



<b>University of Pennsylvania Police Department</b> 4040 Chestnut Street, Philadelphia, Pa 19104		 
<b>Directive:</b> 33	<b>Subject:</b> Interrogations and Confessions	<b>Effective Date:</b> 05/02/1996
<b>Order of:</b> Gary Williams, Chief of Police		<b>Amended Date:</b> 08/01/2023

**I. Purpose**

It is the purpose of this directive to provide University of Pennsylvania Police Department (UPPD) Detectives with legally sound procedures for conducting custodial interrogations.

**II. Policy**

Custodial interrogations of suspects and the statements and 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 remain silent and right to counsel. Therefore, it is policy of the UPPD that all police officers understand and follow this directive in order to observe due process and other constitutional rights of suspects and to guard against any charges of police coercion or intimidation during interrogation.

**III. Scope**

This directive shall affect all sworn police officers.

**IV. Definitions**

- A. Custody: A custodial situation exists when an officer tells a suspect that he/she 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.
- B. 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.

**V. Procedures**

- A. Custodial Statements and Confessions

1. The only members of the UPPD who may take formal "custodial statements and confessions" from suspects are UPPD Detectives. Uniformed and plain clothes officers, not specifically assigned to the Detective Unit shall not take "custodial statements and confessions."
2. "Miranda" warnings are required and shall be administered prior to "custodial interrogation," as defined above.
3. 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 minor moving violations; to include driving under the influence (DUI) stops until 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 UPPD headquarters building when the person is not being specifically questioned about a specific crime; or
  - e. when information or statements are made spontaneously, voluntarily and without prompting by officers (**res gestae** statements). Statements of this type will be documented by the officer on the incident report. Any follow-up questions will require "Miranda" warnings.
4. UPPD personal shall be guided by **Directive 110, "Body Worn Camera"**, and **Directive 113 "Electronic Recording of Custodial Interrogations"**.

#### B. Administering "Miranda" Warnings

1. "Miranda" warnings shall be read by Detectives from a UPPD Miranda Waiver Form (UPPD-12) to all persons subjected to custodial interrogation. Free-lancing, recitation from memory or paraphrasing the warnings is not recommended as it precludes Detectives from testifying in court as to the precise wording used.
2. Detectives shall ensure that suspects understand their rights under "Miranda." 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 all "Miranda" rights must be performed affirmatively.
  - b. Written waivers shall be obtained on a (UPPD-12).

- c. Detectives who wish to administer "Miranda" warnings to deaf, mute, or non-English speaking suspects shall notify the Deputy Chief of Investigations and make arrangements to procure the assistance of an interpreter if necessary.

#### C. Interrogations of Juveniles

1. Detectives shall refer to **Directive 39, "Juvenile Operations"**, for policy and procedures regarding custodial interviews or questioning of juveniles.

#### D. Invoking the Right to Remain Silent

1. When a suspect invokes his/her right to remain silent, all interrogation shall terminate immediately.
2. Detectives may interrogate a suspect who has previously invoked his/her right to remain silent if the suspect initiates communication with Detectives. However, prior to questioning, "Miranda" warnings shall be re-administered and a (UPPD-12) obtained. Detectives shall also document and, if possible, obtain written verification that the suspect initiated the communication.

#### E. Invoking the Right to Counsel

1. If a suspect waives his/her right to counsel, a (UPPD-12) shall be obtained prior to questioning. When a suspect makes reference to counsel but his/her intentions are unclear, Detectives may question the suspect further to clarify his/her intentions.
2. When a suspect invokes his/her right to counsel, all interrogation shall cease immediately. The suspect may not again be interrogated about the crime for which he/she is charged, other crimes, or by other Detectives (from the UPPD 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 (UPPD-12) obtained before any questioning may take place. Detectives shall also document and, if possible, obtain written verification that the suspect initiated the communication.
3. Detectives shall cooperate in any reasonable way with efforts by counsel to contact or meet with suspects in custody.

#### F. Documenting Statements and Confessions

1. The circumstances surrounding the conduct of interrogations and recording of confessions shall be fully documented on an Investigation Interview Record form (UPPD-13) and Continuation Sheet (UPPD-13A). This includes but is not necessarily limited to:

- a. location, date, time of day and duration of interrogation;
  - b. the identities of Detectives or others present;
  - c. name of Detective giving "Miranda" warnings, suspect responses, if any; and
  - d. the nature and duration of breaks in questioning provided to the suspect for food, drink, use of lavatories or for other purposes.
2. The (UPPD-13) and the completed (UPPD-12) will be transmitted to the District Attorney's Office within six (6) hours of the time of arrest.
    - a. The transmittal receipt will be attached to the (UPPD -13) and (UPPD-12) and included in the Detective's case file.

#### G. Compliance

Violations of this directive, or portions thereof, may result in disciplinary action.

#### H. Officers Assigned to Other Agencies

Officers of this department assigned to or assisting other law enforcement agencies will be guided by this directive.

#### I. Application

This directive constitutes departmental policy, and is not intended to enlarge the employer's or employee's civil or criminal liability in any way. It shall not be construed as the creation of a higher legal standard of safety or care in an evidentiary sense with respect to third party claims insofar as the employer's or employee's legal duty as imposed by law. Violations of policy will only form the basis for departmental administrative sanctions. Violations of law will form the basis for civil and criminal sanctions in a recognized judicial setting.