

PBP FORM 290  PITTSBURGH BUREAU OF POLICE <i>"...honor, integrity, courage, respect, and compassion."</i>		SUBJECT: "INTERVIEW AND INTERROGATION"		ORDER NUMBER: 46-1	
		PLEAC STANDARD: 1.2.2a, 1.2.2b		PAGE 1 OF 5	
REVISE DATE: 3/14/2016	EFFECTIVE DATE: 5/13/2011	ANNUAL REVIEW DATE: MAY	RESCINDS: NONE	AMENDS: NONE	

1.0 PURPOSE

1.1. The purpose of this General Order is to provide members with legally sound procedures for conducting interviews and custodial interrogations.

2.0 POLICY

2.1. Custodial interrogations of suspects, and any 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 Pittsburgh Bureau of Police (PBP) that all officers understand and follow this policy to observe due process rights of suspects and to guard against any charges of police coercion or intimidation during interrogation.

3.0 DEFINITIONS

3.1. **Custodial Interrogation:** Interrogations initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his freedom of action in any significant way.

3.2. **Custody:** Exists when an officer places a suspect under arrest. A functionally equivalent situation exists when a "reasonable person" in the suspect's position would feel that his freedom of action has been restricted to the same degree as a formal arrest.

3.3. **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. This can be done during any type of citizen encounter; mere encounter, investigatory detention, or custodial detention.

3.4. **Investigative Stop/Detention:** A brief stop and/or detention of a citizen, whether on foot or in a vehicle, based upon articulable facts that lead an officer to reasonably suspect that the citizen is, has been or is about to engage in criminal activity i.e., reasonable suspicion. Its purpose is to confirm or dispel the officer's suspicions as quickly as possible. The suspect is not free to go while the officer determines if the suspect was involved in a crime.

3.5. **Mere Encounter:** A request for information by an officer to a citizen. It need not be supported by any level of suspicion or probable cause, but it also carries with it no official compulsion for the citizen to stop or respond to the officer's inquiries.

3.6. **Reasonable Suspicion:** A legal standard of proof that is less than probable cause but more than a hunch or feeling. It must be based on specific and articulable facts, taken together with rational inferences from those facts. Reasonable suspicion is evaluated using the "reasonable officer" standard, in which an officer in the same circumstances could reasonably believe a person has been, is, or is about to be engaged in criminal activity; it depends upon the totality of circumstances, and can result from a combination of particular facts, even if each is individually innocuous.

4.0 INTERVIEW GUIDELINES

4.1. The field contact interview is an important method of contact for officers in preventing and investigating criminal activity. In order to maintain the effectiveness of this practice and to assure the safety of officers in approaching suspicious individuals, law enforcement officers shall conduct field contact interviews in conformance with procedures set forth in this policy.

4.1.1 During interviews with victims, suspects or potential suspects, or in field interview settings, officers shall safeguard the Constitutional rights of all persons. Unless the situation involves a custodial interrogation,

Miranda Warnings need not be given. In situations where an officer is unsure, the warnings should be given.

- 4.1.2 Interviews may occur in a variety of circumstances and locations.
- 4.1.3 Officers shall conduct interviews in the same manner as if they were engaging in any normal conversation.
- 4.1.4 Officers conducting interviews shall be aware of the nature of questions, their location, the interviewed person's location, and the conditions present when conducting interviews so the subject does not have any reason to believe he/she is in custody.

5.0 MERE ENCOUNTER

- 5.1. When an officer's 'hunch' or suspicion does not rise to the level of probable cause to make an arrest or reasonable suspicion to make an investigatory detention, the officer may conduct a mere encounter. An officer may have a conversation with any citizen at any time, provided that the citizen consents to remaining and conversing with the officer.
- 5.2. The officer MAY NOT, through actions or words, either stated or implied, compel the suspect to remain and/or answer questions if the suspect chooses to leave and/or not answer the officer's questions. Unless the officer has reasonable suspicion or probable cause, the suspect is free to walk away or not answer questions. The officer may continue to ask questions even if the suspect has stopped answering or talking to the officer.
- 5.3. EXCEPTION - *All stops under the Vehicle Code must be based upon probable cause or reasonable suspicion to support a field contact interview. Such stops do not fall under the category of a mere encounter.*
- 5.4. If at any time during the mere encounter the suspect does or says something that gives the officer reasonable suspicion or probable cause, the interview may change from a mere encounter to an investigatory detention or an arrest.

