



TIVERTON POLICE DEPARTMENT

GENERAL ORDERS

Subject: Interrogations and Confessions	General Order Number: 300.20	
Section: 300- Law Enforcement Operations	Subsection: 00- General	
Amends/Supersedes: 4-4, 200.20 (12/02/2014), 200.20 (01/09/2020)		
Effective Date: 12/02/2014	Revised Date: 11/18/2020	Review Date: As Needed
Per Order Of: Patrick W. Jones, Chief of Police		
RIPAC: 2.4, 8.5		
Distribution: Sworn Department Members		

NOTE: This written directive is for the internal governance of the Tiverton Police Department, and is not intended and should not be interpreted to establish a higher standard of care in any civil or criminal action than would otherwise be applicable under existing law.

I. PURPOSE

It is the purpose of this policy to provide officers with legally sound procedures for conducting custodial interrogations.

II. POLICY

Custodial interrogations of suspects and the statements and confessions that are elicited are vitally important in the preparation of criminal cases. However, to be admissible as evidence, statements and confessions must be given freely and voluntarily and with due consideration for the suspect's right to silence and right to counsel. Therefore, it is the policy of the Tiverton Police Department that all officers understand and follow this agency policy in order to observe due process rights of suspects and to guard against any charges of police coercion or intimidation during interrogation.

III. DEFINITIONS

Custody: A custodial situation exists when an officer tells a suspect that he or she is under arrest. A functionally equivalent situation exists when a "reasonable person" in the suspect's position would feel that his/her freedom of action has been restricted to the same degree as a formal arrest.

Interrogation: Interrogation includes direct questioning of a suspect about a crime or suspected crime, as well as any words, statements or actions by officers that the officers should know are reasonably likely to elicit an incriminating response from the suspect.

IV. PROCEDURES

- A. Custodial Statements and Confessions.
 1. Miranda warnings are required and shall be administered prior to "custodial interrogation," as defined above.

2. The following represent examples of situations that are not “custodial” and do not require issuance of Miranda warnings.
 - a. Investigatory stop and frisk.
 - b. Questioning during a routine traffic stop or for a minor violation; to include driving while intoxicated (DWI) stops until a custodial interrogation begins.
 - c. During routine questioning at the scene of an incident or crime when the questions are not intended to elicit incriminating responses.
 - d. During voluntary appearances at the police facility.
 - e. When information or statements are made spontaneously, voluntarily and without prompting by police. (Note: Follow-up questions that exceed simple requests for clarification of initial statements may require Miranda warnings.)
- B. Administering Miranda.
 1. Miranda warnings shall be read by officers from the card or agency form containing this information to all persons subjected to custodial interrogation. Freelancing, recitation from memory or paraphrasing the warnings is prohibited as it precludes officers from testifying in court as to the precise wording used.
 2. Officers shall ensure that suspects understand their right to remain silent and their right to an attorney. Suspects may be interrogated only when they have knowingly and intelligently waived their rights. Threats, false promises or coercion to induce suspect statements is prohibited.
 - a. Waivers of one or both of the Miranda rights must be performed affirmatively.
 - b. Oral waivers are often sufficient but written waivers, particularly in felony charges, are preferred and should be obtained whenever possible on the appropriate agency form.
 3. Officers arresting deaf suspects shall notify their immediate supervisor and make arrangements to procure the assistance of an interpreter in accordance with this agency’s policy and state and federal law.
- C. Invoking the Right to Silence
 1. When a suspect invokes his or her right to remain silent, all interrogation shall terminate immediately.
 2. Suspects who are not represented by an attorney may not be interrogated for at least 90 minutes after invoking their right to silence and then, only after officers have re-administered Miranda warnings and obtained a waiver.
 3. Officers may interrogate a suspect who has previously invoked his or her right to silence, if, after the passage of time, the suspect initiates communication with officers. However, prior to questioning Miranda warnings shall be re-administered and a waiver obtained.
- D. Invoking the Right to Counsel
 1. If a suspect waives his or her right to counsel, a waiver shall be obtained prior to questioning. When a suspect makes reference to counsel but his

- or her intentions are unclear, officers may question the suspect further to clarify his or her intentions.
2. When a suspect invokes his or her right to counsel, all interrogation shall cease immediately. The suspect may not again be interrogated about the crime for which he/she is charged, other crimes, or by other officers (from this or other agencies) unless:
 - a. the suspect's attorney is present at the questioning; or
 - b. the suspect initiates new contact with the police. In this later case, Miranda rights must again be administered and a waiver obtained before any questioning may take place. Officers shall also document and, if possible, obtain written verification that the suspect initiated the communication.
 3. Officers shall cooperate in any reasonable way with efforts by counsel to contact or meet with suspects in custody.
- E. Documenting Statements and Confessions
1. The circumstances surrounding the conduct of interrogations and recording of confessions shall be fully documented. This includes but is not necessarily limited to:
 - a. location, date, time of day and duration of interrogation;
 - b. the identities of officers or others present;
 - c. Miranda warnings given, suspect responses and waivers provided, if any; and
 - d. the nature and duration of breaks in questioning provided the suspect for food, drink, use of lavatories or for other purposes.
 2. Officers are encouraged to use this agency's video and audio taping capabilities for purposes of recording statements and confessions in an overt or covert manner consistent with state law. (Refer to General Order 300.25 Electronic Recording of Custodial Investigations).
- F. Interview Room
1. Officers will conduct a security inspection before and after conducting an interview in the interview room.
 2. Any Officer that is involved in an interview/interrogation will ensure that his/her weapon is secured prior to entering the room.
 3. Interviews/Interrogations will be conducted with a minimal number of persons. Ideally, the maximum number of persons should be two police officers, unless the service of a translator(s) is needed or in the event of a juvenile, his/her parent or guardian is present.
 4. The Officers will be equipped with portable radios with a panic button while in in the interview room for the purpose of conducting an interview and will notify dispatch and or his/her supervisor of the location prior to entering the room.
 5. The interview room is not a holding cell. An arrestee/detainee or potential suspect will not be left alone in any interview room. If the Officer needs to leave, another Officer will stand by or the arrestee/detainee will be placed in the holding cell or temporary holding cell.
 6. Officers will provide the detainee with access to water and restroom facilities as necessary.