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## PREAMBLE

Interview and interrogation are distinct from one another. The effective use of interview and interrogation is often crucial in solving many types of crimes. Investigators should remember that by using innovative, yet proper methods, much valuable evidence can be obtained from victims, witnesses and suspects. A flexible and effective interview technique can elicit valuable evidence that might otherwise be lost. Juvenile victims, witnesses, and suspects must be given the same constitutional protections afforded adults. Additional safeguards and procedures regarding juveniles may be found in the "Juvenile Operations" policy.

## POLICY

It is the policy of the Douglas County Sheriff's Office (DCSO) to conduct all interviews and interrogations in accordance with all applicable laws and DCSO policies and procedures.

## DEFINITIONS

Interrogation: A conversation between the interrogator and the suspect, during which the suspect is accused of involvement in a particular incident or group of incidents. The accusatory tone of the exchange is what distinguishes the interrogation from the interview.

Interview: Interviews are a non-accusatory, structured conversation during which specific behavior-provoking questions are asked with the purpose of eliciting interpretable behavior symptoms that are typical of truth or deception. Additional factual information concerning the case and/or suspects may also be developed during this non-accusatory exchange.

## PROCEDURE

### I. Interviews (1.2.3a)

- A. When conducting interviews of witnesses and victims Deputies will take into consideration the trauma/stress that the victim/witness has been subjected to. Deputies will conduct the interview in a manner to reduce stress and minimize further trauma.
- B. Deputies will take into account the age, physical limitations, and credibility of witnesses/victims when conducting interviews.
- C. Because an interview is a non-accusatory conversation Deputies will not be required to give victims/witnesses the Miranda Warnings.
- D. Deputies will document interviews with detailed notes or recordings. Written statements will be made that include:
  1. Time of interview.
  2. Date of interview.
  3. Location of interview.

4. Deputies present during the interview.
5. Any other relevant information that the Deputy believes should be included based on their training and experience.

E. Field Interviews

1. The activity of inquiring into a suspicious person's identity and reason for being in a particular place at a particular time plays a large role in efforts toward crime prevention and crime solving.
2. When a Deputy stops a person who is acting suspiciously or is unable to give a good reason for their presence, a Field Interview Card shall be completed in RMS.
  - a. The purpose of the FI card is to document the identity of the suspicious person and his/her activities and to aid investigators and other patrol officers who may use this information to aid them in their investigation of other incidents, possibly involving the same subject.
3. The quality and frequency of a Deputy's field contacts can contribute greatly to the success of the patrol force. Stops will be conducted and documented in accordance with the DCSO "Searches and Seizures" policy.

**II. Interrogations (1.2.3b)**

A. Miranda Warnings (5<sup>th</sup> Amendment)

1. The provision of the Miranda Warnings is an absolute prerequisite to any police custodial interrogation. Miranda Warnings will be given when the following criteria are met:
  - a. The setting must be custodial in nature.
    - (1) The Court has defined custody to mean that the suspect's freedom of action has been curtailed in some significant way (e.g., the suspect is not free to leave).
  - b. The individual conducting the questioning must be a law enforcement officer or be acting as an agent for law enforcement.
2. Miranda Warnings will be given in clear and unequivocal terms in order for any statement made by the accused during the period of in-custody interrogation to be admissible as evidence.
3. The following five warnings will be provided as encompassed under the constitutional privilege against self-incrimination: (1.2.3c)
  - a. You have the right to remain silent.
  - b. Any statement you make can and will be used against you in a court of law.
  - c. You have the right to consult with an attorney before answering any questions.
  - d. You have the right to have an attorney present with you during the interrogation.

- e. If you cannot afford an attorney, one will be appointed to you without cost, prior to the questioning, if you so desire.

