

UPPER MERION TOWNSHIP POLICE DEPARTMENT

POLICY AND PROCEDURES

No. 630

Supersedes: NA

Effective: July 20, 2004

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Dated: April 14, 2003

INTERVIEWS AND INTERROGATIONS

- I. **PURPOSE:** The purpose of this policy is to provide officers with legally sound procedures for conducting field interviews and custodial interrogations.
- II. **POLICY:** The field interview is an important point of contact for officers in preventing and investigating criminal activity. Custodial interrogations of suspects, and any statements and confessions that are elicited, are vitally important in the preparation of criminal cases. In order to maintain the effectiveness and legitimacy of these practices, and preserve the rights of citizens, it is the policy of the Upper Merion Township Police Department that officers shall conduct field interviews and custodial interrogations in conformance with the procedures set forth in this policy.
- III. **CROSS – REF:** Policy # 440, SEARCH AND SEIZURE
- IV. **DEFINITIONS:**

CUSTODY: 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/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.

CUSTODIAL INTERROGATION: Questioning initiated by officers after a person who is in custody or otherwise deprived of his/her freedom of action in any significant way.

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

V. PROCEDURE:

A. CUSTODIAL INTERROGATIONS:

1. Officers shall provide, verbally and/or in writing, Miranda warnings whenever a person in custody is subjected to custodial interrogation or its equivalent. In a field situation, Miranda warnings may be given verbally. When given at police headquarters they should be in writing using the department's Miranda Rights Form. In either case, the warnings must be positively acknowledged by the suspect as being understood, and those rights clearly waived prior to interrogation. In the event that the suspect waives his rights but refuses to sign the waiver form, the officer will document the waiver and have it witnessed.
 - a. In *Missouri v. Seibert* (93 S.W.3d 700), the U.S. Supreme Court ruled that all statements obtained from suspects during custodial interrogation, prior to Miranda warnings, are inadmissible, even if Miranda warnings are later given and the suspect repeats the statements. In this case, the court ruled, both the pre-Miranda and post-Miranda statements are inadmissible. The court found that a two-stage interrogation, where the suspect is intentionally questioned first in an effort to solicit incriminating statements then given Miranda warnings and asked to repeat those statements for the record was unconstitutional. The court reasoned that Miranda warnings are rendered ineffective by waiting to give them until after the suspect has confessed.
2. The test for determining whether a person is being subjected to custodial interrogation, so as to require Miranda warnings, is whether he/she is physically deprived of his/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. The following are examples of situations that are not custodial and do not require issuance of Miranda warnings:
 - a. Field interview.
 - b. Questioning during a routine traffic stop or for a minor violation. This includes driving while under the influence (DUI) stops before placing the suspect into custody.
 - c. During routine questioning at the scene of an incident or crime.
 - d. During voluntary appearances, provided that a reasonable person in the suspect's position would feel that his/her freedom of action has not been restricted to the same degree as a formal arrest.
 - e. When information or statements are made spontaneously, voluntarily and without prompting by the police. (Note: Follow-up questions that exceed simple requests for clarification of initial statements may require Miranda warnings.)
 - f. During questioning for the purpose of obtaining demographic information needed to complete police reports and criminal processing procedures.

- g. *Public safety exception:* An officer may delay advising a suspect of his/her Miranda rights where there is a need for answers to questions in situations which pose a significant threat to the public safety (New York v. Quarles and Comm. v. Bowers).
- 3. Officers shall ensure that in-custody suspects understand their right to remain silent and their right to an attorney prior to interrogation. If the suspect waives his/her right to counsel after receiving the Miranda warnings, police officers are free to question him/her. However, when a suspect requests to speak to an attorney before or during a custodial interrogation, the interrogator shall cease questioning the suspect and provide him/her the opportunity to confer with counsel prior to resuming questioning. 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 has had an opportunity to consult with his/her attorney, or their attorney is present at the questioning; or,
 - b. the suspect initiates new contact with the police completely on his/her own. If the suspect does initiate contact, Miranda warnings must again be administered and a waiver obtained before any questioning may take place. Officers shall document and, if possible, obtain written verification that the suspect initiated the communication.
- 4. Officers interrogating suspects who do not speak or understand English shall notify the shift supervisor and make arrangements to procure the assistance of an interpreter. An interpreter must be present before the suspect's rights are explained, waived, or any interrogation takes place. Officers interrogating deaf suspects may require special assistance.
- 5. Juveniles: When a juvenile is taken into custody, the juvenile shall be given the Miranda warnings prior to interrogation. Miranda rights may be waived by juveniles if the waiver is made knowingly and intelligently. Officers must take steps to ensure that the juvenile understands his/her rights. Mere recitation of the standard Miranda warnings may not be enough. The determination of whether a valid waiver has been made depends upon the particular facts and circumstances of each case. Officers will make every effort to notify parents or guardians of the arrest of a juvenile and advise them of the child's rights prior to questioning. When a juvenile is in custody and requests to call an attorney or parent, he/she will be allowed to do so.
 - a. Juveniles may waive their Miranda rights without a parent or guardian present. However, courts will closely review the facts and circumstances of the waiver to assure that it was voluntary. Many factors may be considered, including the juvenile's age, education, intelligence and emotional characteristics; his/her previous experience with the criminal justice system; and the time of day.

