



# NEW ORLEANS POLICE DEPARTMENT OPERATIONS MANUAL

## CHAPTER: 42.10

### TITLE: INTERVIEWS

**EFFECTIVE: 04/15/2018**

**REVISED:**

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#### PURPOSE

This Chapter provides members with legally sound procedures for conducting formal interviews.

#### POLICY STATEMENT

1. Interviews of victims, witnesses and persons who may have information about a crime under investigation or of a suspect are vitally important in the investigation of criminal cases. Statements obtained by interviews must be given freely and voluntarily.
2. This Chapter requires all officers to observe due process rights which may apply and to guard against any charges of coercion or intimidation during an interview.
3. Suspects who are in custody and subjected to an interrogation shall be governed by **Chapter 42.11 – Custodial Interrogations**.
4. Officers shall not use physical violence or make threats to carry out harm to the individual, the individual's family, or anyone else during an interview.
5. Officers may advise a person to be interviewed of the rights afforded by **Miranda** and may even utilize **Form 153 – Rights of an Arrestee or Suspect**, but it is not required as the person is not a suspect, not in custody and not being interrogated.
6. All portions of any formal interview, including any recitation or advisement of **Miranda Rights**, should be audio and video recorded in their entirety. All portions of any formal interview with a juvenile shall be video and audio recorded in an approved NOPD interview / interrogation room.

#### DEFINITIONS:

**Custody/Custodial Situation**—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.

**Formal Interview**—An interview that is conducted in a Departmental Interview / Interrogation Room to formalize the victim, witness or other person’s knowledge about critical aspects of the

investigation of a crime. A formal interview may follow after a previous account or interview conducted in the field or over the phone.

**Interrogation**—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.

**Interview**—A fact-finding interaction or conversation between a law enforcement officer and a subject. An interview may be with a witness, victim or others thought to have information about an incident or a crime. Interviews may evolve into an interrogation at which point the provisions of custodial interrogations apply.

**Subject**—Used to identify a person when no connection to criminal activity is intended or inference is desired.

**Suspect**—An individual who is reasonably believed to have a connection to criminal activity.

## RECORDING INTERVIEWS

7. All interviews should be memorialized by the officer to whom the information is presented. The degree of memorialization used depends on the criticality of the information to the investigation of the crime. The more critical, the greater the degree of documentation utilized. Memorialization can include:
  - (a) Notes taken in the field and included in the investigative report.
  - (b) Body Worn Camera footage of an interview in the field.
  - (c) A signed, written statement by the subject in his/her own words to be attached to the report.
  - (d) A formal interview conducted and recorded in one of the Departmental Interview and Interrogation Rooms and logged in the Interview and Interrogation Log.
8. Any formal interview should be video and audio recorded in its entirety, including any advisement of Miranda Rights if given. The video and audio recording shall capture the subject to be interviewed entering and exiting the interview room. All portions of any formal interview with a juvenile shall be video and audio recorded in an approved NOPD interview / interrogation room.
9. Formal interviews shall be conducted in one of the Department's authorized Interview and Interrogation Rooms unless articulable exigent circumstances exist. The exigent circumstances shall be documented in the investigative case file and/or incident report.
10. At no time shall recording equipment be turned off unless the subject states that he/she does not want the interview to be recorded. Should the subject request that the interview not be recorded, the officer conducting the interview shall ensure this request has been audio and video recorded in addition to documenting the request in the investigative report.
11. If the interview occurs outside of an NOPD facility Interview and Interrogation Room, every reasonable effort shall be made to secure audio / video recording of the interview.
12. Officers should also consider audio / video recording any investigative interview, for any offense, when the officer reasonably believes it would be appropriate and beneficial to the investigation and is otherwise allowed by law. Should the person being interviewed become a suspect during the course of the interview, the officer must **immediately** follow all procedures for custodial interrogation.

**MIRANDA ADVISEMENTS NOT REQUIRED**

13. Miranda warnings are not required for interviews but, if utilized, shall be read by officers from **Form 153 – Rights of Arrestee or Suspect** to all persons subjected to custodial interrogation. Freelancing, recitation from memory or paraphrasing the warnings is prohibited as it precludes officers from testifying in court as to the precise wording used.
14. The following are examples of situations that are not “custodial” and do not require the advisement of Miranda warnings:
  - (a) Investigatory stop and frisk (see **Chapter 1.2.4.1 – Terry Stops Investigatory Stops**).
  - (b) Questioning during a routine traffic stop or for a minor violation, to include driving while intoxicated (DWI) stops until a 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 a police facility.
  - (e) When information or statements are made spontaneously, voluntarily, and without prompting by police (Note: Follow-up questions of suspects that exceed simple requests for clarification of initial statements may require Miranda warnings).

**DOCUMENTING FORMAL INTERVIEWS**

15. All formal interviews shall be documented in the Custodial Interrogations and Interview Log for the officer’s district or unit.
16. Officers shall maintain in the case file his/her notes taken during any interviews involving that case.

**DOCUMENTING ALL INTERVIEWS**

17. The circumstances surrounding the conduct of interviews shall be fully documented in the related investigative report. This includes but is not necessarily limited to:
  - (a) Location, date, time of day, and duration of the interview;
  - (b) The identities of officers or others present;
  - (c) If Miranda warnings were given, suspect responses, and waivers provided, if any; and
  - (d) The nature and duration of breaks in questioning, whether for food, drink, use of lavatories, or for other purposes.

**CONDUCTING INTERVIEWS WITH LIMITED ENGLISH PROFICIENCY INDIVIDUALS**

18. Officers interviewing Limited English Proficiency (LEP) subjects shall notify their immediate supervisor and make arrangements to procure the assistance of an authorized interpreter or interpretation device in accordance with this agency’s policy and state and federal law (see **Chapter 55.4 – Limited English Proficiency Services**).
19. An NOPD member acting in the role of authorized interpreter for an interview shall identify him/herself as an employee of the Department and state that he/she is an authorized interpreter.
20. If Miranda warnings are provided, they shall be provided by the authorized interpreter to the individual in the individual’s primary language.

**CONDUCTING INTERVIEWS WITH HEARING IMPAIRED INDIVIDUALS**

Officers interviewing deaf or hearing impaired suspects shall notify their immediate supervisor and make arrangements to procure the assistance of an authorized interpreter in accordance with this agency's policy and state and federal law (see **Chapter 55.5 – Communications with the Hearing Impaired, Deaf, or Persons with Disabilities**).

**INTERVIEW/INTERROGATION ROOM RECORDING EQUIPMENT FAILURES**

21. If the investigating officer encounters recording equipment failures or malfunctions, the investigating officer shall relocate to an NOPD facility with an Interview / Interrogation Room with functioning equipment and conduct the interview at that facility. In exigent circumstances, the investigating officer may record the interview by means of a Body Worn Camera. The exigent circumstances shall be noted in the case report.
22. Any equipment failure shall be:
  - (a) Immediately reported to [NOPDTECH@nola.gov](mailto:NOPDTECH@nola.gov).
  - (b) Explained and documented in the incident/supplemental or case report.
  - (c) Documented and forwarded to the investigating officer's Deputy Superintendent via the officer's chain of command in the form of a Form 105 (interoffice Correspondence) or e-mail.