B. Administering Miranda Warnings

1. Miranda warnings will be given prior to questioning (State v. Juranek).
  - a. Miranda warnings are not required when obtaining biographical information or building rapport.
  - b. Miranda warnings will be given prior to questioning that could be legally construed to elicit, or that would be likely to elicit, an incriminating response.
2. The accused will be Mirandized once for each interview.
3. The Miranda warnings will be given in the following manner:
  - a. Clearly and deliberately.
  - b. In such a way that the accused feels free to claim their rights without fear.
  - c. In a manner that the accused can comprehend and knowingly act on the information.
4. The accused must acknowledge that they understand the warnings.
  - a. If the accused person refuses to talk, or remains totally silent the questioning will cease.
  - b. A nod of the head in the affirmative manner of yes is acceptable as long as it is clearly understood that this is an affirmative response.
  - c. If it is obvious that a person is suffering from a behavioral health crisis to the extent that they cannot knowingly, willingly, or intelligently waive their rights, the interrogation should not take place. (41.2.7c)
5. Juveniles will be given the Miranda warnings using developmentally appropriate language (NSS §43-248.01).
6. Deputies will document administering the Miranda warnings on the Rights Advisory Form (OSF-12A) when practical.
7. When practical, two Investigators will be present to witness the Rights Advisory Form and Statement.
8. To invoke the right to stop questioning, the suspect must articulate the desire with sufficient clarity, such that a reasonable officer under the circumstances would understand the statement as an invocation of the right to remain silent.
  - a. The accused may invoke their Miranda Rights at any time during questioning.
  - b. The waiver of such rights made during a custodial interrogation at a place of detention that involves crimes resulting in death or felonies involving sexual assault, kidnapping, child abuse, or strangulation will be electronically recorded (NSS §29-4503).

9. If the suspect makes an unequivocal request for counsel, all questioning will stop until the suspect's attorney is present or until the suspect initiates further communication.  
(1.2.3c)
    - a. Coming back to the accused person after the person has invoked their right to counsel and giving the person the Miranda Warning again can invalidate any subsequent confession if the accused person has neither initiated further communication nor spoken to counsel in the time between the first meeting and the second meeting.
  10. If an accused person waives their right to counsel, and agrees to answer questions, a written waiver should be obtained.
- C. Interrogations will be conducted only after the following have been considered:
1. All Constitutional precautions will be taken and documented if the interview is to be used in court.
  2. Detailed notes and/or a written statement will be made for future reference and court use, listing the time, date, location, Deputies present, waiver of rights, and time the interrogation ended.
  3. Statements obtained during an interrogation will not be based on coercion, promises of leniency or special consideration, inducements, delays in arraignment, or deprivation of counsel.
  4. Incriminating statements must be given freely and voluntarily.
  5. A free and voluntary statement may be given spontaneously or after reading the suspect the Miranda warnings.
  6. The Investigator must be able to demonstrate that the suspect understood those rights and made a knowing and intelligent waiver of those rights.
  7. If there is more than one suspect in a crime, the suspects will be separated and interrogated individually.

### **III. Conducting Interviews/Interrogations**

- A. Deputies will utilize one of the following designated interview/interrogation rooms when interviewing/interrogating all suspects and perpetrators (in custody):
1. Interrogation Rooms A & B
    - a. Interrogation Room A (room 158), located within the LEC Temporary Detention Facility.
    - b. Interrogation Room B (room 158), located within the LEC Temporary Detention Facility.
    - c. Interrogation Rooms A & B are within the temporary holding area, the most secure area of the DCSO LEC.
    - d. Deputies will inspect the room before and after conducting an interview/interrogation. Deputies will be alert to the contents of the room prior to utilizing it.

