



PARADISE VALLEY

POLICE DEPARTMENT

GENERAL ORDERS

Order Number

1.4

Inception Date

12-22-2014

Revised Date

10-28-2025

Interrogations and Confessions

1.4 Interrogations and Confessions

1.4.1 The 5th Amendment

The 5th Amendment to the Constitution provides, among other rights, the right of a person not to be a witness against him or herself. This right is known as the right against self-incrimination. The U.S. Supreme Court has determined that the right against self-incrimination means that a person in the custody of the police is to be warned of the right to remain silent and the right to an attorney prior to police questioning. These are known as the Miranda Rights.

A person is entitled to make a voluntary choice regarding any discussion with the police and may not be forced to talk to the police or to confess to a crime.

1.4.1.1 Miranda Warnings

- A. When Miranda warnings are required, they should be read directly from the officer's rights card, as follows:
1. You have the right to remain silent.
 2. Anything you say may be used against you in a court of law.
 3. You have the right to consult with an attorney, to be represented by an attorney and to have an attorney present before any questions are asked.
 4. If you cannot afford an attorney, one will be appointed by the court, free of charge, to represent you before any questioning, if you desire.
 5. Do you understand the rights I have just explained to you?
- B. An officer shall read Miranda warnings to a person when a person is both in custody and being interrogated.
1. A person is in custody for the purpose of determining whether Miranda warnings must be provided when a person has been formally arrested or is in circumstances which would lead a reasonable person to believe he or she was under arrest. This determination depends on the totality of the circumstances. A person is in custody for Miranda purposes when:
 - a. the person has been actually placed under arrest, or
 - b. the person's freedom of movement has been restrained to the degree associated with a formal arrest (i.e., handcuffs, guns, lockups, etc.).



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A person may be seized under the 4th Amendment (not free to leave), yet not considered to be in custody for purposes of Miranda (arrest or restraint to the degree associated with formal arrest).

2. An interrogation occurs when an officer:

- a. asks direct questions which are likely to elicit an incriminating response, or
- c. says something or performs some action that is reasonably likely to elicit an incriminating response (known as the functional equivalent of interrogation).

C. There are situations in which a person has been detained for investigation or placed in custody, but Miranda warnings are not required prior to asking questions. Miranda warnings are not required to be read in the following situations:

1. When public safety is paramount. The public safety exception is limited and applies only when public safety is paramount, and it is necessary for the officer to act as quickly as possible. When an officer arrives at the scene of a violent crime, for example, he/she may ask those on scene if there is anyone who needs immediate medical assistance without first reading Miranda. Similarly, the officer who chases a suspect known to be armed through a public area, but finds the person to be unarmed upon arrest, may immediately ask what happened to the gun. Officers must be aware that this exception is permitted only when absolutely necessary – once the danger is eliminated, no further questions may be asked.
2. At traffic stops. Miranda warnings do not need to be read to persons stopped for traffic violations, unless the stop involves a crime, such as a DUI. Miranda is not required for the initial stop and questioning of a DUI suspect; however, the person should be read their Miranda warnings if the person is placed in custody and before interrogation.
3. When a person voluntarily enters a police station or telephones a police officer and makes a statement or confession. Until the person is taken into police custody, Miranda warnings are not required.
4. When a person who is in custody makes voluntary or spontaneous statements. Such statements are admissible as evidence even though Miranda warnings have not been read, even when made by a person who is in police custody. Officers may not ask clarifying questions about volunteered or spontaneous statements in the absence of a valid waiver of Miranda Rights. If warnings have not been read or if the person has invoked his or her rights, the officer should simply document the statements made without asking any follow-up



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questions.

5. During the initial questioning at an investigative detention. Even though a person subject to investigative detention is not free to leave, Miranda does not apply until an arrest is made or the person's freedom of movement is limited to a degree commonly associated with an arrest. The initial few questions at an investigative detention, to determine whether criminal activity has occurred or is ongoing, do not require Miranda.
6. When asking routine booking questions. Miranda warnings are required only when a person is being interrogated about a crime. Routine booking questions are not considered interrogation.
7. When collecting handwriting, voice samples, and/or other physical evidence. Miranda only applies to testimonial communication; it does not apply to physical evidence. As long as the officer does not interrogate the person while collecting the physical evidence, Miranda warnings are not required.

1.4.1.2 Invocation of Miranda Rights

Once a person invokes his/her rights, officers are to immediately stop questioning the person.

A. Invocation of right to silence

If a person invokes the right to silence, the interrogation must immediately be stopped. No further questioning may take place unless the person changes their mind, either on their own or after a later request by the officer.

