miranda warning, interrogations, interview, arrests, prisoners, custody, counsel, arraignments

I. POLICY:

It is the policy of the Tiverton Police Department to scrupulously observe the constitutional rights of all persons and to maintain standardized procedures in executing or performing interviews and interrogations.

II. PURPOSE:

The purpose of this general order is to establish guidelines, responsibilities, and procedures for compliance with applicable constitutional requirements regarding interviews and interrogations, and access to legal counsel.

III. DEFINITIONS:

- A. **INTERROGATION** - A type of interview that is accusatory and persuasive in nature and is conducted for the purpose of eliciting a confession. A suspect need not be in custody for an interrogation to occur.
- B. **INTERVIEW** - A conversation between officers and persons who are thought to have knowledge sought by the officer, whether those persons are victims, witnesses, suspects, or anyone who may possess relevant information. An

interview may be relaxed and informal or highly structured and formal, depending on the circumstances.

- C. **RECORDS MANAGEMENT SYSTEM (RMS)**- RMS is an agency-wide system that provides for the storage, retrieval, retention, manipulation, archiving, and viewing of information, records, documents, or files pertaining to law enforcement operations. The current RMS vendor is Information Management Corporation ® (IMC), a subsidiary of Tritech ® Corporation.

IV. CONSTITUTIONAL REQUIREMENTS: GENERAL

- A. Compliance with constitutional requirements during criminal investigations
 - 1. All officers when conducting criminal investigations shall take all precautions necessary to ensure that all persons involved are afforded their constitutional protections. Officers shall ensure that:
 - a. All statements or confessions are voluntary and non-coercive.
 - b. All persons are advised of their rights in accordance with this general order.
 - c. All arrested persons are taken promptly before a magistrate for formal charging.
 - d. All persons accused or suspected of a criminal violation for which they are being interrogated are afforded an opportunity to consult with an attorney.

IV. INTERVIEWS AND INTERROGATIONS

RI 2.4

- A. Interviews
 - 1. An interview is a conversation between officers and persons who are thought to have knowledge sought by the officer, whether those persons are victims, witnesses, suspects, or anyone who may possess relevant information. An interview may be relaxed and informal or highly structured and formal, depending on the circumstances.
 - 2. The sooner the interview is conducted, the easier it will be for the officer to obtain reliable information about the crime.
 - 3. The officer must at all times maintain absolute control of the interview and be careful not to elicit false information through improper questioning. In the event the person being interviewed becomes evasive in an attempt to conceal information relevant to the crime, information may then be obtained by a more authoritative, formal style of questioning.

4. The attitude and demeanor of the investigator greatly contribute to the success or failure of an interview. The conversation should be directed toward the investigation. The person being interviewed should be allowed to give an uninterrupted account of his/her knowledge of a crime, while the investigating officer makes mental notes of any inconsistencies, omissions, or discrepancies that will require clarification later in the interview.
5. The officer should occasionally assist the person being interviewed in recalling and relating facts, while using caution not to answer for the person. The investigator may aid the person in making detailed recollections by providing indexes for size, weight, distance, and colors.
6. Thorough notes are essential to effective investigating and reporting. The investigator should first determine if note taking during the interview would distract the person or create a reluctance to divulge information.
7. Closing the interview in a courteous and friendly manner may prove to be extremely useful to the officer. The officer should leave the person with a feeling that he/she assisted in the investigation. This may make it easier for the person to return for additional interviews or court appearances. The officer should leave his/her name and telephone number with the person, in the event the interviewee remembers something relevant at a later time.

RI 2.4

B. INTERROGATIONS:

1. An interrogation is a type of interview that is accusatory and persuasive in nature and is conducted for the purpose of eliciting a confession. A suspect need not be in custody for an interrogation to occur.
2. The same general guidelines for interviews also apply to interrogations; however, an interrogation is conducted to elicit information and obtain admissions or confessions about wrongful acts. Whenever questions are asked during a custodial interrogation and when such questioning might result in incriminating statements being made by the person being interrogated, proper warnings must be given before the results of the interrogation can be used as evidence in court.
3. Miranda Warnings are used to ensure that the person being questioned/interrogated is aware of his/her right against self-incrimination and his/her right to assistance of counsel during questioning/interrogation.
 - a. Any person arrested shall, within one hour of detention, be afforded the opportunity to make use of a telephone for the purpose of securing an attorney, as determined by Rhode Island General Law 12-7-20 entitled, "Right To Use Telephone For Call To Attorney – Bail Bondsman."

