

<b>HAVERFORD TOWNSHIP POLICE DEPARTMENT OPERATIONS MANUAL</b>		
<b>Issue Date</b> January 2024	<b>Review Date</b> January 2025	<b>Directive Number</b> <b>1.2.2</b>
<b>Accreditation Index:</b> 1.2.2		<b>Rescinds:</b> Directive 1.2.2 of July 2023
<b>Chapter:</b> One – Organization and Management Role		<b>Section:</b> Two – Limits of Authority
Chief of Police: <i>John F. Viola</i>		

**SUBJECT: INTERVIEWS, INTERROGATIONS AND SEARCHES**

**I. PURPOSE**

It is the purpose of this directive to provide officers with legally sound procedures for conducting custodial interrogations, interviews and searches.

**II. POLICY**

Custodial interrogations of suspects and the statements or 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. The collection of evidence is also a primary function of preparing a criminal case. Therefore, it is the policy of the Department that all officers understand and follow this directive in order to observe due process rights of suspects and to guard against any charges of police coercion or intimidation.

**III. DEFINITIONS**

**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/her freedom of action has been restricted to the same degree as a formal arrest.

**Interview** – A non-accusatory conversation in which, through questions and answers, the police interviewer tries to develop investigative and behavioral information that will test the veracity of statements made by a suspect, victim or witness.

**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 a custodial interrogation.
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 under the influence 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 Headquarters. When information or statements are made spontaneously, voluntarily and without prompting by the officer(s). (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 department form containing this information to all persons subjected to custodial interrogation.
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 Department waiver form.
3. Officers arresting deaf suspects or non-English speaking suspects shall notify their supervisor and make arrangements to procure the assistance of an interpreter or translator.

#### C. Invoking the Right to Silence

1. When a suspect invokes his/her right to remain silent, all interrogation must 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 another waiver.
3. 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/her right to counsel, a waiver shall be obtained prior to questioning. When a suspect makes reference to counsel but his/her intentions are unclear, officers may question the suspect further to clarify his/her intentions.
2. When a suspect invokes his/her right to counsel, all interrogation must 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 departments) 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.

**(PLEAC 1.2.2 b)**

#### 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 waiver forms completed, if any; and
  - d. The nature and duration of breaks in questioning provided the suspect for food, drink, use of lavatories or other purposes.
2. Investigative officers are encouraged to use Department audio recording capabilities for purposes of recording statements.
3. Video tape recording of statements, either overtly or covertly done, shall be done at the discretion of the Delaware County District Attorney's office and shall comply with all applicable state and federal laws.
4. Audio recordings designated as evidence shall be handled in the following manner:
  - a. The officer who recorded the statement shall download the audio file from the recorder and save that file on a DVD or another external storage device such as a thumb drive.
  - b. That DVD or external storage device will be placed into evidence in compliance with Directive 3.5.2 "Evidence Control".
  - c. All audio recordings shall be inventoried on a routine basis in compliance with Directive 3.5.2 "Evidence Control".

(PLEAC 1.2.2 a)

#### F. Searches

1. When there is a need to conduct a search of a suspect's property and there are no exigent circumstances allowing a warrantless search, the recommended procedure to follow is the preparation and execution of a search warrant. See Directive 1.2.3 Search Warrants for additional guidelines for search warrants.
  - a. Officers shall follow all applicable rules of criminal procedure and current court decisions governing the preparation and execution of search warrants.

2. A voluntary consent search is an exception to the preparation and execution of a search warrant.
  - a. Officers shall ensure that all consent searches are documented and that a complete list of items seized during the consent search is recorded.
  - b. Officers shall ensure that a consent search form is completed and signed by the person consenting to the search.

(PLEAC 1.2.2 c)

**BY ORDER OF THE CHIEF OF POLICE**