



# Seattle Police Department Policy Manual



## 6.150 – Advising Persons of Miranda and the Right to Counsel

Original Effective Date: 11/01/2020

**Revised Effective Date: 11/15/2022**

This policy applies to all sworn employees.

### 6.150-POL-1 Advising Miranda Rights

#### 1. Sworn Employees Will Advise All Arrestees of Their Full Miranda Rights

Sworn employees will give this advisement to all persons taken into custody, regardless of interview, as soon as practical (see [Superior Court Rule CrR 3.1](#)).

#### 2. Miranda Warnings Must Precede Custodial Interview

Sworn employees must give Miranda warnings before questioning a person who is in custody (i.e., custodial interview).

- A juvenile's age is a consideration in determining whether the juvenile would not feel free to leave. A child may be in custody for purposes of the Miranda rule when an adult in the same circumstances would not.

If the arresting sworn employee is awaiting the arrival of a follow-up detective, the sworn employee may postpone the reading of Miranda and the interview; however, at a minimum, the sworn employee must advise the arrestee of their right to an attorney (per [Superior Court Rule CrR 3.1](#)).

#### 3. Sworn Employees Must Include All Elements of Miranda and Establish Understanding

When advising a person of Miranda, sworn employees will include the following statements:

"You have the right to remain silent."

"Anything you say can be used against you in a court of law."

"You have the right at this time to talk to a lawyer and have your lawyer present with you while you are being questioned."

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“If you cannot afford to hire a lawyer, one will be appointed to represent you before questioning, if you wish.”

Sworn employees will establish that the suspect understands in one of two ways:

- By asking “Do you understand” after each of the four Miranda warnings, or
- By asking, “Do you understand each of these rights?” after reading all the warnings.

Sworn employees may then begin asking questions.

If the arrestee makes a comment that causes the sworn employee to believe that the arrestee might be requesting an attorney, sworn employees will ask the arrestee to confirm, with a “yes” or “no” answer, whether the arrestee is requesting an attorney.

## **4. Sworn Employees Will Include Additional Warning for the Hearing-Impaired**

When advising a person who is hearing-impaired of Miranda, sworn employees will include the following warning:

“If you are hearing-impaired, the Seattle Police Department has the obligation to offer you an interpreter without cost and will defer interviews pending the appearance of the interpreter.”

(See [RCW 2.42.120 Appointment of interpreter—Responsibility for compensation—Reimbursement](#))

(See manual section [15.250 – Interpreters/Translators](#))

## **5. Sworn Employees Will Provide Miranda in Appropriate Language**

When advising Miranda to a person who speaks limited English, sworn employees will give Miranda warnings in the appropriate language to establish understanding, by doing one of the following:

- Request another sworn employee who speaks the language of the person who speaks limited English, or
- Contact Communications at (206) 583-2111 and request to be transferred to Voiance Language Services for an interpreter in the appropriate language. Sworn employees must request the call be recorded, if appropriate.

(See manual section [15.250 – Interpreters and Translators](#))

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## **6. Should an Arrestee Clearly Invoke the Right to Remain Silent, Sworn Employees Must Read Miranda Again if They Later Re-Initiate Contact**

## **7. Sworn Employees Will Stop Questioning Once an Arrestee has Invoked the Right to a Lawyer**

Once an arrestee invokes the right to counsel, sworn employees will stop questioning unless the suspect reinitiates contact. Though sworn employees may not ask further questions, they may document anything the arrestee says that is unsolicited.

**Exception:** Sworn employees may continue questioning related to locating a kidnapped or missing person, or evidence, such as a gun, for public safety reasons.

## **8. Attorney-Client Protected Conversations Will Not be Recorded**

Sworn employees providing adults or juveniles right to counsel will protect the privacy of the attorney-client privileged communication. If a private room and phone at the precinct is not feasible, in-car video may be stopped to provide privacy during the consultation.

## **9. Sworn Employees Will Record Miranda Warnings**

If sworn employees are recording a custodial interview, the Miranda warnings must also be recorded, even if they have been previously given to the suspect.