1. A person may change their mind about invoking their right to silence. If the person changes his/her mind and seeks to speak with the officer again, the officer may speak to and question the person, but must first reread the Miranda warnings to the person and have the person waive their rights.
 - a. An officer may seek to reinitiate questioning. If a person invokes their right to silence, an officer may approach the person after a reasonable break in questioning (at least two hours), reread Miranda, and seek a waiver from the person.
 - b. The right to silence is not offense-specific. The right to silence, once invoked, applies to questioning about all crimes, not just the one the person has been charged with committing.

B. Invocation of Right to Counsel



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1. If a person invokes their right to an attorney, the interrogation must immediately be stopped.
 - a. A person may change their mind about invoking their right to an attorney. If the person changes his/her mind and seeks to speak with the officer again, the officer may speak to and question the person, but must first reread the Miranda warnings to the person and have the person waive their rights.
 - b. Once the right to counsel is invoked, an officer may not approach the person to try to get the person to change their mind. Further questioning is prohibited unless:
 1. the suspect's attorney is present, or
 2. the person initiates the conversation and waives the right previously invoked, or
 3. the person is released from custody (or, if the person remains in jail or prison, is released into the general population) for at least 14 days, the officer rereads Miranda warnings, and the person waives the right previously invoked, or
 4. the person has been sentenced on the crime charged.

1.4.1.3 Miranda Rights Waiver

- A. A person may waive their rights with a written waiver, a verbal waiver, or through conduct which indicates a waiver. For example:
 1. A person may waive their rights by clearly stating that they understand their rights and waive their rights. At that point, an officer may begin asking questions.
 2. A person may waive their rights by simply answering questions once the warnings have been read.
 3. A person may make a conditional waiver – “Depends on the question,” for example. At that point, an officer may begin asking questions. If the person indicates they do not wish to answer a question, officers may continue with other questions, until the person states they do not want to answer any questions or requests an attorney.
 4. A person may respond by saying something that is unclear or equivocal. Such statements should be clarified before questioning begins (or continues). A person might say, for example, “I don't know, do you think I need an attorney?” or “Maybe I should just wait and talk to you later,” or “Hey, I don't have to answer your questions if I don't want to.” These types of statements should be clarified by the interrogating officers. Officers should ask whether the



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person wishes to answer questions or not.

- B. Officers should not offer advice or make any other comments about whether an attorney is needed.
- C. When an officer becomes aware, during an interview or interrogation that a person may be mentally ill, the officer should proceed cautiously, explaining basic legal principles carefully in an effort to determine whether the person understands the situation. When it is apparent that a person does not understand or cannot communicate effectively, due to apparent mental illness, the officer should proceed to complete the contact or investigation without further interrogation.

1.4.2 Voluntariness/Miranda

Confessions are presumed to be involuntary. Therefore, in addition to meeting Miranda requirements, an officer must be able to demonstrate that a confession was not coerced, that it was freely given and that it was not the result of duress or confusion. Officers shall not use coercion, threats or promises to elicit confessions or admissions. Officers shall not engage in excessively long interrogations without breaks for the suspect's personal needs, e.g., food, rest and use of the restroom facilities. Interrogation techniques should take into consideration the person's age, education, mental capacity, drug or alcohol impairment, experience in the criminal justice system, and general health.

1.4.3 Juvenile Interrogations

- A. Juveniles have the same rights as adults under Miranda as well as additional requirements / considerations. In determining whether a juvenile is in custody for purposes of Miranda, the officer should consider the fact that the person is a juvenile. If the officer believes a juvenile, based on the juvenile's age and other factors listed in 1.4.2 above, would believe he/she is in custody, the officer should read the Juvenile Miranda warnings.
- B. A.R.S. § 8-303 requires an officer to make a good faith effort to notify parents, guardian, or custodian of the arrest of a juvenile, unless doing so would pose a risk to the juvenile. Additionally, A.R.S. § 8-303E requires that, if the parents, guardian, or custodian is contacted, the officer advise them of the juvenile's Miranda rights (use the same language used when read to the juvenile). The officer shall document (in the report and with audio / video if available) the good faith attempts to make contact, or the reason/s the officer was unable to make contact, as well as the advisement of the juvenile's Miranda rights to the parents, guardian, or custodian of the juvenile.

A parent may invoke a juvenile's rights under Miranda. The law does not require a parent to be present at the interview of a juvenile. However, the presence or absence of a parent may affect



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whether statements made by the juvenile are considered to be voluntary and admissible. Unless the parent is a suspect or a co-defendant, an officer shall:

1. permit an in-custody juvenile who asks to call a parent to do so.
2. ask, prior to the start of any questioning, if the juvenile wants a parent, guardian or custodian present during the interview and, unless time is of the essence, delay a reasonable period of time for the person to arrive.
 - a. If a parent refuses or is unable to respond in a reasonable time, inform the juvenile and clarify whether they are willing to answer questions without the parent being present.
 - b. If a parent is being disruptive during the interview, the parent may be asked to leave the interview. The officer must then clarify with the juvenile whether they are willing to answer questions without the parent being present.
 - c. If the juvenile does not want the parent to be present during questioning, and the juvenile appears to have the maturity and experience to reasonably make such a decision, the parent may be excluded from the interview.

