

 <div>Policy and Procedure</div>		<div>Policy Number</div> <div>11.20</div>
Chapter	Criminal Investigations	<div>Approved By:</div> <div>Eric R. Stewart, Interim Chief of Police</div>
Article	Interview and Interrogation	
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### PURPOSE

To provide guidance to officers while performing their interview and interrogation duties.

### POLICY

Officers will conduct interviews or interrogations of suspects and witnesses according to this policy and applicable federal and state law.

### DEFINITIONS

**Custodial interrogation** is an interrogation that occurs when a person is physically arrested or otherwise deprived of his or her liberty.

A **field interview** is an informal interview that takes place outside the police station and is a tool used to proactively identify suspicious vehicles, persons and incidents and aid in crime prevention and investigation by developing suspects, witnesses and informants from the information gained during field interviews.

An **interrogation** is the questioning of a subject to elicit the truth from a person whom the investigator believes has lied during an interview. Interrogation involves an effort to persuade the subject to tell the truth.

An **interview** is a non-accusatory session with a suspect, victim or witness. The goal is to gather information and make an assessment of the subject's credibility.

**Police custody** occurs when a person is physically arrested or otherwise deprived in any significant way of his/her liberty.

### GENERAL GUIDELINES

#### **Field Interviews (FI)** <CALEA 1.2.3 (a)> <CRS 16-3-103>

Officers may conduct field interviews with a subject's consent or when reasonable suspicion or probable cause exists. Officers conducting a field interview will complete an FI card unless the contact is documented in a Department report or summons. Officers who complete FI cards will turn them in to Records for processing. Witnesses, victims, and suspects will be interviewed separately to avoid unnecessarily influencing one statement by another.

#### **Interviews at the PD** <CALEA 1.2.3 (a)>

Witnesses, victims, and suspects will be interviewed separately to avoid unnecessarily influencing one statement by another. Officers will always identify themselves and advise the purpose of the interview. The length of interviews will depend on the interviewee's emotional state and/or physical condition. Officers will be alert for prejudices or biases that may influence the interviewee's perception of events s/he is conveying. When possible, officers will record interviews or obtain a written statement from the person





interviewed. Officers will summarize in the offense report the information obtained regardless of whether the interview was recorded.

**Interrogations** <Maryland v. Shatzer, 559 U.S. 981 (2010)> <People v. Greiner, 200 P.3d 1062 (Colo. App. 2008)> <People v. Richardson, \_\_P.3d\_\_, 2014 WL 1648188 (Colo. App. 2014)> <CALEA 1.2.3 (b)> <CALEA 1.2.3 (c)> <CRS 19-2-511; 19-1-103(68)> <People v. Barrow, 139 P.3d 636 (Colo. 2006)> <People v. Howard 92 P. 3d 445 (Colo. 2004)>

Prior to any custodial interrogation of a suspect, an investigating officer will advise the suspect of his/her “Miranda” rights. The suspect must waive these rights prior to any custodial questioning. Officers will ensure that the waiver was done knowingly, intelligently and voluntarily and receive a signed written waiver from the suspect whenever possible. If the person clearly, unambiguously and unequivocally requests counsel, or clearly, unambiguously and unequivocally indicates a desire to remain silent, the investigating officer shall cease all questioning until an attorney is present or the suspect initiates further communication or conversation with the interrogator at which time a new Miranda warning should be given again and a waiver obtained before resuming questioning. Silence, alone, even during the majority of an interrogation, however, is not a sufficient way for a person to invoke his/her right to remain silent.

Before a juvenile suspect under 18 years of age can be subjected to custodial interrogation s/he (and his or her parent, guardian or legal or physical custodian) must be advised of his/her Miranda rights and must also be advised of his/her right to have a parent, guardian or custodian present during interrogation. The juvenile and his or her parent, guardian or custodian may waive those rights if such waiver is made voluntarily, knowingly, and intelligently and is in writing. A Department of Human Services, though legal custodian, cannot waive a juvenile’s rights.

Miranda and juvenile warnings do not apply to noncustodial interrogations. Non-custodial interrogations include most brief investigatory stops and detentions, provided the subject, based on the totality of the circumstances, is not in police custody.

Officers shall not use coercion, threats, physical force or make undue promises to obtain a statement from a suspect, witness or victim. The appropriate number of officers involved in the interrogation will be based on what a reasonable person would not consider to be coercive or threatening. If an interrogation is extensive in length, breaks will be provided to the suspect in reasonable intervals.

**Interview/Interrogation rooms** <CALEA 42.2.10 (c)> <CALEA 42.2.10 (d)> <CALEA 42.2.10 (f)>

There are three primary areas available for officers to conduct interviews and/or interrogations: booking, patrol, and Criminal Investigations Unit. The polygraph examiner may conduct interviews in the designated polygraph room. All areas are located in the secured area of the department. Restrooms and water fountains are located within this secured area.

To minimize distraction, the interview rooms have only those items necessary to conduct the interview (such as sufficient number of chairs for each participant) and to provide for the safety of both the officer(s) and the person(s) being interviewed. The Victim Services Unit may be offered to the victim or witness to serve as a silent supporter during the interview. Only individuals necessary to legally conduct the interview will be allowed in the room (i.e., officers, detectives, juvenile, parents, attorney, etc.).





### **Interview/Interrogation Room Safety** <CALEA 42.2.10 (a)> <CALEA 42.2.10 (b)> <CALEA 42.2.10 (d)> <CALEA 42.2.10 (e)>

When conducting interviews in the booking area, officers shall not have firearms and knives on their person. Officers shall secure firearms and knives in a gun locker, their vehicle, or other area which denies unauthorized access to the weapons. When conducting interviews other than in the booking area, an officer may use his or her discretion whether to be armed. That discretion should be based on the totality of the circumstances including, relative isolation, attitude and demeanor of the interviewee, availability of back-up, and ability to summon assistance. To summon assistance an officer may use his/her pac-set, panic button in booking, or any other means of communication.

### **Interview/Interrogation Recording**

An interviewing/interrogating officer will make a reasonable effort to record the interviews/interrogations while in designated recording rooms of the Department. When an attorney is present and asks for privacy with the attorney's client, the interviewer/interrogator will offer to pause the recording or to allow the attorney and client an unrecorded, unmonitored (audio and video) room. If the attorney requests to stay in the recorded room, the officer will ask that they delay their discussion until the recording is paused. After pausing the recording, the officer will inform the attorney and client that the recording equipment is paused and not monitor the conversation. The officer will still monitor the exterior of the interview room while the attorney and client are in secure areas of the Department.

Officers who record interviews or interrogations conducted in the field, jails, police vehicles, or on the phone using available audio and/or video recording devices will treat the recordings as evidence.