- e. Search Procedures: (42.2.8b)
  - (1) Custodial suspects will always be searched and have their pockets emptied without exception prior to an interview/interrogation.
  - (2) Potential suspects may be searched at the discretion of the Deputy prior to entering the room for security purposes (this search will be for weapons only). Deputies may also politely request that suspects empty their pockets on the table or leave their purse outside of the room.
  - (3) Searches of the opposite sex will be conducted in accordance with DCSO policy.
- 2. Polygraph Room (room 151), located in the LEC.
  - a. The Polygraph Room is outside the holding facility, but within a secured area of the LEC.
  - b. The Polygraph Room is locked when not in use. Only the DCSO Polygraph Examiners have keys to this room.
  - c. Only authorized members may conduct interviews in the polygraph room.
    - (1) Authorized members are those who are certified to operate the polygraph equipment.
    - (2) Non-authorized members may use the polygraph room in limited circumstances, but only when a polygraph operator is present.
  - d. Search Procedures: (42.2.8b)
    - (1) Custodial suspects will always be searched and have their pockets emptied without exception prior to an interview/interrogation.
    - (2) Potential suspects may be searched at the discretion of the Deputy prior to entering the room for security purposes (this search will be for weapons only). Deputies may also politely request that suspects empty their pockets on the table or leave their purse outside of the room.
    - (3) Searches of the opposite sex will be conducted in accordance with DCSO policy.
- 3. Interview Room A (room 105), located next to public lobby is a soft interview room in an unsecured area of the DCSO LEC.
  - a. This room is not secure and is generally used to conduct non-suspect related interviews, receive complaints from the public, and to complete reports.
  - b. Suspect interviews may be conducted in this room only with permission from a supervisor. When used for this purpose, Deputies may carry a firearm(s) while conducting an interview/interrogation in this room. (42.2.8a & b)
  - c. Because the room is in an unsecured area, suspect interviews/interrogations will be monitored in person at all times. (42.2.8b)

- d. Search Procedures: (42.2.8b)
  - (1) Custodial suspects will always be searched and have their pockets emptied without exception prior to an interview/interrogation.
  - (2) Potential suspects may be searched at the discretion of the Deputy prior to entering the room for security purposes (this search will be for weapons only). Deputies may also politely request that suspects empty their pockets on the table or leave their purse outside of the room.
  - (3) Searches of the opposite sex will be conducted in accordance with DCSO policy.
- 4. Interview Room B, located in the temporary detention area next to the polygraph room at the DCSO LEC. This is a secured, soft interview room typically used for overflow interviews of witnesses and applicants. (42.2.8b)
  - a. Search Procedures: (42.2.8b)
    - (1) Custodial suspects will always be searched and have their pockets emptied without exception prior to an interview/interrogation.
    - (2) Potential suspects may be searched at the discretion of the Deputy prior to entering the room for security purposes (this search will be for weapons only). Deputies may also politely request that suspects empty their pockets on the table or leave their purse outside of the room.
    - (3) Searches of the opposite sex will be conducted in accordance with DCSO policy.
- 5. Interview Room 1 (Room 010), located in the K9 Team Office, 15345 W. Maple Rd. This is a soft interview room in an unsecured area of the DCSO K9 Team office.
  - a. Because the room is in an unsecured area, suspect interviews/interrogations will be monitored in person at all times. This can be done via audio/video equipment on a computer in the Sally Port or in the K9 Team Office. (42.2.8b)
  - b. Search Procedures: (42.2.8b)
    - (1) Custodial suspects will always be searched and have their pockets emptied without exception prior to an interview/interrogation.
    - (2) Potential suspects may be searched at the discretion of the Deputy prior to entering the room for security purposes (this search will be for weapons only). Deputies may also politely request that suspects empty their pockets on the table or leave their purse outside of the room.
    - (3) Searches of the opposite sex will be conducted in accordance with DCSO policy.
- 6. Interview Room 2 (Room 010), located in the K9 Team Office, 15345 W. Maple Rd. This is a soft interview room in an unsecured area of the DCSO K9 Team Office.
  - a. Because the room is in an unsecured area, suspect interviews/interrogations will be monitored in person at all times. This can be done via audio/video equipment on a computer in the Sally Port or in the K9 Team Office. (42.2.8b)

b. Search Procedures: (42.2.8b)

- (1) Custodial suspects will always be searched and have their pockets emptied without exception prior to an interview/interrogation.
- (2) Potential suspects may be searched at the discretion of the Deputy prior to entering the room for security purposes (this search will be for weapons only). Deputies may also politely request that suspects empty their pockets on the table or leave their purse outside of the room.
- (3) Searches of the opposite sex will be conducted in accordance with DCSO policy.

B. Weapons Control (42.2.8a)

1. With the exception of Interview Room A and Interview Rooms 1 and 2 within the K9 Team Office, Deputies will secure their firearms in one of the weapons storage boxes located outside of the entrance to the temporary holding area.
  - a. Deputies may wear their firearm when conducting an interview/interrogation in Interview room A.
  - b. Less lethal weapons may be worn in any of the interview/interrogation rooms.