(See [RCW 9.73.090\(1\)\(b\)\(iii\)](#) and [RCW 10.122.030](#))

When a juvenile suspect has been arrested for a felony crime, a custodial interrogation (including the giving of any required warning), advice of the rights of the suspect being questioned, and the waiver of any rights by the suspect, must be recorded electronically in its entirety ([RCW 10.122.030](#)).

**Exception:** Spontaneous statements made outside the course of a custodial interrogation, or a statement made in response to a question asked routinely during the processing of the arrest of a subject, do not apply.

(See also manual sections [7.110 – Recorded Statements](#) and [16.090 – In-Car and Body-Worn Video](#) for when to record Miranda and custodial interrogations)

## **10. Sworn Employees Will Read Additional Warning for Juveniles**

When reading Miranda to a juvenile, sworn employees will include the following warning:

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“If you are under the age of 18, anything you say can be used against you in a juvenile court prosecution for a juvenile offense and can also be used against you in an adult court criminal prosecution if you are to be tried as an adult.”

A parent or guardian must waive the rights of a juvenile under the age of 12 and has the right to be present during the interview.

## **11. After Issuing Miranda Warnings, Sworn Employees Will Not Question Any Person Younger than 18 Years of Age or Request Consent from a Juvenile to Search Their Person, Property, Dwelling, or Vehicle Unless the Juvenile has Consulted With Legal Counsel**

Sworn employees will provide a juvenile with access to an attorney for consultation. The juvenile’s legal consultation may be in person, by telephone, or by video conference and may not be waived, regardless of custody status ([RCW 13.40.740](#) and [SMC 3.28.147](#)). Nothing in this section affects the juvenile’s right to waive counsel after consultation.

After the juvenile has consulted with legal counsel, the juvenile may advise, have a parent or guardian advise, or direct legal counsel to advise, the officer as to whether the juvenile chooses to assert a Constitutional right. Any assertion of rights by the juvenile via legal counsel will be treated by an officer as though it came from the juvenile.

**Exception:** Questioning a juvenile without legal counsel after issuing a Miranda warning may take place if:

1. The sworn employee who issued the warning reasonably believes the information sought is necessary to protect life from an imminent threat; and
2. Delay to allow legal consultation by phone would hamper the protection of life from an imminent threat; and
3. The questioning is limited to matters reasonably expected to obtain information necessary to protect life from an imminent threat.

## **12. If a Juvenile Does not Have an Attorney, the Juvenile may Contact the WA State Public Defender’s Office 24 Hours a Day**

The WA State Public Defender’s Office may be reached at (877) 578-2333.

## **6.150-POL-2 Miranda Warnings and Right to Counsel Documentation**

### **1. Sworn Employees Will Document the Advisement of Miranda**

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Sworn employees will document the Miranda advisement in at least one of the following ways:

- Explanation of Rights Form (English/ Spanish)
- Officer statement
- Department-approved recording device (this includes In-Car Video)

## **2. Sworn Employees Will Report Each Incident Invoking Exceptions to Juvenile Legal Counsel**

The report will include:

1. The time the juvenile was given a Miranda warning;
2. The time the juvenile was questioned without legal consultation;
3. The reasons that justified questioning the juvenile without legal consultation;
4. The questions posed to the juvenile;
5. The juvenile's name, age, and race; and
6. The name and badge number of the officer(s) involved in the incident.

On a quarterly basis, the Seattle Police Department will provide these reports to the Office of the Inspector General, the Seattle City Attorney's Office, the King County Prosecuting Attorney's Office and the Director of the King County Department of Public Defense providing copies of the records with the juvenile's name redacted and replaced with initials.

(See 6.150-TSK-1 Juvenile Questioning Without Miranda Documentation)

## **6.150-TSK-1 Juvenile Questioning Without Miranda Documentation**

A sworn employee who questions a juvenile will document in Mark43 [see "[Juvenile Miranda without Counsel Mark43 Documentation](#)" (internal link)].

The **sworn employee**:

1. **Creates** a supplemental report under the case number.
2. Under the supplemental type, **selects** "Juvenile Post-Miranda Questioning Documentation."

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3. In the narrative card, **selects** the narrative guide titled "Juvenile Miranda Requirements."
4. **Enters** the required information in the narrative guide.
5. **Submits** the supplemental for approval.