

Georgia Department of Public Safety

Policy Manual

SUBJECT INTERVIEWS AND INTERROGATIONS	POLICY NUMBER 19.03
DISTRIBUTION ALL EMPLOYEES	REVISED DATE 11/7/2018
	POLICY REVIEWED 11/7/2018

19.03.1 Purpose

In order to ensure the protection of Constitutional rights, members shall follow established guidelines when conducting interviews and interrogations to preclude obtaining coerced or involuntary admissions, avoid interfering with the timely arraignment of any individual and minimize prejudicial pre-trial publicity.

19.03.2 Policy

The Georgia State Patrol is committed to safeguarding the Constitutional rights of all individuals while simultaneously gathering all information possible to aid in the prosecution of criminal violations.

19.03.3 Definitions

- A. Interrogation - Questioning and any words or actions on the part of members that the members should know are reasonably likely to elicit an incriminating response from a suspect. Interrogations are generally associated with custodial questioning.
- B. Custodial - Being in the custody of law enforcement officers or otherwise being deprived of one's freedom of action in any significant way.
- C. Interview - When a law enforcement officer is questioning a person and the interviewee is free to leave. Interviews are generally associated with non-custodial questioning.

19.03.4 Procedures

Certain requirements shall be met to ensure that confessions and admissions obtained from the subjects of criminal investigations can be used as evidence. These requirements include the following:

- A. All subjects in a custodial situation shall be advised of their rights as required by Miranda v. Arizona before being questioned about the issue for which they have been taken into custody.
- B. All interviews and interrogations shall be conducted in a manner that avoids obtaining a coerced or involuntary confession or admission.
- C. All interrogations shall be accurately documented. Interviews shall be accurately documented when deemed appropriate or when such interview results in an arrest.

The documentation should reflect if the suspect understood the rights explained, the waiver he/she signed or verbally provided, and if any statement made by the suspect was voluntary.

- D. No person shall be deprived of their right to counsel.
- E. Members shall take no action that interferes with the defendant's timely first appearance before a committing judicial officer as set forth in O.C.G.A. § 17-4-26.

19.03.5 Miranda Warnings

- A. Persons interrogated in custodial settings shall be advised of their rights as required by Miranda v. Arizona, and they must waive those rights voluntarily, prior to any questioning by a sworn member.
- B. When conducting a custodial interrogation, members should attempt to obtain a signed waiver form from the person being questioned by executing the DPS Waiver Form or comparable document. If the person being questioned refuses to sign the waiver form, but consents verbally to waive their rights, the interrogation will be conducted. The member conducting the interrogation shall write in the words "refused to sign" in the suspect's signature area of the waiver form and then sign the form themselves as a witness. Members shall document the circumstances of the rights advisement and waiver in the investigative summary documenting the interrogation.
- C. Rights advisement and the securing of a waiver may, at times, be conducted by non-departmental personnel. In these situations, members should ensure that the waiver was properly obtained prior to participating in the interrogation. If the suspect has legal representation their lawyer shall also sign the waiver form.
- D. Whenever a person being questioned asks to speak to an attorney, all interrogation shall stop until the subject has an opportunity to consult with an attorney, or until the subject initiates further conversation.
- E. During a custodial interrogation, a person may infer or make references to an attorney, but not make an unequivocal request for counsel. In this situation, the member conducting the interrogation shall clarify the subject's intent to consult with an attorney. If the subject states that they do not want to talk to an attorney, then the interrogation may continue. However, if the subject states they do want to speak with a lawyer, then all interrogation shall cease.
- F. When persons who have waived their rights are questioned multiple times in one day, it is not necessary that they be re-advised of their rights on each occasion. In these contemporaneous interview situations, a simple acknowledgment from the person being questioned that they previously waived their rights, and are continuing to do so, will suffice.
- G. When an individual is advised of their Miranda warnings and subsequently invokes the right to counsel, the individual is not just invoking their right to counsel about the crime for which they have been arrested. Rather, a request for counsel implies that the individual shall not deal with law enforcement on any criminal matter without the benefit of counsel. Therefore, prior to interrogating a subject who is incarcerated or who has been formally charged, members shall determine whether the subject is represented by counsel. If it is determined that the subject is represented by counsel or has requested counsel, no interrogation may take place unless:

1. The suspect's counsel is actually present, or
 2. The suspect initiates the communication.
- H. Members should use their discretion and professional judgment regarding the propriety of giving an advisement of rights during non-custodial interviews.

19.03.6 Coerced Or Involuntary Confessions

- A. Members shall be required to establish through their testimony in court that a defendant's admission or confession, as well as the waiver of their Miranda warnings, was voluntary, knowing, intelligent and free from coercion.
- B. Members shall not coerce, pressure, promise, threaten or offer any inducement to a subject to participate in an interview or interrogation or to make a statement.
- C. Members should be aware that the totality of the circumstances will be viewed by the courts when considering the voluntariness of a confession. Length of interview or interrogation, location, number of interrogators, age, mental competency of the suspect, and other factors must be considered.
- D. Members shall follow Policy #17.01 – Juvenile Operations when interviewing or interrogating juveniles.

19.03.7 Documentation

- A. All interviews and interrogations shall be documented by an investigative summary/incident report which may be supported by one or more of the following methods:
 1. Signed statement provided by the person being questioned and prepared by the member;
 2. Signed statement prepared by the person being questioned, and/or
 3. Audio/video recordings of interviews and/or formal statements.
- B. When conducting interviews during drug arrest situations, it is strongly encouraged to utilize the Criminal Interdiction Unit/DEA/locals to develop additional information concerning other criminal activity. The debriefing of drug violators who may be predisposed to violence, or are closely associated with those who are, may enable members to obtain criminal intelligence and forward the information to other work units or law enforcement agencies.
- C. Members should strive to conform to the method of documentation preferred by the prosecutor or court having jurisdiction when determining what above methods to utilize.
- D. In deciding whether to audio/video record interviews and/or formal statements of selected witnesses, suspects or arrestees, members should consider the following:
 1. Circumstances of the investigation;
 2. Environment of the interview;

3. Impact of recording on the interviewee's cooperation;
 4. Availability of adequate audio or video equipment;
 5. Potential for interviewee to recant their statement, and/or
 6. Prosecutorial preference.
- E. Audio/video recordings, which document statements, are physical evidence, and shall be documented on DPS-1186 and are governed by the Evidence and Property Policy #12.01 and the Mobile Video/Audio Recording Policy #12.03.
- F. After audio/video recording of a formal statement, the interviewing member shall prepare a detailed investigative summary/incident report which outlines the following:
1. Relevant case information contained in the statement;
 2. ID Data of the interviewee and the interviewer(s), and
 3. The receipt number from the DPS-1186, which documents the recording as physical evidence.
- G. Verbatim transcripts of recorded statements are not required in ordinary circumstances. In extraordinary cases, transcripts of the recording may be required because of investigative or prosecutorial necessity.