C. Security (42.2.8b)

1. Deputies will adhere to the security procedures detailed in section III, A of this policy depending on the room in which the interrogation/interview is taking place.
2. During an Interview/Interrogation, the door to the room should remain shut.
3. Uniformed members may request assistance by way of their portable radio. (42.2.8d)
4. Non-uniformed members may request assistance by way of their portable radio or cellular phone. (42.2.8d)

D. Number of Members Allowed in the Interview/Interrogation Room (42.2.8c)

1. No more than two Deputies will occupy the room during an interview/interrogation.
2. Other Deputies will not interrupt an Interview/Interrogation unless it is necessary to relay additional information.

E. Use of Audio/Video Recording Equipment (42.2.8e)

1. All DCSO Interview/Interrogation rooms are equipped with audio/video recording equipment.
2. NSS 29-4503 mandates that all statements relating to crimes resulting in death or felonies involving sexual assault, kidnapping, child abuse, strangulation, or offenses being investigated as part of the same course of conduct as the offenses described above, or the waiver of such rights made during a custodial interrogation at a place of detention will be electronically recorded, duplicated onto a CD and handled as evidence.



3. Persons Crimes - All interviews/interrogations occurring in DCSO designated Interview Rooms involving person's crimes investigations will be electronically recorded, duplicated onto a CD, and handled as evidence.
  4. Property Crimes Felony – Interviews/interrogations occurring in DCSO designated Interview Rooms involving property crimes felony investigations will be electronically recorded.
    - a. Exceptions may be made on a case by case basis upon the pre-approval of the interviewing member's supervisor or command officer.
  5. Interviews of juvenile victims (under the age of 17) of sexual assault or child abuse/neglect will be electronically recorded whenever practical.
  6. Evidentiary video/audio recordings will be duplicated onto a CD.
    - a. The CD will be handled, labeled, and stored in accordance with the DCSO's evidence handling and processing procedures. A copy of the CD will be used for future investigative activities and for clerical transcription.
    - b. Requests for a hard copy recording from non-CID/SID members will be directed to a CID/SID supervisor.
    - c. Upon receipt of the disc, the requesting Deputy will review the video to ensure it was recorded properly.
- F. Equipment/Items in Interview/Interrogation Rooms (42.2.8f)
1. Interrogation Room A is equipped with a desk and two chairs.
  2. Interrogation Room B is equipped with a desk and three chairs.
  3. The Polygraph Room is equipped with a desk, two chairs, two file cabinets and a polygraph instrument.
  4. Interview Rooms A and B are equipped with a table and chairs.
- G. Access to Water, Restrooms, or Comfort Breaks (42.2.8g)
1. Restrooms for Interrogation Rooms A & B and the Polygraph Room are located within the temporary holding area.
  2. Restrooms and a drinking fountain for Interview Room A are located across from the room in the public lobby.
  3. Suspects will be provided access to the restroom, drinking water and other needs, as needed.
  4. Comfort breaks are permissible when practical. Deputies will maintain observation of the suspect during this time to ensure the suspect's safety.
- H. When conducting an interview/interrogation of a person suspected of suffering from a behavioral health crisis Deputies will adhere to the procedures found in the DCSO "Behavioral Health Crisis Response" policy. (41.2.7c)

## REFERENCES



**I. Laws**

- A. Griffin v. U.S.: (CA 8), 12-28-90; Miranda v. Arizona, 384 U.S. 436 (1966); Orozco v. Texas, 394 U.S. 324 (1969); State v. Juranek, 287 Neb. 846, 844 N.W.2d 791 (2014)..
- B. Nebraska Revised Statutes §20-150 through §20-158 and §43-248.01.

**II. Previous DCSO Orders**

- A. Previous General Orders include: #57-2023, #110-2020, #27-2018, #28-2012, #27-2012, #22-2012, #25-2011, and #7-2007.

**III. CALEA Accreditation Standards**

- A. Relevant CALEA standards include: 1.2.3, 41.2.7, and 42.2.8.

**IV. Review Schedule**

- A. Quadrennial.