



CONCORD POLICE DEPARTMENT STANDARD OPERATING PROCEDURE

INTERVIEWS / INTERVIEW ROOMS

GENERAL ORDER: 10.06

CREATED: April 26, 2021

ISSUE DATE: April 26, 2021

CALEA STANDARD: 1.2.3, 42.2.8

EFFECTIVE DATE: May 3, 2021

ACTION: Creates general order.

10.06.0 **PURPOSE**

The purpose of this general order shall be to establish policy and procedures regarding the handling and the conducting of interviews and interrogations to meet constitutional requirements, as well as the use of locations within the Concord Police Department headquarter and district offices for interviews and interrogations of victims, witnesses and suspects.

10.06.1 **POLICY**

It shall be the policy of the Concord Police Department to conduct interviews that comply with all constitutional and legal requirements while establishing safe conditions for the various situations that officers of may encounter when conducting interviews or interrogations.

10.06.2 **DEFINITIONS**

A. CUSTODY

When an individual has been informed by a sworn officer that they are under arrest or is situations exist where a reasonable person in the individual's position would feel that his freedom of action has been restricted to the same degree as a formal arrest.

B. FIELD INTERVIEW

The brief detention of an individual, whether on foot or in a vehicle, based on reasonable suspicion of a crime for the purposes of determining the individual's identity and resolving the officer's suspicion.

C. INTERVIEW

A conversation in which facts or statements are elicited from another individual.

D. INTERROGATION

The formal and systematic interview of an individual to obtain valuable facts to exonerate the innocent or identify the guilty, to gain information regarding a crime or to obtain a confession.

E. INTERVIEW ROOM

For the purpose of this general order, any room where it is likely that an interview may turn into a custodial or non-custodial interrogation of a person shall be construed as an interview room, to include polygraph rooms.

10.06.3 **FIELD INTERVIEWS**

- A. Circumstances, but not limited to, where an officer conducting a field interview:
 - 1. The actions and demeanor of the individual suggest that he/she is engaged in a criminal activity.
 - 2. Individual's clothing indicate there is a probability they may be illegally carrying a weapon (e.g. bulges).
 - 3. The individual is located in proximate time and place to an alleged crime.
 - 4. The officer has knowledge of the individual's prior criminal record or involvement in criminal activity.
- B. Individuals shall only be detained for the length of time necessary to obtain identification or an account of the person's presence or conduct.
- C. Individuals shall be released upon the completion of the interview unless probable cause to arrest has been developed.
- D. Individuals shall only be detained at or near the original location of the stop and not moved to another location without the persons consent.
- E. Upon the completion of a field interview, the conducting officer shall document the interaction within the field contact module of the records management system.
- F. Miranda warnings are not required during a field interview unless individual is placed under arrest. Further questioning shall require the reading and waiving of Miranda.

10.06.4 **CUSTODIAL INTERVIEWS**

- A. If an individual is in custody and is not free to leave, Miranda warnings shall be administered prior to the start of an interrogation. (Miranda v. Arizona, 384 US 436)
 - 1. Examples of situations that are not custodial and do not require Miranda warnings:
 - a. Investigatory stop and frisk;
 - b. Questioning during a routine traffic stops;

- c. Questions asked out of urgent necessity to dispel an imminent threat to public safety;
- d. Routine booking questions unless the response satisfies and element of the offense charged;
- e. During non-custodial appearances or interviews.

NOTE: Should an individual that is in custody begin to make voluntary, spontaneous statements, officers are not obliged to stop the statement to issue a Miranda warning. Follow-up questions that exceed simple requests for clarification of initial statements may require a Miranda warning.