6.0 INVESTIGATIVE STOPS/DETENTIONS OF INDIVIDUALS

- 6.1. The field contact interview is an important method of contact for officers in preventing and investigating criminal activity. In order to maintain the effectiveness of this practice and to assure the safety of officers in approaching suspicious individuals, law enforcement officers shall conduct field contact interviews in conformance with procedures set forth in this policy.
- 6.2. The following guidelines shall be followed when conducting investigative stops/detentions or field contact interviews.
 - 6.2.1 No investigative stop/detention shall be conducted unless an officer has reasonable suspicion as defined in Section 3.1.
 - 6.2.2 Before approaching any suspect, individual officers should determine whether the circumstances warrant a request for backup assistance and whether the contact can and should be delayed until such assistance arrives.
 - 6.2.3 When approaching the suspect, the officer, if not in uniform, shall clearly identify himself/herself as a law enforcement officer by announcing his/her identity and displaying departmental identification.
 - 6.2.4 Officers shall be courteous at all times during the contact but maintain caution and vigilance for sudden or furtive movements e.g., to retrieve weapons, conceal or discard contraband, or other suspicious actions.
 - 6.2.5 Officers shall make whatever inquiries necessary to resolve the officers' suspicions. However, in no instance shall an officer detain a suspect longer than necessary to resolve the officers' suspicions.
 - 6.2.6 Officers are not required to give suspects Miranda warnings in order to conduct field contact interviews.
 - 6.2.6.1 Suspects are not required, nor can they be compelled, to answer any questions posed during field contact interviews. Failure to respond to an officer's inquiry is not, in and of itself, sufficient grounds to make an arrest although it may provide sufficient justification for additional observation and investigation.
 - 6.2.7 Unless the suspect's answers or other information provide probable cause to arrest, the suspect must then be released.

- 6.3. If the officer determines after conducting an investigative stop/detention or field contact interview that there is no basis for making an arrest, the officer *may* record the facts of the interview in Section A, "Field Contact Information" section of the "Field Contact/Search/Seizure Report" (PBP Form #5).

7.0 CUSTODIAL DETENTION AND INTERROGATIONS - STATEMENTS AND CONFESSIONS

The test for determining whether a person is being subjected to custodial interrogation, so as to require Miranda warnings, is whether s/he is physically deprived of his or her freedom in any significant way or is placed in a situation in which a reasonable person would believe that his (her) freedom of action or movement is restricted by such interrogation.

- 7.1. Miranda warnings are required and shall be administered prior to "custodial interrogation," as defined above.
- 7.2. The following examples are situations that are not "custodial" and do not require issuance of Miranda warnings.
- 7.2.1 Investigatory stop and frisk.
 - 7.2.2 Questioning during a routine traffic stop or for a minor violation; to include driving while under the influence (DUI) stops until a custodial interrogation begins.
 - 7.2.3 During routine questioning at the scene of an incident or crime when the questions are not intended to elicit incriminating responses.
 - 7.2.4 During voluntary appearances at the duty location, provided that a "reasonable person" in the suspect's position would not feel that his freedom of action has been restricted to the same degree as a formal arrest.
 - 7.2.5 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.)
 - 7.2.6 During questioning for the purpose of obtaining demographic information needed to complete police reports and criminal processing procedures.
 - 7.2.7 A mere encounter.
- 7.3. Officers are cautioned not to give Miranda warnings when they are not required, as it may have a negative effect on the investigation.
- 7.4. Custodial interrogations will be done at the duty location where ideal conditions are present, provided no exigent circumstances exist.

8.0 ADMINISTERING MIRANDA

- 8.1. Officers shall provide, verbally and/or in writing, Miranda warning advisements whenever a person in custody is subjected to custodial interrogation or its equivalent. It is recommended the PBP Form #46.10, "Pittsburgh Bureau of Police Miranda Rights Form" or the issued Miranda Card be used for this purpose. Recitation from memory or paraphrasing the warnings is prohibited, as it precludes officers from testifying in court as to the precise wording used.
- 8.2. Officers shall ensure that in-custody 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.
- 8.2.1 Waivers of the Miranda rights must be performed affirmatively.
 - 8.2.2 Oral waivers are often sufficient but written waivers, particularly in felony charges, are preferred and should be obtained whenever possible on the PBP Form #46.10, "Pittsburgh Bureau of Police Miranda Rights Form".