4. All persons are to be advised of their Miranda Warnings whenever an officer, based on the existing circumstances, determines that the person being questioned/interrogated could reasonably believe he/she is no longer free to end the encounter with the officer. If there is any doubt as to whether the person is free to leave or “in custody” the person shall be advised of his/her Miranda Warnings.
5. When a confession is obtained from a person, that confession should be made freely, voluntarily, and without any threats or promises.
6. In the event a person invokes his/her constitutional rights, all questioning shall stop immediately. If a request is made for counsel, that request must be complied with immediately. Continued questioning of this person without the presence of counsel, while the person remains in custody, may only take place if the person initiates further conversation with investigating officers and he/she waives his/her right to counsel.
7. After a person is arrested, the arresting officer must ensure that there is not an unreasonable delay in the arraignment. Once the accused has been charged, information will not be released that may jeopardize the outcome of the trial.

V. RIGHTS ADMONISHMENT PROCEDURES:

A. Miranda Warnings

1. In order to achieve uniformity in administering Miranda warnings, police officers shall be issued cards with the Miranda warnings and waiver on them. Before custodial interrogation, officers shall advise suspects of their rights by reading aloud from the card.
2. After the warning, in order to secure a waiver, the officer shall ask and receive affirmative replies to the following questions:
 - a. "After having been advised of your constitutional rights, do you understand these rights? "
 - b. "Do you agree to speak with the police at this time?"
 - c. "Do you want an attorney called or appointed for you at this time?"
3. After the rights have been read, understood, and the person wishes to waive them, the officer may have the suspect sign the *Rights Form (TPD 13-020)*. Officers shall interrogate suspects only when they have waived their rights. Officers shall cease questioning whenever the suspect invokes the right to silence or requests the presence of counsel.

- a. If a suspect, once in custody, requests counsel after being advised of Miranda rights, he or she cannot be interrogated again about the crime for which he or she was charged, other crimes, or by any other officers unless (1) the counsel is present during the interrogation or (2) the suspect himself initiates the interrogation. Officers therefore cannot obtain a waiver under these circumstances unless the suspect initiates interrogation. If a suspect refers to counsel but his or her intentions are unclear, officers may question the suspect further to clarify his or her intentions.
 - b. If the suspect is deaf or unable to speak English, the interrogating officer shall notify the Officer in Charge (OIC) and arrange to obtain an interpreter.
4. If a suspect has invoked his or her right to silence, officers may interrogate the suspect if, after a passage of time, the suspect initiates communication with officers. Before questioning, however, officers shall again administer Miranda warnings and shall obtain a written waiver.

B. Voluntariness of confessions

The courts have provided officers with much latitude in interrogating suspects. If a suspect claims that he or she was coerced into confessing, the courts will examine the interrogation according to the totality of the circumstances. If interrogation methods appear to overcome the suspect's will, then the courts will find any resulting confession to be involuntary.

C. Exemptions or special cases

1. Miranda warnings do not apply to the following situations that are non-custodial. This list is not all-inclusive:
 - a. Brief on-scene questioning or field interviews;
 - 1.) There are times when the police are not interested in arresting anybody, nor in securing any admissible evidence for use in court. These are the times when police are only in the initial stages of an investigation, and are only interested in checking out any person(s) or place(s) that looks suspicious.
 - 2.) Officers should complete a field interview report through the Records Management System (RMS) on field interviews to provide other officers, investigators and crime analysts with information concerning suspicious persons and situations.

- b. Identification procedures such as fingerprinting, conducting a lineup, sobriety tests. (Questioning during booking may require Miranda warnings);
 - c. Volunteered spontaneous statements. (Once the officer has heard the suspect express spontaneous incriminating statements, the officer shall then advise the suspect of Miranda rights and obtain a waiver before asking additional questions);
 - d. Brief investigative detention or stop/frisk;
 - e. Roadside questioning during routine traffic stops, including DUI stops until custodial interrogation begins;
 - f. Routine booking questions attendant to arrest;
 - g. Questioning by private persons.
2. Public-safety exception- When an officer urgently needs information from a suspect because lives are in imminent danger, officers may delay giving Miranda warnings until the officers have received information sufficient to dispel the emergency. Officers are advised that a genuine, life-threatening emergency must exist.

D. Documentation requirements

1. Officers shall document the circumstances surrounding the conduct of interrogations and the recording of confessions. Required information includes but is not limited to the following:
 - a. Location, date, time, duration of the interrogation;
 - b. Identities of all persons present;
 - c. Miranda warnings given, the suspect's responses, and any waivers provided;
 - d. The nature and duration of any breaks or lapses during the interrogation and the reasons for them;
 - e. Confessions should be documented in a typed statement, signed and dated by the defendant, or audio video recording (Refer to *General Order 300.25 Electronic Recording of Custodial Interrogations*), unless special circumstances exist. Hand written statements signed and dated by the defendant may be used in exceptional circumstances. Confessions that are video or audio recorded do not usually require a typed statement.

2. Video or audio tape recordings shall be treated as evidence and handled accordingly. Recordings of custodial interrogations will comply *with General Order 300.25 Electronic Recording of Custodial Interrogations.*