

Cobb County Police Department

Policy 5.10

INTERROGATIONS AND CONFESSIONS

Effective Date: May 1, 2016
Rescinds: Policy 5.10 (July 20, 2012)
Related Orders: Policy 3.02 “Temporary Detention Rooms”
Issued By: Chief J.R. Houser Page 1 of 5
The words “he, his, him,” which may appear in this policy, are used generically for clarity and ease of reading. These terms are not meant to imply gender and relate to all employees of the Department.

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

I. 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 Cobb County Police Department that all officers understand and follow this policy in order to observe the due process rights of suspects and to guard against any charges of police coercion or intimidation during interrogation.

II. DEFINITIONS

As used in this policy, the following words and terms shall have the meaning ascribed:

- A. Custody:** A custodial situation exists when an officer tells a suspect that he is 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.
- B. 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.

III. PROCEDURES

- A. Custodial Statements and Confessions**

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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. This includes driving while intoxicated (DUI) 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. Follow-up questions that exceed simple request for clarification of initial statements may require Miranda warnings.

B. Administering Miranda

1. Miranda warnings shall be read verbatim by officers to all persons subjected to custodial interrogation.
 - a. Free-lancing, recitation from memory, or paraphrasing the warnings is prohibited as it precludes officers from testifying in court as to the precise wording used.
 - b. Officers may also have the suspect read and sign a Miranda waiver form.
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 are prohibited.
 - a. Waivers 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.

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3. Officers arresting deaf suspects shall notify their immediate supervisor and the Communications Center to make arrangements to procure the assistance of an interpreter.

C. Invoking the Right to Silence

1. When a suspect invokes his right to remain silent, all interrogation shall terminate immediately.
2. Officers may interrogate a suspect who has previously invoked his 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 right to counsel, a written waiver shall be obtained prior to questioning. When a suspect makes reference to counsel, but his intentions are unclear, officers may question the suspect further to clarify his intentions.
2. When a suspect invokes his right to counsel, all interrogation shall cease immediately. The suspect may not again be interrogated about the crime on which he is charged, any other crimes, or be interrogated 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 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;

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- c. Miranda warnings given, suspect responses, and waivers provided, if any;
 - d. The nature and duration of breaks in questioning provided the suspect time for obtaining food, drink, use of lavatories, or for other purposes.
 2. Investigative officers are encouraged to use this Department's video and/or audio taping capabilities for purposes of recording statements and confessions, in an overt or covert manner consistent with state law.
 3. The lead investigative officer will decide in which cases audio or video tape recordings may be appropriate and whether covert or overt procedures will be used. Tape recordings designated as evidence shall be handled in the following manner:
 - a. The tab on the tape housing of the original and duplicate copies shall be removed to preclude the possibility of erasure or tampering.
 - b. Tape recordings will be placed into evidence in accordance with Department procedures.

IV. INTERVIEW ROOMS

The Department maintains various interview rooms located throughout the Department for the custodial and non-custodial interviews of persons. When personnel utilize these rooms the following procedures will be followed:

- A.** Personnel should use the Department's designated interview rooms for all in-custody interviewing and interrogation of suspects and perpetrators.
- B.** Interview rooms will be inspected for any weapons or contraband by the officer conducting the interview prior to the subject of the interview entering the room.
- C.** Prior to utilizing any interview room, officers will ensure that their issued sidearm is secured within the Departmentally issued holster or other secure place inaccessible to interviewees. Other weapons may be carried in an approved holster. Officers should exercise weapons control in accordance with training.
- D.** Interview rooms will only be equipped with a table and chairs. If other items such as a TV, video unit, marking board, etc. are necessary, they may be brought into the room but must be recorded as part of the supplemental report. Officers conducting the interview are responsible for clearing the interview room of any added furnishings or equipment at the conclusion of the interview.
- E.** Interviews with suspects will normally be conducted by two officers. Both officers need not be present in the interview room; a second officer may monitor

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the interview via audio and/or video feed. Additional personnel may be requested to participate where prudence and safety warrant the presence of additional persons. At least one officer participating in the interview shall have his portable radio readily available to summon assistance, if needed.

- F.** Interviews with suspects should be recorded via audio and/or video system, if possible.
- G.** Restrooms, water, and other items to facilitate a comfortable break are available and should be maintained as part of the interview process, when necessary.
- H.** A locked interview room is by definition considered a temporary detention room. Therefore, any person placed in a locked room will be done so in accordance with Policy 3.02 “Temporary Detention Rooms.”

Occasionally, officers are required to conduct interviews of suspects and perpetrators away from Departmental facilities. Where such is necessary due to the nature and/or expediency of the case at hand, the officer’s primary concern will be the safety of all parties involved in the interview process.