9.0 INVOKING MIRANDA RIGHTS (Right to Silence and the Right to Counsel)

When a subject has been placed under arrest by an officer, and the subject is being subjected to a custodial interrogation, s/he shall be advised of the right to speak to counsel through the Miranda warning advisement, and if they do not waive the right, thereafter be afforded the opportunity to speak to an attorney before any questioning occurs.

- 9.1. When a suspect invokes Miranda rights (either the right to counsel or the right to remain silent), interrogation shall cease immediately. The suspect may not again be interrogated about the crime for which they are charged, other crimes, or by other officers (from the PBP or other agencies) unless;

- 9.1.1 The suspect has had an opportunity to consult with their attorney, or their attorney is present at the questioning; or
- 9.1.2 The suspect initiates new contact with the police completely on their own. It is important to note that police cannot initiate this contact. ***Contact must be initiated by the suspect, on their own, without any input from the police.***
- 9.1.2.1 When the suspect does initiate contact, Miranda rights must again be administered and a waiver obtained before any questioning may take place.
- 9.1.2.2 Officers shall also document and, if possible, obtain written verification that the suspect initiated the communication
- 9.2. A suspect may be approached for further investigation after the suspect had a "***break in custody of 14 days or more***" since invoking his/her Miranda rights. (Maryland V. Shatzer 559 130 S.Ct 1213 U.S .Md 2010)
- 9.3. The suspect ***shall*** be administered Miranda rights in accordance with Sec 8.0 if the suspect is approached for further investigation after this 14 day period.
- 10.0 DOCUMENTING STATEMENTS AND CONFESSIONS**
- 10.1. All interrogation attempts, whether the suspect waives his Miranda rights or not, will be clearly documented in the investigative or supplemental reports.
- 10.1.1 The date and time of the interrogation attempt ***shall*** be clearly documented to ensure strict compliance with Sec. 9.0 of this policy.
- 10.2. The circumstances surrounding the conduct of interrogations and recording of confessions shall be fully documented. This includes but is not necessarily limited to:
- 10.2.1 Location, date, time of day and duration of interrogation;
- 10.2.2 The identities of officers or others present;
- 10.2.3 Miranda warnings given, suspect responses and waivers provided, if any; and
- 10.2.4 The nature and duration of breaks in questioning provided for food, drink, and use of lavatories or for other purposes.
- 10.3. If a confession is not tape recorded, officers shall ensure the confession is documented in writing.
- 10.4. All original rights forms completed, and any written statements received, shall be submitted with the investigative incident report or arrest file.
- 11.0 POLICE INTERROGATION OF JUVENILES**
- 11.1. Generally, before engaging in an interrogation of a child which is intended to elicit an incriminating statement, the juvenile and his parents, or other adult primarily interested in the welfare of the juvenile should be informed of his Miranda Warnings and they should be given time to consult with the juvenile in regard to these warnings.
- 11.2. Generally, unless such constitutional warnings are given and these rights are waived by the child after consultation with an interested adult, no statement or admission can be used against him/her in an adversary proceeding.
- 11.3. There is no presumption that a juvenile is incompetent to waive his Miranda rights without first having an opportunity to consult with an interested and informed adult: however, acquiring the presence of an interested adult is clearly preferable.
- 11.4. Determination of whether a juvenile knowingly waived his Miranda rights and made a voluntary confession is to be based on a consideration of the totality of the circumstances, including consideration of the juvenile's age, experience, comprehension, intelligence, background, capacities, prior criminal record and the presence or absence of an interested adult.

12.0 POLICE INTERROGATION OF NON-ENGLISH SPEAKERS/HEARING IMPAIRED

- 12.1. Officers interrogating deaf suspects or suspects who do not speak or understand English shall notify their immediate supervisor and make arrangements to procure the assistance of an interpreter in accordance with state and federal law. An interpreter must be present before the suspect's rights are explained, waived, or any interrogation takes place.

Approved By:

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