



East Norriton Township Police Department

GENERAL ORDER 1.2.2 CONSTITUTIONAL REQUIREMENTS

Subject:

Limits of Authority

Issued Date:

March 23, 2011

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March 23, 2011

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April 27, 2016

PLEAC STANDARD Reference

1.2.2

Index Words

In Custody Requirements/Interview/Interrogations/Access to Counsel

1.2.2 Constitutional Requirements

- A. When an Officer of the East Norriton Township Police Department makes an arrest or makes any search, with or without a warrant, he/she shall ensure that all of the Defendant's Constitutional Rights are observed and honored.
- B. Interview and interrogations.
 - 1. Interview.
 - a. Interviews may occur in a variety of circumstances and locations.
 - b. Officers shall conduct interviews in the same manner as if they were engaging in any normal conversation.
 - c. Officers conducting interviews shall be aware of the nature of questions, their location, the interviewed person location, and the conditions present when conducting interviews so that the subject does not have any reason to believe he/she is in custody.
 - 2. Interrogations.

Officers shall consider the following criteria when initiating interrogations.

 - a. Non-custodial interrogations.
 - 1.) Miranda warnings are not required to be given to a subject by officers when the subject is being interrogated but is not in custody.
 - 2.) The voluntary "Witness Statement" form may be used when taking non-custodial statements from victims, witnesses and suspects.
 - b. Custodial interrogations.
 - 1.) The test for determining whether a person is being subjected to custodial

interrogation, so as to require Miranda warnings, is whether s/he is physically deprived of his/her freedom in any significant way or is placed in a situation in which a reasonable person would believe that his/her freedom of action or movement is restricted by such interrogation.

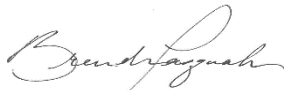
- 2.) Officers shall provide, verbally and in writing, Miranda warning advisements whenever a person in custody is subject to custodial interrogation or its equivalent.
- 3.) When providing Miranda warnings in writing during custodial interrogations, officers shall use the department "Miranda Rights/Waiver of Rights" form.
- 4.) When receiving written statements from detainees during a custodial interrogation, officers should use the "Waiver of Rights Statement" form.

c. All original rights forms completed, and any written statement received, shall be submitted with the investigation report.

C. Access to counsel.

1. If a Detainee should choose to exercise his/her right to remain silent, all questioning will cease immediately. If the Detainee requests to speak to an attorney before or during any questioning, or requests to have an attorney present during questioning, all questioning will cease, and the detainee will be given the opportunity to seek counsel.
2. Waiver of right to counsel.
 - a. Detainees may waive their right to counsel following the Miranda warnings, however, interrogators shall document that the waiver was knowing and intelligent, e.g., that the detainee knew his right to consult with counsel before answering questions and he freely chose to otherwise proceed with the interrogation without exercising that right.
 - 1.) Documentation of the waiver shall be on rights forms and/or an incident report filed by the interrogating officer.

By order of:



Brandon Pasquale
Chief of Police