B. ADMINISTERING MIRANDA

- 1. Miranda warnings shall be read by officers utilizing Concord Police Department Advice of Rights (Form – MA-1) containing this information to all persons subjected to a custodial interview. To avoid irreparable mistakes, officers shall not recite a Miranda warning from memory.
- 2. Officers that are reading the Miranda warning shall ensure that the individual understands the warning.
- 3. Individuals that are in custody shall only be interviewed/interrogated when it is clear that they knowingly and intelligently have waived their rights.
- 4. Should an officer take an individual into custody that is deaf or hard of hearing, any subsequent interrogation shall be done in accordance with general order 09.11 – Communicating with the Deaf and Hard of Hearing.

C. INVOKING THE RIGHT TO SILENCE

- 1. After receiving a Miranda warning, if the individual invokes their right to silence, the interrogation shall be terminated immediately.
- 2. If the individual is not represented by an attorney, officers may re-administer a Miranda warning after at least 90 minutes from the time the right to silence was invoked. If at that time the individual agrees to waive their rights, the interrogation may continue.

If the individual reinitiates contact with the officer prior to the 90-minute period, officers may again give the Miranda warning. The interrogation may continue if the individual agrees to waive their rights.

D. INVOKING RIGHT TO COUNSEL

1. If an individual invokes their right to counsel, the interrogation shall cease immediately.
2. If an individual makes reference to counsel after receiving the Miranda warning, officers shall question the individual to clarify their statement.
3. If the individual invokes their right to counsel, they may not be interrogated again for the crime in which they have been charged unless:
 - a. The individual initiates contact with police at which time the individual is again read Miranda and must waive their rights;
 - b. The individual's attorney is present at the time of questioning.

NOTE: If the individual has appeared before a judicial official, prior to interviewing the individual, they shall be read their Miranda warning from the Concord Police Department Advice of Rights – 6th Amendment (Form MA-2).

E. COMFORT ACCESS

1. Individuals in custody shall be provided access to restrooms, water and other needs, as needed during an interview/interrogation.
2. Individuals not in custody shall not be restricted from bathroom access or water breaks.
3. Regardless of custody status, no individual shall be allowed to freely move about the Concord Police Department and shall be escorted at all times by an officer when not inside of an interview room.

F. JUVENILE INTERVIEWS

Interview and interrogations of juveniles, individual age 17 and under, shall be done in accordance to general order 05.05 – Juvenile Operations.

10.06.5 INTERVIEW ROOMS**A. PROCEDURES FOR USING INTERVIEW ROOMS**

1. Prior to utilizing an interview, the rooms shall be inspected for any weapons and other contraband and to ensure the room is suitable for use.
2. All weapons shall be secured prior to entering an interview room for an interview/interrogation.
3. Officers shall have their issued portable police radio with them in the interview room in order to summon assistance.

4. All individuals in custody shall be checked for weapons prior to being placed in an interview room.
5. Interview rooms shall not be secured and shall not be used to house an individual in custody for an extended amount of time outside of the interview. Visual monitoring of individuals in interview rooms shall be maintained at all times.
6. Individuals in custody may be subject to wearing restraints. This shall be at the discretion of the officer based on the demeanor of the individual and the seriousness of the crime for which they are in custody.

NOTE: Individuals in custody shall not be restrained by securing them to any fixed objects within an interview room.

7. Male and female individuals in custody shall not be placed unattended within the same interview room.
8. Adult and juvenile individuals in custody shall not be placed unattended within the same interview room.
9. No more than two officers shall occupy an interview room unless an emergency situation arises.

NOTE: A linguist or translator may also be authorized to be present during an interview/interrogation with two officers if needed.

B. INTERVIEW ROOM EQUIPMENT

1. At a minimum, at least one interview room at police headquarters shall be equipped with concealed video/audio recording equipment in order to remain compliant with NCGS 15A-211 – Electronic Recording of Interrogations.
2. The interview room shall be made up of a plain color, smooth walls with no objects affixed to the walls with exception to outlets and light switches.
3. Interview room furniture shall consist of one table and three chairs with the only exceptions being the Polygraph room and a “soft” interview room.



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