6. When receiving written statements from suspects during a custodial interrogation, or from victims and/or witnesses, officers should accurately complete the Investigation Interview Report, located in the computer system, when available. When starting the Question and Answer narrative, the person conducting the interrogation/interview should state the purpose of the questioning. At the close of the statement, the following questions should be included:
 - a. Is the information contained in the statement true and correct to the best of your knowledge and belief?
 - b. Is this statement given of your own free will and accord without any promises or threats?
 - c. Are there any corrections in this statement that you wish to make?
 - d. Statement concluded at _____.
 7. In situations where it is necessary to conduct a handwritten question and answer statement, the officer should use the pre-printed Written Statement Form. If a form is not available the guidelines in section V-A-5 above should be adhered to.
 8. The circumstances surrounding the conduct of interrogations and the written 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.
 - d. the nature and duration of breaks in questioning provided the suspect for food, drink, use of lavatories or for other purposes.
- B. FIELD INTERVIEWS:** Based on observance of suspicious circumstances or upon information from investigation, an officer may initiate the stop of a suspect if he/she has reasonable suspicion to do so. Reasonable suspicion must be based on objective circumstances that lead the officer to suspect possible criminal activity and possible involvement by the suspect. Reasonable suspicion must be more than a hunch or a feeling, but need not meet the test for probable cause sufficient to make an arrest. Persons detained during field interviews are not in custody, however, they are in a state of official detention. The following guidelines shall be followed when making an authorized stop to conduct a field interview:
1. When stopping a suspicious person or vehicle, notify the Communications Center of the stop and a brief description of the person(s). If a vehicle is involved, give a brief description of the vehicle, registration number, and number of occupants. The Communications Center will dispatch a backup unit to assist in the field stop unless the officer indicates that a backup is not necessary.

2. Before approaching a suspect(s), individual officers should determine whether the circumstances warrant immediate backup assistance and whether the contact can and should be delayed until such assistance arrives.
3. When approaching the suspect, the officer shall clearly identify him/herself as a police officer, if not in uniform, by announcing his/her identity and displaying departmental identification.
4. Many field interviews result in arrest, therefore the field stop location should be selected with care. Give consideration to possible escape routes, lighting, and to the safety of bystanders as well as your personal safety.
5. Legally acceptable means of restraint and/or control may be employed, however, the officer must advise the suspect that he/she is not in custody.
6. The course of questioning should be designed to confirm or dispel the reasonable suspicion of the officer.
7. Officers are not required to give suspects Miranda warnings in order to conduct field interviews unless the person is in custody and about to be interrogated.
8. Suspects are not required, nor can they be compelled, to answer any questions posed during field interviews. Failure to respond to an officer's inquiries is not, in and of itself, sufficient grounds to make an arrest although it may provide sufficient justification for additional observation and investigation.
9. A police officer has the right to perform a pat-down search of the outer garments of a suspect for weapons if he/she has been legitimately stopped with reasonable suspicion, and only when the officer has reasonable fear for his/her own or another person's safety. Not every field interview poses sufficient reasonable suspicion for conducting a pat-down search. The following are some criteria that may form the basis for establishing reasonable suspicion for performing a pat-down search. Officers should note that these factors are not all inclusive, and that the existence of more than one of these factors may be required in order to support reasonable suspicion for the search:
 - a. The type of crime suspected, particularly crimes of violence where the use of deadly weapons is involved, and drug offenses.
 - b. Situations where more than one suspect must be handled by a single officer.
 - c. The hour of the day and the location where the stop takes place.
 - d. Prior knowledge of the suspect's use of force and/or propensity to carry deadly weapons.
 - e. The appearance and demeanor of the suspect.

f. Visual indications that suggest that the suspect is carrying a firearm or other deadly weapon.

10 Refer to Policy #440, SEARCH AND SEIZURE, for procedures for conducting pat-down searches.

11. If after conducting a field interview there is no basis for making an arrest, the officer shall record the facts of the interview and the circumstances justifying the field stop on the appropriate departmental report.

APPROVED: _____ DATE: _____

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TO BE REVIEWED: ANNUALLY

DISTRIBUTION: All police officers
Township Manager
File