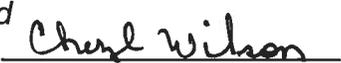


**LANCASTER POLICE DEPARTMENT  
GENERAL ORDERS MANUAL**

<i>Effective Date</i> <b>August 26, 2015</b>		<i>Amended Date</i>	<i>Directive</i> <b>7.04.1</b>
<i>Subject</i> <b>Interrogation</b>			
<i>Reference</i>		<i>Approved</i>  <b>Cheryl Wilson</b> Chief of Police	
<i>Distribution</i> <b>All Personnel City Manager City Attorney</b>	<i>TPCA Best Practices Recognition Program Reference</i>  <b>7.04; 7.05</b>	<i>Review Date</i>	<i>Pages</i>  <b>6</b>

**This Operations Directive is for internal use only and does not enhance an officer's civil or criminal liability in any way. It should not be construed as a creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of this Operations Directive, if proven, may only form the basis for a complaint by this Department, and only in a non-judicial administrative setting.**

**SECTION 1 PURPOSE**

The purpose of this order is to establish the minimum guidelines and protocol for conducting interviews and interrogations.

**SECTION 2 POLICY**

It is the policy of the department to conduct effective interviews and interrogations in manner that is consistent with all local, state, and federal laws. Further, in the continuing effort to balance the need for effective law enforcement with the basic needs of individuals in our custody, the department will make reasonable efforts to meet the needs of those persons in custody and undergoing interrogations or interviews at a department facility. Officers and detectives are directed to follow the procedures set forth in this order when interviewing or interrogating a person regardless of whether it is custodial or non-custodial at a department facility.

**SECTION 3 DEFINITIONS**

- A. **Interview:** A conversation in which facts or statements are elicited from another person.
- B. **Interrogation:** An examination involving formal questioning in an official setting.

For law enforcement purposes, the specific nature of the questioning does not affect the physical room, or items present therein, used for the questioning.

**SECTION 4 PROCEDURES**

**A. GENERAL PROCEDURES**

1. When an officer/detective places a suspect in an interview/interrogation room that officer/detective shall have formally released custody of that suspect after he or she:
  - a. notifies the primary investigating officer or detective in person of the suspect(s) whereabouts and ensures that the interview/interrogation room door is secured (locked) to prevent the suspect from exiting the room and;

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- b. verifies that the suspect has been thoroughly searched for weapons and contraband; and
  - c. ensures that any property recovered is made known to the primary investigating officer or detective
2. Any officer or detective that places a suspect into any type of detention room, be it a holding room or an interview/interrogation room and does not release custody of the suspect to another detective or officer is responsible for monitoring that suspect while inside the facility. This can be accomplished by in-person checks at regular intervals or by use of a video monitoring system.
3. When interviewing or interrogating a suspect, the primary investigating officer or detective has discretion as to how to most safely and effectively question that suspect.
4. There shall be two detectives or a detective and an officer present in the interview room during all interviews/interrogations regardless if it is a custodial or non-custodial. If possible, the detective or officer in charge of the interview will have another detective continuously monitoring the interview/interrogation. This can be accomplished in the monitor room.
5. While escorting a suspect (e.g., between rooms, from a vehicle, etc.) it is the responsibility of the primary investigating officer or detective to ensure that the suspect has no ability to escape. This will be accomplished by handcuffing suspects while in transit, except in circumstances specifically authorized by a supervisor.

**B. CUSTODIAL INTERROGATIONS**

1. In accordance with Lancaster Police Department General Order, Directive 7.02.1, Miranda warnings are required and shall be administered prior to "custodial interrogation," as defined above. (TPCA 7.04)
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; and
  - 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.)

**C. ADMINISTERING MIRANDA (TPCA 7.04)**

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1. In accordance with Lancaster Police Department General Order, Directive 7.02.1, Miranda warnings shall be read before being questioned about the offense for which the person was arrested, for another offense for which the person is a suspect, and/or a custodial interrogation.
2. There is not an exact script for the warning, but the warning must meet the minimum requirement:
  - a. You have the right to remain silent.
  - b. Anything you say can and will be used against you in a court of law.
  - c. You have the right to speak to an attorney, and to have an attorney present prior to and during any questioning.
  - d. If you cannot afford an attorney, one will be provided for you prior to and during any questioning.
3. If possible, officers should read Miranda Warning off of a printed Miranda Warning card and have the suspect sign and date the card. Officers should not freelancing, recitation from memory or paraphrasing the warnings if at all possible.
4. The officer must ascertain, either after each statement or at the end of the warning, whether the person understood. The officer must also obtain an acknowledgment from the person that the person is waiving the right to remain silent prior to questioning the person.
5. 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 intentionally 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.
6. Officers arresting deaf suspects shall notify their immediate supervisor and make arrangements to procure the assistance of an interpreter in accordance with departmental orders and state and federal law.

**D. INVOKING THE RIGHT TO SILENCE (TPCA 7.05)**

1. When a suspect invokes his 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 ninety (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 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.

