

COVINGTON POLICE DEPARTMENT STANDARD OPERATING PROCEDURE

Subject: INTERVIEWS, INTERROGATIONS

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I. Purpose

To establish procedures for assuring compliance with constitutional requirements during criminal investigations and to establish procedures for using photographic line-ups, physical line-ups or show-ups as part of eyewitness identification.

II. Definitions

Interviews – question sessions with persons who are ready and willing to relate facts or information, which are relevant to police investigations.

Interrogations – question sessions with persons who are unwilling or reluctant to relate facts or information, which are relevant to police investigations.

Photographic line-up – an identification procedure where a victim/witness is shown an photograph array of persons with similar appearance with one photograph being that of the suspect for the purpose of identification or elimination.

Physical line-up – a victim/witness is shown six suspects in person for the purpose of identification or elimination.

Show-up – a victim/witness allowed to view a single suspect in person for the purpose of identification or elimination.

III. Statement of Policy

It shall be the policy of the Covington Police Department to protect a defendant's constitutional rights of due process and right to counsel during interviews and interrogations. When an investigator is questioning a person who is a suspect in a crime, he will refrain from using tactics that will tend to coerce or induce involuntary statements from the subject.

A. Voluntariness

No attempt will be made to obtain a statement by force, coercion, threats, or promises. Whether an accused or a suspect will cooperate or not is left entirely up to the individual. If he indicates, at any time, prior to or during questioning

that he wishes to remain silent, or that he wants his attorney present, all interrogation must cease.

B. Determination thereof

The court uses two general qualifiers in determining voluntariness. They are "inherently coercive" and that the statement was not the result of "free and unconstrained choice." Either renders the statement inadmissible.

1. Inherent coercion includes, but is not limited to:
 - a. Physical abuse or the threat of such abuse.
 - b. Extended periods of interrogation without a break or access to the outside.
 - c. Unwillingness to permit the accused access to an attorney, family or friends, especially when the individual has made some effort to make contact.
 - d. Severe physical conditions under which the accused is interrogated.
2. An exclusion under the free and unconstrained choice doctrine occurs when the results of interrogation practices overpowers the accused's ability to act in a self-determined manner. Circumstances and actions which may violate this doctrine include, but are not limited to:
 - a. Failure to notify the accused of the charges against him;
 - b. Age, intelligence, experience of the accused;
 - c. Physical condition of the accused;
 - d. Overt force, physical abuse, use of weapons, number of officers present;
 - e. Threats and psychological pressure;
 - f. Deprivation of food, sleep, medication;
 - g. Isolation, incommunicado interrogation;
 - h. Duration of questioning;
 - i. Use of trickery, ruse, or deception;
 - j. Failure to advise the accused of his constitutional rights;
 - k. Promises of leniency or other inducement.

It must be noted that the presence of any one or more of these factors will not necessarily make a statement involuntary. Rather, a court will examine the "totality of the circumstance" at the time the statement was obtained.

IV. Procedures

- A. At any time a subject is questioned in relation to a crime that he or she may have committed or participated in, he or she shall be advised of their rights by having the Miranda warning read to them.
- B. The language for the proper warning of rights and wavier contained on the department's wavier of rights form is as follows:
 - 1. You have the right to remain silent.
 - 2. Anything you say can be used against you in a court.
 - 3. You have the right to talk to a lawyer for advice before answering any questions
 - 4. You have the right to have a lawyer present during questioning.
 - 5. You have the right to the advice and presence of a lawyer even if you cannot afford to hire one. We cannot ourselves furnish you with a lawyer, but one will be appointed for you, if you wish, by the court.
 - 6. You have the right to stop answering questions at any time until you talk with a lawyer.

B. Waiver

I acknowledge the fact that my rights have been read to me, and I understand what my rights are. I am willing to answer questions and make a statement. I do not want a lawyer at this time. I understand and I know what I am doing. No promises have been made to me and no threats or pressures of any kind have been used against me.

- C. Before a statement can be admitted into evidence, the state must prove the suspect fully understood the Miranda warning and freely decided to answer questions. A suspect who remains silent after receiving Miranda warning has not agreed to be questioned. When possible, a signed wavier shall be obtained.
- D. When there is no reason to suspect a subject of being involved in a crime, and after questioning starts and he makes an incriminating statement, questioning should stop and the subject read the Miranda warning before questioning continues.
- E. Each time the subject is questioned, he will be read the Miranda warning prior to questioning.
- F. Once Miranda is given to a suspect and he requests counsel, questioning must stop and the subject shall:
 - 1. Be allowed to contact his or her attorney by phone;
 - 2. Be provided with a telephone directory from which he may select an attorney;

3. If subject can't afford to hire an attorney, the necessary paperwork should be completed for a court appointed attorney through the district attorney's office.
4. The investigator will refrain from giving any statements or comments to the news media and/or any other means, which may prejudice a fair trial.

V. Interview Rooms

- A. The interview rooms may be utilized by officers/detectives for both custodial interrogations of detainees and non-custodial interviews with witnesses, victims or suspects.
- B. The basic responsibility for the safety and security of persons brought into an interview room remains with the officer/detective.
- C. Before using an interview room, an officer/detective will secure their weapon in a pistol locker located in the observation room.
- D. Any failure of cameras and/or audio recording system/devices shall be immediately reported to a CID supervisor.
- E. The procedures listed below shall be followed when utilizing one of the interview rooms for custodial interrogations:
 1. Prior to and after a custodial interrogation, the officer/detective shall visually and physically check the room for the presence of weapons, contraband or evidence.
 2. All detainees will be thoroughly searched for weapons, contraband and evidence prior to being placed in the interview room.
 3. No more than one (1) detainee will be in an interview room at a time.
 4. Detainees will be handcuffed prior to being placed in the interview room. Handcuffs may be removed at the discretion of the officer/detective that has physical custody of the detainee. If there is any doubt as to officer safety, the handcuffs will remain in place. At no time, will detainees be secured to any object in the interview room.
 5. Detainees will not be left alone in the interview room.
 6. The arresting officer/detective will ensure that the personal needs of the detainee are met (restroom, water, comfort breaks, etc.).
 7. Firearms and knives are prohibited in the interview room.

8. No more than two officers/detectives shall occupy the interview room with the detainee at any given time. In situations where an investigator will be alone when conducting an interview/interrogation, he/she will notify the Communications Center of his/her intentions. The investigator will take their portable radio with them into the room and if an emergency develops, he/she will activate the emergency button.

F. Procedures for Non-custodial interviews:

1. Prior to and after a non-custodial interview, the officer/detective shall visually and physically check the room for the presence of weapons, contraband or evidence.
2. If a frisk for weapons is necessary, the officer/detective should ask the suspect, witness or victim to consent to the frisk.
3. Suspects will not be left alone in the interview room.
4. Witnesses and victims should not be left alone in the interview room for extended periods of time. Constant visual contact will be maintained through the two-way mirror, camera or open door.
5. The interview rooms shall contain a minimal amount of furniture (usually a table and three chairs).

This SOP supersedes any SOP previously issued.

BY ORDER OF THE CHIEF OF POLICE:

Stacey L. Cotton

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Chief of Police