C. Officers have an obligation to ensure that the juvenile understands his or her Miranda Rights and waives those rights voluntarily. There is a heightened concern with the voluntariness of confessions by juveniles. An officer should not interrogate a juvenile if the officer believes the juvenile is incapable of intelligently understanding their rights. Officers should consider the age, intelligence, educational background, mental capacity, physical condition, prior experience in the criminal justice system, and need for an interpreter and injury (if any) of the juvenile prior to questioning. Officers shall:

1. use or complete the form required by the prosecuting attorney or court for Juvenile Miranda, if a specific form is required by the local prosecution office or court; if none, advise a juvenile of Miranda Rights using the following language.
 - a. You have the right to remain silent. This means that you do not have to talk to me or answer my questions about this crime. Do you understand this?
 - b. Anything you say can and will be used against you in a court of law. This means that anything you tell me can be used as evidence against you in court. A court is a place where a judge will decide whether you committed the crime that you are accused of. A judge is like an umpire in a baseball game. He decides whether you have acted in a right or wrong



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way. If you did something wrong and are found guilty, you may be punished for doing it. Do you understand this?

- c. You have the right to have an attorney present prior to and during questioning. This means that if you want one, you are allowed to have an attorney here to advise you prior to and during my questions to you. An attorney or lawyer is a person who will speak for you and help you concerning the crime you are accused of. Do you understand this?
 - d. If you cannot afford an attorney, you have the right to have one appointed for you prior to questions. This means that if you cannot afford to hire an attorney, if you want, one will be appointed to you free of charge before you are questioned. Do you understand this?
 - e. You have the right to stop answering questions at any time. If you still want to answer questions now without an attorney present, you may. Do you understand everything I have said to you?
 - f. Do you understand each of these rights?
 - g. Do you want to have your parent(s) or guardian(s) present during questioning?
2. if further explanation of the rights is necessary, thoroughly document the explanation that was provided in the officer's report, or electronically record it.
 3. advise the juvenile, when applicable, that the juvenile either may be, or will be, tried as an adult. See A.R.S. § 13-501.
 4. limit the duration of the interview to a reasonable period of time (not to exceed two hours without supervisory approval).
 5. limit to two the number of officers present during the interview (under normal circumstances).

1.4.4 6th Amendment Right to Counsel

- A. The 6th Amendment to the Constitution provides, among other rights, that a person has the right to the assistance of an attorney whenever a person is charged with an offense that may result in jail time (a loss of liberty). This right to an attorney begins when a person is indicted for a crime, a complaint is filed for a criminal offense, or a person has an initial appearance in a criminal case. This right to counsel means, among other things, that the person is entitled to have an attorney present during any dealings with police or prosecutors concerning the pending charges.
- B. In Arizona, formal adversary proceedings begin once the person has had an initial appearance or



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has been indicted. After a person has been indicted or had an initial appearance, officers may question the person in any of the following circumstances:

1. the person's attorney is present.
2. the questioning relates to a different crime than the one for which the person is facing charges.
3. the person is in custody, is being interrogated in person, has not invoked the right to counsel, is advised of and waives the person's right to counsel (Miranda warnings should be read to the person).
4. whether or not in custody, the person initiates the conversation with the officer, is advised of, and waives their right to have an attorney present.
5. once the person is released from custody (or, if the person remains in jail or prison, is released into the general population) for at least 14 days. The officer may approach the person, remind him or her of the right to counsel, and seek to question the person.
6. The charges have been dismissed. Note: this applies only to 6th Amendment Right to Counsel, not 5th Amendment Right to Counsel (addressed above).

1.4.5 Documenting Interrogations (see G.O. #41.40)

- A. During any investigation of a violent crime against persons, officers shall electronically record (audio and/or video) the complete interrogation of all suspects. In all other criminal investigations, the complete interrogation of a suspect should be electronically recorded (audio and/or video) if feasible to do so.
- B. When recording equipment is used, it should be activated at the beginning of any interrogation of the person and should include the reading of rights and the waiver of those rights. Any break in the recording (to adjust the recording equipment, to take a break, etc.) should be explained on the recording. The recording equipment should be reactivated immediately upon resuming the interrogation.
- C. All recordings shall be preserved as evidence, following Department evidence procedures, whether or not the recording has been transcribed. The officer doing the interrogation shall include in a police report that the interrogation was recorded and that the record was preserved as required.
- D. Any problem with the recording equipment will be fully documented in the report.