

CRIMINAL INVESTIGATIONS

COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS

Purpose: The purpose of the directive is to establish policy, procedures and guidelines for compliance with United States Constitutional requirements regarding suspect interviews, interrogations, and access to counsel.

Policy: It is the policy of the North Little Rock Police Department that its members fully comply with applicable provisions of the United States Constitution when conducting suspect interviews.

Definitions:

Custodial interrogation: A custodial situation exists when an officer tells a suspect that he/she is under arrest. A functionally equivalent situation exists when a reasonable person in the suspect's position would believe he/she is under arrest or that his/her freedom of action has been restricted to the same degree as a formal arrest. The interrogation of a suspect includes direct questioning of a suspect about a crime or suspected crime, as well as any words, statements or actions by an officer that an officer should know are reasonably likely to elicit an incriminating response from the suspect.

Interview: An interview is a non-custodial conversation with a suspect, witness, victim, or other person.

Summary of Changes: New format.

Procedure:

- 1.1 All members engaging in criminal investigations or law enforcement activities will insure that all persons are afforded the rights and protection guaranteed by the Constitution of the United States. Members will not engage in coercion, intimidation, threats, or similar behavior in an attempt to obtain involuntary confessions or admissions.
- 1.2 Members of the Department will not deny any person the right of counsel, nor will they fail to inform suspects of their rights against self-incrimination.
- 1.3 Any time a member of the Department initiates a custodial interrogation of a suspect; the suspect will be read the "Miranda Warning" from a North Little Rock Police Department Rights Form prior to questioning. [CALEA 1.2.3b]
- 1.4 If the suspect at any time states that he/she does not wish to answer any questions, all questioning of the suspect will cease immediately.
- 1.5 If the suspect at any time requests to speak to an attorney or have an attorney present all questioning of the suspect will cease immediately. The suspect will be allowed to contact an attorney or the Public Defender's office if the suspect cannot afford an attorney. Questioning will not resume until the attorney has contacted the suspect, unless the suspect initiates contact and waives the right to an attorney. The suspect will be read the "Miranda Warning" from a North Little Rock Police Department Rights Form prior to resuming questioning. [CALEA 1.2.3c]
- 1.6 If the suspect is a juvenile:
 - 1.6.1 You are not required to get consent from the juvenile's parent, no matter what the offense is.
 - 1.6.2 The juvenile's parent cannot invoke the right to an attorney for the juvenile, nor can they demand to be present in the room during the interview.
 - 1.6.3 The parent or guardian must be notified prior to the interview, and must be informed where the juvenile is being detained, and why.
 - 1.6.4 The parent or guardian must respond to the location where the juvenile is being detained. The parent or guardian does not have to remain; however, they must appear prior to the interview.
 - 1.6.5 If the parent or guardian does not respond, you must handle the juvenile in the same manner as if the juvenile had requested an attorney.
 - 1.6.6 The juvenile must understand the "Miranda Warning." A Juvenile Rights Form has been developed to assist the juvenile in understanding the "Miranda Warning" and must be used for juveniles. It is recommended that the parent or guardian initial the form to show that they did respond and were aware of the interview.
- 1.7 If a suspect in custody initiates a spontaneous statement, there is no requirement to stop the statement to read the "Miranda Warning"; however, if the suspect stops speaking, the "Miranda Warning" must be read prior to a custodial interrogation.
- 1.8 The "Miranda Warning" is not required for interviews. Officers conducting interviews should insure that suspects being interviewed clearly understand they are not in custody. The best manner of assuring that an interview is non-custodial is a clear notification of such by the interviewer and acknowledgment by the person being interviewed that the interview is non-custodial and the person is free to terminate the interview and leave at any time. [CALEA 1.2.3a]

1.9 Members of the Department will not contribute to any pre-trial publicity that would tend to prejudice a fair trial.
[CALEA 1.2.3]

Mike Davis
Chief of Police