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E. INVOKING THE RIGHT TO COUNSEL (TPCA 7.05)

1. If a suspect waives his right to counsel, a 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 for which he 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.

F. DOCUMENTING STATEMENTS AND CONFESSIONS (TPCA 7.05)

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, and use of lavatories or for other purposes
2. Investigative officers are encouraged to use video and audio equipment for purposes of recording statements and confessions in an overt or covert manner consistent with state law.
3. Recordings designated as evidence shall be handled in the following manner.
  - a. The detective or officer in charge of the investigation shall download the audio and/or video recording onto two (2) DVD or CD.
  - b. The detective or officer in charge of the investigation shall enter one of the DVD or CD into the property section of the Records Management System under the assigned service number and the actual DVD or CD will be dropped into the property room as evidence.
  - c. The DVD or CD dropped into the property room as evidence should be labeled original, with the date of the interview, the assigned service number, the name of the suspect interviewed and the name of the detective or officer in charge of the investigation.

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- d. The other DVD or CD should be included with the case that will go to the District Attorney's Office upon completion. It should be marked with Lancaster Police Department, the date of the interview, the assigned service number and the name of the suspect interviewed.

G. WEAPONS INSIDE INTERVIEW/INTERROGATION ROOMS

1. During the course of an interview detectives/officers will be permitted to wear weapons that they routinely wear.

H. HANDCUFFING A SUSPECT DURING AN INTERVIEW/INTERROGATION

1. Un-handcuffing a suspect during an interview/interrogation is a generally accepted practice in law enforcement. Most experienced detectives and officers feel that un-handcuffing a suspect during an interview/interrogation builds rapport and is a useful tool in eliciting valuable information. This technique allows a suspect to speak more freely and may aid in the interview/interrogation process.
2. The decision to handcuff a suspect while they are being actively interviewed or interrogated is left to the individual officer or detective, with individual unit guidelines made at the discretion of the Division Commanders. Officer safety shall be considered a priority when making this decision.
3. If a suspect is un-handcuffed during an interview/interrogation, the interviewing detective or officer shall make another sworn officer working in close proximity aware that an interview/interrogation is underway and that the suspect will be un-handcuffed.

I. NUMBER OF OFFICERS/DETECTIVES ALLOWED IN AN INTERVIEW/INTERROGATION

1. Too many officers or detectives inside an interview/interrogation room can be intimidating to a suspect and counterproductive to the interview/interrogation. Too few officers can compromise safety and should also be avoided. Officer safety is the paramount concern and should never be compromised under any circumstance.
2. There shall be two detectives or a detective and an officer present in the interview room during all interviews/interrogations regardless if it is custodial or non-custodial. If possible, the detective or officer in charge of the interview will have another detective continuously monitoring the interview/interrogation. This can be accomplished in the monitor room.
3. During an emergency situation, there is no limit as to the number of officers or detectives allowed into an interview/interrogation room to safely resolve the situation and restore order.

J. INTERVIEW/INTERROGATION ROOMS

1. All interview/interrogation rooms must be maintained in a clean and orderly condition. It will be the responsibility of the officer/detectives conducting the interview or interrogation to ensure that the room is left clean and orderly at the completion of the interview/interrogation process.

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2. Any necessary item for the interview/interrogation may be brought into the room for that interview, but then removed when the interview/interrogation is complete.

**K. ALLOWING SUSPECT ACCESS TO RESTROOM, WATER AND COMFORT BREAKS (TPCA 7.05)**

1. When requested, officers and detectives shall escort prisoners to and from a restroom facility safely and securely. The specific method of observing those prisoners while they are using the restroom facilities is left to the discretion of the individual officer or detective.
2. During an interview or interrogation, officers or detectives will make reasonable attempts to address any health or comfort issues (e.g., water, restroom or comfort breaks) articulated by a subject during the interview/interrogation process. No requirement is made that the suspect be left alone during a comfort break, but officers and detectives shall ensure that a reasonable number of breaks during the period of questioning be taken, so that a suspect may rest momentarily. Detectives and officers shall utilize the secure restroom facilities within the building when allowing a suspect a comfort break.

**L. EMERGENCY EVACUATION PLAN**

1. Officers and detectives are reminded that prisoners and suspects in their custody are their sole responsibility.
2. Should the need arise, the primary detective or the primary officer, whomever has custody of a suspect, is responsible for safely evacuating that suspect from any department facility.

**M. LEAVING A SUSPECT ALONE INSIDE AN INTERVIEW/INTERROGATION ROOM**

1. Department personnel shall ensure that when leaving a suspect who is in custody alone, handcuffed or otherwise, in an interview/interrogation room; that the interview room door is secure (locked) to prevent the suspect from exiting the room prior to leaving the interview room area.
2. No officer or detective shall leave a suspect alone, handcuffed or otherwise, in a room that is not designed to prevent a suspect's escape.

**N. SCOPE OF RESPONSIBILITY**

1. All members of the department shall know and comply with all aspects of this directive.
2. All Division Commanders and supervisory personnel are responsible for ensuring compliance with the provisions and intent of this directive.