



MYRTLE BEACH POLICE DEPARTMENT

ADMINISTRATIVE REGULATIONS AND OPERATING PROCEDURES

Subject: Interview & Interrogation

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Revised Date:

Rescinds:

Dated:

A handwritten signature in black ink, appearing to be "J. Smith", is written over a horizontal line.

Approved By:

I. PURPOSE

To establish and provide guidelines for assuring compliance with applicable Constitutional requirements of persons during interviews and interrogations

II. Policy

It is the policy of the Myrtle Beach Police Department to provide and protect the Constitutional rights of all persons with regard to access to counsel as well as during interviews and interrogations.

III. Procedure

A. Custodial Advice of Rights (Miranda)

1. Any subject placed in custody, who is to be questioned, will be read their rights as defined in Miranda v Arizona (382 US 436 at 444, 445). Miranda warnings are **required** before questioning by law enforcement of any subject in custody. They are not required simply because a subject is placed under arrest, and they are not required in the purely non-investigatory stage of a police prosecution. The Sixth Amendment, right to counsel, attaches at the beginning of formal proceedings against the accused. These critical stages include indictment, arraignment, a lineup, etc.
2. Officers should read Miranda Warnings to the suspect(s) from a printed Miranda warning card or the Advisement of Rights form.

3. Officers should never assume a subject has already waived Miranda Warnings with another officer. An officer should personally obtain a waiver from the subject before interrogation.
4. If the subject waives their rights under Miranda, a "waiver of rights form" should be signed by the subject and a witness, whenever possible. A verbal waiver of rights is acceptable. It is best practice to record all waivers on BWC or other approved recording device. A waiver of Miranda rights is sufficient to waive Sixth Amendment Rights to counsel.
5. If the subject refuses to waive their rights, or invokes their right to remain silent or right to counsel, then questioning must stop immediately.
6. The right to counsel is not a one-time right to consult counsel but is a continuing right to have counsel present at any interview/interrogation. For that reason the subject is presumed to have invoked their right to counsel for all subsequent attempts at interview/interrogation as long as they remain in custody. Arizona v Roberson, 486 U.S. 675 (1988)
7. An arrested subject cannot, citing Miranda, refuse to answer certain questions asked by law enforcement when the questions are of a neutral nature such as routine booking questions (Pennsylvania v Muniz, 496 U.S. 582, 110 S. Ct. 2638, 1990), Also, general investigatory questions such as asking if there are weapons present and/or other initial, on scene information does not fall under scope of Miranda.
8. When officers can justify the need to secure the safety of themselves and/or others, no Miranda warnings are required to be given prior to asking a question, or limited questions, to accomplish this grave and immediate goal (NY v Quarles, 467 U.S. 649, 1984).

B. Interview/Interrogations

1. No such statement or confession, verbal or written, shall be purposely obtained except as provided by law within the U.S. Constitution, Federal or State Case Law or Statutory law.

2. Statements and/or confessions, verbal or written, will not be purposely obtained until a subject in custody has been advised of their rights under Miranda and is being asked questions.
3. Voluntariness remains one of the concerns of the courts in determining whether a confession will be admissible at trial. The State bears the burden of proof that any statement or confession was obtained from the defendant voluntarily. This remains true even when the suspect signs a Waiver of Rights Form (State v Osborne, 392 SE 2nd. 178, 1990).
4. No form of threat, coercion, promise or any other means of inducement will be used by any officer to obtain a confession or statement (Brown v Mississippi, 297 US 278, 1936 and Harris v South Carolina, 338 US 68, 1949).
5. Whenever feasible, statements should be handwritten by the suspect, victim, or witness. The statement should be signed by the writer on all pages. The person writing the statement should initial any corrections on the page(s).
6. If the suspect, witness or victim is unwilling or incapable of providing a handwritten statement, the statement(s) may be received orally on an approved recording device or they may be transcribed by the officer and signed by the person. Statements may include question and answer or narrative form of interview/interrogation.
7. When possible, a certified or approved interpreter may be utilized for any individual who does not speak English.

C. Use of Interview Rooms

1. Once the suspect is secured in an interview room, they must always be monitored by an officer. The door to the interview room will remain unlocked during the interview/interrogation.
2. No firearms will be allowed in the interview room. Investigating personnel and officers will secure their weapons in lock boxes provided for that purpose.

3. Prior to placing the detainee into the interview room, the interviewer will search the room to ensure that no firearms or weapons of opportunity are present.
4. As a general rule, no more than two investigators will be in the room with a detainee, unless warranted by exigent circumstances.
5. Officers will have some means of calling for assistance should it be needed.
6. Persons being interviewed/interrogated will be allowed reasonable access to restrooms, water, or comfort breaks. If the detainee needs a restroom break, he or she will be escorted by an employee of the same gender to the restroom. If appropriate, an officer may offer cold drinks, snacks, or meals.
7. When a prisoner is to be brought to or from the interview room, they will be, at a minimum, handcuffed behind the back or secured with a waist belt and handcuffs. Leg irons or shackles will be used for prisoners determined to be a flight risk.
8. Interview rooms are audio and video recorded. Officers should ensure the equipment is working before an interview/interrogation. Officers may use Body Worn Cameras or other approved recording devices to record interviews/interrogations.
9. Video recording equipment should be activated when entering the room to conduct the interview/interrogation and should remain on until the suspect is permanently removed from the room. The suspect should be placed in an area of the room in full view of the camera during the interview/interrogation.
10. Documentation should include the following:
 - a. The time, location and duration of the interview/interrogation;
 - b. The officers/investigators present during the interview/interrogation;
 - c. Time that Miranda was given and when the Rights Waiver form was provided.
 - d. A summarized written report should still be generated by the investigator and should cover all pertinent and relevant conversation related to the incident in question.
11. All recordings have evidentiary value and should never be altered. Recordings will only be disposed of when the case is properly adjudicated and approved by the investigator and Solicitor's Office for

destruction. Recordings will be retained in accordance with the S.C. Preservation of Evidence Act, S.C. Code 17-28-320, the expungement statute of S.C. Code 17-1-40, or any other statute, regulation, or case law will follow the retention requirements outlined therein. The responsibility of ensuring proper retention of the recordings, whether digital or on a disc, will be the responsibility of the investigating officer.

12. To ensure privacy, a suspect engaging in a privileged conversation must be removed from the recorded interview room to a room with no recording capabilities; unless written consent is provided. When the privileged conversation is concluded, the suspect will be placed back in the recorded room. The room should be recorded throughout the entire process even when empty. The location, duration and who the privileged conversation was with should be documented.
13. At times, it may be necessary for the investigator/officer to use derogatory or profane language to establish dialogue with the suspect. The officer/investigator should be prepared to articulate their actions in court proceedings effectively communicating why this tactic was a useful investigative strategy/tool.
14. Copies of interviews/interrogations can be used as training tools at the discretion of supervision.